

**FOR A QUICK REVIEW OF THE MOST SIGNIFICANT  
POINTS IN THE COMMENTS, JUST DO “FIND #”  
AND ALL THE SPOTS INTERESTING FOR ANALYSIS  
WILL BE LISTED**

**VOLUME IV**

C Srebrenica component

4941. Under Count 8, the Prosecution alleges that beginning in March 1995, the Accused, in concert with other members of the Overarching JCE,<sup>16000 16638</sup> implemented and/or used others to implement a plan to take over the Srebrenica enclave and forcibly transfer its Bosnian Muslim population as part of that JCE. According to the Prosecution, prior to the take-over of Srebrenica in July 1995, humanitarian aid to the enclave was restricted, and civilian targets were shelled and sniped in an effort to make life impossible for the inhabitants of the enclave and to remove its population.<sup>2 16639</sup>

4942. The Prosecution contends that Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs attacked and/or took control of the Srebrenica enclave in July 1995 in pursuit of the objective of permanently removing the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory.<sup>3 16640</sup> The Prosecution further alleges that commencing in the days immediately preceding 11 July 1995, the Accused and others formed the shared objective 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.<sup>4</sup> According to the Prosecution, commencing in the days immediately preceding 11 July 1995 and continuing until 1 November 1995, the Accused participated in a JCE to accomplish this objective through these means,<sup>16001</sup> which was then implemented as of 11 July 1995.<sup>16002</sup>

4943. The Prosecution characterises the killing of Bosnian Muslims from Srebrenica during July and August 1995 as an underlying act of genocide under Count 2; persecution, a crime

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<sup>16001</sup> +638 Indictment, paras. 20, 42, 45.

<sup>16002</sup> Indictment, para. 58, 75.

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.<sup>16003</sup> The Prosecution contends that the separation of men and boys from their families and the forcible removal of the women, young children, and some elderly men caused serious bodily or mental harm to thousands of Bosnian Muslims of Srebrenica and thus constituted an underlying act of genocide under Count 2.<sup>16004</sup>

4944. With regard to the forcible displacement of Bosnian Muslims from Srebrenica, the Prosecution alleges that it constitutes persecution, a crime against humanity, under Count 3; and inhumane acts (forcible transfer), a crime against humanity, under Count 8.<sup>16005</sup> Finally, also under Count 3, the Prosecution alleges that the terrorising and abuse of the Bosnian Muslims of Srebrenica in Potočari and the beating of men and boys of Srebrenica prior to their execution constitutes cruel or inhumane treatment, an act of persecution.<sup>16006</sup>

1. Facts

a. Events in eastern BiH between May 1992 and December 1994

4945. As discussed above, as early as mid-May 1992, the Bosnian Serb Political and Governmental Organs had adopted the goal of eliminating the Drina River as a border separating eastern BiH from Serbia by establishing a foothold in the Drina River valley.<sup>16007</sup> **(The Defence had submitted documents confirming that it #didn't concern with any foothold#, but it pertained to a border procedures, so called #“soft borders” and the Accused explained it in 1993 on TV talk show, when asked about the third Strategic objective. It was a contemporaneous document. In the edited form, published a year and a half later, some of the editors put those words, while in the original, which can be read in the original transcript of the Assembly session there is a different wording. However, all the peace plans recognised to the Serb rights and interests in a land along the Drina River. The first map, of Mr. Cutileiro, see his map, far before the Strategic goals had been presented to the Assembly, allocated to the Serb unit around 80% of the land strip along the Drina River, following the distribution of ethnic majorities. The second Cutileiro map (D00091, D00486) allocated about 50% of the eastern strip of land, which was accepted by the Serb side as a good basis for finalisation. The Vance-Owen Peace Plan map (D01593) allocated about 50% of this territory to the RS, but the Plan failed because of the Province No. 3, (Northern Corridor) Similarly, the Owen-Stoltenberg peace plan map gave almost the entire land strip to the RS. Finally, the Dayton Agreement recognised to the RS 95% of the Drina River area, all except the Drina banks in Gorazde, see D01595! So, it was a negotiating position, and it was declared far before the war, aimed to be negotiated!)** . By November 1992, the VRS had established territorial continuity between its holdings in eastern BiH and the Krajina, and began to focus on capturing the region bordering the Drina River.<sup>16008</sup> **(This is wrong as it only could be. #The Serb side**

<sup>16003</sup> Indictment, paras. 47(a), 60(a)(iii), 60(a)(iv), 66. See also Indictment, Schedule E.

<sup>16004</sup> Indictment, para. 47(b).

<sup>16005</sup> Indictment, para. 60(f) (emphasis added).

<sup>16006</sup> Indictment, para. 60(e).

<sup>16007</sup> See para. 57.

<sup>16008</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21825 (stating that liberating Srebrenica and the upper and middle Podrinje regions was an objective of the Bosnian Serb government and military as early as 1993); P1481 (Ratko Mladić's notebook, 5 October–27 December 1992), e-court pp. 141–152; Richard Butler, T. 27433–27434 (17 April 2012); P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.0; P4919 (Map of BiH marked by Richard Butler).

didn't start any offensive in the Drina River Valley, and the entire first year of the war, from April 1992 till April 1993 the Muslim side had a great concentration of forces in Podrinje (Drina River Valley! During this period the Muslim side did commit many atrocities against the Serb civilians, killing about 3,500 Serbs, majority of which were civilians, before the Serb counteroffensive in the spring 1993.

4946. Although the Serb Forces were successful in taking over and holding town centres in Zvornik, Bratunac, and Vlasenica municipalities during the first half of 1992,<sup>16009</sup> pockets in the surrounding countryside, which had had a Bosnian Muslim majority population, remained under the control of Bosnian Muslim forces.<sup>16010</sup> **(That was because the Serb side proposed that every ethnic community control its own territory and organise their own municipalities!)** By the end of October 1992, the Bosnian Muslim forces had captured a number of Bosnian Serb villages, reducing the area of Bratunac municipality controlled by the VRS to Bratunac town and the predominantly Serb village of Kravica.<sup>16011</sup> **(It was not only “capturing a number of Serb villages” but literally destroying these villages down to ashes and killing all living beings, in the most horrifying way!)** In November 1992, Bosnian Muslim forces based in Srebrenica began a two-stage offensive aimed at: (i) linking up with Bosnian Muslim forces based in Cerska,<sup>16012</sup> which would isolate the Serb Forces holding the towns of Bratunac and Skelani, and (ii) capturing the town of Bratunac.<sup>16013</sup> As major combat operations engulfed the broader Kamenica region in Zvornik municipality,<sup>16014</sup> Bosnian Muslims fled towards Srebrenica town, which had a Bosnian Muslim majority,<sup>16015</sup> and was itself under VRS attack.<sup>16016</sup> **(The Chamber was aware of the fact that the Muslim side conveyed all the offensive activities, thus forcing the Serb side to stop it by a counter offensive. This happened only in 1993, after a horrifying crimes committed by the Oric forces, particularly on the Orthodox Christmas, 7 January 93, but also by jeopardizing the survival of the Serbs in Podrinje!)**

*a. Issuance of Directive 4 and the VRS Spring 1993 Offensive*

4947. In response to this Bosnian Muslim offensive, the VRS devised a plan to secure the Podrinje region, which was articulated in Operational Directive 4 (“Directive 4”), issued on 19 November 1992.<sup>16017</sup> Directive 4 provided that the Drina Corps was to

<sup>16009</sup> See paras. Section IV.A.1.a: Eastern Bosnia.

<sup>16010</sup> Richard Butler, T. 27433–27434 (17 April 2012), T. 27696 (19 April 2012). See also D2028 (Map of confrontation lines in Eastern BiH, April–December 1992); Pyers Tucker, T. 23271–23272 (18 January 2012); D2232 (Map of BiH); D3954 (Map of destroyed Serbian villages around Srebrenica); Milenko Živanović, T. 42580–42581 (30 October 2013); D2231 (Report of Tuzla District Defence Staff, 1 October 1992); Adjudicated Fact 1398.

<sup>16011</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”), 1 November 2002), para. 1.21. See also D1596 (Order of ABiH General Staff, 10 July 1992).

<sup>16012</sup> The village of Cerska is located approximately 30 kilometres from Zvornik. Momir Nikolić, T. 24745 (15 February 2012).

<sup>16013</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”), 1 November 2002), para. 1.22; P4922 (Combat Report of Zvornik Brigade, 23 November 1992), para. 5.

<sup>16014</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”), 1 November 2002), para. 1.10; Richard Butler, T. 27695–27696 (19 April 2012).

<sup>16015</sup> In 1991, the population of the municipality of Srebrenica was 37,000, of which 73% were Muslim and 25% were Serb. Adjudicated Fact 1396. The one kilometre wide and two kilometre long town is nestled in a valley in eastern BiH. See Adjudicated Facts 1393, 1394. See also P4279 (Video footage of Srebrenica, 2 July 2009); Jean-René Ruez, T. 23714–23715 (26 January 2012).

<sup>16016</sup> See e.g. Mirsada Malagić, T. 23460–23463, 23511–23512 (24 January 2012); P395 (Witness Statement of Behara Krdžić dated 16 June 2000), e-court pp. 2, 7–8; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court p. 3; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court pp. 9–10. The Chamber considers that this flight from Zvornik municipality does not fall within the scope of the allegations set out in paragraphs 72 and 73 of the Indictment, which pertains only to the movement of the population from Bratunac and Vlasenica municipalities.

<sup>16017</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”), 1 November 2002), para. 1.22. See also D3934 (Letter from Milenko Živanović to Drina Corps, 29 October 1993), p. 1.

[...] defend with utmost persistence Višegrad (the dam), Zvornik and the corridor, while the rest of its forces in the wider Podrinje region are to exhaust the enemy, inflict the heaviest possible losses on them and force them to leave the Birač, Žepa, and Goražde areas with the Muslim population. First offer the able-bodied and armed men to surrender, and if they refuse, destroy them.<sup>16018</sup> **(I think that we already protested this error in translation. Mladic didn't demand that the able-bodied combatants "surrender" but to lay down their weapons, i. e. to disarm. Verbatim: Prethodno ponuditi razoruzavanje borbena sposobnih Muslimana..." A proper translation would be: "...First offer to the able-bodied and armed Muslims to disarm..."**)

4948. On 23 November 1992, the Accused chaired a meeting held in Zvornik which was attended by the Drina Corps command, as well as the commanders of subordinate brigades and members of the VRS Main Staff, where the combat activities in their respective areas of responsibility were discussed.<sup>16019</sup> The next day, in accordance with Directive 4, the then-Drina Corps Commander, Milenko Živanović, issued an order to the Zvornik Brigade to “launch an attack [...] to inflict on the enemy the highest possible losses, exhaust them, break them up or force them to surrender, and *force the Muslim local population to abandon the area of Cerska, Žepa, Srebrenica, and Goražde*”.<sup>16020</sup> That day, the VRS launched Operation Proboj—meaning “breakthrough”—pursuant to Directive 4.<sup>16021</sup> In early December, as the VRS faced stiff resistance from the ABiH in the Podrinje region, the Accused issued two orders to the Main Staff instructing them to disarm “opponents” in the Cerska and Konjević Polje areas.<sup>16022</sup> **(Nothing illegal in the Accused's order, issued on 5 December 92. At approximately the same time the Accused visited Bratunac with the aim to persuade the population to let the humanitarian convoy to reach Srebrenica, and gave a speech to the large group of gathered civilians!)**

4949. Meanwhile, Srebrenica town had been devastated by shelling.<sup>16023</sup> The town was crowded with large numbers of Bosnian Muslim refugees from other parts of eastern BiH, and severe hardship, including a serious food shortage, was visible on the streets.<sup>16024</sup> The town's only medical clinic lacked medicine and anaesthetics.<sup>16025</sup> The sole UNHCR convoy which had obtained clearance from the VRS to proceed to Srebrenica was halted in Bratunac, where it remained for three or four days before finally being allowed to proceed

<sup>16018</sup> P976 (Directive 4, 19 November 1992), para. 5(d). See also Adjudicated Fact 1399.

<sup>16019</sup> P4921 (Order from Milenko Živanović, 21 November 1992), pp. 1–2; P4922 (Combat Report of Zvornik Brigade, 23 November 1992), para. 2. Other attendees included Živanović, Krstić, Pandurević, and Milovanović. P4248 (Timetable for Military-Political Conference in the Drina Corps, 23 November 1992).

<sup>16020</sup> P2085 (Order of Drina Corps, 24 November 1992), p. 1 (emphasis added). Milovanović suggested that the emphasised language in Živanović's order differed significantly from the language in Directive 4 and that perhaps it represented the personal view of Živanović. Manojlo Milovanović, T. 25525 (29 February 2012). The Chamber observes that although the language of Directive 4 differs slightly from the language contained in P2085, Živanović himself testified that he understood the task of forcing the Bosnian Muslim population to leave the area to be assigned to him under Directive 4. Milenko Živanović, T. 42596–42598 (30 October 2013); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 15. See also Vidoje Blagojević, T. 45036 (12 December 2013).

<sup>16021</sup> D2135 (VRS Analysis of Operation “Proboj”, undated). Through this operation, the VRS took parts of Bratunac and Skelani and escalated their combat activities in Kamenica, Cerska, Konjević Polje, Višegrad, and Rogatica. D2135 (VRS Analysis of Operation “Proboj”, undated). See also D1597 (Decision of Drina Corps Command, 8 December 1992); P5200 (Order of Drina Corps, 11 December 1992); Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21827–21830.

<sup>16022</sup> P5083 (Radovan Karadžić's Order to the VRS Main Staff, 5 December 1992); P4249 (VRS Main Staff Order, 7 December 1992), paras. 1–2 and page 2 (ordering the Corps commands to liberate, *inter alia*, Konjević Polje and Cerska and ordering additional units from outside the Drina Corps area of responsibility to be sent to the Podrinje region in order to prevent the Bosnian Muslim forces from capturing key areas and facilities). See also P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.23.

<sup>16023</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 118.

<sup>16024</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 118.

<sup>16025</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), paras. 118–119. See also P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 29.



to Srebrenica.<sup>16026</sup> **(If a truth matters, it should be depicted who blocket the convoy, and who deblocked it. The blockade wasn't caused by the VRS or police, but by people, civilians mainly refugees from Srebrenica. And the Accused went personally to Bratunac, made a speech and persuaded the civilians to let convoy pass, as said in fn. 16671, which should not be in a footnote, but in the main text, see fn. 16671: On 9 December 1992, the Accused personally visited Bratunac and addressed the local population, telling them that the humanitarian aid convoys should be allowed through to the population of Srebrenica, and stating, "we are creating our state and with our behaviour, we have to show the world that we deserve it, and we will be most successful in this if we show our enemies that we are not building it with hatred towards them, because this is not in the spirit of the Serbian people". D3119 (Article from Naša Riječ entitled "Karadžić in Bratunac: We Are Building Our State", .So, simultaneously with the order pertaining to the armed eney forces, the Accused personally took a steps to #secure a humanitarian aid to civilians, and sending a strong message to his own people that the civilians were not their enemies!#)**

**4950.** Thereafter, Mladić told Morillon that he would not consider approving any aid convoy to Srebrenica until aid had reached some of the many Bosnian Serb refugees in eastern BiH.<sup>16027</sup> As a result, UNHCR suspended all deliveries of humanitarian aid to the region,<sup>16028</sup> but continued to hold talks with Bosnian Serb officials, including the Accused, regarding the issue of access to the areas.<sup>16029</sup> Ultimately, the Accused approved a convoy for Srebrenica on the condition that it would leave part of its cargo in Bratunac.<sup>16030</sup> However, the humanitarian convoy that was scheduled to proceed to Srebrenica on 17 December 1992 was in fact postponed following heavy fighting in the area.<sup>16031</sup> **(This blatant bias in treating the Serb civilians made to the Serb military and political leadership a very hard time with their people, and that was the reason why the population escaped from Srebrenica stopped the convoy in Bratunac. the fighting that had been a reason the convoy was stopped was initiated by the Muslim forces! And**

<sup>16026</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), paras. 116–117. *See also* D3304 (VRS Main Staff dispatch, 30 November 1992). In addition to the local "lieutenant-colonel" preventing the convoy from proceeding, women from Bratunac, who were holding placards written in English, blocked the road and prevented the convoy from passing. P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 116; D210 (1<sup>st</sup> Krajina Corps report re UN convoys, 2 December 1992), p. 1 (referring to the protest in Bratunac). Because the placards were written in English, Van Lynden deduced that the protest had been pre-organised to take advantage of the British and CNN media coverage. P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 116; Aernout Van Lynden, T. 2571–2572, 2575–2576 (20 May 2010). *See generally* D241 (Report re humanitarian activity, 1–7 February 1993), para. 98 (under seal) (referring to the Bosnian Serb perception of a link between the aid received by Bosnian Muslims and attacks on Bratunac fueling Bosnian Serb resistance to the passage of aid convoys).

<sup>16027</sup> P4213 (UNPROFOR Monthly Situation Report, 8 November 1992), para. 7; P4214 (UNPROFOR report, 15 November 1992), para. 8. *See also* P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 58, 60; D3953 (Report from Drina Corps to VRS Main Staff, 5 January 1993).

<sup>16028</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 60.

<sup>16029</sup> Another meeting was held between Morillon and Mladić on 19 November 1992, where they again discussed the suspension of humanitarian aid and Srebrenica was again identified as UNHCR's highest priority; Mladić reiterated that it was not possible to provide aid to Srebrenica without aid being provided to the surrounding Bosnian Serb villages. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 63; P4215 (UNPROFOR report re meeting with Ratko Mladić, 19 November 1992), para. 3(b). *See also* P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 4; D4745 (RS Protocol of meeting between Radovan Karadžić, Colonel Žarković and representatives of humanitarian organisations, 22 November 1992), e-court p. 1.

<sup>16030</sup> D4745 (RS Protocol of meeting between Radovan Karadžić, Colonel Žarković and UNHCR representatives, 22 November 1992), e-court p. 2; D4746 (Order from General Morillon, 23 November 1992), para. 1. On 9 December 1992, the Accused personally visited Bratunac and addressed the local population, telling them that the humanitarian aid convoys should be allowed through to the population of Srebrenica, and stating, "we are creating our state and with our behaviour, we have to show the world that we deserve it, and we will be most successful in this if we show our enemies that we are not building it with hatred towards them, because this is not in the spirit of the Serbian people". D3119 (Article from *Naša Riječ* entitled "Karadžić in Bratunac: We Are Building Our State", 22 December 1992); Aleksandar Tesić, T. 32595–32596 (12 March 2013); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 82. *See also* D1504 (Report of humanitarian organisation, 21 December 1992), para. 7 (under seal). Milovanović testified that subordinate units had noticed that ABiH attacks became fiercer after receiving humanitarian aid; when forwarding convoy approvals to subordinate units, he had invoked the Accused's authority in an effort to avoid their criticism for ensuring the delivery of aid to Bosnian Muslims before Bosnian Serbs. Manojlo Milovanović, T. 25582–25584, 25621 (1 March 2012); D2140 (VRS Main Staff Order, 27 February 1993); D2148 (Report of Drina Corps, 19 February 1993), p. 2.

<sup>16031</sup> D1504 (Report of humanitarian organisation, 21 December 1992), paras. 1–2 (under seal).

**the population protested, among others, because the UNHCR didn't take any care about needs of the Serb refugees!)**

4951. By December and January, famine prevailed.<sup>16032</sup> Men often walked tens of kilometres in search of food, but returned empty-handed.<sup>16033</sup> During this time, Bosnian Muslim forces infiltrated Bosnian Serb lines, attempting to retrieve food and weapons from Bosnian-Muslim held territory.<sup>16034</sup> Bosnian Muslim forces also launched raids from inside the Bosnian Muslim-held territories in eastern BiH in order to secure weapons, ammunition, and food.<sup>16035</sup> **(As already known, it wasn't really so, because save for the people in the town itself, all others produced their own food, they were pretty wealthy, had a cattle, sheep and agriculture, but they severed a lot of food from convoys to the military and to the black market, which is confirmed by many documents!)**

4952. By January 1993, the Muslim Forces in Srebrenica<sup>16036</sup> had gained control of 92 or 93% of the territory in Bratunac municipality and were poised to take the town of Bratunac itself; this successfully separated the Bratunac area from the rest of the Drina Corps' area of responsibility.<sup>16037</sup> On about 8 January 1993, these forces attacked the village of Kravica, which fell the following day.<sup>16038</sup> **(It is an unnecessary mitigation of the drastic fact: it was on 7 January, the greatest Christian Orthodox holiday – the Christmas, the same as the Ustashas, a Croatian nazies, did during the WWII! and wasn't that Kravica “fell the following day” it was an illegal attack od a Serb village and civilians, with a horrifying atrocities committed against the civilians. the Oric's unit butchered the civilians and burnt all homes down!)**

4953. In response, the VRS conducted a series of attacks, the first of which was aimed at separating Srebrenica from Cerska, which was then controlled by the Muslim Forces in Srebrenica.<sup>16039</sup> During the first weeks, the Bratunac Brigade lost many men, assets, and

<sup>16032</sup> Mirsada Malagić, T. 23464–23466 (24 January 2012).

<sup>16033</sup> Mirsada Malagić, T. 23464–23465 (24 January 2012).

<sup>16034</sup> Pyers Tucker, T. 23272 (18 January 2012).

<sup>16035</sup> Pyers Tucker, T. 23272–23273 (18 January 2012) (further stating that raids also targeted Bosnian Serb communication lines).

<sup>16036</sup> The Bosnian Muslim armed forces operating in the Srebrenica area were originally named the Defence Staff of Eastern Bosnia, but were reorganised numerous times and renamed the “8<sup>th</sup> Operative Group of Srebrenica” by the Supreme Command of the ABiH on 1 January 1994. **Wasn't it a violation of the Agreement on demilitarisation of Srebrenica? Is the Chamber indolent about it?** Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*, T. 5989; D2064 (Order of ABiH Supreme Command, 1 January 1994). See also D2018 (Report of ABiH on unit locations, 28 July 1993) (describing three brigades of the “Armed Forces of Srebrenica” formed by an order of 15 October 1992); D3935 (VRS Main Staff Intelligence Report, 16 December 1994), p. 1 (referring to the recent formation of the 8<sup>th</sup> Operative Group). The unit was renamed again at the beginning of May 1995 as the 28<sup>th</sup> Division. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*, T. 5989, 6119; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 12; Robert Franken, T. 23095 (16 January 2012); Richard Butler, T. 27691 (19 April 2012). But see P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 56 (stating that the 28<sup>th</sup> Division became the 8<sup>th</sup> Operative Group); Momir Nikolić, T. 24736 (15 February 2012). The Chamber notes that the name of the ABiH forces operating in and around Srebrenica differed depending on the period in question: before late 1994, the group was referred to as the “Armed Forces of Srebrenica”; between late 1994 and May 1995, the unit was referred to as the 8<sup>th</sup> Operative Group; and from May 1995 onwards, it was referred to as the 28<sup>th</sup> Division. The Chamber is satisfied that these terms refer to the same group, but for ease of reference will use the term “Muslim Forces in Srebrenica” to refer to the group throughout.

<sup>16037</sup> Momir Nikolić, T. 24735, 24737–24740 (15 February 2012); D2063 (Report of Bratunac Brigade, 9 January 1993); P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.24.

<sup>16038</sup> Momir Nikolić, T. 24735, T. 24737, 24739 (15 February 2012); D2139 (VRS Main Staff Order, 10 January 1993), para. 1; Jean-René Ruez, T. 23995 (1 February 2012); P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.24. Numerous civilian casualties resulted from the attack on Kravica, as well as other ABiH attacks on nearby villages. Momir Nikolić, T. 24738, 24745 (15 February 2012); D2139 (VRS Main Staff Order, 10 January 1993), para. 1; Manojlo Milovanović, T. 25579–25580 (1 March 2012); D2137 (VRS Analysis of Operation “Pesnica”, undated), p. 1.

<sup>16039</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 156; P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.25; Manojlo Milovanović, T. 25565–25667 (29 February 2012); D2137 (VRS Analysis of Operation “Pesnica”, undated), p. 1. Before the proclamation of Srebrenica as a safe area, the Muslim Forces in Srebrenica operated in an area encompassing parts of Vlasenica, Šekovići, Zvornik, Bratunac, Milići, Srebrenica, Han Pijesak and Žepa. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*, T. 7554; Pyers Tucker, T. 23273 (18 January 2012). See also P4251 (Order of Drina Corps, 1 February 1993), para. 2; Adjudicated Fact 1400.

territory to the Muslim Forces in Srebrenica,<sup>16040</sup> and units from outside the Drina Corps' area of responsibility were deployed to assist.<sup>16041</sup> At the beginning of February 1993, the VRS initiated another counter-offensive aimed at capturing the "Bosnian Muslim strongholds" of Cerska and Srebrenica.<sup>16042</sup> Within two weeks, the VRS controlled the area of Kamenica and had encircled Cerska, Konjević Polje, and Srebrenica,<sup>16043</sup> but still anticipated that the Muslim Forces in Srebrenica might attack Bratunac.<sup>16044</sup> In late February, units of the Drina Corps remained actively engaged in the area around Cerska.<sup>16045</sup>

**4954.** As the VRS approached and began to shell Cerska, residents fled toward Konjević Polje, leaving behind a small number of armed individuals.<sup>16046</sup> VRS attacks generally followed a pattern of "lob[bing] a few shells an hour into a small number of villages" for two or three days, which would generally cause most of the population to flee, before approximately 50 infantrymen, a couple of tanks, and a couple of APCs would suddenly attack and capture the "largely deserted" villages.<sup>16047</sup> Through this pattern, the villagers came to recognise the initial shelling as an indication that their village was about to be attacked and fled prior to the ground assault.<sup>16048</sup> Thus, the vast majority of the Bosnian Muslim civilians from the villages withdrew before Bosnian Serb units entered.<sup>16049</sup>

**(Would it be better if the VRS implemented a cunning tactics, to attack the civilians suddenly and without any sign, as the Muslim forces attacked Kravica and many other Serb villages? #This civil war diminished every single difference between combatants and civilians#, and between a private property and military fortifications, not only because of a nature of the war, but because of the doctrine of All-people's Defence and the doctrine of an "Armed population"!)**

**4955.** The VRS also burned Bosnian Muslim villages as they moved through the area.<sup>16050</sup> The Chamber notes that multiple witnesses who were members of the commands at various levels of the VRS at the time—including Živanović—suggested that certain villages were burned because they were fortified and used as strongholds by the ABiH.<sup>16051</sup> In

<sup>16040</sup> Momir Nikolić, T. 24742 (15 February 2012); P4251 (Order of Drina Corps, 1 February 1993), para. 1.

<sup>16041</sup> P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 1.24; D4190 (VRS Main Staff Order, 22 January 1993); D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 6.

<sup>16042</sup> P4251 (Order of Drina Corps, 1 February 1993), para. 3; P5493 (Report of Drina Corps, 1 February 1993), p. 2; P4781 (Intercept of conversations between (i) Colonel Kutlešić and Lieutenant Colonel Mile Beronja and (ii) General Živanović and unknown interlocutor), 8 February 1993). *See also* P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 1.25.

<sup>16043</sup> P6133 (Drina Corps Order, 12 February 1993), para. 1; P4204 (Zvornik Light Infantry Brigade report to the Drina Corps, 15 February 1993), para. 8. *See also* P5164 (Report of Zvornik Brigade, 13 February 1993), para. 2; P5082 (VRS Analysis of "Operation Udar", undated); P1474 (Ratko Mladić's notebook, 29 January–31 March 1993), pp. 48, 52 (referring to VRS intelligence that up to 3,000 enemy soldiers were present in Kamenica and 800 present in Cerska and Konjević Polje as of 10 February 1993).

<sup>16044</sup> *See* D2148 (Report of Drina Corps, 19 February 1993). At the time, the ABiH's main forces were concentrated near Bratunac, the Sase mine, Skelani, Žepa, Goražde, and Mededa village. P4251 (Order of Drina Corps, 1 February 1993), para. 1. *See also* D4767 (Report of Zvornik Brigade, 11 February 1993).

<sup>16045</sup> P5497 (Report of Drina Corps, 24 February 1993), pp. 1–2.

<sup>16046</sup> Pyers Tucker, T. 23260, 23263 (18 January 2012); P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 164. *See also* KW570, T. 32198 (18 January 2013) (private session).

<sup>16047</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 157. This pattern of using artillery to induce the population to flee also occurred in the areas to the south, southeast, and southwest of Srebrenica. Pyers Tucker, T. 23263 (18 January 2012).

<sup>16048</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 158. Once the women, children, and elderly had left, the VRS assumed that those who remained "[we]re able-bodied, and at the same time h[e]ld extremist views". P5187 (Report of Zvornik Brigade to Drina Corps, 2 February 1993), para. 8.

<sup>16049</sup> Momir Nikolić, T. 24745 (15 February 2012); Milenko Živanović, T. 42672–42673, 42676 (31 October 2013). *See also* P6460 (Excerpt from report of Commission on Human Rights, 5 May 1993), para. 13. *See* para. 13.

<sup>16050</sup> P3162 (Report of 1<sup>st</sup> Birač Infantry Brigade, 2 March 1993), para. 2 ("Our forces which are moving in the wider area of Kamenica, Gajići and Grobići worked *according to plan* without major problems. The village of Gobelji *has been burnt* and tomorrow the plan is to do Paljevine.") (emphases added).

<sup>16051</sup> Milenko Živanović, T. 42601–42603 (30 October 2013), T. 42672 (31 October 2013); D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 8; Svetozar Andrić, T. 41697–41698, 41700–41701 (22 July 2013); Manojlo Milovanović, T. 25777–25780 (5 March 2012).

considering these witnesses' testimony, the Chamber noted that as members of the commands at various levels of the VRS, each were—to some extent—connected to this campaign and would therefore have had an incentive to portray as legitimate the means employed therein.<sup>16052</sup> The Chamber thus treated their testimony with caution. Moreover, the Chamber received evidence demonstrating that torching houses was a default tactic of the Bosnian Serb units, and that Živanović himself urged the burning of “as many [houses] as possible” at the time.<sup>16053</sup>

**(No matter what incentive those witnesses may have had, was it true that those villages have served as a fortified strongholds, which had been re-used after the Serb forces withdraw? Certainly, it was true, and the entire villages had been turned into a military objects. Why so many Muslim villages in the Serb held territories hadn't been burned? And why the Serbs kept standing the Muslim attacks and atrocities the entire year, from April 1992 to the beginning of 1993?)**

Furthermore, a contemporaneous report indicates that in at least one instance, the ABiH had already fled the village, leaving behind abandoned weapons.<sup>16054</sup> The Chamber therefore does not accept the assertion that Bosnian Muslim villages were burned solely because they were fortified and being used by the ABiH as strongholds. **(But the point**

**was that the villages would be used by combatants again, not that had been used. If the villages remained intact, the combatants from woods would return and fortify it again. What is wrong with those translation, and how it was not clear? The Chamber is making an unbelievable precedent in the international law of war, approving the use of private property as a strongholds that are protected. As if a tranches would be forbidden to be destroyed!)**

**4956.** Most of the hamlets near Cerska fell to the VRS in early March, followed by Konjević Polje on or around 10 March 1993.<sup>16055</sup> Those who had fled towards Konjević Polje fled again, as thousands made their way southeast to Srebrenica or west towards Tuzla.<sup>16056</sup> In some instances, the VRS targeted mixed columns of civilians and

<sup>16052</sup> See e.g. Svetozar Andrić, T. 41701–41702, 41704–41705 (22 July 2013) (denying that the Birač Brigade's strategy was to burn and destroy houses in order to force people out). At the same time of the events in question, Andrić was the Commander of the Birač Brigade. D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 1.

<sup>16053</sup> See P4253 (Amendment to Zvornik Brigade Report, 10 March 1993) (Pandurević proposing that “houses should *not* be torched when taking control of Konjević Polje but that they be inhabited by people from Tuzla and other areas”); Manojlo Milovanović, T. 25783 (5 March 2012); P5261 (Intercept of conversation between Col. Milenko Živanović and Lt. Gaborović, 8 February 1993). When presented with this intercept, Živanović reiterated that civilians had already departed from the villages in question and the villages had been turned into ABiH strongholds. Milenko Živanović, T. 42604–42606 (30 October 2013). Živanović further asserted that Pandurević's suggestion not to burn Konjević Polje so that Serbs could move in was plausible only because the village was not being defended by any ABiH forces, and he maintained that houses were never burned unless the ABiH was using them for a military purpose. Milenko Živanović, T. 42607 (30 October 2013). The Chamber is of the view that had Živanović intended only to neutralise a military threat, he would not have urged that “as many [houses] as possible” be burned. The Chamber thus considers that Živanović's testimony is directly contradicted by the intercept in question and, accordingly, will not rely on the former in this regard. See also P6460 (Excerpt from report of Commission on Human Rights, 5 May 1993), para. 15.

<sup>16054</sup> P3161 (Report of 1<sup>st</sup> Birač Infantry Brigade, 2 March 1993), p. 1.

<sup>16055</sup> D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 5; P4205 (Order of Drina Corps, 14 March 1993), para. 1; Piers Tucker, T. 23203–23204 (17 January 2012). See also P6460 (Excerpt from report of Commission on Human Rights, 5 May 1993), paras. 13, 15; KW570, T. 32197–32204 (18 January 2013) (private session). The Birač and Bratunac Brigades, as well as the Krajina Corps' “Vojvoda Mišić” 2<sup>nd</sup> Battalion and Mauzer's Panthers also participated in the attacks on Konjević Polje and Kravica. P5500 (Instructions of Drina Corps Command, 8 March 1993), p. 1; D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 26; Momir Deurić, T. 33937–33938 (18 February 2013).

<sup>16056</sup> Piers Tucker, T. 23260 (18 January 2012); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 164; KDZ064, T. 1321, 1383–1384 (21 April 2010), T. 1416–1418 (22 April 2010); KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1380. See also Piers Tucker, T. 23201 (17 January 2012), T. 23260–23261; D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 13; Vidoje Blagojević, T. 45031–45032 (12 December 2013); P6568 (Map of Drina Corps, 12 February 1993). Already at the beginning of February, around 200 women and children had fled Cerska and Kamenica; the VRS allowed them to leave the area through a corridor in the direction of Kalesija. P5499 (Report of Drina Corps, 31 January 1993), pp. 1–2; P4251 (Order of Drina Corps, 1 February 1993), para. 1. See also P5186 (Report of Zvornik Brigade to Drina Corps, 31 January 1993), para. 1; P5496 (Report of Zvornik Brigade, 31 January 1993), para. 1; P5493 (Report of Drina Corps, 1 February 1993), para. 2; P4251 (Order of Drina Corps, 1 February 1993), para. 1.



soldiers,<sup>16057</sup> forcing them to flee.<sup>16058</sup> (#A column of combatants was a legitimate target!)

4957. During the spring of 1993, the humanitarian situation in eastern BiH grew disastrous. As mentioned above, until February, the Bosnian Serbs had allowed only one convoy to Srebrenica.<sup>16059</sup> They had not allowed any relief convoys to reach Cerska, and had let “a handful” through to Gorazde and Žepa following lengthy negotiation and delays.<sup>16060</sup> Bosnian Serb leaders continued to offer a number of justifications for the convoys not reaching the enclaves, such as roads and bridges being damaged or mined, snow blocking the roads, or the existence of local fighting.<sup>16061</sup> Alternatively, they asserted that the Bosnian Serb population along the proposed convoy route was agitated and would not let convoys pass, or the leaders would invoke a Bosnian Muslim or UN action as justification for not letting convoys through.<sup>16062</sup> As mentioned above, Bosnian Serb leaders also often placed conditions on the passage of convoys, such as food having to be delivered to Bosnian Serb refugees first, convoys having to be unloaded and inspected for weapons smuggling, or large sums of money having to be paid to the RS for road maintenance.<sup>16063</sup> If, however, the Bosnian Serb high command wanted to allow a particular convoy through, it passed with minimal obstruction.<sup>16064</sup>

4958. After receiving clearance to lead an aid convoy to Srebrenica, following several days of delays and detours, Morillon finally arrived in Srebrenica in the middle of the night on 12 March.<sup>16065</sup> The town bore signs of having been subjected to continuous shelling.<sup>16066</sup> It was saturated with refugees; people camped in the stairwells and corridors of apartment buildings, in cars, and in public buildings such as the school and sports centre, while others

<sup>16057</sup> P4250 (Zvornik Brigade report, 31 January 1993); P4252 (Zvornik Brigade report, 2 March 1993), para. 1; P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 270, 273–274.

<sup>16058</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21843–21844; P4251 (Order of Drina Corps, 1 February 1993), para. 1; P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 271–272. *See also* P5163 (Report of Drina Corps, 17 March 1993), p. 2.

<sup>16059</sup> *See* para. 4449.

<sup>16060</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 132, 140. For example, when Morillon attempted to accompany a relief convoy to Gorazde in mid-February, Radomir Furtula and Rajko Kušić stopped the convoy at Rogatica, telling the group that they had received orders from Mladić to block the convoy and to check it for contraband, which they did, but found nothing. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 131, 136–138. Eventually, the convoy was allowed to proceed, only to be stopped and held at subsequent roadblocks while each local commander sought direction from his superior. P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 138. Ultimately, the convoy encountered a huge crater in the road and had to return to Sarajevo as no alternate routes were available; on the return journey, the convoy was “virtually waved through” all check-points and reached Sarajevo in a fraction of the time. P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 139.

<sup>16061</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 148, 175.

<sup>16062</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 143. For example, upon Mladić’s orders, Morillon was barred from visiting Konjević Polje in mid-March because Morillon had not implemented an agreement regarding the exchange of captured Bosnian Serbs and Bosnian Muslims. P4790 (Intercept of conversation between Colonel Simić and unidentified person, 11 March 1993); P4791 (Record of intercept of conversation referring to an order given by Ratko Mladić, 11 March 1993).

<sup>16063</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 144. *See also* para. 4950. For example, after learning about 75 Bosnian Muslim military and civilian wounded who had been found in houses in and around Konjević Polje, Morillon obtained agreement from Gvero and “Dr. Lukić” for a military convoy to evacuate the wounded from Konjević Polje during a cease-fire, and for a humanitarian aid convoy to go to Srebrenica on 11 March 1993. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 163, 165. However, permission for the convoy to pass was conditioned on the ABiH stopping offensive actions in other areas. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 165–166.

<sup>16064</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 147. On multiple occasions, the Accused intervened directly with local authorities in order to allow convoys to pass. *See e.g.* P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 148; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 51.

<sup>16065</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 175, 201; P4235 (UNPROFOR Special Situation Report re Srebrenica, 15 March 1993). The convoys set out around 10 March, reaching Zvornik by the following day, where Morillon and a small party met with Branko Grujić, the mayor of Zvornik, and Pandurević, who, after speaking with the Accused twice by phone, finally agreed to the medical evacuation from Konjević Polje as well as to Morillon and a small group going to Srebrenica. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 168, 170.

<sup>16066</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 201; P4235 (UNPROFOR Special Situation Report re Srebrenica, 15 March 1993). *See also* Adjudicated Fact 1403. Morillon’s group also found evidence of cluster bombs and 128 mm rockets having fallen within the enclave. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 201–202. Additionally, after being halted in Zvornik, the other convoy evacuating the wounded came under direct fire from VRS tanks in Konjević Polje, causing it to withdraw. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 188–189.

had no shelter and “simply huddled around what fires they could make” when the temperatures dropped to -25°C at night.<sup>16067</sup>

4959. Most who had fled to Srebrenica had not had any real food since leaving their villages, and the only water source, the river, was heavily polluted with offal, excrement, and oil.<sup>16068</sup> There were not enough beds in the clinic for the approximately 200 badly injured persons in the town.<sup>16069</sup> Between 15 and 20 people died each night, and hygiene was deplorable throughout the town.<sup>16070</sup> **(#The Chamber allowed such a blatant lies, so that there was no sense to defend at all. First, none of the people in the column didn't leave without a food necessary for at least a week. Second, the wondering throughout the woods lasted only for to six days for the most part of the column, since already on 16 July the vast majority (10,000 out of 13,000) passed through the Pandurević's corridor. There was no a time to have the people dying without food.# This is a drastic exaggeration. Than, how many combat casualties was there, if over four hundreds died because of lack of food? There is a testimony of a peasant from Srebrenica, who confirmed that they produced enough food in and around the town, also, there is a very convincing insiders evidence that the humanitarian aid was directed to a black market, see:...@ #All of these pressures against the Serbs in the middle of their counter-offensive!!!! )**

4960. The following morning, when Morillon's meeting ended and the convoy tried to leave, the crowd, which had grown and had become increasingly hostile overnight, swarmed around the vehicles and prevented them from moving.<sup>16071</sup> In the afternoon, Morillon declared that Srebrenica was under the protection of the UN and specified conditions that would need to be satisfied before he would leave Srebrenica.<sup>16072</sup> Morillon ordered his headquarters in Kiseljak to negotiate a helicopter air corridor to evacuate the seriously wounded and requested reinforcement from UNMOs, as well as free passage into Srebrenica for aid convoys and out of Srebrenica for all refugees who wanted to leave.<sup>16073</sup>

4961. Over the following two weeks, Morillon engaged in negotiations with various members of the VRS, including Milovanović, who insisted that Morillon would have to leave the enclave before aid convoys would be allowed in—a condition which Morillon refused.<sup>16074</sup> On 19 March, Morillon left the town to meet the convoy and to help it through Bosnian Serbs roadblocks; while he was gone, the town was hit by a multiple rocket launcher, causing two civilian deaths and wounding three children.<sup>16075</sup> **(And, who**

<sup>16067</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 176–177. People relied on makeshift generators for electricity, and 15 to 20 people lived squeezed into single rooms. Adjudicated Fact 1402; Piers Tucker, T. 23289–23290 (18 January 2012).

<sup>16068</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 178; Piers Tucker, T. 23286–23288 (18 January 2012). The advancing VRS forces had destroyed the town's water supplies and there was almost no running water. See Adjudicated Fact 1402.

<sup>16069</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 179. See also P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 141; P2945 (ABC News video clip re Srebrenica, with transcript) (under seal).

<sup>16070</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 180–181; P4231 (Dr. Simon Yardel's letter to the French Embassy in Belgrade re conditions in Srebrenica, 23 February 1993).

<sup>16071</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 182, 184. No ABiH soldiers were present within the crowd, but they took up positions near the edges and positioned heavy machine guns and anti-tank rockets along the convoy's exit route. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 182–183. Morillon made three more attempts to leave, but was blocked each time by an angry crowd. P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 186–187; P4232 (Piers Tucker's report re situation in Srebrenica, 12 March 1993).

<sup>16072</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 191. See also Adjudicated Fact 1403.

<sup>16073</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 192. See also D2036 (Piers Tucker's report re cease-fire in Central and Eastern BiH, 16 March 1993) (including an appeal from Morillon to open an air corridor for humanitarian aid and the evacuation of the wounded).

<sup>16074</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 197–199, 205–207; P4234 (UNPROFOR report re Srebrenica, 15 March 1993); P4238 (UNPROFOR Special Situation Report re Srebrenica, 18 March 1993); P4239 (General Morillon's order re convoy to Srebrenica, 18 March 1993).

<sup>16075</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 208–209; P4240 (Piers Tucker's report re Srebrenica, 19 March 1993).



shelled it? Was it established credibly, and how? Why it was enough to conclude that there was some shelling, and to understand that the Serbs shelled? Did the other side have mortars, rocket launchers, cannons? The Prosecution didn't feel any obligation, nor the Chamber demand it, to be established who shelled and from where?) That day, the first UN aid convoy to reach Srebrenica since the beginning of the year finally arrived.<sup>16076</sup> (#here is the reference mentioned in this fn. Let us see what does it mean:

206. Document marked R017-0467-R017-0467 is another report drafted by me on **18 March 1993** at 0937 hours regarding the passage of the military humanitarian aid convoy. It notes that "This convoy must come here, people are dying". I radiod this message to Kiseljak on the morning of 18 March before we went down to the frontline. During that day we stayed on the frontline to try to hold it open while General Morillon went in his jeep to Zvornik to get the convoy.
207. The convoy left the following day, but was blocked by Bosnian Serb troops outside Zvornik. It only reached its destination on **19 March 1993**.
208. This was the first UN aid shipment to reach Srebrenica in three months and the second since the start of the war. It took Morillon to accompany the convoy to push it through the Bosnian Serb roadblocks. The convoy had been forced by

So, it took ONE DAY until it reached Srebrenica: Tucker wrote the document "regarding military humanitarian convoy"! #Like a "wooden iron". Humanitarian convoys had been under the ICRC and UNHCR competence, and these were authorised by the Governmental Coordination body (later the State Committee) while military convoys had been taken care by the VRS, because it concerned the security of their soldiers and units. Knowing how many times these "military humanitarian convoys" #smuggled fuel, ammunition and other war materials to the Muslim illegally present army in Srebrenica, the VRS was a perfectly entitled to take care of it. However, the Prosecution, including its witness Tucker, smuggled a lie as a fact, and the Chamber accepted it. There couldn't have been any "dying of people" because of food, and this convoy couldn't have been the first since the beginning of the year, and there are a plethora of evidence that the Muslim population survived in this area, feeding at the same time 30,000 troops, who kept butchering the Serb civilians and burning the Serb villages. Morillon reiterated that he would only leave the enclave permanently once UNMOs were deployed and convoys were allowed unimpeded access to the enclave.<sup>16077</sup>

4962. Meanwhile, the VRS attack on the Srebrenica area continued unabated as the VRS took over four to five villages each day.<sup>16078</sup> By approximately 20 March, all refugees from Kamenica, Cerska, and Konjević Polje had found their way to Srebrenica.<sup>16079</sup> (All of that were a legitimate counter-offensive actions, after a year of savage and inhumane attacks of the Muslim 30,000 combatants against the Serb villages and civilians. But, said as that, it looks as if these Serb military actions had been illegal! See how the Muslim side implemented a cunning tactics, see D343 of 16 March 1993: (###See D343, a duplicity in conduct of the ABiH: However, this was the Muslim side who initiated attacks in Podrinje, that lasted a year, the Muslim side had violated every

<sup>16076</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 207–208. See also KDZ240, T. 16003 (4 July 2011) (closed session).

<sup>16077</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 210.

<sup>16078</sup> P4241 (UNPROFOR Special Situation Report re Srebrenica, 20 March 1993), para. 8; P4207 (Drina Corps report, 17 March 1993). According to an UNPROFOR situation report, the VRS received support from across the border in Serbia in the form of artillery fire, aircraft-bombers, and ammunition resupply convoys, and were allowed by the Serbians to stage attacks on the southern and eastern parts of the Srebrenica enclave from within Serbian borders. P4241 (UNPROFOR Special Situation Report re Srebrenica, 20 March 1993), para. 8.

<sup>16079</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 211. The total number of refugees in the enclave, which was at that point defined as including Žepa, was estimated to be around 80,000. P4241 (UNPROFOR Special Situation Report re Srebrenica, 20 March 1993), para. 9; P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 212.

**ceasefire, the Muslim side sabotaged the humanitarian aid for their own population, and all of it was known to the Chamber from the most reliable source, the UN Commander,**

In connection with received orders, strictly confidential no. 02/398-1 of 15 March 1993 to cease combat activities, I hereby issue the following

ORDER

1. Order strictly confidential no. 02/398-1 of 15 March 1993 is not valid as it was issued for propaganda purposes.
2. Continue the strongest possible offensive operations with the task to reach the areas of Cerska, Konjević Polje and Kamenica as soon as possible and link up with the defence forces of the free territory of Srebrenica.
3. As quickly as possible, by 2200 hours on 17 March 1993 at the latest, select volunteers, prepare them and infiltrate them in the Cerska area.
4. Take energetic measures in the spirit of the law, rules and regulations which regulate relations in the armed forces of the Army of the Republic of BH against all those who fail to in any way carry out orders and show hesitation.

MV/AH

CHIEF of the SUPREME COMMAND STAFF  
of the OS /Armed Forces/ of the RBH  
/Republic of Bosnia and Herzegovina/  
Sefer HALILOVIĆ  
/signature/

**That is how the "International community" #accepted to be duped about the Muslim innocence and the Serb guilt. General Morillonm knew all that as can be seen from D D1497, of 15 February 93:**

SUBJECT: ASSESSMENT OF THE SITUATION - 15 FEB 93

1. Fighting around SARAJEVO. SARAJEVO is suffering yet more convulsions and hostilities continue in Eastern Bosnia. The cease fire around SARAJEVO agreed last week did not last 48 hours. It was broken by the BH Army however the situation is turning in the Serb's favour after five days of heavy fighting. President Izetbegovic has just asked for UNPROFOR mediation.

2. President's Image. After the bombardment of FRENAT 2's HQ and the prompt declaration that the attack had been carried out by the BH Army, President Izetbegovic may have come to realize that it is important for his cause and for his image that he be more conciliatory in his negotiations and more firm with his troops. The foolish decision to refuse humanitarian aid has placed him in a difficult situation from which he needs our help to escape. This he has in fact just asked for.

**This horrifying spring in Podrinje made more that 3,500 Serb victims, mainly civilians, and General Morillon attended to the recovery of these victims from several mass graves this spring. Also, see D104, of 11.3.93. Although in the middle of the fierce fighting and this cunning conduct of the Muslim side, #President Karad'i} took a proper care about humanitarian matters, although it was sufficient that he issued the required documents at the beginning of the war. He repeated it again in his Directives, see D104 ve offensive-counteroffensive, the President issued this Directive of 11. March 93:**

According to Article 7 of the Law of Defense, Article 174 of the Law / Statute of Republic Srpska and a Decision of the President of the Republic; very confidential – No. 01-78/93 on 11.05.1993, in order to maintain the signed ceasefire by our side, the President of the Republic had issued the following:

#### DIRECTIVE

The Headquarters of the Republic Srpska Army is obliged to continue in the future:

1. To enable undisturbed passage and protection of mail, equipment, and personnel who render assistance intended for the civil population of the opposite side.
2. To prohibit any misuse, for military purposes, of food supplies, crops, plumbing and drinking water reservoirs, as well as water dams.
3. To abide by the Geneva Convention for the protection of victims of war and their protocols 1. and 2., as well as the Hague Convention on Laws and Customs of Ground War from 1907, and other provisions of International Law of war, and
4. To ensure that all army units make themselves acquainted with this Directive, and to sustain it.

PRESIDENT OF THE REPUBLIC

Dr. Radovan Karadzic

**The VRS suffered because of so many concessions that the President gave to the Muslim side and internationals, who didn't have any sensitivity for the Serb sufferings. See: D4190, od 22 January 1993:**

1. Since the Drina Corps forces did not execute their tasks from the Directive 4, the enemy switched to counter-offensive in the eastern part of the area of responsibility of Drina Corps, and succeeded in inflicting large losses to the units of the Drina Corps in Glogova mountain, in the wider region of Bratunac, Skelani and Rudo; the attack against Višegrad is ongoing.

The objective of this attack of the enemy is to inflict as large losses to the Serb civilian population and the Drina Corps forces as possible, to force the civilian population to abandon their territories and relocate to other premises, to reach the Drina river and provide for their own corridor in the stretch: Goražde, Borike, Žepa, wider region of Srebrenica and Cerska, establishing contact with the already existing corridor: southern slopes of the Jahorina mountain, Trnovo and Konjic, which would secure uninterrupted corridor to Croatia. They will try to reach Priboj through the additional efforts from the region of Goražde and Višegrad therefore establishing direct contact with Sandžak.

Furthermore, they will probably try to cut off our corridor Zvornik—Šekovići in order to join the area of Cerska with the Tuzla basin, reaching the river Drina in Semberija from Tuzla through village Teočak and village Janja. That is how they would join Sandžak, Podrinje and Semberija to Central Bosnia.

2. The Army of Republika Srpska received a task to prevent the establishment of the aforementioned corridors of the enemy, to preserve our corridors, towns, villages, bridges and vital economic structures in Podrinje, and to completely cleanse the left bank of the Drina river from the enemy through the offensive activities, so that the structures located next to Drina river couldn't even be reached by the artillery fire.

Upon completion of the task switch to defense at the lines achieved.

Do not destroy the civilian population: provide them with the possibility to relocate to other areas or, in the case if they accept the authorities of Republika Srpska, disarm them and establish Serb civilian authorities.

Following the advancement of the reserve forces of the Main Staff of the Army of Republika Srpska and the Drina Corps units, the Drina Corps command shall immediately commence organization and establishment of the civilian and military authorities in the liberated territories and shall provide the basic conditions of living to the civilian population.

**This is the most relevant interpretation and implementation of the Directive 4. At the same time, it is evident that a year of the Muslim troops terror over the Serbs in Podrinje had to be ended in a legitimate action. At the same time, the Muslim side is violating the ceasefire agreements and sabotaging the humanitarian aide, as can be seen from the next evidence, the report of Gen. Morillon. Therefore, in such an intensive combat activities all convoys had a trouble, #not because of a bad will of the Serb side, but because of the objective military situation#.**

4963. On 20 March, Morillon left Srebrenica with a convoy of 673 persons consisting of women, children, and approximately 100 wounded.<sup>16080</sup> Over the following two days, he held a series of meetings with various Bosnian Serb military and political leaders, including Gvero and Plavšić, with the aim of obtaining their agreement to his previously stated conditions before returning to Srebrenica.<sup>16081</sup> Sometime between 22 and 24 March, the Accused approved an air corridor from Tuzla to Srebrenica that was scheduled to last for five days beginning on 24 March.<sup>16082</sup>

4964. That day, the football field where the helicopters were to land was shelled numerous times; a Bosnian Muslim policeman was killed.<sup>16083</sup> Protests were lodged with the Bosnian Serb authorities throughout the day.<sup>16084</sup> Ultimately, five helicopters were able to evacuate 24 civilians, but a total of three people were killed and six wounded during the process.<sup>16085</sup>

4965. By 25 March 1993, the population of Srebrenica town had swollen to 30,000.<sup>16086</sup> Shelling continued sporadically throughout the day, the town was completely filled with people who were forced to live on the streets, and food stocks were predicted to last only ten more days.<sup>16087</sup>

4966. Pursuant to an agreement reached in Belgrade on 25 March,<sup>16088</sup> an aid convoy of approximately 18 trucks accompanied by two teams of four UNMOs each made its way

<sup>16080</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 212; P4208 (Drina Corps report, 20 March 1993), para. 3. *See also* D1508 (Report of humanitarian organisation, 4 April 1993) (under seal).

<sup>16081</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 214–218. While Morillon was away, the VRS offensive continued along the southeast edge of the enclave. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 219; P4242 (Major Dudley's report re Srebrenica, 22 March 1993).

<sup>16082</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 225; P4243 (Pyers Tucker's report re Srebrenica, 24 March 1993).

<sup>16083</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 228–231; P4243 (Pyers Tucker's report re Srebrenica, 24 March 1993); P4244 (UNPROFOR report re Srebrenica, 25 March 1993). *See also* P4245 (UNHCR daily press summary re situation in Srebrenica, 25 March 1993). While en route to Sarajevo four days later, Tucker met a Bosnian Serb Special Forces officer who boasted about having killed five Bosnian Muslims while in the hills above Srebrenica. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 256. Tucker thus concluded that a member of the Bosnian Serb Special Forces must have infiltrated the enclave in order to advise the gunner who shelled the football field on 24 March. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 230. The shells were fired from the direction of Bratunac, but because Tucker had seen only 82 mm mortar positions along the road to Bratunac, Tucker surmised that the shells were fired from Serbia, over the Drina, and over Bratunac, towards the football field. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 232, 254.

<sup>16084</sup> P4243 (Pyers Tucker's report re Srebrenica, 24 March 1993), para. 4.

<sup>16085</sup> P4245 (UNHCR daily press summary re situation in Srebrenica, 25 March 1993), p. 1.

<sup>16086</sup> P2946 (Report of humanitarian organisation, 25 March 1993), para. 1 (under seal); P2947 (Letter of humanitarian organisation, 2 April 1993), e-court p. 1 (under seal); KDZ240, T. 16011–16014 (4 July 2011) (closed session). *See also* Adjudicated Fact 1401; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 33–37.

<sup>16087</sup> P2946 (Report of humanitarian organisation, 25 March 1993), para. 3 (under seal); P2947 (Letter of humanitarian organisation, 2 April 1993), e-court p. 1 (under seal); KDZ240, T. 16011–16014 (4 July 2011) (closed session).

<sup>16088</sup> *See* P4246 (UNPROFOR report re meetings with Slobodan Milošević, 25 March 1993); P4247 ("Serbia Could Face New Measures If RS Drives Continues", United Press International, 25 March 1993). *See also* P1474 (Ratko Mladić's notebook, 29 January–31 March 1993), pp. 164, 170–171.



toward Srebrenica on 27 March.<sup>16089</sup> As previously agreed, the convoy was to deliver aid and then to evacuate the wounded, women, and children on the return journey.<sup>16090</sup> A total of approximately 5,560 women, children, and elderly, as well as several hundred wounded persons, were evacuated to Tuzla on the trucks' return journeys.<sup>16091</sup>

4967. Morillon left Srebrenica for Sarajevo on the morning of 28 March.<sup>16092</sup> While in Sarajevo, he met with RS Prime Minister Vladimir Lukić, who agreed to consider a plan to deploy UNPROFOR observers throughout BiH, including in Srebrenica.<sup>16093</sup>

4968. By early April, the VRS had re-gained much of the territory it had previously lost, and was within two kilometres of Srebrenica town.<sup>16094</sup> As the VRS tightened its grip around the town,<sup>16095</sup> many fled from villages within the municipality into the town itself.<sup>16096</sup> Calls were made to increase the international presence in Srebrenica, including that of UNPROFOR, in order to turn the enclave into a UN protected area and to provide more humanitarian assistance.<sup>16097</sup>

*ii. Proclamation of Srebrenica as a "safe area"*

**4969.** At the end of March and over the first two weeks of April, Morillon and Wahlgren met repeatedly with members of the VRS, including Mladić, Milovanović, and Gvero, with a view to halting the Bosnian Serb attack on Srebrenica and obtaining access to the enclave for UN observers, UNPROFOR, and humanitarian aid convoys.<sup>16098</sup> In the meantime, however, the attack on Srebrenica continued.<sup>16099</sup> On the morning of 16 April 1993, Mladić issued an order to the Drina Corps to initiate attacks aimed at seizing the town that day or the next.<sup>16100</sup> **(Certainly that same day, but many hours prior to the UNSC**

<sup>16089</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 243–253. Morillon and Tucker also made their way from Belgrade towards Zvornik, reaching Srebrenica late in the afternoon of 27 March. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 253.

<sup>16090</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 245, 253. The convoys were prevented from bringing in shelter material, however. P2947 (Letter of humanitarian organisation, 2 April 1993), e-court p. 2 (under seal). Additionally, as the convoy prepared to depart for its return journey, panic ensued during the boarding process and several refugees were crushed to death. Pyers Tucker, T. 23210–23211 (17 January 2012). See also D2035 (Pyers Tucker's report re two incidents, 12 March 1993), para. 2.

<sup>16091</sup> P2947 (Letter of humanitarian organisation, 2 April 1993), e-court p. 2 (under seal). See also KDZ240, T. 16003–16004 (4 July 2011) (closed session). See also Adjudicated Fact 1404; Manojlo Milovanović, T. 25599–25600 (1 March 2012) (recalling that Izetbegović prevented the civilian population, who wanted to leave, from doing so); D1508 (Report of humanitarian organisation, 4 April 1993) (under seal).

<sup>16092</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 255.

<sup>16093</sup> D3573 (TANJUG news report, 29 March 1993). Morillon also agreed to use his influence with Bosnian Muslim authorities to press for the implementation of an agreement with Izetbegović on 8 March 1993 to allow Bosnian Serbs to leave Sarajevo, Tuzla, and other towns under Bosnian Muslim control. D3573 (TANJUG news report, 29 March 1993).

<sup>16094</sup> Momir Nikolić, T. 24743–24744 (15 February 2012); P4790 (Intercept of conversation between Colonel Simić and unidentified person, 11 March 1993); D2141 (VRS Main Staff Order, 9 April 1993); P5167 (Report of Zvornik Brigade, 10 April 1993), para. 2. See also P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 1.25.

<sup>16095</sup> Pyers Tucker described this process as 'squeezing' the enclaves of Srebrenica and Žepa. P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 155; Pyers Tucker, T. 23199, 23202–23203 (17 January 2012). See also P4205 (Order of Drina Corps, 14 March 1993), para. 1; D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 5.

<sup>16096</sup> KDZ425, P380 (Transcript from *Prosecutor v. Popović et al.*, T. 3500 (under seal); P391 (Witness statement of Hafiza Salihović dated 17 June 2000), e-court p. 2; P391 (Statement of Hafiza Salihović to Tuzla Cantonal Court, 17 June 2000), e-court p. 8; P392 (Witness statement of Semija Suljić dated 17 June 2000), e-court p. 2; P392 (Statement of Semija Suljić to Tuzla Cantonal Court, 17 June 2000), e-court p. 8; P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P404 (Statement of Samila Salčinović to Tuzla Cantonal Court, 18 June 2000), e-court p. 13.

<sup>16097</sup> P2947 (Letter of humanitarian organisation, 2 April 1993), e-court p. 2 (under seal).

<sup>16098</sup> See paras. 367–370.

<sup>16099</sup> On the afternoon of 12 April, the town was shelled and 14 people, including two children, were killed. P6077 (UNPROFOR letter to Radovan Karadžić, 12 April 1993), p. 2.

<sup>16100</sup> P4795 (Intercepts of conversations between (i) General Živanović and Colonel Prstojević; (ii) Ratko Mladić and Colonel Prstojević; and (iii) unidentified person and General Milovanović, 16 April 1993). Mladić further ordered that everyone in the town who had weapons was to be killed, while the civilians and the wounded were to be taken out of town. P4795 (Intercepts of conversations between (i) General Živanović and Colonel Prstojević; (ii) Ratko Mladić and Colonel Prstojević; and (iii) unidentified person and General Milovanović, 16 April 1993).

Resolution the President issued a written Order to cease all military actions towards and around Srebrenica, specifying that the disarmed combatants will be treated as other civilians, and forbid any investigation of the war crimes of the Muslim side. Look at that document: D00043 The Prosecution alleged that the President did it because of a NATO threats, the Defence rebutted that there was no threts, and that the President himself forbid any investigation, which wasn't required by anybody. Also, #recently discovered document of correspondence between the President and gen. Morillon explains that this correspondence was crucial for this Order. What is the aim of skipping such a remarkable involvement of the Accused? It only found a place in the fn. 16751, i.e. removed from the main text. Here is the Morillon letter to the President on 16 April 1993, recently disclosed.

MESSAGE

PLEASE PASS THE FOLLOWING MESSAGE TO THE SERB LIAISON OFFICER IMMEDIATELY. ADVISE THIS OFFICE IF UNABLE TO DO SO WITHIN 30 MINUTES OF RECEIPT.

FOR SERB LIAISON OFFICER

I ask that the following message from General Morillon be passed to President Karadzic and General Mladic immediately.

C  
CM  
FC  
OS  
OS(O/I)  
OS(O/A)

"1. Mr President, your agreement last night to a full cease fire in the Srebrenica area from 1200 hrs today has been passed to the Bosnian forces in Srebrenica and the town mayor with the demand that the cease fire be honoured. The cease fire is the most important link in averting a disaster of unimaginable proportion and I ask that you do everything to ensure that Serb forces honour the agreement you have made. The Presidency in Sarajevo are fearful of a massacre in the town and I ask you again to exercise your powers in preventing this.

R0155866

2. Plans are now advanced for the air evacuation of wounded from Srebrenica starting tomorrow as early as possible. I agree that aircraft should stop at Zvornik for inspection by your representatives before proceeding to Srebrenica. However, I must insist on your guarantee of safety for the aircraft and crews while they are on the ground at Zvornik. The cease fire must also still be operating. In the name of humanity, I ask that you give authority for the evacuation to proceed as we have planned.

3. I also seek your approval to deploy UNPROFOR troops as soon as possible to Srebrenica to:

- a. Secure the evacuation helicopter landing site and,
- b. Commence preparation for the takeover and safe custody of arms from Bosnian forces.

I understand that President Milosovic supports this and that you have today agreed with him to such a deployment. My plan is for an UNPROFOR monitoring group to deploy to Srebrenica tomorrow morning (17 Apr 93).

4. I would appreciate receiving your confirmation that the cease fire still holds and that you agree to the air evacuation of wounded personnel starting tomorrow. A reply by 1800 hrs would be welcome so my staff may begin timely execution of the evacuation plan.

5. Confirm that General Wahlgren and myself accept your invitation to attend a meeting at Pale at 1030 hrs on Sunday 18 Mar 93."

Phillipe MORILLON  
General



STRICTLY CONFIDENTIAL no.: 01-53/93  
16 April 1993

Pursuant to Article 80 of the Constitution of Republika Srpska and Article 5 of the Decision on the Establishment of the Supreme Command of the Army of Republika Srpska, on the basis of demonstrated need, I hereby

ORDER

1. Cease all operations of the Army of Republika Srpska against Srebrenica and its surroundings, except for those of necessary defence.
2. Stop the forces of the Army of Republika Srpska at the positions reached and prevent their entry into Srebrenica.
3. Facilitate the passage of all humanitarian convoys both entering and leaving Srebrenica.
4. Ensure pacification of the town in such a way that Muslim forces surrender weapons to UNPROFOR, who will then store them on a two-key basis, jointly with the Serbian forces.
5. After the surrender of weapons, all the Muslim soldiers will be treated like all other civilians.  
Provide protection for all civilians and give them the liberty to choose between leaving and staying.
6. Do not conduct any investigations into war crimes until the situation around Srebrenica is settled.
7. Carry the order out immediately and fully and inform me thereof.

PRESIDENT OF THE REPUBLIC  
Dr. Radovan KARADŽIĆ  
/signed and stamped/

/stamp: Municipal Secretariat for National Defence; Communications Centre Dispatch Room, Pale; 16 April 1993, 1810 hrs; a signature/

**(It is worthwhile to notice that in his letter Gen. Morillon said that the President agreed to a ceasefire previous day, i.e. 15 April, which shows that there was no treaths or any other reason, but an understanding of President Karadzic for the situation!)**

4970. However, that day, the Security Council passed Resolution 819, which proclaimed Srebrenica a “safe area which should be free from any armed attack or any other hostile act” and demanded the immediate cessation of armed attacks against Srebrenica.<sup>16101</sup> Resolution 819 further asked the Secretary General to “take immediate steps” to increase UNPROFOR’s presence in Srebrenica and the surrounding areas and demanded that both warring parties co-operate fully towards that end.<sup>16102</sup>

4971. That evening, the VRS forces at Pribićevec received an oral order from the Accused and Mladić to stay at their positions and not to enter Srebrenica.<sup>16103</sup> **(Maybe the people at Pribicevac got an oral order, but certainly it was on the basis of the Accused’s written order D00043, and somebody who received the written order communicated it orally on the terrain!).** The following day, Mladić and Halilović agreed to a cease-fire in the

<sup>16101</sup> P4209 (UNSC Resolution 819, 16 April 1993), p. 2. See also Adjudicated Facts 1405, 1407.

<sup>16102</sup> P4209 (UNSC Resolution 819, 16 April 1993), p. 2. See also Adjudicated Fact 1410. The resolution further requested that “Bosnian Serb paramilitary units” withdraw from the area around the enclave. P4209 (UNSC Resolution 819, 16 April 1993), p. 2. See also para. 369.

<sup>16103</sup> Momir Nikolić, T. 24749–24750 (15 February 2012). At 6 p.m. that day, the Accused issued a written order to the VRS Main Staff ordering the cessation of operations against Srebrenica and the surrounding area, as well as the facilitation of the passage of humanitarian convoys into and out of Srebrenica. D43 (Radovan Karadžić’s Order to VRS Main Staff, 16 April 1993), paras. 1, 3. The Accused’s order further stated that the VRS was to “ensure pacification of the town in such a way that Muslim forces surrender weapons to UNPROFOR”, who would store them, and that after surrendering the weapons, Muslim soldiers would be “treated like all other civilians”, who would be protected and given the liberty to choose between leaving and staying. D43 (Radovan Karadžić’s Order to VRS Main Staff, 16 April 1993), paras. 4–5. Finally, the Accused ordered the Main Staff to carry out his order immediately and fully and to inform him thereof. D43 (Radovan Karadžić’s Order to VRS Main Staff, 16 April 1993), para. 7.

Srebrenica area which would enter into force at 4:59 a.m. on 18 April 1993.<sup>16104</sup> According to this agreement, all weapons, ammunition, mines, explosives, and combat supplies were to be handed over to UNPROFOR within 72 hours of the arrival of an UNPROFOR convoy scheduled to depart from Tuzla at 11 a.m. that day.<sup>16105</sup> Neither party was permitted to “hinder the freedom of civilians”,<sup>16106</sup> and disarmed Bosnian Muslim combatants were to be treated as civilians.<sup>16107</sup> **(It would be fair towards the Accused to mention that this Order of the Main Staff of VRS (D 2144) had been issued on the basis of the President order to stop the the VRS entering the town, issued two days prior to this Order, see: D43)**

#### ORDER

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5. After the surrender of weapons, all the Muslim soldiers will be treated like all other civilians.  
Provide protection for all civilians and give them the liberty to choose between leaving and staying.
6. Do not conduct any investigations into war crimes until the situation around Srebrenica is settled.
7. Carry the order out immediately and fully and inform me thereof.

PRESIDENT OF THE REPUBLIC  
Dr. Radovan KARADŽIĆ  
/signed and stamped/

**Therefore, all the elements from the Accused’s order had been implemented in the executive order of the Main Staff of VRS. There is no a reason to skip it, as if the Accused didn’t order it!** Additionally, a working group was established to discuss how to implement the demilitarisation process, as the VRS and ABiH disagreed on the geographical boundaries of the area to be demilitarised.<sup>16108</sup> **(#Had it been demilitarised, there wouldn’t be any “Srebrenica case”#! At the same time, the Accused ordered a free passage for the Ukrainian convoy to Zepa, no matter it was the very pick of the armed combat, see D 3310:**

Based on the order of the President of Republika Srpska regarding the request of the UNPROFOR /United Nations Protection Force/ Command to allow the passage of a convoy carrying supplies for the Ukrainian Company in Žepa,

It is hereby ordered:

1. The passage of a convoy carrying supplies for the UNPROFOR forces in Žepa has been approved for 19 April 1994 along the following route: Sarajevo – Pale – Rogatica – Žepa.

**see also D147 from 1995:**

<sup>16104</sup> D2143 (Agreement on Demilitarisation of Srebrenica, 18 April 1993), para. 1. *See also* D2144 (VRS Main Staff Order, 18 April 1993), para. 1 (ordering the Drina Corps to ensure a full and total cease-fire in Srebrenica and its surroundings); Manojlo Milovanović, T. 25593–25595 (1 March 2012); para. 370.

<sup>16105</sup> D2143 (Agreement on Demilitarisation of Srebrenica, 18 April 1993), para. 4. *See also* D2144 (VRS Main Staff Order, 18 April 1993), para. 6. According to the agreement, “after the completion of the demilitarisation process, not a single armed person or unit, apart from UNPROFOR forces, [would] remain in the [Srebrenica] town.” D2143 (Agreement on Demilitarisation of Srebrenica, 18 April 1993), para. 4; D2144 (VRS Main Staff Order, 18 April 1993), para. 6.

<sup>16106</sup> D2143 (Agreement on Demilitarisation of Srebrenica, 18 April 1993), para. 7; D2144 (VRS Main Staff Order, 18 April 1993), para. 7.

<sup>16107</sup> D2144 (VRS Main Staff Order, 18 April 1993), para. 7.

<sup>16108</sup> D2745 (Witness statement of Vere Hayes dated 14 January 2013), paras. 17–20. *See also* para. 370.

Notification

To: OG-8 /Operations Group/ SREBRENICA  
 Personally to the Commander  
 Brigadier  
 Naser ORIC

The shipment that was announced has arrived.  
 The aircraft has been hit and is now in Žepa. You or your deputy should come, if you can, with your men to take it over and to clarify some issues on the spot.  
 Do it when I send you signal *Mjesec /Moon/*. Do not send anyone now before the aircraft takes off, for security reasons. Be very cautious of UNPROFOR, the column with the cargo should absolutely move at night only. The previous group was detected by UNPROFOR with all the cargo and manpower between Vukoljin Stan and Šarena Bukva.

Selam!  
 AP/HJ

COMMANDER  
 Colonel  
 Avdo PALIC

**See also D1965, a "Final analysis of the Srebrenica and Zepa airlift, done in February 1996:**

Strictly confidential no. 08/896-1  
 Zenica, 17 February 1995

MAIN STAFF OF THE ARMY OF  
 THE REPUBLIC OF BOSNIA AND  
 HERZEGOVINA  
 To Brigadier General Enver  
 HADŽIHASANOVIĆ personally

FINAL ANALYSIS  
 OF THE SREBRENICA AND  
 ŽEPA AIRLIFT

Note: The airlift to Žepa was also used to supply the Srebrenica zone and can be considered an extension of the airlift for Srebrenica.

The airlift to Žepa is given separately.

- (In the aforementioned condition pilots were required to carry out the most difficult task which could be asked of a medium transport helicopter pilot who up to that point had been treated as combatant in the rear).

The death of the crew on the last flight had a significant impact on the pilots. It is important to mention that the enemy managed to establish a very strong anti-aircraft defence system during that time. *Attacks were recorded in 80% of cases/*.

Due to damage the helicopter had to remain at Žepa during one flight (at the Igrišnik heliport), so that the technical crew, which was sent to Žepa by helicopter, could repair the damage.

CONCLUSION:

Certain results in terms of transporting UBS, MTS and passengers were achieved by maintaining the airlift between 31 December *1994/* and 7 May 1994. This had a significant impact on increasing the combat readiness of the 185<sup>th</sup> Žepa Light Brigade and the psychological state and morale of the fighters and civilian population, and increased defence capabilities of the Žepa safe area. Later on, this facilitated the pulling out of soldiers and civilians from the Žepa zone to the free territory of Olovo, Kladanj and Tuzla and eased the consequences of the genocide which was prepared and carried out against the Muslim population.

Note: A certain quantity of transported equipment was taken over by the command of the 28<sup>th</sup> Srebrenica Division and this data may be used for the assessment of aid to the Srebrenica safe area.

We did not have conclusive data on the type of UBS, MTS and other material.

No.	Date	Flights/ Duration	Transported Out/ Back		Flight success /Enemy/ Action	
TOTAL		17/10.25	UBS 10 T UBS 20 T	UBS 10 T 20 wounded 29 passengers	6	
					UBS 10T	MTS 5 T
No.	Date	Flights/ Duration	Transported Out/ Back		Flight success /Enemy/ Action	

TOTAL	17/925	MTS 6T UBS 17 T 22 passengers	46 passengers 5 wounded	9 successful 1 unsuccessful (crash) Action on 7 occasions
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**So, there was #neither demilitarisation, nor a shortage of armament, in spite of the Agreement and the UNPROFOR guarantees! The Serb side had been deceived on a daily basis!**

*b. Deployment of UNPROFOR and demilitarisation efforts*

4972. Following the deployment of CanBat to the enclave on 18 April,<sup>16109</sup> as well as several days of further negotiations regarding the boundaries of the safe area, the Bosnian Serbs and Bosnian Muslims agreed that despite their different positions on the delineation of the safe area, “the city” itself would be a part of such an area and would be demilitarised.<sup>16110</sup> Thereafter, the demilitarised area was defined as the urban area of Srebrenica as well as the hills immediately overlooking the area from which a direct line of sight into the town existed.<sup>16111</sup> Upon its arrival, CanBat established a small command centre (the “Bravo Company Compound”) in Srebrenica itself, and a larger main compound about five kilometres north of the town in Potočari (“UN Compound”).<sup>16112</sup> From these bases, the battalion oversaw the demilitarisation of the town.<sup>16113</sup> The UNPROFOR troops were lightly armed and at any one time numbered no more than 600 men.<sup>16114</sup>

4973. On 8 May 1993, following the passage of Security Council Resolution 824 two days earlier,<sup>16115</sup> Mladić and Halilović signed a further agreement, which also included provisions on the demilitarisation of Žepa.<sup>16116</sup> Pursuant to this agreement, no one inside either enclave was allowed to have arms, and heavy weapons were taken to a collection point at the Bravo Company compound.<sup>16117</sup> However, Halilović ordered members of the

<sup>16109</sup> D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 18. *See also* para. 370; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28816; Momir Nikolić, T. 24752 (15 February 2012); Adjudicated Fact 1413. Despite the impending deployment of the UN personnel and troops, several artillery rounds fell on Srebrenica that morning and sporadic shelling continued to the north and northeast of the town until approximately noon. D2749 (UNPROFOR report re Srebrenica, 18 April 1993), e-court p. 2.

<sup>16110</sup> D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 20; D2242 (Agreement on Implementation of the Demilitarisation of Srebrenica, 18 April 1993). The Bosnian Serbs were dissatisfied with this agreement, however, because they asserted that 16,000 small arms should have been handed in. D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 25.

<sup>16111</sup> D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 21. *See also* P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.27. These boundaries never expanded outward, and the end result was a zone held by the ABiH which lay between the boundary of the safe area and the confrontation line with the VRS. D2745 (Witness statement of Vere Hayes dated 14 January 2013), paras. 25, 28; Vere Hayes, T. 31979–31981 (16 January 2013); D2756 (Diagram drawn by Vere Hayes); D2757 (UNPROFOR report re demilitarisation of Srebrenica, 21 April 1993), p. 9. *See also* Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21754; P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), paras. 1.27–1.29.

<sup>16112</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović*), T. 638–639; Adjudicated Fact 1416. *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 16; Jean-René Ruez, T. 23716 (26 January 2012). UNMOs also deployed into Srebrenica on that day. P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 62; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 9; Joseph Kingori, T. 22825 (12 January 2012).

<sup>16113</sup> P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 62.

<sup>16114</sup> *See* Adjudicated Fact 1415.

<sup>16115</sup> *See* para. 371.

<sup>16116</sup> D135 (Agreement on demilitarisation of Srebrenica and Žepa, 8 May 1993); Manojlo Milovanović, T. 25593 (1 March 2012); D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 29. *See also* D2145 (VRS Main Staff Order, 8 May 1993), para. 3; D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 14.

<sup>16117</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 15; Joseph Kingori, T. 22843 (12 January 2012); Paul Groenewegen, T. 22979–22980 (13 January 2012). *See also* P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 17; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 47, 49; Joseph Kingori, T. 22830–22831 (12 January 2012). The heavy weapons belonging to the Muslim Forces in Srebrenica—including mortars, at least two tanks, and heavy machine guns—remained in the compound of the Bravo Company in Srebrenica in January 1995. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 10; Albert Rave, T. 22193 (30 November 2011); Robert Franken, T. 23095–23096 (16 January 2012).



Muslim Forces in Srebrenica not to hand over serviceable weapons or ammunition to UNPROFOR and to pull all armed personnel and military equipment out of the newly-established demilitarised zone.<sup>16118</sup> Subsequently, the Muslim Forces in Srebrenica only turned old and dysfunctional weapons over to UNPROFOR.<sup>16119</sup> Members of the Muslim Forces in Srebrenica were forbidden to carry their weapons openly.<sup>16120</sup> UNPROFOR did not conduct house searches, only confiscating weapons if they encountered armed people while on patrol; this resulted in the demilitarisation process not being wholly successful.<sup>16121</sup>

4974. Thus, even after the “main demilitarisation” was completed immediately after the 1993 cease-fire,<sup>16122</sup> the Muslim Forces in Srebrenica still had access to light arms, heavy machine guns, anti-tank weapons, and mortars.<sup>16123</sup> **(Whatever the Muslim forces had at the beginning of the period of demilitarisation, there are evidence that the Main Staff of the ABiH smuggled a huge amount of armament in Zepa and Srebrenica, see: D1965 above!)** The group was progressively organised into brigades under the command of Naser Orić, with Ramiz Bećirović as Chief of Staff.<sup>16124</sup> However, the Muslim Forces in Srebrenica lacked training, discipline, and ammunition.<sup>16125</sup> Its members often wore civilian clothes rather than military uniforms and lived at home rather than in barracks.<sup>16126</sup>

<sup>16118</sup> See Adjudicated Fact 1426; D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 26; P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 61. At the point of demilitarisation, the ABiH had infantry weapons and artillery weapons of a calibre of up to 120 mm. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 7554. See also Pyers Tucker, T. 23273–23274 (18 January 2012).

<sup>16119</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 11; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 10; P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 61; Adjudicated Fact 1426. See also Milenko Živanović, T. 42669 (31 October 2013).

<sup>16120</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 49–50, 55; P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 15, 17; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 11. See also KDZ064, T. 1320–1321 (21 April 2010); KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28819–28820.

<sup>16121</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 11; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 17; Robert Franken, T. 23088–23089 (16 January 2012); Momir Nikolić, T. 24574 (13 February 2012); T. 24752 (15 February 2012); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2794–2795, 2903; Johannes Rutten, T. 22006–22007 (28 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1909–1910; Pieter Boering, T. 22097, 22105–22106 (29 November 2011); Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21754; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 49; Joseph Kingori, T. 22827–22828, 22830, 22832 (12 January 2012).

<sup>16122</sup> KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28822. See also P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 48; Joseph Kingori, T. 22827–22828, 22830, 22843 (12 January 2012).

<sup>16123</sup> P3951 (Excerpt from Dutch debriefing report, 4 October 1995), para. 2.34; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6119; Joseph Kingori, T. 22836–22837 (12 January 2012). See also P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 10; Paul Groenewegen, T. 22982 (13 January 2012). **The Chamber received evidence indicating that the Muslim Forces in Srebrenica did not have any heavy weapons inside the enclave, while other evidence suggested that the Muslim Forces in Srebrenica nevertheless had some type of access to heavy weaponry.** See Pieter Boering, T. 22106–22107 (29 November 2011); Joseph Kingori, T. 22833, 22840 (12 January 2012); D1967 (Report of ABiH 8<sup>th</sup> Operations Group, 17 February 1995); D151 (ABiH General Staff Order, 4 March 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6119 (suggesting that the Muslim Forces in Srebrenica had access to a howitzer which was concealed around Srebrenica). In this regard, the Chamber recalls Halilović’s order to pull military equipment out of the demilitarised zone and considers that such weaponry may have been present in the zone outside the urban area of the enclave or within the Bandera Triangle, both of which were controlled by the Muslim Forces in Srebrenica. See paras. 4973, 4978, fn. 16758.

<sup>16124</sup> Robert Franken, T. 23095 (16 January 2012), T. 23144 (17 January 2012); D2018 (Report of ABiH on unit locations, 28 July 1993); Momir Nikolić, T. 24736, 24754–24755 (15 February 2012); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 8; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 15. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2859; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 12. Upon Orić’s departure from the enclave in March 1995, Bećirović became acting commander. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 8; Robert Franken, T. 23113 (16 January 2012); Richard Butler, T. 27722 (20 April 2012). See also P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 19; Joseph Kingori, T. 22831 (12 January 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1880–1881; D144 (ABiH Report re fall of Srebrenica and Žepa, 23 February 1996), e-court p. 4. In total, between 3,000 and 4,500 men were present in the enclave, but only a few hundred men comprised a permanent armed group. See P3951 (Excerpt from Dutch debriefing report, 4 October 1995), para. 2.34 ; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 9; Albert Rave, T. 22192–22193, 22198–22199 (30 November 2011). See also Joseph Kingori, T. 22835–22836 (12 January 2012); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2880–2881; D4480 (Report of Srebrenica Municipal Defence Secretariat, 9 March 1994).

<sup>16125</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012); para. 15; P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 8, 10; Albert Rave, T. 22185–22186 (30 November 2011); P4140 (Witness statement of Joseph Kingori dated 8

4975. The establishment of the two safe areas limited the area of responsibility of the Muslim Forces in Srebrenica to the Srebrenica and Žepa enclaves.<sup>16127</sup> They established headquarters in two locations: in a classroom in Potočari and in some rooms in the PTT building in Srebrenica town.<sup>16128</sup> **(But there shouldn't be any Muslim Forces!)**

4976. Following Srebrenica being proclaimed a safe area, the Muslim Forces in Srebrenica received weapons and ammunition from outside the enclave, particularly from Žepa, which maintained a “pony express” link with Tuzla that also ferried items such as cigarettes, food items, essential commodities, and everyday goods.<sup>16129</sup> Supplies also arrived via helicopter.<sup>16130</sup> The VRS requested that UNPROFOR prevent such smuggling, but the latter had insufficient personnel and materiel to patrol adequately, so could only convey the VRS complaints to the ABiH.<sup>16131</sup> **(While the ABiH Commanders could only laugh!)**

b. Lead-up to the attack on Srebrenica: January–June 1995

4977. After the arrival of the initial group of UNPROFOR forces in April 1993, fresh troops rotated into the enclave approximately every six months.<sup>16132</sup> In January 1995, DutchBat

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January 2002), para. 56; Joseph Kingori, T. 22836–22837 (12 January 2012); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 10; Johannes Rutten, T. 22050–22051 (28 November 2011). See also Adjudicated Fact 1422; D144 (ABiH Report re fall of Srebrenica and Žepa, 23 February 1996), e-court p. 4. But see P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 10; Paul Groenewegen, T. 22982 (13 January 2012).

<sup>16126</sup> Robert Franken, T. 23130, 23145 (17 January 2012). The fact that the majority of members of the Muslim Forces in Srebrenica were municipal residents made it impossible to preclude humanitarian aid from reaching them, as they obtained such aid through their family members. Momir Nikolić, T. 24768–24769 (15 February 2012); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 5993–5994. Indeed, the Muslim Forces in Srebrenica obtained supplies from among humanitarian aid deliveries. See e.g. D1997 (Report of Srebrenica Ministry of Defence to RBiH Tuzla Defence Secretariat, 5 June 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6044–6045; D3307 (Report of ABiH 8th Operations Group, 25 May 1994); Slavko Kralj, T. 36552–36554, 36583–36584 (4 April 2013); D3308 (Report of Srebrenica Ministry of Defence to RBiH Tuzla Defence Secretariat, 31 March 1995); D3286 (Report of Srebrenica Ministry of Defence to RBiH Tuzla Defence Secretariat, 5 June 1995). Evidence indicates that international agencies may have consented to the distribution of aid to the Muslim Forces in Srebrenica. Robert Franken, T. 23104 (16 January 2012) (testifying that he had heard that UNHCR representatives had consented to the Muslim Forces in Srebrenica taking part of the food supplies arriving with UNHCR convoys); D3313 (Report of RBiH Tuzla SDB, 17 November 1995), p. 6; Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29309–29311; Slavko Kralj, T. 36551–36552, 36566–36567, 36569, 36588–36589 (4 April 2013). The Chamber notes that the fact that food found its way to the ABiH does not mean that any international organisations were necessarily providing it to the ABiH in an organised manner.

<sup>16127</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 7554.

<sup>16128</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 12; Robert Franken, T. 23128 (17 January 2012). See also Robert Franken, T. 23128–28130 (17 January 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2029; D1994 (Report from Srebrenica’s Ministry of Defence to Tuzla’s Secretary of Defence, 22 February 1995).

<sup>16129</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 11; Johannes Rutten, T. 22005 (28 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1910, 2038; D1966 (Report of ABiH General Staff, 13 July 1995), p. 1; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 5984, 6119, 7554–7556; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 16; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 51; Momir Nikolić, T. 24761 (15 February 2012). See also D1967 (Report of ABiH 8th Operations Group, 17 February 1995); D2078 (Report of ABiH 1st Žepa Light Brigade, 3 January 1995); D2940 (Order of ABiH 8th Operations Group, 23 January 1995), e-court pp. 4–6, 8; D147 (1st Žepa Light Brigade communication with Naser Orić, 16 February 1995); Richard Butler, T. 27800 (20 April 2012); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6029; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 48, 51; Joseph Kingori, T. 22833–22834, 22840 (12 January 2012).

<sup>16130</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1910–1911, 2038; Robert Franken, T. 23132 (17 January 2012). See also D1965 (Analysis of ABiH air force, 17 February 1995), p. 3; D145 (ABiH General Staff Order, 18 January 1995); D3721 (VRS Main Staff Intelligence and Security sector report, 8 February 1995), pp. 2–3; D146 (ABiH General Staff Order, 13 February 1995); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 11; Joseph Kingori, T. 22921 (13 January 2012); Momir Nikolić, T. 24760 (15 February 2012). Helicopter activities increased between the middle of April and June 1995, during which time the members of the Muslim Forces in Srebrenica appeared in new combat suits and were seen possessing new Kalashnikovs. **(was it a sufficient reason for searches of convoys? It is of some if not crucial importance to establish whether there was a reasonable reason to search convoys or not, because without a reason it could be seen as a bad will, and with a reason it would be justifiable?)** Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2038; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 15. See also P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 11.

<sup>16131</sup> Joseph Kingori, T. 22832 (12 January 2012); Pieter Boering, T. 22097, 22105–22106 (29 November 2011); Albert Rave, T. 22210 (30 November 2011).

<sup>16132</sup> Adjudicated Fact 1414.



arrived.<sup>16133</sup> Initially, DutchBat had eight OPs around the perimeter of the enclave; four additional OPs, including OP Papa, were added between February and July 1995.<sup>16134</sup>

4978. Part of DutchBat's regular activities involved carrying out patrols within the enclave.<sup>16135</sup> This gave DutchBat personnel the opportunity to observe the comparative positions of the VRS and the ABiH, although DutchBat's movement was restricted outside the enclave's borders.<sup>16136</sup> Within the enclave, DutchBat enjoyed free movement except within the Bandera Triangle, an area on the west side of the enclave opposite the positions of the Milići Brigade.<sup>16137</sup> When ordered to restore freedom of movement within the Bandera Triangle in January 1995,<sup>16138</sup> a group of DutchBat soldiers led by the DutchBat deputy commander was arrested and detained by approximately 40 armed men led by the local brigade commander, Zulfo Tursunović.<sup>16139</sup> The DutchBat commander was able to negotiate their release only after several days.<sup>16140</sup>

*i. Issuance of Directives 7 and 7/1*

4979. On 8 March 1995, the Accused issued the strictly confidential "Directive for Further Operations No. 7" ("Directive 7") analysing the military and political situation following the COHA.<sup>16141</sup> According to the Accused, the COHA had "created conditions for the military strengthening and arming of Muslims and Croats [and] the survival of the Muslim enclaves", including Srebrenica.<sup>16142</sup> The directive allocated tasks to the various corps of the VRS after describing the anticipated objectives of the Bosnian Muslim and Bosnian Croat forces.<sup>16143</sup>

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<sup>16133</sup> See P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 7. Two companies of DutchBat were assigned to the Srebrenica enclave: the Charlie Company, which was based in Potočari, and the Bravo Company. P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 6.

<sup>16134</sup> Adjudicated Fact 1418. Some of these OPs were OP Bravo, OP Echo, OP Mike, OP November, OP Papa, OP Quebec, and OP Romeo. See e.g. P4941 (Srebrenica court binder containing maps), e-court pp. 7–8 (showing locations of OPs); Roger Patelski, T. 23018–23020 (13 January 2012); P4174 (Aerial photograph of Srebrenica-Bratunac area marked by Roger Patelski) (marking the place of OP Papa). OP Papa was located approximately one kilometre north of the main entrance to the Potočari compound. P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 4. DutchBat maintained a telephonic link with the VRS military post at the Žuti Most ("Yellow Bridge"), which was located about 500 metres further down the road from OP Papa. P4173 (Witness statement of Roger Patelski dated 30 November 2011), paras. 4, 6. See also Roger Patelski, T. 23027 (16 January 2012).

<sup>16135</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 19. However, DutchBat lacked sufficient personnel to patrol comprehensively as a result of the VRS's refusal to allow DutchBat personnel to return to the enclave following leave periods. Johannes Rutten, T. 22018–22019 (28 November 2011).

<sup>16136</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 19, 34. See also P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 44.

<sup>16137</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 34; Robert Franken, T. 23138 (17 January 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1885; Pieter Boering, T. 22120 (29 November 2011); Johannes Rutten, T. 22022 (28 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 9; Albert Rave, T. 22187, 22189–22190 (30 November 2011); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 46; Joseph Kingori, T. 22851 (12 January 2012). Kingori testified that no reasons were given for this prohibition. P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 46. However, the Chamber received evidence indicating that one reason for the Muslim Forces in Srebrenica restricting DutchBat movement in the area pertained to DutchBat's refusal to establish an OP at Ravni Buljimi. D1956 (Report of ABiH 8<sup>th</sup> Operations Group, 28 January 1995); P3987 (ABiH 8<sup>th</sup> Operational Group report, 11 January 1995).

<sup>16138</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 34.

<sup>16139</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 34; Robert Franken, T. 23138–23139 (17 January 2012); D1956 (Report of ABiH 8<sup>th</sup> Operations Group, 28 January 1995); Albert Rave, T. 22186 (30 November 2011). See also Pieter Boering, T. 22119 (29 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1884; Momir Nikolić, T. 24819 (16 February 2012).

<sup>16140</sup> Albert Rave, T. 22187–22188 (30 November 2011); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 34.

<sup>16141</sup> P838 (Directive 7, 8 March 1995), pp. 2–3; Petar Salapura, T. 40241–40244 (24 June 2013); Manojlo Milovanović, T. 25495, 25503–25504 (29 February 2012) (stating that Directive 7 had been drafted by Miletić according to the "complete method"); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11993, 12008, 12040 (stating that according to the "complete method" through which Directive 7 was drafted the Accused would have had input into the drafting process). See also Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21824–21825; para. 410.

<sup>16142</sup> P838 (Directive 7, 8 March 1995), p. 2.

<sup>16143</sup> P838 (Directive 7, 8 March 1995), pp. 3–7.

4980. Specifically, the Drina Corps was tasked with “complet[ing] physical separation of Srebrenica from Žepa [...] as soon as possible, preventing even communication between individuals in the two enclaves”.<sup>16144</sup> **(That wa in accordance with the Agreement on the establishment of the demilitarised zones, and that wasn’t without military reason, because of #smuggling so many weaponry that killed so many Serb soldiers and civilians!#)** Directive 7 further ordered the Drina Corps to “[b]y planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa”.<sup>16145</sup> To accomplish these goals, among others, the “relevant State and military organs responsible for work with UNPROFOR and humanitarian organisations” were ordered to,

through the planned and unobtrusively restrictive issuing of permits, reduce and limit the logistics support of UNPROFOR to the enclaves and the supply of material resources to the Muslim population, making them dependent on our good will while at the same time avoiding condemnation by the international community and international public opinion.<sup>16146</sup>

Additionally, Directive 7 stated that should the UNPROFOR forces leave Srebrenica and Žepa, the Drina Corps command should plan an operation “Jadar” to “brea[k] up and destro[y] the Muslims forces in these enclaves and definitively liberat[e] the Drina valley region”.<sup>16147</sup>

4981. Directive 7 was disseminated to the various VRS corps on or around 18 March 1995.<sup>16148</sup> Two days later, Živanović issued the strictly confidential “Order for Defence and Active Combat Operations, Operative No. 7”.<sup>16149</sup> Živanović’s order effectively relayed the contents of Directive 7 to the brigade commanders of the Drina Corps by repeating the tasks outlined in Directive 7, namely that the Drina Corps was tasked with carrying out the “complete physical separation of Srebrenica from Žepa [...] as soon as possible, preventing even communication between the two enclaves. By planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa”.<sup>16150</sup>

4982. The Chamber notes that both Živanović and Krstić asserted that this language was never “implemented in practice”.<sup>16151</sup> Similarly, Trivić minimised the operational significance of the directive, suggesting that it merely “provide[d] guidelines” to subordinate units.<sup>16152</sup> Having considered these witnesses’ evidence regarding the implementation of Directive 7 by the Drina Corps, the Chamber observes that it was marked by contradictions and a lack of candour.<sup>16153</sup> The Chamber has also considered

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<sup>16144</sup> P838 (Directive 7, 8 March 1995), p. 10.

<sup>16145</sup> P838 (Directive 7, 8 March 1995), p. 10.

<sup>16146</sup> P838 (Directive 7, 8 March 1995), p. 14.

<sup>16147</sup> P838 (Directive 7, 8 March 1995), p. 11.

<sup>16148</sup> P838 (Directive 7, 8 March 1995), p. 1; Manojlo Milovanović, T. 25497–25498 (29 February 2012); P6450 (VRS Main Staff dispatch to Drina Corps, 17 March 1995; Drina Corps dispatch to VRS Main Staff, 18 March 1995).

<sup>16149</sup> P3040 (Order of Drina Corps, 20 March 1995), p. 1.

<sup>16150</sup> P3040 (Order of Drina Corps, 20 March 1995), pp. 5–6; Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21811, 21818–21819, 21822. *See also* Momir Nikolić, T. 24759–24760 (15 February 2012); Manojlo Milovanović, T. 25607 (1 March 2012).

<sup>16151</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 26; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6399–6400.

<sup>16152</sup> Mirko Trivić, T. 40537–40538 (26 June 2013), T. 40546 (27 June 2013).

<sup>16153</sup> As will be described in further detail below, Krstić’s testimony was given during the course of his defence in his own trial, where he was evasive and displayed a lack of candour regarding his role as the Deputy Commander—and later Commander—of the Drina Corps during the Srebrenica campaign and the events leading up to it. *See* fn. 16891. The Chamber also recalls contradictions between Živanović’s witness statement and his in-court testimony on these points, and observes that Živanović became combative under cross-examination. *See e.g.* Milenko Živanović, T. 42641–42642, 42647–42648 (31 October 2013). Similarly, Trivić initially suggested that

their positions at the time and observes that they would have reasons to minimise any implementation of an order targeting civilians.<sup>16154</sup> Accordingly, the Chamber does not consider their testimony reliable on this point. Finally, the Chamber notes that such testimony is contradicted by other evidence showing that Directive 7 was implemented on the ground, as discussed below.<sup>16155</sup>

4983. On 31 March 1995, one day after the Main Staff had met to discuss the “operation pursuant to Directive 7”,<sup>16156</sup> Mladić issued the “Directive for Further Operations, Operative No. 7/1” (“Directive 7/1”), which was transmitted to the commands of the Krajina Corps, the Eastern Bosnia Corps, and the Drina Corps, as well as the air force and anti-aircraft defence.<sup>16157</sup>

4984. Directive 7/1 “further elaborated” upon Directive 7.<sup>16158</sup> Noting that during the second half of March, the ABiH had “started wantonly violating” the COHA, Directive 7/1 stated that “on the basis of Directive No. 7”, the addressees were to immediately begin planning and making preparations for the realisation of the strategic operation Sadjestvo 95, the basic objective of which was to “inflict the heaviest possible losses on the enemy, restoring the reputation of the VRS among the people and in the world, and forcing the enemy to negotiate and end the war at the achieved lines through successful actions by VRS forces along chosen axes”.<sup>16159</sup> Directive 7/1 further stated that VRS forces, “in accordance with Directive No. 7”, would carry out active combat operations around the Srebrenica, Žepa, and Gorazde pockets.<sup>16160</sup> Directive 7/1 did not contain the reference in Directive 7 to “creat[ing] an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants” of the two enclaves.<sup>16161</sup>

*ii. Restrictions on humanitarian convoys and the humanitarian situation in Srebrenica*

4985. The Bosnian Serbs subjected all convoys, particularly UNPROFOR re-supply convoys that carried equipment and weaponry, to strict regulation entailing prior notification of convoy movements to the VRS.<sup>16162</sup> They justified such regulation by citing several

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Directive 7 was merely a written document, and that “none of [his] superiors had ever informed [him] verbally to act in that way”, but when presented with P3040 (Order of Drina Corps, 20 March 1995), admitted that his unit had received that order, although he maintained that he did not remember seeing those words in the order. Mirko Trivić, T. 40539 (26 June 2013), T. 40542–40544 (27 June 2013). See also Mirko Trivić, T. 40546–40547 (27 June 2013) (discussing whether a later attack plan was based upon Directives 7 and 7/1).

<sup>16154</sup> See e.g. Radovan Radinović, T. 41527–41528 (18 July 2013) (conceding that the language constituted an illegal order). The Chamber also recalls that Trivić was the commander of the 2<sup>nd</sup> Romanija Brigade at the time Directive 7 was issued. D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 3; Mirko Trivić, T. 40530 (26 June 2013).

<sup>16155</sup> See paras. 5004–5035.

<sup>16156</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), e-court p. 71.

<sup>16157</sup> P2246 (Directive 7/1, 31 March 1995), p. 1. Directive 7/1 was marked “National Defence State Secret”. P2246 (Directive 7/1, 31 March 1995), p. 1.

<sup>16158</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 26.

<sup>16159</sup> P2246 (Directive 7/1, 31 March 1995), p. 2. Specifically, the VRS was tasked with stopping ABiH breakthroughs north of Zvornik. P2246 (Directive 7/1, 31 March 1995), p. 2.

<sup>16160</sup> P2246 (Directive 7/1, 31 March 1995), p. 4.

<sup>16161</sup> P2246 (Directive 7/1, 31 March 1995). Radovan Radinović testified that the words “in accordance with” meant that the language of Directive 7 did not need to be repeated in order to have effect. Radovan Radinović, T. 41535 (19 July 2013).

<sup>16162</sup> Momir Nikolić, T. 24593 (13 February 2012); P4186 (Principles for Freedom of Movement for UNPROFOR, 31 January 1995), p. 1; Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29258, 29304, 29312. UNPROFOR escorted the convoys from the border of the enclave to the warehouse in Srebrenica town, where UNHCR and the municipal employees handled the distribution of the goods. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 28; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 5, 7; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 5. The convoys that re-supplied UNHCR and MSF were subject to the same regulations and restrictions as DutchBat. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 27; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 117. See also Momir Nikolić, T. 24602–24603 (13 February 2012). Pursuant to an agreement with UNPROFOR, UNPROFOR was to provide a request to the Main Staff 24 hours in advance stating what was to be delivered, to whom, how many vehicles were involved, and the name of the person in charge of the convoy; the Main Staff—usually Mladić, Milovanović, or, exceptionally, Tolimir—then approved the route of the convoy and ensured its freedom of movement through RS territory by notifying the approval to the corps through whose

instances in which weapons were found in aid convoys, and by asserting that UNPROFOR and UNHCR were involved in organising the delivery of weapons to Bosnian Muslims.<sup>16163</sup> Clearance for the movement of goods and people into and out of the enclaves had to be obtained from the highest levels of the Bosnian Serb military or government and permission was to be relayed to the subordinate units who actually allowed the convoys to pass.<sup>16164</sup> In accordance with an order of the Main Staff, each convoy and individual representative of an international organisation entering or leaving Srebrenica were checked at Yellow Bridge, which was the last VRS check-point outside the Srebrenica enclave.<sup>16165</sup>

**4986.** DutchBat depended on re-supply convoys for fuel, ammunition, spare vehicle parts, and communications radios.<sup>16166</sup> During the fall of 1994, the VRS imposed a fuel blockade, diminishing reserves in Srebrenica.<sup>16167</sup> Fuel stocks had dwindled even further by the time DutchBat received its last fuel convoy in February 1995.<sup>16168</sup> Thereafter, DutchBat was forced to patrol on foot.<sup>16169</sup> The lack of fuel also led DutchBat to discontinue providing support via their mobile medical stations and compromised their ability to operate the OPs.<sup>16170</sup> Restrictions in resupply convoys further resulted in

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territory the convoy was scheduled to pass. Manojlo Milovanović, T. 25793 (5 March 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12022; Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29229, 29260–29262, 29270, 29274; Momir Nikolić, T. 24595–24597 (13 February 2012). See e.g. P4190 (GS VRS Report, 2 April 1995), p. 1. The relevant corps would then report back to the Main Staff once the convoy passed through and if any problems were encountered. Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29285–29286, 29307, 29365–29366. See e.g. D3270 (Drina Corps combat report, 4 May 1995), para. 3 (listing convoys that passed through the Drina Corps territory as of 4 May 1995); D3285 (Drina Corps record of humanitarian aids delivered to Muslim areas, 2 May 1994).

<sup>16163</sup> Manojlo Milovanović, T. 25695–25696 (1 March 2012); D2168 (Drina Corps Intelligence Report, 13 December 1993); Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29270, 29284. See also D143 (VRS Report on movement of UN convoys, undated) (reporting that UNPROFOR and humanitarian organisations abused their mandate). The Chamber notes that in response to the Accused’s suggestion that individual DutchBat members had smuggled fuel and ammunition into the enclave in convoys, Franken acknowledged that he had heard of such occurrences, but asserted that that had not happened in the case of his battalion, as demonstrated by the fuel shortages that DutchBat endured during his tenure. D157 (Order of 1<sup>st</sup> Birač Infantry Brigade, 12 May 1995); Robert Franken, T. 23089–23093 (16 January 2012). See also paras. 4986, 4989. While the Chamber received evidence that isolated instances of misappropriation or smuggling occurred, the Chamber notes that the UNPROFOR witnesses who testified denied any practice of supplying the ABiH, and the Chamber considers that there is insufficient evidence to establish any such practice. See e.g. Rupert Smith, T. 11347 (8 February 2011); Robert Franken, T. 23089–23093 (16 January 2012); D2745 (Witness statement of Vere Hayes dated 14 January 2013), paras. 5–8; Vere Hayes, T. 31987–31988 (16 January 2013) (stating that the incidents of apparent smuggling “fed [the VRS’s] paranoia” that UNPROFOR was smuggling weapons to the ABiH); D190 (UNHCR report re discovery of ammunition in UNHCR Convoy to Butmir, 4 April 1993) (under seal); D2747 (VRS Main Staff protest letter, 1993) (protest received from Milovanović shortly after 8 April 1993). Moreover, regulations on convoy movement were applied arbitrarily and ultimately the re-supply of the enclaves was completely blocked. David Harland, T. 2203 (10 May 2010), T. 2358–2359 (11 May 2010).

<sup>16164</sup> Milenko Živanović, T. 42609–42611 (private session), 42613 (30 October 2013); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6404–6405; Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29287–29289, 29292–29293. See e.g. D3274 (UNPROFOR request to VRS Main Staff, 7 February 1995); D3275 (VRS Main Staff notification to UNPROFOR, 7 February 1995); Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29290; D3276 (VRS Main Staff notification to UNPROFOR, 13 February 1995).

<sup>16165</sup> Momir Nikolić, T. 24767–24768, 24804 (15 February 2012). See also D2140 (VRS Main Staff Order, 27 February 1993); P4387 (Order of Drina Corps, 24 July 1994), p. 2.

<sup>16166</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 22. The VRS categorically denied requests for ammunition, spare vehicle parts, and communications radios. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 24. See e.g. P4189 (VRS Main Staff convoy rejection list sent to UNPROFOR, 31 March 1995).

<sup>16167</sup> P868 (UNPROFOR report on Serb fuel blockade, 19 October 1994). See also D4557 (Intercept of conversation between Manojlo Milovanović, Svetlana and Francis Brinquemont, 24 October 1994); P2454 (UNPROFOR report, 19 November 1994), e-court p. 2. However, at the beginning of January 1995, the VRS authorised 35 tonnes of fuel to be taken to Srebrenica. D3269 (Intercept of conversation between Ratko Mladić and “Svetlana”, 3 January 1995).

<sup>16168</sup> Robert Franken, T. 23066–23067 (16 January 2012); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 26. See also P4188 (VRS Main Staff Report, 10 March 1995).

<sup>16169</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 29; P4195 (Letter from UNPROFOR Gen. Nicolai to General Delić, 26 June 1995); P4196 (Letter from UNPROFOR Gen. Nicolai to Ratko Mladić, 26 June 1995); Robert Franken, T. 23075–23076 (16 January 2012) (recalling that P4195 and P4196 accurately described the situation at the time); P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 5; Adjudicated Fact 1432. See also Momir Nikolić, T. 24598–24600 (13 February 2012). The low fuel supplies further compromised DutchBat’s ability to cook for itself, operate its medical station, and purify drinking water. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 29; Robert Franken, T. 23067–23068 (16 January 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1893; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 6.

<sup>16170</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 27, 29; Robert Franken, T. 23067 (16 January 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1893; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 6. See also D4842 (VRS Main Staff notification, 28 March 1995); P2244 (Letter from Yasushi Akashi to

DutchBat's ammunition falling below adequate levels.<sup>16171</sup> **(Why is that? #They didn't have any justifiable reason to spend ammunition#. Unless they gave it to the Muslim combatants, they could leave the enclave with the same amount of ammunition they had when entered!)**

4987. After initially receiving a “relatively sufficient” amount of food from the early convoys,<sup>16172</sup> by early 1994, amounts had decreased and every piece of tillable ground in Srebrenica had been sown with seeds as the residents attempted to grow vegetables to supplement the reduced aid convoys.<sup>16173</sup> At the time, the average delivery rate for humanitarian convoys across the RS had fallen below 50%, as the VRS had denied access to a number of areas.<sup>16174</sup> In early 1995, the restrictions on humanitarian convoys intensified, and drivers frequently encountered obstructions en route to Srebrenica.<sup>16175</sup> Food supplies diminished and convoys arrived infrequently, bringing less food each time.<sup>16176</sup> At the time, approximately 40,000 people were living in the enclave.<sup>16177</sup>

4988. By March 1995, DutchBat no longer had any fresh food and subsisted on combat rations still in stock at the UN Compound.<sup>16178</sup> Food in the enclave was still in short supply, resulting in the emergence of a black market for smuggled goods.<sup>16179</sup> The population within the enclave survived on what they could harvest, supplemented by what they could obtain from UNHCR, which supplied most of the food in the enclave.<sup>16180</sup> Some residents of the enclave followed the garbage truck carrying DutchBat's trash to the garbage dump and tried to salvage food and clothes.<sup>16181</sup> It was estimated that without new supplies almost half of the population of Srebrenica would be without food by mid-

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Radovan Karadžić, 4 March 1995) (stating that since November 1994, medical convoys were barred from entering the enclaves); P2245 (Letter from Radovan Karadžić to Yasushi Akashi, 5 March 1995).

<sup>16171</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 30; Robert Franken, T. 23110–23111 (16 January 2012); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 30; Albert Rave, T. 22199–22200, 22202–22203 (30 November 2011). Further, DutchBat did not receive any supplies to test the functionality of their anti-tank systems, rendering the latter unusable. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 30. *See also* Robert Franken, T. 23110–23111 (16 January 2012).

<sup>16172</sup> Mirsada Malagić, T. 23468–23469 (24 January 2012). *See e.g.* D2109 (VRS Main Staff Notification, 25 September 1993), pp. 1–2; D2110 (VRS Main Staff Notification, 2 October 1993), pp. 1–2; D2111 (VRS Main Staff Notification, 8 October 1993); D2112 (VRS Main Staff Notification, 15 October 1993).

<sup>16173</sup> Mirsada Malagić, T. 23469 (24 January 2012).

<sup>16174</sup> P1687 (Report on Meeting between UNHCR and Radovan Karadžić in Geneva, 19 January 1994), para. 2 (under seal).

<sup>16175</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 26; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 6. *See also* D1123 (UNPROFOR report on the implementation of the COHA during March 1995), e-court p. 4. Items also disappeared en route when drivers were required to step out of the vehicles at VRS check-points. P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 24–25. *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 17. On a few occasions, VRS soldiers were seen wearing DutchBat gear. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1906. *See also* Slavko Kralj, T. 36547–36548 (4 April 2013), pp. 1–2; D3306 (Order of 1<sup>st</sup> Birač Infantry Brigade, 19 March 1995).

<sup>16176</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 5; Adjudicated Fact 1429. Moreover, when the trucks arrived and the tarps covering the supplies were pulled back, one could see boot marks on the sacks of flour and salt, indicating that someone had walked on it; the residents deduced that some of the aid had been unloaded elsewhere first, as they assumed that the trucks would not have set out from their destination half empty. Mirsada Malagić, T. 23469–23470 (24 January 2012).

<sup>16177</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 33; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1891; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 15; Momir Nikolić, T. 24763–24764 (15 February 2012); Mirsada Malagić, T. 23470 (24 January 2012). *But see* D2065 (Letter from Srebrenica Municipality to Statistics Institute of Bosnia and Herzegovina, 11 January 1994); Momir Nikolić, T. 24764–24765, 24768 (15 February 2012); Jean-René Ruez, T. 23986–23989 (1 February 2012).

<sup>16178</sup> Robert Franken, T. 23066 (16 January 2012); P2478 (UNPROFOR Weekly Situation Report (Sarajevo), 4 March 1995), para. 15.

<sup>16179</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1891; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 18; Robert Franken, T. 23099 (16 January 2012); P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 5; P4142 (UNMO Report, 8 July 1995); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 34–36. *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 16.

<sup>16180</sup> Momir Nikolić, T. 24601 (13 March 2012); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 35. That winter, men made trips towards Žepa in search of food. Mirsada Malagić, T. 23470 (24 January 2012). *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 35–36.

<sup>16181</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 18; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 8; P3950 (Photograph of people around garbage truck).



June.<sup>16182</sup> Due to the dwindling resources available to the civilian population, as well as UNPROFOR's extremely low supplies, plans were drawn up to re-supply the enclaves by force.<sup>16183</sup>

4989. Following the issuance of Directive 7 and 7/1 in March 1995, the humanitarian situation grew even worse.<sup>16184</sup> (#The evidence doesn't confirm any change of quantities in supplying food to the enclave before and after the Directive No. 7.)<sup>16185</sup> The supply of fuel was limited, and electricity for the population was virtually non-existent.<sup>16185</sup> The water supply was generally bad for both the population living in the enclave and for members of DutchBat.<sup>16186</sup> The sanitation situation was dire as waste processing was difficult and medical care was insufficient.<sup>16187</sup>

4990. In mid-April 1995, DutchBat personnel rotations came to a halt as the VRS refused to allow soldiers to re-enter the enclave after taking leave, ultimately reducing DutchBat's personnel to 50%.<sup>16188</sup> Accordingly, DutchBat's combat readiness and ability to implement tasks was reduced to a minimum.<sup>16189</sup>

4991. Conditions deteriorated considerably between May and the beginning of July 1995.<sup>16190</sup> In early June, the only food present in the enclaves was what the residents were able to raise for themselves,<sup>16191</sup> as humanitarian aid deliveries to the enclaves fell to

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<sup>16182</sup> Adjudicated Fact 1431.

<sup>16183</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 146; Adjudicated Fact 1430. *See also* P2257 (UNPROFOR Weekly Situation Report, 18 March 1995), e-court p. 4; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 21; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 6.

<sup>16184</sup> *See* Section IV.C.1.b.i: Issuance of Directives 7 and 7/1. Around this time, Momir Nikolić received orders from the Main Staff to strengthen control measures imposed at the Yellow Bridge, and during April, May, and June 1995, the Bratunac Brigade conducted intensive checks of convoys entering the enclave at the Yellow Bridge. Momir Nikolić, T. 24598 (13 February 2012), T. 24804 (15 February 2012). From 2 April 1995, no humanitarian convoy could enter the Srebrenica enclave without Nikolić's permission. P4190 (GS VRS Report, 2 April 1995, p. 1; Momir Nikolić, T. 24595–24596 (13 February 2012). Nikolić described the situation in the enclave as "quite grave" and "hopeless", with families having "a terrible life". Momir Nikolić, T. 24601–24602 (13 March 2012). *But see* P831 (SRSG Weekly Situation Report, 26 April 1995), p. 8; David Harland, T. 2205 (10 May 2010) (stating that he had not seen P831 before, noting that its author, Akashi, was not in BiH at the time while Harland had been, and suggesting that the statement might have been correct but only for that particular week); Slavko Kralj, T. 36566 (4 April 2013). Kralj suggested that problems with convoy clearance were attributable to UNPROFOR not providing sufficient notice, leading to backlogs and confusion at check-points. Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29285. *See also* D143 (VRS Report on movement of UN convoys, undated) (reporting on UNPROFOR and humanitarian organisations abusing their mandate).

<sup>16185</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1892–1893; D4476 (Letter from Pasi Karonen to Mr. Stoltenberg, 20 July 1993), para. 3. The only electricity available was generated by diverting water from the main river. P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 41. *See also* Joseph Kingori, T. 22880 (12 January 2012); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 42.

<sup>16186</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1891; P4142 (UNMO Report, 8 July 1995), p. 2; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 40; P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), e-court pp. 205–206, 209; D4476 (Letter from Pasi Karonen to Mr. Stoltenberg, 20 July 1993), para. 3.

<sup>16187</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1892–1893; Momir Nikolić, T. 24601–24602 (13 March 2012). *But see* D2125 (VRS Main Staff Notification, 2 March 1995), p. 1; D2126 (VRS Main Staff Notification, 27 March 1995), p. 1; D2127 (VRS Main Staff Report, 18 April 1995), p. 2; D4845 (VRS Main Staff notification, 18 April 1995); Ljubomir Obradović T. 25277, 25279 (24 February 2012). The VRS did permit occasional medical evacuations. Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29287–29288; D3272 (VRS Main Staff notification, 21 March 1995); D3273 (VRS Main Staff notifications to UNPROFOR, 26 and 27 March 1995), pp. 1–7.

<sup>16188</sup> Robert Franken, T. 23071, 23077 (16 January 2012); P4191 (Letters to Generals Mladić and Delić from General Janvier, 19 May 1995); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 31; Adjudicated Fact 1434. In June 1995, DutchBat personnel were not cleared to go on leave. P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 21–22; P4198 (28<sup>th</sup> Infantry Division Combat Report, 6 July 1995), para. 3; P4197 (GS VRS report, 1 July 1995), paras. 5–6; Robert Franken, T. 23077–23078 (16 January 2012).

<sup>16189</sup> Momir Nikolić, T. 24600 (13 March 2012); Adjudicated Fact 1433. *But see* Slavko Kralj, T. 36569, 36571–36572, 36579–36580 (4 April 2013).

<sup>16190</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1894; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 5. Boering raised the issue of the restriction of aid convoys with Nikolić, who was given a letter to be transmitted to the command of the Drina Corps; however, raising this issue did not change the situation. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1898–1899.

<sup>16191</sup> Robert Franken, T. 23072, 23094–23095 (16 January 2012) (characterising the food supplies as "absolutely insufficient for the civil population"); P4192 (UN Weekly Situation Report, 29 May–4 June 1995), para. 17. *But see* Milenko Živanović, T. 42676 (31 October 2013) (disputing that convoys were restricted and asserting that there was no arable land inside Srebrenica).



29.7% of targeted levels in Srebrenica.<sup>16192</sup> The Chamber notes the Accused's contention that there was no appreciable difference between the amounts of humanitarian aid delivered before and after the issuance of Directive 7.<sup>16193</sup> The Chamber recalls that Ljubomir Obradović, a member of the VRS Main Staff,<sup>16194</sup> agreed with this argument when presented with a series of Main Staff convoy notifications dated before and after the issuance of Directive 7.<sup>16195</sup> However, Momir Nikolić testified that he received frequent requests that the amount of goods in UNHCR convoys "be halved".<sup>16196</sup> Having examined the documents cited above and analysed the testimonies of Obradović and Momir Nikolić on this point, and having compared them with the testimonies of numerous witnesses who testified to the deprivation visible in the enclave at the time, the Chamber observes that even if such convoys were ostensibly authorised on paper, this would not mean that such convoys ultimately arrived.<sup>16197</sup> The Chamber recalls that the language of Directive 7 specifically called on the Bosnian Serb Political and Governmental Organs and Bosnian Serb Forces to "*unobtrusively* [...] reduce and limit the supply of material resources to the Muslim population";<sup>16198</sup> the Chamber finds that this directive was indeed implemented.

4992. Later that month, the combat ration stocks were also diminished and members of DutchBat subsisted on rice and peanut butter until a re-supply convoy arrived with food approximately ten days later.<sup>16199</sup> By month's end, some residents had died of starvation.<sup>16200</sup> **(#But this is in a sharp contradiction with what Christine Schmitz had seen when arrived in Srebrenica in late June 95, with healthy and well nourished children on the streets. see: T.26855-56 (Ch. Schmitz Question: [As read] [In English] "... appear on the first sight well fed and healthy. Also the crowds in front of the ambulantas. Market prices not changed, however, less activities due to the fear of the people." [Interpretation] So your first insight is there are many children in the street and those children appear well fed and healthy; right? Answer: Yeah, that is true. Of course, I do -- I did compare with my experience in other places. Srebrenica**

<sup>16192</sup> P2443 (UNPROFOR report re humanitarian situation in Croatia and BiH, 6 July 1995), p. 6. *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 16; P5211 (UNPROFOR daily report, 20 June 1995), para. 3. In Žepa, humanitarian aid deliveries fell to 7.3% of targeted levels while no humanitarian aid was delivered to Goražde. P2443 (UNPROFOR report re humanitarian situation in Croatia and BiH, 6 July 1995), p. 6.

<sup>16193</sup> Defence Final Brief, paras. 1326–1327.

<sup>16194</sup> Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11929. Within the Main Staff, Obradović served as Chief of Operations and the deputy of Radivoje Miletić in the Administration for Operations and Training. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11929, 11951–11952.

<sup>16195</sup> *See* Ljubomir Obradović, T. 25257–25261, 25278 (24 February 2012); D2113 (VRS Main Staff Notification, 19 January 1995), p. 1; D2114 (VRS Main Staff Notification, 16 February 1995), p. 1; D2115 (VRS Main Staff Notification, 18 March 1995), p. 1; D2116 (VRS Main Staff Notification, 13 April 1995), p. 1; D2068 (VRS Main Staff notification, 30 April 1995), p. 1; D2077 (VRS Main Staff notification, 28 May 1995); P4452 (VRS Main Staff Report, 2 June 1995), p. 1; D2117 (VRS Main Staff Report, 12 June 1995), p. 1; D2118 (VRS Main Staff Notification, 19 June 1995), p. 1; D2119 (VRS Main Staff Notification, 30 June 1995), p. 1; D2120 (VRS Main Staff Notification, 7 July 1995), p. 1. *See also* D2067 (VRS Main Staff notification regarding clearance of convoy, 29 April 1995); D2068 (VRS Main Staff notification, 30 April 1995); D2069 (VRS Main Staff notification, 12 May 1995); D2070 (VRS Main Staff notification, 29 April 1995); D2071 (VRS Main Staff notification, 16 May 1995); D2072 (VRS Main Staff notification, 17 May 1995); D2073 (VRS Main Staff notification, 19 May 1995); D2075 (VRS Main Staff notification, 26 May 1995); D2076 (VRS Main Staff notification, 26 May 1995); Momir Nikolić, T. 24777–24782, 24785 (15 February 2012); D3287 (Drina Corps record of humanitarian aids delivered to Muslim enclaves, 3 May 1995) (recording the amounts of various items delivered in March and April 1995). The Chamber also notes that Živanović, whose units controlled access to the area at the time, asserted that neither he nor the Drina Corps units had obstructed humanitarian aid convoys bound for Srebrenica. D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 26; Milenko Živanović, T. 42613–42614, 42616 (30 October 2013), T. 42687–42688 (31 October 2013); P6481 (Report of Drina Corps, 1 February 1993). *See also* D3947 (Summary of Humanitarian Aid Delivered to Srebrenica, 1994); D3957 (Report of Drina Corps, 3 May 1995). The Chamber observes that for the reasons mentioned above, including a lack of candour as well as an incentive to minimise any questionable conduct on the part of his subordinate units, Živanović's testimony regarding humanitarian aid convoys is not reliable. *See* para. 4982.

<sup>16196</sup> Momir Nikolić, T. 24598, 24600–24601 (13 February 2012).

<sup>16197</sup> *See e.g.* P4142 (UNMO Report, 8 July 1995), para. 3 (stating that although three UNHCR convoys were authorised to travel to the enclaves, only one arrived and that even the planned convoys would only serve approximately 65% of the population's needs); P5174 (Report of RS Commission for Refugees and Humanitarian Aid to Radovan Karadžić, 29 June 1995).

<sup>16198</sup> P838 (Directive 7, 8 March 1995), p. 14 (emphasis added).

<sup>16199</sup> Robert Franken, T. 23074, 23094–23095 (16 January 2012); P4194 (VRS Main Staff Order, 18 June 1995), para. 3.

<sup>16200</sup> P4198 (28<sup>th</sup> Infantry Division Combat Report, 6 July 1995), para. 4.

*was my seventh mission and I had been working mostly in Africa, where, for example, in Liberia I had worked in a famine, where on first sight one can see acute malnourished children. So with that experience I looked in Srebrenica and I didn't see that. So when I look in a project at children, at signs of malnutrition, I see acute malnutrition immediately (...) So if I say that, yes, this is what I observed myself in the first day, then it means I didn't see any acute malnutrition, which is a usual sight in projects of my institution.)* **Therefore, both the children and elderly in “the crowds in front of the ambulance” appeared well fed and healthy”#.** At the time, the situation in Srebrenica was relatively calm from a military standpoint, though it was reported that the town “had the feel of an open air prison”.<sup>16201</sup>

### *iii. Military actions, Spring 1995*

4993. Meanwhile, despite the relative stabilisation of the confrontation lines between the VRS and ABiH resulting from the conclusion of the COHA,<sup>16202</sup> small scale fighting flared up “continually” along the borders of the enclave from mid-1993 until its fall in 1995.<sup>16203</sup> The Muslim Forces in Srebrenica carried out continuous reconnaissance and sabotage activities against VRS positions around the enclaves of Srebrenica and Žepa.<sup>16204</sup> In October 1994, the Muslim Forces in Srebrenica carried out sabotage attacks in VRS territory along the Srebrenica–Konjević Polje, Cerska and Modrica axes.<sup>16205</sup> Late in the fall of 1994, they began planning and carrying out actions aimed at linking up with the ABiH in Tuzla.<sup>16206</sup> Despite the demilitarisation agreement, the Muslim Forces in Srebrenica continued to obtain arms and open fire on VRS lines.<sup>16207</sup> Further, ABiH helicopters flew in violation of the no-fly zone.<sup>16208</sup>
4994. During the first few months of 1995, the VRS and ABiH regularly exchanged fire.<sup>16209</sup> In March and April 1995, there was a build-up of Bosnian Serb forces near OP Romeo and OP Quebec, where soldiers were seen arriving with new rifles and complete uniforms.<sup>16210</sup> During this time, several skirmishes broke out between members of the VRS and the Muslim Forces in Srebrenica.<sup>16211</sup>

<sup>16201</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 14. Every room in Srebrenica held a family, with remaining people occupying every available house, garage, shed, and improvised accommodation to full capacity. Mirsada Malagić, T. 23470 (24 January 2012).

<sup>16202</sup> See paras. 410–416.

<sup>16203</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.27.

<sup>16204</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 5990; D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 43. See e.g. D2937 (Order of ABiH Supreme Command Staff, 4 October 1994); D140 (Letter from ABiH Supreme Command Staff to ABiH 8<sup>th</sup> Operations Group, 9 November 1994); D141 (Telegram from 1<sup>st</sup> Žepa Light Brigade to ABiH Supreme Command Staff, 13 December 1994); Pieter Boering, T. 22098–22099 (29 November 2011); D2016 (Directive of ABiH General Staff, 5 January 1995), e-court p. 4. See also Adjudicated Fact 1423.

<sup>16205</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 5995, 6000–6001. During the previous summer, many members of the Muslim Forces in Srebrenica had left the enclave for Tuzla, travelling on foot and carrying their arms; combat ensued where they encountered the VRS, and both sides sustained large numbers of casualties. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 5987–5989, 5991–5993. Defectors continued trying to reach Tuzla and Kladanj even up to the summer of 1995. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6051–6052.

<sup>16206</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6002–6003, 6005–6007, 6011, 6013–6014, 6017–6020, 7557–7558.

<sup>16207</sup> Adjudicated Fact 1427. See also P5086 (Report of RS Main Staff, 19 March 1995), p. 2; D156 (Podrinje 1<sup>st</sup> Light Infantry Brigade combat report, 16 February 1995); D2178 (VRS Main Staff Report, 2 March 1995).

<sup>16208</sup> Adjudicated Fact 1427. See also D142 (Telegram from 1<sup>st</sup> Žepa Light Brigade to ABiH Supreme Command Staff, 31 December 1994); D156 (Podrinje 1<sup>st</sup> Light Infantry Brigade combat report, 16 February 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6031, 6033, 6071–6074. These helicopters flew mostly at night when visibility limited the VRS’s ability to use anti-aircraft weapons. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6037.

<sup>16209</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 9. See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6077–6078, 6081–6082, 6116. But see D4446 (Report of Drina Corps to VRS Main Staff, 27 February 1995).

<sup>16210</sup> Adjudicated Facts 1435, 1436.

<sup>16211</sup> Adjudicated Fact 1438.

4995. In April and May 1995, close firing on DutchBat patrols and OPs—the majority of which originated from VRS positions—increased.<sup>16212</sup> As a result, Franken and Bećirović reached a “co-ordinated defence” agreement, according to which, in the event of a VRS attack on the enclave, DutchBat would defend its OPs while the Muslim Forces in Srebrenica would defend the areas between the OPs.<sup>16213</sup>
4996. In May 1995, the VRS obtained information that the Muslim Forces in Srebrenica were in the final stages of preparing for an attack against the Drina Corps.<sup>16214</sup> In late May 1995, tensions between the Muslim Forces in Srebrenica and the VRS increased in and around the enclave.<sup>16215</sup>
4997. From May to July 1995, the threat to the enclave increased, with more shootings occurring from the VRS side, limiting DutchBat’s movements.<sup>16216</sup> In late May and early June 1995, DutchBat faced direct fire when leaving the compound in Potočari.<sup>16217</sup>
4998. On the afternoon of 25 May 1995—in response to NATO air-strikes on Bosnian Serb military targets in Pale<sup>16218</sup>—Živanović ordered all Drina Corps units’ anti-aircraft defence forces to full combat readiness.<sup>16219</sup> Živanović further ordered that if the conflict escalated, the units should turn the basic firing positions into decoys by moving artillery to reserve firing positions.<sup>16220</sup> At approximately 7 p.m. that evening, pursuant to an oral order conveyed by Milenko Lazić, the Chief of Operations and Training for the Drina Corps,<sup>16221</sup> the Bratunac Brigade fired four 105mm howitzer shells towards Srebrenica.<sup>16222</sup> Civilians

<sup>16212</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 32–33.

<sup>16213</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 36. According to the agreement, the weapons from the Bravo Company’s collection point would also be made available to the Muslim Forces in Srebrenica in the event of an attack on the enclave, although the group declined to exercise this option when the attack eventually came in July 1995. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 36. Franken viewed this co-ordination as necessary because of the vulnerable positions of the OPs, which were painted white and illuminated at night; if the ABiH left without telling Franken, the OPs would be surrounded and indefensible in the middle of Bosnian Serb territory. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 37.

<sup>16214</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6029, 6049. See also D1993 (Order of 28<sup>th</sup> Division Command, 2 June 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6042; D2014 (Report of ABiH 28<sup>th</sup> Division, 30 June 1995); D2015 (VRS Main Staff Report, 26 June 1995). Earlier that spring, the ABiH had been ordered to secretly bring its units to full combat readiness and to be on standby for a co-ordinated action with the 1<sup>st</sup> Žepa Light Brigade. D1955 (Order of ABiH General Staff, 17 February 1995), p. 2; D150 (Order of 2<sup>nd</sup> Corps of ABiH, 17 February 1995); D149 (Report from Naser Orić to ABiH General Staff, 25 February 1995); D152 (ABiH General Staff Order, 15 April 1995); D153 (ABiH General Staff Order, 27 April 1995); D2939 (Decision of RBiH Ministry of Defence, 17 April 1995); D3721 (VRS Main Staff Intelligence and Security sector report, 8 February 1995), e-court p. 2–3. The Muslim Forces in Srebrenica made efforts to conceal their preparation and supply routes, as evidenced through their objection to DutchBat building a new OP near Ložina as it would negatively affect “unhindered passage” through the Žepa–Srebrenica corridor. D1963 (Order of ABiH 2<sup>nd</sup> Corps, 29 April 1995); P3990 (2<sup>nd</sup> Corps instructions, 29 April 1995). See also D1955 (Order of ABiH General Staff, 17 February 1995), p. 2 (referring to the existence of a helicopter which was to be camouflaged until it could be “evacuated”, and if found by UNPROFOR, ABiH members were to say that its purpose was to transport political representatives of Srebrenica and Žepa on state business). Accordingly, UNPROFOR did not know of these preparations. Johannes Rutten, T. 22025–22026 (28 November 2011); Albert Rave, T. 22197 (30 November 2011).

<sup>16215</sup> Robert Franken, T. 23134–23138 (17 January 2012); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6040.

<sup>16216</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1895, 1897; Milenko Živanović, T. 42700 (31 October 2013). See also Adjudicated Facts 1439, 1440.

<sup>16217</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1897.

<sup>16218</sup> See para. 5856.

<sup>16219</sup> P6571 (Order of Drina Corps, 25 May 1995), p. 1; Vidoje Blagojević, T. 45048–45049 (12 December 2013). Several VRS units were stationed around Srebrenica during this time, including two with permanent positions. Vidoje Blagojević, T. 45051 (12 December 2013).

<sup>16220</sup> P6571 (Order of Drina Corps, 25 May 1995), pp. 1–2. See also P4076 (Report of the Bratunac Brigade to Drina Corps, 25 May 1995).

<sup>16221</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21722–21724.

<sup>16222</sup> P4076 (Report of the Bratunac Brigade to Drina Corps, 25 May 1995), para. 1; Vidoje Blagojević, T. 45049–45050 (12 December 2013); Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21857–21858. Artillery observers at Pribečevac reported that two shells fell near the Domavija hotel in the centre of Srebrenica, while the locations of the other two shelling impacts were not observed. P4076 (Report of the Bratunac Brigade to Drina Corps, 25 May 1995), para. 1; Vidoje Blagojević, T. 45077–45078 (12 December 2013). See also Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21743, 21857.

were killed and wounded as a result.<sup>16223</sup> DutchBat personnel based at Potočari continued to observe houses being shelled from VRS positions in Bratunac during June and July.<sup>16224</sup>

4999. During the following week, the VRS repeatedly requested that DutchBat surrender OP Echo, which had strategic significance due to its position near the road running toward Zeleni Jadar.<sup>16225</sup> **(One of those OP-s was on a position where it shouldn't be, as a Pakistany UN officer from Tuzla warned the DutchBat, we didn't tender this document, but it exists, and the Prosecutor had an insight in it!)** The VRS threatened that the OP would otherwise be taken by force.<sup>16226</sup> DutchBat refused and warned that close air support would be requested if the VRS attacked.<sup>16227</sup> On 3 June 1995, pursuant to a Drina Corps order issued the previous day, the VRS attacked OP Echo.<sup>16228</sup> After the OP's tower sustained a direct hit, DutchBat withdrew from the post.<sup>16229</sup> Thereafter, OP Sierra was established on the approach to the Swedish Shelter Project and OP Uniform on the approach to the town of Srebrenica itself.<sup>16230</sup>

5000. That month, the ABiH 2<sup>nd</sup> Corps ordered the Muslim Forces in Srebrenica to conduct raids out of the Srebrenica enclave for the primary purpose of engaging VRS forces in the area, in order to prevent them from being transferred to Sarajevo.<sup>16231</sup> During this period, members of the Muslim Forces in Srebrenica were seen openly carrying weapons and seemed less concerned about their weapons being confiscated by DutchBat.<sup>16232</sup>

5001. Following the take-over of OP Echo, VRS units were ordered to carry out ambushes between the Srebrenica and Žepa enclaves.<sup>16233</sup> In the early morning hours of 24 June, under the direction of Svetozar Kosorić, the Chief of the Drina Corps Intelligence

<sup>16223</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 57–58. See also P402 (Witness statement of Alma Gabeljić dated 24 May 2004), e-court p. 2. P6572 (Report of 28<sup>th</sup> ABiH Division, 26 May 1995); P6575 (Report of VRS Main Staff, 25 May 1995), e-court p. 4; Vidoje Blagojević, T. 45052–45053 (12 December 2013).

<sup>16224</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1895–1897.

<sup>16225</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 43. Approximately 100 metres of the road, which ran directly in front of OP Echo, lay within the enclave's boundaries. Robert Franken, T. 23098 (16 January 2012).

<sup>16226</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 23–24; Albert Rave, T. 22212 (30 November 2011). The VRS was in fact already making preparations to take the area by force. See P5219 (Order of Drina Corps, 29 May 1995); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 25. See also D1035 (ABiH 2<sup>nd</sup> Corps report, 30 May 1995), p. 2 (describing a meeting with DutchBat in which DutchBat reported seeing Bosnian Serb troop movements near the Zeleni Jadar OP).

<sup>16227</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 23; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 60.

<sup>16228</sup> P4199 (Order of Drina Corps, 2 June 1995); Robert Franken, T. 23080 (16 January 2012); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 38; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 26.

<sup>16229</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 38; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 26. See also P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 59; Joseph Kingori, T. 22799 (11 January 2012). The take-over of OP Echo formed a part of the “Jadar 95” operation, which was carried out by the Drina Corps between 31 May and 5 June 1995 and resulted in the VRS assuming control over the village of Zeleni Jadar. P5111 (Report of Bratunac Brigade to Drina Corps, 4 July 1995), p. 2; P4914 (Richard Butler's expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 1.38; P5110 (Order of Bratunac Brigade, 4 June 1995). The take-over constituted a test of the UNPROFOR reaction to an attack on the enclave. Robert Franken, T. 23078–23079 (16 January 2012); P4202 (Written compilation booklet: Srebrenica Trial video), p. 256; Milenko Živanović, T. 42656–42657 (31 October 2013). See also Momir Nikolić, T. 24828–24829 (16 February 2012) (suggesting that the preparatory part of the attack on Srebrenica began with the take-over of OP Echo); P3996 (Situation Report from DutchBat to UNPROFOR Sector North HQ, 7 January 1995), p. 2. But see Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6093, 6109–6110.

<sup>16230</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 40–41; P3970 (Map of Eastern Bosnia) (showing the positions of OP Sierra and OP Uniform at “S” and “U” respectively); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 2. The Swedish Shelter Project provided housing for 4,000 refugees and was located in the southern part of the enclave. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1898.

<sup>16231</sup> D2233 (Report of ABiH, 28 June 1995), p. 1; D3919 (ABiH 285<sup>th</sup> Eastern Bosnia Light Brigade combat report, 28 June 1995), p. 1; D1062 (ABiH 28<sup>th</sup> Division situation report, 30 June 1995). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6052–6054, 6062, 6089, 7557–7558; Richard Butler, T. 27719–27720 (20 April 2012); D1962 (Order of ABiH 28<sup>th</sup> Division, 5 June 1995); Ljubomir Obradović, T. 25211 (24 February 2012); Joseph Kingori, T. 22855–22857 (12 January 2012).

<sup>16232</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2170. Boering testified that from mid-June, DutchBat “turned a blind eye” and allowed Muslim Forces in Srebrenica members to walk around with Kalashnikovs. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2116.

<sup>16233</sup> See e.g. D4447 (Order of Drina Corps, 4 June 1995), para. 3. On 14 June, the ABiH attacked the VRS near the village of Memići. D3959 (Report of Drina Corps, 15 June 1995), p. 1. See also Milenko Živanović, T. 42701–42702 (31 October 2013).



Department,<sup>16234</sup> approximately 30 members from both platoons of the 10<sup>th</sup> Sabotage Detachment and members of the Bratunac Brigade entered Srebrenica town through an old mining tunnel, and used infantry weapons to fire into the town.<sup>16235</sup> After about 15 minutes, the soldiers returned to VRS-held territory through the same tunnel.<sup>16236</sup> The attack resulted in three casualties, including one death, in the town.<sup>16237</sup>

**5002.** Meanwhile, units of the Muslim Forces in Srebrenica were carrying out co-ordinated sabotage actions deep within the Drina Corps territory.<sup>16238</sup> On 26 June 1995, the Muslim Forces in Srebrenica attacked the Main Staff Headquarters at Crna Rijeka, carried out a further operation seven kilometres away against the 65<sup>th</sup> Protection Regiment's tank company, and attacked the Serb village of Višnjica, located five kilometres west of the Srebrenica enclave.<sup>16239</sup> The Drina Corps—along with reinforcements from other corps—halted the offensive on the same day.<sup>16240</sup> **(#Why it is not noted that in Visnjica many civilian casualties were caused by the Muslim forces,# confirmed even in a Muslim document: D136 of 27. June 95?)**

26 June 1995

In the morning hours of 26 June 1995 our forces attacked from the Srebrenica area and set fire to the village of Višnjica. According to as yet undetermined information, the Chetniks had casualties among the civilian population.

At 1421 hrs, it was reported that our forces carried out an attack in the Krivača area, where an ambush was also set up, and that the consequences were still not known.

At 1523 hrs, it was requested that one unit intervene somewhere near a waterworks (presumably in the Srebrenica theatre).

At 1800 hrs, Colonel LAZIĆ (DK /Drina Corps/ operations officer) informed a certain VASIĆ from Han Pijesak of the infiltration of several of our groups from Žepa, which were moving toward Kladanj, and issued an order to take all possible measures for combat in such situations.

An order was issued at 2021 hrs from the DK Command to the Bratunac and Skelani Brigades to start carrying out artillery attacks in the zone of responsibility of the 28<sup>th</sup> dKoV /Land Army Division/, and at 2233 hrs, these brigades' attention was drawn to the fact that the highest level of combat readiness was still in force because of the infiltration of our sabotage groups.

27 June 1995

**This is a genuine document of the Muslim provenance, in the very eve of the Srebrenica events. The full responsibility for these events was on the ABiH, but in addition to that, the responsibility for such an abuse of a "safe area" for longer than two years was on the UN, no doubt about it!**

<sup>16234</sup> P6408 (VRS Main Staff Intelligence and Security sector order, 21 June 1995), para. 3.

<sup>16235</sup> Petar Salapura, T. 40248 (24 June 2013); D3720 (Witness statement of Petar Salapura dated 17 June 2013), para. 18; P6408 (VRS Main Staff Intelligence and Security sector order, 21 June 1995); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10936–10937 (further testifying that his unit had been told that they were firing towards the command of Naser Orić). See also D2211 (MSF report, 26–30 June 1995), p. 1. According to Frank Kos, a member of the 10<sup>th</sup> Sabotage Detachment, the aim of the operation was to create chaos and start infighting amongst the ABiH soldiers in the town. Frank Kos, T. 42393–42395 (1 August 2013). Salapura testified that the action was intended as a warning to the ABiH to discontinue their ambush and sabotage actions originating in Srebrenica. Petar Salapura, T. 40249–40251 (24 June 2013) (denying that the action was aimed at intimidating the civilian population).

<sup>16236</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10937.

<sup>16237</sup> D2211 (MSF report, 26–30 June 1995), p. 1.

<sup>16238</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6040, 6043–6045, 6052–6053, 6066–6069, 6095, 6097–6103. See also D3920 (VRS Main Staff information, 24 June 1995); Vidoje Blagojević, T. 45076–45077 (12 December 2013).

<sup>16239</sup> D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 44; D2014 (Report of ABiH 28<sup>th</sup> Division, 30 June 1995), p. 1; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 225 (referring to a Bosnian Muslim attack on the Bosnian Serb village of Višnjica on 26 June). The nine sabotage groups came from Žepa and Srebrenica and were sent to the vicinity of the Main Staff, endangering the Main Staff and causing the Communications Regiment and 65<sup>th</sup> Protection Regiment to sustain heavy losses. Ljubomir Obradović, T. 25211–25212 (24 February 2012). See also D3919 (ABiH 285<sup>th</sup> Eastern Bosnia Light Brigade combat report, 28 June 1995); D136 (ABiH 2<sup>nd</sup> Corps combat report, 27 June 1995).

<sup>16240</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6103.



5003. During this period, DutchBat was aware of frequent shooting from both sides that occurred at the borders of the enclave, though the situation inside the enclave remained relatively calm.<sup>16241</sup> Although DutchBat's local negotiation team received information from Momir Nikolić that the Muslim Forces in Srebrenica were conducting raids outside of the enclave, they were unable to independently verify this information as DutchBat lacked freedom of movement outside the enclave, especially during the latter part of June when tensions mounted and their freedom of movement became even more restricted.<sup>16242</sup> **(#Why now Nikolic is not trustworthy?#)** However, throughout the month of June and into July,<sup>16243</sup> the Muslim Forces in Srebrenica continued launching actions against VRS defensive lines from Srebrenica.<sup>16244</sup>

c. Attack on Srebrenica

i. Issuance of the Krivaja 95 orders

5004. In late June 1995, the Accused and Krajišnik came to the Drina Corps Command in Vlasenica and met with Krstić; Živanović was absent.<sup>16245</sup> During this meeting, Krstić received a combat assignment.<sup>16246</sup> That evening, Krstić summoned the command of the Drina Corps to the operations room and explained that the Drina Corps had been assigned to prepare for a military operation.<sup>16247</sup> Following that meeting, the brigade commanders were ordered to report to the Drina Corps Command at 8 a.m. on the following day.<sup>16248</sup> When the brigade commanders arrived, they received an oral briefing on the task.<sup>16249</sup> Krstić and the Drina Corps command then began to draft a combat plan which would become known as Krivaja 95.<sup>16250</sup>

<sup>16241</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 9. See also Robert Franken, T. 23136 (17 January 2012).

<sup>16242</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 9; Johannes Rutten, T. 22017 (28 November 2011); Pieter Boering, T. 22089–22091 (29 November 2011). Serb villages that were reportedly attacked were not visible from DutchBat's OPs, and DutchBat's movement was already restricted as early as January 1995. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 9; Johannes Rutten, T. 22017–22018, 22022, 22029 (28 November 2011).

<sup>16243</sup> In July 1995, attacks were launched from the Srebrenica enclave toward the area under VRS control: houses in the north of the enclave near OP Mike were burned, villages in the north of the enclave were attacked, and sniping incidents and ambushes occurred outside the enclave. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 35; Robert Franken, T. 23131, 23152 (17 January 2012); D1961 (Report of ABiH 2<sup>nd</sup> Corps, 8 July 1995); P5268 (Intercept of conversation between Ratko Mladić and General Bernard Janvier, 10 July 1995), p. 1; Momir Nikolić, T. 24797 (15 February 2012). According to Nikolić, between 56 and 58 Bratunac Brigade soldiers were killed between the declaration of Srebrenica as a demilitarised enclave and the fall of the enclave in July 1995. Momir Nikolić, T. 24816–24817 (16 February 2012).

<sup>16244</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6106–6116. See also D1959 (UNMO Assesment, 7 July 1995), e-court p. 3; P4086 (Report of Drina Corps to VRS General Staff, 26 June 1995) p. 1; P5150 (RS MUP summary of information from and about the front, 26 June 1995) p. 2; D1062 (ABiH 28<sup>th</sup> Division situation report, 30 June 1995).

<sup>16245</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 7. See also Petar Salapura, T. 40243 (24 June 2013). Popović testified that before leaving, the Accused and Krajišnik also met with the officers of the Drina Corps Command; according to Popović, the Accused and Krajišnik did not mention Srebrenica at all, but merely informed the officers about political negotiations. D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 8.

<sup>16246</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21728, 21746. In reaching the conclusion that Krstić received a combat assignment during the meeting with the Accused and Krajišnik, the Chamber noted that Lazić testified that in late June 1995, Krstić relayed to the Drina Corps Command a combat assignment which had been given to the corps outside the normal chain of command. Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21727, 21728, 21746. Taking Lazić's evidence together with the evidence establishing that the Accused and Krajišnik came to Vlasenica and met with Krstić in late June 1995, the Chamber considers that the only reasonable inference from such testimony is that a combat assignment was given during the meeting of Krstić, Krajišnik, and the Accused. **As a matter of fact, The President and Krajisnik didn't come to Vlasenica, they were traveling further, but only stopped by. During the encounter Krstic had shown the preparations for a "combat action" to separate Zepa and Srebrenica, and got a support of the Accused. This is also a possible inference. I think we have some confirmation of this.**

<sup>16247</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21728; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 9.

<sup>16248</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21728.

<sup>16249</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21728. All brigade commanders, as well as the commanders of independent units subordinated to the Drina Corps, attended the meeting. Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21748.

<sup>16250</sup> Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21731. The Chamber notes that in his testimony, which was

5005. On 2 July 1995, two orders, both of which drew reference from Directives 7 and 7/1, were issued in the name of Drina Corps Commander Živanović.<sup>16251</sup> First, a preparatory order sent to all subordinate units referred to the VRS's anticipation of an ABiH attack aimed at dividing the Drina Corps' area of responsibility and connecting the Srebrenica and Žepa enclaves with Bosnian Muslim-held territory.<sup>16252</sup> The subordinate units were ordered to prepare for active combat operations by "switching from defence to attack with all the forces in their areas of responsibility".<sup>16253</sup>

5006. The second order, which was an order for active combat operations implementing the basic concept outlined in the preparatory order, was issued later that day and addressed to the commands of the Zvornik, Birač, Romanija, Bratunac, and Milići Brigades, as well as the 5<sup>th</sup> Mixed Artillery Regiment.<sup>16254</sup> It was also delivered to the Main Staff and to the Drina Corps IKM at Pribićevac.<sup>16255</sup>

5007. The active combat order referred to the Drina Corps' task of "carrying out offensive activities [...] as soon as possible, in order to split apart the enclaves of Žepa and Srebrenica, and to reduce them to their urban areas".<sup>16256</sup> It then assigned specific tasks to be undertaken by the subordinate units, whose objective was "by surprise attack, to separate and reduce in size the Srebrenica and Žepa enclaves, to improve the tactical position of the forces in the depth of the area, and to create conditions for the elimination of the enclaves".<sup>16257</sup> The tasks allocated did not include taking over Srebrenica town.<sup>16258</sup> The active combat order further instructed the units to, "in dealing with prisoners of war and the civilian population behave in every way in accordance with the Geneva Conventions", and designated the security organs and MP to indicate areas for gathering

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given while testifying in his own trial and admitted pursuant to Rule 92 *quater* in this case, Krstić denied that he had taken part in planning the Srebrenica operation, asserting that he had only learned about the Krivaja 95 operation when Živanović returned from the Main Staff and conveyed the assignment to his assistants on 2 July. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6125. Further, Krstić initially testified that Živanović did not really need to consult with his assistants or Krstić when planning the operation because of his familiarity with the Muslim Forces in Srebrenica, but later acknowledged that he had taken part in the assessment of which forces should take part in the Krivaja 95 task. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6128–6129. Krstić also later acknowledged that he took part in the elaboration and recording of the plans outlining the Krivaja 95 operation, but asserted that he "took very little part" and did not provide any specific advice to Živanović in formulating the proposal for the engagement of forces. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6370–6371, 6374, 6376–6377. The Chamber notes that because the extent to which Krstić was involved in the planning of the Krivaja 95 operation bore directly upon his responsibility for the crimes with which he was charged, Krstić had an incentive to minimise his role, and considers that his testimony regarding the extent of his own involvement is thus of dubious reliability. Accordingly, the Chamber will not attribute any weight to this part of Krstić's evidence.

<sup>16251</sup> P4571 (Order of Drina Corps, 2 July 1995), para. 2; P4481 (Order of Drina Corps, 2 July 1995), para. 2; Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21731; Mirko Trivić, T. 40535 (26 June 2013); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 32.

<sup>16252</sup> P4571 (Order of Drina Corps, 2 July 1995), para. 1; Mirko Trivić, T. 40534–40535 (26 June 2013); D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 7.

<sup>16253</sup> P4571 (Order of Drina Corps, 2 July 1995), paras. 2–3; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6126–6127. Acting pursuant to the preparatory order on 2 July, Zvornik Brigade Commander Pandurević issued an order establishing a tactical group from amongst the units of the Zvornik Brigade, and designating himself as commander and Milan Jolović as deputy commander. P177 (Order of Zvornik Brigade, 2 July 1995), para. 2.1.

<sup>16254</sup> P4481 (Order of Drina Corps, 2 July 1995), e-court pp. 1, 17; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6131. According to Lazić, about 2,000 troops participated in the operation. Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21734. Two to three MUP companies and the 1<sup>st</sup> Company of the Vlasenica Brigade were also assigned as reserve forces but did not receive the order for active combat activities. P4481 (Order of Drina Corps, 2 July 1995), para.5; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6137–6139.

<sup>16255</sup> P4481 (Order of Drina Corps, 2 July 1995), e-court p. 17; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6142.

<sup>16256</sup> P4481 (Order of Drina Corps, 2 July 1995), para. 2. Krstić explained that "the urban area" of Srebrenica included the villages on the outskirts of town, such as Bojna, Bajramovići, Pusulići, and Potočari, but did not include the outlying villages in the enclave. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6390–6391.

<sup>16257</sup> P4481 (Order of Drina Corps, 2 July 1995), paras. 4–5; Momir Nikolić, T. 24828 (16 February 2012); Ljubomir Obradović, T. 25220 (24 February 2012). See also Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21732–21733.

<sup>16258</sup> P4481 (Order of Drina Corps, 2 July 1995). See also D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 2; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6136–6137, 6152–6154, 6394–6395, 7349, 7351–7352; D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 7; Mirko Trivić, T. 40534 (26 June 2013).

prisoners of war.<sup>16259</sup> Combat readiness was ordered for 4 a.m. on 6 July 1995.<sup>16260</sup> Late in the evening of 2 July, the Main Staff reported to the Accused that “the [Drina] Corps units [we]re in full combat readiness and [...] unengaged forces [we]re being prepared for forthcoming active combat operations”.<sup>16261</sup>

5008. Final preparations were made over the following few days. Upon receiving the active combat order on 2 July, the brigade commanders conveyed the order for active combat operations to their subordinate units.<sup>16262</sup> Krstić was placed in charge of reconnaissance activities, and prepared a surveillance plan.<sup>16263</sup> On 5 July, Živanović again assessed the overall situation in the Drina Corps’ area of responsibility and decided that the units were ready to implement the task.<sup>16264</sup> Krstić departed that afternoon for the Pribičevac IKM, where he met with Blagojević, whose IKM was located nearby.<sup>16265</sup>

5009. Around the same time, Bosnian Serb Forces appeared to establish a headquarters in a large house located between the Yellow Bridge and OP Papa.<sup>16266</sup> DutchBat member Roger Patelski observed two tanks moving close to the house, members of Bosnian Serb Forces digging trenches and setting up rocket launchers in the hills above Potočari, as well as artillery and mortars firing in the direction of the enclave.<sup>16267</sup> Snipers posted on the surrounding hills targeted Bosnian Muslim civilians, including women and children, who were living in the houses in the vicinity of OP Papa.<sup>16268</sup> Bosnian Serb Forces also fired on a number of OPs, including OP Mike, with small and large calibre weapons.<sup>16269</sup>

## ii. Commencement of VRS combat operations and shelling of Srebrenica and Potočari

5010. By 6 July, the Drina Corps units had been prepared and grouped for active combat operations towards Srebrenica and Žepa.<sup>16270</sup> Combat activities towards Srebrenica began early that morning.<sup>16271</sup> At approximately 3 a.m., Srebrenica town came under heavy and continuous fire.<sup>16272</sup> Shells fell in a scattered manner throughout the town and the enclave.<sup>16273</sup> Within half an hour, several rockets landed near the DutchBat compound in

<sup>16259</sup> P4481 (Order of Drina Corps, 2 July 1995), para. 10(b). Lazić testified that, as in any operation, it was anticipated that some prisoners would be taken, but a large number of prisoners was not expected due to the operation’s initial limited scope. Milenko Lazić, P4072 (Transcript from *Prosecutor v. Popović et al.*), T. 21733–21735.

<sup>16260</sup> P4481 (Order of Drina Corps, 2 July 1995), para. 4.

<sup>16261</sup> P5126 (VRS Main Staff Report to RS President, 2 July 1995), p. 3.

<sup>16262</sup> P5133 (Order of Bratunac Brigade, 5 July 1995); D4189 (Witness statement of Vidoje Blagojević dated 9 December 2013), pp. 3–4.

<sup>16263</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6156.

<sup>16264</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6158–6159, 6171–6172. *See also* D3950 (Order of Drina Corps, 5 July 1995) (stating that Drina Corps units had carried out all preparations for executing combat actions towards Srebrenica and ordering the 1<sup>st</sup> and 5<sup>th</sup> Podrinje Light Infantry Brigades to prepare for the commencement of combat operations towards Žepa on the morning of 6 July).

<sup>16265</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6159, 6172–6173, 6423.

<sup>16266</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 8.

<sup>16267</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), paras. 9–10; P4174 (Aerial photograph of Srebrenica-Bratunac area marked by Roger Patelski); Roger Patelski, T. 23018–23019 (13 January 2012).

<sup>16268</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), paras. 10–11; Roger Patelski, T. 23023–23025 (16 January 2012); Momir Nikolić, T. 24574 (13 February 2012) (acknowledging that civilians inside the enclave were wounded or killed by sniper fire originating from the Bratunac Brigade and suggesting that such civilians “should not have been targeted”). These killings are not charged in the Indictment.

<sup>16269</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), paras. 14–15.

<sup>16270</sup> D2097 (VRS Main Staff Report, 6 July 1995); Ljubomir Obradović, T. 25211 (24 February 2012).

<sup>16271</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 63; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6173. *See also* Ljubomir Obradović, T. 25297–25298 (27 February 2012); Adjudicated Fact 1472.

<sup>16272</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 63–64. *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 26; D2212 (Collection of MSF telex messages, 5–17 July 1995), e-court p. 3.

<sup>16273</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 71, 73; P4143 (UNMO Report, 6 July 1995), p. 1. *See also* P5113 (Report of Bratunac Brigade to Drina Corps, 6 July 1995) (reporting Bratunac Brigade fire against targets including the school in Potočari, the 11 Mart Factory, and the wider village area).

Potočari.<sup>16274</sup> At about 1 p.m., a tank round hit the defence wall of OP Foxtrot,<sup>16275</sup> which thereafter came under direct fire from tanks, mortars, and small-calibre machine guns.<sup>16276</sup> The shelling of the area continued throughout the day,<sup>16277</sup> initially concentrating at the southeastern part of the enclave.<sup>16278</sup> Bosnian Serb Forces encountered heavy resistance from the ABiH along the southern approach to the town.<sup>16279</sup> Krstić ordered those who had not reached the lines they had been ordered to reach on 6 July to press ahead on the following day.<sup>16280</sup>

5011. Bosnian Serb Forces fired artillery and mortars as well as multiple rocket launchers all over the enclave throughout the day on 7 July.<sup>16281</sup> Multiple impacts occurred in the vicinity of the DutchBat compound in Potočari,<sup>16282</sup> as well as in Srebrenica town, wounding several civilians.<sup>16283</sup> More than 200 shells fell on Srebrenica town during the course of the day.<sup>16284</sup> However, the Bosnian Serb Forces did not progress further towards the enclave.<sup>16285</sup>

5012. Shelling resumed at 8 a.m. on 8 July, and was most concentrated in Potočari and Srebrenica town.<sup>16286</sup> By 1 p.m., the UNMOs located in the PTT building had counted 34 explosions in Srebrenica town.<sup>16287</sup> Having withstood increasingly more accurate fire since 6 July, OP Foxtrot finally fell on 8 July.<sup>16288</sup> Later that day, OP Sierra and OP Uniform also came under fire from the Bosnian Serb Forces.<sup>16289</sup> UNPROFOR protested to the

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<sup>16274</sup> P4144 (UNPROFOR Report, 6 July 1995), e-court pp. 5–6; P4143 (UNMO Report, 6 July 1995), pp. 1–2; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1920, 1922. See also Adjudicated Fact 1473.

<sup>16275</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 30; P4144 (UNPROFOR Report, 6 July 1995), e-court p. 5; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 45.

<sup>16276</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 45.

<sup>16277</sup> P4143 (UNMO Report, 6 July 1995), p. 1. An artillery impact killed a civilian and injured a boy in Srebrenica town. P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 70, 75; P4144 (UNPROFOR Report, 6 July 1995), para. 1; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 46. See also P398 (Witness Statement of Saliha Osmanović dated 18 June 2000), e-court p. 2; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10 (referring to the killing of her son, Edin, by a shell on 6 July 1995). These killings are not charged in the Indictment.

<sup>16278</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 45; P4144 (UNPROFOR Report, 6 July 1995), para. 1.

<sup>16279</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6174. Many fire fights as well as a rocket attack occurred in the Bandera Triangle. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 30.

<sup>16280</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6175–6176.

<sup>16281</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 30–31; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para.77; P5207 (UNPROFOR daily report, 7 July 1995), para. 1.

<sup>16282</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 46; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para.78; P4145 (UNMO Report, 7 July 1995), e-court p. 1; P5207 (UNPROFOR daily report, 7 July 1995), para. 1. For example, a small village called Budak, where only civilians lived, was attacked. P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 31, 36.

<sup>16283</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 31; P4145 (UNMO Report, 7 July 1995), p. 1; P4146 (UNPROFOR Report, 7 June 1995); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 82, 87; P5207 (UNPROFOR daily report, 7 July 1995), para. 1.

<sup>16284</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 86.

<sup>16285</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6176; D2098 (VRS Main Staff Report, 7 July 1995), para. 6(a). See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 12–13; Jean-René Ruez, T. 23712–23713 (26 January 2012).

<sup>16286</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 89; P4147 (UNMO Report, 8 July 1995), para. 1.

<sup>16287</sup> P4147 (UNMO Report, 8 July 1995); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 90–92. Kingori testified that it was possible to conclude that buildings were being targeted because of the corrections that were made to the firing of an artillery weapon when a target was missed. Joseph Kingori, T. 22893–22894 (12 January 2012).

<sup>16288</sup> P4144 (UNPROFOR Report, 6 July 1995), e-court pp. 5–6; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 47. At 2 a.m., three tank rounds hit OP Foxtrot, and the defence wall was blown away; the Bravo Company commander then ordered the DutchBat personnel to withdraw. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 32; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 47; P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), para. 3. As DutchBat withdrew, one of the DutchBat soldiers was killed by a member of the ABiH. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 32; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 47; Momir Nikolić, T. 24819 (16 February 2012); P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), para. 3.

<sup>16289</sup> P3980 (UNMO report, 9 July 1995), e-court p. 2; P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), para. 4; P4787 (Intercept of conversation between General Nicolai and unidentified person from VRS Main Staff, 8 July 1995). DutchBat personnel were prevented from leaving these areas by the ABiH. P3980 (UNMO report, 9 July 1995), e-court p. 2. The ABiH held positions near many of the DutchBat OPs and would fire at the VRS, trying to provoke the VRS into returning fire in the hope that

Main Staff that the OPs were being attacked.<sup>16290</sup> However, OP Mike, located in the northern part of the enclave, came under direct fire on the following day.<sup>16291</sup> Thereafter, the VRS began taking over the OPs one by one.<sup>16292</sup>

5013. Meanwhile, the southern perimeter of the enclave began to collapse as the Bosnian Serb Forces moved into the enclave.<sup>16293</sup> Late in the evening of 8 July, as Bosnian Serb Forces approached the Swedish Shelter Project near OP Sierra and OP Kilo, 4,000 refugees streamed towards Srebrenica town.<sup>16294</sup> By then, the town was already packed,<sup>16295</sup> and large numbers of people had begun to congregate at the Bravo Company compound in the centre of Srebrenica town.<sup>16296</sup>

### *iii. Expansion of the Krivaja 95 Orders and continued shelling of Srebrenica*

5014. After several days of resistance from the ABiH,<sup>16297</sup> the Bosnian Serb Forces pressed forward on 9 July.<sup>16298</sup> Heavy shelling of Srebrenica town continued at 8 a.m. and lasted throughout the day.<sup>16299</sup> Small arms fire was audible from the centre of town, signalling the proximity of Bosnian Serb infantry.<sup>16300</sup> When the UNMOs stationed in town spotted a tank capable of delivering a direct hit later that day, they decided to leave the PTT building for Potočari.<sup>16301</sup> This contributed to a growing feeling of insecurity and panic amongst the

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DutchBat would then fire at the VRS. Pieter Boering, T. 22099 (29 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 35.

<sup>16290</sup> D4448 (Intercept of conversation between General Nicolai and an unidentified person, 8 July 1995); P4787 (Intercept of conversation between General Nicolai and unidentified person from VRS Main Staff, 8 July 1995). Živanović sent an urgent message to Krstić referring to such a protest and relaying an order from the Main Staff “not to attack UNPROFOR, but to prevent any surprises and stop the Muslims in their intention to join up Srebrenica and Žepa”. D1964 (Urgent message from Živanović to Krstić re UNPROFOR protest, 8 July 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6178. See also D3995 (Request of Vujadin Popović to Drina Corps IKM, 8 July 1995); Vujadin Popović, T. 43021 (5 November 2013).

<sup>16291</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 48.

<sup>16292</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 48–49; P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), para. 2 (stating that as of 9 July most DutchBat OPs were hit by mortar fire). See also Adjudicated Fact 1476. The last OPs to fall were taken over by the Bosnian Serb Forces on 11 July 1995. See para. 5031. In order to avoid an incident like the one that occurred at OP Foxtrot, instead of withdrawing toward Bosnian Muslim lines, the DutchBat soldiers began to wait for the VRS to take the OP and would then surrender. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 49; P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), paras. 4–5. See also Adjudicated Facts 1478. After surrendering to the VRS on 9 and 10 July, the DutchBat soldiers at OP Uniform, OP Sierra, and OP Kilo were taken to Bratunac. P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 34, 38; Albert Rave, T. 22219–22220 (30 November 2011); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 51; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1920, 1924; P5127 (Notes on telephone conversation between General Nicolai and Tolimir at 12:30 p.m., 9 July 1995). See also Adjudicated Fact 1479.

<sup>16293</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6177; D2099 (VRS Main Staff Report, 8 July 1995), paras. 6(a)–(b); P4482 (Drina Corps report, 8 July 1995), para. 2; P4930 (Combat Report of Drina Corps, 8 July 1995), para. 1. See also P4929 (Map of Eastern BiH marked by Richard Butler) (showing the location of three features seized by the VRS on 8 July); Richard Butler, T. 27478–27479 (17 April 2012).

<sup>16294</sup> P4148 (UNMO Report, 9 July 1995), p. 1; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 95; Pieter Boering, T. 22119 (29 November 2011); P4148 (UNMO Report, 9 July 1995), p. 1. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 39–40; Mirsada Malagić, T. 23471 (24 January 2012); Adjudicated Fact 1482; D2235 (Report of Presidency of Srebrenica Municipality, 9 July 1995); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 51. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2713–2714, 2943; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1923.

<sup>16295</sup> Mirsada Malagić, T. 23471–23472 (24 January 2012).

<sup>16296</sup> P3980 (UNMO report, 9 July 1995), e-court pp. 2–3.

<sup>16297</sup> Momir Nikolić, T. 24837 (16 February 2012). On 9 July, according to a VRS Main Staff report, the ABiH fired at the VRS using all types of weapons, including heavy weapons. D2100 (VRS Main Staff Report, 9 July 1995), para. 6(a).

<sup>16298</sup> See P5104 (Message from Drina Corps, 9 July 1995).

<sup>16299</sup> P4148 (UNMO Report, 9 July 1995), p. 1; Joseph Kingori, T. 22952 (13 January 2012); D2236 (Report of Presidency of Srebrenica Municipality, 9 July 1995). See also Adjudicated Fact 1474. Between approximately 2 and 3 p.m., the UNMOs recorded 78 explosions, 70% of which were centred in Srebrenica town. P4149 (UNMO Report, 9 July 1995); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 98.

<sup>16300</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 99–101; P4149 (UNMO Report, 9 July 1995).

<sup>16301</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 102–104; Joseph Kingori, T. 22802 (11 January 2012); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 41.



population,<sup>16302</sup> whose numbers were constantly increasing due to the arrival of refugees from the outskirts of town.<sup>16303</sup>

5015. On multiple occasions throughout the day, the Bosnian Muslim municipal authorities attempted to contact the government in Sarajevo to obtain assistance for the population.<sup>16304</sup> In the meantime, the shelling continued.<sup>16305</sup> By 5:50 p.m., the Bosnian Serb Forces had advanced four kilometres into the enclave and stood only one kilometre away from Srebrenica town.<sup>16306</sup>

5016. Cornelis Nicolai, Rupert Smith's Chief of Staff,<sup>16307</sup> spoke to Tolimir several times throughout the day.<sup>16308</sup> Nicolai first expressed concern about the Bosnian Serb incursion into the enclave and stated that UNPROFOR considered it an attack on the safe area, which would force UNPROFOR to defend the area with all available means.<sup>16309</sup> Nicolai also requested the immediate withdrawal of the Bosnian Serb Forces.<sup>16310</sup> Tolimir first replied that he would check the information with his subordinates on the ground,<sup>16311</sup> but later stated that he had been informed that the Bosnian Serb Forces "had no particular problems with UNPROFOR or the civil population in Srebrenica", adding that the ABiH was using heavy weaponry, thereby necessitating Bosnian Serb action.<sup>16312</sup> Nicolai pointed out that the ABiH's heavy weapons were still at the UNPROFOR collection point.<sup>16313</sup> Nicolai reiterated that the Bosnian Serb Forces were directly attacking the safe area and again requested that the Bosnian Serbs withdraw.<sup>16314</sup>

5017. Meanwhile, earlier in the afternoon, Gvero had arrived at the Pribićevec IKM.<sup>16315</sup> At about 5 p.m. Mladić and Živanović arrived.<sup>16316</sup> Krstić briefed them each in turn, and

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<sup>16302</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 107, 109. See also KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 641. See also KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3504. The deputy mayor tried to persuade the UNMOs not to leave the town because the population did not want to be left behind. P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 104–106.

<sup>16303</sup> KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3503; D2236 (Report of Presidency of Srebrenica Municipality, 9 July 1995) (referring to 32,000 displaced people and increasing numbers of new refugees, which totalled 4,000 at the time of the report).

<sup>16304</sup> D2235 (Report of Presidency of Srebrenica Municipality, 9 July 1995); D2236 (Report of Presidency of Srebrenica Municipality, 9 July 1995); P4150 (Srebrenica Presidency's message to President of BiH and Commander of ABiH, 9 July 1995). See also P5119 (Report of 28<sup>th</sup> Infantry Division to 2<sup>nd</sup> Corps Command, 9 July 1995), p. 2 (reporting that the humanitarian situation was 'catastrophic' as the civilian population had no food, and medical supplies were becoming scarcer). At the time, the civilian population had no food reserves and the ABiH had enough food for seven days. D2236 (Report of Presidency of Srebrenica Municipality, 9 July 1995).

<sup>16305</sup> Joseph Kingori, T. 22802 (11 January 2012).

<sup>16306</sup> P5229 (Notes re telephone conversation between General Nicolai and Tolimir at 5:50 p.m., 9 July 1995); P4788 (Intercept of conversation between General Tolimir and General Nicolai at 5:55 p.m., 9 July 1995). See also Adjudicated Fact 1483. Momir Nikolić recalled that the attack was halted to allow the VRS to regroup prior to advancing into the town. Momir Nikolić, T. 24838 (16 February 2012).

<sup>16307</sup> Rupert Smith, T. 11683 (11 February 2011).

<sup>16308</sup> P5127 (Notes on telephone conversation between General Nicolai and Tolimir at 12:30 p.m., 9 July 1995); P5229 (Notes re telephone conversation between General Nicolai and Tolimir at 5:50 p.m., 9 July 1995); P4788 (Intercept of conversation between General Tolimir and General Nicolai at 5:55 p.m., 9 July 1995); P5128 (Notes on telephone conversation between General Nicolai and Tolimir at 7:30 p.m., 9 July 1995); P4821 (Intercept of conversation between General Tolimir and General Nicolai at 9:25 p.m., 9 July 1995).

<sup>16309</sup> P5229 (Notes re telephone conversation between General Nicolai and Tolimir at 5:50 p.m.).

<sup>16310</sup> P5229 (Notes re telephone conversation between General Nicolai and Tolimir at 5:50 p.m.).

<sup>16311</sup> P5229 (Notes re telephone conversation between General Nicolai and Tolimir at 5:50 p.m., 9 July 1995).

<sup>16312</sup> P5128 (Notes on telephone conversation between General Nicolai and Tolimir at 7:30 p.m., 9 July 1995). Tolimir also asserted that the ABiH was using six UNPROFOR APCs, which Nicolai denied. P5128 (Notes on telephone conversation between General Nicolai and Tolimir at 7:30 p.m., 9 July 1995), e-court p. 2. See also P4821 (Intercept of conversation between General Tolimir and General Nicolai at 9:25 p.m., 9 July 1995).

<sup>16313</sup> P5128 (Notes on telephone conversation between General Nicolai and Tolimir at 7:30 p.m., 9 July 1995), e-court p. 2.

<sup>16314</sup> P5128 (Notes on telephone conversation between General Nicolai and Tolimir at 7:30 p.m., 9 July 1995), e-court p. 2.

<sup>16315</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6178–6180. Krstić had not been informed in advance of Gvero's arrival and thus deduced that the Main Staff was displeased with the progress of the operation, and that Gvero had been sent to check and control the Pribićevec IKM and to report to Mladić. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6185–6186. Srblav Davidović also visited the IKM in the early afternoon of 9 July; he and Gvero then departed for Bratunac, where Gvero left Davidović and continued "in a hurry" towards Vlasenica. Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9184–9186, 9331–9334.

Mladić and Živanović monitored the units' progress.<sup>16317</sup> Around 7:30 p.m., in between Tolimir's conversations with Nicolai, Krstić sent an interim combat report to the Main Staff stating that during the day, units of the Bosnian Serb Forces had "carried out the immediate task and created conditions for the extending the attack towards Srebrenica".<sup>16318</sup> In the same report, Krstić reported that, "taking advantage of the success achieved", he would make a decision for further operations to "regroup the forces and carry out a vigorous and decisive attack towards Srebrenica".<sup>16319</sup>

5018. Tolimir reported the above information he had received from Krstić to the Accused, and the Accused approved the expansion of the Krivaja 95 plan and ordered the Bosnian Serb Forces to take over the town.<sup>16320</sup> The Accused told Tolimir that "if they could take Srebrenica, they should".<sup>16321</sup> Tolimir then drafted an order to that effect and sent it to Gvero and Krstić personally, as well as to the Drina Corps IKM.<sup>16322</sup> In that order, Tolimir wrote: "The President of the Republic is satisfied with the results of combat operations around Srebrenica and has agreed with the continuation of operations for the takeover of Srebrenica, disarming of Muslim terrorist gangs and complete demilitarisation of the Srebrenica enclave".<sup>16323</sup> Relaying the Accused's agreement with the expanded objective, Tolimir also conveyed the Accused's order that "full protection [should] be ensured to UNPROFOR members and the [Bosnian] Muslim civilian population", as well as his instruction to Krstić to issue an order to that effect.<sup>16324</sup> Krstić testified that, thereafter, Mladić called each subordinate commander by encrypted RUP 12 radio and orally ordered them to continue the attack and to enter Srebrenica.<sup>16325</sup>

5019. In the meantime, UNPROFOR conveyed an ultimatum to the VRS that air strikes would occur if the VRS continued to attack the DutchBat blocking positions.<sup>16326</sup> When Tolimir spoke to Janvier at 11:10 p.m., however, he assured Janvier that the VRS "w[ould] do everything [they] c[ould] to calm down the situation and to find a reasonable solution".<sup>16327</sup>

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<sup>16316</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6185, 6427. See also D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 4. Mladić had arrived in Bratunac on the previous afternoon; at the time, the Hotel Fontana was being used as the command post of the Main Staff. Milenko Katanić, T. 24498 (10 February 2012); KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3504, 3626. See also Momir Nikolić, T. 24604–24606 (13 February 2012) (stating that in the days preceding the fall of Srebrenica he saw Mladić, Radoslav Janković, Živanović, Krstić, Popović, and Kosorić in Bratunac). Deronjić had been present at the Pribičevac IKM for the previous three days. P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 57; Milenko Katanić, T. 24498 (10 February 2012). Members of the Bratunac municipal organs also visited the Pribičevac IKM on 11 July. Srbišlav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9188; Srbišlav Davidović, T. 24400–24401 (9 February 2012).

<sup>16317</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6185, 6430–6432, 6437.

<sup>16318</sup> D2080 (Drina Corps report to VRS Main staff, 9 July 1995), para. 2. The Chamber notes that during his testimony in his own defence case, Krstić denied that there were changes in the plan of attack on 9 July because the Drina Corps units were still far from completing the assignments given to them in the Krivaja 95 plan, and that they only did so by noon on 10 July. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6424–6426, 6437, 7360–7361. The Chamber notes that these assertions are directly contradicted by Krstić's own contemporaneous description of the units' task on 9 July, and will not rely on Krstić's testimony in this regard.

<sup>16319</sup> D2080 (Drina Corps report to VRS Main staff, 9 July 1995), para. 3. Within the hour, Tolimir replied to Krstić, requesting Krstić to provide him with hourly battlefield situation reports "so that [Tolimir could] communicate with UNPROFOR which w[ould] enable [Krstić] to continue to work according to plan". P5131 (Report of Drina Corps, 9 July 1995).

<sup>16320</sup> P2276 (VRS Main Staff Order, 9 July 1995); Zdravko Tolimir, T. 45063 (12 December 2013). See also Momir Nikolić, T. 24840–24842 (16 February 2012).

<sup>16321</sup> Zdravko Tolimir, T. 45063 (12 December 2013).

<sup>16322</sup> P2276 (VRS Main Staff Order, 9 July 1995); Zdravko Tolimir, T. 45063 (12 December 2013).

<sup>16323</sup> P2276 (VRS Main Staff Order, 9 July 1995).

<sup>16324</sup> P2276 (VRS Main Staff Order, 9 July 1995); Zdravko Tolimir, T. 45063 (12 December 2013); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6181.

<sup>16325</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6186–6187, 6425, 6427.

<sup>16326</sup> P2275 (UNPROFOR report re warning to Bosnian Serbs, 9 July 1995); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 41.

<sup>16327</sup> P5266 (Intercept of conversation between General Bernard Janvier and General Zdravko Tolimir, 9 July 1995), p. 3. Janvier and Tolimir also spoke about whether the DutchBat soldiers being held by the Bosnian Serb Forces could return to Potočari, and Tolimir alleged

5020. DutchBat was given an order to defend the town of Srebrenica with all military means.<sup>16328</sup> Franken then ordered the Bravo Company Commander to establish blocking positions closer to the southern edge of town,<sup>16329</sup> a task which was accomplished by at 6:30 a.m. on 10 July.<sup>16330</sup>

5021. That morning, the situation in Srebrenica was tense as mortar and artillery rounds landed throughout the town beginning at 8 a.m.<sup>16331</sup> Mladić and Janvier spoke at 10:25 a.m.; Janvier demanded that Mladić completely stop the Bosnian Serb offensive, and Mladić replied that the attack was a response to the Bosnian Muslim incursions outside the enclave.<sup>16332</sup> By 1 p.m., Mladić had ordered the Bosnian Serb Forces to press further forward.<sup>16333</sup> The Main Staff redeployed units assigned elsewhere to the Srebrenica front.<sup>16334</sup> Additionally, a part of RS MUP forces deployed on the Sarajevo front, including the 2<sup>nd</sup> Šekovići Detachment and a company of the Jahorina Recruits, was detached and sent as an independent unit to the Srebrenica sector under the command of Ljubiša Borovčanin, the Deputy Commander of the SBP.<sup>16335</sup>

5022. In the interim, the population of “the upper part” of Srebrenica had withdrawn to the area near the clinic,<sup>16336</sup> which sustained two direct hits from 155 mm artillery shells around 1 p.m.<sup>16337</sup> Approximately 50 shells landed during the following hour, and the UNMOs observed rockets flying over Potočari toward Srebrenica town.<sup>16338</sup> Around 4 p.m., the town came under even heavier shelling, resulting in nine people being seriously

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again that Bosnian Muslims were using UNPROFOR APCs. P5266 (Intercept of conversation between General Bernard Janvier and General Zdravko Tolimir, 9 July 1995), pp. 2–3.

16328 P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 52; P2275 (UNPROFOR report re warning to Bosnian Serbs, 9 July 1995), e-court p. 2. See also Robert Franken, T. 23120–23121 (17 January 2012); P5129 (Memorandum from Thomas Karremans to UNPROFOR, 9 July 1995), paras. 8–9 (anticipating that if the Bosnian Serb Forces progressed, OP Kilo and OP Delta would also fall).

16329 P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 52; Robert Franken, T. 23122 (17 January 2012); P242 (Dutchbat Order, 9 July 1995); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 39 (stating that the DutchBat commander ordered blocking positions south of the town in order to detect the VRS entry into town).

16330 P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 52. Although DutchBat initially planned four blocking positions, one APC was shot off the road while trying to reach its position, and the Bosnian Serb Forces eventually gained control of it on their way into town. P242 (Dutchbat Order, 9 July 1995); P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 53–54; P4201 (Updated Srebrenica Trial video), Part 1, at 00:18:40–00:19:25 (showing Hageman’s APC); Robert Franken, T. 23084 (16 January 2012). See also P3972 (Map of Eastern Bosnia marked by Pieter Boering) (showing blocking positions taken during the course of 10 July); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 54; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2715, 2717, 2910, 2935 (stating that he concluded that the Bosnian Serb Forces were targeting UNPROFOR because the Bosnian Serb fire persisted even after a Bosnian Muslim artillery unit nearby withdrew).

16331 P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 44; KDZ186, P358 (*Transcript from Prosecutor v. Popović et al.*), T. 3632; D137 (UNPROFOR daily report, 10 July 1995), p. 4; P4151 (UNMO Report, 10 July 1995); P4153 (UNMO Report, 10 July 1995), e-court p. 3; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 116–117. See also P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 19; Adjudicated Fact 1487. The UNMOs recorded over 100 detonations during the course of the morning. P4152 (UNMO Report, 10 July 1995); P4153 (UNMO Report, 10 July 1995), e-court p. 3; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 121; Joseph Kingori, T. 22897–22898 (12 January 2012); D137 (UNPROFOR daily report, 10 July 1995), p. 4.

16332 P4822 (Intercept of conversation between General Janvier and Ratko Mladić, 10 July 1995).

16333 P5106 (VRS Main Staff Order, 10 July 1995).

16334 See Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14002–14003; Dragan Todorović, T. 24194 (7 February 2012) (stating that Pelemiš ordered the Bijeljina platoon of the 10<sup>th</sup> Sabotage Detachment to move towards Bratunac via Vlasenica under the command of Franc Kos, and that the group spent the night of 10 July in Zeleni Jadar). See also Petar Salapura, T. 40260–40263 (24 June 2013) (stating that he later heard from Pelemiš that Pelemiš had gone to Srebrenica on the orders of Krstić).

16335 See P2993 (Order of RS MUP, 10 July 1995), paras. 1, 3; D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 15 (stating that he arrived at the Bratunac SJB around noon on 11 July). The order further provided that the 1<sup>st</sup> Company of the PJP of the Zvonik CJB as well as a mixed company of RSK, Serbian, and RS MUP forces, were also to be a part of the independent unit. P2993 (Order of RS MUP, 10 July 1995), para. 2. See also D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 17–20 (describing the process of being deployed on 11 July); D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), paras. 6–7.

16336 KDZ064, T. 1424 (22 April 2010).

16337 P4152 (UNMO Report, 10 July 1995); P4153 (UNMO Report, 10 July 1995), e-court p. 3; Joseph Kingori, T. 22954 (13 January 2012) (stating that the hospital had been targeted). See also P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 29; Adjudicated Fact 1487.

16338 P3991 (UNMO report, 10 July 1995); P4153 (UNMO Report, 10 July 1995), e-court p. 3; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 122.

injured.<sup>16339</sup> That evening, a crowd of several thousand frightened people gathered outside the clinic and “voice[d] their desire to leave the town”.<sup>16340</sup> Residents of nearby villages continued to pour into town, reporting that their villages were being burned by the advancing Bosnian Serb Forces.<sup>16341</sup>

5023. During the course of the day, DutchBat received an ultimatum from the Bosnian Serb Forces which stated that since DutchBat had not been disarming the Bosnian Muslims, the VRS would do it, and DutchBat would be permitted to leave the enclave through OP Papa, along with the civilian population, if they left their equipment and weapons behind.<sup>16342</sup> Franken transmitted the text of the ultimatum to the Bravo Company commander, along with the UN’s response: an order to the Bosnian Serb Forces to withdraw to the 1993 borders of the enclave as of 6 a.m. on 11 July 1995 or face the threat of “massive air attacks”.<sup>16343</sup> **(#All of a sudden there are “borders of the enclave” to which the VRS had every right su “reduce” the territory controlled by the Muslim forces contrary to the Agreement!#)**

5024. On the evening of 10 July, the VRS attempted to enter Srebrenica town but was repelled by ABiH as well as DutchBat fire from the blocking positions.<sup>16344</sup> DutchBat’s blocking positions remained under fire and the “massive shelling” of Srebrenica town—including the Bravo Company compound—continued.<sup>16345</sup> Members of international humanitarian organisations stationed in Srebrenica appealed to their colleagues in their offices in Belgrade, Zagreb, and Sarajevo for help.<sup>16346</sup> Some civilians began to move towards Potočari, but were stopped by members of the Muslim Forces in Srebrenica, who asked them to return to the town.<sup>16347</sup>

5025. At 8:15 p.m., Janvier attempted to contact Mladić but was only able to reach Tolimir.<sup>16348</sup> When Janvier asserted that the Bosnian Serb Forces were attacking DutchBat’s positions, Tolimir replied that he would check the information on the ground and asked Janvier to call back 20 or 30 minutes later.<sup>16349</sup> In a subsequent conversation, Tolimir told Janvier that DutchBat had opened fire on Bosnian Serb Forces, who could not withdraw before combat activities ended.<sup>16350</sup> Janvier replied that DutchBat had been ordered to hold their positions and to defend themselves if anyone tried to take their

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<sup>16339</sup> P4153 (UNMO Report, 10 July 1995), e-court p. 3. *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 123.

<sup>16340</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 31.

<sup>16341</sup> P4153 (UNMO Report, 10 July 1995), e-court p. 3; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 123–125. *See also* D1968 (Witness statement Pieter Boering dated 28 September 1995), p. 5.

<sup>16342</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 56; P4176 (Order from Major Franken to Capt. Groen, 10 July 1995).

<sup>16343</sup> P4176 (Order from Major Franken to Capt. Groen, 10 July 1995), p. 1; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 56.

<sup>16344</sup> Robert Franken, T. 23117 (16 January 2012); T. 23156 (17 January 2012). *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 42. *See also* D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), paras. 18, 24 (describing the Birač Brigade’s approach to Srebrenica).

<sup>16345</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 55. Bravo Company stopped counting the number of impacts when they reached 160 or 200. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 55. The Chamber notes that during the day on 10 July, the ABiH fired mortar rounds from a location in Srebrenica town across from the Bravo Company compound. P4201 (Updated Srebrenica Trial video), Part 1 00:06:04–00:06:44; Jean-René Ruez, T. 24086 (2 February 2012).

<sup>16346</sup> P5089 (Report of Sarajevo RDB, 11 July 1995).

<sup>16347</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 57.

<sup>16348</sup> P5270 (Intercept of conversations between General Zdravko Tolimir and General Bernard Janvier at 8:15 p.m. and subsequent, 10 July 1995), p. 1. *See also* P5268 (Intercept of conversation between Ratko Mladić and General Bernard Janvier, 10 July 1995), p. 2 (agreeing at 10:45 a.m. to speak again at 6 p.m.).

<sup>16349</sup> P5270 (Intercept of conversations between General Zdravko Tolimir and General Bernard Janvier at 8:15 p.m. and subsequent, pp. 1–2).

<sup>16350</sup> P5270 (Intercept of conversations between General Zdravko Tolimir and General Bernard Janvier at 8:15 p.m. and subsequent), e-court pp. 3–4.

weapons.<sup>16351</sup> Tolimir then stated that he would check the information with the battalion commander and that he and Janvier should talk again.<sup>16352</sup> In a third conversation at 10:30 p.m., Tolimir reported that combat operations had stopped, and agreed to speak to Gobilliard in Sarajevo on the following day.<sup>16353</sup>

**5026.** That night, the DutchBat Commander, Thomas Karremans, and DutchBat soldiers Pieter Boering and Albert Rave held a meeting with the Bosnian Muslim military and civilian authorities, many of whom were armed, at the PTT building in Srebrenica.<sup>16354</sup> There, Karremans informed the Bosnian Muslim authorities about UNPROFOR's ultimatum to the Bosnian Serb Forces.<sup>16355</sup> Karremans also conveyed an ultimatum from the Bosnian Serb Forces "that they would like the Muslims to leave the enclave" within 48 hours in exchange for being given safe passage out.<sup>16356</sup> **However, the exhibit P05154, p. 3 sais what was the intention of the VRS:**

POTOCARI.  
2. ONLY MSF, UNHCR AND REDCROSS ORGANISATIONS WERE ALLOWED ON THE COMPOUND TOGETHER WITH DUTCHBAT.  
3. THE BSA WILL DEMILITARIZE THE ENCLAVE.  
4. THERE WILL BE NO DANGER FOR THE PEOPLE ON THE COMPOUND DURING THE ACTION OF THE BSA ON DEMILITARISING THE ENCLAVE. CO

**It is clear that the main concerns of the VRS was the armament of the enclave, a militarisation that caused many Serb casualties on a daily basis.** After the meeting, many of the armed men remained outside in the vicinity of the PTT building and left the town in a northwestern direction.<sup>16357</sup> By the following morning, the Muslim Forces in Srebrenica had disappeared from the town.<sup>16358</sup>

- <sup>16351</sup> P5270 (Intercept of conversations between General Zdravko Tolimir and General Bernard Janvier at 8:15 p.m. and subsequent), e-court p. 5.
- <sup>16352</sup> P5270 (Intercept of conversations between General Zdravko Tolimir and General Bernard Janvier at 8:15 p.m. and subsequent, e-court pp. 5–6.
- <sup>16353</sup> P4836 (Intercept of conversation between General Tolimir and General Janvier at 10:30 p.m., 10 July 1995). *See also* P4784 (Intercept of conversation between General Janvier and General Tolimir at 10:35 p.m., 10 July 1995); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 180.
- <sup>16354</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 45; Albert Rave, T. 22220 (30 November 2011). Many of these men were in uniform and carrying arms, including rifles, machine-guns, and hand-held rocket-launchers. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 47; Albert Rave, T. 22220–22221 (30 November 2011); P4154 (UNMO Report, 11 July 1995), e-court p. 3.
- <sup>16355</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 48; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1926; P4154 (UNMO Report, 11 July 1995), e-court p. 3. The civilian and military leaders did not believe that air strikes would be delivered because this promise had been made previously and nothing had happened. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 48; P4154 (UNMO Report, 11 July 1995), e-court p. 3.
- <sup>16356</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 126–127; P4154 (UNMO Report, 11 July 1995), e-court pp. 2–3. The Bosnian Serb ultimatum further proposed that only MSF, UNHCR, and ICRC representatives and no refugees would be allowed inside the DutchBat compound. P4154 (UNMO Report, 11 July 1995), e-court pp. 2–3.
- <sup>16357</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 49; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 57. *See also* paras. 5036–5038.
- <sup>16358</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 57; Robert Franken, T. 23155–23156 (17 January 2012).



5027. During the night of 10 to 11 July, the town, as well as OP Hotel, were shelled frequently.<sup>16359</sup> At 1 a.m., one of the DutchBat soldiers who had been at a blocking position reported that he had seen the VRS entering the houses, shooting, and then burning them.<sup>16360</sup>

*iv. The fall of Srebrenica and movement of the population to Potočari*

5028. The morning of 11 July was unusually quiet until about 11:15 a.m., when four shells were fired from the Budak area north of the enclave towards Srebrenica town.<sup>16361</sup> DutchBat submitted several requests for close-air support but nothing happened.<sup>16362</sup> By that time, thousands of Bosnian Muslims had gathered in front of the Bravo Company compound, asking to be let in because they thought the compound would be safe.<sup>16363</sup> Eventually, around 11 a.m., the group broke through the Bravo Company's defences and entered the compound.<sup>16364</sup> Around noon, a mortar shell landed between two APCs in the compound, wounding several people.<sup>16365</sup>

5029. Meanwhile, many Bosnian Muslims from throughout the town had begun to move towards Potočari.<sup>16366</sup> After the Bravo Company compound was shelled, DutchBat soldiers began to accompany those inside the compound as they walked the four kilometres towards the UN Compound.<sup>16367</sup> The Bosnian Muslims started as a disorganised mass and later formed a column which parted to make way for DutchBat vehicles transporting the sick and injured.<sup>16368</sup>

5030. By 1 or 2 p.m., Bosnian Serb units were on the eastern heights overlooking the enclave.<sup>16369</sup> In an apparent attempt to frighten the fleeing Bosnian Muslims and steer

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<sup>16359</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 50–51.

<sup>16360</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 50.

<sup>16361</sup> P4154 (UNMO Report, 11 July 1995) e-court p. 3.

<sup>16362</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 51–52; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 128. *See also* P4154 (UNMO Report, 11 July 1995), e-court p. 3; Adjudicated Fact 1495.

<sup>16363</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 52; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 60; Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1945–1946. *See also* Adjudicated Facts 1486, 1490.

<sup>16364</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 52. *See also* Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1931–1932; D1968 (Witness statement Pieter Boering dated 28 September 1995), p. 5.

<sup>16365</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 54. *See also* Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1932; KDZ064, T. 1424–1425 (22 April 2010); KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3633–3634.

<sup>16366</sup> Robert Franken, T. 23187 (17 January 2012); P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 31; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3599; Mirsada Malagić, T. 23473–23474, 23477–23478 (24 January 2012); P397 (Witness Statement of Saliha Osmanović dated 18 June 2000), e-court p. 2; P397 (Statement of Saliha Osmanović to Tuzla Cantonal Court), e-court p. 10; P397 (Witness statement of Razija Pašagić dated 15 June 2000), p. 1; P397 (Statement of Razija Pašagić to Tuzla Cantonal Court, 15 June 2000), e-court p. 9; P403 (Witness statement of Rahima Malkić dated 17 June 2000), e-court p. 2; P403 (Statement of Rahima Malkić to Tuzla Cantonal Court, 17 June 2000), e-court p. 9; P394 (Statement of Mevlida Bektić to Tuzla Cantonal Court, 16 June 2000), e-court pp. 7–8; P395 (Witness statement of Behara Krdžić dated 16 June 2000), p. 2; P395 (Statement of Behara Krdžić to Tuzla Cantonal Court, 16 June 2000), e-court p. 8; P399 (Statement of Salih Mehmedović to Tuzla Cantonal Court, 15 June 2000), e-court p. 11. *See also* P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P404 (Statement of Samila Salčinović to Tuzla Cantonal Court, 18 June 2000), e-court p. 13; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), pp. 2; P396 (Statement of Hanifa Hafizović to Tuzla Cantonal Court, 16 June 2000), e-court pp. 10–11; Adjudicated Fact 1500.

<sup>16367</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 55–58; Johannes Rutten, T. 22036–22037 (28 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1931–1932, 1937; Robert Franken, T. 23185 (17 January 2012); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2879; Mirsada Malagić, T. 23477–23478 (24 January 2012). *See also* KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3504–3507, 3549–3351; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 641; KDZ064, T. 1423 (22 April 2010); Adjudicated Facts 1491, 1492.

<sup>16368</sup> Mirsada Malagić, T. 23478–23479, 23523 (24 January 2012). Around the same time, DutchBat began assisting MSF with the transportation of the sick and injured from the hospital to Potočari. Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2929; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 32–33; Johannes Rutten, T. 22036 (28 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1937–1938; D1968 (Witness statement Pieter Boering dated 28 September 1995), p. 5.

<sup>16369</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6191.

them towards Potočari,<sup>16370</sup> Bosnian Serb Forces shot at and shelled the group of Bosnian Muslims moving northward.<sup>16371</sup> **(There is an evidence that the #VRS shelled only in the vicinity of the column in order to prevent the Muslims to spread throughout woods.# Had the Serbs aimed thye column there would be many casualties. How many casualties was between Srebrenica and Potocari.)** Just then, NATO air strikes on Bosnian Serb positions began, and lasted approximately 30 minutes.<sup>16372</sup> Franken soon received a message from the Bosnian Serb Forces that the UN Compound, including an area where refugees had gathered, would be shelled and the DutchBat soldiers being held by the Bosnian Serb Forces killed if the air strikes did not cease immediately.<sup>16373</sup> The shelling soon resumed and the area around the bus station in Srebrenica town came under mortar fire.<sup>16374</sup> Franken instructed Bravo Company to withdraw from Srebrenica town and to move towards Potočari at the tail end of the group of Bosnian Muslims, staying between them and the Bosnian Serb Forces.<sup>16375</sup>

5031. During the course of the day, the remaining OPs—with the exception of OP Papa—either withdrew or were overrun by the Bosnian Serb Forces.<sup>16376</sup> VRS units involved in the approach to Srebrenica included members of the 10<sup>th</sup> Sabotage Detachment, the Drina Wolves, and parts of the Bratunac and Milići Brigades.<sup>16377</sup>

5032. Generally, the Bosnian Serb units encountered little resistance as they approached and then entered Srebrenica town.<sup>16378</sup> Upon their arrival, members of the 10<sup>th</sup> Sabotage Detachment called on the few people who remained in the town to leave their houses.<sup>16379</sup> As the units neared the centre of town, an able-bodied man appeared, and although he declared that he was not a member of the ABiH and had no problems with Bosnian Serbs,

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<sup>16370</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 58, 60; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 33; Pieter Boering, T. 22139 (30 November 2011); Mirsada Malagić, T. 23525–23526 (24 January 2012); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 19. See also Robert Franken, T. 23154 (17 January 2012) (testifying that had the VRS wanted to kill everyone in the column, they had the means to do so, but concluding nevertheless that the column was targeted by the VRS because the artillery and mortar hits were so close to the Srebrenica–Potočari road and because there were no military targets or movements in the vicinity).

<sup>16371</sup> Momir Nikolić, T. 24608–24609 (13 February 2012), T. 24850–24851, 24855 (16 February 2012) (testifying that the column of civilians leaving Srebrenica for Potočari was targeted by a B1 cannon of the 2<sup>nd</sup> Infantry Battalion of the Bratunac Brigade); Robert Franken, T. 23154 (17 January 2012). Shells fell close to the road on both sides of the column, wounding some and killing others. Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1944–1945; Mirsada Malagić, T. 23476–23479 (24 January 2012) (testifying that she herself was wounded); Christine Schmitz, T. 26870 (26 March 2012); KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3599. See also Adjudicated Facts 1489, 1501.

<sup>16372</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 65 (estimating that close air support was delivered at approximately 2 p.m.); P4140 (Witness statement of Joseph Kingori dated 8 January 2012), para. 130 (terming the “close air support” more of an “air strike”); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6191. See also Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1927–1928; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2716; Adjudicated Fact 1496.

<sup>16373</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 65; P3992 (UNMO report, 11 July 1995); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1928–1929. See also Adjudicated Fact 1497.

<sup>16374</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 65; P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 130, 133.

<sup>16375</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 60.

<sup>16376</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 58. See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6189. In most cases, the DutchBat soldiers manning the OPs had to surrender their weapons and were taken with their APC to Bratunac. P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 59.

<sup>16377</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10944–10945; Dražen Erdemović, T. 25365 (27 February 2012); P4351 (Order of 10<sup>th</sup> Sabotage Detachment, 10 July 1995); Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14001–14003. In light of the Bratunac Brigade’s comparatively slower progress from the northern direction, Mladić ordered Živanović to provide additional Drina Corps units to engage along that axis. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6189–6191, 6433. Pursuant to Živanović’s order, 50 to 60 men from the Vlasenica Brigade were then detached and sent to the Bratunac Brigade IKM at Kvac. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6138–6139, 6191.

<sup>16378</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T.10945 (stating that he was surprised to encounter little resistance as the 10<sup>th</sup> Sabotage Detachment entered town). See also Adjudicated Fact 1488; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 4; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6189.

<sup>16379</sup> Adjudicated Fact 1498. While approaching Srebrenica, the Bosnian Serb Forces also burned Bosnian Muslim houses. See Adjudicated Fact 1493; Frank Kos, T. 42396 (1 August 2013) (admitting that during the advance, he heard Krstić over a walkie-talkie ordering the units to “push and burn down”, which would mean to set houses on fire).

10<sup>th</sup> Sabotage Detachment Commander Milorad Pelemiš ordered another Bosnian Serb soldier to slit the man's throat, which the soldier did.<sup>16380</sup>

5033. By 5 p.m., the Bosnian Serb Forces had stopped shelling the town.<sup>16381</sup> Around that time, Pandurević reported to Mladić, who had remained with Živanović and Krstić at the Pribićevac IKM throughout the day, that part of his tactical group had entered the town.<sup>16382</sup> Mladić then ordered Krstić and Živanović to accompany him, and immediately set out for Srebrenica.<sup>16383</sup> As they walked through town, the group encountered Pandurević, Trivić, as well as other VRS officers.<sup>16384</sup> In the centre of Srebrenica, Mladić stated into a television camera:

Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet another great Serb holiday, we give this town to the Serb people as a gift. Finally, after the Rebellion against the Dahis the time has come to take revenge on the Turks in this region.<sup>16385</sup> He then ordered the members of the Bosnian Serb Forces to proceed to Potočari.<sup>16386</sup>

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<sup>16380</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10946–10948; Dražen Erdemović, T. 25342–25343 (27 February 2012).

<sup>16381</sup> P4154 (UNMO Report, 11 July 1995), e-court p. 4.

<sup>16382</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6192, 6434; P4823 (Intercept of conversation between two unidentified persons at 5:25 p.m., 11 July 1995) (one participant reporting that a flag was flying on the “Serbian church” in Srebrenica). Krstić estimated that this occurred approximately two to three hours after the air strikes. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6511. This information was relayed to the Main Staff in a Drina Corps’ daily combat report. P6125 (Drina Corps combat report, 11 July 1995), para. 2.

<sup>16383</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6192, 6511; Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10947–10948. Members of the 10<sup>th</sup> Sabotage Detachment were ordered to secure the town’s entrance for Mladić’s arrival. Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10947–10948; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 5.

<sup>16384</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6193, 6501 (identifying the persons in P4202, e-court p. 31); P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 31; Adjudicated Fact 1499. Popović was also present in town at the time. D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 12; P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 38. The fact that the Bosnian Serb Forces had entered Srebrenica town that day was included in the Drina Corps’ daily combat report that was sent to the Main Staff that evening, which also stated that further details would follow in an interim report. P6125 (Drina Corps combat report, 11 July 1995), para. 2.

<sup>16385</sup> P4201 (Updated Srebrenica Trial video), Part 1, at 00:30:44–00:31:05.

<sup>16386</sup> P4201 (Updated Srebrenica Trial video), Part 1, at 00:31:20; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14004–14005.

5034. Gvero spoke to Nicolai and to Gobilliard in the late afternoon and early evening.<sup>16387</sup> When speaking to Nicolai, Gvero denied that the Bosnian Serb Forces were attacking UN positions or targeting the civilian population.<sup>16388</sup> When speaking to Gobilliard, Gvero repeated what he had said to Nicolai and suggested that DutchBat had been shot at by Bosnian Muslims.<sup>16389</sup> Gobilliard informed Gvero that DutchBat had been ordered to meet the local Bosnian Serb commander in order to obtain a cease-fire, and reminded Gvero that aircraft still remained available to UNPROFOR to defend DutchBat and the civilian population.<sup>16390</sup>
5035. After most of the population of Srebrenica had moved north to Potočari, however, some Bosnian Muslims who lived in the vicinity of OP Papa remained in their homes, but they were eventually cleared by members of Borovčanin's units.<sup>16391</sup> The soldiers threw grenades into the houses and entered, accompanied by dogs; after this, shootings and screams were heard and the soldiers exited and set the houses on fire.<sup>16392</sup> The process continued for a few hours on 11 July as well as on the following day.<sup>16393</sup>

*v. Formation and departure of the column of Bosnian Muslim men*

5036. As the women, children, and elderly men departed for Potočari, able-bodied men set out on foot through the woods, afraid that they would be killed if they went with their families.<sup>16394</sup> Word spread that the men should head towards Šušnjari and Jagličići.<sup>16395</sup>
5037. During the night between 11 and 12 July, the group which had assembled in Šušnjari began to depart in a northwesterly direction towards Tuzla.<sup>16396</sup> At the entrance of Buljīm

<sup>16387</sup> P4632 (Intercept of conversation between Milan Gvero and General Nicolai at 4:10 p.m., 11 July 1995); P4679 (Intercept of conversation between Milan Gvero and General Gobilliard at 6 p.m., 11 July 1995).

<sup>16388</sup> P4632 (Intercept of conversation between Milan Gvero and General Nicolai at 4:10 p.m., 11 July 1995). Gvero also asked Nicolai to have the NATO planes, which were still nearby, leave the airspace. P4632 (Intercept of conversation between Milan Gvero and General Nicolai at 4:10 p.m., 11 July 1995).

<sup>16389</sup> P4679 (Intercept of conversation between Milan Gvero and General Gobilliard at 6 p.m., 11 July 1995). *See also* P2435 (Notes re telephone conversation between Hervé Gobilliard and Milan Gvero, 11 July 1995). Gvero also asserted that the Bosnian Serb Forces were not attacking the civilian population, and that DutchBat had nothing to fear. P4679 (Intercept of conversation between Milan Gvero and General Gobilliard at 6 p.m., 11 July 1995), p. 1.

<sup>16390</sup> P2435 (Notes re telephone conversation between Hervé Gobilliard and Milan Gvero, 11 July 1995), p. 1. *See also* D1958 (UNPROFOR orders for Defence of DutchBat, 11 July 1995), para. a.

<sup>16391</sup> Roger Patelski, T. 23028, 23032 (16 January 2012); D2005 (Map of Srebrenica enclave marked by Roger Patelski); P4173 (Witness statement of Roger Patelski dated 30 November 2011), paras. 18–19; D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 17–19.

<sup>16392</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 19; Roger Patelski, T. 23029–23031 (16 January 2012).

<sup>16393</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 19; Roger Patelski, T. 23031, 23034 (16 January 2012); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), para. 19–22. *See also* P2996 (Report of Zvornik CJB, 12 July 1995), para. 6 (referring to a joint police force “advancing on Potočari with the aim of taking UNPROFOR personnel prisoner, surrounding the entire civilian population and clearing the terrain of enemy groups”).

<sup>16394</sup> P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 14 (map showing the route of the people who left Srebrenica town for Šušnjari); Jean-René Ruez, T. 23713 (26 January 2012); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 641, 794, 797; KDZ064, T. 1424–1425 (22 April 2010); KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1381; KDZ069, P338 (Transcript from *Prosecutor v. Popović et al.*), T. 3327, 3356; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2943; Mirsada Malagić, T. 23527 (24 January 2012); P399 (Witness statement of Salih Mehmedović dated 15 June 2000) e-court p. 2; P399 (Statement of Salih Mehmedović to Tuzla Cantonal Court, 15 June 2000), e-court p. 10; P393 (Witness statement of Mejra Mešanović dated 19 June 2000), p. 2, P393 (Statement of Mejra Mušanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 9; P394 (Witness statement of Mevlida Bektić dated 16 June 2000), e-court p. 3; P394 (Statement of Mevlida Bektić to Tuzla Cantonal Court, 16 June 2000), e-court p. 8; P396 (Statement of Hanifa Hafizović to Tuzla Cantonal Court, 16 June 2000), e-court p. 11; P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P403 (Witness statement of Rahima Malkić dated 17 June 2000), e-court p. 2; P403 (Statement of Rahima Malkić to Tuzla Cantonal Court, 17 June 2000), e-court p. 9.

<sup>16395</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 812; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 814 (under seal); KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6972, 7032; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7082, 7138; KDZ071, T. 28527–28528 (4 May 2012); KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3507, 3509, 3511. *See also* Adjudicated Fact 1594.

<sup>16396</sup> Jean-René Ruez, T. 23720–23723 (26 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 24–27 (depicting the route of the column); Tomislav Savkić, T. 33821–33822 (15 February 2013); Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 867, 874. *See* D2941 (Map of BiH marked by Tomislav Savkić), p. 1 (map

forest, the group, which was comprised of 10,000 to 15,000 people, most of whom were men and boys between the ages of 16 and 65, formed a column.<sup>16397</sup> The last of the group departed Šušnjari on the afternoon of 12 July.<sup>16398</sup>

5038. The column stretched for approximately ten kilometres.<sup>16399</sup> ABiH soldiers, not all of whom were armed, led the front third of the column.<sup>16400</sup> Others were interspersed among the unarmed civilians following behind.<sup>16401</sup> The members of the column walked in a single file line towards Tuzla.<sup>16402</sup>

d. Potočari

i. Hotel Fontana Meetings

(A) First meeting

5039. On 11 July 1995, upon receiving information about the upcoming meeting between Mladić and DutchBat officers, Momir Nikolić went to Hotel Fontana with Mirko Janković to provide security.<sup>16403</sup> 10 to 15 members of the Bratunac Brigade MP were also sent in for this mission.<sup>16404</sup>

5040. At about 8 p.m., Karremans, Boering, and Rave arrived at the hotel. On entering the premises, they saw several DutchBat soldiers who had been taken prisoner from their OPs on 8 and 9 July 1995.<sup>16405</sup> Shortly after, a meeting commenced between the VRS and the DutchBat officers. On the VRS side, Mladić, Živanović, Colonel Radoslav Janković of the Main Staff, and Svetozar Kosorić, the Assistant Chief of Staff for Intelligence of the Drina Corps,<sup>16406</sup> attended the meeting.<sup>16407</sup> Also present was Petar Ušćumlić, acting as an interpreter for DutchBat.<sup>16408</sup> A large camera crew videotaped part of the meeting.<sup>16409</sup>

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showing the column route towards Tuzla); P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2. See also Adjudicated Fact 1604.

<sup>16397</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2945–2997, 2996; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3510; KDZ425, P380 (Transcript from *Prosecutor v. Popović et al.*), T. 3574 (under seal); KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3356; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1381–1382; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 646. See also Adjudicated Fact 1598; Jean-René Ruez, T. 23713–23714 (26 January 2012). A smaller number of women, children, and elderly also travelled with the column. KDZ069, P338 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1382; KDZ069, P338 (Transcript from *Prosecutor v. Popović et al.*), T. 3327–3328, 3381; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2944; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3510. See also Adjudicated Fact 1599.

<sup>16398</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 646.

<sup>16399</sup> KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3356; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 744.

<sup>16400</sup> See Adjudicated Fact 1603; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2944; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 647, 744–745; KDZ064, T. 1425 (22 April 2010).

<sup>16401</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1382–1383; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3348; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2996–2997; KDZ045, T. 22672–22673 (10 January 2012). The Independent Battalion of the Muslim Forces in Srebrenica travelled at the end of the column. See Adjudicated Fact 1603; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3512 (stating that he saw about 50 armed Bosnian Muslim men with automatic, semi-automatic and hunting rifles near the end of the column).

<sup>16402</sup> KDZ069, P338 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1383; KDZ069, P338 (Transcript from *Prosecutor v. Popović et al.*), T. 3354–3356, 3363; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 646. See also Section IV.C.1.g.i: Opening a corridor for the passage of the column.

<sup>16403</sup> Momir Nikolić, T. 24610–24612 (13 February 2012); KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3505. See also D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 5.

<sup>16404</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9759–9761. See also KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3504–3506.

<sup>16405</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 66–67; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1942. See also Adjudicated Fact 1518. With regard to DutchBat soldiers taken prisoner from their OPs, see para. 5031, fn. 17017.

<sup>16406</sup> D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 2.



**5041.** Mladić dictated the terms of the meeting.<sup>16410</sup> The first ten minutes were very tense and the DutchBat representatives felt threatened.<sup>16411</sup> Mladić angrily blamed Karremans for having armed Bosnian Muslims and for the NATO air strikes against VRS positions.<sup>16412</sup> Mladić also accused DutchBat of having fired at VRS soldiers in Srebrenica.<sup>16413</sup> Then Mladić asked Karremans what he wanted since he had asked for a meeting.<sup>16414</sup> Karremans told Mladić that the UNPROFOR BiH Command had ordered Karremans to “negotiate or ask for” the transportation of the Bosnian Muslim population—about 10,000 women and children who were in the UN Compound—and that of DutchBat soldiers.<sup>16415</sup> According to Karremans, these women and children were sick, tired, and very scared.<sup>16416</sup> Karremans also asked for humanitarian assistance, such as food and medicine.<sup>16417</sup> **(The Potocari compound #got from Gen. Mladic Food, water and medicine, wasn't so?#)**

5042. At one point during the meeting, Mladić offered cigarettes to Karremans and the other DutchBat officers, saying “this is not your last cigarette in life”.<sup>16418</sup> When Karremans thanked Mladić for having treated the detained DutchBat soldiers properly, Mladić stated that DutchBat soldiers were in the hotel but they would not be hosted for a long time “[i]f you keep bombing, [...] We know how to bomb too”.<sup>16419</sup> Mladić also said that neither the DutchBat soldiers nor the Bosnian Muslim population were the objective of VRS operations.<sup>16420</sup> He then told Karremans to bring the “representatives of the civilian population”.<sup>16421</sup> Mladić added that Karremans could also bring an ABiH representative

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<sup>16407</sup> Momir Nikolić, T. 24611 (13 February 2012), T. 24859 (16 February 2012); P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 68, 70; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1941–1944, 1948–1949; Pieter Boering, T. 22080–22081 (29 November 2011); D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 4; Svetozar Kosorić, T. 38694 (23 May 2013); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 7. *See also* Adjudicated Fact 1516.

<sup>16408</sup> D3552 (Witness statement of Petar Ušćumlić 12 March 2013), para. 5.

<sup>16409</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 68; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1942–1943, 1946.

<sup>16410</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 70; Adjudicated Fact 1519.

<sup>16411</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 69; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1945–1946; P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 1.

<sup>16412</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:40:02–00:40:12; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 209.

<sup>16413</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:33:28–00:40:20; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 205–210, 213–214; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 69 (further stating that Mladić threatened to shell the UN Compound); P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 1.

<sup>16414</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:42:59–00:43:03; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 210.

<sup>16415</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:43:04–00:45:36; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 210. *See also* Adjudicated Fact 1522. When asked by Mladić what was a “proposal for the resolution of this situation”, Karremans suggested that DutchBat assist the Bosnian Muslim population to leave the enclave to a place where they would like to go, as the Bosnian Muslims were living in a very miserable way. P4201 (Updated Srebrenica Trial Video), Part 1, at 00:48:05–00:49:55; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 212–213.

<sup>16416</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:45:36–00:45:43; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 211.

<sup>16417</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:45:43–00:47:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 211.

<sup>16418</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:46:50–00:47:22; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 211. *See also* Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1946.

<sup>16419</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:47:35–00:48:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 212. *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 69; P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 1. Towards the end of the meeting, Karremans asked Mladić if he could meet the detained DutchBat soldiers, to which Mladić agreed. P4201 (Updated Srebrenica Trial Video), Part 1, at 01:08:05–01:08:27; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 226–227. *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 72.

<sup>16420</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 00:59:35–01:00:40; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 220. *See also* Adjudicated Fact 1522.

<sup>16421</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:00:05–01:02:00; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 220–221. *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 70; Adjudicated Fact 1524.

should the ABiH wish to talk.<sup>16422</sup> (#Obviously, Mladic didn't know that the Muslim combatants weren't in thye compound any longer! This is very important to notice!#).

According to Rave, Mladić told the DutchBat officers to get in contact with the ABiH as ABiH soldiers needed to surrender their weapons and that, if they complied with this demand, they would be taken as POWs and detained.<sup>16423</sup>

5043. Mladić told Karremans to return at 11 p.m.<sup>16424</sup> and asked him to request some buses, to which Karremans responded that he believed it could be arranged.<sup>16425</sup> Mladić offered drinks to all the participants and gave a toast.<sup>16426</sup> After the meeting, which lasted between 30 minutes and one hour,<sup>16427</sup> the DutchBat officers were escorted back to the Yellow Bridge by Momir Nikolić; they then tried to find a representative of the Bosnian Muslim population or the ABiH.<sup>16428</sup> Nesib Mandžić, a former school teacher, agreed to act as spokesperson for the population.<sup>16429</sup>

i. Second meeting

5044. At around 10:30 p.m., Karremans, Boering, and Rave again left Potočari for Hotel Fontana, together with Mandžić, and arrived there at 11 p.m.<sup>16430</sup> Thereafter, a second meeting commenced.<sup>16431</sup> Mladić, Radoslav Janković, Kosorić, and Krstić were present, together with Ušćumlić and the video crew.<sup>16432</sup> Deronjić and Ljubisav Simić, the president of the Bratunac Municipal Assembly, were also present.<sup>16433</sup> Karremans introduced Mandžić as a representative of the Bosnian Muslim population.<sup>16434</sup>

5045. Reiterating the desperate situation in Potočari, Karremans stated that there were now 15,000 to 20,000 people—amongst whom 88 were wounded—at the UN Compound and the factories around it, and more people—about 95% women, children, and elderly—were

<sup>16422</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:02:00–01:02:35; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 222. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 70; Adjudicated Fact 1524.

<sup>16423</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 70.

<sup>16424</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:09:58–01:10:12; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 228; Momir Nikolić, T. 24612 (13 February 2012). See also Adjudicated Fact 1526.

<sup>16425</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:10:12–01:10:35; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 228. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 71; P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 1.

<sup>16426</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:10:35–01:12:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 227–228. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 72. According to Živanović, the participants raised a toast for Živanović's departure from the post of the Drina Corps Commander, not for the VRS success in Srebrenica. D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 7.

<sup>16427</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 72; Adjudicated Fact 1519.

<sup>16428</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1950; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 73. See also P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 68; Adjudicated Fact 1525.

<sup>16429</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1950–1951; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 77; P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 1. Boering had met Mandžić on several occasions but asked him to attend the next meeting at Hotel Fontana only because he saw Mandžić at that time. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2137, 2140.

<sup>16430</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 77–78. See also Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1951; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6209; Adjudicated Fact 1531.

<sup>16431</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1953; Pieter Boering, T. 22082 (29 November 2011); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6209. See also P1473 (Ratko Mladić's notebook, 27 January–5 September 1995), p. 224; Adjudicated Fact 1527.

<sup>16432</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1952, 1954, 1959; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 80; D3552 (Witness statement of Petar Ušćumlić 12 March 2013), para. 5; D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 4; Svetozar Kosorić, T. 38694 (23 May 2013); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6209.

<sup>16433</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 80. See also Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1952; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 3.

<sup>16434</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:13:05–01:13:12; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 230–231. See also Momir Nikolić, T. 24615 (13 February 2012); P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 68.

arriving.<sup>16435</sup> While Karremans was making these remarks, the screaming of a pig being killed was heard.<sup>16436</sup> Karremans further stated that DutchBat was asking the Bosnian Muslims in Potočari where they wished to be transported, and that an evacuation could be planned depending on their age and health condition.<sup>16437</sup> According to Karremans, the UNHCR in Belgrade had 30 vehicles available which could be brought in if agreed.<sup>16438</sup> Mladić then ordered a broken sign from the Srebrenica town hall to be brought in,<sup>16439</sup> and explained that he took it from “there” and passed through the town on foot,<sup>16440</sup> for the DutchBat members in attendance, this was a message that the VRS was now in charge.<sup>16441</sup>

5046. Mladić then asked Mandžić what he wanted, to which Mandžić responded that he was not an official representative of the “refugees” and he was “completely unprepared”.<sup>16442</sup> Mladić then told Mandžić as follows:

Please write down the following: Number one, you need to lay down your weapons and I guarantee that all those who lay down their weapons will live. I give you my word, as a man and a General that I will use my influence to help the innocent Muslim population which is not the target of the combat operations carried out by the VRS. Nor are international humanitarian organisations and UNPROFOR forces the targets of our operations. Although NATO forces, as well as UNPROFOR forces, fired today at UNPROFOR’s request not only at the positions of the VRS, but also at the civilian population. In order to make a decision as a man and a Commander, I need to have a clear position of the representatives of your people on whether you want to survive [...] stay or vanish. I am prepared to receive here tomorrow at 10 am a delegation of officials from the Muslim side with whom I can discuss the salvation of your people from the enclave, the former enclave of Srebrenica. I shall order a cessation of operations until 10 am tomorrow. If your fighters [...] lay down their arms we shall treat [them] in accordance with international conventions and we guarantee that everybody will live, even those who committed crimes against our people. Have I made myself clear? Nesib, the future of your people is in your hands, not only in this territory.<sup>16443</sup>

**(A several elements from this Mladić’s speech are worthwhile our attention: first, #Mladić gave a proposal that the ABiH**

<sup>16435</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:13:15–01:16:35; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 230–233. See also P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 224; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 83.

<sup>16436</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:14:30–01:15:00; P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 78–79; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1953–1954, 1958–1959.

<sup>16437</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:27:55–01:28:25; P4202 (Written Compilation Booklet: Srebrenica Trial Video), pp. 238–239.

<sup>16438</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:42:59–00:43:03; P4202 (Written Compilation Booklet: Srebrenica Trial Video), pp. 234–235. Karremans added that DutchBat had not had diesel in the Srebrenica enclave since February 1995. P4201 (Updated Srebrenica Trial Video), Part 1, at 01:24:45–01:26:25; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 237. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 83.

<sup>16439</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:20:22, 01:22:30–01:23:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 234; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1959–1960; P3973 (Video still of Hotel Fontana meeting).

<sup>16440</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:42:59–00:43:03; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 235; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1959–1960.

<sup>16441</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1960. See also P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 81; Albert Rave, T. 22179 (30 November 2011).

<sup>16442</sup> P4201 (Updated Srebrenica Trial Video), Part 1, 01:30:25–01:33:30 (depicting Mandžić asking if there was an agreement “at a higher level”, international organisations); P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 239–240. See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6211–6212.

<sup>16443</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:33:30–01:37:15; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 240–241; P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 82, 84, 86; P3974 (UNPROFOR letter re meetings with Ratko Mladić on 11 and 12 July 1995), p. 2. See also Momir Nikolić, T. 24618–24619 (13 February 2012); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6211–6214; Adjudicated Facts 1532, 1533, 1536.

**soldiers from Srebrenica lay down their weapons and become a POWs, who will be treated in accordance to the law; second, this show us that Mladic didn't know that at that moment the combatants weren't in Potocary with civilians; thired, the most important, Mladic told Mandzic that the population hadn't been a target of the VRS!#)** Mandžić again said that he had been chosen as a representative “by chance”, but Mladić instructed him to bring “the people who can secure the surrender of weapons and save your people from destruction”.<sup>16444</sup> According to Rave, Mladić also told Mandžić that the civilian population was free to go, adding that he could arrange buses to transport people wherever they wanted to go.<sup>16445</sup> **(It is evident that at the moment General Mladic didn't know that there was a column of the combatants, and tought that the combatants were in a Mandzic's reach.)**

5047. After this meeting, the DutchBat officers and Mandžić returned to the UN Compound, escorted again by Momir Nikolić.<sup>16446</sup> Mandžić appeared frightened, anxious, and “almost panicking”.<sup>16447</sup> He then went to look for additional representatives and eventually found two other civilians, Ćamila Purković and Ibro Nuhanović, who were willing to support Mandžić.<sup>16448</sup>

(C) Conversation between Momir Nikolić, Popović, and Kosorić prior to third meeting

**5048.** On the morning of 12 July, as instructed by Mladić at the Bratunac Brigade Command,<sup>16449</sup> Popović and Kosorić went to Hotel Fontana.<sup>16450</sup> Just before the start of the third meeting, Popović and Kosorić met Momir Nikolić and Ušćumlić outside the premises.<sup>16451</sup> When Nikolić asked Popović what would happen next, Popović replied that Bosnian Muslim women and children would be transferred to Bosnian Muslim-held territory and that military-aged men would be separated.<sup>16452</sup> **(So far, all legal, because it is a standard procedure. No mentioning of any execution!)**

## 1. Summary of Momir Nikolić's evidence

**5049.** Nikolić testified that he further asked Popović what would happen to those men, to which Popović responded that “all the balijas should be killed”.<sup>16453</sup> **(However, regardless of whether this conversation happened or not, this form of a sentence in the Serbian doesn't mean that “will be killed” but rather expresses a personal opinion of the asked person – what he would like to happen. This is a colloquial expression, and nobody in our culture would understand it literally, but as a figure!)** When Nikolić heard this statement, he thought that, as many officers would say similar things, it was “yet another statement by Popović who had the habit of saying things like that” and that Popović did not mean it.<sup>16454</sup> **(Exactly as the Defence kept saying all the time!)** Nikolić also stated that, having heard this statement, he thought that legitimate military procedures would be

<sup>16444</sup> P4201 (Updated Srebrenica Trial Video), Part 1, at 01:37:15–01:37:40; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 241. See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6212; Adjudicated Fact 1534.

<sup>16445</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 82.

<sup>16446</sup> P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 87; Momir Nikolić, T. 24615 (13 February 2012).

<sup>16447</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 68; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1962.

<sup>16448</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1962, 1968; P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 87. Mandžić was unable to get in touch with the BiH Government. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 68.



followed, which would entail the identification of suspected war criminals and their subsequent prosecution.<sup>16455</sup> Nikolić further testified that it was only in Potočari that it became clear to him that something calamitous was in store for “these people who had been singled out”.<sup>16456</sup> **(#Guilt plea lies#! The Nikolic’s impressions, feelings and so on, all of this garbage is produced only for the purpose to secure his agreement with the Prosecution. How come the Chamber so easily disqualified so many Serb witnesses, alleging about their interests to lie, and didn’t recognise that M. Nikolic had an interest to lie?)**

5050. After having heard the statement that all the balijas should be killed, Nikolić told Popović that if the Bosnian Muslim men were to be separated, they would have to be detained somewhere and that some empty buildings, such as the Vuk Karadžić School in Bratunac, could be used for this purpose.<sup>16457</sup> Then, they had a discussion about potential locations where “these people” should be killed, during which the Ciglana brick factory and the Sase mine were mentioned.<sup>16458</sup> Popović told Nikolić that it was Nikolić’s responsibility to “help coordinate and organise this operation”.<sup>16459</sup> According to Nikolić, the whole conversation lasted no longer than ten minutes<sup>16460</sup> and after Popović left, he, Kosorić, and Ušćumlić had another conversation about the same topic.<sup>16461</sup>

## 2. Evidence of Defence witnesses

5051. The Chamber notes that the Accused called Popović, Kosorić, and Ušćumlić to refute the evidence brought by the Prosecution on this conversation. These three witnesses all

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<sup>16449</sup> See para. 5086.

<sup>16450</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 17.

<sup>16451</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18; Momir Nikolić, T. 24620–24621 (13 February 2012), T. 24863 (16 February 2012).

<sup>16452</sup> Momir Nikolić, T. 24620–24621 (13 February 2012), T. 24645–24646 (14 February 2012), T. 24863 (16 February 2012); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16453</sup> Momir Nikolić, T. 24646–24647 (14 February 2012), T. 24863 (16 February 2012). See also para. 2514 (describing the term “balija” as a taunt or insult).

<sup>16454</sup> Momir Nikolić, T. 24648 (14 February 2012).

<sup>16455</sup> Momir Nikolić, T. 24644 (14 February 2012).

<sup>16456</sup> Momir Nikolić, T. 24622 (13 February 2012).

<sup>16457</sup> Momir Nikolić, T. 24622 (13 February 2012).

<sup>16458</sup> Momir Nikolić, T. 24622–24623 (13 February 2012), T. 24647–24648 (14 February 2012). The Ciglana brick factory was located in Bratunac. See KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9371–9372. The Sase mine was located in Srebrenica municipality. Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 917. Momir Nikolić testified that he later heard that a group of officers had gone to the brick factory to investigate whether it would be a suitable execution site, but that ultimately, no killings occurred there. Momir Nikolić, T. 24622–24623 (13 February 2012), 24876–24877 (16 February 2012) (further stating that he heard that this visit occurred before 13 July and denying having taken part himself). Nedo Nikolić confirmed that a group of VRS officers, including Momir Nikolić and Beara, as well as police officer Brano Tešić, indeed came to his office at the Ciglana brick factory, but insisted that this did not occur until the morning of 14 July. D3690 (Witness Statement of Nedo Nikolić dated 8 June 2013), paras. 15, 18A–18B; Nedo Nikolić, T. 39823 (12 June 2013). Nedo Nikolić also testified that the officers had not indicated that the site was being considered as a possible site for execution, and had enquired about the availability of drinking water. D3690 (Witness Statement of Nedo Nikolić dated 8 June 2013), paras. 17, 18C. In light of the overwhelming evidence before the Chamber indicating that the Bosnian Muslim males were transferred to Zvornik on the morning of 14 July, the Chamber considers that the events referred to by Nedo Nikolić must have in fact occurred one or two days prior. **How possibly it could have been “one or two days prior? On 12 July there was no POW-s at all, and even on 13 July in the morning, up until the evening of this day, there was not clear that there will be so many POW-s. we know that Deronjic met Beara on 14 July in the morning, and still there was discussion between the two of them pertaining the place where the POW-s would be placed (or executed, if we believe those who made agreement with the OTP. Obviously, if not even mentioned by Deronjic, this meeting in the Brick Factory happened after this encounter of Deronjic and Beara. #This is completely wrong and as a matter of fact impossible inference.** In view of the totality of evidence, the Chamber considers that the testimony of Nedo Nikolić does not raise any doubt in relation to the veracity of Momir Nikolić’s testimony. See Defence Final Brief, paras. 2486–2488.

<sup>16459</sup> D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 4.

<sup>16460</sup> Nikolić testified that this encounter was not an official meeting. Momir Nikolić, T. 24863 (16 February 2012).

<sup>16461</sup> Momir Nikolić, T. 24623 (13 February 2012).



challenged Nikolić's evidence.<sup>16462</sup> Popović, who did not contest that he and Kosorić encountered Nikolić and Ušćumlić prior to the third meeting,<sup>16463</sup> claimed that Nikolić's statements that Popović had said that "men from Srebrenica would be separated and killed" and that they had talked about buildings in which they would be kept until their execution were particularly untrue.<sup>16464</sup> **(#On 12 July there could had been a knowledge about only of those POW-s that would be eventually separated in Potocary, but it is not for sure, since there is no evidence that it was going to happen at all. Having that in mind, i.e. that at that moment there was no any knowledge that there would be more POWs, there was unbelievable and unnecessary to meditate about some big space for keeping the detained POWs. Was only io 13 July at late evening that there were 2,000 POWs in Bratunac, so, some 35 hours after this encounter of Nikolic and Popovic!)** Popović testified that he never discussed this and that he did not even know that men from Srebrenica would be separated until the third meeting, when Mladić mentioned it.<sup>16465</sup> Popović claimed that the only thing that was mentioned in his presence was that the men would be questioned about war crimes against Serbs, not that the men being separated would be executed.<sup>16466</sup>

5052. Kosorić testified that Popović did not say anything of the sort claimed by Nikolić.<sup>16467</sup> Kosorić stood by his prior testimony in the *Popović et al.* case, in which he denied even the fact that the conversation between Popović, Nikolić, and himself took place outside the hotel, and added that such "a decision must be taken at a higher level, at a meeting, this is not the sort of decision that is taken outside some hotel".<sup>16468</sup> He also stated that he had no information that Bosnian Muslims from Srebrenica were going to be killed.<sup>16469</sup> Lastly, Ušćumlić stated that he never heard anyone say that the prisoners from Srebrenica should or would be killed, and he had no knowledge that the prisoners would be killed.<sup>16470</sup>

### 3. Prosecution's submissions

**5053.** In its final brief, the Prosecution submits that Nikolić's evidence relating to the conversation is reliable and corroborated by other reliable evidence.<sup>16471</sup> First, video evidence shows that Nikolić was talking outside Hotel Fontana with Janković, Popović, and one of Mladić's bodyguards prior to the meeting, and that Kosorić and Popović were present at the meeting.<sup>16472</sup> Second, Ušćumlić's evidence corroborates Nikolić's testimony that the conversation among Nikolić, Popović, and Kosorić took place and does not contradict the content of Nikolić's testimony.<sup>16473</sup> Third, Boering saw Kosorić and Nikolić again in Bratunac after the third meeting.<sup>16474</sup> **("After the third meeting" does not make difference. This only corroborates the fact that before the third meeting M. Nikolic could have not tell that "everything is agreed".)** Fourth, the Prosecution submits that

<sup>16462</sup> D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), paras. 6–7; D3552 (Witness statement of Petar Ušćumlić 12 March 2013), para. 7; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16463</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16464</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16465</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16466</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 18.

<sup>16467</sup> D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 7; Svetozar Kosorić, T. 38717 (23 May 2013).

<sup>16468</sup> Svetozar Kosorić, T. 38715–38716 (23 May 2013).

<sup>16469</sup> D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 8.

<sup>16470</sup> D3552 (Witness statement of Petar Ušćumlić 12 March 2013), para. 7.

<sup>16471</sup> Prosecution Final Brief, para. 917.

<sup>16472</sup> Prosecution Final Brief, para. 917, citing P4201 (Updated Srebrenica Trial Video), Part 2, 00:05:30–00:05:45, 00:06:47–00:15:06; P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 61, 63, 65, 68, 245–250.

<sup>16473</sup> Prosecution Final Brief, para. 917, citing D3552 (Witness statement of Petar Ušćumlić 12 March 2013).

<sup>16474</sup> Prosecution Final Brief, para. 918, Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T.1976–1977.

the following events which unfolded after the conversation support Nikolić's version of what was discussed at the third meeting: (i) at that meeting, Mladić stated for the first time that the separation and "screening" of men would be carried out in Potočari;<sup>16475</sup> (ii) the Vuk Karadžić School and the hangar that Nikolić had suggested as detentions sites during the conversation were indeed used for detention;<sup>16476</sup> (iii) Beara and Deronjić visited the Ciglana brick factory which, according to Nikolić, was a potential execution site mentioned during the conversation;<sup>16477</sup> **(But, when this visit to Ciglana took place? Was in on 14<sup>th</sup> July in the morning?)** and (iv) Nikolić's account of what he was told would happen to the Bosnian Muslim men in Potočari "corresponds exactly to the tragic events which then followed".<sup>16478</sup> **(#Guilt plea lies#! How convenient! My God, he was prepared and instructed, obviously. Had it not been a witness with the "guilt plea" it would be a very powerful argument, but it was very easy to adjust the Nikolic's testimony to the events that happened afterwards. Knowing the eagerness of Nikolic to satisfy the OTP-s expectation and for which purpose he even incriminated himself, this testimony should be worthless to a reasonable chamber. This way, the Chamber is supporting a false testimonies of those interested in it.)**

#### 4. Accused's submissions

**5054.** In his final brief, the Accused submits that Nikolić's testimony about his conversation with Popović and Kosorić is "untrue, unreliable and illogical".<sup>16479</sup> The Accused argues that while, as seen in the video evidence, Nikolić and Popović were both outside Hotel Fontana on 12 July, Nikolić's testimony about what was said between them is uncorroborated and was refuted by Popović, Kosorić, and Ušćumlić.<sup>16480</sup> Pointing to Nikolić's testimony that he did not believe that Popović meant what he said when he allegedly said that the men should be killed, the Accused submits that had Popović truly made the statement and discussed the execution sites, "there would have been no reason for Nikolić to expect legitimate military screening in Potočari".<sup>16481</sup> **(Also, it would be completely unreasonable that Nikolic asks General Mladic what would happen to the POWs, #since "he already knew it"#Guilt plea lies!.)**

#### 5. Chamber's assessment

5055. The Chamber notes that, in this context, the Accused contends that contrary to Nikolić's testimony indicating that there was a plan to kill the Bosnian Muslim prisoners of Srebrenica from 12 July 1995, such a plan did not exist "prior to the Kravica Warehouse mutiny" that took place around 5:30 p.m. on 13 July 1995, further referring to other pieces of evidence.<sup>16482</sup> The Chamber is of the view that this specific argument relates more to his

<sup>16475</sup> Prosecution Final Brief, para. 918, citing Pieter Boering, T. 22063–22064 (29 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1968–1969, 1972–1973; Adjudicated Fact 1545.

<sup>16476</sup> Prosecution Final Brief, para. 918, cross-referencing Prosecution Final Brief, Appendix D, Srebrenica, paras. 80–84.

<sup>16477</sup> Prosecution Final Brief, para. 918, citing P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 84.

<sup>16478</sup> Prosecution Final Brief, para. 919.

<sup>16479</sup> Defence Final Brief, para. 2480.

<sup>16480</sup> Defence Final Brief, para. 2458 (further arguing that the Prosecution did not challenge Popović on this aspect of his evidence).

<sup>16481</sup> Defence Final Brief, paras. 2471–2472.

<sup>16482</sup> Defence Final Brief, paras. 2449–2452, 2455, 2459–2480.

challenge to the JCE to eliminate the Bosnian Muslim population in Srebrenica,<sup>16483</sup> and that it will therefore be discussed separately in the relevant section of this Judgement.<sup>16484</sup> In the present section, the Chamber will focus on the issue of Nikolić's testimony as to the content of his conversation with Popović and Kosorić, and determine whether the evidence is reliable in this regard.

a. Momir Nikolić as a convicted person

5056. The Chamber first recalls its general assessment of the credibility of Nikolić as an individual convicted of crimes arising from events charged in the Indictment,<sup>16485</sup> and notes that it approached his evidence, in particular salient and highly contested evidence, with the utmost caution.

b. Momir Nikolić's avowed lie

5057. The Chamber first considered the avowed lie Nikolić told the Prosecution in one of his interviews.<sup>16486</sup> He admitted that when he told the Prosecution that he had been at Kravica and had given orders, he did not speak the truth.<sup>16487</sup>

**5058.** The Chamber examined his explanation for this untruth, wherein he stated *inter alia*, in relation to his plea agreement<sup>16488</sup> that “[...] we’d been working on [it] for a long time and I did not want it to fall through. I wanted this agreement to be reached”.<sup>16489</sup> In this situation, Nikolić was prepared to sacrifice himself and assume responsibility for something he had not in fact done. The Chamber reviewed his evidence and is satisfied that, unfortunate as it might have been, Nikolić's inconsistency was not the result of any oblique motive to lead the Chamber into error. It was extremely important to him that the agreement did not turn out to be an abysmal failure and he was willing to compromise the veracity of his statement in order to ensure that outcome. The Chamber was also mindful of the fact that Nikolić voluntarily corrected his inconsistency at the first available opportunity.<sup>16490</sup> **(#Guilt plea lies#! Are those widely known and recognised characteristics of a credible witness? Further, why it is suddenly important what was a motive to lie? Further, if the witness “was prepared to sacrifice himself and assume responsibility for something he had not in fact done, #why the same witness wouldn't be ready to sacrifice somebody else#!? And he admitted the lie because he was aware that he will be confronted with the witnesses who really were at Kravica! There is no more funny explanation for a lying witness, and this curiosum, this rarity will be remembered!)**

**5059.** The Chamber also notes the false identification Nikolić made of himself in a photograph that had been shown to him and the explanation he advanced for that

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<sup>16483</sup> The Accused also argues that the issue of when the plan to kill the Bosnian Muslim men of Srebrenica was formed is not critical to his criminal responsibility, but “the fact that the plan to execute the prisoners arose only after the incident at the Kravica Warehouse is relevant to the Chamber’s determination of whether the killings were done with the intent to destroy the group”. Defence Final Brief, para. 2451.

<sup>16484</sup> See Section IV.C.3.a.iii.B: The expansion of the common plan to eliminate the Bosnian Muslim population in Srebrenica.

<sup>16485</sup> See paras. 16–17.

<sup>16486</sup> P4385 (Tab B to Plea Agreement, 6 May 2003); Momir Nikolić, T. 24559–24560 (13 February 2012).

<sup>16487</sup> P4385 (Tab B to Plea Agreement, 6 May 2003); Momir Nikolić, T. 24559–24560 (13 February 2012).

<sup>16488</sup> The Chamber notes that this agreement was admitted into evidence as P4386 (Plea Agreement signed by Momir Nikolić, 7 May 2003).

<sup>16489</sup> Momir Nikolić, T. 24880 (16 February 2012).

<sup>16490</sup> P4385 (Tab B to Plea Agreement, 6 May 2003); Momir Nikolić, T. 24560 (13 February 2012).

falsity.<sup>16491</sup> He testified that he thought the individual in the photograph looked like him. He did not want to tell the Prosecution that he was not the person in the photograph; he stated, “[p]erhaps I had forgotten something. So I didn’t want to exclude the possibility.”<sup>16492</sup> Nikolić then felt himself impaled on the horns of a dilemma when he was told that the photograph had been taken in Sandići because he knew that he was never in Sandići. As it turned out, the photograph was of another man. **(This is as possible as if he forgot his name! No way that somebody doesn’t recognise himself on a photo.)**

**5060.** The Chamber holds the view that in his desperation to ensure that he did nothing to jeopardise his agreement with the Prosecution, Nikolić found himself in an intractable situation of his own creation. Accordingly, the Chamber is satisfied that his inconsistency was not inspired by any insidious desire to mislead the Chamber. **(But to dupe the OTP as a part of the Court? #Being “duped” or misled highly depends on a readiness to be misled, as a distrust of so many Defence witnesses couldn’t happen without the same kind of readiness!#)** In its final analysis, the Chamber is convinced that the aforementioned inconsistencies in no way affect Nikolić’s overall credibility, nor do they justify a rejection of his evidence. In reaching this conclusion, the Chamber also paid particular attention to the fact that the consistency of the witness remained undiminished throughout his various statements and testimonies in respect of other matters. **(Knowing for how much less significant reasons the Chamber discredited the Defence witnesses, this is a miracle and should be remembered as a rarity. But what should be noticed in this analysis about the Brick Factory and Nedjo Nikolic’s testimony as credible should help!)**

c. Contradiction between the alleged plan to kill all balijas and Nikolić’s understanding of the “military screening”

**5061.** The Chamber also considered what might appear at first sight to be an inconsistency in the testimony of Nikolić. From his evidence, the Chamber is of the view that on hearing Popović’s declaration that all the men should be killed, Nikolić considered that Popović’s statement was couched in extravagant language and he contemplated that this statement would have pertained only to the alleged war criminals among the men of military age<sup>16493</sup> who would have been separated, hence his participation in the discussion concerning possible locations for their execution. The Chamber considers this interpretation in itself indefensible. Nikolić sought to paint a picture of legality when he spoke of his assumption

<sup>16491</sup> P4385 (Tab B to Plea Agreement, 6 May 2003); Momir Nikolić, T. 24560–24561 (13 February 2012); T. 24881–24882 (16 February 2012).

<sup>16492</sup> Momir Nikolić, T. 24882 (16 February 2012).

<sup>16493</sup> At times Nikolić referred to those he understood to be separated as “military-aged men”, or “able-bodied men”. Momir Nikolić, T. 24621, 24628 (13 February 2012), T. 24646–24647 (14 February 2012). However, he further testified, “[w]e would carry out a military task, that we would stick to military procedure, that we would single out those people from whom we had indicia or evidence or documents or witnesses to the effect that they had committed crimes [...]”. Momir Nikolić, T. 24621 (13 February 2012), and “they worked on singling out these military-aged men, or, rather, those for whom they had had information to the effect that they had committed crimes during the previous operations”. Momir Nikolić, T. 24628 (13 February 2012). He also testified that “[m]ilitary selection involves [...] identifying those who have committed a crime or those whom you suspect of having committed a crime, a war crime, or any other kind of crime, crime against the civilian population or against prisoners, soldiers, and so on and so forth”. Momir Nikolić, T. 24644 (14 February 2012). He further stated, “When I heard what Mr. Popovic said, it was my understanding that by going to Potocari a military screening process was to take place, which is a legitimate military procedure entailing identification -- the identification of those who need to be separated, and checks are carried out because there is a possibility of those who committed war crimes and crimes against humanity being present.” Momir Nikolić, T. 24645 (14 February 2012). In light of the above testimony, the Chamber finds that, by “military-aged men” or “able-bodied men” in the above context, Nikolić meant those among the military-aged or able-bodied men who allegedly committed war crimes. **“Cum grano salis”, this is “with tones of salt”, and with such a help from the Chamber, any witness would be credible. But it does not clarify why would the severed people were registered if there was a decision to kill all of them?**

that they would have done “what was prescribed under the rules”,<sup>16494</sup> but the Chamber sees this as a device utilised by the witness to mask his real thoughts. **(#Now, the favourite witness is not credible#???)**

5062. The Chamber is satisfied that it was only when events began to unfold in Potočari that he realised that not only alleged war criminals but all men who tried to board the buses, irrespective of their age or physical constitution, were separated.<sup>16495</sup> Indeed, evidence before the Chamber indicates that being a Bosnian Muslim man was the exclusive criterion for separation,<sup>16496</sup> and that they were all earmarked for execution.<sup>16497</sup>

5063. The Chamber further considers that, by giving evidence about Popović informing him of plans to separate Bosnian Muslim men and to subsequently kill them, Nikolić directly incriminated himself in these matters. More importantly, ever since Nikolić entered a plea agreement with the Prosecution in 2003, his evidence on this point has remained constant.<sup>16498</sup> **(Did the #Guilt Plea Agreement envisaged a punity, or unpunity of Nikolic for this (self) incrimination? Was he additionally tried for this admitted crime? This is also a wrong inference!#)**

5064. Accordingly, the Chamber is unable to discern any inconsistency in this area of Nikolić’s evidence. **(Have Nikolic given the oath? #What are acceptable reasons to lie? Is a possibility to lie reserved only for the Prosecution’s witnesses?#)**

#### (d)Credibility of Defence witnesses

5065. Last but not least, the Chamber is of the view that the reliability of Nikolić’s account is undiminished by Defence evidence. As previously discussed, when Popović gave evidence in this case as a Defence witness, his case was still on appeal and thus the Chamber approached his evidence with great caution.<sup>16499</sup> **(Why #Popovic would be frustrated because of his appeal? This was another reason more to be frank, and certainly didn’t have any incentive to hide anything for the sake of the President! Also, it was said that the events in one chamber was not going to influence other chambers!)** With regard to Kosorić, the Chamber considers that he was generally evasive, insisting that he neither saw nor knew anything. Although he adhered to his prior evidence that there was no such conversation as claimed by Nikolić, he confirmed that he, Nikolić, and Popović were all present at Hotel Fontana on the morning of 12 July.<sup>16500</sup> **(So what? It doesn’t mean that they had this conversation? Before the third meeting there couldn’t be any conversation as described by Nikolic, #and this is sufficient to dismiss Nikolic’s testimony, even appar of so many inconsistencies, lies and obvious motives to lie! But, both the Prosecution and the Chamber needed Momir Nikolic, #because without his lies there wouldn’t be the main charges for Srebrenica!#)** Taken together with the testimony of Ušćumlić, who testified that he was at the third meeting but denied the content of the conversation as related by Nikolić, the Chamber finds the evidence of these

<sup>16494</sup> Momir Nikolić, T. 24647–24648 (14 February 2012).

<sup>16495</sup> Momir Nikolić, T. 24646–24647 (14 February 2012).

<sup>16496</sup> See paras. 5109–5112.

<sup>16497</sup> See Section IV.C.3.a.iii.B: The expansion of the common plan to eliminate the Bosnian Muslims in Srebrenica.

<sup>16498</sup> See D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 4.

<sup>16499</sup> See also para. 18.

<sup>16500</sup> Svetozar Kosorić, T. 38694–38695 (23 May 2013); P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 63, 65.



three witnesses unconvincing and insufficient to jeopardise the Chamber's view of the reliability of Nikolić's evidence on this point. **BRAVO!!!**

(e) Conclusion

**5066.** Accordingly, the Chamber finds Nikolić's testimony reliable. The Chamber therefore accepts his account of the conversation in which Popović told him that all the men in Potočari should be killed. **(#Even so, "should be killed" didn't mean "will be killed" and this is not enough. Among other evidence, and putting the Nikolic's credibility aside, #who was Popovic to decide, or even to know had there been a plan to kill? And how nobody else was involved in the Nikolic's knowledge, but only Popovic, already indicted and convicted? Both, Nikolic and Popovic were of a very low rank, and even if there was a plan, they wouldn't be privy to it, while so many higher officers weren't even aware of such a possibility, let alone being familiar with a plan. How come that the #Chamber didn't trust the Defence witness, a bodyguard, always close to Izetbegovic, for not being privy of some talks, while a Lt.colonel Popovic and capt. Nikolic were privy of such a horrible think that would be, if existed, the strongest secret, as this what happened remained secret for years?#)**

(D) Third meeting

5067. On the morning of 12 July, Karremans and Boering went back to Hotel Fontana with the three Bosnian Muslims—Mandžić, Purković, and Nuhanović—escorted by Kosorić.<sup>16501</sup> This third meeting started at around 10 a.m.<sup>16502</sup> Mladić, Krstić, Radoslav Janković, Kosorić, and Popović were present, together with Dragomir Vasić, the Chief of the Zvornik CJB, Deronjić, Srblav Davidović, President of the Bratunac Executive Board, and Ljubisav Simić.<sup>16503</sup> The Bosnian Muslim civilian population in Potočari was represented by Mandžić, Purković, and Nuhanović.<sup>16504</sup>

<sup>16501</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1968; Pieter Boering, T. 22060–22063 (29 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), paras. 88, 93; Svetozar Kosorić, T. 38994–38695 (23 May 2013); Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9203–9204; Srblav Davidović, T. 24405–24406 (9 February 2012); P4201 (Updated Srebrenica Trial video), Part 2, at 00:06:46; P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 65; P4935 (Report of Zvornik CJB, 12 July 1995). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6215.

<sup>16502</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1967–1968; Pieter Boering, T. 22060–22061 (29 November 2011); Momir Nikolić, T. 24616–24617 (13 February 2012); P2996 (Report of Zvornik CJB, 12 July 1995); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 93; P4373 (Report of Zvornik CJB, 12 July 1995). See also Adjudicated Fact 1537.

<sup>16503</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1949, 1968–1969; Pieter Boering, T. 22061, 22063–22064 (29 November 2011); Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9183, 9203–9204; Srblav Davidović, T. 24405–24406 (9 February 2012); D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 4; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 73; Ljubisav Simić, T. 37270 (16 April 2013) (confirming that he was sitting at Mladić's right hand on the video); P4201 (Updated Srebrenica Trial video), Part 2, at 00:05:30–00:07:22, 00:12:52, 00:13:09; P4202 (Written compilation booklet: Srebrenica Trial video), pp. 66–68, 245–250; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 19; P4935 (Report of Zvornik CJB, 12 July 1995). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6215. Ušćumlić also attended and interpreted for DutchBat. D3552 (Witness statement of Petar Ušćumlić 12 March 2013), para. 6; Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9203–9204; Srblav Davidović, T. 24405–24406 (9 February 2012).

<sup>16504</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1968, 1972; Pieter Boering, T. 22061 (29 November 2011); Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9203–9204; Srblav Davidović, T. 24405–24406 (9 February 2012); P4935 (Report of Zvornik CJB, 12 July 1995). See also Momir Nikolić, T. 24619–24620 (13 February 2012); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 73; Ljubisav Simić, T. 37270–37271 (16 April 2013); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6215. Members of the Muslim Forces in Srebrenica were not present because they were believed to have already fled the enclave. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1968.

5068. Mladić told the Bosnian Muslim representatives that he wanted to help them and that they could request what they wished, but that he wanted “absolute co-operation”.<sup>16505</sup> Mladić then added that “you can either survive or disappear” and demanded that ABiH soldiers surrender their weapons.<sup>16506</sup> **(#At that moment Mladić still was convinced that the armed Muslims were among the Muslims under the competences of those representatives, i.e. in Potocari!)** He stated that upon compliance with this demand, the Bosnian Muslim civilian population “may choose to stay in the territory or, if so you wish, go wherever you want”.<sup>16507</sup> Furthermore, Mladić noted that he would provide vehicles, but that fuel should be procured by Bosnian Muslims or by UNPROFOR.<sup>16508</sup> **(#Prior to this offer of General Mladić, there was a huge activity of the UN to persuade the Muslim Government in Sarajevo and the Serb military authorities in the region Podrinje to allow an evacuation of the Muslim civilians, evacuation, not deportation. Until that moment General Mladić was very restraint and unwilling to deal with the issue of civilians, and the UN representatives had to persuade him. Ambassador Akashi communicated with the UN HQ in New York, the Netherlands Minister for Defence communicated his officers in Potocari, #all of them advocating evacuation!#)**

5069. The Bosnian Muslim representatives requested “free passage for able-bodied men because, allegedly they are unarmed and they are not in contact with their army in the woods”.<sup>16509</sup> **(That was, due to evidence, for the first time that the Muslims informed Mladić that their armed people are in woods, not in Potocari or elsewhere in shelter!)** A procedure for transferring the Bosnian Muslim population was also discussed.<sup>16510</sup> In addition, Boering testified that Mladić mentioned “screening” of the Bosnian Muslim men in Srebrenica based on their ages between about 15 and 70, but the specifics of this screening were not made clear.<sup>16511</sup> Davidović was assigned to select potential war criminals among the civilian population.<sup>16512</sup>

5070. At the end of the meeting, Mladić said that the Bosnian Serb civilian authorities should assist the Bosnian Muslim population in Potočari in terms of logistics, water, food, and health care.<sup>16513</sup> After 11 a.m., the meeting ended hastily as the participants were told

<sup>16505</sup> P4201 (Updated Srebrenica Trial Video), Part 2, at 00:06:47–00:10:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court pp. 246–248. This meeting was filmed again. Pieter Boering, T. 22065 (29 November 2011); P4201 (Updated Srebrenica Trial video), Part 2, at 00:05:50–00:15:05; P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 245–250.

<sup>16506</sup> P4201 (Updated Srebrenica Trial Video), Part 2, at 00:10:15–00:10:42; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 248. See also Adjudicated Fact 1540. Kosorić agreed to the proposition by the Prosecution that Mladić was saying that unless all the weapons were surrendered, the men might be killed. Svetozar Kosorić, T. 38695–38696 (23 May 2013). **Still, Kosoric was not credible enough? However, to be killed for being armed didn't mean – executed!**

<sup>16507</sup> P4201 (Updated Srebrenica Trial Video), Part 2, at 00:10:45–00:11:10; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 248. See also P4201 (Updated Srebrenica Trial Video), Part 2, at 00:11:17–00:12:50; P4202 (Written Compilation Booklet: Srebrenica Trial Video), pp. 248–249; Adjudicated Fact 1542.

<sup>16508</sup> P4201 (Updated Srebrenica Trial Video), Part 2, at 00:11:50–00:12:15; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 249. See also Adjudicated Facts 1543, 1544. Davidović testified that it was agreed that DutchBat would provide fuel. Srblav Davidović, T. 24421 (9 February 2012). However, Boering stated that he was unaware of any agreement between DutchBat and Mladić that DutchBat would supply diesel fuel for the evacuation. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1974, 2077–2078.

<sup>16509</sup> P4935 (Report of Zvornik CJB, 12 July 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6217.

<sup>16510</sup> Pieter Boering, T. 22082–20083 (29 November 2011). There was no clear arrangement for caring for the needs of the civilian population, however. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1975.

<sup>16511</sup> Pieter Boering, T. 22063–22064 (29 November 2011); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1969, 1974; Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9209 (testifying that Mladić stated that those “who committed crimes against the Serbian people would be prosecuted”); Adjudicated Fact 1545. Vasić, reporting the outcome of this meeting, stated that it was up to Mladić to let the men go in order to get other men hiding in the woods to surrender. P4935 (Report of Zvornik CJB, 12 July 1995).

<sup>16512</sup> Pieter Boering, T. 22063–22064 (29 November 2011); P4201 (Updated Srebrenica Trial Video), Part 2, at 00:13:09; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1973; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 67.

<sup>16513</sup> Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9207; Srblav Davidović, T. 24402–24403 (9 February 2012); Ljubisav Simić, T. 37273–37274 (16 April 2013).

that the Bosnian Muslims in Potočari were getting restless, and it was feared that they would set out to Bratunac on foot.<sup>16514</sup> **(This was a real possibility, and it made a pressure on participants to accelerate the evacuation!)** The Bosnian Muslim representatives were asked to return to Potočari to tell the population that transportation would be provided.<sup>16515</sup> Vasić reported to the RS MUP that “boarding of vehicles will commence at 1400 hours”.<sup>16516</sup> **(Therefore, this same #Chamber could not conclude that there was a deportation instigated by General Mladic or anyone from the Serb side!#)**

5071. Radoslav Janković came out of the hotel and told Momir Nikolić that everything had been agreed upon regarding the transfer of Bosnian Muslims to Kladanj, and that Nikolić should assist in the transfer and the separation of Bosnian Muslim men.<sup>16517</sup> Janković further stated that the commanders of the units in charge of the operation had already received orders and specific tasks, and were already in Potočari.<sup>16518</sup> Janković told Nikolić to talk to Duško Jević—the director of the Jahorina Training Centre and a member of the Special Brigade of the MUP who was present in Potočari—and to assist him.<sup>16519</sup> **(As it can be seen, it was not Deronjic who “influenced” the Accused to call in the MUP, at least the Jahorina group. And it was 12 July!)**

5072. Kosorić brought the DutchBat officers and the Bosnian Muslim representatives back to the UN Compound.<sup>16520</sup> Since Karremans and Boering were not clear about the agreements reached, the procedure for the transportation, and DutchBat’s role therein, Karremans instructed Boering and Rave to return to Bratunac to verify what the actual agreements were.<sup>16521</sup> Around noon, Boering and Rave arrived in Bratunac and managed to meet Momir Nikolić, who was with Kosorić.<sup>16522</sup> Nikolić told them that everything had been agreed upon; they should get lost and leave immediately; and “things had already started”.<sup>16523</sup>

<sup>16514</sup> Srebislav Davidović, T. 24410, 24433–24434 (9 February 2012); Pieter Boering, T. 22064–22065 (29 November 2011); P4201 (Updated Srebrenica Trial video), Part 2, at 00:15:08. See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6218.

<sup>16515</sup> Srebislav Davidović, T. 24434 (9 February 2012).

<sup>16516</sup> P4935 (Report of Zvornik CJB, 12 July 1995).

<sup>16517</sup> Momir Nikolić, T. 24624 (13 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 5.

<sup>16518</sup> Momir Nikolić, T. 24624–24625 (13 February 2012).

<sup>16519</sup> Momir Nikolić, T. 24625 (13 February 2012). See also para. 5079.

<sup>16520</sup> Svetozar Kosorić, T. 38696–38697 (23 May 2013).

<sup>16521</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1976–1977; Pieter Boering, T. 22065–22066 (noting that this confusion was in part due to translation problems), 22082 (29 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 94; Albert Rave, T. 22230 (30 November 2011).

<sup>16522</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1976–1977; Pieter Boering, T. 22066 (29 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 94 (noting that Ušćumlić interpreted the conversation).

<sup>16523</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1976; Pieter Boering, T. 22066 (29 November 2011); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 94. See also D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 5. The Chamber notes that Nikolić testified that when he, Kosorić, and Ušćumlić were still talking in front of Hotel Fontana prior to the third meeting, two DutchBat officers came up to them and asked when the buses would arrive and when the transportation would begin. After having taken them to Colonel Lazar Aćamović, Assistant Commander for Rear Services of the Drina Corps, who was standing in front of Hotel Fontana, Nikolić told them that they should go back to Potočari, that “everything had been agreed upon, [...] and that the evacuation would start”. **But it is obvious that it could happen only after the third meeting. Anyway, the term used was “evacuation” which had been agreed..** Momir Nikolić, T. 24623 (13 February 2012). In Nikolić’s recollection, the DutchBat officers were Rave and his “associate”. Momir Nikolić, T. 24623–24624 (13 February 2012). However, Rave did not go to Hotel Fontana with Karremans and Boering as he had other obligations. P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 93. The Chamber is of the view that while Nikolić’s account of this encounter coincides in large measure with the account described in paragraph 5067 certain areas were inconsistent with other evidence adduced in this case. The Chamber gave this full consideration and is firmly of the opinion that this inconsistency does not in any way compromise the reliability of Nikolić’s evidence in general, and in particular the reliability of the conversation that took place before the third meeting. **We see that Nikolic is a champion of credibility, but if it was agreed before the third meeting, who agreed it with whom, and when? And why this subject would arise during the third meeting? What is with this Chamber? An average mind would see this simple truth.**

## 1. Humanitarian situation and atmosphere in Potočari

5073. As previously stated, by the morning of 11 July, several thousand Bosnian Muslims in Srebrenica town were making their way towards Potočari.<sup>16524</sup> The majority, consisting mostly of women, children, and elderly individuals, arrived in Potočari on foot—while others were brought by UN vehicles—and were taken to several facilities in the vicinity of the UN Compound.<sup>16525</sup> By the evening of 11 July, the UN Compound and the area of the surrounding buildings, including the lead factory and the Zinc factory, were full of Bosnian Muslims.<sup>16526</sup> Many stayed outside without accommodation.<sup>16527</sup> **(That was July, for heaven's sake, and it was only two days. Certainly, the most sensitive and vulnerable people was sheltered, while these who "stayed outside" certainly could have stayed. #The Serb side couldn't be responsible for that, because it was not the Serb side that brought the Muslim civilians to Potocari. The Chamber is restless in an #emotional blackmailing#, and presenting the Serbs as a villains guilty for everything!)** DutchBat tried to provide security, placing a red and white tape around the area to indicate that it was secure and under UN surveillance, and to prevent any contact between Bosnian Muslims and members of the Bosnian Serb Forces.<sup>16528</sup>

5074. Potočari and the facilities there were overcrowded with Bosnian Muslims carrying their possessions; they were all fearful.<sup>16529</sup> There was constant shelling,<sup>16530</sup> which injured a number of Bosnian Muslims and caused fear amongst them.<sup>16531</sup> Panic was rampant.<sup>16532</sup> Shelling continued throughout the night of 11 to 12 July around the UN Compound.<sup>16533</sup>

<sup>16524</sup> See paras. 5029–5030.

<sup>16525</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 18; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 26, 29; P422 (Aerial photograph of Potočari, 13 July 1995); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2717, 2883; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7079–7082, 7138; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17304, 17306–17307, 17371–17373; Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1944–1946; Mirsada Malagić, T. 23475, 23523 (24 January 2012); P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court p. 2; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10; P393 (Witness statement of Mejra Mešanović dated 19 June 2000), e-court p. 2; P393 (Statement of Mejra Mušanović to Tuzla Cantonal Court, 19 June 2000), e-court, p. 9; P403 (Witness statement of Rahima Malkić dated 17 June 2000), e-court p. 2; KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2733–2735; KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 2329 (under seal). See also Pieter Boering, T. 22121–22123 (29 November 2011); D1968 (Witness statement Pieter Boering dated 28 September 1995), p. 5; P392 (Witness statement of Semija Suljić dated 17 June 2000), e-court p. 2; P392 (Statement of Semija Suljić to Tuzla Cantonal Court, 17 June 2000), e-court p. 8; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3600.

<sup>16526</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1221, 1231, 1264; P422 (Aerial photograph of Potočari, 13 July 1995); Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1947, 1949–1950; Mirsada Malagić, T. 23479–23480, 23484 (24 January 2012). See also P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 61–62.

<sup>16527</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 22; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 26; 31; P3954 (Aerial photograph of Potočari marked by Johannes Rutten). See also Joseph Kingori, T. 22803 (11 January 2012); KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5751–5752; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 38.

<sup>16528</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 26, 30; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 66; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), paras. 23, 28–30; Paul Groenewegen, T. 22975–22976 (13 January 2012); P4201 (Updated Srebrenica Trial video), Part 2, at 00:27:16–00:28:47. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2719; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 35; Johannes Rutten, T. 21988–21989 (28 November 2011); P4201 (Updated Srebrenica Trial video), Part 2, at 00:20:39–00:24:00.

<sup>16529</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 61; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 19; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 38; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1250 (testifying that he and his family found refuge in the corner of the Remont bus compound); KDZ070, P340 (Transcripts from *Prosecutor v. Popović et al.*), T. 3423 (under seal); P300 (Sketch drawn by KDZ070) (under seal). The Bosnian Muslims were lethargic and in a bad condition. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 67. See also KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14810 (under seal).

<sup>16530</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 38; Pieter Boering, T. 22154–22155 (30 November 2011); P3993 (UNMO report, 11 July 1995). See also KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5750–5751; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1249–1250; P395 (Witness statement of Behara Krdžić dated 16 June 2000), e-court p. 2.

<sup>16531</sup> KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5750–5751; KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3475; Pieter Boering, T. 22154–22155 (30 November 2011); P3993 (UNMO report, 11 July 1995); Mirsada Malagić, T. 23479 (24 January 2012); Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1946–1947.

<sup>16532</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2719.

<sup>16533</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1221, 1231, 1264; Mirsada Malagić, T. 23478–23479 (24 January 2012).



**(The only evidence pertaining to a shelling is the UN personnel evidence that the VRS was #shelling around the rute with an obvious intention to keep the mass un the road, and not to spread through the woods! Had the VRS intended to kill, they wouldn't miss such a big group of people! #There was no any casualty in the column!#)**

5075. On the morning of 12 July, panic increased even more when the Bosnian Muslims saw members of the Bosnian Serb Forces coming in from all directions.<sup>16534</sup> During the course of the day, some houses surrounding Potočari and haystacks were set on fire by members of the Bosnian Serb Forces.<sup>16535</sup> **(Obviously, the #VRS soldiers didn't appear in Potocari prior to 12 July around noon!)**

5076. By that time, between 25,000 and 30,000 Bosnian Muslims were in Potočari, of whom 5 to 10% were able-bodied men.<sup>16536</sup> **That would be too much, and would mean 2,500 to 3,000, and would imply that only from Potocary there was up to 3,000 POWs. However, the document from the fn17184 (P02987) sais it was 5%:**

In Potočari, we sealed off the main UN base, where a throng of between 25,000 and 30,000 civilians had gathered, approximately five percent of whom were able-bodied **And this Report is more credible, because it came from the commander of the Spec. unit who was there. Another doc. Quated, P04388, said even less, 70 men till this moment:**

started. About 5,000 women and children were evacuated so far. We are separating men from 17 – 60 years of age and we are not transporting them. We have about 70 of them so far and the security organs and the DB /state security/ are working with them.

**#The same document reported that the UN personnel helped in loading up the civilians into buses, which would never happen had it been a forceful evacuation:**

to the barracks in Bratunac. UNPROFOR soldiers are assisting in loading women and children into the vehicles.

The humanitarian situation was catastrophic; there was not enough water, food, or medicine for the Bosnian Muslims, and there were insufficient toilet facilities.<sup>16537</sup> The heat was stifling.<sup>16538</sup> Some women gave birth.<sup>16539</sup> Some people died, while others committed suicide or attempted to do so.<sup>16540</sup>

<sup>16534</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 32–35; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1250–1251.

<sup>16535</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 32, 34; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 89, 91; Adjudicated Fact 1507.

<sup>16536</sup> P2987 (Report of RS MUP's Special Police Brigade, 13 July 1995), p. 1; P4935 (Report of Zvornik CJB, 12 July 1995); P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), p. 2; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2; P4936 (Report of Sarajevo RDB, 12 July 1995); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 164; P4156 (UNMO Report, 12 July 1995), p. 4; P4936 (Report of Sarajevo RDB, 12 July 1995). *See also* P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 22.

<sup>16537</sup> Joseph Kingori, T. 22803 (11 January 2012); P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 66; KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5751–5752; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2719; Pieter Boering, T. 22154 (30 November 2011); P841 (UNMO report, 11 July 1995); P3993 (UNMO report, 11 July 1995); P4936 (Report of Sarajevo RDB, 12 July 1995); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96; P3995 (Witness Statement of *Prosecutor v. Krstić*), T. 1954; P4165 (Report from the Srebrenica Enclave, 24 July 1995), p. 5. *See also* Adjudicated Facts 1503, 1504.

<sup>16538</sup> *See* Adjudicated Fact 1503; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2719, 2803; Mirsada Malagić, T. 23476, 23488 (24 January 2012); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9772; KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5751–5752; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 38.

<sup>16539</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 22.

<sup>16540</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), paras. 96–97; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 24. *See also* P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 47; Mirsada



5077. During the night between 12 and 13 July, gunfire was heard in the vicinity of the UN Compound.<sup>16541</sup> Bosnian Muslims in Potočari were beaten and sexually assaulted by members of the Bosnian Serb Forces.<sup>16542</sup> Some were taken away from the facilities in Potočari and did not come back.<sup>16543</sup> **(How many reasonable inferences we could draw from this #“did not come back”#? Could they have been exchanged on a private basis? Could they had been relocated elsewhere? The formula “and they didn’t come back” is a unified and learnt formula, suggested by the Muslim secret organisation! “Such abuses” could have not happen in Potocari, where there was so many people, including the UNPROFOR and the Muslim civilians!)** Such abuses continued on 13 July.<sup>16544</sup>

## 2. Taking control of Potočari and disarming of DutchBat

5078. Early in the morning of 12 July, further to an order issued by Mladić to Borovčanin in Pribićevec during the night of 10 to 11 July 1995,<sup>16545</sup> joint units of the Bosnian Serb Forces took control of OP Papa at Yellow Bridge.<sup>16546</sup> The units involved consisted of MUP members commanded by Borovčanin—the 1<sup>st</sup> PJP Company from Zvornik, the Jahorina Recruits led by Duško Jević and 1<sup>st</sup> Company Commander Mendeljev Đurić, as well as a mixed company of the Janja MUP—and Bratunac Brigade soldiers.<sup>16547</sup> \

5079. At OP Papa, these forces seized the DutchBat members’ helmets, flak jackets, weapons, and an APC, and disconnected them from contact with their operations room.<sup>16548</sup> The DutchBat soldiers were held at gunpoint and detained until 9 p.m.<sup>16549</sup> Members of the Bosnian Serb Forces, including members of the Jahorina Recruits,<sup>16550</sup> proceeded along the road towards Potočari.<sup>16551</sup> They fired rounds which landed in the vicinity of the UN Compound.<sup>16552</sup> Bosnian Serb soldiers deployed in attack formation towards the UN

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Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1959–1960; Mirsada Malagić, T. 23533–23534 (24 January 2012). See also Adjudicated Fact 1510.

<sup>16541</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 112.

<sup>16542</sup> D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 6; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), e-court p. 2. See also Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1176–1177; Mirsada Malagić, T. 23488 (24 January 2012); P395 (Witness statement of Behara Krdžić dated 16 June 2000), e-court p. 2.

<sup>16543</sup> P401 (Witness statement of Šehra Ibišević dated 21 June 2000), e-court p. 3; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), e-court p. 9; Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1955–1959. See Adjudicated Fact 1509.

<sup>16544</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 54. But see Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9779, 9783, 9796, 9828; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 18005–18006; Srbslav Davidović, T. 24407 (9 February 2012); Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18848.

<sup>16545</sup> See P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), p. 1.

<sup>16546</sup> P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 1; P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), p. 2. See also P5091 (Report of Sarajevo RDB, 12 July 1995).

<sup>16547</sup> P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), p. 1; P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 1; KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14789, 14791, 14800 (under seal); Momir Nikolić, T. 24625 (13 February 2012); Ljubomir Borovčanin, T. 39459 (7 June 2013). See also P4935 (Report of Zvornik CJB, 12 July 1995), p. 2; P5091 (Report of Sarajevo RDB, 12 July 1995); P2996 (Report of Zvornik CJB, 12 July 1995); P4373 (Report of Zvornik CJB, 12 July 1995); P4173 (Witness statement of Roger Patelski dated 30 November 2011), paras. 14–17; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 25; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3601; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 1. See fn. 17302. Some of the units under Borovčanin’s command had also taken part in the Bosnian Serb advance on Srebrenica. See para. 5021.

<sup>16548</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 14. See also P4373 (Report of Zvornik CJB, 12 July 1995).

<sup>16549</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 21; D2007 (Roger Patelski’s ICTY UN Peacekeeper Interview Questionnaire), p. 1; Roger Patelski, T. 23038, 23040–23041, 23044, 23051 (correcting the date of his detention at OP Papa by members of the Bosnian Serb Forces, as stated in D2007, from 14 July 1995 to 12 July 1995) (16 January 2012).

<sup>16550</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14802–14805, 14807–14809 (under seal).

<sup>16551</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 13; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 25; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 69; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 69, 89; P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), pp. 1–2. See also P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 15; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3601; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3602, 3625 (under seal).

<sup>16552</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 89.

Compound, proceeding until they were stopped by the red and white tape used by DutchBat to demarcate the area where the Bosnian Muslims were.<sup>16553</sup> DutchBat soldiers posted themselves around the compound and the factories.<sup>16554</sup> Members of the Jahorina Recruits were deployed around the UN Compound.<sup>16555</sup> Some Bosnian Serb soldiers, including the Drina Wolves, walked around the premises.<sup>16556</sup> Borovčanin saw members of the Bratunac Brigade MP conducting “certain check-ups” for military-aged Bosnian Muslims.<sup>16557</sup> Some Bosnian Serb soldiers were cursing the Bosnian Muslims.<sup>16558</sup> By 1 p.m. that day, the Bosnian Serb Forces had taken control of Potočari.<sup>16559</sup>

5080. Around the time vehicles for the transportation of the Bosnian Muslims arrived in Potočari, the DutchBat soldiers who were stationed near the bus premises were threatened with weapons by members of the Jahorina Recruits led by Đurić, and had to surrender their weapons, vests, armoury, and communication sets.<sup>16560</sup> 11 DutchBat soldiers and a DutchBat doctor were detained for a few hours at a place next to the bus premises.<sup>16561</sup> Following repeated protests to Đurić, they were finally released and sent back to the UN Compound.<sup>16562</sup>

5081. On the morning of 13 July, Rave saw Mladić in Potočari and told him that members of the Bosnian Serb Forces had stolen DutchBat’s weapons and material.<sup>16563</sup> Mladić assured Rave that he would instruct his soldiers not to steal anything from DutchBat soldiers.<sup>16564</sup> **(#Therefore, no responsibility of General Mladic, let alone of the President!)**

### 3. Transportation from Potočari between 12 and 21 July 1995

#### (A) Provision of vehicles and fuel

5082. On the evening of 11 July, Mladić ordered Petar Škrbić to requisition buses for “an evacuation”.<sup>16565</sup> Before 10 a.m. on the morning of 12 July, he placed an urgent call to the RS Ministry of Defence, requesting an order to its Sarajevo and Zvornik secretariats to mobilise at least 50 buses to be sent to the stadium in Bratunac town (“Bratunac stadium”)

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<sup>16553</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 69. See also KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3601; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3602, 3625 (under seal).

<sup>16554</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 92.

<sup>16555</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14802–14805, 14807–14809, 14812 (under seal).

<sup>16556</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14810 (under seal); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 90. See also Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1951; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3605.

<sup>16557</sup> D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 16.

<sup>16558</sup> KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3601.

<sup>16559</sup> P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 1. See also P3054 (VRS Main Staff Report, 12 July 1995), p. 4; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 1.

<sup>16560</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 43–46.

<sup>16561</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 47–48; P3956 (Video still of two soldiers); P3957 (OTP questionnaire by Johannes Rutten, undated), p. 2.

<sup>16562</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 47. The Chamber notes that Đurić categorically denied that he took equipment from DutchBat soldiers and detained them. Mendeljev Đurić, T. 42080–42081 (29 July 2013). The Chamber does not find this evidence reliable. In reaching that conclusion, the Chamber considered that Đurić had an interest in removing himself from the events in Potočari and his evidence in this regard was marked by insincerity and evasiveness.

<sup>16563</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 117.

<sup>16564</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 117.

<sup>16565</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15472–15473, 15476 (stating that he first received information about the need for buses by telephone on the night of 11 July). Although Škrbić initially could not remember from whom he had received the order, he then adopted his prior statement in which he had said that the mobilisation request came from Mladić but was conveyed “indirectly through somebody”. Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15472–15473, 15476. See also Petar Škrbić, T. 25973–25974 (7 March 2012) (further testifying that he had received this order via a specific phone which only received calls from the Commander of the VRS Main Staff). The Chamber is therefore satisfied that this order came from Mladić.

by 2:30 p.m. that day.<sup>16566</sup> Pursuant to this request, the RS Ministry of Defence ordered these secretariats to immediately procure buses and send them to the designated location by the designated time.<sup>16567</sup> Following these orders, the RS Ministry of Defence further issued an order to all Ministry of Defence departments in Zvornik, Milići, Vlasenica, Šekovići, and Bratunac, to cancel all regular bus services until further notice, if necessary, so that buses and drivers could immediately report to the “Sports Centre” in Bratunac.<sup>16568</sup> In compliance with the Ministry of Defence orders, vehicles were indeed mobilised that day, which paralysed regular passenger transport.<sup>16569</sup>

5083. Meanwhile, the Drina Corps also responded to Mladić’s order. At 7:35 a.m. on 12 July, Krstić, in his capacity of Chief of Staff of the corps,<sup>16570</sup> instructed Lieutenant Colonel Rajko Krsmanović, the Drina Corps Chief of Transportation,<sup>16571</sup> to mobilise 50 buses in total from Pale, Višegrad, Rogatica, Sokolac, Han Pijesak, Vlasenica, Milići, Bratunac, and Zvornik, and send them to the Bratunac stadium by 5 p.m. that day.<sup>16572</sup>

5084. Also on the same morning, Živanović issued an order to his subordinate brigades that all available buses and minibuses belonging to VRS units were to be secured for the use of the Drina Corps and sent to the Bratunac stadium.<sup>16573</sup> He also gave instructions about locations for fuel distribution, and stated that the Drina Corps command had sent a message to the RS Ministry of Defence asking for private buses to be mobilised.<sup>16574</sup> The subordinate brigades complied with this order and sent the vehicles as requested.<sup>16575</sup>

5085. Pursuant to Mladić’s order, at 10 a.m. that morning, the Drina Corps command informed the Main Staff that buses it had requested from the Drina Corps units had been secured, noting that the command did not know the final destination of the transportation at that time.<sup>16576</sup> On the same morning, Vasić reported to the RS MUP that 100 trucks had been provided **(#He used the expression “osigurano je” or “obezbedjeno je” which means that it was secured, and doesn’t mean that it was already delivered)** for transport.<sup>16577</sup>

5086. Earlier that morning, at around 8 a.m., a meeting had been held at the Bratunac Brigade Command, where Mladić, Krstić, Deronjić, and Vasić, among others, were

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<sup>16566</sup> P4525 (VRS Main Staff Order, 12 July 1995); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15471–15472.

<sup>16567</sup> P4526 (RS Ministry of Defence request to Sarajevo Secretariat of the Defence Ministry, 12 July 1995); P4527 (RS Ministry of Defence request to Zvornik Secretariat of the Defence Ministry, 12 July 1995); P4528 (RS Ministry of Defence request to Zvornik Secretariat of the Defence Ministry, 12 July 1995); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15474–15477. *See also* Adjudicated Fact 1567.

<sup>16568</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15479–15481; P4538 (Order of RS Ministry of Defence, 12 July 1995); P4539 (Order of RS Ministry of Defence, 12 July 1995).

<sup>16569</sup> *See* P4552 (RS Ministry of Defence report, 13 July 1995).

<sup>16570</sup> Richard Butler, T. 27509 (17 April 2012).

<sup>16571</sup> Richard Butler, T. 27509 (17 April 2012); P4920 (Diagrams of various VRS Military Command structures), p. 2.

<sup>16572</sup> P4680 (Intercept of conversation between General Krstić and Lt. Col. Krsmanović, 12 July 1995). *See also* D2259 (Intercept of conversation between Krstić and Šobot, 12 July 1995); P5274 (Intercept of conversation between Lt. Col. Krsmanović and an unidentified person, 12 July 1995).

<sup>16573</sup> P4533 (Order of Drina Corps, 12 July 1995) (indicating that the order was received at 8:35 a.m. on 12 July 1995); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15482; Adjudicated Fact 1566.

<sup>16574</sup> P4533 (Order of Drina Corps, 12 July 1995). *See also* Adjudicated Fact 1566.

<sup>16575</sup> P4577 (Zvornik Brigade Combat Report, 12 July 1995); KDZ122, T. 26151–26152 (13 March 2012) (closed session); P4540 (5<sup>th</sup> Podrinje Light Infantry Brigade Combat Report, 12 July 1995) (indicating that Commander of the 5<sup>th</sup> Light Infantry Brigade, Furtula, reported to the Drina Corps Command that his brigade carried out the Drina Corps Command order, P4533); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15483. *See also* Adjudicated Facts 1569, 1570.

<sup>16576</sup> D1971 (Order of Drina Corps, 12 July 1995). *See also* P5364 (Intercept of conversation between two unidentified persons, 12 July 1995) (reflecting the conversation of two unidentified individuals about vehicles they were collecting from several places, including Pale, Sokolac, Bratunac, and Bijeljina, and noting that “over 50 buses” had been thus far obtained).

<sup>16577</sup> P4373 (Report of Zvornik CJB, 12 July 1995).

present, and “tasks were assigned to all participants”.<sup>16578</sup> Mladić asked Davidović, Simić, and Aleksandar Tešić—the Secretary of the Secretariat of National Defence in Bratunac—, all of whom were also present at this meeting, what to do with the Bosnian Muslims from Srebrenica.<sup>16579</sup> Mladić stated that “there were many of [Bosnian Muslims from Srebrenica and] we need quite a few vehicles”.<sup>16580</sup> Mladić went on to instruct Tešić that buses and trucks be mobilised immediately to transport about “20,000 residents, today or tomorrow.”<sup>16581</sup>

5087. Meanwhile, the VRS was encountering problems with acquiring enough fuel.<sup>16582</sup> For instance, the Drina Corps command requested additional fuel: 10,000 litres of diesel and 2,000 litres of petrol.<sup>16583</sup> Furthermore, the Bratunac Brigade was monitoring fuel disbursements to buses and trucks on 12 and 13 July.<sup>16584</sup>

5088. In line with the order to provide vehicles for transportation from the Srebrenica enclave, on the same day, the Drina Corps command issued an urgent order to the Zvornik and Bratunac Brigades, instructing that traffic at the Konjević Polje intersection and on the Konjević Polje–Bratunac Road be regulated, and that priority should be given to the “buses for evacuation”.<sup>16585</sup> As instructed, the Zvornik Brigade implemented the order, sending its MP detachment to Konjević Polje.<sup>16586</sup>

5089. At some point on 12 July, UNMO Joseph Kingori<sup>16587</sup> saw Mladić in Potočari and told him about the UN’s intention to remove the population from Srebrenica on buses.<sup>16588</sup> **(So, #Kingori already knew, and confirmed that the UN was advocating removal of the population. How then it could be named as a deportation?)** Mladić responded that he already had his own buses and that he would transport the people to Tuzla to “join their brothers there”.<sup>16589</sup> Soon after, the buses started arriving.<sup>16590</sup>

5090. Around 2 or 3 p.m. in the afternoon, Colonel Lazar Aćamović, the Drina Corps Assistant Commander for Rear Services,<sup>16591</sup> came to see Franken, said that he was responsible for the transportation of the civilians, and asked for transportation and fuel; however, DutchBat did not have any fuel.<sup>16592</sup>

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<sup>16578</sup> P4373 (Report of Zvornik CJB, 12 July 1995); Momir Nikolić, T. 24617–24618 (13 February 2012); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 34.

<sup>16579</sup> Srbislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9198–9200; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 72; Ljubisav Simić, T. 37264 (16 April 2013); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 33–34.

<sup>16580</sup> D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 34.

<sup>16581</sup> D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 35–36 (stating that after he went back to his office he received an order from the Zvornik Secretariat of National Defence for the mobilisation of vehicles, and that he then contacted the Vihor bus company; one bus from the company was eventually mobilised).

<sup>16582</sup> P4681 (Intercept of conversation between two unidentified persons, 12 July 1995); P5364 (Intercept of conversation between two unidentified persons, 12 July 1995) (in which the interlocutors noted that the “request for fuel has been forwarded to Krstić”); P5901 (Intercept of conversations between Lt. Col. Krsmanović and unidentified person, 12 July 1995).

<sup>16583</sup> D1971 (Order of Drina Corps, 12 July 1995).

<sup>16584</sup> Adjudicated Fact 1568.

<sup>16585</sup> P4574 (Order of Drina Corps, 12 July 1995). *See also* D2259 (Intercept of conversation between Krstić and Šobot, 12 July 1995) (in which Krstić instructed the Vlasenica Brigade to secure the road).

<sup>16586</sup> KDZ122, T. 26144–26145 (12 March 2012) (closed session).

<sup>16587</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 3.

<sup>16588</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 167.

<sup>16589</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 167–168. *See also* Joseph Kingori, T 22805 (11 January 2012) (noting that when he saw Mladić a second time, Mladić said that he had arranged vehicles for the transportation); Joseph Kingori, T. 22945–22947 (13 January 2012).

<sup>16590</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 169. *See also* P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 97; para. 5093.

<sup>16591</sup> P4920 (Diagrams of various VRS Military Command structures), p. 2.

<sup>16592</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 75.



5091. On 13 July, the RS Ministry of Defence sent similar orders to the Sarajevo and Zvornik secretariats, as well as to the Bijeljina secretariat this time requesting the immediate mobilisation of transportation vehicles and drivers from designated municipalities, either to be sent to the Bratunac stadium or to be on call.<sup>16593</sup> The problem with fuel persisted; Vasić noted that they needed ten tons.<sup>16594</sup>

5092. At about 10 to 11 a.m. on 13 July, Aćamović arrived at the UN Compound and spoke to DutchBat officers about the DutchBat convoy coming from Belgrade bringing diesel, rations, and water for DutchBat.<sup>16595</sup> Aćamović wanted the diesel to be shared with the VRS and for buses to be used for the transportation of the Bosnian Muslims in Potočari.<sup>16596</sup> Franken and Janković agreed that 30,000 litres of diesel from DutchBat would go to the VRS in Bratunac.<sup>16597</sup> **(#Had it been a forceful deportation, the UN wouldn't participate in it, but would rather oppose the very idea!)** At the end of 14 July, a convoy arrived with diesel.<sup>16598</sup> After the transportation of the Bosnian Muslims out of Potočari had ended, Franken received orders that as soon as DutchBat obtained fuel, it should be provided to the VRS.<sup>16599</sup> **(Certainly, the order was from the UN instances, not from the VRS!)** Fuel was provided to the VRS on 16 July.<sup>16600</sup>

(B) Arrival of vehicles, the boarding process, and the separation of men

5093. On 12 July, buses and trucks started arriving in Potočari.<sup>16601</sup> They aligned themselves along the road outside the UN Compound facing the direction of Bratunac.<sup>16602</sup> There was a heavy presence of Bosnian Serb Forces.<sup>16603</sup> Some of them were drunk and some had German shepherds with them.<sup>16604</sup> At around 12:40 p.m., the transportation of the Bosnian Muslims in Potočari began.<sup>16605</sup> The process was filmed by personnel from the press centre of the Drina Corps command.<sup>16606</sup>

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<sup>16593</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15477–15478; P4529 (RS Ministry of Defence request to Sarajevo Secretariat of the Defence Ministry, 13 July 1995); P4530 (RS Ministry of Defence request to Zvornik Secretariat of the Defence Ministry, 13 July 1995); P4531 (RS Ministry of Defence request to Bijeljina Secretariat of the Defence Ministry, 13 July 1995). Škrbić testified that all these mobilisation orders were in response to the Main Staff's 12 July 1995 request. Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15474–15478, 15480–15481.

<sup>16594</sup> P4942 (Report of Zvornik CJB, 13 July 1995).

<sup>16595</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 120.

<sup>16596</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 120.

<sup>16597</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 120.

<sup>16598</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 120.

<sup>16599</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 75.

<sup>16600</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 75.

<sup>16601</sup> Momir Nikolić, T. 24638–24639 (14 February 2012); Pieter Boering, T. 22148 (30 November 2011). *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 42; KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3606; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 167; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 39; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2719; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 95–96.

<sup>16602</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 42; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 169.

<sup>16603</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 42–43.

<sup>16604</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 43.

<sup>16605</sup> P6694 (Intercept of conversation between Ratko Mladić and unknown, 12 July 1995) (in which one speaker informed Mladić that the buses had left ten minutes before, namely at 12:40); D2258 (Intercept of conversation between unidentified individuals in VRS, 12 July 1995) (a conversation at 12:40 p.m. in which one interlocutor informed the other that the transportation was beginning); Momir Nikolić, T. 24638–24639 (14 February 2012); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 95; P4960 (Combat report signed by Ljubomir Borovčanin, 10–20 July 1995), p. 2.

<sup>16606</sup> Momir Nikolić, T. 24635–24636 (14 February 2012) (testifying that “in those videos, one attempted to demonstrate that everything was being done in accordance with the rule, but in fact [...] only the first convoy and only one convoy was filmed and nothing else after that [...]).”



5094. The Bosnian Muslims were led to the vehicles from the area where they were assembled.<sup>16607</sup> DutchBat soldiers and members of the Bosnian Serb Forces formed a human chain, holding hands together, standing in the road between the Bosnian Muslims and the vehicles, letting people pass, and stopping them when a given bus was full.<sup>16608</sup> While most of those who were taken to the vehicles were women, children, and elderly men,<sup>16609</sup> some military-aged men were able to get onto them.<sup>16610</sup> The first convoy consisted of more than ten buses and several trucks.<sup>16611</sup> About 50 to 60 people were boarded onto each bus.<sup>16612</sup>

5095. After the first convoy departed, while women and children were heading towards the vehicles, men and boys were separated by members of Bosnian Serb Forces and taken to the White House,<sup>16613</sup> a building located about 150 metres away from the entrance to the UN Compound from where they could have been seen.<sup>16614</sup> Bosnian Serb soldiers with guns stood near the buses.<sup>16615</sup> When a woman tried to run to her brother when he was separated from her, a soldier caught her by the hair, pushed her, and kicked her.<sup>16616</sup> **(#Deadly combination# How come, this wasn't registered by the UN present officers? This is a 92bis evidence, no cross examination!)** Those who tried to hide or withdraw to the back of the group were threatened with weapons and physically forced to board the vehicles.<sup>16617</sup> They were also kicked and hit.<sup>16618</sup> Many fainted because of the heat and the

<sup>16607</sup> Momir Nikolić, T. 24631 (13 February 2012); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 95; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 170; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 32.

<sup>16608</sup> KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3620 (under seal); KDZ186, P358 (Transcript from *Prosecutor v. Popović et al.*), T. 3630; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17307–17308; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1256–1257; P4201 (Updated Srebrenica Trial video), Part 3, at 00:03:55–00:05:40. See also P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 30; Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18847; Srblislav Davidović, T. 24407 (9 February 2012); Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9314.

<sup>16609</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 42; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2010. See also P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10.

<sup>16610</sup> Momir Nikolić, T. 24631 (13 February 2012), T. 24636–24637 (14 February 2012); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2010.

<sup>16611</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović*), T. 2720, 2804; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2020.

<sup>16612</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2747.

<sup>16613</sup> See Section IV.C.1.d.iv.D: Detention of the separated Bosnian Muslims men at the White House and transportation to Bratunac.

<sup>16614</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), paras. 86–87; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 53; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 98, 108; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2012, 2015, 2018; Momir Nikolić, T. 24631–24632 (13 February 2012); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17309–17311, 17378; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9780, 9829–9830; P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P404 (Statement of Samila Salčinović to Tuzla Cantonal Court, 18 June 2000), e-court p. 13; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court pp. 2–3; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10; P393 (Witness statement of Mejra Mešanović dated 19 June 2000; Statement of Mejra Mešanović to Tuzla Cantonal Court, 19 June 2000), e-court, p. 9; P403 (Witness statement of Rahima Malkić dated 17 June 2000), e-court p. 2; P403 (Witness statement of Rahima Malkić dated 17 June 2000); Statement of Rahima Malkić to Tuzla Cantonal Court, 17 June 2000), e-court p. 9; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3608–3609, 3612–3614, 3616–3617 (under seal); P244 (Aerial image of Potočari marked by KDZ186); P311 (Aerial photograph of Potočari dated 13 July 1995 marked by KDZ186); P414 (Photograph of White House); P3959 (Photograph of the UN Compound and White House). See also P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 32; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2720, 2804; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), e-court p. 3 (testifying that she heard from her mother in law that her father in law tried to get on a bus but Bosnian Serb soldiers separated him and told her mother in law that he would come later, but that she has never seen him since).

<sup>16615</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 25 (further stating that the Bosnian Muslims “looked at me with death in their eyes, like they thought they would not survive that day”).

<sup>16616</sup> KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3611 (under seal). **(#Deadly combination#! A 92bis evidence, the Defence didn't have any chance to challenge it!)**

<sup>16617</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), paras. 32, 35–36, 46. See Adjudicated Fact 1574. See also Johannes Rutten, T. 22045 (28 November 2011); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 172; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 81. The Chamber notes that in his Final Brief, citing the testimony of Srblislav Davidović and Ljubisav Simić, the Accused asserts that no Bosnian Muslims were forced onto buses. Defence Final Brief, para. 2432. The Chamber recalls that Davidović testified that the boarding process “seemed voluntary” and that no coercion was used. Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9326. Similarly, Simić stated that “as far as [he] was able to see”, no one was forced to board the buses. Ljubisav Simić, T. 37265–37266 (16 April 2013). However, the Chamber notes that Simić became evasive when pressed as to whether Bosnian Muslims would have been free to return to the enclave. Ljubisav Simić, T.

crowd.<sup>16619</sup> **(This is a #notorious lie,# since there was quite opposite situation: people #desperately tried not to be left, and therefore there had to be maintained order. If a few of the suspects wanted to escape, that is another matter, but all the video materials and all evidences said opposite!)**

5096. At one point, outside the UN Compound, Karremans saw Mladić, who told him that Aćamović would be responsible for the transportation of the Bosnian Muslims.<sup>16620</sup> Karremans instructed his soldiers to co-ordinate among themselves to provide support to the Bosnian Serb Forces.<sup>16621</sup> **(Would it be so, if the “Serb Forces” were doing an illegal and forceful deportation?#)**

5097. In accordance with Mladić’s instructions at the end of the third meeting at the Hotel Fontana,<sup>16622</sup> at some point on 12 July Davidović and Simić travelled to Potočari with the first batch of bread, water, and medication.<sup>16623</sup> After the same meeting, Popović was also instructed by Mladić to go to Potočari and to distribute bread and water to the Bosnian Muslims.<sup>16624</sup> While members of the Bosnian Serb Forces were distributing these items, Mladić arrived and addressed the crowd.<sup>16625</sup> He told them that anyone wishing to be transported would be transported to Kladanj, and anyone wishing to stay could stay; that women and children would be transported first; and that they would not be harmed.<sup>16626</sup> As Mladić was addressing the crowd, his soldiers distributed bread, water, and sweets.<sup>16627</sup> This scene was filmed.<sup>16628</sup>

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37266 (16 April 2013). Additionally, Davidović stated that he was only in Potočari for two hours on 12 July. Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9209. The Chamber thus does not consider that such evidence directly contradicts the evidence of those who personally observed Bosnian Muslims being physically forced onto buses. Moreover, the Chamber considers that the mere absence of physical force, even if established, would not necessarily negate the forcible nature of the transfer. **Then, #what would be an instrument of force?# How it would be achieved? Why it was signed by the DutchBat officer that everything went OK?**

<sup>16618</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 36; Momir Nikolić, T. 24631 (13 February 2012); P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 26. *See also* Adjudicated Fact 1552.

<sup>16619</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 80; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1257–1258.

<sup>16620</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 74. *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 189–190; P4159 (UNMO Report, 13 July 1995).

<sup>16621</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 74. *See also* P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 51; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 79–80.

<sup>16622</sup> *See* paras. 5069–5070.

<sup>16623</sup> Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9207–9208; Srblislav Davidović, T. 24403 (9 February 2012); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 74. *See also* P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 39; Momir Nikolić, T. 24637 (14 February 2012); Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1962; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1177–1178, 1258; P4165 (Report from the Srebrenica Enclave, 24 July 1995), pp. 5–6.

<sup>16624</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 20. The Bosnian Muslim representatives from the meeting at the Hotel Fontana were supposed to meet Davidović in Potočari and help distribute the aid, but the representatives never arrived. Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9316–9317; Srblislav Davidović, T. 24403 (9 February 2012).

<sup>16625</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 20; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 73; D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 9 (stating that he went to Potočari with Mladić and Krstić). *See also* Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9208; Srblislav Davidović, T. 24404 (9 February 2012). Mladić addressed the crowd again on 13 July, telling them not to panic and that everyone would be evacuated before nightfall. Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1963–1964.

<sup>16626</sup> P4201 (Updated Srebrenica Trial video), Part 2, at 00:24:48–00:28:50; P4202 (Written Compilation Booklet: Srebrenica Trial Video), pp. 252, 254. *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 159; Joseph Kingori, T. 22810 (11 January 2012); P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), p. 2; P194 (Newspaper article entitled “Whitewash of the town has begun”, 21 July 1995), p. 1; P2081 (BBC news report re Srebrenica, with transcript); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9772; P403 (Witness statement of Rahima Malkić dated 17 June 2000), e-court p. 2; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court p. 2; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10.

<sup>16627</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 73; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 40; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2008; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 20; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1177–1178, 1258. *See also* D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 17; D3662 (Video still of Ljubomir

5098. The next morning, boarding of buses resumed in the approximately 15 buses that had arrived and were parked outside the UN Compound, alongside its fence, facing Bratunac.<sup>16629</sup> The same process was followed as members of the Bosnian Serb Forces standing near the buses with dogs separated the Bosnian Muslim men from the rest, and took them to the White House.<sup>16630</sup> Water and food were again distributed to the Bosnian Muslims.<sup>16631</sup> **(But not filmed this time? Therefore, it was a genuine care for this people, not a propaganda.)**

5099. Members of Jahorina Recruits and the Bratunac Brigade MP controlled the boarding of the buses.<sup>16632</sup> Members of the MUP, including Milisav Ilić from the Bratunac SJB, assisted in the task.<sup>16633</sup>

5100. Mladić was present in Potočari on 12 and 13 July, constantly moving around with his staff.<sup>16634</sup> At around 12:50 p.m. on 12 July, Mladić inquired whether buses and trucks had left.<sup>16635</sup> When told that they had left ten minutes earlier, Mladić was pleased, instructing to continue to monitor the situation and adding: “they’ve all capitulated and surrendered and we’ll evacuate them all—those who want to and those who don’t want to”.<sup>16636</sup> Mladić further stated that a corridor towards Kladanj would be open.<sup>16637</sup>

5291. Transportation of women, children, and elderly men to Bosnian Muslim-held territory

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Borovčanin); D3903 (Witness Statement of Mendeljev Đurić dated 26 July 2013), para. 10. In relation to the distribution of supplies, some witnesses stated that the supplies were only distributed while cameras were filming and they were even taken back when the cameras stopped rolling. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 40; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2009. Groenewegen also stated that while he could not recall whether the distribution of bread stopped when filming stopped, he was certain that the distribution was done for purposes of the filming. P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 31. See also P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 41–42. On the other hand, Davidović, Popović, and Borovčanin, who participated in the distribution, refuted these claims. D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 20; Srbišlav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9299, 9315; D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 17. On the basis of this evidence, the Chamber is satisfied that there were instances where the supplies were taken back from the Bosnian Muslims when the filming stopped. The Chamber is also satisfied that, whether food was distributed for the purposes of the cameras which were present or not, the quantities distributed were not such that they could have provided any kind of meaningful relief to the large majority of the population in Potočari.

16628 P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 73; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 40; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2008; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 20; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1177–1178, 1258.

16629 P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 23. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2753–2756; Joseph Kingori, T. 22812 (11 January 2012); P4201 (Updated Srebrenica Trial video), Part 2, at 00:06:15–00:07:02; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 48.

16630 P4201 (Updated Srebrenica Trial video), Part 3, at 00:02:44–00:03:55; KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5756; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 85. See also D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 54; Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T.1964–1966, 1972; P414 (Photograph of White House); Mirsada Malagić, T. 23489 (24 January 2012); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9797–9798; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17944–17945.

16631 D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 54.

16632 D3903 (Witness Statement of Mendeljev Đurić dated 26 July 2013), paras. 9, 12; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17941. See Adjudicated Fact 1578. See also KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17308–17309.

16633 Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9776; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17946–17947. See also Adjudicated Fact 1571.

16634 P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 57; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 108, 117; Albert Rave, T. 22182, 22230 (30 November 2011); P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 20; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 86–87; P3966 (Photograph of Milenko Živanović). See also P393 (Statement of Mejra Mušanović to Tuzla Cantonal Court, 19 June 2000), e-court, p. 9.

16635 P6694 (Intercept of conversation between Ratko Mladić and unknown, 12 July 1995). **Again, there is no audio of this interception??? Many dubious “intercepts” are not obtained by an audio, why?**

16636 P6694 (Intercept of conversation between Ratko Mladić and unknown, 12 July 1995).

16637 P6694 (Intercept of conversation between Ratko Mladić and unknown, 12 July 1995).

5101. Following the boarding process on 12 July, the buses and trucks carrying the Bosnian Muslims from Potočari passed through the Bratunac–Konjević Polje Road, stopping at Tišća, where Bosnian Muslim males who appeared to be older than 14 and younger than 60 or 70 were separated.<sup>16638</sup> The rest of the Bosnian Muslims, accompanied by DutchBat, continued on foot to Kladanj, and onwards to Bosnian Muslim-held territory.<sup>16639</sup> The transportation was suspended in the evening.<sup>16640</sup>
5102. The transportation resumed at 7 or 8 a.m. on 13 July and by approximately 9 a.m., up to 10,000 Bosnian Muslims—most of whom were women, children, and elderly men—had been transported out of Potočari.<sup>16641</sup> Buses continued to depart throughout the day.<sup>16642</sup> As had been done the previous day, Bosnian Muslim women, children, and the elderly were transported to Kladanj, and then to ABiH held-territory in Tuzla,<sup>16643</sup> while the men who had managed to get onboard were again separated and taken off at Tišća.<sup>16644</sup>
5103. On both of these days, stones were thrown at the buses and trucks while en route.<sup>16645</sup> They were stopped several times; Bosnian Serb soldiers entered the bus, threatened the passengers with knives and asked for foreign currency.<sup>16646</sup> From the bus,

<sup>16638</sup> Pieter Boering, T. 22148–22149 (30 November 2011) (testifying that DutchBat was not allowed to follow them); Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2021. See also P392 (Statement of Semija Suljić to Tuzla Cantonal Court, 17 June 2000), e-court p. 8; P393 (Statement of Mejra Mušanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 9; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court p. 2; Adjudicated Fact 1582.

<sup>16639</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2726–2727; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović*), T. 2024–2025; Pieter Boering, T. 22149 (30 November 2011); P404 (Witness Statement of Samila Salčinović to Tuzla Cantonal Court, 18 June 2000), e-court p. 13; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3620 (under seal); P392 (Statement of Semija Suljić to Tuzla Cantonal Court, 17 June 2000), e-court p. 8; P393 (Statement of Mejra Mušanović to Tuzla Cantonal Court, 19 June 2000), e-court, p. 9. See also P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 82; P5112 (Report of Bratunac Brigade to Drina Corps, 12 July 1995), para. 7; Adjudicated Facts 1573, 1583, 1584.

<sup>16640</sup> Momir Nikolić, T. 24639 (14 February 2012); D1972 (UNMO report, 12 July 1995); P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 79; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 111; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 41; P4939 (Report of Sarajevo RDB, 12 July 1995), p. 1.

<sup>16641</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 113; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 23; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 193; P4158 (Fax from UN Military Observer to UNPROFOR, 13 July 1995). See also P4939 (Report of Sarajevo RDB, 12 July 1995), p. 1; Dragan Kijac, T. 44351 (3 December 2013); P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 83; D1972 (UNMO report, 12 July 1995); P5112 (Report of Bratunac Brigade to Drina Corps, 12 July 1995), para. 7; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9844–9845, 9775–9776; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17933, 17942–17943; P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995).

<sup>16642</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 116; P4175 (Witness Statement of Robert Franken dated 15 January 2012), paras. 83, 98; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 51; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 48; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2753–2756; Joseph Kingori, T. 22812 (11 January 2012); P4201 (Updated Srebrenica Trial video), Part 3, at 00:06:15–00:07:02; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9798. At some point on 13 July, Vasić estimated that about 15,000 Bosnian Muslims remained to be transported. P4942 (Report of Zvornik CJB, 13 July 1995).

<sup>16643</sup> KDZ064, T. 1294 (21 April 2010), T. 1423 (22 April 2010); KDZ064, P768 (Transcript from *Prosecutor v. Popović et al.*), T. 644–645, 789–790 (under seal); Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1981–1982; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2756–2757; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), e-court p. 2; P396 (Statement of Hafiza Salihović to Tuzla Cantonal Court, 17 June 2000), e-court p. 11; KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5756–5757; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), e-court p. 3; P401 (Statement of Šehra Ibišević to Sarajevo Cantonal Court, 21 June 2000), e-court pp. 8–9. See also Adjudicated Facts 1573, 1583; P3948 (Witness statement of Johannes Ruten dated 8 November 2011), paras. 84, 105; P391 (Witness statement of Hafiza Salihović dated 17 June 2000), e-court p. 2; P391 (Statement of Hafiza Salihović to Tuzla Cantonal Court, 17 June 2000), e-court p. 9; P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P397 (Statement of Razija Pašagić to Tuzla Cantonal Court, 15 June 2000), e-court p. 10; P395 (Witness statement of Behara Krdžić dated 16 June 2000), e-court p. 2; P395 (Statement of Behara Krdžić to Tuzla Cantonal Court, 16 June 2000), e-court p. 8. The vehicles carrying Bosnian Muslims to Tuzla were again stopped by soldiers; they took money and valuables from the Bosnian Muslims; they also took two Bosnian Muslim girls who were not seen again. P401 (Statement of Šehra Ibišević to Sarajevo Cantonal Court, 21 June 2000), e-court p. 8.

<sup>16644</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1258–1259, 1261; KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3426–3427. See also Adjudicated Fact 1582. As to the fate of the separated men, see Section IV.C.1.d.v.c: Transportation of women, children, and elderly men to Bosnian Muslim-held territory.

<sup>16645</sup> KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5756–5757; Momir Nikolić, T. 24638 (14 February 2012); Adjudicated Fact 1581. Some village residents taunted the passengers with the three-fingered Serb salute. See Adjudicated Fact 1581.

<sup>16646</sup> Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1975–1976. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2723–2724.



one witness saw a long column of men walking through the woods, with their hands tied behind the nape of their neck.<sup>16647</sup>

5104. The vehicles were escorted by Bratunac Brigade MP members and/or members of the SJB.<sup>16648</sup> Members of the Bratunac Brigade regulated traffic as the buses passed through Bratunac on their way to Konjević Polje.<sup>16649</sup> Kosorić also escorted the vehicles.<sup>16650</sup> On 13 July, the transportation of the remaining Bosnian Muslims was mainly organised by the MUP as the VRS was continuing operations towards Žepa.<sup>16651</sup>

5105. In an attempt to have some control over the transportation, DutchBat organised for the convoy to be escorted.<sup>16652</sup> At one point, DutchBat cars were stopped and Bosnian Serb Forces threatened them with weapons.<sup>16653</sup> Approximately 16 jeeps, as well as the weapons, flak jackets, helmets, ammunition, and equipment in the vehicles were stolen from DutchBat on the road from Bratunac to Konjević Polje and Kladanj.<sup>16654</sup>

5106. On both 12 and 13 July, while travelling from Konjević Polje to Milići en route to Kladanj, Egbers saw a few hundred men near the road to Nova Kasaba who were being escorted by members of the Bosnian Serb Forces to a football field; there, he saw the men kneeling with their hands behind their necks.<sup>16655</sup> On 13 July, while Bosnian Muslims on trucks and buses from Potočari were passing by a meadow near Sandići, they saw a large group of men sitting by the road and a soldier with a rifle guarding them.<sup>16656</sup>

5107. By 8 p.m. on 13 July, the transportation was completed.<sup>16657</sup> Personal belongings of the Bosnian Muslims who had left were strewn everywhere in Potočari.<sup>16658</sup> A UNHCR convoy, which was supposed to arrive earlier, came in when the last Bosnian Muslims had left Potočari.<sup>16659</sup>

**5108. In total, up to 30,000 Bosnian Muslims were transported from Potočari to Bosnian Muslim-held territory between 12 and 13 July.<sup>16660</sup> (And #12 to 15,000 were in woods, while at least 10,000 soldiers of 28 Division reached Tuzla??? Even if there was all 42,000 people, #there would not rest too many for an execution.#)**

<sup>16647</sup> Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1976–1977.

<sup>16648</sup> Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17935.

<sup>16649</sup> See Adjudicated Fact 1579.

<sup>16650</sup> Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2020–2021; D3562 (Witness statement of Svetozar Kosorić dated 27 February 2013), para. 10.

<sup>16651</sup> P4942 (Report of Zvornik CJB, 13 July 1995). See also P4073 (Order of Drina Corps, 13 July 1995), pp. 2, 4.

<sup>16652</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96; Momir Nikolić, T. 24631 (13 February 2012). See also Adjudicated Facts 1576, 1584; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 79; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2020; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2720, 2803–2804; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 96.

<sup>16653</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), paras. 83–84; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 102–104. See Adjudicated Fact 1584.

<sup>16654</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 84; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 119; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2753–2755. See Adjudicated Fact 1585. See also Albert Rave, T. 22182 (30 November 2011) (testifying that Mladić had told him that “irregular troops” were responsible).

<sup>16655</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2724–2726, 2749, 2756; P210 (Photograph of football field near Nova Kasaba). See also Section IV.C.1.e.iii.C: Nova Kasaba football field.

<sup>16656</sup> Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1977–1978, 1981; KDZ071, T. 28541 (4 May 2012). See Section IV.C.1.e.iii.B: Sandići Meadow.

<sup>16657</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 116; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 98; P166 (Drina Corps report, 13 July 1995). See Adjudicated Fact 1586.

<sup>16658</sup> P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 31.

<sup>16659</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 196; P4160 (UNMO Report, 13 July 1995).

<sup>16660</sup> See para. 5076; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 116; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 86; Adjudicated Fact 1575.



(D) Detention of the separated Bosnian Muslim men at the White House and transportation to Bratunac

5109. As noted above, Bosnian Muslim men and boys were separated by members of the Bosnian Serb Forces and taken to the White House.<sup>16661</sup> Boys as young as 12, some even younger, were separated.<sup>16662</sup> The separations continued throughout 12 and 13 July.<sup>16663</sup> According to Momir Nikolić, approximately 300 to 500 men and boys were separated, amounting to between 600 and 700 in two days.<sup>16664</sup> **(#But none of those boys had ever been recovered from the mass graves?!#! What happened with them? They either weren't captured, or they hadn't been killed!)** There was a lot of fear among the males and the family they were leaving behind.<sup>16665</sup> As Bosnian Muslim men protested against their separation from their families,<sup>16666</sup> Janković told them they had no reason to be concerned and that “everything would be all right”. He also said that the men would join their families later.<sup>16667</sup> **(#Double-triple counting#! As it happened always in past. This is obvious, adding those that reached Batkovic, and those that had been allowed to**

<sup>16661</sup> See paras. 5095, 5098. Defence witnesses, such as Popović, suggested that the men were not separated in Potočari. D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 24. Borovčanin stated that during his brief stay in Potočari, he did not see any separation of men. D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 19. Đurić also claimed that when he was in Potočari on 12 and 13 July, he did not know of or see the separation of men from their families. D3903 (Witness Statement of Đurić dated 26 July 2013), para. 13; Mendeljev Đurić, T. 42086–42097 (29 July 2013). See also Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9324. In light of the Chamber’s view that these witnesses’ testimony on this point was marked by insincerity and evasiveness, as well as overwhelming contradictory evidence, the Chamber does not consider their evidence reliable and will not place weight on it. Furthermore, Popović’s testimony is directly contradicted by the contemporaneous report he sent to the VRS Main Staff, in which he stated: “[W]e were separating men from 17–60 years of age and we were not transporting them”. P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2. With regard to P4388, which bears Popović’s typed-signed signature, the Chamber notes that Popović claimed that the report had been drafted by Momir Nikolić from the Bratunac Brigade Command, and that he had only read it at the Drina Corps Command the next day. D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 27; Vujadin Popović, T. 43028–43032, 43037–43038 (5 November 2013) (asserting that the number appearing in the heading of the report was not his own but Nikolić’s and that ‘there is no point’ for Popović to send such a document to his department in the Drina Corps). Popović further testified that he was working on urgent matters—reviewing documents seized from the MUP building in Srebrenica—at the Bratunac Brigade Command at the time the document was sent, claiming that he was at the command without Momir Nikolić’s knowledge. Vujadin Popović, T. 43032–43034 (5 November 2013). The Chamber considers that Popović’s evidence on this point is evasive and unreliable. The Chamber is satisfied that Popović drafted and sent P4388.

<sup>16662</sup> KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5754–5755, 5763–5765; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 170; Christine Schmitz, T. 26843–24844 (26 March 2012); P395 (Witness statement of Behara Krdžić dated 16 June 2000), e-court p. 2; P395 (Statement of Behara Krdžić to Tuzla Cantonal Court, 16 June 2000), e-court p. 8; P401 (Statement of Šehra Ibišević to Sarajevo Cantonal Court, 21 June 2000), e-court p. 8; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 49; Johannes Rutten, T. 22046 (28 November 2011); P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 25. See also Joseph Kingori, T. 22938–22939 (13 January 2012); P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court pp. 2–3; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3608, 3611 (under seal); P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 43.

<sup>16663</sup> Adjudicated Fact 1550; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 113; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 56; Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1966, 1972; P414 (Photograph of White House); Mirsada Malagić, T. 23489 (24 January 2012); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9797; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17944; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2749–2750; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1178–1179, 1251–1255. See also P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 82; KDZ070, P340 (Transcript from *Prosecutor v. Popović et al.*), T. 3425 (under seal); P300 (Sketch drawn by KDZ070) (under seal); KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3460; P404 (Witness statement of Samila Salčinović dated 18 June 2000), e-court p. 2; P397 (Statement of Razija Pašagić to Tuzla Cantonal Court, 15 June 2000), e-court p. 10.

<sup>16664</sup> Momir Nikolić, T. 24640 (14 February 2012). Although Popović informed the VRS Main Staff on 12 July that “about 70” men had been separated so far, Nikolić stated that the number was higher than 70 and estimated that between 350 and 400 men were singled out on 12 July 1995. Momir Nikolić, T. 24640–24641 (14 February 2012); P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2.

<sup>16665</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 160; KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3611 (under seal).

<sup>16666</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9786.

<sup>16667</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9786–9787. Members of the Bosnian Serb Forces told DutchBat that the separation was necessary in order to find out whether there were soldiers among the men. P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 98; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 163

**pass through the corridor, only those that had been available to the certain members of the VRS were killed, not all that had been available to the RS organs!)**

5110. Armed VRS soldiers of the 10<sup>th</sup> Sabotage Detachment and the 65<sup>th</sup> Protection Regiment forced the males to leave their personal belongings, which were piled about 30 to 40 metres from the White House alongside the road.<sup>16668</sup> The belongings included the men's ID cards, the money they had in their pockets, their wallets, luggage, clothing, and other valuables.<sup>16669</sup> **(#Personal belongings – not executed!# So, as the Defence asserted, those recovered who had the stuff that usually had been taken from them, (see: Popovic's instruction on procedure with POW-s of 15 April 1995, D2243, certainly weren't been a POW-s prior to their death. D2243:**

We received a telegram strictly confidential number 18/20-145-1/94 dated 01.04.1994. from the VRS /Army of the Republika Srpska/ Security Administration.

The telegram outlines in detail the procedure during the detention or arrest of persons violating rules and regulations. We submit to you the instructions in full. Inform military police units with the instruction and act upon the provisions listed.

“Based on the information we received negligent behaviour has been noticed towards POWs from the moment they are captured to the moment they are taken to the “Batković” collection centre or to another place of detention, as well as during the detention itself.

1. All prisoners, members of the enemy army are to be handcuffed or their hands tied with anything available immediately after their capture. They are to be searched and all items are to be seized apart from their clothing and footwear. An official record is to be compiled. After the search, they are to be blindfolded at the place of detention prior to being lead away in order to prevent them from observing anything.

**So, for the reason of security of POWs, as well as the VRS, these measures had been prescribed, and that was why some of them did have a blindfolds, and those who had personal belongings with themselves – certainly died without being captured!)**

5111. At the very moment the transportation of women, children, and the elderly started, Mladić told Franken that he wanted to interrogate the men aged between about 16 and up to 60, as they were potential soldiers, and to check “whether there were war criminals”.<sup>16670</sup> Rave asked Mladić about the separation of Bosnian Muslim men, to which Mladić responded that the VRS was trying to find out if there were soldiers among the men; if so they would be separated, be made POWs, brought to a prison camp in the vicinity of Bijeljina, and exchanged for Bosnian Serb POWs.<sup>16671</sup> **(A “prison camp in the vicinity of Bijeljina was called Batkovic, and #had always been under to ICRC surveillance! Therefore, not a clue about Zvornik or any other place!)**

5112. On both 12 and 13 July, Momir Nikolić came to the UN Compound to verify the list of the people in the UN Compound against the one he had in order to check whether

<sup>16668</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 87; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 98, 102; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 156; Johannes Rutten, T. 22039–22042 (28 November 2011); Joseph Kingori, T. 22813 (11 January 2012); P4201 (Updated Srebrenica Trial video), Part 3, at 00:09:54; Momir Nikolić, T. 24631–24633 (13 February 2012). See also Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9783, 9832.

<sup>16669</sup> Momir Nikolić, T. 24631–24632 (13 February 2012); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 174–175; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 55, 63, 89; Johannes Rutten, T. 22044 (28 November 2011). See also Adjudicated Fact 1666.

<sup>16670</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 86. See also P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 49.

<sup>16671</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 109.

there were any Bosnian Muslim soldiers inside.<sup>16672</sup> No effort was made thereafter to distinguish the soldiers from the civilians.<sup>16673</sup> Momir Nikolić himself testified that there was no process to identify and separate the men who were suspected of having committed war crimes, stating that “most of [the men] shouldn’t have been separated out for any military reason”.<sup>16674</sup>

5113. The White House was guarded by members of the Bosnian Serb Forces, some of whom had German Shepherd dogs.<sup>16675</sup> There was no space inside the house.<sup>16676</sup> Every room was filled with males who were very frightened.<sup>16677</sup> No food or water was provided.<sup>16678</sup> Some detainees were interrogated at the house.<sup>16679</sup>

5114. On 12 July, Kingori confronted Mladić about the men detained in the White House.<sup>16680</sup> Mladić responded that the men “were very comfortable” there.<sup>16681</sup> Mladić then took Kingori to the house, which Kingori saw from outside was overcrowded.<sup>16682</sup> Regardless of Kingori’s protest about the conditions, Mladić insisted that the Bosnian Muslim men were fine.<sup>16683</sup> At that time, a soldier started distributing beer, sweets, and soft drinks, while filming at the same time.<sup>16684</sup> Mladić did not explain to Kingori why the men were separated nor did he allow Kingori to go inside, but instead repeated that they were okay.<sup>16685</sup>

5115. Also on the same day, DutchBat received reports that the Bosnian Muslim men detained in the White House were treated badly.<sup>16686</sup> Franken sent patrols of DutchBat

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<sup>16672</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 160, 187. *See also* Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1951–1952 (noting that she saw soldiers looking for men in the UN Compound); Joseph Kingori, T. 22936–22937 (13 January 2012); Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 18036 (noting that he heard rumours that there was a list of war criminals and that there was going to be an investigation in order to find out whether any of the Bosnian Muslims in Potočari were on that list). On 12 July 1995, Tolimir instructed to his subordinate intelligence and security organs, including the Bratunac Brigade organs, to record the names of “all men fit for military service who are being evacuated from the UNPROFOR base in Potočari.” P4940 (Command Intelligence Report of Drina Corps, 12 July 1995), p. 2. The Bratunac Brigade had prepared a list, dated 12 July, of 387 suspected Bosnian Muslim war criminals in the Srebrenica enclave. Adjudicated Fact 1547.

<sup>16673</sup> Adjudicated Fact 1549.

<sup>16674</sup> Momir Nikolić, T. 24642–24643 (14 February 2012). *See also* Momir Nikolić, T. 24646 (14 February 2012).

<sup>16675</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 46; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2012–2013; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 56. *See also* P4201 (Updated Srebrenica Trial video), Part 2, at 00:24:02–00:24:28; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 158.

<sup>16676</sup> Joseph Kingori, T. 22814 (11 January 2012); P4201 (Updated Srebrenica Trial video), Part 3, 00:10:53; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1178–1179. *See also* Joseph Kingori, T. 22937–22938 (13 January 2012); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 57. The UNMOs tried to tell the command of the Bosnian Serb Forces that the crowding of the men who were being placed in the White House without food or water was not right. Joseph Kingori, T. 22812–22813 (11 January 2012).

<sup>16677</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2886–2887.

<sup>16678</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17311.

<sup>16679</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 87; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 98; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2012, 2015, 2018. *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 153; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), e-court p. 3; P398 (Statement of Saliha Osmanović to Tuzla Cantonal Court, 19 June 2000), e-court p. 10; KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14818–14819 (under seal). Although the Bosnian Muslim men were told that they would be interrogated and brought to Tuzla, no interrogations took place. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1179, 1251–1252. *See also* Svetozar Kosorić, T. 38708–38709 (23 May 2013) (stating that he was unaware whether the detainees were interrogated during 12 and 13 July 1995).

<sup>16680</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 154.

<sup>16681</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 154.

<sup>16682</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 154. *See also* P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 191; P4201 (Updated Srebrenica Trial video), Part 3, at 00:05:43–00:10:20; Joseph Kingori, T. 22806 (11 January 2012).

<sup>16683</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 154. *See also* Joseph Kingori, T. 22806 (11 January 2012).

<sup>16684</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 154–155. *See also* Joseph Kingori, T. 22806–22807 (11 January 2012); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 40.

<sup>16685</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 154; Joseph Kingori, T. 22807 (11 January 2012). *See also* KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17312–17313.

<sup>16686</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 89.

soldiers in the course of the afternoon but they were blocked by Bosnian Serb soldiers and could not go to the White House.<sup>16687</sup> Franken informed Janković of this incident but Janković said that the Bosnian Muslim men were “POWs”.<sup>16688</sup> DutchBat received reports that the treatment of the Bosnian Muslim men in the White House was getting worse.<sup>16689</sup> Franken made a list of men who were still present in the UN Compound.<sup>16690</sup> In total, 251 men were registered.<sup>16691</sup> Franken sent the list up the chain of command in an effort to safeguard their lives; he also told Janković that the Bosnian Muslim men were registered and that the names were known within the UN and the Dutch government.<sup>16692</sup> **(Where is the list?)**

5116. On 13 July, Rutten and his colleague were able to enter the house, and saw what looked like an “interrogation room”, although they could not enter the room as members of the Bosnian Serb Forces threatened them with weapons.<sup>16693</sup> The rooms upstairs were filled with around 50 Bosnian Muslim men aged between 45 and 55, and some boys around 12 to 14 years-old.<sup>16694</sup> **(According to the forensic findings, these “boys” hadn’t been recovered from the graves, which only means that #either the hadn’t been a “boys” – or hadn’t been killed!#)** Later on, Rutten went to the White House again while he was waiting for the last buses carrying the Bosnian Muslim civilians to leave; the house itself and the balcony were completely filled with Bosnian Muslim males;<sup>16695</sup> they were about 300.<sup>16696</sup> There was total fear on their faces.<sup>16697</sup>

5117. Starting in the afternoon of 12 July and continuing throughout 13 July, while the transportation of women, children, and the elderly on buses was in progress, the men detained at the White House were taken out, boarded onto buses, and transported to Bratunac.<sup>16698</sup> The Bratunac Brigade MP members assisted the transportation.<sup>16699</sup>

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<sup>16687</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 89.

<sup>16688</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 89.

<sup>16689</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 89.

<sup>16690</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 91. *See* Adjudicated Facts 1513, 1514. *See also* P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 115.

<sup>16691</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 91 (noting that of the men inside the UN Compound, about 60 to 70 refused to be registered); P4181 (Handwritten list of names); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 115.

<sup>16692</sup> *See* Adjudicated Fact 1513; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 91. *See also* P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 115.

<sup>16693</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 59, 61–62 (noting that they were wearing green camouflage uniforms). Two Bosnian Serb soldiers were sitting behind the house and would not let Rutten and his colleague go further. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 60.

<sup>16694</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 64; Johannes Rutten, T. 22046 (28 November 2011). Rutten took several pictures of them in both rooms. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 64. Rutten kept the film of the pictures he took at the White House and of the bodies that he found until he returned to The Netherlands after 21 July 1995; on 23 July 1995, a member of the Dutch Army’s intelligence branch picked up the film, and Rutten was later informed that “something happened to the film during the development process”. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 101. **But the #Defence was prevented, the day after testimony, to tender a completely different evidence, saying that the Dutch Ministry of Defence destroyed it deliberately. Could we tender it now?#**

<sup>16695</sup> Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18770–18771; P666 (Video footage of White House – Studio B version and original version); at 00:02:30. Petrović-Piročanac commented that the men shown in this footage were suspected criminals who had attempted to get onto the convoys, although he stated that that information could have been rumour. Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18771–18772.

<sup>16696</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 90.

<sup>16697</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 91.

<sup>16698</sup> Adjudicated Fact 1664; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17313–17315, 17379; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 51–52, 92–93; P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 56; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 28; KDZ265, P367 (Transcript from *Prosecutor v. Krstić*), T. 5756; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1178; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2886–2887; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 88; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 100. *See also* KDZ070, P340 (Transcripts from *Prosecutor v. Popović et al.*), T. 3425 (under seal); Adjudicated Facts 1663, 1665; P4167 (Witness statement of Paul Groenewegen



DutchBat tried to escort the buses but they were prevented from doing so.<sup>16700</sup> On 12 July alone, between 10 and 15 buses with about 70 men onboard each left Potočari for Bratunac.<sup>16701</sup> Mladić was seen standing with two other soldiers next to one of the buses on which men were forced to board.<sup>16702</sup>

5118. When the men came out of the White House, they were frightened, tried to escape, started screaming, and did not want to go into the buses and trucks.<sup>16703</sup> The men were hit and kicked, and were forced to keep their heads down.<sup>16704</sup> They were then crammed into the vehicles,<sup>16705</sup> and were not allowed to take their belongings.<sup>16706</sup>

5119. From the evening of 13 to 14 July 1995, all the personal belongings and IDs of the Bosnian Muslim males held at the White House were set on fire by Bosnian Serb Forces.<sup>16707</sup>

(E) Presence and involvement of the Bosnian Serb Forces

5120. During 12 and 13 July, the following members of the Bosnian Serb Forces were on the ground in Potočari, and oversaw and/or assisted the boarding and transportation of women, children, and the elderly, as well as the separation of men, their detention, and the subsequent transportation to Bratunac: (i) from the VRS, Mladić; Janković; members of the 65<sup>th</sup> Protection Regiment; members of the 10<sup>th</sup> Sabotage Detachment; Drina Corps officers, including Živanović, Krstić, Popović,<sup>16708</sup> Kosorić, Aćamović, and Krsmanović; members of Drina Wolves; members of the Drina Corps MP Battalion; and members of the Bratunac Brigade, including its 2<sup>nd</sup> and 3<sup>rd</sup> Battalions as well as Momir Nikolić, and the brigade's MP;<sup>16709</sup> (ii) from the MUP, members of the SBP, including Borovčanin; members of the Jahorina Recruits, including Jević and Đurić,<sup>16710</sup> a MUP special unit with dogs; members of the Bratunac SJB; members of the Zvornik RDB; and SDB operatives.<sup>16711</sup>

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dated 11 November 2011), para. 56; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17934, 18038; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9804–9805.

<sup>16699</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9804–9807; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T.18016–18017.

<sup>16700</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 51–52, 93; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 88. See para. 5105.

<sup>16701</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9786; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17933, 17942–17944. See also Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2886–2887; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 100.

<sup>16702</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17314.

<sup>16703</sup> KDZ186, P357 (Transcript from *Prosecutor v. Popović et al.*), T. 3617–3619 (under seal); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 99. See also P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 176–177.

<sup>16704</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 99–100.

<sup>16705</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 100. See also Adjudicated Fact 1664.

<sup>16706</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 173; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević*), T. 9783. See also Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1966; Mirsada Malagić, T. 23489 (24 January 2012).

<sup>16707</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 100; P4183 (Photograph of burning personal belongings at Potočari); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 66; P3961 (Photograph of burning personal belongings); Johannes Rutten, T. 22040–22042, 22045, 22051 (28 November 2011). See also Adjudicated Fact 1667.

<sup>16708</sup> In the vicinity of the house, Rutten saw someone who was “not a plain soldier”, was seemingly in charge, and was giving orders to other Bosnian Serb soldiers there, and he later identified that person as Popović. P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 58, 95–99; P3967 (Video still of Vujadin Popović).

<sup>16709</sup> D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), paras. 6, 8; Momir Nikolić, T. 24640–24641, 24650–24651 (14 February 2012); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 162. See also Adjudicated Facts 1551, 1553. But see Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 18015, 18017–18019, 18021 (indicating that that the Bratunac Brigade MP did not participate in the separation of the Bosnian Muslims on 12 July).

<sup>16710</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14819, 14879 (under seal) (Jević was standing in front of the White House). Đurić disputed having participated in the separations of persons in Potočari on 12 or 13 July 1995 and denied any knowledge of property of documents being taken from civilians in Potočari at that time. D3903 (Witness Statement of Mendeljev Đurić dated 26 July 2013), para. 13. In this regard, the Chamber recalls Janjić's testimony that members of the MUP “Special Police” were dividing the



(F) Evacuation of the wounded and the sick

5121. While the Bosnian Muslims were moving from Srebrenica to Potočari, DutchBat and MSF staff evacuated some of the patients in the Srebrenica Hospital to Potočari.<sup>16712</sup> All the international and most local MSF staff also moved to Potočari.<sup>16713</sup>
5122. In the early afternoon of 12 July, Nicolai updated Gvero, informing him about the “matter of the evacuation of the refugees from Srebrenica to another area”.<sup>16714</sup> **(Not vice versa!?! Therefore, the #UN advocated and requested the evacuation, as Karremans said!)** Nicolai told Gvero that he was arranging an air evacuation of the wounded, that a formal request for helicopters would be made to the VRS, and requested Gvero to instruct VRS soldiers to co-operate.<sup>16715</sup> Gvero objected, noting that using helicopters was impermissible due to security reasons and that the VRS had already offered their hospitals for treating the wounded.<sup>16716</sup> **(Appart from wounded, #Nicolai was talking about the refugees from Srebrenica, not Gvero#. Therefore, this is another proof that there can not be a word about “deportation”! as al;ready known, #Ambasador Akashi urged the UN HQ to help in evacuation, as well as the Dutch Government!)**
5123. At one point on 12 July in Potočari, Franken met Radoslav Janković, who was tasked with organising and co-ordinating DutchBat’s withdrawal from the Srebrenica enclave.<sup>16717</sup> That day, MSF staff were informed about Mladić’s intention to start the “evacuation” of the wounded and sick.<sup>16718</sup> DutchBat conducted the first medical evacuation around 6 p.m. that evening.<sup>16719</sup> Some patients and local MSF staff who accompanied them were allowed to travel to Kladanj, while others were forced to return to

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Bosnian Muslims into groups, and that he saw Mane Đurić near that location. Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9779–9780; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17937–17938, 17941. Having considered all of the relevant evidence, the Chamber finds that Đurić participated in the separations of the men and their subsequent detention.

- <sup>16711</sup> Momir Nikolić, T. 24625–24630 (13 February 2012), T. 24641 (14 February 2012); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 21; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 76; P4180 (Video still of Radoslav Krstić); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 162; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 100; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17311; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9763–9764, 9794–9795, 9779–9780; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17937–17938, 17940–17941, 17964–17965; P227 (Photographs showing (i) Radoslav Krstić and Mile Janjić, and (ii) Mendeljev Đurić); Adjudicated Facts 1551, 1553, 1554, 1555, 1556, 1557, 1558, 1560, 1561, 1562, 1572, 1578. See para. 5110. With regard to the state security’s involvement in the separation of men, Momir Nikolić confirmed that state security operatives gained information about the column that is reflected in the Sarajevo State Security Service Report of 13 July from interrogating the separated Bosnian Muslim men. Momir Nikolić, T. 24649–24650 (14 February 2012); P4389 (Report of Sarajevo RDB, 13 July 1995), p. 1. See also Momir Nikolić, T. 24628–24629 (13 February 2012); P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2. Milinić disputed the veracity of Popović’s report, claiming that the state security and VRS security organs never worked together, as stated in P4388. Gordan Milinić, T. 39779–39780 (12 June 2013). Similarly, Dragan Kijac testified that to the best of his knowledge the state security operatives did not participate in any interviews in Potočari, but he conceded that interviews took place at the Bratunac SJB. Dragan Kijac, T. 44331–44336 (3 December 2013). Having assessed the totality of the evidence before it, the Chamber rejects the testimony of Milinić and Kijac and is satisfied that state security operatives were indeed involved in the separation of men.
- <sup>16712</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2716–2717; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 31–32; Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 1940.
- <sup>16713</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 32.
- <sup>16714</sup> P4542 (Record of conversation between General Nicolai and General Gvero, 12 July 1995), p. 1; P5282 (Intercept of conversation between General Milan Gvero and General Nicolai, 12 July 1995).
- <sup>16715</sup> P4542 (Record of conversation between General Nicolai and General Gvero, 12 July 1995), pp. 1.
- <sup>16716</sup> P4542 (Record of conversation between General Nicolai and General Gvero, 12 July 1995), pp. 1–2; P5282 (Intercept of conversation between General Milan Gvero and General Nicolai, 12 July 1995). Nicolai also suggested that he and the VRS authorities meet regarding the conditions of evacuation of DutchBat “only after their support to the refugees in Srebrenica”. P4542 (Record of conversation between General Nicolai and General Gvero, 12 July 1995), p. 2.
- <sup>16717</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 76; P4179 (Photograph of Col. Radislav Janković).
- <sup>16718</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 44; Christine Schmitz, T. 26849 (26 March 2012).
- <sup>16719</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 47; Christine Schmitz, T. 26875 (26 March 2012); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 110.

Bratunac.<sup>16720</sup> The next day, the convoy was allowed through to Kladanj, from where its members proceeded to Bosnian Muslim-held territory on foot.<sup>16721</sup>

5124. On the morning of 13 July, Aćamović came to the UN Compound and asked for a list of all individuals who would be evacuated with DutchBat, including its local staff, staff from MSF and UNHCR, and interpreters.<sup>16722</sup> Later that afternoon, when wounded people and UNHCR employees, as well as the local and international staffs of MSF and DutchBat, remained inside the UN Compound,<sup>16723</sup> Aćamović collected the list of wounded provided by DutchBat, told DutchBat that there would be a medical evacuation from Bratunac,<sup>16724</sup> and that after all the Bosnian Muslims were gone, DutchBat should assemble its personnel and stay inside the UN Compound.<sup>16725</sup>

5125. Meanwhile, in an attempt to collect patients who had been left behind, MSF staff member Schmitz and Kingori went to the clinic and social centre in Srebrenica with a Bosnian Serb escort, collected a total of six patients, and returned to Potočari.<sup>16726</sup> There, Schmitz was told that the VRS had entered the UN Compound to inspect the patients but had quickly left due to the conditions and smell of the premises.<sup>16727</sup> By 8 p.m., only the wounded remained in Potočari.<sup>16728</sup> The UNMOs and MSF prepared a list of the wounded and sick in the UN Compound.<sup>16729</sup>

5126. On 15 July, DutchBat, the UNMOs, and MSF met with members of the VRS including Momir Nikolić, and gave them the lists of the 55 patients and several escorts in Potočari, as well as the 45 patients in Bratunac.<sup>16730</sup> The next day, representatives of the Main Staff, the ICRC, and the UNHCR agreed that DutchBat would transport the Bosnian Muslim patients from Potočari to the Bratunac Health Centre the next morning, the ICRC would carry out the medical evacuation of the wounded and sick from Bratunac to Tuzla, and the Bratunac Brigade Security Organ was tasked with directing and monitoring the transportation.<sup>16731</sup>

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<sup>16720</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 47. *See also* Christine Schmitz, T. 26875 (26 March 2012).

<sup>16721</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 110.

<sup>16722</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 120.

<sup>16723</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 122.

<sup>16724</sup> Some Bosnian Muslim wounded remained in Bratunac Health Centre. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 101.

<sup>16725</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 121. According to Aćamović, DutchBat's local staff would be permitted to stay. P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 121.

<sup>16726</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 58–59; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 183; Joseph Kingori, T. 22902 (12 January 2012), T. 22956 (13 January 2012); P4166 (MSF telex messages, 9–13 July 1995), p. 5; D2000 (MSF telex messages, 13 July 1995). Kingori stated that the Bosnian Serb soldiers present wanted the patients to be removed from the hospital, threatening they would be killed. P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 185.

<sup>16727</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 60. Around 6 p.m., Schmitz also heard that Mladić wanted to inspect the patients himself. P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 57.

<sup>16728</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 199; P4173 (Witness statement of Roger Patelski dated 30 November 2011), para. 29; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 101; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 63.

<sup>16729</sup> P4140 (Witness statement of Joseph Kingori dated 8 January 2002), paras. 200–201; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 101; P4184 (Handwritten list of 59 names); Robert Franken, T. 23175–23176 (17 January 2012); D2022 (Debriefing Statement to Royal Dutch Army by Robert Franken), p. 3; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 63; P4758 (List of MSF patients, 17 July 1995); Christine Schmitz, T. 26875 (26 March 2012); P4160 (UNMO Report, 13 July 1995); P166 (Drina Corps report, 13 July 1995).

<sup>16730</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 63; Christine Schmitz, T. 26819 (26 March 2012). *See also* P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 101. On the same day, a MSF staff gave a list with the names of MSF local staff to the VRS. Christine Schmitz, T. 26818–26819 (26 March 2012); P4757 (Collection of MSF telex messages, 5–17 July 1995), p. 6.

<sup>16731</sup> D4851 (VRS Main Staff Report, 16 July 1995), pp. 1–2; P5123 (Approval of request by VRS Main Staff re movement of humanitarian organisations, 18 July 1995). *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 64 (recalling that the agreement was reached on 15 July). Miletić reported to the Main Staff that approximately 100 men would be evacuated from Bratunac,

(G) Meeting of VRS, Bosnian Serb civilian officers, and ICRC

5127. On 17 July, a VRS delegation and Bosnian Serb civilian officers came to the UN Compound and met with the ICRC concerning details about the evacuation of the wounded out of Potočari and Bratunac.<sup>16732</sup> The VRS delegation was headed by Janković, who was accompanied by Momir Nikolić, Deronjić,<sup>16733</sup> and a VRS lawyer.<sup>16734</sup> Franken, Rave, and an UNMO named De Haan were present, as was Nesib Mandžić.<sup>16735</sup> Upon Nikolić's insistence that the wounded be inspected to see whether there were still soldiers or "criminals" among them, and regardless of Franken's objection, an inspection was conducted and seven men were identified as soldiers.<sup>16736</sup> He agreed with the ICRC that these men would be treated as wounded POWs and be handed over to the Bosnian Serb Forces.<sup>16737</sup>

5128. At this meeting, the Bosnian Serb representatives brought a declaration outlining the agreement reached at the third Hotel Fontana meeting ("17 July 1995 Statement").<sup>16738</sup> Janković asked Mandžić to sign the statement and requested that Franken attest to the fact that Mandžić was not forced to sign it.<sup>16739</sup> The 17 July 1995 Statement summarised the agreement reached at the third meeting, and read in part:

- that our civilian population could stay in the enclave or move out, depending on the wish of each individual;
- should we wish to move out from the enclave, it was agreed that we could choose where we wanted to go; we decided that the entire population move out of the enclave and be evacuated to the territory of Kladanj municipality;
- it was arranged that the evacuation would be carried out by the Army and Police of the Republic of Srpska and that UNPROFOR would supervise and provide an escort for the evacuation.<sup>16740</sup> **(Here is a #very substantial distortion in interpretation of this document#. This was not an Agreement, this was a statement prepared by the Muslim side and submitted to the other participants. The Muslim head of delegation wrote it in the manner "we, our**

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and that "men fit for military service will be selected and kept in the hospital" in the RS. D4851 (VRS Main Staff Report, 16 July 1995), p. 1.

<sup>16732</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 102; P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 131–132; Adjudicated Fact 1590.

<sup>16733</sup> Rave stated that Deronjić came to the UN Compound on 16 July 1995 to see Karremans, that Deronjić introduced himself to Rave as the new Mayor of Srebrenica, and that he talked about "his connections" and "direct touch" with the Accused. P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 127.

<sup>16734</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 129, 131; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 108; Christine Schmitz, T. 26824–26825 (26 March 2012); P4758 (List of MSF patients, 17 July 1995), p. 10.

<sup>16735</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 131.

<sup>16736</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 103; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 130; P4758 (List of MSF patients, 17 July 1995), pp. 3–8, 10; Christine Schmitz, T. 26823–26824 (26 March 2012). *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 67–68 (noting that the manner in which the interview was conducted was "clearly aggressive and intimidating"); P4758 (List of MSF patients, 17 July 1995), pp. 3–8, 10; Christine Schmitz, T. 26823–26824 (26 March 2012). *But see* P4161 (UNMO Report, 17 July 1995), p. 1 (reporting that the check was "very polite and nothing that could scare the refugees happened").

<sup>16737</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 103.

<sup>16738</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 131; P4175 (Witness Statement of Robert Franken dated 15 January 2012), paras. 104–105.

<sup>16739</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 104. *See also* P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 131.

<sup>16740</sup> P4185 (Declaration by the Civilian Affairs Committee for Srebrenica re: proper implementation of evacuation procedures, 17 July 1995), p. 1. *See also* P3997 (Declaration of RS Civilian Affairs Committee for Srebrenica, 17 July 1995).

**representatives, our civilians. See excerpts from the P4185:**

On 12 July 1995, in the Fontana Hotel in Bratunac, at our request negotiations were conducted between the representatives of our civilian authorities and the representatives of the Republika Srpska civilian authorities and the Army regarding the evacuation of our civilian population from the Srebrenica enclave.

The representatives from our side were: Ćamila PURKOVIĆ, Ibro NUHANOVIĆ and myself, Nesib MANDŽIĆ.

- that our civilian population could stay in the enclave or move out, depending on the wish of each individual;

- should we wish to move out from the enclave, it was agreed that we could choose where we wanted to go; we decided that the entire civilian population move out of the enclave and be evacuated to the territory of Kladanj municipality;

**(Therefore, #it was a unilateral statement by the Muslim civilian representatives, agreed and accepted by the Serb side and the UN officer. The Statement treats the whole operation as an #“evacuation of the civilian population”#, and confirms that everything went out smoothly and in accordance with the Geneva Conventions. At that time all media reported about thousands of civilians executed in Srebrenica, and nobody mentioned POWs that had been executed 80 km far from Srebrenica. Still the UN court keeps that it wasn’t evacuation, but deportation, although even the UN asked the Serb side to facilitate departure of the civilians.**

5129. It also stated that the “evacuation” had been conducted smoothly in accordance with the Geneva Conventions and International Humanitarian Law.<sup>16741</sup> Franken signed the document in order “to ensure that the refugees and wounded [...] and the locals working for the aid organizations could be transported”.<sup>16742</sup> Mandžić and Deronjić also signed both the English and the BCS versions of the declaration.<sup>16743</sup> At around 6:30 p.m. that evening, the Accused received the 17 July 1995 Statement.<sup>16744</sup>

<sup>16741</sup> P4185 (Declaration by the Civilian Affairs Committee for Srebrenica re: proper implementation of evacuation procedures, 17 July 1995), pp. 1–2; P3997 (Declaration of RS Civilian Affairs Committee for Srebrenica, 17 July 1995). See also P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 104. Before signing this declaration, Franken added by hand “as far as convoys actually escorted by UN forces are concerned” to the sentence which reads: “No incidents were provoked by any side during the evacuation and the Serbian side observed all the regulations of the Geneva Conventions and the International Law of War”, in order to “neutralise the whole statement” by indicating that DutchBat had only had control over the first and second convoys, and that Bosnian Muslim men had been separated. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 106. At one point Deronjić told Katanić that he was pleased with the outcome of the meetings as the UNPROFOR representatives and the Bosnian Muslim representative signed a document “stating that Deronjić was not responsible for any possible civilian casualties and that he had done his part of work well.” P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 67. **Regardless of the fact that the UN escorted only second and third convoy, the operation of evacuation comprised boarding on the buses/track too, “taking back” delivered food and all the treatment of civilians. Deronjić must have been satisfied by the assessment of the Dutch officer, since the Accused asked him what it is that media talk about civilians in Srebrenica. And this is a typical distortion, because in the document had been asserted that all the civilians had been evacuated safely, and no mentioning of Deronjić’s conduct.**

<sup>16742</sup> D2022 (Debriefing Statement to Royal Dutch Army by Robert Franken), p. 1. Janković made clear to Franken that the signing would not be “an absolute condition but favour the procedure with the evacuation of the wounded in Bratunac and out of [the UN] Compound”. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 107.

<sup>16743</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 106; P3997 (Declaration of RS Civilian Affairs Committee for Srebrenica, 17 July 1995); P4185 (Declaration by the Civilian Affairs Committee for Srebrenica re: proper implementation of

5130. Also during this meeting, the VRS delegation announced that MSF and DutchBat local staff could leave the enclave with DutchBat.<sup>16745</sup> There were eight MSF local employees, seven able-bodied men, and one female.<sup>16746</sup>

5131. Later that same day, approved by “the state and military leadership of RS”,<sup>16747</sup> and under the supervision of ICRC delegates, all the remaining wounded in the UN Compound were transported in DutchBat trucks to the Bratunac Health Centre, and together with some of the wounded there, they were all transported to Tuzla.<sup>16748</sup> Among the wounded and sick at the Bratunac Health Centre, a number of men were selected as “fit for military service” as POWs, and were not allowed to leave.<sup>16749</sup> They were subsequently taken by the Eastern Bosnia Corps MP to Batković Camp on 18 July, and were among the POWs exchanged at the end of 1995 in the presence of the ICRC.<sup>16750</sup> **(#Those are the POW-s that had been handled as all of them should have been handled. That is why the Accused thought that all of them had been exchanged, and for that reason the Accused responded to the families of the Serb POWs from Ozren and Doboje about a possibility to exchange the Srebrenica POWs for their relatives! See @)**

(H)Withdrawal

5132. On 18 July, a report written by Janković was sent from the Bratunac Brigade to the Main Staff Sector for Intelligence and Security Affairs and the Drina Corps’ corresponding departments, in which Janković and Momir Nikolić stated that the State Security Department informed them of “the view that President Karadžić apparently pardoned all the local staff who worked for UNPROFOR”.<sup>16751</sup> **(#EXCULPATORY!!!)**

5133. On 19 July, Janković and Đurić discussed the transportation of MSF staff.<sup>16752</sup> In response to Janković’s remark that MSF local staff was allowed by the “Koljević government” to leave Potočari, Đurić said that they should be checked to determine

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evacuation procedures, 17 July 1995). *See also* P5188 (Report of Sarajevo RDB, 18 July 1995), p. 1; D2022 (Debriefing Statement to Royal Dutch Army by Robert Franken), p. 1.

<sup>16744</sup> D3977 (Witness statement of Mile Dmičić dated 29 October 2013), para. 17. *See also* para. 5785.

<sup>16745</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 131. *See also* P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 65; P4758 (List of MSF patients, 17 July 1995), p. 10 (including Schmitz’s note that “all local staff amnestied”); Christine Schmitz, T. 26825–26826, 26843 (26 March 2012). *See also* P4161 (UNMO Report, 17 July 1995), p. 1.

<sup>16746</sup> Christine Schmitz, T. 26826–26830 (26 March 2012); P4757 (Collection of MSF telex messages, 5–17 July 1995), p. 8; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 62, 74; P4166 (MSF telex messages, 9–13 July 1995), p. 5; P5262 (Intercept of conversation between Janković and Col. Đurđić, 19 July 1995), pp. 3–5. The local staff members were all issued with ID cards. Christine Schmitz, T. 26820 (26 March 2012). *See also* Christine Schmitz, T. 26832, 26840–26841 (26 March 2012); P4754 (MSF ID card).

<sup>16747</sup> P5188 (Report of Sarajevo RDB, 18 July 1995).

<sup>16748</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), paras. 128, 132; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 69; P4757 (Collection of MSF telex messages, 5–17 July 1995), pp. 10–11; P5188 (Report of Sarajevo RDB, 18 July 1995), p. 1; P4161 (UNMO Report, 17 July 1995), p. 1; P5177 (Report of UNSG, 30 August 1995), para. 50 (noting that the transport was also taken place on 18 July); P5318 (Intercept of conversation between Đurđić and Jelena, 16 July 1995). *See also* P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 107.

<sup>16749</sup> P5188 (Report of Sarajevo RDB, 18 July 1995), p. 1; P5177 (Report of UNSG, 30 August 1995), para. 50. *See also* P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 103 (stating that he had heard from a DutchBat doctor that seven men with whom the doctor had stayed to ensure that they were treated as wounded had disappeared from the Bratunac Health Centre); P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 130; P4161 (UNMO Report, 17 July 1995), p. 1; P5440 (RS Ministry of Defence list of persons exchanged from the Batković Collection Centre, 13 March 2002) (showing that these seven men were transported to Batković and exchanged in 1995).

<sup>16750</sup> P5440 (RS Ministry of Defence list of persons exchanged from the Batković Collection Centre, 13 March 2002). *See* para. 5502.

<sup>16751</sup> P4390 (Report from Bratunac Brigade, 18 July 1995); Momir Nikolić, T. 24683–24684, 24687 (14 February 2012).

<sup>16752</sup> P5262 (Intercept of conversation between Janković and Col. Đurđić, 19 July 1995).



whether they were able-bodied men.<sup>16753</sup> On 20 July, MSF staff learned that they would be allowed to leave the enclave with DutchBat.<sup>16754</sup>

5134. As instructed by the VRS command, at around 9:45 a.m. on 21 July, Karremans and Rave went to Hotel Fontana to finalise the arrangements for DutchBat's withdrawal with Mladić and Janković.<sup>16755</sup> Mladić refused Karremans' request for the return of DutchBat's apprehended military equipment and material.<sup>16756</sup> When Nicolai objected, Mladić threatened that "the entire battalion would walk [out] of the enclave only with their uniforms on".<sup>16757</sup>

5135. As ultimately agreed that morning,<sup>16758</sup> Mladić arrived at the UN Compound at noon.<sup>16759</sup> He drove ahead of the DutchBat convoy, which also included MSF local and international staff as well as UNMOs,<sup>16760</sup> and stopped briefly at the Iron Bridge before crossing the border into Serbia.<sup>16761</sup> Nicolai, Karremans, Mladić, and some other officers were present in the vicinity of the bridge, saluting as the vehicles passed.<sup>16762</sup>

#### 4. Killings

##### (A) Near the UN Compound

5136. The Indictment refers to the killing on or about 12 July 1995 of nine Bosnian Muslim men near the UN Compound in Potočari on the Budak side of the main road.<sup>16763</sup>

5137. On 13 July 1995, DutchBat officers Rutten, Koster, and Van Schaik were patrolling near a blockade created out of four DutchBat APCs in Potočari.<sup>16764</sup> There, the three officers heard from their Bosnian Muslim interpreter of rumours concerning men having been killed "near a well, near the road, on the Budak side" of Potočari.<sup>16765</sup>

5138. Directed by a local woman, the three officers walked up a dirt road towards a small stream until they reached a meadow located behind a house, approximately 80 or 100

<sup>16753</sup> P5262 (Intercept of conversation between Janković and Col. Đurđić, 19 July 1995), pp. 3–5; P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 74 (confirming that those mentioned in this intercept were the MSF local staff still in Potočari at the time).

<sup>16754</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), paras. 75–76 (stating that MSF international staff remained with their local colleagues and five of their relatives after the departure of the wounded).

<sup>16755</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 133.

<sup>16756</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 133 (recalling that Mladić said that the equipment was not available at the moment).

<sup>16757</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 133. Some DutchBat APCs, as well as a few jeeps, some heavy machine guns, and small calibre weapons were indeed taken by the Bosnian Serb Forces during the withdrawal. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 84.

<sup>16758</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 134.

<sup>16759</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 134.

<sup>16760</sup> P4752 (Witness statement of Christine Schmitz dated 21 March 2012), para. 76; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 218.

<sup>16761</sup> P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 134; P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 110. From 13 July until its ultimate withdrawal on 21 July 1995, DutchBat did not have any freedom of movement to leave the UN Compound. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 109; P3995 (Witness Statement of Albert Rave dated 10 November 2011), para. 102. The DutchBat soldiers who had been taken prisoner at the OPs were still being held at—and were eventually released directly from—the Hotel Fontana. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 101.

<sup>16762</sup> P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 110.

<sup>16763</sup> Indictment, Scheduled Killing Incident E.14.1.

<sup>16764</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 68–69, 73; P3958 (Aerial photograph of Potočari) (where Rutten marked the blockade. *See also* (Witness statement of Johannes Rutten dated 8 November 2011), para. 76; P3964 (Aerial photograph of Potočari marked by Johannes Rutten).

<sup>16765</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 68.

metres southwest of the White House.<sup>16766</sup> As they entered the meadow, they saw nine men, all about 45 to 55 years old, in civilian clothes, lying on the ground.<sup>16767</sup> They had all been shot, with bullet holes from small calibre weapons in their backs at heart level.<sup>16768</sup> Rutten could see that the men had been shot recently, as their bodies were still warm, without flies, and with blood still flowing from their wounds.<sup>16769</sup> According to Rutten, the bodies did not appear to have been moved.<sup>16770</sup> The DutchBat officers concluded that the men were executed.<sup>16771</sup> **(#In the middle of a week long combats, there were nine bodies#, without names, without ethnicity, without witnessed of the circumstances of their deaths, and “the DutchBat officers concluded that the were executed”???** **#General Tolimir was acquitted of the charges for this event!#)**

5139. Rutten took a photo of the bodies and told Van Schaik to collect the IDs lying on the grass in front of the bodies.<sup>16772</sup> At that moment shots were fired, and Rutten ordered Van Schaik to drop the IDs.<sup>16773</sup> The three officers then left the area.<sup>16774</sup>

5140. After returning to the UN Compound, Rutten reported the incident to Karremans, who told Rutten that he would report the events up the chain of command.<sup>16775</sup>

**5141.** The Chamber notes the lack of direct evidence indicating that these victims were Bosnian Muslims, or that they were killed by members of the Bosnian Serb Forces. However, the Chamber finds the circumstances in Potočari in July 1995 convincing in this respect. The Chamber notes the proximity of the killing site to Potočari, the presence of Bosnian Serb Forces there on the day in question, and the conclusion by Rutten that the men had been killed recently and that their bodies had not been moved. Accordingly, the Chamber finds that nine Bosnian Muslim men **(How do we know that they had been the Muslim men???** **How do we know that they hadn't been the combat victims, collected at the spot? Any execution in tve vicinity of Potocari couldnt happen unnoticed!)** were killed on 13 July 1995 by members of the Bosnian Serb Forces in a meadow southwest of the White House in Potočari. **In another case (Tolimir) it was #adjudicated opposite. Rutten lied about the film, his Minister informed him that it was destroyed in the interest of the Netherlands. We didn't succeed to tender it, but it exists, and the very next morning the Defence offered it, but wasn't admitted!)**

<sup>16766</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 69, 74–75; P3962 (Sketch drawn by Johannes Rutten); P3958 (Aerial photograph of Potočari); P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 94; P4177 (Photograph of Potočari dated 13 July 1995 marked by Robert Franken). *See also* Adjudicated Fact 1651.

<sup>16767</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 70. *See also* Adjudicated Fact 1651.

<sup>16768</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), paras. 70, 74; Johannes Rutten, T. 22038–22039 (28 November 2011); P3962 (Sketch drawn by Johannes Rutten) (identifying the place where Rutten found the nine bodies); P3958 (Aerial photograph of Potočari) (depicting the location where Rutten found the nine bodies); P3963 (Aerial photograph of Potočari marked by Johannes Rutten); P3964 (Aerial photograph of Potočari marked by Johannes Rutten). *See also* P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 94; Robert Franken, T. 23175 (17 January 2012); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 114; Pieter Boering, T. 22144 (30 November 2011).

<sup>16769</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 70.

<sup>16770</sup> Rutten concluded that the bodies had not been moved after being shot, as there were no marks indicating that they had been transported; Rutten did not conduct an on-site investigation, but Koster and Van Schaik had the same impression. Johannes Rutten, T. 22038–22039 (28 November 2011); P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 70.

<sup>16771</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 94; D2022 (Debriefing Statement to Royal Dutch Army by Robert Franken), p. 2.

<sup>16772</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 71. As mentioned above, although Rutten kept the film until he returned to The Netherlands, it was later lost during the development process. *See* fn. 17335.

<sup>16773</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 72 (stating that he gave the order to drop the IDs because they had to go back through the blockage of APCs and did not feel safe of having documents with them).

<sup>16774</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 72.

<sup>16775</sup> P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 73; P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 94; Robert Franken, T. 23175 (17 January 2012); P3995 (Witness statement of Albert Rave dated 10 November 2011), para. 114.

(B)The White House

5142. The Indictment refers to the killing on or about 13 July 1995 of one Bosnian Muslim man behind a building near the White House in Potočari.<sup>16776</sup>

5143. Paul Groenewegen, a DutchBat soldier, testified that on 13 July 1995, while patrolling near the White House, he was drawn to a situation in which four Bosnian Serb soldiers had surrounded an unarmed Bosnian Muslim man and taken him out of the crowd of refugees.<sup>16777</sup>

**5144.** The soldiers then took the man behind the White House, made him stand facing a wall, and shot him in the head from a distance of about three metres.<sup>16778</sup> Immediately after being hit by the bullet, the man collapsed.<sup>16779</sup> The soldiers then ran away.<sup>16780</sup> Other Bosnian Serb soldiers who were walking around the area saw the incident but continued their activities.<sup>16781</sup> Groenewegen reported the incident the next morning to his senior officer, Lieutenant Schotman.<sup>16782</sup> **(As a matter of fact, it had been said that the perpetrators escaped to woods. This is a proof that it wasn't something that the VRS superiors would welcome. See testimony of Groenewegen, T.23006 Q. I beg your pardon. Mr. Groenewegen, is it correct that those who had allegedly killed that man afterwards hid in the bushes? A. Yes, they ran away after that, and I'm not sure where they went. There may not be any dilemma: they escaped from the VRS officers, and therefore this was an individual crime!)**

**5145.** The Chamber finds that a Bosnian Muslim man was killed on 13 July 1995 by members of the Bosnian Serb Forces behind the White House in Potočari. **(What uniforms, what insignias? Or it doesn't matter? The most probably they were the Serbs, but even this we don't know! But, the perpetrators run away!!!)**

(C) Killings at Luke School near Tišća

5146. The Indictment refers to the killing on or about 13 or 14 July 1995 of 25 Bosnian Muslim men who were detained at the Luke School near Tišća and summarily executed in an isolated nearby pasture.<sup>16783</sup>

5147. On 13 July 1995, a convoy of buses filled with Bosnian Muslim women and children, as well as several men, including KDZ070, departed from Potočari.<sup>16784</sup> As convoys had the day before,<sup>16785</sup> this convoy headed towards Bratunac, and then proceeded

<sup>16776</sup> Indictment, Scheduled Killing Incident E.14.2.

<sup>16777</sup> Paul Groenewegen, T. 22972–22973 (13 January 2012); P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), paras. 58, 60–63, 65, 67; P4168 (Photograph of buses and trucks marked by Paul Groenewegen).

<sup>16778</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), paras. 61, 67; P4168 (Photograph of buses and trucks marked by Paul Groenewegen); P4169 (Aerial image of Potočari dated 13 July 1995 annotated by Paul Groenewegen); P4171 (Aerial image marked by Paul Groenewegen) (indicating the spot where he saw the man being shot). Groenewegen explained that he was standing at a distance of about 30 metres from the execution site, and that there was nothing obstructing his view; however, because of his location, he could not see the man's face. P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 65. *See also* Adjudicated Fact 1662.

<sup>16779</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 65.

<sup>16780</sup> Paul Groenewegen, T. 23005 (13 January 2012).

<sup>16781</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 65.

<sup>16782</sup> P4167 (Witness statement of Paul Groenewegen dated 11 November 2011), para. 66. *See also* P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 95; D2022 (Debriefing Statement to Royal Dutch Army by Robert Franken), p. 2.

<sup>16783</sup> Indictment, Scheduled Killing Incident E.5.1.

<sup>16784</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1253–1259.

<sup>16785</sup> On 12 July 1995, Boering, escorted by Kosorić, followed a convoy of buses carrying Bosnian Muslims from Potočari, which ultimately stopped at Luke. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2020–2022; D3562 (Witness statement of

through Glogova, Kravica, Konjević Polje, Nova Kasaba, Milići, Vlasenica, and Tišća.<sup>16786</sup> At Tišća, the Bosnian Muslims were instructed to disembark from the buses and proceed on foot.<sup>16787</sup> Approximately 10 to 15 Bosnian Muslim men aboard the buses, including KDZ070, were separated by VRS soldiers and taken away in the direction of the Luke School,<sup>16788</sup> which was located approximately one kilometre from Tišća near Vlasenica.<sup>16789</sup>

5148. In front of the Luke School, the Bosnian Muslim men were ordered to sit down on the grass; most had their hands tied behind their back.<sup>16790</sup> Buses came and went, bringing more Bosnian Muslim men.<sup>16791</sup> At the end of the day, a total of 22 men were assembled on the grass.<sup>16792</sup> According to KDZ070, one detainee was named “Abdulkadir”.<sup>16793</sup> KDZ070 recognised three Bosnian Serb soldiers there: Savo Ristanović, a soldier named Željko,<sup>16794</sup> and a soldier named Stanimir.<sup>16795</sup> Later in the evening, after the men were taken into a classroom in the Luke School,<sup>16796</sup> KDZ070 saw another Bosnian Serb soldier named Spomenko Garić inside the school.<sup>16797</sup>
5149. Soon after, a group of about ten Bosnian Serb soldiers, who were different than those who had been at the school during the day, entered the classroom.<sup>16798</sup> The Bosnian Serb soldiers approached the group of detainees and began to ask them questions.<sup>16799</sup> Every question was accompanied by a blow to the head or a kick to the chest.<sup>16800</sup> The

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Svetozar Kosorić dated 27 February 2013), para. 10; Svetozar Kosorić, T. 38699–38700 (23 May 2013). The Chamber notes that although he acknowledged being present in Potočari and escorting Pieter Boering to Luke, Kosorić claimed that he had nothing to do with the bussing operation. Svetozar Kosorić, T. 38697–38698, 38700 (23 May 2013). The Chamber considers that in light of Kosorić’s incentive to minimise any involvement he might have had in the bussing operation, Kosorić’s testimony in this regard does not cast doubt on its finding that Kosorić accompanied the convoy as well as Boering on 12 July. *See* para. 5104, fn. 17426.

<sup>16786</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1258–1259. *See also* Adjudicated Fact 1737.

<sup>16787</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1260–1261. *See also* Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2022–2024; Pieter Boering, T. 22059 (29 November 2011).

<sup>16788</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1260–1263; KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3426. *See also* Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2022–2024, 2159–2161; Pieter Boering, T. 22059 (29 November 2011); Adjudicated Fact 1737. These VRS soldiers were supervised by a VRS Major named Sarkić, a liaison officer in the Milići Brigade, who was there on an order from the Drina Corps. Pieter Boering, P3969 (Transcript from *Prosecutor v. Popović et al.*), T. 2023–2024. *See also* KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1261–1262; Adjudicated Facts 1738, 1739.

<sup>16789</sup> Jean-René Ruez, T. 23725 (26 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 28–31.

<sup>16790</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1262, 1268–1269.

<sup>16791</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1268; KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3472.

<sup>16792</sup> KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3472; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1268–1269.

<sup>16793</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1262, 1269 (stating that Abdulkadir was young man from Srebrenica).

<sup>16794</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1270–1271 (further stating that Željko was seen on a field telephone transmitting and receiving orders). *See also* Adjudicated Fact 1743.

<sup>16795</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1270–1273, 1277.

<sup>16796</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1281; Adjudicated Fact 1744. KDZ070 identified the classroom of the Luke School. KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3427; P220 (Photograph of classroom in Luke school). *See also* Jean-René Ruez, T. 23725–23726 (26 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 30–31.

<sup>16797</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1282–1283. KDZ070 and Garić had been colleagues at a bauxite mine company in Srebrenica. KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1274. Stanimir told KDZ070 that Spomenko Garić was a Commander of a Special Intervention Unit in the army. KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1276–1277 (further stating that Stanimir had said that Spomenko Garić had been successful in his sabotage actions, especially one near the tunnel that belonged to the lead and zinc mine in the vicinity of Srebrenica).

<sup>16798</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1285, 1287–1288 (further stating that the soldiers were wearing the same coverall type uniform as Garić, with different coloured bandanas tied in the back, similar to those of sabotage units).

<sup>16799</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1285–1286; Adjudicated Fact 1744.

<sup>16800</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1285–1286. *See also* Adjudicated Fact 1745.

soldiers taunted the detainees with a flag of a mosque, referring to their balija mothers.<sup>16801</sup>  
The beatings lasted for up to half an hour, after which these soldiers departed.<sup>16802</sup>

5150. After the soldiers left, at around midnight on 13 July, five or six Bosnian Serb soldiers who had been outside during the day entered the classroom.<sup>16803</sup> They asked the detainees to exit the classroom one by one, and board a truck.<sup>16804</sup> In total, there were 22 Bosnian Muslim men and seven Bosnian Serb soldiers in the truck.<sup>16805</sup>

5151. The truck departed towards Vlasenica, where it turned left on a macadam road, stopping at a small brook.<sup>16806</sup> A Bosnian Serb soldier banged on the cabin roof and said “Not here. Take them up there, where they took people before.”<sup>16807</sup> The truck proceeded, and soon stopped in Rašića Gaj, in the middle of an abandoned and overgrown meadow, near an unfinished house.<sup>16808</sup>

5152. The headlights of the truck remained lit and Bosnian Serb soldiers got off.<sup>16809</sup> Immediately thereafter, the Bosnian Serb soldiers started shooting the men who were still on the truck.<sup>16810</sup> Two men sitting next to KDZ070 jumped off the truck and ran 20 metres before they were struck by bullets.<sup>16811</sup> KDZ070 managed to free one of his hands, jumped off the truck, but was noticed by a Bosnian Serb soldier who immediately opened fire at him.<sup>16812</sup> However, KDZ070 managed to reach a forest approximately 50 metres away, and eventually came to a brook, where he stayed and hid for the night.<sup>16813</sup> KDZ070 wandered around the forest until 27 July 1995, when he met other Bosnian Muslim men, and eventually managed to reach Bosnian Muslim-held territory.<sup>16814</sup> **(#Deadly combination# KDZ070, 92bis, a superman who escaped as in movie. Pretty unbelievable, should have been cross-examined, and then admitted.)**

5153. KDZ070 identified some of the Bosnian Muslims who were on the truck in Rašića Gaj and then killed: Azem Bečić from the village of Kotjevac; “Rizo”, who worked as an electrician with DutchBat; “Abdulkadir”; and “Hasan”.<sup>16815</sup> Between 25 and 29 May 2009, the BiHCMP exhumed a grave in the village of Mršići near Vlasenica, and close to Rašića Gaj.<sup>16816</sup> Based upon DNA analysis, 15 individuals were positively identified as persons

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<sup>16801</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1286.

<sup>16802</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1287–1288; KDZ070, P340 (Transcript from *Prosecutor v. Krstić*), T. 3428–3429 (under seal); P301 (Photograph of KDZ070) (under seal).

<sup>16803</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1288–1290, 1292.

<sup>16804</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1288–1290, 1292. *See also* Adjudicated Fact 1746. Those who could not climb the truck by themselves because of their injuries were picked up by Bosnian Serb soldiers and loaded onto the truck. KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1291.

<sup>16805</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1291.

<sup>16806</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1293.

<sup>16807</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1291–1293.

<sup>16808</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1295 (further stating that that he learned much later that the place was called Rašića Gaj from a man from Cerska who knew the area quite well and that Rašića Gaj was close to Vlasenica).

<sup>16809</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1295.

<sup>16810</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1296. *See also* Adjudicated Fact 1746.

<sup>16811</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1296.

<sup>16812</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1297 (stating that the soldier said: “Look at this balija motherfucker. He’s fleeing, he’s escaping”); KDZ070, P341 (Transcript from *Prosecutor v. Popović et al.*), T. 3441.

<sup>16813</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1297–1298; KDZ070, P340 (Transcript from *Prosecutor v. Krstić*), T. 3439 (under seal).

<sup>16814</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1299–1301.

<sup>16815</sup> KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1301–1302 (further stating that he did not know many others who were detained with him). KDZ017 stated that these men had either been captured from the column heading toward Tuzla, or had been seeking refuge in Potočari in July 1995. KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1338–1339.

<sup>16816</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 4, 33; P4941 (Srebrenica court binder containing maps), e-court p. 31.



listed as missing following the take-over of Srebrenica.<sup>16817</sup> Nine ligatures were found in the grave.<sup>16818</sup>

5154. Based on the above, the Chamber finds that approximately 21 Bosnian Muslim men were killed by members of the Bosnian Serb Forces near Tišća on 14 July 1995.

e. Bratunac area

5155. As the Chamber has already described, Bratunac is a municipality in eastern BiH located to the south of Zvornik, the east of Vlasenica, and the north of Srebrenica.<sup>16819</sup> For the purposes of this section, the term “Bratunac area” encompasses the territory delimited by the Bratunac–Konjević Polje Road to the north, the Konjević Polje–Milići Road to the west, and the Bratunac–Srebrenica Road to the east.

5156. Bratunac town is located about five kilometres from Potočari and ten kilometres from Srebrenica in a northerly direction.<sup>16820</sup> As stated above, the Bratunac Brigade was headquartered in Bratunac town in July 1995.<sup>16821</sup>

i. *Deployment of Bosnian Serb Forces in the Bratunac area*

5157. The Chamber recalls that, during the night between 11 and 12 July 1995, the column of Bosnian Muslim men started moving in a northwesterly direction towards Tuzla, trying to cross the Bratunac–Konjević Polje Road.<sup>16822</sup>

5158. On 11 July, upon receiving information as to the movement of the column, VRS forces, which mostly consisted of Drina Corps units, were ordered to “block the return and withdrawal of Muslim forces to and from Srebrenica and their communicating along the enclave–Kladanj and Olovo axis and back”, by “erecting additional obstructions, carrying out ambush activities and introducing patrols, ensur[ing] control over the territory along the frontline and deep in[to] the defence zones and areas”.<sup>16823</sup> That night, Kovač issued an order to urgently dispatch all available guides with police dogs to the Srebrenica sector in order to undertake the task of “mopping up the terrain”.<sup>16824</sup>

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<sup>16817</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 33; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 414 (under seal). See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010). Four of the victims identified at the Mršići gravesite were Azem (Ramo) Bečić, Rizo (Abaz) Mustafić, Abdulkadir (Avdurahman) Velić, and Hasan (Juso) Smajić. P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 414 (under seal). See also P6705 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009), e-court pp. 149, 206 (under seal) (recording that Rizo (Abaz) Mustafić and Abdulkadir (Avdurahman) Velić were last seen in Tišća).

<sup>16818</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 33.

<sup>16819</sup> See para. 685.

<sup>16820</sup> See P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 20.

<sup>16821</sup> See para. 195.

<sup>16822</sup> See para. 5037.

<sup>16823</sup> P4572 (Order of Drina Corps, 11 July 1995), pp. 1–2. See P6125 (Drina Corps combat report, 11 July 1995), pp. 1, 3 (stating that Drina Corps units have been engaged in offensive operations in and around the Srebrenica enclave according to the Krivaja 95 plan, and adding that part of the active operations forces shall continue to carry out combat tasks and completely crush the enemy in the Srebrenica enclave, while another part of the forces shall control the territory behind the lines and protect the property and population).

<sup>16824</sup> P4934 (RS MUP Order to the centre for the breeding and training of police dogs, 12 July 1995) (ordering that such guides were to report to Srebrenica by 6 a.m. on 12 July). See Tomislav Kovač, T. 42746 (1 November 2013). The order further provided that once such troops and dogs were dispatched, dispatches were to be sent to the police forces staff headquarters in Pale notifying them that the deployment had taken place. P4934 (RS MUP Order to the centre for the breeding and training of police dogs, 12 July 1995), para. 5.

5159. On 12 July, the MUP had information that the ABiH was attempting a breakthrough from Srebrenica in the direction of Tuzla.<sup>16825</sup> Similarly, the VRS continued tracking the movement of the column and, by the afternoon, the Drina Corps command and subordinate units knew the precise direction in which the column was moving.<sup>16826</sup> Intelligence on the movement of the column was relayed within the Bosnian Serb Forces throughout 12 and 13 July.<sup>16827</sup>

5160. Based on the intelligence received, some of the MUP forces under the command of Borovčanin—including the three platoons of the 2<sup>nd</sup> Šekovići Detachment, the 1<sup>st</sup> Company of the Zvornik PJP, the 5<sup>th</sup> Company of the Zvornik CJB, and the 1<sup>st</sup> Company of the Jahorina Recruits—were deployed along the Bratunac–Konjević Polje Road on 12 July to prevent the column from advancing towards Tuzla.<sup>16828</sup> There was also a heavy VRS presence on the road that day.<sup>16829</sup> By the evening, two tanks and a Praga—an anti-aircraft gun mounted on an armoured vehicle—as well (**#To remind, on 12 July at about 10 A.M. – not earlier, Mladic learnt from the Muslim representatives (the third meeting) #that their armed people are in woods#. That was the reason to deploy the VRS units along this road.**) as a BOV—an all-wheel drive combat armoured vehicle—had also been deployed along the road, in the same area as the 1<sup>st</sup> Company of the Zvornik PJP.<sup>16830</sup>

5161. Members of the Bosnian Serb Forces remained overnight along the Bratunac–Konjević Polje Road.<sup>16831</sup> On 13 July, Krstić issued an order tasking Blagojević with supervising, and co-ordinating with, the units of the Bosnian Serb Forces involved in the search and with submitting a report at the end of the search on 17 July.<sup>16832</sup> The Bosnian Serb Forces deployed along the Bratunac–Konjević Polje Road were reinforced with

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<sup>16825</sup> Milenko Pečić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13549; P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; P4937 (Report of Zvornik CJB, 12 July 1995).

<sup>16826</sup> See D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 7; P5279 (Intercept of conversation between three unidentified persons, Radislav Krstić, and Komjenović, 12 July 1995), p. 1; P6062 (Intercept of conversation, 12 July 1995), p. 2; P6063 (Intercept of conversation, 12 July 1995), pp. 1–2; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 1; P5112 (Report of Bratunac Brigade to Drina Corps, 12 July 1995), p. 1; P5114 (Report of Bratunac Brigade to Drina Corps, 12 July 1995), p. 1; KDZ122, T. 26149–26150 (13 March 2012) (closed session), T. 26273 (14 March 2012) (closed session). See also Adjudicated Fact 1631; P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 4.9.

<sup>16827</sup> See P5103 (Report of Drina Corps, 12 July 1995), p. 2; P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 1; P4940 (Command Intelligence Report of Drina Corps, 12 July 1995), p. 1; P5904 (Intercept of conversation between two unidentified persons, 12 July 1995); P5905 (Intercept of conversation between two unidentified persons, 12 July 1995); P5145 (Report of Drina Corps, 13 July 1995), p. 1; P4943 (Report of Sarajevo RDB, 13 July 1995), pp. 1–2; P4944 (Command Report of Drina Corps, 13 July 1995); P2988 (Report of RS MUP, 13 July 1995), pp. 1–2; P5098 (Report of RS MUP, 13 July 1995), pp. 1–2; P5099 (Report of Bijeljina RJB, 13 July 1995); P5115 (Report of Bratunac Brigade to Drina Corps, 13 July 1995), p. 1; P5234 (Report of Drina Corps, 13 July 1995); Adjudicated Fact 1608.

<sup>16828</sup> P4937 (Report of Zvornik CJB, 12 July 1995); P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 2; Milenko Pečić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13552; KW558, T. 40753–40754 (3 July 2013); Mendeljev Đurić, T. 42099 (29 July 2013); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 25–27. See P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 6.24; P6189 (Report of Zvornik CJB, 13 July 1995), p. 1; P6063 (Intercept of conversation, 12 July 1995), pp. 1–2; KDZ122, T. 26149–26150 (13 March 2012) (closed session); Adjudicated Facts 1469, 1471, 1606. See also para. 5021.

<sup>16829</sup> See P4574 (Order of Drina Corps, 12 July 1995); P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; P3054 (VRS Main Staff Report, 12 July 1995), p. 4; P4937 (Report of Zvornik CJB, 12 July 1995); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2723–2724; D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 7; P5100 (Order of Drina Corps, 13 July 1995), pp. 1–2; P6063 (Intercept of conversation, 12 July 1995), pp. 1–2.

<sup>16830</sup> P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2. See also Milenko Pečić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13554; D3196 (Witness statement of Dušan Mičić dated 24 March 2013), para. 27.

<sup>16831</sup> P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 2; Milenko Pečić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13579; KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14821–14822 (under seal); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 27–28.

<sup>16832</sup> D2239 (Order of Drina Corps, 13 July 1995); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6700–6703, 6716. The Chamber notes that while testifying in his own defence, Krstić asserted that Blagojević lacked the authority to specify tasks of the MUP, but does not consider his testimony to be reliable on this point given that Krstić was Blagojević’s superior. Rather, the Chamber considers that the text of Krstić’s order is clear that Blagojević was responsible for coordinating the tasks of all units mentioned, and recalls that, as described above, MUP units engaged in combat activities were re-subordinated to the commander of the unit in whose area of combat operations they were conducting operations. See para. 229.

additional forces on 13 July, including members of the 5<sup>th</sup> Company of the Zvornik PJP, and members of the 1<sup>st</sup> and 2<sup>nd</sup> Companies of the Jahorina Recruits.<sup>16833</sup> **(It should be kept in mind that along the Bratunac-Konjević Polje Road are the Serb settlements that had been repeatedly attacked by the Muslims from Srebrenica and Cerska, now in Srebrenica, and that the guarding the road was necessary for protection of the population!)** The Jahorina Recruits were called up by the platoon leaders “to relieve [their] colleagues” who were guarding Bosnian Muslim detainees on the stretch of the road between Konjević Polje and Kravica.<sup>16834</sup> They were to stand on the road to collect any Bosnian Muslims found coming down from the hills to surrender, and to prevent “any forcible passing”.<sup>16835</sup> Similarly, the members of the 2<sup>nd</sup> Šekovići Detachment’s 3<sup>rd</sup> Skelani Platoon, who were stationed in groups of two positioned 30 to 40 metres apart along the road, were tasked with escorting detainees who surrendered into the Sandići Meadow.<sup>16836</sup>

##### 5. Military action against the column

5162. On the morning of 12 July, the column was shelled by the Bosnian Serb Forces as it moved through the area of Buljim.<sup>16837</sup> **(#Another proof that before the third meeting Mladic couldn’t have known that the soldiers are in the woods!#)** That night, there was a large ambush against the column in Kamenica.<sup>16838</sup> During the night of 12 July and the morning of 13 July, there was an exchange of fire between the Bosnian Serb Forces and members of the column, resulting in many Bosnian Muslim deaths.<sup>16839</sup> **(How many? Where these combat casualties had been buried? Are they counted in the rate of the executed?)** The attacks against the column continued throughout the night, and into the morning of 13 July.<sup>16840</sup> Bosnian Serb Forces encircled a large group of men from the column in the area of Konjević Polje–Nova Kasaba–Pobude.<sup>16841</sup> At different times, members of the column divided into separate smaller groups after being cut off from the

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<sup>16833</sup> P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), para. 18; KDZ084, T. 27336 (11 April 2012) (closed session). See also Adjudicated Fact 1616; P5376 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1 (referring to the arrival of certain police units); P4949 (Report of Zvornik CJB, 14 July 1995), p. 1; P316 (Report of Zvornik CJB to MUP of RS, 15 July 1995), para. 2.

<sup>16834</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14821–14822, 14825 (under seal); KDZ084, T. 27336 (11 April 2012) (closed session).

<sup>16835</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14824–14825 (under seal). The Jahorina Recruits stayed in the area for four or five days. P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14836, 14882 (under seal).

<sup>16836</sup> D4113 (Witness statement of KW679 dated 23 November 2013), paras. 11–12 (under seal).

<sup>16837</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7083, 7133; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1383; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3347; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3511–3513; KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 2333. See P3975 (Map of Eastern Bosnia); D2218 (Map of Eastern BiH marked by Dušan Janc), p. 1 (map showing Buljim forest and the column’s direction towards Tuzla). See also KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 744; KDZ333, T. 24143 (2 February 2012).

<sup>16838</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 877, 880, 907; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7040; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3364–3365; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3513–3514; KDZ045, T. 22673–22674 (10 January 2012); KDZ333, T. 24143 (2 February 2012). See P5102 (Report of Drina Corps, 12 July 1995); P4939 (Report of Sarajevo RDB, 12 July 1995), p. 1.

<sup>16839</sup> See P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), p. 2; P5136 (Bulletin of daily events of Zvornik CJB, 13–14 July 1995), p. 2; P4943 (Report of Sarajevo RDB, 13 July 1995), p. 1; P6189 (Report of Zvornik CJB, 13 July 1995); P5378 (Intercept of conversation between two unidentified persons, 13 July 1995); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 27–28. See also Adjudicated Facts 1602, 1609. These killings are not charged in the Indictment.

<sup>16840</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3348; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2946; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7039–7040; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 884; Adjudicated Fact 1611. See P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; P4943 (Report of Sarajevo RDB, 13 July 1995), p. 1; P667 (Zoran Petrović–Piročanac’s video footage), at 00:12:11–00:16:25.

<sup>16841</sup> P5115 (Report of Bratunac Brigade to Drina Corps, 13 July 1995). See P4684 (Intercept of conversation between two unidentified persons, 14 July 1995), p. 1; P5234 (Report of Drina Corps, 13 July 1995), p. 2; P5098 (Report of RS MUP, 13 July 1995), p. 1. See also Dušan Janc, T. 27063–27064 (28 March 2012); D2218 (Map of Eastern BiH marked by Dušan Janc), p. 1 (where Janc marked the area of Pobude).

main part of the column.<sup>16842</sup> The Bosnian Serb Forces fired shells against the column and threw hand-grenades into the woods.<sup>16843</sup> Hundreds of Bosnian Muslims were killed; the mutilated bodies of those killed lay on the ground.<sup>16844</sup> Men cried and screamed, asking for help.<sup>16845</sup> The situation was so unbearable that some Bosnian Muslim men committed suicide with guns or hand-grenades.<sup>16846</sup>

5163. On the morning of 13 July, the Bosnian Serb Forces began calling into the woods with a loudspeaker for the members of the column to surrender, telling them that they would be safe, and promising to comply with the Geneva Conventions.<sup>16847</sup> However, if they did not surrender, they would be shelled and killed.<sup>16848</sup> In particular, along the Bratunac–Konjević Polje Road, members of the Bosnian Serb Forces drove a stolen UNPROFOR APC with a UN flag back and forth, and called on the column to surrender; the Bosnian Serb soldiers wore UN uniforms to deceive the Bosnian Muslims into thinking that they would be provided security upon their capture.<sup>16849</sup> A Bosnian Muslim man was ordered to call out to the Bosnian Muslim men in the woods that it was “safe to come to the Serbs”.<sup>16850</sup>

5164. At about 10 a.m., members of the Bosnian Serb Forces issued an ultimatum through a loudspeaker for the members of the column hiding in the woods to surrender; a second ultimatum was issued around 3 p.m.<sup>16851</sup> Members of the column disagreed as to whether to surrender.<sup>16852</sup> However, after the second ultimatum, large numbers of Bosnian Muslim men walked down the hill to the asphalt road and surrendered.<sup>16853</sup> They were then

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<sup>16842</sup> KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3348, 3355, 3363; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 652, 744–745; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2946; KDZ045, T. 22682 (10 January 2012). See P4578 (Zvornik Brigade report, 12 July 1995), p. 1; P5145 (Report of Drina Corps, 13 July 1995), p. 1. See also Adjudicated Fact 1610.

<sup>16843</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2946–2948, 2990; KDZ045, T. 22681–22682 (10 January 2012); KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7039–7040.

<sup>16844</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 796; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1383–1384; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3347–3349; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3514; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2945–2946, 2948; KDZ045, T. 22673–22674 (10 January 2012); KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7040. These killings are not charged in the Indictment.

<sup>16845</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1383.

<sup>16846</sup> KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3342, 3345; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 798; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2946–2947, 2998; KDZ045, T. 22680–22681 (10 January 2012).

<sup>16847</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2946, 3008; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28824; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 650, 801, 842; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3516; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6974; KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14823, 14827 (under seal); Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13553–13554; Momir Nikolić, T. 24662 (14 February 2012), T. 24864 (16 February 2012). See P5280 (Intercept of conversation between an unidentified person and “Zoran”, 13 July 1995), p. 1; D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. See also Adjudicated Fact 1613; D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 2.

<sup>16848</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384. See KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 650.

<sup>16849</sup> Momir Nikolić, T. 24661–24664 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9; Mile Petrović, T. 45548, 45552 (17 January 2014); D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 1; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3530–3532, 3536–3537; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3516, 3525; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 3002; KDZ045, T. 22679–22680 (10 January 2012); Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13554; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 884–885. See D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 1. See also Adjudicated Fact 1614.

<sup>16850</sup> See P1178 (Excerpt from “Srebrenica Trial Video” shown to KDZ425); P1193 (Zoran Petrović-Piroćanac’s documentary entitled “Operation Srebrenica”), at 00:15:23–00:16:30; Adjudicated Fact 1732.

<sup>16851</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 650, 759; KDZ064, T. 1435 (22 April 2010); KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3516.

<sup>16852</sup> KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3349–3350; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 759, 797; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2991. See P5280 (Intercept of conversation between an unidentified person and “Zoran”, 13 July 1995), p. 1.

<sup>16853</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3364–3365; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3517; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6973; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948; KDZ045, T. 22679 (10 January 2012);



stripped of their personal belongings.<sup>16854</sup> **(#Personal belongings#!Again, the prescribed procedure. Therefore, those #recovered with a personal belongings were not these who surrendered, and must be discounted from the list of captured and executed!#)**

5165. Despite the capture of thousands of Bosnian Muslims from the column on 13 July, it was reported that approximately 3,000 to 4,000 men succeeded in crossing the Bratunac–Konjević Polje and Konjević Polje–Milići Roads, advancing towards Cerska.<sup>16855</sup>

#### 6. Detention of Bosnian Muslim men from the column

5166. On the morning of 13 July, Bosnian Serb Forces obtained information that large numbers of Bosnian Muslim men were either being captured or were surrendering along the road.<sup>16856</sup> An intercepted conversation from 13 July at 5:30 p.m. refers to about 6,000 Bosnian Muslims being detained at three locations, with roughly 1,500 to 2,000 men at each of them.<sup>16857</sup> According to this intercepted conversation, one of the locations was “the one up there where the checkpoint at the intersection is”, which the Chamber finds to be the Konjević Polje intersection; another one was “the one halfway between the checkpoint and the loading place”, which the Chamber concludes to be the Sandići Meadow, and the third one was expressly referred to as the Kasaba stadium, which the Chamber finds to be the Nova Kasaba football field.<sup>16858</sup> **(As it can be seen, it was a security measure not to communicate the names of locations literally, but in a way of codifying it. That was a measure to prevent the enemies to know the locations, and that was why Deronjic initiated this codified way in his communication with President Karadzic on 13 July at midnight!)**

#### (A) Konjević Polje

5167. The 6<sup>th</sup> Company of the Zvornik PJP was stationed at the check-point in Konjević Polje from 4 to 16 July 1995.<sup>16859</sup> It was tasked with providing assistance to the Bratunac

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KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7085, 7110; KDZ064, T. 1435 (22 April 2010); Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 886; Momir Nikolić, T. 24868 (16 February 2012). See P667 (Zoran Petrović–Piroćanac’s video footage), at 00:09:23–00:10:24; P5280 (Intercept of conversation between an unidentified person and “Zoran”, 13 July 1995), p. 1. See also Adjudicated Fact 1618.

<sup>16854</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6973–6974; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3517, 3523; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384–1385; KDZ071, T. 28532 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7085, 7087–7088. See also Adjudicated Fact 1617.

<sup>16855</sup> See P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 2; P5100 (Order of Drina Corps, 13 July 1995), p. 1; P4532 (VRS Main Staff Order, 13 July 1995); P4949 (Report of Zvornik CJB, 14 July 1995), p. 1. See also Adjudicated Facts 1610, 1628, 1630.

<sup>16856</sup> Momir Nikolić, T. 24651 (14 February 2012). See also D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 50; Milomir Savčić, T. 42250–42251 (30 July 2013) (testifying that in the early hours of 13 July, he received a phone call from Malinić informing him that Bosnian Muslim soldiers had been captured); D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 51 and Milomir Savčić, T. 42250 (30 July 2013) (testifying that Malinić had explained Savčić that his unit of approximately 20 men had taken two or three prisoners of war who had surrendered to his men at the army barracks in Nova Kasaba). Momir Nikolić testified that he told Jević that if he got in radio contact with the MUP units deployed along the road, he should tell them that all those men were to be transferred to the facilities designated for their detention. Momir Nikolić, T. 24651–24653 (14 February 2012). Savčić testified that he informed Malinić that the prisoners were to be incarcerated in relevant facilities, kept under Malinić’s protection and treated in accordance with the prescribed military police regulations. D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 51; Milomir Savčić, T. 42251 (30 July 2013).

<sup>16857</sup> P6704 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1. **But, knowing that such an assessment could have been an exaggeration and is not reliable. Already it is adjudicated in this Judgment that up to 30,000 had reached Tuzla, together with those 6,000 that would exhaust the number of inhabitants in Srebrenica before the event, not to mention a 1,000 who went to Zepa, and all of those allowed to pass the corridor, and those who had been killed or captured after 16 July.**

<sup>16858</sup> P6704 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1.

<sup>16859</sup> KW558, T. 40752–40753 (3 July 2013), T. 40743 (3 July 2013) (private session); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6517, 6528, 6540. See also Nenad Deronjic, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8201, 8206; Mile Simanić, P355 (Transcript from *Prosecutor v. Popović et al.*), T. 14638–14639, 14647; P4825 (Record of intercept of conversation regarding the arrest of Muslims running from Srebrenica, 13 July 1995). The 6<sup>th</sup> Company was headquartered in an



SJB, which had control over the check-point, as well as with securing the Nova Kasaba–Konjević Polje Road and controlling traffic.<sup>16860</sup> A part of the 5<sup>th</sup> Engineering Battalion, commanded by Milenko, a.k.a. “Mićo” Avramović,<sup>16861</sup> as well as members of the Zvornik Brigade MP were also present at the Konjević Polje intersection at the time.<sup>16862</sup>

5168. On the morning of 13 July, approximately 30 Bosnian Muslim men from the column—including four or five wounded—surrendered to members of the Bosnian Serb Forces who were dressed in dark blue camouflage uniforms, near Konjević Polje.<sup>16863</sup> Upon reaching the Bratunac–Konjević Polje Road, this group came across a group of 300 other Bosnian Muslims—including approximately 20 wounded—who had previously surrendered.<sup>16864</sup> The men were ordered to place the wounded at the intersection, and to hand over all their belongings, including their ID papers.<sup>16865</sup> **(#Executed, again, must be without belongings, and if recovered had a personal possessions, they must be counted as a combat casualties!#)** They were then taken to a warehouse at the Konjević Polje intersection, where they were given water, although it was insufficient.<sup>16866</sup> After approximately 20 minutes, the men were placed in three or four trucks covered in canvas, which left in the direction of Nova Kasaba.<sup>16867</sup>

5169. As will be discussed in detail in the section relating to the Scheduled Killing Incident at the Jadar River,<sup>16868</sup> during the early morning hours of 13 July, KDZ065 surrendered to policemen in the area of Konjević Polje.<sup>16869</sup> KDZ065 and 15 other Bosnian Muslim men were taken to different locations in the area; finally they were taken by bus to an isolated area on the bank of the Jadar River.<sup>16870</sup> **(That was #rebuted by the Defence witnesses?#)**

5170. Momir Nikolić arrived at the Konjević Polje intersection after noon on 13 July and saw men detained at various locations in the vicinity.<sup>16871</sup> Approximately 45 minutes later,

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unfinished house close to the Konjević Polje elementary school; the house also hosted the unit’s communications. While some members of the 6<sup>th</sup> Company were stationed at the house, the remaining members were stationed at the school. KW558, T. 40747 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6524–6527, 6542; D3766 (Photograph of a house); D3767 (Photograph of a house); D3768 (Photograph of houses along a road); D3771 (Photograph of a building). See also D3765 (Diagram drawn by KW558) (under seal).

<sup>16860</sup> KW558, T. 40752–40753 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6517–6518, 6541, 6543–6544. See also Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8179–8181; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 13; P5900 (Intercept of conversation between Obrenović and an unidentified person, 12 July 1995).

<sup>16861</sup> KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6523–6524, 6538, 6544–6545, 6556–6557. See also Mile Simanić, P355 (Transcript from *Prosecutor v. Popović et al.*), T. 14679–14680; P5900 (Intercept of conversation between Obrenović and an unidentified person, 12 July 1995). The 5<sup>th</sup> Engineering Battalion was billeted in several private houses in Konjević Polje, including the elementary school where part of the 6<sup>th</sup> Company of the Zvornik PJP was stationed. Mile Simanić, P355 (Transcript from *Prosecutor v. Popović et al.*), T. 14625–14626; KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6524–6526. See also D3765 (Diagram drawn by KW558) (under seal); D3770 (Photograph of a crossroads); Jean-René Ruez, T. 23731–23732 (26 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 42–43.

<sup>16862</sup> D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 15. See also KW558, T. 40757 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6523–6524 (referring to the presence of other military and police units at Konjević Polje in July 1995).

<sup>16863</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948–2949; KDZ045, T. 22679–22680 (10 January 2012).

<sup>16864</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948. See also P5354 (Intercept of conversation between two unidentified persons, 13 July 1995), pp. 2–3 (referring to the presence of approximately 400 to 500 captured Bosnian Muslims in Konjević Polje); P4389 (Report of Sarajevo RDB, 13 July 1995), p. 1 (referring to the VRS and MUP capturing over 300 Bosnian Muslim soldiers in ambushes set up in the general Konjević Polje area).

<sup>16865</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948–2949; KDZ045, T. 22680, 22685 (10 January 2012).

<sup>16866</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2949.

<sup>16867</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2949–2950; KDZ045, T. 22683 (10 January 2012). See Section IV.C.1.e.iii.C: Nova Kasaba football field.

<sup>16868</sup> See Section IV.C.1.e.iv.A: Jadar River.

<sup>16869</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3244–3246.

<sup>16870</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3246–3248, 3250, 3254–3255, 3258, 3262–3264, 3268–3269, 3271–3272, 3274–3276; KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3265–3268 (under seal).

<sup>16871</sup> Momir Nikolić, T. 24653–24655 (14 February 2012).

Mladić arrived with his security detail and addressed some of the detainees briefly, reassuring them that everything would be fine and that they would be transferred to where they wanted to go.<sup>16872</sup> Nikolić then asked Mladić what was going to happen to the detainees; Mladić did not answer but made a gesture by sweeping at his waist with his right hand from left to right.<sup>16873</sup> **(#Guilt plea lies#! Why Nikolic asked the question after he have heard what exactly was going to happen? That was the end of the war, there were many occasions that the VRS captured the Muslim combatants, and always it was a regular procedure, registration and transport to Batkovic, unless quickly exchanged in the arrangement of the local commanders. Why Momir Nikolic allegedly “asked” first Col.It. Vujadin Popovic, and then General Mladic what will happen with these prisoners of war? Apart of that, it is unlikely that General Mladic would allow a reserve capitain to address him with a stupid question, immediately after he promised the Muslim POWs security and proper conduct?)** Mladić then smiled, got in his car, and left.<sup>16874</sup> **(#And the Prosecution didn’t find any other witness to corroborate this#! It seems that the Prosecution had a sort of bonus from the Chamber, to “smuggle” a liers as a witnesses, while the Defence summoned more than two hundred decent witnesses, and all of them had been laconically dismissed!)**

**5171.** After Mladić left, Momir Nikolić drove to Bratunac to fetch Rešid Sinanović—the former chief of the SUP in Bratunac—for interrogation.<sup>16875</sup> Sinanović had been detained at the communications house of the 6<sup>th</sup> Company of the Zvornik PJP together with KDZ065.<sup>16876</sup> Later, Nikolić, Mirko Janković, and Mile Petrović left Bratunac towards Konjević Polje in a white APC captured from DutchBat.<sup>16877</sup> They drove along the Bratunac–Konjević Polje Road and Petrović sat on top of the APC with a megaphone calling for Bosnian Muslims to surrender.<sup>16878</sup> After passing Sandići Meadow, six Bosnian Muslims surrendered to them; those six men were taken to Konjević Polje on the APC.<sup>16879</sup> After arriving at Konjević Polje, Nikolić asked Petrović to take the six Bosnian Muslim men to join the group of between 250 and 300 detainees already held at the intersection.<sup>16880</sup> Nikolić then went to a burned house about 50 metres away from the intersection, and heard two bursts of gunshots coming from a very short distance.<sup>16881</sup> A few minutes later, Petrović appeared at the house and told Nikolić: “Boss, today I just took

<sup>16872</sup> Momir Nikolić, T. 24654–24655 (14 February 2012).

<sup>16873</sup> Momir Nikolić, T. 24656–24657 (14 February 2012).

<sup>16874</sup> Momir Nikolić, T. 24656 (14 February 2012).

<sup>16875</sup> Momir Nikolić, T. 24657–24658 (14 February 2012). *See* D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 19. *See also* para. 5199.

<sup>16876</sup> *See* para. 5192.

<sup>16877</sup> Momir Nikolić, T. 24661–24662 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9; [REDACTED]; Mile Petrović, T. 45552 (17 January 2014); D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 2. [REDACTED].

<sup>16878</sup> Momir Nikolić, T. 24663 (14 February 2012), T. 24866 (16 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. [REDACTED] witnesses testified that there was no megaphone on the APC, and that Petrović did not call on the Bosnian Muslims to surrender. *See* Mile Petrović, T. 45552 (17 January 2014); D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 2; [REDACTED]. However, in light of the evidence before it, the Chamber does not accept the testimony of these witnesses on this point.

<sup>16879</sup> Momir Nikolić, T. 24663 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. *See also* Mile Petrović, T. 45552, 45568 (17 January 2014) and D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 1 (testifying that on their route to Konjević Polje two men in civilian clothes ran out in front of the APC and surrendered, and that Nikolić ordered Janković to stop the vehicle and Petrović to search the men and take them into the APC after which the men were taken to Konjević Polje); [REDACTED]. Petrović testified that when the men got into the APC, Nikolić hit one of them on the head with his rifle butt. D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 1. Petrović further testified that Nikolić, Janković, and himself were armed inside the APC, and that if there were six detainees, as Nikolić claimed, inside the APC, they would have had to push up against each other and the Bosnian Muslim men could have disarmed them. D4218 (Witness statement of Mile Petrović dated 29 September 2003), p. 3.

<sup>16880</sup> Momir Nikolić, T. 24663–24664 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9.

<sup>16881</sup> Momir Nikolić, T. 24664 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9.

revenge for my brother [...] I've killed them".<sup>16882</sup> Petrović told Nikolić that he had executed the six Bosnian Muslim men down a riverbank behind a yellow building.<sup>16883</sup> Nikolić left the Konjević Polje intersection for Bratunac in the APC together with Janković, approximately 20 minutes later.<sup>16884</sup> **(#Even if that happened, which is doubtful, this can not be attached to a state organs#, but be considered as a personal revenge, as many other opportunistic killings. It is peculiar that Nikolic didn't sanction his subordinate, and didn't report it, but "confessed" it to the Prosecution for the sake of his #Guilt Plea Agreement!)**

5172. During the afternoon of 13 July, a group of nine Bosnian Muslim men surrendered to members of the Bosnian Serb Forces deployed along the Bratunac–Konjević Polje Road.<sup>16885</sup> The men were required to surrender their possessions and detained in the warehouse at the Konjević Polje intersection, where they were given water, cigarettes, and beer.<sup>16886</sup> **(Again, #no belongings.# All of those spots we have to put in our fn. pertaining to the subject.)** Between 9 and 10 p.m., the detainees were put in one of two buses which had previously arrived, and departed in the direction of Bratunac.<sup>16887</sup>

(B) Sandići Meadow

5173. The Sandići Meadow, a large open plot of land on the Bratunac–Konjević Polje Road, was approximately one kilometre from the Kravica Warehouse in the direction of Konjević Polje; it was situated opposite from a burnt-out house.<sup>16888</sup>

5174. Throughout the day on 13 July 1995, Bosnian Muslim men from the column who had either surrendered or been captured after emerging from the woods, were assembled near the Bratunac–Konjević Polje Road.<sup>16889</sup> There, members of the Bosnian Serb Forces forced the detainees to drop their belongings into large piles and to hand over their valuables.<sup>16890</sup> **(#No personal belongings!#)** The men were then forced to cross the road and walk towards the Sandići Meadow, where they were guarded by members of the Bosnian Serb Forces.<sup>16891</sup>

<sup>16882</sup> D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9. See Momir Nikolić, T. 24664 (14 February 2012). But see Mile Petrović, T. 45552, 45555 (17 January 2014) and D4218 (Witness statement of Mile Petrović dated 29 September 2003), pp. 2–3 (testifying that, upon Nikolić's instructions, Petrović turned the two Bosnian Muslims over to the Bosnian Serb soldiers who were guarding the other detainees assembled there, and stating that he did not execute any detainees, but acknowledging however that he later heard about the two men who surrendered being executed by Bosnian Serb Forces). [REDACTED] Petrović's brother had been killed by Bosnian Muslim forces. [REDACTED]. See Mile Petrović, T. 45553 (17 January 2014). [REDACTED].

<sup>16883</sup> D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9. Nikolić did not observe Petrović killing the six Bosnian Muslim men. Momir Nikolić, T. 24866 (16 February 2012). These killings are not charged in the Indictment.

<sup>16884</sup> D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9.

<sup>16885</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 884–886, 1123.

<sup>16886</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 887–888, 890.

<sup>16887</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 889–890, 897. See para. 5292. See also D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 119 (testifying that he arrived at Konjević Polje at approximately 7:30 p.m., where he saw Bosnian Muslim detainees who had surrendered boarding buses).

<sup>16888</sup> Jean-René Ruez, T. 23757–23758 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 46, 48–51, 87; P253 (Video still of Sandići meadow marked by KDZ425).

<sup>16889</sup> See paras. 5163–5164, 5166.

<sup>16890</sup> KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3532–3533; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1384–1385; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6973–6974; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7085, 7087–7088. See P667 (Zoran Petrović-Piročanac's video footage) at 00:21:16–00:21:32; P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 53; Adjudicated Fact 1730.

<sup>16891</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 655; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3523–3524; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1387, 1389–1390; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3366–3367; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6973; KDZ071, T. 28532 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7085–7086; P1181 (Excerpt from "Srebrenica Trial Video" shown to KDZ425).

5175. Several units of the Bosnian Serb Forces who were under the command of Borovčanin, including the 2<sup>nd</sup> Šekovići Detachment, and more specifically, the 3<sup>rd</sup> Skelani Platoon; the 1<sup>st</sup> Company of the Zvornik PJP, and the Jahorina Recruits, were present in and around the Sandići Meadow on 13 July.<sup>16892</sup> Bosnian Serb armoured vehicles, including at least one tank, a Praga, and a BOV, as well as a UN APC, were also seen in and around the meadow.<sup>16893</sup> The barrel of a tank was pointed towards the hill from which the Bosnian Muslim men were descending, while its mounted machine-gun was pointed at the detainees.<sup>16894</sup>

5176. Between 900 and 2,000 Bosnian Muslim men from the column were detained at the Sandići Meadow.<sup>16895</sup> There was also a group of women and young children.<sup>16896</sup> The detainees were ordered to sit in rows, guarded at each end by two members of the Bosnian Serb Forces.<sup>16897</sup> The detainees were not given any food but only a small amount of water and a few cigarettes.<sup>16898</sup> **(How anyone could have a food on a meadow? That place was not prepared to be a detention place!)** At some point, some detainees, including children, were allowed to fetch water and to distribute it because many detainees kept fainting due to the heat.<sup>16899</sup> In addition, some of the detainees were sprayed with water from a fire truck.<sup>16900</sup>

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<sup>16892</sup> See Milenko Pečić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13549–13556, 13589–13590; KDZ084, T. 27336, 27340 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14821–14823, 14825–14827 (under seal); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), para. 32; Dušan Mičić, T. 36223 (27 March 2013); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9; P2987 (Report of RS MUP’s Special Police Brigade, 13 July 1995), pp. 1–2; P6189 (Report of Zvornik CJB, 13 July 1995), p. 1; P4949 (Report of Zvornik CJB, 14 July 1995), p. 1; D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), para. 18; Tomasz Blaszczyk, T. 23585–23590, 23598 (25 January 2012); P667 (Zoran Petrović-Piročanac’s video footage) at 00:09:24–00:10:24, 00:11:17–00:11:50, 00:17:59–00:21:15, 00:22:02–00:22:25; P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 139–142, 146–154, 157–162.

<sup>16893</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 804; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3524; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1386–1387; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6978, 6986; Momir Nikolić, T. 24654, 24661–24662 (14 February 2012); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14822–14823 (under seal); P667 (Zoran Petrović-Piročanac’s video footage) at 00:09:30–00:09:34, 00:21:34–00:21:40; P4270 (Tomasz Blaszczyk’s written compilation booklet entitled “Roadbook”), p. 28; P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 155–156.

<sup>16894</sup> KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3524, 3540; P1183 (Excerpt from “Srebrenica Trial Video” shown to KDZ425); P1184 (Excerpt from “Srebrenica Trial Video” shown to KDZ425); KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1387; KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14822–14823 (under seal).

<sup>16895</sup> The estimates on the number of men detained at the Sandići Meadow ranged from 900 to 2,000. KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3524, 3557–3559; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1386, 1391; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3352; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6975, 7049. See P207 (Aerial photograph of Sandići meadow, 13 July 1995); D2253 (Still image of prisoners in Sandići Meadow, 13 July 1995); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 658 (stating that approximately 500 people were seated in the meadow when he arrived but others kept arriving afterwards); P5288 (Intercept of conversation between Lt. Col. Krsmanović and Višković, 13 July 1995), pp. 1–2 (referring to the presence of 700 people in the village of Sandići on 13 July at 9 p.m.); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9 (testifying that he saw a large mass of prisoners at the meadow); Adjudicated Fact 1619 (stating that several thousands Bosnian Muslim men from the column were collected in or near the Sandići Meadow). *But see* D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 31, 36 (referring to between 100 and 300 detainees standing or sitting by the road near Sandići after noon); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), para. 32 and Dušan Mičić, T. 36234–36235 (27 March 2013) (both referring to a group of 50 or 60 people at the Sandići Meadow in the morning on 13 July); Zoran Petrović-Piročanac, T. 28462 (3 May 2012) (referring to the presence of around 100 detainees at the Sandići Meadow when he passed the area by car); KDZ480 T. 24260 (8 February 2012) (closed session) (testifying to having seen between 150 and 200 people at the Sandići Meadow) and KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7871 (under seal) (testifying to having seen a great number of prisoners at the Sandići Meadow after noon).

<sup>16896</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6976; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 658–659; KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3554–3555. See P667 (Zoran Petrović-Piročanac’s video footage) at 00:09:58–00:10:00

<sup>16897</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 658; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1385–1386.

<sup>16898</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 660; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088. See Adjudicated Fact 1731.

<sup>16899</sup> KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3533; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6974, 7043; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088.

<sup>16900</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7047–7048; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088; KDZ480, T. 24223 (7 February 2012) (closed session), T. 24260, 24278 (8 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7871, 7898, 7900 (under seal).



5177. Some of the detainees at the meadow were either singled out, taken away, and did not return, **(What happened with them?)** or were mistreated by members of the Bosnian Serb Forces.<sup>16901</sup> **(#“Some of the Serbs mistreated or killed some of the Muslims, who were there, and had been taken out, and didn’t return...”# this may be sufficient for a #“gossip column”# in newspaper, not in a criminal court. We already know that there could have been many outcomes when somebody was taken out, and the most frequent was exchange of POWs, or a unilateral release by a Serb friend or acquaintance!)** No medical treatment was provided for those who had been previously wounded or injured.<sup>16902</sup> Further, during the course of the day, the wounded and injured were taken to a house close to the meadow and later executed.<sup>16903</sup> After a change of guards, the detainees were forced to lie down on their stomachs and put their hands above their necks for long periods of time, and to applaud and say, in unison: “*Long live the king, long live Serbia*”.<sup>16904</sup> **(Certainly, #not forced by a regular VRS soldiers, because they fought for a republic, not for a monarchy!#)**

5178. Later in the afternoon, the women and children, and about a dozen young boys who appeared to be under age, were allowed to leave onboard buses already full of women and children which had stopped at the Sandići Meadow on their way from Potočari to Bosnian Muslim-held territory.<sup>16905</sup> Members of the Bosnian Serb Forces stopped those who looked old enough to be capable of carrying a weapon from boarding the buses.<sup>16906</sup> **(Had these been recovered from any grave site, and from which one? #NO#!)**

5179. Also in the afternoon, Mladić arrived at the Sandići Meadow with five or six men in uniform and some journalists who took photographs and recorded the conditions there.<sup>16907</sup> Mladić addressed the detainees; he promised they would be safe and exchanged the next day, and informed them that their families had been transported safely to Tuzla.<sup>16908</sup> The detainees applauded Mladić and he left five to ten minutes later.<sup>16909</sup>

5180. Later in the afternoon, the detainees were transported out of the Sandići Meadow; groups of detainees were put on buses or marched towards the Kravica Warehouse,<sup>16910</sup>

<sup>16901</sup> See KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088–7089; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6975–6976, 6980, 7055; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3368; KDZ425, P380 (Transcript from *Prosecutor v. Popović et al.*), T. 3531–3532 (under seal); KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3532; Adjudicated Facts 1733, 1735. See also D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. Some members of the Bosnian Serb Forces insulted the detainees and asked them for money. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1386. The Chamber is satisfied that the individuals who were singled out and taken away were killed. However, these killings are not charged in the Indictment.

<sup>16902</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 660.

<sup>16903</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1397; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6975; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7088; Adjudicated Fact 1734. These killings are not charged in the Indictment.

<sup>16904</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 805; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1393, 1396–1397; P339 (Transcript from *Prosecutor v. Popović*, Case No. IT-05-88), T. 3368. See Adjudicated Fact 1731.

<sup>16905</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 656, 658–659; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1388, 1393; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6976–6978, 6981. See KDZ425, P380 (Transcript from *Prosecutor v. Popović et al.*), T. 3567–3568 (under seal). One child was able to escape the Sandići Meadow when he went to fetch water, by sneaking into one of the buses which had stopped at the meadow and hiding under some bags; the bus departed with him on board. KDZ425, P381 (Transcript from *Prosecutor v. Popović et al.*), T. 3535, 3566–3567.

<sup>16906</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 658–659; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6976–6977; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1393.

<sup>16907</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 661–662; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6977, 7055; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7089.

<sup>16908</sup> KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28831; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 662; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6977; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7089–7090; D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 25. See Adjudicated Fact 1624.

<sup>16909</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7090; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6977.

<sup>16910</sup> See paras. 5225–5226.



while others were put on trucks and buses and taken to Bratunac town.<sup>16911</sup> **(So, how many of them was in Kravica? All together “from 900 and 2,000” and a half of them went to Bratunac? In a manner “some Serbs and some Muslims#!#)**

(C) Nova Kasaba football field

5181. The Nova Kasaba football field was located next to the Konjević Polje–Milići Road, on the outskirts of Nova Kasaba.<sup>16912</sup> In July 1995, the MP Battalion of the 65<sup>th</sup> Protection Regiment was stationed at the Nova Kasaba elementary school, located near the football field.<sup>16913</sup>

5182. On 13 July 1995, approximately 300 Bosnian Muslims who had surrendered to, or been captured by, Bosnian Serb Forces and detained at the warehouse located at the Konjević Polje intersection were transported on trucks to the football field.<sup>16914</sup> Approximately ten other Bosnian Muslim men who had been detained at the elementary school after being captured by members of the Bosnian Serb Forces were made to walk to the football field.<sup>16915</sup> Throughout the day, other Bosnian Muslim men from the column who had surrendered or been captured were taken to the Nova Kasaba football field.<sup>16916</sup> The Chamber notes the Accused’s claim that, due to the size of the Nova Kasaba football field, there could not have been more than 700 Bosnian Muslim men detained there on 13 July.<sup>16917</sup> Based upon all the evidence before it, the Chamber rejects the Accused’s calculation, and is satisfied that between 1,500 and 3,000 Bosnian Muslim men and boys were detained at the football field that day.<sup>16918</sup> **(#From the initial 300 it rose five to ten times more in only a few hours? Than it must had been a big commotion and a very intensive coming in and traffic#. Also, the air photos should have been differing from**

<sup>16911</sup> See para. 5292.

<sup>16912</sup> P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 37, 70.

<sup>16913</sup> Mirko Trivić, T. 40556 (27 June 2013); Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2757–2758; D3720 (Witness statement of Petar Salapura dated 17 June 2013), pp. 6–7; P211 (Photograph of Nova Kasaba school).

<sup>16914</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948–2950; KDZ045, T. 22683 (10 January 2012). See para. 5168.

<sup>16915</sup> KDZ333, T. 24144–24145 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3017–3022. See D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 50–52. Two to three soldiers wearing camouflage uniforms guarded the group as it walked towards the football field. KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3021–3022.

<sup>16916</sup> See KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2948–2950; KDZ045, T. 22683 (10 January 2012); KDZ333, T. 24144–24145 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3017–3022; P210 (Photograph of football field near Nova Kasaba); P168 (Order of Motorised Protection Regiment, 13 July 1995), p. 1; P4670 (Intercept of conversation between two unidentified persons, 13 July 1995) (indicating that by 2 p.m. more than 1,000 detainees were being held at the field); P5380 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1 (indicating that by 4 p.m. the number of detainees at the field had risen to 1,500); P6704 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1 (suggesting that by 5:30 p.m. between 1,500 and 2,000 detainees were present). See also P4824 (Summary of intercepted conversation, 13 July 1995); D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 50–52; Milomir Savčić, T. 42250–42251 (30 July 2013). The Chamber notes that Egbers testified that Bosnian Muslim men were already detained at the Nova Kasaba football field throughout 12 July 1995. Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2724–2725, 2748–2749. See also P5370 (Intercept of conversation between an unidentified General and an unidentified person, 13 July 1995), p. 1.

<sup>16917</sup> Defence Final Brief, paras. 2540–2541. See P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 37. See also D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 35 (referring to about 800 prisoners on the football pitch in Nova Kasaba on 13 July).

<sup>16918</sup> KDZ045, T. 22632 (10 January 2012) (estimating between 2,000 and 2,500 men at the field); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3022 (estimating between 1,500 and 2,000 men); P168 (Order of Motorised Protection Regiment, 13 July 1995), p. 1 (referring to the presence of over 1,000 ABiH members in the area of Kasaba); P4670 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 1 (referring to more than a thousand men at the stadium); P5380 (Intercept of conversation between two unidentified persons, 13 July 1995) (referring to over 1,500 Bosnian Muslim men gathered in the Nova Kasaba stadium on 13 July at 4:02 p.m.); P6704 (Intercept of conversation between two unidentified persons, 13 July 1995) (referring to between 1,500 and 2,000 men), p. 1; Adjudicated Fact 1619 (stating that several thousands Bosnian Muslim men from the column were collected on the Nova Kasaba football field). See also Mirko Trivić, T. 40554–40558 (27 June 2013) (testifying that almost the entire field was taken up by a large group of men sitting on 13 July); D3720 (Witness statement of Petar Salapura dated 17 June 2013), p. 7 (referring to a large number of captured men at the stadium); Zvonko Bajagić, T. 41149 (10 July 2013) (testifying that there were a lot of Bosnian Muslim men sitting at the field when he drove by on 13 July).

**an hour to other! This is not serious and not suitable for a criminal case, and #serves only to the Muslim intention to expand the number of victims of execution!#)**

5183. Between 15 to 20 members of the Bosnian Serb Forces awaited the detainees at the football field.<sup>16919</sup> They forced the detainees to forfeit their valuables and belongings at the entrance.<sup>16920</sup> **(#Belongings, again taken away from the detainees. Inevitably, it has to be concluded that those recovered from the grave sites with a personal belongings had died before and without being captured, and therefore couldn't be counted in a number of executed!)** The detainees were guarded by members of the 65<sup>th</sup> Protection Regiment's MP Battalion, dressed in camouflage uniforms, who were present across the entire field.<sup>16921</sup> As the numbers of detainees at the football field grew, the Bosnian Serb Forces guarding them required reinforcements.<sup>16922</sup> The soldiers pointed their weapons and swore at the detainees, who were sitting in rows.<sup>16923</sup> The detainees were not given food or water.<sup>16924</sup> **(#How long they spent there, so that they didn't get food or water?# Obviously, not longer than two or three hours since captured, and for that period neither the Serb soldiers had any meal! But, this is a regular try of the Prosecution, admitted by the Chamber, to place an emotional blackmail and to aggravate and denigrate the Serb side! There was no a single Serb soldiers that hadn't lost a member of family or friends in the attacks of the very same captured Muslim soldiers against the civilian villages, but still the Serb soldiers to this moment had been restraint!)**

5184. At 3:10 p.m., a document entitled "Procedure for [the] treatment of war prisoners" was sent under the name of Milomir Savčić, the commander of the 65<sup>th</sup> Motorised Protection Regiment, to the commander of the regiment's MP Battalion, which was then engaged in the guarding of Bosnian Muslim men detained at Nova Kasaba.<sup>16925</sup> The document conveyed Tolimir's proposals: (i) to prohibit access to the detainees by all "unauthorised" individuals, as well as filming and photographing of such detainees, (ii) to

<sup>16919</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2950, 2952. See KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3022.

<sup>16920</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2950. See also Adjudicated Fact 1621.

<sup>16921</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2952–2953; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3022; Mirko Trivić, T. 40556–40557, 40562 (27 June 2013); Milomir Savčić, T. 42250–42251, 42255 (30 July 2013); P168 (Order of Motorised Protection Regiment, 13 July 1995), p. 1; P5380 (Intercept of conversation between two unidentified persons, 13 July 1995). See also D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 56–57, 59; Milomir Savčić, T. 42278–42279 (31 July 2013); D2204 (Intercept of conversation between Col. Beara and Lučić, 13 July 1995), pp. 1–2; Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2725. Cf. D3720 (Witness statement of Petar Salapura dated 17 June 2013), p. 7 (testifying that he did not see a heavy security presence at the football field).

<sup>16922</sup> D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 52–53; Milomir Savčić, T. 42251–42252 (30 July 2013).

<sup>16923</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2952, 3008; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3022. See Mirko Trivić, T. 40561–40562 (27 June 2013).

<sup>16924</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2955. Savčić testified that Malinić called the Milići hospital so that a medical team was sent to the field to provide first aid to those detainees who had been wounded, and that, when the medical team arrived, the detainees were given first aid, food, and water. D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 54. However, in light of other credible evidence before it, the Chamber does not accept Savčić's testimony on this point.

<sup>16925</sup> P168 (Order of Motorised Protection Regiment, 13 July 1995). The Chamber notes that Savčić testified that he did not recall having forwarded the document containing Tolimir's proposals, but allowed for the possibility that he sent it yet did not recall doing so. D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 60, 67; Milomir Savčić, T. 42289–42290 (31 July 2013). Savčić also asserted that there were certain irregularities in the form of the document, namely that it was addressed from an IKM of the 65<sup>th</sup> Motorised Protection Regiment in Borike, which was not a "formal forward command post" of that unit, that the document was not signed, and that Malinić had later told him that he had not received the document. D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), paras. 56–57, 66; Milomir Savčić, T. 42342 (31 July 2013). The Chamber recalls, however, that Danko Gojković, a teleprinter operator from the Rogatica Brigade, testified that when the document was brought to him, he transmitted the document via teleprinter. Danko Gojković, P346 (Transcript from *Prosecutor v. Popović et al.*), T. 10716–10717. Gojković explained that the IKM at Borike lacked a teleprinter and thus could not send such a document directly; instead, documents that needed to be sent by telegram were routed through the teleprinter office at the Rogatica Brigade Command, which was located approximately 18 kilometres away from Borike; confirmation of the sending was then transmitted to the IKM by phone. P248 (Danko Gojković's interview with OTP), pp. 24–25; Danko Gojković, P346 (Transcript from *Prosecutor v. Popović et al.*), T. 10718–10719. The Chamber therefore does not consider Savčić's testimony to raise any doubt regarding the authenticity of P168. See also Milomir Savčić, T. 42291 (31 July 2013) (accepting Gojković's testimony about having sent the document via teleprinter); P4671 (Intercept of conversation between two unidentified persons at 2:05 p.m., 13 July 1995) (referring to a telegram that was to be sent to someone at the football pitch).

prohibit traffic for all UN vehicles between Zvornik and Vlasenica until further notice, and (iii) for the commander of the MP Battalion to take measures to remove the detainees from the main road and place them “somewhere indoors or in the area protected from sighting from the ground or air”.<sup>16926</sup> That evening, Mladić issued an order adopting Tolimir’s proposals to restrict access to the area.<sup>16927</sup> **(All of that was #legal and legitimate#, and obligatory, first of all from the standpoint of the security of the POWs!)**

**5185.** Salapura and Popović were present at the Nova Kasaba football field in the afternoon on 13 July.<sup>16928</sup> Zvonko Bajagić testified that when he drove by the football field that day one of the two men accompanying him took photos of those present; Popović, who was standing in front of the field, told the men they should not take photos and that the camera should be taken or the film exposed to light so that the photos would be lost.<sup>16929</sup>

**5186.** Also in the afternoon, Mladić arrived at the football field in an olive green APC.<sup>16930</sup> He insulted and cursed the detainees, and told them that there were special units with dogs covering every inch of the forest to ensure that nobody would be able to cross the Nova Kasaba–Konjević Polje Road.<sup>16931</sup> Mladić also told the detainees that they would be given food and water after which “we’ll see whether we send you to Krajina, to Fikret Abdić, or [...] to the Batkovići camp.”<sup>16932</sup> At that point, a detainee stood up; soldiers first kicked and hit him with rifle butts before shooting and killing him with a pistol.<sup>16933</sup> **(#This was not corroborated with any other evidence? That is why it is not in the Indictment. It would be unimaginable, to have a guard killing a detainee in front of General Mladic and so many witnesses, and nobody else mentioned it! And, above all, this witness hadn’t been cross examined in this case!).** Mladić witnessed this incident but did not respond in any way.<sup>16934</sup> Soon after, Mladić left the football field in the direction of Konjević Polje.<sup>16935</sup>

**5187.** After Mladić’s departure, the detainees were ordered into trucks and buses, and were transported to either Bratunac town or Kravica in the early evening, under the escort

<sup>16926</sup> P168 (Order of Motorised Protection Regiment, 13 July 1995), p. 1. The commander of the MP Battalion was instructed to contact Miletić for additional orders, and to verify that Tolimir’s proposals had been approved by Mladić. P168 (Order of Motorised Protection Regiment, 13 July 1995), p. 2. **Poor beggar, General Tolimir, he could only “propose”, but was sentenced as if he commanded.**

<sup>16927</sup> P4407 (VRS Main Staff Order, 13 July 1995).

<sup>16928</sup> D3720 (Witness statement of Petar Salapura dated 17 June 2013), pp. 6–7; Vujadin Popović, T. 43040 (5 November 2013); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 35. See P4824 (Summary of intercepted conversation, 13 July 1995).

<sup>16929</sup> See Zvonko Bajagić, T. 41150–41154 (10 July 2013). *But see* Vujadin Popović, T. 43040–43041 (5 November 2013) (testifying that he did not remember this incident at all).

<sup>16930</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2953–2954; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 35; Vujadin Popović, T. 43042 (5 November 2013); Adjudicated Fact 1623.

<sup>16931</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2953–2954, 2992. See KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024; KDZ333, T. 24145 (2 February 2012); Milomir Savčić, T. 42255 (30 July 2013).

<sup>16932</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2953–2954. See KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024; Milomir Savčić, T. 42255 (30 July 2013). At that point, Malinić ordered some of his men to start making a list with the names of all the detainees at the football field. KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024–3025; D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 55. Additionally, an intercepted conversation of 13 July 1995 at 11:25 a.m. records that Beara sent four buses, two trucks, and one trailer truck to “Kasaba” for the transportation of the captured Muslims to a camp in the village of Batkovići, where a selection would be made “between the war criminals or just soldiers”. D2197 (Intercept of report sent by Ljubo Beara, 13 July 1995). However, the Chamber received evidence that this selection did not occur. **But, this was not a point. The point was that close to midnight on 13 July Beara didn’t think that there will be any killings. It is completely irrelevant whether there was any selection. A more relevant is that he talked to somebody on 13 July before midnight, while he was supposed to be drunk and in the Deronjic’s office.** See Richard Butler, T. 27733 (20 April 2012).

<sup>16933</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024. This killing is not charged in the Indictment.

<sup>16934</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3024.

<sup>16935</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3025.

of members of the MP Battalion.<sup>16936</sup> When the detainees tried to pick up their bags from the entrance of the field, they were told that they would not need them any longer.<sup>16937</sup>

**(Wasn't it taken from them earlier? #The sentence "would not need them any longer" is instructed, and repeated in many statements of the Muslim witnesses, which compromises this "method" of preparation of witnesses#. At that moment, none of the guards could have known that somebody was to be executed, and this was even before the incident in the Kravica warehouse, and nobody knew anything else but that the POWs were to be transported to the Batkovic prison!)**

5188. A group of about 13 DutchBat officers travelling back from Kladanj after having escorted a convoy of buses from Potočari was blocked at the Nova Kasaba football field on 13 July by members of the 65<sup>th</sup> Protection Regiment's MP Battalion.<sup>16938</sup> The officers' cars and equipment were confiscated and the men were taken to the MP Battalion's headquarters in the school.<sup>16939</sup> At the headquarters, one of the DutchBat officers, Egbers, complained to Malinić about the situation; Malinić said that he would need to contact Beara to arrange a safe return for the officers to Potočari.<sup>16940</sup> The officers spent the night at the school.<sup>16941</sup> On the morning of 14 July, when Beara arrived at the headquarters, Egbers handed him a written complaint and asked him to bring the DutchBat officers to the UN Compound.<sup>16942</sup> Beara left soon after, and Malinić arranged for the officers to return to Potočari on two MP BOVs.<sup>16943</sup>

## 7. Killings

### (A) Jadar River

<sup>16936</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3025–3028, 3049; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2954–2956. See Momir Nikolić, T. 24869–24870 (16 February 2012); Radislav Krstić, D4135 (Transcript from *Prosecutor v. Krstić*), T. 6316 (under seal). The Chamber notes that KDZ045 was aboard one of three buses which did not proceed to Bratunac town but instead stopped overnight near a supermarket in Kravica. See KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2955–2956.

<sup>16937</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2954.

<sup>16938</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2756–2757. But see D3918 (Witness statement of Milomir Savčić, dated 21 July 2013), para. 50 (testifying that when he spoke with Malinić on 13 July, he was informed that UNPROFOR members had asked for help because they did not consider it safe to return to Potočari, so Savčić ordered Malinić to ensure their safety); Milomir Savčić T. 42263–42270 (30 July 2013) (testifying *inter alia* that the DutchBat officers were stopped near the school, but by other VRS units and not by members of the MP Battalion).

<sup>16939</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2757–2760.

<sup>16940</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2757–2760, 2784–2789, 2799–2800, 2824.

<sup>16941</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2766–2767. Egbers testified that while at Nova Kasaba, he saw between 20 and 30 Bosnian Muslim men and boys—a couple of whom were injured—being detained in a small building located on the school grounds, in front of the headquarters. Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2774–2775. Throughout the evening of 13 July, Egbers heard shots in the environs of the headquarters; however, the next morning, he saw that the detainees were still alive. Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2775. Two of the detainees were subsequently taken outside of the building to be used as human shields against Bosnian Muslims firing at the headquarters. Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2775.

<sup>16942</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2776, 2778–2779, 2824. The Chamber notes that Beara denied being present in Bratunac and Zvornik on 13 and 14 July 1995, and, as he did during the *Popović et al.* case, maintained that he was in Belgrade during those days. See Ljubiša Beara, T. 45803 (22 January 2014). However, in light of the overwhelming evidence before the Chamber establishing Beara's ubiquitous presence in the Zvornik area as set out further below, as well as the fact that such presence bore directly upon Beara's criminal responsibility for the events discussed below as established in the *Popović et al.* case, which was still pending before the Appeals Chamber at the time that Beara testified, the Chamber does not find Beara's testimony regarding his whereabouts on 13 and 14 July credible. Egbers described the man he identified as Beara "as a tall man with grey hair but with an atmosphere of a colonel. He was in a camouflage suit wearing a colonel's ranking". Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2776. The Chamber notes that Egbers's identification of Beara was extensively challenged during cross-examination in the *Popović et al.* case. See Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2819–2831. In light of the evidence before the Chamber about the presence of Beara in Bratunac in the morning of 14 July 1995, the Chamber is satisfied that the individual referred to by Egbers was indeed Beara. See Srblav Davidović, T. 24364 (9 February 2012); Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9230–9231; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 42, 44.

<sup>16943</sup> Vincentius Egbers, P331 (Transcript from *Prosecutor v. Popović et al.*), T. 2778–2780.



5189. The Indictment refers to the killing on 13 July 1995 of about 15 Bosnian Muslim men in an isolated area on the bank of the Jadar River.<sup>16944</sup>

5190. The Chamber notes that it took notice of Adjudicated Facts 1689 to 1691 in relation to the killings at the Jadar River, which read as follows:

On the morning of 13 July, 16 Bosnian Muslim men who had been captured from the column were transported by bus from the warehouse in Konjević Polje to the Jadar River bank. Amongst them was a 15 year old boy.<sup>16945</sup>

After the men got off the bus they were lined up alongside the river. Four Serb soldiers who had escorted them in the bus opened fire with their automatic rifles.<sup>16946</sup>

One of the Bosnian Muslim men survived as he threw himself into the river after he was hit by a bullet.<sup>16947</sup>

5191. The Chamber admitted the transcript of KDZ065's testimony in the *Krstić* and *Popović et al.* cases pursuant to Rule 92 bis. KDZ065 testified that he had been moving with the column of men fleeing Srebrenica and, at approximately 3 a.m. on 13 July 1995, surrendered to policemen wearing "slightly multicoloured" dark blue uniforms in the area of Konjević Polje.<sup>16948</sup> After being deprived of his possessions, **(#Belongings!!! Namely, one exclude the other, if there were found personal belongings at the remains recovered from a mass graves, allegedly the execution places, then it is more than contradictory to allege that they were victims of a mass executions. Both, due to the specific order that the POWs must not keep their personal belongings, and those statements and testimonies about taking personal belongings, the two is excluding each other. If analised, there would be evident that far more than 50% of remains had their possessions with them when recovered!)** KDZ065 was taken to a small shed located in an area in front of the elementary school by KW558.<sup>16949</sup> A "couple" of soldiers wearing camouflage uniforms were at the shed guarding two other Bosnian Muslim men whom KDZ065 knew and who had "traces of blows on them".<sup>16950</sup> At around 7 or 9 a.m., KW558 led the three men to be questioned to another house across a meadow.<sup>16951</sup> At the

<sup>16944</sup> Indictment, Scheduled Killing Incident E.1.1. In its Final Brief, the Prosecution argues that the killings at the Jadar River represent the "first known organised and systematic execution of Muslim men from Srebrenica". Prosecution Final Brief, Appendix D, para. 49.

<sup>16945</sup> Adjudicated Fact 1689.

<sup>16946</sup> Adjudicated Fact 1690.

<sup>16947</sup> Adjudicated Fact 1691.

<sup>16948</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3240–3243, 3245–3247.

<sup>16949</sup> KDZ065 identified this policeman and provided detailed information about him. According to KDZ065, KW558 was wearing a one-piece, dark blue camouflage suit, like other policemen in the area. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3246–3248, 3250, 3254. See also Jean-René Ruez, T. 23731–23732 (26 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 42–43. KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3251–3253 (under seal). However, KW558 denied ever knowing KDZ065 and disputed KDZ065's evidence as it concerned him; KW558, D3763 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6519, 6533–6534 (under seal); KW558, T. 40740, 40773–40775, 40782 (3 July 2013); KW558, T. 40740–40746 (3 July 2013) (private session); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6528, 6542–6543, 6547. See also D3772 (Witness statement of Mirko Perić dated 1 July 2013) (under seal), para. 22.

<sup>16950</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3250, 3254. See also KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3252 (under seal).

<sup>16951</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3254–3255. KDZ065 identified the house from a photograph he was shown in court. KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3221; P243 (Photograph of houses near Jadar River).



house, four men wearing military camouflage uniforms were sitting around a table, drinking alcohol.<sup>16952</sup> Two of them questioned KDZ065 and the other detainees.<sup>16953</sup>

5192. After a “short while”, the detainees were taken by KW558 to the communications house of the 6<sup>th</sup> Company of the Zvornik PJP and put in a room.<sup>16954</sup> A 14–15 year old boy was also brought to the room, questioned, and given some food.<sup>16955</sup> After “a certain amount of time had passed”, Rešid Sinanović, Hasan Salihović—a policeman in Srebrenica—, and a third man, were also brought to the room.<sup>16956</sup> A Bosnian Serb man wearing civilian clothes named Mirko<sup>16957</sup> then arrived and said that four of the detainees—including KDZ065 and the boy—should be taken away, while Sinanović and Salihović should stay.<sup>16958</sup>
5193. After leaving the communications house, Mirko took the three Bosnian Muslim men and the boy to a warehouse situated on the banks of the Jadar River, at the cross-roads of Konjević Polje and the bridge leading to Nova Kasaba, which had been an “agricultural chemist” before the war.<sup>16959</sup> Upon arriving at the warehouse, KDZ065 saw yet another Bosnian Serb policeman he knew, Nenad Deronjić, who was with four “colleagues” wearing “military camouflage” uniforms.<sup>16960</sup> **But, he was a policeman in the PJP, and couldn’t have an army uniform** The three men and the boy were taken to a room where 12 other Bosnian Muslim men were being kept in their underpants.<sup>16961</sup> The “soldiers”, who were carrying automatic weapons, started shouting at the three men and the boy to take their clothes off, which they did; thereafter the men and the boy were lined up against a wall and beaten with “all kinds of things”.<sup>16962</sup> A man aged approximately 18 to 20

<sup>16952</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3255, 3257, 3259. KDZ065 did not see any insignia on the men’s uniforms, because their sleeves were rolled up. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3289.

<sup>16953</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3257–3260. During the questioning, KDZ065 and the two other Bosnian Muslim men were given some food, water, and alcohol. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3257–3258, 3262.

<sup>16954</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3258, 3262–3263; KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3221; P226 (Photograph of a house near Jadar River). While KDZ065 referred to this, the third building he was taken to, as an “empty house”, in light of the totality of the evidence before it, the Chamber finds that this building was the communications house of the 6<sup>th</sup> Company of the Zvornik PJP. See KW558, T. 40747 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6524–6527, 6542; D3766 (Photograph of a house); D3767 (Photograph of a house); D3768 (Photograph of houses along a road); D3771 (Photograph of a building); D3765 (Diagram drawn by KW558) (under seal). See also para. 5199 where the Chamber discusses in detail the inconsistent evidence admitted in this case in relation to the events at the communications house.

<sup>16955</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3263. See also Adjudicated Fact 1689. But see KW558, D37643 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6534–6535 (under seal).

<sup>16956</sup> KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3266 (under seal); KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3263–3264; KDZ065, P335 (Transcript from *Prosecutor v. Popović et al.*), T. 3191; KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3215 (under seal). See also D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 19.

<sup>16957</sup> KDZ065 provided detailed information identifying the man referred to as “Mirko”. KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3265–3266 (under seal); KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3269. Cf. D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 13, 26–27 (where Perić confirmed that he had been a policeman in Bratunac and acknowledged his presence in Konjević Polje on 13 July 1995, but denied wearing civilian clothes, adding that he was wearing a blue camouflage police uniform that day).

<sup>16958</sup> KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3266–3267 (under seal).

<sup>16959</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3264, 3268–3269; KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3265–3268 (under seal); KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3217–3221; P266 (Photograph of Konjević Polje marked by KDZ065). See also Jean-René Ruez, T. 23751 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 81. The Chamber notes that Perić denied escorting any detainees to a warehouse in Konjević Polje on 13 July, adding that the only detainee he escorted on that day was Sinanović who he brought to the communications house, after which he returned to the check-point. D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 20, 27–28, 30. See also Mirko Perić, T. 40793 (3 July 2013). Perić added that he was not aware of the existence of a warehouse; however, upon being presented with two photographs of Konjević Polje, one of which was marked by KDZ065 identifying the warehouse, Perić acknowledged the existence of the building marked by KDZ065 but stated that he had never been inside; Mirko Perić, T. 40796–40802 (3 July 2013); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 81; P266 (Photograph of Konjević Polje marked by KDZ065). The Chamber received evidence of the detention of other Bosnian Muslim men at the warehouse in the evening on 13 July. See para. 5168.

<sup>16960</sup> KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3267–3268 (under seal); KDZ065, P335 (Transcript from *Prosecutor v. Popović et al.*), T. 3249–3250 (under seal).

<sup>16961</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3269.

<sup>16962</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3269–3270, 3272–3274. Mirko started beating KDZ065 when he saw KDZ065 shaking with fear. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3269.

wearing short blue pants with a belt and a leather holster containing a pistol arrived and asked Nenad Deronjić why he had made the men remove their clothes since they were to be exchanged.<sup>16963</sup> Deronjić rejected the prospect of an exchange, saying that he would “kill them all”; the man in short pants said that if anyone was going to kill them, it would be him.<sup>16964</sup> Later, a thin man with a moustache named “Brko” arrived and told the three men and the boy to put their clothes back on; they were then beaten again.<sup>16965</sup>

5194. Some time before noon,<sup>16966</sup> (#How many hours had this 13 July???) KDZ065 and the 15 other detainees—including the boy—were put on a bus, and ordered not to sit down.<sup>16967</sup> Four of the uniformed men who had beaten the detainees in the warehouse, including Nenad Deronjić and Brko, were on the bus and carried automatic weapons.<sup>16968</sup> The bus then drove towards Zvornik and travelled for about two kilometres before stopping again at the side of the road.<sup>16969</sup>

5195. The detainees got off the bus and were initially lined up against a fence; then, on Brko’s instructions, were led downhill on a path for 15 to 20 metres and lined up alongside the Jadar River.<sup>16970</sup> Brko then ordered the men to get into the river bed.<sup>16971</sup> KDZ065 was positioned third from the left; he recalled waiting for his life to end in silence for approximately 30 seconds while images of his children appeared in his mind.<sup>16972</sup> When the man next to KDZ065 was shot, KDZ065 saw the bullet come through the man’s shirt and hit KDZ065 on his left hip.<sup>16973</sup> He threw himself facedown into the river and held his breath for as long as he could.<sup>16974</sup> When KDZ065 raised his head to take a breath, one of the members of the Bosnian Serb Forces noticed and began firing at him; KDZ065 felt the bullets whizzing around his head.<sup>16975</sup> KDZ065 ducked under the water again and pulled himself to the centre of the river but the leather jacket he was wearing puffed up.<sup>16976</sup> The current began to carry him down the river, and when he hit his head on a rock, he turned onto his back.<sup>16977</sup> The members of the Bosnian Serb Forces fired again at KDZ065 who

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<sup>16963</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3270, 3286.

<sup>16964</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3270.

<sup>16965</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3270–3271, 3276.

<sup>16966</sup> See KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3286–3287 (stating that “it all happened before noon”); KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3277 (stating that events took place “sometime around noon”).

<sup>16967</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3272, 3275. *But see* D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 31; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3535. *See also* Mirko Perić, T. 40795–40796 (3 July 2013).

<sup>16968</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3272, 3274, 3276. *See also* Momir Nikolić, T. 24665–24666 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. The Chamber notes that KDZ065 identified Nenad Deronjić as part of the “execution squad”. KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3287 (under seal); KDZ065, P335 (Transcript from *Prosecutor v. Popović et al.*), T. 3215 (under seal). *But see* Nenad Deronjić, T. 40718–40719 (2 July 2013) (private session); Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8191–8193 (where Deronjić denied being in Konjević Polje on 13 July, having participated in “any atrocities”, and being acquainted with KDZ065).

<sup>16969</sup> Jean-René Ruez, T. 23751–23753 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 81–82; P4283 (Photograph of Zvornik–Konjević Polje road marked by Jean-René Ruez). *See also* KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3272, 3275.

<sup>16970</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3275–3276. *See also* Adjudicated Fact 1690; Jean-René Ruez, T. 23752–23753 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 83–84; P4284 (Photograph of Zvornik–Konjević Polje road marked by Jean-René Ruez).

<sup>16971</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3276.

<sup>16972</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3276–3277.

<sup>16973</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277. KDZ065 was hit on the left side from behind, and the bullet passed by the bone, cutting through some tendons. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3280. *See also* Adjudicated Fact 1691.

<sup>16974</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277. *See also* Adjudicated Fact 1691.

<sup>16975</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277.

<sup>16976</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277.

<sup>16977</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277.

spread out his arms and let the current carry him, until structures began to shelter him from the soldiers' fire.<sup>16978</sup>

5196. Later, KDZ065 took hold of a rock, got out of the river, and dressed the wound on his left side with torn-up bits of his shirt.<sup>16979</sup> He was bleeding heavily, but was able to walk, so he continued through meadows, woods, and villages.<sup>16980</sup> KDZ065 came across ten men coming from Srebrenica and continued with them; at some point, they joined the column of Bosnian Muslim men proceeding in the direction of Nezuk.<sup>16981</sup>

5197. The Chamber notes that the evidence surrounding the events at the communications house, as well as KDZ065's identification of Nenad Deronjić as one of the perpetrators of the killings at the Jadar River, have been highly contested in this case.

5198. The Prosecution asserts that “[a] significant body of reliable evidence corroborates KDZ065's evidence”.<sup>16982</sup> On the other hand, the Accused argues that the evidence on the Jadar River killings comes from only one witness, namely KDZ065, whose testimony was admitted pursuant to Rule 92 *bis*, and alleges that untested evidence, in and of itself, cannot lead to a conviction.<sup>16983</sup> Additionally, the Accused claims that KDZ065's evidence is unsupported by any physical or forensic evidence and is contradicted by the testimony of the three persons who KDZ065 named as being involved in those events.<sup>16984</sup> **(#Deadly combination#Now we can see how it looks like with the 92bis. See: 00817045, the dischard list from the hospital. It was an explosive wound, not a firearm wouns (explosivum vs. sclopetarium) see also: 0263-1665-1667, a record of an educative preparation of witnesses, see: 00817046, see also: 00817045, nowhere is mentioned any wound on stomach, but only an explosive wound on gluteus region, original 01399984-85, wounded four days ago, date 16 July 95. In his early statements, KDZ065 never spoke about two, but only about one wound, which is consistent with the medical record. There is a document of the 2<sup>nd</sup> Corps ABiH about the interview with journalists as an unauthorised. #THERE ARE SEVERAL PRIOR STATEMENTS, ALL OF THEM DIFFER IN DETAILES AND IN SUBSTANCE!#)**

5199. As regards the events at the communications house, the Chamber notes first that, contrary to KDZ065's evidence, KW558 testified that he was at the communications house on 13 July when Mirko Perić and Duško Nesković—a police officer from Bratunac—arrived with Sinanović and Salihović.<sup>16985</sup> Sinanović and Salihović stayed at the house for about an hour, until taken away by Momir Nikolić and “another man”—both of whom

<sup>16978</sup> KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277–3278.

<sup>16979</sup> KDZ065 explained that the exit wound from the bullet was very large and he could see his ligaments through it. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3278, 3280. KDZ065 was shown a photograph depicting a scar on his body and explained that the scar resulted from the shooting; he then marked the entry and exit wounds. KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3222–3223; P261 (Photograph of KDZ065's wound marked by KDZ065).

<sup>16980</sup> KDZ065 testified that the bullet had cut through some tendons so he could not walk properly, but he did not have any broken bones. KDZ065, P336 (Transcript from *Prosecutor v. Krstić*), T. 3277–3278, 3280.

<sup>16981</sup> KDZ065, P336 (Transcript from *Prosecutor v. Popović et al.*), T. 3277–3278. See para. 5165.

<sup>16982</sup> Prosecution Final Brief, Appendix D, para. 51.

<sup>16983</sup> Defence Final Brief, para. 2494.

<sup>16984</sup> Defence Final Brief, para. 2495.

<sup>16985</sup> KW558 explained that Salihović was a former colleague “who used to work in Srebrenica” and that, while he did not know Sinanović personally, he was introduced by Perić as Perić's superior at the Bratunac SJB before the war; KW558, T. 40746–40747, 40755–40757 (3 July 2013); KW558, D3763 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6528–6529 (under seal); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6529, 6548, 6551, 6554. According to KW558, Sinanović and Salihović looked terribly frightened, so KW558 told them to relax and not to be afraid; the men were then offered breakfast and cigarettes but only Salihović accepted any of it. KW558, T. 40747–40748 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6529–6530, 6548.

were wearing dark green military uniforms—in the direction of Bratunac.<sup>16986</sup> KW558 could not remember whether any other Bosnian Muslim men were brought to, or kept in, the communications house on that day.<sup>16987</sup> Nenad Deronjić testified that he heard from KW558 that KW558 was in Konjević Polje with Salihović, and that he gave Salihović some food and cigarettes until someone came and took Salihović away.<sup>16988</sup> Perić testified that, after capturing Sinanović near the Konjević Polje check-point, he brought him to the communications house where he met KW558,<sup>16989</sup> who instructed Perić to leave Sinanović in a room, where he saw two other individuals being held.<sup>16990</sup> According to Perić, he then returned to the check-point where he later met with Momir Nikolić and told him where he had earlier taken Sinanović.<sup>16991</sup> KW582 also stated that, while in Konjević Polje on 13 July, Momir Nikolić told him that he had taken “someone who had worked in the MUP earlier on” from Konjević Polje to Bratunac; KW582 understood this person to be Sinanović though he never saw Nikolić with Sinanović.<sup>16992</sup> Momir Nikolić confirmed that while at Konjević Polje on 13 July, he was informed by members of the police that Sinanović had been captured, so he brought Sinanović to Bratunac to be interrogated by Zlatan Čelanović.<sup>16993</sup> Čelanović—who worked as a “desk officer” in the Bratunac Brigade in July 1995—confirmed that Momir Nikolić brought Sinanović to his office on 13 July to be interrogated; Sinanović was questioned for about an hour and was then transferred to the Vuk Karadžić School in Bratunac, together with other Bosnian Muslim detainees.<sup>16994</sup> Srbislav Davidović testified that after being informed on 13 July that Sinanović was in custody at Čelanović’s office, as a suspected war criminal, he requested to see Sinanović with whom he met for about an hour.<sup>16995</sup> After the meeting took place, Čelanović informed Davidović that Sinanović would be transferred to the Vuk Karadžić School in the afternoon.<sup>16996</sup>

5200. The Chamber finds that Deronjić, Perić, and KW558 were contradicted with respect to various portions of their evidence which was also marked by evasiveness and a lack of forthrightness. The Chamber further notes that KW558 and Perić contradicted each other as to the events which took place in the communications house. Consequently, the

<sup>16986</sup> KW558, T. 40758–40759 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6530–6532, 6549–6551, 6554. KW558 asserted that he never dreamed that Sinanović and Salihović would be killed and was certain at the time that they would be exchanged. KW558, T. 40758 (3 July 2013).

<sup>16987</sup> KW558, 40749–40751 (3 July 2013) (private session), T. 40752 (3 July 2013).

<sup>16988</sup> Nenad Deronjić, D3759 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8220–8221 (under seal). Deronjić also confirmed that he graduated with Salihović from the police academy, got their first jobs together at Gradačac, and later worked together in Srebrenica. Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8177, 8219. *See also* KW558, T. 40746–40747 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6536.

<sup>16989</sup> D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 19–20. Perić testified that he did not escort any other detainees that day other than Sinanović and confirmed that he alone had transported Sinanović to the communications house; he further denied knowing who Duško Nesković was. D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 28; Mirko Perić, T. 40789–40790, 40797 (3 July 2013).

<sup>16990</sup> Perić clarified that when taking Sinanović to the room inside the communications house he saw two other individuals; however, since he did not enter the room, he did not know their identity; D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 19–20; Mirko Perić, T. 40790 (private session), 40792–40793 (3 July 2013).

<sup>16991</sup> D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 21.

<sup>16992</sup> KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3543–3544.

<sup>16993</sup> Momir Nikolić, T. 24657–24658 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. *See also* para. 5171. Momir Nikolić explained that, after the interrogation, Čelanović determined Sinanović was not a war criminal; Sinanović was then transported to the Vuk Karadžić School with other Bosnian Muslims who had previously been detained. Momir Nikolić, T. 24658–24659 (14 February 2012).

<sup>16994</sup> Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6626, 6630–6637, 6645–6647, 6657–6658, 6671–6673, 6684, 6697; P171 (Bratunac Brigade interrogation notes, 13 July 1995). The Chamber notes that Čelanović referred to the school as the “Branko Radičević School” but stated that he was unsure of its name; Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6638–6639, 6690.

<sup>16995</sup> Davidović explained that Sinanović was a very good friend, as they had worked together at the Bratunac SJB, and had previously tried to help Sinanović and his family to leave Bratunac. Srbislav Davidović, T. 24387–24388 (9 February 2012); Srbislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9219, 9222–9226, 9248–9249.

<sup>16996</sup> Srbislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9226.



Chamber finds that the evidence of these three witnesses is not reliable, and does not undermine the evidence of KDZ065. Thus, while the evidence provided by the various witnesses who were present at the communications house is not fully consistent, the Chamber is satisfied with KDZ065's recollection of the events that took place there, particularly in light of his evidence concerning the presence of Sinanović and Salihović, which was corroborated by the other witnesses whose evidence was discussed in the previous paragraph.<sup>16997</sup>

5201. Next, as regards KDZ065's identification of Nenad Deronjić as one of the perpetrators of the killings at the Jadar River, Deronjić testified that despite being deployed with colleagues from the Bratunac SJB at the check-point in Konjević Polje on 11 July 1995, he left the check-point on 12 July for Srebrenica as part of the 2<sup>nd</sup> Company of the Zvornik PJP, where he stayed for seven or eight days.<sup>16998</sup> The Chamber received evidence as to the whereabouts of Deronjić in July 1995, aimed at proving that he was only deployed to Srebrenica on 21 July and that until then he was deployed with the 2<sup>nd</sup> Company of the Zvornik PJP, which was engaged in combat activities in the area of Konjević Polje from 12 to 20 July.<sup>16999</sup> However, Deronjić reiterated that he never moved from the centre of Srebrenica during the nine days he was deployed there.<sup>17000</sup> KW558 corroborated Deronjić's testimony by stating that, while Deronjić was "occasionally" in Konjević Polje in early July 1995, he had left for Srebrenica by 13 July.<sup>17001</sup> Perić also testified that he never saw Deronjić at the check-point in Konjević Polje during the three or four days he

<sup>16997</sup> See paras. 5192, 5199. In relation to Sinanović's whereabouts after 13 July 1995, the Chamber received evidence that, in the morning of 14 July, Sinanović was transferred from the Vuk Karadžić School to Zvornik, as part of the convoy of detainees who had been held in various locations within Bratunac the night before. Momir Nikolić, T. 24659–24660 (14 February 2012). See paras. 5313, 5316. On 15 July, Sinanović was found wounded, and taken to the sanatorium in Banja Koviljača and, subsequently, to the Loznica Hospital, after having survived—and escaped from—a mass execution near Kozluk. P4393 (Witness statement of Robert Block dated 14 February 2012), paras. 37–41; P4402 (15<sup>th</sup> Border Battalion report, 16 July 1995); P4403 (VJ General Staff report, 16 July 1995), p. 2; P246 (Letter including medical register from Banja Koviljača, 5 March 2003); P4401 (Article from The Independent entitled "River Killings" Shed Light on Scale of Horror after the Fall of Srebrenica", 25 July 1995). See also Richard Butler, T. 27876 (23 April 2012); Robert Block, T. 24920, 24934–24936 (21 February 2012). According to Momir Nikolić, a doctor from the Loznica Hospital recognised Sinanović and informed the Bratunac SJB of his whereabouts, which in turn informed the police in Zvornik; members of the civilian police in Zvornik then took Sinanović from the hospital. Momir Nikolić, T. 24660 (14 February 2012). The Chamber also received evidence that on 15 July, the Zvornik Brigade was informed of Sinanović's whereabouts. P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 72. While the Chamber received no evidence as to what happened to Sinanović after he was removed from the Loznica Hospital, his remains were identified from remains found in the Čančari Road 4 gravesite, which was linked to the Branjevo Military Farm primary gravesite. P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court p. 203 (under seal); P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010). See paras. 5458, 5461.

<sup>16998</sup> Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8179–8187; D3761 (Excerpt from Srebrenica SJB logbook); P4935 (Report of Zvornik CJB, 12 July 1995); P6431 (Excerpt from Srebrenica SJB work schedule logbook, 12 and 13 July 1995), e-court p. 4 (which may suggest that Deronjić was in Srebrenica on 13 July 1995 but whose original version appears to have been altered). See also Nenad Deronjić, T. 40710–40713, 40728–40729 (2 July 2013); Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8182–8184, 8194–8199. Deronjić explained that, upon arriving in Srebrenica on 12 July, he worked on setting up the new SJB, and was deployed at the check-point in the direction of Zeleni Jadar and the check-point near Domavija; occasionally, he also patrolled the town. See Nenad Deronjić, T. 40698, 40704 (2 July 2013); D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8186–8191; para. 226. See also Nenad Deronjić, T. 40694 (2 July 2013); Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8204–8205.

<sup>16999</sup> KDZ065, P335 (Transcript from *Prosecutor v. Krstić*), T. 3287 (under seal); KDZ065, P335 (Transcript from *Prosecutor v. Popović et al.*), T. 3215–3216, 3267–3268, 3272–3273 (under seal); Momir Nikolić, T. 24665–24666 (14 February 2012); D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9; P5136 (Bulletin of daily events of Zvornik CJB, 13–14 July 1995); P6432 (5<sup>th</sup> Engineering Battalion combat report, 12 July 1995); P247 (5<sup>th</sup> Engineering Battalion combat report, 14 July 1995), pp. 1–2; P6427 (Order of Zvornik CJB, 15 July 1995); P6428 (Srebrenica SJB dispatch to Zvornik CJB, 16 July 1995); P6429 (Order of Zvornik CJB, 18 July 1995). See also P6430 (Decision of RS MUP, 18 June 1996); D3761 (Excerpt from Srebrenica SJB logbook).

<sup>17000</sup> Nenad Deronjić, T. 40700–40713 (2 July 2013); Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8207–8213, 8223, 8228–8229. See also D3115 (witness statement of Branimir Tešić dated 9 March 2013), para. 41.

<sup>17001</sup> KW558, T. 40759, 40768–40769 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6536, 6553. According to KW558, on 11 or 12 July 1995, an order arrived from the Zvornik CJB whereby all policemen who had worked in Srebrenica before the war were ordered to return there, to set up a new police station; KW558 assumed that Deronjić followed the order and left Konjević Polje on 11 or 12 July, given that the police station in Srebrenica was established in the afternoon of 12 July. KW558, T. 40759–40761 (3 July 2013); KW558, D3764 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 6536–6538, 6552–6554. See also KW558, T. 40760–40763, 40767–40770 (3 July 2013).



was deployed there around 13 July.<sup>17002</sup> Similarly, KW582 testified that he did not remember seeing Deronjić on 13 July while at the Konjević Polje intersection.<sup>17003</sup> Contrary to the evidence described in this paragraph, Momir Nikolić testified to having seen both Nenad Deronjić and Mirko Perić at the intersection on 13 July 1995.<sup>17004</sup> **(#Of course, who else than Momir Nikoli}!?)**

5202. The Accused claims that the evidence of KDZ065 and Momir Nikolić to having seen Nenad Deronjić in Konjević Polje on 13 July has been contradicted by the evidence of Deronjić himself, plus that of Perić, KW558, and KW582, as well as by D3761.<sup>17005</sup> On the other hand, the Prosecution claims that Deronjić is not a credible witness and has been contradicted by a number of documents, including D3761, which show that members of Deronjić's unit were on combat duty on 13 July in Konjević Polje, and that Deronjić himself was on duty that day.<sup>17006</sup> Furthermore, according to the Prosecution, none of the evidence presented by KW558, KW582 or Perić contradicts or undermines KDZ065's identification of Deronjić first, because they simply did not see Deronjić on 13 July, and second, because none of them testified to being present at the locations where KDZ065 saw Deronjić.<sup>17007</sup> **(But,# another inconsistency: Deronjic was in a police special unit, the PJP, and he couldn't have a soldier's masked uniform.#)**

5203. The Chamber has already found that the evidence of Deronjić, Perić, and KW558 regarding the events at the communications house cannot be relied upon. The Chamber considers that the same logic also applies to their evidence on the presence of Deronjić at Konjević Polje on 13 July and as such, their evidence has not undermined or successfully challenged that of KDZ065. While the Chamber found that KW582's testimony was sufficiently reliable and probative for the purpose of admission under Rule 92 *quater*,<sup>17008</sup> it also finds that the portions thereof which are relevant to this particular issue have not successfully challenged the evidence of KDZ065.

5204. In considering the evidence of KDZ065 on its own, the Chamber notes that KDZ065 first identified Deronjić as one of the perpetrators of the killings at the Jadar River in his 1999 statement, although he had not done so in his earlier statements.<sup>17009</sup> While the Chamber does not find KDZ065's explanations regarding this omission wholly satisfactory, it considers that it neither affects his credibility, nor renders his testimony unreliable as a whole. **(But, #for much less inconsistencies the Defence witnesses were discredited. How possibly later memories of the KDZ065 could be more accurate than the earlier?#)** More specifically, the Chamber accepts KDZ065's identification of Deronjić as one of the perpetrators of the killings. As stated above, KDZ065's evidence that he saw Sinanović and Salihović at the communications house was confirmed by various other witnesses.<sup>17010</sup> Furthermore, the Chamber has heard evidence as to the presence of Bosnian Serb Forces at the Konjević Polje intersection on 13 July, which is

<sup>17002</sup> Mirko Perić, T. 40788–40789 (3 July 2013); D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 22, 29. *But see* Nenad Deronjić, T. 40701–40702 (2 July 2013) (claiming to have seen Perić in Konjević Polje on 11–12 July). *See also* Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8218–8219.

<sup>17003</sup> KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3534–3535.

<sup>17004</sup> Momir Nikolić, T. 24665–24666 (14 February 2012); D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9. The Chamber notes the Accused's claim that this corroboration by Momir Nikolić is yet another instance of Nikolić's intentional effort to corroborate the Prosecution's case as a whole, regardless of its accuracy. Defence Final Brief, para. 2496.

<sup>17005</sup> Defence Final Brief, para. 2496.

<sup>17006</sup> Prosecution Final Brief, Appendix D, para. 52.

<sup>17007</sup> Prosecution Final Brief, Appendix D, para. 52.

<sup>17008</sup> *See* Decision on Accused's Motion to Admit Testimony of Witness KW582 pursuant to Rule 92 *quater*, 3 February 2014, paras. 13–15.

<sup>17009</sup> KDZ065, P335 (Transcript from *Prosecutor v. Popović et al.*), T. 3215–3216; 3251–3255, 3268–3272 (under seal).

<sup>17010</sup> *See* para. 5201.

consistent with KDZ065's story.<sup>17011</sup> The Chamber has also found no indicia within KDZ065's evidence that would indicate that he falsely identified and incriminated Deronjić. Thus, despite the contradictory evidence received by the Chamber discussed in paragraph 5200 above, and in particular in light of Momir Nikolić's corroboration of KDZ065's identification of Deronjić, the Chamber finds that Nenad Deronjić was present at the Konjević Polje intersection on 13 July 1995, and participated in the killings at the Jadar River.

**5205.** For the reasons set out above, the Chamber finds that on 13 July 1995, members of the Bosnian Serb Forces—including at least one member of the Bratunac SJB, Nenad Deronjić—executed 15 Bosnian Muslim men in an isolated area on the bank of the Jadar River. The Chamber further finds that a 14 or 15-year old boy was among the 15 Bosnian Muslim males killed. **(#What is the forensic evidence about this killing?)**

## (B) Cerska Valley

### 1. Introduction

5206. The Indictment refers to the killing and subsequent burial on 13 July 1995 of approximately 150 Bosnian Muslim men in an area along a dirt road in the Cerska Valley about three kilometres from Konjević Polje.<sup>17012</sup> In its pre-trial brief, the Prosecution clarified its position that this execution did not take place on 13 July but at some point between 13 and 17 July 1995.<sup>17013</sup> In its final brief, however, the Prosecution asserts that the execution took place on or around 17 July.<sup>17014</sup>

### 2. KDZ066

5207. The Chamber admitted the transcript of KDZ066's testimony in the *Krstić* case pursuant to Rule 92 *bis*. KDZ066 testified that on 13 July 1995, he and eight others fleeing from Srebrenica were on a hill between the villages of Krke and Jelah, around 500 metres from the Konjević Polje–Nova Kasaba Road.<sup>17015</sup> Around 2 p.m., while looking towards the Cerska Valley,<sup>17016</sup> KDZ066 saw buses—which he and the others assumed were carrying women and children—going from Konjević Polje in the direction of Nova Kasaba.<sup>17017</sup> KDZ066 then saw another three buses<sup>17018</sup>—which he again assumed were full of people<sup>17019</sup>—leaving Konjević Polje, which turned right off the asphalt road towards Kamenica, crossed a bridge across the Jadar River, and moved uphill in the direction of

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<sup>17011</sup> See para. 5167.

<sup>17012</sup> Indictment, Scheduled Killing Incident E.2.1.

<sup>17013</sup> Prosecution Pre-trial Brief, para. 241.

<sup>17014</sup> Prosecution Final Brief, Appendix D, para. 145.

<sup>17015</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2735–2737, 2741–2743. KDZ066 explained that he made his way to the Dolina hill because he was familiar with the area from before the war. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2736, 2741–2743.

<sup>17016</sup> From the hill, KDZ066 “had a very good view” of the area of Konjević Polje and Nova Kasaba, the road leading to Nova Kasaba, and the field beyond the road. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2741–2742.

<sup>17017</sup> KDZ066 assumed that people were being transported from Potočari. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737, 2785–2787.

<sup>17018</sup> KDZ066 explained that he could not tell what kind of buses they were, or “what company [they] belonged to. There were some letters but I couldn't make them out. I was on the hill, I was far away from the buses”. See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2740.

<sup>17019</sup> KDZ066 testified that he could not see whether the buses were full of people, but “assumed” that they were. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2774, 2780.

Cerska.<sup>17020</sup> The buses were followed by an APC “and two other trek vehicles”.<sup>17021</sup> One of the vehicles was green and was carrying soldiers in camouflage uniforms.<sup>17022</sup> At some point, all the vehicles turned around a curve into the woods and KDZ066 lost sight of them.<sup>17023</sup>

5208. According to KDZ066, 5 to 15 minutes later, a yellow excavator, with a bucket or a shovel, drove in the same direction.<sup>17024</sup> At the same time, shooting began first with small arms fire, but the intensity then increased as machine gun fire echoed along the valley.<sup>17025</sup> KDZ066 described the scene as: “very loud [...] there was a lot of noise, very heavy shell fire could be heard”.<sup>17026</sup> The shooting lasted 15 to 30 minutes.<sup>17027</sup> When it stopped, the buses—which according to KDZ066 were now empty—drove back followed by the APC, and took the same road in the direction of Konjević Polje.<sup>17028</sup> The excavator drove back along the same road roughly 30 minutes later.<sup>17029</sup>

5209. KDZ066 testified that he remained in the area in and around Cerska until September 1995.<sup>17030</sup> Some time in September, KDZ066 and some individuals he had encountered decided to try to find the site of the shooting on 13 July, by following the road that goes from Cerska to the Konjević Polje intersection.<sup>17031</sup> The group eventually found the gravesite on the left side of the road, “with freshly dug earth over it”.<sup>17032</sup> Its crater was approximately 25 steps long and 10 steps wide.<sup>17033</sup> KDZ066 could tell it was the grave by the stench.<sup>17034</sup> Across the road from the gravesite, on the right side of the road, KDZ066 saw the place where the excavator had dug up the earth, as well as traces of the excavator’s wheels,<sup>17035</sup> but did not see any bones or bodies.<sup>17036</sup>

5210. The Chamber also heard from Jean-René Ruez that the Cerska gravesite was discovered in 1996 using, among others, on information provided by KDZ066.<sup>17037</sup> Having

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<sup>17020</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737–2738, 2772–2773.

<sup>17021</sup> See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737.

<sup>17022</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2738–2739.

<sup>17023</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737, 2739–2740.

<sup>17024</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737, 2740.

<sup>17025</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737, 2739, 2741.

<sup>17026</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2781.

<sup>17027</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2739, 2781.

<sup>17028</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2739, 2780–2781, 2787.

<sup>17029</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2739, 2780.

<sup>17030</sup> The Chamber notes that the timeline at this point in KDZ066’s evidence is not very clear, but it appears that KDZ066 spent more than four months in the area in and around Cerska, moving through various locations and villages, before crossing into Bosnian Muslim-held territory around mid-November. **So, till mid-November he was a real threat to the Serb civilians, peasants and soldiers?** See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2743, 2748–2750, 2759, 2774–2777, 2788.

<sup>17031</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2751–2752.

<sup>17032</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2752–2753, 2777.

<sup>17033</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2753. KDZ066 was asked to point at the approximate location of the mass grave on a sketch map, and he pointed to the rectangle just below and to the right of Cerska. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2753; P203 (Map showing mass grave site in Cerska). KDZ066 then identified the location of the mass grave on a series of photo stills put to him. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2757–2759; P222 (Photographs of a site in Cerska); P209 (Photograph of a mass grave in Cerska Valley).

<sup>17034</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2754, 2777.

<sup>17035</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2753–2754, 2777.

<sup>17036</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2778–2779.

<sup>17037</sup> Ruez explained that while visiting the area with his team in 1996 and driving along the valley—and filming the entire journey—based on the information provided by KDZ066, they could not find the gravesite; upon his return, Ruez showed the video to a second eye-witness who was then able to point Ruez and his team to a specific area; it was only during a second trip that Ruez and his team followed the exact location provided by the second eye-witness, probed it, and found the gravesite. Jean-René Ruez, T. 23743–23744, 23746–23749 (27 January 2012). Ruez explained that the second witness told him that when he was crossing barefoot the area during the night on 13 July, he walked on “sticky material that he identified as being a pool of blood” and continued his way towards the top of the valley. Jean-René Ruez, T. 23740–23741 (27 January 2012), T. 23996 (1 February 2012). See also P4311 (William Haglund’s expert report, entitled “Forensic Investigation of the Cerska Grave Site – Volume I”, 15 June 1998), e-court pp. 8, 11 (explaining that, while a

found the area, Ruez used two aerial images from 5 and 27 July 1995 to demonstrate the disturbance at the left side of the road where the bodies had been dumped, as well as the disturbance at the right side of the road where the excavator took the soil to cover the bodies.<sup>17038</sup>

5211. For reasons explained in detail in the following paragraphs, the Chamber finds KDZ066's account of events problematic, casting serious doubts as to his credibility, and is thus not satisfied with the reliability of large portions of his evidence.

5212. First, during his testimony in the *Krstić* case, KDZ066 testified that the killings in the Cerska Valley took place on 13 July 1995.<sup>17039</sup> KDZ066 was unequivocal in this assertion despite the fact that prior to that testimony, he had given two statements where he first claimed that the killings at the Cerska Valley took place on 22 July, and then contended that they occurred on 14 July.<sup>17040</sup> As stated above, KDZ066 testified that, while on a hill, he saw buses which he and the others "assumed" were carrying women and children going from Konjević Polje in the direction of Nova Kasaba and towards the "free territory".<sup>17041</sup> Considering that women and children were indeed being bussed from Potočari on that date,<sup>17042</sup> KDZ066's assumption would lend support to his claim that the events he described took place on 13 July 1995.

5213. Throughout the proceedings, however, the Accused challenged the date provided by KDZ066 as being the date of the killings at the Cerska Valley.<sup>17043</sup> While Ruez corroborated KDZ066's evidence regarding the date, the Chamber notes that his assertion was solely based upon KDZ066's account of events.<sup>17044</sup> However, both Dušan Janc and Richard Butler conceded that establishing the exact date of the Cerska Valley killings was problematic.<sup>17045</sup> Further, Richard Haglund also noted that two of the victims buried in the Cerska gravesite were last seen alive after July.<sup>17046</sup> As stated above, even the Prosecution has now acknowledged that the killings at the Cerska Valley did not take place on 13 July but on or around 17 July.<sup>17047</sup> More importantly, and as discussed in detail below, the Chamber has received additional evidence which shows that a number of victims found in the Cerska gravesite were last seen alive on various dates on or after 13 July, including as late as August 1995.<sup>17048</sup> **(This, as well as the dirt stratum between the stratum of**

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preliminary reconnaissance of the Cerska area was conducted in April 1996, the Cerska gravesite was only located by Tribunal investigators, led by Ruez, in a subsequent investigation conducted on 29 May 1996).

<sup>17038</sup> Jean-René Ruez, T. 23748–23749 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 68. See also P4512 (Photograph booklet entitled "Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery"), p. 3.

<sup>17039</sup> See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*, T. 2737 (stating that "on the 13<sup>th</sup> of July, it was a Thursday, I remember very well. It was about 2.00 in the afternoon [...]") The Chamber notes that 13 July 1995 was indeed a Thursday.

<sup>17040</sup> The Chamber notes that KDZ066 gave a first statement to the BiH Ministry of the Interior on 22 November 1995—only a few days after he claimed to have reached Bosnian Muslim-held territory—and that he also gave a second one to a Prosecution investigator a few months later, namely on 17 January 1996. KDZ066, P337 (Transcript from *Prosecutor v. Krstić*, T. 2772–2774. The Chamber further notes that KDZ066 failed to explain to the *Krstić* Trial Chamber why he had provided inconsistent dates on these three occasions. See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*, T. 2772–2774, 2787–2788.

<sup>17041</sup> See para. 5207.

<sup>17042</sup> See para. 5102.

<sup>17043</sup> See T. 23996 (1 February 2012); T. 27043 (28 March 2012); T. 27804–27805 (20 April 2012).

<sup>17044</sup> See Jean-René Ruez, at T. 23996 (1 February 2012) where he was asked by the Accused whether it was possible that the killings at Cerska occurred on 14 July, to which Ruez replied: "No. From the interview of the witness who was above the hill [...] when he saw the three buses escorted by one APCs in front of and one at the back of this little convoy, and then later saw the excavator entering the valley. This was on 13. [...] So this execution took place on 13 July". See also Jean-René Ruez, T. 23741 (27 January 2012).

<sup>17045</sup> See Dušan Janc, T. 27043–27044 (28 March 2012); Richard Butler, T. 27805 (20 April 2012). See also P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 6.26–6.27; Richard Butler T. 27804–27805 (20 April 2012).

<sup>17046</sup> P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), pp. viii, 56–57.

<sup>17047</sup> Prosecution Final Brief, Appendix D, para. 145.

<sup>17048</sup> See para. 5220.

**bodies, (#a multiple burials#) does support the Defence thesis that this site was not a site of execution, but a mass grave established after a #multiple sanitation of the terrain!)** Thus, while the Chamber takes no issue with a witness making a mistake as to the specific date of an event, KDZ066's description of witnessing the transportation of the population out of Potočari—which was no longer possible on or after 17 July—give the Chamber serious reservations as to his credibility.

5214. In addition to the discrepancies as to the date of the events at the Cerska Valley discussed in the previous paragraph, the Chamber finds that other portions of KDZ066's evidence also contain contradictions or inconsistencies. For example, KDZ066 testified that he saw three buses—which he assumed were full of people—leaving Konjević Polje, turning right off the asphalt road towards Kamenica, and moving uphill in the direction of Cerska;<sup>17049</sup> they were followed by at least two other vehicles, one of which was carrying soldiers in camouflage uniforms.<sup>17050</sup> However, KDZ066 failed to explain how, on one hand, he admitted having been so far away from the buses to be able to tell what company the buses belonged to and whether they were full of people or not and, on the other hand, he did not hesitate to say that one of the vehicles following the buses was carrying soldiers in camouflage uniforms.<sup>17051</sup>

**5215.** The Chamber acknowledges that minor inconsistencies in a particular testimony do not necessarily render it unreliable. However, in the present case, having considered KDZ066's evidence on the transportation of the population on 13 July, and the other contradictions and inconsistencies identified in KDZ066's account of events, the Chamber finds that it cannot be satisfied that KDZ066 is credible or that his testimony is reliable. Therefore, the Chamber does not rely on KDZ066's account of events. **(It is a miracle! But, see how it is with the 92 bis!!!)**

### 3. Forensic evidence

5216. In addition to KDZ066's evidence, the Chamber received forensic evidence that, between 7 and 18 July 1996, Prosecution investigators and experts from Physicians for Human Rights exhumed a gravesite at the Cerska Valley.<sup>17052</sup> William Haglund, the senior forensic adviser to the Prosecution in 1996,<sup>17053</sup> prepared a report in 1998, based on the evidence collected during the examination and excavation of the gravesite conducted in 1996.<sup>17054</sup>

5217. Haglund testified that the gravesite at Cerska was a primary and undisturbed grave<sup>17055</sup> located on the north side of an embankment along a dirt road; it was 30-metre

<sup>17049</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737–2738, 2772–2773.

<sup>17050</sup> KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737–2739.

<sup>17051</sup> See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2738–2740 (explaining that he could not tell what kind of buses it was, “what company it belonged to. There were some letters but I couldn't make them out. I was on the hill, I was far away from the buses”), T. 2774, 2780 (testifying that he could not see whether the buses were full of people, but “assumed” they were). Similarly, the Chamber found discrepancies in KDZ066's evidence as to the number and type of vehicles he claims to have seen following the three buses. See KDZ066, P337 (Transcript from *Prosecutor v. Krstić*), T. 2737 (stating: “There was an APC following [the buses] and two other trek vehicles.”), T. 2738 (stating: “I can describe the APC. I also noticed a trek vehicle that was green in colour.”), T. 2739 (only referring to the buses, the excavator, and the APC), and T. 2779–2781 (referring again, in response to the Chamber's questioning, to the vehicles he saw on 13 July without referring to “trek vehicles”, but only to the buses, the APC, and the excavator).

<sup>17052</sup> P4311 (William Haglund's expert report, entitled “Forensic Investigation of the Cerska Grave Site – Volume I”, 15 June 1998), p. 1; P4504 (Dean Manning's Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 37. See also Adjudicated Fact 1696.

<sup>17053</sup> William Haglund, T. 23873 (30 January 2012); P4309 (Dr. William Haglund's *curriculum vitae*).

<sup>17054</sup> P4311 (William Haglund's expert report, entitled “Forensic Investigation of the Cerska Grave Site – Volume I”, 15 June 1998), e-court p. 1.

<sup>17055</sup> Haglund explained that a finding that a gravesite is undisturbed can be made based on the fact that the remains are relatively intact and that, in these types of gravesites, decomposition is more accelerated. William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T.



long and six metre down an incline.<sup>17056</sup> In his report, Haglund explained that the ages of the 150 male victims ranged between 11 and their 50's.<sup>17057</sup> Of the 150 bodies exhumed, 147 were wearing civilian clothes.<sup>17058</sup> Furthermore, a total of 48 ligatures were found in the gravesite,<sup>17059</sup> of which 24 were found binding the wrists or arms of individuals behind their backs; additionally, one individual was bound by the ankles.<sup>17060</sup>

5218. Regarding the cause and manner of death, Haglund concluded that, of the 150 individuals, 149 died of gunshot wounds, the majority of whom died from multiple gunshot wounds.<sup>17061</sup> With regard to the circumstances of death and burial, Haglund explained that cartridge casings were strewn along the entire length of the far side of the road where the bodies had been deposited.<sup>17062</sup> The cartridges found in the grave itself matched with those found along the road at the gravesite, indicating that the victims in the grave were shot at the gravesite.<sup>17063</sup> Based on this evidence, Haglund concluded that the victims were lined up on the southern side of the road while those who shot them stood across the road, shooting the victims with automatic weapons, in a spraying-type fashion.<sup>17064</sup> As the victims were shot they either fell over the side of the embankment or rolled down, and were superficially covered with soil which had been removed from the roadside opposite

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3737–3738. See William Haglund, T. 23949 (31 January 2012) (explaining, after being questioned by the Accused on whether there was a possibility of new bodies being added to the gravesite at a later stage, that when examining plant growth on the gravesite, the plants were younger than plants in the surrounding area, but had grown at the same time, which evidenced a single burial).

<sup>17056</sup> William Haglund, T. 23887 (30 January 2012); P4310 (Transcript from *Prosecutor v. Krstić*), T. 3733, 3737.

<sup>17057</sup> William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3734; P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), pp. viii, 11, 25, 28. See also Adjudicated Facts 1698, 1699; Jose Baraybar, P4029 (Transcript from *Prosecutor v. Krstić*), T. 3811; P4036 (Jose Baraybar's expert report entitled "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 2000", 2 February 2001), p. 5; P4037 (Jose Baraybar's expert report entitled "Calculation of Minimal Number of Individuals Exhumed by ICTY between 1996 and 2001", 4 January 2004), p. 7; Jean-René Ruez, T. 23749–23750 (27 January 2012).

<sup>17058</sup> P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), p. 50. See also Adjudicated Fact 1700.

<sup>17059</sup> P4506 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodžići Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5"), pp. 231–232; P4507 (Chart of photographs of blindfolds, ligatures, and location, 16 September 2009); P4509 (Collage of Srebrenica blindfolds, 5 March 2012).

<sup>17060</sup> William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3734; P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), p. viii; p. 50; P4506 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodžići Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5"), pp. 231–232. See also Adjudicated Fact 1701.

<sup>17061</sup> The cause of death of one individual was undetermined; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3734; P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), pp. 51–52. See also Jean-René Ruez, T. 23749–23750 (27 January 2012); Adjudicated Fact 1698. The Chamber notes that Dušan Dunjić challenged the methodology used by William Haglund in his report for the Cerska gravesite, by highlighting some of the findings of the San Antonio Committee on Haglund's report. D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 3–4. See Dušan Dunjić, T. 41785–41787, 41820 (23 July 2013). See also Defence Final Brief, para. 2648. However, the Chamber is not satisfied with Dunjić's explanation as to his failure to include a reference in his report to the final conclusions of the Committee, finding that there were no indications of any actual wrong-doing on the part of Haglund nor anything regarding the exhumations that jeopardised their scientific validity. Dušan Dunjić, T. 41813–41818 (23 July 2013). See also P4338 (Report of the Oversight Committee (San Antonio) regarding William Haglund, 2 February 1998); William Haglund, T. 23880–23882 (30 January 2012) (acknowledging the findings of the San Antonio Committee). Having assessed the totality of evidence on this issue, the Chamber accepts Haglund's report and the findings therein.

<sup>17062</sup> William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3733–3734.

<sup>17063</sup> P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site – Volume I", 15 June 1998), pp. 9–10. See also Adjudicated Fact 1703.

<sup>17064</sup> William Haglund, T. 23887–23888 (30 January 2012); P4310 (Transcript from *Prosecutor v. Krstić*), T. 3734. See also Adjudicated Fact 1697; Jean-René Ruez, T. 23749 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 69.

the burial site using earthmoving equipment.<sup>17065</sup> According to Haglund, all victims were executed at the site.<sup>17066</sup>

5219. Based upon DNA analysis, experts were able to positively identify 144 of the exhumed bodies as persons listed as missing following the take-over of Srebrenica.<sup>17067</sup>  
**(But #those seen alive after the time of killings, had been killed, where, when and how?# a combat casualties depicted as a civilians#!)**

5220. As stated above, the Chamber has received additional evidence which shows that victims found in the Cerska gravesite were last seen alive on various dates on or after 13 July.<sup>17068</sup> This evidence comes primarily from P6705, which, as will be explained in detail below,<sup>17069</sup> contains records of individuals reported to have been missing since the fall of Srebrenica.<sup>17070</sup> According to P6705, approximately one third of the 150 victims exhumed from the Cerska gravesite went missing on or after 18 July 1995, and in various locations within Bratunac municipality, as well as in Baljkovica and Žepa.<sup>17071</sup> While the Chamber acknowledges that the compilation of information in P6705 may have suffered from defects and may not be 100% accurate for all individuals,<sup>17072</sup> it considers the information reflected therein reliable for at least a number of those individuals.

5221. The Chamber notes that, save for the general challenges by Dunjić as described above,<sup>17073</sup> the Accused did not challenge the forensic evidence the Chamber received in relation to the Cerska gravesite. In that regard, the Chamber has no reason to doubt the forensic evidence received as to the cause and manner of death of the victims exhumed therein and is satisfied that at least some—but most likely a lot—of them were victims of execution. However, the Chamber has doubts as to the circumstances of death. As stated above, approximately one third of the victims exhumed from the gravesite may have been last seen alive after 17 July 1995 in various locations. The Chamber notes specifically with respect to the 24 individuals whose bodies were found bound by ligatures, that most

<sup>17065</sup> William Haglund, T. 23888 (30 January 2012), T. 23931–23932 (31 January 2012); P4310 (Transcript from *Prosecutor v. Krstić*), T. 3737. See also Adjudicated Fact 1704; Jean-René Ruez, T. 23745–23746, 23749 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 62–64; P4282 (Photograph of Cerska Valley marked by Jean-René Ruez). Haglund added that the soil used was made of small pebbles and was not much piled up on top of the bodies so, when the gravesite was found, a lot of the bodies were partially skeletalised. William Haglund, T. 23888 (30 January 2012); P4310 (Transcript from *Prosecutor v. Krstić*), T. 3738. See also William Haglund, T. 23926 (31 January 2012).

<sup>17066</sup> P4311 (William Haglund’s expert report, entitled “Forensic Investigation of the Cerska Grave Site – Volume I”, 15 June 1998), pp. 10, 56–57.

<sup>17067</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court pp. 3, 8 (referring to the identification of 149 individuals from the Cerska gravesite); Dušan Janc, T. 26951–26952, 26956, 26959–26961 (27 March 2012) (where Janc explained that the unique DNA assigned to five of these individuals has not been matched to any missing person and thus these five have actually not been identified); P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court pp. 90–98 (under seal). See P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). The Chamber notes that Adjudicated Fact 1702, which is based upon Manning’s report as admitted in the *Krstić* case, refers to the identification of nine individuals. See Adjudicated Fact 1702; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 38, 96, 98. The apparent discrepancy between this fact and the evidence admitted in the present case referring to the identification of 144 individuals can be explained by the fact that in 2001—the year in which the *Krstić* Trial Judgement was issued—the identification process of victims was ongoing.

<sup>17068</sup> See para. 5213.

<sup>17069</sup> See paras. 5569–5572.

<sup>17070</sup> P6705 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009).

<sup>17071</sup> See e.g. P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court pp. 90–98 (under seal) (listing the names of bodies identified at the Cerska gravesite); P6705 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009), e-court pp. 26, 39, 41, 54, 58, 69, 75, 78, 89, 97, 129, 130, 132, 138, 141, 144, 179, 188, 190, 196, 202, 209.

<sup>17072</sup> See para. 5571, fn. 19020.

<sup>17073</sup> See fn. 17702.

of them are listed as having disappeared in various locations on different dates, and at least eight of them after 18 July 1995.<sup>17074</sup> This evidence makes it highly unlikely that all of the 150 victims were the subject of a single execution at the Cerska Valley, as described in Haglund's report, or as alleged in the Indictment. The Chamber recalls the evidence that a gravesite had been dug at the Cerska Valley by 27 July 1995;<sup>17075</sup> however, this evidence alone does not assist the Chamber in determining when exactly the killings took place, and whether more bodies were buried in this grave afterwards. Thus, while the Chamber is satisfied that at least some of the bodies exhumed from the Cerska gravesite were victims of execution, the Chamber is unable to make a finding as to how many or when they were killed. The discrepancies in the evidence as to the number of victims and their dates and place of disappearance are substantial and affect almost one third of the 150 victims exhumed from the Cerska gravesite. It is therefore the incident as a whole, as alleged in the Indictment, that is affected.

#### 4. Conclusion

5222. Consequently, in light of the totality of the evidence as discussed above, the Chamber is not satisfied beyond reasonable doubt that the incident at the Cerska Valley took place, as alleged in the Indictment. **(But, what to do with the Hugland's assertion that the grave site wasn't disturbed, that the execution took place there, that #there must be people dying somewhere else and in an unknown manner#. Even those with the ligatures could have been executed somewhere else!)**

(C) Kravica Warehouse

##### (1)Introduction

5223. The Indictment refers to the killing on 13 July 1995 of over 1,000 Bosnian Muslim men in a large warehouse in the village of Kravica. The Indictment alleges that the bodies of the victims were transported to two large mass graves located in the nearby villages of Glogova and Ravnice on 14 July 1995.<sup>17076</sup>

5224. The Kravica Warehouse is a one-storey building within the Kravica agricultural cooperative on the Bratunac–Konjević Polje Road.<sup>17077</sup> It is located on the right hand side in the direction from Konjević Polje towards Bratunac, approximately 700 metres from the Yellow Bridge to the east, and one kilometre from the Sandići Meadow to the west.<sup>17078</sup>

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<sup>17074</sup> See e.g. P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court pp. 75, 78, 89, 129, 188, 190, 202, 209.

<sup>17075</sup> See para. 5210.

<sup>17076</sup> Indictment, Scheduled Killing Incident E.3.1.

<sup>17077</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13555, 13559; Jean-René Ruez, T. 23757 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 97–99; P4285 (Aerial image of the Kravica Warehouse marked by Jean-René Ruez). See Jean-René Ruez, T. 23778–23779 (27 January 2012); P4289 (Video footage of Kravica Warehouse), at 00:00:40–00:01:08 (showing the distance from the Sandići Meadow to the Kravica Warehouse).

<sup>17078</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13555–13557, 13559–13561, 13570–13571; Jean-René Ruez, T. 23757–23758 (27 January 2012), T. 24068 (2 February 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 97–99; P4285 (Aerial image of the Kravica Warehouse marked by Jean-René Ruez). See Jean-René Ruez, T. 23778–23779 (27 January 2012); P4289 (Video footage of Kravica Warehouse), at 00:00:40–00:01:08 (showing the distance from the Sandići Meadow to the Kravica Warehouse).

The Kravica Warehouse consisted of a bigger room located to the west (“West Room”) and a smaller room located to the east (“East Room”).<sup>17079</sup>

## 5. The killings

5225. In the afternoon of 13 July 1995, KDZ063 was ordered to board one of two buses transporting detainees from the Sandići Meadow to the Kravica Warehouse.<sup>17080</sup> Upon arriving, members of the Bosnian Serb Forces ordered the detainees to run out of the buses as quickly as possible and enter the warehouse; KDZ063 entered the East Room.<sup>17081</sup>

5226. The rest of the Bosnian Muslim men at the Sandići Meadow, including KDZ071, were ordered to line up in a column of four and proceed on foot towards the Kravica Warehouse.<sup>17082</sup> Members of the 3<sup>rd</sup> Skelani Platoon were ordered to escort the group of detainees to the warehouse, and were assisted by “several lads from Šekovići”.<sup>17083</sup> The detainees were surrounded by the uniformed men armed with automatic rifles, who were placed every five metres along the road.<sup>17084</sup> As the detainees reached the Kravica Warehouse, they were ordered to walk past a bus parked in front and to enter the building.<sup>17085</sup> KDZ071 was taken to the West Room.<sup>17086</sup>

5227. Groups of detainees continued to be brought to the warehouse for about two hours, approximately between 3 and 5 p.m.<sup>17087</sup> The detainees were guarded by members of the Bosnian Serb Forces—including members of the 3<sup>rd</sup> Skelani Platoon and members of the Bratunac Brigade<sup>17088</sup>—wearing green-multi-coloured uniforms.<sup>17089</sup> The members of the 3<sup>rd</sup> Skelani Platoon formed a semi-circle around the warehouse positioning themselves to the side and behind the building itself.<sup>17090</sup> Other members of the Bosnian Serb Forces walked among the detainees, questioning some of them.<sup>17091</sup> The men were ordered to

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<sup>17079</sup> Jean-René Ruez, T. 23759–23760, 23763, 23770 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 100–101, 103, 110, 113; P4289 (Video footage of Kravica Warehouse).

<sup>17080</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6978–6983, 6987, 7056. *See also* Adjudicated Fact 1705; KDZ071, T. 28539, 28548 (4 May 2012).

<sup>17081</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6987–6989; P262 (Aerial photograph of Kravica warehouse marked by KDZ063); P263 (Aerial photograph of Kravica warehouse marked by KDZ063). *See* Jean-René Ruez, T. 23760–23762 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), p. 110; P4285 (Aerial image of the Kravica Warehouse marked by Jean-René Ruez); P205 (Photograph of Kravica warehouse) (depicting an arrow and a circle pointing at the East Room).

<sup>17082</sup> KDZ071, T. 28538 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7090–7091, 7094, 7112–7113, 7123; D4113 (Witness statement of KW679 dated 23 November 2013), para. 13 (under seal). *See also* Adjudicated Fact 1705.

<sup>17083</sup> KW679, T. 44117 (27 November 2013) (closed session); D4113 (Witness statement of KW679 dated 23 November 2013), para. 13 (under seal). KW679 estimated that there were between 300 and 400 detainees in that group. D4113 (Witness statement of KW679 dated 23 November 2013), para. 13 (under seal).

<sup>17084</sup> KDZ071 described these men as soldiers in military uniforms. KDZ071, T. 28538 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7113.

<sup>17085</sup> KDZ071, T. 28544 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7094, 7102, 7119. *See also* KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1259 (stating that when the bus he had boarded on 13 July 1995 in Kravica, he saw about 50 Muslim men with their hands and arms around their neck who looked terrified).

<sup>17086</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7101–7104; KDZ071, P5028 (Transcript from *Prosecutor v. Popović et al.*), T. 7127–7128 (under seal); P5030 (Photograph of Kravica warehouse marked by KDZ071); P5031 (Photograph of Kravica warehouse marked by KDZ071); P5032 (Aerial photograph of Kravica warehouse marked by KDZ071); P205 (Photograph of Kravica warehouse) (depicting an arrow pointing to the West Room). *See* Jean-René Ruez, T. 23763 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 103.

<sup>17087</sup> KDZ071, T. 28546 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7123; KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6990.

<sup>17088</sup> D4113 (Witness statement of KW679 dated 23 November 2013), para. 13 (under seal); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. *See also* P195 (Excerpt from Bratunac Health Centre patient log) (containing an entry listing Miroslav Stanojević, a member of the Red Berets, as injured on 13 July 1995 in Kravica).

<sup>17089</sup> One of these men was wearing a blue UN helmet. KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6990–6992. *See* KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9360; KDZ070, P341 (Transcript from *Prosecutor v. Krstić*), T. 1260.

<sup>17090</sup> D4113 (Witness statement of KW679 dated 23 November 2013), para. 14 (under seal).

<sup>17091</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6991.

surrender all valuables and were given water.<sup>17092</sup> Some men were also given cigarettes.<sup>17093</sup> Around 5 p.m. the warehouse became so tightly packed that the detainees almost suffocated.<sup>17094</sup>

5228. Some time after 4:30 p.m., one of the Bosnian Muslim detainees brought to the warehouse took away the rifle of Krsto Dragišević—a member of the 3<sup>rd</sup> Skelani Platoon—and shot him dead.<sup>17095</sup> Rade Čturić, a.k.a. “Oficir”, the commander of the 2<sup>nd</sup> Šekovići Detachment,<sup>17096</sup> burned his hand when getting hold of the barrel of Dragišević’s rifle and was taken to the Bratunac Health Centre for treatment.<sup>17097</sup> Members of the 3<sup>rd</sup> Skelani Platoon started shooting at the detainees in response to the killing of Dragišević.<sup>17098</sup>

5229. Milenko Pepić—a member of the 2<sup>nd</sup> Platoon of the 2<sup>nd</sup> Šekovići Detachment<sup>17099</sup>—who was ordered to stop the traffic on the Bratunac–Konjević Polje Road,<sup>17100</sup> testified that while he was stopping the convoy of buses carrying Bosnian Muslim women, children, and the elderly out of Potočari, he could hear intense shooting coming from the direction of Kravica, which lasted about an hour.<sup>17101</sup> Borovčanin arrived at the warehouse after being

<sup>17092</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6990–6992, 6995, 7057–7058.

<sup>17093</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6990–6991, 6995, 7057.

<sup>17094</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6989–6990, 7057; KDZ071, T. 28544–28548 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095; KDZ071, P5028 (Transcript from *Prosecutor v. Popović et al.*), T. 7125 (under seal). The Chamber notes that evidence as to the number of Bosnian Muslim men ultimately held inside the Kravica Warehouse varies; an analysis of this evidence, together with the forensic evidence admitted in this case, is found below. See para. 5278.

<sup>17095</sup> D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), para. 28; Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13541, 13562, 13578–13579; P195 (Excerpt from Bratunac Health Centre patient log) (which contains an entry listing Krsto Dragišević from the Special Police of Skelani as “deceased?”, and the date/place of wounding as 7 p.m. on 13 July 1995 in Kravica). While the “1900 hrs.” time included in Dragišević’s entry refers to “date [time] of wounding”, the Chamber finds that 7 p.m. is the time when Dragišević was brought to the Bratunac Health Centre, which is consistent with KW679’s evidence that Dragišević’s body was picked up from the Kravica Warehouse by a medical vehicle from Bratunac at approximately 6:30 p.m. D4113 (Witness statement of KW679 dated 23 November 2013), para. 21 (under seal). See D4113 (Witness statement of KW679 dated 23 November 2013), paras. 15–19 (under seal).

<sup>17096</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13539.

<sup>17097</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13561–13562, 13578–13579; P195 (Excerpt from Bratunac Health Centre patient log) (containing an entry stating that Čturić suffered “burns on the palms of the hands and 2 to 4 fingers” at Kravica at 5:40 p.m. on 13 July 1995). See D4113 (Witness statement of KW679 dated 23 November 2013), paras. 15–19 (under seal); D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), paras. 28, 30.

<sup>17098</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13563–13565; D4113 (Witness statement of KW679 dated 23 November 2013), para. 20 (under seal). See D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), paras. 28, 30; Ljubomir Borovčanin, T. 39423 (6 June 2013), T. 39457 (7 June 2013); P4563 (Statement by KDZ122), p. 4 (under seal). See also D4113 (Witness statement of KW679 dated 23 November 2013), paras. 15–19 (under seal); Dane Katanić, T. 38669 (22 May 2013); D3115 (Witness Statement of Branimir Tešić dated 9 March 2013), para. 40; Franc Kos, T. 42406–42407 (1 August 2013); D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 9; Zvonko Bajagić, T. 41210 (10 July 2013); Ljubisav Simić, T. 37308–37309 (16 April 2013); D3398 (Witness Statement of Ljubisav Simić dated 7 April 2013), para. 79; Nedo Nikolić, T. 39818–39819 (12 June 2013); D3690 (Witness Statement of Nedo Nikolić dated 8 June 2013), para. 20; Srblav Davidović, T. 24413 (9 February 2012); Jovan Nikolić, T. 35498–35499, 35505–35506, 35511–35514, 35516–35517 (14 March 2013); D3126 (Witness Statement of Jovan Nikolić dated 10 March 2013), para. 59; P6201 (Record of interview with Jovan Nikolić, 10 October 2005), p. 5 KDZ480, T. 24224–24225 (7 February 2012) (closed session); KDZ122, T. 26276 (14 March 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7873 (under seal); KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9363–9364, 9530–9531; Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18797–18800; Momir Nikolić, T. 24873 (16 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9. KW679 testified that members of the 3<sup>rd</sup> Skelani Platoon only shot at the detainees inside the warehouse for a few minutes before the fire stopped; according to KW679, during the approximately two hours that he remained around the warehouse after the first shooting, several soldiers, mostly over 50 years old, wearing different military uniforms and armed with semi-automatic rifles, came into the warehouse and opened fire. D4113 (Witness statement of KW679 dated 23 November 2013), para. 22 (under seal) (stating that he heard one of these men saying that he wanted to avenge his two sons). The Chamber does not find this evidence reliable in light of the fact that KW679’s evidence was marked by insincerity and evasiveness.

<sup>17099</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13538–13541.

<sup>17100</sup> Upon being informed that the column of detainees being held at the Sandić Meadow was moving, Borovčanin ordered Čturić to stop the traffic on the Bratunac–Konjević Polje Road. P4201 (Updated Srebrenica Trial Video), Part 3, at 00:25:52–00:26:05; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 277; P667 (Zoran Petrović-Piročanac’s video footage), at 00:16:26–00:17:00; Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13559–13560. Čturić in turn ordered Pepić to stop the convoy of buses carrying Bosnian Muslim women, children, and the elderly out of Potočari. Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13555–13557, 13559, 13595–13596.

<sup>17101</sup> Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13560, 13598. According to Pepić, this shooting was different to the one that could constantly be heard around the area, in that it seemed as if fire was being opened from one side alone. Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13560.



informed over his Motorola that something “terrible” happened and that he should go there.<sup>17102</sup> Borovčanin saw a pile of 20 to 30 bodies lying in front of the main door of the warehouse which was at the time closed.<sup>17103</sup> After stopping by the Kravica Warehouse, Borovčanin went to the Bratunac Health Centre to check on Čuturić.<sup>17104</sup>

5230. According to KDZ063, some time after arriving at the Kravica Warehouse, the Bosnian Serb soldiers guarding the detainees became agitated and angry.<sup>17105</sup> Shortly after, intense shooting began outside the warehouse, lasting approximately half an hour.<sup>17106</sup> While the shooting was ongoing, the soldiers came in and out of the warehouse and seemed to be in a panic, yelling at the detainees that the Muslims were attacking the soldiers.<sup>17107</sup> The detainees panicked and became frightened as they did not know what was happening outside.<sup>17108</sup> After the first period of shooting ended, two uniformed men entered the East Room and started shooting at the detainees; five to ten soldiers followed and joined in.<sup>17109</sup>

5231. While testifying about the way in which the shooting into the warehouse started, KDZ071 explained that, as the last of the Bosnian Muslim detainees entered the West Room, one man protested to a guard that he had nowhere to sit after which the guard opened fire on him.<sup>17110</sup> Immediately after that, guards started firing on the other detainees.<sup>17111</sup> The Chamber notes that this account differs from KDZ063’s account, but finds that this may be due to a number of reasons such as the fact that KDZ071 and KDZ063 were detained in different rooms, the location of each of these witnesses within each room, and the trauma they were undergoing at the time.

5232. As members of the Bosnian Serb Forces entered the warehouse and shot at the detainees with M-84 machine guns and automatic rifles,<sup>17112</sup> gunshots were also fired at the

<sup>17102</sup> D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), paras. 26–27; Ljubomir Borovčanin, T. 39452 (7 June 2013); Zoran Petrović-Piročanac, T. 28465, 28468–28469 (3 May 2012); P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18797–18798. See Jean-René Ruez, T. 23993 (1 February 2012), T. 24105–24106 (2 February 2014).

<sup>17103</sup> D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), para. 27; Ljubomir Borovčanin, T. 39425 (6 June 2013), T. 39454–39455 (7 June 2013); Zoran Petrović-Piročanac, T. 28465–28467 (3 May 2012); P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18798–18799, 18804–18805; P4201 (Updated Srebrenica Trial Video), Part 3, at 00:36:20–00:36:24; P4202 (Written Compilation Booklet: Srebrenica Trial Video), e-court p. 283. See also Jean-René Ruez, T. 23774, 23777 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 121–122, 117. The Chamber notes that when Ruez was asked whether the pile of bodies which could be seen lying in front of the warehouse was in fact lying in front of a closed door, he categorically denied this possibility and provided a detailed explanation for his conclusion. However, the Prosecution maintained its position in the *Popović et al.* case in which it agreed that there was indeed a door. Jean-René Ruez, T. 24104–24111 (2 February 2012); P4269 (Panorama image of Kravica warehouse); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 121–123, 125–128; P4340 (Photograph of Kravica warehouse marked by Jean-René Ruez). Petrović-Piročanac testified that the door to the West Room was closed. Zoran Petrović-Piročanac, T. 28466–28469 (3 May 2012). The Chamber notes that a number of other witnesses also testified to having seen the pile of bodies outside the Kravica Warehouse at some point in the evening of 13 July 1995. See Franc Kos, T. 42403 (1 August 2013); D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 8; KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9360–9361, 9521–9524; KDZ333, T. 24123–24124 (2 February 2012); P4342 (Transcript from *Prosecutor v. Krstić*), T. 3026; P4346 (Photograph of Kravica warehouse marked by KDZ333); Vujadin Popović, T. 43044 (5 November 2013). See also P4201 (Updated Srebrenica Trial Video), Part 3, at 00:36:19–00:36:47; Jovan Nikolić, T. 35498, 35500–35502, 35507 (14 March 2013); P6201 (Record of interview with Jovan Nikolić, 10 October 2005) p. 5.

<sup>17104</sup> D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), para. 30; Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18798–18800.

<sup>17105</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6992–6995, 7059, 7064–7065; P333 (Transcript from *Prosecutor v. Popović et al.*), T. 7064–7065 (under seal).

<sup>17106</sup> KDZ063 explained that the firing outside of the Kravica Warehouse came from machine-gun and automatic rifles, though he also heard a tank, an anti-aircraft, and a Praga shooting, as well as the detonation of grenades. KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6992–6993, 6995–6996, 7057. See KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095.

<sup>17107</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6993–6994, 6996–6999.

<sup>17108</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6998–6999. See KDZ071, T. 28549 (4 May 2012).

<sup>17109</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6999, 7060–7061.

<sup>17110</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095, 7123.

<sup>17111</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095, 7123.

<sup>17112</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6995–6996, 6999, 7060–7061; D4113 (Witness statement of KW679 dated 23 November 2013), para. 20 (under seal).

doors and windows from outside.<sup>17113</sup> In addition to the shooting, a number of hand-grenades were thrown in the warehouse through the windows.<sup>17114</sup>

5233. Franc Kos—the commander of the 10<sup>th</sup> Sabotage Detachment’s 1<sup>st</sup> Platoon<sup>17115</sup>—testified that while at the Drina Corps Command in Vlasenica around 6 p.m. on 13 July, his commander, Pelemiš, looked agitated after having talked with Krstić.<sup>17116</sup> Pelemiš then ordered Kos to go to Kravica, together with other members of the 10<sup>th</sup> Sabotage Detachment.<sup>17117</sup> Upon arriving at the Kravica Warehouse, Pelemiš got out of the car and spoke to five VRS officers.<sup>17118</sup> Kos overheard one of these officers tell Pelemiš: “they made a big mess. We have to bury all this and hide it”.<sup>17119</sup> Kos looked both inside the West Room and the East Room, and saw that the floors on both rooms were covered with bodies.<sup>17120</sup> Marko Boškić, one of his colleagues from the detachment, headed towards the warehouse, took two hand-grenades, and threw them inside the East Room where detainees could still be heard murmuring.<sup>17121</sup>

5234. The shooting quieted down as the night fell,<sup>17122</sup> but continued with breaks throughout the night.<sup>17123</sup> By this time, the warehouse was filled with dead bodies.<sup>17124</sup> Moans and shouts from people could be heard during the breaks in the shooting.<sup>17125</sup> Those who tried to escape through the main door or windows were also killed by members of the Bosnian Serb Forces.<sup>17126</sup>

5235. In the morning of 14 July, members of the Bosnian Serb Forces called out for the wounded inside the warehouse to come out, assuring them that they would be picked up by the ICRC and taken to the hospital for treatment.<sup>17127</sup> The wounded came out and were ordered to sing Serb nationalistic songs together for about half an hour, until bursts of fire were heard; no voice was heard thereafter.<sup>17128</sup> The members of the Bosnian Serb Forces

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<sup>17113</sup> KDZ071, T. 28549 (4 May 2012). *See also* Adjudicated Fact 1706.

<sup>17114</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7000. *See also* Adjudicated Fact 1706; Jean-René Ruez, T. 23764–23765, 23767 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 105–107; P6201 (Record of interview with Jovan Nikolić, 10 October 2005), p. 5; D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 9.

<sup>17115</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 2. *See also* P232 (Video still of 10<sup>th</sup> Sabotage Unit Parade) (for a video still of Franc Kos, leader of the 1<sup>st</sup> Platoon).

<sup>17116</sup> Franc Kos, T. 42399–42400 (1 August 2013); D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 7.

<sup>17117</sup> Franc Kos, T. 42399–42401 (1 August 2013); D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 7.

<sup>17118</sup> While Kos assumed that these men were VRS Main Staff officers from Han Pijesak, as they were driving military jeeps exclusive to brigade and corps commanders, he could not be absolutely certain that they indeed were; Kos was certain, however, that these men were VRS officers. Franc Kos, T. 42401–42402 (1 August 2013).

<sup>17119</sup> Franc Kos, T. 42402 (1 August 2013). *See* Franc Kos, T. 42425 (1 August 2013).

<sup>17120</sup> Franc Kos, T. 42408–42409 (1 August 2013); P6473 (Sketch drawn by Franc Kos). Kos testified that, at the time, he thought that the men were still alive but sleeping. Franc Kos, T. 42409 (1 August 2013). The Chamber finds this statement unacceptable.

<sup>17121</sup> Franc Kos, T. 42409–42410 (1 August 2013); D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 8; P6473 (Sketch drawn by Franc Kos). *Cf.* Franc Kos, T. 42402 (1 August 2013) (stating that he heard the explosions near the warehouse but did not know whether it actually came from inside or from behind).

<sup>17122</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095, 7123–7124.

<sup>17123</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7000.

<sup>17124</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095; Adjudicated Fact 1708.

<sup>17125</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7000.

<sup>17126</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7001, 7004, 7006; D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 9; Jean-René Ruez, T. 23777 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 127. *See also* Adjudicated Fact 1707.

<sup>17127</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7005–7006; KDZ071, T. 28554 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7096. *See also* Adjudicated Fact 1710.

<sup>17128</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7006; KDZ071, T. 28554 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7096. *See* Jovan Nikolić, T. 35502, 35507, 35519 (14 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 55–57; P6201 (Record of interview with Jovan Nikolić, 10 October 2005), pp. 6–8 (testifying that when he went to the Kravica Warehouse in the morning of 14 July, he saw several bodies in front, and witnessed the killing of between 10 and 20 people he did not recognise); Alexandar Tešić, T. 35324–35328 (13 March 2013) (testifying that, while on his way to Zvornik on 14 July 1995, he saw about 200 to 300 dead bodies piled outside the Kravica warehouse). *See also* Adjudicated Fact 1710.

continued firing single shots to kill further survivors.<sup>17129</sup> While shooting at the only survivors, the soldiers continued to make derogatory remarks about their “Turkish mother[s]” and their “Islam tribe”.<sup>17130</sup>

5236. The Chamber heard evidence from both KDZ063 and KDZ071 that they survived by lying on the floor during the shooting on 13 July.<sup>17131</sup>

5237. KDZ063 was hit on his right leg, close to his knee.<sup>17132</sup> His back was also scraped by a small piece of shrapnel from a grenade that fell three to four metres away from him.<sup>17133</sup> After the night fell, during one of the breaks in shooting, KDZ063 crawled between dead bodies, climbed onto a container inside the East Room, and jumped out through a very narrow window.<sup>17134</sup> As soon as he jumped out he was spotted by Bosnian Serb soldiers who were standing in the cornfield outside the warehouse.<sup>17135</sup> KDZ063 immediately lay down on his stomach—with his head towards the wall—between two of the warehouse’s windows.<sup>17136</sup> A member of the Bosnian Serb Forces walked towards KDZ063, pointed a torch light at him, and shot him from a distance of two to three metres, wounding him in the right shoulder.<sup>17137</sup> KDZ063 lay on the ground for several hours until the morning, pretending to be dead.<sup>17138</sup>

5238. At some point on 14 July, while still lying on the ground outside the warehouse, KDZ063 crawled towards and through the cornfield; he passed by the bodies of men who had tried to escape before him.<sup>17139</sup> KDZ063 was helped by other Bosnian Muslims he encountered who treated his wounds and, after seven or eight days, made his way to Žepa.<sup>17140</sup>

5239. Similarly, KDZ071 spent the whole day of 14 July lying inside the West Room.<sup>17141</sup> In the evening, however, he decided to sit up and discovered two people doing the same.<sup>17142</sup> After midnight, KDZ071 managed to escape from the West Room with one of the men, through the same door he had originally come in.<sup>17143</sup> While escaping, he heard

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<sup>17129</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7006; KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7096–7097.

<sup>17130</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7096–7097.

<sup>17131</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6999–7000, 7007–7008; KDZ071, T. 28545 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095. The Chamber also heard from KW012 that he survived when a Bosnian Serb soldier who recognised him took him to an adjacent room prior to the start of the shooting; according to KW012, he jumped out of the window when the shooting started and escaped into the woods, where he lived for ten months. KW012, T. 44781–44782, 44787 (9 December 2013). In light of the various contradictions which arose during his *viva voce* testimony, the Chamber does not find KW012’s evidence reliable. In addition the Chamber finds that KW012’s evidence was marked by insincerity and evasiveness. For these reasons, the Chamber rejects KW012’s story as to the events at the Kravica Warehouse.

<sup>17132</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7007–7008.

<sup>17133</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7000.

<sup>17134</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7000–7001. See Jean-René Ruez, T. 23771–23773 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 117–119; P4287 (Photograph of a window marked by Jean-René Ruez).

<sup>17135</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7003.

<sup>17136</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7003; P206 (Photograph of Kravica warehouse); P260 (Photograph of Kravica warehouse marked by KDZ063).

<sup>17137</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7004, 7008.

<sup>17138</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7004–7005 (further stating that the next morning, a soldier who came to check on KDZ063, did not realise that he was in fact alive).

<sup>17139</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7006–7007, 7009.

<sup>17140</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7009–7013.

<sup>17141</sup> KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7095; KDZ071, P5028 (Transcript from *Prosecutor v. Popović et al.*), T. 7106 (under seal).

<sup>17142</sup> The young man told KDZ071 that they could not escape together, but that he would follow him in 15 to 20 minutes; KDZ071 was told to cross the asphalt road and to find a path to the river. KDZ071, T. 28551 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7097–7098.

<sup>17143</sup> Upon leaving the warehouse, a soldier asked KDZ071 to stop; KDZ071 lay down as a response but managed to escape nonetheless. KDZ071, T. 28551, 28555 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7098.

gunfire coming from the direction of the warehouse.<sup>17144</sup> The two men spent a couple of days walking in the area, until they decided to go in the direction of Žepa, where KDZ071 arrived on 29 July.<sup>17145</sup>

## 6. Clean-up

5240. On the evening of 13 July 1995, Borovčanin went to the Bratunac Brigade Command to report on the killings at the Kravica Warehouse, but was told that they had already been informed.<sup>17146</sup> While still at the command, Borovčanin discussed with Miroslav Deronjić the incident at the Kravica Warehouse, including the fact that a number of detainees had been killed.<sup>17147</sup> (#“A number of detainees” which Deronjić understood “several”, and said it in Serbian. And this “several” didn’t alarm anyone, assuming that the incident was limited to this “several” and that the Police (MUP) is aware of it and will be investigated.# Why the President should interfere if there is no any cover-up?)

5241. Earlier that afternoon, members of the Drina Corps had begun looking for available bulldozers and loading equipment, but were unsuccessful in securing any.<sup>17148</sup> Sometime after 9 p.m., KDZ107 received a phone call asking him to meet Beara at the SDS Office in Bratunac.<sup>17149</sup> KDZ107 met Beara in Deronjić’s office with two officers he did not know; Deronjić himself was not present.<sup>17150</sup> Beara asked what kind of machinery and manpower was available, and said it needed to go to Milići, adding that “[d]ead people have to be buried, there will be a lot of dead and they need to be buried”.<sup>17151</sup>

5242. At approximately the same time, KDZ480 was called into a small meeting room in the Bratunac SDS Office to meet with Deronjić and two officers he did not know, who were wearing camouflage uniforms.<sup>17152</sup> Deronjić told KDZ480 that there had been an incident at the Kravica Warehouse in which many detainees had been killed, and that they had to be transported to a bauxite mine in Milići, to be buried.<sup>17153</sup> It was ultimately agreed that the two officers would procure vehicles for the transportation of the bodies, and that

<sup>17144</sup> KDZ071, T. 28551 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7099.

<sup>17145</sup> KDZ071, T. 28556–28558 (4 May 2012); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7099–7100.

<sup>17146</sup> D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), paras. 31–33.

<sup>17147</sup> Ljubomir Borovčanin, T. 39444 (6 June 2013); D3659 (Witness Statement of Ljubomir Borovčanin dated 30 May 2013), para. 36. See also P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 72; Milenko Katanić, T. 24474, 24506 (10 February 2012) (testifying that he had been informed by Deronjić about the killings at the Kravica Warehouse in the evening on 13 July).

<sup>17148</sup> P5290 (Intercept of conversation between Col. Milanović and Palma duty officer, 13 July 1995); P5903 (Intercept of conversation between Col. Milanović and a 2<sup>nd</sup> Class Warrant Officer, 13 July 1995).

<sup>17149</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9362, 9365–9366, 9370, 9434–9435, 9439, 9459–9460. The Chamber notes that KDZ107 was confronted with discrepancies in a number of statements he gave to the Prosecution, and between such prior statements and his testimony in the *Popović et al.* case. See KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9393–9396, 9412–9420, 9440–9449. The Chamber is satisfied with KDZ107’s explanations as to the apparent discrepancies and accepts his evidence.

<sup>17150</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9366, 9433–9434, 9460. The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July. See fn. 17583.

<sup>17151</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9367–9369, 9484–9485; KDZ107, P344 (Transcript from *Prosecutor v. Popović et al.*), T. 9400 (under seal). See P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 34 (noting a conversation between Jovan Mitrović—then president of the Zvornik Municipal Assembly—and Beara about the use of a flat-bed trailer for the transportation of a bulldozer to Bratunac). See also Adjudicated Fact 1712.

<sup>17152</sup> KDZ480, T. 24224 (7 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7873, 7900–7901 (under seal). KDZ480 testified that the two officers were very arrogant in their behavior. KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7878, 7900–7901 (under seal).

<sup>17153</sup> KDZ480, T. 24224–24225 (7 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7873–7874 (under seal). See also Adjudicated Fact 1712. But see Jovan Nikolić, T. 35520–35522 (14 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 58–59; and P6201 (Record of interview with Jovan Nikolić, 10 October 2005), p. 7 (where Jovan Nikolić testified that he informed Deronjić and other municipal authorities about the killings at Kravica in the morning of 14 July and that only then the cleaning-up operation began). See also Ljubisav Simić, T. 37291–37292 (16 April 2013). [REDACTED].

members of the sanitation unit of the Bratunac Civilian Protection would be sent to the Kravica Warehouse the next morning to load the bodies onto the vehicles.<sup>17154</sup>

5243. Some time between 1 and 2 a.m. on 14 July 1995, KDZ107 received a second phone call asking him to return to the SDS Office to receive further instructions.<sup>17155</sup> There, Beara ordered KDZ107 to accompany an MP member who would show him the location where a grave was to be dug the next morning to bury the dead.<sup>17156</sup> The two men drove between five and ten minutes until arriving at Glogova, where the MP member showed KDZ107 the exact place where a pit was to be dug.<sup>17157</sup>
5244. At around the same time, KDZ480 was called again to report to the SDS Office to meet with Deronjić, Momir Nikolić, and the two officers he had earlier met.<sup>17158</sup> KDZ480 was informed that the director of the bauxite mine in Milići had forbidden the burial of bodies at that location.<sup>17159</sup> Deronjić then instructed that some of the members of the sanitation unit of the Bratunac Civilian Protection should be sent to Glogova in the morning to help in the digging of a large gravesite, while other members should be sent to the Kravica Warehouse, together with the unit's skip excavator, loader, and tractor.<sup>17160</sup> The two officers agreed to provide additional machinery for the digging up of the grave.<sup>17161</sup>
5245. Around 9:30 a.m., Srblislav Davidović received a call to report to the SDS Office, where Beara and two uniformed officers were present.<sup>17162</sup> The two officers asked Davidović whether there was any construction equipment for digging and loading in Bratunac municipality.<sup>17163</sup> It was agreed that the ULT loader from the local brick company would be placed at their disposal.<sup>17164</sup> Davidović then called Neđo Nikolić—the

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<sup>17154</sup> KDZ480, T. 24224–24225 (7 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7873–7874, 7888 (under seal). The Chamber heard evidence that, at the level of the Bratunac municipality, the president of the Municipal Executive Board was the commander of, and could issue orders to, the Civilian Protection Unit. [REDACTED]. An employee of the Ministry of Defence served as chief of staff of the Civilian Protection, and other staff members were assigned to carry out other tasks such as sanitation or “*asanacija*”, medical aid, and fire fighting. [REDACTED]. A workers’ obligation unit was directly attached to the municipality and was engaged throughout the war in various logistical tasks; this unit had a tractor, a Lada vehicle, a funeral hearse, and additional power tools. [REDACTED]. The unit for “*asanacija*” or sanitation of terrain was attached to the Rad Utilities Company and was only engaged “from time to time” in the transportation of wounded soldiers from different hospitals and the burial of bodies of those killed—soldiers, civilians and enemy soldiers—in individual and mass graves. [REDACTED]. The sanitation unit had a FAP heavy-duty vehicle, a tractor, a refuse disposal vehicle, and a small skip for digging. [REDACTED]. Dragan Mirković was the commander of the sanitation unit in addition of being a member of the Civilian Protection staff and the head of the utilities company. [REDACTED].

<sup>17155</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9369.

<sup>17156</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9369–9370, 9485–9486; P344 (Transcript from *Prosecutor v. Popović et al.*), T. 9400–9401 (under seal).

<sup>17157</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9485–9488.

<sup>17158</sup> KDZ480, T. 24225 (7 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7876, 7901–7902 (under seal).

<sup>17159</sup> KDZ480, T. 24226 (7 February 2012) (closed session); T. 24261 (8 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7876–7877 (under seal).

<sup>17160</sup> KDZ480, T. 24224–24227 (7 February 2012) (closed session); T. 24261 (8 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7876–7877 (under seal).

<sup>17161</sup> KDZ480, T. 24226–24227 (7 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7876–7877 (under seal).

<sup>17162</sup> Srblislav Davidović, T. 24364 (9 February 2012); Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9230–9231. Davidović testified that Beara was sitting in one office and the two officers were sitting in a second office. Beara remained in the first office but directed Davidović to the second office; Davidović did not talk to Beara about what had been discussed with the two officers. Davidović also testified that he did not know who the two officers were, but was sure that they were not members of the Bratunac Brigade; he recalled that one of them was a colonel and the other one was a lieutenant-colonel. Srblislav Davidović, T. 24365 (9 February 2012); Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9231, 9233–9234, 9252. The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July. See fn. 17583.

<sup>17163</sup> Srblislav Davidović, T. 24364 (9 February 2012); Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9232. Davidović testified that he was not told what the machinery would be used for; however, since he had already been informed about the killings at the Kravica Warehouse the day before, he assumed it was needed “for sanitation and evacuation of persons that had been executed within Kravica”. Srblislav Davidović, T. 24365 (9 February 2012); Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9235–9238, 9253.

<sup>17164</sup> Srblislav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9232. The Chamber notes that in the *Popović et al.* case,



director of the brick factory—to tell him that “the army” would come and ask for an excavator.<sup>17165</sup>

5246. An excavator was used to remove the bodies from the Kravica Warehouse; in order to facilitate its entry into the warehouse, a section of the wall above the door had to be broken.<sup>17166</sup> Soldiers used a water tank in the front of the warehouse to wash the blood off the asphalt.<sup>17167</sup> Additionally, dead bodies were covered with hay.<sup>17168</sup>

5247. Between 11 a.m. and noon on 14 July, an alcoholic drink was brought to the two drivers from the Bratunac Brigade who were in charge of taking the bodies out of the building and who were operating the large ULT loader.<sup>17169</sup> Also present at the warehouse were a small skip loader owned by the Rad Utilities Company and two orange trucks owned by the Sase construction company.<sup>17170</sup> Momir Nikolić was at Kravica at the time, and appeared to be supervising how the work was coming along.<sup>17171</sup> The work at the Kravica Warehouse continued until 16 July.<sup>17172</sup> KDZ107 testified that he went to the Kravica Warehouse three to five days after the killings took place when he was in charge of the people who came with two cisterns to wash the enclosed area where people had been killed.<sup>17173</sup>

## 7. Burials at Glogova

5248. People from the Rad Utilities Company and staff of the sanitation unit of the Bratunac Civilian Protection arrived at Glogova to dig a grave in the morning of 14 July 1995.<sup>17174</sup> Upon being informed that the ULT loader originally brought to Glogova from the brick factory was unable to dig three or four graves, Beara requested that a backhoe

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Davidović was confronted with the fact that, while giving a prior statement to the Prosecution, he had not mentioned the meetings involving Beara on 14 July or the use of equipment for burials. Srbslav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9253–9256. The Chamber is satisfied with Davidović’s explanation and finds this evidence consistent with other evidence in this case. The Chamber therefore finds that this meeting with Beara indeed took place in the morning of 14 July 1995.

<sup>17165</sup> Nedo Nikolić, T. 39816–39817 (12 June 2013). See D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), para. 13. See also Nedo Nikolić, T. 39826 (12 June 2013). Later that day, men from the Bratunac Brigade MP picked up the excavator from the brick factory. Nedo Nikolić, T. 39816–39817 (12 June 2013).

<sup>17166</sup> KDZ480, T. 24264–24265 (8 February 2012) (closed session); P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7879–7880, 7908–7909 (under seal); Jean-René Ruez, T. 23774, 23776–23777 (27 January 2012) (referring to the destruction of the door of the warehouse for the bulldozer to be able to enter and collect the bodies, and its subsequent reconstruction); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 122–126. See KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 7006 (stating that while lying under the window outside of the warehouse, he heard excavators gathering the corpses); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7124 (stating that he heard heavy machinery around noon); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7097 (stating that on 14 July, while still inside the West Room, he could hear commands coming from outside like “park the loader”); KDZ071, P5028 (Transcript from *Prosecutor v. Popović et al.*), T. 7107 (under seal). See also Adjudicated Fact 1711; Jean-René Ruez, T. 23779 (27 January 2012), T. 24104 (2 February 2012); P4289 (Video footage of Kravica Warehouse), at 00:03:16–00:03:22.

<sup>17167</sup> KDZ071, T. 28555 (4 May 2012). See KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7097. See also Adjudicated Fact 1711; P6201 (Record of interview with Jovan Nikolić, 10 October 2005), p. 8.

<sup>17168</sup> KDZ071, T. 28551 (4 May 2012); KDZ071, P5028 (Transcript from *Prosecutor v. Popović et al.*), T. 7106–7107 (under seal); KDZ071, P5029 (Transcript from *Prosecutor v. Popović et al.*), T. 7097; Vujadin Popović, T. 43059–43060 (6 November 2013). See Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13573.

<sup>17169</sup> [REDACTED]. See also Adjudicated Fact 1715.

<sup>17170</sup> KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7908–7909 (under seal).

<sup>17171</sup> KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7909–7910 (under seal).

<sup>17172</sup> KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7912 (under seal). See Adjudicated Fact 1713.

<sup>17173</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9409–9411.

<sup>17174</sup> According to KDZ107, it was about 9 a.m.. KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9370–9371, 9535; KDZ107, P344 (Transcript from *Prosecutor v. Popović et al.*), T. 9402 (under seal); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7879, 7912–7913 (under seal).

excavator which belonged to the Zvornik Brigade be sent to Glogova.<sup>17175</sup> This backhoe excavator was ultimately used to complete the task.<sup>17176</sup>

5249. Towards the evening of 14 July, a few trucks with bodies arrived at Glogova, but it was only in the following days that trucks with bodies started arriving in large numbers.<sup>17177</sup> The staff from the Rad Utilities Company and the Bratunac Civilian Protection dug four pits at Glogova, and transported and buried between 400 and 500 bodies in three days.<sup>17178</sup> The Chamber heard that other bodies were subsequently buried at Glogova.<sup>17179</sup> The Chamber received evidence that members of both the Bratunac and the Zvornik Brigades participated in the burials at Glogova.<sup>17180</sup>

## 8. Reburials in secondary gravesites

5250. As will be discussed in detail below, between September and October 1995, the VRS conducted an operation to exhume and rebury in secondary gravesites the bodies of Bosnian Muslim men buried at various primary gravesites in July 1995.<sup>17181</sup> **(Since it is #obvious that it was not the VRS#, but some structures within VRS, hiding everything from everyone out of this circle#. Remember, when the #Supreme Military Prosecutor got an order from the President to investigate, he responded: “Nobody knows anything, or doesn’t want to know.”# There is no other evidence except that all was done clandestinely, from the beginning to the end. So, could we localise it on the par of the VRS?)** Specifically, over the course of several nights in September or October 1995, the bodies which had initially been buried in the Glogova gravesites were transported and reburied in secondary mass graves at Zeleni Jadar, Budak, Blječeva, and Zalažje.<sup>17182</sup>

## 9. Forensic evidence

### a. Kravica Warehouse

5251. Forensic examination of the Kravica Warehouse conducted in September 1996 revealed evidence of human blood, bones, and tissue adhering to the walls, floor and ceiling, as well as damage caused by arms, grenades and explosives.<sup>17183</sup> Similarly, shell casings, dentures, and human bone fragments were found mingled with rubbish just in

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<sup>17175</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9371–9372, 9387–9388; KDZ107, P344 (Transcript from *Prosecutor v. Popović et al.*), T. 9550–9553 (under seal); KDZ480, T. 24221 (7 February 2012) (closed session).

<sup>17176</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9371–9372, 9387–9388; KDZ107, P344 (Transcript from *Prosecutor v. Popović et al.*), T. 9550–9553 (under seal); KDZ480, T. 24221 (7 February 2012) (closed session).

<sup>17177</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9372.

<sup>17178</sup> [REDACTED]. See also Adjudicated Fact 1713.

<sup>17179</sup> [REDACTED].

<sup>17180</sup> P169 (Bratunac Brigade Military Police log, 30 June–21 July 1995), e-court p. 18; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T.3575–3576 (showing that on 19 July 1995, Bratunac Brigade MP patrols provided security to public utility workers carrying out work at Glogova); Adjudicated Facts 1714, 1716.

<sup>17181</sup> See Section IV.C.1.g.v: Reburial operation.

<sup>17182</sup> See Section IV.C.1.g.v.A: The reburials from the Bratunac area. See also Dean Manning, T. 25830–25831 (6 March 2012); P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), pp. 10–15; Jean-René Ruez, T. 23860, 23863–23864 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 257–259.

<sup>17183</sup> P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), p. 18; Dean Manning, T. 25803 (6 March 2012); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), p. 5, Annex A, pp. 4–7.

front of the warehouse.<sup>17184</sup> Hand-grenade handles were also found around the warehouse.<sup>17185</sup>

b. Glogova and secondary gravesites

i. Glogova

5252. Aerial images reveal that the Glogova gravesites were first dug between 17 and 27 July 1995, and that the gravesites were disturbed on or before 30 October 1995, as indicated by disturbed earth and the presence of a front loader.<sup>17186</sup> Between 1999 and 2001, two primary disturbed gravesites were found on either side of a dirt road off the Konjević Polje–Bratunac Road, near the village of Glogova, approximately eight kilometres from the Kravica Warehouse.<sup>17187</sup> The dirt road traversed a slope running north to south: the area south of the road was labelled Glogova 1, while that to the north was labelled Glogova 2.<sup>17188</sup>

5253. The primary exhumation of Glogova 2—which consisted of eight sub-gravesites—was conducted between 11 September and 22 October 1999 by a Tribunal exhumation team under the direction of Jose Pablo Baraybar.<sup>17189</sup> The exhumation of Glogova 1—which consisted of six sub-gravesites—was conducted between 7 August and 20 October 2000 by a Tribunal exhumation team under the direction of Richard Wright.<sup>17190</sup> The remains found in both Glogova 1 and Glogova 2 were then examined by a team of pathologists under the direction of John Clark.<sup>17191</sup>

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<sup>17184</sup> Jean-René Ruez, T. 23769–23770 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 112; P4286 (Photograph of shell casings marked by Jean-René Ruez).

<sup>17185</sup> Jean-René Ruez, T. 23764–23767 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 105–108.

<sup>17186</sup> Jean-René Ruez, T. 23863 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 257. See also P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), pp. 4–8.

<sup>17187</sup> P4033 (Jose Baraybar’s expert report entitled “Report on Excavations at Glogova 2, BiH 1999–2001”), p. 3; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 11; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 13; P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), pp. 4–5; Dean Manning, T. 25830 (6 March 2012). Glogova 1 is less than 400 metres from the command post of the 1<sup>st</sup> Infantry Battalion of the Bratunac Brigade. Adjudicated Fact 1726.

<sup>17188</sup> P4033 (Jose Baraybar’s expert report entitled “Report on Excavations at Glogova 2, BiH 1999–2001”), p. 3.

<sup>17189</sup> P4033 (Jose Baraybar’s expert report entitled “Report on Excavations at Glogova 2, BiH 1999–2001”), p. 3; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 12. See Jose Baraybar, T. 22343–22344 (2 December 2011); P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 19. The Chamber notes that Dušan Dunjić challenged the methodology followed by Baraybar in his reports, including the one prepared for the Glogova gravesites. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 42–47. Having assessed the totality of evidence, the Chamber accepts Baraybar’s report and the findings therein.

<sup>17190</sup> P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), p. 2; Richard Wright, T. 22265–22267 (1 December 2011); P4004 (Photograph of exhumation site at Glogova marked by Richard Wright); P4005 (Sketch of grave sites at Glogova marked by Richard Wright). See also P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 13; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 11; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 13. See Adjudicated Fact 1723.

<sup>17191</sup> John Clark, T. 22693 (10 January 2012); P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 29; P4102 (Dr. John Clark’s *curriculum vitae*). The Chamber notes that Dušan Dunjić challenged the methodology followed by Clark in his report for the Glogova gravesite, including how he reached his conclusions as to the cause of death of victims, without carrying out further analysis on the “mechanism of injury”, and basing such conclusions on a number of assumptions. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 48; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the

5254. The manner in which the bodies were found, the lack of shell casings, and the presence of foreign soil show that the victims did not die at the site but were brought to the graves and dumped therein.<sup>17192</sup> **(This kind of foreign soil except for a very specific materials, which should be subject to the Defence verification, stil doesn't mean that the people in the gravesite lost their life in an execution. What assures us that the same of them hadn't been a combat casualty?)** Various items from the Kravica Warehouse, including portions of the door, were found amongst the bodies at Glogova 1 and Glogova 2 thus showing a direct physical link between the gravesites and the warehouse.<sup>17193</sup> Furthermore, an analysis of three watches found on victims wrists at Glogova 2, led the expert to assume that the bodies were disposed of “about or after” 13 July.<sup>17194</sup>

5255. The forensic evidence reviewed by the Chamber shows that all of the victims exhumed at the Glogova gravesites were males,<sup>17195</sup> with established ages ranging from as young as 12 to 75,<sup>17196</sup> and most of the bodies exhumed from the Glogova gravesites presented gunshot injuries.<sup>17197</sup> Shrapnel injuries were also present in 21% of the bodies, and pieces of grenade and shrapnel were retrieved from the gravesite.<sup>17198</sup> 12 victims exhumed from one of the sub-graves at Glogova 1 were bound with ligatures, and each of those was killed by a gunshot to the head.<sup>17199</sup>

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Srebrenica Area”, 26 August 2012), pp. 5–8. Having assessed the totality of evidence on this issue, the Chamber accepts Clark’s report and the findings therein.

<sup>17192</sup> Richard Wright, T. 22303–22306 (1 December 2011); P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), p. 15. The Chamber notes that Dušan Dunjić challenged the reliability of the findings made by Wright in his report for the Glogova gravesite. D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 16. Wright was also challenged with the hypothesis that bodies found at Glogova 1 had a different degree of decomposition and thus were brought from different locations at different times, but denied this conclusion, stating that he saw nothing indicating that there had been several events behind the killings. Richard Wright, T. 22306–22308, 22312 (1 December 2011). *See also* Dušan Dunjić, T. 41746–41747 (22 July 2013). Having assessed the totality of evidence on this issue, the Chamber accepts Wright’s report and the findings therein.

<sup>17193</sup> Dean Manning, T. 25829–25831 (6 March 2012); Richard Wright, T. 22269–22270 (1 December 2011) (in relation to Glogova 1); P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), pp. 2, 18–19 (in relation to Glogova 1); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 13 (in relation to Glogova 1); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 11 (in relation to Glogova 1 and Glogova 2). *See also* Jean-René Ruez, T. 24104 (2 February 2012); Adjudicated Fact 1721.

<sup>17194</sup> P4033 (Jose Baraybar’s expert report entitled “Report on Excavations at Glogova 2, BiH 1999–2001”), p. 20.

<sup>17195</sup> It was not possible to determine the sex of two of the bodies at Glogova 1 because of their young age and injuries; however, all bodies found at Glogova 2 were identified as male. P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 13, 19, 22; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3933, 3938–3939. *See also* Adjudicated Fact 1719.

<sup>17196</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 22.

<sup>17197</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 15, 17, 20, 22; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3934. *See also* Adjudicated Fact 1720.

<sup>17198</sup> P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), pp. 2, 16; Richard Wright, T. 22270–22272, 22310–22311 (1 December 2011); P4007 (Photograph of Exhumation site at Glogova marked by Richard Wright); P4008 (Photograph of exhumed body marked by Richard Wright); P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 16, 22; John Clark, T. 22700 (10 January 2012), T. 22729 (11 January 2012). *See* Dean Manning, T. 25856 (6 March 2012); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 13–14. *See also* Adjudicated Fact 1722. The Chamber notes Dunjić’s claim that this finding would support the fact that the victims did not die in an execution, but that such injuries are instead a reflection of armed conflicts between two warring parties; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), pp. 12–13. As explained in detail in Section IV.C.1.h.B.2: Cause and manner of death, having assessed the totality of evidence on this issue, the Chamber accepts Wright and Clark’s reports and the findings therein.

<sup>17199</sup> P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), p. 16; Richard Wright, T. 22322–22323 (1 December 2011); P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 14; P4507 (Chart of photographs of blindfolds, ligatures, and location). *See also* Adjudicated Fact 1725.

5256. Almost all sub-graves at Glogova showed evidence of “robbing”, or that bodies were removed by machinery, thus leaving a few dismembered parts of the bodies behind.<sup>17200</sup>

5257. The Accused argues in his final brief that the Glogova gravesite was a “mixed grave” which contained not only victims from the Kravica Warehouse incident but from other killing incidents related to the fall of Srebrenica, as well as victims who had died years earlier.<sup>17201</sup> The Prosecution acknowledges that a number of bodies found in the Glogova gravesites were brought from places other than the Kravica Warehouse.<sup>17202</sup> The Prosecution explains that this number includes at least 80 victims executed in Bratunac, including at the Vuk Karadžić School,<sup>17203</sup> plus approximately 100 individuals who cannot be determined beyond reasonable doubt to have been executed.<sup>17204</sup> **(#Irregularities, peculiarities#! At least, #those could have been a combat casualties#. And taking into account #what Janc excluded, because he couldn’t explain from where those bodies were brought, a lot to doubt. #This irregularity was sufficient to dismiss everything that was contested in Janc’s testimony.)**

5258. As of 13 January 2012, DNA analysis led to the identification of 226 bodies from Glogova 1 and 171 from Glogova 2, as persons listed as missing following the take-over of Srebrenica.<sup>17205</sup> However, Dušan Janc clarified that not all of these 397 individuals can be linked to the killings at the Kravica Warehouse, since bodies which cannot be linked to this execution site were brought to Glogova, namely at least 80 victims executed in Bratunac, plus approximately 100 bodies brought from other locations.<sup>17206</sup> **(Why not from combats? What is that what assure us that they didn’t come after a combat?)** This is consistent with other evidence received by the Chamber that bodies collected from various places, including the Konjević Polje intersection, the Konjević Polje–Bratunac Road, Potočari, the areas of Rađno Buljek, Kamenica, and Pobude, and around the Vuk Karadžić School in Bratunac, were brought to Glogova to be buried.<sup>17207</sup> **Than, why the**

<sup>17200</sup> P4033 (Jose Baraybar’s expert report entitled “Report on Excavations at Glogova 2, BiH 1999–2001”), pp. 3–4, 18; P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), pp. 5, 9, 16; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3933–3934. Wright explained that the term “robbed” was used in the archaeological way to mean that things had been taken away from a specific area. Richard Wright, T. 22250 (1 December 2011). Wright and his team found dismembered parts of bodies at Glogova 1, which they took as evidence that some bodies had been dug up and moved. Richard Wright, T. 22267–22269, 22311 (1 December 2011); P4009 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000”, 9 February 2001), p. 5. Baraybar testified that five of the eight sub-gravesites at Glogova 2 has been robbed and concluded that the bodies had been moved due to the presence of foreign soil and multiple fractures of the bones, presumably due to large-scale machinery. Jose Baraybar, T. 22409–22410 (2 December 2011). See P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 13.

<sup>17201</sup> Defence Final Brief, paras. 2597, 2601.

<sup>17202</sup> Prosecution Final Brief, Appendix D, paras. 64, 171; Prosecution Closing Argument, T. 47795 (30 September 2014).

<sup>17203</sup> Prosecution Final Brief, Appendix D, paras. 64, 171.

<sup>17204</sup> The Prosecution explains that this number includes 10 to 15 bodies retrieved from Konjević Polje, six to seven bodies from Potočari, and a ‘truckload’ from along the Bratunac-Konjević Polje Road. Prosecution Final Brief, Appendix D, paras. 64, 171. This number also includes the bodies of 12 individuals who are recorded as having been returned from Serbia and whose remains were also found at Glogova; although executed, their deaths were not charged in this case. Prosecution Final Brief, Appendix D, para. 171, fn. 716.

<sup>17205</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 3, 12; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court pp. 148–168 (under seal). See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). For a detailed analysis of the methodology followed by Janc in making DNA connections, see paras. 5586–5589.

<sup>17206</sup> D1975 (Dušan Janc’s corrigendum to report entitled “Update to Summary of Forensic Evidence - Exhumation on the Graves Related to Srebrenica –March 2009”, 9 April 2009); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012, e-court p. 40.

<sup>17207</sup> KDZ107, P345 (Transcript from *Prosecutor v. Popović*), T. 9372, 9388–9389, 9392–9393, 9538–9539, 9544 (stating that, while a number of bodies collected from the Konjević Polje intersection, the Konjević Polje–Bratunac Road, **#And how died those men between Bratunac and Konjevic Polje?#**) and outside the Vuk Karadžić School were brought to Glogova to be buried, he assumed most of the people buried in Glogova were killed at the Kravica Warehouse because the truck owned by the Rad Utilities



**Prosecution didn't sever those for whom it accepts that might be a combat casualties?)**

**5259.** Further, after reviewing P6705, the Chamber has found that victims whose bodies were found in the Glogova gravesites were last seen alive on and after 14 July 1995.<sup>17208</sup> According to this document, roughly one in five bodies found in Glogova 1 and Glogova 2 were reported as having been last seen alive after 13 July,<sup>17209</sup> the date of the Kravica Warehouse incident. Because the bodies in Glogova 1 and 2 were later reburied in various secondary gravesites,<sup>17210</sup> the Chamber will discuss the minimum and maximum possible number of Kravica-related victims in all of these sites at the end of this section.<sup>17211</sup> **(#But, why somebody normal would bring bodies from one site to bury in Glogova, and at the same time rob it and bury the bodies somewhere else?#)**

ii. Secondary gravesites

5260. The Zeleni Jadar gravesites, which consisted of seven secondary mass gravesites along the Zeleni Jadar Road,<sup>17212</sup> were discovered in 1998.<sup>17213</sup> Aerial images indicate that earth was disturbed at six locations along the Zeleni Jadar Road between 24 August and 23 October 1995, and that the reburials at these secondary graves were completed in late October 1995.<sup>17214</sup> The gravesites were numbered Zeleni Jadar 1 through 6, with an additional gravesite, labelled 1A, examined at a later stage due to its location within a heavily mined area.<sup>17215</sup> While the examination and probing at Zeleni Jadar 1 through 4 was conducted by a Tribunal team of experts, the responsibility for exhuming the gravesites was handed over to the BiH government in 2001.<sup>17216</sup> Teams of Tribunal

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Company, which is the one used to transport the bodies to Glogova, came from the direction of Kravica); KDZ480, T. 24221 (7 February 2012) (closed session); KDZ480, T. 24261, 24263, 24279–24280 (8 February 2012) (closed session); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7883–7884, 7920, 7923–7925 (under seal) (explaining that between 40 and 50 bodies collected from the Vuk Karadžić School on 14 July, seven or eight bodies collected at Potočari on 16 or 17 July, six to eight bodies collected at the premises of the “11<sup>th</sup> of March company”, and a few others collected from the zinc workshop and private homes, were brought to Glogova); P407 (Witness statement of Desmir Đukanović dated 20 March 2007), paras. 5–6, P408 (Witness statement of Desmir Đukanović dated 23 March 2007, paras. 7, 10 and P406 (Desmir Đukanović’s evidence in BiH state court), pp. 1–4 (testifying that he and his colleagues collected approximately 60 bodies from the Vuk Karadžić School and the surrounding area, which were then transported to the Glogova gravesite); Adjudicated Fact 1686 (in relation to the transportation of bodies from the Vuk Karadžić School). KDZ480 further added that there was an order that all the corpses found should be brought to the freshly dug up gravesite in Glogova. KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7925 (under seal). See Jean-René Ruez, T. 23863 (30 January 2012), T. 24041 (1 February 2012).

See paras. 5569–5573 for a detailed analysis of the methodology followed by Tabeau in compiling P6705.

<sup>17208</sup> Specifically, approximately 21% of bodies identified from Glogova 1, and 19% of bodies identified from Glogova 2 were reported as having been last seen alive after 13 July 1995. See e.g. P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court pp. 148–168 (under seal) (listing the names of bodies identified in Glogova 1 and 2); P6705 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009), e-court pp. 20, 35, 64, 114, 121.

<sup>17210</sup> See para. 5260.

<sup>17211</sup> See paras. 5280–5283.

<sup>17212</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 12.

<sup>17213</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court p. 11).

<sup>17214</sup> Dean Manning, T. 25832–25835 (6 March 2012); P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), pp. 20–30.

<sup>17215</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court p. 7; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 12; Dean Manning, T. 25832–25835 (6 March 2012); P4510 (Aerial photograph of Zeleni Jadar marked by Dean Manning); P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), pp. 21–22.

<sup>17216</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court pp. 26–28; P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court pp. 11–12. In relation to Zeleni Jadar 2, investigators found evidence that bodies had been removed from such gravesite and moved to an unknown location or an unknown tertiary gravesite. P4504 (Dean

experts conducted the examination and exhumation of both Zeleni Jadar 5 and Zeleni Jadar 6.<sup>17217</sup>

5261. The Chamber notes that out of all the secondary gravesites associated with the Glogova gravesites, it only received forensic evidence in relation to Zeleni Jadar 5 and 6. The exhumation of Zeleni Jadar 5 was conducted between 1 and 21 October 1998 by a team under the direction of Richard Wright.<sup>17218</sup> The exhumation of Zeleni Jadar 6 was conducted between 25 July and 13 August 2001 by a team under the direction of Jose Pablo Baraybar.<sup>17219</sup> The remains found at Zeleni Jadar 5 were then examined by a team of pathologists under the direction of Christopher Lawrence, while the remains at Zeleni Jadar 6 were examined by a team of pathologists under the direction of John Clark.<sup>17220</sup>

5262. The forensic evidence reviewed by the Chamber in relation to both Zeleni Jadar 5 and Zeleni Jadar 6 shows that all of the bodies where sex could be determined were male.<sup>17221</sup> Approximately 25% of those were 25 years old or younger.<sup>17222</sup> Most of the bodies exhumed presented gunshot injuries.<sup>17223</sup> No bodies had been blindfolded, but two had ligatures.<sup>17224</sup>

5263. Various artefacts from the Kravica Warehouse, such as barbed wire, motorcar parts, bricks, tiles, china, and bunches of hay were collected from the Zeleni Jadar gravesites.<sup>17225</sup> **(All of those materials could be from any place, nothing is so specific for the Kravica site!)** Specifically, motorcar parts and barbed wire found at Zeleni Jadar 5 mixed up with bodies were determined to be similar objects to those found at Glogova 1, which in turn were similar to those found at the Kravica Warehouse.<sup>17226</sup> Bullets and cartridge casings were also found in Zeleni Jadar 5.<sup>17227</sup> Furthermore, pollen and soil profiles taken from

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Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 12; P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 11.

<sup>17217</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 12; P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), e-court pp. 28–29.

<sup>17218</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 12; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 12, 24. *See also* Richard Wright, T. 22269 (1 December 2011); Adjudicated Fact 1727.

<sup>17219</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), e-court p. 29.

<sup>17220</sup> Christopher Lawrence, T. 22447 (8 December 2011); P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), p. 30; Christopher Lawrence, P4051 (*Transcript from Prosecutor v. Krstić*), T. 3978–3980; P4064 (Chart of primary and secondary graves); John Clark, T. 22693 (10 January 2012); P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), p. 29; P4102 (Dr. John Clark's *curriculum vitae*).

<sup>17221</sup> P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), pp. 2, 9; P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), pp. 23, 27. *See also* Adjudicated Fact 1728.

<sup>17222</sup> P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), pp. 2, 9; P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), pp. 23, 27.

<sup>17223</sup> P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), pp. 24–27; P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), pp. 2, 9–10, 12–13. *See also* Adjudicated Fact 1728.

<sup>17224</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 12, 84.

<sup>17225</sup> Richard Wright, T. 22269 (1 December 2011); P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 25–26; Dean Manning, T. 25829–25831 (6 March 2012); P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 13; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 84. *See* Jean-René Ruez, T. 23860 (30 January 2012).

<sup>17226</sup> Dean Manning, T. 25830–25831 (6 March 2012); Christopher Lawrence, P4051 (*Transcript from Prosecutor v. Krstić*), T. 4021–4023; P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), pp. 12–13; Richard Wright, T. 22269–22270 (1 December 2011).

<sup>17227</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 86.

Glogova 2 sub-gravesites were identical to those of Zeleni Jadar 5.<sup>17228</sup> **(For the bullets it could be undertood, #but how the cases had been found there?# If the cases were there, that would mean that firing happened from there also#!)** Blast damage and pieces of shrapnel similar to those found at Glogova were found in bodies at the Zeleni Jadar gravesites.<sup>17229</sup>

5264. Furthermore, some DNA profiles were isolated from remains found in both Glogova and the Zeleni Jadar gravesites; each of these connections demonstrates that the remains of the same individual were found in more than one gravesite. The remains of 20 individuals were found in both Glogova 1 and one of the Zeleni Jadar gravesites 1A, 1B, 2, 3, or 4; 14 individuals with remains in Glogova 1 and Zeleni Jadar 5; three individuals' remains were found in Glogova 1 and Zeleni Jadar 6; and one individual's remains were found in Glogova 2 and Zeleni Jadar 5.<sup>17230</sup> Similarly, DNA from a broken tooth found at the entrance of the Kravica Warehouse was matched to remains found at Zeleni Jadar 2.<sup>17231</sup> Consequently, the Chamber finds that bodies were taken from the Glogova 1 and Glogova 2 gravesites to the secondary gravesites of Zeleni Jadar.

5265. As of 13 January 2012, DNA analysis led to the identification of 445 victims from the Zeleni Jadar gravesites as persons listed as missing following the take-over of Srebrenica: 22 from Zeleni Jadar 1A; 22 from Zeleni Jadar 1B; 19 from Zeleni Jadar 2; 30 from Zeleni Jadar 3; 64 from Zeleni Jadar 4; 166 from Zeleni Jadar 5; and 122 from Zeleni Jadar 6.<sup>17232</sup> However, according to P6705, just over one fifth of the bodies found in all the Zeleni Jadar gravesites were reported as having been last seen alive after 13 July 1995.<sup>17233</sup> As stated above, the minimum and maximum possible number of Kravica-related victims in all of these sites will be discussed at the end of this section.<sup>17234</sup>

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<sup>17228</sup> P4030 (Jose Baraybar's expert report entitled "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999", 8 December 1999), pp. 3–4, 8; P4033 (Jose Baraybar's expert report entitled "Report on Excavations at Glogova 2, BiH 1999–2001"), p. 20.

<sup>17229</sup> John Clark, T. 22729 (11 January 2012); P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), pp. 25–27; P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999), pp. 12–13. The Chamber notes that Lawrence was extensively questioned about his findings on shrapnel injuries found at bodies at Zeleni Jadar 5, in order to make him accept that those victims had indeed died in combat operations, and not in a mass execution. See Christopher Lawrence, T. 22505–22508 (8 December 2011); Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 4024–4025. Given the evidence by survivors of the killings at the Kravica Warehouse that grenades were thrown inside the warehouse, the Chamber finds this evidence on shrapnel injuries to be consistent with the evidence as described above.

<sup>17230</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 49; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 353–380 (under seal).

<sup>17231</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 27, 85, 87.

<sup>17232</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 4, 26–29; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 353–380 (under seal). See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). For a detailed analysis of the methodology followed by Janc in making DNA connections, see paras. 5586–5589.

<sup>17233</sup> Specifically, approximately 25% of the bodies identified from Zeleni Jadar 1A and 1B, 21% from Zeleni Jadar 2, 23% from Zeleni Jadar 3, 27% from Zeleni Jadar 4, 17% from Zeleni Jadar 5, and 20% from Zeleni Jadar 6 were listed as having been seen after 13 July 1995. See e.g. P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 353–380 (under seal) (listing the names of bodies identified in Zeleni Jadar 1A through 6); P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court pp. 27, 30, 34, 40, 54, 61, 74, 96, 106–107, 118, 125, 155, 170–171, 192, 199, 213, 216.

<sup>17234</sup> See paras. 5280–5283.

5266. The secondary gravesites of Budak 1, Budak 2, Blječeva 1, Blječeva 2, Blječeva 3, and Zalažje were discovered and exhumed from 2004 to 2009 by the BiHCMP.<sup>17235</sup>
5267. The Chamber received evidence of DNA-based connections between these secondary gravesites and the two Glogova gravesites, as well as between the various secondary gravesites.<sup>17236</sup> Specifically, 12 DNA connections were found between Glogova 2 and Blječeva 1; 26 between Glogova 2 and Blječeva 2; 14 between Glogova 1 and Blječeva 3; three between Glogova 1 and Budak 1; 12 between Glogova 1 and Budak 2, and eight between Glogova 1 and Zalažje 1.<sup>17237</sup> Consequently, the Chamber finds that bodies were taken from the Glogova 1 and Glogova 2 gravesites to the secondary gravesites of Budak, Blječeva, and Zalažje.
5268. As of 13 January 2012, DNA analysis led to the identification of 326 victims from the Budak, Blječeva, and Zalažje gravesites as persons listed as missing following the take-over of Srebrenica: 54 from Budak 1; 49 from Budak 2; 47 from Blječeva 1,<sup>17238</sup> 81 from Blječeva 2; 65 from Blječeva 3; and 30 from Zalažje.<sup>17239</sup> However, according to P6705, just over one fifth of the bodies identified from Budak, just over one tenth of the bodies identified from Blječeva, and one fifth of the bodies identified in Zalažje were reported as having been seen alive after 13 July 1995.<sup>17240</sup> As stated above, the minimum and

<sup>17235</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), e-court pp. 29–32.

<sup>17236</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 29, 49–50, 85–87. The Chamber notes Dunjić's challenge that not all of the individual bodies found in Glogova 1 and 2 could be linked to the secondary gravesites by DNA connections. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 13, 23. However, Dunjić admitted that this assertion was not supported by ballistic, soil, or material evidence on his part. Dušan Dunjić, T. 41883–41890 (24 July 2013). As explained in detail in Section IV.C.1.h: Forensic, demographic, and DNA evidence, and having assessed the totality of the evidence on this issue, the Chamber is satisfied that the reports generated by Janc and by the ICMP on the basis of the DNA analysis can be relied upon for the purposes of the present Judgement.

<sup>17237</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 49, 85, 87.

<sup>17238</sup> The Chamber finds that the Blječeva 1 gravesite was a mixed grave and contained remains which were unconnected with the fall of Srebrenica. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 30–32; Dušan Janc, T. 27016–27017 (27 March 2012); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 13, 36–37; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 27 August 2009), p. 20; Dušan Dunjić, T. 41746–41748 (22 July 2013). *See also* Defence Final Brief, paras. 2597, 2671. According to Janc, Blječeva 1 contained remains of victims from an incident in Bratunac in 1992; however, in reaching the total number of Srebrenica victims identified from remains found in that gravesite, Janc did not count those victims who had died in 1992. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 30; Dušan Janc, T. 27016–27017 (27 March 2012). *See also* Accused Closing Argument, T. 48024 (2 October 2014). The Chamber compared Janc's list of Blječeva 1 victims to the data on P6705 and is satisfied that the 47 individuals identified by Janc from remains at Blječeva 1 are indeed victims from the fall of Srebrenica. *See* P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 381–383 (under seal); P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009). However, as explained in detail below, the Chamber acknowledges that not all of these 47 victims were killed at the Kravica Warehouse. *See* paras. 5280–5283.

<sup>17239</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 4, 29–32; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 381–403 (under seal). *See also* P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

<sup>17240</sup> Specifically, 35% of the bodies identified from Budak 1, 8% from Budak 2, 11% from Blječeva 1, 13% from Blječeva 2, 8% from Blječeva 3, and 20% from Zalažje were listed as having been seen after 13 July 1995. *See e.g.* P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 381–403 (under seal) (listing the names of bodies identified in each of these gravesites); P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court pp. 16–17, 25–26, 35, 58, 85, 91, 114, 121, 124, 131, 176, 186, 203.

maximum possible number of Kravica-related victims in all of these sites will be discussed at the end of this section.<sup>17241</sup>

iii. Ravnice

5269. The gravesite of Ravnice—which encompasses the sub-gravesites of Ravnice 1 and Ravnice 2—is located along a dirt roadway leading to the village of Adžici from the Konjević Polje–Bratunac Road, and is close to Glogova.<sup>17242</sup> There is no evidence that this gravesite was disturbed.<sup>17243</sup> Ravnice 1 was partially exhumed in August 2000 by a Tribunal exhumations team under the direction of Fredi Peccerelli.<sup>17244</sup> Ravnice 2 was exhumed in July and August 2001 by members of the BiHCOMP and the ICMP, and monitored by members of the Tribunal.<sup>17245</sup> The remains found at both Ravnice 1 and 2 were examined by a team of pathologists under the direction of John Clark.<sup>17246</sup>

5270. The Chamber did not receive eye-witness evidence as to the burial of bodies at Ravnice. The only evidence received by the Chamber with respect to the exhumation of the Ravnice gravesite comes from Dean Manning, who was present at the gravesite during the exhumation process carried out by Peccerelli and his team, and from Clark, who referred to the exhumation process in his pathology report.<sup>17247</sup>

5271. According to Clark, the Ravnice gravesite was very different to the gravesites at Glogova, in that a number of bodies lay scattered on the surface rather than buried in the ground.<sup>17248</sup> The bodies appear to have been dumped down a steep wooded embankment from the roadway, across a wide area.<sup>17249</sup> After the first group of bodies was covered with soil, another dump occurred; there was no attempt to cover these additional bodies with dirt so they were left on the surface of the slope.<sup>17250</sup> Many of these bodies were caught at the base of trees and on a fence running along the slope.<sup>17251</sup>

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<sup>17241</sup> See paras. 5280–5283.

<sup>17242</sup> P4502 (Dean Manning’s Report entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 11; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), e-court p. 3.

<sup>17243</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 11.

<sup>17244</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 11. See Fredi Peccerelli, T. 22736 (11 January 2012).

<sup>17245</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 13.

<sup>17246</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 6, 29.

<sup>17247</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 1; Dean Manning, T. 25802–25803, 25805, 25829 (6 March 2012); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 4–5, 11. See also P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), p. 2; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 13.

<sup>17248</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6.

<sup>17249</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 4, 11; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), p. 2; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 12.

<sup>17250</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 4, 11; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), p. 2.

<sup>17251</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 4, 11; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic



5272. Clark further explained that the remains found in the gravesite were broken up with parts missing, and individual body parts were much more numerous than whole bodies.<sup>17252</sup> Civilian clothing was present on most of the bodies, along with personal belongings, and no bodies were found with military attire.<sup>17253</sup> No ligatures or blindfolds were found.<sup>17254</sup> Because the bodies were exposed to the open air, they had been skeletonised, with no soft tissue surviving, and their bones showed weathering and decay.<sup>17255</sup> **(#Combat casualties#! The #personal belongings, no ligatures or blindfolds, partitioned bodies, all of that indicates only a combat casualties collected by machines during a sanitation actions.#)**

5273. Based on the pathology examination, Clark concluded that all of the victims exhumed at Ravnice were male.<sup>17256</sup> At least 14 of these individuals were 17 years old or younger.<sup>17257</sup> In relation to the cause and manner of death, Clark stated that the vast majority of the victims presented multiple gunshot injuries to the head, trunk, and legs, primarily from high velocity rifles, and there was no convincing evidence of serious injuries from shrapnel from grenades or other projectiles.<sup>17258</sup> Clark was not able to make a finding on the distance from which the shots were fired.<sup>17259</sup>

5274. Items from the Kravica Warehouse were collected from the Ravnice gravesites which, according to Manning, indicated a linkage between the gravesite and the Kravica Warehouse.<sup>17260</sup> Furthermore, personal identification documents found at the warehouse were linked to two individuals who were identified by DNA analysis in Ravnice 2.<sup>17261</sup>

5275. As of 13 January 2012, DNA analysis led to the identification of 32 victims from Ravnice 1 and 174 victims from Ravnice 2 as persons listed as missing following the take-over of Srebrenica.<sup>17262</sup>

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Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 12.

<sup>17252</sup> Clark explained that 175 bodies and 324 parts of bodies were scattered throughout the gravesite. P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 6, 10–11.

<sup>17253</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 6, 11.

<sup>17254</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 11; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 11; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), pp. 8–9.

<sup>17255</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6.

<sup>17256</sup> It was not possible to determine the sex of five of the bodies because of their young age or because of damage to the skeleton. P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 6, 11.

<sup>17257</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 6.

<sup>17258</sup> Only ten of the men died from a single shot to the head. P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 7–8, 11. The Chamber notes Dunjić’s challenges to Clark’s findings in relation to the Ravnice gravesites. See D3896 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area”, April 2009), pp. 193–210; Dušan Dunjić, T. 41862–41864 (24 July 2013). Having assessed the totality of evidence, the Chamber accepts Clark’s report and the findings therein.

<sup>17259</sup> P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), pp. 8, 11.

<sup>17260</sup> Among these items was a piece of painted polystyrene foam found at Ravnice 2, which was identical to foam lettering located on the north face of the Kravica Warehouse, above an entrance doorway. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 13; Dean Manning, T. 25829–25831 (6 March 2012).

<sup>17261</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), e-court p. 13.

<sup>17262</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 3, 14; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court pp. 169–179 (under seal). See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

5276. Despite the fact that there is no eyewitness evidence as to the burials at Ravnice, the Chamber finds, in light of the location of the gravesite and the forensic evidence admitted in this case, that this gravesite is linked to the killings at the Kravica Warehouse on 13 July 1995. However, P6705 demonstrates that nearly one third of the bodies found in Ravnice 1 and nearly one fifth of the bodies found in Ravnice 2, totalling 43 individuals, were reported as having been last seen alive on and after 14 July 1995.<sup>17263</sup> This evidence strongly suggests that some bodies found in the Ravnice gravesites were brought from a site or sites other than the Kravica Warehouse.<sup>17264</sup> Considering this, the Chamber cannot find beyond reasonable doubt the exact number of Kravica Warehouse victims found in Ravnice 1 and Ravnice 2. The Chamber will discuss the number of Kravica-related victims in the Ravnice gravesites at the end of this section.<sup>17265</sup>

10. Total number of Kravica Warehouse victims

5277. According to Janc, as of 13 January 2012, DNA analysis led to the identification 1,374 victims listed as persons missing following the take-over of Srebrenica, who are connected to the various gravesites associated with the killings at the Kravica Warehouse.<sup>17266</sup> While Janc considered that most of these 1,374 victims can be connected to the Kravica Warehouse killing incident, he found it impossible to provide an exact number.<sup>17267</sup> Accordingly, the Prosecution acknowledges in its final brief that some of these 1,374 victims were not killed at the Kravica Warehouse, but estimates that at least 1,200 individuals of those detained at the Sandići Meadow on 13 July 1995 were killed at the warehouse.<sup>17268</sup> **(But #there was no 1,200 detainees on the Sandici Meadowe!# How many busses would be needed to transport them? Sixty. And how long would be the column of those walking to Kravice? And certainly, there would be needed a huge number of the guards to guard such a huge number of the detainees#! An obvious lie!.)**

5278. The Chamber heard conflicting evidence as to the number of Bosnian Muslim men held inside the Kravica Warehouse before the execution took place. For example, KDZ063

<sup>17263</sup> See e.g. P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court pp. 169–179 (under seal) (listing the names of bodies identified in Ravnice 1 and 2); P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court pp. 13, 17, 19, 22, 23, 30, 32, 43, 46, 47, 53, 58, 59, 65, 78, 84, 94, 118, 122, 123, 125, 142, 153, 154, 156, 168, 178, 191, 206, 208.

<sup>17264</sup> Unlike the gravesites at Glogova and the Kravica-related secondary graves, neither party has provided evidence suggesting that bodies found in Ravnice were brought from locations other than the Kravica Warehouse incident. **We have every right to be suspicious when the BIH organs did some exhumation.** See D1975 (Dušan Janc's corrigendum to report entitled "Update to Summary of Forensic Evidence - Exhumation on the Graves Related to Srebrenica –March 2009", 9 April 2009) (acknowledging that not all of the bodies in Glogova and the related secondary gravesites were brought from the Kravica Warehouse); P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), p. 40 (providing that, "[a]lthough most of these 1374 identified individuals [from all Kravica-related graves] must still be directly connected with the Kravica Warehouse execution point, it is impossible to provide the exact number.") (citations omitted).

<sup>17265</sup> See paras. 5284–5285.

<sup>17266</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–41. The Chamber notes Dunjić's challenges to Janc's total number of victims identified as killed during the incident at the Kravica Warehouse, and his claims that this number is not accurate and reliable. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 23; Dušan Dunjić, T. 41744–41748 (22 July 2013).

<sup>17267</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 40; D1975 (Dušan Janc's corrigendum to report entitled "Update to Summary of Forensic Evidence - Exhumation on the Graves Related to Srebrenica –March 2009", 9 April 2009). See also D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 11–12 (referring to D1975).

<sup>17268</sup> Prosecution Final Brief, Appendix D, paras. 64, 171. The Chamber considers that the Prosecution arrived at this number by subtracting the approximately 180 individuals brought to Glogova from other sites from the total number of victims identified in all Kravica-related graves.

estimated that there were between 2,500 and 3,000 men in the warehouse after the last detainee came in.<sup>17269</sup> KDZ071 testified hearing from other men detained at the warehouse that there were 2,000 men inside.<sup>17270</sup> By contrast, Franc Kos testified that there could not have been more than 150 people inside the Kravica Warehouse.<sup>17271</sup> Further, Adjudicated Fact 1705 refers to between 1,000 and 1,500 Bosnian Muslim men being bussed or marched to the Kravica Warehouse after their detention at the Sandići Meadow;<sup>17272</sup> and Adjudicated Fact 1709 refers to approximately 1,000 Bosnian Muslim men being executed at the Kravica Warehouse.<sup>17273</sup>

5279. Given the connections between Glogova and the secondary gravesites,<sup>17274</sup> as well as the uniqueness of the Ravnice gravesites,<sup>17275</sup> the Chamber will discuss the total number of Kravica Warehouse victims found in these gravesites separately in the following paragraphs.

a. Glogova and secondary gravesites

5280. According to Janc, as of 13 January 2012, DNA analysis led to the identification of 1,168 individuals found in Glogova and the related secondary gravesites as persons missing following the take-over of Srebrenica.<sup>17276</sup> However, as discussed above, the Chamber has heard evidence that bodies from incidents or sites other than the Kravica Warehouse were also brought to Glogova—namely, approximately 80 victims executed in Bratunac, plus approximately 100 bodies brought from other locations—and were subject to reburial in secondary graves.<sup>17277</sup>

5281. Additionally, as noted above, P6705 shows that just over one fifth—or 235—of the victims whose bodies were found in Glogova and the related secondary gravesites were reported as having been seen alive on or after 14 July 1995.<sup>17278</sup> The Chamber finds it unlikely that these victims were killed at the Kravica Warehouse incident, in light of the fact that the killings at the Kravica Warehouse took place on 13 July 1995.

5282. While the Chamber considers that some of these 235 individuals who were reported to have been seen alive on or after 14 July 1995 likely overlap with the approximately 180 individuals who were brought to Glogova from sites or incidents other than the Kravica Warehouse, the degree to which the two groups overlap cannot be determined beyond reasonable doubt. Therefore, in order to reach the minimum number of Kravica Warehouse victims found in Glogova and the related secondary gravesites, the Chamber has deducted both groups from the total of 1,168 bodies, leading to a minimum of 753 victims.<sup>17279</sup> Further, the maximum number of possible Kravica Warehouse victims found

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<sup>17269</sup> KDZ063, P334 (Transcript from *Prosecutor v. Popović et al.*), T. 6990.

<sup>17270</sup> KDZ071 acknowledged however that he himself did not count the number of detainees. KDZ071, T. 28539 (4 May 2012).

<sup>17271</sup> D3927 (Witness Statement of Franc Kos dated 26 July 2013), p. 9. The Chamber finds this estimate unacceptable.

<sup>17272</sup> See Adjudicated Fact 1705.

<sup>17273</sup> See Adjudicated Fact 1709.

<sup>17274</sup> See paras. 5264–5265.

<sup>17275</sup> See paras. 5271–5274.

<sup>17276</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–41 (listing the total number of individuals identified as missing after the takeover from Srebrenica from each Kravica-related gravesite).

<sup>17277</sup> D1975 (Dušan Janc's corrigendum to report entitled "Update to Summary of Forensic Evidence - Exhumation on the Graves Related to Srebrenica –March 2009", 9 April 2009); P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012, e-court p. 40. See also paras. 5257–5258, 5507.

<sup>17278</sup> See paras. 5259, 5265, 5268.

<sup>17279</sup> Based on the witness testimony presented above, and the dates of disappearance of the bodies found in Glogova and the related secondary graves, the Chamber considers that the number of bodies brought to Glogova from other sites or incidents cannot have

in Glogova and the related secondary gravesites can be reached by deducting those 235 individuals who were reported to have been seen last on or after 14 July 1995, as well as the approximately 80 individuals killed at the Vuk Karadžić School, from the total of 1,168 bodies, leading to a maximum total of 853 victims.<sup>17280</sup>

5283. Therefore, the Chamber finds that a minimum of 753 individuals and a maximum of 853 individuals found in Glogova and the related secondary gravesites were executed at the Kravica Warehouse incident.

b. Ravnice gravesites

5284. As noted above, some bodies found in the Ravnice gravesites were brought from a site or sites other than the Kravica Warehouse, making it impossible for the Chamber to find the exact number of Kravica Warehouse victims found in Ravnice 1 and 2.<sup>17281</sup> However, the Chamber is satisfied that at least the two individuals recovered from Ravnice whose identification documents were found at the Kravica Warehouse were executed therein.<sup>17282</sup> Furthermore, in finding the maximum number of Kravica Warehouse victims found in Ravnice 1 and 2, the Chamber has excluded those 43 individuals who were reported as having been seen alive on or after 14 July,<sup>17283</sup> leading to a maximum of 163 victims.

5285. Consequently, the Chamber finds that a minimum of 2 individuals and a maximum of 163 individuals found in the Ravnice gravesites were executed at the Kravica Warehouse incident.

c. Conclusion

5286. For all these reasons, the Chamber finds that, on 13 July 1995, between 755 and 1,016 Bosnian Muslim men were killed by members of the Bosnian Serb Forces at the Kravica Warehouse.

(D) Sandići Meadow

5287. The Indictment refers to the killing on 13 July 1995, after dark, of approximately 15 Bosnian Muslim men who were detained at Sandići Meadow and summarily executed in an area near Sandići.<sup>17284</sup>

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exceeded 415 individuals, equivalent to the 235 individuals reported as having been seen last alive on or after 14 July 1995 plus those approximately 180 individuals who the Prosecution itself accepts to have been brought from other sites or incidents. *See paras. 5257, 5259.*

<sup>17280</sup> The Chamber considers that it is possible that the approximately 100 individuals brought to Glogova from Konjević Polje, Potočari, and the Bratunac–Konjević Polje Road, including the 12 individuals who are recorded as having been returned from Serbia and whose remains were also found at Glogova, are included in the group of individuals who were reported seen alive on or after 14 July 1995, while the approximately 80 bodies of individuals killed at the Vuk Karadžić School cannot have been, since most of those killings took place during the nights of 12 and 13 July. *See para. 5258.* Thus, while the maximum possible number of Kravica Warehouse victims excludes only the 235 individuals seen on or after 14 July, the Chamber must also exclude the approximately 80 individuals killed at the Vuk Karadžić School from the total.

<sup>17281</sup> *See para. 5276.*

<sup>17282</sup> *See para. 5274.*

<sup>17283</sup> While 206 individuals in total were exhumed from the Ravnice gravesites, 43 of these individuals were listed in P6705 as having disappeared after 13 July, and therefore cannot be considered as having been executed at the Kravica Warehouse incident. *See para. 5276.* While it is not certain that the remaining 163 individuals were all executed at the Kravica Warehouse, the Chamber finds that an indeterminable proportion—and possibly the entirety—of this group were executed at the Kravica Warehouse.

<sup>17284</sup> Indictment, Scheduled Incident E.4.1.

5288. In the early evening on 13 July 1995, most of the Bosnian Muslim men who had previously been detained at the Sandići Meadow had been taken away, but 10 to 15 men were left behind.<sup>17285</sup> Several members of the Jahorina Recruits asked the Deputy Commander of the 1<sup>st</sup> Company's 4<sup>th</sup> Platoon, a man by the name of "Aleksa", when the next bus would come to pick up the detainees.<sup>17286</sup> Aleksa told the recruits that no more buses would come, and that they had to "get rid of them, shoot them".<sup>17287</sup>

5289. KDZ084 and two of his colleagues refused to comply with the order.<sup>17288</sup> However, the remaining two agreed to shoot the Bosnian Muslim men together with a few other recruits who later volunteered, and took the detainees away.<sup>17289</sup> Aleksa and the recruits who had volunteered to kill the detainees subsequently returned to the road near the Sandići Meadow where KDZ084 had remained.<sup>17290</sup> KDZ084 did not witness the execution but rather heard the shots.<sup>17291</sup> However, KDZ084 talked to one of his colleagues who volunteered to kill the detainees, who told him that some had been killed while going up towards the meadow, with a shot in the head, and that the rest were executed with a burst of fire.<sup>17292</sup>

5290. The BiHCMP exhumed a gravesite near the Sandići Meadow between 14 and 21 June 2004.<sup>17293</sup> 17 individuals who had been reported missing after the fall of Srebrenica were identified, based upon DNA analysis, from the human remains located at the gravesite.<sup>17294</sup> However, given the lack of evidence as to the location of the gravesite and the manner in which the 17 individuals were killed, the Chamber is unable to find the connection of this mass grave to the killings at the Sandići Meadow, as charged in the Indictment.

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<sup>17285</sup> KDZ084, T. 27340 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14830, 14883 (under seal). See para. 5180.

<sup>17286</sup> KDZ084, T. 27341–27342 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14830–14832, 14883 (under seal). KDZ084 testified that Aleksa was the deputy of a man named Goran, and added that Aleksa was already at the Sandići Meadow when he and his colleagues arrived there. See KDZ084, T. 27357 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14791, 14797, 14801, 14831, 14886, 14906–14907 (under seal).

<sup>17287</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14830–14831, 14884 (under seal); KDZ084, T. 27341–27342 (11 April 2012) (closed session).

<sup>17288</sup> KDZ084, T. 27343 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14833 (under seal). KDZ084 was kept in a solitary cell for one night, without food, as punishment for refusing to kill the detainees. KDZ084, T. 27345 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14833–14834 (under seal).

<sup>17289</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14832–14833, 14884–14885 (under seal). One of those involved in the executions was a Jahorina Recruit known as "Crnogorac", who came from Kupreš, Montenegro; Crnogorac stated that he had participated in the killings as revenge for the killing of his family by Bosnian Muslims in Kupreš. [REDACTED]. See also P6378 (List of conviction verdicts of BiH Court against members of RS MUP Special Police Brigade).

<sup>17290</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14832 (under seal).

<sup>17291</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14832, 14884–14885 (under seal).

<sup>17292</sup> KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14833–14834 (under seal). KDZ084 did not see the bodies of those killed nor did he know what happened to them. KDZ084, T. 27344 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14834, 14886 (under seal). See also Jean-René Ruez, T. 24031 (1 February 2012) (stating that "we also know from witness testimonies that those at the end of the 13 who had no transportation to go to Bratunac were killed at the location where they were"); Richard Butler, T. 27768 (20 April 2012) (stating that "I am aware of one case at Sandići where apparently after all the buses and trucks stopped there were still some prisoners and they were summarily executed at that site").

<sup>17293</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), e-court pp. 4, 33. See also D3896 (Dušan Dunjić's expert report entitled "Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area", April 2009), pp. 45–65.

<sup>17294</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), e-court pp. 4, 33; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012", 13 January 2012), Annex D, e-court p. 410 (under seal); P4642 (ICMP list of identified Srebrenica victims, 15 December 2011) (under seal); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011), p. 6; P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). See also P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009); P5916 (2012 ICMP updated list of Srebrenica missing).



5291. Nevertheless, based on the account of KDZ084, the Chamber finds that, on 13 July 1995, approximately 10 to 15 Bosnian Muslim men from Srebrenica were killed at the Sandići Meadow by members of the Bosnian Serb Forces.

## 8. Bratunac town

### (A) Detention of Bosnian Muslim men

5292. As stated above, starting on the afternoon of 12 July and throughout 13 July 1995, the Bosnian Muslim men who had been separated from the women, children, and the elderly and detained in the White House at Potočari were transported to Bratunac town.<sup>17295</sup> On 13 July, Bosnian Muslim men from the column who were held at the various detention sites along the Bratunac–Konjević Polje–Milići Road after having surrendered to, or having been captured by, members of the Bosnian Serb Forces were also transported to Bratunac town.<sup>17296</sup>

5293. Bosnian Muslim men transported to Bratunac town were detained in the Vuk Karadžić School<sup>17297</sup> and the hangar located behind it.<sup>17298</sup> Detainees were also held aboard 80 to 120 buses and trucks parked on the streets of Bratunac town,<sup>17299</sup> at sites including outside the Vuk Karadžić School complex,<sup>17300</sup> the MUP Headquarters,<sup>17301</sup> the municipal building,<sup>17302</sup> the Bratunac stadium,<sup>17303</sup> and the Vihor Company Garages.<sup>17304</sup>

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<sup>17295</sup> See para. 5117.

<sup>17296</sup> See Momir Nikolić, T. 24672–24673 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 887–889, 897–898, 907–908; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 663, 665; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1397–1398; KDZ333, T. 24147 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3027–3028. See also Adjudicated Fact 1625; para. 5292.

<sup>17297</sup> Momir Nikolić, T. 24644, 24659, 24673 (14 February 2012); Ahmo Hasić, P354 (T. 9218; Srblav Davidović, T. 24420 (9 February 2012); Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17934; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3551–3553; D4293 (Aerial photograph of Bratunac town marked by KW582) (under seal); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 79. See also Adjudicated Facts 1668, 1669; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 918–919; Jean-René Ruez, T. 23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 129–130, 282.

<sup>17298</sup> Momir Nikolić, T. 24673 (14 February 2012); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17315–17316, 17318, 17384; KDZ039, T. 21938 (24 November 2011). See Adjudicated Fact 1674. See also Jean-René Ruez, T. 23719–23720 (26 January 2012), T. 23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 21, 23, 129–130, 282. The Chamber notes that KDZ039 provided inconsistent evidence about the location of the hangar in relation to the Vuk Karadžić School complex. See KDZ039, T. 21939 (24 November 2011) (testifying that the hangar he was detained in was not close to the school); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17318, 17330 (testifying that the hangar was behind the school). Having reviewed the evidence in its entirety, however, the Chamber is satisfied that KDZ039 was detained in the hangar behind the Vuk Karadžić School.

<sup>17299</sup> Momir Nikolić, T. 24672–24673 (14 February 2012); Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6638, 6640, 6652; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9807; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 41; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 79–80. See also Adjudicated Facts 1668, 1685; Jean-René Ruez, T. 23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 129, 131, 282.

<sup>17300</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 908, 923–924; P267 (Sketch of Bratunac marked by Mevludin Orić); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3028–3029; Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6652; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9808; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 37; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 80. See also Adjudicated Fact 1682; Jean-René Ruez, T. 23719–23720 (26 January 2012), T. 23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 129–131, 282; P4290 (Aerial image of Bratunac marked by Jean-René Ruez).

<sup>17301</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9809. See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 282.

<sup>17302</sup> Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9212–9215; Srblav Davidović, T. 24437 (9 February 2012); KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9494, 9513; Aleksandar Tešić, T. 35312–35313 (13 March 2013); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9809. See also Jean-René Ruez, T. 23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 282.

<sup>17303</sup> Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6641–6642, 6652; Momir Nikolić, T. 24672–24673 (14 February 2012); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 79–80. See also Jean-René Ruez, T.

Throughout these locations, the Bosnian Muslim detainees were guarded by members of the Bratunac Brigade MP,<sup>17305</sup> assisted by members of the MUP.<sup>17306</sup>

5294. The detainees were held in cramped conditions at the various locations.<sup>17307</sup> For example, approximately 400 people were detained in the hangar, which was so crowded that the detainees could not walk.<sup>17308</sup> The detainees in the hangar complained to the men guarding them that they would suffocate due to the lack of space and air, but were threatened that they would be killed if they did not keep silent.<sup>17309</sup> Similarly, between 150 to 200 detainees were held in one of the classrooms at the Vuk Karadžić School, and there was not enough space for everyone to sit down.<sup>17310</sup> Further, Bosnian Muslim detainees held on the buses parked outside the Vihor Company Garages had to sit on top of one another because of the number of people crammed into each vehicle.<sup>17311</sup> KDZ069, who was detained on a bus at this location, testified that the detainees were pressed so tightly together that his body was numb.<sup>17312</sup>

5295. As detainees were forced to enter both the Vuk Karadžić School and the hangar behind the school, they were ordered to leave their belongings outside, including any food that they had brought with them.<sup>17313</sup> Inside, they were deprived of food.<sup>17314</sup> While some of the detainees held on buses parked around town were given food, it was not nearly enough.<sup>17315</sup> Similarly, water was provided at the various detention facilities but it was not

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23781–23784 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 129, 282; P4290 (Aerial image of Bratunac marked by Jean-René Ruez).

<sup>17304</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 663–665; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1398–1399; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3371. The Chamber notes that KDZ069 was not aware of his location during his detention in Bratunac; however, noting the similarities between the circumstances surrounding the transportation of KDZ064 and KDZ069 from the Sandići Meadow, detention in Bratunac, and departure to Zvornik, the Chamber is satisfied that KDZ069 was detained in a truck outside the Vihor Company Garages. See also Jean-René Ruez, T. 23781–23782 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 129, 282; P408 (Witness statement of Desimir Đukanović dated 23 March 2007), para. 8.

<sup>17305</sup> Momir Nikolić, T. 24674–24675 (14 February 2012) (testifying that the security at the Vuk Karadžić School was provided, amongst others, by members of the MP Platoon); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), pp. 6–7 (stating that it was decided at the meeting between himself, Beara, Deronjić, and Vasić that elements of the Bratunac Brigade MP would provide security in Bratunac town); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9804, 9807–9808 (testifying that, following Momir Nikolić’s instructions, he and other members of the MP Platoon guarded the Vuk Karadžić School, as well as the buses parked outside the school and on the streets of Bratunac town); Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17934 (testifying further that members of the MP escorted buses carrying Bosnian Muslim men to the Vuk Karadžić school on 13 July), T. 17935–17936; Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6689–6690; Branimir Tešić T. 35245 (12 March 2013). See also Adjudicated Facts 1670, 1685.

<sup>17306</sup> Momir Nikolić, T. 24674 (14 February 2012) (testifying that members of the Bratunac SJB provided security for the Vuk Karadžić School, and that detainees in the other facilities around Bratunac town were guarded mainly by police from various units, including members of the Bratunac SJB, PJPs, and civilian police). See also Adjudicated Fact 1670; Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6645, 6647; Srbslav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9213; Srbslav Davidović, T. 24411 (9 February 2012); Ljubisav Simić, T. 37289 (16 April 2013); KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9494, 9526–9527; P4563 (Statement by KDZ122), p. 4 (under seal).

<sup>17307</sup> See e.g. D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1222; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17316, 17319; D1949 (Interview with KDZ039, 31 March 1996), p. 3; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1397–1399; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3027.

<sup>17308</sup> KDZ039, T. 21939 (24 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17316; D1949 (Interview with KDZ039, 31 March 1996), p. 3.

<sup>17309</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17319. See also Adjudicated Fact 1675.

<sup>17310</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1222.

<sup>17311</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1398–1399. See also KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 666.

<sup>17312</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399.

<sup>17313</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1179–1180, 1252, 1259; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17326.

<sup>17314</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1189–1190; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17319, 17326; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 1. See also D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 9.

<sup>17315</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 919; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 668. See also D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9848.

sufficient.<sup>17316</sup> (#Not sufficient – it was because the Bratunac town was a very small, without any detention facilities, and nobody expected so many prisoners of war. Still on 12 July before the third meeting, nobody, including, General Mladic knew that the ABiH soldiers of the 28<sup>th</sup> Division were spread throughout the woods, and would be captured, or surrendered. So, neither housing, nor feeding could have been satisfactory, as it was clear from Deronjic words contained in the said intercepted conversation. There was no conditions, not guards except old people, no housing, no food, because it was a highly unexpected development. Therefore, it was not due to the will of the local authorities, but couldn't be better, due to a *vis majeure*. Another fact: no personal belongings, as with all the captured prisoners of war. Therefore, these who had been recovered from the mass graves with a personal belongings – weren't captured and executed, but for sure they had been a combat casualties buried in the same graves!)

5296. Bosnian Muslim detainees held at the various locations in Bratunac town were constantly beaten by members of the Bosnian Serb Forces.<sup>17317</sup> The sound of detainees groaning and screaming, bursts of machine gunfire, and blunt blows could be heard coming from the areas in which detainees were held.<sup>17318</sup> Men were frequently taken away by members of the Bosnian Serb Forces and did not return.<sup>17319</sup> (#This “did not return” is a model instructed by the Muslim secret service. In a criminal case this shouldn't even be mentioned, since means nothing#. There were so many possibilities and causes why somebody didn't return, and among them is an individual release by some friend, or individual exchange, or transition to an investigating detention, and among others, one could have been killed, the most probably in a private vengeance for something that happened earlier, but this “did not return” is not the only inference, and not sufficient for anything in a criminal case!) On at least one occasion, members of the Bosnian Serb Forces brought beaten up detainees back into the hangar behind the Vuk Karadžić School and threatened the other detainees that this would be their fate too.<sup>17320</sup> Some men had to hold detainees who were badly beaten due to the lack of space.<sup>17321</sup> At the Vuk Karadžić School detainees had to be escorted to the toilet, and were beaten with rifle butts as they made their way there.<sup>17322</sup> Later, the detainees were too afraid to go to

<sup>17316</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1189–1190; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17319, 17326; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 1; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 919; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399; KDZ333, T. 24150 (2 February 2012); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 668; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9848; Srbslav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9213; Srbslav Davidović, T. 24411–24412 (9 February 2012). See also Adjudicated Facts 1668, 1671; D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 9. When detainees on the buses outside the Vihor Company Garages asked for water, the members of the Bosnian Serb Forces ordered them to be quiet and hit the sides of the bus with their rifles. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399.

<sup>17317</sup> See e.g. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1180, 1222, 1252; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320–17321, 17323, 17387; D1949 (Interview with KDZ039, 31 March 1996), p. 3; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 666; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 914, 1070. See also Adjudicated Fact 1673.

<sup>17318</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1187, 1222; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 664, 667, 810–811; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911, 913, 918–919; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320; KDZ039, T. 21944 (24 November 2011); D1949 (Interview with KDZ039, 31 March 1996), p. 2; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3029; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9811–9812, 9851. See also Adjudicated Facts 1673, 1676.

<sup>17319</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3029; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 915–919; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 811; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1187–1188, 1252. See also Adjudicated Facts 1672, 1673.

<sup>17320</sup> D1949 (Interview with KDZ039, 31 March 1996), p. 2 (testifying that when the members of the Bosnian Serb Forces brought the badly beaten detainees back into the hangar, they told the other detainees, “you will all be beaten like this”); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320–17321; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 2. See also Adjudicated Fact 1677.

<sup>17321</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17321–17322; D1949 (Interview with KDZ039, 31 March 1996), pp. 2–3. See also Adjudicated Fact 1678.

<sup>17322</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1188–1189.

the toilet, so they urinated where they were.<sup>17323</sup> **(#Personal vendetas#! There were data that some soldiers asked for a specific detainee, or somebody from his village, severing such a man and taking him away. That is a firm proof that these cases were either to release a personal acquaintance or friend, or to take a revenge. In both cases, it had nothing to do with the official policy! Neither side had a professional army, all of the soldiers were neighbours knowing each other, and having a history of personal relations!)**

(B) Killings

1. Vuk Karadžić School

5297. The Indictment refers to the killing of 50 or more Bosnian Muslim men inside and outside the Vuk Karadžić School and in the surrounding area, from approximately 10 p.m. on 12 July until the morning of 15 July 1995.<sup>17324</sup>

5298. Beginning on or about 10 p.m. on the night of 12 July 1995, members of the Bosnian Serb Forces entered the hangar behind the Vuk Karadžić School with flashlights, calling out for detainees from various villages to identify themselves.<sup>17325</sup> **(#This corroborates the Defence assertion that there was too many personal reasons#! These reasons prevailed for President Karadzic to prevent the VRS entering Srebrenica in 1993, after the Morillon's request!)** Few detainees responded.<sup>17326</sup> Members of the Bosnian Serb Forces then selected people at random with their flashlights, and ordered them to get up and leave.<sup>17327</sup> When these detainees asked if they needed to take a bag with them, they were told that they would not need anything anymore.<sup>17328</sup> **(This is a sentence for which the Defence assumes that had been suggested by the BH "preparators" of witnesses, because the sentence is repeated in every case and every municipality, which is unrealistic!)** Blunt blows, screaming, moaning, and the sound of throats being slit could be heard coming from outside the hangar.<sup>17329</sup> According to KDZ039, who was detained inside, approximately 40 men were selected and removed from the hangar in this way during that first night.<sup>17330</sup> Most of the detainees taken out of the hangar did not return.<sup>17331</sup> However, on a few occasions, wounded detainees were brought back and some of them died overnight.<sup>17332</sup>

<sup>17323</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1189.

<sup>17324</sup> Indictment, Scheduled Incident E.15.1.

<sup>17325</sup> KDZ039, T. 21946–21947 (24 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17319; D1949 (Interview with KDZ039, 31 March 1996), p. 2. See Adjudicated Fact 1676.

<sup>17326</sup> KDZ039, T. 21946–21947 (24 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17319; D1949 (Interview with KDZ039, 31 March 1996), p. 2. See Adjudicated Fact 1676.

<sup>17327</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320; KDZ039, T. 21947 (24 November 2011); D1949 (Interview with KDZ039, 31 March 1996), p. 2. See Adjudicated Fact 1676.

<sup>17328</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320.

<sup>17329</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320; KDZ039, T. 21944 (24 November 2011); D1949 (Interview with KDZ039, 31 March 1996), p. 2. See also Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9811–9812.

<sup>17330</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320, 17324. KDZ039 testified that he saw a man he knew, Hamed Efendić, taken out of the hangar, and then he heard a shot and someone saying “he’s dead. Drag him off.” KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17321. The body of Hamed Efendić was exhumed from the Zeleni Jadar 5 secondary gravesite. See P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence – Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica – January 2012”, 13 January 2012), Annex D, e-court p. 370 (under seal).

<sup>17331</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320; KDZ039, T. 21944 (24 November 2011); D1949 (Interview with KDZ039, 31 March 1996), p. 2.

<sup>17332</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17320–17321; D1949 (Interview with KDZ039, 31 March 1996), pp. 2–3. See Adjudicated Facts 1677, 1678.

5299. On the morning of 13 July, detainees were made to carry those who had died overnight out of the hangar.<sup>17333</sup> Ten detainees were then forced to load the bodies onto trucks and these men never returned.<sup>17334</sup> That morning, detainees returning from the toilet next to the hangar were taken aside and killed.<sup>17335</sup> **(#Deadly combination#! Too many cases from an obscure sources, without possibility to cross examine!)** On the way to the toilet, KDZ039 observed members of the Bosnian Serb Forces beating a detainee to death with an iron bar and an axe.<sup>17336</sup> **(#Deadly combination#! What is a rate of the 92bis “testimonies” in the deliberation of Chis chamber?)** In the afternoon, a second group of trucks arrived to take away the dead bodies.<sup>17337</sup> Again, ten detainees were ordered to load the bodies, and they were never seen again.<sup>17338</sup>

5300. The situation at the Vuk Karadžić School was no better than that of the hangar. Detainees were also frequently removed from the school by members of the Bosnian Serb Forces and did not return.<sup>17339</sup> The sound of detainees groaning and screaming outside the school was constant.<sup>17340</sup> While Ahmo Hasić was detained at the school, he saw six or seven men taken out of his room; they never returned.<sup>17341</sup> At one point, a detainee was brutally beaten by a policeman on the head and shoulders—first with a hose and then with an automatic rifle—until he was covered in blood.<sup>17342</sup> The detainee was then called outside by the same policeman; thereafter, screams and moans were heard and the detainee never returned.<sup>17343</sup> **(How many “cases” on #not seen, but heard firings#, and #somebody “never returned”#? And how many of these “cases” had been described repeatedly as a separate one, but being the same? This doesn’t sound serious at all!)**

5301. During the night of 13 July, detainees were also removed from the buses parked outside the Vuk Karadžić School by members of the Bosnian Serb Forces and taken to the school building.<sup>17344</sup> Detainees on the buses heard screaming and gunfire, and many of the men who were taken off the buses did not return.<sup>17345</sup> A Bosnian Serb man named “Ilija” boarded the buses and called out the names of detainees.<sup>17346</sup> With the assistance of two unknown individuals, Ilija took detainees from the buses to the school on several occasions

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<sup>17333</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17322. See Adjudicated Fact 1679. KDZ039 was told by those who took the bodies out, that a pile of bodies could be seen behind the hangar. KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17322.

<sup>17334</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17322; D1949 (Interview with KDZ039, 31 March 1996), p. 3. See Adjudicated Fact 1679.

<sup>17335</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17322–17323; D1949 (Interview with KDZ039, 31 March 1996), p. 3. See Adjudicated Fact 1681.

<sup>17336</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17323; KDZ039, T. 21943 (24 November 2011); D1949 (Interview with KDZ039, 31 March 1996), p. 3.

<sup>17337</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17324; D1949 (Interview with KDZ039, 31 March 1996), p. 3. See Adjudicated Fact 1680. KDZ039 testified to having seen Mladić at the hangar that afternoon. KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17324–17325.

<sup>17338</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17324. See Adjudicated Fact 1680.

<sup>17339</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1186–1188, 1223, 1252. See Adjudicated Fact 1672. The Accused concedes in his final brief that several tens of victims died as a result of killings in Bratunac town, including at the Vuk Karadžić School, but claims that these incidents were personal revenge killings. See Defence Final Brief, para. 2568.

<sup>17340</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1180, 1186–1187, 1222–1223. See also Adjudicated Facts 1673, 1684; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 918–919; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9811–9812.

<sup>17341</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1187. According to Hasić, detainees were taken out of the room every couple of hours. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1187–1188.

<sup>17342</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1180, 1222, 1260. See Adjudicated Fact 1673.

<sup>17343</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1180, 1222. See Adjudicated Facts 1673, 1684.

<sup>17344</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 915–919; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3029. See Adjudicated Fact 1683.

<sup>17345</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 915–919; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3029. See also Adjudicated Facts 1683, 1684; Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9811–9812.

<sup>17346</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 915, 918.



that night; those men were not seen again.<sup>17347</sup> **(What happened to them? What were their names? Were they been recovered from some gravesites? If not, why it is in a such serious Judgment? #To strengthen an impression and sentiment against the Serbs?#)**

5302. Members of the Bratunac public utility company and the Bratunac Civilian Protection unit were involved in the collection of bodies from the Vuk Karadžić School and surrounding area, starting on 14 July.<sup>17348</sup> Between 40 and 50 bodies were scattered across multiple classrooms on the ground and first floors.<sup>17349</sup> Classrooms were riddled with bullet holes, and blood everywhere.<sup>17350</sup> Đukanović estimated that he and his colleagues collected between 23 and 28 bodies from the Vuk Karadžić School, and between 27 and 33 bodies from the surrounding area.<sup>17351</sup> The bodies collected from the Vuk Karadžić School and surrounding area were loaded on to trucks and transported to the Glogova gravesites.<sup>17352</sup> Following the collection and transportation of the bodies, between 20 and 30 women were assigned by the Bratunac municipality to clean the Vuk Karadžić School.<sup>17353</sup>

5303. Based on the above, the Chamber finds that at least 50 Bosnian Muslim men were killed by members of the Bosnian Serb Forces between 12 and 14 July 1995 inside the Vuk Karadžić School and in the surrounding area.

## 2. Killing of mentally challenged man

5304. The Indictment refers to the killing on the evening of 13 July 1995 of a mentally challenged Bosnian Muslim man who was taken off a bus parked in front of the entrance of the Vuk Karadžić School in Bratunac and summarily executed.<sup>17354</sup>

5305. During the night of 13 July 1995, a mentally challenged man detained in one of the buses parked outside the Vuk Karadžić School fell asleep despite being told by members of the Bosnian Serb Forces not to do so.<sup>17355</sup> A military policeman boarded the bus and hit him on the shoulder.<sup>17356</sup> The man was woken suddenly and accidentally hit the policeman.<sup>17357</sup> The policeman cursed the man, while two other military policemen dragged him off the bus in the direction of the school.<sup>17358</sup> After the man was removed

<sup>17347</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 915–919.

<sup>17348</sup> [REDACTED]; P290 (Aerial photograph of Bratunac marked by KDZ107); P408 (Witness statement of Desimir Đukanović dated 23 March 2007), para. 5.

<sup>17349</sup> [REDACTED].

<sup>17350</sup> [REDACTED].

<sup>17351</sup> P407 (Witness statement of Desimir Đukanović dated 20 March 2007), para. 5; P406 (Desimir Đukanović's evidence in BiH state court), pp. 1–4. *See also* Milenko Katanić, T. 24545 (10 February 2012).

<sup>17352</sup> KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7920 (under seal); KDZ480, T. 24261, 24267–24268 (8 February 2012) (closed session); P407 (Witness statement of Desimir Đukanović dated 20 March 2007), para. 6; P408 (Witness statement of Desimir Đukanović dated 23 March 2007), paras. 5, 7; P406 (Desimir Đukanović's evidence in BiH state court), p. 3; KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9372, 9390–9391, 9544. *See also* Adjudicated Fact 1686; Zoran Petrović-Piročanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18813, 18816–18818; D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 39. *See para.* 5257.

<sup>17353</sup> KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7883–7884 (under seal); KDZ480, T. 24270–24271, (8 February 2012) (closed session). *See also* Adjudicated Fact 1687.

<sup>17354</sup> Indictment, Scheduled Incident E.15.3. The Chamber notes that the Prosecution refers to this man as “mentally retarded” in the Indictment and “mentally ill” in its final brief. *See* Prosecution Final Brief, Appendix D, para. 95.

<sup>17355</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911. In relation to the man's mental state, Orić testified that the detainees sitting next to him who probably knew him said that he was not entirely normal and that he was “crazy”. Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911, 1072. *See* Adjudicated Fact 1688.

<sup>17356</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911.

<sup>17357</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911–912, 1071–1072. *See* Adjudicated Fact 1688.

<sup>17358</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911–913, 1072. *See* Adjudicated Fact 1688. Orić added that the man struggled with the policemen, holding on to the seat of the bus so he had to be literally taken off; he physically resisted as they took him to the school. Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 912–913.

from the bus, Mevludin Orić, who was also on the bus, heard a short burst of gunfire, a scream, and someone saying “drag him into the school”.<sup>17359</sup> The man was not seen again.<sup>17360</sup> **(Was he ever identified, or it is enough that M. Oric testified in a process in which no one was interested to rebut it, or to ask any question? “Some Serb did something to some Muslim”, what kind of criminal case is it?)**

5306. The Chamber finds that on the evening of 13 July 1995, this mentally challenged man was killed by members of the Bosnian Serb Forces at the Vuk Karadžić School. **(Was it the same “mentally challenged” man mentioned in para 5304, and if so, which would be a crime, why it is so important to depict that the victim was “mentally challenged” man was killed, since there is no evidence that the possible perpetrator knew he was mentally challenged?)**

f. Zvornik

*i. Introduction*

5307. As the Chamber has previously described, Zvornik is a municipality in eastern BiH, located on the Drina River, which marks the boundary between BiH and Serbia.<sup>17361</sup>

5308. In July 1995, the area of responsibility of the Zvornik Brigade stretched along the west bank of the Drina River, from the mouth of the Drinjaca tributary in the south, to Pilica in the north.<sup>17362</sup> It covered the most northern part of the Drina Corps’ defence, including Kozluk, Zvornik, and Snagovo.<sup>17363</sup> The Chamber recalls that the Zvornik Brigade headquarters, known as the Standard Barracks, was situated in Karakaj, about two kilometres north of Zvornik, along the Konjević Polje–Zvornik–Bijeljina Road, which followed the Drina River.<sup>17364</sup> The Zvornik Brigade IKM was located in the village of Kitovnice, approximately 15 kilometres from the Standard Barracks, in the direction of Orahovac.<sup>17365</sup>

9. *Lead-up to the events in Zvornik*

1. Preparations in Bratunac between 13 and 14 July

**5309.** On the evening of 13 July at approximately 7 p.m., Drago Nikolić called Dragan Obrenović at the Standard Barracks and told him that Popović had just telephoned to inform him that a large number of Bosnian Muslims who were being detained in Bratunac would be transferred to Zvornik to be shot.<sup>17366</sup> Drago Nikolić then reported that Popović had said the order came from Mladić, and that “everyone, including Pandurević was aware of [it].”<sup>17367</sup> Popović told Drago Nikolić that he would send someone to brief him in person and give him additional information.<sup>17368</sup> Drago Nikolić then asked Obrenović to

<sup>17359</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 911–914, 1072–1073.

<sup>17360</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 913, 1072. See Adjudicated Fact 1688.

<sup>17361</sup> See para. 1228.

<sup>17362</sup> P4941 (Srebrenica court binder containing maps), e-court p. 6; P4091 (Map of Srebrenica and Zvornik).

<sup>17363</sup> P4941 (Srebrenica court binder containing maps), e-court p. 6.

<sup>17364</sup> See para. 198; P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 248.

<sup>17365</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11013; P4564 (Map of Zvornik Brigade operations region) (the IKM is marked with number 4).

<sup>17366</sup> [REDACTED]. But see D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 40 (stating that he only heard of the assignment from Beara the following morning).

<sup>17367</sup> [REDACTED]. Nikolić also told Obrenović that Beara and Popović were in charge of the assignment. [REDACTED].

<sup>17368</sup> [REDACTED].

be relieved from his duties at the IKM, and requested the assistance of the Zvornik Brigade MP Company to be able to carry out the task given to him.<sup>17369</sup> Obrenović agreed to relieve Nikolić and to send five military policemen and Miomir Jasikovac, the Commander of the Zvornik Brigade MP Company,<sup>17370</sup> in order to assist him.<sup>17371</sup> Jasikovac arrived at the Standard Barracks at approximately 8 p.m., and was ordered by Obrenović to gather five or six of his men and await further orders from Drago Nikolić.<sup>17372</sup> **(Just to note: #there was no any such a mentioning of this “special order” before 13 July at 7 p.m. i.e. two hours after the Kravica event#. That indicates that the Kravica incident had a great deal of influence as a trigger! If so, there couldn’t be any premeditated plans or decision!)**

5310. Momir Nikolić testified that he met with Beara in Bratunac town on the evening of 13 July, and was ordered to meet with Drago Nikolić and convey the decision that detainees in Bratunac were to be transferred to the Zvornik Brigade area of responsibility, and that Drago had to prepare facilities and security for the transfer and detention of these men.<sup>17373</sup> Momir Nikolić understood from this exchange that the detainees would be executed in Zvornik municipality.<sup>17374</sup> **(#He “understood”??? But it hadn’t been said to him#. This kind of “reading in” belongs to Momir Nikolic, not to Drago Nikolic, and #as any projection sais more about Mimir’s than about Drago’s mens rea#! Also, Beara arrived at Deronjic’s office much later, not on the evening, but aropund midnight 13 July.)** As instructed, Momir Nikolić then drove to Zvornik and conveyed the order to Drago Nikolić.<sup>17375</sup> Drago Nikolić replied that he would inform his command.<sup>17376</sup> Momir Nikolić returned to Bratunac town at around midnight and reported to Beara at the Hotel Fontana.<sup>17377</sup> **(If so,# how then he could attend the Beara – Deronjic meeting#? If he returned to Bratunac around midnight, then had taken him to Deronjic’s office, it must have been after the midnight. So, a sequence of events is not as suggested on this page, because the telephone #conversation Deronjic – Karadzic was much earlier, at 8:10 p.m.# and there was no mentioning any of the persons numbered as participants in this preparation.)**

5311. At 8:10 p.m., Deronjić spoke to the Accused via an intermediary and informed him that there were 2,000 detainees in Bratunac and that more were expected to arrive during the night.<sup>17378</sup> The conversation unfolded as follows:

- : I’m waiting for a call to President Karadžić. Is he there?  
B: Yes.  
: Hello! Just a minute, the duty officer will answer now, Mr. President.

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<sup>17369</sup> [REDACTED].

<sup>17370</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11012, 11116; D2266 (Nada Stojanović’s interview with OTP), pp. 5–6; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6440, 6479–6481 (under seal). See also P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 7.7.

<sup>17371</sup> [REDACTED]; P4582 (Zvornik Brigade IKM Operations Duty logbook, July–October 1995), p. 6.

<sup>17372</sup> [REDACTED].

<sup>17373</sup> Momir Nikolić, T. 24666–24669, 24679 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10. The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July, as discussed in fn. 17583.

<sup>17374</sup> Momir Nikolić, T. 24668–24669 (14 February 2012).

<sup>17375</sup> Momir Nikolić, T. 24670–24671 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10.

<sup>17376</sup> Momir Nikolić, T. 24671 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10.

<sup>17377</sup> Momir Nikolić, T. 24672, 24676 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10.

<sup>17378</sup> P6692 (Intercept of conversation between Radovan Karadžić, his intermediary, and Miroslav Deronjić, 13 July 1995), p. 1. The Accused acknowledges that this telephone call took place, and that Deronjić informed him of the large number of detainees in Bratunac. See Defence Final Brief, confidential, paras. 2537, 3025–3026. See also KDZ126, T. 26400–26404 (15 March 2012).

B: Hello! I have Deronjić on line.  
 : Deronjić, speak up.  
 D: Hello! Yes. I can hear you.  
 : Deronjić, the President is asking how many thousands?  
 D: About two for the time being.  
 : Two, Mr. President. (heard in the background)  
 D: But there'll be more during the night.  
 [...]  
 D: Can you hear me, President?  
 : The President can't hear you, Deronjić, this is the intermediary.  
 D: I have about two thousand here now by [...]  
 : Deronjić, the President says: "All the goods must be placed inside the warehouses before twelve tomorrow."  
 D: Right.  
 : Deronjić, not in the warehouses over there, but somewhere else.  
 D: Understood.  
 : Goodbye.<sup>17379</sup>

**5312.** Soon after reporting to Beara at Hotel Fontana, Momir Nikolić drove him to the Bratunac SDS Office to meet with Deronjić and Vasić.<sup>17380</sup> At the meeting, Beara and Deronjić argued about where to kill the detainees; it was already openly agreed that the detainees would be executed.<sup>17381</sup> Despite Beara's orders earlier that day to prepare facilities and security for the transfer of detainees to Zvornik, Beara insisted that he had instructions from "his boss" that the detainees should remain in Bratunac.<sup>17382</sup> Deronjić replied that he did not want anyone to be killed in Bratunac and that he had received instructions from the Accused that all of the Bosnian Muslim men being detained in Bratunac should be transferred to Zvornik.<sup>17383</sup> **(This is a shameless construction. The**

<sup>17379</sup> P6692 (Intercept of conversation between Radovan Karadžić, his intermediary, and Miroslav Deronjić, 13 July 1995), p. 1. *See* KDZ126, T. 26400–26403 (15 March 2012) (noting that he recorded this conversation).

<sup>17380</sup> Momir Nikolić, T. 24676 (14 February 2012); D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 10. *See also* P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 85–87 (stating that Beara was present at the Bratunac SDS Office on 13 July), 95 (referring to the presence of Vasić and Momir Nikolić at the SDS Office that day); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7875–7876 (under seal).

<sup>17381</sup> Momir Nikolić, T. 24677–24678 (14 February 2012). *See also* P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 84 (stating that Deronjić told him he had a very unpleasant conversation with Beara regarding the Bosnian Muslim prisoners and the location where they would be imprisoned) and 93 (stating that Deronjić told him that Beara was searching for a location "probably to kill the prisoners" in Bratunac and that the Accused assisted Deronjić by lending his support to the idea of relocating the detainees so that they were not killed in Bratunac). **(“That they were not killed in Bratunac”, whose is this construction? Momir Nikolić testified that after driving Beara to the Bratunac SDS office, he waited in the reception area next to Deronjić's office where he could hear the entire meeting. Momir Nikolić, T. 24676–24677 (14 February 2012). The Accused challenges Momir Nikolić's evidence on this meeting as unreliable and unacceptable without corroboration. *See* Defence Final Brief, paras. 3039–3040. Having assessed Momir Nikolić's evidence, the Chamber is satisfied of the truthfulness and reliability of his account of the meeting between Beara, Vasić, and Deronjić. (So more, the #Chamber had to examine Vasic#. Anyway, before this meeting Deronjić didn't have a single hint that there could be any killings. When Deronjić talked to the President, he didn't have any idea what Beara was going to tell him. Also, Deronjić never said that he informed President Karadzic about any plan or intentions to kill the POWs when he visited President at around noon on 14 July. Somewhere he mentions as if he said something, but not clearly, but rather as a hint, and that President Karadzic said that all of these officers were mad. Had all this alleged conversations during the night 13/14 July really happened, Deronjić would present it to the President clearly and persuasively!)**

<sup>17382</sup> Momir Nikolić, T. 24677, 24679–24680 (14 February 2012). Momir Nikolić acknowledged that Beara's conduct in this meeting was contrary to his earlier order to inform Drago Nikolić that detainees were to be transferred to Zvornik, but testified that "especially on the 13th, [decisions] changed rapidly. **This is contradiction with all said previously!**" So first you would receive one order and half an hour later the order was amended, you would receive a different order, and that was the situation that prevailed in Bratunac at the time, and in particular on the 13th when there were many problems". Momir Nikolić, T. 24677–24680 (14 February 2012).

<sup>17383</sup> Momir Nikolić, T. 24677–24679 (14 February 2012); D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 10. *See also* Srblisav Davidović, T. 24415–24416, 24452–24453 (9 February 2012); Milenko Katanić, T. 24496 (10 February 2012); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 91–93.

**President never mentioned Zvornik. Neither we have any evidence that Deronjic said it was Zvornik. Nor it is registered in the intercepted conversation, and apart of this conversation, recorded and transcribed, there was no other contacts between Deronjic and President Karadzic!** Eventually, Beara and Deronjić reached an agreement to transfer the detainees to the area of responsibility of the Zvornik Brigade in the following days.<sup>17384</sup> **(#“Eventually, they agreed, not mentioning President Karadzic?!?# But, except for this “testimony” in the Momir Nikolic’s Agreement with the Prosecution, we didn’t see any evidence that “they agreed”, because only after this encounter, early morning on 14 July Deronjic went to Pale, and Beara continued to the Brick Factory. How come? Why he tried to secure the Brick Factory for the executions, if a few hours before he “agreed” with Deronjic not to execute anybody in Bratunac, but to procede to Zvornik? Was Beara going to cheat Deronjic, and why? Somebody lied here.)** After the meeting, Momir Nikolić went to the Bratunac Brigade Command and informed Blagojević and other personnel of the plan.<sup>17385</sup> **(Had it been so, that must have been far after the midnight, whyle in the morning Beara was looking for a Brick Factory, not for a facilities in Zvornik. What treshhold of lies is needed to see that flagrant lies?)**

## 2. Transportation of detainees from Bratunac to Zvornik

5313. The transportation of detainees from the Bratunac area to Zvornik began on the night of 13 July.<sup>17386</sup> **(#Then, why Beara tried to get the Brick Factory in the morning of 14 July? Those who lie should have a much better memory!)** The Bosnian Muslim men detained at the hangar behind the Vuk Karadžić School were forced to board six buses which departed in the direction of Zvornik.<sup>17387</sup> Momir Nikolić saw buses “full of people” heading in the direction of Zvornik at around midnight.<sup>17388</sup> **(How much time lasted this “around midnight” of 13 July? As if everything happened expressly, as if they didn’t need any time for talks, preparation and so on. It was difficult to pack so many lies and empty tales in a limited time period!)**

5314. Early on the morning of 14 July, Beara and Popović drove to the Standard Barracks **(In Zvornik, Karakaj, even further)** to meet with Drago Nikolić.<sup>17389</sup> **(Wasn’t it “testified that the morning of 14 July they spent in the Brick Factory, persuading the Manager to lend them the Factory? Even if they had been flying, they couldn’t be in Karakaj while in the Brick Factory. This is D3690, a statement of the Director of the Brick Factory Nedjo Nedjo.**

15. On the next day, 14 July 1995, I went to the enterprise to again organise production. Between 1000 and 1100 hours on that day, five or six men in uniform came to my office. Among them I only knew Branimir TEŠIĆ, who was one of the officers in charge of the Bratunac police station, and Momir NIKOLIĆ, who was the security officer in the Bratunac Brigade.

<sup>17384</sup> Momir Nikolić, T. 24678 (14 February 2012). See also P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 91–93.

<sup>17385</sup> Momir Nikolić, T. 24680–24681 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10.

<sup>17386</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17327–17328; Momir Nikolić, T. 24671–24672 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10. See also Jean-René Ruez, T. 23784–23785 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 132.

<sup>17387</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17327–17328.

<sup>17388</sup> Momir Nikolić, T. 24671 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 10. Kovač also acknowledged being at the Hotel Vidikovac that evening and seeing buses in Zvornik transporting detainees from Srebrenica. Tomislav Kovač, T. 42776–42778 (1 November 2013); D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 126.

<sup>17389</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11013–11015. See also D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 41. The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July, as discussed in fn. 17583.



**At that time Deronjic had already departed to Pale, and he couldn't know what the "six men in uniforms" have decided! Therefore, there is a great founded suspicion that Deronjic knew anything about any intention to kill the prisoners before he departed to Pale! All other may have been a result of the Deronjic and Momir Nikolic "Guilt plea Agreement" with the prosecution. Somebody desperately needed any "evidence" that President Karadzic knew something! Too many peculiarities in such a serious case! See further the statement of Nedjo Nikolic:**

18B. I found out that Momir NIKOLIĆ testified that he did not come to the brick factory on the morning of 14 July 1995<sup>2</sup>. This is incorrect. I am certain that Momir NIKOLIĆ was one of the men who were at the factory on the morning of 14 July. I

have known Momir NIKOLIC since the late '70s, when he was employed as an All People's Defence teacher.

18C. I was told that Momir NIKOLIC testified that the officers who were at the brick factory had asked the director about this site as a possible site for executing prisoners<sup>3</sup>. This testimony is untrue. As the director of the brick factory and the person visited by the officers on 14 July 1995, I can state that no one even once mentioned a place of execution or killing. Based on the conversation they had with me, particularly due to the interest they expressed in the partly open space on the factory grounds, rather than an enclosed space, and considering the request for providing drinking water, I do not believe that anyone had it in mind to carry out executions at the brick factory.

**Look at these #horrifying contradictions: Momir Nikolic stated that he wasn't in the Brick Factory, but somehow he "knew" that the officers, with whom he wasn't present in the Factory, asked the director about executions in his factory. How come this kind of witnesses could be acceptable before the UN Court#? This is a complete mockery of any idea of an international justice!** After the meeting, Beara ordered Popović to organise a convoy to transport the detainees from Bratunac to the buildings in Zvornik which had been designated for their detention.<sup>17390</sup>

**(Wasn't it started "around midnight" of the previous day, 13 of July?)** Drago Nikolić ordered his driver, Milorad Birčaković, to drive him to Hotel Vidikovac, located two kilometres from Zvornik.<sup>17391</sup> Meanwhile, Popović and Beara returned to the Bratunac Brigade Command where Beara ordered Momir Nikolić to help form the convoy.<sup>17392</sup>

5315. Soon after, Popović started forming the convoy with Momir Nikolić's assistance.<sup>17393</sup>

Two members of the Bratunac Brigade MP were ordered to assist with the escort of detainees to Zvornik, by driving an APC that had been seized from DutchBat and parking it at the edge of Bratunac town.<sup>17394</sup> Throughout the morning, vehicles from various sites in and around Bratunac town were driven towards the edge of town where the APC was waiting.<sup>17395</sup> Detainees on some vehicles waited for several hours for the entire convoy to assemble.<sup>17396</sup> By the end of this process, a column was formed which consisted of

<sup>17390</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 42. See also P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 91; Adjudicated Fact 1749.

<sup>17391</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11011, 11017.

<sup>17392</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 44.

<sup>17393</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 45.

<sup>17394</sup> KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3557–3561, 3677–3678; Mile Petrović, T. 45553 (17 January 2014); Momir Nikolić, T. 24681–24682 (14 February 2012); D2081 (Momir Nikolić's statement of facts from Plea Agreement, 7 May 2003), para. 11.

<sup>17395</sup> See KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3561; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 934; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 674.

<sup>17396</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 934 (testifying that the detainees were told that they were waiting for UNPROFOR to come); KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399; KDZ064, P769 (Transcript

between 30 and 50 buses and some trucks, and was approximately one to one and a half kilometres in length.<sup>17397</sup>

5316. The convoy left Bratunac for Zvornik around noon, heading in the direction of Konjević Polje, with Popović in the Golf leading the way, followed by the APC.<sup>17398</sup> The convoy was escorted by the same members of the Bratunac Brigade MP and MUP who had guarded the detention facilities in Bratunac in the preceding days, as well as by other members of the Bosnian Serb Forces.<sup>17399</sup> It took between an hour and an hour and a half for the first part of the convoy to reach Hotel Vidikovac.<sup>17400</sup> At this time, Drago Nikolić, Birčaković, and Mane Đurić were at the hotel.<sup>17401</sup> Shortly after the convoy arrived, Drago Nikolić ordered Birčaković to board the first bus.<sup>17402</sup> Escorted by Popović, the first part of the convoy went on to the Orahovac School.<sup>17403</sup> The movement of the convoy from Hotel Vidikovac continued throughout the day; other vehicles went to the Petkovci School,<sup>17404</sup> Ročević School,<sup>17405</sup> and Kula School in Pilica.<sup>17406</sup>

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from *Prosecutor v. Popović et al.*, T. 674–675 (testifying that he heard “them” shouting: “We’re waiting for the UNPROFOR.”). See also KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3560–3561, 3678.

17397 Momir Nikolić, T. 24681 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 11; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 45–46; Mane Đurić, T. 35082 (7 March 2013). See also Adjudicated Fact 1747; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 675–676.

17398 D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 47; Vujadin Popović, T. 43059 (6 November 2013); Momir Nikolić, T. 24681 (14 February 2012); KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3561; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1400–1401; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 935, 940–941; P268 (Map of BiH marked by Mevludin Orić); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 675–676. See also KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3029–3031; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2961–2962; Adjudicated Fact 1748.

17399 Momir Nikolić, T. 24681–24682 (14 February 2012); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11019, 11085, 11122, 11149–11150, 11154; P169 (Bratunac Brigade Military Police log, 30 June–21 July 1995), p. 14. See also KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446, 6449, 6475–6476; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3031; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2962; Adjudicated Facts 1751, 1752.

17400 KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3678–3679; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11017–11018; Mane Đurić, T. 35041, 35081–35082 (7 March 2013). See also Momir Nikolić, T. 24670 (14 February 2012). Birčaković testified that he saw between five and ten buses arrive at the Hotel Vidikovac at around 8:30 or 9 a.m.. Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11017–11018. The Chamber notes that the Prosecution relies on Birčaković’s evidence and several other witnesses in relation to the time that the convoy left Bratunac and subsequently reached the Hotel Vidikovac. See Prosecution Final Brief, Appendix D, p. 34, fn. 376, 382. Given the significant body of credible evidence suggesting that the convoy reached the Hotel Vidikovac in the early afternoon, the Chamber finds that the events which Birčaković refers to occurred later in the day. This inaccuracy aside, the Chamber is satisfied that Birčaković’s evidence was reliable and of probative value, and therefore had no difficulty in relying upon it.

17401 Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11017–11018; Mane Đurić, T. 35041 (7 March 2013).

17402 Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11019–11020, 11054–11055.

17403 D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 49–50; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11019–11020, 11054–11055; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446, 6449, 6468–6469. See also Adjudicated Facts 1755, 1769; KDZ039, T. 21958 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 937; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 677, 679, 759–760; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3563–3564, 3679–3680. See para. 5320.

17404 KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1401–1402; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3337; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2962–2964. See also Adjudicated Fact 1790. See para. 5358.

17405 See D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 41, 52; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17948, 17950–17951, 17998. See para. 5385.

17406 Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1192–1193, 1223, 1291–1292; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3030–3032; KDZ333, T. 24124–24125, 24151 (2 February 2012); P4347 (Photograph of Kula School marked by KDZ333); Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10221–10223. See para. 5417. The Chamber notes that Ahmo Hasić testified that he arrived at Pilica on 15 July. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1193, 1227. However, having compared Hasić’s evidence with the totality of evidence received by the Chamber in relation to this killing incident, as discussed in Section C.1.f.iii.4: Kula School and Pilica Cultural Centre, the Chamber considers that Hasić arrived at Kula School on 14 July. The Chamber heard evidence that the vehicles heading to Kula School stopped near Pilica for between an hour and an hour and a half; while they were stopped, a Bosnian Muslim detainee who had been standing in the aisle of one of the buses appeared to lie down; when he did not move again, the other detainees discovered that he had died, and his body was put on the side of the road. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1191–1192, 1291. Another detainee got permission to leave the bus in order to urinate and, when he attempted to flee, the Serb soldiers “cut him down with a burst of gunfire”. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1191–1192, 1272–1274. Hasić testified that he did not see the man being killed, but was told by other detainees standing in front of the bus that he was killed. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1273–1274. This killing is not charged in the Indictment.

## 10. *Detentions and Killings*

### 1. Orahovac School and field near Orahovac

#### a. Introduction

5317. The Indictment refers to the killing on or about 14 July 1995 of two Bosnian Muslim detainees who were held at the school in Orahovac; the two detainees were removed from the school and summarily executed by rifle fire.<sup>17407</sup> The Indictment also refers to the killing on 14 July 1995 of approximately 1,000 Bosnian Muslim men who were detained at the school in Orahovac, blindfolded, transported to a nearby field by truck, and summarily executed. According to the Indictment, the bodies of the victims were buried in mass graves at the execution site on 14 and 15 July 1995.<sup>17408</sup>

5318. The village of Orahovac is located northwest of Zvornik,<sup>17409</sup> within the area of responsibility of the 4<sup>th</sup> Battalion of the Zvornik Brigade.<sup>17410</sup> The Orahovac School, also known as Grbavci School,<sup>17411</sup> is located near Orahovac, on the main road towards Križevići, approximately 12 kilometres away from the Standard Barracks in Karakaj.<sup>17412</sup> The Orahovac School complex is composed of a main building, a gymnasium connected to the main building by a corridor, and a large playground located between the gymnasium and the main road.<sup>17413</sup>

#### b. Detention at the Orahovac School and killing of two men

5319. A detachment of the Zvornik Brigade MP Company was sent to the Orahovac School on the night of 13 July; its members were told by Jasikovac that they were to provide security for detainees who were expected to arrive at the school.<sup>17414</sup> Once at the school, the detachment followed Jasikovac's orders, and started making the necessary

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<sup>17407</sup> Indictment, Scheduled Incident E.6.1.

<sup>17408</sup> Indictment, Scheduled Incident E.6.2.

<sup>17409</sup> P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 132; P4091 (Map of Srebrenica and Zvornik); P3187 (Map of Zvornik municipality).

<sup>17410</sup> P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 7.6. See Adjudicated Fact 1753.

<sup>17411</sup> Jean-René Ruez, T. 23788 (27 January 2012). See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 133.

<sup>17412</sup> KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6445 (under seal); P3187 (Map of Zvornik municipality). See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 132, 133; P212 (Photograph of Orahovac school).

<sup>17413</sup> Jean-René Ruez, T. 23787–23788 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), p. 133; P4291 (Aerial image of Orahovac school marked by Jean-René Ruez); P4293 (Video footage of Orahovac School).

<sup>17414</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6444–6445, 6447, 6479–6480 (under seal); P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 7.8. See also P6191 (Excerpt from tactical intercepts notebook), p. 2 (referring to a request "to send security for Orahovac"); P4948 (Zvornik Brigade Military Police attendance roster, July 1995); D2266 (Nada Stojanović's interview with OTP), pp. 11–12; P4563 (Statement by KDZ122), p. 1 (under seal); Adjudicated Facts 1754, 1771. The Prosecution claims that the Zvornik Brigade MP attendance roster for 14 July 1995 was altered to conceal the presence and involvement of MPs in the murder operation at Orahovac. See Prosecution Final Brief, Appendix D, confidential, fn. 400; Richard Butler, T. 27562–27564 (18 April 2012). According to the Prosecution, this is consistent with other alterations made with respect to other execution sites. See Prosecution Final Brief, Appendix D, confidential, fn. 499 (referring to the altering of the roster for 15 July to conceal the presence of MP members at Ročević School). See also fn. 18368. The Chamber has reviewed the relevant entries of the duty roster and has found indicia of an apparent alteration. Thus, in light of the evidence demonstrating that members of the Zvornik Brigade's MP Company were present at the Orahovac School on 14 July, and the fact that attempts were also made to conceal the unit's presence at the Ročević School on 15 July, the Chamber finds that the attendance roster was indeed altered in an attempt to conceal the presence of members of the Zvornik Brigade MP Company at the Orahovac School on 14 July 1995.

preparations.<sup>17415</sup> At some point on 14 July, other members of the Zvornik Brigade—including members of the 4<sup>th</sup> Battalion—were also present at the school.<sup>17416</sup>

5320. Around 2 a.m., a convoy of four to six buses carrying approximately 300 men, which had set out earlier from Bratunac, arrived at the Orahovac School.<sup>17417</sup> Buses continued arriving from Bratunac into the early afternoon of 14 July.<sup>17418</sup> At least one of these convoys was led by an UNPROFOR APC driven by VRS soldiers.<sup>17419</sup> Members of the civilian police wearing blue uniforms were on some of the buses together with the detainees.<sup>17420</sup>

5321. As the buses arrived, they pulled over in the playground in front of the school.<sup>17421</sup> Upon disembarking, the detainees were ordered to run to the gymnasium.<sup>17422</sup> They were escorted by the policemen who had been on the buses with them.<sup>17423</sup> The gymnasium was guarded by members of the Zvornik Brigade MP at both of its entrances.<sup>17424</sup> The detainees had to leave their belongings outside.<sup>17425</sup> **(#Personal belongings#! Therefore, the #bodies recovered from the grave sites with a personal belongings for sure hadn't been captured before died#, and can not be added to the number of executed. Since there were many combats along the rute of the column, where had been discovered**

<sup>17415</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446–6447.

<sup>17416</sup> Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10334–10335, 10382–10383; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6448–6449; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11020–11021, 11123–11124; KDZ122, T. 26120 (12 March 2012) (closed session); P4563 (Statement by KDZ122), pp. 2, 5 (under seal). See also Adjudicated Fact 1770; D2266 (Nada Stojanović's interview with OTP), p. 25. The Chamber received evidence that reinforcements from the Zvornik Brigade's 4<sup>th</sup> Battalion were sent to the school at the request of Trbić, Drago Nikolić's deputy. P4563 (Statement by KDZ122), p. 5 (under seal). See KDZ122, T. 26120 (12 March 2012) (closed session).

<sup>17417</sup> KDZ039, T. 21958 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17325, 17327–17328, 17332, 17358. See para. 5313.

<sup>17418</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 944 (testifying that he arrived at the Orahovac School around noon); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 759–760 (testifying that he arrived at the school either in the afternoon or evening, and explaining that “summer days are very long”). But see KDZ039, T. 21958 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333, 17363 (testifying that the last detainees arrived the gymnasium around 10 a.m. and that no detainees were brought in the afternoon); Adjudicated Fact 1755 (referring to the arrival to the Orahovac School of 30 vehicles on 14 July). See also KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6449, 6468–6469 (referring to the arrival of between 10 and 15 buses at the school on 14 July).

<sup>17419</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 934–935, 938; Mile Petrović, T. 45553 (17 January 2014). KDZ064 testified that, upon his arrival at the Orahovac School, he saw an UNPROFOR APC parked in the playground. KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 677, 679, 683.

<sup>17420</sup> KDZ407 explained that the policemen were dressed in blue combat overalls, some were armed and some were wearing flak jackets. KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446, 6449, 6475. He recognised some civilian policemen from Zvornik who were not part of the Zvornik Brigade. KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6476; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), 6481–6482 (under seal). See also D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 42, 44; Mane Đurić, T. 35051–35053 (7 March 2013); P6191 (Excerpt from tactical intercepts notebook), p. 2 (referring to a request “to send security for Orahovac”).

<sup>17421</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 677, 684, 686, 848; P770 (Photograph of Orahovac school); P771 (Photograph of Orahovac school).

<sup>17422</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 937; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 677; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17328–17329; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6449; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11020. See also P772 (Photograph of Orahovac school); P773 (Photograph of the interior of Orahovac school); P774 (Photograph of the interior of Orahovac school); P3944 (Photograph of gymnasium at Orahovac school); Jean-René Ruez, T. 23788 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 134.

<sup>17423</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6446, 6449, 6475–6476; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6481 (under seal); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11086, 11122, 11150–11151, 11154. Between 7 and 15 of these policemen were present at the school. KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6475–6476; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11122–11123.

<sup>17424</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6454, 6484; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17346. See also Jean-René Ruez, T. 23789 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 135. KDZ064 described these men as “young lads [...] holding rifles in their hands”, adding that when someone addressed them as soldiers they said that they were not soldiers but “Karadžić's Chetniks, Young Chetniks”. KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 698. See KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28830; KDZ064, T. 1445 (22 April 2010).

<sup>17425</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 938–939; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 677; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11029. See also Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10336; Adjudicated Fact 1758.

many so called “secondary graves” clearly indicate that there had been a multiple burials of the combat casualties, since it was known that the Serb soldiers didn’t rob the bodies!)

5322. At some point, a crowd of about 100 hostile locals gathered near the school and made comments that all of the detainees ought to be killed.<sup>17426</sup> Members of the Zvornik Brigade had to control the crowd.<sup>17427</sup> (#EXCULPATORY! This proves that the VRS as a regular army acted in accordance with the rules, and that the crimes had been committed by a groups of a patchworked groups of soldiers, picked up informally, without clear orders and a clear task, without a legal commander, and completely out of an official manner, including the fact that the alleged colonel. In a case it was said Beara, he at the time was not the member of the VRS, since President Karadzic discharged him and two other Generals from the army in midd may 1995, around two months earlier.).

5323. Once all the detainees had entered, they filled the entire gymnasium.<sup>17428</sup> The Chamber received evidence that anywhere between 500 and 2,500 Bosnian Muslim men were detained at the Orahovac School.<sup>17429</sup> The approximate age range of the detainees at the gymnasium was 15 to 70 years old, but there were also four 10 to 14 years old boys.<sup>17430</sup> (Since there had not been recovered any body of that age from any gravesite, the question is: what happened to them. Therefore, the only reasonable inference is: either there was no such a young men there, or the young hadn’t been executed!)

5324. The detainees were ordered to sit with their knees touching their chests, and were told that they would be shot if they did not comply.<sup>17431</sup> There was not enough space for everyone to sit, so some men had to sit on others’ laps.<sup>17432</sup> The detainees were sitting so tightly packed that they could not move.<sup>17433</sup> With an outside temperature “well in its 30s”,<sup>17434</sup> it was stuffy in the gymnasium and the detainees started to suffocate and faint.<sup>17435</sup> The detainees were not given any food, but the four boys were allowed to fetch water, although it was not sufficient for everyone.<sup>17436</sup> A bucket served as a toilet.<sup>17437</sup>

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<sup>17426</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6448, 6450–6451, 6467–6468. See also Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11022.

<sup>17427</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6451; Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10337.

<sup>17428</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6450. See also Adjudicated Fact 1756.

<sup>17429</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17337–17338, 17352 (stating that while he had not counted the detainees, he thought there were over 2,500 people inside the gymnasium); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 697–698; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28834–28835 (estimating that there were anywhere between 500 and 1,000 people inside the gymnasium despite not having counted the men); Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 943 (stating that there were over 2,000 detainees in the gymnasium); KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), 6478–6479 (under seal) (stating that there may have been approximately 1,000 detainees at the gymnasium); P6220 (Report on the events in and around Srebrenica between 10 and 19 July 1995, June 2004), p. 15 (stating that there were approximately 1,000 detainees at the school); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 50 (referring to between 400 and 500 detainees); Adjudicated Fact 1757 (referring to between 1,000 and 2,500 men being detained at the school).

<sup>17430</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 698. See also Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 944; Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10338.

<sup>17431</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 943.

<sup>17432</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333.

<sup>17433</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 696.

<sup>17434</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 700.

<sup>17435</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 944, 1005; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 700–701; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333. Adjudicated Facts 1759, 1760.

<sup>17436</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 944–945, 1004–1005; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 700, 704; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6452, 6485. See also Adjudicated Fact 1759; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333; Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10338.



**(Guilt plea lies#! Generally speaking, how many very important assertions and adjudicated things depended only on the ‘Agreement witnesses’ and the 92bis, without additional corroboration by any evidence? Maybe not about the Accused’s direct conduct, but certainly about any things that the Accused is denying, particularly about the genocidal intent and the number of victims? #This would be the first Judgment completely founded on an indirect, circumstantial and uncorroborated evidence!#)**

5325. At one point, a man stood up and complained to the soldiers guarding the gymnasium, stating that he was suffocating and did not want to stay there any longer.<sup>17438</sup> The soldiers told the man to come out and cool off a bit, ordering the detainees around him to push him out.<sup>17439</sup> As the man went through the entrance door, the soldiers shot and killed him, dragging his body away.<sup>17440</sup> Later, another man commented that the detainees should not be killed; he was then taken out by one of the soldiers guarding the entrance.<sup>17441</sup> As the man was taken out, a rifle shot was heard, followed by moaning and another shot; then there was silence.<sup>17442</sup> Two dead bodies were later seen in the playground of the school.<sup>17443</sup>

5326. People dressed in civilian clothes,<sup>17444</sup> followed later by VRS officers, arrived at the school.<sup>17445</sup> By the early afternoon,<sup>17446</sup> a number of soldiers had gathered on the road in front of the school and in the school’s playground.<sup>17447</sup> Drago Nikolić and Sreten Milošević were standing in the schoolyard by the main gate in front of the gymnasium.<sup>17448</sup> Jasikovac,<sup>17449</sup> Popović,<sup>17450</sup> Trbić,<sup>17451</sup> Beara,<sup>17452</sup> as well as Lazar Ristić—the

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<sup>17437</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 701.

<sup>17438</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 945–946.

<sup>17439</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 945–947.

<sup>17440</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17333–17334; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 946. See Adjudicated Fact 1762. See also KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703, 765 (referring to a man of about 30 years of age who was taken out and shot).

<sup>17441</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703, 765.

<sup>17442</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703, 765.

<sup>17443</sup> Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10336.

<sup>17444</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703, 706.

<sup>17445</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6487–6488; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 706, 708, 764. See also Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 947.

<sup>17446</sup> Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10334; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6452.

<sup>17447</sup> Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10334–10335; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6452. See also KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 682. One of the policemen belonged to the Doboj police. Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10335.

<sup>17448</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 53; Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10337–10338, 10361–10362; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11022–11023, 11038–11039, 11124–11125; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6451–6452, 6484; P4563 (Statement by KDZ122), p. 5 (under seal).

<sup>17449</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11021, 11124–11125; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6458 (under seal); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 51.

<sup>17450</sup> Vujadin Popović, T. 43062–43063 (6 November 2013); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 50, 53; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11024–11025, 11044, 11057–11058, 11082. See also Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10337.

<sup>17451</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 53; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11021, 11027. See P4563 (Statement by KDZ122), p. 5 (under seal).

<sup>17452</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 53; D2266 (Nada Stojanović’s interview with OTP), pp. 27–28, 39, 43–45. See also P4563 (Statement by KDZ122), p. 2 (under seal) (referring to the presence of Beara in Zvornik on 14 July 1995); P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 45 (an entry for 14 July 1995 in the Zvornik Brigade Duty Officers Notebook dated 15:00 hours noting that “Colonel Beara is coming in order to Orovoc Petkovci Ročević Pilica”). The Chamber finds that the entry in the Zvornik Brigade Duty Officers Notebook refers to Orahovac. The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July, as discussed in fn. 17583.

Commander of the Zvornik Brigade's 4<sup>th</sup> Battalion—<sup>17453</sup> were also present at the school premises on the afternoon of 14 July 1995.<sup>17454</sup>

5327. By the afternoon,<sup>17455</sup> one of the officers ordered everyone to “shut up” following which he began instructing the detainees to move out of the gymnasium.<sup>17456</sup> The detainees were told to prepare to be taken to Batković Camp,<sup>17457</sup> and were instructed to face the wall.<sup>17458</sup> After the detainees were lined up, which took 10 to 15 minutes,<sup>17459</sup> they were taken in groups to a small locker room adjacent to the gymnasium, where five or six armed soldiers in camouflage uniform, including a woman, were standing.<sup>17460</sup> The detainees were either blindfolded by another detainee or were given strips of cloth about 15 centimetres wide with which they had to cover their eyes themselves.<sup>17461</sup> Some detainees also had their hands tied behind their backs.<sup>17462</sup> The woman then gave each of the detainees water as they left the room.<sup>17463</sup> **(However, a #very few blindfolders had been found in the grave sites, and a very few ties for hands, which also proves that there had been burials much earlier, after the combats, as Erdemovic testified that he was informed by a local man that this really happened!)**

5328. As the detainees left the room, they were ordered to board one of the two TAM trucks which were parked close to the entrance of the gymnasium, through a ramp leading to them.<sup>17464</sup> They were loaded in groups of approximately 20 to 40.<sup>17465</sup> Two benches ran

<sup>17453</sup> P4563 (Statement by KDZ122), pp. 2, 5 (under seal).

<sup>17454</sup> Both KDZ039 and Mevludin Orić testified to also having seen Mladić at the school. KDZ039, T. 21960–21961 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17334, 17381–17382; D1945 (Statement of KDZ039 to Tuzla SJB, 21 July 1995), p. 3; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 2; D1949 (Interview with KDZ039, 31 March 1996), p. 4; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 995–996, 1003–1004.

<sup>17455</sup> See Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 958 (testifying that he was taken to the execution field by early afternoon, between 1 and 3 p.m.); KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6487 (testifying that the first group of detainees were taken out of the gymnasium “later in the afternoon”); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 709 (testifying that his turn to leave the gymnasium was sometime in the evening); KDZ039, T. 21972 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17347, 17358 (testifying that he was taken out of the gymnasium at around 8 p.m. when the sun was still shining).

<sup>17456</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703. KDZ064 testified that the man controlling the events was wearing a red beret and was quite young, explaining that, before he arrived, no one was taken out of the gymnasium. KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 704, 709, 764, 767. See also KDZ064, T. 1443 (22 April 2010). But see KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6485 (testifying that he did not remember anyone being a kind of leader and wearing a red beret).

<sup>17457</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 947–948, 1005.

<sup>17458</sup> The first four rows of detainees were to stand up, turn right, and face the wall away from the entrance; the next four rows had to do the same thing, facing the other way. KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 703, 764; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 943.

<sup>17459</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 764.

<sup>17460</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 948–951; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 708–709, 765. See also Adjudicated Fact 1764.

<sup>17461</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 948–949, 952–953; KDZ064, T. 1443 (22 April 2010); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 708–709, 767; KDZ039, T. 21958 (24 November 2011); KDZ039, T. 21958 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17335, 17358. During a site visit, members of the Prosecution found a large number of pieces of cloth in a rubbish area at the playground of the Orahovac School. Jean-René Ruez, T. 23792–23793 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 140–143.

<sup>17462</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6454; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11026.

<sup>17463</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 709; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 948–949; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17334–17335; Adjudicated Fact 1764.

<sup>17464</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 952–953; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 689, 691, 709–710; KDZ039, T. 21923–21924 (24 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17335; P3941 (Photograph marked by KDZ039) (where KDZ039 indicated the area in which the TAM trucks parked); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11025–11026, 11037; P3945 (Photograph of Orahovac school). See also Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10346, 10395; Jean-René Ruez, T. 23789, 23791 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 135, 140, 144; P4292 (Photograph of Orahovac school marked by Jean-René Ruez).

<sup>17465</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 709, 712; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11026. See also Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 953.

along the trucks' sides, which served as seats for some of the detainees.<sup>17466</sup> Some of the detainees took their blindfolds off while on the truck.<sup>17467</sup> When the detainees asked where they were being taken, they were told they were going to a camp in Bijeljina.<sup>17468</sup>

5329. Once full, the two TAM trucks took off from the Orahovac School,<sup>17469</sup> turning right in the direction of Tuzla.<sup>17470</sup> Shortly afterwards, the trucks returned to the school empty.<sup>17471</sup> This same procedure was repeated until the gymnasium was emptied and it was almost dark.<sup>17472</sup> After the first few trips, Jasikovac ordered Birčaković to follow the trucks in a red Opel Rekord until reaching a water point further down the main road; thereafter he had to return to the school while the trucks turned left and continued up a macadam road.<sup>17473</sup>

5330. Having left at one point earlier that afternoon, Drago Nikolić returned to the Orahovac School just before night fall.<sup>17474</sup> When Ristić went to the school that evening and tried to take away the soldiers sent earlier that day as reinforcements, he was stopped by Drago Nikolić, who said that if the men stayed they would be issued with new uniforms.<sup>17475</sup> Drago Nikolić had also been asking for volunteers to take part in the execution of detainees, and a member of the 4<sup>th</sup> Battalion volunteered.<sup>17476</sup> **(#Another proof that the entire affair was illegal and private, without orders which tasked a unit of the regular army to act.)**

### c. The killings at the field near Orahovac

5331. From the Orahovac School the detainees were taken to two meadows located approximately 800 metres away.<sup>17477</sup> The first meadow was reached by going through an underpass under a railroad track (“First Meadow”); the second one was located closer to

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<sup>17466</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 953–954; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 709, 711.

<sup>17467</sup> KDZ064, T. 1442 (22 April 2010); Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 955; KDZ039, T. 21924, (24 November 2011); T. 21972 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17335, 17359.

<sup>17468</sup> KDZ064, T. 1442–1443 (22 April 2010); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 711.

<sup>17469</sup> KDZ039, T. 21924 (24 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17335; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11037.

<sup>17470</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6455. See Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11026.

<sup>17471</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6455.

<sup>17472</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6455; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11025.

<sup>17473</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11026–11031, 11036, 11126; P258 (Photograph of Orahovac School and execution sites LZ-01 and LZ-02 marked by Milorad Birčaković); P259 (Photograph of Orahovac School and execution sites LZ-01 and LZ-02 marked by Milorad Birčaković). See also Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11050–11053; P173 (Zvornik Brigade vehicle log, 1-31 July 1995), pp. 1–4; KDZ039, T. 21924 (24 November 2011), T. 21959–21960 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17335; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 955. KDZ039 testified that a man in the red car was at the scene supervising the killings, and would wait until all the men were killed, before going away. KDZ039, T. 21959–21960 (28 November 2011). See also KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17336 (describing how a soldier in an olive grey uniform riding in the passenger seat of a red car instructed the detainees not to remove their blindfolds).

<sup>17474</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11039.

<sup>17475</sup> P4563 (Statement by KDZ122), p. 5 (under seal).

<sup>17476</sup> P4563 (Statement by KDZ122), p. 5 (under seal). See KDZ122, T. 26282 (14 March 2012) (closed session). While driving away from the Orahovac School later that night, Drago Nikolić and Birčaković saw between 40 and 50 bodies lying around, about 50 metres from the water point. Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11038, 11042, 11132.

<sup>17477</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 955; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 712; Jean-René Ruez, T. 23795, 23806–23807 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 145; P4299 (Video footage of Orahovac area); P4294 (Aerial image of disturbed earth in Orahovac on 5 and 7 July 1995 marked by Jean-René Ruez). See also Adjudicated Facts 1763, 1765.

the main road leading to the Orahovac School, approximately 300 metres away from the First Meadow (“Second Meadow”).<sup>17478</sup>

5332. Upon arriving at the meadows, the detainees were ordered to jump off the trucks and line up in rows.<sup>17479</sup> As soon as the trucks departed, bursts of automatic gun fire erupted.<sup>17480</sup> Soldiers also fired at the bodies once they had fallen to the ground to “finish them off”.<sup>17481</sup> Further, they cursed the wounded and let them suffer in agony for a while before killing them.<sup>17482</sup> The soldiers also shot at survivors who tried to escape.<sup>17483</sup> Detainees continued to be brought in trucks, ordered to line up, and shot.<sup>17484</sup> The process continued for approximately two hours until it was dark.<sup>17485</sup> Once the First Meadow was full of bodies, the soldiers moved to the Second Meadow, where they continued with the killings.<sup>17486</sup>

5333. Throughout this time, the detainees at the Orahovac School, as well as the soldiers guarding them, could hear bursts of fire coming from the direction in which the trucks had departed; shortly after, the empty trucks would return to the school.<sup>17487</sup> Following one of these trips, members of the Zvornik Brigade who were escorting the trucks were overheard saying that the detainees had been executed.<sup>17488</sup>

5334. A small boy survived the execution and was taken to a hospital for treatment by a member of the Zvornik Brigade.<sup>17489</sup> **(#Yet another proof that the regular army members didn't participate in the killings, and behaved properly, as this was the case#! Repeatedly, this happened: once the victims of of some crimes got in touch with the representatives of the regular Serb Forces, they had been saved. So happened with the survivors in the Kori}anske Stijene crime, so was in Hadzici, once the criminals left, the guards opened garage and saved prisoners, once Grgo Stojic, Sanski Most, got in touch with the regular police, he was saved, and many similar examples, like when a chief of shift appears, a perpetrators that harassed prisoners**

<sup>17478</sup> Jean-René Ruez, T. 23795–23799, 23804 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 147–149, 150–152; P4297 (Aerial image of sites LZ-1 and LZ-2 marked by Jean-René Ruez); KDZ064, P768 (Transcript from *Prosecutor v. Popović et al.*), T. 718 (under seal); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 720, 724; KDZ039, T. 21925–21926 (24 November 2011), T. 21973 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17336; P3942 (Photo of execution site in Orahovac, annotated by KDZ039). See also Adjudicated Fact 1767; P4299 (Video footage of Orahovac area).

<sup>17479</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 712; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 955; KDZ039, T. 21959, 21973 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17336. See Adjudicated Fact 1766.

<sup>17480</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17336; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 712; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28835; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 955–956. See also Adjudicated Fact 1763.

<sup>17481</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 958; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 712; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28835.

<sup>17482</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 957.

<sup>17483</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 958; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 722; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28835–28836.

<sup>17484</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 713; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 956, 959, 962; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17336–17337. See also Adjudicated Fact 1768.

<sup>17485</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 713, 715; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 959, 962; KDZ039, T. 21972–21973 (28 November 2011); P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17337.

<sup>17486</sup> KDZ064, P768 (Transcript from *Prosecutor v. Popović et al.*), T. 718 (under seal); KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 720, 724. See also Adjudicated Fact 1767; Jean-René Ruez, T. 23798, 23801, 23803–23804 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 160–161; P4295 (Photograph of site LZ-2 marked by Jean-René Ruez); P4296 (Photograph of site LZ-1 marked by Jean-René Ruez); P3946 (Photograph of railway line).

<sup>17487</sup> KDZ039, T. 21957 (28 November 2011); KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6455; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11037. See also Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10350.

<sup>17488</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6455–6456.

<sup>17489</sup> Tanacko Tanić, P368 (Transcript from *Prosecutor v. Popović et al.*), T. 10351–10352 (under seal); Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10353.



**escaped!** Additionally, Mevludin Orić, KDZ039, and KDZ064 all testified as to how they survived the executions. After falling in and out of consciousness, Orić got out from under the dead bodies.<sup>17490</sup> KDZ039 also managed to get out from under the dead bodies and reached a bush from where he continued watching the killings.<sup>17491</sup> Similarly, KDZ064 managed to crawl and climb onto the railway track.<sup>17492</sup> All escaped the site and reached Bosnian Muslim-held territory days later.<sup>17493</sup>

**5335.** The Chamber finds that members of the Zvornik Brigade, including at least one member of the 4<sup>th</sup> Battalion,<sup>17494</sup> participated in the execution of the detainees previously held at the Orahovac School on 14 July 1995.<sup>17495</sup> The Chamber also received evidence that Drago Nikolić had personally taken part in the executions at the Orahovac School.<sup>17496</sup>

**(Not to forget the members of the Zvornik brigade who saved a survivor and brought him to a hospital!)**

#### d. Burials

5336. Sometime before noon on 14 July, Cvijetin Ristanović—a member of the Zvornik Brigade Engineering Company<sup>17497</sup>—was ordered by Dragan Jokić—the Chief of Engineering of the Zvornik Brigade<sup>17498</sup>—to take a backhoe excavator “G-700” to Orahovac.<sup>17499</sup> Ristanović and a colleague loaded the excavator onto a truck with a trailer,

<sup>17490</sup> Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 959–964.

<sup>17491</sup> KDZ039, T. 21963, 21968 (28 November 2011); KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17338.

<sup>17492</sup> KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 722–723, 775; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28835–28836.

<sup>17493</sup> KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17339–17341, 17369; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 963–964, 968–970, 996–997; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 723–725, 776; KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28836. Soldiers shot at KDZ064 as he ran away from the site. KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28836; KDZ064, P769 (Transcript from *Prosecutor v. Popović et al.*), T. 723–725, 775–776.

<sup>17494</sup> KDZ064, P768 (Transcript from *Prosecutor v. Popović*), T. 634, 715, 717–719, 731–732, 774 (under seal); KDZ064, P769 (Transcript from *Prosecutor v. S. Milošević*), T. 28832, 28836; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11038–11039. See Adjudicated Fact 1773. See also P4976 (Death certificate of Gojko Simić, 18 August 1995).

<sup>17495</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11038–11039; KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6456–6457; Adjudicated Facts 1772, 1773, 1774.

<sup>17496</sup> P4563 (Statement by KDZ122), p. 5 (under seal). KDZ446 testified that, while at the Standard Barracks in mid-July 1995, he met an officer whose name was “Drago Nikolić”, who had come from a site where people were being killed, and who told KDZ446 that he had shot people himself because others were refusing to do so. KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21041–21043, 21091–21092; KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21093–21096 (under seal). Nikolić was wearing a camouflage uniform which was covered in black soot that he claimed was from when he had to pick up a weapon himself and shoot. KDZ446, T. 21041–21042 (22 May 2003); KDZ228, P324 (Transcript from *Prosecutor v. Popović et al.*), T. 14747, 14758. See also KDZ228, P324 (Transcript from *Prosecutor v. Popović et al.*), T. 14747–14748, 14751, 14758, 14762, 14772; KDZ228, P323 (Transcript from *Prosecutor v. Popović et al.*), T. 14981 (under seal) (testifying that he was with KDZ446 at the time but did not hear the conversation between KDZ446 and Drago Nikolić; however, after leaving the Standard Barracks, KDZ446 was worried and depressed that something bad was happening on the left bank of the Drina River); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11038, 11041–11044 (testifying that after leaving the Orahovac School on 14 July, he and Drago Nikolić went to the Standard Barracks, arriving at approximately 9 p.m.).

<sup>17497</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5360; P660 (Zvornik Brigade Engineering Company roster, July 1995). Dragan Jevtić was the Commander of the Zvornik Brigade Engineering Company at the time. Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5363; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14434.

<sup>17498</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5364; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14433.

<sup>17499</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5363–5366, 5406–5407; Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13625–13626; P238 (Photograph of an excavator (BGH500)). See P174 (Zvornik Brigade vehicle log, 1-31 July 1995) (where a backhoe excavator is recorded as being used by Cvijetin Ristanović on 14 July 1995 for digging trenches in Orahovac). See also Adjudicated Fact 1777; P175 (Zvornik Brigade vehicle log, 1-31 July 1995) (where a *Torpedo* excavator is recorded as being used by Cvijetin Ristanović on 14 July 1995 for digging trenches in Orahovac). However, both Ristanović and Lazarević testified that the *Torpedo* machine was not used in Orahovac on 14 and 15 July. Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5396–5399, 5414; Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13627–13630; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14478. The Chamber received evidence that the Engineering Company did not have this type of equipment but that whenever it needed special equipment it could requisition it from various private companies. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14438. The backhoe excavator belonged to the Zvornik Putevi company. Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5365, 5406.



drove to the Orahovac School where they paused briefly, and continued to the water point less than one kilometre away, where they were ordered to stop and wait.<sup>17500</sup> Approximately an hour later, Ristanović was ordered to unload the excavator.<sup>17501</sup> Slavko Bogičević—a member of the command of the Zvornik Brigade Engineering Company<sup>17502</sup>—then ordered Ristanović to take the excavator to a meadow behind the Živnice–Zvornik railroad underpass, and to dig a pit in an area marked with four wooden poles.<sup>17503</sup> Soldiers were standing around the meadow.<sup>17504</sup> At about 2 p.m., a request from the Zvornik Brigade arrived to release machine operators to assist Popović and Drago Nikolić in the work they were carrying out at the Orahovac School.<sup>17505</sup>

5337. While digging the pit, Ristanović was ordered to stop the machine, go back towards the underpass, and stand facing away from the pit, at which point he heard one truck approaching, followed by shouts and bursts of gunfire.<sup>17506</sup> When Ristanović was allowed to return to continue digging, he saw corpses of men wearing civilian clothes, as well as blindfolds.<sup>17507</sup> Ristanović was interrupted on at least one other occasion by the arrival of trucks and soldiers carrying out the executions.<sup>17508</sup> Sometime in the afternoon, before Ristanović had finished digging the pit, Milovan Miladinović—another member of the Zvornik Brigade Engineering Company—arrived to relieve him and to continue with the digging.<sup>17509</sup> Ristanović stayed in the area until that night when he and Miladinović were picked up and returned to Zvornik, leaving the excavator at the site.<sup>17510</sup>

5338. On 15 July, before noon, Ristanović and Damjan Lazarević—Commander of the Roads and Bridges Platoon of the Zvornik Brigade Engineering Company<sup>17511</sup>—as well as two or three other soldiers, returned to Orahovac to continue with the digging.<sup>17512</sup> Ristanović continued using the backhoe excavator and began digging where a second pit had been marked, closer to the road, but soon after was ordered to move to a third, unmarked area, after a water hose burst in the second location, forcing him to stop the digging.<sup>17513</sup> Meanwhile, a ULT 200 was used by members of the Zvornik public utility company/Civilian Protection<sup>17514</sup> to load bodies and take them to the pits dug by the

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<sup>17500</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5367–5370, 5378–5379, 5407; P659 (Sketches made by Cvijetin Ristanović); Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13619–13621.

<sup>17501</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5370, 5407–5408.

<sup>17502</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5365.

<sup>17503</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5370–5372; Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13621. Ristanović was told that the pit had to be one and a half to two metres deep. Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5372.

<sup>17504</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5371.

<sup>17505</sup> [REDACTED]. The message was sent to Milan Marić, a desk officer in the operations department of the Zvornik Brigade staff, who was acting—following appointment by Obrenović—as commander of the company deployed in Snagovo at the time. [REDACTED].

<sup>17506</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5373–5374, 5379; P659 (Sketches made by Cvijetin Ristanović); Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13622.

<sup>17507</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5374–5375.

<sup>17508</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5375.

<sup>17509</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5375–5377, 5409. See also Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13621–13622; Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 960.

<sup>17510</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5380–5381.

<sup>17511</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14436; Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5363.

<sup>17512</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5382–5383; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14439–14443. See also P108 (Extract from Zvornik Brigade Engineering Company logbook, 15 July 1995), p. 1 (recording Damjan Lazarević as the company’s duty officer on 15 July 1995); Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14470.

<sup>17513</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5385–5386, 5403. See also P108 (Extract from Zvornik Brigade logbook, 15 July 1995), p. 1 (recording “work with BGH-700” at Orahovac on 15 July 1995); Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14451.

<sup>17514</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14449 (referring to the men loading bodies as workers from the public utility company in Zvornik), T. 14520 (referring to these men as members of the civil protection authorities).

backhoe excavator.<sup>17515</sup> After finishing digging the gravesite in the afternoon, Ristanović loaded the excavator onto the truck, and returned to Zvornik.<sup>17516</sup> The Zvornik Brigade Engineering Company logbook shows that the backhoe excavator and the ULT 200 were used at Orahovac on 16 July 1995.<sup>17517</sup>

5339. Towards the end of September 1995, and as part of the reburial operation to conceal the Srebrenica killings which will be discussed in detail below,<sup>17518</sup> the bodies initially buried at Orahovac were transported away from the site and reburied in the Hodžići Road secondary gravesites, as demonstrated by the forensic evidence discussed in the paragraphs immediately below.

e. Forensic evidence

5340. Aerial images reveal that the Lažete gravesites—which were composed of the smaller Lažete 1 and larger Lažete 2<sup>17519</sup>—were dug between 5 and 27 July 1995, and that they were disturbed again between 7 and 27 September 1995.<sup>17520</sup> The Lažete gravesites—which are primary but disturbed—are situated close to the village of Orahovac, approximately 800 metres from the Orahovac School.<sup>17521</sup> They are grass covered fields located west of a paved road that runs between the villages of Lažete and Križevići.<sup>17522</sup> A railroad track divides the two Lažete gravesites; Lažete 1 is located at the Second Meadow, adjacent to the main road leading from the Orahovac School alongside a dirt track that passes under the railroad tracks before arriving at the First Meadow, where Lažete 2 is located.<sup>17523</sup>

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<sup>17515</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14446–14451, 14520; Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5387; Cvijetin Ristanović, P351 Transcript from *Prosecutor v. Popović et al.*, T. 13626; P657 (Brochure for a wheel loader (ULT200)); P239 (Photograph of a wheel loader (ULT200)); P108 (Extract from Zvornik Brigade Engineering Company logbook, 15 July 1995), p. 1 (recording “work with ULT 220” at Orahovac on 15 July 1995); P176 (Zvornik Brigade vehicle log, 1–31 July 1995) (recording an ULT 220 as being used on 15 July 1995 for digging trenches in Orahovac). *See also* Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5383–5384, 5412; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14469–14471. The ULT truck belonged to the Birać Holding of the aluminium oxide factory. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14446.

<sup>17516</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5388–5389. *See also* Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14452.

<sup>17517</sup> P108 (Extract from Zvornik Brigade Engineering Company logbook, 15 July 1995), p. 2. One of the survivors of the executions testified to have seen a ULT loader at the site in the evening of 14 July 1995. Mevludin Orić, P350 (Transcript from *Prosecutor v. Popović et al.*), T. 965–967; P240 (Sketch drawn and signed by Mevludin Orić).

<sup>17518</sup> *See* Section IV.C.1.g.v: Reburial operation.

<sup>17519</sup> The Lažete 2 gravesite was more than twice the size of Lažete 1. Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8468; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6; Jean-René Ruez, T. 23796–23797 (27 January 2012). *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 147; Adjudicated Fact 1779.

<sup>17520</sup> P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), p. 11; Fredy Peccerelli, T. 22744–22745, 22756 (11 January 2012); Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8457, 8474; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report”, 1 May 2007), pp. 11, 16; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court pp. 6, 9; Jean-René Ruez, T. 23796 (27 January 2012); P4294 (Aerial image of disturbed earth in Orahovac on 5 and 7 July 1995 marked by Jean-René Ruez); P4326 (Photograph of aerial view of Lažete gravesites). *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 146–147, 155; P4139 (Photograph of disturbed earth in Orahovac marked by Fredy Peccerelli); P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court pp. 17–19; Adjudicated Fact 1778.

<sup>17521</sup> Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8456–8457; Jean-René Ruez, T. 23795, 23806–23807 (27 January 2012); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6. *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 145–148.

<sup>17522</sup> P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), p. 4; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report”, 1 May 2007), p. 4; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6. *See also* Jean-René Ruez, T. 23795 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 145.

<sup>17523</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and

i. Lažete 1

5341. Lažete 1 was partially exhumed by a Tribunal exhumation team from 13 July to 8 August 2000 under the direction of Fredy Peccerelli.<sup>17524</sup> The remains found in Lažete 1 were then examined by a team of pathologists under the direction of John Clark.<sup>17525</sup> The Lažete 1 gravesite showed evidence of robbing or removal of bodies by machinery, thus leaving dismembered parts of bodies behind.<sup>17526</sup> Despite this, 130 bodies and approximately 15 body parts were found within the grave.<sup>17527</sup>

5341. The forensic evidence reviewed by the Chamber shows that all of the victims whose sex could be determined were male.<sup>17528</sup> The age of the victims ranged from 15 to 85, with the majority being between 30 and 60 years old.<sup>17529</sup> Gunshot injury was determined to be the cause of death for at least 97% of the victims.<sup>17530</sup> Further, 138 blindfolds were uncovered.<sup>17531</sup> Bullet holes were present in several of the blindfolds

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Herzegovina, Excavation and Exhumation report”, 1 May 2007), p. 4; Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8457; Jean-René Ruez, T. 23795–23796 (27 January 2012); William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3742–3743. See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 145, 161; P4327 (Photograph of grave and execution site at LZ-02, 1 April 1996).

<sup>17524</sup> Fredy Peccerelli, T. 22736, 22767 (11 January 2012); Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T.8457, 8491–8492; P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), p. 4. See also Adjudicated Fact 1780; D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 47–48. The Chamber notes the Accused’s challenges to Peccerelli’s findings in relation to the Lažete gravesite. See Defence Final Brief, paras. 2575–2580, 2583–2588. Having assessed the totality of evidence on this issue, the Chamber accepts Peccerelli’s report and the findings therein.

<sup>17525</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), pp. 1, 28. See also John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3900–3901; P6461 (Autopsy report for Lažete Grave Site, 22 August 2000). The Chamber notes that Dušan Dunjić challenged Clark’s findings in his report for the Lažete gravesite. See Dušan Dunjić, T. 41836–41839 (23 July 2013). Having assessed the totality of evidence on this issue, the Chamber accepts Clark’s report and the findings therein.

<sup>17526</sup> P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), pp. 2, 13, 15–18, 21; Fredy Peccerelli, T. 22740–22741 (11 January 2012); Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8460 (testifying that machine tooth marks found on the walls of Lažete 1 supported the conclusion that it was a primary disturbed grave).

<sup>17527</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6 (noting that the bodies of at least 130 individuals were found in the grave). See Adjudicated Fact 1781. See also P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), pp. 1, 7 (stating that a total of 129 whole or largely complete bodies were recovered from the grave along with 14 body parts); P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), pp. 2, 14, 17; Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T.8460 (noting that 127 bodies were recovered from within the grave and two from within a drainage ditch on the southern border of the gravesite); P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), p. 7 (noting that at least 131 individuals were found in Lažete 1).

<sup>17528</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), p. 7 (noting all of the 129 victims were male); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7 (stating that 129 of the bodies were male and the sex of the remaining body could not be determined). See Adjudicated Fact 1781.

<sup>17529</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), p. 7. See also P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7.

<sup>17530</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), p. 13; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7. Many of the individuals exhumed from Lažete 1 suffered multiple gunshot wounds from high velocity rifles. P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), pp. 9, 12.

<sup>17531</sup> P4507 (Chart of photographs of blindfolds, ligatures, and location); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7. See Adjudicated Fact 1782. See also P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), p. 22; Fredy Peccerelli, T. 22746–22747 (11 January 2012); P4519 (Photograph of human remains); P4520 (Photograph of human remains); P4521 (Photograph of human remains); P4522 (Autopsy report for Lažete Grave Site, 21 August 2000). The Chamber notes the Accused’s claim, supported by Dunjić, that the strips identified as blindfolds found in the Lažete gravesites are more likely “ritual ribbons” wrapped around the head of ABiH soldiers, or carried for religious reasons by soldiers, and thus that these individuals were killed in combat. See e.g. Defence Final Brief, paras. 2583–2585; Dean Manning T. 25866–25881 (6 March 2012); D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 19; Dušan Dunjić, T. 41755, 41827–41840 (23 July 2013). See also D2189 (Photograph of human remains marked by Dean Manning); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence,

indicating that men were blindfolded when they were shot.<sup>17532</sup> In addition to these blindfolds, at least two ligatures were recovered during the exhumation and autopsy process.<sup>17533</sup> None of the victims were found wearing military clothing.<sup>17534</sup> Additionally, at least 454 shell cases and at least nine bullets were found in or around the grave.<sup>17535</sup> The heavy concentration of shell cases on the roadway and track surrounding the grave indicates that weapons were fired into the area of the grave from the roadway and track, which is consistent with witness accounts of the executions at Lažete 1.<sup>17536</sup>

5342. As of 13 January 2012, DNA analysis led to the identification of 119 individuals in the Lažete 1 grave as persons listed as missing following the take-over of Srebrenica.<sup>17537</sup>

ii. Lažete 2

5344. In 1996 and 2000, two exhumations of the Lažete 2 gravesite, uncovering three sub-graves, were carried out.<sup>17538</sup> Between 19 August and 9 September 1996, a joint team from the Prosecution and Physicians for Human Rights, under the direction of William Haglund, exhumed the sub-graves designated Lažete 2A and 2B.<sup>17539</sup> Lažete 2C, an area between sub-graves Lažete 2A and Lažete 2B, was exhumed by a Tribunal team led by Fredy Peccerelli from 2 to 17 August 2000.<sup>17540</sup>

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Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court pp. 21–24. Having considered the totality of the evidence, the Chamber accepts Manning's and Peccerelli's reports and the findings therein.

<sup>17532</sup> P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001), p. 8.

<sup>17533</sup> P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001), p. 9; P4135 (Fredy Peccerelli report entitled "Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report", 2 February 2001), p. 23; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 7. See also P4509 (Collage of Srebrenica ligatures, 5 March 2012).

<sup>17534</sup> P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001), p. 8.

<sup>17535</sup> P4135 (Fredy Peccerelli report entitled "Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report", 2 February 2001), p. 10; Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*, T. 8461–8462; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 8.

<sup>17536</sup> P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 8. See para. 5332. See also Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*, T. 8461–8462 (testifying that there was a heavy concentration of shell casings found on the southern edge of the grave, which indicates the shooting occurred there); P4135 (Fredy Peccerelli report entitled "Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report", 2 February 2001), p. 10.

<sup>17537</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 3, 9, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012) (under seal), e-court pp. 3, 9, 41, 106–112. See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

<sup>17538</sup> P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 9; P4316 (William Haglund's expert report, entitled "Forensic Investigation of the Lazete 2 Grave Site - Volume I", 15 June 1998), p. 2; P4136 (Final Report of Fredy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007), p. 2.

<sup>17539</sup> William Haglund, T. 23873–23874 (30 January 2012); P4316 (William Haglund's expert report, entitled "Forensic Investigation of the Lazete 2 Grave Site - Volume I", 15 June 1998), pp. x, 2; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 9; P4504 (Dean Manning's Report entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 51. See also Adjudicated Fact 1784; P4328 (Map of LZ-02); P4339 (Map of LZ-02 marked by William Haglund). The remains found within the Lažete 2A and 2B sub-gravesites were examined by a team of pathologists under the direction of Robert H. Kirschner. P4316 (William Haglund's expert report, entitled "Forensic Investigation of the Lazete 2 Grave Site - Volume I", 15 June 1998), p. xi. The Chamber notes that Dušan Dunjić challenged the methodology used by Haglund in his report for the Lažete 2 gravesite. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 40–42. Having assessed the totality of evidence on this issue, the Chamber accepts Haglund's report and the findings therein.

<sup>17540</sup> Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*, T.8466, 8475; P4136 (Final Report of Fredy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007), p. 4; P4316 (William Haglund's expert report, entitled "Forensic Investigation of the Lazete 2 Grave Site - Volume I", 15 June 1998), p. 2; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 9. The remains found within the Lažete 2C sub-gravesite were examined by a team of pathologists under the direction of John Clark. P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001), pp. 1, 28.

5345. While Lažete 2A appears to be undisturbed, the Chamber received evidence that sub-gravesites 2B and 2C of Lažete 2 were disturbed, as they showed evidence of robbing or removal of bodies by machinery, thus leaving dismembered parts of bodies behind.<sup>17541</sup>
5346. The forensic evidence reviewed by the Chamber shows that 165 bodies and approximately 100 partial remains were recovered from sub-gravesites Lažete 2A and 2B.<sup>17542</sup> All victims were male, with ages ranging from 13 to 70, the majority of which were between 16 and 45.<sup>17543</sup> None of victims were found wearing military clothing.<sup>17544</sup> Furthermore, at least 104 blindfolds,<sup>17545</sup> as well as one ligature bound around the legs of a victim, were recovered from the Lažete 2A and 2B sub-gravesites.<sup>17546</sup> Evidence suggests that 158 of the 165 individuals died of gunshot wounds from high velocity rifles, while the cause of death for the remaining seven was undetermined.<sup>17547</sup>
5347. 17 bodies and approximately 26 body parts were recovered from Lažete 2C.<sup>17548</sup> All were males with ages ranging from 17 to 85.<sup>17549</sup> Furthermore, 40 blindfolds,<sup>17550</sup> but no ligatures were found.<sup>17551</sup> None of the victims were found with military clothing.<sup>17552</sup>

<sup>17541</sup> Fredy Peccerelli P4137 (Transcript from *Prosecutor v. Tolimir*), T.8474; Fredy Peccerelli, T. 22771–22772 (11 January 2012); P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report”, 1 May 2007), pp. 16–19; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3747–3750; William Haglund, T. 23889 (30 January 2012); P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. 51–52, 61–62; P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), p. 14.

<sup>17542</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. ix, 41; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3750; William Haglund, T. 23889–23890 (30 January 2012); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 8, 51. See also P4317 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume II”, 15 June 1998); P4318 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume III”, 15 June 1998); P4319 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume IV”, 15 June 1998); P4320 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume V”, 15 June 1998).

<sup>17543</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. x, 41; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 8, 51.

<sup>17544</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. x, 41.

<sup>17545</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. x, 48; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3750; P4506 (Photograph booklet entitled “Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodzici Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5”), e-court p. 3; P4507 (Chart of photographs of blindfolds, ligatures, and location), e-court p. 1 (noting that 107 blindfolds were found within Lažete 2A and 2B); P4506 (Photograph booklet entitled “Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodzici Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5”), e-court p. 3. See also Adjudicated Fact 1785.

<sup>17546</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), p. 48; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 8, 52; P4509 (Collage of Srebrenica ligatures, 5 March 2012). See also Adjudicated Fact 1785.

<sup>17547</sup> P4316 (William Haglund’s expert report, entitled “Forensic Investigation of the Lazete 2 Grave Site - Volume I”, 15 June 1998), pp. 49–50; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3750; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 8, 52.

<sup>17548</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), pp. 1, 14; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 9; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report”, 1 May 2007), pp. 2, 13, 20, 22; Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8473.

<sup>17549</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), pp. 14, 16.

<sup>17550</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7; P4507 (Chart of photographs of blindfolds, ligatures, and location), e-court p. 1. Another 102 strips of cloth, similar to those found at the Orahovac School, were found in a “rubbish” site next to the Lažete 2 gravesite. P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7; Jean-René Ruez, T. 23805–23806 (27 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 163–164; P4298 (Photograph of rubbish site marked by Jean-René Ruez); P4299 (Video footage of Orahovac area). See also P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report”, 1 May 2007), pp. 22, 25. Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8478 (testifying that there was a systematic placement of blindfolds around the heads of the bodies, and adding that the strips of material found in Lažete 2 were the same as those found in Lažete 1, which links the two gravesites to a single killing incident).

<sup>17551</sup> P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 9.

<sup>17552</sup> P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001), p. 14.



The evidence suggests that 15 of the victims were killed by gunshot injuries, while the cause of death for the remaining two was undetermined.<sup>17553</sup> Furthermore, approximately 671 shell cases and some bullets were found in or around the grave.<sup>17554</sup> The heavy concentration of shell cases on the east section of the grave indicate that weapons were fired into the area of the grave from the surrounding track.<sup>17555</sup>

5348. As of 13 January 2012, DNA analysis led to the identification of 189 victims from the three sub-gravesites in Lažete 2 as persons listed as missing following the take-over of Srebrenica.<sup>17556</sup> Four of these individuals were those identified by KDZ039 as being in the same TAM truck as him on the way to the execution site.<sup>17557</sup>

iii. Hodžići Road secondary gravesites

5349. There are seven known secondary gravesites along the Hodžići road.<sup>17558</sup> While examination and probing at Hodžići Road 1, 2, 6, and 7 was conducted by a Tribunal team of experts, the exhumation of these gravesites was handed over to the BiH Government and conducted between October 2004 and October 2006.<sup>17559</sup> A Tribunal team of experts, led by Richard Wright, conducted the examination and exhumation of Hodžići Road 3 through 5 in June and July 1998.<sup>17560</sup> The remains from Hodžići Road 3 through 5 were then examined by a team of pathologists under the direction of Christopher Lawrence.<sup>17561</sup>

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<sup>17553</sup> P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001), p. 15; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), pp. 9–10; P4136 (Final Report of Fredy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007), p. 10.

<sup>17554</sup> P4136 (Final Report of Fredy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007), p. 10; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court p. 10.

<sup>17555</sup> See P4136 (Final Report of Fredy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007), p. 10.

<sup>17556</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 3, 9–10, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012) (under seal), e-court pp. 3, 9–10, 41, 113–121. See P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). See also Adjudicated Fact 1786 (referring to the identification of 21 individuals and which is based upon Manning's report as admitted in the *Krstić* case); P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 53, 97. The Chamber notes that the apparent discrepancy between this fact and the evidence admitted in the present case referring to the identification of 189 individuals can be explained by the fact that in 2001—the year in which the *Krstić* Trial Judgement was issued—the identification process of victims was ongoing.

<sup>17557</sup> KDZ039, T. 21927 (24 November 2011); D1945 (Statement of KDZ039 to Tuzla SJB, 21 July 1995), p. 2; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 2; P4996 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009) (under seal), pp. 48, 52, 121, 198; P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010). See also paras. 5328–5329, 5332.

<sup>17558</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 54; Jean René-Ruez, T. 23865 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 262. See also P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 54, 58, 61; P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), pp. 22–23 (noting Hodžići Road 3 was discovered in 1998 by SFOR troops).

<sup>17559</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 21–23; P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), p. 9.

<sup>17560</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), pp. 3, 9; P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 21–23. See also Dean Manning, T. 25836 (6 March 2012).

<sup>17561</sup> P4056 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998", 17 June 1999); P4057 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998", 17 June 1999); P4058 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998", 17 June 1999); Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3978–3980; P4064 (Chart of primary and secondary graves); Christopher Lawrence, T. 22447 (8 December 2011).

5350. The forensic evidence reviewed by the Chamber shows that the majority of victims at Hodžići Road 3, 4, and 5 whose sex could be determined were male.<sup>17562</sup> The majority of the victims were older than 25 years old.<sup>17563</sup> Most of the bodies exhumed presented gunshot injuries.<sup>17564</sup> Furthermore, approximately 90 blindfolds,<sup>17565</sup> and at least one ligature,<sup>17566</sup> were discovered at the three gravesites. No military clothing was found in these gravesites.<sup>17567</sup>

5351. Aerial images show that the Hodžići Road gravesites were created between 7 September and 2 October 1995, which is consistent both with the dates in which the Lažete gravesites were disturbed,<sup>17568</sup> and the dates the bodies were transferred to the Hodžići Road gravesites.<sup>17569</sup> Further, forensic analysis demonstrated that soil native to the two Lažete gravesites was found in the Hodžići Road secondary graves,<sup>17570</sup> blindfolds identical to those found in the two Lažete gravesites and in a “rubbish” site on the grounds of the Orahovac School were found in the Hodžići Road secondary gravesites,<sup>17571</sup> and pieces of a black water hose discovered during the exhumation of the Lažete gravesites were also found in Hodžići Road 5.<sup>17572</sup> These factors jointly lead to the conclusion that

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<sup>17562</sup> P4056 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998”, 17 June 1999), pp. 2, 8; P4057 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998”, 17 June 1999), pp. 2, 7; P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), pp. 2, 8. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 9, 54, 59, 62; Adjudicated Fact 1789.

<sup>17563</sup> P4056 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998”, 17 June 1999), pp. 2, 8; P4057 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998”, 17 June 1999), pp. 2, 7; P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), pp. 2, 8; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 55, 59, 62. *See also* P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), e-court pp. 3–4; P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), p. 8.

<sup>17564</sup> P4056 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998”, 17 June 1999), pp. 2–3, 9, 13–15; P4057 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998”, 17 June 1999), pp. 2–3, 8, 13–15; P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), pp. 2–3, 9–10, 15–16; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 9, 56, 59–60. *See also* Adjudicated Fact 1789.

<sup>17565</sup> P4056 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998”, 17 June 1999), pp. 2, 13; P4057 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998”, 17 June 1999), pp. 2, 11; P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), pp. 2, 13; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 9, 56, 60, 63. *See also* Adjudicated Fact 1789.

<sup>17566</sup> P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), p. 13; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 9, 60. *See also* Adjudicated Fact 1789.

<sup>17567</sup> P4056 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998”, 17 June 1999), pp. 2, 15; P4057 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998”, 17 June 1999), pp. 2, 15; P4058 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998”, 17 June 1999), pp. 2, 16.

<sup>17568</sup> *See* para. 5340.

<sup>17569</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 54, 58, 61; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6. *See also* P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court pp. 47–50; Adjudicated Fact 1788.

<sup>17570</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), pp. 22–23. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 55 (noting that lumps of limestone not native to the area were found in the Hodžići Road 3 grave and appeared to be imported with the bodies), 59 (noting that conspicuous lumps of foreign soil were found with the bodies in the Hodžići Road 5 gravesite); Jose Baraybar, P4029 (Transcript from *Prosecutor v. Krstić*), T. 3878; Adjudicated Fact 1788.

<sup>17571</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 52; Jean-René Ruez, T. 23792 (27 January 2012); P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 7. *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 141–143; Adjudicated Fact 1788.

<sup>17572</sup> P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), pp. 2, 12; Fredy Peccerelli, T. 22756–22758 (11 January 2012); Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8469–8470; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation

bodies from the Lažete 1 and 2 gravesites were removed and reburied at the Hodžići Road secondary gravesites.

5352. Moreover, DNA-based connections between the Lažete gravesites and the seven Hodžići Road secondary gravesites were found.<sup>17573</sup> KDZ039 identified two individuals he saw in the truck on the way from the Orahovac School to the execution site, and who were later identified in one of the Hodžići Road secondary gravesites.<sup>17574</sup>

5353. As of 13 January 2012, DNA analysis led to identification of 533 victims from the Hodžići Road gravesites as persons listed as missing following the take-over of Srebrenica: 90 from Hodžići Road 1; 102 from Hodžići Road 2; 40 from Hodžići Road 3; 69 from Hodžići Road 4; 54 from Hodžići Road 5; 67 from Hodžići Road 6; and 111 from Hodžići Road 7.<sup>17575</sup>

f. Conclusion

5354. For all the reasons discussed above, the Chamber finds that on 14 July 1995, at least two of the Bosnian Muslim men being detained at the Orahovac School were removed from the gymnasium and summarily executed by members of the Bosnian Serb Forces. The Chamber also finds that the remainder of the at least 839<sup>17576</sup> Bosnian Muslim men being detained at the Orahovac School were killed in a field nearby by members of the Bosnian Serb Forces. **(#For the moral reasons, it is difficult to point out the mistakes in counting the victims, because for sure there were some of the recovered from these grave sites had been executed#. But, still, it is not acceptable to allow manipulations with the number of victims, because it was used as a criterion for establishing a genocide in Srebrenica. The main doubt, and some even proofs to the contrary, were present in these cases:**

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report”, 1 May 2007), pp. 2, 12; P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 6; P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), p. 23; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 59. *See also* para. 5338.

<sup>17573</sup> The specific connections are as follows: ten individuals with remains in both Lažete 1 and Hodžići Road 5; nine individuals with remains in both Lažete 2 and Hodžići Road 1; five individuals with remains in both Lažete 2 and Hodžići Road 2; three individuals with remains in both Lažete 2 and Hodžići Road 3; two individuals with remains in both Lažete 2 and Hodžići Road 4; three individuals with remains in both Lažete 2 and Hodžići Road 6; and 19 individuals with remains in both Lažete 2 and Hodžići Road 7. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 48, 82, 84. The Chamber notes Dunjić’s claim that not all bodies from secondary gravesites can be linked to the primary Lažete gravesite despite the DNA and other forensics links between the sites. D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), pp. 22–24; D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 13–18. However, considering the totality of evidence the Chamber accepts Janc’s report and the findings therein.

<sup>17574</sup> KDZ309, T. 21927 (24 November 2011); D1945 (Statement of KDZ039 to Tuzla SJB, 21 July 1995), p. 2; D1947 (Statement of KDZ039 to Tuzla SDB, 25 July 1995), p. 2; P4996 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009) (under seal), pp. 66, 118; P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010).

<sup>17575</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 4, 21–23, 41; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012) (under seal), e-court pp. 4, 21–23, 41, 278–309. *See also* P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

<sup>17576</sup> The Chamber has reached this number by adding the 119 individuals identified from remains in Lažete 1, the 189 individuals identified from remains in the three Lažete 2 sub-gravesites, and the 533 individuals identified from remains in the six Hodžići Road gravesites, and subtracted the two individuals who were killed at the Orahovac School and whose remains may have ended in either of these gravesites. *See* paras. 5343, 5348, 5353.

**1. There was less than a half of bodies with blindfolds and/or ligatures. It couldn't disappear for such a short time.**

**2. A personal belongings were found with at least a half, or more, of number of bodies, valuables, jewellery, golden rings, ID document, which exclude these bodies from the amount of the executed, and proves that it was an old grave site for the combat casualties during the 44 months or the permanent fights! THIS PERTAINS TO THE ALL CASES AND THE GRAVE SITES!**

## 2. Petkovci School and Dam near Petkovci

### a. Introduction

5355. The Indictment refers to the killing on or about 14 July 1995 of some of the approximately 1,000 Bosnian Muslim men detained at Petkovci School.<sup>17577</sup> The Indictment also refers to the killing on or about the evening of 14 July and the morning of 15 July 1995, in an area below the Dam near Petkovci, of the surviving portion of the approximately 1,000 Bosnian Muslim men who were detained at Petkovci School.<sup>17578</sup>

5356. The village of Petkovci is located approximately seven kilometres west from the turn-off on the main Zvornik–Bijeljina road.<sup>17579</sup> Petkovci fell within the area of responsibility of the 6<sup>th</sup> Battalion of the Zvornik Brigade.<sup>17580</sup> The Command of the 6<sup>th</sup> Battalion was stationed in the old school in Petkovci, approximately 600 to 800 metres from the “new” Petkovci School (“Petkovci School”).<sup>17581</sup> The Petkovci Dam is located less than two kilometres from the Petkovci School.<sup>17582</sup>

### b. Detention and killings at the Petkovci School

5357. On the morning of 14 July, Marko Milošević—the Deputy Commander of the 6<sup>th</sup> Battalion—received a phone call from Dragan Jokić—the Duty Officer of the Zvornik Brigade—informing him that Bosnian Muslim detainees would be brought to the Petkovci School and that “security” would be in place.<sup>17583</sup> Captain Ostoja Stanišić, the 6<sup>th</sup> Battalion’s Commander, who was not at the Battalion’s Command at the time, was notified of the call by Milošević later that day.<sup>17584</sup>

5358. In the afternoon, buses and trucks carrying approximately 1,000 Bosnian Muslim males who had been previously detained in various sites in and around Bratunac arrived at the Petkovci School.<sup>17585</sup> As the trucks arrived, they pulled over in the playground in front

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<sup>17577</sup> Indictment, Scheduled Incident E.7.1.

<sup>17578</sup> Indictment, Scheduled Incident E.7.2.

<sup>17579</sup> The turn-off is located about one kilometre north of the Standard Barracks in Karakaj. P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 166; P3187 (Map of Zvornik municipality). *See also* Jean-René Ruez, T. 23813 (30 January 2012).

<sup>17580</sup> P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 7.28.

<sup>17581</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11594–11595, 11606, 11673; P250 (Aerial photograph of Petkovci marked by Ostoja Stanišić) (where the Command of the 6<sup>th</sup> Battalion is marked with number “1” and Petkovci School is marked with number “2”).

<sup>17582</sup> Jean-René Ruez, T. 23813 (30 January 2012); P4091 (Map of Srebrenica and Zvornik); P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 7.28.

<sup>17583</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11600–11601, 11621, 11624.

<sup>17584</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11600–11601, 11603, 11702–11703.

<sup>17585</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1399–1402; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3337; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2961–2964; P4092 (Panoramic photograph of

of the school, where many other empty trucks and buses were also parked.<sup>17586</sup> There, sporadic shooting, as well as cursing and yelling, could be heard.<sup>17587</sup> Some of the detainees were forced to remain inside the truck in front of the school for about one hour in unbearable conditions.<sup>17588</sup>

5359. As the detainees got off the trucks, they were ordered to put their hands behind their heads, to sing Serb nationalistic songs, and to walk one by one down some steps until they reached the front of the building; all the while the soldiers were cursing them.<sup>17589</sup> The detainees were also hit and kicked as they ran towards the building.<sup>17590</sup>

5360. Once inside the school, the detainees were ordered to climb the stairs to the first floor and, as they did so, they were made to repeat after a Bosnian Serb soldier: “[t]his is Serbian land and will always remain so” and “Srebrenica has always been Serbian and will continue to be that.”<sup>17591</sup> The detainees were then ordered to follow a corridor to the left,<sup>17592</sup> and to enter the various classrooms.<sup>17593</sup> KDZ045 was put in “classroom number 3”,<sup>17594</sup> while KDZ069 was placed in one of the last two classrooms.<sup>17595</sup> Other detainees were ordered to enter the classrooms on the ground floor.<sup>17596</sup>

5361. As KDZ045 entered the classroom, he saw two men who were so badly beaten that he initially thought they were dead.<sup>17597</sup> The classrooms became overcrowded, and the conditions inside were very difficult.<sup>17598</sup> The detainees were not allowed to go to the toilet, so almost everyone was soaked with urine.<sup>17599</sup> Despite being very thirsty, the detainees were given very little water.<sup>17600</sup> The rooms were very stuffy and the detainees could not breathe properly, but they were not allowed to open or look out any

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Petkovci school); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 167. *See also* Adjudicated Fact 1790; para. 5316.

<sup>17586</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1401–1402. *See also* KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3337; KDZ045, T. 22636–22637 (10 January 2012); P4097 (Panoramic photograph of Petkovci school marked by KDZ045).

<sup>17587</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2964.

<sup>17588</sup> People were shouting and screaming for water and to be let out. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1402.

<sup>17589</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1402–1404; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2965, 2972; P213 (Photograph of Petkovci school). *See also* KDZ069, P338 (Transcript from *Prosecutor v. Popović et al.*), T. 3390–3391 (under seal); Jean-René Ruez, T. 23813–23814 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 170.

<sup>17590</sup> KDZ045, T. 22637 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2965; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1404–1405; P4097 (Panoramic photograph of Petkovci school marked by KDZ045).

<sup>17591</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1403–1405; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3338; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2965–2966; P214 (Photograph of interior of Petkovci school).

<sup>17592</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1405. *See* Jean-René Ruez, T. 23814–23815 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 173.

<sup>17593</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1405; KDZ045, T. 22638, 22685–22686 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2965–2966, 2973; P4098 (Photograph of interior of Petkovci school marked by KDZ045).

<sup>17594</sup> KDZ045, T. 22638 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2966, 2973, 3000; P4093 (Photograph of interior of Petkovci school); P4098 (Photograph of interior of Petkovci school marked by KDZ045).

<sup>17595</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1405. *See also* KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3338, 3359; P215 (Photograph of interior of Petkovci school).

<sup>17596</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2995, 3001.

<sup>17597</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2966.

<sup>17598</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1406; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2966. *See also* Adjudicated Fact 1791.

<sup>17599</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1406.

<sup>17600</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1406. *See also* KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2967; Adjudicated Fact 1791. The detainees clamoured for water but were ordered to be quiet; two detainees were held responsible for the group and threatened to be killed if the group was noisy; despite this warning, nobody kept quiet. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1407.



windows.<sup>17601</sup> A detainee's attempt to open a window was followed by a burst of gunfire, which broke the glass panes and wounded five or six men.<sup>17602</sup> Further, as one detainee tried to look out the window, he was shot and wounded.<sup>17603</sup>

5362. On occasion, soldiers would barge into the classrooms and would demand money from the detainees, threatening to kill them if a certain sum had not been collected in 15 or 20 minutes.<sup>17604</sup> Some detainees gave the money they had managed to hide before; the soldiers then left.<sup>17605</sup> Soldiers also walked into the classrooms and asked whether any detainees were from certain villages close to Srebrenica; those who raised their hands in reply were ordered out of the classroom and never returned.<sup>17606</sup> The detainees who remained inside heard the sounds of beating and moaning in the hallway.<sup>17607</sup> Further, a relative of KDZ045 who left the classroom in search of water, never returned.<sup>17608</sup> **(Had they been found in a grave sites? If not, this #“never returned” must not be a fact in a criminal case!#)**

5363. Between 6 and 7 p.m., Ostoja Stanišić received a call from Dragan Jokić instructing him to notify Beara that he was to report to his command.<sup>17609</sup> Jokić told Stanišić that Beara would be somewhere around the Petkovci School.<sup>17610</sup> Stanišić sent Marko Milošević on foot to Petkovci School to convey the order to Beara.<sup>17611</sup> Milošević found Beara—who was with Drago Nikolić at the time—at an intersection close to the school, relayed the message, and returned to the Battalion's Command about 30 minutes later.<sup>17612</sup>

5364. Starting at dusk, there was shooting around the Petkovci School.<sup>17613</sup> Soldiers called detainees out the classrooms in groups, after which bursts of gunfire were heard.<sup>17614</sup> This lasted until around midnight.<sup>17615</sup>

5365. At some point after midnight, the detainees were taken out of the classrooms in groups of four, and ordered by soldiers to take off their clothes from the waist up, as well as their shoes and socks, and to empty their pockets.<sup>17616</sup> A pile of clothing, footwear, IDs,

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<sup>17601</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1406–1407; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2966–2967.

<sup>17602</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1407.

<sup>17603</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2967.

<sup>17604</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2966–2967; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1407.

<sup>17605</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1407.

<sup>17606</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1407–1408. See also Adjudicated Fact 1792.

<sup>17607</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1408. See also Adjudicated Fact 1792.

<sup>17608</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2967.

<sup>17609</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11601, 11604, 11658, 11703–11704.

<sup>17610</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11604, 11704. See also P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 45 (an entry for 14 July 1995 in the Zvornik Brigade Duty Officers Notebook dated 15:00 hours noting that “Colonel Beara is coming in order to Orovc Petkovci Ročević Pilica”). The Chamber refers to its assessment of Beara's testimony regarding his whereabouts on 13 and 14 July, as discussed in fn. 17583.

<sup>17611</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11604, 11650.

<sup>17612</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11604–11607, 11650; P271 (Aerial photograph of Petkovci marked by Ostoja Stanišić) (where the intersection is marked with an “X”).

<sup>17613</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1408. See also Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11607, 11609, 11678 (stating that, in the evening of 14 July, he could hear isolated shots and short bursts of gunfire coming from the direction of Petkovci School).

<sup>17614</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1408; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2967–2968.

<sup>17615</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1408. See Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11609 (stating that the shots lasted until approximately 1 a.m.).

<sup>17616</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1408–1409; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2968, 2970.

and documents lay on the corridor's floor.<sup>17617</sup> Soldiers then tied the detainees' hands behind their backs and pushed them into a dark classroom, where other partly undressed men were also tied up.<sup>17618</sup> The detainees were then ordered to exit the school and to get on the back of military trucks.<sup>17619</sup> As the detainees exited the school they saw dead bodies lying in the hallway of the school and outside of the school.<sup>17620</sup>

c. Killings at the Dam near Petkovci

5366. The detainees boarded the trucks until the trucks were full to the point where the detainees could no longer sit, despite being ordered to do so.<sup>17621</sup> Soldiers shot a burst of fire at the detainees' feet, wounding some of them and forcing others to fall on each other.<sup>17622</sup> The trucks left the Petkovci School and drove for approximately ten minutes along an asphalt road; they then continued on a bumpy macadam road until they reached a field next to the Petkovci Dam.<sup>17623</sup> As soon as the trucks stopped, the detainees could hear yelling and bursts of fire close by.<sup>17624</sup>

5367. The Zvornik Brigade vehicle log for two TAM trucks records ten journeys in total on 15 July, between Petkovci and the Petkovci Dam.<sup>17625</sup> The Chamber therefore finds that drivers and trucks from the 6<sup>th</sup> Battalion of the Zvornik Brigade were used to transport the detainees from the Petkovci School to the execution site near the Petkovci Dam.

5368. The detainees were ordered to get off the trucks, five to ten at a time,<sup>17626</sup> while those who remained inside screamed and asked for water.<sup>17627</sup> As KDZ045 disembarked into a field lit by floodlights, he saw that it was covered with dead bodies, their hands bound, and their faces to the ground.<sup>17628</sup> KDZ069 jumped off the truck.<sup>17629</sup> Detainees were ordered to find a spot and to form a row, after which soldiers wearing black

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<sup>17617</sup> KDZ045, T. 22638–22639 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2968; P4098 (Photograph of interior of Petkovci school marked by KDZ045).

<sup>17618</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1409–1410; KDZ045, T. 22639 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2969, 3000; P4098 (Photograph of interior of Petkovci school marked by KDZ045).

<sup>17619</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1415–1416; KDZ045, T. 22686–22687 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2969–2970, 2974, 3000.

<sup>17620</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1415; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3338; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2970.

<sup>17621</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1416; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2970.

<sup>17622</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1416; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2970–2971.

<sup>17623</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1416–1417; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2971, 2974; Jean-René Ruez, T. 23815–23816 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 180, 182. *See also* Adjudicated Fact 1793. Both KDZ045 and KDZ069 identified the field next to the Dam from a photograph shown to them. KDZ045, T. 22639–22640 (10 January 2012); KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3338; P216 (Photograph of Petkovci dam); P4099 (Panoramic photograph of Petkovci dam marked by KDZ045).

<sup>17624</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1417; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2974.

<sup>17625</sup> P196 (Zvornik Military Post vehicle work log, 31 July 1995), e-court p. 3; P197 (Zvornik Military Post vehicle work log, 31 July 1995), e-court p. 2. *See* Adjudicated Fact 1796; Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11613–11614 (stating that the two names recorded on the log belonged to drivers from the 6<sup>th</sup> Battalion), T. 11615 (explaining that the term “Brana” refers to the dam that holds back the red lake), T. 11665–11666. In relation to the TAM 80 truck, Stanišić testified that the truck left for Srebrenica on 15 July in the morning and did not return until 16 July so it was thus impossible for it to also have made the trips to the Petkovci Dam. Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11615–11616, 11659, 11706–11708. The Chamber gives little weight to Stanišić's testimony in this regard given his interest in distancing himself from the events at Petkovci on 15 July 1995.

<sup>17626</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1417; KDZ045, T. 22686–22687 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2974–2975. *See also* Adjudicated Fact 1794.

<sup>17627</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1418. *See also* Adjudicated Fact 1794.

<sup>17628</sup> KDZ045, T. 22639–22640, 22686 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2975, 2984, 2987; P4099 (Panoramic photograph of Petkovci dam marked by KDZ045).

<sup>17629</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1418.

balaclavas covering their faces started shooting at the detainees' backs from a distance of seven to ten metres.<sup>17630</sup> The men fell on top of the bodies of those who had been killed before them.<sup>17631</sup> Both KDZ045 and KDZ069 were wounded and pretended to be dead.<sup>17632</sup> As they lay on the ground, they continued to observe other detainees being killed around them.<sup>17633</sup> KDZ045 drifted in and out of consciousness, as a man had fallen on him and he did not have much air to breath.<sup>17634</sup>

5369. After the shooting of the detainees was completed, the soldiers checked the bodies to make sure the men were indeed dead.<sup>17635</sup> One of the soldiers kicked KDZ045 and presumed him dead.<sup>17636</sup> A soldier shot an injured man lying next to KDZ069 in the head.<sup>17637</sup> Soldiers also made derogatory comments about some of the victims.<sup>17638</sup>

5370. After lying still for hours amongst the dead, KDZ045 and KDZ069 managed to escape the execution site together and reach a nearby ditch.<sup>17639</sup> In the ditch, KDZ045 helped bandage KDZ069's wound with his own T-shirt.<sup>17640</sup> Heavy fire could still be heard.<sup>17641</sup> KDZ045 and KDZ069 stayed in the ditch until dawn; they then decided to leave the area through the nearby forest.<sup>17642</sup> In the evening of 15 July, the two men managed to reach a macadam road which led them to a burned down village; from there KDZ045 saw the ongoing burial operation at the execution site.<sup>17643</sup> The men then headed in the direction of Karakaj, by following the TV transmitter.<sup>17644</sup> They wandered through Bosnian Serb villages for four days, passing unnoticed through the lines of the Bosnian Serb troops, until they reached Bosnian Muslim-held territory on 18 July 1995.<sup>17645</sup>

**#Deadly combination#! Pity, we couldn't question those two "wounded" men to ask**

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- <sup>17630</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1418; KDZ045, T. 22686 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2975–2976.
- <sup>17631</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1418–1419.
- <sup>17632</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1419; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976–2977.
- <sup>17633</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1419; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976–2977.
- <sup>17634</sup> KDZ045, T. 22687 (10 January 2012); KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976–2977.
- <sup>17635</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1419–1420; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976–2977.
- <sup>17636</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2976–2977.
- <sup>17637</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1420. *See also* KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1421; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3336.
- <sup>17638</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1420–1421. *See also* Adjudicated Fact 1795.
- <sup>17639</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1421–1422; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3335; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2977–2979; Jean-René Ruez, T. 23817–23819 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 183; P4300 (Photograph of Petkovci Dam marked by Jean-René Ruez). Both KDZ045 and KDZ069 recognised the ditch where they hid, from a photograph shown to them. KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2987–2988; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3339; P217 (Photograph of ditch); P4095 (Photograph of ditch).
- <sup>17640</sup> KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3335; KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1422; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2979.
- <sup>17641</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2979. **(KDZ045, 92bis, filed, withdrawn???)**
- <sup>17642</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1422–1423; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2979.
- <sup>17643</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2980–2981, 2983–2984, 2987–2988; KDZ045, T. 22687–22688 (10 January 2012). *See also* KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3333; Jean-René Ruez, T. 23818–23820 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 184–185. KDZ069 testified that he was on the ground because of his wounds, so he could not see that well. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1423.
- <sup>17644</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2982.
- <sup>17645</sup> KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1423–1424; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3336; KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2989. Upon reaching Bosnian Muslim-held territory, KDZ069 was taken to a hospital in Sepna but after a day was transferred to the hospital in Tuzla where he was treated for his injuries, which took approximately two to three months to heal. KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1424–1425; KDZ069, P339 (Transcript from *Prosecutor v. Popović et al.*), T. 3339–3340; P223 (Photograph of sole of foot of KDZ069); P224 (Photograph of chest injuries of KDZ069).

them where their wounds were, and how they managed to walk four days through a hostile territory? There is a pattern in the witness statements, which strongly indicate that there had been an education for testimonies. Also, there were the obvious lies, such as a nature of the wounds in the KDZ065 case, which will be described! Also, the same witness disclosed how he was persuaded by the Muslim secret service to testify that he was “executed” at another locality and another time! There is document depicting a completely different wound!)

d. Burials

5371. In the early hours of 15 July, a Caterpillar bulldozer and a ULT 160 loader belonging to the Engineering Company of the Zvornik Brigade collected bodies from the execution site—10 to 15 at a time—and deposited them onto a tractor with a trailer.<sup>17646</sup> When full, the tractor departed in the direction of the Petkovci Dam, returning 15 to 20 minutes later to be refilled.<sup>17647</sup> Throughout this process, floodlights illuminated the execution site.<sup>17648</sup> Shots were also heard during that time.<sup>17649</sup>

5372. Also on that day, pursuant to a request from the Petkovci villagers, Stanišić authorised the use of a TAM truck which belonged to the 6<sup>th</sup> Battalion to assist with the clean up of bodies from Petkovci School.<sup>17650</sup>

5373. Towards the end of September 1995, and as part of the reburial operation to conceal the Srebrenica killings which will be discussed in detail below,<sup>17651</sup> the bodies initially buried at the gravesite adjacent to the Petkovci Dam were reburied in the Liplje secondary gravesites, as demonstrated by the forensic evidence discussed in the paragraphs immediately below.

e. Forensic evidence

i. Primary gravesite

5374. A primary gravesite adjacent to the Petkovci Dam was exhumed between 15 and 25 April 1998, by a Tribunal exhumation team under the direction of Richard Wright.<sup>17652</sup>

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<sup>17646</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2981, 2983–2984; P108 (Extract from Zvornik Brigade Engineering Company logbook, 15 July 1995), p. 1 (recording “work with ULT” and “work with excavator” at Petkovci on 15 July 1995); Adjudicated Fact 1797. See also KDZ069, P339 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 1423. Despite being listed as the duty officer on that day, Damjan Lazarević denied knowing anything about the two entries relating to Petkovci for 15 July 1995 in the Zvornik Brigade Engineering Company Logbook. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14471–14472; P108 (Extract from Zvornik Brigade Engineering Company logbook, 15 July 1995), p. 1. However, the Chamber gives little weight to this, given Lazarević’s interest in distancing himself from the events at Petkovci on 15 July.

<sup>17647</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2981–2982, 3006–3007. See also P4096 (Photograph of Petkovci dam area marked by KDZ045); Jean-René Ruez, T. 23819–23820 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 186; P4301 (Photograph of Petkovci Dam marked by Jean-René Ruez); Adjudicated Fact 1793.

<sup>17648</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2984, 2987.

<sup>17649</sup> KDZ045, P5910 (Transcript from *Prosecutor v. Krstić*), T. 2981–2982.

<sup>17650</sup> Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11610–11613, 11681. See P4563 (Statement by KDZ122), pp. 5–6 (under seal).

<sup>17651</sup> See Section IV.C.1.g.v: Reburial operation.

<sup>17652</sup> Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3638; P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court pp. 8, 20. See Adjudicated Fact 1798. See also P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 10; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 66.

The remains found therein were subsequently examined by a team of pathologists under the direction of Christopher Lawrence.<sup>17653</sup>

5375. Aerial images indicate that the gravesite was first excavated between 5 and 27 July 1995, and that the site was later disturbed between 7 and 27 September 1995.<sup>17654</sup> This gravesite contained grossly disarticulated body parts; the disarticulation was thought to have been caused by the mechanical removal of the bodies during the robbing process.<sup>17655</sup>

5376. Remains of at least 46 individuals were recovered from the gravesite.<sup>17656</sup> Because of the separation of the body parts within the gravesite, 91 body bags were collected.<sup>17657</sup> Due to the substantial damage on the remains and their high degree of decomposition, experts were only able to determine the sex of 15 of the bodies, all of which were male.<sup>17658</sup> While the cause of death for the majority of remains could not be determined, gunshot wounds identified in remains of nine body bags were deemed “sufficient” or “probably sufficient to cause death”.<sup>17659</sup> Further, the analysis of 464 skull fragments and 211 shell casings recovered from the surface of the gravesite, was consistent with a number of individuals being shot in the head.<sup>17660</sup> Finally, one twine ligature was found.<sup>17661</sup>

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<sup>17653</sup> Christopher Lawrence, T. 22446–22447 (8 December 2011); Christopher Lawrence, P4051 (*Transcript from Prosecutor v. Krstić*), T. 3978–3980; P4064 (Chart of primary and secondary graves). See also P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 10; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 66; P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court p. 25.

<sup>17654</sup> Jean-René Ruez, T. 23861 (30 January 2012), T. 23970–23972 (31 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 252; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 65; P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court p. 22. See also D2045 (Aerial image of Petkovci Dam on 7 and 27 September 1995 marked by Jean-René Ruez).

<sup>17655</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court pp. 20–21; Richard Wright, P3999 (*Transcript from Prosecutor v. Krstić*), T. 3653–3656; P4011 (Photograph of exhumation hole); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 66. At the eastern end of the grave, there were traces of a ramp that gave access to the mechanical excavator which was used during the robbing process. P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court p. 21; P4010 (Photograph of exhumation trench).

<sup>17656</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court p. 2.

<sup>17657</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court p. 2.

<sup>17658</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 8. See Christopher Lawrence, T. 22456, 22512 (8 December 2011). See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 10, 66; Adjudicated Fact 1799.

<sup>17659</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 8, 20, 22. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 66–67. The Chamber notes that Dušan Dunjić challenged Lawrence’s findings in his report for this site in relation to the cause of death. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 118–119. Having assessed the totality of evidence on this issue, the Chamber accepts Lawrence’s report and the findings therein.

<sup>17660</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 22; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 10, 66–67; Adjudicated Fact 1799. See also Jean-René Ruez, T. 23822–23824 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 187, 190–193.

<sup>17661</sup> P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 20; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 67; P4507 (Chart of photographs of blindfolds, ligatures, and location); P4509 (Collage of Srebrenica ligatures, 5 March 2012).



5377. As of 13 January 2012, DNA analysis led to the identification of 19 bodies from the gravesite adjacent to the Petkovci Dam as persons listed as missing following the take-over of Srebrenica.<sup>17662</sup>

ii. Liplje secondary gravesites

5378. Four secondary mass gravesites along the Liplje Road—Liplje 1, 2, 3, and 4—were discovered between 1996 and 1998 by a Tribunal team of experts.<sup>17663</sup> A fifth gravesite—Liplje 7—was identified at a later date by the BiHCMP.<sup>17664</sup> Liplje 2 was completely exhumed in August 1995 by a Tribunal team under the direction of Richard Wright.<sup>17665</sup> The remains found at Liplje 2 were then examined by a team of pathologists under the direction of Christopher Lawrence.<sup>17666</sup> While the preliminary examination of Liplje 1, 3, and 4 was conducted by a team of Tribunal experts, the responsibility for exhuming the gravesites—as well as Liplje 7—was that of the BiHCMP.<sup>17667</sup>

5379. The Chamber notes that out of all the secondary gravesites associated with the primary gravesite, it only received forensic evidence in relation to Liplje 2. Liplje 2 was situated approximately 14 kilometres south of the Petkovci Dam.<sup>17668</sup> Aerial images reveal that Liplje 2 was created between 7 September and 2 October 1995.<sup>17669</sup> The forensic evidence reviewed by the Chamber in relation to Liplje 2 shows that all of the bodies where sex could be determined were male.<sup>17670</sup> Only four relatively intact bodies were located at Liplje 2; of these, one had died from gunshot wounds, one from possible gunshot

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<sup>17662</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 3, 10–11, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), Annex D, e-court pp. 129–130 (under seal). *See also* P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010); Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3657; P4013 (Photograph of ID recovered from body pocket); P4014 (Excerpt from ICRC Missing Persons list).

<sup>17663</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 11; Jean-René Ruez, T. 23865–23866 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 264. *See also* P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 24–25.

<sup>17664</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 24.

<sup>17665</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 11; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3658; P4013 (Photograph of ID recovered from body pocket); P4015 (Photograph of exhumation trench at Liplje 2 site). *See also* P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 70; P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 24; P4020 (Diagram of graves LP 2 and ZJ 5).

<sup>17666</sup> Christopher Lawrence, T. 22446–22447 (8 December 2011); P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998", 17 June 1999), p. 35; Christopher Lawrence, P4051 (*Transcript from Prosecutor v. Krstić*), T. 3978–3980; P4064 (Chart of primary and secondary graves). *See also* P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 70.

<sup>17667</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 11; P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 24–25. *Cf.* D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 102–116.

<sup>17668</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 21; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 10, 65.

<sup>17669</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 69; P4512 (Photograph booklet entitled "Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery"), e-court pp. 57–58 (aerial images showing emergence of disturbed earth at Liplje 1 and 2 between 7 September and 2 October 1995), e-court p. 59 (aerial image showing emergence of disturbed earth at Liplje 3 on or before 2 October 1995), e-court pp. 60–61 (aerial images showing emergence of disturbed earth at Liplje 4 between 7 September and 2 October 1995); Adjudicated Fact 1802.

<sup>17670</sup> P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court pp. 2, 10. *See* Adjudicated Fact 1804. *See also* P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 10, 70.

wounds, and two had an undetermined cause of death.<sup>17671</sup> While the extensive post mortem tampering with the bodies and the normal process of decomposition precluded the experts from being able to provide a cause of death for the remaining body parts analysed,<sup>17672</sup> injuries in some body parts were consistent with gunshot wounds.<sup>17673</sup> Further, while no definite blindfolds were located, 23 ligatures were found.<sup>17674</sup>  
**(Certainly, #many of them hadn't been executed!#)**

5380. Forensic analysis showed that the bodies removed from the gravesite adjacent to the Petkovci Dam were reburied at Liplje 2.<sup>17675</sup> Specifically, the gravesite contained unweathered limestone boulders and lumps of green clay, which were characteristic of the robbed gravesite adjacent to the Petkovci Dam.<sup>17676</sup> Further, a twine ligature found in Liplje 2 was similar to another found at the gravesite adjacent to the Petkovci Dam.<sup>17677</sup> Moreover, DNA-based connections were found between the gravesite adjacent to the Petkovci Dam and the five Liplje secondary gravesites.<sup>17678</sup> DNA-based connections were also found between the various Liplje secondary gravesites themselves.<sup>17679</sup>

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<sup>17671</sup> P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court pp. 2, 8; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 10, 70.

<sup>17672</sup> P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court pp. 2, 10, 20.

<sup>17673</sup> P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court pp. 2-3, 12, 20-21; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 70-71. The Chamber notes Dušan Dunjić's extensive challenges to the pathology report for the Liplje 4 gravesite with respect to the findings therein in relation to the cause of death. See D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 103-125. The Chamber first notes that the original pathology report for Liplje 4 is not in evidence. In any event, while it may have been impossible to determine with certainty the cause of death for each of the remains retrieved from Liplje 4 due to their high degree of decomposition, the Chamber is satisfied that the remains therein had been moved from the gravesite adjacent to the Petkovci Dam. See P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 49, 82, 84. See para. 5512. Therefore the Chamber is satisfied that the remains retrieved from Liplje 4 are linked to this Scheduled Incident and to the events described in this section.

<sup>17674</sup> P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court pp. 2, 16-17; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 10; P4506 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodzici Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5"), e-court pp. 209-232; P4507 (Chart of photographs of blindfolds, ligatures, and location); P4509 (Collage of Srebrenica ligatures, 5 March 2012). See also Adjudicated Fact 1806.

<sup>17675</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court p. 1; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 10, 65. See also Adjudicated Fact 1800.

<sup>17676</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 21, 25, 166; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3658-3659.

<sup>17677</sup> P4053 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from the Dam Site June 1998", 17 June 1999), e-court pp. 2, 20-21; P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"), e-court p. 17; Jean-René Ruez, T. 23821 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 188-189; P4506 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 2: Lazete 2, Hodzici Road 3, 4 and 5, Petkovci Dam, Liplje 2, Cerska and Zeleni Jadar 5"), pp. 205-206.

<sup>17678</sup> The specific connections are as follows: four individuals with remains in both the Petkovci Dam and Liplje 1; five individuals with remains in both the Petkovci Dam and Liplje 2; four individuals with remains in both the Petkovci Dam and Liplje 3; 15 individuals with remains in both the Petkovci Dam and Liplje 4; and 7 individuals with remains in both the Petkovci Dam and Liplje 7. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 49, 82, 84. The Chamber notes Dunjić's claim that there is no evidence that all bodies from the Liplje gravesites are connected to the killings at the Petkovci Dam. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 117. Having considered the totality of evidence, the Chamber accepts Janc's report and the findings therein, and finds that the bodies from the Liplje gravesites are linked to this Scheduled Incident and to the events described in this section.

<sup>17679</sup> The specific connections are as follows: 11 individuals with remains in both Liplje 1 and Liplje 2; 12 individuals with remains in both Liplje 1 and Liplje 3; two individuals with remains in both Liplje 1 and Liplje 4; one individual with remains in both Liplje 2 and Liplje 4; 12 individuals with remains in both Liplje 2 and Liplje 7; 13 individuals with remains in both Liplje 3 and Liplje 4; and one individual with remains in both Liplje 4 and Liplje 7. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 49, 82, 84.

5381. As of 13 January 2012, DNA analysis led to the identification of 796 victims from the Liplje gravesites as persons listed as missing following the take-over of Srebrenica: 159 in Liplje 1; 175 in Liplje 2; 57 in Liplje 3; 289 in Liplje 4, and 116 in Liplje 7.<sup>17680</sup>

f. Conclusion

5382. For all these reasons, the Chamber finds that, on 14 and 15 July 1995, at least 815 Bosnian Muslim men detained at the Petkovci School were killed by the Bosnian Serb Forces. Some were summarily executed by members of the Bosnian Serb Forces while being detained at Petkovci School. The rest were killed in a field nearby the Petkovci Dam.

3. Ročević School and Drina River near Kozluk

a. Introduction

5383. The Indictment refers to the killing on or about 14 or 15 July 1995 at Ročević School of some of the approximately 1,000 Bosnian Muslim men detained therein.<sup>17681</sup> The Indictment also refers to the killing on 15 July 1995 of the surviving portion of the approximately 1,000 Bosnian Muslim men who had been detained at Ročević School, at a site on the bank of the Drina River near Kozluk.<sup>17682</sup>

5384. The village of Kozluk is located off the western bank of the Drina River, less than ten kilometres north of Karakaj along the main Zvornik–Bijeljina Road.<sup>17683</sup> The Ročević School is situated just off the main Zvornik–Bijeljina Road, in the village of Ročević, approximately seven kilometres further north from Kozluk.<sup>17684</sup> In 1995, the Command of the 2<sup>nd</sup> Battalion of the Zvornik Brigade was located in Malešić, approximately 15 kilometres from Ročević.<sup>17685</sup>

b. Detention and killings at the Ročević School

5385. On 14 July 1995, buses carrying Bosnian Muslim males who had been previously detained in various sites in and around Bratunac, arrived at the Ročević School.<sup>17686</sup> When

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<sup>17680</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 4, 24–25, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), Annex D, e-court pp. 310–353 (under seal). See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

<sup>17681</sup> Indictment, Scheduled Incident E.8.1.

<sup>17682</sup> Indictment, Scheduled Incident E.8.2.

<sup>17683</sup> P3187 (Map of Zvornik municipality); P4308 (Book of photographs and maps prepared by Jean-René Ruez, (22 June 2009), e-court pp. 195, 198. See also Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6661–6662 (referring to Kozluk as a settlement).

<sup>17684</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12997; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17950; Jean-René Ruez, T. 23826 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 198.

<sup>17685</sup> 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, 18180; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13362.

<sup>17686</sup> See D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 41, 52; Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17948–17951, 17998.

Popović arrived at the school in the afternoon, he found Bosnian Muslim detainees inside the school's gymnasium.<sup>17687</sup>

5386. On the evening of 14 July,<sup>17688</sup> five to seven members of the Bratunac Brigade MP set off from Bratunac towards Ročević School.<sup>17689</sup> Upon arriving, they encountered other members of the Bratunac Brigade<sup>17690</sup> who had been tasked with guarding the Bosnian Muslims detained inside the school building and the adjacent gymnasium.<sup>17691</sup>

5387. Between 8 and 9 p.m. on 14 July,<sup>17692</sup> Srećko Aćimović—the Commander of the Zvornik Brigade's 2<sup>nd</sup> Battalion<sup>17693</sup>—was informed by the priest and the president of the Ročević local commune that detainees were being held at the Ročević School and were being killed.<sup>17694</sup> Aćimović headed to the school immediately and, upon entering the school yard, heard detainees inside the gymnasium screaming for water and asking to go to the bathroom.<sup>17695</sup> Aćimović also encountered soldiers unknown to him behaving erratically, seemingly under the influence of narcotics or alcohol.<sup>17696</sup> Aćimović left

<sup>17687</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 52. The Chamber also received evidence that Beara visited the various sites in Zvornik where Bosnian Muslims were being detained on 14 July. See P4563 (Statement by KDZ122), p. 2 (under seal) (referring to the presence of Beara in Zvornik on 14 July 1995); P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 45 (an entry for 14 July 1995 at 15:00 hours noting that “Colonel Beara is coming in order to Orovoc Petković Ročević Pilica”). The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July discussed in fn. 17583.

<sup>17688</sup> Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17948, 17998–17999. Janjić testified that he was not sure whether he left for Zvornik on 14 or 15 July 1995. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17948, 17961, 17990–17991. However, in light of the evidence described below showing that the Bosnian Muslim detainees had already been transported to the execution site and subsequently killed by the evening of 15 July, the Chamber considers that he and his colleagues went to Ročević on 14 July 1995. See paras. 5313, 5316.

<sup>17689</sup> Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17948–17949, 17997. See Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9756.

<sup>17690</sup> Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17951–17952, 17954. Janjić testified that upon arriving at Ročević School he saw a group of between 10 to 15 soldiers who were members of the “Zenica company”, which was part of the Bratunac Brigade. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17951. These men were members of both the 1<sup>st</sup> and the 2<sup>nd</sup> Battalions of the Bratunac Brigade, but they were referred to as “the Zenica people” because they had come from Zenica in 1992. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17952. Janjić testified that Mirko Janković was also present at Ročević School. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17951, 17968. See Momir Nikolić, T. 24570–24571 (13 February 2012). See also Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18053, 18083 (referring to the presence of members of the MP at Ročević School on 15 July, who did not belong to the Zvornik Brigade, but who might have been part of the Bratunac Brigade).

<sup>17691</sup> Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17953–17955. See KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6461. The members of the Bratunac Brigade MP left in the direction of Bratunac less than half an hour after first arriving at Ročević School, leaving the other soldiers behind. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17955–17956, 17998–17999. Janković also left around the same time in an unknown direction, driving a UN APC. Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17956, 17989–17990.

<sup>17692</sup> Aćimović testified that he was not certain that the events described took place on 14 July but that it was mid-July. Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13123–13124. However, in light of the totality of Aćimović’s evidence and the timeline of the events described by other witnesses in relation to this killing incident, the Chamber considers that it was indeed 14 July 1995. The Chamber admitted Aćimović’s prior testimony in the *Popović et al.* case pursuant to Rule 92 bis. The Chamber has analysed Aćimović’s testimony in its totality and in the context of other evidence before it. While the Chamber found internal inconsistencies within Aćimović’s testimony, as well as between portions of his testimony and other evidence before it, see e.g. fns. 18343, 18367, these inconsistencies, in the Chamber’s view, arise from his efforts to downplay his own responsibility and involvement in the events at Ročević on 14 and 15 July 1995. The Chamber also finds that Aćimović was not always forthright in his account of events, but this also arises from his efforts to downplay his own responsibility and involvement in the events described in the following paragraphs. The Chamber has taken all of this into consideration and has decided to rely on the uncontested aspects of Aćimović’s evidence, as well as on aspects which are corroborated by other accepted evidence, as it has found such evidence to be reliable and of probative value.

<sup>17693</sup> 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.

<sup>17694</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12934–12935, 12941. But see Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13366, 13389 (stating that Aćimović had told him that he had learned about the detainees being held at Ročević from his parents). KDZ446 testified that one day, while on a trip to Ročević in mid-July 1995, he saw the school’s playground full of buses as well as soldiers; KDZ446 heard bursts of fire and was told by the locals that they were killing people from Srebrenica. KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21040, 21091.

<sup>17695</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12935–12937, 13006.

<sup>17696</sup> Aćimović tried to communicate with the soldiers in order to obtain information but they refused to talk and a rifle was pointed at him. Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12936. See also Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13033 (testifying that he heard that these were guards from Bratunac and Višegrad but acknowledging that he had not heard this from a reliable source); Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13366–13367, 13391.

approximately half an hour later to inform the Zvornik Brigade about the situation at Ročević School.<sup>17697</sup>

5388. Sometime between 1 and 2 a.m. on 15 July, an encrypted telegram from the Zvornik Brigade Command was received over the phone, with the order to dispatch a platoon of soldiers from the 2<sup>nd</sup> Battalion to the Ročević School “for the execution of the prisoners”.<sup>17698</sup> Once the telegram had been decoded, Aćimović discussed it with two close associates in the 2<sup>nd</sup> Battalion, namely Vujo Lazarević—the Assistant Battalion Commander for Morale and Religious Affairs—and Mitar Lazarević—the Officer for General Services—, and together decided that no personnel would be assigned to the task.<sup>17699</sup> He then sent a response telegram to the Zvornik Brigade, indicating that the 2<sup>nd</sup> Battalion did not have any personnel available to execute the detainees.<sup>17700</sup>

5389. According to Aćimović, a second telegram was received with the same content approximately 45 minutes to an hour later.<sup>17701</sup> Aćimović again consulted with his associates, Vujo and Mitar Lazarević, and decided to disobey the order, sending yet another response telegram to the Zvornik Brigade.<sup>17702</sup> Approximately ten minutes later, at around 2.30 a.m., Aćimović received a phone call from Drago Nikolić telling him that the order “had come from above” and that it had to be carried out.<sup>17703</sup> Aćimović refused, yet again, to assign the task to anyone.<sup>17704</sup> Nikolić insisted that Aćimović was to dispatch his men by 7 a.m., around which time they would speak again.<sup>17705</sup> Around 7 or 8 a.m., Drago Nikolić called again and asked Aćimović whether the order had been executed,<sup>17706</sup> adding that, if Aćimović was unable to put a group of men together, Aćimović and his associates should carry out the executions themselves.<sup>17707</sup> Aćimović was then ordered by an angry Drago Nikolić to meet him at the Ročević School at 9 or 10 a.m.<sup>17708</sup>

5390. Aćimović drove to the Ročević School between 9 and 10 a.m. but Drago Nikolić was not there.<sup>17709</sup> Between 15 and 20 VRS MP soldiers were in front of the gymnasium

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<sup>17697</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12937. See also Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12937, 12939–12940, 12943, 13007–13009, 13013–13017, 13139–13140; Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13136 (under seal); Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13372–13373, 13388.

<sup>17698</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12944–12946; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13374–13375, 13386.

<sup>17699</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12943, 12946, 12995, 13011, 13020–13021, 13052, 13122; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13358–13359, 13362, 13375–13376; Mitar Lazarević, P362 (Transcript from *Prosecutor v. Popović et al.*), T. 13420 (under seal). See also Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18180.

<sup>17700</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12943, 12946–12947, 13011; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13376–13377, 13406–13407.

<sup>17701</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12947–12948.

<sup>17702</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12948–12949, 13122. Mitar Lazarević testified that only one telegram was received from the Zvornik Brigade and only one response refusing to allocate personnel from the 2<sup>nd</sup> Battalion was sent back. Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13405. The Chamber notes the conflicting evidence between Aćimović and Mitar Lazarević in this regard but finds that these inconsistencies are not sufficient to cast doubt upon the existence of instructions originating from the Zvornik Brigade.

<sup>17703</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12949–12950, 13046. See also Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13048–13049. Aćimović testified that Vujo and Mitar Lazarević were present when the discussion with Drago Nikolić took place. Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13123.

<sup>17704</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12949–12951. See also Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13377–13378, 13387–13388, 13392 (testifying that after the reply telegram was sent, he heard Aćimović cursing and quarrelling with an unknown person over the phone).

<sup>17705</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12951.

<sup>17706</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12951–12952.

<sup>17707</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12952–12956.

<sup>17708</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12952–12954.

<sup>17709</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12957–12958, 13050; Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13022 (under seal); Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13379. See also Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18051–18052, 18089 (stating that he drove Aćimović to Ročević School in the morning of 15 July, arriving between 10 a.m. and noon).



and behind the school.<sup>17710</sup> Aćimović also saw at least a dozen bodies lying on the ground.<sup>17711</sup> Aćimović met Popović in front of the school, and together they walked to an office inside the school.<sup>17712</sup> Popović shouted at Aćimović, asking why he had not brought any soldiers as ordered.<sup>17713</sup> Popović continued putting pressure on Aćimović to get men, and threatened that he would be held responsible for not following the order.<sup>17714</sup> Popović then called the Zvornik Brigade Duty Officer and asked that vehicles, as well as either Trbić or Jasikovac, be sent to Ročević urgently.<sup>17715</sup>

5391. Veljko Ivanović—a driver for the 2<sup>nd</sup> Battalion<sup>17716</sup>—was ordered by Mitar Lazarević to be on duty and to work out of the Standard Barracks for as long as necessary after the fall of Srebrenica.<sup>17717</sup> At around 11:15 a.m. on 15 July, while at the Standard Barracks, an order from Aćimović was conveyed to Ivanović to take three crates of ammunition for automatic rifles to Ročević School.<sup>17718</sup> Ivanović set out towards Ročević driving a Mercedes T 170 belonging to the 2<sup>nd</sup> Battalion, and arrived soon after.<sup>17719</sup> According to Aćimović, Popović became angry when only a single truck arrived.<sup>17720</sup> Popović then stated that the detainees would have to be killed “somewhere nearby, near the school, and that they should all be killed in Ročević”.<sup>17721</sup> He ordered Aćimović to call the drivers of six or seven civilian trucks and to bring them to the school.<sup>17722</sup> Fifteen to 20 minutes later, when Djoko Nikolić—another driver for the 2<sup>nd</sup> Battalion—arrived in a TAM 2001 truck which could only accommodate about 15 people, Popović again became upset.<sup>17723</sup> According to Aćimović, Dragan Jović—a member of the 2<sup>nd</sup> Battalion who was present at the school at the time—then offered to secure another vehicle.<sup>17724</sup> Jović testified, however, that it was Aćimović who ordered him to find volunteers to execute the

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<sup>17710</sup> Jović testified that these men were not part of the Zvornik Brigade, but heard that they were part of the Bratunac Brigade. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18053, 18083.

<sup>17711</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12958. See also Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18183 (under seal); KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32713–32714; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13390.

<sup>17712</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12957–12958. See also Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13121 (under seal). The Chamber notes that Popović denied being at Ročević School in the morning of 15 July, and claimed instead that he first went to Dragaševac and later to Šekovići. See D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 58–59; Vujadin Popović, T. 43071–43073 (6 November 2013). However, in light of the totality of evidence before it, the Chamber does not find Popović’s alibi credible, and concludes that Popović was in fact present at Ročević School on 15 July.

<sup>17713</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12958–12960, 12964–12965.

<sup>17714</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12958–12960, 12964–12966; Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13117 (under seal).

<sup>17715</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12965–12966, 12986–12988. See also P4563 (Statement by KDZ122), p. 3 (under seal).

<sup>17716</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18174–18175.

<sup>17717</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18175–18176.

<sup>17718</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18176–18179. Ivanović received this order from a man named Panto Pantić, the head of the transport pool at the Standard Barracks. Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18177–18178.

<sup>17719</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18175, 18177; P110 (Zvornik Brigade vehicle log 1-31 July 1995), p. 1 (stating that the drivers of the Mercedes truck were Veljko Ivanović and Vukašin Perić). See also Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13380; Mitar Lazarević, P362 (Transcript from *Prosecutor v. Popović et al.*), T. 13380 (under seal); Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18058.

<sup>17720</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12967–12968, 12983 (under seal).

<sup>17721</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12968–12969 (under seal).

<sup>17722</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12969 (under seal). Aćimović testified that he played some tricks in order not to be able to get in touch with those drivers, and lied to Popović, telling him that the drivers were not available at the time. Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12969 (under seal); Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13104–13105.

<sup>17723</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12970, 12972, 12981, 12985 (under seal).

<sup>17724</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12972, 13094, 13112, 13115–13117 (under seal). See also Mitar Lazarević, P362 (Transcript from *Prosecutor v. Popović et al.*), T. 13380–13381 (under seal).

detainees, and to fetch a civilian truck.<sup>17725</sup> Aćimović went to the schoolyard to see whether he could find anybody willing to take part in the killings.<sup>17726</sup>

5392. At around 11 a.m. Jasikovac arrived at the Ročević School together with other members of the Zvornik Brigade MP.<sup>17727</sup> Other members of the Zvornik Brigade were also present at the school.<sup>17728</sup> Jasikovac ordered his men to secure the facility and the detainees held there.<sup>17729</sup> Some members of the Zvornik Brigade MP were also ordered to secure the entrance of the school in order to prevent angry Bosnian Serb civilians threatening to harm the detainees from approaching them.<sup>17730</sup> By this time, approximately 1,000 detainees were being held at the school, and a couple of bodies of Bosnian Muslim detainees could still be seen lying outside.<sup>17731</sup>

5393. Around noon on 15 July 1995, KDZ496—who was 15 years old at the time and was wearing civilian clothes<sup>17732</sup>—went towards the asphalt road near his home in Zvornik municipality; there, he encountered a member of the 2<sup>nd</sup> Battalion who told him to go with him by car to Ročević where Bosnian Muslim men were being held prisoners.<sup>17733</sup> KDZ496 arrived at the Ročević School between 12 and 1 p.m.,<sup>17734</sup> was brought before Popović and Aćimović by one of the soldiers guarding the detainees, and presented himself as a volunteer to participate in the executions.<sup>17735</sup>

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<sup>17725</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18056–18057, 18060–18061, 18083–18084. Jović further added that Aćimović had accompanied him to get the civilian truck after Jović was first unsuccessful. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18061, 18083.

<sup>17726</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12960–12961. The Chamber notes that it received conflicting evidence from Aćimović and Jović as to their participation in securing volunteers to carry out the killings, as well as the trucks and additional drivers. See Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12969, 13120–13121 (under seal); Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13105; Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18056–18057, 18060–18061, 18083–18084. The Chamber considers that these inconsistencies are largely due to both Jović and Aćimović's interest in distancing themselves from the events at Ročević on 15 July 1995, and in minimising their own contributions to such events. While the specific role played by Aćimović and Jović is secondary to the events surrounding this Scheduled Incident in light of the case against the Accused, the Chamber finds that both Aćimović and Jović were involved, in one way or another, in securing vehicles and/or volunteers. This involvement has warranted the Chamber's more cautious approach to both witnesses' testimony on other points.

<sup>17727</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6460–6461, 6487–6488; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6460, 6489 (under seal); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11047, 11053–11054 (testifying that he drove Jasikovac to Ročević on 15 July). *But see* Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13091 (testifying that he did not see Jasikovac at Ročević School, but assuming Jasikovac must have arrived after he had left). See Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11028 (testifying that he drove an Opel Rekord); P173 (Zvornik Brigade vehicle log, 1–31 July 1995), pp. 3–4 (where an *Opel Record* is recorded as being used by Milorad Birčaković on 15 July 1995, and used on five journeys from Karakaj to Ročević, carrying four passengers); P4948 (Zvornik Brigade Military Police attendance roster, July 1995). The Prosecution claims that the Zvornik Brigade MP attendance roster for 15 July 1995 was altered to conceal the presence and involvement of MPs in the murder operation at Ročević School. See Prosecution Final Brief, Appendix D, confidential, fn. 499. The Chamber has found that the attendance roster was altered to conceal the presence of members of the Zvornik Brigade's MP Company at Orahovac on 14 July 1995. See fn. 18055. The Chamber is equally satisfied that efforts were made to conceal the presence of the unit at Ročević School on 15 July 1995.

<sup>17728</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6462, 6487–6488; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11047–11049. See also KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32704 (under seal); KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32743–32744.

<sup>17729</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6461; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6462–6463 (under seal). See also Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11137.

<sup>17730</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6461–6463, 6487.

<sup>17731</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6461–6462; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6479 (under seal). See also Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18183 (under seal).

<sup>17732</sup> KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32699, 32702, 32723 (under seal).

<sup>17733</sup> KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32701; KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32747–32750 (under seal).

<sup>17734</sup> KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32701, 32704.

<sup>17735</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 12971, 13118 (under seal); Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 13093.

5394. Aćimović ordered Ivanović and Jović to transport the detainees to the execution site near Kozluk,<sup>17736</sup> and left soon after.<sup>17737</sup> Ivanović, Djoko Nikolić, and Jović were left behind.<sup>17738</sup>

c. The killings at the Drina River near Kozluk

5395. The transportation of the detainees from the Ročević School by members of the 2<sup>nd</sup> Battalion—including Jović, Ivanović, Djoko Nikolić, and at least two other soldiers—began at around 2 or 3 p.m., and continued over the course of the afternoon.<sup>17739</sup>

5395. Aćimović ordered Ivanović to reverse the Mercedes T 170 truck close to the door of the school, and planks were placed to serve as a ramp.<sup>17740</sup> The three crates of ammunition that Ivanović had brought earlier from the Standard Barracks were placed inside a passenger vehicle.<sup>17741</sup> The loading of Bosnian Muslim detainees from the school onto the Mercedes truck then began.<sup>17742</sup> The first group of detainees were blindfolded, with their hands and legs bound, but as they were unable to walk along the narrow planks, the ligatures and blindfolds were ultimately removed.<sup>17743</sup> During the whole process, the detainees appeared “half dead” and exhausted; none of them pleaded for their lives.<sup>17744</sup>

5396. Once the loading of the first batch of detainees was completed, Ivanović and Jović set off in the direction of the execution site,<sup>17745</sup> which was adjacent to the Drina River near the village of Kozluk, less than four kilometres away from Ročević School.<sup>17746</sup> KDZ496 and three to four members of the MP—all of them armed—were also at the back of the

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<sup>17736</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18058–18059; Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18177–18178. *But see* Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13109–13110 (under seal); Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12988–12989, 13106–13108 (stating that he did not give the order for the transportation of detainees, and adding that when he left the school he did not know whether the boarding and loading of detainees had begun). *See fn.* 18333.

<sup>17737</sup> Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12988–12989. *See also* Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović*, Case No. IT-05-88), T. 18178; Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18219–18220 (under seal).

<sup>17738</sup> Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13109–13110 (under seal).

<sup>17739</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18059, 18061–18063; Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18181, 18218 (under seal). *See also* KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6464; KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32701, 32704, 32707, 32743. *But see* Srećko Aćimović, P342 (Transcript from *Prosecutor v. Popović et al.*), T. 13118–13119 (under seal). Jović testified that he transported detainees from Ročević to Kozluk two or three times with a truck that could carry approximately ten detainees. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18061–18062. Ivanović also drove between three and four more times from Ročević School to Kozluk and back. Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18191 (under seal).

<sup>17740</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18177. *See also* Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18058.

<sup>17741</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18182, 18200–18201 (under seal).

<sup>17742</sup> Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18177; Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18182 (under seal). *See also* KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6464.

<sup>17743</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18182 (under seal). *But see* KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32707, 32741 (stating that the detainees may have been tied up but were not blindfolded).

<sup>17744</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18218 (under seal).

<sup>17745</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18058–18060, 18082–18083; Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18182 (under seal); Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18178. Jović testified that, while Ivanović was driving the truck, he was not familiar with the site at Kozluk, thus Jović was ordered to travel with him to show him the location. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18058. *But see* KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32705–32706 (under seal) (stating that the person driving the truck was Jović).

<sup>17746</sup> Jean-René Ruez, T. 23824, 23826 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 198–199. *See also* Robert Block, T. 24932–24934 (21 February 2012); P4406 (Map of Kozluk and Branjevo area marked by Robert Block); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 72. The Kozluk execution site was located within the area of responsibility of the Zvornik Brigade. P4914 (Richard Butler’s expert report entitled “Srebrenica Military Narrative (Revised): Operation ‘Krivaja 95’”, 1 November 2002), para. 7.53. *See also* Adjudicated Fact 1810.

truck.<sup>17747</sup> The trucks travelled six kilometres from the school to Kozluk and a further three kilometres to the execution site on a very poorly maintained road.<sup>17748</sup> The trip between Ročević and Kozluk took approximately 20 minutes.<sup>17749</sup>

5397. The trucks progressed as close as possible to the execution site and then reversed into a pre-dug hole.<sup>17750</sup> The detainees were then ordered to jump off the truck and into the hole.<sup>17751</sup> Shooters formed two parallel lines on each side of the hole.<sup>17752</sup> All of the shooters wore multi-coloured uniforms and balaclavas, while some also wore white belts.<sup>17753</sup> The detainees were shot from both sides as they exited the truck into the pit.<sup>17754</sup> The shooting was carried out in a disorganised and confused fashion to the point that it appeared as if the shooters might end up shooting each other.<sup>17755</sup> Wounded detainees tried to flee by going into the Drina River and grabbing the shrubbery, all the while coming under fire.<sup>17756</sup> A young boy begged for his life to be spared, but was nevertheless killed.<sup>17757</sup>

5398. Once the detainees held inside the school had been taken to the execution site, the loading of the detainees held at the gymnasium began.<sup>17758</sup> By this point, additional members of the VRS, including the MP, had arrived at the execution site at Kozluk.<sup>17759</sup> By dusk, all the detainees had been transported from the Ročević School to the killing site.<sup>17760</sup>

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<sup>17747</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18059–18060, 18083; KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32701–32702; KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32705–32706, 32708 (under seal). Jović testified that these soldiers had assisted in guarding detainees at the school that day but he did not know which unit they belonged to. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18083.

<sup>17748</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18059, 18061.

<sup>17749</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6464.

<sup>17750</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18059–18060, 18067; KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32701–32702, 32707, 32713.

<sup>17751</sup> KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32707, 32713, 32724–32725.

<sup>17752</sup> KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32707. KDZ496 testified that there were between 30 to 50 uniformed men on either side of the hole. KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32707, 32756. *But see* Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18190 (under seal) (stating that there were up to eight soldiers at Kozluk).

<sup>17753</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18191, 18195 (under seal); KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32761–32762 (under seal); KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32710–32711. According to KDZ496, the soldiers were members of the MP but not from the area. KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32762 (under seal); KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32710–32711, 32743–32744. Jović testified that the soldiers unloading the detainees from the trucks were members of the MP who had previously guarded the detainees at Ročević School. Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18060. Ivanović testified that there were up to eight men who he believed belonged to the 6<sup>th</sup> Battalion. Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18190–18191, 18193, 18195 (under seal).

<sup>17754</sup> KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32702, 32707. *See also* Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18190 (under seal).

<sup>17755</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18222–18224 (under seal). *See* KDZ496, P386 (Transcript from *Prosecutor v. Popović et al.*), T. 32702, 32708–32709, 32727, 32764 (under seal).

<sup>17756</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18189, 18224 (under seal). *See also* Robert Block, T. 24927, 24932–24933 (21 February 2012); P4406 (Map of Kozluk and Branjevo area marked by Robert Block) (referring to locals having told him about the presence of bodies floating down the river around 17 July 1995). *But see* KDZ496, P387 (Transcript from *Prosecutor v. Popović et al.*), T. 32713 (testifying that the hole was very deep, making it impossible for detainees to climb back out and escape). As stated in fn. 17638, Rešid Sinanović survived the execution at Kozluk by jumping into the Drina River, but his remains were later found at the Čančari Road 4 gravesite, which was linked to the Branjevo Military Farm primary gravesite. *See* Robert Block, T. 24932–24936 (21 February 2012). *See also* para. 5461.

<sup>17757</sup> Ivanović explained that although the boy was taken off his truck, he had later learned that the boy had also been killed. Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18190 (under seal).

<sup>17758</sup> Veljko Ivanović, P383 (Transcript from *Prosecutor v. Popović et al.*), T. 18182 (under seal).

<sup>17759</sup> Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18065, 18084.

<sup>17760</sup> KDZ407, P379 (Transcript from *Prosecutor v. Popović et al.*), T. 6465, 6490; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6465 (under seal). *See* Dragan Jović, P365 (Transcript from *Prosecutor v. Popović et al.*), T. 18063 (stating that he transported detainees from 2 or 3 p.m. until 6 or 7 p.m.) *But see* Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18176, 18179 (testifying that he arrived at Ročević School at around 11 a.m., and that the transportation to the execution site began some time after this and concluded by 2:30 or 3 p.m.).

d. Burials

5399. On the morning of 16 July, Damjan Lazarević was ordered by either Bogičević or Vojkan Sekonjić—the Engineering Company’s desk officer<sup>17761</sup>—to go to Kozluk to bury the people who had been executed at that location.<sup>17762</sup> Miloš Mitrović—another member of the Engineering Company—was also ordered to take a small skip excavator to the execution site.<sup>17763</sup>

5400. Lazarević arrived at the execution site at approximately 8 a.m.<sup>17764</sup> He was driven in a TAM 75 truck until the truck could go no further; thereafter he continued on foot.<sup>17765</sup> Upon arriving, there was a strong stench emanating from the bodies decomposing in gravel pits, approximately 20 to 30 metres away from the Drina River.<sup>17766</sup> Pieces of white and green broken glass, which Lazarević believed came from the nearby Vitinka factory, could also be seen in one of the pits.<sup>17767</sup> Three or four masked men wearing uniforms, whom Lazarević did not recognise, were standing in the field.<sup>17768</sup>

5401. Mitrović started burying the bodies using the small skip, but the machine was not big enough to complete the task.<sup>17769</sup> Rade Bošković, a civilian, was called in to finish the task with a ULT 220 which belonged to the stone quarry in Josanica.<sup>17770</sup> Mitrović and Lazarević left, leaving Bošković behind to complete the task.<sup>17771</sup>

5402. Between 7 and 27 September 1995, and as part of the reburial operation to conceal the Srebrenica killings which will be discussed in detail below,<sup>17772</sup> the bodies initially buried at Kozluk were exhumed, transported, and reburied at some of the Čančari Road secondary gravesites, as demonstrated by the forensic evidence discussed in the paragraphs immediately below.

e. Forensic evidence

i. Kozluk primary gravesite

5403. Aerial images reveal that the Kozluk grave was first dug between 5 and 17 July 1995, and that it was disturbed between 7 and 27 September 1995.<sup>17773</sup> The Kozluk gravesite is located adjacent to the Drina River near the town of Kozluk, less than four

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<sup>17761</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14435.

<sup>17762</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14454–14455. See P660 (Zvornik Brigade Engineering Company roster, July 1995), p. 6. See also Adjudicated Fact 1812. A bulldozer from the Engineering Company was also used on 18 and 19 July to do work at Kozluk. P4583 (Extract from Zvornik Brigade Engineering Company logbook, 14–19 July 1995), pp. 5–6 (referring to “trench mending” work being carried out at Kozluk).

<sup>17763</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14454, 14478, 14515; P175 (Zvornik Brigade vehicle log, 1–31 July 1995) (where a *Torpedo* excavator is recorded as being used by Mitrović on 16 July 1995 for digging trenches in Kozluk).

<sup>17764</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14455.

<sup>17765</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14455. See also P5118 (Zvornik Brigade vehicle logbook, July 1995), e-court pp. 447–448 (recording that a Zvornik Brigade TAM 75 truck made a trip to Kozluk on 16 July 1995).

<sup>17766</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14455–14457.

<sup>17767</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14456.

<sup>17768</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14457, 14521.

<sup>17769</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14457, 14522. See also Adjudicated Facts 1811, 1812.

<sup>17770</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14457–14458. See also P657 (Brochure for a wheel loader (ULT200)); P239 (Photograph of a wheel loader (ULT200)).

<sup>17771</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14458–14459.

<sup>17772</sup> See Section IV.C.1.g.v: Reburial operation.

<sup>17773</sup> Jean-René Ruez, T. 23828, 23861–23862 (30 January 2012); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 72; P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 202, 253. See also Adjudicated Fact 1819.



kilometres away from the Ročević School.<sup>17774</sup> The site is approached by a road that passes the Vitinka soft drink bottling factory, and turns into a track as it reaches an area of rubbish dumping and gravel extraction alongside the Drina River.<sup>17775</sup>

5404. The Kozluk gravesite was exhumed by a Tribunal exhumation team from 24 June to 6 August 1999 under the direction of Richard Wright.<sup>17776</sup> The remains found at the gravesite were then examined by a team of pathologists under the direction of John Clark.<sup>17777</sup> The Kozluk gravesite contained three areas of disposal of human remains: Kozluk 1, located to the north; Kozluk 2, located to the east; and Kozluk 3, located to the southwest.<sup>17778</sup> Kozluk 2 and 3 were found to be areas of both execution and burial.<sup>17779</sup> The Kozluk gravesite showed evidence of robbing or removal of bodies, evidenced by dismembered body parts found at the surface of the grave and machinery tooth marks on the base of the trench.<sup>17780</sup> Despite this, 292 whole or largely complete bodies and 233 body parts, constituting a minimum of 340 individuals, were recovered from the grave.<sup>17781</sup>

5405. All the individuals for whom sex could be determined were male.<sup>17782</sup> While it was established that the majority of victims were over 25 years old, the age of the victims ranged from 8 to 85.<sup>17783</sup> All the victims were found wearing civilian clothing.<sup>17784</sup> Further, 55 blindfolds and 168 ligatures were recovered at the gravesite.<sup>17785</sup> 89% of the

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<sup>17774</sup> Jean-René Ruez, T. 23824, 23826 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 198–199. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 72.

<sup>17775</sup> P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court p. 5. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 72; Jean-René Ruez, T. 23826–23827 (30 January 2012).

<sup>17776</sup> P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court p. 4; Richard Wright, T. 22246 (1 December 2011); Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3663–3664. See also P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 11.

<sup>17777</sup> John Clark, T. 22693 (10 January 2012); P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 1, 26; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3900–3901, 3911. See also P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 11.

<sup>17778</sup> P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court pp. 5–6, 19.

<sup>17779</sup> P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court pp. 5–6. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 73; P4023 (Diagram of bodies and shell casings).

<sup>17780</sup> Richard Wright, T. 22267 (1 December 2011); P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court pp. 11, 27; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3678, 3683–3684; P4302 (Video footage of Kozluk area).

<sup>17781</sup> John Clark, T. 22698 (10 January 2012); John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3911; P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), p. 6. See also John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3952; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 73; Adjudicated Fact 1814.

<sup>17782</sup> John Clark, T. 22698 (10 January 2012); John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3912, 3922; P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 6, 12. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 73; Adjudicated Fact 1814.

<sup>17783</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), p. 6; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T.3912. The Chamber notes that Dušan Dunjić challenged the methodology used by Clark in his report, in particular, that there was no detailed description of the condition of the bodies, upon which the basis of the victims’ age and their time of death could be estimated. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 50. Having assessed the totality of evidence on this issue, the Chamber accepts Clark’s report and the findings therein.

<sup>17784</sup> P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court p. 13; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3691, 3716. See also Adjudicated Fact 1825.

<sup>17785</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 74; P4505 (Photograph booklet entitled “Srebrenica Blindfolds and Ligatures - Volume 1: Kozluk, Cancari Road 3 and 12 and Branjevo Military Farm (Pilica)”), 1–171, 210–266; P4507 (Chart of photographs of blindfolds, ligatures, and location). See also Adjudicated Fact 1817; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3914; P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2

complete bodies, *i.e.* 260 out of 292, showed evidence of gunshot injury.<sup>17786</sup> The final cause of death for 237 bodies was attributed to gunshot injury, with a further 55 cases left as unascertained.<sup>17787</sup> Additionally, 548 shell cases, 368 bullets, and 88 bullet fragments were recovered from the Kozluk gravesite during the exhumation and autopsy processes.<sup>17788</sup>

5406. As of 13 January 2012, DNA analysis has led to the identification of 336 individuals in the Kozluk grave as persons listed as missing following the take-over of Srebrenica.<sup>17789</sup>

ii. Čančari Road secondary gravesites

5407. The Čančari Road is an eight kilometre dirt road running through the middle of the Čančari valley, approximately seven kilometres south of Zvornik and about 20 kilometres south of Kozluk.<sup>17790</sup> There are at least 13 known secondary mass graves along the Čančari Road.<sup>17791</sup> As will be explained below,<sup>17792</sup> only Čančari Road 1, 2, 3, 7, and 13 have been linked to the Kozluk primary gravesite.<sup>17793</sup>

5408. A Tribunal team of experts, led by Richard Wright, conducted the exhumation of Čančari Road 3 in May and June 1998.<sup>17794</sup> The remains found therein were examined by a

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February 2000), e-court p.14; Richard Wright, T. 22256, 22258–22260 (1 December 2011); Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3681; P4002 (Photograph of exhumed body marked by Richard Wright); P4003 (Photograph of exhumed body marked by Richard Wright).

<sup>17786</sup> John Clark, T. 22698 (10 January 2012); P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 8, 12; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3915. *See also* Adjudicated Fact 1815.

<sup>17787</sup> John Clark, T. 22698 (10 January 2012); P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 8, 11–12; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3950–3951. *See also* Adjudicated Fact 1815; P4112 (John Clark’s expert report entitled “Autopsy Report, Kozluk Grave Site”, 28 July 1999). The Chamber notes that Dunjić also challenged the methodology used by Clark when determining that gunshot injuries occurred during life or contributed to the cause of death, arguing that such determination was not in accordance with forensic science. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 55–56; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), pp. 7–8. Having assessed the totality of evidence on this issue, the Chamber accepts Clark’s report and the findings therein.

<sup>17788</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 74. *See also* P4001 (Richard Wright’s expert report entitled “Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari”, 2 February 2000), e-court pp. 14, 21–22.

<sup>17789</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 3, 11, 41; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), Annex D, e-court pp. 131–147 (under seal). *See also* P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010). The remains of Mesa Efendić, who was last seen walking in Potočari on 13 July wearing a red cardigan, were later found at the Kozluk primary gravesite. P667 (Zoran Petrović-Piročanac’s video footage), at 00:01:00–00:01:10; P4066 (Photograph from exhumation KK03 543). *See also* P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012) (under seal), e-court p. 140.

<sup>17790</sup> Jean-René Ruez, T. 23866–23867 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 265–267, 273.

<sup>17791</sup> The gravesite designated as Čančari Road 13 was previously unknown to the Tribunal as it was located by the BiHCMP. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 15. *See also* P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 267.

<sup>17792</sup> *See para.* 5411.

<sup>17793</sup> The remainder of the secondary mass graves located along Čančari Road are linked to the Branjevo Military Farm primary gravesite. *See para.* 5461.

<sup>17794</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), p. 7; Richard Wright, T. 22250–22251 (1 December 2011); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 16. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 76; Adjudicated Fact 1820.

team of pathologists under the direction of Christopher Lawrence.<sup>17795</sup> While examination and probing of Čančari Road 1 was conducted by a Tribunal team of experts, the exhumation was handed over to the BiH Government in 2001.<sup>17796</sup> Čančari Road 2, 7, and 13 were exhumed by the BiHCMP in 2002.<sup>17797</sup>

5409. Aerial images show that Čančari Road 1, 2, 3, and 7 were each first excavated between 7 and 27 September 1995 and were filled in prior to 2 October 1995.<sup>17798</sup> The Chamber notes that out of all the secondary gravesites associated with the Kozluk gravesite, it only received forensic evidence in relation to Čančari Road 3. Remains of at least 160 individuals, including 35 relatively intact bodies, were recovered from Čančari Road 3.<sup>17799</sup> The forensic evidence shows that all of the victims at Čančari Road 3 whose sex could be determined were male.<sup>17800</sup> It was established that the majority of the victims had a mean age of over 25.<sup>17801</sup> Furthermore, eight blindfolds and 37 ligatures were found at the gravesite.<sup>17802</sup> The cause of death for 29 of the 35 complete bodies was a result of gunshot wounds; the six remaining had an undetermined cause of death.<sup>17803</sup> While experts

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<sup>17795</sup> Christopher Lawrence, T. 22447 (8 December 2011); P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court pp. 1, 48; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3978, 3980; P4064 (Chart of primary and secondary graves). The Chamber notes that Dušan Dunjić challenged the methodology used by Lawrence in his report for Čančari Road 3, in particular, the fact that he did not provide a professional explanation for the opinions in the report, and that he went beyond the scope of his work as a pathologist. D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 5. Having assessed the totality of evidence on this issue, the Chamber accepts Lawrence’s report and the findings therein.

<sup>17796</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 15. *See also* Dušan Janc, T. 26921 (27 March 2012).

<sup>17797</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 16, 18, 20.

<sup>17798</sup> P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court pp. 64–69, 74–75; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 75 (specifying that aerial images reveal that Čančari Road 1 and 3 were first excavated after 27 September). *See also* Adjudicated Fact 1821.

<sup>17799</sup> P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court pp. 2, 9, 33; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3998. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 76.

<sup>17800</sup> P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court pp. 2, 10; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3998. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 11, 76; Adjudicated Fact 1823.

<sup>17801</sup> P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court p. 9. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 11, 76.

<sup>17802</sup> Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3999; P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court pp. 2, 20, 28; P4505 (Photograph booklet entitled “Srebrenica Blindfolds and Ligatures - Volume 1: Kozluk, Čančari Road 3 and 12 and Branjevo Military Farm (Pilica)”), pp. 173–209, 267–275; P4507 (Chart of photographs of blindfolds, ligatures, and location); P4509 (Collage of Srebrenica ligatures, 5 March 2012). *See also* P4062 (Christopher Lawrence’s expert report entitled “Report on Ligatures found in the Grave in CR03”, 17 June 1999); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 11, 22–24, 77; Adjudicated Fact 1824. The Chamber notes that ligatures were also found in the remaining secondary gravesites associated with the Kula gravesite. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 15. Similarly, blindfolds were found in Čančari Road 7 and 13. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 15.

<sup>17803</sup> P4055 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998”, 17 June 1999), e-court pp. 3, 33; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 4001–4002. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 11, 76. The Chamber notes that Dušan Dunjić challenged the methodology used by Lawrence in his report regarding the undetermined cause of death for six of the victims found at Čančari Road 3. D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 49; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 5. Having assessed the totality of evidence on this issue, the Chamber accepts Lawrence’s report and the findings therein.

were not able to provide a cause of death for the remaining body parts analysed, injuries in the majority of these remains were consistent with gunshot wounds.<sup>17804</sup>

5410. Forensic analysis showed that the Čančari Road 3 gravesite is secondary to the Kozluk gravesite.<sup>17805</sup> First, thousands of pieces of broken green bottles along with a pile of unused labels bearing the name of the Vitinka soft drink bottling factory at Kozluk were found at both the Čančari Road 3 and Kozluk gravesites.<sup>17806</sup> Further, an analysis of soil, materials, and shell cases found at both sites led to the conclusion that bodies from the Kozluk gravesite were removed and reburied at the Čančari Road 3 gravesite.<sup>17807</sup> Moreover, DNA-based connections were found between the Kozluk gravesite and the secondary gravesites of Čančari Road 1, 2, 3, 7, and 13.<sup>17808</sup>

5411. As of 13 January 2012, DNA analysis led to identification of 479 victims from the Čančari Road gravesites as persons listed as missing following the take-over of Srebrenica: 52 from Čančari Road 1; 119 from Čančari Road 2; 138 from Čančari Road 3; 109 from Čančari Road 7; and 61 from Čančari Road 13.<sup>17809</sup>

#### f. Conclusion

5412. For all these reasons, the Chamber finds that, on 14 and 15 July 1995, at least 815 Bosnian Muslim men detained at the Ročević School were killed by members of the Bosnian Serb Forces. Some were killed by members of the Bosnian Serb Forces while

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<sup>17804</sup> P4055 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998", 17 June 1999), e-court p. 33; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3999–4001; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 4, 18, 76–77.

<sup>17805</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 22–23; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3703. *See also* P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 11; P4052 (Christopher Lawrence's expert report entitled "Report on Bodies Recovered Near Kozluk in 1998", 17 June 1999); Adjudicated Fact 1820.

<sup>17806</sup> Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3675, 3679; P4001 (Richard Wright's expert report entitled "Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari", 2 February 2000), e-court pp. 11, 15; P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 21–23; Richard Wright, T. 22250–22251 (1 December 2011); Jean-René Ruez, T. 23827–23828, 23830–23831, 23867 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 200, 203–206; P4302 (Video footage of Kozluk area), at 00:03:58–00:04:08.

<sup>17807</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 22–23; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 75. *See also* Adjudicated Facts 1822, 1820.

<sup>17808</sup> The specific connections are as follows: three individuals with remains in both Kozluk and Čančari Road 1; seven between Kozluk and Čančari Road 2; 51 between Kozluk and Čančari Road 3; ten between Kozluk and Čančari Road 7; and 12 between Kozluk and Čančari Road 13. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 48, 82. The Chamber notes that Čančari Road 7 contained the remains of one individual whose DNA was also found in the Čančari Road 11 gravesite. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 49, 82; Dušan Janc, T 26968–26969 (27 March 2012). The Chamber finds that there are many plausible reasons for this, including the way in which the transportation of remains to secondary gravesites was conducted, and is satisfied with Janc's conclusions that Čančari Road 7 is associated with the Kozluk primary gravesite and not with the Branjevo Military Farm gravesite. *See* P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 41. The Chamber further notes Dušan Dunjić's challenge to the DNA-based connections between the primary and secondary gravesites, in particular, that it was "concluded groundlessly" on the basis of 310 DNA links that 4,049 bodies originated from numerous primary mass graves, including Kozluk. D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 24. *See also* Defence Final Brief, paras. 2607–2608. The Chamber further notes that Dušan Dunjić argued that there was a possibility that certain Čančari Road gravesites could in fact be primary in relation to each other. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 16–17. The Chamber will deal with this challenge in detail below. *See* paras. 5595–5599. However, having assessed the totality of evidence on this issue, the Chamber accepts Janc's report and the findings therein.

<sup>17809</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 15–16, 18, 20, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), Annex D, e-court pp. 184–200, 226–231, 274–277.

being detained at Ročević School. The rest were killed at a site on the bank of the Drina River near Kozluk.

#### 4. Kula School and Pilica Cultural Centre

##### a. Kula School

5413. The Indictment refers to the killing at Kula School on or about 14 or 15 July 1995 of some of the approximately 1,200 Bosnian Muslim men detained at the school.<sup>17810</sup> The Indictment also refers to the killing on 16 July 1995 of the surviving portion of the Bosnian Muslim men.<sup>17811</sup> According to the Indictment, the men were transported by bus to the Branjevo Military Farm and summarily executed; the victims were subsequently buried in a nearby mass grave.<sup>17812</sup>

##### i. Detention at Kula School

5415. The Kula School—also known as the Nikola Tesla Primary School or Pilica School—is located in Kula, a hamlet in the village of Pilica.<sup>17813</sup> The village of Pilica is situated approximately 20 kilometres north of Karakaj along the main Zvornik–Bijeljina Road.<sup>17814</sup>

5416. Early in the morning of 14 July 1995, the 1<sup>st</sup> Battalion of the Zvornik Brigade received a telegram from the Brigade’s Command with the instruction to prepare the gymnasium at the Kula School for the arrival of between 100 and 200 men from Srebrenica.<sup>17815</sup> The telegram further stated that, once the detainees had arrived at the school, members of the 1<sup>st</sup> Battalion were to secure access to the building.<sup>17816</sup> As a result, a group of 12 members of the 1<sup>st</sup> Battalion, under the command of Security Officer Slavko Perić, a.k.a. “Captain Muderiz”, proceeded to the school.<sup>17817</sup> Upon arriving, the group split into three smaller groups: one was deployed near the main entrance to control access to the school; another was posted in the schoolyard to secure the auxiliary entrance; and the last was sent inside the school to make arrangements for the arrival of the detainees.<sup>17818</sup>

5417. In the afternoon, several busloads of Bosnian Muslim men who had previously been detained in Bratunac, arrived at the Kula School, guarded by members of the Bosnian Serb Forces who were not from the 1<sup>st</sup> Battalion.<sup>17819</sup> The detainees included some elderly men, up to about 80 years old, as well as 15 or 16 year old boys.<sup>17820</sup>

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<sup>17810</sup> Indictment, Scheduled Incident E.9.1.

<sup>17811</sup> Indictment, Scheduled Incident E.9.2.

<sup>17812</sup> Indictment, Scheduled Incident E.9.2.

<sup>17813</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10213; Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11319. See Adjudicated Fact 1829. See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 208.

<sup>17814</sup> P3187 (Map of Zvornik municipality); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 207, 219; Jean-René Ruez, T. 23831 (30 January 2012). See also Adjudicated Fact 1826.

<sup>17815</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10215–10217. The 1<sup>st</sup> Battalion was also known as the Lokanj-Pilica Battalion. See Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314. The headquarters of the 1<sup>st</sup> Battalion were in Manojlovići, in the village of Lokanj. Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10215.

<sup>17816</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10216–10217. The telegram also stated that the detainees would spend the night at the school as they would be exchanged in Tuzla the following day. Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10216, 10249.

<sup>17817</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10218–10220.

<sup>17818</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10220.

<sup>17819</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10221–10223; KDZ333, T. 24151 (2 February 2012); Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1190, 1192–1193. See also Ahmo Hasić, P354 (Transcript from *Prosecutor v.*



5418. Upon arrival, members of the Bosnian Serb Forces ordered the detainees to disembark, to put their hands behind their heads, and to walk one by one towards the gymnasium.<sup>17821</sup> Detainees entered the school in waves.<sup>17822</sup> When the gymnasium could not hold any more men, detainees were left standing in the corridors and stairway while others remained on the buses outside.<sup>17823</sup> These detainees were subsequently taken to the classrooms on the first floor of the school.<sup>17824</sup>
5419. Conditions at the Kula School were very poor. The gymnasium and the classrooms became overcrowded and were so tightly packed that no one could move.<sup>17825</sup> With an outside temperature of about 30°C, the school began to mist up.<sup>17826</sup> A strong stench emanated from the gymnasium, as there were no windows open and thus no ventilation.<sup>17827</sup> The members of the Bosnian Serb Forces who were guarding the detainees from the entrance of the gymnasium found the stench so unbearable that they kept asking to change guards frequently.<sup>17828</sup> Some of the detainees collapsed,<sup>17829</sup> and two or three detainees died in the crowded gymnasium overnight.<sup>17830</sup>
5420. There was no medical treatment available at the school.<sup>17831</sup> Detainees were given food, but it was not enough for everyone.<sup>17832</sup> Several detainees were allowed to fetch water from a nearby water point, while being escorted by members of the Bosnian Serb Forces.<sup>17833</sup> A detainee was shot as he attempted to escape while fetching water.<sup>17834</sup> While the detainees were given water, it was not sufficient.<sup>17835</sup> Some of the detainees inside the gymnasium and classrooms requested to be let out in order to get water and use

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*Popović et al.*), T. 1194–1195; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3030–3031; KDZ333, T. 24124–24125 (2 February 2012); P4347 (Photograph of Kula School marked by KDZ333). The Chamber notes that Ahmo Hasić referred to the location where he was taken both as a school and as a cultural centre or hall. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1192; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1287–1288 (under seal). While Hasić testified that he did not know what these places were called, he was clear that the building where he was detained had a ground floor and one floor upstairs. Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1288 (under seal). Having assessed Hasić’s evidence as a whole, and in particular in light of other evidence indicating that the section of the Pilica Cultural Centre where the detainees were held had one floor, the Chamber finds that Hasić was detained at Kula School. See para. 5439.

- 17820 Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1194, 1223–1225.
- 17821 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10221–10224; KDZ333, T. 24152 (2 February 2012). See also KDZ333, T. 24124–24125 (2 February 2012); P4347 (Photograph of Kula School marked by KDZ333) (where KDZ333 marked with “1” the gymnasium at Kula School); Jean-René Ruez, T. 23832 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 210–211.
- 17822 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10222.
- 17823 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10224–10226, 10236. See also KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3031–3032; D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 3 (under seal).
- 17824 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10226–10227.
- 17825 Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1193–1194; Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10224–10225. See also Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11322, 11340–11341.
- 17826 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10224–10225. See also KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3036.
- 17827 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10224.
- 17828 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10224. See also KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3039.
- 17829 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10226.
- 17830 KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3036. See also Adjudicated Facts 1827, 1831.
- 17831 KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3036.
- 17832 Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1195; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3037. See also Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11322.
- 17833 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10227–10228; KDZ333, T. 24126, 24155–24156 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3032–3033. See also KDZ333, T. 24124–24125 (2 February 2012); P4347 (Photograph of Kula School marked by KDZ333) (where KDZ333 marked with “2” the water point); Jean-René Ruez, T. 23833 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 212–213.
- 17834 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10229.
- 17835 Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10227–10228; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3036–3037; Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11322. See also Adjudicated Fact 1827.

the toilet.<sup>17836</sup> The detainees were not always allowed and, when they were, some of them were hit with rifle butts by soldiers.<sup>17837</sup> Out of fear, many of the detainees urinated where they were.<sup>17838</sup>

5421. On 15 July, additional members of the 1<sup>st</sup> Battalion were sent by Perić to the school; this brought the total number of soldiers at the school at that time to between 40 and 50.<sup>17839</sup> A man who was addressed as a “lieutenant-colonel or colonel” and wore a camouflage uniform also visited the school that day,<sup>17840</sup> as did Jasikovac.<sup>17841</sup> Rajko Babić, a member of the 1<sup>st</sup> Battalion, asked the lieutenant-colonel or colonel if any of the detainees would stay at the school but was told: “No, they can’t stay, they ha[ve] to be taken away, all of them. I don’t want to talk to you anymore.”<sup>17842</sup> Babić interpreted the comment made by the lieutenant-colonel or colonel to mean that all of the Bosnian Muslim detainees would be killed.<sup>17843</sup>

5422. Throughout this time, many detainees were taken out of the school by members of the Bosnian Serb Forces.<sup>17844</sup> Screaming and moaning could then be heard, followed by bursts of gunfire, after which the screaming stopped.<sup>17845</sup> Only some detainees returned.<sup>17846</sup> This went on constantly, day and night.<sup>17847</sup> Detainees did not dare look out of the windows to see what was happening because whenever someone tried to do so, the guards would shoot a burst of gunfire.<sup>17848</sup> The bodies of detainees killed by members of the Bosnian Serb Forces while trying to escape during the night could be seen lying around the school.<sup>17849</sup>

5423. Members of the Bosnian Serb Forces took jewellery, watches, and money from the detainees.<sup>17850</sup> Soldiers also requested 10,000 German marks from each detainee and

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<sup>17836</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10225.

<sup>17837</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1193. See Adjudicated Fact 1833.

<sup>17838</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1193.

<sup>17839</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10233; P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 75 (an entry in the Zvornik Brigade Duty Officer’s logbook for 15 July 1995 recording a request by the 1<sup>st</sup> Battalion for oil and gasoline for “transport of troops to Kula”, and for ten crates of 7.62mm ammunition). The soldiers who were already at the school remained at the premises but did not have to stand guard anymore. Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10233. See also Adjudicated Fact 1830; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1194–1195; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3031, 3039.

<sup>17840</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10237, 10240. While Babić could not recall the officer’s name, he described him as rather tall, heavily built, with thin blond hair combed over a receding hairline, no moustache, and wearing a camouflage uniform. Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10240–10241.

<sup>17841</sup> Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11045–11046. Birčaković testified that he drove Jasikovac to the school but remained outside while Jasikovac went inside to “inspect”. Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11046.

<sup>17842</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10239–10240.

<sup>17843</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10240.

<sup>17844</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1192, 1197–1198; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3038.

<sup>17845</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1192, 1196–1198. See also KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3033–3036, 3050; D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 3 (under seal); KDZ333, T. 24126, 24156 (2 February 2012) (testifying that while fetching water at the water point outside of the school, he heard a bus approaching and, shortly after, heard people crying for help, followed by shots fired from the same direction; the shooting went on for five to ten minutes); P4348 (Photograph of Kula School marked by KDZ333); Jean-René Ruez, T. 23834–23835 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 214, 216–218; Adjudicated Fact 1832.

<sup>17846</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3038; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1225–1226. See also Adjudicated Fact 1835.

<sup>17847</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1197.

<sup>17848</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1192, 1197.

<sup>17849</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 69–71; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11046. See also Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11323–11324, 11339, 11344 (testifying to having seen on 16 July nine bodies dressed in civilian clothing about 50 metres away from the school, which were then put on a tractor-trailer and taken away).

<sup>17850</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3037; KDZ333, T. 24152 (2 February 2012); Adjudicated Fact 1834.

warned them that if they did not manage to collect that sum they would all be killed; the soldiers returned twice for money but the detainees had none left.<sup>17851</sup>

ii. Transportation of detainees from the Kula School

5424. On the morning of 16 July, Radivoje Lakić—the Commander of the 1<sup>st</sup> Battalion’s Works Platoon<sup>17852</sup>—ordered some of its members to go to the Kula School.<sup>17853</sup> When they arrived, they were told by unknown soldiers to stand guard while detainees were put on buses.<sup>17854</sup>

5425. Members of the Bosnian Serb Forces told the detainees that those who had the money to pay for transportation could go to Sarajevo.<sup>17855</sup> Once those who had money left, the rest of the detainees were told that they would be taken to Tuzla.<sup>17856</sup> Soon after, detainees began to be taken out of the school in groups of eight.<sup>17857</sup> As one of the detainees was exiting the school, he saw the body of a dead man lying at the bottom of the stairs in a pool of blood.<sup>17858</sup> Two long sheets were brought by the soldiers and ripped into strips, so that detainees tied other detainees’ hands behind their backs.<sup>17859</sup> Some detainees were also blindfolded.<sup>17860</sup> The detainees were then escorted by about ten soldiers to buses lined up outside the school.<sup>17861</sup> During this process, the soldiers swore at the detainees and hit them with their rifle butts.<sup>17862</sup> Once the buses were filled they were driven along the same road previously used to get to the school.<sup>17863</sup> The detainees were told again that they were going to Tuzla.<sup>17864</sup>

5426. Popović testified that, at approximately 10 a.m. that day, while at the Zvornik Brigade Command, Trbić told him that Beara had gone with some people to Pilica and had asked for Popović to join him at the Kula School.<sup>17865</sup> When Popović arrived at the school, the boarding of the detainees onto the buses was ongoing and he found Beara in front of a

<sup>17851</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3037–3038.

<sup>17852</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314, 11343. The Works Platoon was subordinated to the 1<sup>st</sup> Battalion of the Zvornik Brigade and was stationed at the Branjevo Farm. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314–11316. It was in charge, among other things, of preparing food for the troops and distributing it and, whenever necessary, of digging trenches at the frontlines. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314–11315.

<sup>17853</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11319–11320, 11341.

<sup>17854</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11320–11321, 11324. See also Adjudicated Fact 1828.

<sup>17855</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1195. See also KDZ333, T. 24152 (2 February 2012). The Chamber notes that Hasić testified that the executions took place on 17 July, after spending two nights at Kula School. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1193, 1227. See also Adjudicated Fact 1828 (stating that the detainees were held at the Kula School for two nights). However, in light of the Chamber’s finding above that Hasić did not arrive at the school on 15 July but on 14 July, the Chamber considers that his evidence pertaining to the transportation of detainees and the subsequent executions at the Branjevo Military Farm refers to events which took place on 16 July 1995. See fn. 18047.

<sup>17856</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1195.

<sup>17857</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10234. See also Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11324. Babić testified that on 16 July he was not at the school premises but at the terrace of his nearby apartment from where he could watch the events at the school. Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10234–10236.

<sup>17858</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1195–1196, 1198.

<sup>17859</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1195; Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10234–10235; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3040. See also Adjudicated Fact 1838.

<sup>17860</sup> Rajko Babić, P361 (Transcript from *Prosecutor v. Popović et al.*), T. 10234.

<sup>17861</sup> See Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1198; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3040; D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 14–15, 16, 22–23; Franc Kos, T. 42374–42376 (31 July 2013); Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11322; P6451 (Article from *Slobodna Bosna* entitled “I Killed ‘Only’ Hundreds of People”, 22 March 1996), p. 2. The buses displayed the markings of “Centrotrans Sarajevo” and “Drinatrans Zvornik” transportation companies. Adjudicated Fact 1839.

<sup>17862</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1198.

<sup>17863</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3040.

<sup>17864</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1198.

<sup>17865</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 66.

house next to the school.<sup>17866</sup> An intercepted conversation between Beara and Slobodan Cerović—the Drina Corps Assistant Commander for Morale, Religious, and Legal Affairs, who was serving as duty officer at Drina Corps headquarters in Vlasenica at the time<sup>17867</sup>—at 11:11 a.m. on 16 July, records Cerović informing Beara that Colonel Trkulja—an operations officer from the Main Staff<sup>17868</sup>—was looking for Beara because “he got instructions from above [...] to do triage on [the detainees]”.<sup>17869</sup> The Chamber also received evidence that Popović organised and co-ordinated the transportation of detainees from the Kula School.<sup>17870</sup>

### iii. Killings at the Branjevo Military Farm

5427. Members of the 1<sup>st</sup> or “Bijeljina” Platoon of the 10<sup>th</sup> Sabotage Detachment were stationed at the 2<sup>nd</sup> or “Vlasenica” Platoon’s headquarters in Dragaševac on 16 July 1995.<sup>17871</sup> Between 4:30 and 5:30 a.m., Franc Kos received a phone call from Beara requesting that he and seven soldiers come immediately to the Drina Corps Command in Vlasenica.<sup>17872</sup> Kos refused to comply with the order as he had not been authorised to do so by Pelemiš.<sup>17873</sup> Beara called a second time at approximately 6 a.m., demanding to know why Kos was not on his way.<sup>17874</sup>

5428. At approximately 7:30 a.m., Dragomir Pećanac—from the Intelligence Administration of the Main Staff<sup>17875</sup>—as well as Pelemiš, the full 2<sup>nd</sup> Platoon, and soldiers of the 1<sup>st</sup> Platoon who had been with the 2<sup>nd</sup> Platoon, arrived at Dragaševac.<sup>17876</sup> Soon

<sup>17866</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 66–69. *See also* Vujadin Popović, T. 43074–43076 (6 November 2013). The Chamber refers to its assessment of Beara’s testimony regarding his whereabouts on 13 and 14 July, as discussed in fn. 17583.

<sup>17867</sup> Richard Butler, T. 27586 (18 April 2012).

<sup>17868</sup> Richard Butler, T. 27587 (18 April 2012).

<sup>17869</sup> Beara interrupted Cerović by stating: “I don’t want to talk about it on the phone.” P6700 (Intercept of conversation between Col. Beara and Cerović, 16 July 1995); P5075 (Intercept of conversation between Col. Beara and Cerović, 16 July 1995). *See* P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 81 (noting that it was reported to Beara from Zlatar that a “triage of wounded and prisoners must be carried out”). Zlatar was the code name for the Drina Corps and Palma was the code name of the Zvornik Brigade. Stefanie Frease, T. 26720–26721 (23 March 2012). *See also* Richard Butler, T. 27586 (18 April 2012).

<sup>17870</sup> An intercepted conversation from 16 July at 1:58 p.m. between the duty officer of the Drina Corps Command and Trbić—then Zvornik Brigade duty officer—records the latter transmitting an urgent request from Popović for 500 litres of diesel fuel. P5077 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995), p. 1; Vujadin Popović, T. 43083–43086 (6 November 2013). Trbić was then connected to a certain Bašević, and repeated the same request for fuel from Popović, adding that “or else the work he’s doing will stop”. P5077 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995), p. 1. *See also* P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 85; Vujadin Popović, T. 43085, 43087–43088 (6 November 2013). Trbić was subsequently connected to Major Golić, an intelligence officer of the Drina Corps Command, and repeated yet again Popović’s request for 500 litres of fuel to be sent immediately. P5077 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995), p. 2. The intercept also records that a fuel tank from the vehicle battalion was to go to Pilica. P5077 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995), p. 2. *See also* P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 85 (a note in the Zvornik Brigade Duty Officer Logbook at 2 p.m. stating that “Popović requested a bus with a full tank and 500 litres of D2”); P4669 (Intercept authentication binder of Stefanie Frease), pp. 66–68 (where a Zvornik Brigade material dispatch order recorded the disbursement of 500 litres of fuel “for Lt. Col. Popović” on 16 July 1995); P5077 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995), p. 2 (whereby Trbić informed an unidentified individual that a bus loaded with 500 litres of oil was to go to Pilica); P5312 (Intercept of conversation between Major Bašević and an unidentified person, 16 July 1995) (record of an intercepted conversation from 7:12 p.m. on 16 July, in which Bašević reported that the petrol had ran out completely, and was told in response that “Zvornik is solved”). *But see* Vujadin Popović, T. 43086 (6 November 2013) (testifying that somebody was asking for the oil in his name because he did not need it).

<sup>17871</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10960–10962; Dražen Erdemović, T. 25369 (27 February 2012). *See also* D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 3. The village of Dragaševac was located about four or five kilometres from Vlasenica. Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13992.

<sup>17872</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 10, 18.

<sup>17873</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 10–11. *See* Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13993–13994.

<sup>17874</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 10–11, 18.

<sup>17875</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 58; Dražen Erdemović, T. 25424 (28 February 2012). *See also* D3720 (Witness statement of Petar Salapura dated 17 June 2013), p. 3.

<sup>17876</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 11, 18; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14012–14013, 14029. *See also* Tomislav Kovač, T. 42876 (4 November 2013) (closed session). The Chamber notes Todorović’s evidence that these events took place on 15 July. Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*),

after, Kos and seven other members of the detachment, including Dražen Erdemović, were ordered to get their equipment ready and leave for an assignment.<sup>17877</sup> Dragan Todorović—a member of the 2<sup>nd</sup> Platoon—then proceeded to prepare the ammunition and weapons for the mission.<sup>17878</sup> Shortly after, the eight soldiers boarded a black minivan and set out in the direction of Zvornik, making a brief stop at the Standard Barracks, where they were to report to the “Command”.<sup>17879</sup> After this stop, the van followed an olive-green-grey Opel Cadet car, with a “lieutenant-colonel” and two military policemen onboard.<sup>17880</sup>

5429. At approximately 10 a.m., the two vehicles arrived at the Branjevo Military Farm,<sup>17881</sup> which was under the direct authority and control of the 1<sup>st</sup> Battalion of the Zvornik Brigade.<sup>17882</sup> The Branjevo Military Farm is located near the village of Pilica, and is approached by going 700 to 800 metres through a dirt road leading off the Bijeljina–Zvornik Road from the direction of the Kula School.<sup>17883</sup>

5430. Once the group arrived at the Branjevo Military Farm and, following a conversation between the lieutenant-colonel and an officer “in military uniform” already present at the farm,<sup>17884</sup> the members of the detachment were told by Brano Gojković—a member of the detachment—and the lieutenant-colonel that buses carrying civilians from Srebrenica would start arriving in a few minutes, and that these people were to be killed that day

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T. 14010–14011, 14044; Dragan Todorović, T. 24204 (7 February 2012). However, having compared Todorović’s evidence to that of Kos and Erdemović, the Chamber considers that the events described by him took place on 16 July 1995.

<sup>17877</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 11; Franc Kos, T. 42382 (31 July 2013), T. 42407 (1 August 2013); Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14013–14015, 14029, 14041; Dragan Todorović, T. 24203–24204 (7 February 2012); Dražen Erdemović, T. 25368 (27 February 2012); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10962–10963. These six soldiers, in addition to Kos and Erdemović, were: Brano Gojković, Zoran Goronja, Aleksander Cvetković, Marko Boskić, Stanko Savanović, and Vlastimir Golijanin. Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10962–10963, 11005; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 11. See also Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14040; P4351 (Order of 10<sup>th</sup> Sabotage Detachment, 10 July 1995); P4488 (Dražen Erdemović’s VRS contract, 30 April 1995). According to Kos and Todorović, Erdemović had not been originally assigned but volunteered to join the mission and go with Kos because he did not want to stay on base on his own. D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 11; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14042; Dragan Todorović, T. 24204 (7 February 2012).

<sup>17878</sup> Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13992, 14030–14032, 14037–14038; Dragan Todorović, T. 24212 (7 February 2012). These included two hand-held launchers, one M–84 machine gun and a crate of ammunition, made up of 1,200 rounds. Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14030–14032, 14063; Dragan Todorović, T. 24206 (7 February 2012); P4352 (Notes related to logistical support issued to the 10<sup>th</sup> Sabotage Detachment, 14–16 July 1995), p. 2.

<sup>17879</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 11–12, 18–19; Dražen Erdemović, T. 25370–25371 (27 February 2012); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10964–10965, 10967–10969; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 14038–14040; P265 (Photograph of Zvornik Brigade HQ).

<sup>17880</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10966–10968, 10993. See also D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 12 (stating that, after stopping at the Standard Barracks, the group started following a red Opel Kadett, with a young officer and a driver in it). The military policemen had the insignia of the MP in their uniforms, and one of them was wearing a white cross belt. Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10966; P249 (VRS field dress insignia). Based on his assumption that the Drina Corps headquarters were located in Zvornik, Erdemović believed that these men were members of the Drina Corps MP. Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10967. The Chamber recalls, however, that the Drina Corps headquarters was based in Vlasenica at the time. See para. 190.

<sup>17881</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10966, 10969, 10978–10979; P264 (Aerial photograph of Branjevo state farm dated 15 July 1995 marked by Dražen Erdemović); D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 12, 19; Franc Kos, T. 42364 (31 July 2013); P4306 (Video footage of Branjevo Farm), at 00:05:03 to 00:05:30. The Branjevo Military Farm consisted of three or four hectares of land used for military purposes. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11315–11317, 11336. See also P270 (Photograph of Branjevo state farm marked by Jevto Bogdanović).

<sup>17882</sup> Adjudicated Fact 1836.

<sup>17883</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 12; Jean-René Ruez, T. 23831, 23836, 23841 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 207, 219, 222; P4304 (Photograph of Pilica Farm marked by Jean-René Ruez); P4306 (Video footage of Branjevo Farm), at 00:00:00–00:02:58; P4332 (Photograph of Branjevo Farm, 21 September 1995); P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court p. 18; P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court p. 29.

<sup>17884</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10969–10970; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 13. See also Dražen Erdemović, T. 25344 (27 February 2012); P264 (Aerial photograph of Branjevo state farm dated 15 July 1995 marked by Dražen Erdemović); P4489 (Photograph of Branjevo Farm marked by Dražen Erdemović).



because they were war criminals.<sup>17885</sup> The lieutenant-colonel and the two military policemen then left the Branjevo Military Farm.<sup>17886</sup>

5431. Shortly thereafter, buses filled with Bosnian Muslim detainees previously held at the Kula School began arriving at the Branjevo Military Farm.<sup>17887</sup> One or two soldiers escorted the detainees on each of the buses and sat next to the driver.<sup>17888</sup> After departing from the school, the buses travelled for approximately two and a half kilometres up a hill.<sup>17889</sup> The buses stopped at a meadow which was littered with a “large number of dead bodies”; gunfire could be heard.<sup>17890</sup> When the doors opened, Bosnian Serb soldiers gathered around the buses and started cursing the detainees, the detainees’ mothers, and Haris Silajdžić’s mother.<sup>17891</sup> The soldiers ordered the detainees to disembark until the buses were half empty.<sup>17892</sup>

5432. A group of soldiers led columns of ten detainees approximately 100 to 200 metres away from the buses towards the meadow.<sup>17893</sup> On their way, the detainees saw bodies lying on the ground.<sup>17894</sup> Soldiers asked detainees for money and beat them when they said they did not have any.<sup>17895</sup> Upon reaching the meadow, the detainees—some of whom were blindfolded and had their hands tied behind their backs—passed by those who had been killed earlier until they were told to stop and turn around so that they faced away from the eight members of the detachment, who were standing in a line.<sup>17896</sup> The soldiers then

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<sup>17885</sup> Dražen Erdemović, T. 25374, 25377 (27 February 2012); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10970–10971; D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 13, 21. See also Adjudicated Fact 1849; Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10966, 10981, 10986; Dražen Erdemović, T. 25375–25377 (27 February 2012); Franc Kos, T. 42376–42377 (31 July 2013); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 78.

<sup>17886</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10971.

<sup>17887</sup> Dražen Erdemović, T. 25375 (27 February 2012); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10971; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 19. See also Adjudicated Fact 1837.

<sup>17888</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1200. See also Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10971; Dražen Erdemović, T. 25379 (28 February 2012); D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 14. Ahmo Hasić testified that the soldiers on the buses were the same ones he had seen earlier in the school. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1200. See also Adjudicated Fact 1846.

<sup>17889</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201.

<sup>17890</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3040. See also KDZ333, T. 24127 (2 February 2012); P4349 (Photograph of Branjevo Military Farm marked by KDZ333); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10978–10979; P264 (Aerial photograph of Branjevo state farm dated 15 July 1995 marked by Dražen Erdemović); Dražen Erdemović, T. 25344 (27 February 2012); P4489 (Photograph of Branjevo Farm marked by Dražen Erdemović); Jean-René Ruez, T. 23836–23837 (30 January 2012); P4303 (Aerial image of Branjevo Farm marked by Jean-René Ruez).

<sup>17891</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201.

<sup>17892</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201–1202.

<sup>17893</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10971–10972; Dražen Erdemović, T. 25345 (27 February 2012), T. 25379 (28 February 2012); KDZ333, T. 24157 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3040–3041, 3043; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201–1202; D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 15–16. See also Adjudicated Facts 1840, 1841; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 14; Dražen Erdemović, T. 25381 (28 February 2012); D2134 (Photograph of Branjevo Farm marked by Dražen Erdemović); KDZ333, T. 24127 (2 February 2012); P4349 (Photograph of Branjevo Military Farm marked by KDZ333); D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 4 (under seal); Jean-René Ruez, T. 23842–23843 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 223.

<sup>17894</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201, 1286.

<sup>17895</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 17; Franc Kos, T. 42369 (31 July 2013). KDZ333 also heard soldiers asking detainees if they had relatives abroad who could send money so that they could be exchanged; those who spoke up were taken away. KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041.

<sup>17896</sup> Dražen Erdemović, T. 25344 (27 February 2012), T. 25381–25383 (28 February 2012); P4489 (Photograph of Branjevo Farm marked by Dražen Erdemović); D2134 (Photograph of Branjevo Farm marked by Dražen Erdemović); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10971–10972, 10979; P264 (Aerial photograph of Branjevo state farm dated 15 July 1995 marked by Dražen Erdemović); Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1202; KDZ333, T. 24127, 24157 (2 February 2012); P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041, 3043; P4345 (Photograph of Branjevo Military Farm marked by KDZ333); P4349 (Photograph of Branjevo Military Farm marked by KDZ333); D2053 (Photograph of Branjevo Military Farm marked by KDZ333); Franc Kos, T. 42365–42366 (31 July 2013); P4306 (Video footage of Branjevo Farm) at 00:06:15 to 00:08:22. See also Adjudicated Facts 1847, 1848; Dean Manning, T. 25842 (6 March 2012); D2188 (Aerial photograph of Branjevo Military marked by Dean Manning).

opened fire with automatic rifles, and the detainees fell to the ground upon being shot.<sup>17897</sup> Hasić survived the execution by falling down before the shooting began.<sup>17898</sup> KDZ333 dove to the ground as soon as the shooting started and fell on his stomach, face down, while another man fell on his head.<sup>17899</sup>

5433. After each shooting, soldiers asked for survivors, promising that they would be bandaged, but those who spoke up were then finished off with single bullets to the head.<sup>17900</sup> KDZ333 was then shot but the bullet passed under his left armpit, through his shirt and jacket, only scratching him in the process.<sup>17901</sup> KDZ333 heard one man begging to be killed to which the soldiers said: “Let him suffer. We’ll kill him later.”<sup>17902</sup>

5434. For about five hours, detainees would continuously be brought to the meadow to be executed.<sup>17903</sup> While the executions were ongoing, members of the 10<sup>th</sup> Sabotage Detachment heard that there was a revolt taking place at the Pilica Culture Centre, and were ordered to shoot the detainees faster.<sup>17904</sup> One of the soldiers suggested that an M-84 machine gun be used to speed up the killings; however, the machine gun had already been used on two groups of detainees and it had only wounded the men, leaving them to beg for someone to kill them.<sup>17905</sup>

5435. In the early afternoon, a group of about ten soldiers from Bratunac, most of whom wore VRS uniforms, arrived at the Branjevo Military Farm to replace members of the 10<sup>th</sup> Sabotage Detachment and continue with the killings.<sup>17906</sup> When these soldiers recognised detainees from Srebrenica, they beat and humiliated them before killing them.<sup>17907</sup> These soldiers also yelled insults at the soldiers of the 10<sup>th</sup> Sabotage Detachment, accusing them of being cowards and traitors for not finishing the assignment.<sup>17908</sup>

5436. While the soldiers from Bratunac were killing the detainees in the last group brought from the Kula School, the lieutenant-colonel who had earlier ordered the members

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<sup>17897</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10972; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1202–1203; KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041. See also D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 14; Franc Kos, T. 42366–42367 (31 July 2013); P4305 (Aerial image of Branjevo Farm); Adjudicated Facts 1837, 1841.

<sup>17898</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1203.

<sup>17899</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041. KDZ333 could feel the hot blood pouring over him. KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041.

<sup>17900</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3042; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1203; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 15; Franc Kos, T. 42369 (31 July 2013). See also Adjudicated Fact 1842.

<sup>17901</sup> KDZ333, T. 24158 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3041–3042.

<sup>17902</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3042. See also Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1203.

<sup>17903</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3042; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1201; Dražen Erdemović, T. 25375 (27 February 2012); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10972. See also KDZ333, T. 24158 (2 February 2012); D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 16–17. According to Erdemović, the killings lasted from approximately 10 a.m. until 3 or 4 p.m. Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10972, 10975, 10983. See also Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11325. Franc Kos testified that the killings lasted from around 10 a.m. until around 2 p.m. D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 19.

<sup>17904</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42369–42370 (31 July 2013).

<sup>17905</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10973. See also D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 13–14; Franc Kos, T. 42361, 42365–42366 (31 July 2013); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3044.

<sup>17906</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10974. See also D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42362, 42370 (31 July 2013); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10976–10977; P269 (Photograph of men in uniform marked by Dražen Erdemović); P225 (Photograph showing refugees and a man).

<sup>17907</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10974–10975; Dražen Erdemović, T. 25400, 25410–25411 (28 February 2012); Franc Kos, T. 42363 (31 July 2013), T. 42420–42421 (1 August 2013). See Adjudicated Fact 1843.

<sup>17908</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42363 (31 July 2013).

of the 10<sup>th</sup> Sabotage Detachment to carry out the executions returned to the Branjevo Military Farm, together with the two military policemen.<sup>17909</sup> The lieutenant-colonel told the soldiers present at the farm that there were 500 Bosnian Muslim men from Srebrenica detained at the Pilica Cultural Centre who were trying to escape and needed to be executed.<sup>17910</sup> When the members of the 10<sup>th</sup> Sabotage Detachment refused to carry out the order, the soldiers from Bratunac volunteered and left for Pilica with the lieutenant-colonel and the two military policemen.<sup>17911</sup> Upon instructions from the lieutenant-colonel, the members of the 10<sup>th</sup> Sabotage Detachment packed their things and headed approximately 15 minutes later to a café directly across the road from the Pilica Cultural Centre.<sup>17912</sup>

5437. Hasić lay in the meadow while columns of men were killed, but managed to escape by running over dead bodies and reaching shrubbery approximately 20 metres from where he lay; there, he encountered four other survivors.<sup>17913</sup> The five men waited until it was dark before escaping through the nearby forest.<sup>17914</sup> KDZ333 spent the night of 16 July in the meadow and managed to escape the next morning.<sup>17915</sup> KDZ333 ran into Hasić, with whom he travelled for a few days.<sup>17916</sup> Tired and hungry, KDZ333 and Hasić decided to surrender approximately a week later to two Bosnian Serb military policemen in a mini bus.<sup>17917</sup> They were both taken to Karakaj where a military truck with some 20 to 30 other

<sup>17909</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10975, 10982. *But see* D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18 (testifying that only one military policeman arrived at the Branjevo Military Farm in a military vehicle).

<sup>17910</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10982. *See also* D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18. The Chamber notes Bogdanović's evidence that detainees were transported from Kula School to the Pilica Cultural Centre. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11323. However, the Chamber did not receive additional evidence on this point and is thus unable to make a finding as to when such a transfer might have taken place or the circumstances surrounding it.

<sup>17911</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10982–10983; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18.

<sup>17912</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10983–10984. *See* D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42413–42414 (1 August 2013). *See also* Jean-René Ruez, T. 23850–23852, 23857 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 233, 235–236; P4307 (Video footage of Pilica Cultural Centre), at 00:00:34–00:00:58.

<sup>17913</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1203–1205. Hasić testified that the men were between 16 and 25 years old, and one of them was from “Jagonje village”. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1205–1206. Hasić later learned that they were captured and taken to Zvornik. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1206. The Prosecution claims that these four men were killed after being captured and taken to the Zvornik Brigade headquarters. *See* Prosecution Final Brief, Appendix D, paras. 139–140. Indeed, the Chamber received evidence that in the days following the fall of Srebrenica, two VRS soldiers from the village of Lokanj, namely Neško Đokić and his son Slobodan, were arrested for having given food and clothing to four Bosnian Muslims, and for trying to help them cross to Bosnian Muslim-held territory. Nebojša Jeremić, P348 (Transcript from *Prosecutor v. Popović et al.*), T. 10427–10429; KDZ122, T. 26308 (14 March 2012) (closed session); P185 (Zvornik Military Court ruling against Slobodan and Neško Đokić, 25 July 1995); P190 (Record of identification of Slobodan and Neško Đokić, 25 July 1995). After receiving instructions from Đokić and his son as to how to reach Bosnian Muslim-held territory, the four men—namely Fuad Đozić, Almir Halilović, Sakib Kivirić, and Emin Mustafić—got lost and surrendered. P186 (Statement of Sakib Kivirić to Zvornik Military Police, 23 July 1995); P187 (Statement of Emin Mustafić to Zvornik Military Police, 23 July 1995); P188 (Statement of Fuad Đozić to Zvornik Military Police, 26 July 1995); P189 (Statement of Almir Halilović to Zvornik Military Police, 23 July 1995). The men were ultimately taken to the Standard Barracks, where they were forced to identify Đokić and his son, and their statements were taken. Nebojša Jeremić, P348 (Transcript from *Prosecutor v. Popović et al.*), T. 10430, 10439; P190 (Record of identification of Slobodan and Neško Đokić, 25 July 1995). Đozić, Halilović, Kivirić, and Mustafić were later killed. KDZ122, T. 26308 (14 March 2012) (closed session). These killings, however, are not charged in the Indictment. While their remains have not been found, they are listed as missing after the fall of Srebrenica. *See* P6705 (Ewa Tabeau's expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009), e-court pp. 50, 64, 109, 147. Based amongst other things on the description provided by Hasić and the place where they ran into Đokić and his son, the Chamber finds that these four men were indeed survivors of the executions at the Branjevo Military Farm.

<sup>17914</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1205–1206. Upon reaching the forest, and once the other four had left, Hasić was spotted by a group of soldiers, who tried to force him to surrender. Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1206–1207.

<sup>17915</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3044.

<sup>17916</sup> KDZ333, T. 24128 (2 February 2012) (private session); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3045; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1209, 1211–1212 (under seal); D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal). The two men also met another man who eventually got separated from them. Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1209 (under seal).

<sup>17917</sup> KDZ333, T. 24162 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3045–3046; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1209–1212 (under seal); Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1278–1279.

Bosnian Muslim men captured in the vicinity of Zvornik awaited them.<sup>17918</sup> KDZ333 and Hasić were handcuffed, placed on the truck with other detainees, and driven to Batković Camp, where they arrived on 26 July 1995.<sup>17919</sup> KDZ333 and Hasić were exchanged in late December 1995.<sup>17920</sup>

b. Killings at the Pilica Cultural Centre

5438. The Indictment refers to the killing on 16 July 1995 of approximately 500 Bosnian Muslim men inside the Pilica Cultural Centre; the victims were subsequently buried in a mass grave at the Branjevo Military Farm.<sup>17921</sup>

5439. The Pilica Cultural Centre<sup>17922</sup> is a building located next to the Zvornik–Bijeljina Road, which was within the Drina Corps' area of responsibility at the time of the Indictment.<sup>17923</sup> It has a main hall and a separate cabin on the first floor, accessible through a door located next to the centre's main entrance.<sup>17924</sup>

5440. Popović testified that after visiting the Kula School in the morning of 16 July, he left in the direction of Pilica looking for Beara.<sup>17925</sup> Popović found Beara at the café across the Pilica Cultural Centre.<sup>17926</sup> Soon after, Erdemović, Kos, and the other members of the 10<sup>th</sup> Sabotage Detachment arrived at the café after leaving the Branjevo Military Farm.<sup>17927</sup> Upon arriving, Erdemović noticed a police check-point between the café and the Pilica Cultural Centre, which was manned by two or three policemen in blue camouflage uniforms carrying automatic rifles and pistols.<sup>17928</sup> Kos also saw a heavy presence of MP, civilian police, and other soldiers standing around the centre.<sup>17929</sup> Both Erdemović and Kos saw several dead bodies in front of the cultural centre; Erdemović also heard firing and explosions coming from that direction.<sup>17930</sup> Kos further testified to having seen dead bodies when he looked inside the Pilica Cultural Centre.<sup>17931</sup>

5441. A few minutes later, the group of soldiers, who had arrived earlier that day from Bratunac and who had also taken part in the Branjevo Military Farm executions, entered

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<sup>17918</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3046; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1213 (under seal); Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1214, 1283.

<sup>17919</sup> KDZ333, T. 24162 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3046; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1214, 1283; D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal).

<sup>17920</sup> KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3046; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1215; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1230 (under seal); D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal).

<sup>17921</sup> Indictment, Scheduled Incident E.10.1.

<sup>17922</sup> See fn. 4548.

<sup>17923</sup> Jean-René Ruez, T. 23850–23851 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 233–234, 227; P4307 (Video footage of Pilica Cultural Centre), at 00:00:00–00:01:06; Adjudicated Fact 1859.

<sup>17924</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11327–11328; Jean-René Ruez, T. 23852–23853 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 238; P4307 (Video footage of Pilica Cultural Centre), at 00:01:07–00:01:22.

<sup>17925</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 71; Vujadin Popović, T. 43075–43076 (6 November 2013).

<sup>17926</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 71; Vujadin Popović, T. 43076 (6 November 2013). See also P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 233, 235–236.

<sup>17927</sup> See para. 5436.

<sup>17928</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10984–10985.

<sup>17929</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42412–42413 (1 August 2013).

<sup>17930</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10983–10985; Franc Kos, T. 42413 (1 August 2013). See also Vujadin Popović, T. 43076–43081 (6 November 2013); D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 71–72. Popović also heard at least one grenade being thrown inside the cultural centre. Vujadin Popović, T. 43080–43081 (6 November 2013).

<sup>17931</sup> Franc Kos, T. 42413 (1 August 2013).

the café, sat down, ordered drinks, and said that “everything was finished”.<sup>17932</sup> Beara, who was by then very drunk, stood up and gave a speech thanking the soldiers for what they had done, stating: “Soldiers, you have done a great job and the state will be grateful to you.”<sup>17933</sup> In an intercepted conversation at 9:16 p.m. that day, Popović indicated that he had “finished the job [...] finished everything” and would return to the Command the following day.<sup>17934</sup>

5442. Forensic examination of the Pilica Cultural Centre conducted in September 1996 and October 1998, revealed the presence of human blood, bones, and tissue adhering to the walls and floor, as well as extensive damage caused by arms and grenades.<sup>17935</sup> Gunshot markings were found on the wall behind the stage, indicating that detainees were put on the stage before being executed and appear to have been shot at by soldiers positioned on the balcony overlooking the stage.<sup>17936</sup> Further, shell casings were found scattered on the first floor, stairs, and next to the stage, as well as on the ground outside of the building.<sup>17937</sup>

c. Burials of detainees killed at the Branjevo Military Farm and the Pilica Cultural Centre

5443. On the morning of 17 July 1995, while at the Engineering Company’s headquarters, Damjan Lazarević was ordered by Bogičević and Sekonojić to go to the Branjevo Military Farm, where a pit was to be dug to bury the bodies of those killed.<sup>17938</sup> Lazarević was informed that people from the Zvornik public utility company would assist in loading the bodies.<sup>17939</sup> Cvijetin Ristanović was then ordered by Lazarević to load the “BGH–700” excavator onto a Labudica trailer and to prepare to go to the farm.<sup>17940</sup>

5444. Lazarević and a driver drove in a small vehicle and arrived at the Branjevo Military Farm between 8 and 9 a.m.<sup>17941</sup> Upon arrival they encountered a group of elderly civilians who worked on the farm.<sup>17942</sup> Ristanović and a driver followed in a Mercedes 2626 truck, which pulled the trailer carrying the BGH–700.<sup>17943</sup> When he arrived, Ristanović was

<sup>17932</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10985–10986, 10992; Vujadin Popović, D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 73. See also Vujadin Popović, T. 43082 (6 November 2013).

<sup>17933</sup> D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 18; Franc Kos, T. 42413–42414 (1 August 2013); Vujadin Popović, D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 73.

<sup>17934</sup> P5079 (Intercept of conversation between Lt. Col. Popović and Rašić, 16 July 1995), e-court p. 1. Popović testified that Trbić arrived at the café soon after Beara’s speech, and ordered Popović to report immediately to the Drina Corps Command. Vujadin Popović, D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 74.

<sup>17935</sup> Jean-René Ruez, T. 23852–23854 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 239–245. See Adjudicated Facts 1861, 1862, 1863.

<sup>17936</sup> Adjudicated Fact 1862.

<sup>17937</sup> Jean-René Ruez, T. 23856–23858 (30 January 2012); P4307 (Video footage of Pilica Cultural Centre), at 00:03:15–00:04:09, 00:04:50–00:05:01, 00:09:10–00:09:11.

<sup>17938</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14459. See also Adjudicated Fact 1851.

<sup>17939</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14459.

<sup>17940</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5389–5390, 5400, 5418; P4583 (Zvornik Brigade Engineering Company logbook, 14–19 July 1995), e-court p. 4 (an entry for 17 July containing an order to “Work with BGH-700 in Branjevo” and “Transport BGH-700 to Branjevo by flat bed”). See also Adjudicated Fact 1850. The Chamber notes that despite testifying to have operated a “G-700” at the Branjevo Farm on 17 July, Ristanović later confirmed that his references were in fact references to the BGH-700. Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13625.

<sup>17941</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14460. The vehicle stayed on the road whilst Lazarević continued on foot to the Branjevo Military Farm. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14460.

<sup>17942</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14460–14461. See also Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5392; Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21002; Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11317–11318. The elderly civilian workers occasionally came out of the farm buildings to observe the digging operations taking place. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14461.

<sup>17943</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5390–5391; P1172 (Zvornik Brigade vehicle log, 1-31 July 1995), pp. 1–2 (recording a Mercedes 2626 as being driven to Branjevo on 17 July 1995, to transport a “700 loader”). See also Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13627.



ordered by Lazarević to dig a hole.<sup>17944</sup> Ristanović saw bodies lying in a meadow, approximately 100 metres from where he was working.<sup>17945</sup> Shortly after, Veljko Kovačević—a worker for the Birac Holding company—arrived in a yellow ULT–220 loader and parked in the meadow next to the bodies.<sup>17946</sup>

5445. A group of elderly civilians from the public utilities company was sent, together with two to three members of the “R” or “Rear” Battalion of the Zvornik Brigade, to the Branjevo Military Farm to assist in the burial operation.<sup>17947</sup> Once Ristanović finished digging the grave, the group started manually loading the bodies into the bucket of the ULT–220, which was then used to transfer the bodies to the gravesite.<sup>17948</sup> Lazarević stayed at the farm until the final stages of the burial process, before leaving between 7 and 8 p.m.<sup>17949</sup>

5446. That same day, while the burial operation at the Branjevo Military Farm was ongoing, Milenko Tomić—a driver of the R Battalion—received a travel order from Radislav Pantić to drive a truck to Pilica and then onwards to Kula in order to pick up military personnel.<sup>17950</sup> Tomić set off in a TAM 130 truck from the Metalno company.<sup>17951</sup> At Pilica, Tomić was pulled over by a soldier who instructed him to park his vehicle next to the door of the Pilica Cultural Centre.<sup>17952</sup>

5447. Twelve members of the 1<sup>st</sup> Battalion’s Work Platoon—who had earlier that day been ordered by Lakić to go to the Pilica Cultural Centre—loaded the bodies onto two yellow tipper trucks.<sup>17953</sup> Lakić supervised the entire loading operation, which was concluded at approximately 3 p.m.<sup>17954</sup> While assisting in the process, Bogdanović saw a

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<sup>17944</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5392; P659 (Sketches made by Cvijetin Ristanović), p. 1 (indicating the location of the workshop and auxiliary buildings at the Branjevo Military Farm).

<sup>17945</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5393; P659 (Sketches made by Cvijetin Ristanović), p. 1 (where Ristanović marked the location of the bodies in the meadow).

<sup>17946</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5394, 5401; Cvijetin Ristanović, P351 (Transcript from *Prosecutor v. Popović et al.*), T. 13631; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14460, 14472, 14479; P176 (Zvornik Brigade vehicle log, 1-31 July 1995) (recording Kovačević operating the ULT–220 for the purposes of “digging trenches in Branjevo” on 17 July 1995); P4583 (Extract from Zvornik Brigade Engineering Company logbook, 14–19 July 1995), e-court p. 4 (an entry for 17 July 1995 containing an order to “Work with ULT 220 at Branjevo”). See also Adjudicated Fact 1850; P657 (Brochure for a wheel loader (ULT200)); Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14480–14481.

<sup>17947</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14459, 14461–14462.

<sup>17948</sup> Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5395–5396; Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14459, 14461–14465; P272 (Aerial photograph of Branjevo state farm marked by Damjan Lazarević); P273 (Aerial photograph of Branjevo state farm marked by Damjan Lazarević). While KDZ333 was hiding under a nearby bridge, he heard the sounds of machines and could hear vehicles continuously moving back and forth. KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3044–3045.

<sup>17949</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14462–14463.

<sup>17950</sup> Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 20997–20998, 21001, 21003, 21023. See P662 (List of conscripts for R Battalion, 6 December 1994). The Chamber notes that Tomić could not recall the date of this assignment. See Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21001. However, in light of the totality of evidence before it, the Chamber considers that Tomić’s evidence on this point relates to the events that took place on 17 July 1995.

<sup>17951</sup> Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 20997, 21022. See also Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21008–21013; P284 (Zvornik Brigade vehicle log July 1995 marked by Milenko Tomić) (recording the refuelling of a TAM 130 truck on 17 July 1995, signed by Radislav Pantić); P285 (Zvornik Brigade vehicle log July 1995 marked by Milenko Tomić) (recording the route that Tomić drove on 17 July 1995).

<sup>17952</sup> Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21001, 21005. See also Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21006–21008; P661 (Sketch drawn by Milenko Tomić); Jean-René Ruez, T. 23855 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 246. The soldier looked to be about 30 years old, and was dressed in an old JNA uniform. Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21003.

<sup>17953</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314, 11328–11329. These trucks were the type used for carrying gravel. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11329. See also Jean-René Ruez, T. 23855–23856 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 246 (an aerial photograph showing a truck parked in front of the Pilica Cultural Centre on 17 July 1995).

<sup>17954</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11328–11329, 11332.

huge pile of corpses in civilian clothes and other bodies scattered around the room, some curled up and others stretched out.<sup>17955</sup>

5448. Tomić made two separate trips transporting bodies from the Pilica Cultural Centre to the Branjevo Military Farm.<sup>17956</sup> On the second trip back to Pilica, Tomić was stopped at an intersection and told by another soldier that he was no longer needed.<sup>17957</sup>

5449. As evidenced through a series of intercepts admitted by the Chamber, Popović supervised the burial operation of the Bosnian Muslim detainees killed at the Branjevo Military Farm and at the Pilica Cultural Centre.<sup>17958</sup>

#### d. Reburials

5450. On 10 August 1995, Madeleine Albright—then US Ambassador to the UN— informed the Security Council that classified aerial photographs taken by the US government of disturbed earth indicated mass graves connected with the fall of Srebrenica.<sup>17959</sup>

5451. Towards the end of September 1995, as part of the reburial operation to conceal the Srebrenica killings which will be discussed in detail below, the bodies initially buried at the Branjevo Military Farm were reburied in some of the Čančari Road secondary gravesites, as demonstrated by the forensic evidence discussed below.<sup>17960</sup> On 21 March 1996, the US government released to the public a number of aerial photographs that showed a large number of bodies lying on the field near the Branjevo Military Farm on 17 July 1995.<sup>17961</sup> Following Albright’s visit to the Branjevo Military Farm gravesite on 22 March 1996, the Accused told Mladić that: “[A] big show was put on for Albright, she expected they would find 1200 Muslim bodies at Pilica, but they found some five

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<sup>17955</sup> Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11330–11332. Bogdanović also saw two female bodies. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11330.

<sup>17956</sup> Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21001–21002; Jean-René Ruez, T. 23856 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court p. 247 (showing the road that the trucks would have taken in transporting the bodies from the Pilica Cultural Centre to the Branjevo Farm). During the second trip, and upon arriving at the Branjevo Military Farm, Tomić saw between five and ten corpses lying on the ground near to where he parked his truck. Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21005.

<sup>17957</sup> Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21002–21003.

<sup>17958</sup> An intercepted conversation from 12:42 p.m. on 17 July records Krstić—or someone using the code name “Zlatar 1”—attempting to reach Popović, but he was informed that Popović was in Zvornik and would be back in the late afternoon. P4961 (Intercept of conversation between Major Golić and Zlatar, 17 July 1995). See also Richard Butler, T. 27604-27605 (18 April 2012). At 12:44 p.m. that same day, someone attempted to reach Popović in the name of “Zlatar 1”, and was informed by Trbić that Popović had gone to do “that task”. P5080 (Intercept of conversation between Milorad Trbić and an unidentified person, 17 July 1995), e-court p. 1. At 12:49 p.m., an unknown individual told Trbić that Popović should be left to “finish that work that he’s doing”. Trbić replied that Popović was “working on that, you know. The preparation is mainly finished”. P5081 (Intercept of conversation between Milorad Trbić and an unidentified person, 17 July 1995), p. 1. An intercepted conversation from 4:22 p.m. records Popović making a call in which he reported that “everything’s alright that job is done and dusted [...] everything’s finished up there are no problems.” P6702 (Intercept of conversation between Lt. Col. Popović and an unidentified person, 17 July 1995); P4964 (Intercept of conversation between Lt. Col. Popović and an unidentified person, 17 July 1995). An intercepted conversation from 8:26 p.m. that same day records an unidentified individual asking “Pajo”—nickname used by Golić—where “Pop”, i.e. Popović, is, and Pajo replying: “He went home. He is in no mood, I can tell you.” P5330 (Intercept of conversation between “Pajo” and an unidentified person, 17 July 1995).

<sup>17959</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43.

<sup>17960</sup> See Section IV.C.1.g.v: Reburial operation.

<sup>17961</sup> P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43. See P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court p. 28. Images dated 27 September 1995 also showed the disturbance of the gravesite dug in July 1995, as well as a backhoe and a front loader parked at the farm. P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43. See P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court p. 30.

bodies.”<sup>17962</sup> A day later, the Accused issued an order for the creation of a mixed military and civilian commission for the exhumation of bodies in the area of Pilica.<sup>17963</sup>

e. Forensic evidence

5452. As discussed above, the victims who had been previously detained at the Kula School and subsequently killed at the Branjevo Military Farm, as well as the victims who were killed at the Pilica Cultural Centre, were all buried at the Branjevo Military Farm primary gravesite and, as will be further discussed, were subsequently reburied at the Čančari Road secondary gravesites.<sup>17964</sup> Given that the forensic evidence for the bodies found at these gravesites cannot be distinguished, the Chamber has combined its analysis in the following paragraphs.

i. The Branjevo Military Farm primary gravesite

5453. Aerial images reveal that the Branjevo Military Farm gravesite—also known as the Pilica gravesite<sup>17965</sup>—was first created between 5 and 17 July 1995, and was disturbed between 21 and 27 September 1995.<sup>17966</sup> The gravesite is adjacent to the Branjevo Military Farm complex at the periphery of a large, cultivated field, approximately 150 metres from the gravel driveway leading to the farm.<sup>17967</sup>

5454. The gravesite was exhumed between 10 and 24 September 1996 by a Tribunal exhumation team under the direction of William Haglund.<sup>17968</sup> The remains found at the gravesite were then examined under the direction of Robert Kirschner.<sup>17969</sup> William Haglund prepared a report on both the exhumation of the gravesite and the results of the post-mortem examination of the remains found therein.<sup>17970</sup>

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<sup>17962</sup> P1490 (Ratko Mladić’s notebook, 16 January–28 November 1996), e-court p. 47. See Dražen Erdemović, T. 25356 (27 February 2012); P6451 (Article from Slobodna Bosna entitled “I Killed ‘Only’ Hundreds of People”, 22 March 1996); Jean-René Ruez, T. 23841–23842 (30 January 2012). See also Richard Butler, T. 27632 (18 April 2012). Cf. Radovan Radinović, T. 41582–41585 (19 July 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. 428.

<sup>17963</sup> P3163 (Report of RS Military Prosecutor’s Office, 26 March 1996), e-court pp. 2–3. The Chamber will discuss the implementation of this order below. See para. 5794.

<sup>17964</sup> See paras. 5443–5448, 5461.

<sup>17965</sup> William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3751; Dušan Janc, T. 26968 (27 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 10. See P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court pp. 10, 17. See Adjudicated Fact 1852.

<sup>17966</sup> Jean-René Ruez, T. 23844, 23847 (30 January 2012); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), e-court pp. 220, 228–230; Dean Manning, T. 25838–25839 (6 March 2012); P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court pp. 28–30.

<sup>17967</sup> P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court pp. 10, 17; Dean Manning, T. 25838 (6 March 2012); P4306 (Video footage of Branjevo Farm) at 00:02:02–00:02:30 (showing an aerial view of the Branjevo Military Farm complex), 00:03:17–00:03:22 (showing aerial footage of the gravesite); P4332 (Photograph of Branjevo Farm, 21 September 1995); William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3751; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43.

<sup>17968</sup> William Haglund, T. 23874 (30 January 2012); William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3729; P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court pp. 12, 14, 30, 82. See also P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 3, 10; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43.

<sup>17969</sup> P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court pp. 12, 82.

<sup>17970</sup> William Haglund, T. 23874 (30 January 2012); P4321 (William Haglund’s expert report, entitled “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I”, 15 June 1998), e-court pp. 1, 12, 82. See also P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 43; P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 10.

5455. The Branjevo Military Farm gravesite is an approximately three metre deep grave, consisting of a trench extending 28 by 10 metres.<sup>17971</sup> The gravesite showed evidence of robbing and disturbance evidenced, first, by aerial images and the discovery of partial bodies and, further, by soil samples from the surface of the gravesite.<sup>17972</sup>
5456. A minimum of 132 individuals were found at the gravesite.<sup>17973</sup> All the individuals for whom sex could be determined were male.<sup>17974</sup> It was established that the victims' ages ranged from 15 to 61, with the majority of the victims being over 25 years old.<sup>17975</sup> All the victims were found wearing civilian clothing, with the exception of one, who was wearing military-type trousers.<sup>17976</sup> Further, two blindfolds and 83 ligatures were recovered at the gravesite.<sup>17977</sup> The cause of death for at least 130 bodies was attributed to gunshot injuries.<sup>17978</sup>
5457. As of 13 January 2012, DNA analysis has led to the identification of 138 individuals in the Branjevo Military Farm grave as persons listed as missing following the take-over of Srebrenica.<sup>17979</sup>

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<sup>17971</sup> P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court p. 17; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3751–3752, 3757, 3759; P4333 (Photograph of Branjevo Military Farm gravesite); William Haglund, T. 23893 (31 January 2012).

<sup>17972</sup> Dean Manning, T. 25838–25839 (6 March 2012); P4512 (Photograph booklet entitled "Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery"), e-court pp. 29–30; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 9, 18, 42–43. *See also* P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 10; Dean Manning, 25845–25846, 25848 (6 March 2012); William Haglund, T. 23893, 23959 (31 January 2012).

<sup>17973</sup> William Haglund, T. 23894 (31 January 2012); William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3752; P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 10, 55, 80; P4037 (Jose Baraybar's expert report entitled "Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001", 4 January 2004), p. 7; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 43.

<sup>17974</sup> P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 11, 55–60, 80. *See also* P4322 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume II", 15 June 1998); P4323 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume III", 15 June 1998); P4324 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume IV", 15 June 1998); P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 44; Adjudicated Fact 1853.

<sup>17975</sup> P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 11, 55–60, 80. *See also* P4322 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume II", 15 June 1998); P4323 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume III", 15 June 1998); P4324 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume IV", 15 June 1998); P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 43–44; P4030 (Jose Baraybar's expert report entitled "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999", 8 December 1999), e-court p. 12.

<sup>17976</sup> P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 11, 61, 81. *See also* P4322 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume II", 15 June 1998); P4323 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume III", 15 June 1998); P4324 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume IV", 15 June 1998).

<sup>17977</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 10, 43–44, 120–121, 131; P4505 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 1: Kozluk, Cancari Road 3 and 12 and Branjevo Military Farm (Pilica)"), pp. 276–277, 378; P4507 (Chart of photographs of blindfolds, ligatures, and location); P4508 (Collage of Srebrenica blindfolds, 5 March 2012); P4509 (Collage of Srebrenica ligatures, 5 March 2012). *See also* P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 11, 61, 80; William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3755; P4336 (Photograph of human remains); Adjudicated Fact 1854.

<sup>17978</sup> P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998), e-court pp. 11–12, 56–60, 62, 80–81. *See also* P4322 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume II", 15 June 1998); P4323 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume III", 15 June 1998); P4324 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume IV", 15 June 1998); P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 9–10, 44; Adjudicated Fact 1853.

<sup>17979</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 3, 10, 41; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January

ii. Čančari Road secondary gravesites

5458. Of the 13 known secondary mass graves along the Čančari Road,<sup>17980</sup> only Čančari Road 4 to 6 and 8 to 12 have been linked to the Branjevo Military Farm primary gravesite.<sup>17981</sup>
5459. A Tribunal team of experts, led by Richard Wright, conducted the exhumation of Čančari Road 12 between 10 and 25 May 1998.<sup>17982</sup> The remains found therein were then examined by a team of pathologists under the direction of Christopher Lawrence.<sup>17983</sup> While the examination and probing of Čančari Road 4, 6, 8, 9, and 10 were conducted by a Tribunal team of experts under the direction of Richard Wright, the exhumation of these gravesites was handed over to the BiH Government in 2001.<sup>17984</sup> Čančari Road 5 and 11 were exhumed by the BiHCMP in 2002 and 2001, respectively.<sup>17985</sup>
5460. Aerial images show that Čančari Road 4, 5, 6, 8, 9, 10, 11, and 12 were each first excavated between approximately 7 and 27 September 1995 and were filled in prior to 2 October 1995.<sup>17986</sup> The Chamber notes that out of all the secondary gravesites associated with the Branjevo Military Farm gravesite, it only received forensic evidence in relation to Čančari Road 12. Remains of at least 177 individuals, including 43 intact bodies, were recovered from Čančari Road 12.<sup>17987</sup> The forensic evidence reviewed by the Chamber shows that all of the victims at Čančari Road 12 whose sex could be determined were male.<sup>17988</sup> While the majority of the victims were older than 25, five individuals were between 8 and 13 years old.<sup>17989</sup> Furthermore, at least six blindfolds and 16 ligatures were

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2012”, 13 January 2012), Annex D, e-court pp. 122–128 (under seal). *See also* P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010).

<sup>17980</sup> *See* para. 5408.

<sup>17981</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 41–42. *See* para. 5461. The Chamber notes that Tribunal experts previously associated Čančari Road 4, 5, and 6 with the Kozluk killing site based on the discovery of green glass at these gravesites; however, DNA analysis later confirmed that these secondary gravesites are associated with the Branjevo Military Farm primary gravesite. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 40. *See also* Dušan Janc, T. 26990 (27 March 2012) (referring to Čančari Road 4 being connected to the Branjevo Military Farm execution site). As stated above, while Čančari Road 7 contains the remains of an individual whose DNA was also found in Čančari Road 11, the Chamber considers that this gravesite is not associated with the Branjevo Military Farm gravesite but with the Kozluk primary gravesite. *See* para. 5411, fn. 18449.

<sup>17982</sup> P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court p. 10; Richard Wright, T. 22276 (1 December 2011); Dean Manning, T. 25841 (6 March 2012). *See also* P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 20; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 47.

<sup>17983</sup> Christopher Lawrence, T. 22447 (8 December 2011); Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*), T. 3978–3980; P4064 (Chart of primary and secondary graves); P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court pp. 3, 52.

<sup>17984</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 16–19.

<sup>17985</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 17, 19.

<sup>17986</sup> P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court pp. 70–73, 76–88; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 46; Dean Manning, T. 25839–25841 (6 March 2012). *See also* Adjudicated Fact 1855 (in relation to Čančari Road 12).

<sup>17987</sup> P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court pp. 2–3, 14, 43; Richard Wright, P3999 (Transcript from *Prosecutor v. Krstić*), T. 3660. *See also* P4000 (Richard Wright’s expert report entitled “Exhumations in Eastern Bosnia in 1998”, 12 May 1999), e-court p. 33.

<sup>17988</sup> P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court pp. 2, 14. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 47; P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), e-court p. 11.

<sup>17989</sup> P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court pp. 2, 14. *See also* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 47–48; P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), e-court pp. 9, 12.



found at the gravesite.<sup>17990</sup> The cause of death for 39 of the 43 complete bodies was a result of gunshot wounds; the four remaining had an undetermined cause of death.<sup>17991</sup> While experts were not able to provide a cause of death for the remainder of the body parts analysed, injuries in the majority of these remains were consistent with gunshot wounds.<sup>17992</sup>

5461. Forensic analysis showed that Čančari Road 12 is a secondary gravesite associated with the Branjevo Military Farm gravesite.<sup>17993</sup> First, the filling of Čančari Road 12 included lumps of evidently foreign soil and vegetation, including stubble from a cereal field; these were consistent with the evidence that the Branjevo Military Farm had been a primary grave.<sup>17994</sup> Second, DNA-based connections were found between the Branjevo Military Farm primary gravesite and the secondary gravesites of Čančari Road 4, 5, 6, 8, 9, 10, 11, and 12.<sup>17995</sup> As of 13 January 2012, DNA analysis has led to the identification of 1,597 victims from the Čančari Road gravesites associated with the Branjevo Military Farm primary gravesite, as persons listed as missing following the take-over of Srebrenica: 180 from Čančari Road 4; 290 from Čančari Road 5; 183 from Čančari Road 6; 49 from Čančari Road 8; 209 from Čančari Road 9; 378 from Čančari Road 10; 140 from Čančari Road 11; and 168 from Čančari Road 12.<sup>17996</sup>

<sup>17990</sup> P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 48; P4505 (Photograph booklet entitled "Srebrenica Blindfolds and Ligatures - Volume 1: Kozluk, Cancari Road 3 and 12 and Branjevo Military Farm (Pilica)", pp. 361–377, 381–389; P4507 (Chart of photographs of blindfolds, ligatures, and location); P4508 (Collage of Srebrenica blindfolds, 5 March 2012); P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999), e-court pp. 2, 25, 28–36; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*); P4061 (Christopher Lawrence's expert report entitled "Report on Ligatures found in the Grave in C12", 17 June 1999). See also Adjudicated Fact 1857. The Chamber notes that ligatures were also found in the remaining secondary gravesites associated with the Branjevo Military Farm gravesite, with the exception of Čančari Road 4. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 15. Similarly, blindfolds were found in Čančari Road 5, 6, 8, 9, and 10. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 15.

<sup>17991</sup> P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999), e-court pp. 3, 43–51. See P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999), e-court p. 20; D1978 (Diagram of a body marked by Christopher Lawrence); Christopher Lawrence, T. 22488–22492 (8 December 2011) (referring to the Lawrence's conclusion that the large number of gunshot wounds found in three bodies raises the possibility that such injuries may have been deliberately inflicted to incapacitate and cause pain). See also P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 48; Adjudicated Fact 1856.

<sup>17992</sup> P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999), e-court pp. 3, 32, 40, 43–51; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 20, 47–48.

<sup>17993</sup> Richard Wright, T. 22276, 22282 (1 December 2011); P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 10, 21–22; Christopher Lawrence, P4051 (Transcript from *Prosecutor v. Krstić*, T. 3999. See also P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 10; Adjudicated Fact 1855; P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 19, 37 (concluding that bodies had been broken up in the process of moving them from the primary gravesite to the secondary gravesite).

<sup>17994</sup> P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 21–22; P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 47.

<sup>17995</sup> The specific connections are as follows: one individual with remains in both Branjevo Military Farm and Čančari Road 4; two between Branjevo Military Farm and Čančari Road 8; 28 between Branjevo Military Farm and Čančari Road 9; six between Branjevo Military Farm and Čančari Road 11; and four between Branjevo Military Farm and Čančari Road 12. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 48; Dušan Janc, T. 26968–26970 (27 March 2012). The Chamber notes Dušan Dunjić's challenge to the DNA-based connections between the primary and secondary gravesites and, in particular, that it was "concluded groundlessly" on the basis of 310 DNA links that 4049 bodies originated from numerous primary mass graves including Branjevo Military Farm. D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 24. See also Defence Final Brief, paras. 2607–2608. The Chamber further notes that Dušan Dunjić argued that there was a possibility that certain Čančari Road gravesites could in fact be primary in relation to each other. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 16–17. However, having assessed the totality of evidence on this issue, the Chamber accepts Janc's report and the findings therein.

<sup>17996</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 16–20, 41–43; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica -

5462. The Chamber notes Dušan Dunjić's challenge that in the event of the DNA of an individual being found in multiple gravesites, such individual may not be counted in both gravesites, as is the case with respect to Čančari Road 7 and Čančari Road 11.<sup>17997</sup> The Chamber notes, however, that in calculating the total number of identified individuals for the Branjevo Military Farm primary gravesite and its associated secondary gravesites, Janc did not include any of the individuals identified from the Čančari Road 7 gravesite, as those individuals were instead counted towards the total number of Kozluk victims.<sup>17998</sup> Thus, having assessed the totality of evidence on this issue, the Chamber accepts Janc's report and the findings therein, particularly the fact that Čančari Road 7 is associated with the primary gravesite in Kozluk.

f. Conclusion

5463. DNA analysis has led to the identification of 1,735 individuals found at the Branjevo Military Farm gravesite and its associated Čančari Road secondary gravesites as persons missing following the take-over of Srebrenica.<sup>17999</sup> This number is consistent with other evidence before the Chamber: Ahmo Hasić estimated that there were 1,000 to 1,500 people who had been killed at the Branjevo Military Farm,<sup>18000</sup> and Erdemović estimated that between 1,000 and 1,200 Bosnian Muslim detainees were killed there.<sup>18001</sup> In relation to the killings at the Pilica Cultural Centre, Bogdanović estimated that there were approximately 500 there.<sup>18002</sup> **(The DNA finding could not indicate the way and manner of death!)**

5464. On the basis of this evidence, the Chamber finds that on 15 and 16 July 1995, at least 1,735 Bosnian Muslims men were killed at the Kula School, the Branjevo Military Farm, and the Pilica Cultural Centre by members of the Bosnian Serb Forces, including members of the 10<sup>th</sup> Sabotage Detachment and VRS soldiers from Bratunac. Some of these Bosnian Muslims men were killed at the Kula School, about 1,200 were killed at the Branjevo Military Farm, and about 500 were killed at the Pilica Cultural Centre.

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January 2012", 13 January 2012), Annex D, e-court pp. 201–225, 232–273. See also P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010); Dean Manning, T. 25841 (6 March 2012).

<sup>17997</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 14–15.

<sup>17998</sup> See P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–41. Janc testified that he did not ever count reassociations, and therefore did not duplicate individuals when their DNA was found in two gravesites. Dušan Janc, T. 26950 (27 March 2012).

<sup>17999</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–41.

<sup>18000</sup> Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1205, 1229. See also Adjudicated Fact 1844.

<sup>18001</sup> Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10983. See also Dražen Erdemović, T. 25384–25386 (28 February 2012). But see Defence Final Brief, para. 2546; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 23 (testifying that between 350 and 370 people were killed at Branjevo Military Farm). According to Kos, eight buses full of detainees, each of which could fit approximately 50 people, arrived at the farm that day; the eighth bus, however, was only half full. D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 16, 22–23; Franc Kos, T. 42386–42387 (1 August 2013). The Chamber notes, however, that during a prior interview with a Prosecution investigator, Kos estimated that the Detachment members had killed detainees from 11 buses who had come from Kula School, and that the Bratunac soldiers shot detainees from the buses that arrived thereafter; he asserted that therefore, the total number of detainees killed at the Branjevo Military Farm was between 600 and 700. See Franc Kos, T. 42368–42370 (31 July 2013), T. 42389–42392 (1 August 2013). Kos attempted to refute Erdemović's testimony that 1,200 people had been killed at Branjevo Military Farm, arguing that each soldier had only one combat set, made up of five ammunition clips consisting a 30 bullets each, and that none of the soldiers were given an additional charge; according to Kos, he did not fire his complete combat set of 150 bullets and he only fired four ammunition clips. D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 22–24; Franc Kos, T. 42360–42362 (31 July 2013), T. 42384–42387 (1 August 2013). In light of all the evidence before it, the Chamber does not accept the estimate provided by Kos as to the number of victims killed at the Branjevo Military Farm.

<sup>18002</sup> Bogdanović testified that he heard that there were 550 bodies in the Dom; while he did not count, he estimated that number to be a reasonable one. Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11333. See Adjudicated Fact 1860.

**(#However, there are many unresolved questions and unestablished findings, particularly pertaining to the number of executed vs. those who had been a combat casualties. Here is what the OTP expert Dusan Janc summarised as the victims of executions after the fall of Srebrenica, P4772:**

Srebrenica Graves TOTAL	5765	5977
Srebrenica Surface Remains TOTAL	688	702
OTHERS (Serbia related, Kozluk surface, Godinjske Bare, Uncategorized) TOTAL	76	68
Srebrenica Victims TOTAL	6529	6747

**The questions are as follows:**

- 1. #How come it was and still is publicly reported over 8,100 executed “men and boys”?**
- 2. #These over 700 “Surface Remains” must not be counted as a result of a “mass executions” – and if yes, how come?**
- 3. #Does it mean that there was no any combat casualty in 1,400 days of a wild war in Podrinje? Since the documents confirm that there had been many Muslim casualties, as a Serb casualties from these months of conflict had over 3,500 casualties, the question is: where they had been buried?**
- 4. #Are those, approximately 50% of recovered, that had their ID cards and valuables, which had been taken away from them, in accordance with the rules, also counted in the amount of executed? That questions demand an answer, and only then a number of executed would be close to a real, and it certainly would be between 1,500 and 2,500, not more!**
- 5. #There should be remembered that many Prosecutor experts didn’t know about 1,380 day of fights in the theatre, and that there were casualties all the time. So, for instance, Dushan Janc was “confused – how come many bodies were found there, but it was not clear from where they came! Had Janc have known about the previous combats, he would immediately know from where there these “surplus” bodies came from!)**

g. The aftermath of the fall of Srebrenica

i. *Opening a corridor for the passage of the column*

5465. In the morning of 13 July 1995, groups from the column of Bosnian Muslim men entered the Bratunac area and engaged in combat with members of the Bosnian Serb Forces.<sup>18003</sup> By that day, the Bosnian Serb Forces believed that parts of the column, led by Zulfo Tursunović and Ibrahim Mandžić, were preparing to break through to Tuzla.<sup>18004</sup> In the early hours of 14 July, members of the column attacked Bosnian Serb positions in Milići as they moved towards Tuzla.<sup>18005</sup> The Zvornik Brigade had been expecting and

<sup>18003</sup> See paras. 5162–5163.

<sup>18004</sup> P5098 (Report of RS MUP, 13 July 1995); P5099 (Report of Bijeljina RJB, 13 July 1995); P5092 (Report of Sarajevo RDB, 14 July 1995), p. 1; P4579 (Zvornik Brigade combat report, 13 July 1995). See also P5145 (Report of Drina Corps, 13 July 1995), p. 1; P5093 (Report of Sarajevo RDB, 14 July 1995), p. 1; P4389 (Report of Sarajevo RDB, 13 July 1995), p. 1; Dragan Kijac, T. 44337–44338 (3 December 2013).

<sup>18005</sup> P5136 (Bulletin of daily events of Zvornik CJB, 13–14 July 1995), p. 2; KDZ122, T. 26259 (14 March 2012) (closed session). See P5093 (Report of Sarajevo RDB, 14 July 1995), p. 1.

preparing for the arrival of the column to the Zvornik area.<sup>18006</sup> Obrenović, acting commander of the Zvornik Brigade in the absence of Pandurević, was organising the logistics for the defence.<sup>18007</sup>

5466. As anticipated, later on 14 July, members of the column attacked positions of the Zvornik Brigade.<sup>18008</sup> As a result, part of the column passed through the Bosnian Serb lines at Zvornik and continued towards Tuzla.<sup>18009</sup> During this breakthrough, Bosnian Muslim men captured Zoran Janković, Commander of the Doboј PJP Platoon, as well as six other MUP and VRS members.<sup>18010</sup> Around 8:20 p.m., a column about two or three kilometres long was observed in the areas of Jošanica and Liplje.<sup>18011</sup> That night, Obrenović requested the command of the Drina Corps to provide reinforcements.<sup>18012</sup> At 10:27 p.m., Jokić informed Miletić about problems with the column, and Miletić asked Jokić to check with Vasić, as “everything available should be gathered [...] [e]veryone who can carry a rifle should go up”.<sup>18013</sup> Jokić explained that: “there is a large group going this way [...] we’re having some problems [...] they promised me some reinforcements, but they’re nowhere to be seen...” and added that “Obrenović is really engaged to the hilt... we are all engaged to the hilt... believe me... *this package really did for us...* we’ve been reporting about the number of people since this morning, so... so there.”<sup>18014</sup>

5467. In the early morning of 15 July, the Muslim Forces in Srebrenica at the front of the column attacked positions of the Zvornik Brigade and intense fighting ensued throughout the day.<sup>18015</sup> At 8:55 a.m., Pandurević was informed about the movement of the column and the situation in the area where the 4<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> Battalions of the Zvornik Brigade were deployed.<sup>18016</sup> Between 9 and 10 a.m., Pandurević was informed again about the size of the column and of actions being carried out against it.<sup>18017</sup> Based on Pandurević’s

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<sup>18006</sup> See P4579 (Zvornik Brigade combat report, 13 July 1995) (detailing the preparations made in the Zvornik Brigade area of responsibility to block the column).

<sup>18007</sup> See Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 11711–11714 (testifying that Obrenović called him at 2 a.m. on 14 July requesting men and equipment to be sent to the Maričići and Snagovo areas); Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11596, 11598 (testifying that between 8 and 9 a.m. on 14 July, he received a call from Obrenović to send 40 men to the Standard Barracks who would then be deployed to Snagovo).

<sup>18008</sup> P4586 (Zvornik Brigade combat report, 15 July 1995), p. 1; P136 (Zvornik Brigade combat report, 14 July 1995); P178 (Zvornik Brigade combat report, 14 July 1995); KDZ122, T. 26260–26261, 26263 (14 March 2012) (closed session). See Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6747–6748.

<sup>18009</sup> P4981 (Report of Sarajevo RDB, 15 July 1995). See P178 (Zvornik Brigade combat report, 14 July 1995).

<sup>18010</sup> P4981 (Report of Sarajevo RDB Report, 15 July 1995). See also P5138 (Report of Zvornik CJB, 16 July 1995), p. 2; D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 37. Zoran Jovanović had been sent to the Snagovo area with reinforcements earlier that day. Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 11712; P4563 (Statement by KDZ122), p. 2 (under seal). See also Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 11716, 11718–11719, 11754, 11756–11758.

<sup>18011</sup> P137 (Zvornik Brigade interim combat report, 14 July 1995).

<sup>18012</sup> [REDACTED]; P137 (Zvornik Brigade interim combat report, 14 July 1995). See Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6745–6748. In an intercepted conversation on 14 July at 8:38 p.m., Živanović ordered Jokić—duty officer at the Zvornik Brigade at the time—to tell Obrenović to “surround the location [...] [p]ress it hard and slowly”. P5294 (Intercept of conversation between Major Dragan Jokić and General Milenko Živanović, 14 July 1995), p. 1. Živanović also informed Jokić that reinforcements would arrive the next morning. P5294 (Intercept of conversation between Major Dragan Jokić and General Milenko Živanović, 14 July 1995), p. 1. But see D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 40 (where Živanović denied taking part in this conversation and stated that he had never talked to Jokić).

<sup>18013</sup> P5071 (Intercept of conversation, 14 July 1995), pp. 1–2.

<sup>18014</sup> P5071 (Intercept of conversation, 14 July 1995), pp. 1–2. Miletić insisted that Jokić get in touch with Vasić. P5071 (Intercept of conversation, 14 July 1995), p. 2.

<sup>18015</sup> P179 (Zvornik Brigade interim combat report, 15 July 1995); P4586 (Zvornik Brigade combat report, 15 July 1995), p. 1; P138 (Zvornik Brigade interim combat report, 15 July 1995), p. 1; P5191 (Report of Zvornik CJB, 15 July 1995), p. 2; P4582 (Zvornik Brigade IKM Operations Duty logbook, July–October 1995), p. 7; P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 69; P4563 (Statement by KDZ122), p. 5 (under seal); P4587 (Zvornik Brigade combat report, 16 July 1995); P5139 (Bulletin of daily events of Zvornik CJB, 15–16 July 1995), p. 2; P5094 (Report of Sarajevo RDB, 16 July 1995), p. 1; P5138 (Report of Zvornik CJB, 16 July 1995), p. 1; P5095 (Report of Sarajevo RDB, 16 July 1995), p. 2; P180 (Zvornik Brigade interim combat report, 16 July 1995), p. 1; P5140 (Bulletin of daily events of Zvornik CJB, 16–17 July 1995), p. 2; P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 3. See also P5117 (Report of Bratunac Brigade to Drina Corps, 15 July 1995), p. 2.

<sup>18016</sup> P5304 (Intercept of conversation between Vinko Pandurević, Sreten Milošević, and Miladin Mijatović, 15 July 1995), p. 2.

<sup>18017</sup> P5302 (Intercept of conversation between Vinko Pandurević and Miladin Mijatović, 15 July 1995), p. 1.

request for reinforcements, the 1<sup>st</sup> Krajina Corps Company was dispatched to assist the Zvornik Brigade in actions against the column.<sup>18018</sup> **(#This is a valid evidence about the strength of the column. This strength didn't come from civilians. Having in mind that the Serb combatants were in tranches and protected, the strength of the 28<sup>th</sup> Division which attacked through the open space looks even more serious!)**

5468. During the course of the day, Obrenović met with Vasić at the Standard Barracks and discussed opening a corridor to allow the column to pass.<sup>18019</sup> Obrenović tried to contact Pandurević to authorise the plan, but Pandurević could not be reached as he was on his way back to Zvornik.<sup>18020</sup> Obrenović contacted Miletić at the Main Staff instead and asked for his approval to open a corridor.<sup>18021</sup> Miletić denied the request and advised Obrenović that the column should be destroyed.<sup>18022</sup> Vasić then sought approval from an advisor at the MUP but was also denied permission.<sup>18023</sup> **(This could have been Karisik?)** Obrenović subsequently contacted Krstić and was told that he should not worry about the fall of Zvornik because Pandurević and the Drina Wolves were en route.<sup>18024</sup> Krstić issued an order for the return of part of the Zvornik Brigade forces and the Podrinje Special Forces Detachment to their zones of responsibility in order to prevent the consequences of a possible attack on Zvornik and the link-up of Bosnian Muslim units from Srebrenica and Tuzla.<sup>18025</sup> Krstić then ordered Zvornik Brigade and MUP forces already present in Zvornik to take all measures to block and, if possible, break up and capture Bosnian Muslim forces until the arrival of the reinforcements.<sup>18026</sup>

5469. Pandurević arrived at the Standard Barracks before noon on 15 July.<sup>18027</sup> He was initially opposed to the idea of opening a corridor and ordered Obrenović to continue fighting the column.<sup>18028</sup> Pandurević made an offer to the Bosnian Muslim forces that if the armed members of the column surrendered, civilians in the column would be released; however, they refused, asking that the civilian and armed members of the column be released together.<sup>18029</sup> Pandurević requested reinforcements, and additional units of the Bosnian Serb Forces were transferred to the Zvornik Brigade's area of responsibility to assist in actions against the column.<sup>18030</sup> At approximately 11 p.m., Vasić reported to the Accused, among others, that additional forces were urgently needed to comb the terrain and destroy the column due to the danger it posed to the Zvornik area.<sup>18031</sup>

5470. On the morning of 16 July, units of the Zvornik Brigade continued to suffer heavy losses while fighting the column, and thousands of Bosnian Muslims broke through the

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18018 P5122 (VRS Main Staff Report, 15 July 1995).

18019 [REDACTED].

18020 [REDACTED].

18021 [REDACTED].

18022 [REDACTED].

18023 [REDACTED].

18024 [REDACTED].

18025 D4847 (Drina Corps Order, 15 July 1995).

18026 D4847 (Drina Corps Order, 15 July 1995).

18027 [REDACTED]. Pandurević had been away from the Standard Barracks since 4 July, first, commanding a unit in the takeover of Srebrenica, and then in Žepa. [REDACTED].

18028 [REDACTED].

18029 P138 (Zvornik Brigade interim combat report, 15 July 1995).

18030 P138 (Zvornik Brigade interim combat report, 15 July 1995); P4586 (Zvornik Brigade combat report, 15 July 1995), p. 1; D4131 (Excerpt of the East Bosnia Corps Logbook, 5 March 1995 to 12 June 1996), e-court p. 4; Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*, T. 13168–13175, 13179–13181. See P5302 (Intercept of conversation between Vinko Pandurević and Miladin Mijatović, 15 July 1995), p. 2; P5122 (VRS Main Staff Report, 15 July 1995); P5117 (Report of Bratunac Brigade to Drina Corps, 15 July 1995), p. 1.

18031 P5137 (Report of Zvornik CJB, 15 July 1995).



Bosnian Serb lines in the Baljkovica sector.<sup>18032</sup> (#Exactly this was what President Karadzic criticised at the 52<sup>nd</sup> Assembly session, not criticising for letting those that passed through the corridor, but for failing to prevent the forceful break-through. These that had been allowed to pass through the corridor had been lined up in Tuzla, as reported in D01998 on 17 July 95.)

- In the early evening hours of 16 July 1995, approximately ten thousand members of the 28<sup>th</sup> Division arrived in the free territory as the main body of these forces was carrying out a breakthrough. The breakthrough was assisted by units of the 24<sup>th</sup> Division, which launched a fierce counter-attack against the Chetnik lines in the Baljkovica sector (the general sector of Memići – Nezuk) and linked up with the units of the 28<sup>th</sup> Division around 1700 hrs.

At 7:06 a.m., while at the IKM, Pandurević informed an unidentified person that there had been fighting all morning.<sup>18033</sup> During this conversation, Pandurević said that most of the enemy forces were surrounded in the Baljkovica sector, and that “when the mass poured forward” deep in the rear of the Zvornik Brigade-held territory, the VRS troops fled, enabling the enemy forces to take two self-propelled guns.<sup>18034</sup> Pandurević claimed that all of the members of the column were armed, and explained he had some wounded men “down there” and was not able to get them out.<sup>18035</sup> The unidentified person informed Pandurević that help would be arriving and that he should use it as he saw fit.<sup>18036</sup> (Those were the units from the west, which means from the 1. KK (the First Krajina Corps, which is another proof that the strength of the Muslim forces was formidable, and the state of war had to be proclaimed. Also, when the Serb soldiers fled, certainly many combatants broke through, and those are the soldiers that had been reported in the P01998, lined up in Tuzla. Those who used the corridor went through much later, and in two groups, and certainly couldn’t reach Tuzla at almost the same time when they passed the Corridor.) Combat activity ceased from both sides between 10 and 11 a.m.<sup>18037</sup> Negotiations were held between Pandurević and Šemso Muminović, a member of the column and an officer of the Muslim Forces in Srebrenica, on the passage of the column through Bosnian Serb-held territory in Zvornik municipality.<sup>18038</sup> (Semso Muminovic was from the 2<sup>nd</sup> Corps brigade, and he was in a regular contact with the Zvornik Brigade, since there were many quick exchanges and other humanitarian needs to be settled!) At 1 p.m., an agreement was reached to open a kilometre-wide corridor to allow the column to pass through.<sup>18039</sup> In return, the Bosnian Muslims agreed to release Janković and other members of the Bosnian Serb Forces being held.<sup>18040</sup> The

<sup>18032</sup> P4587 (Zvornik Brigade combat report, 16 July 1995); P180 (Zvornik Brigade interim combat report, 16 July 1995), p. 1; [REDACTED]; P5322 (Intercept of conversation between Vinko Pandurević and an unidentified person, 16 July 1995), p. 1; P5388 (Intercept of conversation between two unidentified persons, 17 July 1995), p. 1. See also Dragan Kijac, T. 44381–44382 (3 December 2013); D3196 (Witness statement of Dušan Mičić dated 24 March 2013), paras. 36–37; P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 4; Adjudicated Fact 1628.

<sup>18033</sup> P5322 (Intercept of conversation between Vinko Pandurević and an unidentified person, 16 July 1995), p. 1.

<sup>18034</sup> P5322 (Intercept of conversation between Vinko Pandurević and an unidentified person, 16 July 1995), p. 1.

<sup>18035</sup> P5322 (Intercept of conversation between Vinko Pandurević and an unidentified person, 16 July 1995), p. 1.

<sup>18036</sup> P5322 (Intercept of conversation between Vinko Pandurević and an unidentified person, 16 July 1995), p. 1.

<sup>18037</sup> Ostoja Stanišić P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11713.

<sup>18038</sup> P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 4; P5222 (Report of RS MUP, 16 July 1995); P5138 (Report of Zvornik CJB, 16 July 1995), pp. 1–2; [REDACTED]. See also P180 (Zvornik Brigade interim combat report, 16 July 1995); P5095 (Report of Sarajevo RDB, 16 July 1995), pp. 1–2.

<sup>18039</sup> P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 4; KDZ122, T. 26264–26266, 26268–26269 (14 March 2012) (closed session); P4563 (Statement by KDZ122), p. 6 (under seal); P5138 (Report of Zvornik CJB, 16 July 1995), pp. 1–2; P5095 (Report of Sarajevo RDB, 16 July 1995); P5140 (Bulletin of daily events of Zvornik CJB, 16–17 July 1995), p. 2; P180 (Zvornik Brigade interim combat report, 16 July 1995), p. 1. See D4885 (Intercept of conversation between Main Staff duty officer and Ratko Mladić, 16 July 1995); P5222 (Report of RS MUP, 16 July 1995).

<sup>18040</sup> P5138 (Report of Zvornik CJB, 16 July 1995), p. 2; KDZ122, T. 26266 (14 March 2012) (closed session). See also Milenko Karišik, T. 40677 (2 July 2013). Sometime between the evening of 14 July and the morning of 16 July, Kovač ordered Milenko Karišik—then Deputy Minister of the Interior and Chief of the RJB—to go to Zvornik to ask Pandurević to try to secure the release of Janković. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), paras. 33, 37. Upon arriving in Zvornik on 16 July, Karišik went

corridor was opened at approximately 2 p.m. and remained open first for approximately 24 hours, followed later by an additional two hours.<sup>18041</sup> A column about one or two kilometre long, composed of several thousand armed and unarmed Bosnian Muslims, passed through during this time.<sup>18042</sup>

5471. On 16 July, at 1:55 p.m., Pandurević notified the Drina Corps command that a corridor had been opened to allow the civilians through but that Bosnian Serb Forces were still fighting the Muslim Forces in Srebrenica.<sup>18043</sup> **#It must have been “from Srebrenica” instead “in Srebrenica”, because there was no fights in Srebrenica after 11 July!** At approximately 3:30 p.m., a conversation between an unknown interlocutor (X) from the Main Staff and the Zvornik Brigade duty officer was intercepted, in which X stated that he was calling from “the main boss [...] the main head of state” and told the duty officer to “have Vinko tell you what happened and send it right away [...] dictate what has been done and have him send it right away to the Main Staff”.<sup>18044</sup> Two minutes later, at 3:32 p.m., the Zvornik Brigade duty officer reported that Pandurević was in the field and could not be contacted.<sup>18045</sup> At 4:02 p.m., Krstić was also urgently looking for Pandurević but was also told that Pandurević could not be reached.<sup>18046</sup>

5472. Some time before 4:15 p.m., the Accused was informed by Karišik that Pandurević had arranged for the opening of the corridor.<sup>18047</sup> At approximately 4:20 p.m., Krstić ordered Popović to meet Pandurević in the field to report on the situation regarding the

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immediately to the Zvornik CJB, where he was briefed, and then proceeded to the Zvornik Brigade IKM. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 38. *See also* D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 39; Milenko Karišik, T. 40634 (27 June 2013) (testifying that he could not remember the exact time, but believing that he returned to Bijeljina in the afternoon of 16 July). At the IKM, Karišik asked Pandurević to continue insisting on Janković’s release. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 39.

<sup>18041</sup> P4563 (Statement by KDZ122), p. 6 (under seal); KDZ122, T. 26264–26265, 26268–26269 (14 March 2012) (closed session); Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11713–11714, 11719. *See* D3749 (Witness statement of Milenko Karišik dated 23 June 2013), paras. 37–38; P5310 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995). *See also* P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 4 (stating that on 17 July 1995, in coordination with the intervention units of the Zvornik Brigade, the 5<sup>th</sup> Special Police Detachment closed the line in Baljkovica).

<sup>18042</sup> Ostoja Stanišić P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11714; P5138 (Report of Zvornik CJB, 16 July 1995), p. 2 (stating that approximately 4,000 Bosnian Muslims passed through the corridor and that an agreement had been made to allow a further 1,500 civilians coming from Konjević Polje to pass through); P180 (Zvornik Brigade interim combat report, 16 July 1995), p. 1 (wherein Pandurević estimated that approximately 5,000 Bosnian Muslims passed through the corridor); D1998 (Bulletin of ABiH General Staff, 17 July 1995), p. 1 (stating that approximately 10,000 members of the Bosnian Muslim forces arrived in free territory on the evening of 16 July 1995). A member of the Bosnian Serb Forces, who was standing 100 metres away from the corridor from the time that it was opened until dusk, estimated that more than 10,000 people passed through the corridor. [REDACTED]. Captain Salihović, a member of the column, advised the Bosnian Serb Forces on the morning of 16 July, that there were approximately 10,000 people waiting to get through the corridor. [REDACTED]. *Cf.* Dragan Kijac, T. 44381 (3 December 2013) (testifying that 22,000 men got out during the opening of the corridor).

<sup>18043</sup> P5310 (Intercept of conversation between Zlatar duty officer and Palma duty officer, 16 July 1995).

<sup>18044</sup> P5076 (Intercept of conversation between a VRS Main Staff member and Palma duty officer, 16 July 1995), p. 1. Obradović confirmed that the phrase “main head of state” referred to the Accused. Ljubomir Obradović, T. 25309–25311 (27 February 2012).

<sup>18045</sup> P5316 (Intercept of conversation between a “Palme” duty officer and an unidentified person, 16 July 1995), p. 1.

<sup>18046</sup> P5320 (Intercept of conversation between Zlatar and Palma, 16 July 1995), p. 1.

<sup>18047</sup> D4885 (Intercept of conversation between Main Staff Duty Officer and Ratko Mladić, 16 July 1995) (wherein the Main Staff duty officer told Mladić that the Accused had called “a short while ago” and said that he had been informed by Karišik that Pandurević had arranged passage for “the Muslims over to that territory”). The Main Staff duty officer further told Mladić that he had asked “the duty officer” to urgently connect him with Pandurević, and not to do anything without authorisation until he received the answer of the Main Staff, adding that the column contained both combatants and civilians. D4885 (Intercept of conversation between Main Staff duty officer and Ratko Mladić, 16 July 1995). **Mladić wouldn’t forgive that kind of trespassing by Pandurević if there was no support of the Accused.** The Chamber recalls the Accused’s case that he was informed by Karišik on 16 July 1995 that Pandurević agreed to the opening of a corridor. *See* the Accused’s line of questioning during cross-examination of Joseph Kingori, T. 22942 (13 January 2012) and during cross-examination of KDZ122, T. 26265 (14 March 2012) (closed session). The Chamber notes that Karišik denied that he informed the Accused about the opening of the corridor on 16 July 1995 because technical capacities at the time would have prevented him from communicating with the Accused, and he was not responsible for reporting to the Accused about Srebrenica at any time. **But he didn’t deny, he just said that he do not remember** Milenko Karišik, T. 40654, 40656–40658 (2 July 2013). The Chamber notes, however, that Karišik managed to contact the MUP in Pale that same afternoon. P5222 (Report of RS MUP, 16 July 1995). The Chamber therefore rejects Karišik’s evidence denying that he informed the Accused of the corridor. The information about opening the corridor was conveyed from the Zvornik CJB to the MUP command staff in Pale, which in turn conveyed it to the Iliđa CJB. P5222 (Report of RS MUP, 16 July 1995).

corridor.<sup>18048</sup>

784.650 MHz Channel 3 1529 hrs

Participants: (someone from the Main Staff) X - Y (*Palma* /code-name/ duty officer)

X: I have to get permission from the main boss.

Y: OK.

X: Well, that's why I'm calling you... so, from the main head of state.

Y: Yes?

X: That's why I'm calling... that's exactly why I'm calling.

Soon after, Popović met Pandurević who provided him with his combat report and Popović reported back to the Drina Corps Command.<sup>18049</sup> At 6:10 p.m., Pandurević sent an interim combat report to the command of the Drina Corps advising of his decision to open the corridor and that he considered the Krivaja 95 operation incomplete “as long as a single enemy soldier or civilian remains behind the front line”.<sup>18050</sup> Additional reinforcements were sent to the Zvornik area that evening.<sup>18051</sup>

5473. At 6:15 a.m. on 17 July, Krstić called the Zvornik Brigade asking for news on the Zvornik area.<sup>18052</sup> After being told by Trbić that everything was under control and that there were no problems, Krstić asked: “have you killed the Turks up there?”<sup>18053</sup> Trbić replied: “Well, I guess you got the report. What more can I tell you? [...] Basically, we did.”<sup>18054</sup> Krstić then asked to be put through to Pandurević who informed Krstić that there were no changes with respect to the report he had previously sent, adding that “we’ll probably finish this today”.<sup>18055</sup> At 8:59 a.m., upon being asked by Cerović for a follow-up to the interim combat report about the column sent the day before by Pandurević, Trbić replied that it was not done yet.<sup>18056</sup> An intercepted conversation from 9:50 a.m. between two unknown individuals, recorded a discussion on the operations against the column, stating that: “There are many of them. They started a breakthrough yesterday and our men tried to block. They blocked them off and opened fire on them, but it’s a living mass [...] [and] you just can’t kill them all, there are so many of them.”<sup>18057</sup> **(That was the reason to open the corridor, a completely justified move!)**

5474. Pandurević was not punished for opening the corridor, although he came under scrutiny by the Main Staff; on 17 July, Mladić sent Colonels Trkulja, Stanković, and Sladojević from the Main Staff to investigate why the corridor had been opened and they

<sup>18048</sup> P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 87; D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 74; P5079 (Intercept of conversation between Lt. Col. Popović and Rašić, 16 July 1995), e-court p. 1.

<sup>18049</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 76–77.

<sup>18050</sup> P180 (Zvornik Brigade interim combat report, 16 July 1995).

<sup>18051</sup> See P5382 (Summaries of three intercepts of conversations, 16 July 1995), p. 1 (recording that at 6:47 p.m. on 16 July, Mladić requested men to be sent to an undisclosed area; this order went through Miletić to Cerović, and finally to Blagojević); P5382 (Summaries of three intercepts of conversations, 16 July 1995), p. 1 (recording that at 8:06 p.m. Blagojević reported having sent 50 men “5 minutes or a half an hour ago”, and indicated that he had 60 more in reserve); P5079 (Intercept of conversation between Lt. Col. Popović and Rašić, 16 July 1995), e-court p. 2 (record of an intercepted conversation at 9:16 p.m. on 16 July, where Popović was asked whether Blagojević men had arrived in Zvornik that day; Popović replied that they had arrived but did not know when exactly, and suggested that maybe the duty officer had that information); P5314 (Summary of conversation between a duty officer and Col. Cerović, 16 July 1995), p. 1 (record of an intercepted conversation at 9:26 p.m., where Cerović was informed that 30 men from Blagojević’s brigade had arrived at 9 p.m., that 30 men from Dobojski had arrived around 5 p.m., and that 100 men had arrived from Banja Luka at 5:25 p.m.).

<sup>18052</sup> P5336 (Intercept of conversation between General Krstić, Milorad Trbić, and Vinko Pandurević, 17 July 1995), p. 1.

<sup>18053</sup> P5336 (Intercept of conversation between General Krstić, Milorad Trbić, and Vinko Pandurević, 17 July 1995), p. 1.

<sup>18054</sup> P5336 (Intercept of conversation between General Krstić, Milorad Trbić, and Vinko Pandurević, 17 July 1995), p. 1.

<sup>18055</sup> P5336 (Intercept of conversation between General Krstić, Milorad Trbić, and Vinko Pandurević, 17 July 1995), pp. 1–2.

<sup>18056</sup> P5328 (Intercept of conversation between Col. Cerović and Cpt. Milorad Trbić, 17 July 1995).

<sup>18057</sup> P5388 (Intercept of conversation between two unidentified persons, 17 July 1995).

questioned whether the Bosnian Serb Forces could have put up a stronger assistance rather than open the corridor.<sup>18058</sup>

MUP /Ministry of the Interior/ of RS /Republika Srpska/

– POLICE FORCES COMMAND STAFF

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PALE

NUMBER: 69/95

VERY URGENT .. SS /encoded/ ..

DATE: 16 July 1995

To the Ilidža CJB /Public Security Centre/

– Deputy Minister –

Please be informed that today at around 1500 hours we were informed by Assistant KARIŠIĆ about negotiations between the Command of the VRS /Army of Republika Srpska/ and enemy forces from Srebrenica and the Second Turkish Corps from Tuzla on the passage of the Turkish troops through a part of the territory of Zvornik municipality in the direction of Kalesija. The Command of the VRS is represented in the negotiations by Colonel Vinko PANDUROVIĆ, and the enemy forces by a certain Šemso from Kalesija. Due to the large number of Turkish troops, the most likely option will be the passage of the Turkish troops from Srebrenica without combat.

At around 1635 hours we established a telephone connection with the Zvornik CJB, and it was confirmed to us that an agreement had been reached and that its implementation is underway. The agreement also includes the return of our captured combatants.

Member of the Staff

Milun MILANOVIĆ

**This is (P05222) a proof that Mr. Karisik was informing about this corridor. But, how it was possible that Pandurevic wasn't punished, although Mladic ordered him not to do anything before he does instruct him, see: D02002,**

:Good day General, Sir.

:Well, it's like this. I've just sent a telegram to Tošo. Well, the President called a short while ago and said that he had been informed by Karišik that Pandurević has arranged passage for the Muslims over to that territory. Since I have no communication with him, I asked the duty officer to urgently connect me with him; to /?have him/ send me a telegram with that information and not to do anything without authorisation until he receives our answer. Now I'm waiting for them to call me because Pandurević hasn't called for the last four...

**But, The Serbs really opened the corridor, and we know that from many evidence. At least, the policemen for whom Karisik went to see Pandurevic, and probably to encourage him to open the corridor, since this was associated with the exchange, or rather return of the policemen. That the Muslims from the column reached Tuzla confirms the exhibit D1998, a Muslim military intelligence report:**

In the early evening hours of 16 July 1995, approximately ten thousand members of the 28<sup>th</sup> Division arrived in the free territory as the main body of these forces was carrying out a breakthrough. The breakthrough was assisted by units of the 24<sup>th</sup> Division, which launched a fierce counter-attack against the Chetnik lines in the Baljkovica sector (the general sector of Memići – Nežuk) and linked up with the units of the 28<sup>th</sup> Division around 1700 hrs.

**There is #no doubt that the corridor remained open as long as it was necessary to have such a huge number of combatants to pass through!#. Around that same day, the**

<sup>18058</sup>

KDZ122, T. 26190–26191 (13 March 2012) (closed session), T. 26265 (14 March 2012) (closed session); P4563 (Statement by KDZ122), p. 6 (under seal); P4588 (VRS Main Staff Order, 17 July 1995). See also P5332 (Intercept of conversation between “Mirko” and an unidentified person, 17 July 1995), pp. 1–2 (referring to the presence of Colonel Stanković in Zvornik on 17 July).



Accused was interviewed by David Frost and adamantly denied that 15,000 men were missing from Srebrenica, assuring him that the Bosnian Serb Forces had opened their lines to allow many of the missing men from Srebrenica through to Bosnian Muslim-held territory.<sup>18059</sup> **(At that moment there was no more than 2,000 POW-s reported by Deronjic, and if anyone thought that Frost asked for the Muslims that are captured, it would be nonsense, because 15,000 Muslim were in the woods, not in a custody. Those already captured hadn't been asked about by anyone, and it was understood that it had been finished as always during the war, and the President didn't deal with the exchanges or anything similar, because that was done by the institutions. At the same time, President Karadzic had a fresh knowledge about the corridor, which was going to enable the column to reach the Muslim territory!)** However, at the 52<sup>nd</sup> RS Assembly Session held on 6 August 1995, the Accused expressed regret that “in the end several thousand fighters did manage to get through” and that “[w]e were not able to encircle the enemy and destroy them”, adding that he did not say these things in public.<sup>18060</sup> completely undefended, there are two or three broken down independent battalions. Turks from Goražde can break through whenever they feel like it, just as they could have taken Srebrenica again from us, nine thousand armed Turks in the mountains, in the woods. To burn Milići, Vlasenica, Zvornik, let the people from those towns tell us all, because all of that could have happened had they been smart and had they had proper command. That was an airborne division, nine thousand people, that's an airborne assault and God only saved us and our lads; fifty or sixty of them were killed there in the effort to block them, and in the end several thousand fighters did manage to get through nevertheless, now the Srebrenica division was established, they were lined up in Tuzla and ordered to go back to Srebrenica. We were not able to encircle the enemy and destroy them, because we rushed into Žepa and because we had to send two generals to Žepa to waste time for 15 days and negotiate with ruffians and thugs who fool around and waste their time, instead of having Rajko KUŠIĆ deal with it or perhaps General KRSTIĆ who had proven to be very good. Those are all the things

**This had been said at the Assembly, in the President's pledoyer and explanation why he wanted to replace Mladic. It is obvious that the President's spoke about "enemies" #not about civilians#, and about those who got through forcefully, not those that were allowed to get through the corridor, see P01998. It would be reasonable and legal to capture this number of enemies, so that they do not form 28 Division again. The corridor had been opened because there were the forceful breakings through, with a casualties on both sides! Also, now the Prosecution, as well as the Chamber can not doubt in the motives for the proclamation of the state of war, because it was described here. A huge jeopardy for the Serb settled places. Again, see P01998:**

- In the early evening hours of 16 July 1995, approximately ten thousand members of the 28<sup>th</sup> Division arrived in the free territory as the main body of these forces was carrying out a breakthrough. The breakthrough was assisted by units of the 24<sup>th</sup> Division, which launched a fierce counter-attack against the Chetnik lines in the Baljkovica sector (the general sector of Memići – Nežuk) and linked up with the units of the 28<sup>th</sup> Division around 1700 hrs.

<sup>18059</sup> P5235 (Video footage of interview of Radovan Karadžić by David Frost, undated, with transcript), pp. 2–3. See P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court p. 93.

<sup>18060</sup> P1412 (Transcript of 52<sup>nd</sup> session of RS Assembly, 6 August 1995), p. 17.



**Now, to be sure that it was another group of the combatants that broke through, let us see what Pandurević said about that, see: P05322**

P: Yes, they were here deep in the rear and then when the mass poured forward, the troops fled.

X: I see.

P: We are now fighting in that part and I cannot use this road for supply. There are some wounded men down there and I cannot get them out of there.

**The area that had been fled was opened to those troops.**

## 11. Continued searches through the terrain

5475. From 17 July until at least 2 August 1995, Bosnian Serb Forces carried out extensive searches of the Bratunac and Zvornik areas to destroy stragglers of the column.<sup>18061</sup> Additional forces were deployed by the VRS and MUP on 17 July for this purpose.<sup>18062</sup> In an order issued by Mladić that day, subordinate units of the Zvornik Brigade, the Bratunac Brigade, and the Milići Brigade, among others, were assigned to comb the Zvornik and Bratunac areas with the aim to “block, crush and destroy lagging Muslim forces”.<sup>18063</sup> Mladić’s order appointed Keserović commander of the units deployed.<sup>18064</sup> Similarly, an order issued by Goran Šarić—Commander of the SBP—that same day to create two combat groups of MUP units for the purpose of fully mopping up the terrain, **(As it can be seen, not only on 14 July, but even 17 July there were needs to deploy a new forces.)** put Borovčanin in charge of those forces.<sup>18065</sup> By the evening of 17 July, about 200 Bosnian Muslims had surrendered, including four children.<sup>18066</sup>

**5476.** On 18 July, Pandurević noted that increased combat activity may be expected in the Zvornik Brigade area.<sup>18067</sup> **(Even on 18 July! #The woods were full of combatants#!**

<sup>18061</sup> KDZ122, T. 26198 (13 March 2012) (closed session), T. 26270 (14 March 2012) (closed session); P4563 (Statement by KDZ122), p. 6 (under seal); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6811–6812; P4588 (VRS Main Staff Order, 17 July 1995); P5097 (Order of the Semizovac IKM and Special Police Brigade, 17 July 1995), p. 1; P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), pp. 4–5; P3994 (Drina Corps report, 17 July 1995), p. 1; P181 (Zvornik Brigade interim combat report, 18 July 1995); P5152 (Report of Zvornik CJB, 18 July 1995); P5342 (Intercept of conversation between Col. Cerović and Vinko Pandurević, 19 July 1995), pp. 1–2; P5344 (Intercept of conversation between Major Dragan Obrenović and an unidentified person, 19 July 1995); P4589 (Zvornik Brigade combat report, 19 July 1995); P5188 (Report of Sarajevo RDB, 18 July 1995), p. 1; P5336 (Intercept of conversation between General Krstić, Milorad Trbić, and Vinko Pandurević, 17 July 1995), p. 1; P4965 (Report of Zvornik CJB, 19 July 1995); D4856 (Report of Zvornik Brigade, 22 July 1995); P4590 (Zvornik Brigade combat report, 25 July 1995), p. 1; P6065 (Intercept of conversation, 2 August 1995). *See also* Adjudicated Facts 1607, 1633, 1639.

<sup>18062</sup> *See* P5097 (Order of the Semizovac IKM and Special Police Brigade, 17 July 1995); P4588 (VRS Main Staff Order, 17 July 1995), p. 1; Dragomir Keserović, T. 42033, 42035–42041, 42043–42044 (25 July 2013); Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 11735, 11740–11741; P139 (Extract from Zvornik Brigade notebook, 17–18 July 1995), e-court p. 2.

<sup>18063</sup> P4588 (VRS Main Staff Order, 17 July 1995), p. 1. *See* Dragomir Keserović, T. 42034, 42043–42044 (25 July 2013). When presented with P4588, Krstić explained that this was an example of the way in which the Main Staff took over the command of part of the area of responsibility of the Drina Corps by forming its own command group. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 7365.

<sup>18064</sup> P4588 (VRS Main Staff Order, 17 July 1995), p. 1. When Keserović met with Mladić, he was given the same order verbally. Dragomir Keserović, T. 42035–42036 (25 July 2013). Despite the language in the order, Keserović claimed that he told Mladić that the order was a “militarily unacceptable assignment” and that there were several reasons why it should not be executed; Mladić ultimately agreed that Keserović should not take over command of the units, but should still go to the area where the operation was to be carried out to gather information about the operation. Dragomir Keserović, T. 42037–42038, 42040–42041 (25 July 2013). According to Keserović, Blagojević continued with the ordered task. Dragomir Keserović, T. 42038–42039 (25 July 2013). The Chamber notes that an intercepted conversation from 11:15 p.m. on 17 July records two unidentified individuals wherein one asks the other if Keserović has set out already and the second replies “he must have gone first forward over there to Momir Nikolić.” P5390 (Intercept of conversation between two unidentified persons, 17 July 1995). In that same conversation, one of the individuals says that he spoke earlier to Miletić who told him that Keserović had come to “solve these issues”. P5390 (Intercept of conversation between two unidentified persons, 17 July 1995). The Chamber finds that despite Keserović’s efforts to downplay his involvement in the sweeping operation in the Bratunac area, this intercept shows that he was sent to the area by Miletić and the Main Staff.

<sup>18065</sup> P5097 (Order of the Semizovac IKM and Special Police Brigade, 17 July 1995). *See* Dragomir Keserović, T. 42035–42036, 42043–42044 (25 July 2013).

<sup>18066</sup> Adjudicated Fact 1640. *See* P5188 (Report of Sarajevo RDB, 18 July 1995), p. 1.

<sup>18067</sup> P181 (Zvornik Brigade interim combat report, 18 July 1995), para. 1.

**Than, #why it was unacceptable if the President said (to David Frost) that those thousands were in the woods? They were in the woods, although no all of 15,000, but 15,000 had never been captured#. Frost didn't ask the President about the two thousands that had been in Bratunac on 13 July.)** That same day, in response to the shooting of a Bosnian Serb soldier, Pandurević ordered that prisoners should not be taken.<sup>18068</sup> However, he changed the order three days later, stating that all detainees should be processed according to normal procedures, and Bosnian Serb Forces began to take prisoners again.<sup>18069</sup> Nevertheless, on or about 23 July, Bosnian Muslim men who were being treated at the Standard Barracks clinic were taken away by members of either the Zvornik Brigade or Drina Corps MP, and executed.<sup>18070</sup> On 2 August 1995, Krstić ordered Obrenović to kill all individuals captured during the searches of the terrain.<sup>18071</sup> However, the Chamber received evidence that at least some of the persons being detained by the Zvornik Brigade at that time were being sent to the Drina Corps command and then to Batković Camp.<sup>18072</sup> **(So, it depended more of a person in charge than on any decision or system!)**

## 12. Killings

### (A) Snagovo

5477. The Indictment refers to the killing, on or about 22 July 1995, of six Bosnian Muslim men who were captured upon becoming separated from the column of men retreating from the Srebrenica enclave, and were executed in the woods near the town of Snagovo.<sup>18073</sup> Snagovo is located along the eastern border of BiH in Zvornik municipality, approximately 25 kilometres northwest of Srebrenica.<sup>18074</sup>

5477. On or about 14 July 1995,<sup>18075</sup> an approximately 14 member unit of the Ugljevik PJP was assembled at the Ugljevik SJB to receive orders.<sup>18076</sup> The unit was ordered by Dragan Kulić—Commander of the Ugljevik SJB—to proceed from Ugljevik to the Snagovo area to “clear or cleanse the terrain”, adding that “not even a fly could get out”.<sup>18077</sup> KDZ365, [REDACTED], had heard rumours about the fall of the Srebrenica

<sup>18068</sup> [REDACTED]. See also P4589 (Zvornik Brigade combat report, 19 July 1995) (referring to the capture of two Bosnian Muslim soldiers and the killing of 13); P5344 (Intercept of conversation between Major Dragan Obrenović and an unidentified person, 19 July 1995) (referring to the killing of 11 individuals); P5342 (Intercept of conversation between Col. Cerović and Vinko Pandurević, 19 July 1995) (referring to the killing of 20-odd men).

<sup>18069</sup> [REDACTED]. See also D4856 (Report of Zvornik Brigade, 22 July 1995) (referring to the capture of 40 Bosnian Muslim soldiers).

<sup>18070</sup> [REDACTED]. These killings are not charged in the Indictment.

<sup>18071</sup> P6065 (Intercept of conversation, 2 August 1995). The Chamber notes that Krstić denied the authenticity of this intercepted conversation and stated that he would have never made such an order. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6809–6811. [REDACTED]. The Chamber is therefore satisfied as to the authenticity of the intercept.

<sup>18072</sup> [REDACTED]; D4132 (Eastern Bosnia Corps list of prisoners, 18 July 1995); Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13201–13203. See para. 5502.

<sup>18073</sup> Indictment, Scheduled Incident E. 11.1.

<sup>18074</sup> P727 (Map of the Balkans). See also D484 (Map of BiH).

<sup>18075</sup> KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4093, 4104, 4155, 4202–4203 (under seal); P315 (List of policemen from Ugljevik on duty on 13 and 14 July 1995, 28 April 2004).

<sup>18076</sup> KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4093–4094, 4097, 4154–4156, 4185, 4202 (under seal). [REDACTED]. The fact that a unit of the Bijeljina PJP was present in Zvornik municipality after the fall of Srebrenica is documented in the evidence admitted in this case, but no single piece refers to the name of the specific company. See e.g. P316 (Report of Zvornik CJB to MUP of RS, 15 July 1995) (referring to “[t]wo PJP companies from Bijeljina” fighting along the Zlijebac-Zlatne Vode-Kula Grade-Maričići line); P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 3 (referring to two companies of the Bijeljina Special Police Unit fighting against enemy columns along the Kula Grad-Marčići axis).

<sup>18077</sup> KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4089, 4094–4095, 4163–4164, 4225–4226 (under seal). The Chamber notes the discussion during the *Popović et al.* case as to the various instances where KDZ365 testified about the events in Snagovo in 1995, and the fact that he changed his evidence with respect to the order given by Kulić. See KDZ365, P325 (Transcript from

enclave, and interpreted Kulić's orders as ones to kill Bosnian Muslims fleeing through the woods and heading towards Tuzla.<sup>18078</sup> **(The witness KDZ365 was "protected", nothing disclosed. He "interpreted" the order as ones to kill... this is completely unacceptable in any court, unless aimed to clarify the witness own problem, projected to the Commander!)**

5478. The Ugljevik PJP unit proceeded to a crossroads near Snagovo where it spent the night, and received further orders from Zlatko Nedić, from the Bijeljina CJB, to "mop up [the] terrain".<sup>18079</sup> Over the next five days, the Ugljevik PJP unit carried out a series of patrols through the surrounding wooded areas, searching the terrain.<sup>18080</sup> On the fourth or fifth day, a group of three unarmed Bosnian Muslim males emerged from the woods and immediately surrendered to the Ugljevik PJP unit.<sup>18081</sup> Two of the Bosnian Muslim males were between 35 and 40 years old; the third presented himself as 16 years old.<sup>18082</sup>

5479. Approximately ten minutes after the surrender of the three Bosnian Muslim males, a group of approximately 20 other police officers from other stations gathered, all wearing uniforms similar to those of the Ugljevik PJP unit.<sup>18083</sup> One individual from this group stepped up and shot the two older Bosnian Muslims in the head.<sup>18084</sup> A member of the Ugljevik PJP hid the 16 year old boy behind his back; the boy was spared despite being seen by the group of officers.<sup>18085</sup> The group of police officers left after approximately ten minutes and "disappeared".<sup>18086</sup> **(Again, in the same manner, "#some Serbs without names killed some Muslims without names"#, but at least the official police members had hidden a boy! In the absence of a real evidence, gathering as man as possible undefined "evidence" is aimed to bridge over the gap in the Prosecutor's case against President Karadzic!)**

5480. The Chamber finds that, following the fall of Srebrenica, members of the Bosnian Serb Forces killed two Bosnian Muslim males from Srebrenica near the town of Snagovo. **#DFeably combination#! Despite the fact that we even do not know the name of KDZ356? Another all 92bis crucial statement.**

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*Prosecutor v. Popović et al.*, T. 4134–4141, 4144–4145, 4148–4150, 4236 (under seal). However, the Chamber is satisfied with KDZ365's explanation and accepts this portion of his evidence.

18078 KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4097–4101 (under seal); KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4250. KDZ365 testified that Kulić's words "meant clearing, cleansing, or mopping up. Actually, killing. What else? He did not use the word "killing," but that's what we understood. What else could it have been? [...] Everybody understood, but nobody dared say it out loud and admit how they understood this, because we had heard what was going on in the Srebrenica sector." KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4097–4098 (under seal). However, in cross-examination, KDZ365 testified that "it could refer to anything. It could refer to one thing or another thing. [...] [He said] that we were going to be mopping up the terrain, but he didn't say when we would actually be taking up these duties." KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4226.

18079 KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4095, 4106–4107, 4109, 4109, 4164, 4211–4213 (under seal); KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4107–4109.

18080 KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4107–4108, 4166.

18081 KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4107–4108, 4111–4113.

18082 KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4113, 4117–4118 (under seal); KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4184.

18083 KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4231 (under seal); KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4112, 4171–4172. See also P4949 (Zvornik CJB dispatch, 14 July 1995) (referring to the presence of "[o]ne company of the Doboј CJP PJP in coordination with the Janja SOP platoon" blocking enemy forces in the village of Maričići); P316 (Report of Zvornik CJB to MUP of RS, 15 July 1995) (referring to "[t]wo PJP companies from Bijeljina, one company from Doboј, and one platoon of the Zvornik Company" fighting along the Zlijebac-Zlatne Vode-Kula Grade-Maričići line).

18084 KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4114–4115, 4171. KDZ365 further testified that he was told that this individual may have been from Zvornik, adding that he had a band tied around his head, but had no visible insignia on his military uniform, and otherwise wore the same uniform as the members of the Ugljevik PJP unit. KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4114, 4171–4173.

18085 [REDACTED].

18086 KDZ365, P326 (Transcript from *Prosecutor v. Popović et al.*), T. 4179; KDZ365, P325 (Transcript from *Prosecutor v. Popović et al.*), T. 4231 (under seal).

(B) Bišina

5481. The Indictment refers to the killing on 23 July 1995 of over 30 Bosnian Muslim men in Bišina, some of whom were previously detained in the Sušica camp.<sup>18087</sup> Bišina is located in eastern BiH in Šekovići municipality, approximately 70 kilometres northwest of the town of Srebrenica.<sup>18088</sup>
5482. On the morning of 23 July 1995, a Drina Corps soldier was ordered by Momo Amović—Chief of the Drina Corps Administrative Section—to drive a minibus to Dragaševac, collect some men, and deliver them to the Birač Brigade.<sup>18089</sup> As instructed, he retrieved approximately five soldiers from the 10<sup>th</sup> Sabotage Detachment in Dragaševac.<sup>18090</sup> On the way back, the soldiers told him to proceed to Bišina instead.<sup>18091</sup>
5483. Meanwhile, three members of the Drina Corps MP Battalion were ordered by their Commander, Ratko Vujović, to drive a truck to pick up Bosnian Muslim detainees from Sušica Camp for a prisoner exchange.<sup>18092</sup> Upon retrieving these detainees, they were joined by another truck and passenger vehicle and set out for Šekovići in a convoy.<sup>18093</sup>
5484. The convoy stopped near a restaurant between Tišća and Šekovići, where a few more detainees were loaded onto one of the trucks.<sup>18094</sup> At this point, the minibus transporting the 10<sup>th</sup> Sabotage Detachment soldiers joined the convoy, which proceeded in a column to Bišina.<sup>18095</sup>
5485. Led by Popović’s vehicle, this larger convoy—consisting of two trucks, one additional passenger vehicle, and the minibus—stopped in Bišina near the Command of one of the Birač Brigade’s battalions.<sup>18096</sup> One of the soldiers from the 10<sup>th</sup> Sabotage Detachment ordered the three members of the Drina Corps MP Battalion to provide security around the trucks.<sup>18097</sup> Popović had a brief conversation with the five soldiers,<sup>18098</sup> who proceeded to remove five detainees from the trucks, march them approximately 30 metres away, and shoot them.<sup>18099</sup> This process was repeated a number of times.<sup>18100</sup>

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<sup>18087</sup> Indictment, Scheduled Killing Incident E.12.1. In its final brief, the Prosecution submits that “at least 39” Bosnian Muslim men were killed in Bišina. Prosecution Final Brief, Appendix D, para. 155.

<sup>18088</sup> P727 (Map of the Balkans). See also D484 (Map of BiH); P33 (Map of Central Bosnia marked by KDZ446).

<sup>18089</sup> KDZ285, P370 (Transcript from *Prosecutor v. Popović et al.*), T. 32782, 32786.

<sup>18090</sup> KDZ285, P371 (Transcript from *Prosecutor v. Popović et al.*), T. 32782–32785, 32788, 32790–32793; P663 (Vehicle log, 18 July 1995); KDZ285, P370 (Transcript from *Prosecutor v. Popović et al.*), T. 32781 (under seal). See also KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32580–32581. (under seal). KDZ285 testified that they were masked and in overalls of different colours; some of the men wore camouflage uniforms and they were armed with automatic rifles, and several of these five individuals bore the insignia of the 10<sup>th</sup> Sabotage Detachment. KDZ285, P371 (Transcript from *Prosecutor v. Popović*), T. 32784, 32788. See also KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32575 (under seal); KDZ391, T. 26907 (26 March 2012) (closed session) (confirming that the five soldiers, who were present at the killing site, had the insignia of the 10<sup>th</sup> Sabotage Detachment, wearing various sorts of clothes and hats).

<sup>18091</sup> KDZ285, P370 (Transcript from *Prosecutor v. Popović et al.*), T. 32783, 32786.

<sup>18092</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32567–32568, 32570, 32575, 32577–32580, 32599, 32601 (under seal); P4765 (Vehicle log, 19 July to 1 August 1995) (under seal).

<sup>18093</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32570–32571 (under seal).

<sup>18094</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32570–32571 (under seal); KDZ391, T. 26913 (26 March 2012) (closed session).

<sup>18095</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32570–32571, 32601 (under seal); P663 (Vehicle log, 18 July 1995); KDZ391, T. 26913 (26 March 2012) (closed session); KDZ285, P371 (Transcript from *Prosecutor v. Popović et al.*), T. 32786–32788 (recognising one of the vehicles as a TAM-110 truck).

<sup>18096</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32572 (under seal); KDZ391, T. 26910 (26 March 2012) (closed session); KDZ285, P371 (Transcript from *Prosecutor v. Popović*), T. 32786–32788.

<sup>18097</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32572–32573, 32603, (under seal).

<sup>18098</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32588–32589 (under seal).

<sup>18099</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32572–32573 (under seal).

Popović saw approximately thirty bodies scattered all around.<sup>18101</sup> One of the three MP Battalion members asked Popović, the most senior officer present, what had happened; Popović did not respond and had tears in his eyes.<sup>18102</sup>

5486. An excavator subsequently arrived at the site and dug a hole.<sup>18103</sup> Upon Popović's request, two of the MP Battalion members assisted in placing the bodies into the hole.<sup>18104</sup>

5487. The Chamber notes that Popović testified in this case that he was only present at Bišina after the killings took place, denying the Prosecution's allegation that he was in charge of the killings there.<sup>18105</sup> Popović also asserted that had he participated in the killings, he would have relocated the bodies later to hide them, but that he did not.<sup>18106</sup> However, the Chamber finds Popović's testimony unconvincing in light of other accepted evidence before it. The evidence clearly demonstrates that Popović was present at the time of the killings, when one of the MP Battalion members saw and spoke to him.<sup>18107</sup> Furthermore, the vehicle log for the minibus used to transport the 10<sup>th</sup> Sabotage Detachment soldiers on 23 July 1995 contains Popović's name and signature.<sup>18108</sup> The Chamber further notes that intercepted conversations from 24 July 1995 indicate that Popović knew the whereabouts of Himzo Mujić—one of the victims identified from a grave in Bišina<sup>18109</sup>—and what happened to him.<sup>18110</sup> The Chamber therefore concludes that Popović was present at the scene and oversaw the killings at Bišina.

5488. Between 20 May and 7 June 2006, the BiHCMP exhumed a grave in the area of Bišina.<sup>18111</sup> Based upon DNA analysis, 39 individuals were positively identified as persons

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<sup>18100</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32573 (under seal). Immediately after the killings were carried out, the 10<sup>th</sup> Sabotage Detachment soldiers were driven away back to Dragaševac. KDZ285, P371 (Transcript from *Prosecutor v. Popović et al.*), T. 32790; KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32573 (under seal); KDZ391, T. 26909 (26 March 2012) (closed session). The killings lasted approximately three to five hours. KDZ285, P371 (Transcript from *Prosecutor v. Popović et al.*), T. 32789.

<sup>18101</sup> D3993 (Witness statement of Vujadin Popović dated 2 November 2013) para. 88; Vujadin Popović, T. 43109, 43127 (6 November 2013). See also KDZ391, T. 26907 (26 March 2012) (closed session); P4765 (Vehicle log, 19 July to 1 August 1995) (under seal) (indicating that 15 individuals were transported by that truck on 23 July 1995).

<sup>18102</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32573–32575, 32585, 32598 (under seal); KDZ391, T. 26909 (26 March 2012) (closed session). See also D3993 (Witness statement of Vujadin Popović dated 2 November 2013), para. 88 (stating that he was shaken by seeing the bodies and that he had hoped that these detainees might be exchanged for his cousin). Vujadin Popović, T. 43112 (6 November 2013) (private session); Vujadin Popović, T. 42135 (6 November 2013).

<sup>18103</sup> KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32574 (under seal); Vujadin Popović, T. 43128 (6 November 2013).

<sup>18104</sup> Vujadin Popović, T. 43112 (6 November 2013) (private session); Vujadin Popović, T. 43125, 43127, 43129 (6 November 2013); KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), p. 41 (under seal).

<sup>18105</sup> Vujadin Popović, T. 43109–43110, 43122 (6 November 2013), T. 43110–43112 (6 November 2013) (private session). See also D3993 (Witness statement of Vujadin Popović dated 2 November 2013), paras. 85–88 (stating that on the morning of 23 July 1995, at the Drina Corps Command, a duty officer told him that two unknown men had arrived at the command and said that they were ordered to take the detainees who were in Sušica camp; the duty officer told him that the men had taken a van from the Command, and that one of them had said that the detainees would be taken to Bišina; Popović headed for Bišina right away and at a new VRS barracks, he was shown the road “those vehicles had taken”); Vujadin Popović, T. 43116 (6 November 2013).

<sup>18106</sup> Vujadin Popović, T. 43112 (6 November 2013) (private session); Vujadin Popović, T. 43113–43114, 43125–43126, 43128–43129, 43133–43134, 43136 (6 November 2013).

<sup>18107</sup> See para. 5486.

<sup>18108</sup> P663 (Vehicle log, 18 July 1995). KDZ285 testified that he himself had written “Popović” beside the 23 July 1995 entry as he had been told by his commander that Popović was in charge. KDZ285, P371 (Transcript from *Prosecutor v. Popović et al.*), T. 32792–32797. But see Vujadin Popović, T. 43114–43115, 43122 (6 November 2013) (testifying that he had just signed for all operations of the minibus to justify the use of fuel).

<sup>18109</sup> See para. 5489, fn. 18755.

<sup>18110</sup> P6695 (Intercept of conversation between two unidentified persons from VRS, 24 July 1995) (in which one unidentified speaker says that he could not reach “Kane”, told the other unidentified speaker that “Himzo Mujić” was no longer in prison, and that Kane should call Popović as he is “the only one who knows where [Mujić] went from here and what happened to him”); P5391 (Intercept of conversation between two unidentified persons, 24 July 1995); P6499 (Intercept from Notebook 96, 24 July 1995) (in which “Kane” told an unidentified speaker that Himzo Mujić was “here at our place, I don't know if he still is”, to which the other speaker responded that: “Check that down there, you know? Maybe Popović, the security guy [...]”).

<sup>18111</sup> P4772 (Dušan Janc's report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 32



listed as missing following the take-over of Srebrenica,<sup>18112</sup> 18 of whom had their wrists ligature-bound, and four of whom were blindfolded.<sup>18113</sup> One of the bodies in the mass grave was identified by the ICMP as Himzo Mujić.<sup>18114</sup>

5489. Based on the above, the Chamber finds that 39 Bosnian Muslims from Srebrenica were killed by members of the Bosnian Serb Forces in Bišina on 23 July 1995.<sup>18115</sup> **(To this formulation – #“members of the BSF”# we shouldn’t oppose, since in a majority of cases the perpetrators were in some units, but still they could have done certain crimes on their own, #hiding it from the most immediate superiors!#)**

(C)Trnovo

5490. The Indictment refers to the killing in late July or early August 1995 of six Bosnian Muslim “men and boys” from Srebrenica near the town of Trnovo.<sup>18116</sup> Trnovo is located in the southeast of BiH in the Sarajevo region, approximately 85 kilometres southwest of Srebrenica.<sup>18117</sup>

5491. In 1995, the so-called Scorpions unit was based in Đeletovci, in the then-RSK,<sup>18118</sup> and was commanded by Slobodan Medić, a.k.a. “Boca”.<sup>18119</sup> It was composed of

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<sup>18112</sup> P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica); P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 404–406 (under seal). See also D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 58–100.

<sup>18113</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 4, 32.

<sup>18114</sup> P4672 (University Clinical Centre of Tuzla record of identification for Himzo Mujić, 22 February 2007); Dušan Janc, T. 26995–26996 (27 March 2012) (private session), T. 26997 (27 March 2012); P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 406 (under seal). See also P4642 (ICMP list of identified Srebrenica victims, 15 December 2011) (under seal), entailing ID numbers BIŠ01ŠEK038 and BIŠ01ŠEK040B (z max 2). The Chamber notes that mortal remains with ID numbers BIŠ01ŠEK038 and BIŠ01ŠEK040B (z max 2) were identified as those of Himzo Mujić and those with ID numbers BIŠ01ŠEK040B (F) and BIŠ01ŠEK040B (z max 1) were identified as those of Ramo Ahmetović. In this respect, defence witness Dušan Dunjić challenges the identifications of these victims based on exhumation and autopsy records. In particular, Dunjić notes that one of the two DNA samples from the Bišina gravesite which were used to confirm the identity of Himzo Mujić–BIŠ01ŠEK040B (z max 2)–was, according to ICMP data, part of the separate, complete body–BIŠ01ŠEK040B–of Ramo Ahmetović. Dunjić suggests that this sample could not possibly belong to Mujić and, accordingly, the matching profiles of Mujić and Ahmetović are inconsistent and flawed. D3896 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area”, April 2009), pp. 3–6; D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 101–102. The Chamber is not persuaded by this analysis. Thomas Parsons has explained that individual ICMP samples do not always correspond with complete bodies. In Parsons’ opinion, the pathologist recorded the number 040 with respect to both samples as there was some doubt as to whether the entire body came from a single person, and the pathologist thought it possible that the two samples were related to each other; however, the ICMP ultimately concluded that the two samples (040 B and 040 B (Zamax 2)) were not related to the same individual. Thomas Parsons, P4636 (Transcript from *Prosecutor v. Popović et al.*, T. 33470–33472 (under seal). Based on this evidence, the Chamber is satisfied with the identifications of these two victims and the methodologies adopted to reach this finding.

<sup>18115</sup> The Chamber recalls that while Schedule E.12.1 of the Indictment alleges that the number killed in Bišina is “over 30”, the Prosecution Final Brief indicates “at least 39”. See fn. 18720. Based on the evidence before it, the Chamber is satisfied beyond reasonable doubt that 39 Bosnian Muslim men were killed in Bišina and considers that this figure lies within the scope of what is alleged in the Indictment.

<sup>18116</sup> Indictment, Scheduled Killing Incident E.13.1.

<sup>18117</sup> P727 (Map of the Balkans). See also D484 (Map of BiH).

<sup>18118</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), **No KDZ612 in the list!!!** p. 6 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*, T. 8317).

<sup>18119</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 6 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*, T. 8319). Aleksandar Vukov, a.k.a. “Vuk”, was the unit’s second in command. Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*, T. 8319; P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 8 (under seal).

approximately 250 members, divided in two companies,<sup>18120</sup> and operated under the authority of the Serbian MUP.<sup>18121</sup>

5492. In early July 1995, before the takeover of Srebrenica, a company of the Scorpions unit—composed of approximately 150 men divided in three platoons—commanded by Medić was deployed from Đeletovci to Trnovo for a three week operation.<sup>18122</sup> On the way to Trnovo, the unit entered Serbia, and was escorted by the SDB to the border crossing with BiH, where it continued until stopping at Jahorina.<sup>18123</sup> After a couple of days, all but a few of the Scorpions’ members who had arrived in Jahorina left for Trnovo.<sup>18124</sup> Upon reaching Trnovo, the Scorpions participated in combat operations as part of the joint VRS and MUP forces operating on the Sarajevo front.<sup>18125</sup> The Chamber recalls that on 10 July 1995, a part of these joint forces was detached and sent to the Srebrenica sector under Borovčanin’s command,<sup>18126</sup> while another part, including the Scorpions unit, stayed behind.<sup>18127</sup>

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<sup>18120</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 8 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8317, 8319.

<sup>18121</sup> KDZ612 stated that, at the time of its establishment, the Scorpions unit was under the JNA command; however, by 1994, it was already under the command of the Serbian SDB and received orders from the SDB, and KDZ612 added that Medić “used to brag about his association with the DB and all the meetings he had with them to receive orders”. P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 6 (under seal). KDZ612 further stated that Medić met with Franko Simatović at the headquarters in Đeletovci some time in 1995, and that Medić would go for meetings with Jovica Stanišić; however, according to KDZ612, Milan Milanović, a.k.a. “Mrgud”—who was “some sort of commander of the police”—also served as the intermediary between Medić and the SDB leadership in Belgrade, and Medić boasted that the orders came from Stanišić and Simatović. P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 7 (under seal). Furthermore, KDZ612 testified that the Scorpions wore a badge with a sword to show that they were a SDB unit, and that it was common knowledge that the sword was the insignia of the SDB; once the Scorpions left for Trnovo the badges were replaced with Serbian MUP badges. P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 7 (under seal). *See also* P2983 (Report of RS MUP’s Special Police Brigade, Trnovo Forward Command Post, 1 July 1995); P5153 (Report of RS MUP, 1 July 1995); P5154 (RS MUP summary of information from and its periphery, 30 June 1995) (referring to the “*Škorpija* detachments” as part of the MUP of Serbia); Christian Nielsen, T. 16315 (7 July 2011).

<sup>18122</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), pp. 9–11 (under seal); P410 (Witness statement of KDZ612 dated 25 May 2005), para. 6 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8321.

<sup>18123</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 10 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8323–8325. KDZ612 stated that while at Jahorina, Nikola Koljević visited the Scorpions’ command. P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 10 (under seal); P279 (Photograph of Nikola Koljević and Scorpions). *See also* Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8326–8327 (stating that he heard that Medić attended some meetings while in Jahorina but he did not know whom Medić met or what they discussed).

<sup>18124</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 10 (under seal) (stating that “[a]fter three of four days, we were ordered to go to Trnovo”); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8325, 8327–8328 (stating that approximately 120 men left for Trnovo and that approximately six stayed behind “for a day or two” at Jahorina).

<sup>18125</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), pp. 10–11 (under seal). *See also* Christian Nielsen, T. 16316–16319 (7 July 2011) (stating that the ‘*Škorpija*’ present in Trnovo at the time operated as part of a conglomeration of units referred to as the joint forces of RSK MUP, RS MUP, and MUP of Serbia); D2015 (VRS Main Staff Report, 26 June 1995), p. 5 (a report to the Accused, referring to “the enemy [...] carrying out in force reconnaissance along the Trnovo axis”, within the SRK’s zone of responsibility); P5150 (RS MUP summary of information from and about the front, 26 June 1995) (reporting on developments from the Trnovo front and referring to information received from the SRK); P5154 (RS MUP summary of information from and its periphery, 30 June 1995) (referring to a problem of agreement with the SRK command); P5175 (Report of Trnovo Forward Command Post, July 1995) (a report from the police forces staff at the Trnovo IKM referring to a joint attack by MUP and VRS units, and reporting on an attack on “our defence lines” which resulted in the killing of a member of the *Škorpije* and the wounding of many others); P2983 (Report of RS MUP’s Special Police Brigade, Trnovo Forward Command Post, 1 July 1995) (a report by Borovčanin, which refers to a combat group operating in Trnovo that included “two platoons from each of the *Kajman*, *Plavi* and *Škorpija* detachments (the MUP of Serbia)”; P5166 (Report of RS MUP, 8 July 1995) (a report by Borovčanin referring to offensive operations by RS MUP, RSK MUP, and VRS units in the area); P2992 (Order of RS MUP, 10 July 1995) and P2993 (Order of RS MUP, 10 July 1995) (an order from Kovač for the deployment from the Trnovo front of a mixed company of joint RSK, Serbian, and RS MUP forces). KDZ612 also stated that Arkan’s units were present in the area and that during the Trnovo operation, his unit had communication with such units. P409 (Witness Statement of KDZ612 dated 17 February 2005), pp. 10–11 (under seal).

<sup>18126</sup> *See* para. 5021.

<sup>18127</sup> P409 (Witness Statement of KDZ612 dated 17 February 2005), pp. 10–11 (under seal) (stating that Medić communicated with the VRS during the Trnovo operation, and that the Scorpions’ mission was to distract the ABiH by simulating an attack on Sarajevo while the VRS regrouped around Srebrenica); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8322 (stating that the Scorpions were to hold the line at Trnovo and were expected to work in co-ordination with the VRS); D2695 (SRK combat report, 19 July 1995) (an SRK report on an enemy attack along the Trnovo axis and referring to MUP units holding positions); P5176 (Report of Trnovo Forward Command Post, 20 July 1995) (referring to a “combined company” composed of an SBP detachment, a PJP squad, and an RSK MUP unit). *See also* Christian Nielsen, T. 16315–16317 (7 July 2011) (stating that the combat operations in Trnovo in early July 1995 were co-ordinated with the military forces deployed in the area, and that the deployment of military and police units in the area could not have been done without the involvement of both the RS MUP and the VRS leadership, as well as the Accused). **What a mere deployment has to do with the crimes? Even the deployment as an operational act was not in the**

5493. During the operation in Trnovo, two members of the Scorpions were ordered by Medić to take a bus and a TAM truck and go to Srebrenica to assist in transporting Bosnian Muslim male detainees.<sup>18128</sup> The Scorpions transported multiple groups of Bosnian Muslim males who had been detained in Srebrenica.<sup>18129</sup> At some point, a “final group” of six Bosnian Muslim men from Srebrenica was brought to the Scorpions command post.<sup>18130</sup> Medić ordered that these men be killed.<sup>18131</sup> Slobodan Stojković, a member of the Scorpions, was ordered by Medić to film the execution.<sup>18132</sup>

5494. The six men were driven in a truck to an isolated spot four or five kilometres from the command post.<sup>18133</sup> While in the truck, a member of the Scorpions kicked one of the men in the head.<sup>18134</sup> The men, whose hands were tied, were unloaded and made to lie on the side of the road,<sup>18135</sup> while being insulted by some of the eight members of the Scorpions who were present at the side of the road.<sup>18136</sup> The Bosnian Muslim men were subsequently led into a forest clearing containing two abandoned cottages.<sup>18137</sup> Four of the men were forced to walk forward one by one and were shot multiple times with automatic rifles by two members of the Scorpions.<sup>18138</sup> The remaining two men were untied and ordered to carry the dead into the forest.<sup>18139</sup> These two men were then laid on the floor of one of the abandoned houses and shot multiple times with automatic rifles by one of the same individuals who shot the first four detainees.<sup>18140</sup>

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**hands of the President, who held only strategic command. In that, as well as in any area there were our and the Muslim lines, and the deployment was permanent, with occasional enforcement when attacked. But even if he had an operational command, what it does have to do with crimes? Is a legal use of the Army already a crime? The Accused never heard about the Scorpions?**

18128 P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 11 (under seal), as amended in P409 (Correction to Witness Statement dated 25 November 2010), p. 1 (under seal).

18129 P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 11 (under seal).

18130 KDZ612 stated that “somebody” in the chain of command above Medić knew the Scorpions had a bus and two trucks; **(KDZ612 is himself “somebody”, I don’t have anything about him.)** Medić gave the bus to “his superior” to be used to transport Muslims from Srebrenica and take them to an unknown location; on the way back, the “drivers” brought back the six men to the Scorpions command in Trnovo. P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 11 (under seal), as amended in P409 (Correction to Witness Statement dated 25 November 2010), p. 1 (under seal). Stojković stated that he did not know anything about the six men until the morning of the execution when he learned that the men were from Srebrenica. Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8343, 8362.

18131 Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8381; P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 11 (under seal) (stating that Medić singled out his own bodyguards to kill the detainees, issued the orders, and the men were then taken away and killed); D2247 (Supplemental Statement of KDZ612 dated 14 February 2012), para. 3 (under seal) (stating that “someone” told Medić to kill the six men and that Medić, thereafter, ordered members of the unit to kill them).

18132 Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8314, 8341–8343, 8381. When the Scorpions unit returned to Deletovci, ten copies of the video were made and distributed amongst its members, presumably as souvenirs; one copy was made available for rent at a video rental store in Šid, Serbia. KDZ612, P410 (Witness Statement of KDZ612 dated 25 May 2005), para. 9 (under seal); Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8382, 8389–8391.

18133 Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8351–8352; P668 (Video footage of executions by Scorpions), at 00:05 to 00:47.

18134 P668 (Video footage of executions by Scorpions), at 00:18–00:20; Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8361–8262.

18135 P668 (Video footage of executions by Scorpions), at 01:41 to 02:20; Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8363. *See also* P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal).

18136 *See* P668 (Video footage of executions by Scorpions), at 02:13–04:02. *See also* Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8374–8378; P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal).

18137 P668 (Video footage of executions by Scorpions), at 09:10 to 10:42. *See also* P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal); P411 (Witness statement of KDZ612 dated 31 May 2005) (under seal), p. 3.

18138 P668 (Video footage of executions by Scorpions) at 10:55 to 11:37. *See also* P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal).

18139 P668 (Video footage of executions by Scorpions), at 12:15 to 16:21; Slobodan Stojković, P4751 (Transcript from *Prosecutor v. Tolimir*), T. 8379. *See also* P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal).

18140 P668 (Video footage of executions by Scorpions) at 16:54 to 18:24. *See also* P409 (Witness Statement of KDZ612 dated 17 February 2005), p. 15 (under seal).

5495. The remains of the six men were exhumed in 1999 from the Godinjske Bare gravesite near Trnovo, and identified by DNA analysis.<sup>18141</sup> All six men had been reported as missing or dead after the fall of Srebrenica.<sup>18142</sup>
5496. The Chamber finds that, following the fall of Srebrenica, members of the Scorpions killed six Bosnian Muslim males from Srebrenica near the town of Trnovo.

### 13. *Transfer to Batković Camp*

5497. The Chamber recalls that Batković Camp was established in June 1992 in a location approximately 12 kilometres from Bijeljina, and that VRS soldiers were assigned to secure it throughout the armed conflict in BiH.<sup>18143</sup>
5498. On 11 or 12 July 1995, Milenko Todorović, the Chief of Security of the Eastern Bosnia Corps, received a telegram from Tolimir which directed the Eastern Bosnia Corps to prepare accommodation at Batković Camp for approximately 1,000 to 1,200 detained Bosnian Muslim soldiers, who were to arrive in the following days.<sup>18144</sup> **(It couldn't be 11 or 12 July, because at that time there was no so many of them. It must have been later, 13 or 14 July. But, this is another proof that there was no killing "everybody caught". The announcement to the Batkovic camp to be ready to house so many POWs is #another proof that there was no any plan to execute anyone!#)** Upon receiving this telegram, Todorović immediately conveyed the order to his commander, Novica Simić, who then began preparations for the arrival of the detainees.<sup>18145</sup> However, the prisoners did not arrive.<sup>18146</sup> Approximately one day later, at Simić's request, Todorović consulted Tolimir about the whereabouts of the prisoners and was told to halt further preparations for the detainees as the task had been abandoned.<sup>18147</sup>
5499. Sometime on or after 15 July, Simić called Pandurević and advised him that if he had any detainees in his AOR, he could send them to Batković.<sup>18148</sup> Pandurević advised that there were members of the Muslim Forces in Srebrenica who were still trying to break through to Tuzla, and that capturing them and transporting them to Batković Camp would not be a problem.<sup>18149</sup> Pandurević also advised that they already had a number of detainees that needed to be taken over and transported to the camp.<sup>18150</sup> Following that conversation, Simić advised Todorović to organise, through the MP Battalion, a number of vehicles and

<sup>18141</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 38; P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), Annex D, e-court pp. 438–439 (under seal).

<sup>18142</sup> Thomas Parsons, T. 26574–26575 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović*), T. 20873–20876; P4642 (ICMP list of identified Srebrenica victims, 15 December 2011) (under seal).

<sup>18143</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12940, 13041. See Scheduled Detention Facility C.2.1.

<sup>18144</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12933–12934, 12937–12939; D4134 (Excerpt of OTP interview with Milenko Todorović, 2 February 2010), p. 39. See Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12954–12956; D4126 (Photograph marked by Milenko Todorović, undated).

<sup>18145</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12934, 12938–12940, 13134.

<sup>18146</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12941.

<sup>18147</sup> Milenko Todorović, T. 44193–44194 (28 November 2013); D4134 (Excerpt of OTP interview with Milenko Todorović, 2 February 2010), pp. 37–38, 40; Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12942.

<sup>18148</sup> Milenko Todorović, T. 44193–44194 (28 November 2013); Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12942–12943; D4134 (Excerpt of OTP interview with Milenko Todorović, 2 February 2010), p. 38. The Chamber notes that Todorović testified that he was not sure of the date of the phone call between Simić and Pandurević. Milenko Todorović, T. 44194 (28 November 2013). It further notes that in his interview with the Prosecution, Todorović said that he believed the phone call occurred the same morning or the day after he consulted Tolimir about the whereabouts of the detainees. D4134 (Excerpt of OTP interview with Milenko Todorović, 2 February 2010), pp. 37–38. However, the Chamber recalls that Pandurević only returned to the Zvornik Brigade by noon on 15 July. See para. 5469. The Chamber therefore finds that the phone call could not have taken place until at least 15 July.

<sup>18149</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12943; Milenko Todorović, T. 44195 (28 November 2013).

<sup>18150</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13193–13194.



soldiers to transport the detainees from the Zvornik area to Batković Camp, and that these soldiers should report to the Zvornik Brigade Command.<sup>18151</sup>

5500. An MP squad of 10 to 15 men went to the Zvornik area on a daily basis from 18 to 26 July 1995 for the purpose of collecting prisoners of war.<sup>18152</sup> In total, approximately 160 to 180 detainees were taken to Batković Camp in this period.<sup>18153</sup> **(Another proof that it was of the utmost importance #who was dealing with the detainees, i.e. it was not a part of the VRS as a system, it was illegal even within the VRS, and that is why it was clandestine!)** Among these were 22 individuals picked up on 18 July by the Eastern Bosnia Corps MP from the Drina Corps MP in Vlasenica,<sup>18154</sup> as well as 34 Bosnian Muslims from Srebrenica who surrendered in the course of 26 July.<sup>18155</sup> **(Therefore, the legal conduct with the prisoners of war had been conducted by the regular VRS structures, while the criminal had been committed by a members of the VRS, but not by the VRS!)**

5501. As stated previously, detainees at Batković Camp were registered with the ICRC, which visited the camp regularly; this continued in 1995.<sup>18156</sup> The detainees from the Srebrenica area were exchanged from July 1995 to January 1996.<sup>18157</sup> Soon after, Batković Camp was shut down.<sup>18158</sup>

#### 14. Reburial operation

5502. The Chamber recalls its previous findings that the bodies of victims of the Scheduled Incidents at the Kravica Warehouse, Orahovac, Petkovci Dam, Kozluk, Branjevo Military Farm, and Pilica Cultural Centre, which had been buried in primary gravesites in the Bratunac and Zvornik areas, were exhumed, transported, and reburied in

<sup>18151</sup> Milenko Todorović, T. 44195 (28 November 2013); Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12943, 13191, 13193–13194.

<sup>18152</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13144–13145, 13150, 13173–13175, 13179, 13191–13192. See also Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13168–13175, 13179–13181 (testifying that entries in the Duty Operations book of the Eastern Bosnia Corps Command for 15 July 1995 reflect that the corps' deputy commander, General Gavrić, ordered 50 members of the MP unit to be sent to Zvornik on 16 July 1995 to help the Zvornik Brigade carry out combat assignments and were re-subordinated to Pandurević, and that a squad of 10 to 15 men who had been sent to Zvornik to escort captured POWs remained under the command of the Eastern Bosnia Corps); D4131 (Excerpt of the Eastern Bosnia Corps logbook, 5 March 1995 to 12 June 1996), e-court p. 3.

<sup>18153</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13145. See D3236 (Witness statement of Gojko Čekić dated 31 March 2013), paras. 13, 21 (testifying that approximately 120 detainees from Srebrenica arrived at Batković Camp in the second half of July 1995); Gojko Čekić, T. 36504–36505, 36508–36509 (3 April 2013). According to a list of persons detained at Batković Camp, over 150 detainees from the Srebrenica area were registered from July to December 1995. P3213 (List of persons detained at Batković Camp), e-court pp. 9, 11, 25, 40, 47, 52, 78, 84, 92, 106, 131, 133, 142, 149, 157, 168, 170, 175, 184, 188, 191, 193.

<sup>18154</sup> D4132 (Eastern Bosnia Corps list of prisoners, 18 July 1995); Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13201–13203. The list of persons detained at Batković Camp confirms that all but one of the men named in the Eastern Bosnia Corps list of prisoners were registered at Batković Camp on 18 July 1995 and the following days. P3213 (List of persons detained at Batković Camp), e-court pp. 9, 52, 78, 106, 131, 168, 175, 184, 188, 191.

<sup>18155</sup> D3244 (Drina Corps combat report, 26 July 1995), p. 2; Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13144. Two survivors of Scheduled Incident E.9.2 arrived at Batković Camp on 26 July, after surrendering to Bosnian Serb Forces. See para. 5437.

<sup>18156</sup> See Scheduled Detention Facility C.2.1. See also Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12958, 12988, 13088; P5125 (VRS Main Staff instructions, 26 July 1995), p. 1.

<sup>18157</sup> Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13147–13149; D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 21; 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 KDZ333, T. 24162 (2 February 2012); KDZ333, P4342 (Transcript from *Prosecutor v. Krstić*), T. 3046; Ahmo Hasić, P354 (Transcript from *Prosecutor v. Popović et al.*), T. 1214–1215; Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1230 (under seal); D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal).

<sup>18158</sup> See Scheduled Detention Facility C.2.1.



remote secondary gravesites in September and October 1995.<sup>18159</sup> The Chamber will discuss the processes in further detail below.

(A) The reburials from the Bratunac area

5503. In September 1995, Popović visited the Bratunac Brigade to convey an order from the Main Staff, stating that an operation involving the exhumation and reburial of bodies from the Glogova gravesites was to be carried out.<sup>18160</sup> This operation was known as “*asanacija*” or the sanitation and hygiene measures operation, and Momir Nikolić was tasked with co-ordinating the logistics.<sup>18161</sup>

5504. Drivers, vehicles, and machinery from civilian companies, as well as members of the Bratunac Civilian Protection, were utilised in the reburial operation.<sup>18162</sup> A number of meetings were held at the Bratunac municipal building, where Deronjić communicated with local companies so that part of the “non-military related tasks” could be carried out.<sup>18163</sup> Specifically, around mid–October, Deronjić requested workers from the Bratunac Civilian Protection and ordered that they should report to Momir Nikolić that evening.<sup>18164</sup> The workers were dropped off in front of the Bratunac Brigade Command between 9 and 10 p.m.<sup>18165</sup>

5505. The reburial operation took place over the course of several nights.<sup>18166</sup> The 5<sup>th</sup> Engineering Battalion provided some of the machinery and fuel for the operation.<sup>18167</sup> Members of the Bratunac Brigade MP and the Bratunac SJB secured the Bratunac–Konjević Polje and Bratunac–Ljubovija Roads, and diverted traffic to other routes so that the trucks transporting the bodies from Glogova through Bratunac town, in the direction of Srebrenica, could pass unhindered.<sup>18168</sup> A stench that could be smelled throughout Bratunac town emanated from the bodies as they were being transported.<sup>18169</sup> Though intended to be a secret operation, the operation ceased to be covert due to the number of participants involved.<sup>18170</sup>

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<sup>18159</sup> See paras. 5264, 5267, 5352, 5380, 5411, 5461. See also P4512 (Photograph booklet entitled “Srebrenica Mass Graves - Primary and Secondary Mass Grave Aerial Imagery”), e-court p. 7; Adjudicated Facts 1864, 1872.

<sup>18160</sup> Momir Nikolić, T. 24688 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 13. See also Petar Salapura, T. 40283 (24 June 2013); Adjudicated Facts 1865, 1872. But see Vujadin Popović, T. 43113–43114 (6 November 2013) (denying having personally participated in the reburial operation, and adding that he merely kept tabs on the use of fuel and was not aware of the location of the secondary gravesites, as the reburial operation was “some sort of secret”). **Secret?**  
**What did I tell you?**

<sup>18161</sup> Momir Nikolić, T. 24688, 24693 (14 February 2012); D2081 (Momir Nikolić’s statement of facts from Plea Agreement, 7 May 2003), para. 13. See Adjudicated Fact 1868.

<sup>18162</sup> Momir Nikolić, T. 24689 (14 February 2012). These companies included the Rad Utilities Company, the state-owned bricks company in Bratunac, the Radnik construction company, the Sase mine, and the Autoprevoz company from Srebrenica. Momir Nikolić, T. 24689 (14 February 2012).

<sup>18163</sup> Momir Nikolić, T. 24690 (14 February 2012).

<sup>18164</sup> [REDACTED]. See Momir Nikolić, T. 24691–24693 (14 February 2012); P4391 (Report on meeting of Bratunac Brigade, 16 October 1995).

<sup>18165</sup> [REDACTED]. When asked about the nature of the task, Momir Nikolić stated that it would be “the same thing they did recently”. [REDACTED].

<sup>18166</sup> [REDACTED]. See also Momir Nikolić, T. 24690 (14 February 2012).

<sup>18167</sup> Momir Nikolić, T. 24689–24690 (14 February 2012).

<sup>18168</sup> Momir Nikolić, T. 24689 (14 February 2012); KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3582–3583. See also P407 (Witness statement of Desmir Đukanović dated 20 March 2007), para. 7 (stating that while waiting at a bus station in September, he saw trucks transporting bodies from Glogova in the direction of Srebrenica at night).

<sup>18169</sup> P407 (Witness statement of Desmir Đukanović dated 20 March 2007), para. 7; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3582–3583.

<sup>18170</sup> Momir Nikolić, T. 24690 (14 February 2012); Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14511. Milenko Katanić testified that civilians were aware of bodies being relocated from Glogova and speculated that the trucks driving through the town were carrying bodies. P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 98; Milenko Katanić, T. 24547 (10 February 2012) (private session). See also Mile Petrović, T. 45566 (17 January 2014).

5506. Aerial images show a front loader at the Glogova gravesites and indicate that earth was disturbed on or before 30 October 1995.<sup>18171</sup> Additional aerial images indicate that earth was disturbed at six locations along the Zeleni Jadar Road between 24 August and 23 October 1995, and that these secondary graves were backfilled in late October 1995.<sup>18172</sup> Further, the Chamber has already noted forensic evidence establishing links between the two primary gravesites at Glogova, and the secondary gravesites at Zeleni Jadar, Budak, Blječeva, and Zalažje.<sup>18173</sup>

(B) The reburials from the Zvornik area

5507. On 14 September 1995, the Main Staff sent an urgent order signed by Mladić to the Drina Corps command approving five tonnes of D-2 diesel to be delivered to Trbić at the Standard Barracks.<sup>18174</sup> Pursuant to Mladić's order, Žarko Ljuboječić of the Main Staff's Sector for Logistics directed the command of the 35<sup>th</sup> Logistics Base to issue 5,000 litres of D-2 diesel, and requested that a Drina Corps representative collect the fuel and provide transportation for its delivery.<sup>18175</sup> [REDACTED].<sup>18176</sup> [REDACTED].<sup>18177</sup>

5508. On 15 September, [REDACTED], Pandurević went the Drina Corps command to look into the issue.<sup>18178</sup> [REDACTED].<sup>18179</sup>

5509. One day in September, Damjan Lazarević received a call from Bogičević, who ordered him to report to the Standard Barracks.<sup>18180</sup> Lazarević was then ordered by Bogičević and Jokić to oversee an operation, which involved exhuming bodies from primary gravesites and transporting them to new graves using Zvornik Brigade equipment.<sup>18181</sup> Lazarević was given a list of names—including three operators from the Engineering Company and members of other units of the Zvornik Brigade—who would assist in the operation.<sup>18182</sup>

5510. Machine operators belonging to the Zvornik Brigade Engineering Company and other members of the Zvornik Brigade reopened the primary gravesites.<sup>18183</sup> Heavy duty tipper trucks driven by civilians and belonging to the Zvornik Brigade and various private

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<sup>18171</sup> See para. 5252.

<sup>18172</sup> See para. 5260.

<sup>18173</sup> See paras. 5264–5265, 5267.

<sup>18174</sup> P4592 (VRS Main Staff Order, 14 September 1995); KDZ122, T. 26200–26202 (13 March 2012) (closed session); P4563 (Statement by KDZ122), p. 7 (under seal). See also Adjudicated Fact 1870. The Chamber notes that P4592 refers to Captain Milorad “Trpić”, but is satisfied that this is a typographical error and that the order in fact refers to Milorad Trbić. See KDZ122, T. 26200 (13 March 2012) (closed session).

<sup>18175</sup> P4593 (VRS Main Staff Order, 14 September 1995); [REDACTED]. According to P4992 and P4993, the fuel approved by the VRS Main Staff was to be used for “engineering works” in the Drina Corps area of responsibility. See P4592 (VRS Main Staff Order, 14 September 1995); P4593 (VRS Main Staff Order, 14 September 1995).

<sup>18176</sup> [REDACTED].

<sup>18177</sup> [REDACTED].

<sup>18178</sup> [REDACTED].

<sup>18179</sup> [REDACTED]. Popović's involvement in overseeing the reburial operation is further evidenced by an intercepted conversation between Popović and “Mihalić” at 6:44 p.m., where Popović inquired if the fuel had arrived. Popović then asked Mihalić if Trbić was “there somewhere”. Mihalić replied that Trbić had left, to which Popović responded “he is working on that, right?” P5360 (Intercept of conversation between Lt. Col. Vujadin Popović and Mihalić, 22 September 1995). [REDACTED]. *But see* Vujadin Popović, T. 43113–43114 (6 November 2013) (testifying that he did not directly participate in the reburial operation and that he merely “kept tabs on the use of fuel”).

<sup>18180</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14468, 14525.

<sup>18181</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14467–14469, 14522–14523.

<sup>18182</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14468, 14484–14485, 14522–14523.

<sup>18183</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14467–14469, 14484–14485. The smell emanating from the bodies was “unbearable” and machine operators took breaks from the task in order to get fresh air. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14485, 14487.

companies transported the bodies.<sup>18184</sup> The reburial operation in Zvornik was conducted over a period of five or six nights.<sup>18185</sup> Drago Nikolić and the Zvornik Brigade MP provided traffic security.<sup>18186</sup> Throughout this time, Trbić co-ordinated the operation, and periodically summoned the personnel involved in the reburials, inquiring about the progress of the operation.<sup>18187</sup>

5511. Aerial images reveal the emergence of disturbed earth at the Lažete, Petkovci Dam, Kozluk, and Branjevo Military Farm gravesites between 7 and 27 September 1995.<sup>18188</sup> Additional aerial images indicate disturbed earth along the Hodžići, Snagovo–Liplje, and Čančari Roads between 7 September and 2 October 1995.<sup>18189</sup> Further, the Chamber has already noted forensic evidence establishing links between the Lažete primary gravesites and seven secondary gravesites located along the Hodžići Road, the primary gravesites at Petkovci Dam and five secondary gravesites along the Liplje Road, the primary gravesites at Kozluk and five secondary gravesites along the Čančari Road, as well as the primary gravesite at the Branjevo Military Farm and nine gravesites located along the Čančari Road.<sup>18190</sup>

### (C) Conclusion

5512. On the basis of this evidence, the Chamber finds that between September and October 1995, the VRS Main Staff organised the reburial of bodies of individuals killed within the respective AORs of the Bratunac and Zvornik Brigades in July 1995. The bodies were exhumed from their original graves and reburied in remote secondary graves. The reburial operation was carried out by members of the security organs of the Main Staff, Drina Corps, Bratunac Brigade, and Zvornik Brigade, with the assistance of Bosnian Serb civilian authorities and other VRS and MUP units.

5514. The Chamber further finds that the reburial operation was triggered by the discovery by the international community of the existence of mass gravesites in Srebrenica following Albright’s address to the Security Council in August 1995, and was conducted for the purpose of hiding the evidence of the mass executions that took place in July 1995 in Srebrenica.<sup>18191</sup>

### h. Forensic, demographic, and DNA evidence

#### (A) Introduction

5515. The number of victims killed during the events in Srebrenica in July 1995, as alleged in the Indictment, is a highly contested matter in this case.

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<sup>18184</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14484–14485, 14527–14528. Lazarević testified that he was not aware of where the exhumed bodies were reburied, as members of the Engineering Company had not been tasked with the reburials. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14469, 14485–14486, 14509.

<sup>18185</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14486, 14510. *See also* Richard Butler, T. 27632–27633 (18 April 2012).

<sup>18186</sup> Adjudicated Fact 1871. *See* P4563 (Statement by KDZ122), p. 8 (under seal).

<sup>18187</sup> Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14487–14490. Trbić also contacted Lazarević personally for an update on the reburial operation. Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14507–14508.

<sup>18188</sup> *See paras.* 5340, 5375, 5404, 5453.

<sup>18189</sup> *See paras.* 5351, 5379, 5410, 5460.

<sup>18190</sup> *See paras.* 5351–5352, 5380, 5411, 5461.

<sup>18191</sup> *See paras.* 5450–5451.

5516. The Prosecution asserts that “over 7,000 Bosnian Muslim men and boys” were killed following the fall of Srebrenica in July 1995.<sup>18192</sup> It supports this assertion by pointing to the 5,850 bodies identified in Srebrenica-related graves as of January 2012,<sup>18193</sup> and to demographic evidence suggesting that 7,905 people went missing after the fall of Srebrenica.<sup>18194</sup>

5517. The Accused contests the Prosecution’s calculation of the number of individuals executed after the fall of Srebrenica, asserting that there is absolutely no reliable evidence to suggest that the Bosnian Serbs captured anywhere close to that many prisoners.<sup>18195</sup> He adds that the total number of executed persons cannot exceed the difference between the population of Srebrenica before its fall and the number of people from Srebrenica who arrived in Bosnian Muslim-held territory or elsewhere after the fall of Srebrenica.<sup>18196</sup> The Accused also claims that the Prosecution’s argument in relation to the number of people killed is fallacious, as it fails to account for the commingling of the bodies of persons killed in combat with the bodies of those who were executed.<sup>18197</sup> While the Accused concludes that approximately 4,000 persons may be considered as unaccounted for after the fall of Srebrenica,<sup>18198</sup> he claims that many of those died from mines, suicides, as a result of “legitimate combat activities”, or in the aftermath of the mutiny at the Kravica Warehouse.<sup>18199</sup> He therefore urges the Chamber not to make a determination as to the total number of persons executed after the fall of Srebrenica, as this determination, according to the Accused, cannot be made beyond reasonable doubt.<sup>18200</sup> **(There are a quite reliable evidence that the #entire number of missing persons after the fall of Srebrenica in July 1995 is close to 3,000, all including the combat casualties and executed persons#. Let us see what the BH rump Presidency considered at the meeting on August 1995, see D2238: SILAJDZIC:**

**It is like this: first of all, in Srebrenica they had one number for UNPROFOR and we had the other.**

**PRESIDENT:**

**42,000 for UNPROFOR, 35,000 realistically.**

**No doubt, there was a double evidence, with the aim to obtain more food and humanitarian aid to be re-directed to the Army, as other documents indicate! .**

<sup>18192</sup> Indictment, para. 47(a). See Prosecution Final Brief, Appendix D, paras. 1, 173; Prosecution Closing Argument, T. 47799, 47802 (30 September 2014). The Prosecution explains that this figure is proven by the totality of the evidence, which can be divided in four broad categories: DNA; testimonial evidence of the number of prisoners killed; evidence of the number of prisoners captured; and the demographic evidence of the number of people missing following the fall of Srebrenica. Prosecution Closing Argument, T. 47799 (30 September 2014).

<sup>18193</sup> Prosecution Final Brief, Appendix D, paras. 170–171, 173, referencing P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012); Prosecution Closing Argument, T. 47799 (30 September 2014). With regard to any discrepancy with numbers previously used, the Prosecution clarifies that the number of bodies identified is constantly increasing as more Srebrenica-related gravesites are exhumed. Prosecution Final Brief, Appendix D, para. 173; Prosecution Closing Argument, T. 47799 (30 September 2014).

<sup>18194</sup> Prosecution Final Brief, Appendix D, paras. 172–173, referencing P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 28–29; P5005 (2012 ICMP updated list of Srebrenica missing) (under seal); and P5004 (Ewa Tabeau’s report describing integration of new 2012 ICMP update to 2009 list of Srebrenica Missing persons).

<sup>18195</sup> See Defence Final Brief, paras. 2697–2700.

<sup>18196</sup> See Defence Final Brief, paras. 2522–2530.

<sup>18197</sup> See Defence Final Brief, para. 2519.

<sup>18198</sup> Defence Final Brief, paras. 2530, 2559.

<sup>18199</sup> Defence Final Brief, paras. 2548–2572.

<sup>18200</sup> Defence Final Brief, paras. 2520, 2702.

SILAJDŽIĆ:

The problem is that it was not 35,000, but a little more than 36,000. However, it seems that this is not right either. They differ, they were not able to count well. There were some problems there. So it was 36,200 - and some more. I asked them to tell me how many had come, but we do not know the exact number of people who came to Tuzla or how many reported. We know for a little more than 31,000. But some were taken by their relatives, friends or the reception centre directly from Kladanj about which we do not have the information yet.

PRESIDENT:

The most unfavourable number is 5,000 /meaning that/ nobody was excluded, isn't it? 31,000 - 36,000?

SILAJDŽIĆ:

I am afraid this is right.

**But, the most striking is the evidence that the Muslim side had been informed by the ICRC and their services that some more than 31,000 were registered to reached Tuzla, with a real possibility that "some were taken by their relatives, friends or the other reception centres..." while the Defence had been denied this data. See further, D2238:**

DELIĆ:

Let's say that about 600 or 670 soldiers entered Žepa.

SILAJDŽIĆ:

I am talking about the total number. I am afraid it is the 5,000 mark. The fact is, when I was in Kalesija I heard that there had been a massacre. There is no doubt whatsoever. You probably know that mass graves can be detected by these aircraft due to heat radiation. About 5,000. But I hope there will be fewer. Some of them are in camps.

**See further, D2238: PRESIDENT:**

The number of people killed is most probably somewhere around 3,000. This is the figure that has been mentioned from the first day there. In fact, we intercepted a very clear Chetnik telephone conversation, obviously authentic, where they say: "there was a massacre here yesterday. It was a real slaughterhouse. So, how many, 300? "No, add another zero", said one Chetnik to the other. He was talking about the massacre of 3,000 people - one Chetnik to another.

SAMARUGA was here today. We insisted that it should be visited and seen. If not, I said he had to say publicly that KARADŽIĆ would not let him. He said: "If we quarrelled with him we had no chances whatsoever. We have been using tactics here. So, according to this assessment it would be 5,000 people whose fate is unknown, including most probably 3,000 dead. There is still hope that some of the 2,000 are in camps, some still going around, getting through, etc. Some went towards Žepa. The probable number of dead is 3,000. This is according to the Chetnik information, which in this case could be the most reliable. This is their information, where they speak to one another about what happened. The man who took part in the massacre talked about it. He was telling someone else. This conversation is available if you are interested. It is one month old. This is it, more or less.

**As it is already known, #many of the missing went to Zepa, many, even up to 1,000 cross the Drina River and found shelter in Serbia, and many continued to wonder and even firgh for a months thereafter. Out the the 3,000 assessed to be dead, many of**



**them had been combat casualties, and therefore the number of executed had to fall far below 3,000, and maybe below 2,000. The Defence is hesitant to quarrel about the figures, because any number of the unlawfully killed persons is sufficiently horrifying and disgusting to be bargained, but since a falsely established the number may be relevant for a qualification of genocide, it should be properly established! #WHAT WAS THE PURPOSE OF THIS TRIBUNAL, IF NOT TO ESTABLISH THE TRUTH???)**

**5518.** The Prosecution responds by stating that the Accused's arguments on the number of Bosnian Muslim men executed in Srebrenica fail to consider the totality of the evidence in this case, which includes evidence of witnesses, intercepts, and other documents corroborated by forensic and demographic evidence.<sup>18201</sup> The Prosecution adds that the Accused has examined the forensic and demographic evidence in isolation, and that his argument that the number of Srebrenica victims cannot be determined is confused and speculative, and is not supported by the evidence in this case.<sup>18202</sup> **(But it wasn't a Defence's duty to prove anything, it is enough that the Prosecution didn't have sufficient evidence on this subject, and the Defence is just pointing out this lack of evidence. Once we found bodies of people who didn't die, or buried, or looked for in July 95, or without connections with the referent lists, it is for sure sufficient for the principle "in dubio pro reo" and puts the burden of proving back to the Prosecution. A simple question: was there any combat casualties in July 1995, and where there had been buried, requires a simple answer. The answer is given by the Prosecution witness@@@T. who testified about many combat casualties along the column route, and stated that the bodies had been buried in the mass graves by the Serbs. Another question that hadn't been answered was: whether there were any combat casualties before July 1995, during the several years of war, and where they had been buried? The response is in the Muslim Army document@@@ depicting that in this area comprising ten municipalities there was all together about 8,000 casualties in a different grave sites. So, the Big Lie could be caught if wanted!**

**However, the Defence did the most correct analysis of the "totality of evidence" pertaining to the number of executed and depicted it in the Defence Final Brief, para 2530: To recap:**

- a) a year after the establishment of the safe zone there were about 37,000 people in Srebrenica, permanent residents, combatants, and refugees from the neighboring municipalities who had taken shelter there;*
- b) until July 1995 this number decreased to be between 35.000 and 36.000;*
- c) around 20,000 civilians took refuge in the Potocari UN compound and were evacuated towards Kladanj and Tuzla. Many of them didn't reach Tuzla, because they joined their relatives before any registration.*
- d) 12,000 to 15,000 left Srebrenica, forming a mixed military-civilian column and went through the Serbian territory. Until 16 July at least 10,000 of people from this column reached Tuzla;*
- e) the Bosnian Presidency concluded at the session on 11 August 1995 that 31,000 of the Srebrenica people, military and civilians reached Tuzla; in addition to this figure there were many of them who went to join their relatives and thus being unregistered; also some 600 to 1,000 escapees to Zepa and Serbia had not been registered in Tuzla;*
- f) at the same session it was stated that many of those unaccounted were still trying to break through the Serb lines.*

<sup>18201</sup> Prosecution Closing Argument, T. 47794–47795 (30 September 2014).

<sup>18202</sup> Prosecution Closing Argument, T. 47795 (30 September 2014).

***g) thus, there are about 4,000 persons who didn't reach Tuzla, nor Zepa and Serbia, who may be considered as persons unaccounted-for after the fall of Srebrenica.***<sup>18203</sup>

**#Within these 4,000 of the unaccounted-for persons, there are all that died during the combat brake-through, than those that were still in the forests in the area, and several hundreds that had been conveyed to Batkovic! From the Defence, it should be sufficient, so more since the Prosecution should have it done!**

**5519.** In earlier sections of this Judgement, the Chamber has considered the evidence surrounding the Incidents in Schedule E of the Indictment and has found that at least 5,115 men were killed by members of the Bosnian Serb Forces in July 1995 in Srebrenica.<sup>18204</sup> This figure is the result of the Chamber's thorough analysis of the forensic, demographic, and DNA-related evidence admitted in this case. **(But if there is, after this thorough analysis, found only one who wasn't killed in July 95, it has to be analysed again and again!)**

**5520.** Specifically, the Chamber received the evidence of several experts who participated in the exhumation of the various gravesites associated with the Srebrenica killings, namely anthropologists José Pablo Baraybar,<sup>18205</sup> William Haglund,<sup>18206</sup> Freddy Peccerelli,<sup>18207</sup> and Richard Wright,<sup>18208</sup> as well as forensic pathologists John Clark<sup>18209</sup> and Christopher Lawrence.<sup>18210</sup> Additionally, the Chamber received evidence from other

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<sup>18203</sup> D2238

<sup>18204</sup> The Chamber reached this total number of victims of the Schedule E Incidents by adding the following numbers: 15 Bosnian Muslim men killed at the Jadar River; 755 Bosnian Muslim men killed at the Kravica Warehouse; ten Bosnian Muslim men killed at the Sandići Meadow; 21 Bosnian Muslim men killed at the Luke School; 841 Bosnian Muslim men killed at Orahovac; 815 Bosnian Muslim men killed at Petkovci; 815 Bosnian Muslim men killed at Ročević School and Kozluk; 1,735 Bosnian Muslim men killed at the Kula School, the Branjevo Military Farm, and the Pilica Cultural Centre; two Bosnian Muslim men killed at Snagovo; 39 Bosnian Muslim men killed at Bišina; six Bosnian Muslim men killed at Trnovo; ten Bosnian Muslim men killed at Potočari; and 51 Bosnian Muslim men killed at Bratunac Town. See paras. 5141, 5145, 5154, 5205, 5286, 5291, 5303, 5306, 5354, 5382, 5413, 5464, 5481, 5490, 5497.

<sup>18205</sup> P4038 (Jose Baraybar's *curriculum vitae*). Jose Baraybar gave evidence on the exhumations at Kozluk, Čančari Road, Glogova, Zeleni Jadar, Lažete, Hodžići Road, Pilica (Branjevo Military Farm), and Ravnice. P4030 (Jose Baraybar's expert report entitled "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999", 8 December 1999); P4033 (Jose Baraybar's expert report entitled "Report on Excavations at Glogova 2, BiH 1999-2001"); P4034 (Jose Baraybar's expert report entitled "Report on the Exhumation of Mass Gravesites in Eastern Bosnia, August-October 1999", 8 December 1999); P4035 (Jose Baraybar's expert report entitled "Report on Excavations at the Site of Zeleni Jadar 6, BiH 2001"); P4036 (Jose Baraybar's expert report entitled "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 2000", 2 February 2001).

<sup>18206</sup> P4309 (Dr. William Haglund's *curriculum vitae*). William Haglund led the exhumations at Cerska Valley, Lažete, and the Branjevo Military Farm. P4311 (William Haglund's expert report, entitled "Forensic Investigation of the Cerska Grave Site - Volume I", 15 June 1998); P4316 (William Haglund's expert report, entitled "Forensic Investigation of the Lazete 2 Grave Site - Volume I", 15 June 1998); P4321 (William Haglund's expert report, entitled "Forensic Investigation of the Pilica (Branjevo Farm) Grave Site - Volume I", 15 June 1998).

<sup>18207</sup> P4134 (Freddy Peccerelli's 2007 *curriculum vitae*). Freddy Peccerelli worked on the exhumations at Lažete. P4135 (Freddy Peccerelli report entitled "Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report", 2 February 2001); P4136 (Final Report of Freddy Peccerelli entitled "Lažete 2 (LZ02C), Bosnia and Herzegovina, Excavation and Exhumation report", 1 May 2007).

<sup>18208</sup> P3998 (Richard Wright's *curriculum vitae*). Richard Wright worked on exhumations at Petkovci Dam, Kozluk, Glogova, Liplje, Čančari Road, Hodžići Road, and Zeleni Jadar. P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999); P4001 (Richard Wright's expert report entitled "Report on Excavations and Exhumations at Kozluk in 1999: with appendix on visits to Konjević and Potočari", 2 February 2000); P4009 (Richard Wright's expert report entitled "Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000", 9 February 2001).

<sup>18209</sup> P4102 (Dr. John Clark's *curriculum vitae*). John Clark worked on remains from Kozluk, Glogova, Lažete, Ravnice, and Zeleni Jadar. P4103 (John Clark's expert report entitled "Report of Chief Pathologist, Srebrenica Grave Sites (1999)", undated); P4104 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2000)", 24 February 2001); P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003).

<sup>18210</sup> P4063 (Dr. Christopher Lawrence's *curriculum vitae*). Christopher Lawrence worked on remains from Petkovci Dam, Čančari Road, Hodžići Road, Zeleni Jadar, and Liplje. P4053 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from the Dam Site June 1998", 17 June 1999); P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999); P4055 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998", 17 June 1999); P4056 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998", 17 June 1999); P4057 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998", 17 June 1999); P4058 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998", 17 June 1999); P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998", 17 June 1999); P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998", 17 June 1999).

Prosecution witnesses, namely Thomas Parsons, Ewa Tabeau, Dean Manning, Jean-René Ruez, and Dušan Janc, which was used, as appropriate, in determining the number of Bosnian Muslim men killed as a result of the events described for each Scheduled Incident. **(But, #the very same Thomas Parsons admitted that he didn't look for a causes or a time of death of those recovered, neither his analysis of DNA could be of any help in that matter,!#)**

5521. Finally, the Chamber received evidence from Dušan Dunjić, a “forensic medical officer”, and Stevo Pašalić, a professor in demography and social geography, who testified as Defence witnesses and challenged the evidence of the Prosecution witnesses.<sup>18211</sup> Dunjić prepared two reports for this case. In the first one—which was admitted into evidence as D3893—he reviewed and analysed, *inter alia*, exhumation and autopsy records from a number of Srebrenica-related gravesites, as well as reports prepared by Haglund, Clark, Wright, Lawrence, Peccerelli, and Baraybar in connection with the Srebrenica-related gravesites.<sup>18212</sup> The second report—which was admitted into evidence as D3894—was prepared for the purpose of objecting to findings by the Prosecution experts on, *inter alia*, the cause of death of Srebrenica victims.<sup>18213</sup> Pašalić prepared a report for this case, which was admitted into evidence as D3125, and gave evidence on the demographic movements in BiH in the periods before, during, and after the war.<sup>18214</sup>

5522. In reaching its findings on the total number of victims killed during the course of the Scheduled Incidents, as set out in the Potočari, Bratunac, and Zvornik sections of this Srebrenica component of the Judgement, the Chamber has considered and analysed the evidence of all of these witnesses, as well as the corresponding challenges raised by the Accused. The Chamber will deal with general aspects of the witnesses’ evidence, Dunjić’s challenges thereto, as well as with the Accused’s arguments, in the sections below.

#### (B)Forensic evidence

5523. In 1996, Prosecution teams of experts began investigating and exhuming gravesites suspected of being connected to the fall of Srebrenica in July 1995.<sup>18215</sup> Between 1996 and 2001, they identified more than 43 primary and secondary mass graves as being connected to the fall of Srebrenica, and exhumed approximately 22 of those.<sup>18216</sup> In 2001, the Tribunal handed over the responsibility for the exhumation of all remaining gravesites to the BiHCOMP, which was initially monitored by the Tribunal for the remainder of 2001, and later by the ICMP.<sup>18217</sup> In addition to the graves already exhumed by the Tribunal, the BiHCOMP and the ICMP identified additional gravesites connected to Srebrenica.<sup>18218</sup>

<sup>18211</sup> Dušan Dunjić, T. 41728 (22 July 2013); Stevo Pašalić, T. 35344 (13 March 2013); D3124 (Stevo Pašalić’s *curriculum vitae*), e-court p. 1.

<sup>18212</sup> Dušan Dunjić, T. 41727 (22 July 2013); D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 8–10, 38–39. The Chamber also admitted the reports prepared by Dunjić for the Popović *et al.* case. See Dušan Dunjić, T. 41806–41807 (23 July 2013); D3896 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area”, April 2009).

<sup>18213</sup> Dušan Dunjić, T. 41775–41776, 41789 (23 July 2013); D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012).

<sup>18214</sup> See *e.g.* Stevo Pašalić, T. 35347–35348 (1 March 2013); 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).

<sup>18215</sup> Dean Manning, T. 25803–25804 (6 March 2012).

<sup>18216</sup> Dean Manning, T. 25803–25804 (6 March 2012). Manning clarified that this number is a conservative estimate, since many gravesites included multiple smaller sub-graves. Dean Manning, T. 25803–25804 (6 March 2012).

<sup>18217</sup> Dean Manning, T. 25804, 25882 (6 March 2012); Dušan Janc, T. 26921 (27 March 2012).

<sup>18218</sup> The graves which were identified and/or exhumed by the BiHCOMP and the ICMP include Ravnice 2; Čančari Road 1, 2, 4–11, and 13; Hodžići Road 1, 2, 6, and 7; Liplje 1, 3, 4, and 7; Zeleni Jadar 1–4; Blječeva 1–3; Budak 1 and 2; Zalazje, Bišina, Bišina Cave, Sandići,

## 1. Date of death

5524. The Accused claims that, given that the charges against him concern alleged killings which took place between 12 and 23 July 1995, as opposed to legitimate killings or deaths during the course of combat from 1992 to 1995, it is important to establish when the alleged victims of execution died.<sup>18219</sup>

5525. The Accused argues that the Srebrenica-related gravesites were mixed gravesites containing the bodies of those killed in combat over a period of approximately 45 months, including in July 1995.<sup>18220</sup> The Accused also presents various theories—the most important of which will be discussed in detail in the following paragraphs—to support his claim that many of the Srebrenica missing died in combat and/or prior to the fall of Srebrenica.<sup>18221</sup>

5526. The Chamber notes that the forensic reports tendered by the Prosecution do not include a precise date of death.<sup>18222</sup> **(#It was not a matter of “precise date”, but even of years!)** Dunjić testified, however, that in order to make a proper assessment as to whether the bodies of some individuals found in Srebrenica-related gravesites died as a result of events not connected with the fall of Srebrenica, he had to first assess the Prosecution’s analysis on the date of death.<sup>18223</sup> Dunjić concluded, based on his own analysis, that a precise date of death in relation to the bodies exhumed from Srebrenica-related gravesites could not be determined.<sup>18224</sup> This finding is supported by the evidence of Prosecution experts. For example, Baraybar testified that it is not possible to determine when an individual died through a naked-eye examination of a body, be it preserved or decomposed.<sup>18225</sup> Similarly, because of all the factors that could alter the decomposition of bodies within a gravesite, Lawrence acknowledged that he could not ascertain when Srebrenica victims died.<sup>18226</sup> Wright similarly testified that the date of death cannot be determined by merely looking at the remains of an individual.<sup>18227</sup> **(Is the President**

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and Potočari. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 2–5, fn. 5. See also Dean Manning, T. 25805 (6 March 2012); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 4.

<sup>18219</sup> Defence Final Brief, paras. 2655–2656, 2658.

<sup>18220</sup> See Defence Final Brief, paras. 2548, 2556–2557, 2566, 2641, 2652, 2659. The Accused put his case during cross-examination of: Richard Wright, T. 22290 (1 December 2011); Jose Baraybar, T. 22357–22358 (2 December 2011); Christopher Lawrence, T. 22482, 22493–22494 (8 December 2011); John Clark, T. 22706–22708 (10 January 2012); Fredy Peccerelli, T. 22752 (11 January 2012); William Haglund, T. 23915–23916, 23920, 23952 (31 January 2012); Jean-René Ruez, T. 23983 (1 February 2012); Dean Manning, T. 25849, 25854–25855 (6 March 2012); Thomas Parsons, T. 26647–26648 (22 March 2012); and Dušan Janc, T. 27054 (28 March 2012).

<sup>18221</sup> See e.g. Defence Final Brief, paras. 2548–2561, 2678.

<sup>18222</sup> See e.g. P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated); P4104 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2000)”, 24 February 2001); P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003); P4052 (Christopher Lawrence’s expert report entitled “Report on Bodies Recovered Near Kozluk in 1998”, 17 June 1999); P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999); P4060 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Liplje Site 2, October 1998”, 17 June 1999). See also Dušan Janc, T. 27015 (27 March 2012).

<sup>18223</sup> D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 39.

<sup>18224</sup> See Dušan Dunjić, T. 41746–41747 (22 July 2013), T. 41881–41882 (24 July 2013). See also D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), pp. 16–18; D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 57.

<sup>18225</sup> Jose Baraybar, T. 22384 (2 December 2011).

<sup>18226</sup> Christopher Lawrence, T. 22485–22486 (8 December 2011).

<sup>18227</sup> Richard Wright, T. 22293–22294 (1 December 2011). However, in establishing the victims’ date and time of death, Wright testified that watches worn by some of the victims were consistent with the date of the executions. Richard Wright, T. 22293–22294 (1 December 2011). The particular watches in question are Seiko mechanical or automatic watches that stop within 24 to 48 hours of the last movement of the watch. Richard Wright, T. 22293–22294 (1 December 2011); Fredy Peccerelli, P4137 (Transcript from *Prosecutor v. Tolimir*), T. 8481–8483; P4135 (Fredy Peccerelli report entitled “Lažete 1, Bosnia and Herzegovina, Excavation and Exhumation Report”, 2 February 2001), e-court p. 32; P4136 (Final Report of Fredy Peccerelli entitled “Lažete 2 (LZ02C), Bosnia and Herzegovina,



**responsible for that? It can not be used against any accused. A limitations of their investigations and expertises can have only one consequence: in favor of the President!)**

a. Information provided to Prosecution experts

5527. As a general objection to the Prosecution's evidence, the Accused claims that Prosecution experts were not informed about the combat activities in the area before July 1995 or about the possible casualties from such combat activities, and worked under the assumption that all the victims had died during incidents connected to the fall of Srebrenica.<sup>18228</sup> Experts were thus instructed to find victims of the alleged executions that took place in Srebrenica in July 1995, and did not investigate the date of death and burial, or the cause and manner of death.<sup>18229</sup> Consequently, the Accused claims that the experts' evidence does not support the conclusions the Prosecution wants the Chamber to reach.<sup>18230</sup> The Accused urges the Chamber to draw the appropriate conclusions from the 45 month-long military combat activity in the area.<sup>18231</sup>

5528. The Chamber notes that some experts confirmed that they were in fact told that the gravesites being exhumed contained bodies of men who had been executed after the fall of Srebrenica.<sup>18232</sup> While some experts were aware that fighting had been taking place in the area for months prior to the fall of Srebrenica,<sup>18233</sup> others did not have this information when they first started working in the area.<sup>18234</sup> Experts focused on gravesites where there was information that people had been executed on 14 to 16 July 1995,<sup>18235</sup> as a result, they worked under the assumption that all the bodies exhumed from the Srebrenica-related gravesites were thought to be related to the fall of Srebrenica.<sup>18236</sup> Clark explained that, based on this understanding, experts were asked whether all of the bodies found within a single gravesite could have been related to one and the same incident.<sup>18237</sup>

5529. Experts also explained that they were provided with limited background information about the bodies in the gravesites, so that they could look at the findings objectively and not be biased.<sup>18238</sup> They were not told what they would, or should, find within the specific gravesites.<sup>18239</sup> Thus, as explained by Baraybar, experts were not asked by the Prosecution to make a finding one way or another, but to extract their findings in a scientific manner and to reach opinions based on their findings.<sup>18240</sup>

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Excavation and Exhumation report", 1 May 2007), e-court p. 27. See P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court pp. 29–30, 181. Wright was told that the executions took place on Friday 14 July 1995, and eight of the ten watches found show the date of Saturday 15 July or Sunday 16 July 1995, consistent with the date of execution. Richard Wright, T. 22293, 22295 (1 December 2011); P4000 (Richard Wright's expert report entitled "Exhumations in Eastern Bosnia in 1998", 12 May 1999), e-court 29–32.

<sup>18228</sup> See Defence Final Brief, paras. 2574–2575, 2634–2635, 2640, 2692, 2694. The Accused referred to this point during his cross-examination of Richard Wright, T. 22290–22292 (1 December 2011).

<sup>18229</sup> Defence Final Brief, para. 2634. The Chamber will discuss the evidence relating to the cause and manner of death in the next section.

<sup>18230</sup> Defence Final Brief, para. 2656.

<sup>18231</sup> Defence Final Brief, paras. 2659, 2676.

<sup>18232</sup> See e.g. Christopher Lawrence, T. 22493 (8 December 2011); John Clark, T. 22707 (10 January 2012).

<sup>18233</sup> See William Haglund, T. 23915 (31 January 2012).

<sup>18234</sup> See Fredy Peccerelli, T. 22751–22752, 22784–22785 (11 January 2012); John Clark, T. 22707–22708 (10 January 2012).

<sup>18235</sup> Jean-René Ruez, T. 23983–23984, 24000–24001 (1 February 2012).

<sup>18236</sup> Richard Wright, T. 22289, 22291 (1 December 2011); John Clark, T. 22707 (10 January 2012).

<sup>18237</sup> John Clark, T. 22707 (10 January 2012).

<sup>18238</sup> See John Clark, T. 22707 (10 January 2012).

<sup>18239</sup> See Jose Baraybar, T. 22383–22384 (2 December 2011).

<sup>18240</sup> Jose Baraybar, T. 22358–22359 (2 December 2011).



5530. The Chamber notes that the fact that experts were provided with limited background information about the bodies in the gravesites and, more generally, about the fall of Srebrenica, does not, in and of itself, taint their reports with bias or make them less reliable. **(#If not biased, which the Defence could understand and possibly accept, their reports are certainly less reliable for the said reasons. But, it doesn't matter whether they are less reliable for one or for another reason, it is only morally better that it wasn't a bias, but the Defence is indifferent about reasons, but not about the effect. There is no court all over the world which would make such a conclusion. The main issue is whether the victims died in an execution, or in combats, and when, and if this is not clear beyond a reasonable doubt, it is not viable!)**

b. Mixed gravesites

5531. The Accused claims that throughout the war the remains of soldiers killed in combat and those of the victims of execution were commingled in gravesites, and that single gravesites contained bodies from multiple burials.<sup>18241</sup> According to the Accused, the Prosecution is in possession of many documents indicating that multiple burials took place.<sup>18242</sup> Dunjić states that the discovery of a large number of bodies in a single mass grave does not automatically mean that all the victims whose bodies were exhumed died on the same day, in the same place, and in the same way.<sup>18243</sup> Dunjić claims that, in the present case, the forensic evidence supports the theory of enrichment, as it shows that bodies brought from different areas not directly connected to Srebrenica were buried subsequently in primary and secondary gravesites.<sup>18244</sup> Referring to evidence received on the fate of many of the men from the column as a result of ambushes by members of the Bosnian Serb Forces, Dunjić also claims that the many casualties were not buried immediately upon their deaths, but were only subsequently brought to the nearest places where they could be buried.<sup>18245</sup>

5532. Contrary to this, the Prosecution claims that there is no archaeological evidence of enrichment in the graves, and argues that all the evidence taken together demonstrates beyond reasonable doubt that all of the Srebrenica-related primary and secondary gravesites exclusively contain the bodies of Srebrenica-related execution victims,<sup>18246</sup> apart from a few exceptions.<sup>18247</sup> **(#And how these "few exceptions" happened? #Somebody**

<sup>18241</sup> See Defence Final Brief, paras. 2566, 2699.

<sup>18242</sup> Defence Final Brief, paras. 2592–2593.

<sup>18243</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 39.

<sup>18244</sup> Dušan Dunjić, T. 41751–41752 (22 July 2013), T. 41772 (23 July 2013); T. 41874–41875, 41878–41879, 41905 (24 July 2013). To support this claim, Dunjić refers to the layers of soil between the bodies, which can suggest burials at different time intervals or that the bodies were moved and reburied at different times. D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 19.

<sup>18245</sup> Dušan Dunjić, T. 41757–41758 (23 July 2013). In this regard, the Accused specifically refers to the testimony of KDZ045 to claim that the bodies of seven individuals who died while trying to flee Srebrenica were buried in Srebrenica-related gravesites. Defence Final Brief, paras. 2549–2556. See also Thomas Parsons, T. 26649 (22 March 2012), T. 26650–26651 (22 March 2012) (private session) (where the Accused questioned Parsons on this same issue). The Prosecution submits that among the seven individuals referred to by KDZ045, six were not buried in Srebrenica-related gravesites and thus were not included in Janc's computation; while the remains of the seventh individual were found in a Srebrenica-related gravesite, KDZ045 did not witness this individual being killed in the woods, but only heard that was the case. Prosecution Closing Argument, T. 47797–47798 (30 September 2014). See KDZ045 T. 22677–22679 (10 January 2012) (private session). Having analysed all the evidence in question, the Chamber is satisfied with the Prosecution's explanation, and rejects the Accused's argument in this respect.

<sup>18246</sup> Prosecution Final Brief, Appendix D, para. 166; Prosecution Closing Argument, T. 47795–47796 (30 September 2014).

<sup>18247</sup> Prosecution Closing Argument, T. 47795–47796 (30 September 2014). The Prosecution states that the exceptions relate to Glogova, Blječeva, and Liplje 8, but adds that the numbers arising from these gravesites have been explained by Dušan Janc, and not included in the total number of Srebrenica victims in Janc's Report. See Prosecution Closing Argument, T. 47795 (30 September 2014). See also Dušan Janc, T. 27016–27017 (27 March 2012), T. 27040–27046, 27060 (28 March 2012).

brought some bodies that hadn't been executed and buried them in the grave site with those that had been executed?# Right! But how this happened, since it is excluded according to the Prosecution standpoint? Since there is an exception, the Defence rightfully claims that it is up to the Prosecution to exclude the bodies that died in an execution for sure. They can not do that on the basis of the reports of experts. No, because all of the experts allowed a possibility that some died at other times and places. But just to ask the Prosecution: did the Muslim soldiers die during this forceful breakthrough? If the Serbs, protected with tranches, had a numerous casualties, did the Muslim Army had any? What happened to them? Maybe what a witness said – the Serbs buried them in a mass graves, see:..... What to do with those that didn't match? What with those that were reported as missing since 92 and later? If they had been found in the mass graves, the entire conception of the Prosecution fails. A “few exceptions” is enough to defeat the concept, and require a more thorough approach!) In support, the Prosecution refers to the following: first, the Prosecution's experts did not see any evidence that those whose bodies were exhumed from the Srebrenica-related graves died in combat; (But they #didn't see for sure that they had been executed either#. How they would differentiate a bullet fired out in a combat from those fired out in executions? #The OTP experts couldn't say anything pertaining to the time and manner in which the people died#. We know that there were thousands of casualties of the Muslims from Srebrenica, both before July 95, and during July 95 who got killed in combats. A year and a half prior to the events, they had 1,400 and some more casualties. #They mainly died in their excursions to the Serb villages#. They had been buried there, nobody could bring them back, and certainly the local Serbs wouldn't allow any burials on their private p[roperties!)

second, the experts saw no evidence that the Srebrenica-related graves had either been created on the sites of existing sites or subsequently re-opened; (At least for a few we heard evidence that it happened exactly that way, plus Erdemovic's testimony about the Branjevo Farm moulptiple burials, that he was informed about by the local guard of premises. Also, a different degree of decomposition in almost every gravesite does not exclude the possibility of a different times of burials, but quite opposite!); third, the cause and manner of death of bodies from each of the primary and secondary gravesites support the witness evidence of the executions at each of these sites; fourth, there were blindfolds and ligatures in the graves associated with some of the killing sites; Exactly, that is what we say, the blindfolders (those that really had been that, and not a #traditional religious tracks of a very expensive materials, as established#), and ligatures had been found only at some of the recovered. Nobody sais that all died in combats, but only those who weren't executed. So nobody should say that all of them had been executed. If the Chamber members would reason as in their countries, they would say: for sure, those with ligatures, and those that can be identified having a real blindfolder had been executed, and the Prosecution has to prove what happened with others, who hadn't been blindfolded, nor had any ligatures, and all those that had possessed personal belongings, ID cards and valuables! A UN Court should even be more conservative and resistant to manipulations than a national courts!) fifth, some graves contained artefacts linking their contents to the specific site where the detainees were killed; and sixth, there is no credible evidence that the secondary graves contain any bodies other than those of victims from the primary graves.<sup>18248</sup> (Exactly this is not true. We have several sites where even smaller number of bodies had been

associated with a primary grave site, and for the rest, the majority there was no explanation. Also, for the materials found in the secondary graves: there were materials from several primary graves. How come, if there was no a multiple burials? Was it believable that the same remains had been moved to a secondary grave, and then again moved to a tertiary grave, and so on?)

5533. The Chamber notes that Prosecution experts involved in the exhumation of Srebrenica gravesites stated that they had not seen any signs of enrichment when conducting their work.<sup>18249</sup> (#This is not correct, since every secondary grave site had bodies from different places and graves. Every time they brought those knew bodies thay “enriched” the previous site. Does anyone think that the sites had been left opened until the perpetrators of reburials come next time? Also, the experts would wonder what happened, as #Mr. Janc wondered how come there were some bodies that didn’t fit into the expected findings! Since nobody inform them about the previous battles, the experts didn’t pay any attention to a stratums of earth between the stratums of bodies, which could have only one explanation: there were a multiple burials, since the earth covering the bodies buried earlier, couldn’t be removed completely when the next burial happened!) Manning explained that the experts did not see specific evidence pointing to Srebrenica gravesites containing evidence from a previous era, or to bodies buried through the sanitation process.<sup>18250</sup> (Then, how they would explain the bodies in the #strictly secondary grave sites with hunders of bodies hadn’t been determined which one was the firs burial grave#? It is not satisfactory if Janc said that he excluded tens of them, because he didn’t know how they happen to be there. Also, what happened with those from combats? Where they buried at all?) Haglund testified that, while it was theoretically possible that bodies of combatants could have been previously buried in mass gravesites due to the sanitisation process during the war, his analysis of the gravesites did not support the theory that the victims had died in combat.<sup>18251</sup> (How a combat casualties should look like? From what weapons they died? From bullets and a grenade fragments, what else? Nobody was hanged or slautered. And how anyone could have differentiate among the bodies with such an advanced degradation who was executed and who was a combat casualty? Simply, the experts didn’t pay any attention to these detailes, because they didn’t know the basic fact: there were about 45 months of combats there!)

5534. The Chamber also notes that, when discussing the findings in his report for the Kozluk and Glogova gravesites, Clark acknowledged that, theoretically, he could not completely exclude the possibility that at least some of the bodies in such gravesites could have been from an earlier incident and buried in the same gravesite.<sup>18252</sup> (At least, the Glogova gravesite had a long period between the first #(May 92) and the last (July 95)# burials. No reasonable court would neglect this deep-dark shade of doubts!) However, the presence of blindfolds tied tightly around the vast majority of people’s eyes, with a substantial number of bullet holes through blindfolds, led to Clark’s opinion that the victims were not combatants.<sup>18253</sup> Similarly, Peccerelli testified that, while he could not entirely rule out the possibility that the victims exhumed from Lažete had died in combat,

<sup>18249</sup> See Richard Wright, T. 22307, 22312–22313 (1 December 2011); Fredy Peccerelli, T. 22741 (11 January 2012); William Haglund, T. 23912–23914 (31 January 2012).

<sup>18250</sup> Dean Manning, T. 25855, 25884 (6 March 2012).

<sup>18251</sup> William Haglund, T. 23915, 23922–23924, 23943–23944, 23952–23953 (31 January 2012). See Defence Final Brief, paras. 2614–2617 (where the Accused’s challenges Haglund’s evidence on this point).

<sup>18252</sup> John Clark, T. 22707, 22712 (10 January 2012). See also P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated). Clark added that it was entirely possible that some of the victims in the gravesite were killed in combat. John Clark, T. 22709 (10 January 2012).

<sup>18253</sup> John Clark, T. 22709–22710 (10 January 2012).

the evidence analysed left nothing that would lead him to believe that these were deaths resulting from combat.<sup>18254</sup> **(Even if Clark was informed about the multiple burials and expected to see bodies from different times, how would he differentiate them, in that degree of degradation? Even on a fresh body there would be difficulties to determine, since in both, execution and combat the same weapon was used!)** Peccerelli further explained, when questioned on how he would rule out the possibility of burials taking place in several stages, that bodies were placed without any layer of foreign soil between them, and that burials taking place in stages would be evidenced by a certain degree of disturbance to the grave, which was not seen at Lažete.<sup>18255</sup> **(On the contrary, in many grave sites there had been a #stratification with the dirt stratum in between!)**

**5535.** To support the theory of the mixed gravesites, Dunjić claims that the strips identified as blindfolds found in various Srebrenica-related gravesites could either be: (i) simple pieces of cloth used to bandage the forehead, or (ii) headbands tied around the forehead by soldiers who belong to a military group or who want to show their affiliation to a religion.<sup>18256</sup> This argument was also put to experts by the Accused throughout the case.<sup>18257</sup> According to the Accused, it shows that these individuals were killed in combat.<sup>18258</sup> The Accused argued, *inter alia*, that it was customary to wear headbands around the forehead during combat, and that due to decaying tissue these headbands could slide down the head.<sup>18259</sup> He further argued that in circumstances where combatants cannot be differentiated based on race, language or faith, ribbons or other markings are used to prevent friendly fire.<sup>18260</sup> **(In addition to that, the #textile materials used for these bands was one of the most expensive#, which certainly wouldn't be used by the perpetrators of executions, but rather it was something the combatants got from their close relatives, and had something to do with a religious habits, known and seen in many video footages played in the courtroom!)**

**5536.** The Chamber notes that this theory was consistently discounted by Prosecution witnesses.<sup>18261</sup> **(But, many of them never meditated this possibility, since they were not informed of this possibility. Nobody said them about these 45 months of combats!)** For example, upon being questioned on whether they knew about Bosnian Muslim combatants wearing head pieces, both Peccerelli and Manning testified that, in relation to bodies found at Lažete, there was nothing to indicate that the blindfolds were actually headbands used by combatants.<sup>18262</sup> **(But the #Judges saw a videos with such a headbands, in both Armies!)** When discussing the Branjevo Military Farm gravesite, and

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<sup>18254</sup> Fredy Peccerelli, T. 22752–22753, 22781 (11 January 2012). *Cf.* Defence Final Brief, paras. 2575–2580 (challenging Peccerelli's methodology and findings on this point). Peccerelli referred to the presence of ligatures on some of the bodies, probable blindfolds on most of the others, and the organised way the bodies were arranged in the grave, amongst other evidence, to support his claim. *See* Fredy Peccerelli, T. 22753 (11 January 2012).

<sup>18255</sup> *See* Fredy Peccerelli, T. 22755–22756, 22759–22760, 22762–22763, 22766–22767 (11 January 2012).

<sup>18256</sup> Dušan Dunjić, T. 41755 (23 July 2013). *See* D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 19.

<sup>18257</sup> *See e.g.* the Accused's line of questioning during cross-examination of Christopher Lawrence, T. 22468–22479, 22499 (8 December 2011); John Clark, T. 22710 (10 January 2012); and Dean Manning T. 25866–25881 (6 March 2012). *See also* Defence Final Brief, paras. 2583–2585, 2685–2690; Dušan Dunjić, T. 41755–41756, 41829, 41833–41834 (23 July 2013); D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 19.

<sup>18258</sup> *See* Defence Final Brief, paras. 2584–2585, 2639. *See also* Accused's line of questioning during cross-examination of Dean Manning T. 25866–25881 (6 March 2012); D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 19 (where Dunjić reaches the same conclusion).

<sup>18259</sup> *See* the Accused's line of questioning during cross-examination of Fredy Peccerelli, T. 22748–22749 (11 January 2012).

<sup>18260</sup> *See* Fredy Peccerelli, T. 22751 (11 January 2012).

<sup>18261</sup> *See e.g.* William Haglund, T. 23914 (31 January 2012); Christopher Lawrence, T. 22499 (8 December 2011); Dean Manning, T. 25867–25868 (6 March 2012); Fredy Peccerelli, T. 22752–22753 (11 January 2012).

<sup>18262</sup> *See* Fredy Peccerelli, T. 22746–22750 (11 January 2012); Dean Manning, T. 25867–25868 (6 March 2012).

upon being questioned on whether he knew about Bosnian Muslim combatants wearing bandanas and the possibility of these being mistaken for blindfolds, Haglund explained that the blindfolds were not bandannas because they had been tied tightly on the eyes and had not moved down.<sup>18263</sup> Similarly, Lawrence testified that, while he could not discard for certain the possibility that the blindfolds found in the Hodžići Road gravesites could be military headbands, he was of the opinion that, based on other evidence, such as the presence of bodies of old people with severe disabilities, the victims were not combatants.<sup>18264</sup> **(But, #Christopher himself admitted that the strips were from a very distinguished, rare and expensive materials, mainly from an expensive silk, with some figures and decorations on it#. Also, not to forget, some of those “blindfolders” didn’t have any knots, there is a number of such a strips. This means that it was prepared for this head much earlier, and certainly had something to do with religion, or a family gift, and not improvised at a spot!).**

**5537.** The Chamber finds that in expounding on his theory on blindfolds, Dunjić ignores the considerable evidence to the contrary and, more generally, the circumstances surrounding the various Scheduled Incidents, as charged in the Indictment. Accordingly, the Chamber considers his analysis to be unacceptable. **(The Defence never contested that some of these bodies were of those executed, but than many of them hadn’t been, and so was with the defence expert Dunjic! The contested issue here is an expanded number of executed!)**

**5538.** To further support the existence of mixed gravesites, the Accused argues that the existence of more than 1,000 surface remains<sup>18265</sup> confirms that there were many combat casualties and claims that, when examining the gravesites, the Prosecution did not make an effort to differentiate between those who died in combat and those who were allegedly victims of execution.<sup>18266</sup> Dunjić adds that while experts acknowledged having informed themselves with the events in Srebrenica before conducting their work, they neglected the possibility that there may have been subsequent burials and that bodies from the surface may have been brought to those gravesites later.<sup>18267</sup> **(Some Prosecution experts had heard about a 45 months long history of the fierce fighting in the area #for the first time during their testimony and cross-examination#, and were never warned that they may encounter a bodies from different times and places!)**

**5539.** Prosecution experts agreed that, in conducting their work, a holistic approach for the entire investigation needed to be adopted and that they had to examine the mass graves in context.<sup>18268</sup> The Chamber fully agrees with this. In so far as the various possibilities raised by the Accused are concerned, each piece of forensic evidence has to be considered in light of the totality of the evidence before the Chamber. **(How this “context” and the “light of totality of the evidence” looks like, it is illustrated by the fact that all the**

<sup>18263</sup> William Haglund, T. 23914, 23947–23948 (31 January 2012). Haglund further explained that if the bodies had been on the surface, then the material could have moved from the eyes; however, this was not possible in cases where the bodies were buried compactly in the grave. William Haglund, T. 23914–23915 (31 January 2012).

<sup>18264</sup> Christopher Lawrence, T. 22499 (8 December 2011).

<sup>18265</sup> Janc explained that surface remains are body parts or bodies which were never buried and were subsequently found on the surface. Dušan Janc, T. 26982 (27 March 2012). However, as will be discussed below, these remains have not been included in Janc’s computation of the total number of Srebrenica-related victims. Dušan Janc, T. 26984–26985 (27 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 5.

<sup>18266</sup> Defence Final Brief, paras. 2589–2590, 2636, 2638, 2640.

<sup>18267</sup> See D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 16 (referring in particular to evidence presented by Wright and Baraybar).

<sup>18268</sup> See Fredy Peccerelli, T. 22781 (11 January 2012); William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3765.



**Prosecution #forensic experts thought that all the victims originate from the fall of Srebrenica#. Another word, #none of them knew for a forty five months of permanent fights and daily combat casualties that had been buried at the same sites. That is why Janc had a substantial number of remains that couldn't be explained. See:...The same "totality" is not totality if such an important fact is excluded!** In the present case, and subject to the Chamber's findings in relation to the Glogova and Blječeva gravesites as referred to below,<sup>18269</sup> the Chamber is satisfied that there is no evidence to prove the existence of mixed Srebrenica-related gravesites. **(#There were a multiple burials, at least one of the Prosecution witnesses, Erdemovic testified that he was told so, and we did have many bodies which didn't die in July 95, even some of them reported as missing in 1992#, And Dusan Janc, a Prosecution's expert, admitted that at least one gravesite (Bljeceva 1) was a mixed grave!#)**

c. Various degrees of decomposition

5540. The Accused also refers to the various degrees of decomposition of bodies found in individual gravesites which, he claims, point to the possibility of multiple burials, and thus support his theory that many of the victims died prior to the fall of Srebrenica.<sup>18270</sup>

5541. In this regard, Dunjić claims that the autopsy reports he reviewed, which describe the state of decomposition of skeletal remains, incontrovertibly point to various dates of death.<sup>18271</sup> Dunjić also notes that the features of the bodies and the changes to the skeletal remains, as noted in the autopsy reports, indicate varying dates of burial, and hence varying dates of death.<sup>18272</sup> Specifically, Dunjić challenges the conclusions of Prosecution experts that different degrees of putrefaction of remains in the same gravesite are attributable to the conditions in the gravesite.<sup>18273</sup> According to Dunjić, different degrees of putrefaction of exhumed bodies in one location could indicate that there are various times of death, subsequent times of burial, that the bodies were brought from other places, or that there were different causes of decomposition.<sup>18274</sup>

5542. The Prosecution claims that it is normal for bodies in a single gravesite to decompose at different rates.<sup>18275</sup> The Chamber heard evidence that differences in the state of preservation are not necessarily indicative of different periods of burial.<sup>18276</sup> **(For the Defence, it is not needed that this variant had been "necessarily indicative", it is sufficient that this possibility is existing and was not excluded. But, again, this is not understandable why the Prosecution, supported by the Chamber, insist on such an unestablished high number of executed, since the Defence accepted that there were some executions!)** Prosecution experts testified that there are many factors that could alter the decomposition of bodies, including how long they have been dead, the location of the

<sup>18269</sup> See para. 5594.

<sup>18270</sup> Defence Final Brief, paras. 2639, 2675.

<sup>18271</sup> These reports are those for Liplje 4, Bišina, Sandići, Potočari, Nova Kasaba, Pilica, and Zeleni Jadar 5. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 14.

<sup>18272</sup> Dušan Dunjić, T. 41749 (22 July 2013), T. 41761–41763 (23 July 2013); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 13.

<sup>18273</sup> Dušan Dunjić, T. 41747 (22 July 2013).

<sup>18274</sup> Dušan Dunjić, T. 41747 (22 July 2013), T. 41875–41876, 41880–41882, 41914–41916 (24 July 2013); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 120–121; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 17.

<sup>18275</sup> Prosecution Final Brief, Appendix D, para. 166; Prosecution Closing Argument, T. 47795–47796 (30 September 2014).

<sup>18276</sup> Richard Wright, T. 22307–22309 (1 December 2011).

body within the gravesite, whether they have been buried or exposed to air, the temperature, humidity and acidity of the soil, the degree of disarticulation of the body, and access of insects to the remains.<sup>18277</sup> **(#Peculiarities#! This is an #absurd to assume that a bodies of executed had been left on the air so long to have an impact on degradation#. It could have been a case with the combat casualties, since the sanitation process wasn't immediate, but the executed burials were the most immediate!)** Conditions in a mass grave can vary from top to bottom, depending on the amount of moisture present: with adipocere—a process which requires water—being present at the bottom of a gravesite, and mummification of the body being present at the top of the gravesite.<sup>18278</sup> Thus, bodies buried at the edge of the mass gravesite will decompose at slightly faster rate than bodies in the middle of the mass grave, where there is almost no oxygen present and remains are protected from the environment.<sup>18279</sup> It is therefore common to find almost complete loss of tissue in remains close to edge of the gravesite, and entirely preserved remains in the middle of the gravesite.<sup>18280</sup> Bodies might also decompose differently due to their weight, size, and sex.<sup>18281</sup> **(All of those are secondary or tertiary reasons; the most probable is what the Defence expert said: the different times of death and burial. It was the only choice of the Prosecution experts, since they never knew that there was any fights prior to July 95, see: a lot of evidences with all of the OTP witnesses pertaining the subject of the time of death and burial.)**

5543. The Chamber finds that various degrees of decomposition within a single gravesite could, in some circumstances, be indicative of bodies having been buried at different times. However, the evidence on the various degrees of decomposition within the Srebrenica-related gravesites ought to be considered in light of the totality of evidence before the Chamber, including that of insiders and eye-witnesses to the killings and burial operations. **(This can only confirm that there were some killings, but not that there hadn't been any previous burials, and none of the testimonies excluded this. It is rather peculiar why it is so important to raise the number of the executed. This compromises the whole process of establishing the facts!)** The Chamber is therefore satisfied with the explanation provided by the Prosecution experts and finds that, in the present case, the existence of various degrees of decomposition within a single gravesite is not indicative of various times of burial and/or of various dates of death. **(The star among the insiders, Erdemovic, confirmed that he have heard that at Farm Branjevo there were burials prior to this event in July 95!)**

#### d. Victims' clothing

5544. Dunjić states that some of the bodies found at the various gravesites were wearing winter clothes, which suggests that they were more probably killed in winter, before or after the fall of Srebrenica, and that the time of death of victims within one gravesite

<sup>18277</sup> See Christopher Lawrence, T. 22482, 22485 (8 December 2011); Fredy Peccerelli, T. 22742 (11 January 2012); Richard Wright, T. 22306–22307 (1 December 2011); William Haglund, T. 23924–23926 (31 January 2012). See also William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3738.

<sup>18278</sup> Christopher Lawrence, T. 22509 (8 December 2011).

<sup>18279</sup> Richard Wright, T. 22306–22307 (1 December 2011); Christopher Lawrence, T. 22509 (8 December 2011); Fredy Peccerelli, T. 22742–22743 (11 January 2012). But see Dušan Dunjić, T. 41878–41881 (24 July 2013) (specifically challenging Wright's findings on different degrees of putrefaction in the Glogova gravesites).

<sup>18280</sup> Richard Wright, T. 22306–22307 (1 December 2011); Christopher Lawrence, T. 22509 (8 December 2011).

<sup>18281</sup> Fredy Peccerelli, T. 22742 (11 January 2012).

differs.<sup>18282</sup> The Accused claims that bodies found with multiple layers of clothes serve to prove that they died prior to the fall of Srebrenica.<sup>18283</sup>

**5545.** The Chamber has received evidence showing that men fleeing Srebrenica in July 1995 were often wearing multiple layers of clothes.<sup>18284</sup> The Chamber is thus not persuaded by the Accused's argument and dismisses it in its entirety. **(But what we saw on those people were still light vests or jackets. However, #on some of the bodies there were three pants and other winter cloathings#. So, when we count in the next: cloathings, belongings, sometimes very expensive like watches, money and ID-s, those reported that these persons had been missing earlier, and died in combats, and certainly not during the executions in July 1995. It is absolutely impossible that any POW had this kind of belongings, because all and every witnesses testified that a deprivation of the personal belongings was the first "operation" of their guards. #While the same guards-soldiers were suspicious and superstitious# to take anything from a dead man!)**

## 2. Cause and manner of death

**5546.** As discussed in the findings relating to each specific Scheduled Killing Incident, the forensic reports tendered by the Prosecution indicate that the main cause of death was determined to be gunshot injury. **(What it would be in combats the main cause of death? Knife? In any combat, the main cause of death is fire arms, next are explosions of shells, sometimes a mines, sometimes combined.** However, in a considerable number of cases, the cause of death could not be determined for a number of reasons, including the substantial damage visible on the remains, and their high degree of decomposition.<sup>18285</sup> **(Does it go on the President's account? "#In dubio pro persecutio"?)**

**5547.** The Chamber notes that Clark testified that the primary purpose of autopsies is to examine the bodies for injuries in an attempt to determine the cause of death.<sup>18286</sup> Due to the length of time that the bodies were buried in the Srebrenica-related gravesites, the majority of bodies had skeletonised and the only option was to examine the bones.<sup>18287</sup>

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<sup>18282</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 18. See Dušan Dunjić, T. 41847-41849 (23 July 2013).

<sup>18283</sup> Defence Final Brief, para. 2678. See Accused's line of questioning during cross-examination of Christopher Lawrence, T. 22492-22493, 22502-22503 (8 December 2011).

<sup>18284</sup> See e.g. P4909 (Photographs of men, 10 April 2012), e-court pp. 2-4; P667 (Zoran Petrović-Piročanac's video footage), at 00:00:54, 00:00:59, 00:01:14, 00:23:34, 00:23:50; P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 160-161. See also Christopher Lawrence, T. 22515 (8 December 2011).

<sup>18285</sup> Christopher Lawrence, T. 22456, 22512 (8 December 2011). See e.g. P4053 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from the Dam Site June 1998", 17 June 1999), e-court pp. 8, 20-22; P4055 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998", 17 June 1999), e-court pp. 2, 6-9, 32; P4054 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998", 17 June 1999), e-court pp. 4, 11, 40; 43; P4056 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998", 17 June 1999), e-court pp. 7-8, 14-15; P4057 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998", 17 June 1999), e-court pp. 6, 22; P4058 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998", 17 June 1999), e-court pp. 7-8; P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zelani Jadar Site 5, October 1998", 17 June 1999), e-court pp. 9, 31; P4060 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Liplje Site 2, October 1998", 17 June 1999), e-court pp. 8, 20. See also P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court pp. 20-21.

<sup>18286</sup> P4103 (John Clark's expert report entitled "Report of Chief Pathologist, Srebrenica Grave Sites (1999)", undated), p. 3.

<sup>18287</sup> P4103 (John Clark's expert report entitled "Report of Chief Pathologist, Srebrenica Grave Sites (1999)", undated), p. 3; John Clark, T. 22706 (10 January 2012); P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), p. 3; John Clark, John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3906.

Clark explained that *postmortem* injuries include “crushing injuries” caused by the weight of bodies in the grave or vehicles driving over the surface of the graves; *perimortem* injuries, such as blunt force injuries caused by beatings, can unavoidably be wrongly interpreted as *postmortem* damage.<sup>18288</sup> As a result, Clark acknowledged that it is difficult to determine if a particular injury had been caused before or after death, as it is only possible to do so when looking at soft tissue damage such as bruising or haemorrhaging.<sup>18289</sup> **(Again, does it go on the President’s account? In this and all other inconclusive cases it can not go in favour of the Prosecution.** Clark thus assumed that the vast majority of gunshot and other relevant injuries occurred in life and explained that the fact that the vast majority of bodies examined showed evidence of gunshot injury suggests that the gunshot damage occurred when victims were alive; the alternative assumption would be that the victims died in an obscure and undetected way and were shot *postmortem*.<sup>18290</sup> **(#Absurdity#! Does it mean that their combatans fought as already dead, and then sustained fire? Of course, they had been alive when encountered their enemies. Since the main fire arms were the automatic rifles, kalasnjikov, it was understandable if they sustained several bullets.)** When determining the cause of death, based on the assumption that these gunshots were fired *perimortem*, Clark concluded that evidence of the bullet passing through the skull, chest or abdominal area would be fatal.<sup>18291</sup> In cases where there was evidence that the bullet passed through the limbs, the cause of death could not be established and, in the absence of any other findings, the cause of death was listed as unascertained.<sup>18292</sup>

**5548.** The Chamber also notes that Lawrence similarly acknowledged that, while in a number of cases the cause of death was determined, in a considerable number of cases the cause of death could not be determined with certainty due to the high degree of decomposition and disarticulation of the bodies.<sup>18293</sup> In these cases, Lawrence explained, the injuries would be described as probable or possible cause of death.<sup>18294</sup> There were other cases, however, where the bodies were so severely disarticulated that a real cause of death could not be determined.<sup>18295</sup> In these cases, the cause of death was undetermined.<sup>18296</sup> **(In all of those undetermined cases it must be in favour of any accused, not vice versa!#)**

**5549.** In relation to the manner of death, the Chamber notes that Haglund testified that one would need to look at the gravesite in context when attempting to determine whether the injuries to the bodies were the result of combat operations or of executions.<sup>18297</sup>

<sup>18288</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), p. 3; John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3906–3908.

<sup>18289</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), p. 3; P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 3; John Clark, T. 22706 (10 January 2012); John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3906–3907.

<sup>18290</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 3–4; P4105 (John Clark’s expert report entitled “Report of the Chief Pathologist, Srebrenica Grave Sites (2001)”, 24 May 2003), p. 3; John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3906–3907. Clark acknowledged the possibility of *postmortem* injuries to the skeletons. See John Clark, T. 22713–22714 (10 January 2012).

<sup>18291</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), pp. 3–4; John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3906–3907, 3910, 3950.

<sup>18292</sup> P4103 (John Clark’s expert report entitled “Report of Chief Pathologist, Srebrenica Grave Sites (1999)”, undated), p. 4; John Clark, P4110 (Transcript from *Prosecutor v. Krstić*), T. 3910, 3950.

<sup>18293</sup> Christopher Lawrence, T. 22457–22458, 22512 (8 December 2011); P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court p. 32.

<sup>18294</sup> Christopher Lawrence, T. 22458 (8 December 2011). See P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 22.

<sup>18295</sup> Christopher Lawrence, T. 22458–22459 (8 December 2011). See P4053 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from the Dam Site June 1998”, 17 June 1999), e-court pp. 2, 22; P4054 (Christopher Lawrence’s expert report entitled “Report on Autopsies of Human Remains from Čančari Road Site 12, August 1998”, 17 June 1999), e-court pp. 3, 32, 43.

<sup>18296</sup> Christopher Lawrence, T. 22457, 22459, 22513 (8 December 2011).

<sup>18297</sup> William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3765.

Haglund explained that if all the bodies found at a gravesite were shot, and the majority had their hands bound, he would conclude that the gunshot injuries were the result of an execution.<sup>18298</sup> Similarly, in graves where a significant number of bodies had blindfolds on, there was an assumption that they were not killed in combat, but were rather executed.<sup>18299</sup> **(Nobody from the Defence contested this, but there are still too many that neither had ligatures, nor blindfolds, on the contrary, had their expensive personal belongings, a winter cloathings, ID documents... and those must not be counted in the number of executed, because there is no proof. And the proving is duty of the Prosecution.)**

5550. Dunjić criticises the reports prepared by the Prosecution experts and claims they are solely “summary reports” with “cut-and-dried” diagnoses and conclusions, and do not analyse in detail the manner in which injuries were caused.<sup>18300</sup> In particular, Dunjić states that the reports reviewed failed to give a detailed description of the observed injuries, and drew “prearranged” conclusions that the injuries were gunshot injuries.<sup>18301</sup> It was thus impossible for him to establish if the injuries present were indeed gunshot injuries.<sup>18302</sup>

5551. Dunjić claims that, “according to forensic doctrine”, the cause of death cannot be established with certainty and precision, and must be given very conditionally.<sup>18303</sup> Similarly, it is very difficult to determine in decomposed and skeletonised bodies whether injuries are *antemortem*, that is, that they were inflicted when the victims were still alive, or *perimortem*, that is, that they were inflicted either immediately before or after death.<sup>18304</sup> Yet, Prosecution experts all categorically speak of injuries occurring in life, immediately before death.<sup>18305</sup>

5552. Dunjić challenges the findings in the relevant autopsy reports and states that, except for the cases where it had been established beyond reasonable doubt that the bodies were bound by ligatures, wires, or ropes, the findings in such reports could not allow for one to reach the conclusion that individuals had been victims of execution.<sup>18306</sup> According to

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<sup>18298</sup> See William Haglund, P4310 (Transcript from *Prosecutor v. Krstić*), T. 3765, 3769; Dušan Janc, T. 27020–27022 (27 March 2012) (supporting this theory).

<sup>18299</sup> See William Haglund, T. 23914, 23952 (31 January 2012).

<sup>18300</sup> D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 39; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 8.

<sup>18301</sup> D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), pp. 7, 9.

<sup>18302</sup> D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 9; Dušan Dunjić, T. 41780 (23 July 2013).

<sup>18303</sup> D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 4; D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 118.

<sup>18304</sup> D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), p. 51; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 12. See Dušan Dunjić, T. 41779–41780 (23 July 2013).

<sup>18305</sup> D3893 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area”, 27 August 2009), pp. 51–52, 118; D3894 (Dušan Dunjić’s expert report entitled “Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area”, 26 August 2012), p. 12. See Dušan Dunjić, T. 41779–41780 (23 July 2013).

<sup>18306</sup> Dušan Dunjić, T. 41749 (22 July 2013); T. 41887–41888, 41898–41899 (24 July 2013). The Chamber notes that Manning prepared a chart containing a list of blindfolds and ligatures located between 1996 and 2001, as well as the gravesites from which they were exhumed. Dean Manning, T. 25821–25822 (6 March 2012); P4507 (Chart of photographs of blindfolds, ligatures, and location). Manning’s methodology in creating the chart included physically examining each item, examining documentation for each item, including photographic logs, evidence logs, autopsy reports, and observations by pathologists, crime scene officers, and other experts. Dean Manning, T. 25821 (6 March 2012). Manning explained that some of the blindfolds and ligatures were located only at the time of autopsy and examination of the body, and on occasion by the time the bodies arrived in the mortuary the blindfolds and ligatures had fallen off or become disassociated with the body. Dean Manning, T. 25821–25822 (6 March 2012). The final numbers in Manning’s



Dunjić, there were between 400 and 500 bodies found with ligatures in Srebrenica-related gravesites which could be considered as being victims of executions; this is irrespective of the injuries present on those bodies.<sup>18307</sup> Further, only a very limited number of bodies presented injuries which would allow for the conclusion that such individuals had been executed; the cause of death for the remainder could be various, including shrapnel and projectiles, which could indicate that the person in question died in combat.<sup>18308</sup>

5553. Specifically referring to the reports prepared by Clark and Lawrence, Dunjić claims that the conclusions on the cause and manner of death contained therein were drafted on the basis of wrong assumptions.<sup>18309</sup> Dunjić explains that both experts adopted the assumption that the injuries on the victims were caused when they were still alive, and thus the victims had died as a result of those particular injuries.<sup>18310</sup> These assumptions were, according to Dunjić, also accepted by Baraybar, Haglund, and Wright.<sup>18311</sup> However, Dunjić claims that in a case of a skull perforation caused by a shot from a firearm, this can be the cause of death only if it is proven that the person was alive before the injury was inflicted, which can only be done on fresh bodies.<sup>18312</sup> Consequently, the experts' characterisation of injuries as *perimortem* was not properly done.<sup>18313</sup>

5554. Dunjić refers to Clark's evidence acknowledging the limitations faced when conducting his examination of remains found at the Kozluk and Glogova gravesites.<sup>18314</sup> Similarly, Dunjić refers to Lawrence's evidence acknowledging that in a large number of cases he was not able to determine the cause of death.<sup>18315</sup> Dunjić goes even further and claims that Lawrence's findings that *postmortem* injuries tended to obscure *perimortem* injuries were absolutely arbitrary, if not actually malicious.<sup>18316</sup>

5555. The Chamber notes that the advanced state of skeletonisation and putrefaction of the bodies exhumed from Srebrenica-related gravesites presented problems for the Prosecution experts, particularly when determining the cause of death. While the Chamber

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chart were 423 ligatures and 448 blindfolds; these numbers did not necessarily match with the other experts' numbers because his conservative numbers were based on the examination of all aspects of the exhumation and autopsy process. Dean Manning, T. 25823–25824 (6 March 2012).

<sup>18307</sup> Dušan Dunjić, T. 41893–41894, 41898–41899 (24 July 2013).

<sup>18308</sup> Dušan Dunjić, T. 41749–41750 (22 July 2013).

<sup>18309</sup> Dušan Dunjić, T. 41775–41777, 41803 (23 July 2013), T. 41860 (24 July 2013). See Dušan Dunjić, T. 41802–41803 (23 July 2013); D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 8. See D3896 (Dušan Dunjić's expert report entitled "Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area", April 2009), p. 212.

<sup>18310</sup> Dušan Dunjić, T. 41776–41777 (23 July 2013), T. 41859–41860 (24 July 2013); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 50–51, 54–55; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 7–8.

<sup>18311</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 12. See Dušan Dunjić, T. 41777, 41803–41804 (23 July 2013).

<sup>18312</sup> In putrefied and skeletonised bodies, without soft tissue, such skull perforation is only a possible cause of death given that the person could have died before the injury was inflicted, from many other causes. D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 8.

<sup>18313</sup> Dušan Dunjić, T. 41777–41778 (23 July 2013). See D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 8.

<sup>18314</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 7–8 (referring to P4103 (John Clark's expert report entitled "Report of Chief Pathologist, Srebrenica Grave Sites (1999)", undated), e-court pp. 3–4). See also Defence Final Brief, para. 2663 (where the Accused discusses the difficulties faced by Clark).

<sup>18315</sup> Dušan Dunjić, T. 41781–41782 (23 July 2013). See D3896 (Dušan Dunjić's expert report entitled "Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area", April 2009), p. 212.

<sup>18316</sup> D3896 (Dušan Dunjić's expert report entitled "Forensic Analysis of Exhumation Reports from the Bišina Site and Documents Relating to the Update to the Summary of Forensic Evidence from Graves in the Srebrenica Area", April 2009), p. 212; Dušan Dunjić, T. 41782–41783, 41821–41824 (23 July 2013).

acknowledges these difficulties, it is satisfied with the methodology followed by the experts in reaching their conclusions, and with the reliability of such conclusions. Further, the Chamber finds Dunjić's evidence on cause of death to show a complete disregard for the evidence on the various Scheduled Killing Incidents, which comes from many witnesses, including survivors and insider witnesses, such as direct perpetrators, and those involved in the burial and reburial of bodies. **(That still doesn't mean that it was reflected in the forensic reports. Dr. Dunjić didn't examine what the witnesses said, and didn't rebut that aspect, #but only the reports as insufficient for the conclusions that had been made#! The Defence is not obliged to prove who and how did something. But is entitled to analyse the Prosecution expert findings and point out what was wrong with it!)**

5556. In relation to the manner of death, the Accused argues that at minimum 1,000 individuals, but likely many more, died as a result of mines, suicides, or legitimate combat activities after the fall of Srebrenica.<sup>18317</sup> Dunjić also claims that, contrary to Clark's findings that for most cases death cannot be linked to combat, there is a lot of evidence proving the contrary.<sup>18318</sup> Dunjić refers to evidence supporting his claim, such as the fact that in a large number of cases the relevant autopsy report indicates extensive injuries characteristic of injuries caused by large projectiles or shells, and to the fact that a large presence of individual injuries on different parts of the body is more indicative of combat.<sup>18319</sup> Dunjić also refers to various witness statements to claim that a large number of the Srebrenica victims were members of the ABiH who died as a result of the armed conflict and at numerous sites around Srebrenica.<sup>18320</sup>

**5557.** The Chamber notes that it received evidence of wounds caused by shells and shrapnel in connection with the killings at the Kravica Warehouse.<sup>18321</sup> While Dunjić argues that these injuries could have been the result of combat activities, the Chamber finds that Dunjić looked at the evidence in question in isolation. The examples referred to by Dunjić relate to gravesites which have been associated with the killings at the Kravica Warehouse.<sup>18322</sup> The Chamber recalls that it received evidence that a series of hand-grenades were thrown in the warehouse through the windows while the detainees were still inside.<sup>18323</sup> Accordingly, the Chamber rejects the Accused's argument and Dunjić's evidence in this regard. **(It is correct that in the Kravica incident there were testimonies about a hand grenades, but not at the other places. But, the main question is: whether the Muslim Army had a casualties during this break through or not? If they did have, were are the bodies? It is also well known that the fiercest fightings happened in the zone of Zvornik municipality and along the route of the**

<sup>18317</sup> Defence Final Brief, paras. 2557–2561, 2565, 2571, 2636, 2638.

<sup>18318</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 11. See Dušan Dunjić, T. 41889–41890, 41892–41894 (24 July 2013).

<sup>18319</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), p. 11. See Dušan Dunjić, T. 41781 (23 July 2013); T. 41903–41904 (24 July 2013).

<sup>18320</sup> D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 13–15; Dušan Dunjić, T. 41904 (24 July 2013).

<sup>18321</sup> See paras. 5255, 5263. See also P4105 (John Clark's expert report entitled "Report of the Chief Pathologist, Srebrenica Grave Sites (2001)", 24 May 2003), pp. 16, 22, 25–26; P4059 (Christopher Lawrence's expert report entitled "Report on Autopsies of Human Remains from Zelani Jadar Site 5, October 1998", 17 June 1999), e-court pp. 18, 20; P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001), e-court pp. 13–15; Dean Manning, T. 25855–25856 (6 March 2012); Dušan Janc, T. 27046 (28 March 2012).

<sup>18322</sup> See D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 48. See also D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 50–53, 55–56.

<sup>18323</sup> See para. 5233.

**breakthrough, just in the zone of so called “secondary grave sites.” Does it have any significance?)**

(C) ICMP

5558. Thomas Parsons testified as an expert for the Prosecution in this case. Parsons joined the ICMP as director of forensic sciences, in March 2006.<sup>18324</sup> The ICMP is an organisation established in 1996 whose mission is to assist governments with locating and identifying individuals who have disappeared during armed conflicts or as a result of human rights violations.<sup>18325</sup>

5559. As director of forensic sciences, Parsons supervises three main forensic science divisions: the archaeology and anthropology division, the DNA laboratories, and the identification co-ordination division.<sup>18326</sup> The archaeology and anthropology division provides technical assistance in the exhumation of mass gravesites, the recovery of human remains, and the anthropological and pathological analysis in mortuary facilities.<sup>18327</sup> The DNA laboratories—which have been active since 2001—perform DNA typing from bone or blood samples received from mortuary facilities and from family members of the missing.<sup>18328</sup> Finally, the identification co-ordination division oversees the reception of DNA samples and, once the DNA typing is done, matches the samples from family members of the missing and the genetic data from the victims.<sup>18329</sup>

5560. Parsons explained that once the identification co-ordination division receives samples from mortuary facilities and blood samples from an average of three family members of the missing individual, it enters the data into the ICMP system and assigns each sample a random bar code number, ensuring the anonymity of the sample when it reaches the DNA laboratories; this allows for objective testing.<sup>18330</sup> The ICMP maintains a single DNA database within a forensic data management system, comprising of several subprojects from the areas around the world in which it operates.<sup>18331</sup>

5561. Parsons testified that the testing at the ICMP DNA laboratories is conducted in accordance with pre-existing standard operating procedures (“SOPs”), which define the

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<sup>18324</sup> Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20867; Thomas Parsons, T. 26590 (21 March 2012); P4638 (Thomas Parsons’ 2011 *curriculum vitae*).

<sup>18325</sup> P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), e-court p. 2; Thomas Parsons, T. 26592–26593 (21 March 2012). See Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20867, 20881. The ICMP is currently headquartered in Sarajevo. P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), e-court p. 2. Parsons explained that the ICMP has an ISO-17025 accreditation since October 2007, and goes annually through technical audits on methods used, results obtained, and processes involved. Thomas Parsons, T. 26556, 26599–26601 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20872, 20893, 20913, 33400; P4637 (ICMP report on DNA testing protocol, 14 February 2011), para. 2. Parsons further testified that the ICMP is considered the world’s leader in forensic identifications of missing persons. Thomas Parsons, T. 26597, 26601 (21 March 2012).

<sup>18326</sup> Thomas Parsons, T. 26554–27556 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868.

<sup>18327</sup> Thomas Parsons, T. 26555–26556, 26592–26593, 26601–26602 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868, 20880–20881.

<sup>18328</sup> Thomas Parsons, T. 26555, 26601 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868, 20870; P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), e-court pp. 2–3; P4651 (ICMP statement on Srebrenica killings of July 1995, 30 November 2007).

<sup>18329</sup> Thomas Parsons, T. 26555 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868.

<sup>18330</sup> Thomas Parsons, T. 26555, 26573 (21 March 2012), T. 26628–26631 (22 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868, 20872, 20876, 20885, 20899. See also P4651 (ICMP statement on Srebrenica killings of July 1995, 30 November 2007).

<sup>18331</sup> Thomas Parsons, T. 26604 (21 March 2012), T. 26606–26607 (22 March 2012).

actions and procedures of analysts during DNA testing.<sup>18332</sup> This specific process—a well established technology accepted in the scientific community as a standard for forensic diagnosis—involves extracting DNA from the skeletal remains and performing a polymerase chain reaction amplification of the short tandem repeat locus—a particular place on the DNA that is unique to individuals—resulting in the unique DNA profiles that can be used for genetic comparison.<sup>18333</sup>

5562. As a next step in the process, the laboratories send the testing results to the identification co-ordination division which then uses software to match the unique DNA profiles from the skeletal remains to the anonymous DNA profiles taken from family members.<sup>18334</sup> To obtain a positive match, a minimum of 99.95% certainty is required.<sup>18335</sup> A DNA match report is then prepared indicating findings, *inter alia*, with regard to a DNA match between a human remains sample and a set of family reference DNA profiles, and the location of the gravesite where the human remain sample originated from.<sup>18336</sup> In total, almost 15,000 DNA match reports have been processed in relation to Srebrenica.<sup>18337</sup>

5563. The information identifying an individual from the DNA match reports is then incorporated into the ICMP database which, Parsons explained, includes a subproject relating to the entire war period in BiH.<sup>18338</sup> The Chamber notes that from this BiH subproject, a specific list including the name of victims associated with the events surrounding the fall of Srebrenica was created (“Srebrenica List”).<sup>18339</sup> The Srebrenica List contains information on the names and dates of birth of victims, protocol IDs (an internal number assigned by the ICMP relating to a DNA match report), case IDs (designated to the sample sent to the ICMP), and ICMP IDs (internally assigned by the ICMP and referring to the reported missing person).<sup>18340</sup> The Srebrenica List also contains information regarding the location and date of disappearance of Srebrenica-related missing persons as provided by their families.<sup>18341</sup> In this regard, Parsons explained that due to the difficulty in obtaining a consistent place of disappearance, based on the differing accounts from multiple family members, only two categories of place of disappearance were recorded, namely: “Potočari”, to refer to men and boys that remained at the DutchBat facility in

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<sup>18332</sup> Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20869, 20909–20910; Thomas Parsons, T. 26556–26557 (21 March 2012); P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), paras. 5–6. The SOPs used are not unique to the ICMP but are widely used by other laboratories internationally. Thomas Parsons, T. 26557 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20909–20910. The ICMP SOPs have been evolving over the years in order to reflect, *inter alia*, new models of laboratory equipment, enhanced quality control measures, and validation of new methods. See Thomas Parsons, T. 26556–26557 (21 March 2012); P4637 (ICMP report on DNA testing protocol, 14 February 2011).

<sup>18333</sup> Thomas Parsons, T. 26658–26659 (22 March 2012). See Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20870–20871; P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), paras. 5–6. Parsons explained that the ICMP previously used an industry standard extraction method where chemical manipulations were performed on bone samples to retrieve relatively pure DNA. Thomas Parsons, T. 26551–26552, 26559 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20870–20871. Since then, a new extraction method that isolates DNA from degraded skeletal remains resulting in a higher DNA extraction success rate, has been introduced. Thomas Parsons, T. 26551–26552, 26559 (21 March 2012); P4637 (ICMP report on DNA testing protocol, 14 February 2011), pp. 1–2.

<sup>18334</sup> P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), paras. 23–24; Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20868, 20876. See Thomas Parsons, T. 26628–26629 (22 March 2012); P4651 (ICMP statement on Srebrenica killings of July 1995, 30 November 2007).

<sup>18335</sup> Thomas Parsons, T. 26616 (22 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20877.

<sup>18336</sup> Thomas Parsons, T. 26560, 26572–26573 (21 March 2012), T. 26608–26609 (22 March 2012). See P4640 (DNA reports of persons exhumed from Korićanske Stijene on 3 October 2003). The DNA match reports are reviewed by two experts to verify the matches done by the software. See P4644 (ICMP Methodology Report on 2001–2008 DNA Process, 15 January 2008), para. 27.

<sup>18337</sup> Thomas Parsons, T. 26611–26613 (22 March 2012). Parsons explained that this number, which is significantly higher than the total number of Srebrenica missing, is the result of the fragmentation of many of the mortal remains, and multiple samples belonging to the same individual being tested. Thomas Parsons, T. 26612–26613 (22 March 2012).

<sup>18338</sup> Thomas Parsons, T. 26604 (21 March 2012), T. 26606–26607 (22 March 2012).

<sup>18339</sup> Dušan Janc, T. 26938–26939 (27 March 2012). See e.g. P5915 (ICMP report on identified victims, 3 July 2008).

<sup>18340</sup> Thomas Parsons, T. 26573–26575 (21 March 2012), T. 26640–26641 (22 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20874–20875. See Dušan Janc, T. 26940–26942 (27 March 2012).

<sup>18341</sup> Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20873, 20875; Thomas Parsons, T. 26575 (21 March 2012).

Potočari and surrounding areas; or “Forest”, indicating that the individual attempted to flee Srebrenica by an overland route.<sup>18342</sup>

5564. Parsons further explained that the DNA profiles correspond to individuals who have been identified and named, with the exception of indistinguishable siblings, who are listed twice.<sup>18343</sup> Inconclusively associated cases, referring to cases where siblings have been reported missing, with one associated with Srebrenica and the other from an unrelated event, are also included on the Srebrenica List, as the DNA information received from the family samples will not allow for the distinction between such siblings.<sup>18344</sup> Unmatched unique DNA profiles, referring to unidentified individuals but who are uniquely represented by their DNA, are also incorporated into the list.<sup>18345</sup>

5565. *The ICMP database is updated periodically due to the identification and exhumation of new graves.*<sup>18346</sup> The ICMP has released updates to the Srebrenica List on multiple occasions, including in July 2008 (“July 2008 ICMP List”),<sup>18347</sup> December 2010 (“December 2010 ICMP List”),<sup>18348</sup> December 2011 (“December 2011 ICMP List”),<sup>18349</sup> and January 2012 (“January 2012 ICMP List”).<sup>18350</sup>

5566. The Chamber recalls that on numerous occasions the Accused challenged the ICMP methodology with regard to the identification of Srebrenica victims through DNA analysis.<sup>18351</sup> Specifically, the Chamber recalls that the Accused requested that he be provided with the ICMP database, which the ICMP refused to do on the basis that it would take a significant amount of time to obtain consent from the affected families.<sup>18352</sup> The Chamber agreed that the Accused should be able to engage his own DNA expert to run DNA identification tests for the purpose of checking the accuracy of the ICMP’s identifications and, if relevant, challenging Parsons’ evidence.<sup>18353</sup> An agreement was then reached between the parties and the ICMP, where 300 cases would be selected from which the ICMP would seek the consent of family members before providing their genetic information to the Accused’s expert.<sup>18354</sup> In 2012, upon the refusal of family members in

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<sup>18342</sup> Thomas Parsons, T. 26574–26575 (21 March 2012); Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20875–20876; P4651 (ICMP statement on Srebrenica killings of July 1995, 30 November 2007). See P5913 (ICMP list of identified Srebrenica victims, 15 December 2011).

<sup>18343</sup> Thomas Parsons, T. 26584 (21 March 2012). See P5913 (ICMP list of identified Srebrenica victims, 15 December 2011). See also Dušan Janc, T. 26965–26966 (27 March 2012), T. 27029–27030 (28 March 2012).

<sup>18344</sup> Thomas Parsons, T. 26576–26577, 26584 (21 March 2012). See P5913 (ICMP list of identified Srebrenica victims, 15 December 2011).

<sup>18345</sup> Thomas Parsons, T. 26584–26585 (21 March 2012). See P5913 (ICMP list of identified Srebrenica victims, 15 December 2011).

<sup>18346</sup> Dušan Janc, T. 26920–26921, 26936 (27 March 2012).

<sup>18347</sup> Thomas Parsons, T. 26639 (22 March 2012). See P4662 (ICMP report on identified victims, 3 July 2008) (under seal); P5915 (ICMP report on identified victims, 3 July 2008).

<sup>18348</sup> See P4768 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010) (under seal); P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010); Dušan Janc, T. 26937–26938 (27 March 2012).

<sup>18349</sup> Thomas Parsons, T. 26572–26573, 26583–26584 (21 March 2012). See P4642 (ICMP list of identified Srebrenica victims, 15 December 2011) (under seal); P5913 (ICMP list of identified Srebrenica victims, 15 December 2011).

<sup>18350</sup> Ewa Tabeau, T. 28249–28250, 28258–28259 (1 May 2012). See P5005 (2012 ICMP updated list of Srebrenica missing) (under seal); P5916 (2012 ICMP updated list of Srebrenica missing).

<sup>18351</sup> See para. 6160.

<sup>18352</sup> See Order on Selection of Cases for DNA Analysis, 19 March 2010, p. 2.

<sup>18353</sup> Order on Selection of Cases for DNA Analysis, 19 March 2010, pp. 2–3; Decision in Relation to Selection of Cases for DNA Analysis, 23 September 2011, p. 2. See also Decision on the Accused’s Motion for Binding Order to International Commission for Missing Persons, 4 March 2013, para. 1.

<sup>18354</sup> Order on Selection of Cases for DNA Analysis, 19 March 2010, pp. 2–3; Decision in Relation to Selection of Cases for DNA Analysis, 23 September 2011, p. 2. See also Decision on the Accused’s Motion for Postponement of Trial, 26 February 2010, para. 35, fn. 57; Submission Pursuant to the Trial Chamber’s Order Setting Deadline for Further Submissions, 22 February 2010, Annex C; Prosecution’s Further Response to Karadžić’s Motion for the Postponement of Trial Pursuant to Trial Chamber’s Order of 3 February 2010 with Confidential Appendices A–F, 9 February 2010, Confidential Appendix A, p. 5. The parties agreed that 295 cases would be selected by a random sampling method, whilst five would be hand picked by the Accused. Interim Order on the Accused’s Motion for Binding Order to International Commission for Missing Persons, 19 July 2012, p. 2. See also Order on Selection of Cases for DNA Analysis, 19



relation to 14 cases, the Accused requested that the Chamber compel the ICMP to make DNA case files available to him irrespective of the lack of such consent.<sup>18355</sup> The Chamber denied the request in March 2013 noting, *inter alia*, that the sample list of 286 cases was sufficiently large for credible testing.<sup>18356</sup> Despite having a sizeable number of sample names, the Accused refused the ICMP's offer to test selected cases and filed a motion requesting that the Chamber exclude all the DNA analysis conducted by the ICMP; this motion was denied by the Chamber on 16 April 2013, finding that the Accused would still be able to test the ICMP's results and challenge Parsons' evidence based on the available sample test cases.<sup>18357</sup>

5567. Despite this, the Accused chose not to present additional expert evidence to the Chamber challenging the ICMP's methodology and/or results.<sup>18358</sup> The Chamber notes, however, that during Parsons' and Janc's testimony, the Accused tried to challenge, *inter alia*, the existence of potential bias by the ICMP due to funding by governmental donors and private foundations, the apparent lack of independent verification and investigation procedures, and portions of the ICMP methodology, including, but not limited to, the integrity of the transfer processes in the samples arriving at the ICMP laboratories.<sup>18359</sup>

5568. The Chamber finds the ICMP to be a reputable, impartial, and reliable institution. Further, having reviewed Parsons' evidence and the ICMP related exhibits admitted through him, the Chamber is satisfied with the propriety and reliability of the ICMP methodology and the reliability of the DNA analysis conducted under Parsons' supervision. **(#However, all the DNA analyses could only be used to identify the affiliation of a deceased and his family, but nothing about when and how the person died#. And #Parsons himself admitted it in the cross examination. So his report doesn't rebut the Defence assertions that there were many bodies of those who died in a different times and different places than 11 – 23 July 95. Still, from those who died in this period, his report couldn't help in the matter of differentiating a combat/execution victims)**

(D) Demographic evidence

5569. Ewa Tabeau, the Head of the Prosecution's Demographic Unit from 2000 to 2011, testified as an expert for the Prosecution in this case.<sup>18360</sup> Tabeau gave evidence on demographics related to three components of the case, namely Municipalities, Sarajevo, and Srebrenica.<sup>18361</sup> In relation to the Srebrenica component of the case, Tabeau was tasked, *inter alia*, with using the most reliable sources on missing and identified persons to arrive at a reliable estimate of the total number of people killed or still missing after the fall

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March 2010; Decision in Relation to Selection of Cases for DNA Analysis, 23 September 2011; Notification on the Accused's Non-Compliance with the Trial Chamber's Order on Selection of Cases for DNA Analysis and Request for Further Orders with Public Appendix C and Confidential Appendices A–B and D–F, 21 June 2011, pp. 1–2.

<sup>18355</sup> Motion for Binding Order to International Commission for Missing Persons, 15 May 2012, paras. 1, 7, 28–29.

<sup>18356</sup> Decision on the Accused's Motion for Binding Order to International Commission for Missing Persons, 4 March 2013, paras. 27, 29–30, 34, 36. *See also* Prosecution's Response to Accused's Motion for Binding Order to International Commission for Missing Persons, 29 May 2012, paras. 1, 16; Reply Brief: Motion for Binding Order to International Commission for Missing Persons, 11 June 2012; Prosecution's Sur-Reply to Accused Reply Brief: Motion for Binding Order to International Commission for Missing Persons, 11 June 2012.

<sup>18357</sup> Decision on the Accused's Motion to Exclude DNA Evidence, 16 April 2013, paras. 6–7, 9. *See also* Motion to Exclude DNA Evidence, 11 March 2013; Prosecution's Response to Motion to Exclude DNA Evidence, 25 March 2013.

<sup>18358</sup> *See* Prosecution's Final Brief, Appendix D, para. 169.

<sup>18359</sup> *See e.g.* Thomas Parsons, T. 26593–26599 (21 March 2012), T. 26609–26611 (22 March 2012); Dušan Janc, T. 27010–27014 (27 March 2012).

<sup>18360</sup> Ewa Tabeau, T. 28117 (25 April 2012).

<sup>18361</sup> *See e.g.* Ewa Tabeau, T. 28119 (25 April 2012), T. 28172–28173 (26 April 2012), T. 28232 (1 May 2012).

of Srebrenica.<sup>18362</sup> For this purpose, Tabeau, along with Helge Brunborg and Arve Hetland, created a series of lists aimed at cross-referencing and integrating different lists of Srebrenica missing with ICMP lists on DNA identifications; this series of lists was admitted into evidence as P6705 (“2009 Srebrenica Lists of Missing”).<sup>18363</sup> As part of the same exercise, Tabeau and her colleagues co-authored a report presenting summary statistics, which was admitted into evidence as P4995 (“Tabeau’s 2009 Report”).<sup>18364</sup> The sources and methodology used in producing these documents is explained in detail below.

**5570.** Tabeau testified that the two main sources used in compiling Tabeau’s 2009 Report and the 2009 Srebrenica Lists of Missing include, first, selected ICRC data pertaining to missing persons, as found in a list of missing persons compiled in 2005 by the Prosecution and, second, an update to the Srebrenica List released by the ICMP in November 2008 (“November 2008 ICMP List”).<sup>18365</sup> The Chamber has explained in detail above how the ICMP lists are created.<sup>18366</sup> This applies as well to the November 2008 ICMP List. **(We have to see in what terms those two lists (2008 – 2012) differ. And, how do we know that it is final, and that a 2020 revision wouldn’t show more differences?)**

5571. In relation to the list of missing persons compiled by the Prosecution, Tabeau explained that the ICRC started collecting tracing requests for missing persons throughout the war in BiH and during its aftermath.<sup>18367</sup> The ICRC thus collected data relating to the surname, first name, father’s name, sex, date and place of birth, and date and place of disappearance for each individual reported as missing, as obtained from the missing person’s close relatives.<sup>18368</sup> As a result of this exercise, the ICRC published various

<sup>18362</sup> See P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 2, 35.

<sup>18363</sup> P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 1, 5, 64. See P6705 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009). The under seal version of P6705 is P4996 (Ewa Tabeau’s expert report entitled “Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995”, 9 April 2009) (under seal). See also Dušan Janc, T. 27025–27026 (28 March 2012).

<sup>18364</sup> See P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009).

<sup>18365</sup> Ewa Tabeau, T. 28232–28233 (1 May 2012). The Chamber notes that the November 2008 ICMP List, which has not been admitted into evidence in this case, is an update to the July 2008 ICMP List referred to above. See P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009) pp. 46, 64–66. See also para. 5565. Tabeau explained that the November 2008 ICMP List was consulted and used as it was the latest update at the time of preparing Tabeau’s 2009 Report and the 2009 Srebrenica Lists of Missing. Ewa Tabeau, T. 28233 (1 May 2012). Other sources utilised during the preparation of Tabeau’s 2009 Report and the 2009 Srebrenica Lists of Missing include the 1991 Population Census for BiH, the BiH Voters Registers of 1997, 1998, and 2000, and documents pertaining to the official registration of internally displaced persons and refugees in BiH as of 2000. P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 2, 5; Ewa Tabeau, T. 28233–28234 (1 May 2012). The Chamber notes Pašalić’s challenge on the validity and reliability of the data used by the Prosecution experts in their method of data matching and, more specifically, on the methodology used in Tabeau’s 2009 Report. 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), pp. 18–20, 105–112; Stevo Pašalić, T. 35359–35363 (13 March 2013), T. 35451–35454, 35466–35467 (14 March 2013). However, the Chamber finds Pašalić’s evidence unfounded due to his inability to properly differentiate between the “primary” sources he used and the apparent supplementary nature of the sources consulted by Tabeau and her colleagues, as well as his unsubstantiated argument that Tabeau relied on “imaginary forms and calculations”. The Chamber is therefore satisfied with the methodology utilised by Tabeau and her colleagues in arriving at a reliable estimate of the total number of people killed or still missing after the fall of Srebrenica. See generally P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009).

<sup>18366</sup> See paras. 5559–5565.

<sup>18367</sup> P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 37–38.

<sup>18368</sup> P4995 (Ewa Tabeau’s expert report entitled “The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification”, 9 April 2009), pp. 38–39. See also Dušan Janc, T. 26947 (27 March 2012), T. 27026, 27089–27090 (28 March 2012) (testifying that, for purposes of determining the exact date of disappearance for individuals identified after the fall of Srebrenica, the ICRC is a more reliable source, since the ICMP simply listed individuals as having disappeared on 11 July, while the ICRC collected detailed information from family members and acknowledging also that the ICRC data is not very accurate with respect to some individuals, and cautioning against fully relying on it).

volumes of lists of missing persons for the whole war in BiH.<sup>18369</sup> Tabeau explained that the Prosecution created its own list of missing persons for Srebrenica based on one of the ICRC volumes, by excluding records of persons reported missing throughout the war in relation to events unconnected to the fall of Srebrenica.<sup>18370</sup> In relation to the data provided for the date and place of disappearance of missing persons, Tabeau explained that the date of disappearance was not necessarily the date the individual may have been killed, but when he was last seen alive, with records of a reported disappearance between 1 July and 31 August 1995 being deemed the most relevant in the circumstances.<sup>18371</sup> The place of disappearance referred to the place the individual was last seen alive.<sup>18372</sup> The Chamber notes that the information in the 2009 Srebrenica Lists of Missing with respect to the place of disappearance of victims does not correspond to the information in the ICMP's Srebrenica List, which only refers to the two designated locations of "Potočari" and "Forest". Given that the 2009 Srebrenica Lists of Missing actually aim at providing precise information as to where Srebrenica victims were last seen, this, in the Chamber's view, makes them more probative than the general method used by the ICMP in compiling the corresponding information in the Srebrenica List.

5572. In relation to the methodology followed, Tabeau explained that the list of Srebrenica missing persons compiled by the Prosecution and the November 2008 ICMP List were cross-referenced as two independent sources—a method known as record linkage—to determine the number of individuals reported missing who were later found in Srebrenica-related gravesites, and thus identified as individuals who died during the fall of Srebrenica.<sup>18373</sup> This exercise first resulted in the 2009 Srebrenica Lists of Missing, a series of lists containing information from both the Prosecution's list of missing and the ICMP.<sup>18374</sup> Tabeau and her colleagues then proceeded to draft Tabeau's 2009 Report detailing the methodology and results of the exercise conducted when compiling the 2009 Srebrenica Lists of Missing.<sup>18375</sup> This document reported, *inter alia*, on the overlap between ICMP and Prosecution lists confirming the number of Srebrenica-related

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<sup>18369</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 37.

<sup>18370</sup> Ewa Tabeau, T. 28239 (1 May 2012). The relevant records pertaining to the victims of the fall of Srebrenica were extracted from the general ICRC list by using, first, the place criterion, which refers to the area of Srebrenica municipality and surrounding municipalities, and, second, the time criterion, which refers to the persons who went missing from July to December 1995. Ewa Tabeau, T. 28239 (1 May 2012). Tabeau and her colleagues used a 2005 version of the ICRC list when compiling the 2009 Srebrenica Lists of Missing. P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 37.

<sup>18371</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 34. *See also* P5010 (Courtroom Presentation of Ewa Tabeau 25 April 2012, summarizing main findings discussed in testimony), e-court p. 18 (Figure 1 illustrating the Srebrenica-related missing and dead by month of disappearance).

<sup>18372</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 34. *See also* P5010 (Courtroom Presentation of Ewa Tabeau 25 April 2012, summarizing main findings discussed in testimony), e-court p. 19 (Figure 3 illustrating the Srebrenica-related missing and dead by place of disappearance).

<sup>18373</sup> Ewa Tabeau, T. 28235, 28237 (1 May 2012); P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 5. Tabeau explained that the 1991 Population Census for BiH was used as a reference source to validate the information on missing persons, whilst the BiH Voters' registers and lists of refugees were used to eliminate possible survivors. Ewa Tabeau, T. 28233–28235 (1 May 2012).

<sup>18374</sup> *See* P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009).

<sup>18375</sup> *See* P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009).

victims.<sup>18376</sup> The Chamber notes that, according to Tabeau's 2009 Report, the 2009 total of Srebrenica missing and dead amounted to 7,905 persons.<sup>18377</sup>

5573. In 2012, Tabeau prepared a report incorporating the January 2012 ICMP List with information on Srebrenica victims listed on the 2009 Srebrenica Lists of Missing ("Tabeau's 2012 Report").<sup>18378</sup> Tabeau's 2012 Report was created with the aim of identifying the number of additional victims identified by the ICMP since Tabeau's 2009 Report and how these new identifications overlapped with the 2009 Srebrenica Lists of Missing.<sup>18379</sup> Tabeau's 2012 Report concluded that the total number of missing from the fall of Srebrenica is also totalled at 7,905 persons.<sup>18380</sup>

5574. The Chamber notes Dunjić's challenge that certain victims listed as missing or dead after the fall of Srebrenica on the 2009 Srebrenica Lists of Missing appear to have been ABiH soldiers and military personnel killed between 1992 and July 1995.<sup>18381</sup> Dunjić specifically refers to a document containing information on the date of death of 142 victims, which is inconsistent with the corresponding information in the 2009 Srebrenica Lists of Missing; according to Dunjić, while these 142 individuals are included in the 2009 Srebrenica Lists of Missing and their remains were identified from various Srebrenica-related gravesites, they were actually killed prior to the fall of Srebrenica, between 1992 and July 1995.<sup>18382</sup>

5575. The Chamber notes that while Dunjić stated in his report that the above document was attached thereto,<sup>18383</sup> it was neither attached to the report nor tendered as a separate exhibit. However, the Chamber understands the above document to be the one included in pages 7 to 10 of D3815 (hereinafter "so-called ABiH List").<sup>18384</sup> The Prosecution, having

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<sup>18376</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), pp. 28–29; P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court pp. 3–4; Ewa Tabeau, T. 28237–28240 (1 May 2012); P5010 (Courtroom Presentation of Ewa Tabeau 25 April 2012, summarising main findings discussed in testimony), e-court pp. 18–19.

<sup>18377</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), pp. 28, 30; P6705 (Ewa Tabeau's expert report entitled "Srebrenica Missing: Persons Reported Missing and Dead after the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995", 9 April 2009), e-court p. 3. *See also* P5010 (Courtroom Presentation of Ewa Tabeau 25 April 2012, summarising main findings discussed in testimony), e-court p. 20.

<sup>18378</sup> P5004 (Ewa Tabeau's report describing integration of new 2012 ICMP update to 2009 list of Srebrenica Missing persons), p. 1. *See* P5005 (2012 ICMP updated list of Srebrenica missing) (under seal); P5916 (2012 ICMP updated list of Srebrenica missing).

<sup>18379</sup> P5004 (Ewa Tabeau's report describing integration of new 2012 ICMP update to 2009 list of Srebrenica Missing persons), p. 3.

<sup>18380</sup> Ewa Tabeau, T. 28257–28258 (1 May 2012); P5004 (Ewa Tabeau's report describing integration of new 2012 ICMP update to 2009 list of Srebrenica Missing persons), pp. 1, 6; P5010 (Courtroom Presentation of Ewa Tabeau 25 April 2012, summarising main findings discussed in testimony), e-court p. 20. The total of 7,905 individuals identified as Srebrenica-related missing was calculated by taking the 7,905 identified individuals from the 2009 Srebrenica Lists of Missing and adding 103 new cases from the January 2012 ICMP List, and then deducting 103 cases which were not associated with Srebrenica but with Žepa. *See* Ewa Tabeau, T. 28257–28258 (1 May 2012); P5004 (Ewa Tabeau's report describing integration of new 2012 ICMP update to 2009 list of Srebrenica Missing persons), p. 4.

<sup>18381</sup> *See* D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 26–35; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 21–22; Dušan Dunjić, T. 41760–41774 (23 July 2013). The Chamber notes that Dunjić refers to the 2009 Srebrenica Lists of Missing as "Brunborg's list". *See* Dušan Dunjić, T. 41760 (23 July 2013); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 26. The Chamber understands this list to be an older version of the 2009 Srebrenica Lists of Missing and, for purposes of this discussion, equivalent to it.

<sup>18382</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 31; Dušan Dunjić, T. 41763–41766, 41790–41791 (23 July 2013). *See* Defence Final Brief, para. 2630.

<sup>18383</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 31.

<sup>18384</sup> D3815 (Collection of documents of BiH Federal Ministry of Defence), pp. 7–10. This exhibit is a compilation of documents related to the Prosecution's request for assistance sent to the BiH Ministry of Defence and the latter's response to the request. D3815 (Collection of documents of BiH Federal Ministry of Defence) pp. 1, 5, 11. *See* D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica

obtained the so-called ABiH List from the BiH Ministry of Defence in 2001, made a request for assistance to the BiH Ministry of Defence in June 2004 regarding the circumstances of the death or disappearance of the 142 individuals listed in the so-called ABiH List—requesting, *inter alia*, further confirmation of their date of death—and the BiH Ministry of Defence responded to the request in August 2004.<sup>18385</sup>

5576. Dunjić testified that the names of 88 of the above 142 individuals were actually ABiH soldiers or military personnel killed between 1992 and July 1995.<sup>18386</sup> Further, the Accused tendered two additional exhibits, D2217(#**Certainly, for the D2217 it was very easy to establish that the number 2 has the ERN, therefore was obtained by the prosecution, see: 06363290 06363293** and D3812, (This document is the same as the last four pages of the previous document, having the same ERN numbers 06363290- 3293) and D3812, which are compilations of parts of the 2009 Srebrenica Lists of Missing, the 2008 ICMP List, and the so-called ABiH List, with apparent discrepancies as to the date of disappearance for a number of individuals included as Srebrenica-related victims in the report prepared by Janc for this case.<sup>18387</sup>

5577. However, neither Dunjić, even upon the Chamber's specific inquiry, nor any other Defence witness, provided an explanation as to the provenance, authenticity, or accuracy of the so-called ABiH List, D2217, or D3812.<sup>18388</sup> **(Since it was obtained by the Prosecution, how and why the Defence expert or witnesses should have known the provenance of the documents?)** Dunjić further acknowledged that he had not independently verified the data in those documents.<sup>18389</sup> **(Did the Prosecution witnesses verify the documents that had been given to them by the Prosecution? For instance, Manning, who worked on a completely other's reports? Once again, it is unbelievable that such a distinguished Chamber doesn't respect the very basic rule: the Defence experts deal only with the documents, findings and reports of the Prosecutor experts, and do not have to make their own investigations. If done correctly, the prosecution expert reports are checkable and provable by any expert of the same kind, and no ambiguities are acceptable. If there are some findings that were not "beyond reasonable doubt" it must have been deliberated in favour of the President!)** The Chamber therefore is not satisfied with the authenticity or veracity of either the so-called ABiH List or D2217 and D3812, and thus cannot rely on those documents. Further and more importantly, according to the BiH Ministry of Defence, contrary to the information on the so-called ABiH List, 135 of the 142 individuals listed therein indeed died or went missing after the fall of Srebrenica.<sup>18390</sup> This corresponds with the information in the 2009 Srebrenica Lists of Missing. In conclusion, the Chamber is not persuaded by Dunjić's arguments in this respect. **(How possibly the ICRC list could be more accurate than the**

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Area", 27 August 2009), p. 31 (referring to the ERN numbers of the so-called ABiH List). See also Dušan Dunjić, T. 41761–41773, 41790–41794 (23 July 2013).

<sup>18385</sup> The so-called ABiH List was attached to these documents.

<sup>18386</sup> Dunjić lists these 88 individuals in his report. D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 31–35. See Dušan Dunjić, T. 41760–41774 (23 July 2013).

<sup>18387</sup> See D2217 (Examples of identified persons from Prosecution database and ABiH database); D3812 (List of soldiers killed or missing before July 1995). See also Dušan Janc, T. 27051–27057 (28 March 2012); Dušan Dunjić, T. 41760–41774 (23 July 2013); Defence Final Brief, paras. 2609–2610.

<sup>18388</sup> Dušan Dunjić, T. 41766–41767 (23 July 2013). See also D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 31.

<sup>18389</sup> See Dušan Dunjić, T. 41767–41768, 41772–41773 (23 July 2013).

<sup>18390</sup> See D3815 (Collection of documents of BiH Federal Ministry of Defence), pp. 11–20. The BiH Ministry of Defence stated in the same response that information regarding the remaining seven individuals was not available. D3815 (Collection of documents of BiH Federal Ministry of Defence), p. 11.



**BiH Ministry of Defence list#? First of all, the Ministry is admitting the data on a daily basis, from the units that had a casualties, and this record is a genuine one, a state document of a contemporaneous nature, #while the ICRC list is collected by interviewing people interested in being registered on this list!)**

5578. Having reviewed Tabeau's evidence and related exhibits, the Chamber is satisfied with the methodology followed by Tabeau and her colleagues in compiling the 2009 Srebrenica Lists of Missing and in creating Tabeau's 2009 Report and Tabeau's 2012 Report. **(it seems that some of the chambers (Prlic) rejected Tabeau's report?)** Specifically regarding the 2009 Srebrenica Lists of Missing, the Chamber has taken into consideration the difficulties faced by the ICRC when obtaining data on the missing,<sup>18391</sup> and accepts the fact that, due to a number of circumstances, including human error on the part of family members when providing information to the ICRC, **(So more the Ministry of Defence list should have been considered as a more reliable!)** a few mistakes on the list would be inevitable. Nevertheless, the Chamber finds no reason not to rely on the information contained in the 2009 Srebrenica Lists of Missing, and has used the information therein—taking into consideration the fact that it cannot be considered as completely accurate—when analysing and weighing conflicting forensic evidence before it in relation to each of the various Scheduled Killing Incidents. **(#But, if it was not "completely accurate", than the Defence is right: if only one body of a man died earlier had been found in a SRG, there can not be established the principle that there had not been a multy-burials!)**

(E) Dean Manning

5579. Dean Manning, a former investigator for the Prosecution, testified before the Chamber.<sup>18392</sup> The Chamber admitted reports prepared by Manning, as will be discussed below.

5580. While working for the Prosecution from 1996 to 2001, Manning was tasked with co-ordinating the activities of the investigation, exhumation, and autopsy teams working on the Srebrenica sites, and with providing assistance to the various experts on each team.<sup>18393</sup> As part of these efforts, Manning visited gravesites, in some cases while the exhumation process was ongoing; examined physical evidence obtained from the exhumation process; assisted experts in preparing their respective reports; summarised the work produced by the respective teams; and presented this evidence in proceedings before the Tribunal.<sup>18394</sup> Manning wrote one report in 2000, one in 2001, and one in 2003, which were admitted into evidence as P4502, P4503, and P4504, respectively.<sup>18395</sup> These reports summarise the

<sup>18391</sup> P4995 (Ewa Tabeau's expert report entitled "The 2009 Integrated Report on Srebrenica Missing Including a Progress Report on DNA-based Identification", 9 April 2009), p. 38. See Thomas Parsons, T. 26626 (22 March 2012) (explaining that, generally, lists of missing persons "are very dynamic things to try to resolve" and that often information provided by the families of those missing is contradictory/vague); Amor Mašović, T. 27289 (10 April 2012) (referring to information provided by family members on whether a missing person should be labelled as civilian or combatant). See also Thomas Parsons, P4643 (Transcript from *Prosecutor v. Popović et al.*), T. 20875–20876.

<sup>18392</sup> Dean Manning, T. 25801 (6 March 2012).

<sup>18393</sup> Dean Manning, T. 25801–25802 (6 March 2012). The Prosecution's exhumations team included archaeologists, anthropologists, surveying experts, police photographers and police evidence handlers, forensic dentists, and X-ray experts. Dean Manning, T. 25803 (6 March 2012). The Prosecution also employed the skills of ballistics and explosives examiners, soil experts, cloth experts, and DNA experts, all of whom provided reports that were summarised by Manning. Dean Manning, T. 25803 (6 March 2012).

<sup>18394</sup> Dean Manning, T. 25801–25802 (6 March 2012). See also Dušan Janc, T. 26924 (27 March 2012).

<sup>18395</sup> Dean Manning, T. 25805–25806, 25820 (6 March 2012). See P4502 (Dean Manning's Report, entitled "Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1", February 2001); P4503 (Dean Manning's Report, entitled

findings of the experts engaged by the Prosecution during the forensic programme in Srebrenica, and include details of Manning’s own examination of the sites he visited, as well as of the artefacts recovered from the exhumation process.<sup>18396</sup>

5581. In his reports, Manning also calculated the Minimum Number of Individuals (“MNI”) located in the Srebrenica-related gravesites, through the anthropological examination of specific bones conducted by the experts.<sup>18397</sup> When trying to determine the number of individuals buried in the Srebrenica-related graves, experts realised that it was not possible to calculate the exact figure, due to the degree of disarticulation of the remains.<sup>18398</sup> When bodies are not complete, a body count will not be adequate to determine the exact number of victims buried in each gravesite, and a conservative number needs to be calculated instead.<sup>18399</sup> This conservative number is reached by counting the most widely present type of bone throughout the gravesite which can be either a bone, part of a bone, or one of a pair of body parts.<sup>18400</sup> Thus, when reporting on the forensic evidence from Srebrenica-related gravesites, Manning calculated that the MNI with respect to all exhumations conducted between 1996 and 2001 was 2570.<sup>18401</sup>

5582. Using the anthropological calculation of the MNI as the initial phase to determine a preliminary number of individuals, experts then moved to DNA testing to corroborate such findings.<sup>18402</sup> In 2005, Manning was tasked with producing two reports summarising the DNA-related findings of the BiHCMP and ICMP in relation to Srebrenica-related gravesites.<sup>18403</sup> Manning examined the records of ICMP exhumations and DNA analysis of

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“Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003); P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000).

<sup>18396</sup> Dean Manning, T. 25802, 25805–25806 (6 March 2012).

<sup>18397</sup> See P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 3; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), e-court p. 2; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 5.

<sup>18398</sup> P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), e-court p. 5; Jose Baraybar, T. 22347, 22388 (2 December 2011). See P4502 (Dean Manning’s Report, entitled “Summary of Forensic Evidence, Mass Graves Exhumed in 2000 - Lazete 1, Lazete 2C, Ravnice, Glogova 1”, February 2001), e-court p. 3; P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003), e-court p. 2; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court p. 5.

<sup>18399</sup> P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), pp. 3–4; P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), pp. 5–6; P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 18–19.

<sup>18400</sup> See Jose Baraybar, T. 22350–22351 (2 December 2011); P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), pp. 3–4; P4030 (Jose Baraybar’s expert report entitled “Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 1999”, 8 December 1999), pp. 5–6. See also Jose Baraybar, P4029 (Transcript from *Prosecutor v. Krstić*), T. 3795, 3803–3804. The MNI is calculated per gravesite, so taking into account the separate examination of each gravesite, the overall total MNI would be inflated, as the calculation would not take into account the overlap between remains of individuals found in both primary and secondary gravesites. P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), pp. 5–7; Jose Baraybar, T. 22350–22351 (2 December 2011). A Minimum Minimal Number of Individuals (“MMNI”) is then calculated taking into account the merging of the MNI of primary and secondary gravesites, and is thus an underestimation of the number of individuals found in each gravesite. P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), pp. 5–6; Jose Baraybar, T. 22351 (2 December 2011).

<sup>18401</sup> P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003); e-court p. 2. Baraybar subsequently updated this number, concluding that the MNI was 2691. P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), p. 7; Jose Baraybar, T. 22351–22352 (2 December 2011). In his report, Manning explained that a MMNI was yet to be calculated for all sites. P4503 (Dean Manning’s Report, entitled “Srebrenica Investigation, Summary of Forensic Evidence - Execution Points and Mass Graves 2001”, 24 August 2003); e-court p. 2. Baraybar later provided this number, concluding that the MMNI for Srebrenica-related gravesites was 2541. P4037 (Jose Baraybar’s expert report entitled “Calculation of the Minimal Number of Individuals Exhumed by the ICTY between 1996 and 2001”, 4 January 2004), p. 7; Jose Baraybar, T. 22351–22352 (2 December 2011).

<sup>18402</sup> See Jose Baraybar, T. 22353–22354 (2 December 2011).

<sup>18403</sup> Dean Manning, T. 25802, 25819 (6 March 2012).

identified individuals in order to collate them with primary and secondary Srebrenica-related gravesites.<sup>18404</sup>

(F) Dušan Janc

5583. Dušan Janc, a former investigator for the Prosecution, also testified before the Chamber.<sup>18405</sup> In 2006, Janc took over the DNA-related work initiated by Manning, and started updating the reports prepared by Manning while also preparing his own reports.<sup>18406</sup> Based on this exercise, Janc prepared a report in 2012 summarising evidence related to the investigation of the Srebrenica-related gravesites, including DNA and other analysis of the human remains found therein, which was admitted into evidence as P4772 (“Janc’s Report”).<sup>18407</sup>

**5584.** The main source of Janc’s Report was the December 2010 ICMP List, as well as other documentary evidence obtained from the BiH authorities and the ICMP.<sup>18408</sup> More specifically, Janc compiled records provided by the ICMP, the ICRC, the BiHCMP and later the BiHIMP,<sup>18409</sup> and other local authorities in BiH, as well as previous reports from Prosecution experts, to create a list of all individuals recovered and identified from gravesites associated with the fall of Srebrenica.<sup>18410</sup>

**Down is the 2586 para of the Def. FB, should be associated to Peccerelli’s para concerned:**

***At Lazete 1, out of 593 artifacts, there were 456 shell cases, 9 live rounds and 19 bullets.<sup>18411</sup> The witness did not have an explanation for the difference between the number of shell casings and the number of bullets.<sup>18412</sup> However, it was obvious that somebody fired out from this place, otherwise there would have been the same number of bullets as shell casings found at site. Why were only 19 bullets found fired out of so many (456) shell cases.<sup>18413</sup> Where are the missing 437 bullets? That waws a frontline, a two ways fire#The #Chamber even didn’t pay any attention to this fact!***

<sup>18404</sup> Dean Manning, T. 25819 (6 March 2012).

<sup>18405</sup> Dušan Janc, T. 26917–26918 (27 March 2012).

<sup>18406</sup> Dušan Janc, T. 26919–26921, 26924, 27005–27007 (27 March 2012); Dean Manning, T. 25819–25820 (6 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 2.

<sup>18407</sup> Dušan Janc, T. 26918–26920, 26991, 27007 (27 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012). There is a confidential version of Janc’s Report which contains data from the December 2010 ICMP List, including names of identified individuals; this version was admitted as P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012) (under seal).

<sup>18408</sup> Dušan Janc, T. 26920, 26930, 26934 (27 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 3. Janc testified that he only received the January 2012 ICMP List—which contains approximately 80 new cases of persons identified from the Srebrenica gravesites—days before finalising his report and thus was not able to adequately analyse, and incorporate, the new data into his report. Dušan Janc, T. 26934–26937 (27 March 2012). See P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 6. See also P5916 (2012 ICMP updated list of Srebrenica missing).

<sup>18409</sup> Janc testified that the BiHCMP was renamed in 2008 or 2009 and is now called the BiHIMP. Dušan Janc, T. 26921 (27 March 2012).

<sup>18410</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 2; Dušan Janc, T. 26920–26922, 26924–26925 (27 March 2012).

<sup>18411</sup> Peccerelli, T.22782

<sup>18412</sup> Peccerelli, T.22784

<sup>18413</sup> Peccerelli, T.22784

5585. The primary section of Janc's Report is a table summarising the total number of Srebrenica-related victims who have been exhumed and identified, and who have been associated with each individual primary or secondary gravesite.<sup>18414</sup> The report also includes four annexes: Annex A contains a summary of relevant findings for each of the exhumed gravesites determined to be connected to the fall of Srebrenica, including information on the exhumation process, the numbers of identified individuals, and the results of the autopsies conducted on those individuals;<sup>18415</sup> Annex B details the number of identified surface remains found in and around Srebrenica;<sup>18416</sup> Annex C details the number of DNA connections between disturbed "primary/primary" and "secondary/secondary" gravesites, and includes diagrams showing some of those connections;<sup>18417</sup> finally, Annex D contains the names of each of the individuals identified in the December 2010 ICMP List, grouped as per the individual Srebrenica-related gravesite where the specific remains were found.<sup>18418</sup>

5586. Janc cross-checked the December 2010 ICMP List with the 2009 Srebrenica Lists of Missing, in order to ensure that each individual identified by the ICMP matched with a person reported missing following the fall of Srebrenica.<sup>18419</sup> To compile his report, Janc also referenced information provided to him by the ICMP on DNA profiles extracted from remains found at various gravesites, but which have not yet been matched with a missing person.<sup>18420</sup> This group includes 260 unidentified individuals, which Janc included in his report because they were found in graves shown to be connected to the fall of Srebrenica.<sup>18421</sup> In addition, Janc included data of 35 individuals identified as missing following the fall of Srebrenica by Physicians for Human Rights and the ICRC, before the ICMP began its DNA identification process in 2001.<sup>18422</sup>

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<sup>18414</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 2–5. See Dušan Janc, T. 26919 (27 March 2012).

<sup>18415</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 7–42; Dušan Janc, T. 26922 (27 March 2012). Annex A also contains a summary table showing the primary and secondary mass graves linked to each Scheduled Killing Incident charged in the Indictment, and the total numbers of bodies linked to each incident. P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–42.

<sup>18416</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 43–46; Dušan Janc, T. 26922 (27 March 2012). See also Dušan Janc, T. 26982–26983 (27 March 2012), T. 27066–27069 (28 March 2012); P4770 (Maps of surface remains); D2219 (Map of location of surface remains marked by Dušan Janc) (referring to the location where surface remains were found).

<sup>18417</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 47–87; Dušan Janc, T. 26922–26923, 26967–26973 (27 March 2012).

<sup>18418</sup> P4771 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012) (under seal), e-court pp. 88–625; Dušan Janc, T. 26923 (27 March 2012).

<sup>18419</sup> See Dušan Janc, T. 26947, 27020 (27 March 2012), T. 27027–27035 (28 March 2012); P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 2–3.

<sup>18420</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 2; Dušan Janc, T. 26925–26926, 26991–26995 (27 March 2012). These unmatched DNA profiles come from lists that Janc especially requested from the ICMP. Dušan Janc, T. 26956–26958, 26991–26992 (27 March 2012). See P4773 (ICMP unmatched DNA victim profiles related to Srebrenica, 23 December 2011); P4774 (ICMP lists of unmatched unique DNA victims profiles related to Srebrenica, 15 February 2010); P5914 (ICMP tables concerning identified Srebrenica victims, 31 January 2009); P4656 (ICMP tables concerning identified Srebrenica victims, 31 January 2009) (under seal).

<sup>18421</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 2; Dušan Janc, T. 26925–26926, 26952, 26956–26961 (27 March 2012), T. 27039–27040 (28 March 2012). But see Defence Final Brief, para. 2621 (where the Accused argues that the evidence strongly indicates that these remains are not related to the fall of Srebrenica).

<sup>18422</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 2; Dušan Janc, T. 26925, 26953–26954 (27 March 2012). These 35 individuals were identified based on *antemortem* and *postmortem* data, primarily through identification of clothing and personal belongings found on the bodies by family members. See P4504 (Dean Manning's Report, entitled "Summary of Forensic Evidence - Execution Points and Mass Graves", 16 May 2000), e-court p. 96. 44 individuals were identified in total by the ICRC and

5587. Janc compiled his report by separating all entries in the December 2010 ICMP List into separate spreadsheets organised by case ID, ensuring that every spreadsheet referred to only one gravesite or location.<sup>18423</sup> When calculating the number of individuals per gravesite, Janc counted only the “main cases” representing unique DNA profiles, excluding all “re-association” cases to ensure that each individual was counted only once, even when multiple body parts of one individual were collected from one or more gravesites.<sup>18424</sup> Janc repeated this process for all 14,303 entries in the December 2010 ICMP List, as well as the unidentified entries provided by the ICMP.<sup>18425</sup> The resulting data is summarised by gravesite in Annex A of Janc’s Report, which includes the total number of individuals found in each gravesite, as well as in Annex D, which lists each individual found in each gravesite by name, listing every individual only once.<sup>18426</sup>
5588. In addition, Janc analysed the ICMP data to establish DNA connections between gravesites.<sup>18427</sup> To do so, he sorted the ICMP data by its protocol ID; when one protocol ID appeared at different sites, this meant that body parts from the same individual were found in multiple locations.<sup>18428</sup> When an individual’s DNA profile was found in more than one gravesite, Janc counted a “connection” between the gravesites.<sup>18429</sup> Janc used these DNA connections between primary gravesites and secondary gravesites to establish a link between each of these gravesites and a Scheduled Killing Incident.<sup>18430</sup>
5589. Through this process, Janc arrived at 5,977 as the total number of individuals identified in Srebrenica-related gravesites as of January 2012.<sup>18431</sup> Janc also arrived at the total number of individuals identified per execution site, by adding the number of individuals identified in the relevant primary and corresponding secondary gravesites linked to each site.<sup>18432</sup>
5590. The Chamber notes that the Prosecution has relied on Janc’s Report in determining the number of Srebrenica victims found in each gravesite and the number of individuals killed at most of the individual Scheduled Killing Incidents charged in the Indictment. The Chamber also notes that there is significant overlap between the 5,977 individuals included

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Physicians for Human Rights, but nine of them were re-identified by the ICMP and included in the ICMP’s December 2010 List. P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 2, fn. 4. *See generally* P4504 (Dean Manning’s Report, entitled “Summary of Forensic Evidence - Execution Points and Mass Graves”, 16 May 2000), e-court pp. 96–114; P5917 (ICMP DNA identifications concerning identified victims related to Srebrenica, 6 December 2010).

<sup>18423</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 6; Dušan Janc, T. 26942–26943, 26947–26948 (27 March 2012).

<sup>18424</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court p. 6; Dušan Janc, T. 26948, 26950–26951 (27 March 2012).

<sup>18425</sup> Dušan Janc, T. 26947–26948, 26950–26951 (27 March 2012), T. 26949 (27 March 2012) (private session).

<sup>18426</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 7–42; P4771 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012) (under seal), e-court pp. 88–625.

<sup>18427</sup> *See* Dušan Janc, T. 26961–6962 (27 March 2012).

<sup>18428</sup> Dušan Janc, T. 26961–6966 (27 March 2012). *See* para. 5563.

<sup>18429</sup> Dušan Janc, T. 26961–26965, 26968 (27 March 2012). Janc clarified that, even if more than one body part from the same person was distributed between two different gravesites, this was still counted as one “connection.” Dušan Janc, T. 26964 (27 March 2012). According to Janc, these connections between different sites mean that bodies or body parts were disposed in multiple locations, and provide a clear indication of which gravesites are interconnected. Dušan Janc, T. 26961–26962 (27 March 2012).

<sup>18430</sup> *See* Dušan Janc, T. 26961–26965 (27 March 2012); P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 40–42, 48–50, 82, 85, 87.

<sup>18431</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 2, 5. *See* Dušan Janc, T. 26923–26924 (27 March 2012).

<sup>18432</sup> P4772 (Dušan Janc’s report entitled “Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012”, 13 January 2012), e-court pp. 40–42; Dušan Janc, T. 26973–26975 (27 March 2012).



in Janc's Report as identified in Srebrenica-related gravesites, and the 5,115 individuals<sup>18433</sup> found by the Chamber to have been killed in the specific circumstances alleged in Schedule E of the Indictment.<sup>18434</sup>

5591. The Accused claims that Janc's task was to corroborate what was already known to the Prosecution and that he manipulated the evidence received from the ICMP to adjust his findings.<sup>18435</sup> By considering that all exhumed bodies were victims of execution, Janc approached his investigation backwards and, when facts got in his way, he simply excluded them.<sup>18436</sup> **LET US SEE WHAT HAD BEEN SAID IN THE DFB, para 2563 and 2564:**

**2563 The part pertaining to persons exhumed in the area of Zvornik municipality comprised 2299 persons. Out of those 2299 exhumed #799 persons died and were buried much earlier than July 1995. #This was indicated by the OTP witnesses such as Mr. Janc, who concluded that there were remains #not connected to the Srebrenica events.<sup>18437</sup> In this official report, it is confirmed that 4.415 people were identified, and discounting those 799 from the previous years, the total is close to 3.000. The rest of the 1500 had been found to be the Srebrenica related remains. Specifying the way those people were killed, the Bosnian Federal Commission for Missing Persons (FCMP) established #that 1200 out of those 1.500 died during the breakthrough towards Tuzla#, while 300 had been specified to have gone missing at several places known to the participants in this trial as the places of surrender.**

**2654 How could those who died in the forceful breakthrough be considered #anything but the combat casualties#? If the court certificates of deaths,<sup>18438</sup> containing specific definitions such as "died in an ambush," or "died on a military task" are taken into consideration, a much more accurate estimate of the number of people who were executed can be reached.**

**Still there is no explanation for these paras, and no answer for that questions?**

5592. Similarly, Dunjić challenges various portions of Janc's Report. The Chamber notes in this regard that Dunjić comments upon, and refers to, an earlier version of Janc's Report, dated 13 March 2009—and not admitted into evidence in the present case—as well as

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<sup>18433</sup> See para. 5519.

<sup>18434</sup> The Chamber notes that these figures do not fully match for a number of reasons. First, the figures from a number of gravesites relating to incidents which are not charged in the Indictment have not been included by the Chamber in reaching its total number. Further, the Chamber recalls its finding that it was not satisfied beyond reasonable doubt that the incident at the Cerska Valley, as alleged in the Indictment, took place (see para. 522), and therefore has not included the remains found at the Cerska Valley gravesite. Finally, due to the particularity of the executions and the fact that a connection to a specific gravesite has not been established, the Chamber cannot be sure whether the remains of those killed in some of the Scheduled Killing Incidents, such as at the Jadar River, the Sandići Meadow, and Potočari, have been included in Janc's total number of identified individuals.

<sup>18435</sup> Defence Final Brief, para. 2622. See Dušan Janc, T. 27007–27010 (27 March 2012). According to the Accused, Janc did not consider burials of casualties from combat activities, different dates of burials, and other discrepancies. See Defence Final Brief, paras. 2623–2624.

<sup>18436</sup> Defence Final Brief, para. 2625. See also the Accused's line of questioning during cross-examination of Dušan Janc, T. 27083 (28 March 2012).

<sup>18437</sup> Popovic TJ para 650, fn. 2352 P4841, p.1-68

<sup>18438</sup> D3815, D3893, p. 31

D1975, a *corrigendum* prepared by Janc to that report.<sup>18439</sup> For purposes of this section, given that most, if not all, of Dunjić's challenges can be applied to Janc's Report, the Chamber will consider them in its analysis of this latter document.

5593. The Chamber understands the main challenge to Janc's evidence to be the assertion that the Srebrenica-related gravesites are mixed gravesites containing bodies of victims of execution of the various Scheduled Killing Incidents, as well as bodies of individuals who died prior to the fall of Srebrenica and/or as a result of combat activities. In addition to the Chamber's considerations on this issue discussed above, the Chamber will refer below to some of the main arguments raised by the Accused and Dunjić on this point.

5594. Dunjić uses the information in D1975 to conclude that at particular sites connected with Srebrenica, there were also remains of individuals who were killed in various circumstances unconnected to the fall of Srebrenica.<sup>18440</sup> Similarly, referring to Janc's findings with respect to the Blječeva and Glogova gravesites, the Accused argues that it is undisputed that there were mixed graves in which remains not connected to the Srebrenica events were buried together with the remains of people reported missing after the fall of Srebrenica.<sup>18441</sup> The Chamber accepts the existence of a number of mixed gravesites connected to the Scheduled Killing Incidents. However, such evidence before the Chamber is limited to the Blječeva 1 and the Glogova gravesites. The Chamber has discussed in detail the implications of D1975 in its section of the Judgement related to the killings at the Kravica Warehouse, and will not repeat its findings here.<sup>18442</sup>

**5595.** According to the Accused, the DNA connections in Janc's Report only relate to less than 10% of the remains found in secondary gravesites.<sup>18443</sup> The remainder of the bodies have not been associated with Srebrenica-related execution sites and thus must result from other events at other times.<sup>18444</sup> He therefore claims that sites which were labelled as secondary gravesites were indeed gravesites in the vicinity of the confrontation line where casualties had been buried.<sup>18445</sup> Supporting this theory, Dunjić adds that it is impossible to extrapolate on the basis of DNA analysis that all the bodies from the secondary gravesites originate from the primary gravesites with which a DNA connection has been established.<sup>18446</sup> According to Dunjić, these connections only related to a significantly smaller number of bodies found in the secondary gravesites which are linked to the executions at the Kravica Warehouse, the field near Orahovac, the dam near Petkovci, Kozluk, or the Branjevo Military Farm, and not the much larger number provided by

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<sup>18439</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), p. 11; Dušan Dunjić, T. 41744 (22 July 2013). See Dušan Janc, T. 26918–26919 (27 March 2012); D1975 (Dušan Janc's corrigendum to report entitled "Update to Summary of Forensic Evidence- Exhumation on the Graves Related to Srebrenica –March 2009", 9 April 2009).

<sup>18440</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 13–14; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 20, 22. See Dušan Dunjić, T. 41746 (22 July 2013); T. 41876–41878, 41905–41908 (24 July 2013).

<sup>18441</sup> Defence Final Brief, paras. 2597–2598, 2601, 2604. See the Accused's line of questioning during cross-examination of Dušan Janc, T. 27016–27017 (27 March 2012). The Accused also refers to the Liplje 8 gravesite, which is not associated with a Scheduled Killing Incident, and to surface remains found adjacent to the execution at Kozluk. Defence Final Brief, confidential, para. 2601.

<sup>18442</sup> See paras. 5258, 5281–5282, fn. 17879.

<sup>18443</sup> See Defence Final Brief, paras. 2605, 2608.

<sup>18444</sup> Defence Final Brief, confidential, para. 2605.

<sup>18445</sup> Defence Final Brief, para. 2603. See also Accused's line of questioning during cross-examination of Dušan Janc, T. 27071–27081 (28 March 2012).

<sup>18446</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 13–17; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 20–24; Dušan Dunjić, T. 41746 (22 July 2013). See Dušan Dunjić, T. 41818 (23 July 2013).

Janc.<sup>18447</sup> In other words, the Accused and Dunjić claim that the only reasonable conclusion is that, for more than 90% of the remains for which DNA connections have not been established, the so-called secondary gravesites were indeed primary gravesites where individuals who died in combat were buried for the first time.<sup>18448</sup> **(It is not understandable #how this can be dismissed!)**

5596. To challenge Janc's Report, Dunjić refers to the same arguments raised when objecting to the forensic and demographic evidence. Referring back to the arguments used in his challenge to the 2009 Srebrenica Lists of Missing, discussed above, Dunjić claims that some of the individuals identified from various Srebrenica-related gravesites are also listed in other documents as having died prior to the fall of Srebrenica.<sup>18449</sup> However, as discussed above, the Chamber is not satisfied with the authenticity or veracity of the documents which formed the basis for Dunjić's argument, *i.e.*, the so-called ABiH List, D2217, or D3812, and is thus not persuaded by Dunjić's argument in this respect.<sup>18450</sup>

**(Un)fortunately, these two documents have the ERN number, and are out of any doubt provided by the Prosecution. And why a contemporaneous documents of the ABiH could be marked as "so called", since it was not prepared for a public use, but for the intern bussines of the ABiH?)**

5597. Dunjić also claims that finding parts of a single body in two different locations would indicate that a particular person died and the body putrefied, and then due to external conditions the body parts were separated.<sup>18451</sup> In this case, Dunjić claims, it is likely that the body was separated before burial and thus the two gravesites where the remains were found ought to be considered primary gravesites with respect to the specific body parts found in each of them.<sup>18452</sup> However, the Chamber does not accept Dunjić's theories with respect to the existence of body parts of a same individual within two or more gravesites; his theories simply ignore the extensive evidence before the Chamber on the reburial operation which was conducted between September and October 1995. The fact that Dunjić was so quick to craft such theoretical conclusions while wilfully ignoring evidence to the contrary is a serious stain on his credibility as an expert. Further, based on the anthropological, forensic, and witness evidence on burials and reburials of bodies, the Chamber is satisfied, subject to its findings in relation to the Glogova and Blječeva gravesites as referred to above, that there was no enrichment of Srebrenica-related

<sup>18447</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 13–15, 17–18; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 21–24. See Defence Final Brief, para. 2607. See also P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 40–42, 48–50. This is irrespective of whether there is other evidence, such as that from ballistic findings, which establishes a connection between the primary and secondary gravesites. Dušan Dunjić, T. 41883–41884 (24 July 2013).

<sup>18448</sup> See Defence Final Brief, paras. 2605, 2608; D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 15–17; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 18, 22–23. See Dušan Dunjić, T. 41751 (22 July 2013); T. 41882–41883 (24 July 2013). But see Dušan Janc, T. 27071–27072 (28 March 2012) (where Janc discarded this possibility).

<sup>18449</sup> Dušan Dunjić, T. 41760–41774 (23 July 2013); D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 26–35; D3894 (Dušan Dunjić's expert report entitled "Forensic Analysis of Documents Pertaining to Exhumations, Autopsies and Identification of Bodies in the Srebrenica Area", 26 August 2012), pp. 21–22. See D3812 (List of soldiers killed or missing before July 1995); D3815 (Collection of documents of BiH Federal Ministry of Defence), BCS, pp. 7–10 (the so-called ABiH List); D2217 (Examples of identified persons from Prosecution database and ABiH database).

<sup>18450</sup> See para. 5577.

<sup>18451</sup> Dušan Dunjić, T. 41749 (22 July 2013). As an example, Dunjić refers to a person who had an open wound which would attract wild animals and which would then lead to the disarticulation of the body parts which would then be found in different gravesites. Dušan Dunjić, T. 41749 (22 July 2013). See Defence Final Brief, para. 2620 (where the Accused adopts Dunjić's theory).

<sup>18452</sup> D3893 (Dušan Dunjić's expert report entitled "Forensic Analysis of Reports on the Locations of Mass Graves in the Area of Eastern Bosnia and Documentation Relating to Exhumations in the Srebrenica Area", 27 August 2009), pp. 15–16.

gravesites. **(However, the Prosecution hadn't proven that there was a sanitation after every single fight. Even Ms. Albright had found two remains on a meadow, certainly not being victims of any execution. It is known that the sanitation happens only after several days, when it is clear that the fights are not to be resumed. Drugging this time the bodies degrade to some degree, then they are collected by a machinery, and certainly may be partitioned. How anyone can deny it? This state of the affair explains how it happened that at many bodies there were found a very expensive personal belongings and values. Not only the Serbs didn't rob a dead bodies for moral or religious, or a reasons of superstition, but it could also be because of an advanced degree of decomposition of bodies until the burials.)**

**5598.** Referring more specifically to the findings in Annex B of Janc's Report on surface remains, the Accused argues that at a minimum, the 1,000 individuals counted by Janc must be subtracted from the total of 4,000 individuals which, in his view, may be considered as unaccounted for after the fall of Srebrenica.<sup>18453</sup> The Accused adds that, while some of these remains have been subtracted from the total list of victims in Janc's Report, Janc's total is still not entirely correct, given that there is evidence showing that victims who died in artillery attacks, as well as some of those who died in combat but who were buried during the sanitation process, were also included in Janc's total count.<sup>18454</sup> The Chamber recalls that Annex B of Janc's Report explains that out of a total of 982 surface remains cases, 702 have been identified as Srebrenica-related individuals.<sup>18455</sup> However, these numbers have not been included in the total number of Srebrenica-related victims provided by Janc.<sup>18456</sup> **(Again, it is not a point! The point is – #how come that a single body of a person that died somewhere else and at some other time could have been found in any SRG#? We remember that Janc said that he excluded many names, because he didn't know how they were there, from where, and so on. The exclusion of a number of bodies has some effect to the final number of loses, but it is not point at all. The main issue is: this kind of exclusions, a sort of "sanitation" of the evidence is not acceptable, because it enables the sides in litigation to maintain a theory that would not survive if the "totality of evidence" was intact. Is this maneuver allowed in the countries of the esteemed Judges? Or in the USA? The Great Britain, France? Certainly not!)**

**5599.** Having analysed Janc's evidence in its entirety, the Chamber is satisfied with the methodology he followed in reaching his conclusions, and with the reliability of such conclusions. In this regard, the Chamber recalls that it received other forensic evidence, in addition to the DNA connections between Srebrenica-related primary and secondary gravesites, pointing to additional links between the gravesites. Furthermore, the accepted evidence from many witnesses, including survivors and insiders—such as direct perpetrators, those guarding the detainees, and those involved in the burial and reburial of bodies—as to the circumstances surrounding the Scheduled Killing Incidents, corroborates and supports Janc's Report. For all these reasons, the Chamber is satisfied that there is no evidence that primary or secondary gravesites were enriched and therefore considers that all the bodies found in Srebrenica-related primary and secondary gravesites can be linked

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<sup>18453</sup> Defence Final Brief, confidential, para. 2559. See also Defence Final Brief, paras. 2557–2558, 2560–2561, 2565, 2571, 2589, 2636, 2638.

<sup>18454</sup> Defence Final Brief, para. 2636. See also Defence Final Brief, para. 2653.

<sup>18455</sup> P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court pp. 44–46. See Dušan Janc, T. 26982–26985 (27 March 2012).

<sup>18456</sup> Dušan Janc, T. 26984–26985 (27 March 2012); P4772 (Dušan Janc's report entitled "Update to the summary of Forensic Evidence - Exhumation of the Graves and Surface Remains Recoveries related to Srebrenica - January 2012", 13 January 2012), e-court p. 5. See also Prosecution Closing Argument, T. 47799 (30 September 2014).

to the corresponding Scheduled Killing Incidents. **(This is not entirely correct as well, since #Erdemovic was both, the insider-witness and perpetrator#, and he said that he was told about a previous burials. Also, the Defence would rather believe that Dusan Janc would do his job properly, had he been informed about the possible sources of these “surplus” bodies!)**

## 2. Legal findings on crimes

### a. Chapeau requirements for Articles 3 and 5 of the Statute

5600. In the Srebrenica component of the case, in addition to a count of genocide under Article 4 of the Statute, the Accused is charged with a count of violations of the laws or customs of war under Article 3 of the Statute, namely murder, as well as five counts of crimes against humanity under Article 5 of the Statute, namely persecution, murder, extermination, deportation, and forcible transfer as an inhumane act.<sup>18457</sup> The Prosecution alleges that there was a state of armed conflict at all times relevant to the Indictment.<sup>18458</sup> It further alleges that all acts and omissions charged as crimes against humanity, except those that formed part of the sniping and shelling campaign in Sarajevo, were part of a widespread or systematic attack directed against the Bosnian Muslim and Bosnian Croat civilian populations of BiH.<sup>18459</sup> **(#Absurdity# This assertion, as well as some other in the Judgment, indicating that the Serb Forces were attacking M-C civilians, we have to underline that this was possible only because of a complete lack of evidence on the conduct of the M-C Armed Forces, i.e. ABiH, as well as the Croatian Army and other groups. The strongest Defence position is that this never happened, except in some individual incidents out of the influence and control of the officials of VRS or the Republic of Srpska. A “widespread and systematic attacks against the Muslim and Croatian civilian population never happened, and there had never been any attack against any unarmed settlement. Now, we have every reason and right to depict the sequence and cours of all and every skirmish, the causes and consequences, which the Defence had been prevented to do. Could it be in any of the UN member states that the conduct and contribution of the other warring side to the chain of events is prevented to be presented? Is the institute of an “ultimate defence” of lives and a mere survival deleted from the legal practice? Why the other side’s conduct had been hiden and obscured, if the Serb side was easy to be accused and sentenced? #Many questions that would require a clear answers in any modern country are unanswered!#)**

## 15. *Article 3 of the Statute*

5600. The Chamber found that there was an armed conflict throughout the period relevant to the crimes alleged in the Indictment. At the time of the events charged in the Srebrenica component of the case, namely July 1995, the armed conflict was still ongoing; it officially ended with the signing of the Dayton Agreement on 14 December 1995.<sup>18460</sup>

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<sup>18457</sup> See para. 5.

<sup>18458</sup> Indictment, para. 89.

<sup>18459</sup> Indictment, para. 88.

<sup>18460</sup> See paras. 312, 437.



5601. For murder charged under Article 3 of the Statute, the Chamber has examined whether it was closely related to the armed conflict and made such findings where relevant in this Judgement.<sup>18461</sup>

5602. In relation to the four so called “*Tadić* Conditions”, the Chamber refers to the applicable law sections of this Judgement, which expanded on the legal basis for each of the crimes charged in the Indictment under Article 3 of the Statute.<sup>18462</sup> In relation to murder, the prohibition stems from Common Article 3 which is deemed to be part of customary international law.<sup>18463</sup> Further, the Appeals Chamber has confirmed that violations of the provisions of Common Article 3 entail individual criminal responsibility.<sup>18464</sup> The Chamber is therefore satisfied that the four *Tadić* Conditions are met, and consequently that the chapeau requirements for Article 3 of the Statute are fulfilled, in relation to murder.

#### 16. *Article 5 of the Statute*

5603. As found above, there was an armed conflict in BiH throughout the period of the Indictment. The Chamber also found that there existed a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH at all times relevant to the crimes charged in the Indictment. **(This is the assertion, i.e. deliberation that gives us right to depict all and every fight from the standpoint of a cause, as well as who initiated it. For this reason the Prosecution and Defence have to obtain every single regular combat report of all sides involved, including UN, ABiH, VRS, HV. Now it is very easy for the Chamber to draw this conclusion since the Defence had been prevented to show what caused and influenced and conditioned the conduct of the VRS. This can not be refused as a “tu quoque”, this is an unfair trial, unseen for a centuries!)** As reflected below, the Chamber is also satisfied that the crimes upon which the Chamber has entered findings formed part of that attack and that the perpetrators knew of the attack and that the crimes were part of it.<sup>18465</sup>

5604. As elaborated earlier in this Judgement, Bosnian Serb Forces attacked Srebrenica on 6 July 1995 and succeeded in taking it over by 11 July.<sup>18466</sup> **(Was this attack one of those the Chamber calls “systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH? In this case, they contest our right to prevent the Muslim attacks from Srebrenica and reduce the enclaves to their agreed boundaries, not to the urban core, as they treat it.)** Following the take-over of the enclave, between 11 and 13 July 1995, up to 30,000 Bosnian Muslim women and children, as well as some elderly men, were forcibly displaced from inside the Srebrenica enclave to Bosnian Muslim-held territory.<sup>18467</sup> The Chamber further found that at least 5,115 Bosnian Muslim males were killed by Bosnian Serb Forces in the weeks following the fall of Srebrenica on 11 July 1995.<sup>18468</sup> The Chamber is satisfied that the co-ordinated actions of the Bosnian Serb Forces in a short period of time in various locations in Srebrenica, Bratunac, and

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<sup>18461</sup> See para. 5611.

<sup>18462</sup> See Section III.A.1.a: General requirements for violations of the laws or customs of war.

<sup>18463</sup> *Čelebići* Appeal Judgement, para. 143.

<sup>18464</sup> *Čelebići* Appeal Judgement, paras. 167, 170, 173–174 (holding at para. 173: “It is universally acknowledged that the acts enumerated in common Article 3 are wrongful and shock the conscience of civilised people, and thus are, in the language of Article 15(2) of the ICCPR, ‘criminal according to the general principles of law recognised by civilised nations’.”).

<sup>18465</sup> See paras. 5612, 5620, 5642, 5652.

<sup>18466</sup> See paras. 5010–5033.

<sup>18467</sup> See para. 5623, 5641.

<sup>18468</sup> See para. 5516, fn. 18844.

Zvornik, as well as the sheer number of Bosnian Muslims killed and forcibly displaced establish both the systematic and widespread aspects of this part of the attack.

5605. The Chamber is therefore satisfied that the chapeau requirements for the crimes charged under Article 5 of the Statute are met.

b. Crimes

1. *Murder: Counts 5 and 6*

(A) Killing incidents

5607. The Chamber found in Section IV.C.1 above that at least 5,115 Bosnian Muslim males were killed by Bosnian Serb Forces in the weeks following the fall of Srebrenica on 11 July 1995.<sup>18469</sup> The Chamber also recalls that it did not have sufficient evidence to make a finding beyond reasonable doubt that the incident relating to the killing on 13 July 1995 of 150 Bosnian Muslim men in an area along a dirt road in the Cerska Valley took place, as alleged in the Indictment.<sup>18470</sup>

(B) Intent of perpetrators

5608. The Chamber also recalls its findings that the death of the victims for each of the incidents identified above was a result of the acts of Bosnian Serb Forces. **(It would be more accurate to say that a members of the BSF participated#. However, #there is no evidence that many of those killings had anything to do with the system of the armed forces#, but rather with some parts of those forces, which acted clandestinely and kept the secret for a long time.)** The Chamber finds that the perpetrators of each of these incidents acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death.

5609. In reaching that conclusion, the Chamber had regard to the circumstances and the manner in which the victims were killed. In all cases, the Chamber found that the victims were deliberately shot.<sup>18471</sup> The Chamber also found that many of the victims presented multiple gunshot injuries.<sup>18472</sup> Further, the Chamber found that, in many instances, the victims were taken to remote locations in a systematic and organised way, and then executed.<sup>18473</sup>

(C) Status of victims

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<sup>18469</sup> See para. 5519. See fn. 18844, referring to 15 Bosnian Muslim men killed at the Jadar River, 755 Bosnian Muslim men at the Kravica Warehouse, ten Bosnian Muslim men at the Sandići Meadow, 21 Bosnian Muslim men at the Luke School, 841 Bosnian Muslim men at Orahovac, 815 Bosnian Muslim men at Petkovci, 815 Bosnian Muslim men at Ročević School and Kozluk, 1,735 Bosnian Muslim men at Kula School, the Branjevo Military Farm, and the Pilica Cultural Centre, two Bosnian Muslim men at Snagovo, 39 Bosnian Muslim men at Bišina, six Bosnian Muslim men at Trnovo, ten Bosnian Muslim men at Potočari, and 51 Bosnian Muslim men at Bratunac Town. In relation to the killings at Trnovo, the Chamber recalls its finding that they were committed by members of the Scorpions. Trnovo, Scheduled Incident E.13.1.

<sup>18470</sup> Cerska Valley, Scheduled Incident E.2.1.

<sup>18471</sup> Jadar River, Scheduled Incident E.1.1; Kravica Warehouse, Scheduled Incident E.3.1; Sandići Meadow, Scheduled Incident E.4.1; Luke School, Scheduled Incident E.5.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Petkovci, Scheduled Incidents E.7.1, E.7.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2; Pilica Cultural Centre, Scheduled Incident E.10.1; Snagovo, Scheduled Incident E.11.1; Bišina, Scheduled Incident E.12.1; Trnovo, Scheduled Incident E.13.1; Potočari, Scheduled Incidents E.14.1, E.14.2; and Bratunac Town, Scheduled Incidents E.15.1, E.15.3.

<sup>18472</sup> Kravica Warehouse, Scheduled Incident E.3.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Petkovci, Scheduled Incidents E.7.1, E.7.2.

<sup>18473</sup> Orahovac, Scheduled Incidents E.6.1, E.6.2; Petkovci, Scheduled Incidents E.7.1, E.7.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2; Pilica Cultural Centre, Scheduled Incident E.10.1.

5610. The Chamber also finds that the victims of each of these incidents were civilians or had been rendered *hors de combat* at the time of their killing. Some of the victims were as young as eight or as old as 85.<sup>18474</sup> Some were killed after being captured by members of the Bosnian Serb Forces;<sup>18475</sup> some were killed while trying to escape from members of the Bosnian Serb Forces;<sup>18476</sup> and some were killed after being detained by members of the Bosnian Serb Forces.<sup>18477</sup>

#### (D) Conclusion

5611. The Chamber found that there was an armed conflict in BiH throughout the period relevant to the Indictment. As demonstrated by the Chamber's factual findings explained above, the Chamber finds that the killings referred to in this section were closely related to that armed conflict and thus constitute murder as a violation of the laws or customs of war.

5612. The Chamber also found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat populations of BiH. The Chamber finds that the killings referred to above were part of this widespread and systematic attack and the perpetrators of these killings knew of the attack and that their crimes were part of it. In reaching that conclusion, the Chamber considered the locations, time period, and the identity of the victims of these killings, which correspond with the scope of the widespread and systematic attack, as well as the magnitude of the attack on the Bosnian Muslim population of BiH, which had been ongoing for more than three years prior to the events charged in the Srebrenica component of the case. The Chamber therefore finds that these killings thus constitute murder as a crime against humanity.

#### 2. *Extermination: Count 4*

5613. Earlier in this Judgement, the Chamber recalled that there is no minimum threshold of victims for the purposes of extermination; it still has to be satisfied that the killings occurred on a mass scale and needs to conduct a case-by-case assessment in that regard.<sup>18478</sup>

5614. Further, as previously noted, extermination may be established based on the accumulation of separate incidents.<sup>18479</sup> However, it has been found 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".<sup>18480</sup>

5615. Based on its factual findings above, the Chamber notes that each of the killing incidents identified above was committed by Bosnian Serb Forces in the context of the events surrounding the fall of Srebrenica in July 1995. The overwhelming majority of the

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<sup>18474</sup> Kravica Warehouse, Scheduled Incident E.3.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2.

<sup>18475</sup> Sandići Meadow, Scheduled Incident E.4.1; Snagovo, Scheduled Incident E.11.1; Bišina, Scheduled Incident E.12.1; Trnovo, Scheduled Incident E.13.1; Potočari, Scheduled Incidents E.14.1, E.14.2; Bratunac Town, Scheduled Incidents E.15.1, E.15.3.

<sup>18476</sup> Kravica Warehouse, Scheduled Incident E.3.1; Luke School, Scheduled Incident E.5.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2.

<sup>18477</sup> Jadar River, Scheduled Incident E.1.1; Kravica Warehouse, Scheduled Incident E.3.1; Luke School, Scheduled Incident E.5.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Petkovci, Scheduled Incidents E.7.1, E.7.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2; Pilica Cultural Centre, Scheduled Incident E.10.1; Bratunac Town, Scheduled Incidents E.15.1, E.15.3.

<sup>18478</sup> See paras. 483, 2457.

<sup>18479</sup> See paras. 484, 2458.

<sup>18480</sup> See paras. 484, 2458.

killings were committed within a few days in Potočari, and in the Bratunac and Zvornik areas. Further, the manner and circumstances in which the killings occurred—including the same violence with which they were committed and the identity of the perpetrators as members of the Bosnian Serb Forces—demonstrate that they formed part of the same widespread and systematic attack against the Bosnian Muslims in Srebrenica. The Chamber also found that all the victims were Bosnian Muslims from Srebrenica.<sup>18481</sup>

5616. With regard to the killings which took place in other locations in the days following 17 July, the Chamber found that, while the killings at Snagovo and Bišina took place a number of days after the rest of the killing incidents, they were nevertheless connected to the Srebrenica operation, as they were also committed against Bosnian Muslim males from Srebrenica captured following the take-over of the enclave.<sup>18482</sup> In relation to the killings at Trnovo, the Chamber notes that it was unable to precisely determine the date when they took place. The Chamber also notes the geographic distance between Trnovo and Srebrenica. Nevertheless, the Chamber recalls that the killings were committed by members of the Scorpions unit which had been deployed as part of the joint VRS and MUP forces operating on the Sarajevo front, and which was involved in transporting multiple groups of Bosnian Muslim males who had been detained in Srebrenica after the take-over, including the six men who were ultimately killed.<sup>18483</sup> Consequently, the Chamber finds that the killings at Trnovo were also connected to the Srebrenica operation.

5617. The Chamber finds that at least 5,115 Bosnian Muslims were killed in Srebrenica between 12 July and early August 1995 and that this satisfies the mass scale element of the killings for the purposes of extermination.

5618. The Chamber also notes that a number of the killing incidents referred to above independently reach the level of massiveness required for the purpose of extermination as a crime against humanity. This is the case for instance with respect to the following killing incidents: (i) Kravica Warehouse; (ii) Orahovac School and Field near Orahovac; (iii) Petkovci School and Dam near Petkovci; (iv) Ročević School and Drina River near Kozluk; and (v) Kula School, Branjevo Military Farm, and Pilica Cultural Centre.

5619. The Chamber found above that the perpetrators of each of the killing incidents above acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death. Having regard to the scale of the killings and the organised manner in which they occurred, the Chamber further finds that with respect to the killing incidents in the previous paragraphs, there was the intention to kill on a mass scale.

5620. The Chamber also found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat populations of BiH. The Chamber finds that the killings referred to above were part of this widespread and systematic attack and the perpetrators of these killings knew of the attack and that their crimes were part of it. In reaching that conclusion, the Chamber considered the locations, time period, and the identity of the victims of these killings, which correspond with the scope of the widespread and systematic attack, as well as the magnitude of the attack on the Bosnian Muslim

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<sup>18481</sup> Jadar River, Scheduled Incident E.1.1.1; Kravica Warehouse, Scheduled Incident E.3.1; Sandići Meadow, Scheduled Incident E.4.1; Luke School, Scheduled Incident E.5.1; Orahovac, Scheduled Incidents E.6.1, E.6.2; Petkovci, Scheduled Incidents E.7.1, E.7.2; Ročević, Scheduled Incidents E.8.1, E.8.2; Kula and Branjevo Military Farm, Scheduled Incidents E.9.1, E.9.2; Pilica Cultural Centre, Scheduled Incident E.10.1; Snagovo, Scheduled Incident E.11.1; Bišina, Scheduled Incident E.12.1; Trnovo, Scheduled Incident E.13.1; Potočari, Scheduled Incidents E.14.1, E.14.2; and Bratunac Town, Scheduled Incidents E.15.1, E.15.3.

<sup>18482</sup> Snagovo, Scheduled Incident E.11.1; Bišina, Scheduled Incident E.12.1; Trnovo, Scheduled Incident E.13.1.

<sup>18483</sup> Trnovo, Scheduled Incident E.13.1.

population of BiH, which had been ongoing for more than three years prior to the events charged in the Srebrenica component of the case. The Chamber therefore finds that these killings constitute extermination as a crime against humanity.

5621. The Chamber will deal with the issue of cumulative convictions later in this Judgement and, if relevant, the impermissibility of entering convictions for both extermination and murder under Article 5 of the Statute where the elements of both crimes have been established.<sup>18484</sup>

3. *Inhumane acts (forcible transfer): Count 8*<sup>18485</sup>

5622. The Prosecution contends that acts of forcible transfer were carried out by Bosnian Serb Forces as part of the objective to eliminate the Bosnian Muslims in Srebrenica.<sup>18486</sup> The Accused concedes that a large number of Bosnian Muslims from Srebrenica were transported from Potočari to Bosnian Muslim-held territory, but contends that this event did not constitute the crime of forcible transfer.<sup>18487</sup> The Chamber will address his arguments below where relevant.

(A) *Actus reus*

1. Movement of population

5623. The Chamber recalls its findings in Section IV.C.1 of this Judgement that between 11 and 13 July, up to 30,000 Bosnian Muslim women and children, as well as some elderly men, from Srebrenica, were displaced from inside the Srebrenica enclave to Bosnian Muslim-held territory.<sup>18488</sup> The Chamber therefore finds that, having been lawfully present in Srebrenica, these Bosnian Muslim women and children, as well as some elderly men, were displaced within the national boundaries of BiH.

2. Forcible nature of movement

5624. The Chamber has found that Directive 7, which was issued on 8 March 1995, ordered the Drina Corps to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa”.<sup>18489</sup> Between that date and the eventual commencement of the attack on the enclave on 6 July 1995, the inhabitants of Srebrenica suffered months of deprivation of basic necessities which resulted from the restrictions placed on humanitarian aid convoys by the Bosnian Serb Political Organs and the Bosnian Serb Forces.<sup>18490</sup> Similar restrictions were placed on DutchBat re-supply convoys, leading to the eventual negation of DutchBat’s operational readiness to defend the enclave.<sup>18491</sup>

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<sup>18484</sup> See para. 6020.

<sup>18485</sup> Although paragraph 74 of the Indictment alleges that this plan extended to deporting the Bosnian Muslim population of Srebrenica, the Prosecution clarified during closing arguments that it does not seek a finding that the Accused is responsible for deportation, under Count 7, in relation to Srebrenica. Prosecution Closing Argument, T. 48034 (7 October 2014).

<sup>18486</sup> Indictment, paras. 20, 74–75. Alternatively, it is alleged that these acts of forcible transfer formed part of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. Indictment, para. 75.

<sup>18487</sup> Defence Final Brief, para. 2401.

<sup>18488</sup> See paras. 5029–5030, 5101, 5108.

<sup>18489</sup> See paras. 4979–4080.

<sup>18490</sup> See paras. 4985, 4989–4992.

<sup>18491</sup> See paras. 4988–4950.



5625. Beginning in the early morning of 6 July 1995, Bosnian Serb Forces opened fire on the enclave; the town came under heavy shell fire which lasted until it fell to Bosnian Serb Forces on 11 July.<sup>18492</sup> Shells fell throughout the town and enclave in a scattered manner, and many civilians were wounded or killed.<sup>18493</sup> As the southern perimeter of the enclave began to collapse and the Bosnian Serb Forces advanced towards Srebrenica town, thousands of refugees streamed towards the centre of the enclave and gathered near the Bravo Company compound and the hospital.<sup>18494</sup> Bosnian Serb Forces burned Bosnian Muslim houses as they approached Srebrenica town.<sup>18495</sup> Panic and fear increased as more refugees arrived from the outskirts of town, reporting that the Bosnian Serb Forces were burning their villages, and the representatives of international organisations began to depart for Potočari.<sup>18496</sup> Upon arriving in Srebrenica town, Bosnian Serb soldiers called on the few people who remained in their houses to leave.<sup>18497</sup> Desperate to reach safety, the Bosnian Muslims who were gathered outside the Bravo Company compound ultimately broke through the compound's defences.<sup>18498</sup> When the Bosnian Serb Forces shelled the Bravo Company compound, DutchBat soldiers and panicked Bosnian Muslim civilians began to move towards Potočari, and the Bosnian Serb Forces shot and shelled at the column as it moved towards the UNPROFOR main base.<sup>18499</sup> By the evening of 11 July, the DutchBat compound in Potočari was overcrowded with thousands of fearful Bosnian Muslims who had fled Srebrenica town.<sup>18500</sup>

5626. There was constant shelling throughout the night of 11 July and into the following morning.<sup>18501</sup> As Bosnian Serb soldiers approaching in attack formation came into view, the Bosnian Muslim population in Potočari grew even more fearful.<sup>18502</sup> At the same time, there was insufficient water, food, and medicine, and for this reason—in addition to the lack of hygienic facilities available in Potočari—the humanitarian situation was catastrophic.<sup>18503</sup> **(But, it was the fact that once General Mladic arrived and was informed about the needs of population, #ordered and delivered water bread and other needs!)** During the night between 12 and 13 July, the Bosnian Muslims, gathered in Potočari, could hear the sound of gunfire in the vicinity of the UN compound; some observed members of the Bosnian Serb Forces beating and sexually assaulting other Bosnian Muslims, while other Bosnian Muslims were taken away by members of the Bosnian Serb Forces and did not return.<sup>18504</sup> As the vehicles on which the Bosnian Muslims would be transported arrived on the morning of 12 July, DutchBat soldiers stationed near the bus premises were disarmed by members of the Bosnian Serb Forces at gunpoint.<sup>18505</sup> Many Bosnian Serb soldiers stood near the buses and trucks aligned along

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<sup>18492</sup> See paras. 5010–5012, 5014, 5021–5022, 5027–5028.

<sup>18493</sup> See paras. 5010–5011, 5022, 5028.

<sup>18494</sup> See paras. 5013, 5022, 5028.

<sup>18495</sup> See para. 5027.

<sup>18496</sup> See paras. 5014, 5022. As the Bosnian Serb Forces attempted to enter the town on 10 July, some civilians began to move towards Potočari, but were stopped by members of the Muslim Forces of Srebrenica, who asked them to return to town. See para. 5024.

<sup>18497</sup> See para. 5032.

<sup>18498</sup> See para. 5028.

<sup>18499</sup> See paras. 5029–5030. The town hospital was also shelled on 10 July; it was hit twice by 155 mm artillery shells. See para. 5022.

<sup>18500</sup> See para. 5073.

<sup>18501</sup> See paras. 5073–5074.

<sup>18502</sup> See paras. 5075, 5079.

<sup>18503</sup> See para. 5076. The Chamber recalls some women gave birth in the open, while conditions were so dire that other people died or committed suicide. See para. 5076.

<sup>18504</sup> See para. 5077.

<sup>18505</sup> See para. 5080. That morning, members of the Bosnian Serb Forces also conducted “check-ups” for Bosnian Muslims of military age and cursed Bosnian Muslims. See para. 5079.

the road outside the UN compound; some were visibly drunk and were accompanied by German Shepherd dogs.<sup>18506</sup>

5627. Bosnian Serb Forces supervised the boarding process.<sup>18507</sup> Bosnian Muslims were led towards, and began to board, the buses, which were guarded by Bosnian Serb soldiers with guns.<sup>18508</sup> Bosnian Serb soldiers threatened those who tried to withdraw towards the back of the group and physically forced them to board the vehicles.<sup>18509</sup> By 8 p.m. on the evening of 13 July, up to 30,000 Bosnian Muslims had been transported from Potočari to ABiH-held territory.<sup>18510</sup>

5628. The Chamber notes that in relation to the issue of whether the movement of the population was voluntary, the Accused contends that the departure of Bosnian Muslims from Potočari reflected a genuine choice on the part of the population, and that this choice was communicated to the Bosnian Serb Forces by UNPROFOR, with whom the suggestion to transport the population from Potočari originated.<sup>18511</sup>

5629. As mentioned in Section Section IV.C.1 above, the Chamber received evidence indicating that the municipal authorities in Srebrenica attempted to contact the BiH authorities in Sarajevo multiple times throughout the day on 9 July 1995.<sup>18512</sup> One of these communications included a request that Izetbegović and Delić arrange a meeting with the Bosnian Serbs to explore the possibility of opening a corridor in order to allow the population to the nearest Bosnian Muslim-held territory.<sup>18513</sup> The Accused contends that this request should be regarded as demonstrative of the wish of the population to leave the enclave.<sup>18514</sup> However, these communications occurred on the day that the UNMOs departed the PTT building for Potočari, as the southern perimeter of the enclave began to collapse, and as the population began to panic.<sup>18515</sup> The Chamber therefore does not consider that such a request to the BiH authorities was the product of genuine choice.<sup>18516</sup>

**(But what else? They hadn't been happy, but the population genuinely wanted to cross to the Muslim held territory, because the Muslim units left Srebrenica, at disposal to the Serb army. The #Chamber is mixing up a genuine need to escape, a possible problems once the Muslim army withdrew with a worry wishes of population to leave to Tuzla#. Of course, it was because of their fear, but certainly nobody forced them what to chose: stay in Srebrenica, or leave to Tuzla, as both would be a crime! Here is the Muslim document P3981 from 12 July 1995, disclosing an order from Sarajevo for evacuation of civilians:**

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<sup>18506</sup> See para. 5093.

<sup>18507</sup> See para. 5099.

<sup>18508</sup> See paras. 5094–5095.

<sup>18509</sup> See para. 5095. A Bosnian Serb soldier caught a woman by her hair and pushed and kicked her; she had tried to run after her brother, who had been separated and sent towards the White House. See para. 5095.

<sup>18510</sup> See paras. 5107–5108.

<sup>18511</sup> Defence Final Brief, paras. 2414, 2443. *But see* Prosecution Closing Argument, T. 47812 (30 September 2014).

<sup>18512</sup> See para. 5015, fn. 16945.

<sup>18513</sup> P4150 (Srebrenica Presidency's message to President of BiH and Commander of ABiH, 9 July 1995).

<sup>18514</sup> Defence Final Brief, paras. 2402, 2407.

<sup>18515</sup> See paras. 5014–5015. See also D2235 (Report of Presidency of Srebrenica Municipality, 9 July 1995) (reporting intense panic and fear); D2236 (Report of Presidency of Srebrenica Municipality, 9 July 1995) (reporting that the population had no food reserves and that during the last 3 days 4,000 people had left their homes); P4150 (Srebrenica Presidency's message to President of BiH and Commander of ABiH, 9 July 1995) (reporting that "chaos and panic prevail").

<sup>18516</sup> See also P4140 (Witness statement of Joseph Kingori dated 8 January 2012), paras. 107–108 (commenting that P4150 was written out of desperation once the UNMOs disclosed their intent to depart to Potočari and that the population "had to look for a safe way out, not necessarily because of their own will to leave the enclave but because they were forced by circumstances [...] they were left with no option but to try to escape").

Acting on your instructions, significant organisational preparations were undertaken at the 2K /2<sup>nd</sup> Corps/ Command for the contingency of accepting civilians from the š/m /general sector/ of Srebrenica. All relevant bodies in the Tuzla-Podrinje Canton were informed and given specific tasks.

We have information - probably reliable - that large columns of civilians are heading towards Tuzla and we have intelligence that the aggressor ordered 50 buses at 1700 hours today for the stadium in Bratunac.

**Let us see the rest of this document, showing that even the Dutch Minister of Defence was involved:**

At 0800 hours this morning, the commander of UNPROFOR for the NE, Colonel BRANTZ paid us a visit, the subject was the current situation in Srebrenica. BRANTZ briefed us that forces of the Dutch Battalion and AR BH /Army of Bosnia and Herzegovina/ succeeded in a joint effort to defend Srebrenica on Monday and NATO air support was approved at 0445 hours yesterday.

**A “joint effort” to defend Srebrenica, meant a joint combat activities, a combat alliance! The UN placed themselves on one side! Their job was to demilitarise Srebrenica, and that would be a real defence! Further:**

an attack on Potočari. At 2300 hours last night we had 15 – 20,000 refugees sitting in the zone of combat activities with 300 combatants of the AR BH in the camp at Potočari.

**Therefore, the Serb army didn’t “separate men from women and children”, but separated these combatants from the civilians, which was a perfectly legal action! Further:**

Later at 2300 hours there was a new meeting at which MLADIC only listened to the commander of the Dutch Battalion for 10 minutes and issued a new ultimatum, the deadline for which expires at 1000 hours today, followed by the next one: all combatants of the AR BH in possession of weapons are to surrender them at the PAPA (observation post), they are to then be collected by the commander of the Dutch Battalion and there will be no more attacks from the air.

**So, General Mladic didn’t even demanded that the ABiH surrender its armament to the Serbs, but to the UN, which must had been done in May 1993! Further:**

Colonel BRANTZ informed his minister in The Hague of this at 0100 hours last night and talked with him for an hour, apprising him of the entire situation and seeking assistance for UNPROFOR, the Dutch soldiers and refugees. BRANTZ emphasised

5630. The Accused also contends that at the first two meetings at the Hotel Fontana, “it was made clear to the Bosnian Serbs that both the UN and the civilian population wanted the people of Srebrenica to be transported from the enclave”, and that Mladić made it clear that the population could stay if they wished to do so.<sup>18517</sup> The Prosecution submits that Mladić’s statements should be viewed in the context of “his menace and his threats”.<sup>18518</sup> Indeed, the Chamber has found that Mladić dictated the terms of the first Hotel Fontana meeting, the first ten minutes of which were extremely tense as Mladić berated Karremans for, *inter alia*, having fired at Bosnian Serb Forces that day.<sup>18519</sup> **(So what? It was the fact that Karremans didn’t fulfil his obligation to keep Srebrenica demilitarised, and in addition to that, his troops fired against the Serb soldiers. But, the initial anger was not the final position.)** Throughout the meeting, Mladić alternated his invitations to Karremans to make suggestions regarding the situation with veiled threats; for example, with regard to the DutchBat members being held at the hotel, he stated that they would not

<sup>18517</sup> Defence Final Brief, para. 2422. See also Defence Final Brief, paras. 2409–2414, 2420–2421, 2426–2427 (citing P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 210–213, 216–218, 220–221, 230, 235, 237–238, 254). The Accused further contends that at the Third Hotel Fontana Meeting, Mladić communicated that anyone who wished to do so would be allowed to remain in Srebrenica. Defence Final Brief, para. 2426 (quoting P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 248–249).

<sup>18518</sup> Prosecution Closing Argument, T. 47812 (30 September 2014).

<sup>18519</sup> See para. 5041.

be hosted for long if NATO kept bombing, since “we know how to bomb too”.<sup>18520</sup> A few minutes later, Mladić told Karremans: “You can either all leave, all stay, or all die here.”<sup>18521</sup> At the second Hotel Fontana meeting, Mladić demanded that Mandžić provide him with “a clear position on the representatives of your people on whether you want to survive [...] stay or vanish”.<sup>18522</sup> He advised Mandžić that “the future of your people is in your hands, not only in this territory”.<sup>18523</sup> When regard is had to such statements, the Chamber finds that Mladić’s questioning of Karremans and Mandžić did not solicit answers grounded in genuine choice.<sup>18524</sup> **(What does have President Karadzic to do with the military manner of communication?)**

5631. As described in Section IV.C.1 above, at a meeting held in Potočari on 17 July, Mandžić and Franken were asked to sign a statement declaring, *inter alia*, that each individual had been allowed to choose whether to stay in the enclave or leave, and that “we decided that the entire population move out of the enclave and be evacuated to the territory of Kladanj municipality”.<sup>18525</sup> **(Since there were #rumors about a mass killings of many thousands of civilians in Srebrenica, the Commisioner for Civilian matters Mr. Deronjic had been questioned by the President about what the media were talking about, and ordered to Deronjic to have the Muslim representative and the UN officer to confirm Deronjic’s assertions that all of it was a lie#. There was no Mladic around, and neither Franken nor Mandzic were afraid of Deronjic. Franken added that these transports escorted by the UN could be confirmed to pass regularly!#)** Franken testified that these portions of the 17 July 1995 Statement were “nonsense”, and that he had only signed it in order to ensure that the evacuation of DutchBat and the wounded proceeded smoothly.<sup>18526</sup> Franken also explained that he had added a proviso to one of the statements in an effort to neutralise the false language in the 17 July 1995 Statement.<sup>18527</sup> In light of Franken’s testimony as well as the prevailing circumstances in Potočari described in more detail above, the Chamber does not consider the 17 July 1995 Statement to be demonstrative of the population’s genuine choice to leave the enclave. **(But, that was not a primary, or secondary, or any purpose of this statement. This was only about the allegations about killing the civilians in Srebrenica, which really didn’t happen. #All the allegations were about the “killings of civilians in Srebrenica”, which didn’t happen, none of them ever mentioned a killing of the prisoners of war 80 km far from Srebrenica#, and that was why this allegations hednt been checked! Many Dutch**

<sup>18520</sup> See para. 5042. When Karremans quipped: “Don’t shoot the piano player,” Mladić responded: “You’re one lousy piano player”. P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 217; P4201 (Updated Srebrenica Trial video), 00:55:09–00:55:26.

<sup>18521</sup> P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 221; P4201 (Updated Srebrenica Trial video), 01:01:45–01:01:55. The Chamber further observes that Karremans’ statements explicitly reflected the dependent situation in which he found himself, as he couched his first request to be allowed to leave the enclave in the admission that “it’s a request because I’m not in a position to demand anything”. P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 210; P4201 (Updated Srebrenica Trial video), 00:43:39–00:43:52. See also P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 216; P4201 (Updated Srebrenica Trial video), 00:53:30–00:53:40 (requesting the “release” of the population). Over the course of the meeting, Karremans explained the desperate situation of his battalion, including its lack of fuel and food, as well as its inability to provide for the population gathered in Potočari. P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 211, 213; P4201 (Updated Srebrenica Trial video), 00:46:08–00:46:45, 00:49:39–00:49:46.

<sup>18522</sup> P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 241; P4201 (Updated Srebrenica Trial video), 01:35:00–01:35:10. See also Albert Rave, T. 22236 (30 November 2011) (testifying that Mladić’s tone implied a threat).

<sup>18523</sup> P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 241; P4201 (Updated Srebrenica Trial video), 01:36:40–01:37:00.

<sup>18524</sup> Indeed, the Chamber recalls that Akashi’s entire communication to Annan was predicated at the outset on the assessment that “the situation on the ground” at the time “necessitate[d] that [UN] actions in Srebrenica in the coming days be conducted with the consent of the Bosnian Serbs”. D1039 (UNPROFOR report, 11 July 1995), p. 1. See also P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 105 (stating that the population did not have a realistic opportunity to stay); P5206 (UNPROFOR report, 12 July 1995), e-court p. 1 (reporting that Mladić had insisted that the movement of people from Potočari begin immediately).

<sup>18525</sup> P4185 (Declaration by the Civilian Affairs Committee for Srebrenica re: proper implementation of evacuation procedures , 17 July 1995) (emphasis added), cited in para. 5128.

<sup>18526</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), paras. 106–107.

<sup>18527</sup> P4175 (Witness statement of Robert Franken dated 15 January 2012), para. 106, cited in fn. 17384.

**#officers didn't hear about any killings around Zvornik before they arrived to the Netherlands#. Distorting the genuine purpose of this statement is not correct, and depicts the Defence in a wrong light!** Moreover, the Chamber recalls that an agreement concluded by military commanders or representatives of the parties to a conflict cannot render displacement lawful *per se*; commanders and representatives cannot consent on an individual's behalf.<sup>18528</sup>

5632. The Accused also points to evidence on the record which demonstrates that Akashi sent a code cable to Annan at 9:34 p.m. on 11 July, conveying the report of a UNHCR local staff member that day that “virtually everyone in the enclave want[ed] to leave”.<sup>18529</sup> However, by the time the cable was sent, tens of thousands of Bosnian Muslims had fled the relentless shelling of Srebrenica town during the Bosnian Serb attack, and had dodged the shooting and shelling of the civilian column as it proceeded north to Potočari. **(That is also deeply incorrect: the #civilian population left before the Serbs entered the town#, and there was no casualties caused by shellings. The column had never been shelled, but only a surroundings, preventively, keeping the civilians on the road and preventing them to spread out the forests. It was confirmed in some testimonies that the VRS had T84 tanks, a very precise weapon, they could have hit whatever they aimed, but there was no casualties in the column. Why? The Serb soldiers didn't want to kill the civilians!)** They arrived there only to discover that DutchBat and the other international organisations present, having been under-supplied for months, were woefully unable to accommodate such a number of people. The Chamber finds that these circumstances, which resulted from the actions of Bosnian Serb Forces, were coercive.

5633. The Chamber therefore considers, on the basis of the evidence described above, that the circumstances arising from the imposition of restrictions of humanitarian aid pursuant to Directive 7, the attack on Srebrenica, as well as the atmosphere in Potočari, all of which resulted from the acts of Bosnian Serb Forces, created a coercive environment in which the Bosnian Muslims had no other viable alternative but to leave the enclave in order to stay alive.<sup>18530</sup> Accordingly, the Chamber finds that the removal of the Bosnian Muslim women, children, and some elderly men from the Srebrenica enclave was forced. **(This is all fake. #Ch. Schmitz testified opposite, the documents showed that the humanitarian aid had been conveyed to the Muslim Army#, the UN units had been supplying the Muslim army with ammunition, which the UN unit didn't use for any purpose, but was short of it, they were giving the fuel, food and other needs, so maintaining the Oric' units capable to attack the Serb villages for two years of the regime of safe zone! Unacceptable and the UN is responsible for that!)**

5634. The Chamber further considers that because the catastrophic humanitarian situation in Potočari resulted from the actions of Bosnian Serb Forces, the humanitarian crisis that existed in Potočari does not justify the forcible nature of such displacement. The Chamber also observes that, particularly since military operations had ceased by the time the

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<sup>18528</sup> See para. 490.

<sup>18529</sup> D1039 (UNPROFOR report, 11 July 1995), p. 2; P5203 (UNPROFOR report, 11 July 1995; Letter from John Ryan to Yasushi Akashi, 11 July 1995), p. 2. The Chamber further notes that Akashi testified that he met with UNHCR on 11 July and that he formed the impression that the Bosnian Serb government wished to permit those who wished to stay to do so, while UNHCR advocated that those who wished to leave should be allowed to do so. Yasushi Akashi, T. 37743 (25 April 2013). The Chamber observes that these impressions were not formed firsthand through personal contact with any member of the Bosnian Serb government and thus does not consider Akashi's testimony to be probative of any intent that could be attributable to the Accused.

<sup>18530</sup> The Accused argues that it is improper to consider the coercive effect on the population of earlier events, such as convoy restrictions and the shelling of civilians, as evidence of the intent of the Bosnian Serb Forces because the transportation of the population did not take place until after the population and UNPROFOR had specifically requested it. Defence Final Brief, para. 2437. However, the forcible nature of the movement of a population can be established by reference to coercive circumstances; the Chamber has considered the deliberate imposition of restrictions on humanitarian aid together with all the other evidence in establishing the coercive nature of the environment as described above.



Bosnian Serb Forces entered Srebrenica town on 11 July, there was no need to remove the population for security reasons. Accordingly, the Chamber finds that the forced nature of the removal of Bosnian Muslims from Potočari was not justified under international law. **(The Chamber is mixing up a two simple moments: the #Serbs didn't decide to "remove" the civilians#. That was their own decision, not wilful, but their, and supported by the United Nations, the Dutch Ministry of Defence and the local Muslim authorities. There was no more combat activities, but there was a horrifying 45 months long history of conflict, and it was quite understandable that many of these who perpetrated crimes against thje Serbs didn't dare to wait the Serb refugees to return to their homes. So, the Muslim population was forced to leave, but not by the "Serb Forces", but by the circumstances, and by their fear from revenges for what some of them had done to the Serb civilians in 45 months long period!)**

(B) *Mens rea*

5635. As mentioned in Section IV.C.1 above, with the issuance of Directive 7 on 8 March 1995, the Drina Corps was ordered to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa”.<sup>18531</sup> Bosnian Serb Forces implemented Directive 7 by further restricting humanitarian aid and re-supply convoys over the following months.<sup>18532</sup> **(Not correct, because the rate of Humanitarian aid didn't decrease, and there is quite sufficient evidence in the file!)**

5636. On 10 July, the Bosnian Serb Forces issued an ultimatum to DutchBat, stating, *inter alia*, that DutchBat would be permitted to leave the enclave with the civilian population if they left their equipment and weapons behind.<sup>18533</sup> The Bosnian Serb ultimatum further proposed that only representatives of international organisations should be allowed into the UN Compound, and that the Bosnian Muslim population should remain outside.<sup>18534</sup> Moreover, members of the Bosnian Serb Forces in fact took action to mobilise buses even prior to the commencement of the third meeting at the Hotel Fontana.<sup>18535</sup> **(All of this is so #arbitrary#: Mladic didn't issue any such ultimatum, because ultimatums had to be obeyed, or are not ultimatums, and therefore are followed with an attack. There was many cases, particularly in Zepa, that the Muslim Forces (certainly they existed, although it can not be seen from the Indictment and Judgment) used to detain the UNPROFOR soldiers and to take their weaponry. If the UN soldiers were to leave Srebrenica with their weapon, giving it to the Muslim Forces outside of Srebrenica, the Serb side would sustain a huge damage. Second, what all of these technicalities have to do with the President. Concerning the busses: at two prior meetings there was a Muslim civilian representatives and the UN officials – strong demand to be able to leave, and what happened was to secure the busses, to find out where from the busses could be obtained. This mistake in translation had been pointed out by the Defence!)** The Chamber therefore does not accept either the Accused's assertion that the VRS only took action to mobilise buses after the conclusion of the Hotel Fontana meetings or his suggestion that such a fact—even if established—would demonstrate that the Bosnian Serb Forces had no intention of forcing the population to

<sup>18531</sup> See para. 5624.

<sup>18532</sup> See paras. 4989–4992. The Chamber also notes that humanitarian aid had already diminished even prior to the issuance of Directive 7. See paras. 4986–4987.

<sup>18533</sup> See paras. 5023, 5026. This ultimatum was conveyed to the Bosnian Muslim military and civilian authorities on the night of 10 July 1995. See para. 5026.

<sup>18534</sup> See fn. 16997.

<sup>18535</sup> See paras. 5082–5086.

leave before that point.<sup>18536</sup> **(This “not-acceptance” is wrong as the entire presentation of the Srebrenica events. General Mladic was the last one who accepted the demands for evacuation of population, required by the UN, the Dutch Minister for Defence, the local Muslim leadership, and people themselves!)**

5637. The Chamber notes that in an intercepted conversation at 12:50 p.m., Mladić was heard telling an unidentified male person: “They’ve all capitulated and surrendered and we’ll evacuate them all—those who want to and those who don’t want to.”<sup>18537</sup> **(What day was that? 12 July after noon? By this time Mladic knew that all will be evacuated, and may be bragging a bit. Also, it would help if we have an audio record. But, it was not crucial, not important at all, since neither it was an order directed to any subordinate, nor it had any effect, except as many other braggings and exaggerations in a military discourse.)** The Accused asserts that as transcribed, this intercept “stands alone as an outlier” and suggests that the word “accommodate” was omitted during transcription such that Mladić’s statement should read, “we’ll evacuate them all—those who want to and [accommodate] those who don’t want to”.<sup>18538</sup> The Chamber observes that no evidence on the record supports the Accused’s assertion that a word was omitted. The Chamber also notes that it received the testimony of the intercept operator who transcribed this conversation, who testified that a series of dots were used to denote any passages where the speakers were not well heard.<sup>18539</sup> The Chamber observes that no dots were inserted between the words “and” and “those” in the original transcription. The Chamber is therefore satisfied that the original transcription of the conversation accurately reflected Mladić’s statement. **(Anyway, it was “post festum” after the accord on evacuation was reached. But, for the sake of truth, it should have been mentioned that the “intercept operator” was a Muslim, as a center for these operations was an ABiH center, and since they didn’t obtain the audio record, they could have “adjust” the Mladic words as they wanted, as probably did with the Deronjic words of 13 July at 8:10 p.m. A serious chamber should not take it seriously!)**

5638. Moreover, the Chamber considers that the statement is not an “outlier” when viewed in the overall context of the numerous intimidating statements that Mladić made to Karremans, DutchBat members, and the representative of the Bosnian Muslim population during the first two meetings at the Hotel Fontana, some of which have been highlighted above.<sup>18540</sup> Additionally, at the third Hotel Fontana meeting, which was held on the morning of 12 July, Mladić opened the meeting by telling the representatives of the Bosnian Muslim population in Potočari,

I want to help you, but I want absolute co-operation from the civilian population because your army has been defeated. There is no need for your people to get killed [...]. All you have to do is say what you want. As I told this gentleman [Mandžić] last night, you can either survive or disappear.<sup>18541</sup>

In support of his challenge to the Prosecution’s contention that the Bosnian Serb Forces intended to force the population to leave, the Accused points to a conversation intercepted at 12:40 p.m., approximately 1.5 hours after the end of the third Hotel Fontana meeting and

<sup>18536</sup> Defence Final Brief, paras. 2422–2423.

<sup>18537</sup> P6694 (Intercept of conversation between Ratko Mladić and unknown, 12 July 1995).

<sup>18538</sup> Defence Final Brief, paras. 2430–2431.

<sup>18539</sup> KDZ357, P4628 (Transcript from *Prosecutor v. Tolimir*), T. 2077–2078.

<sup>18540</sup> See para. 5630.

<sup>18541</sup> P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 248.

just as the bussing operation in Potočari got underway,<sup>18542</sup> in which one speaker communicated to Main Staff headquarters that “I talked with them and we’ll accept all of the civilians who want to and they can stay”.<sup>18543</sup> The Accused claims that the speakers were a superior and a subordinate, that one speaker’s reference to having spoken with “them” should be construed as having spoken to the civilian population, and that on the basis of that construction, along with the fact that the speaker on the ground called the Main Staff, the Chamber should infer that the interlocutor on the ground was Mladić.<sup>18544</sup> Even if the Chamber were to accept these premises, in light of the evidence of Mladić’s other contemporaneous statements described above,<sup>18545</sup> the Chamber would not consider such a statement demonstrative of Mladić’s true intent. **(Even if so, which can not be so, what all of it has to do with the President, who was completely distant from any operational activity? A bragging and a rude vocabulary of military personnel should be taken as that, while there should be followed deeds, rather than some accessory words that didn’t belong to any order! It is documented that President Karadzic tried to forbid the military officers to give statements and communicate with media, because his activity of their had been detrimental to the image of the Republic of Srpska. The documents on this issue are in the file!)**

5639. Asserting that the Bosnian Muslim population would have been allowed to stay in Srebrenica had they “sheltered in place in their homes”, the Accused contends that the fact that requests were conveyed to the Bosnian Serb Forces to transfer the population precludes the Chamber from concluding that the only reasonable inference is that the Bosnian Serb Forces intended to forcibly transfer the population.<sup>18546</sup> The Chamber notes, firstly, that it has already found that, on the contrary, Bosnian Muslims fled from Srebrenica town to Potočari as a result of the Bosnian Serb attack.<sup>18547</sup> **(That is correct, but they escaped, hadn’t been chasen. That was feature whenever the confrontation lines were broken. If the Muslim authorities didn’t want this to happen, they shouldn’t attack the Serbs constantly. A presence of civilians in a combat zone was their responsibility, not the Serb. Otherwise, they took their civilians as hostages and human shield, but the VRS didn’t have any obligation in terms to cease advancement. It was not a “result of the Bosnian Serb attack”, because the Serbs didn’t attack the civilians!)** Second, the Chamber recalls that, as mentioned above, the boarding process, which was coercive, was carried out under the direct supervision of the Bosnian Serb Forces.<sup>18548</sup> Members of the Bosnian Serb Forces physically forced some of the individuals gathered in Potočari to board the buses.<sup>18549</sup> **(Simply, this is a lie! There was a big problem to make an order, because everyone wanted to board on, not vice versa. No an objective witness, nor a video footage depicted a single case that is asserted here!)** Additionally, on 13 July, Radislav Janković ordered a member of the Bratunac Brigade MP to return to Srebrenica to see if any Bosnian Muslims were still there.<sup>18550</sup> **(There were some patients and elderly, who had been taken care of, as testified by the MSF representative! But, no president all over the world would be kept responsible for such a technicalities at such a low level of command!)** Furthermore, the Chamber

<sup>18542</sup> See paras. 5070, 5093.

<sup>18543</sup> D2258 (Intercept of conversation between unidentified individuals in VRS, 12 July 1995).

<sup>18544</sup> Defence Final Brief, paras. 2428–2429. The Prosecution contests this construction but did not elaborate further. See Prosecution Closing Arguments, T. 47813 (30 September 2014).

<sup>18545</sup> See paras. 5630, 5638.

<sup>18546</sup> Defence Final Brief, paras. 2438–2439, 2442.

<sup>18547</sup> See paras. 5625, 5629–5630.

<sup>18548</sup> See paras. 5626–5627.

<sup>18549</sup> See para. 5627.

<sup>18550</sup> Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*, T. 9799–9800.

recalls that members of the Bosnian Serb Forces threatened to shoot an elderly patient who wished to remain in the Srebrenica hospital if the UNMOs did not remove her and take her with them.<sup>18551</sup> **(This witness was not reliable at all!)**

5640. On the basis of all of this evidence, the Chamber considers that there is no doubt that the Bosnian Serb Forces intended to forcibly remove from the Srebrenica enclave the Bosnian Muslim women, children, and some elderly men who had gathered in Potočari by 11 July. **(This is a rather #tricky sentence#: removing the civilians from Srebrenica to Potocari #had nothing to do with the Serb Forces#. That had been ordered and organised entirely by the local Muslim authorities and military officers. The rest is a pretty procrastinated, since the Serb Commander was hesitant to approve the evacuation, and was the last one who accepted it to happen! The actions of the Accused, such as nomination of the civilian commissioner, establishing the police station and order to protect the civilians, who were all Muslims, is not even mentioned. But, there was no other civilians to be protected and who needed a civilian commissioner, than the Muslim civilians. #Why would President nominate and appoint a civilian commissioner if wanted a chaos to prevail?)**

(C) Conclusion

5641. With respect to the transfer described in paragraphs 5623 to 5634 above, the Chamber finds that those who were displaced left their places of residence and belongings without any guarantee concerning the possibility to return in the future and that this caused the victims serious mental suffering or injury. **(Many of them already returned, and this is rebutting this position of the Chamber. Beside that, the guarantees for return of displaced people are given by the Serbs throughout the war, sometimes proposed by the Serbs. The military personnel and events didn't have any role in this matter, as well as in the territorial issues, it was all political matter, discussed between the President, the leaders of the two other sides, and under the auspice of the highest international representatives. What was the most sensitive question – who could have guaranteed a security to these people at a moment of return of the Serb refugees! That was the reason why the Serb military didn't insist that they stay in Srebrenica, because one would need an entire brigade to guard them, having in mind how many sufferings the same Muslim civilians inflicted to the Serb civilians. That was a civil war.)** Additionally, some of those displaced from Srebrenica had been previously displaced from their homes in other municipalities;<sup>18552</sup> **their displacement from Srebrenica compounded their suffering. (This is an unacceptable “#emotional blackmailing#”, since none of these civilians taken refuge in Srebrenica hadn't been expelled by the Serbs, but by the fierce fights initiated by the Muslim forces. All of these refugees have chosen Srebrenica instead of Tuzla on the order of the Muslim central authorities in 1993, after a year of terror of Muslim forces in this area, resulting in more than 3,500 Serb victims, two third of whom were civilians, found in a mass graves and confirmed by General Morillon. There is a well documented Muslim offensive commencing of mid December 92 and ended in April 93, when President Karadzic prevented the VRS to enter Srebrenica. In spite of a regime of “demilitarised safe zone”, as provided by an Agreement, the Muslim forces continued to terrorise, kill and rob the Serbian civilians in the surrounding villages. A serious chamber should have all of it in mind, instead of pointing out a fake villain for these sufferings of the civilians. The only villain was the Muslim 28<sup>th</sup> Division, and the international community, which**

<sup>18551</sup> See fn. 17367; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 186.

<sup>18552</sup> See para. 2465.

**guaranteed the safe zone status of Srebrenica!)** These acts were committed with the intent to inflict serious mental suffering, or with knowledge that these acts were likely to cause such suffering. These acts are of similar seriousness to deportation which is listed under Article 5(d) of the Statute. The Chamber therefore finds that these acts are sufficiently serious to amount to “other inhumane acts” pursuant to Article 5(i) of the Statute.

5642. The Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that acts referred to in paragraphs 5623 to 5634 of this section were part of this widespread and systematic attack and that the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion, the Chamber considered the locations, time period, and the identity and status of the victims, which correspond with the scope of the widespread and systematic attack, as well as the magnitude of the attack on the Bosnian Muslim civilian population of BiH. The Chamber therefore finds that these incidents constitute other inhumane acts (forcible transfer) as crimes against humanity. **(This is absolutely wrong and false! This kind of deliberations in an unfair trial is gravely compromising the very idea of an international justice. Covering up the real causes and consequences, hiding the conduct of the other side, preventing the Defence to establish which side was interested in fighting, in initiating skirmishes and big fights, which side was in a permanent defence and which in a permanent offensive, and so on, is a horrible offense by itself, and should be forbidden forever in a judicial practice! This qualification must not survive, because now we can submit to the Appeal Chamber all schedule of the military events, who started and who wanted to prolonge it. Why the Serbs would attack any Muslim or Croat settlement, since the Serbs already had controlled all their territories, being ready to give some of their territory to the Muslim and Croat entities? What happened in the depth of the Serb territory was a terrorism, because there was no confrontation line, nor their regular army, but even so, the Serbs never attacked any Muslim/Croat area before they attacked the Serbs. The Serbs challenge anyone to prove that the Serbs inflamed any municipality by their unprovoked attack!. If these constructions survive, that would be a flagrant and shameless falsification. This could all be found in the UN reports, the VRS reports and the ABiH regular combar reports!)**

#### 4. Persecution: Count 3

##### (A) Killings

5643. Earlier in this Judgement, the Chamber found that many Bosnian Muslims were killed by Bosnian Serb Forces in the weeks following the fall of Srebrenica on 11 July 1995.<sup>18553</sup> **(#This is incorrect and unfair: the “Serb Forces” killed only the Muslim forces, not civilians#!** The Chamber also found that the perpetrators of each of these incidents acted with the intent to kill the victims or at least wilfully caused serious bodily harm, which they should reasonably have known might lead to death.<sup>18554</sup> The Chamber therefore found that these killings constituted murder as a crime against humanity and a violation of the laws or customs of war charged under Counts 5 and 6 of the Indictment, respectively.<sup>18555</sup> The Chamber further found that the victims of each of these incidents

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<sup>18553</sup> See para. 5519.

<sup>18554</sup> See para. 5608.

<sup>18555</sup> See paras. 5611–5612.



were civilians or had been rendered *hors de combat* at the time of their killing.<sup>18556</sup> **(How was it inferred? The civilians were evacuated under the UN auspice, the civilians from the mixed column had been let to pass through the corridor#. #Only combatants remained in the woods, certainly in civilian clothing, but still combatants#. They already knew that the civilians had been conveyed to Kladanj, and why they, if civilians, wouldn't do the same? There was at least one month of skirmishes between the VRS and the Muslim armed groups that didn't join the evacuated civilians, nor surrendered, they had been armed and fought whenever confronted the Serb soldiers. A matter of "civilian or not" is not automatic, nor a simple, because according to the domestic laws, all the able bodied males were obliged to be fighter!)**

5644. The Chamber found that all the victims of the killings mentioned above were Bosnian Muslims. Therefore, the Chamber finds that the perpetrators of these killings intentionally targeted their victims solely on the basis of their identities as Bosnian Muslims and that these killings were carried out on discriminatory grounds with discriminatory intent. **(How it is possible to exclude revenge and a very personal psychological issues? Even if it was as the Chamber decided, why it was clandestine? Because neither the state organs, the President, Government, Assembly, Ministries, nor the people would accept it! Had it been something the Serb policy tolerated, or initiated and favorised, there would be no hidings, there would be braggings by the perpetrators!)**

**5645.** As found earlier, these killings were part of a widespread and systematic attack against the Bosnian Muslim civilian population of BiH and the perpetrators knew of the attack and that the crimes were part of it.<sup>18557</sup> Therefore, the Chamber finds that these killings constitute persecution as a crime against humanity. **(We already had seen how the VRS treated civilians. Those remaining in the woods were a part of the column which was armed and organised as a powerful unit that killed many combatants of the Drina Corps even during the breakthrough!)**

(B)Cruel and/or inhumane treatment

1. Terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari

**5646.** Earlier in this Judgement, the Chamber described the appalling conditions inflicted upon the panicked and fearful Bosnian Muslim population gathered at the DutchBat compound in Potočari between 11 and 13 July 1995.<sup>18558</sup> **(#Absurdity#! No any ambiguity: this is far from correct to say! The Serbs had nothing to do with this issue, because neither the Serbs decided to move the Muslim civilians to Potocari, nor the Serbs expected that it was going to happen. The Serb army also didn't rush to enter Potocari the very same day, letting the UN unit to arrange what was planned by them. Once General Mladic got in touch with the Potocari residents and UN representatives, he obtained water and bread for the civilians. So, the "appalling conditions" hadn't been inflicted by the Serbs at all. What is the Chamber's interest to paint the picture worse and on account of the Serbs, while the facts, and a common sense clearly indicate who and what was responsible!)** The Chamber will not repeat its

<sup>18556</sup> See para. 5610.

<sup>18557</sup> See para. 5612.

<sup>18558</sup> See para. 5626.

description in full here, but specifically recalls that at the DutchBat compound, where thousands of Bosnian Muslims sought shelter after having come under shell fire at the Bravo Company compound in Srebrenica town and while en route to Potočari, continuous shell fire could be heard between 11 and 12 July.<sup>18559</sup> The Chamber also recalls the incidents of physical violence—including physical and sexual assaults—perpetrated by Bosnian Serb Forces which occurred throughout the day and evening of 12 July and into the following day.<sup>18560</sup> **(It had been established, and confirmed by the UN witness, that the #shelling wasn't aimed to kill#, but to keep the column on the road, not to spread through the woods. At that moment the VRS didn't know that the combatants mainly weren't within this column. Had it been aimed to the column, there would be many, many casualties. The defence doesn't accept that there were any sexual assault, because everything was accessible to everyone, and the Defence does not see where this sexual felonies could have happened, neither we ever received any information on that aspect. Also, as far as it is concerned with the civilians, we never saw anything like that on the video footages, nor the UN reported about that. This is a UN court, and should rely on the UN documents, instead of admitting a malicious statement of the Serb adversaries without any corroboration!).**

5647. The Chamber further found that in the midst of the fearful atmosphere in Potočari, Bosnian Serb Forces separated between 600 and 700 Bosnian Muslim men and boys from the women and children and took the men to the White House; this intensified the fear of the men as well as those from whom they were separated.<sup>18561</sup> Before entering the White House, the terrified men were stripped of their ID cards, which the Chamber considers they must have interpreted as a sign of the terrible fate that awaited them, further increasing their fear.<sup>18562</sup> **(This solely can not be so, #because even the detainees in the UNDU in the Hague do not have any ID, or any values#! Due to the document (see: Popovic, regulation and procedures with POW-s) not only those, but all the detainees were taken off their ID-s and other private belongings. Due to this fact, anyone who had been recovered from the grave sites possessing their ID cards, and/or valuables for sure hadn't been captured and executed, but rather killed in a combats!)** They were forced to leave behind their other belongings and crowded together in the house without food or water.<sup>18563</sup> Outside, members of the Bosnian Serb Forces stood guard with German Shepherd dogs.<sup>18564</sup> During the course of the day on 12 July, the treatment of the Bosnian Muslim men inside the White House deteriorated even further; Bosnian Serb soldiers blocked two DutchBat members who managed to enter the house on the following day from entering an “interrogation room” by threatening them with weapons.<sup>18565</sup> **(No army or police would allow unauthorised persons to attend interrogations. The Serb side in Sarajevo was even prevented to participate in investigations at the crime scenes, and the UNPROFOR approved this denial! That sould have been regulated by the UN regulations: where the UN is present, both or all the sides should be entitled to participate in any investigation that could have pertained to the sides in question!)** Throughout their detention at the White House, the Bosnian Muslim men were visibly terrified.<sup>18566</sup>

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<sup>18559</sup> See paras. 5029–5030, 5074.

<sup>18560</sup> See paras. 5077, 5095.

<sup>18561</sup> See paras. 5095, 5109.

<sup>18562</sup> See para. 5110.

<sup>18563</sup> See paras. 5113–5115.

<sup>18564</sup> See para. 5113.

<sup>18565</sup> See paras. 5115–5116.

<sup>18566</sup> See paras. 5113, 5116.

5648. The Chamber has no doubt that these combined circumstances exacerbated the fear and panic permeating the atmosphere in Potočari and the acts of the Bosnian Serb Forces—namely the shelling of Potočari, the incidents of physical violence inflicted upon the Bosnian Muslims gathered there, and the separation and subsequent detention of Bosnian Muslim men and boys at the White House—deliberately inflicted serious physical and mental suffering on the Bosnian Muslims gathered there. The Chamber considers that this cruel and inhumane treatment is of equal gravity to the crimes listed in Article 5 of the Statute. **(#No cruel and inhumane treatment had been objectively established#! The fear was expected, taking into account the 45 months long terror that the same males had exercised against the Serb civilians!)**

## 2. Beating of men and boys of Srebrenica prior to their execution

5649. Earlier in the Judgement, the Chamber described the beatings inflicted upon the Bosnian Muslim men detained by Bosnian Serb Forces at various locations in Bratunac and Zvornik municipalities between 13 and 15 July 1995 prior to their execution.<sup>18567</sup> The Chamber finds that the circumstances in which these beatings took place clearly establish that they were performed deliberately.

5650. The Chamber also found that while inflicting these beatings, Bosnian Serb soldiers taunted the Bosnian Muslim detainees and cursed their “balija” mothers.<sup>18568</sup> The beatings were severe; those being beaten screamed and moaned such that they could be heard by the other detainees.<sup>18569</sup> The Chamber therefore finds that the Bosnian Serb Forces deliberately inflicted beatings causing serious physical and mental suffering on the Bosnian Muslim detainees. In the view of the Chamber, this cruel and inhumane treatment is of equal gravity to the crimes listed in Article 5 of the Statute. **(The source of those information were only the Muslims detained, and prepared to testify. We have to see whether anybody of other witnesses said something similar. First, it is expected to believe that somebody mistreated somebody without a personal reason, in terms of a personal vengeance, which couldn't be justified, but was exclusively individual and not a state felony. Further, if it really happened, there must be another proofs and witnesses. However, it was seen that there were revenges, particularly during those “opportunistic killings” when some Serbs appeared asking for a concrete persons, or from a certain villages.)**

## 3. Conclusion on cruel and inhumane treatment

5651. As found above, the Bosnian Serb Forces deliberately inflicted serious physical and mental suffering upon Muslims gathered in Potočari, as well as upon the Bosnian Muslim men and boys who were subjected to beatings prior to their execution. The circumstances described above demonstrate that the Bosnian Serb Forces intentionally targeted their victims and subjected them to such cruel and inhumane treatment solely on the basis of their identities as Bosnian Muslims. This cruel and inhumane treatment was therefore carried out on discriminatory grounds with discriminatory intent. **(This kind of conclusion entirely neglects the fact that there was no any Serb or Serb family that didn't lose some of the family members during the 45 months of the war, usually on a horrifyin**

<sup>18567</sup> See paras. 5296, 5299–5300, 5361–5362, 5422.

<sup>18568</sup> See para. 5149.

<sup>18569</sup> See paras. 5296, 5298, 5300, 5361, 5422.

and criminal way. The Prosecution witness M. Nikolic responded to the Chamber that a #cause of this conduct was hatred#. Some other said, in this case or elsewhere, that this was a classic revenge because of the Oric's atrocities against the Serbs. The UN official repeatedly stated that the main issue was a revenge for what the Oric troops had done to the Serb civilian settlements and citizens. Everithing is more probable than what the Chamber alludes – a plan, which would be a cold blood. It could be that there had been some slaps or so, but this kind of cruelty, if appeared, #must have been a very, very personal#! Also, it is not believable that the superiors would watch that kind of conduct without reaction. No corroborated evidence to the testimonies about this beatings! No a personal revenge superiors would understand or tolerate!)

5652. The Chamber found that there was a widespread and systematic attack against the Bosnian Muslim civilian population of BiH. (This assertion, deliberation must have been explored, what the Chamber calls “widespread and systematic attack against the Bosnian Muslim civilian population of BiH,” because it is absolutely wrong. There was no a single example that the regular Serb forces attacked any civilian settled place wwithout a prior Muslim attack. It is know that it is a false accusation. It wouldn't be in the Serb interest, the Serbs would only lose, noting to gain. Even the treatment of the POW-s” wasn't bad at all, because of allowing them to go to the third countries, they were more willing to surrender, particularly those that hadn't been extremists. Neglecting the very basic facts about the nature of conflict and the responsibility for iniciation of skirmishes – there is no any truth. And a way for an endless accusation of the Serbs is opened!) The Chamber finds that the acts referred to above were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were a part of it. (If so, why the Serbs didn't mistreat those thousands that had been living in their territory throughout the war?) Therefore, the Chamber finds that such cruel and inhumane treatment constitutes persecution as a crime against humanity.

(C) Forcible transfer

5653. The Chamber found above that inhumane acts (forcible transfer) was committed and constituted a crime against humanity as charged under Count 8 of the Indictment. The Chamber finds that the Bosnian Serb Forces who carried out that forcible transfer intentionally targeted their victims solely on the basis of their identities as Bosnian Muslims; the forcible transfer was therefore carried out on discriminatory grounds with discriminatory intent. (Again, a #situation prior to the events in July 95, everyday killings, horrible atrocities, 3,500 mainly civilian victims of the Oric's hordes, and particularly an exceptional nature of this events merely localise this on the Srebrenica case only. What is so specific about Srebrenica? Prior atrocities, prior horror made by Oric. Gen. Morillon said somewhere, maybe in the Milosevic case, that all was caused by a horendeous atrocities committed by the Oric troops#. See what Major Tucker had reported to the UN Command, D2032:

Messages from maj tucker.

- WASER ORIC  
a. ~~MAZAR BORTIC~~, the local military commander of SREBRENICA, received the order from HALILOVIC to stop any offensive action towards or against the Serbs. As already stated before, every night some raids were conducted and between 5 and 15 Serbs were killed every night. This could be an important day, the cessation of these actions could make our activities easier.

**#So, out of the “Safe zone” with the UN guarantees, the Muslim Forces, protected by the UN, killed an average 5 to 15 Serbs. Who is going to appologize to these families?)**

5654. As the Chamber found above, this forcible transfer formed part of a widespread and systematic attack against the Bosnian Muslim civilian population of BiH, and the perpetrators knew of the attack and that their crimes were a part of it. In addition, the Chamber found that the acts of forcible displacement within national boundaries were sufficiently serious to amount to “other inhumane acts”. Therefore, the Chamber finds that this forcible transfer constitutes persecution as a crime against humanity. **(Appart from the fact that the President didn’t have any contribution in it, again, what is so specific about Srebrenica? Why it didn’t happen in the areas and municipalities where there was no combats? Does the conduct of the other side have any influence on the course of events? In all other municipalities everything depended on the Muslim conduct. In all and every municipality there were villages that didn’t sustain any discomfort, let alone killings or deportations. How to bring the whole picture in this case? Without the Chamber’s readiness to complete the entire picture, there would not be any justice!)**

v. *Genocide: Count 2*

5655. In Count 2 of the Indictment, the Prosecution charges the Accused with genocide pursuant to Article 4 of the Statute. It alleges that between 11 July and 1 November 1995, Bosnian Serb Forces killed over 7,000 Bosnian Muslim men and boys in Srebrenica and the surrounding area through, *inter alia*, large-scale executions carried out from 12 July until late July 1995.<sup>18570</sup> The Prosecution further contends that Bosnian Serb Forces caused serious bodily or mental harm to thousands of female and male members of the Bosnian Muslims of Srebrenica by separating the men and boys from their families and by forcibly removing the women, children, and some elderly men.<sup>18571</sup>

5656. The Accused contends that these killings were not committed with genocidal intent and therefore do not constitute genocide.<sup>18572</sup>

(A) The protected group

5657. As established above in relation to Count 1, the Chamber is satisfied that Bosnian Muslims were a protected group for the purpose of Article 4 of the Statute.<sup>18573</sup> **(How possibly they had been a “protected group”? They had been a majority in the general population in Srebrnica, well organised in the secret Army, with a lot of paramilitaries. The Muslims in Srebrenica were well armed and didn’t cease with their attacks on the Serb villages, killing everyone and everything that moved, stealing catles, burning villages, and than returning to Srerbrenica under the protection of the UN. And this lasted all the time from 1992 to 1995. No wonder many of them didn’t dare to surrender, and even rather committed suicide. That was because they expected revenges for what they did to the Serbs in the region. For that reason President Karadzic, motivated by General Morillon, not by any threat of**

<sup>18570</sup> Indictment, paras. 41–42, 46–47, Schedule E (Part 1). *See also* Prosecution Final Brief, para. 1092. The Prosecution also alleges responsibility for other killings. Indictment, paras. 46, 47(a), Schedule E (Part 2).

<sup>18571</sup> Indictment, paras. 46–47. *See also* Prosecution Final Brief, paras. 1093–1094.

<sup>18572</sup> Defence Final Brief, para. 2720. *See also* Defence Final Brief, para. 2717.

<sup>18573</sup> *See* para. 2574.



**NATO, in 1993 ordered the VRS units not to enter the town, and not to make any investigation. In 1995 the task wasn't to enter the town, but to push the Muslim Army back to the agreed boundaries. The UN made them non-protected group, and enabled them to commit many crimes against the Serb civilians. The UN knows that, and nobody and nothing will abolish the UN from this responsibility!**

(B) *Actus reus*

5658. In relation to Count 2, the Prosecution charges two types of acts pursuant to Article 4(2) of the Statute: (i) the killing of over 7,000 Bosnian Muslim men and boys of Srebrenica through executions set out in Schedule E of the Indictment;<sup>18574</sup> and (ii) the causing of serious bodily or mental harm to thousands of female and male members of the Bosnian Muslims of Srebrenica, including but not limited to the separation of men and boys from their families and the forcible removal of women, young children and some elderly men from the enclave.<sup>18575</sup>

5659. The Chamber will examine below each of these charged categories.

(1) Killing members of the group

5660. The Chamber has found that in the aftermath of the fall of Srebrenica, at least 5,115 Bosnian Muslim males were killed by Bosnian Serb Forces.<sup>18576</sup> The Chamber is therefore satisfied for the purpose of Article 4(2)(a) of the Statute that members of the protected group were killed. **(This is not correct. The members of the “protected group” were all of the Muslims, including all ages and sex. This was an able bodied sub-group, i.e. combatants who fought for 45 months against the same Serb combatants that committed different crimes, though in a much lower extent than concluded by the Chamber. #The combatants that fought the dirty war, killing many civilians in the surrounding villages were not treated as they had been because of being Muslims, because their family members were also the Muslims. The “diferentia specifica” the specifics of this group was that they #were the cruelest COMBATANTS, and from SREBRENICA inflicted so many Serb civilian casualties than ever in history#!. Nobody will even try to justify any crime, but it is not fair to say that only able bodied Muslims were a protected group, violated in their rights, while all other Muslims had been spared. This must not happen, to severe the combatants as a protected group!)**

(2) Causing serious bodily or mental harm to members of the group

5661. Earlier in this Judgement, the Chamber has described in detail the harrowing circumstances under which thousands of Bosnian Muslim males faced the prospect of their imminent deaths.

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<sup>18574</sup> Indictment, para. 47(a) (referring to the crimes listed in Schedule E (Part 1) and Schedule E (Part 2)).

<sup>18575</sup> Indictment, para. 47(b). The Chamber notes that, in contrast to the open-ended use of the term “including” which the Chamber has mentioned in fn. 13, in para. 47(b) of the Indictment, the Prosecution specifically states that its allegation regarding the causing of serious bodily or mental harm to the Bosnian Muslims of Srebrenica includes the phrase “but [is] not limited to” the separation of the men and boys from their families and the forcible removal of the women, young children, and some elderly men from the enclave. The Chamber will thus consider whether serious bodily or mental harm was caused to thousands of female and male members of the Bosnian Muslims of Srebrenica following the separation of the men and boys from their families as a result of both the killings and the forcible removal of the women, children, and some elderly men. See Prosecution Final Brief, para. 1094.

<sup>18576</sup> See para. 5519. See also para. 5607.

5662. In this regard, the Chamber recalls the atmosphere of panic in Potočari. The Bosnian Muslims who travelled there with their families on 11 July endured a night permeated with fear as a result of the conditions created by the Bosnian Serb Forces.<sup>18577</sup>

**(This is also a half false. First of all, the #Muslim Government and the ABiH terrorised the Serbs in the region during a whole year, between April 1992 and April 1993. After that, the same perpetrators who terrorised the Serbs didn't allow the Muslim civilian population, at least those who weren't from Srebrenica, to evacuate towards a more safe place. Finally, the 28 Division, and its predecessor 8 Operational group in Srebrenica didn't even accept and complied with the Safe Zone Agreement, and continued to attack mainly the civilian population. And at the end somehow, and all of a sudden, they decided not to defend the town. How desperately this civilian population wanted to evacuate even from the beginning, in April 93, even the UN personnel confirmed. That was a really sadistic tactics of the Muslim Government!)** Once the transportation process began on the following day, the Bosnian Muslim males were abruptly separated from their families and stripped of their personal belongings, including identification cards;<sup>18578</sup> **(All the actions about the handling of the detainees were legal and legitimate, and had been practiced according to the rules of handling the POW-s, on all the sides to the conflict. None of these procedures indicated that anything criminal would happen to the prisoners of war!)**

as stated above, the Chamber considers that the Bosnian Muslim males must have interpreted this as an ominous sign of the terrible fate that awaited them.<sup>18579</sup> **(This is stretched to much, and says more about the impact to the Chamber. Why nothing similar happened to many other POWs in many other occasions, for 45 months of war, and several tens of thousands of captured Muslims and Croats? They hadn't been the first POW in the Serb custody, there were many thousands, and all of them went very well, mainly to the third countries, which both the Muslims and Serbs preferred, because they couldn't be mobilised again. So, from the previous experience they didn't have any reason to expect anything unusual. Another thing is whether they were aware of what they did to the surrounding Serbs, and feared from revenge. Again, this is not the Serb fault. Even those civilians went to the Serb villages to rob a homes, of the Serbs that Oric killed and butchered. Sometimes even these civilians participated in killings, and always in burning the Serb villages!)**

The Bosnian Muslim males who were separated in Potočari were crammed first into the White House and later moved to various overcrowded locations in Bratunac, where they were held in appalling sanitary conditions and given little if any food or water.<sup>18580</sup> In Bratunac, the Bosnian Muslim males from Potočari were joined by Bosnian Muslim males who had endured similar deprivation upon being captured or surrendering from the column.<sup>18581</sup> During their detention, many Bosnian Muslim males were subjected to physical and verbal abuse at the hands of the Bosnian Serb Forces; these conditions persisted upon their transfer from Bratunac to more remote locations in Zvornik.<sup>18582</sup> Once taken to the execution sites, the Bosnian Muslim males must have realised that they would be killed and thus spent their last terrifying moments in a state of hopelessness. The Chamber finds that the suffering endured by these men in the final days and hours before they were killed by Bosnian Serb Forces constituted serious bodily or mental harm.

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<sup>18577</sup> See paras. 5073–5077.

<sup>18578</sup> See paras. 5095, 5101, 5109–5110.

<sup>18579</sup> See para. 5647.

<sup>18580</sup> See paras. 5113, 5294–5295.

<sup>18581</sup> See paras. 5168, 5176–5177, 5183, 5186.

<sup>18582</sup> See paras. 5193, 5296, 5298–5299, 5323–5324, 5359–5360, 5418.

5663. The Chamber also finds that the Bosnian Serb Forces caused serious bodily and mental harm to the Bosnian Muslim males who managed to survive the killings and lived to testify. Some witnesses described hiding underneath the bodies of their fellow detainees and escaping the killing sites under perilous circumstances.<sup>18583</sup> The Chamber is convinced that, in addition to the serious bodily or mental harm suffered by the survivors prior to their attempted execution, their respective close encounters with death have had long-lasting effects on their respective abilities to lead normal and constructive lives.

5664. Likewise, the Chamber finds that the killings of Bosnian Muslim males carried out by the Bosnian Serb Forces following the fall of Srebrenica inflicted serious mental harm upon the surviving family members and loved ones of those killed. Having fled their homes or places of refuge for the UN Compound, these women, children, and some elderly men also endured the sudden separations at Potočari, when their husbands, fathers, brothers and sons were taken away to await an unknown fate.<sup>18584</sup> The Chamber received evidence that many women suffered serious mental harm as a result of not knowing what happened to their missing male family members.<sup>18585</sup> The Chamber heard testimony of the unique nature of this suffering in that in the space of a few days, many women of Srebrenica had lost such large numbers of male family members that they were unable to envision the future.<sup>18586</sup> Their mental anguish continues in the form of anxiety as well as feelings of helplessness and betrayal, which underpin an unwillingness or inability to return to their former homes.<sup>18587</sup> Accordingly, the Chamber finds that the mental harm caused to the women, children, and some elderly men as a result of the killing of the men and boys and the forcible removal of the remainder of Bosnian Muslims has had long-lasting effects on the respective abilities of the surviving women, children, and some elderly men to live normal and constructive lives. **(#The same is with the victims of the civil war on all the sides to the conflict#. This is an argument against the civil war, and against those who could prevent or stop it, but this has nothing to do with any systematic conduct of the Serb community and the Republic!)**

5665. The Chamber is therefore satisfied for the purpose of Article 4(2)(b) of the Statute that thousands of female and male members of the Bosnian Muslims of Srebrenica were

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<sup>18583</sup> See paras. 5152, 5236–5239, 5334, 5368–5370, 5432–5433, 5437. The Chamber recalls that one Bosnian Muslim man survived by throwing himself in the Jadar River after being hit by a bullet. See para. 5190.

<sup>18584</sup> See paras. 5101–5108.

<sup>18585</sup> Teufika Ibrahimfendić, P4646 (Transcript from *Prosecutor v. Krstić*), T. 5817–5818. See e.g. P391 (Witness statement of Hafiza Salihović dated 17 June 2000), pp. 2–3; P392 (Witness statements of Semija Suljić dated 17 June 2000), p. 2; P393 (Witness statement of Mejra Mešanović dated 19 June 2000), p. 3; P394 (Witness statement of Mevlida Bektić dated 16 June 2000), p. 3; P395 (Witness statement of Behara Krdžić dated 16 June 2000), p. 3; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), pp. 3–4; P397 (Witness statement of Razija Pašagić dated 15 June 2000), p. 3; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), pp. 3–4; P399 (Witness statement of Salih Mehmedović dated 15 June 2000), p. 4; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), p. 4; P403 (Witness statement of Rahima Malkić dated 17 June 2000), pp. 2–4; P404 (Witness statement of Samila Salčinović dated 18 June 2000), p. 3.

<sup>18586</sup> Teufika Ibrahimfendić, P4646 (Transcript from *Prosecutor v. Krstić*), T. 5815, 5817–5818, 5832. Considering the patriarchal society, many women endure financial insecurity as their husbands and sons were the main source of income, which renders the process of finding a permanent home difficult. See e.g. P391 (Witness statement of Hafiza Salihović dated 17 June 2000), p. 3; Semija Suljić, P392 (Witness statements of Semija Suljić dated 17 June 2000), p. 2; P393 (Witness statement of Mejra Mešanović dated 19 June 2000), p. 3; P394 (Witness statement of Mevlida Bektić dated 16 June 2000), p. 3; P395 (Witness statement of Behara Krdžić dated 16 June 2000), p. 3; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), p. 3; P397 (Witness statement of Razija Pašagić dated 15 June 2000), p. 3; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), p. 4; P399 (Witness statement of Salih Mehmedović dated 15 June 2000), pp. 3–5; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), p. 4; P403 (Witness statement of Rahima Malkić dated 17 June 2000), p. 3; P404 (Witness statement of Samila Salčinović dated 18 June 2000), p. 3.

<sup>18587</sup> Teufika Ibrahimfedić, T. 26681–26682 (22 March 2012). This stress manifests physically in the form of insomnia as well as problems with eating. Teufika Ibrahimfedić, T. 26682 (22 March 2012). Many are unable or unwilling to return home because of fear and loss of hope. See e.g. P391 (Witness statement of Hafiza Salihović dated 17 June 2000), p. 3; P392 (Witness statements of Semija Suljić dated 17 June 2000), p. 2; P393 (Witness statement of Mejra Mešanović dated 19 June 2000), p. 3; P394 (Witness statement of Mevlida Bektić dated 16 June 2000), p. 3; P395 (Witness statement of Behara Krdžić dated 16 June 2000), p. 3; P396 (Witness statement of Hanifa Hafizović dated 16 June 2000), p. 2; P398 (Witness statement of Saliha Osmanović dated 18 June 2000), p. 4; P401 (Witness statement of Šehra Ibišević dated 21 June 2000), p. 4; Rahima Malkić, P403 (Witness statement of Rahima Malkić dated 17 June 2000), p. 3; P404 (Witness statement of Samila Salčinović dated 18 June 2000), p. 4.

subjected to serious bodily or mental harm as a result of actions of the Bosnian Serb Forces and that this harm was of such serious nature as to contribute or tend to contribute to the destruction of part of the group.

(C) *Mens rea*

5666. The Prosecution contends that the Accused and other members of the Srebrenica JCE intended to destroy the Bosnian Muslims in Srebrenica, which formed a substantial part of the protected Bosnian Muslim group.<sup>18588</sup> According to the Prosecution, the intent to destroy the Bosnian Muslims in Srebrenica is evident from the scale of the killings and their level of co-ordination, as well as the systematic method through which they were carried out.<sup>18589</sup> The Prosecution argues that the killings, as well as the forcible removals and other acts which inflicted serious bodily or mental harm, “were intended to ensure that the Bosnian Muslim community of Srebrenica could not re-constitute itself.”<sup>18590</sup> The Accused denies that he personally had or shared such intent with anyone else.<sup>18591</sup>

5667. The Chamber will address the Accused’s mental state in the section concerning his responsibility below, and will limit its immediate consideration to whether the existence of genocidal intent is evident from the pattern of crimes.

4. Intent to destroy a part of the protected group as such

5668. As stated above, the Chamber has found that the Bosnian Serb Forces killed at least 5,115 Bosnian Muslim males from Srebrenica following the fall of Srebrenica in July 1995.<sup>18592</sup> The Chamber notes the commencement of the killings outside the Vuk Karadžić School in Bratunac on the night of 12 July;<sup>18593</sup> the further killings at Potočari,<sup>18594</sup> Sandići Meadow,<sup>18595</sup> Jadar River,<sup>18596</sup> the Kravica Warehouse,<sup>18597</sup> Luke School near Tišća,<sup>18598</sup> and again outside the Vuk Karadžić School on 13 July;<sup>18599</sup> and the continued escalation of the killings following the decision on 13 July to transfer the Bosnian Muslim males in Bosnian Serb custody to Zvornik with killings at Orahovac,<sup>18600</sup> Petkovci,<sup>18601</sup> Ročević and Kozluk,<sup>18602</sup> and at Kula School, Branjevo Military Farm, and the Pilica Cultural Centre.<sup>18603</sup> All of these killings were carried out over a period of several days and in circumstances which demonstrated clear co-ordination between multiple layers and branches of the Bosnian Serb Forces. The Chamber considers that the consistent pattern evident from the movement of the prisoners from their places of detention—sometimes to

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<sup>18588</sup> Prosecution Final Brief, paras. 1095–1096. Alternatively, the Prosecution contends that it was foreseeable to the Accused that one or more members of the Overarching JCE might perpetrate genocide against the Bosnian Muslims of Srebrenica, that he was aware that such genocide was a possible consequence of implementing the objective of the Overarching JCE, and the Accused willingly took that risk. Indictment, para. 43.

<sup>18589</sup> Prosecution Final Brief, para. 1096.

<sup>18590</sup> Prosecution Final Brief, para. 1097.

<sup>18591</sup> Defence Final Brief, paras. 3167–3169.

<sup>18592</sup> See para. 5519. See also para. 5607.

<sup>18593</sup> See para. 5298.

<sup>18594</sup> See paras. 5141, 5145.

<sup>18595</sup> See para. 5291.

<sup>18596</sup> See para. 5205.

<sup>18597</sup> See para. 5286.

<sup>18598</sup> See para. 5154.

<sup>18599</sup> See paras. 5299–5303, 5306.

<sup>18600</sup> See para. 5354.

<sup>18601</sup> See para. 5382.

<sup>18602</sup> See para. 5413.

<sup>18603</sup> See para. 5464.

secondary or even tertiary holding sites—and ultimately to killing sites demonstrates the deliberate nature of the operation pursuant to which the Bosnian Muslim males were executed. The Chamber further observes that the vast scale of the executions as well as the horrendous manner in which they were carried out demonstrated a total disregard for the humanity of the Bosnian Muslim males of Srebrenica.

5669. The Chamber notes that the operation, which was carried out by the Bosnian Serb Forces who vigorously pursued the Bosnian Muslim males in the column, encompassed the killing of all Bosnian Muslim men in Bosnian Serb custody, irrespective of whether they were combatants or civilians and regardless of whether they were captured or had surrendered. The Chamber considers that this, combined with the manner as well as the systematic and highly organised nature of the killings, demonstrates a clear intent to kill every able-bodied Bosnian Muslim male from Srebrenica. Noting that killing every able-bodied male of a group results in severe procreative implications that may lead to the group's extinction,<sup>18604</sup> the Chamber finds that the only reasonable inference on the basis of such evidence is that members of the Bosnian Serb Forces orchestrating this operation intended to destroy the Bosnian Muslims in Srebrenica as such. **(#Some members of the BSF, completely out of any system, committed the crime, but even they hadn't any idea about the purpose, let alone a said purpose to „destroy“ the community#. There are many proofs that the «system» didn't do that. First, no unit was tasked to do the killings, it was arranged by a non-commanding officers from the military security, second, there were some perpetrators summoned to be volunteers, further, it was done clandestinely and been kept secret even from the most immediate commanders (Erdemovic-Pelemis) and so on. Everyone who at the same time went through the Serb custody out of this group was saved and the treatment was as usual, as during the entire war. It can not be neglected that the killing of a guard in Kravica warehous changed the atmosphere, as well as a feature that some Muslim combatants used the surrender moment to become a suicide attacker, killing the Serb soldiers that approached them. No justification at all, but we have to deal with the motives, as the Prosecution and the Chamber do!)**

5670. Although a corridor was opened for a period of approximately 24 hours,<sup>18605</sup> the Chamber finds that this was done by a brigade commander for reasons of military necessity and notes that it was quickly closed, reinforcements were sent to the Zvornik area, and the Main Staff dispatched three colonels to the area to investigate why the corridor had been opened.<sup>18606</sup> In the following days, members of the Bosnian Serb Forces continued to kill Bosnian Muslim males who came into custody, as exemplified by the killings of Bosnian Muslim males at Snagovo,<sup>18607</sup> Bišina,<sup>18608</sup> and Trnovo.<sup>18609</sup> The Chamber is thus of the view that the opening of the corridor does not raise any doubt that members of the Bosnian Serb Forces intended to destroy the Bosnian Muslims in Srebrenica. **(Since the Chamber used the David Frost's interview with President Karadzic to “corroborate” something, it should have noticed in the very same interview that the #President informed Frost that the corridor had been opened and many passed through#. It was 17 July, the very next morning. The corridor had been appointed between the two brigade commanders for a limited time, and was granted some more hours by Comm.**

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<sup>18604</sup> See *Krstić* Appeal Judgement, paras. 28-29.

<sup>18605</sup> See para. 5470. The Chamber notes that the Main Staff initially denied Obrenović authorisation to open such a corridor. See para. 5468.

<sup>18606</sup> See paras. 5468–5474.

<sup>18607</sup> See para. 5481.

<sup>18608</sup> See para. 5490.

<sup>18609</sup> See paras. 5475–5476, 5497.



**Pandurevic, therefore was not closed earlier than appointed. Any serious chamber wouldn't allow this wanton mistake to slip to the Judgment!)**

5671. On the basis of the evidence regarding the killing operation, in particular in light of the fact that the Bosnian Serbs tried to kill every able-bodied Bosnian Muslim male from Srebrenica,<sup>18610</sup> **(But, for Sinanovic there can be another motive and another inference: he was a witness of the event, of the killing, and as such he was a threat to the perpetrators. Also, Sinanovic was a high official of the Muslim police, who armed the Muslims in Bratunac and certainly made many personal enemies, and these two reasons prevail over any other “systemic”!)** the Chamber finds that the only reasonable inference is that members of the Bosnian Serb Forces intended to destroy the Bosnian Muslims in Srebrenica as such. In addition, the Chamber recalls the near-simultaneous execution of the bussing operation which resulted in the removal of the remainder of the Bosnian Muslim population, namely the women, children, and some elderly men, from the Srebrenica enclave.<sup>18611</sup> The Chamber has found that this process, which also involved the abrupt separation of the Bosnian Muslim males from the women, children, and some elderly men, resulted in serious mental harm.<sup>18612</sup> Viewing the evidence in its totality, the Chamber considers that the Bosnian Serb Forces must have been aware of the detrimental impact that the eradication of multiple generations of men would have on the Bosnian Muslims in Srebrenica in that the killing of all able-bodied males while forcibly removing the remainder of the population would have severe procreative implications for the Bosnian Muslims in Srebrenica and thus result in their physical extinction. The Chamber therefore finds beyond reasonable doubt that these acts were carried out with the intent to destroy the Bosnian Muslims in Srebrenica as such. **It is not the only a highly unreasonable inference, since those who perpetrated the crimes weren't either sophisticated, or informed, but instead they were very revengeful, angry and overwhelmed with a hatred. Otherwise, had it been a part of any approved or tolerated plan, it wouldn't be kept secret before the upper commands and the state organs. If it was a plan, how come none of the state organs and officials discussed it, or commented it in intercepts, or in any other way gave a hint they were aware of this. The high delegation of the Government went there to help in humanitarian matters, but it could not be admitted. That it was a “plan” of a very limited informal group of members of the VRS is further corroborated by the fact that every single captured person captured by anyone out of the said group survived and was subject to a regular and usual treatment, ending in Batkovic and being exchanged. None of the Serb military officers that “didn't obey” and didn't follow the so called “system plan” was not even warned let alone punished for such a “disobedience”!)**

(2)Substantiality of the targeted group

**5672.** The Chamber recalls that where part of a protected group is targeted for destruction, such part must be substantial.<sup>18613</sup> With regard to the targeted group, which was the Bosnian Muslims in Srebrenica, the Chamber recalls that the Appeals Chamber has found

<sup>18610</sup> In this regard, the Chamber considers the example of Rešid Sinanović—the former chief of the SUP in Bratunac—to be illustrative of this intention. The Chamber recalls that Sinanović was captured by Bosnian Serb Forces on 13 July and held at the Konjević Polje intersection and later in Bratunac; he was then transferred to Zvornik on 14 July where he survived, and escaped from, a mass execution near Kozluk. See paras. 5171, 5192, 5199, fn. 17638. On 15 July, after having been found wounded and taken to the Loznica Hospital, the Bratunac SJB became aware of his whereabouts and informed members of the police in Zvornik, who then took Sinanović away. See fn. 17638. Sinanović's remains were ultimately identified from remains found in one of the Srebrenica-related secondary gravesites. See fn. 17638.

<sup>18611</sup> See paras. 5093–5095, 5098–5108.

<sup>18612</sup> See para. 5665.

<sup>18613</sup> See para. 555.

that although the Bosnian Muslim population in Srebrenica constituted a numerically small percentage of the Bosnian Muslim population, the enclave's seizure was of particular strategic importance due to its geographic proximity to Serbia, its symbolic stature as a refuge for Bosnian Muslims, and the fact that its elimination despite its status as a safe area would be demonstrative of the potential fate of all Bosnian Muslims.<sup>18614</sup> The Chamber agrees with this analysis and, accordingly, finds that the Bosnian Muslims in Srebrenica constituted a substantial part of the Bosnian Muslim population. **(But this analysis is wrong and incorrect, and is as such perpetuated. There was even no an intention to take Srebrenica, but just to establish the corridor between Milici and Skelani, and to cut off the ground communication between Zepa and Srebrenica, which was a legitimate intention. The reason for this combat action, which is on the list of actions the lowerest and the most limited action, wasn't any strategy and a vicinity of Serbia, the only reason was a military necessity to silent the 28 Division and prevent them to arm themselves from Zepa, and to kill the Serbian peasants. The taking over Srebrenica occurred all of a sudden. Nobody was prepared that the entire population would leave first to Potocari and then to Tuzla. It was understandable that many were to leave, particularly those that hadn't been from Srebrenica, and those who committed crimes against the Serbs. Further, even if accepted that there had been killed 5,100 Muslim men, it is neither substantial for this population of Srebrenica (about 37,000) nor substantial for the entire Muslim population in BiH. There is no a single evidence about an existence of a plan, but there is a quite sufficient evidence to corroborate this Defence arguments!)**

### (3)Conclusion

5673. On the basis of the analysis set out above, the Chamber finds that—with the intent to destroy the Bosnian Muslims in Srebrenica, which constituted a substantial part of the Bosnian Muslim protected group—members of the Bosnian Serb Forces killed thousands of Bosnian Muslim males and caused serious bodily or mental harm to thousands of Bosnian Muslims in Srebrenica. The Chamber therefore finds that the acts described above constitute genocide within the meaning of Articles 4(2)(a) and 4(2)(b) of the Statute.

#### 3. Srebrenica JCE and the Accused's responsibility

5674. The Prosecution alleges that the Accused committed each of the crimes referred to above in concert with others through his participation in a JCE, the common purpose of which was 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”).<sup>18615</sup> The Prosecution alleges that this objective amounted to or included the commission of genocide, persecution, extermination, murder, and forcible transfer as an inhumane act.<sup>18616</sup> According to the Prosecution, the Srebrenica JCE was “intrinsically related” to the Overarching JCE,<sup>18617</sup> as the Accused had long sought the removal of the Bosnian Muslim population from the enclaves in eastern BiH.<sup>18618</sup>

<sup>18614</sup> *Krstić* Appeal Judgement, paras. 15–16.

<sup>18615</sup> Indictment, para. 20.

<sup>18616</sup> Indictment, paras. 20, 41–42, 48–49, 58, 61–62, 66, 68, 75. *See also* fn. 19120.

<sup>18617</sup> Prosecution Final Brief, para. 799.

<sup>18618</sup> Prosecution Final Brief, para. 801; Prosecution Closing Argument, T. 47769 (30 September 2014).

5675. The Prosecution contends that the Srebrenica JCE—and the Accused’s participation therein—commenced in the days immediately preceding 11 July 1995.<sup>18619</sup> Other alleged members of the Srebrenica JCE include Ratko Mladić as well as republic level members of the Bosnian Serb Political and Governmental Organs; regional, municipal, and local level members of Bosnian Serb Political and Governmental Organs with responsibility in or for the Srebrenica, Vlasenica, Bratunac, and/or Zvornik areas; commanders, assistant commanders, senior officers, and chiefs of the VRS and MUP operating in or with responsibility over territory within the Drina Corps area of responsibility and/or Trnovo municipality; and members of a Serbian MUP unit called the Scorpions.<sup>18620</sup>

5676. The Prosecution alleges that beginning in March 1995, the Accused and Mladić oversaw a “final push to end the Bosnian Muslim presence in Srebrenica and eastern [BiH]” by implementing a plan to take over the Srebrenica enclave and forcibly transfer its Bosnian Muslim population, which formed part of the objective of the Overarching JCE.<sup>18621</sup> According to the Prosecution, within days of the commencement of the attack on the Srebrenica enclave on 6 July 1995, the Accused and others formed the shared intent to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children, and some elderly men.<sup>18622</sup> The Prosecution contends that by 11 July, this objective had begun to be implemented through the killing of the Bosnian Muslim men and boys of Srebrenica, as well as the causing of serious bodily or mental harm to thousands of Bosnian Muslims of Srebrenica.<sup>18623</sup>

5677. The Accused denies that there was any plan for forcible transfer and contends that there was no plan to kill any detainees prior to the killings at Kravica Warehouse.<sup>18624</sup> The Chamber will address the Accused’s specific arguments, where relevant, below.

5678. As a preliminary matter, the Chamber is of the view that the alleged common purpose of the Srebrenica JCE to eliminate the Bosnian Muslims in Srebrenica encompasses two distinct but related aspects: the killing of the men and boys along with the forcible removal of the women, children, and the elderly. Accordingly, the Chamber will examine the establishment and subsequent development of these two operations separately below.

a. The existence of a common plan to eliminate the Bosnian Muslims in Srebrenica

*i. Overarching JCE and a long term plan to remove the Bosnian Muslim population from Srebrenica*

5679. Earlier in this Judgement, the Chamber found that as early as May 1992, the Accused and Mladić, amongst others, shared the common purpose of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the crimes of, *inter alia*, inhumane acts (forcible transfer).<sup>18625</sup>

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<sup>18619</sup> Indictment, para. 20; Prosecution Final Brief, para. 798.

<sup>18620</sup> Indictment, paras. 21–23. Alternatively, the Prosecution contends that some or all of these individuals were not members of the Srebrenica JCE but were used as tools by such members in order to carry out crimes committed in furtherance of the common purpose. Indictment, paras. 22–23. The Prosecution further specifies that the Scorpions only operated and committed crimes within Trnovo municipality. Indictment, para. 23.

<sup>18621</sup> Indictment, para. 44; Prosecution Final Brief, para. 801.

<sup>18622</sup> Indictment, paras. 45, 58, 75.

<sup>18623</sup> Indictment, paras. 45–47. *See also* Indictment, paras. 58, 75; Prosecution Closing Argument, T. 47770–47771 (30 September 2014).

<sup>18624</sup> Defence Final Brief, paras. 2402–2407, 2449–2518.

<sup>18625</sup> *See* para. 3447.

5680. As reflected in Directive 4, issued in November 1992, the VRS devised a military strategy to force the Bosnian Muslim population to leave the wider Srebrenica area.<sup>18626</sup> After several months of intense combat, the VRS launched a major offensive in the spring of 1993 which resulted in the forcible transfer of Bosnian Muslims from Vlasenica and Bratunac municipalities to Srebrenica and ultimately concluded with the proclamation of Srebrenica as a UN-protected safe area.<sup>18627</sup> (#This is not correct in a multiple way: a) because the Vlasenica Muslims left their town in April 92, and Mr. Milenko Stanic went to Tuzla with a Muslim representative, to persuade them to return. The combats mentioned here were not the VRS decision, but the decision of the ABIH General Headquarters, see: Halilovic's order) and a permanent attacks due to this order OF 7 December 1992, see D2033

Sir,

The Moslems from the area of Srebrenica brutally attacked locations in the Municipality of Milići on December 3, 1992. During the attack on the facilities of the firm "Bok-sit", 11 employees were killed and 21 wounded. Some dead attackers had weapons and ammunition produced by Arab countries and several UNPROFOR packages.

.So, #killing the employees in the boxite mine and other civilians was not noticed by the Chamber#! Meanwhile, the President apealed to the Muslim sitizens in this area not to fight, since the territorial matters will be resolved politically, see:..... The entire year the Muslim forces, about 30,000 of combatants, made a horrible crimes against the Serb civilians, so that the VRS had to form a new Corps, the Drina Corps, and later to develop the counterofensive in podrinje in 93, that ended with the Accused's order not to enter Srebrenica, and not to make any investigation of the war crimes. This was made not because of any threats, but on the basis of a comunication between Gen. Morillon and the Accused, see:.....(newly disclosed docs.)

Even prior to the establishment of the safe area, the humanitarian situation in Srebrenica was catastrophic.<sup>18628</sup> The miserable conditions did not abate once the safe area was proclaimed in April 1993.<sup>18629</sup> (This is all arbitrary, because the Muslim original documents about the abuse of the humanitarian aid for a black market and the ABIH clearly rebut these findings!)

5681. On 8 March 1995, the Accused issued Directive 7, which included an order to the Drina Corps to “*create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa*”.<sup>18630</sup> The Chamber finds that such language clearly indicates an intent to force the Bosnian Muslim population to leave the enclave. Directive 7 also included an order to the civilian and military organs responsible for co-operation with UNPROFOR to use the planned and unobtrusively restrictive issuing of permits, [to] reduce and limit the logistics support of UNPROFOR to the enclaves and the supply of material resources to the Muslim population, [thereby] making them dependent on our good will while at the same time avoiding condemnation by the international community and international public opinion.<sup>18631</sup>

<sup>18626</sup> See paras. 4947–4948.

<sup>18627</sup> See paras. 2465, 2480, 4949, 4952–4956, 4962, 4968.

<sup>18628</sup> See paras. 4949–4951, 4957–4961, 4965–4966, 4968.

<sup>18629</sup> See paras. 4969, 4985, 4987–4988.

<sup>18630</sup> P838 (Directive 7, 8 March 1995), p. 10 (emphasis added).

<sup>18631</sup> P838 (Directive 7, 8 March 1995), p. 14. See also paras. 4979–4982.

**(So, neither the testimonies of witnesses, nor the obvious difference of the signature and seal on this document compared to all other documents created in the Accused's office, indicating that this document was created somewhere else, and signed without reading,, didn't matter?!?)**

5682. Earlier in this Judgement, the Chamber found that this directive was implemented through the restriction of humanitarian aid to Srebrenica following the issuance of Directive 7.<sup>18632</sup> The Chamber also found that, although the reference to “creat[ing] an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants” was not repeated in Directive 7/1 which was issued by Mladić on 31 March 1995, Directive 7/1 further elaborated upon Directive 7.<sup>18633</sup> **(This fact that #Mladić changed the wording in the Directive 7 without asking for permission from the President is clear evidence that it wasn't created in the President's office#. Otherwise, it wouldn't happen.)** Additionally, the Chamber recalls that the preparatory order as well as the active combat order issued by the Drina Corps Commander on 2 July 1995 drew reference from both Directives 7 and 7/1.<sup>18634</sup> The Chamber is therefore satisfied that the omission in Directive 7/1 of the language in Directive 7 which ordered the Drina Corps to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa” did not signal its revocation or abandonment, as it was still given effect. **(It certainly happened that #Mladić red the Directive 7, and corrected this specific sentence#, and this is of a more significance than was the signature on the first version, taking into account that the President didn't read it. The next in the chain of command rectified this omission in the first version. So, the omission was in the first, not in the second (7/1) version.)**

5683. Even prior to the issuance of the Drina Corps orders of 2 July 1995, the Bosnian Serb Forces had begun to intensify military activities towards the Srebrenica enclave. The Chamber recalls that between April and the beginning of July 1995, the Bosnian Serb Forces—including units of the Drina Corps—intensified their firing on DutchBat positions surrounding the enclave and that beginning in May 1995, they began to shell the enclave itself.<sup>18635</sup> At the beginning of June, the Bosnian Serb Forces took over DutchBat's OP Echo, forcing DutchBat to retreat towards Srebrenica town.<sup>18636</sup> **(This is exactly what happened because the UN made an unauthorised OP, and when they asked for a CAS, an officer in Tuzla, Pakistani by nationality, responded to them that they are not going to have it, because they shouldn't be there.)** Several weeks later, members of the 10<sup>th</sup> Sabotage Detachment, which was a unit directly subordinated to the Main Staff,<sup>18637</sup> and the Bratunac Brigade entered the enclave through an old mining tunnel and fired infantry weapons into Srebrenica town.<sup>18638</sup>

5684. Based on the foregoing, the Chamber is satisfied that at least by the time Directive 7 was issued in March 1995, the Accused and Mladić had devised a long-term strategy aimed at the eventual forcible removal of the Bosnian Muslims in Srebrenica through the deliberate restriction of humanitarian aid as well as the targeting of the enclave by the Bosnian Serb Forces. **(This kind of inference is impossible. First, the President and Mladić had not been in a good relation all that period. Second, it was never meditated**

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<sup>18632</sup> See paras. 4981, 4991.

<sup>18633</sup> See para. 4984.

<sup>18634</sup> See para. 5005.

<sup>18635</sup> See paras. 4995, 4997–4998.

<sup>18636</sup> See para. 4999.

<sup>18637</sup> See para. 175.

<sup>18638</sup> See para. 5001.



anything pertaining to the civilian population, but only a cessation of attacks from the enclave. Finally, the Muslim side was interested in an exchange of Srebrenica for Vogosca and Ilijas, see: evidence, while the Serb side would never accept this kind of swap, and had always been ready to have the Muslim territories in the Drina River Valey, as it was in all the previous peace plans. There was still a large portion of the border with Serbia, so to satisfy the Serb need to be close with Serbia.)

ii. *Development of the plan to eliminate the Bosnian Muslim population in Srebrenica*

5685. The Chamber recalls that at the end of June 1995, the Accused and Krajišnik visited the Drina Corps Command in Vlasenica, where they met with Krstić and gave him a combat assignment, which Krstić and other members of the Drina Corps command then began to draft into a combat plan known as Krivaja 95.<sup>18639</sup> (This is not true. When the President and Krajišnik stepped by, heading towards Bijeljina, they found Krstić elaborating the assignment that he got earlier, and the accused encouraged him. The President would not give any assignment to a Corps without the Main Staff, except in an emergency situation, particularly when the internationals asked for refrain. The assignment was to separate the two enclaves. We have to see for the evidence, if the issue is important.) As the Chamber has found above, the Drina Corps order for active combat operations issued on 2 July 1995 did not originally anticipate the take-over of Srebrenica town; instead, it focused on splitting the enclaves of Srebrenica and Žepa and “reduc[ing] them to their urban areas”.<sup>18640</sup> (Why it is avoided to be named properly: it was #not a “reducing them to their urban areas” but reducing them to the agreed boundaries# and protection the communication between Milici and Skelani, which was agreed to be under the Serb control, see the Mladic – Halilovic Agreement of May 8, 1993. , D135:

SECTION 1

THE DEMILITARIZED ZONE

ARTICLE 1

To demilitarize the areas of Srebrenica and Žepa.

The demilitarized areas will include the area within the current lines of conflict. The precise boundaries will be marked by the UNPROFOR commander on the ground after consultations.

At a later stage Contracting Parties can agree, verbally or in writing, to enlarge the demilitarized zone.

ARTICLE 2

On the ground the demilitarized zone shall be marked by UNPROFOR by means of boards on which is stated in English, Serbian and Bosnian written in Cyrillic and Latin as follows:

DEMILITARIZED ZONE

ANY MILITARY OPERATION IS STRICTLY FORBIDDEN  
(ARTICLE 60, PROTOCOL 1 ADDITIONAL TO THE GENEVA CONVENTIONS)

<sup>18639</sup> See para. 5004.

<sup>18640</sup> See para. 5007.

ARTICLE 3

Every military or paramilitary unit will have either to withdraw from the demilitarized zone or submit/hand over their weapons, ammunition, mines, explosives and combat supplies in the demilitarized zones will be handed over/submitted to UNPROFOR.

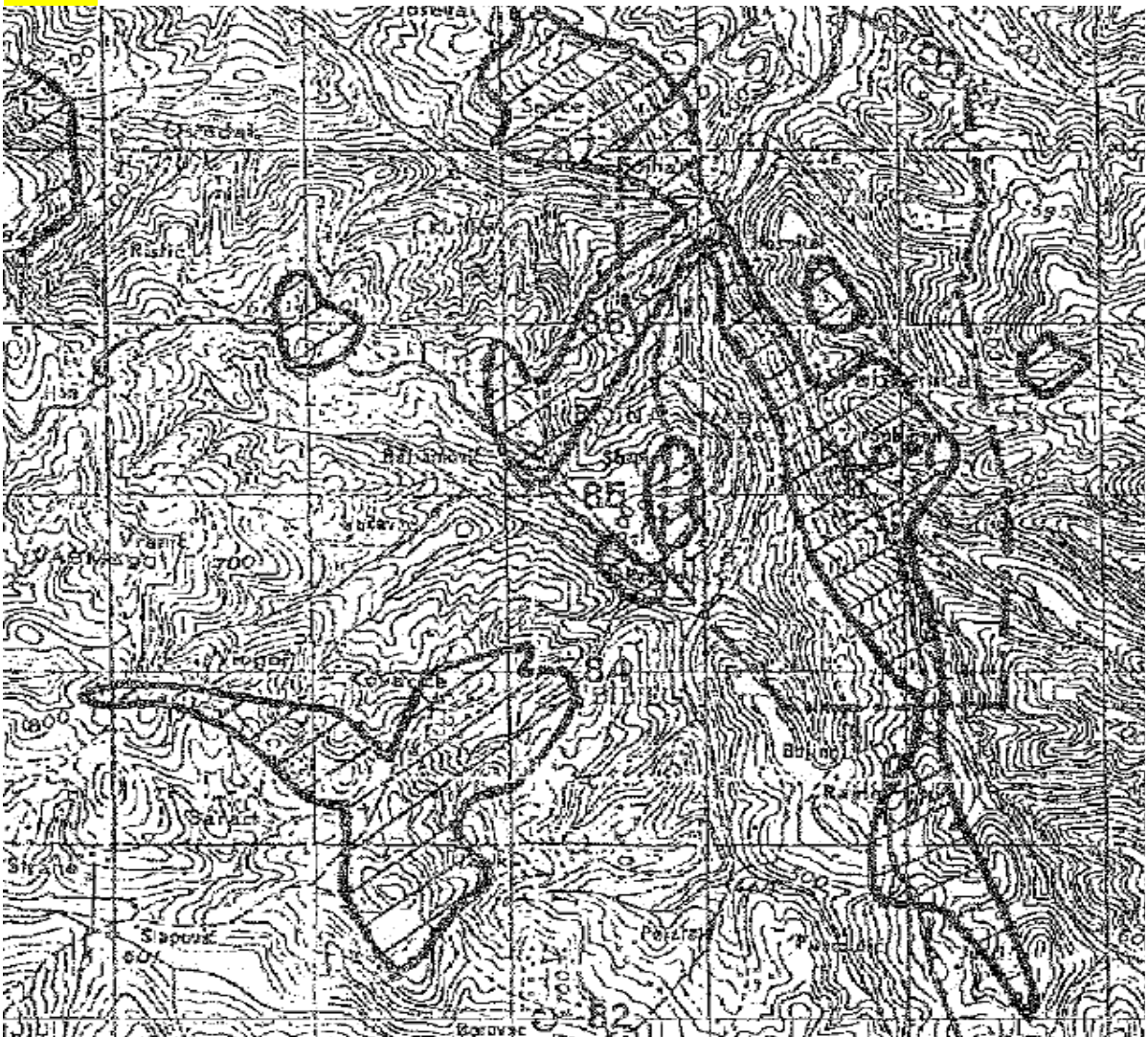
After submission/hand over of all weapons, ammunition, mines and combat supplies in the DMZ, the contracting parties will declare that the demilitarization is complete.

Submitting/hand over will be completed:

- a. In Srebrenica by Mon 10 May 1993 by 1700 hours.
- b. In Zepa by Wed 12 May 1993 by 1700 hours.

Submitting/hand over of weapons will be observed by a team of 3 officers from both sides together with UNPROFOR officers who will arrange the places where the handover will be done.

**In addition to this Agreement (more Articles than quoted) there was a map, signed, with the clear borders of the two enclaves and a strip of ground inbetween, which was under the VRS control. The UN allowed the ABiH to violate every single provision of the agreement, including the confluence of the two zones, Zepa and Srebrenica. See D2242:**



**Clear, a confluence of the two zones was not agreed. This is the UN big responsibility that cost the both sides, and particularly the Serb one, a great deal of victims in every sense!@...**

5686. The Chamber recalls that after initially making slow progress following the commencement of active combat operations on 6 July, Mladić arrived in Bratunac on the

afternoon of 8 July.<sup>18641</sup> That same day, the Accused spoke to Živanović regarding the possibility of obtaining reinforcements from the MUP.<sup>18642</sup> The Accused also told Živanović, “all right General, full speed ahead. Tell Krstić, order to go full steam ahead”.<sup>18643</sup> Živanović replied, “we are working pretty much according to plan and it’s going well”.<sup>18644</sup> That evening, the Bosnian Serb Forces began to take over DutchBat’s OPs.<sup>18645</sup> The enclave’s southern perimeter then began to collapse, sending residents of the Swedish Shelter Project fleeing toward Srebrenica town.<sup>18646</sup> **(Why did they go to Srebrenica? There was no threats for them from the VRS. The SSP Slapovici wasn’t target anyway, nor it was an objective of the VRS!)**

5687. As the Bosnian Serb Forces pressed further into the enclave on 9 July, Tolimir spoke several times to members of UNPROFOR, denying their progress.<sup>18647</sup> That day, Mladić, Gvero, and Živanović joined Krstić, who had already been present for several days, at the Drina Corps IKM in Pribićevac.<sup>18648</sup> By the end of the afternoon, the Bosnian Serb Forces stood only one kilometre from Srebrenica town, and Krstić reported to the Main Staff that the conditions for “extending the attack towards Srebrenica” were created.<sup>18649</sup> **(In the earlier hours that very same day Osman Suljic, president of the Srebrenica Municipality, #reported to Sarajevo that the town will not be defended, which certainly was listened and heard by the VRS. See:O. Suljic telegram, cable)**

5688. The Chamber recalls that after Krstić reported to the Main Staff the favourable conditions for extending the attack on 9 July, Tolimir contacted the Accused, who approved the expansion of the Krivaja 95 plan and ordered the Bosnian Serb Forces to take over Srebrenica town.<sup>18650</sup> Tolimir then proceeded to draft a written order to this effect, which Mladić relayed to his subordinates in the field by encrypted radio.<sup>18651</sup> The order stated that “full protection” was to be given to UNPROFOR members and the Bosnian Muslim civilian population.<sup>18652</sup> Additionally, pursuant to an order from the Accused, a group of mixed special police units under the command of Borovčanin was redeployed from Sarajevo to the Srebrenica front on 10 July.<sup>18653</sup> The Main Staff also redeployed units assigned elsewhere towards Srebrenica.<sup>18654</sup>

<sup>18641</sup> See paras. 5010–5012, 5017, fn. 16957.

<sup>18642</sup> The Accused told Živanović to tell Krstić that although “we could probably reinforce you a little”, aside from a group from Zvornik, “the entire MUP [wa]s engaged” and that “there [wa]s no other way”; the Drina Corps would “have to go with [its] own forces”. **That is why the Sarajevo front was more important for the Serbs than Srebrenica. And all contacts of the President with different officers and officials was about the Sarajevo front situation, which was very dramatic.** P4484 (Dictaphone conversation between Radovan Karadžić and General Milenko Živanović, 8 July 1995), pp. 1–2 (also mentioning the seising of the Tri Sise feature that day); D2099 (VRS Main Staff Report, 8 July 1995), para. 6(b) (reporting the seising of the Tri Sise feature on 8 July). See also Ljubomir Obradović, T. 25321 (27 February 2012) (confirming that the reference to “Krlc” in P4484 pertained to Krstić). In the Drina Corps’ daily combat report to the Main Staff, Živanović requested that a company of Zvornik MUP forces be engaged as reserve forces for the Birač Brigade. P4930 (Combat Report of Drina Corps, 8 July 1995), para. 9.

<sup>18643</sup> P4484 (Dictaphone conversation between Radovan Karadžić and General Milenko Živanović, 8 July 1995), p. 2.

<sup>18644</sup> P4484 (Dictaphone conversation between Radovan Karadžić and General Milenko Živanović, 8 July 1995), p. 2.

<sup>18645</sup> See paras. 5010–5012.

<sup>18646</sup> See paras. 5010–5013.

<sup>18647</sup> See paras. 5014, 5016, 5019.

<sup>18648</sup> See paras. 5008, 5017.

<sup>18649</sup> See paras. 5015, 5017.

<sup>18650</sup> See para. 5018.

<sup>18651</sup> See para. 5018.

<sup>18652</sup> See para. 5018.

<sup>18653</sup> P2992 (Order of RS MUP, 10 July 1995); P2993 (Order of RS MUP, 10 July 1995). See also para. 5021 (describing the detachment and redeployment of a mixed group of MUP forces under the command of Borovčanin); Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6365–6366 (stating that only the Supreme Commander, at the request of the Ministry of the Interior, could engage a MUP unit for combat activities). Tomislav Kovač testified that while he was meeting with the Accused on 9 July, the Accused called Krstić and told the latter to convey a request for two special police detachments to be sent to Srebrenica before turning to Kovač and asking him to send some special police forces so that Mladić “would not get all the credit for the liberation of Srebrenica”. D3960 (Witness



5689. Meanwhile, members of the Main Staff colluded in attempting to deceive UNPROFOR.<sup>18655</sup> When Tolimir—who had already relayed to the Drina Corps IKM the Accused’s order to take the town—spoke to Janvier at 11:10 p.m. on 9 July, he assured Janvier that the VRS “w[ould] do everything [they] c[ould] to calm down the situation”.<sup>18656</sup> **(This is #not correct. The Krstic’s cable came to the Main Staff after that time, close to 11:30, and the Tolimir cable went close to midnight. But even if so, the #UN had already legitimised itself as a hostile towards the Serbs#, and by that time they had already been concluded an agreement with the Muslim side about the joined defence!)** Likewise, although Mladić had already relayed the expanded orders received from Tolimir to the subordinate units of Bosnian Serb Forces, when he spoke to Janvier at 10:45 a.m. on 10 July, Mladić claimed: “[W]e are doing everything to keep the situation under control and for it not to escalate”.<sup>18657</sup> That day, the Bosnian Serb Forces advanced further into the enclave and attempted to enter the town, but were repelled by ABiH and DutchBat fire.<sup>18658</sup> Nevertheless, the Bosnian Serb Forces continued to draw closer to the town while Tolimir maintained that combat operations had stopped when he spoke to Janvier.<sup>18659</sup> On the following day, Gvero sent an urgent warning to the Drina Corps Command and IKM, noting that “the monitoring of reactions from UNPROFOR representatives and the world public opinion indicates that the attitude of the VRS personnel towards UNPROFOR personnel and units in the area of Srebrenica is in the focus of attention”.<sup>18660</sup> Gvero further ordered the Drina Corps and its subordinate units to “ensure utmost decency in the attitude towards UNPROFOR personnel”, as adopting such an attitude was “of multifarious importance for the realisation of the assignment at hand and of our set of objectives”.<sup>18661</sup> The Chamber thus considers that the Main Staff was well aware of the need to maintain cordial relations with UNPROFOR while nevertheless advancing further towards the goal of taking over the enclave. Late in the afternoon of 11

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Statement of Tomislav Kovač dated 28 October 2013), paras. 110–111; Tomislav Kovač, T. 42720–42721, 42724–72725 (31 October 2013), T. 42746–42747 (1 November 2013). Kovač claimed that he refused to issue such an order because the MUP forces were spread so thin around Sarajevo and because he anticipated “a conflict with Mladić”, but that nevertheless, the Accused issued an order “for the police to start their activities in Srebrenica”. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), paras. 112–113; Tomislav Kovač, T. 42721 (31 October 2011). The Chamber notes that Kovač further asserted that he went from Pale to Bijeljina in order to be “out of reach” in an attempt to avoid issuing such an order but that nevertheless, the Accused’s order of 10 July was conveyed by a MUP duty officer “to the field” using Kovač’s name but without his knowledge. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 114. *See also* Tomislav Kovač, T. 42734 (1 November 2013). When Kovač was presented with his own testimony from a previous case in which he had testified that the Accused had called Karišik and Borovčanin to relay his order of 10 July directly, Kovač first asserted that the order had merely been “forwarded to the MUP institution where Karišik and Borovčanin were”; however, when presented with Karišik’s testimony denying having seen the Accused’s 10 July order at the time, Kovač then stated that the Accused had issued the order “to the MUP institution” and that Borovčanin had “received the order through MUP services”, and asserted that “as for Karišik, I don’t know whether he saw it the first or the second day, whether he passed it on [...] as my deputy he had insight into it [...]”. Tomislav Kovač, T. 42733–42735 (1 November 2013). *See also* Tomislav Kovač, T. 42717 (31 October 2013) (attesting to the truthfulness of his testimony in the prior case). When asked specifically whether he stood by his prior testimony that the Accused had called Karišik directly, Kovač became evasive and eventually explained that he “didn’t know who passed on the order until [he] saw documents in The Hague”. Tomislav Kovač, T. 42735–42737 (1 November 2013) (further explaining that when he gave his previous testimony he thought Karišik had forwarded the order but later learned that that was incorrect). The Chamber will explain its assessment of Kovač’s credibility in more detail in para. 5766 below, and considers that Kovač had an interest in distancing himself from the implementation of the Accused’s 10 July order. *See* Tomislav Kovač, T. 42737–42738 (1 November 2013) (demonstrating awareness that the commander of the SBP, Goran Sarić, had recently been indicted in connection with the actions of SBP units following their deployment to Srebrenica pursuant to the Accused’s order). The Chamber will therefore not rely on Kovač’s testimony to the extent that it implicates Karišik in the order’s forwarding. However, the Chamber is satisfied that the order was forwarded by the RS MUP and implemented as set out above. *See also* Christian Nielsen, T. 16335–16336 (7 July 2011).

<sup>18654</sup> *See* para. 5021.

<sup>18655</sup> Radislav Janković, an officer from the Intelligence Administration who had arrived in Srebrenica on 8 July 1995, informed Momir Nikolić that he would be taking over all contact with international organisations and DutchBat, relieving Nikolić of those duties. Momir Nikolić, T. 24604–24606 (13 February 2012).

<sup>18656</sup> *See* para. 5019.

<sup>18657</sup> P5268 (Intercept of conversation between Ratko Mladić and General Bernard Janvier, 10 July 1995), p. 1. Mladić also told Janvier that the DutchBat members who had crossed to Bosnian Serb territory when their OPs fell were not POWs, but “guests”. P5268 (Intercept of conversation between Ratko Mladić and General Bernard Janvier, 10 July 1995), p. 2. *See also* fn. 16989.

<sup>18658</sup> *See* para. 5024.

<sup>18659</sup> *See* paras. 5025, 5027.

<sup>18660</sup> P5221 (VRS Main Staff warning re the treatment of UNPROFOR personnel, 11 July 1995).

<sup>18661</sup> P5221 (VRS Main Staff warning re the treatment of UNPROFOR personnel, 11 July 1995).

July, Gvero spoke to Nicolai and—as Mladić and Tolimir had done the day before when speaking to Janvier—denied that the Bosnian Serb Forces were attacking UN positions or targeting the population.<sup>18662</sup> Soon thereafter, Gvero reported to the Accused what he had said to Nicolai and then added: “That’s right, I told him, Mr. President. [...] Everything is going according to plan and do not worry.”<sup>18663</sup> The Chamber finds that these conversations, especially when viewed in light of the clear advance of the Bosnian Serb Forces on the ground, clearly demonstrate that the members of the Main Staff deliberately lied to the UNPROFOR officials with whom they spoke on 10 and 11 July, and that the Accused was aware of this tactic. **(One must wonder why this conversation was tried by the #Prosecution to be allocated to president of the Assembly, Krajisnik. In his process it was tried. There was no evidence that there was any contact between the President and this officer, who was designated to be transferred to the Yugoslav army, together with Beara and Tolimir yet in mid May 95!)**

5690. The Accused was also promptly informed by Gvero about the fall of Srebrenica in the late afternoon of 11 July.<sup>18664</sup> **(Anyway, #Deronjic testified that the President called him, asking whether his information about taking Srebrenica was correct, and President Milosevic asked: what kind of the supreme commander would ask you that?# The Prosecution didn’t explain when and why it gave up its assertion that a president in this intercept was Krajisnik. #Fishing in a mad#!?)** The Bosnian Serb Forces had by then entered what was mostly an empty town, although they called upon those who remained to leave their houses.<sup>18665</sup> Mladić ordered the Bosnian Serb Forces to proceed north towards the UN Compound, which was by then full of Bosnian Muslims who had fled the relentless shelling of the town earlier that day.<sup>18666</sup> **(But there was no casualties, and it wasn’t shelling of the civilian areas. Generals Mladic and Krstic hadn’t been informed that there was no a Muslim combatants in the town any more. We have established in one of the testimonies that the Serb had M-84, the best tank in the world, and could hit any spot precisely, but the VRS didn’t aim the civilians or civilian objects or areas whatsoever!)** Before leaving the centre of Srebrenica, Mladić turned to the television cameras and said: “Finally [...] the time has come to take revenge on the Turks in this region.”<sup>18667</sup>

(A) Forcible removal of the Bosnian Muslim women, children, and elderly men

**(The BIH rump Presidency discussed the issue of removal of population on their session on 20 June 1992, recognising that they used to detain in an encirclement many**

<sup>18662</sup> See para. 5034.

<sup>18663</sup> P4629 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 11 July 1995).

<sup>18664</sup> P4630 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 11 July 1995) (Gvero stating “Mr. President, Serbian silver, Serbian church, and Serbian flag”). **For all of those intercepts there is no a reliable evidence that it was really this Accused. The same issue the same Prosecution tried to sell to the Krajisnik’s Trial Chamber. For the Prosecution it was irrelevant who really was it, just to use it, trying here and there .** See also P4629 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 11 July 1995); P4633 (Intercept of conversation between Radovan Karadžić and an unidentified person, 11 July 1995). Gvero and the Accused then discussed the prospect of further NATO air strikes; Gvero told the Accused that UNPROFOR had no reason to attack the VRS and had probably come under fire from Bosnian Muslim forces, the Accused ordered Gvero to shoot down any planes that went into a dive, and Gvero remarked that planes were once again in the air. P4633 (Intercept of conversation between Radovan Karadžić and an unidentified person, 11 July 1995); P4630 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 11 July 1995).

<sup>18665</sup> See paras. 5030–5032. Members of the 10<sup>th</sup> Sabotage Detachment also summarily killed an able-bodied man who appeared near the centre of town. See para. 5032.

<sup>18666</sup> See paras. 5028–5029, 5033. The Chamber recalls that Bosnian Serb shells followed the group of Bosnian Muslims as they moved northward and that Bosnian Serb Forces burned Bosnian Muslim houses as they approached Srebrenica town. See paras. 5029–5030, fn. 17012.

<sup>18667</sup> See para. 5033.



**hundreds of the Serbs and Croats, see D3716:**

were about 2,500 people in Lapac, in Lika, who had good relations for a long time. They gave them refuge, after which certain problems arose. That is why we should call Nenad and Irfan to get more information. UNPROFOR held a meeting in Titova Korenica, I know that. They talked with these people to let the group of 2,500 come because, according to available assessments, their lives were in danger. In order to protect these people, Cazin held 540 Serbs in /illegible/ parts and even held some on the Croatian side in encirclement in the T. Raštela area. What we should be discussing Zenica, even if they agreed in principle to something like that? Or should we tell people to seek refuge without legally recognizing such a situation.

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Is it possible that the negotiations are intended to pacify the situation, to save the people and then have UNPROFOR mediate?

HALILOVIĆ:

I'm not talking about UNPROFOR. I absolutely agree that people should flee from areas where they are threatened and so on. But I absolutely believe that ...

IZETBEGOVIĆ:

I mean, these men going around with UNPROFOR, they might be doing that so as to avoid a direct conflict and thus seeking UNPROFOR's mediation. We would be doing the same here now.

**5691.** The Chamber recalls that on 10 July, the Bosnian Serb Forces conveyed a proposal to DutchBat that in exchange for being given safe passage out, the Bosnian Muslims would leave the enclave within 48 hours.<sup>18668</sup> After taking the town on 11 July, a series of meetings were held at Hotel Fontana, where the participants discussed what would happen to the Bosnian Muslims gathered in Potočari. As the Chamber has described in more detail earlier in this Judgement, Mladić set an intimidating tone at the outset of the first meeting.<sup>18669</sup> The atmosphere of intimidation persisted as Mladić alternated between inviting Karremans to make suggestions as to how to resolve the situation and issuing veiled threats to the well-being of the DutchBat soldiers who had surrendered to the Bosnian Serb Forces and were then being held in Bosnian Serb custody.<sup>18670</sup> The meeting concluded when Mladić dispatched Karremans back to Potočari to retrieve a representative of the Bosnian Muslim population to attend a second meeting that would commence at 11 p.m.<sup>18671</sup> **(Prior to any idea of moving the civilian population, there was a #report of movement of population toward Potocari, with a possibility to have them proceed to Tuzla, see: P04154**

<sup>18668</sup> See para. 5026.

<sup>18669</sup> See para. 5041. The Chamber recalls that the first meeting was also attended by Mladić and Živanović as well as Radoslav Janković of the Main Staff and Svetozar Kosorić of the Drina Corps, both of whom were intelligence officers. See para. 5040.

<sup>18670</sup> See para. 5041–5042.

<sup>18671</sup> See paras. 5042–5043.

2. SMOs ASSESSMENT. THE SITUATION WITHIN THE MAIN AOR REMAINS CALM AND QUIET, AND LIKELY TO REMAIN THAT WAY FOR THE NEXT 24 HOURS. IN THE SREBRENICA ENCLAVE THE SITUATION HAS DETERIORATED WITH THE BSA TAKING CONTROL OVER MOST REGIONS. THE AIR STRIKES DON'T APPEAR TO HAVE HAD THE EXPECTED OUTCOME. REFUGEES ARE MOVING TO THE NORTHERN PART OF THE ENCLAVE AND THE FOOD SIT IS BECOMING CRITICAL. MOVEMENT OUT OF THE ENCLAVE, TOWARDS TUZLA REGION, IS A POSSIBILITY IN THE COMING DAYS.

**#There is not any mention of a Serb intention to instigate this possible movement towards Tuzla!#)**

5692. In between the first and the second meeting on 11 July, Krstić, Pandurević, Andrić, Blagojević, and others met Mladić—who arrived with Živanović—at the Bratunac Brigade Command.<sup>18672</sup> There, Mladić ordered that the Drina Corps re-deploy towards Žepa under Krstić's command.<sup>18673</sup> Krstić testified that at the time, those present at the meeting were not aware of the column of Bosnian Muslim men attempting to reach Tuzla and that no information was received during the meeting.<sup>18674</sup> **(That's right, #otherwise why Mladic would demand the disarmament of the Muslim forces#? Up until 12 July around 10:00, i.e. around the beginning of the third meeting, General Mladic has learnt that the majority of combatants are not in Potocari with civilians!)** Trivić testified that during the meeting, Mladić spoke to someone on the phone about logistical issues pertaining to the transport of civilians from the enclave, but did not elaborate further.<sup>18675</sup> At the end of the meeting, Mladić informed those present that he had received a decree from the Accused appointing Deronjić as civilian commissioner in Srebrenica.<sup>18676</sup> **(#Mladic could get this decree only after he met Deronjic, it must have been 12 July in the morning, before the third meeting. It is less probable that the Trivic's diary was wrong. We know that it was 12 July, nobody mentioned 11.)**

5693. The Accused had indeed issued an order appointing Deronjić “civilian commissioner for the Serbian Municipality of Srebrenica” with the authority to—in consultation with the Accused and the RS Government—“establish the functions of the

<sup>18672</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6198, 6201. See also D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), paras. 31–33 (stating that he encountered Mladić, Krstić, Pandurević and others outside the Bratunac Brigade Command in the evening of 11 July, adding that they had just come out of a meeting); D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 20 (testifying that Mladić and Krstić visited the Birač Brigade on 12 July); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 9 (also referring to Mladić's inspection of the troops on 12 July). Mladić told the participants that he and Živanović had returned from the first Hotel Fontana meeting, but according to Krstić, did not elaborate about that meeting any further. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6202. The Chamber notes that the parties agreed that, according to Trivić's diary, this meeting took place in the evening of 12 July. See T. 40523 (26 June 2013); D3748 (Excerpt from Mirko Trivić's diary), e-court p. 5. However, given that the majority of evidence received by the Chamber supports the fact that the meeting took place on 11 July, the Chamber considers that Trivić's evidence in fact refers to the same meeting attended by Krstić on 11 July. **This is wrong conclusion. On 12 July there was a saint day, the day of St. Peter and Paul, which was the patron-saint of the Bajagic family. That was why he invited them, and he mentioned fish for a dinner, since there was a fasting period. See:.....**

<sup>18673</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6202, 6558, 6585. Although Trivić and Pandurević urged Mladić to allow the soldiers to rest, Mladić insisted that they proceed in liberating Žepa the next morning. **If it had been 11 July, it would be too early to propose a rest for the soldiers** D3747 (Witness statement of Mirko Trivić dated 22 June 2013), p. 16; D3748 (Excerpt from Mirko Trivić's diary), e-court p. 5. Mladić also gave orders regarding the route to be taken towards Žepa. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6220–6221, 6223. On 12 July, Mladić and Krstić conducted an inspection of the Birač Brigade subordinate units near Mount Viogor, and informed them of the forthcoming push towards Žepa. D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 20; D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 9.

<sup>18674</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6561–6562. Krstić further stated that brigade commanders of units involved in the take-over of Srebrenica that day were given clear orders not to engage in further assaults towards the town or Potočari, but should instead stop at the lines they had reached. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6509–6510, 6560.

<sup>18675</sup> Mirko Trivić, T. 40549 (27 June 2013).

<sup>18676</sup> Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6207–6208.

appointed municipal authority organs and ensure conditions for their efficient functioning”.<sup>18677</sup> **(#EXCULPATORY!) It pertained only to the Muslim civilians, because there was no any Serb civilians there, and the main concern of the President was to secure these Muslim civilians!)** Deronjić was also tasked with establishing the functioning of a Bosnian Serb SJB.<sup>18678</sup> The terms of the order also specified that Deronjić was to “ensure that all civilian and military organs treat[ed] all citizens who participated in combat operations against the [VRS] as prisoners of war, and ensure that the civilian population c[ould] freely choose where they w[ould] live or move to”.<sup>18679</sup> **(This is completely #EXCULPATORY! This was a “strictly confidential order”).** Finally, Deronjić was authorised to appoint his own associates.<sup>18680</sup> The Accused also issued an order to the RS MUP to form an SJB in “Serb Srebrenica”.<sup>18681</sup> According to the order, “all citizens who participated in combat activities against the [VRS] will be treated as prisoners of war and in accordance with the law and international conventions”.<sup>18682</sup> **(#EXCULPATORY!)** Others were to be free to choose their place of residence or place of emigration.<sup>18683</sup> The RS MUP was further instructed to establish close co-operation with Deronjić.<sup>18684</sup> **(#EXCULPATORY!)**

**5694.** That same evening, Deronjić held a meeting of about 20 people, including “Serb officials in Srebrenica”, as well as managers of public and state-owned companies, at the SDS office in Bratunac.<sup>18685</sup> There, Deronjić informed the attendees that he had been appointed civilian commissioner for Srebrenica and established a speaker phone connection with the Accused, who stated that Deronjić was “directly responsible with his life for all civilian affairs in Srebrenica”, **(#EXCULPATORY!)** and that all others were to be directly responsible to Deronjić.<sup>18686</sup> Deronjić then appointed directors for all public enterprises and institutions in Srebrenica.<sup>18687</sup> The Chamber considers that the establishment of such Bosnian Serb structures, especially in light of the Bosnian Serb rhetoric advocating the separation of the population along ethnic lines and asserting an inability to co-exist,<sup>18688</sup> is demonstrative that the removal of the Bosnian Muslim population then envisaged by the Bosnian Serb Political and Governmental Organs was intended to be permanent. **(#This kind of inference is unacceptable, because is based on several prejudices and false assertions#. First of all, the #“inability to coexist” never meant the civilian population#, it always meant the same political and judicial system, i.e. a unitary Bosnia under the Muslim domination, particularly since the fundamentalist program was to be applied. This kind of shifting the truth and mixing up this two meaning is deeply unfair. As of the Historic Serb-Muslim Agreement, to the President’s speech in Banjaluka on 12 Maj 1992, it was always had been said: we are not in conflict with the Muslim or Croat people, but with their extreme leaders,**

<sup>18677</sup> D2055 (Decision of RS President, 11 July 1995), paras. 1–2.

<sup>18678</sup> D2055 (Decision of RS President, 11 July 1995), para. 3.

<sup>18679</sup> D2055 (Decision of RS President, 11 July 1995), para. 4.

<sup>18680</sup> D2055 (Decision of RS President, 11 July 1995), para. 6.

<sup>18681</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995). *See also* para. 226.

<sup>18682</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995), para. 4.

<sup>18683</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995), para. 4.

<sup>18684</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995), para. 5. *See also* Christian Nielsen, T. 16337–16338 (7 July 2011).

<sup>18685</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 59; D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 6; Dane Katanić, T. 38656 (22 May 2013); Milenko Katanić, T. 24463–24465, 24492 (10 February 2012); KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7868–7870 (under seal); KDZ480, T. 24227–24228 (7 February 2012) (closed session).

<sup>18686</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 59; Milenko Katanić, T. 24465, 24468–24473 (10 February 2012); P4380 (Sketch drawn by Milenko Katanić); P4381 (Sketch drawn by Milenko Katanić). *See also* D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 6; KDZ480, P4355 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 7868–7870 (under seal); KDZ480, T. 24227–24229 (7 February 2012) (closed session).

<sup>18687</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 60.

<sup>18688</sup> *See* Section IV.A.3.i: Objectives of the Accused and the Bosnian Serb leadership.

**who want to achieve something they didn't have right to. Had the Muslims keep to the Historic Agreement, we would live together, but what the Serbs needed was a central, federal authority that would protect their rights, and since the Muslims wanted to avoid the federal authorities, the Serbs had all and every right to enjoy an autonomy within Bosnia, as Izetbegovic took commitment in the Hague Conference in 1991, and as the international community immediately recognized and organised the Conference on BiH!**

5695. The Chamber recalls that Karremans returned to the Hotel Fontana for a second meeting which commenced around 11 p.m. on 11 July, bringing with him other Dutch/Bat officers as well as Nesib Mandžić, a former schoolteacher, who had agreed to act as a spokesperson for the Bosnian Muslim population in Potočari.<sup>18689</sup> Mladić, Živanović, and intelligence officers Radoslav Janković and Svetozar Kosorić were joined at the second meeting by Krstić and Deronjić.<sup>18690</sup> As the Chamber has outlined in more detail above, although Mladić's words to Mandžić explicitly portrayed that the population's wishes would be respected, Mladić delivered them in a threatening manner by first stating that he wished to receive "a clear position [...] on whether you want to survive [...] stay or vanish" before reminding Mandžić that "the future of your people is your hands, not only in this territory".<sup>18691</sup> Mladić then sent Mandžić back to the UN Compound with instructions to return with a delegation of Bosnian Muslim representatives at 10 a.m. the next morning.<sup>18692</sup>

5696. Overnight, shelling continued around the UN Compound and panic was rampant amongst the Bosnian Muslims gathered there.<sup>18693</sup> Meanwhile, the Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs began to mobilise the resources for a massive transport operation. Mladić issued an order for the mobilisation of buses, which was then conveyed through the Main Staff to the RS Ministry of Defence.<sup>18694</sup> **(But not before morning 12 July, i.e. not before the second meeting in Hotel Fontana.)** Early on 12 July, Živanović ordered the subordinate brigades of the Drina Corps to send all available buses and minibuses to the Bratunac stadium; this was completed by 10 a.m.<sup>18695</sup> **(None of that was even mentioned, let alone prepared before the Mladic – Karremans meetings and the UN demands to have the civilians evacuated!)** Additionally, Krstić instructed Krsmanović to mobilise 50 buses from municipalities as far away as Pale and send them to the Bratunac stadium by 5 p.m. that day.<sup>18696</sup> Also that morning, acting pursuant to an order issued by Mladić on the previous evening, the Bosnian Serb Forces—including members of the Bratunac Brigade as well as Borovčanin's units—took control of OP Papa and, during the course of the morning, proceeded along the road towards the UN Compound in Potočari, where they took control by 1 p.m.<sup>18697</sup>

**5697.** In the meantime, Mandžić and two other Bosnian Muslim representatives of the population in Potočari—along with Karremans and Boering—returned to the Hotel

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<sup>18689</sup> See paras. 5043–5044.

<sup>18690</sup> See para. 5044.

<sup>18691</sup> See para. 5046.

<sup>18692</sup> See para. 5046.

<sup>18693</sup> See para. 5074.

<sup>18694</sup> See para. 5082. Pursuant to this request, the RS Ministry of Defence took immediate action to mobilise buses procured by its secretariats in Sarajevo and Zvornik—as well as departments in Milići, Vlasenica, Šekovići, and Bratunac—which were sent during the course of the day. See para. 5082.

<sup>18695</sup> See paras. 5084–5085.

<sup>18696</sup> See para. 5083.

<sup>18697</sup> See paras. 5078–5079.



Fontana for a third meeting with the Bosnian Serbs.<sup>18698</sup> With the exception of Živanović, all Bosnian Serb participants from the previous evening, as well as Popović and Dragomir Vasić, attended the third meeting.<sup>18699</sup> Although Mladić gave the impression that the Bosnian Muslim representatives' wishes would be respected,<sup>18700</sup> he also implied that they had no choice but to leave in order to survive.<sup>18701</sup> In fact, Mladić had already set in motion the mobilisation of both military and civilian resources to carry out the bussing operation as described above. **(But none before the second meeting! On those two meetings it was clearly stated by the Muslim representatives that they want to leave. Another question: since the UN was for evacuation, the local leadership was for evacuation, the Dutch Ministry for Defence was for evacuation, how it would be seen if the Serbs decided to forbid any evacuation, and ordered the population to return to the town? This would be a horrible mess, panic, chaos and maybe many casualties!)**

**5698.** When the third Hotel Fontana meeting ended, the Bosnian Muslim representatives were asked to return to the UN Compound to convey the message that transportation would be provided.<sup>18702</sup> When the vehicles for the transportation of the Bosnian Muslims began to arrive at the UN Compound, DutchBat soldiers were disarmed at gunpoint by members of the Bosnian Serb Forces.<sup>18703</sup> **(So what? #No two armies are recommended at a same place at a same time. Beside that, the UN troops had been fighting against the Serb forces only two days ago!)**

**5699.** The transportation of Bosnian Muslims from Potočari began at approximately 12:40 p.m. on 12 July.<sup>18704</sup> Members of the Jahorina Recruits and the Bratunac Brigade MP—assisted by other MUP members—controlled the boarding process.<sup>18705</sup> During the course of the afternoon, Mladić arrived and addressed the crowd, stating that the population could choose whether to go or stay and that the women and children would be transported first and would not be harmed.<sup>18706</sup> However, the Chamber notes that Mladić had previously expressed satisfaction at the commencement of the transportation process, adding: “they’ve all capitulated and surrendered and we’ll evacuate them all—those who want to and those who don’t want to”.<sup>18707</sup> **(Anyway, this braging happened after the third meeting, when it was obvious that the evacuation is going to happen.)** Overnight and the following day, the Bosnian Serb Forces subjected the Bosnian Muslims who still remained at the UN Compound to numerous incidents of physical and sexual violence.<sup>18708</sup> **(#What sexual violence? Was it verified in any way#? How possibly there could be any sexual violence among so many Serb and UN soldiers? This is the nature of almos all the Muslim statements and testimonies. Not a slapping a face could have happened unnoticed!)**

**5700.** As the bussing operation entered its second day, Radoslav Janković reported to Živanović that approximately one third of the Bosnian Muslims in Potočari had been

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<sup>18698</sup> See paras. 5067–5072.

<sup>18699</sup> See para. 5067.

<sup>18700</sup> Mladić told the representatives that he “wanted to help them” and they could “choose to stay in the territory or, if so you wish, go wherever you want”. See paras. 5068, 5638.

<sup>18701</sup> Mladić stated that “there is no need for your people to get killed [...] as I told this gentleman [Mandžić] last night, you can either survive or disappear”. P4201 (Updated Srebrenica Trial video), Part 2, at 00:10:15–00:11:10; P4202 (Written compilation booklet: Srebrenica Trial video), e-court p. 248. See also paras. 5068, 5638.

<sup>18702</sup> See paras. 5069–5070.

<sup>18703</sup> See para. 5080.

<sup>18704</sup> See para. 5093.

<sup>18705</sup> See para. 5099.

<sup>18706</sup> See para. 5097.

<sup>18707</sup> See para. 5100.

<sup>18708</sup> See paras. 5077, 5095.



transferred, and estimated that there were approximately 10,000 left.<sup>18709</sup> Janković assured Živanović that “the job” was “being done [...] at full steam”.<sup>18710</sup> Mladić returned to Potočari on 13 July and oversaw the boarding process again.<sup>18711</sup> The transportation process continued throughout the day and was completed by 8 p.m.<sup>18712</sup> As the buses proceeded towards Bosnian Muslim-held territory, they were escorted by members of the SJB or the Bratunac Brigade MP.<sup>18713</sup> Pursuant to an order issued earlier that day,<sup>18714</sup> members of the Bratunac Brigade regulated traffic as the buses passed through Bratunac en route to Konjević Polje.<sup>18715</sup> In total, between 11 and 13 July, up to 30,000 Bosnian Muslim women and children, as well as elderly men, were bussed from Potočari to Bosnian Muslim-held territory.<sup>18716</sup> **(If so, #how many inhabitants lived in Srebrenica before the events? We know that it was 37,000, plus 12 to 15,000 in the woods, this count can not be exact. And this number is in an accord with the evidence that the Bosnian rump presidency got from the ICRC, and discussed on its session on 11 August, a month after the fall of Srebrenica, see D2238, p. 6: SILAJDŽIĆ:**

The problem is that it was not 35,000, but a little more than 36,000. However, it seems that this is not right either. They differ, they were not able to count well. There were some problems there. So it was 36,200 - and some more. I asked them to tell me how many had come, but we do not know the exact number of people who came to Tuzla or how many reported. We know for a little more than 31,000. But some were taken by their relatives, friends or the reception centre directly from Kladanj about which we do not have the information yet.

**#There may not be any dilemma#: a bit more than 31,000 arrived in Tuzla, with a possibility that some weren't registered. Out of the rest of 5,000 missing, #around 1,000 reached Serbia and remained there. Because of not knowing how many of these were in Zepa#, not to mention them apart. Some of them, certainly close to two thousands, had been killed in combats, some of the rest reached the Batkovic prison for POWs. A conclusion is in front of us: #there was far less than 3,000, and may be #less that 2,000 executed persons! Why it is not important to anyone#?)**

## (B) Killing of the Bosnian Muslim men and boys

5701. The Chamber recalls that by the time the Bosnian Serb Forces took over the town on the afternoon of 11 July, the vast majority of the able-bodied men of Srebrenica had fled on foot through the woods, fearing that they would be killed if they accompanied their families to Potočari.<sup>18717</sup> While some able-bodied men were present among the population in Potočari, most of the Bosnian Muslims gathered there consisted of women, children, and the elderly.<sup>18718</sup> At the time of the meetings at Hotel Fontana on the night of 11 July, the Bosnian Serb Forces were aware that there were at least 1,000 Bosnian Muslim men of

<sup>18709</sup> P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995), p. 1. [REDACTED].

<sup>18710</sup> P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995), p. 1.

<sup>18711</sup> See para. 5100.

<sup>18712</sup> See paras. 5098, 5107, 5125.

<sup>18713</sup> See para. 5104. The Chief of the Drina Corps Intelligence Department, Kosorić, also escorted the vehicles. See para. 5104.

<sup>18714</sup> During the course of the day, the Bratunac and Zvornik Brigades were ordered to regulate traffic at the Konjević Polje intersection so that priority could be given to “buses for evacuation”. See para. 5088 (referring to P4574).

<sup>18715</sup> See paras. 5088, 5104.

<sup>18716</sup> See paras. 5101, 5108.

<sup>18717</sup> See paras. 5032–5033, 5036–5037.

<sup>18718</sup> See para. 5073.

military age among the Bosnian Muslims still moving from Srebrenica to Potočari, who were expected to arrive there overnight.<sup>18719</sup> As the Chamber will analyse further below, that same evening, the Bosnian Serb Forces also began to receive information about the formation and movement of the column of Bosnian Muslim men.<sup>18720</sup>

5702. The Chamber recalls that during a conversation that took place prior to the third meeting at the Hotel Fontana, which began around 10 a.m. the following morning, Popović told Momir Nikolić that the Bosnian Muslim women and children gathered in Potočari would be transferred to Bosnian Muslim-held territory, while the military-aged men would be separated.<sup>18721</sup> Popović then told Nikolić that “all the balijas should be killed”.<sup>18722</sup> The Accused offers various arguments in an attempt to demonstrate why the Chamber should not consider Momir Nikolić a credible witness or rely on his testimony in relation to the formation of the plan to kill the Bosnian Muslim men and boys in Srebrenica.<sup>18723</sup> In this regard, the Chamber refers to its earlier discussion and findings on the reliability of Nikolić’s testimony regarding his conversation with Popović prior to the commencement of the third Hotel Fontana meeting, and will not repeat them here.<sup>18724</sup>

5703. Once the third meeting got underway, Mladić announced that the Bosnian Muslim men in Potočari between the ages of about 15 and 70 would be subjected to a “screening” procedure.<sup>18725</sup> Immediately after the meeting, Radoslav Janković sent Momir Nikolić to Potočari with instructions to find Duško Jević, who was already there, and to assist with the separation of Bosnian Muslim men.<sup>18726</sup> After the first convoy departed on 12 July, Bosnian Muslim men and boys approaching the vehicles with their families began to be separated by members of the Bosnian Serb Forces—including members of the 10<sup>th</sup> Sabotage Detachment and the 65<sup>th</sup> Protection Regiment—who forced them to leave their personal belongings such as ID cards and valuables in piles along the road and took them

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<sup>18719</sup> Momir Nikolić, T. 24613–24615 (13 February 2012). *See also* P4202 (Written compilation booklet: Srebrenica Trial video), e-court pp. 230–231; P4201 (Updated Srebrenica Trial video), Part 1, at 01:13:55–01:14:27 (discussing the anticipated arrival of further Bosnian Muslims overnight).

<sup>18720</sup> *See* paras. 5157–5158. *See also* para. 5731.

<sup>18721</sup> *See* paras. 5049, 5066.

<sup>18722</sup> *See* para. 5049. Nikolić and Popović also discussed possible locations where the men could be detained and then killed, including the Ciglana brick factory and the Sase mine. *See* para. 5050.

<sup>18723</sup> *See generally* Defence Final Brief, paras. 2451–2504.

<sup>18724</sup> *See* paras. 5048–5066.

<sup>18725</sup> *See* para. 5069. *See also* para. 5111 (describing how, once in Potočari, Mladić informed Franken and Rave that the men would be separated and checked). The Chamber has already found that being a Bosnian Muslim man was the exclusive criterion for separation in Potočari. *See* paras. 5062, 5109–5113. Although Momir Nikolić attempted to check whether any Bosnian Muslim soldiers were inside the UN Compound on 12 and 13 July, no further effort was made to distinguish soldiers from civilians during the separations. *See also* para. 5112. The Chamber also recalls that some of those detained in Potočari were as young as 12 or 14 years old. *See* para. 5109.

<sup>18726</sup> *See* para. 5071. The Accused asserts that the fact that both Blagojević and KW582, [REDACTED] testified that they did not know that those who were separated would be killed should weigh against the credibility of Momir Nikolić’s testimony regarding the plan to kill. Defence Final Brief, paras. 2460–2461. Noting both of these witnesses’ respective positions and the involvement of their subordinates in various aspects of the operation described below, the Chamber observes that both would have an incentive to disclaim any knowledge of such a plan. **What would be a Blagojević’s motive? He finished his trial and all judicial Odiseya, he didn’t have any motive to lie.** *See* paras. 5079, 5315. Moreover, the Chamber notes that Blagojević exhibited considerable partiality and evasiveness when asked to clarify even matters which were peripheral to his role in the events which took place in Srebrenica in July 1995. *See* Vidoje Blagojević, T. 45026, 45028–45032, 45035–45036 (12 December 2013). **Blagojević had payed his price and didn’t have any motive to expose himself by lying in a public session.** Finally, the Chamber considers that, even if both Blagojević’s and KW582’s testimonies were true, the fact that they both denied contemporaneous knowledge of the plan to kill would not demonstrate that such a plan did not exist. **Then, why the Chamber didn’t accept it? But, it would be another thing, if such a plan existed, and they didn’t know anything about it, that would be further lack of the Prosecution evidence that the plan existed, or was so secret, that the high officers in their own AOR didn’t know anything.**

to the White House.<sup>18727</sup> The Main Staff Security and Intelligence Administration was made aware of this separation process late that afternoon.<sup>18728</sup>

5704. The Chamber has already described above how the Bosnian Muslim males separated from their families and detained in the White House were crammed into the house and not given any food or water.<sup>18729</sup> Although a total of between 600 and 700 Bosnian Muslim men and boys were separated over the course of 12 and 13 July, the Chamber recalls that beginning on the afternoon of 12 July and continuing throughout the following day, groups of males detained at the White House began to be led out of the house and crowded onto buses bound for Bratunac.<sup>18730</sup> Once the buses arrived in Bratunac, the Bosnian Muslim males were detained in equally crowded conditions in locations throughout the town, and although some food and water were provided at some detention points, it was woefully insufficient.<sup>18731</sup>

5705. As the Chamber has described earlier in this Judgement, beginning on the night of 11 July, the Bosnian Serb Forces began to receive information about the path of the column of Bosnian Muslim men attempting to reach Tuzla, and the VRS and MUP began taking co-operative actions to block it.<sup>18732</sup> **(This is not correct. #There is no evidence that Mladic was notified that there was a column before the third meeting#. Only then he was told that the Muslim delegation can not take an obligation to make the**

<sup>18727</sup> See paras. 5095, 5110. The Chamber recalls that the men were not allowed to collect their belongings when they later boarded buses bound for Bratunac, and that after all had left the White House by the evening of 13 July, these piles were set on fire. See paras. 5118–5119. Citing the evidence of two witnesses who testified that they were not required to surrender their personal identification documents, the Accused contends that “there is no evidence of systematic confiscation” of such material. Defence Final Brief, para. 2511. However, the Chamber recalls that numerous witnesses testified to having seen piles of personal belongings, including ID cards, money, wallets, luggage, clothing, and other valuables lying along the road approximately 30 to 40 metres away from the White House. See para. 5110. Moreover, the Chamber notes that both witnesses cited by the Accused testified that they had no personal belongings to surrender. Ahmo Hasić, P353 (Transcript from *Prosecutor v. Popović et al.*), T. 1252; KDZ039, P3940 (Transcript from *Prosecutor v. Popović et al.*), T. 17315. The Accused also asserts that the burning of the personal belongings of the Bosnian Muslim men and boys held in the White House should not be considered indicative of a plan to kill them because an equally reasonable inference is that all belongings left behind in Potočari were burned once the Bosnian Muslims had left. Defence Final Brief, para. 2512. However, the Chamber has not received any evidence that the ID cards or personal belongings of the Bosnian Muslims who were transported to Kladanj were confiscated in the same manner as those of the Bosnian Muslim men and boys detained at the White House. The Chamber also observes that the burning of the piles of ID cards and belongings of the men and boys detained in the White House appeared sufficiently anomalous as to motivate the DutchBat deputy commander to personally investigate the incident and another DutchBat officer to take photographs. P4175 (Witness Statement of Robert Franken dated 15 January 2012), para. 100; P3948 (Witness statement of Johannes Rutten dated 8 November 2011), para. 66; P4183 (Photograph of burning personal belongings at Potočari); P3961 (Photograph of burning personal belongings). **But this very same photographs had been destroyed due to the Dutch Defence Minister’s order, but the President had been prevented to tender it, since he found it the night after Rutten testified. Could we show it now?**

<sup>18728</sup> P4388 (Drina Corps report to VRS Main Staff, 12 July 1995), p. 2.

<sup>18729</sup> See para. 5113. In that regard, the Chamber notes the Accused’s argument that the cramped conditions in which the Bosnian Muslim men and boys were held at the White House should not be considered indicative of the existence of a plan to kill them, as he claims that the crowding and deprivation were equally attributable to the “chaotic conditions” which prevailed in Potočari. Defence Final Brief, paras. 2505–2506. The Accused also asserts that such treatment resulted from “negative attitude[s] towards the men of Srebrenica”. Defence Final Brief, para. 2505. However, the Chamber will examine the existence or implementation of a plan to kill in light of the totality of the evidence.

<sup>18730</sup> See paras. 5098, 5109, 5117–5118.

<sup>18731</sup> See paras. 5292–5295. The Chamber received evidence of an intercepted conversation between Mladić and Beara at 11:05 p.m. on 13 July wherein Mladić ordered Beara to “take care of all that. Solve it so that there is no lack of food [...] find a way wherever you can find it so that the men are not hungry [...] excellent. Just keep working and feed them all. There are a lot of hungry mouths”. D2682 (Intercept of conversation between Ratko Mladić and “Ljubo”, 13 July 1995). However, particularly in light of the plethora of other intercepted communications in which Bosnian Serb interlocutors including Mladić used the term “Turk” to refer to Bosnian Muslims generally and euphemisms such as “parcel” to refer to the Bosnian Muslim male detainees, the Chamber considers it unreasonable to infer that when Mladić referred to “the men” being hungry, he was speaking about the detainees as opposed to his troops. **A quite unusual speculation about Gen. Mladic’s moods. First of all, Gen Mladic had never taken care of a daily matters of feeding the troops, since the soldiers were from this area, slept every night at home and went to their shifts. Why would the Main Commander of the Army deal with that issue? Even if a desperate prosecution speculates that way, why a chamber, confident about a sentencing evidence, looks so desperate?** See e.g. P5378 (Intercept of conversation between two unidentified persons, 13 July 1995), pp. 1, 3; P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995); P5070 (Intercept of conversation between Major Jokić and Badem, 14 July 1995). The Chamber also recalls that there is no evidence that any food was provided to the detainees on 14 July or any subsequent day.

<sup>18732</sup> See paras. 5158–5159.

forces surrender. Until this moment, nobody informed him, and he kept repeating this demand, to lay down weaponry and surrender. Only after this third meeting he didn't repeat this demand any longer. What the Drina Corps had known, and what was expected after it became clear that the town would not be defended, was that there may be the Muslim combatants all over the region, but not as a mixed military/civilian column of 15,000 people. See what this assertion was founded on, in para 5158, fn 17464: P4572 (Order of Drina Corps, 11 July 1995), pp. 1–2. See P6125 (Drina Corps combat report, 11 July 1995) pp. 1, 3 (stating that Drina Corps units have been engaged in offensive operations in and around the Srebrenica enclave according to the Krivaja 95 plan, and adding that part of the active operations forces shall continue to carry out combat tasks and completely crush the enemy in the Srebrenica enclave, while another part of the forces shall control the territory behind the lines and protect the property and population).#”Protecting the property and population is something that the Chamber should have noticed as a #commendable conduct of the VRS! But, let us see how this document was wrongly red and interpreted, P4572:

**DRINA CORPS COMMAND**  
Str. confidential no. 03/157-4  
11 July 1995

**V E R Y U R G E N T**

**Order to block the linking up of  
the forces of the 28th enemy division  
with the forces in the enclaves**

On the basis of the Order of the Main Staff of the Republika Srpska Army, strictly confidential no. 03/4-1616, of 11 July 1995, available information and confirmed facts, the Command of the 28th Muslim Division (Srebrenica) has asked to be immediately redeployed from the Sarajevo front where it is currently deployed to Srebrenica. Considering the current situation in the enclave, it is realistic to expect that the Muslim leadership will grant this request.

According to our information, Muslim forces of the 28th Division of the so-called Army of Bosnia and Herzegovina dispatched to the enclave will probably move along the following axes:

- a/ Medov Do-Sljemenska Planina-Devetak-Bokšanica-Žepa-Srebrenica
- b/ Špiljanska Stena (Tamburić Kosa)-Igrišta-Partizansko Polje-Žeženica-Kupusna and further over Štedra and Nurići to Osoj and Srebrenica.

In order to block the return and withdrawal of Muslim forces to and from Srebrenica and their communicating along the enclave-Kladanj and Olovo axis and back, I hereby

**So, the complete odred had in mind the Muslim intention to send more forces from the Sarajevo battlefield, particularly those that had been previously in Srebrenica, as a reinforcement. Not a word about civilians, and the main concern of the Drina Corps were these units that may enter Srebrenica, than these that may be leaving. But, this is strictly military operational matter, and the President didn't interfere in this part of command!**

That night, Kovač dispatched additional MUP units to the area and, on 12 July, members of the MUP forces under Borovčanin's command were deployed along the Bratunac–Konjević Polje Road, joining the VRS units present in the area.<sup>18733</sup> The column was tracked by both MUP and VRS units, and intelligence on the column's movement was relayed within the Bosnian Serb Forces throughout 12 and 13 July.<sup>18734</sup> Early in the

<sup>18733</sup> See paras. 5158, 5160.

<sup>18734</sup> See paras. 5158–5159. See e.g. P6061 (Intercept of conversation, 12 July 1995); KDZ122, T. 26140–26141 (12 March 2012) (closed session); P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995), p. 2 (Janković replying, “last night we were supposed to go with the blue one. They have something, they are working, it's going well”); P4946 (Intercept of conversation between Krstić and Borovčanin, 13 July 1995) (showing cooperation between the MUP and VRS).

morning of 13 July, Mladić, Vasić, Krstić, Popović, and Pandurević met at the Bratunac Brigade Command.<sup>18735</sup> After the meeting, Mladić confronted Popović outside the building, swearing at him and urging him to “be more active”.<sup>18736</sup> **(At that moment, Popovic was Lt. Colonel, but was fearful of General Mladic. How anyone could believe that Momir Nikolic, a s a reserve Captain would dare to address Gen. Mladic and ask him a senseless question as about what is going te happen to the POWs?)**

Additional MUP units under Borovčanin’s command were deployed that day to reinforce those present along the Bratunac–Konjević Polje Road.<sup>18737</sup> Monitoring the movement of the column continued to be a priority for the Bosnian Serb Forces throughout 13 July, as the Main Staff sought information from the Drina Corps.<sup>18738</sup> **(As of that moment there was a full awarness of the existence of column. But, redeploying the Police and army members along the road was not a crime, it was an obligatory precautionary measure, and shouldn’t even be mentioned in the Judgment as something criminal!)**

5706. The column was subjected to intense shelling by Bosnian Serb Forces since the morning of 12 July.<sup>18739</sup> **(#That was because they didn’t know anything about the column before this time, and such a column of the defeated army units that refused to surrender their weaponry to the United Nations units was a perfectly legitimate objective. Knowing that there was about 25 to 30,000 civilians in Potocari, these in woods were considered as combatants!)** Attacks on the column continued throughout the day and into the morning of 13 July, resulting in the encirclement of a large group of men from the column near the Konjević Polje intersection.<sup>18740</sup> The Chamber recalls that the Bosnian Serb Forces then began using a loudspeaker to call into the woods, urging the members of the column to surrender.<sup>18741</sup> Large numbers of Bosnian Muslim men began to surrender or to be captured along the Bratunac–Konjević Polje and Konjević Polje–Nova Kasaba Roads, where the various VRS and MUP units were deployed.<sup>18742</sup> **(Those who didn’t surrender, but had been captured, had another position for a treatment, since many of them had been hostile, many of them ciolated the Geneva Conventions by surrendering falsly and killing many Serb soldiers, and this jeopardized other Muslim captives!)** When surrendering, the men were required to leave their belongings, including their ID cards, behind.<sup>18743</sup> The Chamber considers this as an indication that these men were marked for execution. **(This is an extremely wrong, and by no mean the only inference, particularly since the Chamber is in the posession of the document that regulates this procedure. Does it mean that when the UNDU took all the ID cards and limited other belongings, that the detainees should expect an execution? Thousands and thousands of POW-s went through the same procedure, it was understood in every army that the POWs could have abused their valuable and ID cards to escape. If all of those who took part in the procedure knew that there will be an execution, it couldn’t have been a secret at all. So, this inference is wrong. Even the drivers said that they assumed the detainees were to be echanged. As if the Chamber**

<sup>18735</sup> Momir Nikolić, T. 24651 (14 February 2012).

<sup>18736</sup> KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3529. Mladić remained in Bratunac that morning. See P4824 (Summary of intercepted conversation, 13 July 1995) (recording that Mladić was in Bratunac as of 10:15 a.m. on 13 July).

<sup>18737</sup> See para. 5161.

<sup>18738</sup> See P5366 (Intercept of conversation between Janković, an unidentified General, and an unidentified person, 13 July 1995), pp. 1–2; Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6298, 6716–6718; P5276 (Intercept of conversation between Zlatar duty officer and Badem duty officer, 12 July 1995). See also para. 5159.

<sup>18739</sup> See para. 5162.

<sup>18740</sup> See para. 5162.

<sup>18741</sup> See paras. 5163–5165, 5171.

<sup>18742</sup> See paras. 5106, 5166 (referring to detentions at the Konjević Polje intersection, the Nova Kasaba football field, and the Sandići meadow on 13 July).

<sup>18743</sup> See paras. 5168, 5172, 5174–5176.



**had been aware of a weak arguments and wanted to strenten it by such an oblious distortion!)**

5707. On 13 July, between 1,500 and 2,000 Bosnian Muslim men came to be detained in each of three locations: the Konjević Polje intersection,<sup>18744</sup> the Sandići Meadow, and the Nova Kasaba football field.<sup>18745</sup> At each location, they were guarded by members of the Bosnian Serb Forces, namely the special MUP units under Borovčanin's command, and the MP of the 65<sup>th</sup> Protection Regiment.<sup>18746</sup> **(The assumptions of number of detainees is highly unreliable, because is not objective at all. Some Serb soldiers may have been exaggerating and bragging about the number, but we already know that all of the captured on 13 July dah been transported to Bratunac, and Deronjic reported them to be about 2,000, abd there was no data that some had arrive at Bratunac after the telephone conversation. Some 150 detainees had been directed to Kravica, and that was all for 13 July 95.)** Mladić spent the afternoon and evening of 13 July travelling between the various detention sites, speaking to the detainees and assuring them that they would be exchanged.<sup>18747</sup> However, when Momir Nikolić asked Mladić what was going to happen to the detainees, Mladić made a sweeping gesture across his waist and smiled.<sup>18748</sup> **(This is not even decent to believe to Momir Nikolic, since he wouldn't dare to address General Mladic, and beside that, there are the witnesses who rebuted this allegation!)**

5708. In the late afternoon and evening of 13 July, in accordance with proposals from Tolimir that detainees were to be moved and placed "somewhere indoors or in the area protected from sighting",<sup>18749</sup> the detainees were removed from the Sandići Meadow and the Nova Kasaba football field and taken either to the Kravica Warehouse or on trucks and buses to Bratunac town, where they were detained overnight in various locations.<sup>18750</sup> When some of the detainees at the Nova Kasaba football field tried to retrieve their belongings from the field's entrance, the detainees were told that they would no longer need them.<sup>18751</sup> **(This is a sentence repeated many, many times, obviously suggested by the secret service of the ABiH, obviously designed to be horrifying aand to have an effect. However, in such a case all the Serb soldiers would have known what was going to happen to some of captives, which we know was not true!)** Beginning late that afternoon and continuing overnight, Bosnian Serb Forces—including members of the 3<sup>rd</sup> Skelani Platoon<sup>18752</sup>—killed between 755 and 1,016 Bosnian Muslim males at the Kravica Warehouse.<sup>18753</sup> **(Not correct for the incident. If there had been other killings, it was not proven without doubts!)**

<sup>18744</sup> From Konjević Polje, various groups of Bosnian Muslim men were taken towards Nova Kasaba. See paras. 5168, 5182. At one point that afternoon, a group of 15 Bosnian Muslim men who had been captured or surrendered in the area of the Konjević Polje intersection were executed by members of the Bosnian Serb Forces, including at least one member of the Bratunac SJB. See paras. 5189–5205.

<sup>18745</sup> See paras. 5166, 5176.

<sup>18746</sup> See paras. 5166, 5175, 5181, 5184. The Chamber notes that the evidence also indicates that the 5<sup>th</sup> Engineering Battalion and the Zvornik MP were present at the Konjević Polje intersection between 4 and 16 July 1995, but does not establish that those units were involved in guarding the prisoners detained at the three locations on 12 and 13 July. See para. 5167.

<sup>18747</sup> See paras. 5170, 5179, 5186. See also D3720 (Witness statement of Petar Salapura dated 17 June 2013), pp. 6–8; Petar Salapura, T. 40273, 40296–40301 (24 June 2013); P4201 (Updated Srebrenica Trial video), Part 3 at 00:01:40 to 00:02:40; P4163 (UNMO Report, 14 July 1995), para. 6 (stating that Mladić had replied that he would come to Potočari on 14 July).

<sup>18748</sup> See para. 5170.

<sup>18749</sup> See para. 5184.

<sup>18750</sup> See paras. 5180, 5292–5293. After the other detainees had left the Sandići Meadow, members of the Jahorina Recruits killed approximately 10 to 15 Bosnian Muslim men who remained behind. See paras. 5288–5291.

<sup>18751</sup> See para. 5187.

<sup>18752</sup> See para. 5227. Members of the Bratunac Brigade were also present at the Kravica Warehouse prior to the shooting; members of the 10<sup>th</sup> Sabotage Detachment arrived after the shooting, and one tossed two hand-grenades into the warehouse. See paras. 5227, 5233.

<sup>18753</sup> See paras. 5227–5234, 5286.

5709. The Chamber also notes that that evening, Mladić issued an order adopting the remainder of Tolimir’s proposals, which were aimed at limiting access to the area for “all uninvited individuals”.<sup>18754</sup> While the killings at the Kravica Warehouse were ongoing, buses filled with Bosnian Muslim men and boys from Potočari as well as with those who had been detained at the Sandići Meadow and the Nova Kasaba football field had begun to arrive in Bratunac town; upon arrival, the Bosnian Muslim males were held in various locations and on buses parked throughout the town.<sup>18755</sup> At these sites, the detainees were guarded by members of the Bratunac Brigade MP as well as members of the MUP.<sup>18756</sup>

5710. The presence of the buses throughout the town caused concern to the Bratunac population; when an officer in the Bratunac Brigade asked Beara why the male detainees were not leaving immediately, Beara replied that there were too few vehicles to transport them until after the transportation of the Bosnian Muslim women and children was complete.<sup>18757</sup> That evening, Deronjić complained to Beara about the detainees’ presence in Bratunac.<sup>18758</sup> Srblav Davidović testified that on the evening before the buses left Bratunac, he had encountered Deronjić in Bratunac town and had enquired about the buses’ presence.<sup>18759</sup> According to Davidović, Deronjić replied that Rajko Đukić from Milići was responsible for the buses’ presence; Davidović then urged Deronjić to “use [his] connections” to the Accused in order to have the buses moved.<sup>18760</sup> Deronjić indeed spoke by phone with the Accused at approximately 8 p.m.<sup>18761</sup> The Accused asked Deronjić, “how many thousands?”, and Deronjić replied that there were “about two for the time being [...] but there’ll be more during the night”.<sup>18762</sup> The Accused then told Deronjić that “all the goods must be placed inside the warehouses before twelve tomorrow” before clarifying that he meant “not in the warehouses /?over there/, but somewhere else”.<sup>18763</sup> The Chamber finds that the discussion between the Accused and Deronjić pertained to the accommodation of the Bosnian Muslim men who were then being held on buses and in detention facilities in Bratunac.<sup>18764</sup>

<sup>18754</sup> See P4407 (VRS Main Staff Order, 13 July 1995), para. 1. The Chamber notes the Accused’s contention that this was “standard procedure” and, accordingly, was “not indicative of any plan or preparations to execute” the detainees. Defence Final Brief, paras. 2515–2516. However, the Chamber will consider Mladić’s order and Tolimir’s proposals in light of all other evidence.

<sup>18755</sup> See paras. 5292–5293.

<sup>18756</sup> See para. 5293. Between the evening of 12 July and the morning of 14 July, when the majority of Bosnian Muslim males detained in Bratunac town were transported to Zvornik, Bosnian Serb Forces killed at least 51 Bosnian Muslim men who were in and around the Vuk Karadžić School, including one who was taken off a bus parked outside the school. See paras. 5298–5303, 5305–5306. **and all of that against the strictest orders of the President!**

<sup>18757</sup> Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6628–6629, 6638–6641.

<sup>18758</sup> D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), paras. 35–36. See also Zlatan Čelanović, P377 (Transcript from *Prosecutor v. Popović et al.*), T. 6639–6640 (describing how he raised his concerns with Beara).

<sup>18759</sup> Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9216; Srblav Davidović, T. 24415, 24437 (9 February 2012) (stating that, at the time, six buses were parked in front of the municipality building).

<sup>18760</sup> Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9217; Srblav Davidović, T. 24415–24416, 24452–24453 (9 February 2012) (stating that Deronjić had said that they “were being set up” by Rajko Đukić and that Davidović had urged Deronjić to speak with “the president” or “the top of the party itself and of government”, which Davidović later admitted was the Accused). The Chamber notes that although Davidović testified that this encounter with Deronjić occurred on 12 July, in view of the fact that the buses left Bratunac on the morning of 14 July, the Chamber considers that Davidović’s conversation with Deronjić must have occurred on 13 July. See Srblav Davidović, P4100 (Transcript from *Prosecutor v. Popović et al.*), T. 9216; Srblav Davidović, T. 24415–24416 (9 February 2012). **So, how it is convenient to the Chamber??? How many tomes the Chamber have chosen to believe in something that was in the contrast with other evidences, like diaries, statements and other. And this kind of “freedom” was always on the account of the President?**

<sup>18761</sup> See para. 5311. The Accused acknowledges that this telephone call took place, and that Deronjić informed him of the large number of detainees in Bratunac. See Defence Final Brief, confidential, paras. 3025–3026.

<sup>18762</sup> See para. 5311.

<sup>18763</sup> See para. 5311. See also P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 93; Milenko Katanić, T. 24495–24496 (10 February 2012) (noting that Deronjić, who wished to move the detainees to Zvornik, could not impose his will on Beara).

<sup>18764</sup> The Prosecution alleges that the Accused used the term “goods” to refer to the detainees in Bratunac in an attempt to conceal the order to move them to detention facilities in Zvornik, and that this demonstrates that his intentions “were malign”. Prosecution Final Brief, paras. 961, 964. The Accused does not challenge the inference that the term “goods” was a reference to the detainees in Bratunac, but argues that nothing in the recorded conversation suggests that he was informed of a plan to kill the detainees; it only suggests he was

5711. Around the same time, Mladić's order for the transfer of a large number of Bosnian Muslims who were being detained in Bratunac to Zvornik, **(Had it been said – to Zvornik? Is that a way how to guess and infer, and then operate with this as it had been established beyond reasonable doubt?)** where they were to be detained and, ultimately, shot, was conveyed down the chain of command by members of the VRS security organs.<sup>18765</sup> **(The #unauthorised individuals, not organs#!)** The Chamber notes, in particular, that Momir Nikolić conveyed this message to Drago Nikolić in person.<sup>18766</sup> At approximately 9 p.m., members of a public utility company and the Bratunac Civilian Protection Unit were called separately to the Bratunac SDS Office, where they each met with Beara and Deronjić, respectively, as well as two uniformed VRS officers whom they did not know.<sup>18767</sup> Both of the individuals from Bratunac were asked to provide equipment for transporting a large number of bodies away from the Kravica Warehouse and burying them elsewhere.<sup>18768</sup> An agreement was ultimately reached for the removal and burial of the bodies from Kravica, and the process began the next morning.<sup>18769</sup>

5712. In the very early hours of 14 July, just after midnight, Momir Nikolić had driven Beara from the Hotel Fontana to the Bratunac SDS office, where Beara met with Deronjić and Vasić.<sup>18770</sup> Beara and Deronjić argued about where the Bosnian Muslim men were to be executed, as Beara insisted that he had instructions from his “boss” that the detainees were to remain in Bratunac, and Deronjić countered that the Accused had instructed him that all detainees in Bratunac should be transferred to Zvornik.<sup>18771</sup> Eventually, Beara and Deronjić agreed that the detainees would indeed be transferred to Zvornik.<sup>18772</sup> Deronjić then requested a driver and an escort in order to go to Pale that day.<sup>18773</sup> After the meeting, some of the detainees being held in Bratunac town began to be transferred to the first of four detention sites in Zvornik, where members of the Zvornik Brigade MP were awaiting their arrival.<sup>18774</sup>

5713. The Chamber finds that members of the security organs at all levels of the VRS command played prominent roles in organising the logistics of the detention, killing, and subsequent burial of the detainees in Zvornik. On the morning of 14 July, Popović, Beara,

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informed of the large number of detainees in Bratunac. Defence Final Brief, confidential, paras. 3025–3027. The Chamber will address the Accused's intent in the section on his individual criminal responsibility below. See para. 5805.

<sup>18765</sup> See paras. 5309–5310. The Chamber recalls that Drago Nikolić told Obrenović that Beara and Popović were in charge of the assignment. See fn. 18008. **(But, #it doesn't show that Mladic really mentioned Zvornik. Associating such a causes and consequences makes it possible to “find out” everything one wants. It is of a decisive importance to see what the people knew at that moment, not to read in on the basis of the *post festum* events!)**

<sup>18766</sup> See para. 5310.

<sup>18767</sup> See paras. 5241–5242.

<sup>18768</sup> See paras. 5241–5242.

<sup>18769</sup> See paras. 5241–5246. One of these individuals was specifically told about the killings at the Kravica Warehouse which had occurred earlier that afternoon and evening. See para. 5242. Members of the Bratunac and the Zvornik Brigades, as well as staff from the Rad Utilities Company and the Bratunac Civilian Protection, participated in the burials of those killed at the Kravica Warehouse. See paras. 5248–5249.

<sup>18770</sup> See para. 5312.

<sup>18771</sup> See para. 5312. The Chamber received evidence that other locations were also suggested as possible sites for holding the detainees. At 10:30 p.m. that evening, Tolimir sent a communication to the Main Staff and Gvero personally informing him that in case Gvero had been unable to find adequate accommodation, space had been arranged in Sjemeč to accommodate 800 detainees from Srebrenica. P4769 (Message from 1<sup>st</sup> Podrinje Light Infantry Brigade, 13 July 1995). No detainees were ultimately brought to Sjemeč. Dušan Janc, T. 26976 (27 March 2012). Similarly, on 12 July, Tolimir had instructed the Eastern Bosnian Corps to prepare accommodation at Batković Camp for between 1,000 and 1,200 Bosnian Muslim detainees; when the expected detainees had not arrived by the following day, Todorović again consulted Tolimir, who stated that the task had been abandoned and preparations should be abandoned. See para. 5449.

<sup>18772</sup> See para. 5312.

<sup>18773</sup> D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 37 (further stating that he offered the services of his own driver to Deronjić).

<sup>18774</sup> See paras. 5313, 5319–5320.

and Drago Nikolić met at the Standard Barracks in Zvornik.<sup>18775</sup> After the meeting, pursuant to an order from Beara, Popović—with the assistance of Momir Nikolić—organised a convoy to transport the remaining Bosnian Muslim males in Bratunac to the buildings in Zvornik which had been designated for their detention.<sup>18776</sup> As Drago Nikolić and Mane Đurić waited at the Hotel Vidikovac to receive the convoy, members of the Bratunac Brigade MP, the Bratunac MUP, and other members of the Bosnian Serb Forces escorted the buses carrying the Bosnian Muslim males to Zvornik.<sup>18777</sup>

5714. As described in more detail below, Beara, Popović, and Drago Nikolić supervised the ongoing operation at multiple detention and killing sites in the Zvornik area between 14 and 16 July. **(It is worthwhile to notice #that the President never heard about Popovic and Drago, and Momir Nikolic, that had heard about Beara, never talked to him, and he didn't like what he heard and fired him in mid May 1995. What a firm conspiraci in the JCE??!!#)** Over the course of these three days, the Bosnian Muslim males were taken to nearby locations—a field in Orahovac, the Petkovci Dam, the banks of the Drina River near Kozluk, and the Branjevo Military Farm—and killed by members of the Bosnian Serb Forces. At each of these sites, the Bosnian Muslims were either shot by members of the same units who had been detaining them or were transported to the execution site with the resources of those units.<sup>18778</sup>

5715. The Chamber received evidence that during an informal briefing with VRS officers held on 14 July at the Standard Barracks in the presence of municipal authorities,<sup>18779</sup> a VRS officer who introduced himself as Beara,<sup>18780</sup> highlighted that the VRS had a lot of detainees in various locations in the Zvornik municipality, that the VRS had “to get rid of them”, and that he expected assistance from the municipality.<sup>18781</sup> Beara further instructed that his order originated from “two Presidents”.<sup>18782</sup>

5716. The Chamber found that Popović led a group of buses from Hotel Vidikovac to the Orahovac School on 14 July, where Drago Nikolić was co-ordinating events that day.<sup>18783</sup> Beara also arrived at Orahovac later that day,<sup>18784</sup> and both he and Drago Nikolić were present at the Petkovci School shortly before shootings commenced there.<sup>18785</sup> At the Ročević School, Popović and Jasikovac supervised the detention of Bosnian Muslim males that day.<sup>18786</sup> Meanwhile, members of the Bosnian Serb Forces—including members of the 1<sup>st</sup>, 4<sup>th</sup>, and 6<sup>th</sup> Battalions of the Zvornik Brigade as well as members of the Bratunac Brigade and its MP Battalion—were deployed to the Orahovac, Petkovci, Ročević, and Kula Schools, where they participated in the detention of the Bosnian Muslim males who

<sup>18775</sup> See para. 5314. After the meeting, Beara and Popović returned to Bratunac. See para. 5314.

<sup>18776</sup> See paras. 5313–5315.

<sup>18777</sup> See paras. 5315–5316.

<sup>18778</sup> See paras. 5335, 5367–5368, 5395–5397, 5427.

<sup>18779</sup> Although KDZ320 could not recall the exact date of the briefing, he testified that he received a telephone call inviting him to the Standard Barracks. See KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 7941; KDZ320, P4989 (Transcript from *Prosecutor v. Popović et al.*), T. 8011 (under seal); KDZ320, T. 28083 (25 April 2012). [REDACTED].

<sup>18780</sup> KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 7941. KDZ320 acknowledged that he had never met Beara before. KDZ320, P4989 (Transcript from *Prosecutor v. Popović et al.*), T. 8004 (under seal). See also KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 8015.

<sup>18781</sup> KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 7941–7942, 7944, 8013 (further explaining that the assistance from the municipality meant the burial of the bodies, and that the municipality had to provide assistance in terms of providing equipment and machinery from municipal utility companies). Beara added that he was in command of the barracks. KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 7942.

<sup>18782</sup> KDZ320, P4990 (Transcript from *Prosecutor v. Popović et al.*), T. 7944. [REDACTED].

<sup>18783</sup> See paras. 5315, 5326, 5330. The Chamber also received evidence that Jasikovac directed the transportation of the detainees from the Orahovac School to the execution site on 14 July. See para. 5329.

<sup>18784</sup> See para. 5326.

<sup>18785</sup> See paras. 5363–5365.

<sup>18786</sup> See paras. 5385, 5392.

had arrived from Bratunac.<sup>18787</sup> At the schools, the Bosnian Muslim males were held in similarly cramped conditions as they had been subjected to in Potočari and Bratunac, and they were similarly deprived of sufficient food and water.<sup>18788</sup>

5717. That night, the Main Staff sought to contact Beara.<sup>18789</sup> When Beara and Jokić spoke at 9:02 p.m. on 14 July, Jokić told Beara to call the Main Staff, as “[t]here [we]re big problems. Well, with the people, I mean, with the parcel”.<sup>18790</sup> In view of the circumstances at the time, the Chamber finds that the term “parcel” referred to the Bosnian Muslim males then being detained in Zvornik by various members of the Bosnian Serb Forces.<sup>18791</sup>

5718. Further, the Chamber recalls that in the early hours of 15 July, Srećko Aćimović received a phone call from Drago Nikolić, who said that the order to deploy soldiers from the Zvornik Brigade’s 2<sup>nd</sup> Battalion “had come from above” and had to be carried out.<sup>18792</sup> Later that morning, Popović met the Commander of the 2<sup>nd</sup> Battalion at the Ročević School, yelled at him for not having brought soldiers as he had been ordered, and threatened that the commander would be held responsible for not following orders.<sup>18793</sup>

5719. Meanwhile, from Drago Nikolić’s office at the Standard Barracks, Beara contacted the Drina Corps in an attempt to secure additional troops to participate in the killings.<sup>18794</sup> Beara first contacted Živanović, with whom he discussed the Višegrad Brigade Commander’s refusal to comply with an order to send a platoon to a specified location in accordance with the “commander”’s orders.<sup>18795</sup> Beara asked Živanović to order Furtula to comply, but Živanović directed Beara to contact Krstić, who had taken over as Drina Corps Commander.<sup>18796</sup> Thereafter, Beara called Krstić, explained that Furtula had not carried out the “boss’s” order, and asked Krstić for 30 to 50 men, adding that “[t]here are still 3,500 ‘parcels’ that I have to distribute and I have no solution”.<sup>18797</sup> Krstić first suggested

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<sup>18787</sup> See paras. 5319, 5357, 5386, 5416. Members of the Zvornik Brigade MP Company had been deployed to the Orahovac School since the previous evening, when the Bosnian Muslim detainees began to arrive. See para. 5319.

<sup>18788</sup> See paras. 5324, 5361, 5387, 5419–5420.

<sup>18789</sup> The Chamber recalls that between 6 and 7 p.m. on 14 July, upon instructions from Dragan Jokić, the Zvornik Brigade duty officer at the time, Marko Milošević, went to the Petkovci School to relay an order to Beara that he was to report to his command. See para. 5363.

<sup>18790</sup> P5070 (Intercept of conversation between Major Jokić and Badem, 14 July 1995). See Richard Butler, T. 27567–27568 (18 April 2012). Jokić said to Beara: “We were together Colonel, Sir. Number 155 called you and asked you to call him urgently”; “Number 155. That’s I mean, the higher house, you go ahead and call them, you have, so I don’t speak like this”; “What? Call up there number 155 in the higher house and that’s it. OK boss”. P5070 (Intercept of conversation between Major Jokić and Badem, 14 July 1995). See Richard Butler, T. 27568 (18 April 2012) (testifying that extension 155 referred to the phone line at the operations centre of the VRS Main Staff). The Chamber finds, based on the identifying information referred to during the conversation, as well as on the content of the conversation itself, that Beara was a participant in it.

<sup>18791</sup> [REDACTED]. Jokić, who was the duty operations officer at the Zvornik Brigade Command on 15 July, stated that Popović had instructed him not to make a record of the activities involving the killing operation or to speak on the radio about it. [REDACTED].

<sup>18792</sup> See paras. 5388–5389. Drago Nikolić called again several hours later and told the commander that if he could not put a group of men together, he and his associates should carry out the executions themselves. See para. 5389.

<sup>18793</sup> See para. 5390. The Chamber recalls that Popović also called the Zvornik Brigade Duty Officer and requested that vehicles, as well as Trbić or Jasikovac, be dispatched to Ročević immediately. See para. 5390.

<sup>18794</sup> At the time, Beara was present at the Standard Barracks. See P5072 (Intercept of conversation between Col. Beara and unidentified person, 15 July 1995); P6698 (Intercept of conversation between Col. Beara and an unidentified person, 15 July 1995), p. 1; Richard Butler, T. 27575 (18 April 2012) (testifying that extension 139 was Drago Nikolić’s extension at the security office of the Zvornik Brigade).

<sup>18795</sup> P5073 (Intercept of conversation between General Živanović and Col. Beara, 15 July 1995); P6698 (Intercept of conversation between Col. Beara and an unidentified person, 15 July 1995), p. 1; P6699 (Intercept of conversation between General Živanović and Col. Beara, 15 July 1995), p. 1. See Richard Butler, T. 27576–27577 (18 April 2012).

<sup>18796</sup> P5073 (Intercept of conversation between General Živanović and Col. Beara, 15 July 1995); P6698 (Intercept of conversation between Col. Beara and an unidentified person, 15 July 1995), p. 2; P6699 (Intercept of conversation between General Živanović and Col. Beara, 15 July 1995), pp. 1–2. See Richard Butler, T. 27576–27577 (18 April 2012).

<sup>18797</sup> P5074 (Intercept of conversation between Col. Beara and General Krstić, 15 July 1995); P5306 (Intercept of conversation between Col. Beara and General Krstić, 15 July 1995), pp. 1–2, 4–5; P5308 (Intercept of conversation between Col. Beara and General Krstić, 15 July 1995). See also Richard Butler, T. 27578–27579 (18 April 2012). The Chamber notes that despite being presented with this intercepted conversation, Krstić denied having had any conversation with Beara between 13 and 17 July 1995. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6725–6726. However, in light of the countervailing evidence cited above, as well as the fact that Krstić’s



that members of the Bratunac Brigade or MUP be used but ultimately said “Fuck it, I’ll see what I can do”.<sup>18798</sup> Beara added that Krstić should have the men go to Drago Nikolić.<sup>18799</sup>

5720. On 16 July, at 11:11 a.m., Beara was intercepted having a conversation with Slobodan Cerović from the Drina Corps, who referred to “instructions from above [...] to do triage on [the detainees]”.<sup>18800</sup> At Beara’s request, Popović went to the Kula School that morning; both were present while the detainees were transported to the Branjevo Military Farm for execution.<sup>18801</sup> The Chamber received evidence about Popović’s involvement in the organisation and co-ordination of the transportation of detainees from the Kula School to the Branjevo Military Farm, as he attempted to procure fuel that afternoon.<sup>18802</sup>

5721. Meanwhile, pursuant to an order from Beara, members of the 10<sup>th</sup> Sabotage Detachment stationed at Dragaševac had reported to the Standard Barracks and were then led towards the Branjevo Military Farm by a “lieutenant-colonel” and two military policemen.<sup>18803</sup> Upon arriving at the farm, the soldiers were ordered to kill the detainees who would be arriving in a few minutes.<sup>18804</sup> Shortly thereafter, buses filled with Bosnian Muslim males who had been held at Kula School began arriving; they were subsequently executed.<sup>18805</sup>

5722. Hours later, the lieutenant-colonel ordered the soldiers present at the farm to execute 500 Bosnian Muslim men from Srebrenica detained at the nearby Pilica Cultural Centre.<sup>18806</sup> Beara and Popović were present at the café across the Pilica Cultural Centre, where Beara congratulated the soldiers who had just carried out the executions at the cultural centre.<sup>18807</sup> In a phone call from the Standard Barracks at 9:16 p.m. that evening, Popović stated that he had “finished the job [...] finished everything” and would return to Vlasenica the following day.<sup>18808</sup> Considering this statement in light of the totality of the evidence, the Chamber is of the view that the only reasonable inference is that Popović was referring to the killing operation.

5723. However, the Chamber recalls that Popović in fact remained in the Zvornik area on 17 July to supervise the burial of the Bosnian Muslim males who had been killed at the Branjevo Military Farm and the Pilica Cultural Centre on the previous day.<sup>18809</sup> After working throughout the day,<sup>18810</sup> Popović reported at 4:22 p.m. that “everything’s alright

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testimony was given in his own trial and the fact that this conversation was integral to Krstić’s responsibility for the crimes with which he was charged, the Chamber does not believe Krstić’s denial of being an interlocutor in this conversation.

<sup>18798</sup> P5074 (Intercept of conversation between Col. Beara and General Krstić, 15 July 1995).

<sup>18799</sup> P5074 (Intercept of conversation between Col. Beara and General Krstić, 15 July 1995). *See* Richard Butler, T. 27579 (18 April 2012).

<sup>18800</sup> *See* para. 5426.

<sup>18801</sup> *See* para. 5426. By that time, Drago Nikolić had organised fuel “for the transport of troops to Kula”, and ammunition for the 1<sup>st</sup> Battalion. P4585 (Zvornik Brigade Duty Officers logbook, 29 May–27 July 1995), e-court p. 72. The Chamber recalls that members of the Zvornik Brigade 1<sup>st</sup> Battalion guarded the detainees at Kula School that day. *See* para. 5416.

<sup>18802</sup> *See* para. 5426, fn. 18511. The Chamber also received evidence indicating that the Main Staff was also involved in the procurement of this fuel. P5312 (Intercept of conversation between Major Bašević and an unidentified person, 16 July 1995) (referring to having spoken to Miletić about the fuel earlier that day).

<sup>18803</sup> *See* paras. 5427–5428. The Chamber recalls that Dragomir Pećanac, from the Intelligence Administration of the Main Staff, was present in Dragaševac when the members of the 10<sup>th</sup> Sabotage Detachment departed. *See* para. 5428.

<sup>18804</sup> *See* para. 5430.

<sup>18805</sup> *See* paras. 5430–5436.

<sup>18806</sup> *See* para. 5436.

<sup>18807</sup> *See* paras. 5440–5441.

<sup>18808</sup> *See* para. 5441. By 10:33 p.m., Popović had left the Standard Barracks. *See* P5324 (Intercept of conversation between Štrbić and an unidentified person, 16 July 1995) (indicating: “Yes, he was here and gone.”).

<sup>18809</sup> *See* para. 5449, fn. 18599.

<sup>18810</sup> P5081 (Intercept of conversation between Milorad Trbić and an unidentified person, 17 July 1995), p. 1.

that job is done and dusted [...] everything's finished up there are no problems."<sup>18811</sup> Over the course of the preceding five days, at least 5,115 Bosnian Muslim males had been killed.<sup>18812</sup>

### *iii. Conclusions*

(A) The formation of a common plan to eliminate the Bosnian Muslims in Srebrenica by forcible removal

5724. On the basis of the totality of the evidence discussed above, the Chamber finds that, as Srebrenica fell, the long-term strategy aimed at removing the Bosnian Muslim population from Srebrenica, which had been devised in March 1995, began to be transformed into a concrete common plan to eliminate them. In the Chamber's view, this elimination operation first took the form of forcible removal of the Bosnian Muslim population. After receiving the Accused's order to take the town, , **(Not really order, it was a consent. No president all over the world would stop the Army to take a stronghold that costed the Serb side many, many casualties and sufferings of the civilians in surrounding villages.)** the Bosnian Serb Forces under the command of Mladić and Krstić used heavy shelling to push the Bosnian Muslims northward, first towards the Bravo Company compound and then north to the UN Compound in Potočari.<sup>18813</sup> In the meantime, following an initial proposal that in exchange for being given safe passage out of the enclave the Bosnian Muslims would leave within 48 hours, Mladić ordered the Bosnian Serb Forces to proceed to Potočari.<sup>18814</sup> This was followed by an order to Borovčanin's units to take over OP Papa before proceeding to the UN Compound.<sup>18815</sup>

5725. Overnight, as the Bosnian Serb Forces under their control continued to launch shells near the UN Compound, Mladić, Živanović, and Krstić orchestrated a large-scale mobilisation of buses, which ultimately carried thousands of Bosnian Muslim women, children, and elderly men out of Srebrenica during the following 48 hour period.<sup>18816</sup> In the meantime, these three were joined first by Radoslav Janković and Kosorić, and later by Popović, at meetings at the Hotel Fontana, where, as the Chamber has already found, representatives of the Bosnian Muslims in Potočari were coerced into agreeing to leave the enclave.<sup>18817</sup>

**5726.** Noting the mobilisation of such massive resources, which took place simultaneously with military manoeuvres aimed at consolidating the Bosnian Serb Forces' control over the Bosnian Muslims gathered in Potočari, the Chamber is convinced that as the enclave fell on 11 July, a concrete plan to forcibly remove the Bosnian Muslim women, children, and elderly men from the UN Compound emerged. This plan then began to be implemented overnight and during the following days. The Chamber has no doubt that Mladić's overtures at the Hotel Fontana meetings were merely a façade intended to mask the fact that a concrete plan was already in place to forcibly remove the Bosnian Muslim women, children, and elderly men from Srebrenica on the vehicles that had already been

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<sup>18811</sup> P6702 (Intercept of conversation between Lt. Col. Popović and an unidentified person, 17 July 1995), p. 1; P4964 (Intercept of conversation between Lt. Col. Popović and an unidentified person, 17 July 1995).

<sup>18812</sup> See para. 5519.

<sup>18813</sup> See paras. 5686–5687, 5690, fn. 19301.

<sup>18814</sup> See paras. 5689–5690.

<sup>18815</sup> See para. 5696.

<sup>18816</sup> See paras. 5696, 5699–5700.

<sup>18817</sup> See paras. 5691, 5695, 5697–5698.

mobilised by the Bosnian Serb Forces and the Bosnian Serb Political and Governmental Organs.<sup>18818</sup> **(#This doesn't worth more than a zero#! Why?)**

**1. #First, if there was any plan, the “combat activities” would be aimed to the capturing of the town, not the separation of the enclaves.**

**2. #Second, if it was a plan, there would be all prepared, the busses, the fuel, food, water, routes, and a unit tasked to execute an order. Instead of that, we saw how many troubles had the said colonel to patchwork several volunteers, while the MUP and Visegrad brigade didn't want to participate in anything related to the prisoners of war.**

**3. #Third, the negotiations would have a completely different cours.**

**4. #Fouth, the President's order pertaining to the protection of civilians comprised an understanding that the civilian population, at least those from Srebrenica itself, will stay in the town, and that they had been the Muslims without any exception, because there was no a single Serb.**

**This is a real Procrust job, stretching where it is short, and cutting where it is too long. With these kind of chambers no one needs any prosecution. Or only prosecutions are sufficient, because no a fair trial, no a defence could do the job! Vasting money, it should be judged in accordance with the media image!)**

5727. The Chamber recalls that, in addition to being present at some or all of the Hotel Fontana meetings, Mladić, Radoslav Janković, Živanović, Krstić, Popović, and Kosorić were also present in Potočari and oversaw and/or assisted the boarding and transportation of women, children, and the elderly, as well as the separation of the men, their detention, and their subsequent transportation to Bratunac.<sup>18819</sup> **(#“The men” were #combatants, as the Muslim document D3981:**

an attack on Potočari. At 2300 hours last night we had 15 – 20,000 refugees sitting in the zone of combat activities with 300 combatants of the AR BH in the camp at Potočari.

Thereafter, Bosnian Serb Forces operating under Mladić's command subjected the Bosnian Muslims waiting to leave Potočari to cruel and inhumane treatment.<sup>18820</sup>

(B) The expansion of the common plan to eliminate the Bosnian Muslims in Srebrenica by killing all the able-bodied men and boys

5728. With regard to the numerous killings described above, the Chamber notes striking similarities between many of the detentions and executions of Bosnian Muslim males from Srebrenica that were carried out in the Zvornik area between 13 and 16 July 1995. After being escorted by members of the Bratunac Brigade MP and Bratunac MUP—as well as other members of the Bosnian Serb Forces—to Zvornik, the Bosnian Muslim males were detained at the Orahovac, Petkovci, Ročević, and Kula Schools, all in the Zvornik area. At these schools, the Bosnian Muslim males were guarded by members of the Zvornik Brigade—usually members of the battalion with responsibility for the area in which each

<sup>18818</sup> As will be described below, by this time, a plan had also been devised to kill the Bosnian Muslim males. See Section IV.C.3.a.iii.B: The expansion of the common plan to eliminate the Bosnian Muslims in Srebrenica by killing all the able-bodied men and boys.

<sup>18819</sup> See para. 5120.

<sup>18820</sup> See para. 5699.

school was located. After being held at the schools for one or two days, beginning on 14 July, the Bosnian Muslim males were taken to various locations nearby where they were shot and killed by members of the Bosnian Serb Forces. At the Pilica Cultural Centre, the Bosnian Muslim males were also killed by members of the Bosnian Serb Forces.

5729. The Chamber also recalls that as early as noon on 14 July, while the killings were being carried out, resources of the Zvornik Brigade Engineering Company were mobilised to dig graves and to bury the bodies of those killed at Orahovac, the Petkovci Dam, Kozluk, and the Branjevo Military Farm.<sup>18821</sup> Additional Zvornik Brigade resources were used to bury bodies at the Branjevo Military Farm, and to transport the bodies of those killed at the Pilica Cultural Centre to the farm.<sup>18822</sup> Following the same pattern as in Glogova, municipal resources and manpower were also used in Zvornik during the burial process.<sup>18823</sup> The Chamber recalls that, at some locations, the burial process began while the killings were still ongoing.<sup>18824</sup>

5730. The Chamber has also found that in September and October 1995, the Main Staff organised a reburial operation which was carried out by members of the security organs from the Main Staff, Drina Corps, Bratunac Brigade, and Zvornik Brigade, with the assistance of Bosnian Serb civilian authorities and other VRS and MUP units.<sup>18825</sup> The Chamber considers that the re-burial operation itself and the means by which it was carried out are consistent with the Chamber's finding that the killings described above were committed pursuant to a common plan. **("Common plan" of whom? If there were several officers, it may be their common plan. We know exactly that many didn't participate, was it their common plan too? Nothing of it was proven, all is guessing and inferring from other inferences, and other, and other, like a two mirrors reproducing each other endlessly!)**

5731. On the basis of the totality of the evidence outlined above, the Chamber is satisfied beyond reasonable doubt that these killings were carried out pursuant to a systematic and highly organised plan. **(#Why then the "colonel" had so many troubles to patchwork several volunteers to do the killings?#)** In reaching that conclusion, the Chamber is mindful that the Bosnian Serb Forces began to obtain detailed intelligence regarding the presence of Bosnian Muslim males amongst the population in Potočari on the night of 11 July and that, around the same time, as described further below, also began to receive reports about the existence and movement of the column of Bosnian Muslim men and boys attempting to make their way towards Tuzla. **(This is not for sure, because #in this case Mladic wouldn't insist, on all of the three meetings, to make Mandzic to secure disarmament of the Muslim units.)** Further, before 10 a.m. on 12 July, Popović told Momir Nikolić that "all the balijas should be killed".<sup>18826</sup> **(Even if it was thru, it still doesn't mean anything else but a colloquial expression of a Popovic's mood. Had it been already decided, this sentence would look different in wording, not in conditional, but totally different in the meaning!)** Accordingly, the Chamber is convinced that a plan to kill all the able-bodied Bosnian Muslim men and boys in Srebrenica had been established by the time that the third Hotel Fontana meeting

<sup>18821</sup> See paras. 5636–5337, 5371, 5400–5402, 5443–5444.

<sup>18822</sup> Individuals involved in this process were members of the Zvornik Brigade R Battalion, and the 1<sup>st</sup> Battalion's Work Platoon. See paras. 5445–5447. A truck belonging to the 6<sup>th</sup> Battalion was also used. See para. 5372.

<sup>18823</sup> See paras. 5338, 5402, 5444.

<sup>18824</sup> See paras. 5337, 5371.

<sup>18825</sup> See paras. 5504–5514.

<sup>18826</sup> See paras. 5049, 5066, 5702.

commenced at 10 a.m. on 12 July. The plan then came to encompass the killing of all Bosnian Muslim males in Bosnian Serb custody.

5732. The Accused contends that the plan to kill the Bosnian Muslim men and boys detained by the Bosnian Serb Forces did not exist until at least the afternoon of 13 July, following the “burned hands” incident at Kravica Warehouse.<sup>18827</sup> **(#It wasn’t just “burned hands”, it was killing of a Serbian guard, and if there was no this “burned hands”, there would be many guards killed, maybe all o them, because the number of guards wasn’t high, and the rifle was an automatic weapon!)** He asserts that “the executions that followed were the result of conduct by persons reacting to events on the ground”.<sup>18828</sup> He also contends that the fact that although Pandurević was present at the meeting at the Bratunac Brigade Command on the night of 11 July 1995,<sup>18829</sup> Pandurević did not inform Obrenović of any plan to kill, as well as the fact that Obrenović was first informed of the plan on the evening of 13 July both demonstrate that no such plan existed before that time.<sup>18830</sup> **(Even if this meeting happened on morning of 12 July, still the two army officers that didn’t lie rejected any idea of a plan existing prior to the Kravica warehouse killing on 13 July 95!)** However, the Chamber has already found that the final arrangement to transfer the detainees to Zvornik was only agreed upon during a meeting on the night of 13 July. During that meeting, the participants did not debate whether the detainees should be killed, but *where* such an operation should be carried out.<sup>18831</sup> **(#No Zvornik mentioned by anyone ever!# That is why it is important to establish whether Zvornik had been mentioned in the President – Deronjic conversation. If not, and since it could have been found that Deronjic mentioned Batkovic in his testimony in the Milosevic case, all of this construction should fall into water! However, the Defence was prevented to bring in the file anything from Deronjic, because his evidence (92quarter, because Deronjic died) had been excluded, while the Prosecution could have used this invalid conversation!)** Accordingly, the Chamber considers that the fact that Obrenović was not informed before the evening of 13 July bears little relevance to the question of when the plan to kill the Bosnian Muslim males was devised. **(If it wasn’t relevant, as a firmly established fact, how M. Nikolic’s repetition of the Popovic’s sentence “should be killed” is relevant?)** The Accused also argues that the fact that the Bosnian Muslim males detained at Luke School were not killed until the evening of 13 July also demonstrates that the plan to kill “only emerged after the Kravica incident”.<sup>18832</sup> However, the Chamber recalls that, as described above, Bosnian Muslim men continued to be removed from buses passing through Tišća throughout the day on 13 July, and that during the course of that night, all were removed from Luke School and—with the exception of KDZ070—killed by members of the Bosnian Serb Forces.<sup>18833</sup> The Chamber therefore does not consider that the passage of time between the detention of the men and their subsequent execution indicates that the plan to kill them only arose that evening. Finally, the Chamber recalls that units of the Drina Corps had already begun to look for available bulldozers by the early afternoon of 13 July, although they were unsuccessful in locating any.<sup>18834</sup> The Chamber therefore rejects the Accused’s

<sup>18827</sup> Defence Final Brief, paras. 2450, 2518.

<sup>18828</sup> Defence Final Brief, para. 2518.

<sup>18829</sup> The Chamber notes the Accused’s contention that this meeting occurred on the night of 12 July. Defence Final Brief, confidential, para. 2466. However, the Chamber notes that Pandurević attended the meeting at the Bratunac Brigade Command on the night of 11 July. See para. 5692. The Chamber further considers that the argument outlined in paragraph 2466 of the Defence Final Brief does not hinge on the precise date of the meeting.

<sup>18830</sup> Defence Final Brief, confidential, para. 2466.

<sup>18831</sup> See para. 5312.

<sup>18832</sup> Defence Final Brief, confidential, para. 2490.

<sup>18833</sup> See paras. 5147–5148, 5150–5152, 5154.

<sup>18834</sup> See para. 5241.



argument that the plan to kill the Bosnian Muslim males in Srebrenica arose only after the killings at Kravica Warehouse on the evening of 13 July. Rather, the Chamber considers that this incident marks the beginning of the large scale implementation of the plan to kill.<sup>18835</sup>

(C) Participants in the plan to eliminate the Bosnian Muslim population in Srebrenica

**5733.** With regard to the aspect of the common plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men, the Chamber notes the pervasive involvement of high-ranking VRS officers such as Mladić, Živanović, and Krstić in the encirclement and ultimate take-over of Potočari by the Bosnian Serb Forces; the Chamber also notes the execution of a large scale bussing operation which ferried an estimated 30,000 Bosnian Muslims away from Srebrenica over the course of two days. Further, the Chamber is mindful of their presence and participation—as well as that of Main Staff officer Radoslav Janković and Drina Corps officers Popović and Kosorić—in the Hotel Fontana meetings. The Chamber observes that all of these high-level officers were present during, and either oversaw or assisted in, the boarding process in Potočari. Accordingly, the Chamber is satisfied that Mladić, Živanović, Krstić, Popović, and Kosorić shared the common purpose of eliminating the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men. **(All of these findings are unfounded in a reliable evidence. Neither the VRS evacuated the civilians to Potocari, nor was prepared to evacuate them up until at least the secon meeting, but more probable before the third meeting, during which Mladic was informed that the armed men werent in Potocari at all. All other is founded in a “believes” of the Chamber, believes in M. Nikolic and a weak traces of evidence which was rebuted by so many witnesses, though the Defence witnesses! If the facts don’t matter, it should have been communicated to the Defence, not to spend energy!)**

**5734.** The Chamber considers, however, that the aspect of the common plan to eliminate the Bosnian Muslims in Srebrenica by killing men and boys was formed and executed in conditions designed to ensure its secrecy to the greatest extent possible. In this regard, the Chamber recalls Mladić’s order limiting access to the area beginning on the night of 13 July and Tolimir’s proposal to remove the detainees from locations where they could be sighted. While such procedures might ordinarily have been standard, in the present circumstances, in light of the instruction not to speak on the radio or create any written record of the killing operation, the Chamber considers that their actions appear more circumspect. **(However, after this order, which really was an ordinary, because nobody should approach the POW-s, nor make any propaganda and insult of their dignity, after this order there were a genuine preparations to transport the detainees to Batkovic!)** The Chamber also notes that when Beara dispatched Momir Nikolić to inform Drago Nikolić that the Bosnian Muslim males would be brought to Zvornik, Momir drove to Zvornik and insisted on delivering the message to Drago in person rather than through a desk officer.<sup>18836</sup> The Chamber is therefore satisfied that upon the instruction of members of the Main Staff, a number of measures were taken to limit the extent to which those not directly involved in the killing operation were aware of it. **(Now, the secrecy of a wide and well organised conspiracy is accepted by the Chamber?!)**

<sup>18835</sup> Recalling its earlier analysis of the development of the plan to kill, the Chamber thus rejects the Accused’s argument that the killings which followed those at the Kravica Warehouse on 13 July were merely an “inappropriate” reaction to the events at Kravica Warehouse. See Defence Final Brief, para. 2451.

<sup>18836</sup> Momir Nikolić, T. 24670 (14 February 2012).

5735. However, the Chamber recalls that, as described in detail above, the killing operation was eventually overseen and implemented on the ground by numerous VRS officers at all levels of the command hierarchy, from the Main Staff to the members of the battalions of the Zvornik and Bratunac Brigades. In this regard, the Chamber is also mindful of the ubiquitousness of security officers from the Main Staff, Drina Corps, and Zvornik Brigade—namely Beara, Popović, and Drago Nikolić—at the killing sites across Zvornik between 14 and 17 July 1995. The Chamber also recalls, as described above, the various units across the MUP and the VRS—including the 10<sup>th</sup> Sabotage Detachment which was directly subordinated to the Main Staff—that participated in the implementation of the plan.

5736. The Chamber is of the view that by designing and conducting a simultaneous operation to kill the Bosnian Muslim men and boys of Srebrenica while the forcible removal of the women, children, and elderly men was ongoing, the common purpose of the plan to eliminate the Bosnian Muslims in Srebrenica was expanded so as to include the killing of all the men and boys,<sup>18837</sup> and multiple members of the plan agreed to it. The Chamber was presented with abundant evidence that establishes that, like the forcible removal operation, the killing operation involved an intricate and co-ordinated effort at all echelons of the VRS and MUP, including high-ranking officers, as well as a variety of units across the MUP and the VRS, with the assistance of municipal authorities. In particular, the Chamber is satisfied that the wide scale of the killings that were carried out over a short period necessitated an elaborate operation organised and directed at all times by multiple levels of the VRS security branch, particularly Beara and Popović.<sup>18838</sup>

**(Knowing the nature of a military relations among superiors – subordinates, this is really over-exaggerated to say that for this kind of doings there was necessary to have a huge organisation and a long preparations. How, then, it was kept secret so long?).**

The Chamber also finds that the complex operation by which the Bosnian Muslim men and boys of Srebrenica were killed would not have been possible without the authorisation and orders of the VRS Commander, Mladić. Given Mladić's role and function at the time, his presence on the ground after the fall of Srebrenica, and his actions during the days following the take-over and while the execution of the operation to kill was underway, the Chamber is satisfied that Mladić formed an essential part of this operation.<sup>18839</sup> **(This is not a Mladić's process. Is it going to be an adjudicated fact in the Mladić process? Why would there be another process for Mladić, if it is "established" here! An eternal question remains unanswered: what does all of it have to do with President Karadzic?)**

5737. Based on all of the above, and recalling the formation of a plan to kill the Bosnian Muslim males in Srebrenica between the night of 11 July and the morning of 12 July, the Chamber finds that Mladić, Beara, and Popović shared the expanded common purpose of eliminating the Bosnian Muslims of Srebrenica by killing the men and boys.

5738. Whether the Accused shared the common purpose to eliminate the Bosnian Muslims in Srebrenica, and if so, the extent to which he contributed to the plan, will be discussed separately below.<sup>18840</sup>

## 5292. Scope of crimes

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<sup>18837</sup> See paras. 5726, 5731.

<sup>18838</sup> See paras. 5702, 5705, 5710–5723.

<sup>18839</sup> See paras. 5703, 5705, 5707, 5709, 5709, 5711. The Chamber also notes that Drago Nikolić stated that Mladić had ordered the killing operation, and that Beara and Popović were in charge of it. [REDACTED].

<sup>18840</sup> See Section IV.C.3.b: Accused's participation in the Srebrenica JCE.

5739. Based on the evidence set out above and the Chamber's findings thereon, the Chamber considers that the original scope of the common purpose involved the commission of inhumane acts (forcible transfer). Further, on the basis of such evidence, and noting in particular the sheer scale of the killings described above, the Chamber finds that the expanded common purpose of eliminating the Bosnian Muslims in Srebrenica involved the commission of murder and extermination, and that Mladić, Beara, and Popović intended those crimes. **(Then, #why General Tolimir got the life sentence, since in Zepa there was no any crimes, let alone genocide?#)** Considering that these killings concerned Bosnian Muslim males who were marked for execution on the basis of their identities as such, the Chamber is satisfied that the crime of persecution through the underlying act of killing was also within the scope of the expanded common purpose, and that Mladić, Popović, and Beara possessed the requisite persecutory intent.

5740. Indeed, the Chamber recalls that the common plan to eliminate was, by its very nature, a discriminatory plan targeting solely the Bosnian Muslims living in the Srebrenica enclave. In addition, the Chamber considers that, as described above, the circumstances in which the forcible removal of the Bosnian Muslim women, children and elderly men and the execution of the Bosnian Muslim males were carried out were demonstrative of a deliberate intent to inflict serious physical and mental suffering upon them.<sup>18841</sup> Accordingly, the Chamber finds that the crime of persecution through the underlying act of cruel treatment was within the scope of the common purpose of the Srebrenica JCE.

5741. Further, the Chamber has found that the acts described above amounted to genocide, as the only reasonable inference based on the pattern of the killings and the evident intent to kill every able-bodied Bosnian Muslim male from Srebrenica was that such killings were committed with the intent to destroy the Bosnian Muslims in Srebrenica.<sup>18842</sup> **(Another false brick: "intent to kill every able-bodied Bosnian Muslim male"! As we can see, it is derived from an impossible sentence "kill all that you catch" allegedly pronounced far before it was known, or happened that there will be someone to chase and catch!)** The Chamber notes in particular the Bosnian Serb Forces' vigorous pursuit of the members of the column and their dogged commitment to killing all Bosnian Muslim males taken into Bosnian Serb custody, irrespective of whether they were combatants or civilians and regardless of whether they were captured or had surrendered from the column. The Chamber notes the omnipresence and involvement of Popović and Beara at multiple mass killing sites in Zvornik, their numerous actions in furtherance of the killing operation as detailed above, and the fact that, as the Chamber has found, the vast killing operation was conducted with Mladić's essential involvement. On the basis of all of the evidence, the Chamber is therefore satisfied that the members of the Srebrenica JCE who agreed to the expansion of means so as to encompass the killing of the men and boys intended to kill all the able-bodied Bosnian Muslim males, which intent in the circumstances is tantamount to the intent to destroy the Bosnian Muslims in Srebrenica.<sup>18843</sup> **(First of all, the military people did not, because they could not, determine whether the evacuated civilians would return or not. This was in the political hands, and in the scope of the uninterrupted Conference on Bosnia. So, the evacuation of the civilians must not be counted as a destruction of this population. The praxis confirm that it was rather a salvation of these evacuated, as provided by the law, and many of them returned, and now live in Srebrenica, as well as in Kozluk or any other place. Although, we can prove that there was no any intent to "kill all**

<sup>18841</sup> See paras. 5647–5648, 5650. See also paras. 5691–5700.

<sup>18842</sup> See paras. 5669, 5671. See also paras. 5701–5723, 5728–5732.

<sup>18843</sup> See paras. 5735–5737.

**the able-bodied males”, because those that didn’t fall under the “famous” Colonel, Beara or not, and his department, hadn’t been killed!)**

5742. With regard to the scope of the operation, the Chamber has established above that the large scale killings committed in the Bratunac and Zvornik areas were committed pursuant to the common plan to kill the Bosnian Muslim males of Srebrenica.<sup>18844</sup> Below, the Chamber will consider whether other incidents also fell within the scope of the same killing operation.

5743. The Chamber further recalls that during the forcible removal of the Bosnian Muslim women, children, and elderly men, which was carried out between 12 and 13 July, the Bosnian Serb Forces killed a number of Bosnian Muslim males in Potočari.<sup>18845</sup> Some of the Bosnian Muslim males who were separated in Potočari and bussed to Bratunac were killed by members of the Bosnian Serb Forces while being held there between 12 and 14 July.<sup>18846</sup> Bosnian Muslim males who did manage to board the buses heading toward Tuzla were taken off at Luke School and were killed by members of the Bosnian Serb Forces in the very early hours of 14 July.<sup>18847</sup> Meanwhile, on 13 July, members of the Bosnian Serb Forces, including one member of the Bratunac SJB, killed 15 Bosnian Muslim men from the column in an isolated area on the bank of the Jadar River.<sup>18848</sup> **(#Protected lies#! This will be rebutted, because this protected witness lied. His injury was of an explosive nature, and he admitted that had been prepared by the Muslim secret service!@ But, why those killings happened on the Jadar River, if the perpetrator were aware that all of them would be killed “in Zvornik?”)** That same evening, members of the Bosnian Serb Forces killed another 15 Bosnian Muslim men from the column who had been detained at the Sandići Meadow.<sup>18849</sup> These killings were temporally and geographically proximate, they were each carried out by units of the Bosnian Serb Forces deployed in the area and operating under the overall command of Mladić,<sup>18850</sup> and the victims of each incident were Bosnian Muslim males from Srebrenica.

5744. The Chamber also received evidence that the Bosnian Serb Forces—including members of the 10<sup>th</sup> Sabotage Detachment and the MUP—killed other groups of Bosnian Muslim males from Srebrenica at Snagovo and Bišina over the course of the week

<sup>18844</sup> See paras. 5728–5732.

<sup>18845</sup> During the course of the day on 13 July, members of the Bosnian Serb Forces killed one Bosnian Muslim man behind the White House. See para. 5145. Additionally, on the same day, members of the Bosnian Serb Forces killed nine Bosnian Muslim men in a meadow southwest of the White House. See para. 5141. **For the first incident, we know, and the Prosecution witness confirmed, that the perpetrators escaped and hid in the woods, whis completely exclude any connection in any plan. For the second incident, it had never been established thay they even had been Muslims, let alone who and when killed them. Thye film was deliberately destroyed in the Dutch Ministry for Defence. Further, in the Tolimir case, it was found that it couldn’t be allocated to the VRS.**

<sup>18846</sup> See paras. 5303, 5306.

<sup>18847</sup> See paras. 5150, 5152, 5154. The Chamber has already rejected the Accused’s argument that the fact that the Bosnian Muslim males were held at Luke School until around midnight on 13 July demonstrates that the plan to kill did not arise until after the killings at Kravica Warehouse. See para. 5732.

<sup>18848</sup> See para. 5205. The Accused asserts that the killings at Jadar River did not form part of the common plan because they occurred prior to the killings at the Kravica Warehouse. Defence Final Brief, para. 2497. However, the Chamber has already found that the common plan was established by the time the third Hotel Fontana meeting commenced at 10 a.m. on 12 July. See para. 5731. **Only on the basis of M. Nikolic’s testimony, all other wittesses denied it. Yadar River hadn’t happen at all.**

<sup>18849</sup> See paras. 5288–5289, 5291. The Accused contends that the killings at Sandići Meadow did not form part of the common plan because they occurred prior to the killings at the Kravica Warehouse. Defence Final Brief, confidential, para. 2499. However, the Chamber has already found that the common plan was established by the time the third Hotel Fontana meeting commenced at 10 a.m. on 12 July. See para. 5731.

<sup>18850</sup> As described above, following his arrival in Bratunac on 8 July and at the Drina Corps IKM on 9 July, Mladić assumed overall command of the Bosnian Serb Forces in the area—namely, the VRS and MUP—as demonstrated by his relaying to subordinate units the Accused’s order to take the town; his prominent role on the ground in Potočari, as well as at the meetings at the Hotel Fontana and Bratunac Brigade Command; and his orders mobilising Bosnian Serb personnel and materiel. See paras. 5687–5692, 5695–5697, 5699–5700, 5703, 5705, 5707, 5709, 5711, fn. 19474.

following the large scale killings in Zvornik, which ended on 16 July.<sup>18851</sup> The Chamber notes the geographical proximity of these two killing sites to the large scale execution sites in Zvornik, as well as the presence of Popović himself at Bišina.<sup>18852</sup>

5745. The Chamber further recalls that during the attack on Srebrenica, a part of the joint forces operating on the Sarajevo front near Trnovo was detached and sent to the Srebrenica sector under Borovčanin's command, while another part, including the Scorpions, remained behind.<sup>18853</sup> After the fall of Srebrenica to Bosnian Serb Forces, two members of the Scorpions unit were ordered by their commander to take a bus and a TAM truck to Srebrenica, where they would assist in transporting Bosnian Muslim male detainees.<sup>18854</sup> The Chamber has already found that the Scorpions transported multiple groups of Bosnian Muslim males who had been detained in Srebrenica, and that at some point, a "final group" of six was brought to the Scorpions command post in Trnovo, where Medić ordered that they be killed.<sup>18855</sup> The unit complied and the men were executed.<sup>18856</sup> The Chamber notes that it has not received evidence which would allow it to precisely determine the date on which these executions occurred. The Chamber is also mindful of the geographic distance between Trnovo and Srebrenica. However, noting the involvement of members of the Scorpions unit in the process of transporting Bosnian Muslim male detainees in Srebrenica during the killing operation described above, the Chamber is satisfied that the Trnovo killings were carried out as part of the same operation described above.

(b) Accused's participation in the Srebrenica JCE

*i. Submissions of the parties*

5746. According to the Indictment, the Accused committed the crimes referred to above by virtue of his participation in the Srebrenica JCE.<sup>18857</sup> The Indictment further claims that the Accused shared the intent for the commission of each of the crimes set forth above with other members of the Srebrenica JCE, including Mladić.<sup>18858</sup> According to the Prosecution, each of the members of the Srebrenica JCE, including the Accused, contributed to achieving its objective by their acts or omissions.<sup>18859</sup> Specifically, the Prosecution claims that the ways in which the Accused significantly contributed to achieving the objective of eliminating the Bosnian Muslims in Srebrenica are all reflected in the following three main categories of actions and/or omissions.<sup>18860</sup>

5747. First, the Prosecution submits that the Accused directed and authorised his subordinates within the "three branches of the RS" involved in the forcible removal and killings operations, namely the VRS, the MUP, and the civilian authorities.<sup>18861</sup> In this regard, the Prosecution claims that, as President of the RS and Supreme Commander of the VRS, the Accused was the only individual in the RS with *de jure* and *de facto* authority over the VRS, the MUP, and the civilian authorities, all of whom were involved in the

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<sup>18851</sup> See paras. 5477–5481, 5482–5490.

<sup>18852</sup> See paras. 5477, 5482, 5486–5488.

<sup>18853</sup> See para. 5493.

<sup>18854</sup> See para. 5494.

<sup>18855</sup> See para. 5495.

<sup>18856</sup> See para. 5494.

<sup>18857</sup> Indictment, para. 20–24. See para. 5674.

<sup>18858</sup> Indictment, para. 21.

<sup>18859</sup> Indictment, para. 21.

<sup>18860</sup> See Indictment, para. 24; Prosecution Final Brief, para. 805–813.

<sup>18861</sup> Prosecution Final Brief, para. 806. The Prosecution claims that by doing so the Accused contributed to the Srebrenica JCE as alleged in paragraph 14(d) of the Indictment. See Prosecution Final Brief, paras. 806–808.



forcible removal of Bosnian Muslim women, children, and elderly men from Srebrenica, as well as in the killing of the men and boys.<sup>18862</sup> It alleges that the Accused alone could direct, approve, and authorise the participation of all three branches in the forcible removal and murder operations, and that all three branches obeyed his orders, acted in concert, and reported to him while carrying out such operations.<sup>18863</sup> The Prosecution further claims that there were both official and unofficial functioning chains of reporting to the Accused during the Srebrenica events, and that he was kept informed through various means, such as regular telephone conversations, in-person contacts with his subordinates, and written reports.<sup>18864</sup> According to the Prosecution, these streams of information put the Accused on notice of the crimes committed in Srebrenica, including the executions of the men, “almost immediately”.<sup>18865</sup> As such, the Accused directed his subordinates to carry out specific acts in furtherance of the objectives of the Srebrenica JCE.<sup>18866</sup>

5748. Second, the Prosecution argues that the Accused participated in the design and formulation of acts carried out by his subordinates in the implementation of the Srebrenica JCE.<sup>18867</sup> The Prosecution claims that this occurred primarily through the issuance of orders and the maintenance of oversight.<sup>18868</sup>

5749. Third, the Prosecution contends that—by (i) deliberately failing to take measures to prevent, punish, or investigate his subordinates’ involvement in crimes which he knew were being and had been committed pursuant to the Srebrenica JCE and (ii) praising and promoting key members of the Srebrenica JCE—the Accused failed to protect the Bosnian Muslims of Srebrenica, and created and sustained an environment of impunity through which he encouraged the ongoing implementation of the Srebrenica JCE.<sup>18869</sup>

5750. In relation to intent, the Prosecution claims that the Accused, together with other members of the Srebrenica JCE, shared the intent to destroy the Bosnian Muslims of Srebrenica, and explains that this intent manifested itself through the Accused’s acts, omissions and statements, as well as through the systematic, co-ordinated, and targeted manner in which the genocidal acts were carried out.<sup>18870</sup> According to the Prosecution, the Accused’s endorsement of the genocide plan was both necessary and instrumental to its success.<sup>18871</sup> The Accused’s genocidal intent was also made clear by his statements after the events took place and in his efforts to cover up the forcible removal and killing operations.<sup>18872</sup>

5751. The Accused argues that to be a member of a JCE, a person must form an agreement with others that a crime will be carried out, and that in this instance it must be proven that the agreement was “not only to murder, or exterminate the men of Srebrenica, but that it was to commit genocide”.<sup>18873</sup> The Accused contends that even if some of the VRS members

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<sup>18862</sup> Prosecution Final Brief, para. 806.

<sup>18863</sup> Prosecution Final Brief, para. 806.

<sup>18864</sup> Prosecution Final Brief, paras. 848–854.

<sup>18865</sup> Prosecution Final Brief, para. 1079 (further claiming that the Accused’s active effort to deflect international attention from the Srebrenica events in and of itself constitutes a substantial contribution to the Srebrenica JCE). *See also* Prosecution Final Brief, paras. 811 (claiming that the Accused took the lead in keeping the international community at bay so that the implementation of the Srebrenica JCE could proceed to its full conclusion unchecked and without internal pressure); 1078–1081.

<sup>18866</sup> Prosecution Final Brief, para. 807.

<sup>18867</sup> Prosecution Final Brief, para. 809. The Prosecution claims that by doing so the Accused contributed to the Srebrenica JCE as alleged in paragraph 14(e) of the Indictment. *See* Prosecution Final Brief, para. 809.

<sup>18868</sup> Prosecution Final Brief, para. 809.

<sup>18869</sup> Prosecution Final Brief, paras. 810–813 (referring to paras. 14(a), 14(c), 14(d), 14(g), 14(h), and 14(i) of the Indictment).

<sup>18870</sup> Prosecution Final Brief, paras. 1096, 1100.

<sup>18871</sup> Prosecution Final Brief, para. 1098.

<sup>18872</sup> Prosecution Final Brief, paras. 1099.

<sup>18873</sup> Defence Final Brief, para. 3152.

formed an agreement to commit genocide, there is no evidence indicating that he agreed to such a plan.<sup>18874</sup> Accordingly, the Accused submits, it has not been established beyond reasonable doubt that he was among a plurality of persons who formed a common plan to commit genocide.<sup>18875</sup>

5752. The Accused also claims that he was never informed about the execution of Bosnian Muslim males from Srebrenica, and that the Prosecution failed to adduce sufficient evidence to conclude beyond reasonable doubt that he was informed, either through meetings, by telephone, or through written reports, of any facts from which he could conclude that genocide would be, was being, or had been committed in Srebrenica.<sup>18876</sup> In this regard, the Accused contends that knowledge of a crime cannot be inferred merely from contact with others who had such knowledge, and adds that the fact that he had various means of communication available to him is not enough to conclude that he had knowledge of the occurrence of a crime.<sup>18877</sup> Pointing to events after July 1995, including his acts and conduct, international media and reports of killings, the indictment against him, and his efforts to investigate and prosecute the evidence surrounding Srebrenica, the Accused argues that each of these establish that he was not informed of “genocidal” executions.<sup>18878</sup> Accordingly, the Accused submits, there is reasonable doubt concerning his knowledge, and he cannot be held liable for the execution of Bosnian Muslim males.<sup>18879</sup>

5753. The Accused further submits that he did not contribute to the execution of a “genocidal plan” and that any alleged omission by him to punish persons for genocide in Srebrenica cannot constitute a significant contribution.<sup>18880</sup> Finally, the Accused submits that he never shared genocidal intent.<sup>18881</sup>

**5754.** The Chamber notes that the Accused’s arguments are framed in terms of his lack of assent to a “joint criminal enterprise to commit genocide”.<sup>18882</sup> The Chamber interprets this challenge to relate to the Accused’s alleged membership in the Srebrenica JCE as well as to his responsibility for the crime of genocide. The Chamber will therefore first consider whether the Accused was a member of the common plan to eliminate the Bosnian Muslims in Srebrenica before turning to whether he shared the intent to destroy them. **(However, the #UN Court’s Chamber neglected the assessment of the UN main Commander in the region#. Look how brilliant analysis was made by General Janvier on 10 July 1995,**

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<sup>18874</sup> Defence Final Brief, paras. 3153, 3161.

<sup>18875</sup> Defence Final Brief, paras. 3015, 3152–3153, 3161.

<sup>18876</sup> Defence Final Brief, paras. 3015–3081, 3112.

<sup>18877</sup> Defence Final Brief, paras. 3148–3149.

<sup>18878</sup> Defence Final Brief, paras. 3119–3147.

<sup>18879</sup> Defence Final Brief, paras. 3014–3015.

<sup>18880</sup> Defence Final Brief, paras. 3154–3161.

<sup>18881</sup> Defence Final Brief, paras. 3167–3169.

<sup>18882</sup> See Defence Final Brief, para. 3015. See also Defence Final Brief, paras. 3152 (referring to an “agreement [...] to commit genocide”), 3161 (referring to a “common plan to commit genocide”).

(b) SREBRENICA: AFTER A PAUSE OVERNIGHT, FIGHTING CONTINUES THROUGHOUT THE DAY. THERE WAS AIR PRESENCE OVER THE ENCLAVE BETWEEN 0815B AND 0835B. AT 0800B BSA RESUMED SHELLING IN SREBRENICA AND CONTINUED UNTIL 1440B. MORE THAN 100 EXPLOSIONS WERE REPORTED IN SREBRENICA AND POTOCARI. AT 1200B, BSA LAUNCHED AN INFANTRY ATTACK SUPPORTED BY FOUR TANKS AND ARTY AND PROGRESSED UP TO RAJNE GR (CP636834). AT 1630B, BSA TANKS WERE REPORTED TO BE FIRING FROM GR (CP584798) INTO THE VILLAGE OF BUCJE GR (CP596818). THE VILLAGE OF PUSMULICI GR (CP633819) WAS UNDER CONSTANT SMALL ARMS (SA)/MORTAR/ARTY FIRE, AND WAS REPORTED TO BE IN FLAMES AT 1730B. AT 1655B THE AREA OF GR (CP637831) WAS UNDER HEAVY ARTY ATTACK WITH SA ALSO HEARD IN THE AREA. THE FURTHEST NORTHERN POINT REPORTED TO HAVE BEEN REACHED BY THE BSA IS THE AREA OF GR (CP635835), WHERE ONE TANK AND ONE COY INFANTRY WERE REPORTED. THE CL AT 2359B IS REPORTED TO RUN AS FOLLOWS: (CP650824 - CP638829 - CP 625827 - CP600825 - CP590819). THE SEVEN DUTCH SOLDIERS TAKEN FROM OP-U GR (CP645803) REMAINED IN BRATUNAC GR (CP6693) OVERNIGHT. THE EIGHT SOLDIERS FROM OP-S GR (CP639803) WERE TAKEN BY THE BSA DURING THE MORNING TO THE SAME LOCATION. AT APPROX 1300B A TEMPORARY DUTCH OP CONSISTING OF ONE APC AND FIVE MEN WAS OVERRUN BY THE BSA IN THE AREA OF GR (CP6380). THESE ALSO WERE ESCORTED TO BRATUNAC. AT 1840B OP-K GR (CP607809), HAVING PREVIOUSLY BEEN PREVENTED FROM

**MILITARY ASSESSMENT:** BY ATTACKING THE SREBRENICA ENCLAVE, THE BSA PROBABLY WANTS TO ACHIEVE THE FOLLOWING AIMS :

- REDUCE THE SIZE OF THE ENCLAVE, IN ORDER TO BE ABLE TO FREE ASSETS FOR USE IN OTHER CONFLICT AREAS (NORTHEAST, SARAJEVO, ETC.). THIS CAN BE ACHIEVED BY CAPTURING KEY TERRAIN ALONG THE PERIMETER OF THE ENCLAVE.
- SECURE THE ROADLINKS TO THE NORTH, SOUTHEAST AND SOUTHWEST OF THE ENCLAVE.
- THE NORTH-SOUTH MAIN ROAD (BRATUNAC-SREBRENICA) COULD BE AN OBJECTIVE TOO. HOWEVER, THIS WOULD IMPLY THE SEIZURE OF THE CITY OF SREBRENICA. IT IS UNLIKELY THAT THE BSA WANTS TO OR CAN COMMIT THE INFANTRY NECESSARY FOR SUCH AN OPERATION.
  - ELIMINATE THE THREAT OF BIH HARASSMENT (PATROLS, AMBUSHES) FROM THE ENCLAVE AND INCREASE THE CONTROL OVER THE ENCLAVE.
  - RE-ESTABLISH FULL CONTROL OVER THE BAUXITE MINE LOCATED IN GR (CP 5582).
- IT CANNOT BE RULED OUT THAT, SIMILAR TO WHAT HAPPENED IN GORAZDE IN SPRING 94, THE BOSNIAN SERBS WANT TO USE THE ISSUE OF THE ENCLAVES TO TEST THE RESOLVE OF THE INTERNATIONAL COMMUNITY. THE TIMING FOR SUCH AN MOVE SEEMS TO BE PARTICULARLY WELL-SUITED, WITH THE IMMINENT DEPLOYMENT OF A RRF, THE TALKS IN GENEVA AND CRITICISM IN SOME CIRCLES OF THE ROLE OF UNPROFOR. TAKING INTO ACCOUNT THE WEAK DEFENCE OF THE BIH IN THE ENCLAVE, SREBRENICA COULD BE WELL-SUITED TO IMPLEMENT SUCH A COURSE OF ACTION. IN THIS SCENARIO, A GENERAL INCREASE IN OFFENSIVE ACTIVITY OF THE BSA CAN BE EXPECTED, WITH AN INTENSIFICATION OF THE SHELLING OF URBAN AREAS, AS WELL AS ATTACKS FROM DIFFERENT AREAS CAN BE EXPECTED. HOWEVER, AT PRESENT THERE ARE NO INDICATIONS SUGGESTING THIS. ALL BSA OFFENSIVE ACTIVITY HAS BEEN CONCENTRATED ON THE SOUTH-EASTERN PART OF THE ENCLAVE AND THERE ARE NO REPORTS OF ADVANCES IN OTHER AREAS.

**(there is no any weakness in this analysis of a competent UN Commander, see further:**

- RELATED TO THE PREVIOUS OPTION, THE BSA OFFENSIVE OPERATION CAN ALSO HAVE THE INTENTION TO SEND A STRONG MESSAGE TO THE

MUSLIMS. ALTHOUGH THE WILL TO FIGHT AND MILITARY CONFIDENCE ON THE BIH SIDE ARE HIGH, THE BOSNIAN SERBS STILL MAINTAIN A FIRM CONTROL OVER THE SITUATION.

THE BSA IS NOT EXPECTED TO SEIZE THE SAFE AREA. THEY WILL PROBABLY CONCENTRATE ON PUSHING AWAY BIH TROOPS FROM THE MAJOR LINES OF COMMUNICATION IN THE PERIPHERY OF THE ENCLAVE. THE BSA WILL CONTINUE TO PUT PRESSURE ON DUTCHBAT TO WITHDRAW FROM OPS LOCATED ON KEY TERRAIN IN THE SW, SE AND NE PARTS OF THE ENCLAVE, BY TARGETING THEM WITH HEAVY WEAPONS. THE BSA OPERATION IS EXPECTED TO BE CONDUCTED RELATIVELY SLOWLY TO AVOID UNNECESSARY CASUALTIES TO THEIR FORCES.

THE BOSNIAN SERBS COULD HALT THEIR ADVANCE PENDING A NUMBER OF CONDITIONS. THE COMPLETE DEMILITARIZATION OF THE ENCLAVE WILL PROBABLY BE THEIR HIGHEST PRIORITY. THIS WOULD ALSO SERVE THEIR PRIMARY GOAL OF FREEING TROOPS FROM AROUND THE ENCLAVE.

**#All what General Janvier assessed was repeatedly stated by the Defence and its witnesses. So, the Chamber didn't have any need to guess what was the aim of the VRS, since the most competent UN Commander knew it very well. There is no any doubt that General Janvier recognised all of the goals of the VRS and the Serb side as a perfectly understandable and legitimate from the standpoint of the military laws. Had Srebrenica been demilitarised as it was obligatory, there wouldn't be any action around Srebrenica and Zepa. Nobody, particularly from the UN is entitled to help one side to beat, kill and finally defeat another side! Let us see how the people in the Potocari UN compound had been treated on 12 July at noon, reported by the UN MOs, D1969:**

REFUGEES. UNMO'S WERE ASKED TO TALK TO SOME BSA SOLDIERS WHO WERE SAID TO BE POINTING THEIR GUNS IN A THREATENING MANNER AT THE REFUGEES IN THE PREFAB FACTORY. HOWEVER THIS PROVED TO BE FALSE WHEN WE GOT THERE. CONTRARILY WE OBSERVED SOME OF THE BSA SOLDIERS GIVING OUT CIGARETTES AND CANDIES TO A FEW OF THE REFUGEES. HOPE THIS WOULD NOT PROVE TO BE A DECEPTIVE ACT THOUGH.

2. THE SITUATION NOW REMAINS CALM BUT TENSED. THE CO DUTCHBAT IS AGAIN HOLDING A MEETING ACCOMPANIED BY A SELECTED FEW OF THE REFUGEES AND WITH THE BSA TO NEGOTIATE FOR HUMANITARIAN AID FROM THE BSA. INFO RECEIVED INDICATES THE BSA HAVE ACCEPTED TO ASSIST WITH FOOD AND WATER. UNMO'S AND MSF ARE HOWEVER FURTHER NEGOTIATING FOR MEDICAL ASSISTANCE AS WELL.

3. WITH REGARD TO THE FUEL SITUATION IN THE ENCLAVE MSF HAVE 800LTRS, UNHCR 600LTRS AND THAT OF DUTCHBAT WOULD BE GIVING ASAP.

4. STATE OF ALERT IN THE COMPOUND HAS JUST BEEN LOWERED TO GREEN.

5. HOPE TO LET YOU INTO THE OUTCOME OF THE ONGOING MEETING AS WELL AS FUTHER DEVELOPMENT ASAP.

**In spite of a propaganda lies about cruel conduct, the Serb soldiers behaved opposite, so that the state of alert had been lowered to green! Why the Chamber accepted so many propaganda lies, instead of the UN reports!. Also, the Chamber had at its disposal a report of the high Governmental delegation of the RS, which visited Srebrenica on 16 July, assessing the urgent deeds!)**

5755. The Chamber has found above that as Srebrenica fell, Mladić, Živanović, Krstić, Popović, and Kosorić formed a common plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men.<sup>18883</sup> This plan expanded to encompass the killing of the men and boys sometime between the night of 11 July and the morning of 12 July, prior to the commencement of the third meeting at the Hotel Fontana.<sup>18884</sup> The Chamber has also found that at least Mladić, Beara, and Popović shared this expanded common purpose.<sup>18885</sup> The Chamber will now examine whether the Accused also shared the common purpose; if so, whether he significantly contributed to it; and finally, whether he shared the intent for the commission of each of the crimes set forth above.

*ii. Accused's acts and conduct in context*

5756. As the Chamber has described above, the Accused issued Directive 7, which included an order to the Drina Corps to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica or Žepa”, on 8 March 1995.<sup>18886</sup> **(The Chamber had already had every reason and evidence to accept #that President Karadzic didn't create this document (Directive 7)# nor it was created in his office, nor there is his seal and protocol number, but he only signed it when stepping by to the Main Headquarter of the VRS. Anyway, this Directive 7 had been**

<sup>18883</sup> See paras. 5724–5727.

<sup>18884</sup> See para. 5731.

<sup>18885</sup> See paras. 5736–5737.

<sup>18886</sup> See para. 5681.



**corrected by General Mladic, and didn't have any executive strength!)** The Chamber recalls that Directive 7 instructed the “relevant State and military organs responsible for work with UNPROFOR and humanitarian aid organisations” to “unobtrusively” reduce the re-supply of UNPROFOR and limit humanitarian aid to the Bosnian Muslim population, thereby “making them dependent on [the Bosnian Serbs’] good will while at the same time avoiding condemnation by the international community and international public opinion”.<sup>18887</sup> The Chamber has already found that this directive was indeed implemented through the subsequent restriction of access to Srebrenica for humanitarian aid and UNPROFOR re-supply convoys as described above.<sup>18888</sup>

5757. Six days after issuing Directive 7, the Accused issued a decision forming a State Committee for Co-operation with the UN and International Humanitarian Organisations (“State Committee”), which—pursuant to the decision of the Accused—was headed by Koljević.<sup>18889</sup> Following its formation, the State Committee was responsible for approving the passage of humanitarian aid convoys, while the VRS was responsible for approving the passage of UNPROFOR re-supply convoys and retained the right to disagree with the decisions of the State Committee, as well as control over the movement of the convoys.<sup>18890</sup> **(But no military had any authority to dismiss the State Committee orders and approvals of the convoy passages. “disagreeing” and “objecting” was possible, but not stopping or canceling the Committee orders!)** However, before negotiating with UNPROFOR, the Main Staff informed the Accused and the RS Presidency about its activities and sought “guidance” in relation to such matters; the Accused thus controlled the policy of restriction which was implemented by Mladić.<sup>18891</sup> **(This is far below any decency to assert such a thing. There is so many evidence that President Karadzic formed this Committee exactly for the purpose to ease the issue of convoys, and nominated the high official No.2, a very known for his humane approach, professor Koljevic, to influence the military to be more tolerant. The case file is full of evidence that the President very often criticized the military for a restrictive approach, although the military were right many times. Namely, there were to many evidence that the UNPROFOR units and individuals granted much of ammunition, fuel and food to the ABiH.)**

5758. Additionally, in a series of meetings with UNPROFOR which took place in the spring of 1995, the Accused stated that he would not allow humanitarian aid to reach the eastern enclaves, including Srebrenica, as long as the Bosnian Serbs were subject to international sanctions.<sup>18892</sup> **(That was a legitimate approach called “reciprocity”, but it had never been carried out in reality!)** At the beginning of June, the Accused co-ordinated closely with Mladić regarding the passage of convoys in anticipation of

<sup>18887</sup> See para. 4980.

<sup>18888</sup> See paras. 4989–4992.

<sup>18889</sup> P4543 (Decision of Radovan Karadžić), pp. 1, 3; D3279 (Radovan Karadžić’s Decisions, 14 March 1995), pp. 1, 3.

<sup>18890</sup> Manojlo Milovanović, T. 25793–25794 (5 March 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12022; Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29277, 29280 (stating that the co-ordination organ had an influence on the passage of UNPROFOR convoys). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6402–6405; para. 4985.

<sup>18891</sup> Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29282–29283; Rupert Smith, T. 11419–11420 (9 February 2011).

<sup>18892</sup> Rupert Smith, T. 11347, 11351, 11355–11359 (8 February 2011); P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), para. 3. See also P2262 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 30 April 1995), para. 12; P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), para. 5. The Accused also stated that he had information that the enclaves were well supplied and that aid was being used to supply the ABiH. P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), para. 3; P2262 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 30 April 1995), para. 12; P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), para. 5. The Chamber recalls its finding that while isolated incidents of misappropriation or smuggling may have occurred, neither UNPROFOR nor the humanitarian aid organisations supplied the ABiH as a matter of practice; the Chamber further recalls its determination that the regulations on convoy movement were applied arbitrarily and ultimately inhibited the flow of humanitarian aid to Srebrenica completely. See fn. 16804.



Slobodan Milošević conducting negotiations to lift the sanctions.<sup>18893</sup> **(This is not serious: under this footnote there is nothing similar to what is found in this paragraph. In Mladic's Diary there is only a criticism that presiden directed to the military, and mentioning Serbia only as much as President Milosevic should understand that the Serbs in BiH may have go to win. In the President's schedule there is only a data that he met Mladic! It had nothing to do with President Milosevic, and the two Presidents didn't have a direct contact until the end of August, when Mr. Holbrook appeared to end the war!)** The Chamber is thus satisfied that the Accused maintained control over the passage of convoys during the weeks and months following the issuance of Directive 7; during that time, conditions in Srebrenica deteriorated to disastrous levels and by the end of June, some residents had died of starvation.<sup>18894</sup> **(#This is arbitrary, untrue and completely unsuitable#. President Karadzic was not a gang leader to keep everything in his hands. There existed a legal institutions with full authority and autonomy, such as Vice President Koljevic, who was free to decide everything in his domain, and he did it in favor of the convoys, frequently having an unpleasant argumentation with the military. All the evidence denies any decrease of humanitarian aid, see@@ the assertion about dying of starvation is so ridiculous and wanton acceptance of the Chamber to be deceived by the Muslim propaganda, see@@@ Let us see P4142, a document the Chamber based this finding on:**

**1. NUMBER AND STATUS OF INHABITANTS:-**

**a. TOTAL POULATION - 42,000**

**b. EIGHTY - FIVE ( 85% ) PERCENT OF WHO ARE REFUGEES OR DISPLACED PERSONS.**

**However, we already have seen the real number of inhabitants in the Muslim document, the Presidency session of 11 August, see: D2238:**

SILAJDZIC:

It is like this: first of all, in Srebrenica they had one number for UNPROFOR and we had the other.

PRESIDENT:

42,000 for UNPROFOR, 35,000 realistically.

**This is only one of many deceptions that the Chamber afforded itself. Look at D3286, a Muslim army document, how much of the humanitarian aid was directed to the ABiH, in the "demilitarized" Srebrenica on 5 June 1995..**

SUBJECT: Record of donations  
to the BH Army

TUZLA DEFENCE SECRETARIAT  
T U Z L A

We hereby submit a list of the quantities of food, materiel and technical equipment and fuel issued to our military units in our area for the month of May 1995:  
25,900 kg of flour, 596 kg of sugar, 1,423 litres of cooking oil, 619 kg of salt, 5,000 kg of beans, 17,020 of cold cuts, 100 kg of powder milk, 62 kg of juice, 7,780 tins of fish, 117 pieces of breaded fish, 480 kg of ground meat, 18.60 kg of beef, 125 fillets of fish, 120 kg of cauliflower, 90 kg of kale, 150 kg of carrots, 240 kg of green beans, 171 litres of /heating/ oil and 1 litre of motor oil.

We wish to note that the above quantities have been separated out of the humanitarian aid contingent which arrived in the area through UNHCR, while some of the food was obtained from the Dutch Battalion.

Till our ultimate victory!

CHIEF  
OF THE DEFENCE SECTOR  
Professor Suljo HASANOVIĆ

**#Who is ready to believe that there was a hunger-starvation? According to the Geneva Conventions, the side that enabled the passage of humanitarian aid was entitled to control distribution to the last user, but this never happened, and the internationals and the UN agencies forced the Serb Army to supply the Muslim Army**

<sup>18893</sup> P1473 (Ratko Mladić's notebook, 27 January–5 September 1995), pp. 168, 177; P5018 (Aide mémoire to the President for the conversation with Ratko Mladić, 9 June 1995); P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court pp. 73–74.

<sup>18894</sup> See paras. 4991–4992.

(ABiH) both in Srebrenica and Sarajevo, and elsewhere. This was a grave violation of the Serb rights as a side which let the aid pass through their territory, and the UN is responsible for that. Instead of suing the high Serb political and military officials, the UN owes an apology to the Serb side generally! And let us see how this "technology" worked, see D2234, a Muslim document from 1 July 1995:

Number: 11-30  
Srebrenica, 1 July 1995

Requested approval,

TO CHIEF  
Brigadier General  
Mustafa HAJRULAHović (Talijan)  
SARAJEVO

Dear General,

Pursuant to your document, strictly confidential number 05/19-261, of 30 June 1995, we hereby send you the requested approval.

I personally agree to the text you sent, which may be distributed to the media in my name and will help in psychological and propaganda activities directed against the enemy and the UN.

On our way to ultimate victory!

SREBRENICA MUNICIPALITY PRESIDENT  
Osman SULJIĆ

So, a propaganda against the Serbs and the UN too! But, apart of the enlarged number of inhabitants, there are a very reliable and persuasive evidence that there was enough food, but it was diverted to the ABiH, and even worse, to the black market. The criminals had been interested in depicting a false shortages, in order to make a high prices for their smuggled goods. See what the Muslim State Security Agency found out, D3313:

Interviews with persons expelled from Srebrenica, we registered numerous criminal activities carried out by members of the 28<sup>th</sup> Division and certain leaders of the municipal organs of authority in Srebrenica. Persons close to the above mentioned categories were involved in these criminal activities, who were, among other things, one of the links in the humanitarian goods smuggling chain, arms sale, oil smuggling, - Rifet HUSIĆ from Voljevica told Haso SALIHOVIĆ that ORIĆ set aside three tonnes of flour from the first humanitarian convoy, sold for him by one Esnaf and Mujo MANDŽIĆ from Dugo Polje (brother of Smajo and Ibrahim MANDŽIĆ).

- Huso SALIHOVIĆ heard in June 1993 that ORIĆ authorised for Bajazit, aka Basko (MALAGIĆ?) from Sase a quantity of 600 kg of flour and 24 kg of powder juice, and he had these stories verified by Aziz MEKIĆ and Sead DELIĆ (employees at the humanitarian goods depot).

Huso SALIHOVIĆ was told by Ahmo TIHIĆ personally (he did not come to the free territory) that Bajazit, aka Basko, had confessed to him that he had sold humanitarian goods form DM and gold on behalf of ORIĆ.

this is only a small part of this document, limited only to some examples of abuse of the humanitarian aid.

A large quantity of goods from the humanitarian aid was earmarked for the army, which were then sold at the market for ORIĆ by Fahrudin SALIHOVIĆ, Hamdija

at the same time there was a starvations???

At some point in September 1994, ORIĆ appropriated 2000 litres of fuel from the humanitarian aid, 600 litres of which he gave to TURSUNOVIĆ, while leaving 1,400 litres for himself at his home in Potočari.

- He took food and other food products from the humanitarian aid depot, which he used to brew brandy, and it is said that the products were sold for him by unknown persons.
- HASANOVIĆ and H. FEJZIĆ bought livestock from the locals in return for the goods from humanitarian aid. Thus, HASANOVIĆ bought a goat kid from Arif OSMANOVIĆ for 3 kg of salt, and offered a certain Alija from Šušnjari 5 kg of salt and three pairs of shoes in exchange for a sheep, which resulted in an argument, because Alija enquired into the origin of the goods. After this, HASANOVIĆ bought a sheep from BEGIĆ's brother-in-law, Hasan in exchange for the same goods (Official Note – Adem BEGIĆ).
- HASANOVIĆ paid the bills at the pub with goods from the humanitarian aid.
- Around 150 people from Srebrenica came to Žepa and bought 1,150 litres of fuel at the price of 1 DM per litre. They sold the same quantity of fuel in Srebrenica at the price of seven to eight DM per litre. ŠTITKOVAC bought fuel from members of the Ukrainian Battalion stationed in Žepa.

Members of the Command personnel of the 28<sup>th</sup> Division could take significant quantities of goods from the depot with humanitarian aid. TURSUNOVIĆ did not need anyone's authorisation to enter the depot. Whenever he came, he had to be given the goods, regardless of what he asked for and how much of it.

**And so on, and so on. All kind of stuff, including oil, all kind of food, armament, ammunition, all was in a surplus quantities, while the Serb side was denigrated in media and in the official reports. Somebody should have apologized to the VRS, including President Karadzic, because the Serb militaries were often right: there was no need for more humanitarian aid, and that these surplus quantities had been used for a military purposes!)**

5759. The Chamber further recalls that on 28 June 1995, the Accused and Krajišnik visited Krstić, who was then Deputy Commander of the Drina Corps, at the Drina Corps Command in Vlasenica and gave him a combat assignment.<sup>18895</sup> Several days later, Živanović, who was then Commander of the Drina Corps, issued an order for active combat operations aimed at splitting the enclaves of Srebrenica and Žepa and reducing them to their urban areas.<sup>18896</sup> The Bosnian Serb Forces initially made slow progress towards Srebrenica; when on 8 July Živanović enquired about the possibility of obtaining reinforcements from the RS MUP, the Accused told him that the Drina Corps would have to proceed with its own forces as “the entire MUP” was engaged elsewhere.<sup>18897</sup> Živanović nevertheless requested that a company of Zvornik MUP forces be engaged as reserve forces for Drina Corps units in his daily combat report that evening.<sup>18898</sup>

5760. The Chamber recalls that in the late afternoon on the following day, Tolimir contacted the Accused and relayed the information that the conditions for taking

<sup>18895</sup> See para. 5004.

<sup>18896</sup> See paras. 5005–5007.

<sup>18897</sup> See para. 5686, fn. 19277.

<sup>18898</sup> See fn. 19277.

Srebrenica had been created, and the Accused then approved the expansion of the Krivaja 95 plan and ordered the Bosnian Serb Forces to take over the town.<sup>18899</sup> **(Why the #Chamber is not mentioning all the President instructions pertaining to the humanitarian laws and humanity#? See a part of para 5018, pertaining to this issue: The Accused told Tolimir that “if they could take Srebrenica, they should”. Tolimir then drafted an order to that effect and sent it to Gvero and Krstić personally, as well as to the Drina Corps IKM.16963 In that order, Tolimir wrote: “The President of the Republic is satisfied with the results of combat operations around Srebrenica and has agreed with the continuation of operations for the takeover of Srebrenica, disarming of Muslim terrorist gangs and complete demilitarisation of the Srebrenica enclave”.16964 Relaying the Accused’s agreement with the expanded objective, Tolimir also conveyed the Accused’s order that “full protection [should] be ensured to UNPROFOR members and the [Bosnian] Muslim civilian population”, as well as his instruction to Krstić to issue an order to that effect. No confusion: the primary task didn’t include the taking of the town itself; that occurred as a possibility since the Muslim forces abandoned the town; President Karadzic ordered the strictest respect for the international humanitarian laws and norms; there is no any space to assert that it was otherwise than it is visible from these temporaneus and strictly confidential documents!)** On 10 July, pursuant to an order from the Accused, part of the MUP forces which had been deployed in the Trnovo area were redeployed towards Srebrenica.<sup>18900</sup> Between 5 and 5:20 p.m. on 10 July, the Accused met with Dragan Kijac, the head of the RDB, and Milenko Karišik, the head of the RJB.<sup>18901</sup>

**5761.** Late in the afternoon on 11 July, after previously telling the Accused that “everything [wa]s going according to plan and do not worry”, Gvero informed the Accused that the Bosnian Serb Forces had taken Srebrenica.<sup>18902</sup> **(The Prosecution insisted, in the Krajisnik case, that the “President” in Gvero’s conversation pertained to Krajisnik. Since the Krajisnik case was ended, the Prosecution now tried to sell the same stuff to this Chamber!)** This information was also included in the daily combat report the Accused received from the Main Staff that evening, which stated that the VRS had entered Srebrenica town.<sup>18903</sup> That evening, the Accused issued three orders which pertained to the situation on the ground in Srebrenica; the first two established Bosnian Serb municipal structures there. First, the Accused appointed Deronjić as civilian commissioner for Srebrenica and determined the functions he should have while holding that post.<sup>18904</sup> Second, the Accused issued an order to the RS MUP to form an SJB in “Serb Srebrenica”.<sup>18905</sup> According to the order, the RS MUP was instructed to establish close co-operation with Deronjić.<sup>18906</sup> Third, the Accused issued an order stating that henceforth, only the State Committee would give approval for humanitarian convoys, following prior consultations with the Accused himself.<sup>18907</sup> **(All of it was one the same: to have an**

<sup>18899</sup> See para. 5018.

<sup>18900</sup> See para. 5688.

<sup>18901</sup> P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 89; D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 60; D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 54. See para. 221. The Chamber notes that both Karišik and Kijac professed not to remember the specific matters discussed at the meeting. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 60; D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 54. The Chamber will fully address Karišik’s testimony in this regard in fn. 19543.

<sup>18902</sup> See paras. 5689–5690.

<sup>18903</sup> P4450 (VRS Main Staff Report, 11 July 1995), para. 6(b).

<sup>18904</sup> See para. 5693. The Chamber further recalls that while meeting with approximately 20 “Serb officials in Srebrenica” that evening, Deronjić established a telephone connection with the Accused, who told the attendees at the meeting that Deronjić was “directly responsible with his life” for all civilian affairs in Srebrenica and that all others were to report directly to Deronjić. See para. 5694.

<sup>18905</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995). See also para. 226.

<sup>18906</sup> P2994 (Radovan Karadžić’s Order, 11 July 1995), para. 5. See also Christian Nielsen, T. 16338 (7 July 2011).

<sup>18907</sup> P5183 (RS Presidential Order, 11 July 1995), paras. 1–2. The order was immediately disseminated to the VRS Main Staff and was disseminated by the RS MUP on the following day. See P2803 (RS Communication Centre telegram logbook, 3–18 July 1995), p. 3



**efficient and responsible authorities. Since the State Committee was significantly less restrictive in approving convoys, the conclusion must have been all the way around!)**

5762. Between 10:30 and 10:45 p.m. on 11 July, the Accused met in his office with Karišik.<sup>18908</sup> **(No matter the Chamber is constructing and guessing about Karišik's knowledge, it is so clear that at that time there was no a single criminal event, a single killing to report to the President. On the other side, both Karišik and Kovac had been worried about a possibility to have the lines around Sarajevo broken and the 100,000 civilians jeopardized.)** Later that night, at 1 a.m. on 12 July, the Accused had a brief telephone conversation with Živanović.<sup>18909</sup> Živanović testified that he updated the Accused on the "liberation" of Srebrenica and told him that there had been no casualties on either side.<sup>18910</sup> According to Živanović, the Accused was satisfied with that fact, and the conversation ended.<sup>18911</sup> **(#EXCULPATORY!!! No casualties, smooth, demilitarised and pacified. That was what the President had learnt from this conversation!)**

5763. Around the same time, Kovač forwarded the Accused's order to the RS MUP to form an SJB in "Serb Srebrenica" to Vasić, the Chief of the Zvornik CJB at the time, further ordering him to establish the SJB in Srebrenica that day while ensuring close co-operation with Deronjić.<sup>18912</sup> Regardless of how the order was transmitted to Vasić, it is clear to the

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(line 326); P2997 (Radovan Karadžić's Order, forwarded by RS MUP, 12 July 1995). Failure to implement the order was to result in swift legal sanctions. P5183 (RS Presidential Order, 11 July 1995), para. 8.

<sup>18908</sup> P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court p. 90; D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 60. The Prosecution claims that the purpose of Karišik's visit to the Accused that evening was to report on the deployment of MUP forces to the Srebrenica area. Prosecution Final Brief, para. 905. The Chamber notes that Karišik first testified that he did not recall the meeting specifically, and asserted that, at the time, he had "focused on the fierce fighting that was going on around Sarajevo" and could not recall having any discussions with the Accused regarding Srebrenica. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 60; Milenko Karišik, T. 40608 (27 June 2013), T. 40679–40681 (2 July 2013). See also D3756 (SRNA news report, 7 July 1995); D3757 (SRNA news report, 13 July 1995); D3758 (SRNA news report, 14 July 1995). Furthermore, Karišik affirmatively stated that he had not discussed Srebrenica with the Accused because he had had no information about Srebrenica at the time. Milenko Karišik, T. 40615–40616 (27 June 2013). The Chamber notes, however, that during the days leading up to, and on the day of, his meeting with the Accused and Kijac on 10 July, Karišik had been receiving information from the RDB updating him on the progress of VRS forces towards Srebrenica and other relevant military updates. See e.g. P4927 (Report of Bijeljina RDB, 6 July 1995) (addressed to the RS MUP and the VRS Security Department and reporting intelligence that Naser Orić sought to return from Tuzla to Srebrenica at the time); P4928 (Report of Sarajevo RDB, 6 July 1995) (forwarding P4927 to Karišik personally); P4932 (Report of Bijeljina RDB, 10 July 1995) (addressed to the RS MUP and the VRS Security Department and reporting intelligence about VRS progress towards Srebrenica as well as intelligence regarding the requests of members of the Muslim Forces in Srebrenica then deployed around Sarajevo to return to the enclave); P4933 (Report of Sarajevo RDB, 10 July 1995) (forwarding P4932 to Karišik personally). This reporting continued during the following days. See P5089 (Report of Sarajevo RDB, 11 July 1995); P2986 (Report of Sarajevo RDB, 12 July 1995); P5091 (Report of Sarajevo RDB, 12 July 1995); P4936 (Report of Sarajevo RDB, 12 July 1995); P4939 (Report of Sarajevo RDB, 12 July 1995) (all addressed to Karišik personally). Furthermore, that day, Karišik had in fact travelled to Zvornik, where he "expressed an interest" in the work of the Zvornik SJB. P6190 (Excerpt from Mane Đurić's diary), e-court p. 1; Mane Đurić, T. 35037 (7 March 2013). See also P4581 (Excerpt from tactical intercept notebook, 11 July 1995) (demonstrating that Karišik, a.k.a. "Karlo", was on the ground in Zvornik on 11 July); Milenko Karišik, T. 40612–40615 (27 June 2013) (accepting that "Karlo" was his nickname). That day, Karišik had received a report from the DB that the Muslim Forces in Srebrenica "had enough forces to stop a Serbian offensive". P5089 (Report of Sarajevo RDB, 11 July 1995). At the time, one company of the PJP of the Zvornik CJB was preparing to deploy to Srebrenica in order to reinforce the VRS pursuant to the Accused's order of the previous day. See fn. 16976. When presented with this evidence, Karišik continued to claim that he could not recall whether he had made such a trip, although he eventually accepted that it was a possibility. Milenko Karišik, T. 40611–40615 (27 June 2013). The Chamber considers that Karišik had an interest in distancing himself from the events in Srebrenica and that his evidence in this regard was marked by insincerity and evasiveness. See e.g. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), paras. 40, 60; Milenko Karišik, T. 40590–40594, 40604, 40608–40609, 40617–40624 (27 June 2013). The Chamber finds that Karišik's evidence was replete with evasiveness and contradictions, and concludes that despite his denial, Karišik in fact travelled to Zvornik. However, the Chamber will not make a finding as to the content of the conversation between Karišik and the Accused during their meeting on the night of 11 July.

<sup>18909</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 8.

<sup>18910</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 8.

<sup>18911</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 8.

<sup>18912</sup> P2995 (Radovan Karadžić's 11 July 1995 Order, forwarded by RS MUP, 12 July 1995); Christian Nielsen, T. 16338–16339 (7 July 2011). Kovač also forwarded the Accused's order requiring the approval for the passage of humanitarian aid convoys through RS territory to be given exclusively by the State Committee following consultation with him personally; Kovač's order incorporated additional instructions for the implementation of the Accused's order. P2997 (Radovan Karadžić's Order, forwarded by the RS MUP on 12 July 1995). The Chamber notes that although in an interview with the Prosecution in 2003, Kovač stated that the RS MUP order forwarding the Accused's order to Vasić had come from his office with his knowledge, when testifying in this case, Kovač denied having signed this order or having been aware of it at the time. Tomislav Kovač, T. 42738–42741 (1 November 2013). See also D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 115 (asserting that the MUP had issued an order for the implementation of the Accused's decision). The Chamber notes that despite the existence of this apparent discrepancy, Kovač refused to



Chamber that it was implemented. The Chamber recalls that around 8 a.m. on 12 July, Vasić met with Mladić, Krstić, and Deronjić at the Bratunac Brigade Command.<sup>18913</sup> Following that meeting, Vasić reported to Kovač that, as ordered, he had contacted Deronjić and had met with Mladić and Krstić during the 8 a.m. meeting at the Bratunac Brigade Command, where “tasks were assigned to all participants”.<sup>18914</sup> Vasić also informed Kovač that the third Hotel Fontana meeting was taking place at 10 a.m. in order to reach an agreement on the “evacuation of the civilian population from Potočari to Kladanj”, and that 100 trailer trucks had already been provided for that purpose.<sup>18915</sup> Finally, Vasić reported that joint police forces were advancing on Potočari “with the aim of taking UNPROFOR personnel prisoner, surrounding the entire civilian population, and clearing the terrain of enemy groups”.<sup>18916</sup>

5764. On the night of 11 July and into the following day, Kovač was personally informed by Kijac that while an estimated 40,000 Bosnian Muslims had begun to gather in and around the UN Compound in Potočari, there were very few able-bodied men amongst this group.<sup>18917</sup> When, during the course of the night between 11 and 12 July, the Bosnian Serb Forces became aware of the existence and movement of the column of Bosnian Muslim men, Drina Corps and—at Kovač’s direction—MUP units were sent to intercept the column and “mo[p] up the terrain”.<sup>18918</sup>

5765. Vasić continued to report to his superiors in the RS MUP throughout 12 and 13 July, noting the absence of Bosnian Muslim males in Potočari, their suspected whereabouts, and efforts to intercept the column of Bosnian Muslim males. Following his initial report on 12 July, Vasić reported that of an estimated 25,000 people gathered in Potočari, less than 10% were able-bodied males, and although they had requested free passage, “depending on Mladić’s decision, able-bodied men *may* be allowed to go *in order to have the others from the woods to surrender*, since our command urged them to do so”.<sup>18919</sup> Around 5:30 p.m., Vasić relayed to Kovač intelligence from the Zvornik CJB, which had learned that an estimated 8,000 “men of military age” were in the Konjević Polje and Sandići sector.<sup>18920</sup> On 13 July, Vasić reported to Kovač’s and Karišik’s respective offices that although the MUP forces were attempting to block the column, because such forces were “working alone” without the assistance of the VRS, “a lot of problems c[ould] be expected until the operation [wa]s completed”.<sup>18921</sup> Later,<sup>18922</sup> Vasić sent a further report to the same recipients

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acknowledge it. Tomislav Kovač, T. 42740–42741 (1 November 2013). The Chamber also recalls that at the outset of his testimony, Kovač testified to the truthfulness of his prior interviews. Tomislav Kovač, T. 42718 (31 October 2013). The Chamber refers to its credibility assessment of Kovač at para. 5766.

<sup>18913</sup> See para. 5086.

<sup>18914</sup> P2996 (Report of Zvornik CJB, 12 July 1995), paras. 1–2. The Chamber notes that when presented with Vasić’s report, Kovač asserted that the RS MUP was only interested in its content to the extent that it pertained to Vasić’s compliance with the order to establish an SJB in Srebrenica. Tomislav Kovač, T. 42742–42745 (1 November 2013). Noting that the sole addressees of Vasić’s report were RS MUP entities, the Chamber considers that the only reasonable inference is that Vasić included the totality of the information described above in order to inform his superiors in the RS MUP. The Chamber finds Kovač’s assertion that the remainder of that information was of no interest to the RS MUP absurd and does not accept it.

<sup>18915</sup> P2996 (Report of Zvornik CJB, 12 July 1995), para. 5.

<sup>18916</sup> P2996 (Report of Zvornik CJB, 12 July 1995), para. 6.

<sup>18917</sup> P2986 (Report of Sarajevo RDB, 12 July 1995) (reporting on the developments of 11 July); P5091 (Report of Sarajevo RDB, 12 July 1995), p. 1; P4936 (Report of Sarajevo RDB, 12 July 1995); P4939 (Report of Sarajevo RDB, 12 July 1995), pp. 1–2.

<sup>18918</sup> See para. 5158.

<sup>18919</sup> P4935 (Report of Zvornik CJB, 12 July 1995), paras. 1–4 (emphasis added). Vasić further reported that a company of the Zvornik PJP had been dispatched to Srebrenica town in order to protect facilities against looting and misappropriation of property, and that a platoon of the company would be sent to intercept the column of Bosnian Muslim men fleeing towards Buljim. P4935 (Report of Zvornik CJB, 12 July 1995), para. 5.

<sup>18920</sup> P4937 (Report of Zvornik CJB, 12 July 1995).

<sup>18921</sup> P6189 (Report of Zvornik CJB, 13 July 1995).

<sup>18922</sup> The Chamber notes that although no time stamp appears on P6189, the sequential numbering on P6189 and P4942 reveals that the former preceded the latter. Compare P6189 (Report of Zvornik CJB, 13 July 1995); P4942 (Report of Zvornik CJB, 13 July 1995) (referring to the 8 a.m. meeting at the Bratunac Brigade Command).

stating that after having met with Mladić that morning,<sup>18923</sup> the VRS was “continuing operations towards Žepa and leaving all other work to the MUP”, including the transport of an estimated remaining 15,000 Bosnian Muslims to Kladanj, and the “killing of about 8,000 Bosnian Muslim soldiers whom we blocked in the woods near Konjević Polje”.<sup>18924</sup> Thereafter, Kovač began personally forwarding to Vasić intelligence that the RS MUP had received from the VRS.<sup>18925</sup> That day, Kovač also dispatched a company of the Doboj PJP to Zvornik.<sup>18926</sup>

**5766.** Between 3:50 and 4:10 p.m. on 13 July, the Accused met Kovač in Pale.<sup>18927</sup> Immediately thereafter, Kovač departed towards Vlasenica.<sup>18928</sup> The Chamber notes that Kovač testified that during this meeting, he and the Accused discussed the situation around Sarajevo, which Kovač claimed he had felt was of far greater concern at the time.<sup>18929</sup> However, having analysed the entirety of Kovač’s testimony in light of the totality of the evidence, the Chamber notes numerous internal inconsistencies within Kovač’s testimony,<sup>18930</sup> as well as inconsistencies with prior statements given under oath.<sup>18931</sup> In the Chamber’s view, these inconsistencies, as well as the evasiveness and even intermittent combativeness displayed by Kovač throughout his testimony,<sup>18932</sup> arise from Kovač’s efforts to minimise his own involvement in the events in Srebrenica in July 1995.<sup>18933</sup> The Chamber has therefore approached his testimony with extreme caution and has only relied upon it where it is consistent with other evidence. **(It is difficult for an average Serb not to be “combative” in front of this kind of an anti-Serb court, as it is perceived by the entire Serb nation! All and every Serb in the mirror of such a kind of courts looks like a new Don Kijote!)**

<sup>18923</sup> The Chamber recalls that that morning, Vasić met with Mladić, Krstić, Popović, and Pandurević at the Bratunac Brigade Command. *See* para. 5705.

<sup>18924</sup> P4942 (Report of Zvornik CJB, 13 July 1995), paras. 1–2. *See also* Richard Butler, T. 27542–27543 (18 April 2012) (testifying that the reference to killing referred to an ongoing military operation against the portion of the column which had not managed to cross the Konjević Polje–Nova Kasaba Road).

<sup>18925</sup> *See* P2988 (Report of RS MUP, 13 July 1995) (forwarding to Vasić a dispatch received from the Drina Corps Security Organ describing the movement of the column); P5098 (Report of RS MUP, 13 July 1995) (forwarding to Vasić two dispatches received from the Drina Corps command regarding the movement of the column). The second of these two documents was sent after 12:30 p.m. *See* P5098 (Report of RS MUP, 13 July 1995), p. 1. At the same time, Vasić was also receiving information about the column from Karišik, who forwarded information received from the RDB through the Police Forces Command Staff in Pale. P4943 (Report of Sarajevo RDB, 13 July 1995) (reporting that an estimated 10,000 “able-bodied Muslims” from Srebrenica had gathered near Šušnjari on the night of 11 July, had begun to depart in an attempt to reach Tuzla the following morning, but had begun to be caught in RS MUP ambush operations along the Bratunac–Konjević Polje Road on the night of 12 July); P5099 (Report of Bijeljina RJB, 13 July 1995) (passing along information contained in P4943).

<sup>18926</sup> P5146 (Order of RS MUP, 13 July 1995). *See also* Tomislav Kovač, T. 42764 (1 November 2013).

<sup>18927</sup> P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91.

<sup>18928</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 117 (further asserting that he had departed towards Bijeljina in order to organise the transport of ammunition and fuel towards Sarajevo when he had been stopped at a check-point in Vlasenica and told that Mladić wished to see him.); Tomislav Kovač, T. 42767–42771 (1 November 2013).

<sup>18929</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 117; Tomislav Kovač, T. 42764–42766 (1 November 2013); T. 42855–42856 (4 November 2013).

<sup>18930</sup> For example, after first adopting testimony from a prior case in which he had stated that he had gone to the Srebrenica area pursuant to an order from the Accused, Kovač later denied that he had done so. *Compare* Tomislav Kovač, T. 42766–42767 (1 November 2013) *with* Tomislav Kovač, T. 42792–42793 (1 November 2013) (stating that he had gone to the field of his own volition) *and* Tomislav Kovač, T. 42840–42841 (4 November 2013). *Compare also* D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 124 *with* Tomislav Kovač, T. 42785–42789 (1 November 2013).

<sup>18931</sup> For example, the Chamber refers to its description of Kovač’s testimony regarding the transmission of the Accused’s 10 July order to deploy RS MUP forces to Srebrenica set out at fn. 19288. *See also* Tomislav Kovač, T. 42823–42825 (1 November 2013); D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 133; *compare* Tomislav Kovač, T. 42827–42830 (1 November 2013).

<sup>18932</sup> *See e.g.* Tomislav Kovač, T. 42782–42783, 42786–42788, 42794–42795, 42808–42813 (1 November 2013).

<sup>18933</sup> For example, even when presented with evidence demonstrating that he had ordered the further deployment of “all available guides with police dogs” to Srebrenica on 12 July, Kovač insisted that there had been no need for the MUP to be sent to Srebrenica. Tomislav Kovač, T. 42721 (31 October 2013), T. 42747 (1 November 2013); P4934 (RS MUP Order to the centre for the breeding and training of police dogs, 12 July 1995). He stated that MUP forces were only deployed in order to secure roads and disclaimed any knowledge of DB operatives being involved in the separation and interrogation of men in Potočari. Tomislav Kovač, T. 42721 (31 October 2013) (stating that “only the Sarajevo front was under threat” at the time); Tomislav Kovač, T. 42749–42752, 42755, 42794–42795 (1 November 2013) (distancing himself from the work of the DB before accepting that Kijac had addressed documents to him personally).

5767. In this regard, the Chamber is mindful that from the commencement of the Srebrenica operation on 6 July, Kovač had been receiving reports which were forwarded to him personally by Kijac and contained intelligence from the DB and the VRS regarding the progress of the Srebrenica operation.<sup>18934</sup> **(There should have been known that the Police didn't know too much about the Army matters, and vice versa. In any country there are a certain degree of rivalry, and merely there can not be full insight of the army in a police business and the other way. Particularly since the group that committed the crime after the fall of Srebrenica kept it a deep secret, as one of the perpetrators D. Erdemovic testified. So, #Kovac didn't know too much at all! Particularly neither Kovac nor any other could have known anything before 14 July late evening, because except the Kravica incident, there was nothing to know, cause nobody was killed! But, since both the Chamber and Prosecution had an opportunity to question and cross examine all of them, Kovac, Karisik and Kijac, there shouldn't be any guessing or "inferring" that any of them got anything but what was in their official reports! If a documents matter at all!)** This continued throughout the day on 12 and 13 July.<sup>18935</sup> At the same time, Kovač had begun receiving updates from Vasić—and responded to the developments described by Vasić by forwarding information received by the VRS to him directly—as described above.<sup>18936</sup> Against this backdrop, mindful of the fact that the RS MUP units had been deployed to the Srebrenica sector pursuant to the Accused's order which was conveyed through Kovač, and considering that Kovač departed immediately towards Vlasenica following their meeting, the Chamber finds it inconceivable that Kovač did not discuss the developments on the ground in Srebrenica—including the reports he had received from the DB, as well as the communications received from Vasić and his own response—with the Accused during their meeting on 13 July. **(The Chamber didn't understand the nature of the engagement of MUP members: first, when the MUP had been needed to the VRS as a combat group, then the President was the only one who could approve and order it, because of a possible abuses, rivalry and mutual disobedience among the two armed forces. In such a case, the police units are not under the Kovac's competence and command, but under the command of the army officer responsible for the area. When the police members are directed somewhere for a policing, such as protecting civilians, or protecting assets, or guarding a roads, communications, mines, or chasing terrorists within their territory, then they are under the command of the Minister of Interior, or a commander he appointed. In the first case, the police was not independent, and neither could do actions on their own, nor could report other but through the army channels. So, Kovac could have known only what the police was doing while policing, nothing else!)**

<sup>18934</sup> See e.g. P4927 (Report of Bijeljina RDB, 6 July 1995); P4932 (Report of Bijeljina RDB, 10 July 1995); P4928 (Report of Sarajevo RDB, 6 July 1995) (forwarding P4927 to Kovač and Karišik personally); P4933 (Report of Sarajevo RDB, 10 July 1995) (forwarding P4932 to Kovač and Karišik personally). See also P5089 (Report of Sarajevo RDB, 11 July 1995).

<sup>18935</sup> P2986 (Report of Sarajevo RDB, 12 July 1995) (reporting that by 4 p.m. on 11 July, 20,000 Bosnian Muslims had gathered in Potočari, that by 5 p.m. on the same day, 60,000 "refugees" had "left Srebrenica for the north", and that the latter's overall position was expected to be "hopeless in 48 hours"); P5091 (Report of Sarajevo RDB, 12 July 1995) (reporting that the VRS had advanced towards Potočari, where an estimated 10,000 Bosnian Muslims were reported to be staying on the premises of the UN Compound); P4936 (Report of Sarajevo RDB, 12 July 1995) (providing an update indicating that 30,000 Bosnian Muslims had gathered around the UN Compound, another 8,000 were still attempting to reach it, and stating that "according to reports by military observers, there is not a single armed soldier of the so-called BH Army among th[e] people" present in Potočari and referred to possible means that had been proposed "in the event of evacuation of the population via Zvornik, as reportedly proposed by the Serbian side"); P4939 (Report of Sarajevo RDB, 12 July 1995) (reporting sometime after 4 p.m. on the movement of a column composed of "several thousand people, most of them conscripts from the Srebrenica area" and that approximately 8,500 people—mostly women and children—had been transported that afternoon and reiterating that there were "hardly any" able-bodied men fit for fighting in Potočari); P4389 (Report of Sarajevo RDB, 13 July 1995), p. 1 (reporting that the Bosnian Serb Forces had captured over 300 members of the column during the night between 12 and 13 July); D4152 (Report of Sarajevo RDB, 13 July 1995) (reporting that a UN observer patrol reported to its base in Živnice that a column of refugees from Srebrenica was moving towards Živnice). Kovač continued to receive such reports on 14 July as well. See e.g. P5093 (Report of Sarajevo RDB, 14 July 1995); P5092 (Report of Sarajevo RDB, 14 July 1995); D2058 (Letter from RDB to Bijeljina Public Security Department, 14 July 1995) (noting that the DB's reports had been submitted to the Zvornik SJB and PJP as well as Borovčanin in the field).

<sup>18936</sup> See paras. 5765.

5768. After Kovač's departure, between 5 and 6:40 p.m., the Accused met with three members of the Serbian diaspora,<sup>18937</sup> Srđa Trifković, Tomislav Premović, and Slavica Ristić.<sup>18938</sup> Zametica and Krajišnik also attended the meeting intermittently.<sup>18939</sup> According to Ristić, the outset of the meeting was very relaxed, as the Accused was attempting to establish an external telephone connection with "somebody",<sup>18940</sup> while Ristić chatted with Krajišnik.<sup>18941</sup> At one point during the meeting, a telephone connection was established, and the Accused had an hour-long conversation, part of which occurred over the speakerphone.<sup>18942</sup> Ristić recalled that it had been very difficult to hear because the line kept going down.<sup>18943</sup> However, the end result of the conversation was that the participants in the meeting understood that Srebrenica "[wa]s done".<sup>18944</sup> At the end of the conversation, the Accused thanked the person to whom he was speaking personally.<sup>18945</sup> The Accused also "awarded, rewarded and promoted a couple [...] of the generals", including Krstić.<sup>18946</sup>

**(This is so significant as a raining would be, since it was a regular promotion of General Krstić in the occasion of his new posture as a Commander of the Drina Corps. This promotion would be regardless of the action in Srebrenica. Finally, there was**

<sup>18937</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 9–10; P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 8–9; D2905 (Witness statement of Srđa Trifković dated 5 February 2013), paras. 5–9. Trifković, who had met the Accused in 1993, arranged the visit to Pale in July 1995 and invited Ristić and Premović to accompany him. D2905 (Witness statement of Srđa Trifković dated 5 February 2013), para. 9; P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 14–18; P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), p. 40.

<sup>18938</sup> P4367 (Excerpt from appointment calendar of Radovan Karadžić, 14 July 1995); Slavica Ristić, T. 26071 (12 March 2012); P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 31–35; Tomislav Premović, T. 27406, 27419 (12 April 2012); P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 54, 56–65. See also D2905 (Witness statement of Srđa Trifković dated 5 February 2013), para. 28; Srđa Trifković, T. 33353 (6 February 2013). The Chamber notes that Premović insisted that his memory of the meeting was limited because it had just been "a friendly visit" that consisted mostly of "small talk". P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 61, 72. Premović also exhibited confusion regarding the date when the meeting had occurred, as well as whether it had taken place on the day he arrived or the following. See P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 42–44, 51–54; Tomislav Premović, T. 27391, 27406, 27419 (12 April 2012). However, based on the totality of evidence before it, the Chamber is satisfied that Premović described the same meeting attended by Ristić and Trifković, and that it took place on 13 July. The Chamber also notes that throughout his evidence, Trifković gave many indications of bias, including making negative comments against the Tribunal, as well as against the Islamic faith. See e.g. Srđa Trifković, T. 33337–33359 (6 February 2013); P6099 (Article from Mission Europa Netzwerk Karl Martell entitled "Can the West be Saved?", 10 May 2008); P6100 (Article from *Chronicles Magazine* entitled "Dinesh the Dhimmi", 26 January 2007); P6101 (Article from *Pogledi* entitled "Islamic Terrorism in Italy: Shape of Things to Come", 27 February 2002); P6098 (Video clip of Srđa Trifković's university speech, with transcript) (making reference to a "traitor class"). In the Chamber's view, Trifković's evidence was so vitriolic and partisan that the Chamber approached his evidence with the utmost caution and circumspection. The Chamber has therefore only relied upon his evidence where corroborated by Ristić and Premović.

<sup>18939</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 34–40; Slavica Ristić, T. 26075 (12 March 2012); P4560 (Photographs of Slavica Ristić's meeting with Radovan Karadžić, 13 July 1995), p. 3. See also P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 58–59.

<sup>18940</sup> According to Ristić, the Accused had only one phone on his desk, but he "would go outside to talk to somebody to get him the line or — he was very frustrated: get me the line, or what's wrong with the line or [...] so whether another phone, I don't know." P4556 (Slavica Ristić's interview with OTP, 5 April 2009), p. 74. See also Slavica Ristić, T. 26088 (12 March 2012).

<sup>18941</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 34–35.

<sup>18942</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), p. 37; Slavica Ristić, T. 26074–26075 (12 March 2012); P4557 (Photographs of Slavica Ristić's meeting with Radovan Karadžić), pp. 3–4; P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 61–62. See also P4560 (Photographs of Slavica Ristić's meeting with Radovan Karadžić, 13 July 1995), pp. 1, 3.

<sup>18943</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 37–38; Slavica Ristić, T. 26072–26073 (12 March 2012). Ristić further described the Accused as mostly listening and giving responses such as "uh-huh" or "okay", and did not remember him asking any questions. P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 38–39; Slavica Ristić, T. 26088 (12 March 2012); P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), p. 64 (describing the Accused as mainly responding with "okay").

<sup>18944</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 37–39 (further recalling that she had understood that Žepa would be "the next step"); Slavica Ristić, T. 26073–26074, 26077 (12 March 2012); P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 48, 52–54, 61–63. The Chamber notes that Premović referred to the conversation having yielded the information that "Žepa fell" but, in light of the fact that the meeting occurred on 13 July, it is satisfied that this should be understood as Srebrenica, and that Premović's recollection of Mladić saying that Srebrenica would be "next" should be understood as referring to Žepa. See P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), p. 71; Tomislav Premović, T. 27406–27408, 27414–27415 (12 April 2012). See also Slavica Ristić, T. 26087–26088 (describing having gained the impression that Žepa would be next to be "liberated").

<sup>18945</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), p. 47. Ristić recalled that the Accused was "very happy". P4556 (Slavica Ristić's interview with OTP, 5 April 2009), pp. 38–39, 73 (further stating that she had understood that the Accused was happy that now the Bosnian Serbs would have diplomatic bargaining power); Slavica Ristić, T. 26077–26078 (12 March 2012). See also D2905 (Witness statement of Srđa Trifković dated 5 February 2013), para. 28. But see P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 65–66 (stating that there was nothing remarkable about the Accused's mood after the phone call).

<sup>18946</sup> P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 62–63; Tomislav Premović, T. 27415 (12 April 2012). See also P4485 (Drina Corps information, 13 July 1995); P3044 (Radovan Karadžić's Decree, 14 July 1995); KDZ122, T. 26107 (12 March 2012) (closed session); Petar Skrbić, T. 25978–25981 (8 March 2012).

**nothing wrong about Krstić's conduct ever, except that he was a responsible and capable officer. The Chamber doesn't have anything to prove the President's guilt, and it is following the Prosecution in patchworking some "evidence" that could denigrate the President and make others to believe that such a man may be responsible for something. The international justice shouldn't do it ever!**

5769. Ristić testified that the Accused had addressed the person on the other end of the line as "General Mladić".<sup>18947</sup> Premović also testified that the person who had called the Accused during their meeting was Mladić.<sup>18948</sup> The Chamber notes that Trifković insisted that the Accused did not speak with Mladić;<sup>18949</sup> however, the Chamber recalls its assessment of Trifković's credibility outlined above.<sup>18950</sup> The Accused acknowledges having spoken to someone from the VRS who informed him about the situation in Srebrenica, but denies that he actually spoke with Mladić, referring to "conflicting evidence", and citing the testimony of Milovanović,<sup>18951</sup> who agreed that the Accused communicated "mainly" with him between 1 July and 4 August 1995.<sup>18952</sup> The Chamber notes, firstly, that Milovanović explicitly stated that this did not occur "all the time", but only "a few times".<sup>18953</sup> Moreover, even if Milovanović's testimony in this regard could be read to suggest that the Accused communicated with Milovanović to the exclusion of all other VRS officers during that period, such testimony would have been directly contradicted by, *inter alia*, the evidence of the conversation between the Accused and Gvero in the afternoon of 11 July, and the evidence of the conversation between the Accused and Živanović on the night of 11 July.<sup>18954</sup> Accordingly, the Chamber is satisfied that, as testified by Ristić and Premović, the Accused indeed spoke to Mladić during their meeting on 13 July. **(#This is far from the truth, and is not even decent, to built in the finding a mere belief of the Chamber#. It doesn't matter to whom President Karadzic had spoken, but certainly it was not General Mladic. At that time President Karadzic objected the fact that he never knew where General Mladic was. Also, all of these communications had been recorded, but this one was not. In the President spoke with some other high officer, it was because he called the Main Staff, and the highest rank officer spoke to him. Therefore, it was not a matter of a President's choice. Usually, if there was General Mladic, the President would speak with him no matter what their relation was, but in his absence the next rank officer would talk to him. If the Prosecution/Chamber do not have any evidence, it should have been admitted, and not compromise the Court, the Chamber and the United Nations!)**

5770. Citing the testimony of Ristić, Premović, and Trifković, the Accused further argues that even if he was speaking to Mladić, the evidence does not establish that they exchanged information about a plan to kill during the conversation, but—on the contrary—demonstrates that the Accused insisted that civilians be well-treated.<sup>18955</sup> Having already

<sup>18947</sup> P4556 (Slavica Ristić's interview with OTP, 5 April 2009), p. 47.

<sup>18948</sup> P4911 (Tomislav Premović's interview with the OTP, 27 April 2009), pp. 54, 61, 63–64 (stating that the Accused had either told the visitors that the other interlocutor was Mladić or the Accused had addressed Mladić directly). When questioned by the Accused, Premović acknowledged that he was not familiar with Mladić's voice, but asserted that he was "under the impression" that the caller was Mladić. Tomislav Premović, T. 27406 (12 April 2012).

<sup>18949</sup> D2905 (Witness statement of Srđa Trifković dated 5 February 2013), paras. 29–32; Srđa Trifković, T. 33317–33318, 33342, 33354–33357, 33361 (6 February 2013).

<sup>18950</sup> See fn. 19573.

<sup>18951</sup> Defence Final Brief, paras. 3017–3019. The Accused points to Milovanović's testimony that between 1 July and 3 August 1995, the Accused communicated with the VRS only through Milovanović. Defence Final Brief, para. 3019. By contrast, the Prosecution asserts that the person to whom the Accused spoke was Mladić. See Prosecution Final Brief, paras. 949–954.

<sup>18952</sup> Manojlo Milovanović, T. 25648 (1 March 2012).

<sup>18953</sup> Manojlo Milovanović, T. 25648 (1 March 2012).

<sup>18954</sup> See paras. 5690, 5762.

<sup>18955</sup> Defence Final Brief, paras. 3020–3024.



found Trifković to be unreliable on the substance of this conversation,<sup>18956</sup> the Chamber will now assess the reliability of the evidence of Ristić and Premović on this point. Ristić recalled that after the phone call ended, the topic of conversation at the meeting turned to the treatment of civilians, and although she could not remember what was said specifically, she did recall that Trifković had stressed that the mistreatment of civilians would reflect poorly on Bosnian Serbs.<sup>18957</sup> The Chamber notes, however, that just after mentioning this in her interview, Ristić offered that it was “difficult for [her] after reading Dr. Trifković’s testimony” to separate what she recalled from what she had read.<sup>18958</sup> The Chamber takes this candid admission to be an indication that her memory of this aspect of the conversation was influenced by her familiarity with the evidence given by Trifković in the *Popović et al.* case, particularly in light of its favourable portrayal of his contribution to the conversation.<sup>18959</sup> The Chamber therefore does not rely upon it. The Chamber also notes that Premović stated that he did not remember any discussion of the treatment of civilians or prisoners of war.<sup>18960</sup> Accordingly, the Chamber is not satisfied that there was any discussion of the treatment of civilians or prisoners of war. Furthermore, the evidence does not establish that there was any explicit indication that the Bosnian Muslim men then being held by the Bosnian Serb Forces would be killed. However, the Chamber recalls that, as described above, the exchange yielded the information that Srebrenica was “done”.<sup>18961</sup>

5771. Around 6 p.m., while the Accused was meeting with Ristić, Premović, and Trifković, Mladić, Krstić, and Živanović returned to the Drina Corps Command and held a short ceremony to mark the transfer of command duties from Živanović to Krstić.<sup>18962</sup> Around the same time, Kovač arrived from Pale and, according to him, found Mladić inebriated and in a good mood.<sup>18963</sup> Kovač testified that during the approximately 30 minutes that he was present in Vlasenica, Mladić made numerous phone calls to technical or logistics units to bury “those that had been killed”.<sup>18964</sup>

5772. At approximately 8:10 p.m., the Accused was recorded in an intercepted conversation with Deronjić, which was conducted through an intermediary and unfolded as follows:

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<sup>18956</sup> See para. 5768, fn. 19573.

<sup>18957</sup> P4556 (Slavica Ristić’s interview with OTP, 5 April 2009), pp. 43–44. See also Slavica Ristić, T. 26078–26079 (12 March 2012).

<sup>18958</sup> P4556 (Slavica Ristić’s interview with OTP, 5 April 2009), p. 45.

<sup>18959</sup> Trifković gave evidence in the *Popović et al.* case and shared his testimony with Ristić. P4556 (Slavica Ristić’s interview with OTP, 5 April 2009), pp. 25–26. See also P6102 (Excerpt from Srđa Trifković’s testimony in *Prosecutor v. Popović et al.*).

<sup>18960</sup> P4911 (Tomislav Premović’s interview with the OTP, 27 April 2009), p. 69. See also Tomislav Premović, T. 27406–27407 (12 April 2012).

<sup>18961</sup> See para. 5768. Both Ristić and Premović understood this to mean that the town had fallen, although Ristić testified that upon later learning that Srebrenica had fallen on 11 July, she did not understand why the Accused would not have already known this by the time they met. P4556 (Slavica Ristić’s interview with OTP, 5 April 2009), pp. 37. See also P4911 (Tomislav Premović’s interview with the OTP, 27 April 2009), p. 71; Tomislav Premović, T. 27406–27407, 27414–27415 (12 April 2012).

<sup>18962</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), paras. 11, 38; P4485 (Drina Corps information, 13 July 1995); P5372 (Intercept of conversation between two unidentified persons, 13 July 1995), p. 2 (indicating that Krstić and Mladić were “outside in front of the building” at 6:22 p.m.). See also Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6233, 6669–6670. Krstić had already been in charge of the attack on Srebrenica since at least 1:45 p.m. on 12 July. See P5278 (Intercept of conversation between Zlatar and a Duty Operations Officer, 12 July 1995) (demonstrating that Krstić was already “in charge” of the attack at 1:45 p.m.).

<sup>18963</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 117; Tomislav Kovač, T. 42767, 42770–42771 (1 November 2013). See also Zvonko Bajagić, T. 41161–41163 (10 July 2013) (testifying that Mladić was at Bajagić’s house on the “afternoon” of 13 July when the chief of police, Milenko Majstorović, arrived and informed Mladić of Kovač’s arrival). Kovač testified that when he arrived at the Drina Corps Command, Mladić and the other officers—including Krstić—were bragging about having taken Srebrenica. Tomislav Kovač, T. 42770–42771 (1 November 2013).

<sup>18964</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 118. Kovač claimed that he understood these calls to relate to the burial of “men who had been killed in combat” rather than to the bodies of those who had been executed. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 118. Based on the Chamber’s assessment of the credibility of Kovač’s evidence as a whole, as discussed above, the Chamber finds Kovač’s assertion in this regard to be of extremely low probative value. See para. 5766.

: I'm waiting for a call to President Karadžić. Is he there?  
 B: Yes.  
 : Hello! Just a minute, the duty officer will answer now, Mr. President.  
 B: Hello! I have Deronjić on line.  
 : Deronjić speak up.  
 D: Hello! Yes. I can hear you.  
 : Deronjić, the President is asking how many thousands?  
 D: About two for the time being.  
 : Two, Mr. President. (heard in the background)  
 D: But there'll be more during the night.  
 [...]  
 D: Can you hear me, President?  
 : The President can't hear you, Deronjić, this is the intermediary.  
 D: I have about two thousand here now by [...]  
 : Deronjić, the President says: "All the goods must be placed inside the warehouses before twelve tomorrow."  
 D: Right.  
 : Deronjić, not in the warehouses over there, but somewhere else.  
 D: Understood.  
 : Goodbye.<sup>18965</sup>

**5773.** The Chamber has already found that the conversation between the Accused and Deronjić pertained to the accommodation of Bosnian Muslim men who were then being held on buses and in detention facilities in Bratunac.<sup>18966</sup> The Chamber also recalls that Davidović had urged Deronjić to "use [his] connections" with the Accused in order to have the buses moved, that before speaking to the Accused Deronjić had previously complained to Beara about the detainees' **(There is no a trace of any contact between Beara and Deronjic prior to the telephone communication between Deronjic and the President! To whom it should be trusted: to Deronjic after his "guilt plea Agreement" with the Prosecution? Even if they had any communication before 8:10 p.m., this is irrelevant from the point of the President's liability!)** presence in Bratunac, and that Beara and Deronjić later argued about whether the detainees would be killed in Bratunac or would be transferred to Zvornik for that purpose.<sup>18967</sup> During the latter conversation, Deronjić countered Beara's assertion that Beara's "boss" had instructed him that all detainees should remain in Bratunac by saying that the Accused had instructed him that all detainees should be transferred to Zvornik.<sup>18968</sup> The Chamber therefore finds that during the intercepted conversation described above, the Accused conveyed to Deronjić the direction that the detainees should be transferred to Zvornik. **(How come? Where it was said and by whom? Why would the prisoners of war be transferred to Zvornik, since it had never happened, nor there was any facilities? This is a miraculous moment in this process! Nobody will be proud of such a "findings" based on nothing but on a will to sentence an innocent man, using the "guilt plea" witnesses that would say anything to save their agreement. Both, the Prosecution and the Chamber had it known, but still are going ahead, instead of rejecting this institutionalized lie and punish those who produced it! Only in such a case the international justice would have some chances!)**

<sup>18965</sup> P6692 (Intercept of conversation between Radovan Karadžić, his intermediary, and Miroslav Deronjić, 13 July 1995), p. 1; KDZ126, T. 26400–26403 (15 March 2012). See paras. 5311, 5710.

<sup>18966</sup> See para. 5710.

<sup>18967</sup> See paras. 5710, 5712.

<sup>18968</sup> See para. 5712.

5774. Between 9:35 and 10:10 p.m.,<sup>18969</sup> the Accused conducted an interview with *El País* from his office, wherein he stated that “very few Muslims can stay in Srebrenica because they are now beginning to realise that Srebrenica belongs to the Serbian State”, but that whoever wanted to stay in Srebrenica could do so.<sup>18970</sup> The Accused also stated that the enclaves should disappear and that he was willing to put an end to the war “by political or military methods”.<sup>18971</sup>

5775. Meanwhile, Kovač had left Vlasenica; he arrived at Konjević Polje at approximately 7:30 p.m. and saw Bosnian Muslim male detainees boarding buses.<sup>18972</sup> The Chamber recalls that, by that time, more than 6,000 Bosnian Muslims had been captured and detained by the Bosnian Serb Forces.<sup>18973</sup> **(There is no any reliable evidence that it was even close to 6,000 captives. In such a case there had to be more than 50,000 people living in Srebrenica in the eve of these events, but we know that there was 35,000 or maximum 36,000, that 31,000 arrived to Tuzla #(see D2238, the Rump Presidency Seeion 11 August 1995!)** Kovač spent the night at the Hotel Vidikovac, at the entry of the town of Zvornik.<sup>18974</sup> That night, Kovač noticed buses transporting detainees from Srebrenica.<sup>18975</sup> The next morning, around 11 a.m., Kovač travelled to the Bratunac area with Vasić.<sup>18976</sup> The Chamber notes that while driving to Bratunac, Kovač acknowledged that he passed by the Kravica Warehouse.<sup>18977</sup> Although Kovač asserted that he did not see anything, the Chamber recalls that the removal of bodies was already well underway by the time Kovač passed by around noon.<sup>18978</sup> The Chamber is also satisfied that whether he passed the convoy on the road or noticed it waiting at the edge of Bratunac town, Kovač would have seen the convoy of buses carrying the Bosnian Muslim male detainees to Zvornik.<sup>18979</sup>

5776. At 12:15 p.m. on 14 July, the Accused met with Petar Škrbić in the presence of Bogdan Subotić.<sup>18980</sup> Škrbić brought the Accused documents to sign, including the official decree concerning Živanović’s retirement as Commander of the Drina Corps, as well as the decree on Krstić’s promotion to Drina Corps Commander and Andrić’s promotion as its Chief of Staff.<sup>18981</sup> During the meeting, the Accused referred to a written report from Gvero which was detrimental to the morale of the VRS, and threatened to “remove” him.<sup>18982</sup>

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<sup>18969</sup> P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91. The Chamber notes that, according to the text of the article, the interview took place on 14 July. P2564 (Radovan Karadžić’s interview in *El País*, 16 July 1995), p. 1. However, according to the Accused’s appointment book—the accuracy of which has been established by multiple witnesses—the interview with *El País* took place on the night of 13 July. P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91. The Chamber therefore takes this date as accurate.

<sup>18970</sup> P2564 (Radovan Karadžić’s interview in *El País*, 16 July 1995), pp. 3–4.

<sup>18971</sup> P2564 (Radovan Karadžić’s interview in *El País*, 16 July 1995), pp. 1–3.

<sup>18972</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 119.

<sup>18973</sup> See also para. 5166.

<sup>18974</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 119; Tomislav Kovač, T. 42796–42798 (1 November 2013).

<sup>18975</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 126; Tomislav Kovač, T. 42776 (1 November 2013).

<sup>18976</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 120; Tomislav Kovač, T. 42777–42778 (1 November 2013); D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 40.

<sup>18977</sup> Tomislav Kovač, T. 42778–42780 (1 November 2013).

<sup>18978</sup> Tomislav Kovač, T. 42778–42780 (1 November 2013). See also para. 5427.

<sup>18979</sup> See paras. 5315–5316.

<sup>18980</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15484–15486; P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91.

<sup>18981</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15484–15486; Petar Škrbić, T. 25977–25978, 26035 (8 March 2012). See P3044 (Radovan Karadžić’s Decree, 14 July 1995). The appointments were to be effective as of 15 July. P3044 (Radovan Karadžić’s Decree, 14 July 1995). Škrbić testified that nobody mentioned Srebrenica during the meeting, and that he only learned about the fall of Srebrenica after the war. Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15580–15581, 15601; Petar Škrbić, T. 25987, 25590 (8 March 2012). Given Škrbić’s position at the time, as well as the fact that the documents Škrbić brought to the Accused for signature related to the promotion of the officer in charge of the attack on Srebrenica, the Chamber finds this to be inconceivable, and considers that Škrbić’s testimony in this regard is yet another example of a witness trying to distance himself from

5777. The Accused then met with Deronjić alone between 12:40 p.m. and 1:10 p.m.<sup>18983</sup> At 2:25 p.m., the Accused met with a larger delegation from Srebrenica—including Dane Katanić, Milenko Čanić, Momčilo Cvjetinović, and Deronjić himself—in the presence of Krajišnik.<sup>18984</sup> This larger meeting lasted for four hours,<sup>18985</sup> and during that time, the Accused decided to form the War Presidency of Srebrenica–Skelani Municipality and appointed Deronjić as the president of that body.<sup>18986</sup> The Accused issued a written decision on the appointment of the War Presidency later that day.<sup>18987</sup>

5778. At around 6 p.m., while meeting with Robert Đurđević, who was seeking to interview the Accused about a rumoured rift between himself and Mladić,<sup>18988</sup> the Accused received a phone call from a “field commander defending the major road north of Srebrenica”, reporting that thousands of “Muslim soldiers” were in the woods trying to “break through towards Tuzla”.<sup>18989</sup> The Chamber finds this evidence to be consistent with the development of the events on the ground at the time, and with contemporaneous reports issued by the VRS and MUP units engaged in the actions against the column of Bosnian Muslim men.<sup>18990</sup>

**5779.** The Chamber recalls that on 14 July, the Accused declared a state of war in the area of Srebrenica–Skelani municipality “in order to enable the full engagement of human and material resources in the defence of the RS and final victory over the enemy”.<sup>18991</sup> **(This declaration of the state of war was initiated by Deronjić and his delegation, because of a huge number of combatants in the forests around Srebrenica, and there is evidence**

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the crimes committed in Srebrenica at the time. The Chamber also notes Subotić’s evidence that he had no knowledge of any crimes being committed against the Bosnian Muslims in Srebrenica. D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 237. The Chamber has therefore approached Škrbić and Subotić’s evidence with caution.

<sup>18982</sup> Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15486–15488.

<sup>18983</sup> P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91 (noting, in parentheses, above Deronjić’s name the notation “12:40 p.m.–1:10 p.m.”). The Chamber notes that the meeting was originally scheduled to commence at 11 a.m. but did not in fact begin until 12:40 p.m.. See Mira Mihajlović, T. 24304–24306 (8 February 2012).

<sup>18984</sup> P4382 (Video footage re Miroslav Deronjić’s meeting with Radovan Karadžić in Pale, 14 July 1995); Milenko Katanić, T. 24476–24477 (10 February 2012); D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 7.

<sup>18985</sup> P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91 (noting that Deronjić and a delegation from Srebrenica met with the Accused from 2:25 to 6:25 p.m. on 14 July).

<sup>18986</sup> Milenko Katanić, T. 24476–24477, 24484 (10 February 2012); D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 7. During the meeting, Katanić, Čanić, and Cvjetinović raised their objections as to the appointment of Deronjić as civilian commissioner, but the Accused insisted that Deronjić should be the Chief of the War Presidency. D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 7. The Accused also accepted the list of nine officials presented by Deronjić who would form part of the War Presidency. D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 7.

<sup>18987</sup> P5143 (Radovan Karadžić’s Decision, 14 July 1995). The decision was to enter into force on the day of its adoption. P5143 (Radovan Karadžić’s Decision, 14 July 1995).

<sup>18988</sup> Đurđević’s aim was to include such material in a “travel vignette” which would be published in his personal newsletter. P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 10, 14–15. See also para. 3134. The Accused told Đurđević that during his meeting with Deronjić, they had discussed the technicalities of the civilian authority in Srebrenica; the Accused added that the attacks in Srebrenica and Žepa were based on “his order number 7” and that the objective of the operations was to “raise the temperature to the boiling point”. P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 25; Robert Đurđević, T. 25938–25939, 25950–25953 (7 March 2012); P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court p. 12. Đurđević had also heard the expression “raise the temperature to the boiling point” from Koljević and Krajišnik, and concluded that they were all “speaking in one voice” and were on board with the same strategy as well. P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court p. 19; P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court p. 12; Robert Đurđević, T. 25907–25908 (7 March 2012).

<sup>18989</sup> Robert Đurđević, T. 25951 (7 March 2012); P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 26–27; P4514 (Article of Robert Đurđević, entitled “All in a Day’s Work”, 14 July 1995), p. 2. See also P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91.

<sup>18990</sup> See *inter alia* P4949 (Report of Zvornik CJB, 14 July 1995) (referring to fighting against Bosnian Muslim forces in the general area of Sandići and Konjević Polje on 13 and 14 July 1995); P5117 (Report of Bratunac Brigade to Drina Corps, 15 July 1995) (referring to combat activities on 14 July 1995 and to the regrouping of “strong enemy forces” in the direction of Konjević Polje); P5136 (Bulletin of daily events of Zvornik CJB, 13–14 July 1995), para. 1 (referring to attacks by Bosnian Muslim forces in the night of 13 to 14 July 1995); KDZ122, T. 26259–26260, 26263 (14 March 2012) (under seal) (describing heavy fighting against the column in the area of Ravni Buljim, Bratunac, Milići, Konjević Polje, and Kasaba on 14 July 1995). See also paras. 5465–5466.

<sup>18991</sup> P4553 (Radovan Karadžić’s Decision, 14 July 1995), paras. 1–2. See also Petar Škrbić, T. 25984–25987, 26000 (8 March 2012); D3977 (Witness statement of Mile Dmičić dated 29 October 2013), paras. 12–13. This decision was conveyed to the Main Staff and Drina Corps immediately, as well as to the RS MUP. P2803 (RS Communication Centre telegram logbook, 3–18 July 1995), e-court p. 3 (line 340); P2998 (Radovan Karadžić’s 14 July Decision, forwarded by the RS MUP, 15 July 1995).

**about it! The delegation members had been concerned with a possibility that some of the town could have fallen in the Muslim hands!**) He ordered the armed forces throughout the area of responsibility of the Drina Corps to “take all necessary measures to accomplish the set goals by the organised and effective use of available resources”.<sup>18992</sup> This declaration allowed the military and police to utilise all human and material resources without submitting requests for mobilisation, and allowed for the military to requisition civilian property, such as equipment for burial, without complicated procedural protocols.<sup>18993</sup> **(This is completely unacceptable to use a general description of the authorisation that a state of war is giving to the social subject, as if Skrbic testified that it was the case with this state of war in Srebrenica! General Skrbic only described what is provided by a rules, but this is an abuse of his testimony! Let us see how this testimony had been abused: T. 25985/6: A. Mr. Tieger, I didn't understand the reasons at the time. I didn't understand why a state of war had only been declared in that area. Q. And did you understand why a state of war had only been declared in that area but also on that particular date after -- after the point at which the Bosnian Serb forces had successfully entered and taken control of Srebrenica? A. Your Honours, I'd like to draw your attention to paragraph number 2 where it says: "The aim of proclaiming the state of war is to enable the full engagement of human and material resources in the defence of the republic and final victory over the enemy."... A. Well, Your Honours, in a state of war, and, now, that is this important distinction, all material and human resources are made available to the military, the armed forces as a whole in order to be able to wage war. And the police as well. It is no longer necessary to submit requests as far as mobilisation is concerned. The economy is also mobilised for war purposes. So all the organs of the state, that is to say the state authorities and the military, use human and material resources in a rational way. Declaring a state of war does not mean that resources should be squandered in any way. They should be used rationally but without any kind of special procedures and requests. Q. Well, so if, for example, the military wanted the use of, for example, civilian -- a civilian bulldozer or civilian excavator, they would now be in a position to obtain that without going through more complicated usual protocols; is that right? A. That's right. But they have to have a document stating that they had taken it. After all, you cannot take anything away by force. So, a general description of a state of war given by General Skrbic is used as if General Skrbic said that it had been the case with the state of war proclaimed on 14 July 1995 with the aim provided in the document that General Skrbic red out: "The aim of proclaiming the state of war is to enable the full engagement of human and material resources in the defence of the republic and final victory over the enemy." ! could it be allowed in a UN Court?)** In the Chamber’s view, as discussed in further detail below, the Accused issued this decision to give Deronjić extraordinary powers and to facilitate the use of civilian personnel and equipment for the killing and burial operations.<sup>18994</sup> Indeed, the Chamber recalls that that day, Beara cited an order originating from “two Presidents” when telling the Zvornik municipal authorities that he expected their co-operation in “get[ting] rid of” the detainees then being held in various locations throughout the municipality.<sup>18995</sup> **(That couldn't be more wrong: Deronjic didn't participate in any killings. No killings had been committed in the Bratunac municipality, Deronjic visited the President on 14 July around noon and until that**

<sup>18992</sup> P4553 (Radovan Karadžić’s Decision, 14 July 1995), para. 3. The decision also called for the armed forces to observe provisions of international law and international conventions regulating the conduct of a State during the state of war. P4553 (Radovan Karadžić’s Decision, 14 July 1995), para. 5. The Chamber recalls, however, that on 14 July, the killings in the Bratunac area had been concluded and that the killing operation in the Zvornik area was ongoing. See paras. 5713–5714.

<sup>18993</sup> Petar Škrbić, T. 25986–25987 (8 March 2012).

<sup>18994</sup> See para. 5819.

<sup>18995</sup> See para. 5715.



time there was not known any killings except the Kravica incident, there is no any evidence that Deronjic had been involved in any further action in dealing with the prisoners of war, it is not clear did and when Deronjic had learnt what happened in the area of Zvornik 80 km far from Srebrenica, and finally, Deronjic had been asked on 16 July by the President about the allegations that the thousands of Muslim civilians had been killed in Srebrenica, and responded on 17 July with a sort of confirmation, signed by the Muslim and UN representatives that it didn't happen!)

5780. Having spent the night of 13 July in Zvornik, and the day of 14 July touring Srebrenica and the Bratunac area together with Vasić, Kovač returned to Pale on 14 July and met with the Accused between 10:45 and 11:10 p.m.<sup>18996</sup> Earlier that day, while at lunch in Bratunac, Borovčanin, Kovač, and Vasić had discussed the killings at the Kravica Warehouse which had taken place on the previous day.<sup>18997</sup>

5781. The Prosecution claims that Kovač reported back to the Accused about the murder operation, his meetings with Mladić, Borovčanin, and Vašić, what he had seen and heard in Srebrenica and in the Bratunac and Zvornik areas, and, more importantly, the implementation of the Accused's order to move the detainees from Bratunac to Zvornik.<sup>18998</sup> The Chamber notes that Kovač denied that he ever reported to the Accused about Srebrenica, and suggested that the Accused had other sources of information, including Kijac, Krstić, and Deronjić.<sup>18999</sup> The Chamber observes that indeed the Accused may have received additional information through other channels but recalls its earlier findings on Kovač's credibility.<sup>19000</sup> Moreover, given the reports sent to Kovač on 12 and 13 July,<sup>19001</sup> Kovač's meeting with the Accused on the afternoon of 13 July, Kovač's presence in both the Bratunac and Zvornik areas, as well as in Srebrenica on 13 and 14 July, and the encounters he had with Mladić, Vasić, and Borovčanin, the Chamber finds that the only reasonable inference is that Kovač indeed shared the knowledge and observations he had gathered during his trip with the Accused during their meeting on 14 July. **(Of course, an inference, but not the only one! What Kovac could have known on 14 July, prior to any killings? He could have known about the incident in Kravica, which wasn't covered and was within the MUP competence to clarify, and nothing else. If the Chamber infers that Kovac had been informed about a plan to execute the POWs by Beara or somebody else, that would be an impossible inference, because there are evidence that throughout 13 July around midnight 13 July there were preparations to transport the POWs to Batkovic, #Beara was recorded asking for a vehicles, and around midnight 13/14 July General Mladic ordered to Beara to obtain enough bread and feed the people. There is no a single hint that Kovac had known anything about the events that happened far northern from Zvornik only afternoon on 14 July! The institute of "inference" is heavily compromised, and probably should be!)**

<sup>18996</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), paras. 120, 122; Tomislav Kovač, T. 42777–42778, 42792–42793 (1 November 2013); P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court p. 91; Christian Nielsen, T. 16344–16345 (7 July 2011). See also Zoran Petrović-Piroćanac, P376 (Transcript from *Prosecutor v. Popović et al.*), T. 18822 (testifying that Borovčanin and a driver were following Kovač while he was touring the area); D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 40. Kovač testified that he had been travelling to Srebrenica with Vasić and Borovčanin to establish a police station there. Tomislav Kovač, T. 42777, 42786–42787 (1 November 2013).

<sup>18997</sup> D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 40 (acknowledging that he discussed the events at Kravica with Kovač and Vasić but claiming that Kovač and Vasić stated that they already knew about the incident when they discussed it). See also D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 122; Tomislav Kovač, T. 42790–42791 (1 November 2013) (testifying that he was informed then, by Borovčanin, about the killings).

<sup>18998</sup> Prosecution Final Brief, para. 948.

<sup>18999</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 129.

<sup>19000</sup> See para. 5766.

<sup>19001</sup> See fn. 5767, fn. 19570.

5782. The Chamber also notes that on 14 July Kovač was informed that detainees from Srebrenica were being taken to Zvornik and that Beara had requested the assistance of MUP units.<sup>19002</sup> While Kovač claimed that he had no reason to believe that there was a plan to execute the detainees, the Chamber considers his own suggestion that he issued an order for the police to cease communication with the VRS security organ so as not to be involved with any of their activities as proof of the contrary.<sup>19003</sup> **(If not specifically informed about an intention to execute the POWs, Kovac didn't have any reason to assume that there would be any killings#, because that never happened in the previous 42 months.# Why Kovac didn't want his police to cope with the prisoners of war – it was not only because it was banned by the law, or because Kovac needed every single police combatant to defend Sarajevo, but because of a notorious fact that there many times happened that the army captured prisoners of war, and then handed them over to the civilian authorities or the police, forgetting about all these operations of guarding and feeding them. That was a very good reason from the police standpoint, and the police was not obliged to deputise the army in that respect, and as a matter of fact, it was forbidden by the law!)** Kovač's knowledge of the killing aspect of the plan to eliminate is also supported by his purported warning to Borovčanin that MUP units in the field "should distance themselves from anything other than combat tasks".<sup>19004</sup> The Chamber finds it incredible that Kovač would not have discussed these matters with the Accused. **(It is just explained above, and it is so obvious! Many times there had been the objections to that respect. Remember Zupljanin objecting the same issue at the beginning of the war, see D447 of 11 July 1992:**

- The army and Crisis Staffs/Wartime Presidencies demand gathering as many Muslims as possible and leave such non-defined camps to the Internal Affairs /as printed/. The conditions in these camps are poor: there is no food, some individuals do not comply with the international standards /as printed/ because, among other things, the concentration centres are not appropriate or for other reasons.
- It is necessary to reassess the current modes to organise the functioning of the police, according to exact plans in wartime conditions. Along with this, it is necessary to systematise a large number of active-duty and reserve police officers by the Rules of Procedure /as printed- for instance in Bosanska Dubica border lines and the role of the police have to be defined.

**There had been examples all the way around, when the police placed the civilians from a combat zones into the barracks, so that the VRS take care of them. In such a case General Galic issued an order on 22 October 1992, D432:**

<sup>19002</sup> The Chamber notes that Kovač claimed that he was told by the MUP that detainees were being taken to the Standard Barracks for screening. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 124. Kovač also gave conflicting evidence regarding whether he had learned that Beara had requested the assistance of MUP units on 14 July or two days later. *Compare* D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 124 (asserting that he learned about Beara's request "perhaps on 14 July") with Tomislav Kovač, T. 42787-42790 (1 November 2013) (first suggesting that this occurred on 16 July then refusing to acknowledge any discrepancy, before finally acknowledging that he might have indeed learned about it on 14 July). Kovač acknowledged that at the time he learned of Beara's request, he was aware that Beara "could abuse these men" and asserted that he had expressly refused and instructed the MUP not to co-operate with Beara. Tomislav Kovač, T. 42787-42788 (1 November 2013). *See also* Tomislav Kovač, T. 42801 (1 November 2013). The Chamber refers to its assessment of Kovač's credibility set out above. *See* para. 5763, fn. 19549. Having reviewed the totality of the evidence, the Chamber finds that Kovač learned of Beara's request on 14 July.

<sup>19003</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 124; Tomislav Kovač, T. 42787, 42801-42802 (1 November 2013).

<sup>19004</sup> D3659 (Witness statement of Ljubomir Borovčanin dated 30 May 2013), para. 41.



Bajagić asserted that before leaving for Pale to meet with the Accused he did not have any knowledge as to the events in Srebrenica so he wanted to ask the Accused what was happening at the time,<sup>19010</sup> and thus denied discussing any of these topics with the Accused.<sup>19011</sup> **(Since it was 14 July when Bajagic was called to visit the President, and since Bajagic needed some time to arrive to Pale, and since Bajagic hadn't been admitted immediately, but at the end of the working day, which exceeded after midnight, Bajagic couldn't have any information about what may have happened in Zvornik, about 90 km far from his home only afternoon on 14 July 1995. How possibly could he have known anything about the event that had been kept secret even in the closest circles of perpetrators, as Erdemovic testified that he could have spoken about it only with two accomplices, who wouldn't tell to their immediate commander Pelemis? And since President Karadzic had been visited the same day by General Skrbic and Minister Kovac, the President needed Bajagic to inform him only about the transport of the civilians, since the route was passing by the Bajagic's home!)** However, the evidence clearly establishes that Bajagić had substantive knowledge of the events in Srebrenica prior to meeting with the Accused. In this regard, the Chamber recalls that Bajagić himself acknowledged that, on 13 July, he had seen captured Bosnian Muslim men sitting at the Nova Kasaba football field, had been prevented from taking photos of them, and had met with Mladić and Salapura in Srebrenica town.<sup>19012</sup> Bajagić also conceded that he heard about the killings at the Kravica Warehouse while present at the Drina Corps Command in Vlasenica on 14 July.<sup>19013</sup> Noting the extremely late hour of their meeting, as well as the fact that the Accused had invited Bajagić to Pale, the Chamber finds that the only reasonable inference is that Bajagić reported the events in Srebrenica he had witnessed on 13 and 14 July to the Accused during their meeting on 15 July. **(This also compromises the institute of "inference". First, Bajagic was invited earlier, and was admitted later than he arrived, since he was understanding and wouldn't object for being the latest in the working hours. Second, Bajagic had heard about the incident in Kravica on 14 July in the Drina Corps Command, which indicates that it was not a secret of any kind. When he heard it, there was no other events to hear about, since the first executions and criminal killings appeared only on 14 July afternoon, and it had been kept a secret even for a very long time. How Bajagic could have known anything about it, while this even hadn't happen while he was at home? Finally, "their meeting on 15 July" didn't happen on 15 July, but technically and substantially in the continuation of 14 July working day of the President. So, Bajagic didn't avoid any subject, and didn't lie! Why such a distinguished Chamber does allow its inexperienced associates to do such a 'monkey business' and compromise the whole process. The Defence and President Karadzic do not believe the Judges would do it deliberately!)**

5784. In the meantime, around 11 p.m. on 15 July, the Accused received a direct report from Vasić stating that additional forces were needed urgently to assist in intercepting the

<sup>19010</sup> D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), paras. 36(a)–36(b); Zvonko Bajagić, T. 41166–41167 (10 July 2013).

<sup>19011</sup> Zvonko Bajagić, T. 41193, 41207–41212 (10 July 2013).

<sup>19012</sup> Zvonko Bajagić, T. 41149, 41161–41163 (10 July 2013). *See also* Zvonko Bajagić, T. 41150–41154 (10 July 2013) (testifying to having seen Popović at the football field); para. 5185. Bajagić further testified that in the late afternoon of 13 July Mladić visited him at his house and had a meeting with Kovač. Zvonko Bajagić, T. 41161–41163 (10 July 2013).

<sup>19013</sup> Zvonko Bajagić, T. 41169–41170, 41200–41201 (10 July 2013). *But see* Zvonko Bajagić, T. 41207–41208 (10 July 2013) (stating that he was not sure whether he learned about the killings at Kravica on 14 on or 15 July). *See also* D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), para. 36(b) (testifying that at the time of his visit to Pale, he had no information that any people from Srebrenica had been killed); Zvonko Bajagić, T. 41169–41170, 41200–41201 (10 July 2013) (insisting that he only found out about the killings after the meeting with the Accused). **(Certainly, how could he had known, when hedeparted to Pale before anyone got killed in Zvornik, so far from his home?)**



column of Bosnian Muslim men.<sup>19014</sup> **(Wasn't it a sufficient reason to proclaim a state of war, rather than an imagined reason to facilitate use of machines?)** The Chamber recalls that at 1:55 p.m. on 16 July, Pandurević notified the Drina Corps command that a corridor had been opened to allow civilians to pass through, but that the Bosnian Serb Forces were still fighting the Muslim Forces in Srebrenica.<sup>19015</sup> **(A reason for a state of war, or not?)** Approximately 90 minutes later, an officer from the Main Staff who stated that he was calling from “the boss [...] the main head of state” was intercepted telling the Zvornik Brigade duty officer to “have Vinko tell you about what happened and send it urgently right away [...] dictate what has been done and have him send it right away to the Main Staff”.<sup>19016</sup> That day, Karišik was dispatched to Zvornik.<sup>19017</sup> **(Karišik was dispatched to Zvornik for the only one reason: to rescue a police officer that had been captured by the Muslim forces, and it had nothing to do with other events.)** Once Karišik arrived in Zvornik, he informed the Accused that Pandurević had arranged for the opening of the corridor.<sup>19018</sup> The Chamber recalls that additional reinforcements were sent to the Zvornik area that evening as well as the following day, and that the Main Staff sent three colonels to investigate Pandurević’s decision to open the corridor.<sup>19019</sup> **(The purpose of the opening corridor was achieved, and Pandurevic gave the Muslim commander some additional time to have all the Muslims passed through. The Main Staff sent the colonels to investigate, but since the President backed the Pandurevic’s operation, Pandurevic wasn’t even warned, but soon after he was promoted to a rank of General, which wouldn’t be imaginable had it been seen as Pandurevic’s disobedience.)**

5785. The Chamber received evidence demonstrating that throughout the relevant period, the Accused actively monitored the international media’s coverage of the events in Srebrenica.<sup>19020</sup> On 16 July, a certain “Nikola” informed the Accused that the message being conveyed by American television reports on Srebrenica was “terrible”.<sup>19021</sup> “Nikola” then requested the Accused to issue a clear statement on the treatment of the civilian population in Srebrenica and Žepa, which would then assist Robert Đurđević and “Nikola” in giving a speech addressing the “terrible propaganda” about Srebrenica being spread to the

<sup>19014</sup> See para. 5469.

<sup>19015</sup> See para. 5471.

<sup>19016</sup> See para. 5471.

<sup>19017</sup> D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 37; see para. 5472. The Chamber notes that Karišik described having been sent by Kovač to liaise with Pandurević regarding the ongoing negotiations with the members of the column, who had captured a member of the Doboј PJP. D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 37. However, the Chamber also recalls that Karišik sought to distance himself from having told the Accused of the corridor’s opening. See fn. 18688.

<sup>19018</sup> See para. 5472.

<sup>19019</sup> See paras. 5472, 5474–5475.

<sup>19020</sup> For example, Robert Đurđević testified that during their meeting on 14 July, the Accused watched CNN and Sky News reports on Srebrenica—which included interviews with women who had by then reached Tuzla—and occasionally commented that the reports were not true. P4513 (Witness statement of Robert Đurđević dated 18 December 2002), e-court pp. 13, 15–18. See P4514 (Article of Robert Đurđević, entitled “All in a Day’s Work”, 14 July 1995), p. 1; P4515 (Excerpts from Robert Đurđević’s diary, 5–31 July 1995), e-court p. 9. Slavica Ristić testified that after Trifković’s meeting with Zametica and the Accused late the same evening, she, the Accused, and Trifković watched CNN together, as the Accused wanted to see how the take-over of Srebrenica was portrayed, and they discussed the issue of balanced media coverage. P4556 (Slavica Ristić’s interview with OTP, 5 April 2009), pp. 49–50, 55–56, 64; Slavica Ristić, T. 26092–26093 (12 March 2012); P4557 (Photographs of Slavica Ristić’s meeting with Radovan Karadžić, p. 5; P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court p. 91. The Chamber also notes that the Accused took steps to control communications between the Bosnian Serb Forces and members of international organisations. On 17 July, the Accused wrote to Gvero, asserting that he was acting contrary to a number of mandatory documents previously issued by the Accused, by *inter alia* supplying information outside the assigned channels, and establishing unauthorised contact with international organisations. P4536 (Letter from Radovan Karadžić to Lieutenant General Milan Gvero, 17 July 1995), p. 1. The Accused ordered Gvero to immediately send a written statement explaining his non-compliance, which was to be followed by an interview. P4536 (Letter from Radovan Karadžić to Lieutenant General Milan Gvero, 17 July 1995), p. 1. See also Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15554–15556. Gvero replied on the following day that he had carried out all the activities mentioned by the Accused as ordered by Mladić, and that all the activities were motivated by the need for the fight of the Bosnian Serb people and for the VRS to be successful. P4537 (Letter from Lieutenant General Milan Gvero to Radovan Karadžić, 18 July 1995).

<sup>19021</sup> P5609 (Intercept of conversation between “Nikola” and Radovan Karadžić, 16 July 1995), p. 1.



American population by the U.S. media.<sup>19022</sup> The Chamber recalls that at a meeting held at the UN Compound on the following day, the Bosnian Serb representatives produced the 17 July 1995 Statement, a document which outlined the agreement reached at the third Hotel Fontana meeting five days earlier, and requested that both Mandžić and Franken sign it, and that Franken attest that Mandžić had not been forced to do so.<sup>19023</sup> Miroslav Deronjić also signed the 17 July 1995 Statement.<sup>19024</sup> **(#Exactly these media allegations had been a reason for the President to ask Deronjić whether there is any truth in it, and Deronjić got the written confirmation that nothing wrong happened to the civilians.# There was no a single word about any prisoner of war killed northern from Zvornik, but only about “thousands of civilians killed in Srebrenica” and this shifted the Serb authorities attention to the wrong direction.)**

**5786.** Around 6:30 p.m. that evening, the Accused met with Mile Dmičić, who was then Head of Office to the Accused and the Accused’s Secretary General.<sup>19025</sup> During the meeting, Subotić delivered a fax from Bratunac containing the 17 July 1995 Statement to the Accused.<sup>19026</sup> In an interview with David Frost conducted later that evening, the Accused claimed that the civilians had wanted to leave Srebrenica on their own and offered to produce the 17 July 1995 Statement as proof.<sup>19027</sup> When Frost asked the Accused about the reports in the media about 15,000 men from Srebrenica who were thus far unaccounted for, the Accused replied that the Bosnian Serb Forces had opened the lines and were allowing the men to pass even as he spoke to Frost.<sup>19028</sup> **(This is the best proof that the President was involved in the opening of corridor, and that he had been aware that the “15,000 men from Srebrenica... unaccounted for” were to reach Tuzla. The Muslim document of 17 July reported that around 10,000 members of the 28<sup>th</sup> Division had arrived to Tuzla, see: D1998:**

**In the early evening hours of 16 July 1995, approximately ten thousand members of the 28<sup>th</sup> Division arrived in the free territory as the main body of these forces was carrying out a breakthrough. The breakthrough was assisted by units of the 24<sup>th</sup> Division, which launched a fierce counter-attack against the Chetnik lines in the Baljkovica sector (the general sector of Memići – Nežuk) and linked up with the units of the 28<sup>th</sup> Division around 1700 hrs. According to initial information, the units of the 28<sup>th</sup> Division came across strong Chetnik ambushes in the sectors of Kasaba, Crni Vrh and Konjević Polje, where our forces suffered the loss of approximately 200 men, according to unverified information. In a counter-attack launched by the units of the 24<sup>th</sup>**

**So, there were some that passed through the corridor, and some of them who**

<sup>19022</sup> P5609 (Intercept of conversation between “Nikola” and Radovan Karadžić, 16 July 1995), p. 1 (further providing the Accused with a fax number to which such a statement could be transmitted).

<sup>19023</sup> See para. 5128. The Chamber recalls that Franken sought to surreptitiously neutralise his signature by adding a non-sensical addendum. See fn. 17382.

<sup>19024</sup> See para. 5129.

<sup>19025</sup> D3977 (Witness statement of Mile Dmičić dated 29 October 2013), paras. 4, 9, 16–17.

<sup>19026</sup> D3977 (Witness statement of Mile Dmičić dated 29 October 2013), para. 17; P4185 (Declaration by the Civilian Affairs Committee for Srebrenica re: proper implementation of evacuation procedures, 17 July 1995). See para. 5128. Dmičić also stated that he was not aware at the time that it was not a genuine agreement and did not doubt its validity because it was certified. Mile Dmičić, T. 42895–42897 (4 November 2013). The Chamber notes that Dmičić insisted that he had no knowledge about the events in Srebrenica and thus never discussed them with the Accused. See Mile Dmičić, T. 42886–42887, 42902–42903 (4 November 2013); D3977 (Witness statement of Mile Dmičić dated 29 October 2013), paras. 21–22 (testifying that he never heard any discussion about executions in Srebrenica and never heard or saw anything which would indicate the Accused’s knowledge of such executions). The Chamber notes, however, that while testifying, Dmičić was inconsistent and evasive and displayed clear indications of bias. Compare D3977 (Witness statement of Mile Dmičić dated 29 October 2013), paras. 10–11 (testifying that he met with Subotić on 10 July to discuss the events in Srebrenica and was ordered to immediately forward the Accused’s order for the protection of UNPROFOR members and civilians to the Main Staff) with Mile Dmičić, T. 42898–42899, 42904–42906 (4 November 2013) (testifying that he only dealt with mail within the civilian activity of the RS organs and not military mail or reports, and thus trying to distance himself from the VRS and its military operations). See also Mile Dmičić, T. 42902–42903 (4 November 2013) (denying any past or present knowledge about the executions in Srebrenica, stating that he could not accept “the truth” and agreeing with a statement put to him that the cemetery at Potočari was a farce and a set-up). For these reasons, the Chamber has approached Dmičić’s evidence with circumspection.

<sup>19027</sup> P5235 (Video footage of interview of Radovan Karadžić by David Frost, undated, with transcript), p. 2.

<sup>19028</sup> P5235 (Video footage of interview of Radovan Karadžić by David Frost, undated, with transcript), pp. 2–3. During the interview, the Accused also referred to Srebrenica as a “stronghold” with more than 9,000 “well armed and equipped Muslim combatants” and said that the situation could no longer be accepted. P5235 (Video footage of interview of Radovan Karadžić by David Frost, undated, with transcript), p. 1.

**forcefully have broken through the Serb lines, for what President Karadzic criticised the VRS at the Assembly session, which the Chamber interpreted as an intent to “kill everyone”).**

**5787.** Around the same period, Mladić met Smith multiple times; Smith repeatedly requested that the ICRC and UNHCR be allowed access to Srebrenica and be allowed to see “all the detained people”.<sup>19029</sup> In an attempt to describe Srebrenica as having been “finished in a correct way”, Mladić also referred to the assertions contained in the 17 July 1995 Statement, namely that the Bosnian Muslims in Potočari had been “evacuated” at their own request and according to arrangements made by three civilian representatives of the local population.<sup>19030</sup> Mladić also referred to a “corridor” which, he claimed, had been opened on the night of 10–11 July to allow “a significant number” of Bosnian Muslim forces to break through Bosnian Serb lines in the direction of Tuzla.<sup>19031</sup> However, by the following week, many Bosnian Muslim men remained missing and the ICRC remained unable to access the Srebrenica enclave.<sup>19032</sup> The Chamber recalls that, according to the Accused’s decision of 11 July, such permission would have required the assent of the State Committee following consultation with him.<sup>19033</sup> **(#Many weeks after the fall of Srebrenica there were a big groups of the Muslim combatants, wondering and fighting throughout the forests around Srebrenica, Bratunac, Zepa and Zvornik, there is a firm evidence on that in the file#! There was no other war leader who could be compared with President Karadzic on the issue of support for humanitarian aid, both by the UNHCR and ICRC, but to Merhamet (a Muslim) or Dobrotvor (a Serbian) or Caritas (a Croatian), or Adra (a Protestant) charity agencies. President himself was a very famous Red Cross activist while in the high school, and a congressman of the ICRC in 1963! But, let us see how much of it depended on the President’s action. The UN political and military representatives did many preparations with the Belgrade leadership and Mladic, without any insight or influence of President Karadzic. Let us see an evidence on that: D3488, p. 10:**

After the whole world began to see the enormity of the crimes committed in Srebrenica, we raised the matter at our meeting with President Milosevic on 15 July. General Rupert Smith and General Mladic reached an agreement to give ICRC observers immediate access on the ground. Following this agreement, I reminded Mr Milosevic on two occasions that the promise had not been honoured.

**This document had been at the disposal to both the Prosecution and the Chamber, but no effect, although there must be an effect to the favor of President Karadzic!)**

**5788.** On 24 July, the Special Rapporteur of the Commission on Human Rights, Tadeusz Mazowiecki, wrote to the Accused directly to request access to field staff from the UN Centre for Human Rights in areas under the Accused’s control.<sup>19034</sup> Although this request

<sup>19029</sup> Rupert Smith, T. 11431–11432 (9 February 2011); P1488 (Ratko Mladić’s notebook, 14 July–18 September 1995), p. 4; P2279 (UNPROFOR report re meeting with Ratko Mladić, 17 July 1995), e-court pp. 1–2 (recording agreement on 15 July that the ICRC and UNHCR would be given immediate access to “prisoners of war”). In the preceding days, UNPROFOR had begun to hear accounts and allegations of crimes committed following the Bosnian Serb take-over of Srebrenica and had noted the absence of men arriving in Tuzla, and thus requested access to the area. Rupert Smith, T. 11428, 11430–11431, 11435–11436 (9 February 2011); P2277 (UNPROFOR report re meeting with Haris Silajdžić, 13 July 1995), para. 6; P2278 (UNPROFOR report re aftermath of fall of Srebrenica, 13 July 1995), para. 3.

<sup>19030</sup> P2280 (UNPROFOR report re meeting with Ratko Mladić, 19 July 1995), para. 4.

<sup>19031</sup> P2280 (UNPROFOR report re meeting with Ratko Mladić, 19 July 1995), para. 5.

<sup>19032</sup> Rupert Smith, T. 11437–11438 (9 February 2011).

<sup>19033</sup> See para. 5761.

<sup>19034</sup> P6396 (Letter from UN Centre for Human Rights to Radovan Karadžić, 24 July 1995). Similar concerns were raised by Akashi on 12 August. See P2288 (UNPROFOR report re Srebrenica, 14 August 1995, and Letter from Yasushi Akashi to Radovan Karadžić, 12 August 1995), p. 2; John Zametica, T. 42551–42553 (30 October 2013). See also Defence Final Brief, para. 3131 (suggesting that the Accused may not have seen this letter because he was touring remote regions of the Krajina at the time).

was received, Mazowiecki did not receive an answer.<sup>19035</sup> **(Because all the Serb resources had been oriented to the defence of the western municipalities, and the President also went there, and he was either in the western part of the country, meeting the RSK officials and others, or he spent all the time on the mount Jahorina, at the Assembly building. These days in his Agenda contained only data about who called him, not who visited him, because there was no visits! But, it seems everything is good if it is against the President and his image!)** The Chamber recalls that at the time, the Bosnian Serb Forces were carrying out continued searches of the terrain, killing numerous groups of Bosnian Muslim males who were captured or surrendered from the column.<sup>19036</sup> In late July, representatives of the ICRC were allowed to access Batković Camp but were only able to locate 164 detainees from Srebrenica; they were told that no other detainees were being held.<sup>19037</sup> **(This is also a bit “awkward” sentence: the ICRC was always welcome to visit the Batkovic camp on a regular basis, there was no any need for an approval! Why it should be distorted?)**

**5789.** In the weeks following the events in Srebrenica, the Accused’s press office issued a press release commending both Živanović and Krstić as “the main architect[s] of the Serbian victories in Srebrenica and Žepa”.<sup>19038</sup> The Accused also congratulated the VRS Main Staff, the Drina Corps command, and the “staff of the Police Armed forces” on the “brilliant victory in Srebrenica and Žepa”.<sup>19039</sup> On 4 August 1995, the Accused appointed Mladić to the Office of the President of the RS as a Special Adviser to the Supreme Commander for co-ordination of the joint defence of RS and the RSK.<sup>19040</sup> That same day, during an interview with the Bosnian Serb television, the Accused explained his reasons for appointing Mladić to the Supreme Command, and praised the VRS corps commanders.<sup>19041</sup> The Accused also specifically recognised Krstić for having planned the Srebrenica operation, with his approval, and for having conducted the task exceptionally, with the assistance of the Supreme Command and Mladić.<sup>19042</sup> **(All of it was within a un usual remit of the presidential duties, some of it was to rectify the false impression that only General Mladic was to be commended, and Mladic was appointed to be an advisor to the President, because the President wanted to replace him, but only for an ideological reasons and Mladic’s sort of disobedience!)**

<sup>19035</sup> P5177 (Report of UNSG, 30 August 1995), para. 38; D4509 (Intercept of conversation between Radovan Karadžić and Danijela Sremac, 25 July 1995), p. 3. See Defence Final Brief, para. 3130 (claiming that the Accused may not have seen Mazowiecki’s request).

<sup>19036</sup> See paras. 5475–5476. The Chamber further recalls that members of the Bosnian Serb Forces carried out killings of Bosnian Muslim males at Snagovo and Bišina, and that the Scorpions killed six Bosnian Muslim males at Trnovo in the weeks following the fall of Srebrenica. See paras. 5477–5497.

<sup>19037</sup> P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 409.

<sup>19038</sup> P4501 (RS Presidential Press Release, 20 July 1995). See also Petar Škrbić, T. 25982–25983 (8 March 2012) (testifying that the Accused, as the Supreme Commander, had the right to promote, even without proposals, an officer to the rank of a general-major or above, and it was customary when a high-ranking officer, such as a general, would retire, to be conferred another rank because he was going into retirement); D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 45 (testifying that, by then, Krstić had already been appointed the new commander of the Drina Corps and all the Accused did was to officially confirm such appointment).

<sup>19039</sup> P4501 (RS Presidential Press Release, 20 July 1995). The next day, Mladić—escorted by Tolimir—arrived at the Godjenje IKM by helicopter and met with members of the Main Staff and Drina Corps, as well as a television crew. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6262–6264. The Chamber notes that Godjenje was a second IKM of the Drina Corps which was located about six or seven kilometres south of Krivaca and was established on 16 or 17 July 1995. See Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*), T. 6261 (20 October 2000).

<sup>19040</sup> D2157 (Radovan Karadžić’s Decree, 4 August 1995). This decision was abrogated on 27 August 1995. See para. 3138.

<sup>19041</sup> P4555 (Excerpt from “Srebrenica Trial Video”); P5121 (Excerpt of interview with Radovan Karadžić, 4 August 1995); P2565 (UNPROFOR Telex with summary of Radovan Karadžić’s interview to Bosnian Serb television, 4 August 1995), p. 4. The Accused added: “we wanted to turn Mladić into a legend and we did”. P4555 (Excerpt from “Srebrenica Trial Video”).

<sup>19042</sup> P4555 (Excerpt from “Srebrenica Trial Video”). See also P6407 (Radovan Karadžić’s interview with Telegraf, 16 August 1995), e-court p. 8.

5790. On 4 August, the Accused took a short trip to Srebrenica together with Nebojša Ristić and his security detail.<sup>19043</sup> They attended a religious ceremony close to the town, and visited an Orthodox church in the centre of Srebrenica that had been completely destroyed.<sup>19044</sup> The Accused also met with Deronjić and the other civilian authorities of Srebrenica at the cultural centre which had been prepared for his visit.<sup>19045</sup>

5791. On 6 August 1995, during the 52<sup>nd</sup> Bosnian Serb Assembly Session, the Accused stated:

As you know, we achieved success in Srebrenica and Žepa, no fault can be found with the success, no objections to it, of course, a lot of stupid things were done afterwards, because many [Bosnian] Muslim soldiers were roaming the woods and that is when we sustained losses; in the action itself we did not sustain losses [...] *in the end several thousand fighters did manage to get through [...] we were not able to encircle the enemy and destroy them.*<sup>19046</sup>

5792. On 8 November 1995, the Accused issued a statement publicising the fact that that day, he had issued a decision clearing an American journalist, David Rohde, of a charge of espionage.<sup>19047</sup> Rohde had been arrested by the MUP approximately ten days earlier while photographing the Petkovci Dam.<sup>19048</sup> Upon Rohde's arrest, Kijac sent a report to the VRS Security Administration reporting intelligence gathered during Rohde's interrogation, including evidence found at suspected crime sites.<sup>19049</sup> According to Kijac's report, Rohde also stated that he had told his editors about his task, and that they had agreed to intervene through the US Embassy if Rohde did not "check in" within two or three days.<sup>19050</sup> Kijac signed off, stating "this information is provided for your action".<sup>19051</sup> On 3 November, Beara replied with the information that Koljević had told "someone abroad" that Rohde had been arrested and that a request had been sent to the "truce monitoring team" in Banja Luka requesting them to find Rohde.<sup>19052</sup> That same day, the chief of the RDB centre in Bijeljina issued two orders authorising Rohde's detention retroactively from 29 October to 6 November and initiating criminal proceedings against him.<sup>19053</sup> On the same day, Kijac spoke to the Accused by telephone; Kijac met with the Accused in person on 4 and 6 November.<sup>19054</sup> Two days later, the Accused pardoned Rohde.<sup>19055</sup> **(What is that all about? Which country in a war wouldn't be suspicious if some foreigner was taking photos of a dam, as a security sensitive spot?)**

5793. During a conversation with Mladić on 22 March 1996, the Accused stated that he, Koljević, and Plavšić had determined that a commission should be formed "on the basis of equal parity to really investigate all the deaths and killings around Srebrenica during the war".<sup>19056</sup> That day, *Slobodna Bosna* had published Dražen Erdemović's account of the killings at the Branjevo Military Farm and the Pilica Cultural Centre.<sup>19057</sup> The Chamber recalls that, during the conversation with Mladić on 22 March 1996, the Accused also remarked that "a big show was put on for Albright", who had "expected they would find 1,200 Muslim bodies at Pilica, but they found some five bodies".<sup>19058</sup> **(This is a very significant conversation, because had there been any "conspiracy" or a "common**

<sup>19043</sup> Nebojša Ristić, T. 15395–15401, 15419 (24 June 2011); P2784 (Report of RS MUP re travel of Radovan Karadžić from Pale to Srebrenica, 3 August 1995). *See also* P2843 (Map of Zvornik marked by Nebojša Ristić) (marking the route taken on the trip); P2844 (Instructions from VRS Main Staff to Drina Corps, 3 August 1995); P2845 (Report of Bratunac Brigade, 4 August 1995); Nebojša Ristić, T. 15399, 15401 (24 June 2011) (testifying that the VRS was tasked with securing the route for the visit).

<sup>19044</sup> Nebojša Ristić, T. 15402–15403, 15420, 15427 (24 June 2011). *See also* P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court p. 102.

<sup>19045</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 96–97; Milenko Katanić, T. 24545–24546 (10 February 2012). *But see* Nebojša Ristić, T. 15420 (24 June 2011) (denying that the delegation met with local authorities).

<sup>19046</sup> P1412 (Transcript of 52<sup>nd</sup> session of RS Assembly, 6 August 1995), pp. 14, 17 (emphasis added). *See also* Richard Butler, T. 27877–27878 (23 April 2012).



knowledge” about crimes, there somebody would say something about the Presidency intentions to investigate it. Erdemović’s interview was of no significance, the main issue was that some bodies had been found, and it was for the first time after the events that some evidence other than a mere and empty propaganda appeared. The President words that there was a show prepared for Albright clearly indicated that he didn’t believe yet that there was a crime committed there.)

5794. On the following day, 23 March, the Accused issued an order to the Main Staff and RS MUP to “immediately form a mixed expert commission of three members each” to investigate the alleged discovery of two decomposed bodies “at the scene of earlier battles with the Muslim side” in the Pilica area (“23 March 1996 Order”).<sup>19059</sup> The order stated that a request should be made to the “competent IFOR (UN) command” to have an international expert team present at the enquiry, in order “to frustrate the intentions of Ambassador Madeleine Albright and media ‘experts’ to make and launch arbitrary and biased conclusions about this case”.<sup>19060</sup> **(A highly #EXCULPATORY#! Why would President Karadzic call for an international surveillance of the investigations if he knew that there was a crime committed?)** Following the issuance of the Accused’s 23 March 1996 Order, Vasić held a meeting of a mixed military and civilian commission at the Zvornik CSB; the meeting was attended by RS Military Prosecutor Predrag Drinić as well as Milorad Trbić, who represented the Zvornik Brigade.<sup>19061</sup> Following the meeting, on 26 March 1996, Drinić wrote to the Main Staff Intelligence and Security Sector describing the meeting and

- 19047 P6425 (Public statement of RS President’s Office, 8 November 1995). Rohde had published an article in the *Christian Science Monitor* in August 1995 describing an “on-the-spot investigation” which had “uncovered strong evidence that a massacre of Bosnian Muslim prisoners took place last month” near the former enclaves of Srebrenica and Žepa. P6422 (Article from *Christian Science Monitor*, entitled “Evidence Indicates Bosnia Massacre”, 18 August 1995), p. 1. The article featured an unclassified satellite photo showing “possible mass graves” in the Konjević Polje area and described interviews with Bosnian Serb soldiers who mentioned ongoing killings of Bosnian Muslim men from the column who were continuing to be captured. P6422 (Article from *Christian Science Monitor*, entitled “Evidence Indicates Bosnia Massacre”, 18 August 1995), pp. 1–2.
- 19048 P5227 (Report of Sarajevo RDB, 31 October 1995), p. 1; P6424 (Request of Bijeljina RDB, 3 November 1995), para. 2; D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 62. According to Kijac, Rohde was arrested by the SJB and turned over to the DB, which “recorded and documented the intelligence activities of foreign journalists” as part of its counter-intelligence measures. D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 63; Dragan Kijac, T. 44354 (3 December 2013).
- 19049 P5227 (Report of Sarajevo RDB, 31 October 1995), p. 1. Kijac reported that Rohde had stated that an initiative was being taken to gather such evidence ahead of the Dayton conference, where it could be used as a means of putting pressure on the Bosnian Serbs, and had disclosed that within the next day or two, the New York Times and the Washington Post would be publishing articles estimating the number of victims as 6,000 and 3,000, respectively. P5227 (Report of Sarajevo RDB, 31 October 1995), p. 2.
- 19050 P5227 (Report of Sarajevo RDB, 31 October 1995), p. 2.
- 19051 P5227 (Report of Sarajevo RDB, 31 October 1995), p. 2.
- 19052 P6539 (Information of VRS Main Staff, 3 November 1995), pp. 1–2. Kijac denied that Beara’s communication was a reply and asserted that his dispatch had been addressed to the Main Staff Intelligence Administration and that the DB “had no correspondence with the military police and military security”. Dragan Kijac, T. 44357–44358 (3 December 2013). The Chamber notes, however, that P5227 is clearly addressed to the Main Staff Security Administration and that Beara’s notification in fact refers to the reference number, 05-3368/95, which appears on P5227. The Chamber is therefore satisfied that P6539 was in fact a response to P5227 and considers Kijac’s testimony to the contrary to be an example of Kijac attempting to distance himself from Rohde’s arrest.
- 19053 P6423 (Order of Bijeljina RDB, 3 November 1995); P6424 (Request of Bijeljina RDB, 3 November 1995). Kijac stated that a criminal complaint was filed because Rohde’s interrogation yielded evidence of “a number of misdemeanours”. D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 62. *See also* Dragan Kijac, T. 44354 (3 December 2013). The Chamber notes, however, that the criminal complaint was not filed upon the conclusion of Rohde’s interview on 31 October, but only upon receipt of the dispatch from Beara on 3 November.
- 19054 P2242 (Radovan Karadžić’s agenda, 2 January–25 December 1995), e-court pp. 131–133.
- 19055 P6425 (Public statement of RS President’s Office, 8 November 1995).
- 19056 P1490 (Ratko Mladić’s notebook, 16 January–28 November 1996), e-court p. 47.
- 19057 P6451 (Article from *Slobodna Bosna*, entitled “I Killed ‘Only’ Hundreds of People”, 22 March 1996), pp. 1–2. The article also recounted the arrest of Erdemović and an associate, and reported a “great possibility” that they would be transferred to the Tribunal. P6451 (Article from *Slobodna Bosna*, entitled “I Killed ‘Only’ Hundreds of People”, 22 March 1996), pp. 4–5.
- 19058 P1490 (Ratko Mladić’s notebook, 16 January–28 November 1996), e-court p. 47. *See* para. 5451. In the context of this discussion, Mladić and the Accused referred to the publication of Erdemović’s account of the killings. P1490 (Ratko Mladić’s notebook, 16 January–28 November 1996), e-court p. 47. *See* Defence Final Brief, para. 3144.
- 19059 P3163 (Notice of VRS Military Prosecutor’s Office, 26 March 1996), pp. 6, 8. *See* para. 5451.
- 19060 P3163 (Notice of VRS Military Prosecutor’s Office, 26 March 1996), pp. 6, 8.
- 19061 Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10879–10881; P3163 (Notice of VRS Military Prosecutor’s Office, 26 March 1996), pp. 6, 8.



proposing that the Main Staff form a delegation to the commission from the members of the Intelligence and Security Organ, who could then verify the reports giving rise to the commission and, if needed, forward the matter to the relevant military prosecutor.<sup>19062</sup> Drinić never received an answer.<sup>19063</sup> **(What does it have to do with the President? And had there been a knowledge, some of the participants would say something, and those responsible would aggravate the process!)**

5795. One week later, on 1 April 1996, the Accused issued an order to the Main Staff, RS MUP, Ministry of Justice and Administration, the Supreme Court, the Supreme Military Court, the RS Public Prosecutor and the VRS Military Prosecutor to carry out “a detailed investigation” of the locations “where victims of the armed conflict in and around Srebrenica are to be found”, and to determine whether any breaches of The Hague or Geneva Conventions had been committed, and if so, to identify the perpetrators of such crimes and initiate criminal proceedings against them (“1 April 1996 Order”).<sup>19064</sup> **(A highly #EXCULPATORY!!! Had the President had known anything about any crime, some of the addressed by his order would warn him not to do that!)**

5796. Despite the existence of both of these orders, no criminal proceedings were initiated.<sup>19065</sup> Rumours of massive killings were “common knowledge” in Bijeljina “almost immediately”, as VRS officers spoke about it openly.<sup>19066</sup> The Chamber received evidence, however, that the RS Military Prosecutor’s Office in Bijeljina never received the Accused’s 1 April 1996 Order.<sup>19067</sup> Drinić stated that the other addressees of the 1 April 1996 Order did not take steps to implement it, and that no prosecutions were undertaken as a result.<sup>19068</sup> **(A presidential orders do not go to every single military prosecutor’s office, but only to the Chief Military Prosecutor Office!)**

5797. No civilian prosecutions were undertaken either.<sup>19069</sup> On 23 September 1996, Dragan Kijac, who was by then Minister of the Interior,<sup>19070</sup> sent a report to the Ministry of Justice and Administration which described purported internal skirmishes between members of the column which resulted in “several individual and mass killings”.<sup>19071</sup> Kijac also described preliminary investigative steps being taken by the Tribunal and closed with the statement, “we are sending you this information believing that it could be used for the defence”.<sup>19072</sup> **(The fact that the Tribunal initiated investigations made the Serb services**

<sup>19062</sup> Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10882–10883; P3163 (Notice of VRS Military Prosecutor’s Office, 26 March 1996), pp. 3–4.

<sup>19063</sup> Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10884–10885; P3163 (Notice of VRS Military Prosecutor’s Office, 26 March 1996), p. 5.

<sup>19064</sup> P164 (Radovan Karadžić’s Order to VRS and MUP re Srebrenica, 1 April 1996).

<sup>19065</sup> P2929 (Witness statement of KDZ531 dated 25 June 2011) (under seal), p. 13; Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10879.

<sup>19066</sup> [REDACTED].

<sup>19067</sup> Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10885–10886, 10889. [REDACTED].

<sup>19068</sup> Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10886–10888, 10892–10893. Drinić explained that pursuant to the normal investigative procedure, the military prosecutor’s office would have received information from other organs which were also addressees of the 1 April 1996 Order, but no such information was received. Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10887–10888, 10903–10904.

<sup>19069</sup> Kovač and Karišik asserted that it had been impossible for the MUP to start an official investigation because of the war and because the MUP had been “re-subordinated” to the VRS, and thus the MUP lacked jurisdiction to prosecute war crimes. Milenko Karišik, T. 40667–40668 (2 July 2013); D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 134; Tomislav Kovač, T. 42819 (1 November 2013). Kovač also asserted that security conditions prevented investigations from being undertaken. D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 134. *See also* Milenko Karišik, T. 40667 (2 July 2013) (asserting that the MUP had limited information about the crimes in Srebrenica which they received “very late”).

<sup>19070</sup> D4143 (Witness statement of Dragan Kijac dated 30 November 2013), para. 4. Kijac testified that he did not receive any information about killings in the aftermath of Srebrenica, either as Chief of the DB nor as Minister of Interior. Dragan Kijac, T. 44372 (3 December 2013).

<sup>19071</sup> P165 (Report from RS MUP re Srebrenica, 23 September 1996). [REDACTED].

<sup>19072</sup> P165 (Report from RS MUP re Srebrenica, 23 September 1996), e-court p. 1.

investigations unnecessary, and could be characterised as an interference. Also, the leading factor in investigations had to be the first nominated in the order, while others, such as MUP, were supposed to give good services and participate at call by the military prosecutor! This is so clear, that is unnecessary to rebut so many diostorted allegations and accusations!)

iii. Accused's membership in the Srebrenica JCE

5798. The Chamber has found that as the Srebrenica enclave fell to the Bosnian Serb Forces, the Accused's and Mladić's long-term strategy, which was devised in March 1995 and aimed at removing the Bosnian Muslim population from Srebrenica, began to be transformed into a concrete plan to eliminate them, first, through forcible removal of the women, children and elderly men, and then through the killing of the men and boys.<sup>19073</sup> The Chamber will now analyse whether, taking into account the acts and conduct of the Accused during the period relevant to the Srebrenica JCE established above,<sup>19074</sup> the Accused shared the objective of eliminating the Bosnian Muslims in Srebrenica, first by forcibly removing the women, children, and elderly men, and then by killing the able-bodied men and boys. In this exercise, the Chamber will also examine particular actions of the Accused which occurred prior to the implementation of the concrete plan to eliminate the Bosnian Muslims in Srebrenica, as well as after the completion of such plan. (#This is as senseless as any JCE allegation about a "permanent removal" of population, since it was from the beginning clear that the distribution of population was not going to play any role in the final peace solution. Before the war there was agreed a tripartite Bosnia, which comprised the issue of minorities whose rights were to be observed in a reciprocal way. Immediately after the war broke out, President Karadzic issued his "Platform" on 22 April 1992, calling for several principles to be adopted, and among others an issue of non-acceptance of any territorial *fait accompli* matter, nor a forcefully obtained territories should be recognised, see D1587:

5. Public obligation of all the sides in BiH not to accept a "fait-accomplì" policy, nor the policy derived from communist heritage and that no advantage achieved by force should be justified.

So, a #temporary removal of the civilian population from the combat areas was an obligation due to the domestic and international laws#, #but a "permanent removal" was something unknown and unachievable, since all the documents envisaged not only existence of minorities, but the return of refugees#! Apart from it, there were many settled places and several municipalities with almost 100% Serb majority, which had been defended throughout the war, but had been given to the Muslim/Croat Federation at the negotiating table. Such municipalities are: Ilidza, Rajlovac, Hadzici in its urban part, Vogosca, the Serb half of, Ilijas, and others, while some municipalities in the western part of the RS had been forcefully conquered by the joint armed forces of the BH Federation, the Republic of Croatia, the NATO and the mercenaries from the Islamic countries. Such municipalities were: Bosansko Grahovo – around 90% Serbian, Drvar 99% Serbian, Bosanski Petrovac, close to 80% Serbian, Glamoc, 89% Serbian, and many other medium and smaller settled places. There was some cases to the other direction, but not if the Serbs didn't control their settlements in such a municipalities. So, it is senseless to keep alleging that there could have been any "permanent removal"!)

5799. Prior to the formation of the concrete plan to eliminate the Bosnian Muslims in Srebrenica, the Accused took a number of actions which, in the Chamber's view, establish

<sup>19073</sup> See paras. 5725, 5730.

<sup>19074</sup> See Section IV.C.3.b.ii: Accused's acts and conduct in context.

that he was a directing force in the events leading up to the take-over of Srebrenica and which also demonstrate his close monitoring of the Bosnian Serb attack on the enclave. In addition to issuing Directive 7 in March 1995 and giving Krstić a combat assignment at the end of June, both of which formed the basis for the attack plan known as Krivaja 95 and which ultimately resulted in the take-over of Srebrenica, **(Senseless, because the taking-over Srebrenica happened all of a sudden, because this was not a plan, as all the documents and evidence confirmed, as well as the main Commander of the UN Forces General Janvier described in his report of 10 July 1995, see D137!)** the Accused also implemented Directive 7 by restricting access to Srebrenica.<sup>19075</sup> This restriction, which the Chamber found was implemented by Mladić, allowed the Accused to maintain control over the goods and personnel entering the enclave during the months and weeks leading up to its take-over.<sup>19076</sup> **(#Neither President Karadzic created the Directive 7#, nor there was any unjustifiable restriction, as it was illustrated above, about abuses of the humanitarian aide and a sufficiency of food and other needs!)**

**5800.** The Accused acknowledges that he approved the initial plan to “shrink” the Srebrenica enclave and thereafter to “take the undefended town of Srebrenica”, but claims that this plan never contemplated the execution of Bosnian Muslim detainees.<sup>19077</sup> The Accused further adds that the military action to take Srebrenica was not a crime, and that when he authorised the VRS to enter Srebrenica, the VRS had a legitimate right to engage in military operations against the Muslim Forces in Srebrenica.<sup>19078</sup> However, the Chamber has already found that, at least by the time Directive 7 was issued in March 1995, the Accused and Mladić had devised a long-term plan aimed at the eventual forcible removal of the Bosnian Muslims in Srebrenica.<sup>19079</sup> This was consistent with their long-term objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory.<sup>19080</sup> The Accused’s establishment of Bosnian Serb structures in Srebrenica demonstrates that the removal of the Bosnian Muslim population then envisaged by the Bosnian Serb Political and Governmental Organs was intended to be permanent.<sup>19081</sup> **(So, the Prosecution/Chamber evidence is “para 5694”!?!? Then, let us see what this para established: 5694. That same evening, Deronjić held a meeting of about 20 people, including “Serb officials in Srebrenica”, as well as managers of public and state-owned companies, at the SDS office in Bratunac. There, Deronjić informed the attendees that he had been appointed civilian commissioner for Srebrenica and established a speaker phone connection with the Accused, who stated that Deronjić was “directly responsible with his life for all civilian affairs in Srebrenica”, and that all others were to be directly responsible to Deronjić. Deronjić then appointed directors for all public enterprises and institutions in Srebrenica. The Chamber considers that the establishment of such Bosnian Serb structures, especially in light of the Bosnian Serb rhetoric advocating the separation of the population along ethnic lines and asserting an inability to coexist, is demonstrative that the removal of the Bosnian Muslim population then envisaged by the Bosnian Serb Political and Governmental Organs was intended to be permanent. So, the only “evidence” in this paragraph is the #“Chamber’s consideration# that the establishment of such Bosnian Serb structures...” and so on.**

<sup>19075</sup> See paras. 5756–5759.

<sup>19076</sup> See paras. 5756–5757.

<sup>19077</sup> Defence Final Brief, para. 3011.

<sup>19078</sup> Defence Final Brief, paras. 2396–2397. The Accused further contends that indeed, the actions he took in connection with the Srebrenica events were “exemplary” and demonstrate that he did not participate in or have any knowledge of the genocidal execution of detainees. Defence Final Brief, paras. 3127–3128.

<sup>19079</sup> See para. 5684.

<sup>19080</sup> See para. 2854.

<sup>19081</sup> See para. 5694.

**#The Chamber testified!# This is so senseless that must be built in the Judgment by a very young and inexperienced associate. Such a structures existed in every single municipality, and a civil life was not possible without it. The Muslim side had been offered to form their own municipality of Srebrenica, as it was agreed in many monucipalities, as in Bratunac, Vlasenica and other, because the only concern of the Serbs was to be in the same political and judicial system, which the Muslim extremists abused to the extreme degrees. The civilian commissioner was supposed to exercise his authority only until the situation was settled down, the refugees returned and a regular authorities elected!** Thus, while the take-over itself was not a criminal operation *per se*, the Chamber considers that, like the take-overs of the Municipalities, the take-over of Srebrenica was devised with the intent to permanently remove the Bosnian Muslim population living there. **(What is the basis for such a “finding”?)**

5801. The Chamber recalls that, as the Bosnian Serb Forces approached Srebrenica, the Accused was constantly kept abreast and informed of the developing situation on the ground. This was achieved particularly through briefings by high-ranking officers, such as Gvero and Tolimir, who were already on the ground near Srebrenica.<sup>19082</sup> **(Not correct. Had the two Generals been “near Srebrenica” they couldn’t communicate with the President. Gvero was most of the time in the Main Staff Headquarter, while Tolimir was on Borike, some 80 km far from Srebrenica!)** The Accused also received regular written reports from multiple branches of the Bosnian Serb Forces. As Supreme Commander of the VRS, the Accused received daily combat reports compiled by the Main Staff, which provided him detailed information of the developments on the ground.<sup>19083</sup> **(Was there, in these report, any information about irregularities?)** The Chamber notes the Accused’s contention that none of the written reports that reached him during the Srebrenica events made any reference to the execution of prisoners from Srebrenica.<sup>19084</sup>

<sup>19082</sup> See paras. 5689–5690, 5760.

<sup>19083</sup> See e.g. P3054 (VRS Main Staff Report, 12 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). See also Richard Butler, T. 27475–27456 (17 April 2012). Following the Accused’s order to take the town on 9 July, these reports described the advance of the Bosnian Serb Forces towards Srebrenica, culminating in its take-over on 11 July. D2100 (VRS Main Staff Report, 9 July 1995), para. 6(b); P4449 (VRS Main Staff Report, 10 July 1995), para. 6(b); P4450 (VRS Main Staff Report, 11 July 1995), paras. 6(a)–6(b). The Chamber observes that Kovač testified that the MUP also compiled reports from all its sources into a single report which was transmitted to the Accused. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 128. The Chamber further notes that, between 11 and 17 July, the Accused also received daily communications from the Main Staff Security Organ. **Was in those communications any mentioning of crimes?** P2989 (Record of coded telegrams of the RS Republican Communications Centre, 1995), lines 2251, 2265, 2298, 2320, 2334, 2351, 2355, 2365. For example, on 16 July, the Accused received two such communications, at 5:25 a.m. and at 4:20 p.m., respectively. P2989 (Record of coded telegrams of the RS Republican Communications Centre, 1995), lines 2351, 2355. These documents were never recovered. Christian Nielsen, T. 16328 (7 July 2011); Richard Butler, T. 27612–27613 (18 April 2012). **Being regularly informed through the RBI and VBI (regular and outstanding combat reports) by the Main Staff, the President would have to be a paranoic to search for more, since there was no a single clue about anything illegal. So, this fact can not be used against the Accused. Had those reports ceased to arrive, then the Accused would be alarmed and ask for mor information.**

<sup>19084</sup> Defence Final Brief, paras. 3082–3083, 3112. The Accused made a similar claim about media reports from late July onwards on the execution of prisoners which, he submits, did not provide reason for him to believe that men had been executed. See Defence Final Brief, para. 3132. **Why would he, sinve he already, since of 17 July, he had a statement of Franlen, Deronjic and Mandzic, that the evacuation went smoothly. The Accuse was alarmed by the media, then he called Deronjic, asking what is it in media, got an answer that all of this is a propaganda, and promised to obtain the written confirmation from the UN and the Muslim side.** The Accused supported his claim by stating that he had been repeatedly told to consider these reports false propaganda, in particular in light of similar false reports issued in the past. See Defence Final Brief, paras. 3132–3139. The Accused also argued that the letters seized from his computer at the time of his arrest indicate that he had no information about executions of a significant number of people from Srebrenica and believed those allegations to be false. **One of these letters, from 2000, sent to Zametica, containd the first knowledge of the President, who informed Zametica (from a Muslim family) that after Erdemovic’s interview, that it now really seems that “our mercenaries” had killed some people in Srebrenica.** See Defence Final Brief, para. 3147. In light of the Chamber’s finding as to when the Accused became aware of the common plan to eliminate the Bosnian Muslims in Srebrenica and more specifically of the mass killings, as discussed below, the Chamber will not give these arguments any further consideration.

Indeed, the Chamber did not receive evidence demonstrating that the written reports which reached the Accused mentioned killings of Bosnian Muslim male detainees. However, the Chamber notes that, beginning on 12 July, the daily combat reports described the transport of the Bosnian Muslim population as well as the existence and movement of the column of Bosnian Muslim men attempting to reach Tuzla, in addition to the Bosnian Serb Forces' attempts to block the column's progress.<sup>19085</sup> **(So what? That was a regular conduct, the lower military levels reported what they did know!)** On 13 and 14 July, the reports described the capture and surrender of large numbers of men from the column.<sup>19086</sup> Reports from the following days made no mention of prisoners but described continuing efforts by the Bosnian Serb Forces to block the remainder of the column's progress and search the terrain.<sup>19087</sup> The Chamber further recalls Popović's direction to Dragan Jokić not to make a record of the activities involving the killing aspect of the plan to eliminate or to speak on the radio about it.<sup>19088</sup> **(What does it have to do with the President, who never met these two officers, let alone being in contact with them?)**

**5802.** The Chamber notes the Accused's claim that he may not have seen material addressed directly to his office.<sup>19089</sup> While the Chamber indeed received evidence that documents received by the Accused's office may have been first reviewed by one of his advisors or other staff,<sup>19090</sup> the Chamber finds it inconceivable—primarily in light of the all the evidence demonstrating the Accused's interest in the unfolding events in Srebrenica, as well as on the proper functioning of the communications capacities between the Accused and the VRS, MUP, and DB<sup>19091</sup>—that such information would have been withheld from him by members of his staff. **(But, neither his staff received any information pertaining to any unlawful killings. #There is no a single clue that there was any information that would be withheld from the President. There was nothing alarming in these reports, otherwise the two very responsible advisors of the President, General Subotic and Ambassador Milinic, would find him wherever he could have been to alarm him! No other reasonable chamber would make such an inference! The only what President Karadzic was informed came from the Civilian Commissioner Deronjic, about the two thousands of POWs in Bratunac, but nothing alarming was in that. The procedure that had been implemented the previous 40 months was to be implemented again, and nothing indicated that this case was going to be different!)**

**5803.** With regard to personal conversations and contacts, the Chamber recalls specifically that, at approximately 1 a.m. on 12 July, Živanović spoke to the Accused.<sup>19092</sup> The Chamber notes Živanović's claim that, after informing the Accused about the "liberation" of Srebrenica, the conversation ended.<sup>19093</sup> In that regard, the Chamber recalls, first, that the Accused had already been informed by Gvero that afternoon that the Bosnian Serb Forces had taken Srebrenica.<sup>19094</sup> **(There is no valuable evidence that Gvero**

<sup>19085</sup> P3054 (VRS Main Staff Report, 12 July 1995), paras. 6(a)–6(b), p. 4; P4464 (VRS Main Staff Report 13 July 1995), paras. 6(a)–6(b); P4457 (VRS Main Staff Report, 14 July 1995), paras. 6(a)–6(b).

<sup>19086</sup> P4464 (VRS Main Staff Report 13 July 1995), paras. 6(a)–6(b); P4457 (VRS Main Staff Report, 14 July 1995), paras. 6(a)–6(b). *See also* P4460 (VRS Main Staff Report, 15 July 1995), paras. 6(a)–6(b) (referring not to previously captured detainees but to the further surrender of "several enemy groups").

<sup>19087</sup> P4460 (VRS Main Staff Report, 15 July 1995), paras. 6(a)–6(b); D2101 (VRS Main Staff Report, 16 July 1995), paras. 6(a)–6(b); D2102 (VRS Main Staff Report, 17 July 1995), paras. 6(a)–6(b).

<sup>19088</sup> *See fn.* 19426.

<sup>19089</sup> Defence Final Brief, paras. 3130–3131 (specifically referring to P6396 and P2288).

<sup>19090</sup> *See e.g.* P4358 (Witness statement of Mira Mihajlović dated 6 February 2012), paras. 23–24.

<sup>19091</sup> *See e.g.* Christian Nielsen, T. 16330–16334 (7 July 2011); P2990 (Excerpt of logbook of telegrams received, 12–18 July 1995); P2991 (Excerpt of logbook of telegrams sent, 8–16 July 1995).

<sup>19092</sup> *See para.* 5762.

<sup>19093</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 8.

<sup>19094</sup> *See para.* 5690.



**informed the President, but Deronjic did!)** Further, according to Živanović's own admission, the Accused told Živanović that he had not yet been able to reach Mladić or Krstić.<sup>19095</sup> **(There are evidence that the President was complaining that he didn't know where Mladic was all the time. Also, #had Gvero called the President, he would tell it to Zivanovic!)** Accordingly, the Chamber considers that at the time of his conversation with Živanović the Accused was seeking additional information beyond the fact that Srebrenica had fallen. The Chamber recalls that Živanović had attended the first and second meetings which had been held at the Hotel Fontana earlier that evening, as well as the meeting at the Bratunac Brigade Command.<sup>19096</sup> Thus, while the Chamber cannot make a finding as to whether Živanović briefed the Accused on the killing aspect of the plan to eliminate, it finds it inconceivable that Živanović would not have provided the Accused with further updates regarding the events on the ground which had occurred after the Accused's previous conversation with Gvero—including the outcomes of those meetings. **(And what Zivanovic could have known at that time? Neither Kravica, nor any other killings, not even the Bratunac opportunistic killings had happened, nor a number of captured was known to General Zivanovic!)**

5804. Additionally, Kovač, who had been receiving continuous updates since the commencement of the Srebrenica operation and had received increasingly urgent communications from Vasić on 13 July, also shared such information with the Accused in person that afternoon.<sup>19097</sup> **(Kovac could have received this information only if he was in his office. Otherwise, there was no communication when he was on the terrain, and only after he reached another MUP facility, such as another SJB, he could call his office and ask whether he had any new correspondence. And the Chamber is gathering an inference over an inference. However, the MUP reports and telegrams were sent to many addressed and could have not be a secret material. So, if there was anything about crimes, that would be well known!)** A few hours later, while meeting with the members of the Serbian diaspora around the time when Kovač reached Vlasenica, the Accused received an hour-long phone call from Mladić, who was then at the Drina Corps Command and reported that Srebrenica was “done”.<sup>19098</sup> **(This is unacceptable and irrational to persist that it was Mladic, because there was no a tiny evidence that it was Mladic. #Had it been Mladic, he would not skip to talk to these Serbs from USA. How possibly so many inferences on a very rotten bricks could have been constructed?)**

5805. Finally, the Chamber recalls that, at approximately 8 p.m. on 13 July, Deronjić and the Accused spoke through an intermediary about the fate of the thousands of Bosnian Muslim male detainees then being held on buses and in detention facilities in Bratunac town.<sup>19099</sup> The Accused claims that no inference can be drawn from the conversation on 13 July with Deronjić that the Accused knew of any plan to kill the detainees from Srebrenica, or that the detainees had been, were being, or would be executed.<sup>19100</sup> The Chamber notes that, despite the fact that Deronjić and the Accused did not explicitly mention the killing of detainees during the conversation, they spoke in code, referring to the detainees as “goods” which had to be placed “inside the warehouses before twelve tomorrow”.<sup>19101</sup> The Accused further specified, “not in the warehouses /?over there/, but somewhere else”,

<sup>19095</sup> D3932 (Witness statement of Milenko Živanović dated 27 October 2013), para. 8.

<sup>19096</sup> See paras. 5040, 5695, fn. 19307.

<sup>19097</sup> See paras. 5766–5767.

<sup>19098</sup> See paras. 5768–5769.

<sup>19099</sup> See para. 5772.

<sup>19100</sup> Defence Final Brief, paras. 3024–3026.

<sup>19101</sup> See para. 5772.

which the Chamber has already interpreted as a direction to move the detainees to Zvornik.<sup>19102</sup> **(This is too radical, too revolutionary inference. How possibly could it be? #Neither the President, nor Deronjic ever mentioned Zvornik. Nor it ever happened before, that the prisoners of war ended anywhere but in the Batkovic camp. Why would it be “understood” that only this time the prisoners would end in Zvornik? Certainly, they had to pass through Zvornik, but the only destination was Batkovic, as it happened many times before. Only in a backward sight, because something happened in Zvornik, there is an idea, totally unfounded, that Zvornik had been mentioned, or understood as a destination, for the convenience of the Prosecutor. But, this must not happen ever, not even in the dictator’s court, let alone in a court of the UN, for which are responsible the highest leaders of the contemporary world. No excuse, all of it is done in their names, whether they love it or not. They must act!)** The Chamber recalls that, earlier that evening, Deronjić had complained to Beara about the detainees’ presence in Bratunac, and that upon encountering Deronjić in Bratunac town, Davidović had urged him to use his connections to the Accused to have the buses moved.<sup>19103</sup> **(There was no any discussion between the two of them prior to the meeting late night this day. As a matter of fact, Deronjic didn’t meet Beara earlier that night. Somebody else met him, an officer of the Bratunac Brigade, see para 5710, asking why the buses with the POW-s didn’t leave. A mixed up information that the officials, see 5711, to be asked for a help about burials of the Kravica incident victims. See para 5711 of this Judgment: 5711: Around the same time, Mladić’s order for the transfer of a large number of Bosnian Muslims who were being detained in Bratunac to Zvornik, (Had it being said – to Zvornik? Is that a way how to gues and infer, and then operate with this as it had been established beyond reasonable doubt?) where they were to be detained and, ultimately, shot, was conveyed down the chain of command by members of the VRS security organs The Chamber notes, in particular, that Momir Nikolić conveyed this message to Drago Nikolić in person. At approximately 9 p.m., members of a public utility company and the Bratunac Civilian Protection Unit were called separately to the Bratunac SDS Office, where they each met with Beara and Deronjić, respectively, as well as two uniformed VRS officers whom they did not know Both of the individuals from Bratunac were asked to provide equipment for transporting a large number of bodies away from the Kravica Warehouse and burying them elsewhere. An agreement was ultimately reached for the removal and burial of the bodies from Kravica, and the process began the next morning. So, Deronjic and Beara admitted the members of the Civilian Protection unit separately (respectively) the matter of bodies in Kravica sounds real, because it had happened a few hours prior to that meeting.)** Moreover, the Chamber recalls that immediately after this conversation, Beara and Deronjić discussed *where*—not *whether*—the detainees were to be killed.<sup>19104</sup> **(It was not “immediately” but after the midnight, some four hours later, but we do not have any independent and reliable evidence that this really happened. Momir Nikolic and Deronjic both were a “guilt plea” witnesses.)** It is therefore clear that at the time of Beara and Deronjić’s conversation, a decision had already been made to kill the detainees, and Deronjić invoked the Accused’s authority to convince Beara to accede to their movement to Zvornik. **(Where it was said??? No evidence! This is a criminal practice! This must not happed, to admit such an allegation without a firm evidence!)** In the Chamber’s view, the use of code to refer to the detainees, as well as the direction to move them toward Zvornik, demonstrates the malign intent behind the conversation. **(The code conversation was initiated by Deronjic, who at that time**

<sup>19102</sup> See para. 5710.

<sup>19103</sup> See para. 5710.

<sup>19104</sup> See para. 5712.

didn't have any clue that there may be some killing, because all his encounters with Beara happened after this conversation with the President. Deronjic kept the practice in every army not to disclose where prisoners of war are kept and to where they will move, probably meditating that a plain conversation could have disclosed the route to the Muslims, and that somebody could have intercepted and attacked them. This kind of information must be secret!) The Chamber finds that this conversation, in addition to the Accused's subsequent acts as described further below,<sup>19105</sup> demonstrate beyond reasonable doubt the Accused's agreement to the expansion of the objective to encompass the killing of the Bosnian Muslim males.

5806. After this conversation, the Accused continued to seek, and was provided with, information through multiple channels. During the approximately 24 hours that Kovač spent in the area touring Vlasenica, Srebrenica, and the Bratunac and Zvornik areas on 14 July, while the Bosnian Muslim males were being moved to Zvornik and the executions at Orahovac got underway, Kovač met with Mladić, Krstić, Živanović, Borovčanin, and Vasić, thus obtaining additional important information that he ultimately relayed back to the Accused when he returned to Pale on 14 July.<sup>19106</sup> (This rather looks like a gossip! No a hint, let alone evidence! Is the Chamber about to claim that Kovac was told, during those meetings with the different officers of the VRS and MUP, that this was the day to start killings? If not, than how Kovac could have informed the President about anything that started only in the afterhooch on 14 July 95, while Kovac returned to Pale? President? Until Kovac left the area and met the President, nothing happened on the terrain, except the Kravica incident, and unless he was informed by those officers about their intention to kill the POW-s, Kovac couldn't say anything to the President about any crime. Knowing how the affair was kept secret by the perpetrators (see Erdemovic in Karadzic, testifyin that he kept it secret even from his immediate commander!#) it is unimaginable that there would be any public meditation about it. Also, Kovac was after his own duties, which was the policing and protection of the assets, and not the combat activities of the police subordinated to the VRS. Thus Kovac wisited several companies to secure that there will be no robberies and destruction.) Furthermore, in the afternoon on 14 July, the Accused received information over the phone from a commander on the ground in Srebrenica, who reported on the movement of the column of Bosnian Muslim men.<sup>19107</sup> (So what? Was anything about any killings in this information#? Even Deronjic alarmed the President to proclaim the state of war because of those troops in the woods. Till that time there happened nothing criminal. Except for some "opportunistic killings" which had been a personal crimes, revenges and so on!)

5807. The Chamber recalls that earlier on 14 July, the Accused had met with Deronjić alone between 12:40 p.m. and 1:10 p.m.; both later met together with a larger delegation from Srebrenica for about four hours.<sup>19108</sup> The Prosecution claims that the only reasonable inference is that Deronjić travelled to Pale in advance in order to meet with the Accused in private, report on significant events relating to the killing aspect of the plan to eliminate, and receive further instructions; thus, during their initial meeting, the Accused and Deronjić must have discussed the murder and burial operations then in progress in the Bratunac and Zvornik areas and, more specifically, Deronjić must have reported on the implementation of the Accused's order to transport the detainees from Bratunac to Zvornik

<sup>19105</sup> See paras. 5805–5808. Further, the Chamber notes that on the following day, Beara referred to an order emanating from “two Presidents”. See para. 5715.

<sup>19106</sup> See paras. 5771, 5775, 5780.

<sup>19107</sup> See para. 5778.

<sup>19108</sup> See para. 5777.

by midday that day.<sup>19109</sup> (An #inference over another inference, the entire Judgment constructed on a weak inferences#, that sound as a mere insults. Why it was not a reasonable inference that Deronjic wanted to discuss an opposition to his new role by the competitors, who came to Pale only for that reason, to get more influence and more formal role in ruling Srebrenica? What is impossible in this inference? The President found out a solution so that the both sides had been satisfied. And nobody ever mentioned Zvornik. Also, Deronjic himself didn't know too much, even if it was true what is dais he spoke with Beara. Still there was no any killing, Deronjic knew that the POWs were to be moved out of Zvornik, which was his main concern. Also, this is not accurate that the President spent four hours with the delegation. From the presidential Agenda for this day there is clear that the President met many other people, while the Srebrenica-Bratunac delegation was seeing other Governmental officials, see P4367:

2215  
14 July 1995

+ 1800 CHURKIN (1925-2240)  
+ Mira PETROVIĆ (1315-1345)  
- Professor KARADŽIĆ and V. OSTOJIĆ – for tomorrow  
+ 1100 – Miroslav DERONJIĆ /interpolated (1240-1310):/ and a delegation from Srebrenica (1425-1825)  
+ General ŠKRBIĆ (1215-1236)  
+ Professor KOLJEVIĆ and Ljubiša VLADUŠIĆ (1345-1400)  
+ call BOROVIĆ 022/428-615  
+ President KRAJIŠNIK (1410-1615)  
+ Miloš BULATOVIĆ (1405-1415) (1915-1925)  
+ Tereza GULD /as written/ - reception (at KRAJIŠNIK's)  
+ Bob ĐORĐEVIĆ – reception (1700-1915)  
+ call Zvonko BAJAGIĆ + Tomo KOVAČ (2245-2310)  
+ call Momir TOŠIĆ – Srđa TRIFKOVIĆ and ZAMETICA (230/?5/-0035)  
+ Vladimir DIMITRIJEVIĆ – for tomorrow – he will call  
+Zvonko /?BATIĆ/ (0035-0125) 0125

So, Deronjic had been appointed for 11 hours, but was admitted at 12:40, and talked to the President 30 minutes, until 13:10. The Delegation of Srebrenica had been admitted at 14:25 and remained in the Cabinet until 18:25 p.m. Within these hours President Karadzic spent more than two hours with President of the Assembly Krajisnik, some period with the journalist from New York Teresa Gould, and made many telephone calls. Such a long meeting with the Delegation was due to a help to the Delegation to overcome difficulties that appear. Guessing that during this time there was any talk about crimes in unbelievably irresponsible, and shouldn't be allowed in a serious courts!) The Accused acknowledges that he met alone in his office with Deronjić on 14 July; he also acknowledges the evidence that, by the time of this meeting, Deronjić was aware of the killings at the Kravica Warehouse on 13 and 14 July, and that the latter had participated in discussions to bury the bodies of detainees who had been killed.<sup>19110</sup> (Deronjic didn't "later participated in discussions to bury the bodies", but he discussed it # earlier, prior to his arrival at Pale, see the Defence Final Brief, para 3031: that a Muslim prisoner at the warehouse had grabbed the rifle from a policeman killing him and that a number of Muslim prisoners had been killed in return. On the evening of 13 July, Deronjic had also participated in discussions about arrangements to bury the bodies of the prisoners who had been killed. Therefore, Deronjic @didn't discuss it while in Pale, as it was suggested in this para of the

<sup>19109</sup> Prosecution Final Brief, paras. 998–999.

<sup>19110</sup> Defence Final Brief, paras. 3030–3031.

**Judgment!** However, the Accused argues that it is “reasonably possible” that Deronjić did not inform the Accused of what he knew, suggesting that “there were more pressing issues concerning [the] administrative organisation of Srebrenica” for the two to have discussed, that the Kravica Warehouse killings required no action of the Accused, and that Deronjić would not have wanted to tell the Accused that a negative incident had occurred on his watch.<sup>19111</sup> **(This is #completely unnecessary to discuss the event in Kravica with a civilian commissioner for Srebrenica, since it was evident that the superiors in the MUP knew everything#, and there was no signs that they would cover it up. Even Deronjic, who informed that “several prisoners had been killed in the incident, mentioned that the President assumed that the MUP is going to qualify it as a defence against the mutiny caused by a Muslim detainee! Nothing hidden, nothing for the President to intervene, all was expected to be done by the institutions. The President could have intervened only if the institutions didn’t do their job. The President was not a boss of a criminal gang, there was the Constitution, and there were the institutions with their scope of duties!)**

**5808.** In relation to the content of the conversation between Deronjić and the Accused prior to their meeting with the larger group, the Chamber notes that it has no direct evidence thereof. However, it received evidence that, during the second meeting, Deronjić reported on the situation in Srebrenica.<sup>19112</sup> As stated above, the Chamber is satisfied that Deronjić had been aware of the killings at the Kravica Warehouse since the evening of 13 July.<sup>19113</sup> **(And this was not denied!)** More importantly, the Chamber recalls the conversation between the Accused and Deronjić the night before in which the Accused ordered the transfer of the detainees from Bratunac to Zvornik.<sup>19114</sup> **(Which is an ordinary lie, far below the significance and decency of the Court and the Chamber! Even those who dared to “believe” that Zvornik was ordered and meant should question themselves – what is wrong with them!)** The Chamber also recalls Deronjić’s participation in the efforts to bury the bodies of those killed at the Kravica Warehouse, starting in the early hours of 14 July.<sup>19115</sup> The Chamber also received evidence that the Accused and Deronjić had frequent communications, either by telephone or in person, during the Srebrenica operation.<sup>19116</sup> **(All together, two or three communications. The President had many other works to do, and nobody except Deronjic needed his advise or help. But all of the communications had been listened to by the Muslim operator and certainly by the foreign militaries, and no crime was mentioned in any of these contacts!)** According to officials from Bratunac municipality, in his official capacity as civilian commissioner of Srebrenica, Deronjić should have reported about the killings at the Kravica Warehouse to the Accused.<sup>19117</sup> More specifically, Simić testified that Deronjić told him that he had informed the Accused about the events at the Kravica Warehouse the day after the incident.<sup>19118</sup> The Chamber received evidence that there was no mention or discussion about the executions of detainees in Srebrenica during the

<sup>19111</sup> Defence Final Brief, paras. 3032–3034.

<sup>19112</sup> P4382 (Video footage re Miroslav Deronjić’s meeting with Radovan Karadžić in Pale, 14 July 1995). See Milenko Katanić, T. 24475–24778, 24484 (10 February 2012).

<sup>19113</sup> See para. 5240. See also P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 72; Milenko Katanić, T. 24474, 24506 (10 February 2012). Jovan Nikolić testified that he informed Deronjić and other municipal authorities about additional killings at the Kravica Warehouse in the morning of 14 July. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 58–59; Jovan Nikolić, T. 35520–35522 (14 March 2013). See also Ljubisav Simić, T. 37291–37292 (16 April 2013).

<sup>19114</sup> See para. 5772.

<sup>19115</sup> See paras. 5242, 5244.

<sup>19116</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 70–71; Nebojša Ristić, T. 15391–15392 (24 June 2011).

<sup>19117</sup> P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 72; Ljubisav Simić, T. 37310 (16 April 2013).

<sup>19118</sup> Ljubisav Simić, T. 37293, 37306–37307 (16 April 2013). See Ljubisav Simić, T. 37310 (16 April 2013) (clarifying that he did not know what Deronjić had told the Accused, or whether he had informed the Accused directly).



meeting with the Srebrenica representatives.<sup>19119</sup> Nevertheless, the Chamber has no doubt that during the individual meeting between Deronjić and the Accused, they both discussed the killings at the Kravica Warehouse, and the implementation of the Accused's order to transport the detainees from Bratunac to Zvornik by midday that day.<sup>19120</sup> **(The Defence didn't contest that Deronjic informed the President about incident in the Kravica Warehouses, #but it was not in a dramatic way#. Deronjic testified in the President Milosevic case that he reported that some of the Prisoners got killed in the mutiny they caused by killing a guard. #But to assert that Deronjic and the President had discussed the transfere of the POWs to Zvornik, no matter how many times it is repeated to be a lie#, the Chamber is faithful to this lie, which is always going to remains a lie. #Deronjic testified several times before, and he never asserted that the President said or was informed that Zvornik was even mentioned!#)**

5809. The Accused continued receiving information from those present in the Srebrenica area during the following days. For example, Bajagić, who had been prevented from taking photos of captured Bosnian Muslim men being detained at Nova Kasaba football field and had heard about the killings at Kravica Warehouse, met with and reported these events to the Accused in the very early hours of 15 July.<sup>19121</sup> **(The President had already known about the detainees in Nova Kasaba, because after Bajagic saw them they had been transported to Bratunac, and the President had been informed by Deronjic. No other matters Bajagic could have informed the President, except a matters of the evacuation of civilians, which Bajagic observed from his home!)** Further, following a direct report from Vasić to the Accused outlining a need for additional forces, as well as Pandurević's report to the Main Staff regarding the opening of the corridor, unsuccessful efforts were made in the Accused's name to contact Pandurević for an explanation of his decision; **(This is completely wrong, and a real mess of fake information. Nothing had been done "in the name of the President " because those who analysed the intercept got mixed, as if an interlocutor was calling "from the head of state", while it was a repetition from the previous sentence, seeking an aproval from the head of the state.)** Karišik was then dispatched to Zvornik, and ultimately reported to the Accused about the opening of the corridor.<sup>19122</sup> **(Why it is needed to be wrong in every single sentence? Karisik had been sent by his Ministry to exchange a policeman that had been captured by the Muslim army, and was not dispatched because of corridor or any other issue. Pandurevic was on the terrain and for that reason Pandurevic couldn't reach the Main Staff and the superior commanders, and Karisik was asked by Pandurevic to secure the President's support in a case Mladic oppose the opening of corridor. The Chamber is relying upon the Para 5784 of this Judgment, in which it "found" wrong conclusion, repeating it in this para! Thus the Chamber is multiplying a false "findings endlessly, as a two mirrors are multiplying each other endlessly in a thousands of false mirrors!)**

5810. Based on all the evidence discussed above, the Chamber finds that the Accused—who had shared the common purpose of permanently removing the Bosnian Muslims from Bosnian Serb-claimed territory since October 1991<sup>19123</sup> **(Again an #inference over another inference, which is shameless, because it is without any basis or any evidence.**

<sup>19119</sup> D3561 (Witness statement of Dane Katanić dated 14 December 2012), para. 8; Dane Katanić, T. 38675 (22 May 2013). While Krajišnik did not recall the meeting with the representatives of Srebrenica specifically, he was categorical in his assertion that nobody spoke in his presence about any crimes committed in Srebrenica. Momčilo Krajišnik, T. 43352 (12 November 2013).

<sup>19120</sup> See paras. 5313–5316.

<sup>19121</sup> See para. 5783.

<sup>19122</sup> See paras. 5784.

<sup>19123</sup> See para. 3524.

Since October 1991 there were huge developments. On 15 October 1991 President Karadzic and the entire Serb leadership was dedicated to the preservation of Yugoslavia all with the Bosnian Muslims and Croats in it. How then anybody could say that it was a policy of separation of ethnicities? This is senseless and mean, and shouldn't be allowed to anybody to fabricate a findings that didn't exist! Only after the New Year 1992, when the Muslim Government insisted on the independence and filed an illegal request (19 Dec. 1991) to be recognized, and Serbia and Montenegro mentined that they may be forming a new ferderation, the Serb side declared a new objective, #to accept an independent Bosnia provided the Serbs get their own highly autonomous republic in Bosnia, as the Muslim leader Izetbegovic committed himself at the Conference in the Hague!) — knew of the concrete plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men as the plan began to be transformed as the enclave fell. In reaching this conclusion, the Chamber notes that the Accused immediately issued orders establishing Bosnian Serb institutions in Srebrenica, which the Chamber has already found to be an indication that the removal of the Bosnian Muslim population then envisaged was intended to be permanent.<sup>19124</sup> (Who said that? Was it better if there was no any responsible authorities in Srebrenica? Whose responsibility would it be if in Srebrenica there appeare a chaos? Did it mean the same for the other places under the Serb control? Why there was no other examples? #In the occasions of the ICFY and the sub-Conference on BiH, there couldn be any fait accompli, and nothing “permanent” was possible!# Instead to warn the Prosecution not to charge an illogical and impossible charges, the Chamber is accepting this without any criticism!) In this respect, the Chamber recalls that one of the Accused's orders tasked Deronjić with “ensur[ing] that all civilian and military organs treat[ed] all citizens who participated in combat operations against the [VRS] as prisoners of war, and ensure that the civilian population c[ould] freely choose where they w[ould] live or move to”.<sup>19125</sup> The Chamber considers that, as it has found in relation to similar orders which explicitly promoted respect for international humanitarian law which were issued earlier in the conflict, the Accused's actions were insufficient to prevent criminal acts. (Now, the Chamber shifts it's position to “insufficiency to prevent criminal acts”? All the President did throughout the war was accompanied with the prevention of criminal acts. In all and every order there was mentioning the international laws, although it was ordered once and for all at the very beginning of the war, but repeated very frequently. What any president could do more, than to issue the scirtest orders, and make the subordinates responsible for carring the orders out? At ste sugestions of the internationals, President Karadzic frequently made his orders and appeals in favout of the respect of humanitarian laws public, so that the Serb population knew the position of the leadership! But, very often it didn't depend on the Serb orders, or the Serb conduct, because if the other side dictated another moves, no orders could help it!) Further, in relation to the apparent choice given to the civilian population as to where to live or move to, the Chamber finds that in light of Deronjić's subsequent actions, including the fact that he held a meeting in Srebrenica that night, where he appointed directors for all public enterprises and institutions, and his subsequent attendance at the second and third Hotel Fontana meetings, where Mladić— despite explicit statements indicating that the population's wishes would be respected— coerced the representatives of the Bosnian Muslims into agreeing to leave the enclave,<sup>19126</sup> Deronjić clearly did not give effect to this provision of the Accused's order. (Deronjic had deciesed, and the Defence in this case is not proud of him and his agreement with

<sup>19124</sup> See para. 5694.

<sup>19125</sup> See para. 5693.

<sup>19126</sup> See paras. 5691, 5695, 5697, 5703.

the Prosecution, but for the sake of truth, Deronjic couldn't do any more to keep the civilians in Srebrenica. First of all, the international documents confirmed that all the citizens wanted to leave the town even prior to its fall. Further, the civilians went to Potocari without any influence by Deronjic or by anyone from the Serb side. Further, at least two third of the population was originating from the other municipalities, and parts of their families were elsewhere, and this part of the refugees would certainly leave at any cost. Nobody forced the Bosnian Muslim civilians to leave. They came to Potocari with the intention to leave from the beginning of the crisis. #Since it was forbidden by the Muslim authorities, many stayed in Srebrenica because of not having any other alternative. See: D03401 , Akashi to Anan, suggestions for the Resolution:

2) Paragraph 5 should take account of the fact that, according to UNHCR, a great majority of the residents of Srebrenica do not wish to remain there. They are already displaced persons from elsewhere and will wish to move on. UNHCR is also not certain that it can support the complete population given the increased lack of space and housing that now prevails in the enclave.

This is only one of many evidences that the civilians wanted to leave, but had been kept as a hostages of their Army. But, as a rule, the UN Court doesn't respect the documents of the highest UN officials, and rather pays an attention to the "opinions, believes and impressions" of a low ranking UN clerks! See the repeated report of the UN No. 1 in BiH, Ambassador Akashi to the Security Council and Anan, 11 July 1995, D1039:

b) UNHCR reports that 80% to 90% of the population of Srebrenica (total pop is 40,000) are displaced persons who fled fighting earlier in the war, thus they do not have long-standing ties to homes and property in the enclave, and will probably be interested in leaving for Tuzla. A UNHCR local staff member in Srebrenica reported today that virtually everyone in the enclave wishes to leave. The UNHCR SE will discuss this issue, as well as immediate humanitarian requirements, in a meeting tomorrow in Tuzla with the Bosnian Minister for Refugees, Mr. Cero. Following consultations with the Bosnian government, and in order to avoid a continuing humanitarian catastrophe, agreement will be solicited from the Bosnian Serbs to allow all residents of Srebrenica, including all men, to leave for Tuzla if they so wish. The Dutch will be instructed to remain in the Srebrenica enclave at least until arrangements have been negotiated and finalized with Bosnian Serb authorities for the departure from the enclave of those people. Ideally, UNPROFOR will maintain an armed and substantial presence in the enclave at least until the departure from the enclave of all those wishing to leave has been completed. This preference will need to be balanced against the Dutch government's desire to evacuate its forces from Srebrenica with the shortest delay. UNPROFOR with the support of UNHCR will also endeavor to reach agreement with the Bosnian Serbs to escort any convoy of refugees from Srebrenica to Tuzla. It is likely that the BSA will resist this. In such a case, we would maintain a presence with the refugees prior to their departure from the enclave; UNHCR would place international staff members with each of the departing convoys. The convoys would transit approximately 60 kilometers of Bosnian Serb controlled territory en route to Tuzla.

So, not only the UN estimated that the vast majority of the current inhabitants want to leave the town, but the UN preferred the solution! Further, the same document D1039:

a) UNHCR will immediately begin negotiations with the Bosnian Serbs for: i) the provision of emergency food and medical supplies for the people in Srebrenica, particularly the wounded and the approximately 25,000 displaced by the fighting; ii) the safe, rapid and orderly departure from Srebrenica of all those people, including men of military age, for Tuzla, beginning with the evacuation of the wounded on an emergency basis. This will be a massive logistics operation, beginning potentially as early as 13 July. Although modalities for determining the free will of people for the departure are yet to be decided, they will in any case be rough and approximate, perhaps as simple as anyone coming to a bus and stating they want to leave. The UNHCR Chief of Mission for Bosnia is in Banja Luka and will try to travel to Pale tomorrow, depending on the security situation and on authorization from the Bosnian Serbs. We can however expect resistance from the BSA to a rapid and safe departure of all those wishing to leave. Particularly, the BSA may try to link the departure of Muslims from Srebrenica to the departure of Serbs from Sarajevo or Tuzla. The BSA is also likely to separate the military age men (16 to 60 years old) from the rest of the population, an eventuality about which UNPROFOR troops will be able to do very little. The fact that the BSA will have practical difficulties controlling 40,000 people may mitigate against its desire to prolong or exacerbate the plight of the Srebrenica population. As a side note, UNHCR advises that it would face substantial practical difficulties caring for 40,000 people in the conditions that now exist in Srebrenica, and is of the opinion that the population would prefer to leave for Tuzla, and would be much better cared for there.

**Now, how any chamber all over the world could have establish that it was a forceful displacement of the Muslim population from Srebrenica? The UN Court didn't respect the most competent reports of the UN most prominent representatives and agencies, such as Akashi and UNHCR!**

5811. The Chamber also finds that the Accused adopted and embraced the expansion of the plan to entail the killing the Bosnian Muslim men and boys in Srebrenica during his conversation with Deronjić on the evening of 13 July. **(#Really unbelievable! The Chamber is inventing something that can not be proven, that is a criminal "planting" of a lie!# what is the basis for that???# Why the President would do that, for the first time at the end of the war? He must have been mad, or stupid. And if he really "embraced" that, so many witnesses would charge him, accuse him without any guilt plea, and in a more clear manner. Also, there would have to be a traces of his knowledge and even acceptance in his multiple communications those days, or later!)** Given the Accused's position as RS President and Supreme Commander, as well as the evidence demonstrating the continuous flow of information he was seeking and receiving from the ground from many different sources the Chamber considers that the Accused must have known about the killing aspect of the plan to eliminate at some point prior to his conversation with Deronjić in the evening of 13 July. **(#The Chamber is inventing and committing a crime against President Karadžić! The manner "must have known" is something new in the jurisprudence, and originates rather from the Inquisition, or Stalin-Hitler courts. Who was this between the perpetratores and President Karadžić who knew what was going to happen? Not a person! Particularly not those who contacted the President! Then, how could the President have known anything? If there is no any evidence, and in spite of the evidence that shades more that impressive doubts, there is a new institute: "must have known"! the UN is fully responsible for this distortions, and should revise this and all other dubious cases! There is no evidence that such a plan ever existed, let alone before 8:10 p.m on 13 July. Nothing and nobody knew or felt anything to this direction!)** However, the Chamber can only make a positive determination as to the Accused's agreement to the expansion of the means so as to encompass the killing of the men and boys as of the moment of the conversation with Deronjić. The Accused's shared intent is reaffirmed by the fact that, from the moment he directed Deronjić to move the detainees to Zvornik the Accused



became, and subsequently continued to be, actively involved in overseeing the implementation of the plan to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys. **(#Again, it must be returned to “Zvornik” which never happened, was never pronounced, had never been understood. All of it looks like a spite and malice within an insult!)**

5812. The Chamber recalls that, throughout the relevant period, the Accused actively monitored the international media’s coverage of the events in Srebrenica, as he was concerned about the coverage of such events.<sup>19127</sup> **(Once again, the international media were lying all the times, and the President watched it only for the purpose to see what the international community wants to do next. A notorious bias of the international media contributed to the sufferings of this region immensely!)** The Chamber has already found that, during this time, the Accused, together with Mladić, embarked on an effort to disseminate false information about the fate of the Bosnian Muslim males as well as the conditions under which the remainder of the Bosnian Muslim population was transferred to Potočari.<sup>19128</sup> **(President Karadzic didn’t thing “together with Mladic” since Mladic was occupied at Zepa, while the President travelled to the western part of the country where there had been a huge offensive of the allied enemies! There is no any confusion as to how the civilian population got to Potocari. It was ordered by the local Muslim authorities, and carried out with the help of UNPROFOR. The very same international community, i.e. the countries that usurped this title, would never let any spy to enter the battlefield, and this wasn’t a decision of President Karadzic, this is a sovereign right of the Army, not the civilian authorities, when it is safe to let the non-combatants to approach a battlefield. All other is commented in para 5786. The Chamber “established” one wrong “finding and further used it as a fact and proof!?)** The Accused also denied international organisations access to Srebrenica and the Bratunac and Zvornik areas.<sup>19129</sup> In the Chamber’s view, given the Accused’s nearly-contemporaneous knowledge of the ongoing killing operation, the only reasonable inference is that by disseminating false information, the Accused intended to shield the true actions of the Bosnian Serb Forces from international attention and intervention. **(But “the nearly-contemporaneous knowledge of the ongoing killing operation” was itself a very unconvincing inference, but here is used as if it was a firm evidence. An inference upon another, and this manner applied endlessly, from the beginning to the end of the Judgment!)**

5813. Furthermore, from the point at which the Accused ordered the detainees to be transferred to Zvornik **(Again!?)** until the spring of 1996, the Accused took no action to initiate investigations or prosecutions of the direct perpetrators of the despicable crimes committed in the Bratunac and Zvornik areas following the fall of the Srebrenica enclave to the Bosnian Serb Forces in July 1995.<sup>19130</sup> Neither the 23 March 1996 Order nor the 1 April 1996 Order resulted in *bona fide* investigations or prosecutions.<sup>19131</sup> **(#The contradiction**

<sup>19127</sup> See para. 5785.

<sup>19128</sup> See paras. 5786–5787.

<sup>19129</sup> See para. 5788.

<sup>19130</sup> See paras. 5793–5796.

<sup>19131</sup> See paras. 5793–5795. The Chamber also finds that, while it did not receive evidence as to the Accused’s direct participation in the reburial operation conducted in September–October 1995, an inference can be drawn from the conversation between the Accused and Mladić on 22 March 1996, about the Accused’s knowledge of the operation. See para. 5793. See also Prosecution Final Brief, para. 812 (alleging that, once it became apparent that the international community had learned of the Srebrenica killings, VRS, MUP, and civilian authorities, with the Accused’s approval, **(what “the Accused’s approval??? The Accused undertook the first practical steps immediately after something more than a pure propaganda, i.e. when Ms. Albright found some surface remains)** engaged in a highly secret and co-ordinated operation for the reburial of bodies to more remote areas).



discloses that the Chamber itself doesn't believe that President Karadzic even knew let alone ordered the transport to Zvornik, otherwise wouldn't conclude that he didn't initiate an investigation until the spring 1996#. # AS A MATTER OF FACT, PRESIDENT KARAD@IJ INITIATED AN INVESTIGATION ALREADY ON 16 JULY 95, CALLING DERONJI AND ORDERING HIM TO ASSURE HIM WHAT THERE HAPPENED!# President Karadzic had many, many arguments with the VRS on the basis of the false accusations and information from the internationals, which was trusted by the President. If there was no such a propaganda campaign in the occasion of the Cerska fall, it would be a reasonable inference, let alone so many examples of a mere lies from the beginning of the war. What the President did was the only reasonable: on the allegations that a thousands of civilians had been executed in Srebrenica, he asked the Commisioner for the civil affairs whether there was any truth in it, and got a confirmation that nothing similar happened, signed by the Muslim and the UN representatives. Had the three who signed this document on 17 July had known anything about killings of the POWs 80 km far from Srebrenica, they wouldn't sign anything! #IN 1996 THERE WAS A NEW ELEMENT, A SURFACE REMAINS DISCOVERED, AND THE PRESIDENT ORDERED THAT EVERY SINGLE DEATH CONNECTED TO SREBRENICA BE INVESTIGATED#!) By contrast, on 20 July 1995, the Accused's office issued a press release congratulating the units of the Bosnian Serb Forces which had been involved in the killing operation in Zvornik—the Main Staff, Drina Corps and “Staff of the Police Armed Forces”<sup>19132</sup>—on the “brilliant victory in Srebrenica and Žepa”.<sup>19133</sup> (This should have been taken as a defence argument: who except a fool, stupid and mad man, supposedly knowing about the crimes, would do that? Wouldn't it be more reasonable to distant oneself from it, particularly since the relation with the Army, the Main Staff and Mladic, was so bad?) In the following weeks, the Accused reiterated this praise in an interview with Bosnian Serb television, where he referred to Mladić as a “legend”.<sup>19134</sup> (But it was to the contrary, a self-criticism, praising other generals as the unjustifiably neglected, though they had been a very capable commanders! Such an abuse of this interview must have been done by a

<sup>19132</sup> The Chamber understands the reference to the “Staff of the Police Armed Forces” to be a reference to the MUP units dispatched to the Srebrenica area under Borovčanin's command. This “undertanding” is completely wrong, because it was well known that the “Staff of the Police Armed Forces” had been established at Pale far before the Srebrenica action, and in the occasion of the Muslim fierce offensive in the Sarajevo area. This fights were much more important to the Serb side, than the one in Srebrenica, where it wasn't meditated to take the town, because “not to succeed” in Srebrenica wouldn't be any cathastrophe, while “not to succede” in the defence of the Serb Sarajevo would be as equal as catastrophe for the entire RS. If it was not a case, the “Staff of the Police Armed Forces” would have been located scoler to Srebrenica. There was enough of evidence that it was the Staff in Pale.

<sup>19133</sup> See para. 5789. The Chamber also notes that the Accused indeed promoted Krstić on 13 July and heralded both him and Živanović as “the main architects” of the “brilliant victory in Srebrenica and Žepa”. See para. 5789, fn. 19673. (This was with the aim to supress the Mladic's arrogance and to rectify an unjust negligence of the other generals. But, again, had the President have known about any crimes, he wouldn't do that befor an investigation, and Mladic would be fired easily, and returned to Milosevic, whom he visited all the time, without notifying the President!)

<sup>19134</sup> See fn. 19676. The Chamber recalls that before issuing the 23 March 1996 Order, the Accused warned Mladić that, “[i]f they expand the campaign then they would form a joint commission [...] to investigate the killing of every individual”. P1490 (Ratko Mladić's notebook, 16 January–28 November 1996), e-court p. 47. In the Chamber's view, the fact that the Accused forewarned Mladić is yet another indication that the Accused shared the common purpose to eliminate the Bosnian Muslims in Srebrenica. See para. 5793. But, quite all the way around: The “campaign” meant that the internationals and Muslims were making a propaganda campaign, and a very fact that the President considered it as a campaign, which could be fought only by a thorough investigation of every single death case, shows to a contrary conclusion. And had there been any “common plan” the members of the Main Staff would oppose this intention of the Accused, “reminding” him of this “plan.”

**very malicious and inexperienced young associates of the Chamber, who assumed that everything was allowed against President Karadzic!**

5814. Based on all this evidence, and taking into consideration that the Accused knew of the concrete plan of eliminating the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men as of the evening of 11 July, and participated in that plan; and that he agreed to and embraced its expansion to encompass the killing of the able-bodied men and boys as demonstrated by his conversation with Deronjić on the evening of 13 July as well as his subsequent actions, the Chamber is satisfied beyond reasonable doubt that the Accused shared the common purpose of eliminating the Bosnian Muslims in Srebrenica with the other members of the JCE. **(BRAVOOO! One couldn't err more!)**

*iv. Accused's contribution to the Srebrenica JCE*

5815. Having established above that the Accused shared the common purpose of eliminating the Bosnian Muslims in Srebrenica, the Chamber now turns to the means through which the Accused significantly contributed to the Srebrenica JCE. In assessing whether the Accused made a significant contribution to the Srebrenica JCE, the Chamber has limited its examination to the Accused's acts and conduct during the period of this JCE. In this regard, the Chamber recalls its finding that the common plan to eliminate the Bosnian Muslims in Srebrenica was formed as the enclave fell and that although this objective initially encompassed the forcible removal and persecution of the Bosnian Muslims in Srebrenica, some members agreed to an expanded objective which involved the killing of the Bosnian Muslim men and boys.<sup>19135</sup> **(A speculation over speculation! Who were those? The #President never knew any of the involved: Beara, Popovic, M. Nikolic, D. Nikolic, D. Obrenovic, or any other of the commanders and the alleged perpetrators. Except for Beara, he never heard about names of the others, and with Beara the President didn't exchange a single word ever, mainly because of a huge ideological distance!)**

5816. The Chamber has already found above that the Accused knew of the concrete plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men as the long-term strategy aimed at removing the Bosnian Muslim population from Srebrenica began to be transformed into a concrete plan to eliminate them, as the enclave fell, and that he agreed to the further expansion of that plan so as to involve killings, at the latest during his conversation with Deronjić on the night of 13 July.<sup>19136</sup> **(Fortunately, no other but this "evidence" and it shouldn't be difficult to dismantle it! Not even an "easy believer" would believe it!)**

5817. In relation to the removal aspect of the plan to eliminate, the Chamber recalls that the Accused used his *de jure* powers to issue orders establishing Bosnian Serb municipal structures in "Serb Srebrenica"; this included the appointment of Deronjić as civilian commissioner and the formation of the SJB.<sup>19137</sup> As the Chamber has already found, the establishment of such structures demonstrates that the removal of the Bosnian Muslim

<sup>19135</sup> See paras. 5731, 5736–5737.

<sup>19136</sup> See paras. 5805–5814.

<sup>19137</sup> See para. 5693. The Chamber further recalls that in addition to the written orders he issued, the Accused took the time to reiterate and reinforce over the phone, at least once, his written orders. See para. 5694. **So what? Was anything illegal in those orders?**

population from Srebrenica was envisaged to be permanent.<sup>19138</sup> **(No action during the war could mean anything like that, and there were many, many proofs that the most decisive factor in determining the territorial matters was the Conference on BiH. And President Karadzic himself reiterated, even before the war, and throughout the war, that the territorial issues are going to be resolved by the political talks, and that a “fait accompli” wouldn’t be accepted! But, the weakest side of this ridiculous finding is that Srebrenica or any other settled place could have done better without any authority, free for any kind of crime, irregularities and unlawful conduct. This was rather an #EXCULPATORY fact, particularly since the only civilians that were to be protected were the Muslim civilians, for whom President Karadzic didn’t know that were moved to Potocari, and that all, the domestic people and refugees, would want to leave to Tuzla!)** Further, during the take-over, the Accused issued an order which allowed for his continued oversight and control of the restrictions on the access of humanitarian convoys to the enclave, which had the practical effect of limiting international access to the enclave.<sup>19139</sup> All of these orders were carried out as instructed by the Accused.<sup>19140</sup> **(#Quite contrary#, the Committee had been established because of frequent misunderstandings between the VRS and the humanitarian organisations. The President was invited many times to help in these misunderstandings, and he got praised from Sadako Ogata of the UNHCR and other organisations. It was well known, from the evidence that the President, as well as Mr. Koljevic and Plavsic were in favor of the unhindered flow of the humanitarian aid. There are the President’s very sharp letters to the Main Staff of the VRS complaining a misdemeanour in the passing of convoys. See: (RK Letter to Milovanovic, and many other letters pertaining to the issues of convoys, and humanitarian aid, see: D2172**

Following decision number 01-400/93 dated 18 December 1993, the Main Staff of the Army of Republika Srpska and the relevant republican organs are required to establish a single system for the functioning of humanitarian aid, and in this connection, the work of humanitarian organisations.

Since, in the meantime, there has been certain disagreement between some organs regarding the implementation of this decision, we reiterate that this decision remains in force, and that anybody involved in the organisation, approval or monitoring of the passing of humanitarian aid convoys travelling on the roads in Republika Srpska must strictly comply with it.

At the same time, we need to point out the fact that any non-compliance with this decision, or any act of undisciplined behaviour and misconduct has damaging consequences for the reputation of Republika Srpska and reduces our readiness to create the necessary conditions for the unhindered work of humanitarian organisations and all other providers of humanitarian aid.

**So, the presidential orders in favour of the humanitarian missions were always in force, and had been frequently reiterated!)**

5818. In relation to the killing aspect of the plan to eliminate, the Chamber recalls that when the Accused spoke to Deronjić, who desperately wanted to avoid the Bosnian Muslim males being killed in Bratunac, at approximately 8 p.m., far from intervening to prevent the killings from taking place at all, the Accused himself ordered that the Bosnian Muslim male detainees who were then being held in Bratunac be transferred elsewhere; they were then taken to Zvornik and killed.<sup>19141</sup> **(This shameless construction is repeated endlessly, but not founded in any evidence!)** The Chamber also recalls that, as President of the RS and

<sup>19138</sup> See para. 5694.

<sup>19139</sup> See para. 5761.

<sup>19140</sup> See paras. 5693–5694, 5761, 5787–5788.

<sup>19141</sup> See paras. 5772, 5805, 5814.

Supreme Commander of the VRS, the Accused had *de jure* authority over the VRS and the MUP which he exercised in fact;<sup>19142</sup> Deronjić, as civilian commissioner of Srebrenica, answered directly to the Accused.<sup>19143</sup> Accordingly, the Accused was the sole person within the RS with the power to intervene to prevent the Bosnian Serb Forces from moving the detainees to Zvornik to be killed.<sup>19144</sup> **(All founded on an illusion! For how long it is going to be repeated?)** Mladić's order, which was consistent with the Accused's decision to move the detainees to Zvornik, was almost immediately communicated down the chain of command and ultimately implemented by members of the VRS security organs, including Beara and Popović, who have been found by the Chamber to have been members of the Srebrenica JCE.<sup>19145</sup> **(It is pathetic, to assert something that never happened. Who mentioned Zvornik? How Mladic communicated with the President and when? Was the President anaesthetized? Had it ever been established beyond any doubt that the telephone conversation of the President was with General Mladic? Mladic would never miss to speak to the Serbs from America, but it didn't happen!)** Furthermore, during a briefing of VRS officers at the Standard Barracks on the following afternoon, Beara stated that he had received an order from "two Presidents" to "get rid" of the detainees who were then being held in various locations in Zvornik.<sup>19146</sup> The Chamber is thus satisfied that the Accused's order to move the Bosnian Muslim males of Srebrenica enabled their transfer to Zvornik, where they were ultimately killed. **(In a sharp contradiction to this construct stays the Deronjic's assertion that he stopped Beara of housing (or killing) of the POW-s in Bratunac simply by using the President's name. Had it been agreed with the President, Beara would strongly oppose to a low rank Party official, by using the same, or Mladic's name. Did Deronjic inform anyone else in Bratunac about such a drastic event that was notified to him? If not, why. One would alarm all living people! But, a "guilt plea agreed" witnesses are free to lie if it saved their agreement, and both the Prosecution and the Chamber knew it!)**

5819. The Chamber also recalls that, with full knowledge of the ongoing killing operation, the Accused declared a state of war in the area of Srebrenica–Skelani Municipality on 14 July, and created the War Presidency of Srebrenica–Skelani Municipality, appointing Deronjić as the president of that body.<sup>19147</sup> **(First of all, at that time there was no any killings except in the Kravica incident. Second, there are many evidences already mentioned by the Chamber itself, that there was a formidable force of the BH Army all around Srebrenica and Skelani, and it was a general concern that they may have attacked and taken Bratunac, and in the later moments Zvornik or any place!)** The Chamber recalls that by the time the Accused issued these orders, the Bosnian Serb Forces had already taken Srebrenica and thus, there was no military reason to declare a state of war. **(The Chamber itself confirmed that there had been a fierce fightings all around Srebrenica even several weeks after the fall of the town! There were, and could be number out, from this very Judgment!)** The declaration of the state of war had the practical effect of allowing the armed forces deployed in the area of responsibility of the Drina Corps, which also encompassed the Bratunac and Zvornik municipalities, to utilise all human and material resources without having to follow complicated procedural

<sup>19142</sup> See para. 3157.

<sup>19143</sup> See paras. 5693–5694.

<sup>19144</sup> The Chamber recalls the Prosecution's claim that the Accused's failure to take measures to prevent his subordinates' involvement in crimes he knew were being committed pursuant to the Srebrenica JCE constitutes a contribution to such JCE. See para. 5749. However, in light of the Chamber's finding that the Accused came to know of the crimes at the latest by approximately 8 p.m. on 13 July, this contribution is irrelevant for the crimes committed prior to this time. **Not proven at all. If everything relies upon this conversation, then it must be clarified and removed as a false brick.**

<sup>19145</sup> See paras. 5711–5712.

<sup>19146</sup> See para. 5715.

<sup>19147</sup> See paras. 5777, 5779.

protocols,<sup>19148</sup> thus facilitating the ongoing killing operation. **(No matter what was the AOR of the Drina Corps, the state of war concerned only with what was written on the paper, and no other areas. Beside that, the obedience to the law was much stricter, particularly for the Army, if there was a state of war proclaimed! So, any possible perpetrator of a war crime was in a worse position if the state of war was in force!)**

In this regard, the Chamber recalls specifically that, as early as 14 July, the burial of bodies at Glogova began, with the assistance of civilian resources.<sup>19149</sup> Civilian resources were also used to assist in the burial of bodies of those killed at the various facilities in Zvornik over the following days.<sup>19150</sup> The Chamber therefore finds that the Accused's issuance of these orders facilitated the smooth execution of the killing aspect of the plan to eliminate. **(This is an absurd. The civilian authorities had their services tasked to bury every body of the Serb killed soldiers, every enemy soldier, and even a bodies of animals killed during a fight. So the services did in every single municipality, without any state of war! There should be useful if the Chamber and the Tribunal generally knew a bit more about the domestic laws!)**

5820. As the Chamber has described in detail above, the Accused utilised numerous channels in order to obtain information from the ground, which enabled him to maintain constant oversight over the plan to eliminate the Bosnian Muslims in Srebrenica as it unfolded. Such means of monitoring included regular written reports from both the Main Staff and the Main Staff Security Organ, as well as the MUP, all of which described the transport of the Bosnian Muslims from Potočari as well as the existence of and efforts to intercept the column of Bosnian Muslim men and capture its members.<sup>19151</sup> **(A president that needs “many channels” of information didn't have a single reliable, otherwise he wouldn't need so many. Was any of those documents containing any information pertaining to killings, or any crime? The President knew only what was passed to him, and this is very known to the Chamber, there was no other information, and no “inference” can help in that!)** The information contained in these reports was augmented by conversations with Živanović in the very early hours of 12 July and with Mladić on the afternoon of 13 July.<sup>19152</sup> **(When there was a conversation with Zivanovic, there was nothing irregular or illegal matters to report to the President. Even if it was Mladic to talk to President Karadzic, which wasn't, at that time there was nothing to mention or report about any killings, including the one in Kravica, which happened after this conversation!).** By the time the Accused spoke to Mladić, he had already sent Kovač to the field, where the latter met with Mladić and spent more than 24 hours touring the Srebrenica area before returning to Pale and briefing the Accused on the following day.<sup>19153</sup> **(This way the Chamber could sentence anyone in the world. The Minister Kovac was on his own schedule, controlling the part of police that was policing in Srebrenica, i.e. these police forces that hadn't been subordinated to the VRS, and the President didn't sent anyone anywhere!)** The Accused also received information from personal contacts, such as Deronjić—who he appointed as civilian commissioner of Srebrenica—and Bajagić, who came to Pale at the Accused's request in the early morning hours of 15 July in order to share his observations of the events in Srebrenica with the Accused.<sup>19154</sup> **(A completely unfair “set up”, since Bajagic didn't come to Pale “in the early morning hours of 15 July”, but**

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<sup>19148</sup> See para. 5779.

<sup>19149</sup> See paras. 5248–5249.

<sup>19150</sup> See paras. 5402, 5444–5445.

<sup>19151</sup> See para. 5801. The Chamber recalls that after 14 July, the Main Staff's daily combat reports no longer mentioned any Bosnian Muslim detainees, but notes that they—along with reports from MUP—described efforts to intercept the column. See para. 5801.

<sup>19152</sup> See paras. 5762, 5768–5770, 5803–5804.

<sup>19153</sup> See paras. 5771, 5775, 5780–5781.

<sup>19154</sup> See paras. 5693, 5761, 5777, 5783.



came in the evening hours of 14 July, and only had been admitted by the President just after midnight between 14 and 15 July 95. Such a weak case really needed such a dishonest distortions!) It is thus clear to the Chamber that the Accused maintained a close overview of what happened in the aftermath of the Bosnian Serb Forces' take-over of Srebrenica. This finding is consistent with the fact that, merely 90 minutes after Pandurević reported to the Main Staff that he had opened a corridor to permit members of the column to pass, a Main Staff officer called the Zvornik Brigade on behalf of the "the boss [...] the main head of state" (Not at all, impossible, and #wrongly understood the language#. It was a partial repetition of the previous sentence, "need a permission from the head of state". It seems that no facts matter, no logics, no proper translations, nothing can and did matter!) in order to enquire what had happened.<sup>19155</sup> At the same time, Karišik was sent to Bratunac for the same purpose, and by 4:15 p.m., he had informed the Accused that the corridor was open.<sup>19156</sup> (How come this is allowed to the Chamber to build up information and facts without any basis? Karisik wasn't "sent" because of that, but he had a captured policemen there, and this was his reason to be there, and the President didn't know he was there at all, nor the President knew where the other officials had been in exercising their duties. The Chamber imagined the Serbs in Bosnia as a well organized gang led by the President as an all-mighty boss, which is as far from the truth as the sky is far from the earth! There were institutions that the Serbs created from the "grass roots", left without any state infrastructure, but once established, it improved the rule of law.) The Chamber recalls that that night, further reinforcements were sent to the Zvornik area, and the following day, the Main Staff sent three colonels to investigate Pandurević's decision.<sup>19157</sup> While the Chamber cannot draw any conclusions as to whether these latter two actions were taken pursuant to a specific order of the Accused, the Chamber finds that they were consistent with the tenor of his oversight, as had the Accused intended for the corridor to remain open, he would have issued such an order. (It was completely unnecessary for the President to issue an order for something that had been done already by the local commander, within a limited and prolonged time period. The purpose of the Karisik's call was to secure a back up of Pandurevic had he been tried and punished. The Colonels went only to make a record, not to investigate and prosecute, which really didn't happen. Had the President denied the opening of the corridor, Karisik would have to return to Pandurevic and tell him to close it. Since he didn't return, Pandurevic continued his intent, never punished, but to the contrary, was promoted to the rank of General!) Particularly given his position as President of the RS and Supreme Commander of the VRS, and the extent of his contemporaneous knowledge as described in more detail above, the Chamber considers that such oversight, coupled with the fact that the Accused made no other attempt to interfere with or influence what was transpiring on the ground, furthered the objective of eliminating the Bosnian Muslims in Srebrenica. (#Who can be proud of such an awkward conclusion?#)

5821. In the preceding paragraphs, the Chamber has identified the various ways through which the Accused furthered the common plan to eliminate the Bosnian Muslims in Srebrenica. Based on the abundant evidence before it, and considering the totality of the Chamber's findings in this regard, as well as the functions and positions of the Accused at the time—particularly the *de jure* authority over the VRS and MUP which he exercised in fact—and the impact of his acts and omissions on the implementation of this JCE as set out above, the Chamber finds that the Accused significantly contributed to the Srebrenica JCE. (If this deliberation survives, this would be a "pearl" of the international justice. All

<sup>19155</sup> See para. 5784.

<sup>19156</sup> See para. 5784.

<sup>19157</sup> See paras. 5472, 5474.

evidence is a dubious, and inferences, one after another, and one upon another, everything is there, but no foundation. In 1993 the Muslim side terrorised the entire region killing many Serb soldiers and civilians, robbing and massacring, and the VRS undertook a counteroffensive, as could be seen from D4481, a General Wilson's report to Lord Owen, #a perfectly legitimate# D4481:

1. The events of the past month have been dominated by the Serb offensive against the Srebrenica pocket. This can largely be viewed as a response to the successful Muslim offensive in the area during December and January. It appears now that the Muslims overextended themselves and made a successful Serb counter-attack possible. As of today, the Serbs have reduced the pocket to the extent that it is no longer a military threat to their lines of communication in Eastern Bosnia. The Serbs may yet have an unfulfilled aim of bringing to justice those Muslims who were responsible for the massacres in Bratunac in December and January.

**President Karadzic stopped the advance of his Army and prevented the entrance of it into Srebrenica. He forbade any investigation of these massacres that Wilson recognised, in order to avoid any revenge (see D43)**

1. Cease all operations of the Army of Republika Srpska against Srebrenica and its surroundings, except for those of necessary defence.
2. Stop the forces of the Army of Republika Srpska at the positions reached and prevent their entry into Srebrenica.
3. Facilitate the passage of all humanitarian convoys both entering and leaving Srebrenica.
4. Ensure pacification of the town in such a way that Muslim forces surrender weapons to UNPROFOR, who will then store them on a two-key basis, jointly with the Serbian forces.
5. After the surrender of weapons, all the Muslim soldiers will be treated like all other civilians.  
Provide protection for all civilians and give them the liberty to choose between leaving and staying.
6. Do not conduct any investigations into war crimes until the situation around Srebrenica is settled.
7. Carry the order out immediately and fully and inform me thereof.

PRESIDENT OF THE REPUBLIC  
Dr. Radovan KARADŽIĆ  
/signed and stamped/

**and accepted that Srebrenica be a "safe zone" and demilitarized according to the two sides Agreement. General Milovanovic executed this order of President Karadzic, see the document below, see: D2143**

ORDER:

1. At 0459 hours on 18 April 1993, the Corps Commands and other commands and officers subordinate to them are to ensure a full and total ceasefire in Srebrenica and its surroundings, with all combat operations to cease simultaneously.

The following is understood by a ceasefire and the cessation of combat operations:

- It is forbidden to open fire from all kinds of small arms, artillery and other weapons, and to use mines and explosives and other equipment;
- Cessation of the movement of forces and equipment around Srebrenica, as well as manoeuvres of forces and equipment;
- Bringing in fresh forces and new equipment to the general area of Srebrenica. After the time stated, not a single bullet may be fired from any kind of weapon. Those violating this are to face disciplinary and criminal liability.

**,.....) any allegation by the Prosecution that it was due to the NATO threats is vain,**

because the Defence possesses the lately disclosed correspondence between the President and General Morillon, pertaining to the situation in Srebrenica, which led to the stopping the VRS. It was exclusively General Morillon's influence and his conviction that the processes after the fall of Srebrenica at that moment could not be controlled! A bit earlier the ABiH Commander Sefer Halilovic issued a duplicitous order as the Serbs never did, that the order to cease the fire was only a propaganda, see D343:

REPUBLIC OF BOSNIA AND HERZEGOVINA      DEFENCE OF THE REPUBLIC  
SUPREME COMMAND STAFF OF THE              MILITARY SECRET  
ARMED FORCES                                      STRICTLY CONFIDENTIAL  
S A R A J E V O                                      /handwritten and circled: 96/

Strictly confidential no.: 02/398-2  
Sarajevo, 16 March 1993

To the 2<sup>nd</sup> CORPS COMMAND  
To the COMMANDER personally

In connection with received orders, strictly confidential no. 02/398-1 of 15 March 1993 to cease combat activities, I hereby issue the following

#### ORDER

1. Order strictly confidential no. 02/398-1 of 15 March 1993 is not valid as it was issued for propaganda purposes.
2. Continue the strongest possible offensive operations with the task to reach the areas of Cerska, Konjević Polje and Kamenica as soon as possible and link up with the defence forces of the free territory of Srebrenica.
3. As quickly as possible, by 2200 hours on 17 March 1993 at the latest, select volunteers, prepare them and infiltrate them in the Cerska area.
4. Take energetic measures in the spirit of the law, rules and regulations which regulate relations in the armed forces of the Army of the Republic of BH against all those who fail to in any way carry out orders and show hesitation.

MV/AH

CHIEF of the SUPREME COMMAND STAFF  
of the OS /Armed Forces/ of the RBH  
/Republic of Bosnia and Herzegovina/  
Sefer HALILOVIĆ  
/signature/

#### v. *Accused's responsibility for crimes pursuant to the Srebrenica JCE*

5822. The Chamber has found above that the Accused shared the common purpose of eliminating the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men and by killing the men and boys,<sup>19158</sup> and that he significantly contributed to the plan to accomplish this objective by these means.<sup>19159</sup> The Chamber has also found that the crimes of genocide, murder, extermination, persecution, and inhumane acts (forcible transfer) were committed by Bosnian Serb Forces following the fall of the Srebrenica in July

<sup>19158</sup> See para. 5814.

<sup>19159</sup> See para. 5821.

1995.<sup>19160</sup> The Chamber has further found that these crimes fell within either the original or the expanded scope of that common purpose, which amounted to or involved their commission.<sup>19161</sup> The Chamber will now examine whether the Accused shared the intent for each of these crimes and is thus criminally responsible for them as alleged in the Indictment. **(All the evidence mentioned in this paragraph are other paragraphs of the same Judgment, falsely stating that something happened, although it didn't!)**

(A) Murder, extermination, and inhumane acts (forcible transfer)

5823. As set out above, the Chamber has found that the Accused had contemporaneous knowledge of the plan to eliminate as it unfolded and came to encompass both the forcible removal of thousands of Bosnian Muslim women, children, and elderly men of Srebrenica from the UN Compound in Potočari as well as the killing of thousands of able-bodied Bosnian Muslim men and boys, and that he significantly contributed to the plan which accomplished this. The Chamber thus finds that the Accused intended the crimes of murder and inhumane acts (forcible transfer). The Chamber is also satisfied that, given the vast scale of the killing operation and the Accused's knowledge thereof, the Accused possessed the requisite *mens rea* for extermination.

B) Persecution

**5824.** With regard to persecution, and first the issue of persecutory intent, the Chamber recalls that an accused's intent to discriminate on one of the prohibited grounds may be inferred where the circumstances surrounding the commission of the alleged acts substantiate the existence of discriminatory intent.<sup>19162</sup> **(If we are not stupid, that means that, since the crimes had been committed, it must be that there was an intent of the President, no matter what General Wilson wrote as a report to Lord Owen, see D4481**

1. The events of the past month have been dominated by the Serb offensive against the Srebrenica pocket. This can largely be viewed as a response to the successful Muslim offensive in the area during December and January. It appears now that the Muslims overextended themselves and made a successful Serb counter-attack possible. As of today, the Serbs have reduced the pocket to the extent that it is no longer a military threat to their lines of communication in Eastern Bosnia. The Serbs may yet have an unfulfilled aim of bringing to justice those Muslims who were responsible for the massacres in Bratunac in December and January.

**(#The Muslims committed massacres on the Serbs#! The Chamber didn't believe this UN document!# This way anybody and everybody, every Serb could have been sentenced. How we can exclude any of the Serbs from this "criminal intent", no matter how far they were? The only differentiation, not really discrimination was whether some Muslim fought against the Serb Army, or not, and if captured, those had been considered the POWs, and if made a crimes, then they had been treated by criminals and sued!) In this regard, the Chamber recalls that the plan to eliminate the Bosnian Muslims in Srebrenica was by nature a discriminatory plan targeting the Bosnian Muslims in Srebrenica. (The only thing that was intended was to stop and prevent any further killings by the Srebrenica Muslim Army, committed on a daily basis. This was recognized by General Wilson too, see the document above! Until that time it had never been a goal even to include Srebrenica in the RS. As it can be seen, the Serbs**

<sup>19160</sup> See paras. 5607–5608, 5611–5612, 5618–5620, 5633, 5640–5645, 5648–5654, 5658, 5661, 5666, 5669, 5671–5673

<sup>19161</sup> See paras. 5739–5741.

<sup>19162</sup> See para. 500.

accepted that Srebrenica, Gorazde, Zepa, a half of Visegrad, a half of Foca, a half of Bratuna, Vlasenica, and a half of Zvornik, all along the Drina River, be in the Muslim entity, and had any peace plan (Owen-Stoltenberg) been accepted by the Muslim Government, that would be so. Now, only a large part of Foca, Pale, entire Gorazde plus more territory, and Zvornik are divided between the Serb and Muslim entity. Even in Dayton, President Milosevic offered, on behalf of the Serbs from Bosnia, that Srebrenica be in the Muslim entity, but the Muslims rejected, preferring the surrounding of Sarajevo. This can be seen in the integral record of the talks in Dayton!

The Chamber is thus satisfied that, as detailed above, the Accused participated in and significantly contributed to this plan with the intent to discriminate against the Bosnian Muslims of Srebrenica, and thus with persecutory intent. Earlier in the Judgement, the Chamber found that the circumstances in which the forcible removal of the Bosnian Muslim population of Srebrenica and the execution of the Bosnian Muslim men and boys were carried out were such that they demonstrated that Bosnian Serb Forces deliberately inflicted serious physical and mental suffering on them, and thus amounted to cruel and inhumane treatment, an act of persecution.<sup>19163</sup> Having found that the Accused shared the intent for murder, extermination, and forcible transfer, the Chamber finds that the only reasonable inference from the circumstances in which the removal and killing aspects of the plan to eliminate were conducted, and of which he was fully aware, is that he also shared the intent to subject the Bosnian Muslim population in Srebrenica to cruel and inhumane treatment. (#Inference after inference, after inference#!) No matter that all the previous “findings” were also “the only reasonable inferences”, based on another “inference”, and on another “inference” none of them reasonable, and certainly none of them “the only one”!) Nothing is true, and this is a shameless example!

### C) Genocide

5825. With respect to the crime of genocide, the Chamber recalls that, in order for the Accused to be criminally responsible for this crime, it must be satisfied that the Accused intended to destroy the protected group, in whole or in part, as such.<sup>19164</sup> The Chamber further notes that, as other chambers have held, indications of such intent are “rarely overt”,<sup>19165</sup> and thus intent must often be inferred on the basis of the totality of the evidence, taking into account such factors as the scale of atrocities as well as the systematic targeting of victims on account of their membership in a particular group.<sup>19166</sup> (#Why would President Karadzic, at the end of the war, want to “destroy” anyone? He was approaching the end of the war in a satisfactory conditions, and why would he do something so stupid and irrational? Why this hadn’t been the President’s or anyone in the Serb leadership attitude throughout the war, but appeared all of a sudden at the end of the war that the Serbs had been successfully bringing to an end? Contrary to the Prosecution’s allegations, the only side in BiH that didn’t fail and didn’t lose the war was the Serb side, because the Serbs defended only what they had been entitled to, and what had been offered to them by the international community and its mediators. Why would President Karadzic jeopardize all of that by being in favour of destruction of any group? Either he was insane, or he didn’t do that. In both cases, he is not liable!)

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<sup>19163</sup> See paras. 5644–5646.

<sup>19164</sup> See para. 549.

<sup>19165</sup> *Tolimir* Trial Judgement, para. 745 (citing *Kayishema and Ruzindana* Appeal Judgement, para. 159 and *Gacumbitsi* Appeal Judgement, para. 40).

<sup>19166</sup> See para. 550.



5826. The Prosecution argues that the Accused shared with other members of the Srebrenica JCE the intent to destroy the Bosnian Muslims of Srebrenica, which—taking into account the Accused’s “supreme position”—manifested itself through his acts, omissions, and statements, as well as the systematic, coordinated, and targeted manner in which the genocidal acts were carried out.<sup>19167</sup> As stated at the outset of this section, the Chamber has considered the Accused’s arguments, which were framed as denials of his membership in a “genocidal plan”, in relation to whether the Accused was a member of the Srebrenica JCE above, as they relate primarily to whether the Accused was aware of the killing aspect of the plan to eliminate.<sup>19168</sup> The Chamber has been mindful of those same arguments when analysing whether the Accused intended to destroy the Bosnian Muslims in Srebrenica, as set out in the analysis below.

5827. The Chamber has already established that the Accused participated in the plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men and killing the men and boys with the intent to discriminate against the Bosnian Muslims in Srebrenica.<sup>19169</sup> **(This assertion is absolutely not proven, nor corroborated by any evidence. The Serbs were the last party that accepted the evacuation. All the UN documents named it as an evacuation, see evidence! #A completely unprepared for any evacuation, the Serb side started to collect the vehicles only in the morning of 12 July by ordering and securing it, but didn’t deliver any vehicle before the third meeting.)** However, such discriminatory intent is not necessarily equivalent with the intent to destroy the Bosnian Muslims in Srebrenica as such, which constituted a substantial part of the protected group of Bosnian Muslims.<sup>19170</sup> The Chamber must therefore further analyse the acts and conduct of the Accused detailed above in order to determine whether, in light of his knowledge of the implementation of the plan to eliminate—particularly his knowledge of its killing aspect—it is satisfied that the only reasonable inference is that the Accused intended to destroy the Bosnian Muslims in Srebrenica as such.

5828. In this regard, the Chamber recalls that, in determining that the killings of thousands of Bosnian Muslim males and the acts causing serious bodily or mental harm to thousands of Bosnian Muslims of Srebrenica were carried out with the intent to destroy that part of the protected group as such, the Chamber had particular regard to the fact that the Bosnian Serbs tried to kill every able-bodied Bosnian Muslim male from Srebrenica.<sup>19171</sup> **(First of all, it is not true that the Serbs wanted to kill every able-bodied Muslim from Srebrenica, and this didn’t happen. We have the documents and examples that no others but the alienated group from the Military Security department killed or wanted to kill all able-bodied males! Also, the sentence that “all of the Muslims should be killed” originate from a statement of a dubious witness, and allegedly had been said by someone who neither decided, nor was familiar with any such a plan.** Indeed, the plan, which was carried out by Bosnian Serb Forces who vigorously pursued the Bosnian Muslim males in the column, encompassed the killing of all Bosnian Muslim males within Bosnian Serb custody, irrespective of whether they were combatants or civilians and regardless of whether they were captured or had surrendered.<sup>19172</sup>

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<sup>19167</sup> Prosecution Final Brief, paras. 1096, 1098–1099. The Prosecution points specifically to the Accused’s expression of regret that not all of the Bosnian Muslim men were killed, as well as his efforts to cover up the forcible removal and murder operations, in support of its argument. Prosecution Final Brief, para. 1099.

<sup>19168</sup> See para. 5754.

<sup>19169</sup> See para. 5824.

<sup>19170</sup> See para. 5672.

<sup>19171</sup> See para. 5669.

<sup>19172</sup> See paras. 5669, 5731.

5829. With respect to the intent of the Accused, the Chamber recalls that the Accused was apprised by Deronjić that as of 8:10 p.m., the Bosnian Serb Forces had “about two thousand” Bosnian Muslim males in custody and expected that number to increase overnight.<sup>19173</sup> **(Throuout the war #there were many thousands of the POW-s, and the President never interfered in this matter, since the issue was regulated by the law, and entrusted to the relevant institutions: keeping was entrusted to the MP, exchange was entrusted to many exchange commissions at many levels. Except in 1992, with the quitting the Trnopolje and Manjaca, the President never interfered, and even never was informed about the matter. What would be alarming in the Deronjic’s conversation?)** The Chamber also considers that the only reasonable inference is that the Accused must have learned from Kovač—either during their conversation on 13 July or during their subsequent meeting on 14 July—that most of the able-bodied Bosnian Muslim men had not gone to the UN Compound with their families, but had fled through the woods.<sup>19174</sup> Moreover, the Chamber recalls that the Accused received daily combat reports from the Main Staff, which, after reporting on the existence of the column of Bosnian Muslim males—as well as on the Bosnian Serb Forces’ subsequent organised efforts to intercept it which resulted in the capture and surrender of large numbers of Bosnian Muslim males between 12 and 14 July—made no further mention of detainees.<sup>19175</sup> Accordingly, in view of his awareness of the number of males in custody, in the Chamber’s view, there is no doubt that the Accused knew that the thousands of Bosnian Muslim male detainees being held by the Bosnian Serb Forces in the Srebrenica area constituted a very significant percentage of the Bosnian Muslim males from Srebrenica.

5830. The Chamber therefore takes particular note of the fact that, despite his contemporaneous knowledge of its progress as set out above, the Accused agreed with and therefore did not intervene to halt or hinder the killing aspect of the plan to eliminate between the evening of 13 July and 17 July. Instead, he ordered that the detainees be moved to Zvornik, where they were killed.<sup>19176</sup> **(With so many weak inferences, taking for granted that a previous one was really “the only one”, as a firm evidence, and adding another weak inference, this is a criminal construction. Who said the President “ordered that the detainees be moved to Zvornik, where they were killed.” It is not estalbished nor it will be ever in time!)** Moreover, once Pandurević reported on 16 July that he had opened a corridor to allow members of the column who had not yet been captured or surrendered to pass through, Karišik was promptly sent to investigate and the corridor was closed within a day.<sup>19177</sup> **(#This is an ordinary lie. Karisik wasn’t sent at all, he was there for his own business, #to rescue and free his policemen from the Muslim hands, and Pandurevic, having no possibility to contact Mladic, asked Karisik to inform the President. Had the President disagreed and intended to close the corridor, he would order Karisik to return to Pandurevic and order him to stop the passage. That didn’t happen. And the corridor had been agreed among the two sides, Pandurevic and Semso, how long to be oppened, with a possibility to extend this period, which Pandurevic extended for several hours!)** Finally, the Chamber recalls that although he touted the opening of the corridor when speaking to the international press, in a closed session of the Bosnian Serb Assembly held weeks later, the Accused expressed regret

<sup>19173</sup> See para. 5772.

<sup>19174</sup> See paras. 5804, 5806.

<sup>19175</sup> See para. 5801.

<sup>19176</sup> See para. 5818. The Chamber recalls that it received evidence that the Accused agreed to allow the local staff of UNPROFOR, which included Bosnian Muslim males, to leave the UN Compound with UNPROFOR. See para. 5132. The Chamber considers that the reason proffered by the Bosnian Serb Forces for separating and taking custody of the other Bosnian Muslim males in Potočari—namely that they were to be screened for involvement in war crimes—would not have applied to such staff, and the Chamber finds that this action by the Accused does not raise any doubt regarding his intent that all Bosnian Muslim males in Bosnian Serb custody be killed.

<sup>19177</sup> See paras. 5470–5472, 5784.

that the Bosnian Muslim males had managed to pass through Bosnian Serb lines.<sup>19178</sup> **(#So many repetitions do not make it true#! As we can see from the speech itself, and from other documents (see: speech, report of the Military intelligence of 2 Corpa of ABIH of 17 July and other evidence) this didn't pertain to anyone passing the corridor, but those who forcefully broke through the lines of the VRS, and caused many Serb and Muslim casualties. Those who broke through were a several thousands! Certainly the most abled, while among those that Pandurevic let to pass there were less abled and civilians!)** Accordingly, the Chamber considers that the only reasonable inference available on such evidence is that the Accused shared with Mladić, Beara, and Popović the intent that every able-bodied Bosnian Muslim male from Srebrenica be killed, which, in the Chamber's view, amounts to the intent to destroy the Bosnian Muslims in Srebrenica. **(This is a roof without foundation and walls!)**

i. Conclusion

5831. Having found above that the Accused shared the intent for the crimes of murder, inhumane acts (forcible transfer), extermination, persecution, and genocide, the Chamber finds that by virtue of his participation in the Srebrenica JCE, the Accused is responsible for these crimes.<sup>19179</sup> However, the Chamber notes that because it is only able to determine that the Accused agreed to the killing aspect of the plan to eliminate the Bosnian Muslims in Srebrenica by, at the latest, 13 July at 8:10 p.m., it cannot hold the Accused responsible for the killings and the related acts of persecution which occurred prior to that time through his participation in the Srebrenica JCE.

5832. The Chamber takes note of the Prosecution's alternative allegation that the Accused is responsible for the crimes of genocide, murder, extermination, and persecution as foreseeable consequences of the Overarching JCE.<sup>19180</sup> However, the Chamber considers this allegation to be an alternative charge only if the Chamber had been unable to determine the existence of the common plan to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men and killing the men and boys. Since the Chamber has established the existence of the common purpose of the Srebrenica JCE above, as well as the sharing of this common purpose by a plurality of persons, including the Accused, who significantly contributed to it, the Chamber shall not consider the Prosecution's alternative allegation further. **(So, not even the Prosecution was confident that it had a case against President Karadzic, and offered an alternative way of liability. #Since it had been foreseeable that many revenges may have occurred, President Karadzic once prevented the fall of Srebrenica in 1993#! Not because of NATO, but because of the General Morillons arguments! . This time the ABIH 28<sup>th</sup> Division left the town, and there was no way, as wouldn't be to any president all over the world, to avoid taking the armed stronghold that was protected by the UN in killing so many Serb civilians!)**

2. Superior responsibility

5833. Having found above that the Accused could not be held responsible through his participation in the Srebrenica JCE for the killings which occurred prior to his conversation with Deronjić on 13 July, wherein he agreed to the killing aspect of the common plan to

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<sup>19178</sup> See paras. 5474, 5791.

<sup>19179</sup> In addition, based on all the evidence discussed above, the Chamber finds that the Accused was aware that his conduct was part of a widespread and systematic attack directed against a civilian population.

<sup>19180</sup> Indictment, paras. 43, 59, 64.

eliminate, the Chamber will now consider the Accused's responsibility as a superior pursuant to Article 7(3) of the Statute. In this regard, the Chamber will consider whether the Accused is responsible for failing to punish these killings.<sup>19181</sup>

a. *Submissions of the parties*

5834. The Prosecution generally argues that the Accused is responsible for the crimes in Srebrenica as a superior pursuant to Article 7(3) of the Statute, in his capacity of SDS party leader, President of the SNB, President of the Presidency, Supreme Commander of the VRS, and the acknowledged leader of the Bosnian Serbs.<sup>19182</sup> **(None of this posts had anything to do with the actions of the VRS except the Supreme Commander. However, it is evident that the President handed over his competences of the operational and tactical command to the Main Staff, and therefore didn't deal with this segment, except when urged by the internationals to stop the VRS or help about the convoys. It was not established beyond a reasonable doubt that any of the commanders ordered or approved the killings of the POWs, let alone that the President did it. It is so clear that something happened within an alienated group of a mid-rank officers and a very limited number of perpetrators, collected in a patchwork-like manner! And everything had been hidden from the most immediate commanders out of the circle of this alienated group.)** It adds that the Accused had command and effective control over a vast network of subordinates in the Bosnian Serb Forces and the Bosnian Serb Political and Governmental Organs.<sup>19183</sup> According to the Prosecution, during the Indictment period the Accused knew or had reason to know that his subordinates were about to commit or had committed crimes charged in the Indictment and nevertheless failed to take the necessary and reasonable measures to prevent the commission of these crimes and/or punish his subordinates who perpetrated them.<sup>19184</sup>

5835. The Chamber notes that, as he did above in relation to his arguments regarding his participation in the Srebrenica JCE, the Accused focuses his arguments in relation to his responsibility under Article 7(3) of the Statute for the Srebrenica component on his alleged responsibility for failing to prevent or punish genocide. However, the Chamber will interpret these arguments to pertain to the Accused's responsibility for failing to prevent or punish the killings listed above.<sup>19185</sup>

**5836.** The Accused submits that (i) he lacked knowledge or reason to know that crimes had been committed by his subordinates in Srebrenica, (ii) he lacked effective control over the perpetrators, and (iii) he took necessary and reasonable measures to punish the perpetrators.<sup>19186</sup> According to the Accused, a review of the information available to him as

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<sup>19181</sup> In the context of this case—particularly the Chamber's findings regarding the point at which the Accused came to know about the expansion of the means of carrying out the objective of the Srebrenica JCE—the Chamber considers that the Accused's material ability to prevent the killings which occurred prior to this point is irrelevant. Accordingly, it will only examine the Accused's failure to punish these crimes. **(All the crimes that hadn't been hidden were in the competence of the different state services, and the President, as any other president didn't have any possibility to punish anyone, but only to follow whether the institutions did their job. No president all over the world do otherwise. Since it was a "crescendo" finish of the war, with so many dramatic events, falling of many Serb municipalities under the attacks of a formidable forces of Croatia, and BH Federation, all supported by the NATO and the western countries, there was no any need that the President watch what the institutions were doing. All was registered, and would be processed. For the crimes that remained hidden, the President couldn't do anything!)**

<sup>19182</sup> Prosecution Final Brief, para. 1113.

<sup>19183</sup> Prosecution Final Brief, para. 1113.

<sup>19184</sup> Prosecution Final Brief, para. 1114.

<sup>19185</sup> See para. 5754.

<sup>19186</sup> Defence Final Brief, paras. 3239–3275.

of August 1995, demonstrates that there was nothing to indicate to him that crimes had occurred.<sup>19187</sup> Therefore, the Prosecution has failed to prove beyond reasonable doubt that the Accused knew or should have known that crimes had been committed in connection with the fall of Srebrenica.<sup>19188</sup> Lastly the Accused claims that he took necessary and reasonable measures to punish the perpetrators, even though he no longer was required to request an investigation after the Tribunal indicted him for the Srebrenica events.<sup>19189</sup> In this regard, the Accused argues that, given that he did not have investigative or prosecutorial organs in his cabinet, the only measure he could take to punish crimes was to ensure that the competent authorities were investigating.<sup>19190</sup> He also argues that the Prosecution has failed to establish that he deliberately or wilfully failed to punish the perpetrators, as during and after the killings of the men from Srebrenica, “he was no longer in control of the army”.<sup>19191</sup>

**(No matter what was the President’s position in relation to the Army, the #President does not conduct any investigations. What President was supposed to do was to issue all the necessary orders and task every single commander to follow the rules and provisions of the international law of war and the humanitarian laws and conventions. President Karadzic issued such an order on 13 June 1992, two days later the President issued the Decision of Organisation and Formation of the Army of the Serbian Republic of BiH, handing his competences in the Operational and tactical commands to the Main Staff as a professional body. #The President repeated his orders about respect of the International laws and conventions many times, and followed whether the Commanders spread his orders further to every single unit and private, which really happened. Such the President orders had been obeyed. If somebody on the terrain was disobedient, that was disobedience of the orders of the lower commands, and for many of it President Karadzic didn’t know and wasn’t supposed to know. Only if the judicial system ceased to function and the President was notified about it, he could have intervene to reestablish the system. This is the same as in the countries of the Judges and of all the UN member states!)**

*ii. Crimes committed by subordinates*

**5837.** The Chamber has found above that the killings of Bosnian Muslim males which occurred prior to the Accused’s agreement to the expansion of the means of eliminating the Bosnian Muslims in Srebrenica, which occurred at the latest by 8:10 p.m. on 13 July, were perpetrated by various members of the Bosnian Serb Forces. Specifically, the Chamber has found that ten Bosnian Muslim men were killed by members of the Bosnian Serb Forces present in Potočari on 13 July 1995, all of whom were either members of the VRS or the MUP.<sup>19192</sup> **(However, no evidence that those were the Muslim victims, nor who killed them. #Tolimir was acquitted for this part#. Those could have been either the Serbs, or a combat victims. Simply this wasn’t established. However, the solitary killing in front of the white house had been done by a group of a rogue people, who escaped towards the woods after commission of the crime, which clearly indicates that they did it on their own, and didn’t want it to be known to the Serb authorities or commands! That was confirmed by the Dutch officer’s testimony!).** The Chamber has also found that, on that same day, 15 Bosnian Muslim men were killed in an isolated area on the bank of the Jadar River by members of the Bosnian Serb Forces, including at least one member of the

<sup>19187</sup> Defence Final Brief, paras. 3241, 3252, 3273.

<sup>19188</sup> Defence Final Brief, para. 3275.

<sup>19189</sup> Defence Final Brief, paras. 3239, 3287–3300.

<sup>19190</sup> Defence Final Brief, para. 3289.

<sup>19191</sup> Defence Final Brief, paras. 3298–3299.

<sup>19192</sup> See Sections IV.C.1.d.v.A: Near the UN Compound, and IV.C.1.d.v.B: The White House; para. 5120.



Bratunac SJB.<sup>19193</sup> **(This didn't happen, and all will see when an additional evidence on the KDZ065 be seen. The witness was instructed to lie, he admitted that he was forced to state as if he was "executed" somewhere else, near Kozluk, and his injuries had been of an explosive device, not of a bullet. The Chamber afforded itself to be cheated by anyone who wanted to cheat them!)** The Chamber also recalls that the killings of 10 to 15 Bosnian Muslim at the Sandići Meadow on 13 July were carried out by members of the Jahorina Recruits, who were part of the Bosnian Serb Forces deployed in the area at the time.<sup>19194</sup> Similarly, the Chamber found that the killings at the Kravica Warehouse on 13 and 14 July were carried out by members of the Bosnian Serb Forces deployed in the area, including members of the 3<sup>rd</sup> Skelani Platoon of the 2<sup>nd</sup> Šekovići Detachment.<sup>19195</sup> Finally, the Chamber recalls its finding that the killing of at least 50 Bosnian Muslim men in Bratunac town between 12 and 14 July, and the killing of a mentally challenged man outside the Vuk Karadžić School in Bratunac on the evening of 13 July, were carried out by members of the Bosnian Serb Forces.<sup>19196</sup> **(Certainly, by the members, not by the forces, because all of these killings were a private revengeful killings of a certain, not any, but chosen people, either by names, or by a villages of residence.)** In this regard, the Chamber recalls that the Bosnian Muslim men being detained in Bratunac town starting on the afternoon of 12 July were guarded by members of the Bratunac Brigade MP and the MUP.<sup>19197</sup> **(And also guarded by a non-members of any BSF, because there was a lack of a manpower.)**

5838. The Chamber notes that it has not received evidence which would suggest the presence of armed groups or units not affiliated with the Bosnian Serb Forces operating in the Srebrenica area between the evening of 12 July and the morning of 14 July, i.e. when the killings referred to in the previous paragraph took place. **(Now it seems relevant, why it was not relevant in the municipalities section?)** Thus, while the Chamber was unable to precisely identify each individual perpetrator of the killing incidents referred to above, it is satisfied that the units to which such persons belonged were all part of the subordinate Bosnian Serb Forces deployed in the area at the time, and were thus directly subordinated to, and fell under the structure of, the VRS or the MUP. **(This is not entirely true, because there was no enough men to guard the prisoners temporarily kept in the busses and other facilities, and anyone could approach the facilities, pick up somebody and do a vendetta! As it can be seen, there was no any random killings, but a specific persons had been looked for by some individuals who didn't act on anyone's order. Everyone knew that there had been a horrifying atrocities committed by the Oric's units, and that there may be a revenge, which was the reason why the President prevented the fall of Srebrenica in 1993. This time neither the fall of Srebrenica had been expected, nor such a number of about 2,000 prisoners of war could have been envisaged!)**

5839. In relation to the subordinate VRS forces operating in the area at the time, the Chamber recalls that they were part of the units previously deployed in the Drina Corps' area of responsibility pursuant to the deployment orders issued in accordance with the Krivaja 95 plan.<sup>19198</sup> These forces were operating under the command of Krstić, who was a

<sup>19193</sup> See Section IV.C.1.e.iv.A: Jadar River.

<sup>19194</sup> See Section IV.C.1.e.iv.D: Sandići Meadow.

<sup>19195</sup> See Section IV.C.1.e.iv.C: Kravica Warehouse. The Chamber recalls the evidence that a member of the 10<sup>th</sup> Sabotage Detachment threw two hand-grenades inside one of the rooms of the warehouse. See para. 5233.

<sup>19196</sup> See Section IV.C.2.e.v.B: Vuk Karadžić School and killing of a mentally challenged man.

<sup>19197</sup> See para. 5293.

<sup>19198</sup> See paras. 5005–5006, 5010. The Chamber further recalls that on 10 July, the Main Staff redeployed a part of the 10<sup>th</sup> Sabotage Detachment to the Srebrenica front. See para. 5021.

direct subordinate of the VRS Commander, Mladić. The Chamber recalls that Mladić, as Commander of the Main Staff, was the Accused's direct subordinate.<sup>19199</sup>

5840. In relation to the subordinate MUP units operating in the area at the time, the Chamber recalls that they can be grouped in two main categories, namely the municipal police units belonging to the Zvornik CJB, and those redeployed to the area pursuant to Kovač's order on 10 July.<sup>19200</sup> While in the Srebrenica area, these units were also operating under the command of the VRS.<sup>19201</sup> The Chamber recalls that the latter included RS MUP forces previously deployed on the Sarajevo front, including the 2<sup>nd</sup> Šekovići Detachment and a company of the Jahorina Recruits, which were sent to the Srebrenica sector as a conglomerate of forces under Borovčanin's command.<sup>19202</sup> According to the order of redeployment, these forces were to make contact with Krstić on arrival to its destination on 11 July.<sup>19203</sup> By reporting to Krstić, they were to receive further instructions.<sup>19204</sup> In relation to the municipal police units, such as the Bratunac SJB and the PJPs present in the area and assisting in various tasks, including the guarding of detainees in Bratunac town, the Chamber recalls that, as part of the Zvornik CJB, they could be deployed for combat related operations and were to supplement military forces in the area of responsibility of the Drina Corps.<sup>19205</sup> The Chamber received evidence that these forces were re-subordinated to the VRS upon their deployment on mission.<sup>19206</sup> Accordingly, these forces were also operating under the command of Krstić, and, ultimately, Mladić. **(It should have been noted that only these policemen subordinated to the VRS were under the command of the Drina Corps commanding chain, while these who were policing, guarding the company facilities and maintaining the law and order in the civil life were under the MUP command!)**

*iii. Superior-subordinate relationship*

5841. With regard to the Accused's authority over the Bosnian Serb Forces during the take-over of Srebrenica, the Chamber recalls its previous finding that since 1992 the Accused had *de jure* authority over the VRS which he exercised in fact.<sup>19207</sup> **(The *de jure* authority was kept, but only on the strategic level, not interfering in the operational or tactical command, except in the occasion of the Banjaluka mutiny in September 93, and in Gorazde in 94, but this time on an initiative of the internationals. A strategic level comprised the orders to keep certain positions, to withdraw from some areas, ay from Igman and Bjelasnica in 1993, to maintain the Posavina corridor opened, and so on, under the strong influence of the internationals and President Milosevic! An operational and tactical level was a sovereign competence of the Mains Staff, and meant the ways, intensity, lasting and other professional elements in achieving the objectives! There was no only strategic command or order that was illegal or criminal,**

<sup>19199</sup> See para. 160.

<sup>19200</sup> See para. 5021; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 2.14–2.17. The Chamber also recalls its finding that members of the RDB were present in Potočari on 12 and 13 July. See para. 5120. These forces under Kijac were ultimately subordinated to Kovač as the acting head of the RS MUP. See Section II.C.3: Bosnian Serb MUP; para. 5764.

<sup>19201</sup> See P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.14.

<sup>19202</sup> See para. 5021.

<sup>19203</sup> P2992 (Order of RS MUP, 10 July 1995), para. 5.

<sup>19204</sup> See Christian Nielsen, T. 16334–16335 (7 July 2011).

<sup>19205</sup> See P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.17.

<sup>19206</sup> See paras. 229–230; P4923 (RS Presidential Order, 22 April 1995). See also P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.17.

<sup>19207</sup> See Section II. C.1.a: Establishment and composition of the VRS.

neither there was any operational/tactical orders that would be in contrast with the laws. Since it was a civil war, among the armies composed of the ordinary people, many of whom didn't have a required skills, or had a burden of personal vendetta baggage, and could have commit a crime, but always hiding it from the immediate superiors. The killings in the Zvornik area had been done by a group patchworked of some individuals, who further had hidden their deed! There is a sufficient evidence on that. It had been presented in the courtroom that Izetbegovic claimed as if President Clinton proposed to him in 1993 that the Serbs be let to enter the town, and to find a way to slaughter about 5,000 Muslims, since only then the USA and NATO would get involved in the war. President Karadzic never trusted that it was an original proposal of President Clinton, but could have been his explanation why the USA and NATO can not enter the war on the Muslim side, in an absence of something drastic as this slaughter of civilians, which Mr. Izetbegovic interpreted it as a hint to do so, or even not a hint, but an idea which would corner President Clinton to act. There is no doubt that Izetbegovic called on a group of local officials from Srebrenica, presenting to them this plan, but these officials rejected it. Mr. @@ published this story many times!)

Further, the Chamber reiterates that despite the differences that existed between Mladić, as Commander of the VRS Main Staff, and the Accused, as Supreme Commander, the Accused retained *de jure* authority over Mladić.<sup>19208</sup> As such, the Accused and Mladić maintained a superior-subordinate relationship throughout the Indictment period, including the time period relevant to the Srebrenica component of the case.<sup>19209</sup> The Chamber further notes with particular regard to the attack and eventual take-over of Srebrenica that prior to the attack, the Accused and Krajišnik visited the Drina Corps Command in Vlasenica and gave Krstić a combat assignment; that once the attack was underway, Tolimir sought and received the Accused's prior approval for its expansion so as to include taking over the town; and that Mladić thereafter conveyed the Accused's order to his subordinate commanders.<sup>19210</sup> **(First, it was a support of the Krstic intentions to separate the two enclaves, and second, the President's approval of entering the abandoned town of Srebrenica contained all the precautionary measures for prevention of crimes! But, regardless of the *de jure* authority over the VRS and Mladic, President Karadzic was never reported that even Mladic knew, let alone ordered any crime to be committed. So, the *de jure* authority has some inevitable limitations – and a knowledge was required in any case!)**

Accordingly, the Chamber is satisfied that the Accused continued to have *de jure* authority over the VRS in July 1995, which he exercised in fact. Furthermore, as outlined in more detail above, once prompted by international attention to the fate of the missing Bosnian Muslim males of Srebrenica—in particular by Madeline Albright's visit to Pilica on 22 March 1996—within one day, the Accused issued an order to the Main Staff and the Bosnian Serb MUP to form a mixed investigative commission.<sup>19211</sup> In the Chamber's view, this establishes that as late as 1996, the Accused not only had the authority to issue orders as Supreme Commander but also that his orders were followed in fact.<sup>19212</sup> **(The main pint is that for the first time there was something more than propaganda, namely, a two superficial remains were found. There was so many examples of a fake acusations and propaganda, that it would be insane to order an investigations on such an incentive, but once there were a body remains found, that required an investigation. Also, the**

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<sup>19208</sup> See paras. 160, 3141.

<sup>19209</sup> See paras. 3130, 3141.

<sup>19210</sup> See paras. 5008, 5018, 5688.

<sup>19211</sup> See paras. 5793–5797.

<sup>19212</sup> The Chamber recalls that the Accused had *de jure* authority which he exercised in fact over the military in the RS, including its justice systems, throughout the Indictment period, as demonstrated by his executive action acquitting David Rohde of espionage on 8 November 1995. See paras. 3157, 3412, 5792. The Chamber further notes that, two days after the issuance of the 23 March 1996 Order, Vasić held a meeting in Zvornik pursuant to its terms. See para. 5794.

**Chamber shouldn't forget to notice that President Karadzic ordered that the Serb investigating teams obtain the participation of the international investigators.)**

5842. As noted above, the Law on the Army set out the Accused's exclusive competence in terms of the initial commission of officers, their subsequent appointment, transfer, and termination of service of officers with the rank of General.<sup>19213</sup> Further, the Chamber found earlier that by the time of the events in the Srebrenica component of the case, military courts were functioning.<sup>19214</sup> Therefore taking all these circumstances into account, in particular the nature of the orders the Accused had the authority to give, the nature of his position and the powers resulting therefrom, and the fact that military court system was functioning at the relevant time, the Chamber is satisfied that the Accused had the material ability to punish the killings that occurred prior to the point at which he agreed to the killing aspect of the Srebrenica JCE on 13 July 1995. **(What killings would that be? If it was the Kravica incident, there was no any need that the President intervene, since nothing had been covered up, since the MUP was in the possession of all the knowledge and was going to clarify the circumstances. The President couldn't punish anyone prior to a court sentence someone. Even then, except for the highest military officers and their dismissal, the President didn't have any competence in the penalty policy, as no president in a democratic countries all over the world have competence to investigate, judge, sentence and punish!)**

*iv. Knowledge or "reason to know"*

5843. The Chamber has found above that the Accused learned of the expansion of the plan to eliminate such that it involved killing the Bosnian Muslim men and boys of Srebrenica sometime before he spoke to Deronjić at approximately 8 p.m. on 13 July.<sup>19215</sup> **Here is how the Chamber promoted its own guessing and interfering into a new established-like fact. This assertion is based on para 5811 of the Judgment, see: *Given the Accused's position as RS President and Supreme Commander, as well as the evidence demonstrating the continuous flow of information he was seeking and receiving from the ground from many different sources the Chamber considers that the Accused must have known about the killing aspect of the plan to eliminate at some point prior to his conversation with Deronjić in the evening of 13 July* "The Chamber considers that President Karadzic must have known about the killing aspect... prior to his conversation with Deronjić in the evening of 13 July". How it is possible to decide on basis of the "consideration" of the Chamber, without any evidence? President Karadzic even didn't know that there was any prisoners of war prior to this conversation with Deronjić. Had President Karadzic heard about any killing prior to it, or even afterwards, there must have been at least one hint in so many communications of the President with many individuals, journalists, private friends, the associates, commanders, and finally to the Assembly. This could have happened only on a basis of strong will and readiness to believe in something, but as any belief, this one depended only on this will and readiness to believe! No such a degree of discretion is allowed to any chamber!)** Further, the Chamber recalls its finding that Deronjić specifically informed the Accused about the Kravica Warehouse killings at least by the time they met alone prior to a meeting with a larger group from Srebrenica on 14 July.<sup>19216</sup> The Chamber is therefore satisfied that the Accused knew of the large scale

<sup>19213</sup> See para. 167. The Chamber recalls that the Accused himself acknowledged at the Bosnian Serb Assembly that if he did not trust Mladić, he would have dismissed him as he had the authority to do that. See para. 3146.

<sup>19214</sup> See para. 3412.

<sup>19215</sup> See para. 5811.

<sup>19216</sup> See para. 5808.

Kravica Warehouse killings by the day after they were committed. **(He was informed that “several” had been killed during the incident, and nothing else. It had been seen that Deronjic repeated in another occasions that it was “several” killed in a mutiny incident!)** Considering that, at a minimum, this news put the Accused on notice that members of the Bosnian Serb Forces had killed hundreds of Bosnian Muslim detainees who had been in their custody following the fall of the Srebrenica enclave, the Chamber finds that the Accused possessed sufficiently alarming information to justify further inquiry into whether other unlawful acts had been committed. **(Not right! #Since the MUP superiors knew everything about this incident, the President didn’t have any reason to interfere#. There was no a single sign that the MUP was going to cover it. No other information except that “several” had been killed in a mutiny caused by a detainee!)**

v. *Failure to take necessary and reasonable measures*

5844. The Chamber recalls that the duty of a superior to punish will be fulfilled when necessary and reasonable, or feasible, measures to punish perpetrators have been taken.<sup>19217</sup> “Necessary” measures are the measures appropriate for the superior to discharge his obligation (showing that he genuinely tried to punish) and “reasonable” measures are those reasonably falling within the material powers of the superior.<sup>19218</sup> **(Nothing of that was a presidential duty prior to a judicial institution decided whether there was a “being of a criminal act” in somebody’s conduct. All the punishing measures were to be decided by a court, and the President could only have to discharge someone if not decided in the judgment. A knowledge of the domestic laws and presidential duties is catastrophic and is a main source of the accusations of the President and many other high officials!)**

5845. First, the Chamber has found that the Accused had the material ability to remove from service the perpetrators of the killings about which he had received information. **(What information? When? By whom? A mere repetition of a fake assertion doesn’t make it true!)** Instead of doing so, upon learning of the large scale killings which had just occurred, not only did the Accused take no steps to remove the perpetrators from service, but he joined in the killing aspect of the plan to eliminate.<sup>19219</sup> **(#How President Karadzic “joined in the killing aspect of the plan to eliminate”??? #By what act? What is the evidence! As far as it is conrened with a “removal of the perpetrators from service”**

<sup>19217</sup> Popović et al. Appeal Judgement, para. 1927.

<sup>19218</sup> Popović et al. Appeal Judgement, para. 1927.

<sup>19219</sup> The Chamber recalls that, for a period in August 1995, the Accused removed Mladić as Commander of the VRS and appointed him as Special Advisor to the Supreme Commander. However, on 27 August, he abrogated this decision. See paras. 174, 3138. **It was because he couldn’t carry out the decision, the entire General’s team rejected it, and the public made a pressure on him to withdraw this decision.** Around the same time, the Accused also praised and recognised VRS Commanders for their actions in Srebrenica. **This is the first class evidence that he didn’t know about any crime they may being committed.** See para. 5789. The Chamber also recalls that other members of the Srebrenica JCE continued to exercise their functions in the VRS unhindered. See *inter alia* P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), e-court pp 310–311 (recording a meeting held on 22 August 1995 between VRS officers and Rupert Smith which was attended, among others, by Mladić and Popović); Vujadin Popović, T. 43138–43139 (6 November 2013); P1489 (Ratko Mladić’s notebook, 28 August 1995–15 January 1996), e-court p. 117 (recording a meeting of the Main Staff held on 19 November 1995 which was attended, among others, by Mladić and Beara), e-court pp. 123, 126 (recording a meeting of the Main Staff held on 22 November 1995 which was attended, among others, by Mladić and Beara); e-court pp. 189, 201 (recording a meeting of the *collegium* of Main Staff Commanders held on 24 December 1995 which was attended, among others, by Mladić and Beara); pp. 231 (recording a meeting of the RS core leadership held on 31 December 1995 which was attended, among others, by the Accused, Mladić, and Beara); P1490 (Ratko Mladić’s notebook, 16 January–28 November 1996), p. 8 (recording a meeting of the expanded *collegium* of Main Staff Commanders held on 16 January 1996 which was attended, among others, by Mladić and Beara), e-court pp. 36, 72–73, 88 (recording three briefings of Main Staff organs held on 4 March, 29 April, and 10 June 1996, which were attended, among others, by Mladić and Beara), e-court p. 82 (recording a meeting held on 30 May 1996 attended by Beara), pp. 124, 128 (recording a meeting held on 16 September 1996 attended by Beara), e-court pp. 132, 138 (recording a meeting of the *collegium* of Main Staff Commanders held on 12 October 1996 which was attended, among others, by Mladić and Beara), e-court p. 141 (recording a meeting of the Main Staff with the VJ’s General Staff held on 15 October 1996 which was attended, among others, by Mladić and Beara), e-court p. 158 (recording a meeting of the expanded *collegium* of Main Staff Commanders held on 14 November 1996 which was attended, among others, by Mladić and Beara); e-court pp. 163–164 (recording a meeting of Main Staff Generals held on 15 November 1996 which was attended, among others, by Mladić and Beara).



**this could not be done without a thorough investigation that had to be conducted by the Military Chief Prosecutor. Nobody could have been removed without a definite court deliberation, while could have been temporarily suspended until the process ends. The President even couldn't remove several officers far before the Srebrenica events, not on a basis of any crime, but on a basis that he didn't feel being in a control of the Army, specifically because of an ideological idiosyncrasy. Had he knew about any crime and its perpetrators, he would very easily remove all the mentioned, as the Defence Minister Ninkovic said (see: T40509-40510: Q. Thank you. There was mention of some disagreements with the army. As for the Army of Republika Srpska as a state organ, had they committed any crime that you as a minister should have known about? A. I think that the army did not commit any crimes. I am convinced of that, being a member of the Supreme Command and knowing you, had we found out that the army had committed any kind of crimes, and bearing in mind the tensions that existed between the military, the Supreme Command and the civilian authorities, I am convinced, and I am sure that you would have dismissed immediately some people primarily General Mladic, the Chief of the General Staff, because we could hardly wait for something to pin on him because our option, and your option, was to try and solve everything in a peaceful manner, and we kept insisting at all meetings of the government and the assembly that the peace plan is the priority and that they should only defend the reached separation lines. You were always against any other kind of action and you always advocated a peaceful end to the war, just like every war has to end with a peace agreement. So, if there was any crime committed by the Army, Presaident Karadzic would replace General Mladic easily, because the President tried to do this for a political and ideological reasons, but didn't succeed, as it was well known! The Chamber even didn't notice this important testimony of the Minister of Defence!)**

5846. With regard to the orders issued by the Accused in March 1996, the Chamber recalls that the 23 March 1996 Order was issued within two days of the U.S. government's release of aerial photographs showing a large number of bodies lying in a field near Branjevo Military Farm on 17 July 1995, and within one day of Madeleine Albright's visit to the Branjevo Military Farm on 22 March 1996.<sup>19220</sup> **(It should be noted that only this visit and a finding of the bodies was something more than a previous propaganda. Even this US government's release couldn't be convincing, because the US appeared to be a highly pro-Muslim and anti-Serb at that time. But when Ms. Albright found those surface remains, it was for the first time a sort of evidence, although not of a mass killings, because those two bodies must have remained after a combat, but still it was worthy to be investigated!)** In addition, the Chamber notes that the day before the order's issuance the Accused warned Mladić that, “[i]f they expand the campaign then they would form a joint commission [...] to investigate the killing of every individual”,<sup>19221</sup> **(What does it mean? It said: if the internationals expand their propaganda, then the Presidency would for a joint commission to investigate... What did they understand? Who was to form a commission? Had there been any knowledge about the killings, the conversation between President Karadzic and General Mladic, in the presence of other Generals and Colonels, must have been quite different!)** as well as by the fact that Predrag Drinić's

<sup>19220</sup> See para. 5451. The Accused argues that the 23 March 1996 Order's reference to the “arbitrary and biased conclusions” drawn by Albright and “media experts” demonstrates that at the time, he did not believe the allegations of large-scale executions. Defence Final Brief, para. 3145. The Chamber refers to its analysis of the Accused's membership in the Srebrenica JCE at paras. 5804–5811, 5813. **The Chamber's analysis is not an evidence by itself. Does the Chamber have any proof that the Accused got a reliable evidence, something that differed from the previous propaganda? No, and it appeared only when Ms. Albright came, although in a small scale, and probably pre-prepared. Otherwise, how Ms. Albright would find the bodies right from the plain?.**

<sup>19221</sup> P1490 (Ratko Mladić's notebook, 16 January–28 November 1996), e-court p. 47.

attempt to implement the 23 March 1996 Order was met with silence from the Main Staff.<sup>19222</sup> **(That means nothing to the President. His order to Mr. Drinic hadn't been withdrawn or changed. As a matter of fact, Drinic informed the Main Staff that he didn't find anyone who knew anything about the killings, "or may have not been willing to know", as he reported to the Main Staff, but not to the President. Around mid May 1996 President Karadzic left his office, relinquishing all his presidential duties and nominating Ms. Plavsic as an acting President until the elections in the autumn the same year!)** In the Chamber's view, the fact, despite the Accused's long-standing awareness of the killings in Pilica, he took no action until that point, the 23 March 1996 Order was a response to international pressure created by the release of the photos and Albright's visit, not a genuine attempt to shed light on what had actually transpired. **(It wasn't because of the international pressure, because the pressure never stopped, but because for the first time there was a proof. The President had already been in a dispute with the VRS because of the propaganda and the influence of the internationals. He could intervene only if he had something like evidence, not to press the Army on the basis of propaganda, as he did throughout the war! But, what is a basis for the Chamber's conclusion about "the Accused's long-standing awareness of the killings in Pilica"? this kind of a baseless assertions is something that should be forbidden even to the Prosecution, let alone to a chamber!)**

5847. In light of all the evidence, the Chamber finds that the Accused failed in his duty to punish the killings which occurred prior to the point at which he joined the Srebrenica JCE on the evening of 13 July 1995. Although he should have taken steps to investigate these crimes and punish the perpetrators either immediately upon learning of them or soon thereafter, the Accused issued the 23 March 1996 Order and the 1 April 1996 Order, more than eight months after the killings in question. In his capacity as Supreme Commander, the Accused had a duty to do more than that. **(Everyone would agree with this hadn't there be the same situation in Cerska in 1993, when the President reacted to many allegations about a carnage, by asking Gen. Morillon to enter Cerska and see what really happened. General Morillon found no a single sign of any atrocities, but only a regular signs of fightings. Was President Karadzic supposed to react on all and every propaganda campaign? There was no other way that the Accused do any investigation except through the military institutions, first of all, to get an information from the Main Staff and its Security and Inteligence Department. Which they never did, not a single clue, and after that they were obliged to initiate the Military Chief Prosecutor to do an investigation. The President then could intervene only if the Prosecutor refused to do so. Through who the President could eventually do any investigation? Only through the military institutions. No civilian institution could enter the Army and investigate anything, as it is not possible anywhere in the world!)**

*vi. Conclusion*

5848. Based on the evidence discussed above, the Chamber finds that the Accused knew that crimes had been committed by his subordinates in the aftermath of the fall of the Srebrenica enclave, and had reason to know that others had also been committed. **(What evidence corroborates this deliberation? Only some believes of the Chamber! Not a single clue in support of this finding, although the case of Srebrenica had been reconstructed from a minute to minute, from a day to a day, all the way to the end! No**

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<sup>19222</sup> See para. 5794.

**evidence! Simply as that!)** The Accused failed in his duty as Supreme Commander to take necessary and reasonable measures to punish the commission of genocide, murder, extermination, and killing as an underlying act of persecution. He is therefore criminally responsible for such failures pursuant to Article 7(3) of the Statute.

d. Conclusions: Accused's individual criminal responsibility

5849. The Chamber found above that as Srebrenica fell, a common plan to eliminate the Bosnian Muslims in Srebrenica—first through forcible removal and later through the killing of the men and boys—was established, that the Accused significantly contributed to this common purpose, and that he shared with the other members of the Srebrenica JCE the intent for the crimes within its scope. Accordingly, the Chamber finds that the Accused bears individual criminal responsibility pursuant to Article 7(1) of the Statute for genocide (Count 2); persecution, a crime against humanity (Count 3); extermination, a crime against humanity (Count 4); murder, a crime against humanity (Count 5); murder, a violation of the laws or customs of war (Count 6); and inhumane acts (forcible transfer), a crime against humanity (Count 8), which were found to have been committed in Srebrenica. **(#On one side are all the evidence that corroborate the Defence standpoint, including the findings of the highest UN officials, as Akashi, General Janvier, and the genuine Serb documents, and many, many intercepted conversations, and the testimonies including the Prosecutor's ones, and on the other side is a "belief" and impressions of the Chamber, and this prevails over so many exculpatory evidence!# Neither it was aimed to take Srebrenica, nor to remove the population, nor to kill anyone! The military taking of Srebrenica was decided by the Muslim Army which withdrew, the removal of the people to Potocari was determined by the Muslim authority's order, further evacuation towards Tuzla was determined primarily by the population, and supported by the UN, the Dutch Minister for Defence, the Humanitarians. The opportunistic killings, for which even the Chamber proposed to be dropped from the Indictment didn't happen in any "systemic, or systematic" way, and the killings of the POWs happened because a group of the alienated officers did it on their own, only with those who were captured by them, while others, captured by other units hadn't been killed, which would be impossible if it was a system! It is rather peculiar that the UN documents meant nothing in a UN Court!)**

5850. In addition, the Chamber found that the Accused failed to punish the crimes of his subordinates which occurred before he agreed to the killing aspect of the Srebrenica JCE. Therefore, the Accused also bears individual criminal responsibility pursuant to Article 7(3) of the Statute in relation to genocide (Count 2); persecution, a crime against humanity (Count 3); extermination, a crime against humanity (Count 4); murder, a crime against humanity (Count 5); and murder, a violation of the laws or customs of war (Count 6). However, since the Chamber has already found the Accused responsible for genocide on the basis of his participation in the Srebrenica JCE as set out above, the Chamber will not enter a conviction pursuant to Article 7(3) of the Statute in relation to Count 2.<sup>19223</sup>

5851. The Chamber will address the issue of cumulative convictions in Section IV.F. below.

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<sup>19223</sup> See para. 591.

## D. HOSTAGE COMPONENT

5852. In Count 11, the Accused is charged with taking hostages as a violation of the laws or customs of war punishable under Article 3 of the Statute and Common Article 3. The Indictment alleges that on 25 and 26 May 1995, in response to shelling attacks on Sarajevo and other locations in BiH by the Bosnian Serb Forces, NATO carried out air strikes against Bosnian Serb military targets.<sup>19224</sup> (#The Serb reaction on the Muslim fierce offensive was completely legitimate, particularly since there was an understanding attached to the Agreement between the UN and the Serb side that the Serbs would be entitled to take their heavy weapons from the collection sites in a case they are attacked, see the documents confirming that the Serbs had been attacked, and that did have an Understanding with the UN!# On the other side, the UN wasn't entitled to call the NATO to bomb the Serb Army and the Serb people. As it can seen from the Harland's testimony, it was all a matter of the new, decisive and arrogant commander of the UN, general Smith, who came to end the war, by the way to decrease the Serb defence capacity. For that reason, they established the FAC (Forward air controlers) on the terrain, and they participated in the bombing by aiming at the targets, which made the NATO aviation a very precise, with a detrimental impact on the Serb defence. No international presence was authorised to do that, to take a side and help it to win. The Serb soldiers and civilians, whose families had been only a few hundred yards behind the confrontation lines reacted instinctively, but rightfully, because they had seen how the UN protected the Serbs in West Slavonia (Sector West) only some three weeks earlier, with the thousands and thousands of civilians leaving their homes under a constant attack of the enemies. What gave the UN an authority to act as a side to the conflict, both in Croatia and in BiH? The UN will never again be the same as after these breaches of the very foundation of existence of the UN.) It is further alleged that between 26 May and 19 June 1995, over 200 UN peacekeepers and military observers in various locations across BiH were taken hostage by Bosnian Serb Forces.<sup>19225</sup> According to the Indictment, the purpose of taking the UN personnel hostage was to compel NATO to abstain from conducting further air strikes against Bosnian Serb military targets.<sup>19226</sup> The Accused is charged both under Article 7(1) of the Statute for having committed in concert with others, through his participation in a JCE, planned, instigated, ordered, and/or aided and abetted the taking of these hostages, and under Article 7(3) as a superior for failing to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.<sup>19227</sup>

### 3. Facts

### 4. NATO air strikes

5853. As stated earlier, the situation in Sarajevo and BiH deteriorated further in May 1995.<sup>19228</sup> In Sarajevo in early May 1995, tensions between the VRS and the ABiH increased.<sup>19229</sup> (Why it was not important to point out which side was responsible for this increase? It must have been established so more since there were a punishing measures applied!) On 16 May 1995, there was intense shelling in Grbavica.<sup>19230</sup> (Not to

<sup>19224</sup> Indictment, para. 85.

<sup>19225</sup> Indictment, para. 86.

<sup>19226</sup> Indictment, para. 84.

<sup>19227</sup> Indictment, para. 87.

<sup>19228</sup> See paras. 416–418.

<sup>19229</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4. See also para. 3608.

<sup>19230</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4.

**forget that Grbavica was the Serb settlement in the urban centre of Sarajevo!)** Fighting southwest of the Jewish cemetery escalated significantly.<sup>19231</sup> **(Also, the Serbs defended it against the Muslim offensive, no doubt about that, since the Jewish cemetery was the line of defence of Grbavica. The artillery attack on Grbavica was aimed to prepare this infantry attack!)** The VRS used weapons from the Osijek WCP to break through the ABiH defence.<sup>19232</sup> The shelling continued the following day.<sup>19233</sup> **(This kind of wording doesn't differentiate who attacked whom, and suggests that as if the Serbs were in an offensive, and for that reason used their own weaponry from the Osijek WCP (Weapons Collecting Post) However, a possible reader of this Judgment should be allowed to notice that the Muslim forces severely attacked the Serb part of the city, Grbavica, first by the heavy weapons that should have been under the monitoring of the UNPROFOR as the Serb weaponry was. Then, the Muslim side initiated an infantry attack, and only then the Serb side took its own weaponry, as envisaged by the Agreement and understanding signed in February 1994, see: D716 of 20 February 1994:**

Although Dr. Karadzic repeatedly expressed his concern over the possible attacks or provocations from the Muslim side and insisted that the lines of 9 February must be maintained, the Bosnian Serb side appears to be taking the necessary steps towards the compliance with the principles agreed on 6 February. The following are the major points raised in the meeting :

1) Regarding the definition of UNPROFOR "control" of re-grouped weapons, Dr. Karadzic raised no objection to our definition, although he emphasized their right to self-defense, therefore the right of regaining their weapons in the event of attacks from the Muslim side. I reiterated UNPROFOR's determination in having both sides adhere to the current cease-fire, adding that its reinforced presence should be considered as the security guarantee for the Serb side.

4) Dr. Karadzic also informed us of the BSA weapon repair plant in Hadzic in the 20 km exclusion zone, and wanted to continue the maintenance and repair of their weapons, with UNPROFOR monitoring. [Please also see below para. 4-4)]

Dr. Karadzic also expressed his eagerness to open direct routes into/around Sarajevo by establishing joint UNPROFOR/BSA or BiH checkpoints. I responded to him by expressing my eagerness to maintain the momentum of the current process, which I hope will lead us eventually to the opening of routes and to the UN administration of Sarajevo, as well as my hope for the possibility of the Sarajevo model being applied to other critical areas in BiH.

**Such a #cooperativeness of the President had been abused later on#! See further what Akashi reported to Annan in the same document:**

7. Despite all our efforts, I have observed the continuing tendency by the Bosnian side to feed and encourage the "incident hungry" press in Sarajevo. I shall keep you updated of the developments on the ground, particularly on the preceding two paragraphs.

**This is one of a huge number of evidence about the #Muslim abuse of the Sarajevo sufferings#! See further, D842, of 21 February 1994, from a meeting of Akashi, Gen. Rose and other from the UN, and President Karadzic, Krajisnik and General Galic, D842, p.3:**

<sup>19231</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 74.

<sup>19232</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 74.

<sup>19233</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4.



6. On the issue of self-defence, General Rose noted that it would not be possible for the Muslims to attack Serb regrouping centres due to the presence of UNPROFOR at such sites. However, in the event of such an action, UNPROFOR would provide the first line of defence but, it was also understood that if the Serbs wished to withdraw their weapons, for example in the face of a massive attack, there was nothing UNPROFOR could do to stop them. It was hoped that such an eventuality would not occur as it would indicate a total breakdown of the peace process in Sarajevo.

**#Therefore, it was agreed that in a case the UNPROFOR was not capable of preventing the Muslim attacks of the Serb settlements in Sarajevo, the UNPROFOR was not going to take any measures to prevent the Serbs in their legitimate defence! Couldn't be more clear!**

5854. On 22 May 1995, the activity of NATO jets flying overhead in Goražde increased.<sup>19234</sup> The VRS had removed heavy weapons from the WCPs near Sarajevo, as did the ABiH, and fighting escalated.<sup>19235</sup> **(#But, it was the Muslim side that did violate the Agreement first. Presented as such, it looks like the Serbs were the first to be violating the ban of military activities in Sarajevo. The NATO activities around Gorazde hadn't anything to do with the events in Sarajevo in May 1995, but a huge Muslim offensive did cause all the events, see the UN documents: Further, see the President's letter to the VRS General Corps, on 29 April 1995:**

Through our connections, we have come by irrefutable information that the American side has suspended developments that were favourable for us. The reason, they said, was that a spectacular political event would take place in the next two weeks, which would decide the outcome of the crisis in the former BH.

**The next day, on 30 April 95, Croatia attacked West Slavonia and expelled all the Serb civilians there, and the UN didn't do anything to prevent it. The information mentioned in the President's letter was accurate! Se what President Karadzic presented to Akashi and General Smith on 22 April 1995, D3511:**

service. While he accepted without comment my proposal that it was vital to engage in a serious assessment of the current situation in order to resolve current difficulties, he was firm that the issue of Sarajevo airport would have to be discussed if the agenda was to be acceptable. He then rapidly gave his general comments on the current situation, which were an extremely short summary of his oft repeated views - the Serbs were dissatisfied with their treatment by the United Nations and saw no benefit from their relationship with UNPROFOR; UNPROFOR was "totally detrimental" to the Serb cause; there was pressure from the Serb population and Parliament to end the non-beneficial relationship with UNPROFOR; UNPROFOR failed to pressurize the Bosnian side to respect agreements; sniping in Sarajevo could lead to a renewal of the war and was a form of ethnic cleansing of the Serbs; the Bosnian Serbs would be forced to retaliate appropriately to Bosnian actions in Sarajevo and this would mean a total war.

**The meeting was even prior to the fall of West Slavonia and a disaster of the Serb population there. The Serbs in BiH had felt that the UN was not either unbiased or reliable partner, and a dissatisfaction mounted to the highest degree. However, the UN was fully aware of the grave violations of the SC Resolution pertaining to the heavy weaponry by the Muslim (BiH) side, see D1117 of 26 April 95:**

General Rasim Delic  
Commander-in-Chief  
General Staff Headquarters  
Army of the Republic of Bosnia-Herzegovina  
Sarajevo

Dear General

**SUBJECT: HEAVY WEAPON VIOLATIONS OF SAFE AREAS/EXCLUSION ZONES**

Over the last two months an increasing number of heavy weapon violations of SAFE AREAS/EXCLUSION ZONES have been registered by UNPROFOR. These reports have all been confirmed through several independent sources, which makes me convinced that you do not observe the relevant Security Council Resolutions.

<sup>19234</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), e-court p. 4.

<sup>19235</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 183; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188.

Protest letters about many of these infringements have already been sent, condemning the Party responsible for the violations. You have also been warned that the abuse of principles of SAFE AREAS in this way may cause unacceptable and great risks for the civilian population in these areas.

I want to emphasize that it is in the interest of all Parties concerned that these violations come to an end.

Therefore, I demand that all Heavy Weapons within the EXCLUSION ZONES be returned to the WEAPON COLLECTION POINTS and that SAFE AREAS should not be abused by launching military operations from them.

Furthermore, I warn you that UNPROFOR will not hesitate to use all available means authorized by its mandate to extort observance of the Security Council Resolutions from the Parties concerned.

**However, General Nikolai didn't know, or didn't mention that the only side to be punished was the Serb side, as many documents confirmed! at the same time, the VRS received and distributed its knowledge about a preceding attack of the ABiH against the SRK, D322:**

We have information indicating that the enemy is preparing for actions and planning activities against the forces of the Corps. In order to thwart their actions and intentions, I hereby

**ORDER:**

Immediately upon receipt of this order, place all units in a state of full combat readiness and, in connection with that, carry out the following:

**on 8 May 95 the SRK intelligence reported, D128:**

Muslim intentions in the territory of Sarajevo

Through operative work, the RDB /State Security Department of the RS /Republika Srpska/ MUP /Ministry of the Interior/ obtained the information that plans were prepared and completed in Sarajevo for offensive operations. Four brigades have arrived in Sarajevo, and three other brigades are expected to arrive from the territory of Zenica. The attack is expected to begin from several axes simultaneously. The attack would start from the town, and they would try to break through towards Sarajevo from the enclaves. There would also be a simultaneous attack against Serbian Posavina by joint Croat and Muslim forces.

The Muslims are making their plans based on monitoring /the situation and finding/ that the VRS /Army of Republika Srpska/ has no ammunition or fuel and that soldiers' morale is low.

**All of these preparations had been known to the UN representatives, but there was no any action to prevent the attack. In a Weekly situation report from Sarajevo E. Aguillare wrote: D1151:**

**18. Events in Croatia seem to have energized and focused the Bosnian Serb leader, Dr. Karadzic, who perceives recent developments to have validated his intransigence. Two strands are observed in Karadzic's reaction to the Croatian crisis; one strand is directed to the United Nations and the international community while the other is directed to his fellow Serbs in the whole of former Yugoslavia, particularly the moderate Serb leadership.**

**19. Dr. Karadzic and the Bosnian Serb leadership have condemned the UN as an inefficient and partial institution whose actions were detrimental to the interests of Serbs. Indeed the UN should not, and did not, exist. Bosnian Serbs were not obliged to respect Security Council Resolutions, except those resolution or parts of resolutions which directly benefited Bosnian Serbs. Meanwhile, however, Karadzic had specific demands for the UN and the international community. The "temporary occupied territories of West Slavonia" should be declared safe-areas similar to those instituted in Bosnia; NATO should force Croatian troops back to their original positions and UNHCR and other international agencies should be responsible for civilian refugees.**

**And that was the prelude of the dramatic events in the period May – September**

**1995. Here is the HVO Military Intelligence Service (SIS) report for 19 May 1995:**

19 May 1995  
3235/95

Information: conflict in Sarajevo between the BH Army and the VRS

The attack was carried out on 16 May 1995 at 09:00 hrs by the BH Army who fired 2 shells from the barrack of "Bistrik" towards Grbavica and, at the same time, from the barrack-prison of "Ramiz Salcin" (Viktor Bubanj) towards Lukavica. The VRS fired back and afterwards, a general attack of the BH Army started on two axes. The first axis of the activities occurred in the area of "Jewish cemetery-Jevrejsko Groblje" and the second one on "Pointy Rock-Spicasta Stijena" with aim to cut off communications Pale-Lukavica and Pale-Vogosca.

At the same time, political activities were undertaken in order to include the UN into the conflict as well as to provoke the activities of NATO aircraft, accusing the Serbs thereby for starting the conflict and opening fire against the civil targets. In regards to the aforementioned, commander of the UNPROFOR Sarajevo sector, French General Erve /as written/ Gobillard, at the 16 May meeting with the Prime Minister H. Silajdzic accused the BH side for starting with the activities that were carried out from the populated areas and the vicinity of the UN establishments in the town in order to attract the Serbian artillery as well as that the UN will not be involved in the conflict. It shall do so only in case of being under attack.

It is interesting that shortly after such statement fire was opened towards the UN observation point above the Jewish cemetery and UN transport vehicle with the Russian crew.

It happened again on Wednesday morning, around 06:00 hrs when 6 mortar shells fell on the UN base in Zetra and Kos. Stadium.

The fire was opened from the vicinity of RTV Sarajevo, where the UN is located, from the vicinity of the Main UN locality in D. Djakovica street, from the former Student facility on Bjelave (above the Kosevo hospital), garage of MUP, located next to the Embassy, barrack on Bistrik etc. On the axis of Jewish cemetery a certain brigade carried

**In spite of being "on the other side of the frontline, the Croat Intell. Service reported professionally! Further**

out its activities, respectively the 115<sup>th</sup> Mountain brigade (the former 15<sup>th</sup> brigade established by Musan Topalovic Caco). On that occasion more than 20 combatants were wounded and at least 9 of them were killed on Tuesday (we have got names for 9 combatants), whereas we were not able to find out the number of yesterday's casualties. Special police unit (Vikicevci) and the squad "Lasta" reinforced the activities of the brigade.

The so-called Puskina brigade, unit of strength of a brigade, carried out activities on the axis of "Pointy Rock-Spicasta Stijena". The activity on this axis was limited.

**So, General Nicolai's warnings didn't matter to the Muslim commanders, they had some other "hints" what they may do! However, the entire chapter and charges pertaining to the so called "hostages" is dismissed by the next UN document of 20 May 1995, a report of Ambassador Akashi to Annan, D1174:**

3. Since its deployment in Bosnia and Herzegovina, UNPROFOR's mandate has been plagued by certain ambiguities which have affected its credibility with the parties on the ground. While the fundamental humanitarian functions UNPROFOR was initially tasked to implement were adopted under Chapter VII of the Charter of the United Nations, circumstances on the ground required the Force to operate under normal peace-keeping rules of engagement. UNPROFOR's mandate was further complicated by resolutions that referred to Chapter VII for security and freedom of movement, without clearly addressing the practical ramifications. Finally, the safe area mandate of the Council contained in resolution 836 (1993), and particularly its reliance on air power in response to attacks, has brought the Force to the edge of an almost untenable balance between its impartiality as a basically peace-keeping operation and the use of force. As a result, UNPROFOR is currently constrained by the nature and the complexity of its missions, their contradictions and the forces available to implement them. This has created a situation in which certain ambiguities have led to various interpretations on what UNPROFOR can and should do under specific circumstances.

p.2

p. 5 - 6:



10. The Security Council, in authorizing UNPROFOR's initial mandate and deployment to Bosnia and Herzegovina did not contemplate an enforcement role. Authority for the use of force did not, therefore, go beyond the right of self-defence inherent in any United Nations peace-keeping force. The requirement to use force only within the confines of conventional peace-keeping principles and practices was also a direct and unavoidable consequence of UNPROFOR's tasks and deployment on the ground. The Sarajevo airport, which is authorities. Despite the constantly precarious status in deliveries to the eastern enclaves and Sarajevo, where the problems of access, including the airlift and air drops, are intimately linked with the military situation on the ground, the delivery of humanitarian assistance by UNHCR was, and continues to be, generally successful. This success can be attributed to the intensive negotiations with, and practical cooperation of, the parties on the delivery of humanitarian assistance. During periods of conflict, the use of

the subsequent resolutions cited above, did not create new tasks for UNPROFOR or modify its rules of engagement, since, as stated previously, the normal rules of engagement for all peace-keeping missions permit the use of force in self defence.

for its success. While the use of force can prove useful in responding to individual incidents, there has been no clear indication that an escalation of the use of force for self-defence or freedom of movement would be acceptable to troop contributing states. In addition, use of force in one place would inevitably affect operations elsewhere and put UNPROFOR, UNHCR, and related personnel at considerably increased risk.

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decision. While air power provides an indispensable factor of deterrence, and should ideally be used in a graduated escalatory response to attacks as a last resort, experience has shown that using force against only one party, whether directly or through regional arrangements, alters the perception of the party on the neutrality of UNPROFOR. As the role of UNPROFOR and UNHCR are often perceived as one, it becomes inevitable that their personnel are identified with the military intervention, and perceived as a party to the war. The lightly armed, widely dispersed troops and other personnel of UNPROFOR and UNHCR become extremely vulnerable to being taken hostage, and subject to other forms of harassment, as a direct result of the use of air power. Moreover, hostile and sometimes emotional reactions by the party concerned do not provide a favourable atmosphere for constructive dialogue and negotiation, when they are most needed. The decision on were ongoing. Since that time, government forces have increased considerably in relative defensive and offensive capability, and the war has become more protracted in the absence of a political settlement. This has been reflected in increased intransigence; more military activity in and around most safe areas; and the incorporation of many safe areas, including Sarajevo, Tuzla and Bihac, into the broader military campaigns of the Government side. The Headquarters of the Fifth Corps of the Government Army and logistic installations are located in the town of Bihac, and those of the Second Corps in the town of Tuzla. The Government also maintains a substantial number of troops in Srebrenica, Gorazde and Zepa, while Sarajevo is the location of the General Command of the Government Army and other military installations. There is an ammunition factory in Gorazde.



24. The response by the Bosnian Serb forces to offensives launched by the Government Army from safe areas has generally been to respond against military targets within those areas.

The efforts of UNPROFOR to defend the safe areas under such circumstances make it necessary to obstruct only one of the hostile forces, which considers itself to be merely reacting to offensives launched by the other side. In such cases, the impartiality of UNPROFOR becomes difficult to maintain and the Force is seen as a party to the conflict. Accordingly, risks

### VIII Observations

33. The fundamental question that must be borne in mind when considering the future mandate of UNPROFOR in Bosnia and Herzegovina is "what can and should be the role of the United Nations in a situation where there is no peace or cease-fire to keep?" The Security Council has, through a progression of resolutions, chosen a strategy of containment, conflict-mitigation and alleviation of the plight of suffering civilians as a means to address the tragic consequences of the war. It has also, primarily through the establishment of safe areas and the provision of air power, involved UNPROFOR in efforts to influence military events and the outcome of the conflict. However, as stated in paragraph 4 of this report,

mediator. UNPROFOR is not, and has never been, in a position to bring about a solution to the conflict in Bosnia and Herzegovina. One of its primary roles has been to provide a measure of stability on the ground which would allow the international community the opportunity to search for a viable and accepted political settlement. Except for use in self-defence, the Council has also created an expectation that UNPROFOR should apply air power to the advantage of one party and the detriment of another. Such a use of force by UNPROFOR is generally incompatible with UNPROFOR's mediatory role designed to bring about a stabilization of the situation. If it is not the intention of the Council that UNPROFOR become a party to the war, then the Council should adjust the Force's mandate, and hence the parties expectations, accordingly and not ask UNPROFOR to pursue a policy of war and peace at the same time. If, however, it is the intention of the Council to intervene in the military aspects of the conflict, then UNPROFOR should be supplanted by a Force more capable of carrying out this policy.

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and accepted political settlement. Except for use in self-defence, the Council has also created an expectation that UNPROFOR should apply air power to the advantage of one party and the detriment of another. Such a use of force by UNPROFOR is generally incompatible with UNPROFOR's mediatory role designed to bring about a stabilization of the situation. If it is not the intention of the Council that UNPROFOR become a party to the war, then the Council should adjust the Force's mandate, and hence the parties expectations, accordingly and not ask UNPROFOR to pursue a policy of war and peace at the same time. If, however, it is the intention of the Council to intervene in the military aspects of the conflict, then UNPROFOR should be supplanted by a Force more capable of carrying out this policy.



**(#The Defence shouldn't add anything else to this the most official report and considerations of the highest UN officials! There can not be any word about "hostages" since the UN personel was responsible and involved in the conflict on one of the sides in a several ways. First, the UN invited the NATO to bomb only one side, which should have been protected against the Muslim Army violations of the SC Resolutions. Further, the UNPROFOR enabled the Forward Air Controllers (FAC) to intermingle with the UN soldiers and to point at the Serb targets, so becoming a part of the crews who illegally bombed the Serb positions, facilities, installations, bridges, and contributed to the "advantage of one party and the detriment of another", as this UN documens pointed ouf even a week before the first massive bombing. So, at least the UN Court should have dismissed the charges from the Count 11, so called "Hostage charges" if not, that would be yet another, but a tragic and irreparable defeat of the United Nations!)**

5855. On 24 May 1995, there was intense shooting in Grbavica and NATO planes flew over the area.<sup>19236</sup> The VRS removed more heavy weapons from the WCP following an increase in the fighting and refused to return them.<sup>19237</sup> **(Why would the Serbs return the weapons necessary for the their ultimate defence?# The UN failed, as well as the NATO, to prevent the Muslims to initiate the offensive, and in that case, the Serbs got a "Memorandum of understanding", or of implementation, of 18 March 1994, infirming the rights of the Serb side to take their weapons if attacked. Or, at least see D842, when General Rose committed that in a case of a massive attack on the Serbs by the ABiH, there was no possibility for any UNPROFOR action. However, it was primarily UN action, to call the UN to bomb the Serbs. For how long this court will neglect the International law of war, which regulates all of this. And is the UN interested in surviving, or would have chosen a #fait of the "League of Nations?#)** Smith called Mladić to express his concern that, in and around Sarajevo, weapons were not being returned to the WCPs and that heavy weapons were being fired from there.<sup>19238</sup> Smith stated that he would issue a warning to both parties and release it to the press.<sup>19239</sup> The warning was that if the weapons were not returned to the WCPs by 12 p.m. on 25 May 1995, then NATO air strikes would commence.<sup>19240</sup> Smith told Mladić that they should meet as soon as possible to discuss a way in which the Sarajevo TEZ could be respected.<sup>19241</sup> Mladić agreed to meet but reiterated that the use of force by the UN would lead to a further escalation of the conflict.<sup>19242</sup> **(#The UN Commander, after failing to secure the Muslim respect for the agreements, ordered the air attacks on the only one side, the one that didn't initiate the fights, nor first violated the Agreement on TEZ!# The UN witnesses of the Prosecution testified that there was no any possibility that the ABiH and any Muslim facility would be punished regardless of the heavy breaches of the UN resolutions and mutual agreements!#)**

<sup>19236</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 5.

<sup>19237</sup> Rupert Smith, T. 11366–11367 (8 February 2011). *See also* Adjudicated Fact 2792.

<sup>19238</sup> Rupert Smith, T. 11367–11368 (8 February 2011); P2267 (UNPROFOR report re telephone conversation with Ratko Mladić, 25 May 1995), p. 2.

<sup>19239</sup> Rupert Smith, T. 11367–11368 (8 February 2011); P2267 (UNPROFOR report re telephone conversation with Ratko Mladić, 25 May 1995), p. 2.

<sup>19240</sup> Rupert Smith, T. 11367–11368 (8 February 2011); P820 (Witness statement of David Harland dated 4 September 2009), para. 183; Patrick Rechner, T. 11083–11084 (2 February 2011). *See also* P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995).

<sup>19241</sup> P2267 (UNPROFOR report re telephone conversation with Ratko Mladić, 25 May 1995), p. 2.

<sup>19242</sup> P2267 (UNPROFOR report re telephone conversation with Ratko Mladić, 25 May 1995), p. 2.

5856. On 25 May 1995, after the failure of the VRS to return heavy weapons to the WCPs, NATO was authorised by the UN to launch air strikes against Bosnian Serb military targets in Pale.<sup>19243</sup> **(This paragraph calls for D3488, the Akashi address to the French National Assembly, let us see what Akashi said there, D3488:**  
parties to the conflict are in agreement with regard to its existence. An agreement on the demilitarisation of the area in question and a clear border are especially necessary. However, the Bosnian Government often took advantage of the six designated safe areas – Sarajevo, Tuzla, Srebrenica, Zepa, Gorazde and Bihac – as places in which to rest its troops or equip and train them, and from which to organise attacks on the Serb forces, much more than as areas of relative safety for the civilian population.

**#The Chamber didn't notice this assertion of Mr. Akashi? See further, p.7**

I remember the observation posts held by the French troops in various places in Sarajevo – the airport, the Jewish cemetery and elsewhere. These soldiers were in the most vulnerable and indefensible positions imaginable, exposed to possible attacks by all parties to the conflict. How did they manage to stay there without suffering more losses? Personally I believe it was because they were perceived as “impartial” by the parties to the conflict. It was this, and not their weapons, which made them credible. This was at least true in the first stages of the war.

**look further, p.9:**

very likely to be used were the negotiations to fail. At the same time, we were very aware of the fact that although limited, the air support action conducted in April 1994 to ensure the safety of UN personnel in Gorazde had had two consequences: 150 UNPROFOR soldiers were taken prisoner and our British commander lost all negotiating power with the Bosnian Serbs.

**So, Akashi qualified it as a “prisoners”, not a hostages!**

After close air support lasting a few hours, I asked NATO to stop the air support because I had received a telephone call from the Dutch Minister of Defence requesting that the air support be stopped as the Serbian forces were too close to the Dutch troops. My feeling was that we had no choice but to agree to the Dutch request. If we had resorted more quickly to

**So, even a CAS (close air support) was ceased only after the jeopardy for the Dutch soldiers because of their vicinity to the Serb targets of the NATO! This is what Akashi said, p. 13:**

I have said that it is difficult to apportion the blame, even if the Bosnian Serbs bear the most responsibility. As an example allow me to cite a passage from paragraph 35 of the Secretary-General's report on the tragedy in Srebrenica: *“As the Bosniacs advanced, they used techniques of ethnic cleansing similar to those used by the Serbs in other areas, burning houses and terrorizing the civilian population. Serb sources claim that over 1,300 people were killed by Bosniac fighters as they expanded out of Srebrenica.”*

<sup>19243</sup>

P5019 (UNPROFOR report re air strike near Pale, 25 May 1995); Rupert Smith, T. 11368 (8 February 2011); P2177 (UNMO report, 25 May 1995), p. 1; Patrick Rechner, T. 11084 (2 February 2011); D3488 (Yasushi Akashi's interview with Joint Information Mission at French National Assembly, 26 April 2001), e-court p. 9. The basis for this authorisation was UN Security Council Resolution 836 (1993). P985 (UNSC Resolution 836, 4 June 1993); David Harland, T. 2121–2123 (7 May 2010). On 25 May 1995, approximately 30 minutes following the NATO air strike, the 7 Lima UNMO Team was informed by the UNMO headquarters that the air strike had been carried out by NATO on behalf of the UN. P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 18. See also P820 (Witness statement of David Harland dated 4 September 2009), para. 183; Yasushi Akashi, T. 37706 (24 April 2013); D3489 (Excerpt from Yasushi Akashi's book entitled “In the Valley between War and Peace”), pp. 31–32; P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995). On 25 and 26 May 1995, the SRK took a number of heavy weapons from the WCPs. Adjudicated Fact 2795.

**It had also been said something that the Chamber should have noticed: see D3488, p. 10:**

After the whole world began to see the enormity of the crimes committed in Srebrenica, we raised the matter at our meeting with President Milosevic on 15 July. General Rupert Smith and General Mladic reached an agreement to give ICRC observers immediate access on the ground. Following this agreement, I reminded Mr Milosevic on two occasions that the promise had not been honoured.

**(#The Chamber sentenced President Karadzic for not giving the access of the ICRC to Srebrenica, while it was not in his hands at all.) :** Smith stated that the purpose behind the air strikes was to re-impose the TEZ and the WCP regime, which were both breaking down.<sup>19244</sup> **(Why, breaking down? Because the Muslim side had a privilege to violate every single agreement, since the Serbs were to be punished. Further, Mr. Akashi confirmed in the French National Assembly that the UN had the Forward Air Controllers, see D3488, p. 15:**

- close air support, designed to ensure the safety and protection of our staff. We send out air controllers to the area to determine whether our staff are being physically attacked. It is only when this has been confirmed that the NATO planes target the weaponry directed at our staff.

**The FAC were a half of the crew which bombed the Serbs, and couldn't be considered hostage, but rather a combatant! They had been responsible for shoosing of targets and accuracy of hits!** Two air strikes were conducted: the first at 4 p.m. striking Jahorinski Potok and the second at 4:25 p.m. striking Ravna Planina.<sup>19245</sup>

#### b. VRS response to NATO air strikes

5857. On 25 May 1995, the Accused ordered Milovanović to “activate” a decision made the previous year ordering the VRS to “arrest everything foreign in RS territory and to treat military personnel as prisoners of war and hold them as hostages till the end of the war”.<sup>19246</sup> **(Apart from a false memories of General Milovanovic that any order had been issued prior to the spontaneous reaction of the Serb soldiers, which is clearly supported by the evidence, the rest is close to reality, since the President didn't order the soldiers to release the UN personnel helping the NATO bombardment. All other is also a fake story, or the use of it. Namely, this is a “contradiction in adjecto”, it can not been that the both had been said, the POW-s and hostages. Certainly, it was as always POW-s. President Karadzic kept warning the international representatives that if the UN participate in any active military action against the VRS, they must be considered as enemies, and would be fought and captured with the status of Prisoners of war. The President always argued about the “hostage” term, since one who participate in a combats can not be a hostage! Many internationals understood that, and had written their appeals to the UN asking not to be turned into a position of warring side! But, if the Chamber payed so much credit to the “post festum” written memories of General Milovanovic, it should then be consequent and admit many exculpatory elements from these memories.)** Consequently, Živanović issued an order to all units of the Drina Corps

<sup>19244</sup> P2270 (UNPROFOR report, 29 May 1995), p. 1.

<sup>19245</sup> P2177 (UNMO report, 25 May 1995), p. 1; P1473 (Ratko Mladić's notebook, 27 January–5 September 1995), p. 147; D2149 (Aide mémoire of Manojlo Milovanović), p. 56. One of the targets was an ammunition depot 300 metres away from the SE-1 UNMO team and approximately five to ten kilometres from the 7 Lima UNMO team, which was chosen because of its military significance and the unlikely chance that there would be civilian casualties. Rupert Smith, T. 11368 (8 February 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6; Patrick Rechner, T. 11083 (2 February 2011). See also P6575 (Report of VRS Main Staff, 25 May 1995).

<sup>19246</sup> D2149 (Aide mémoire of Manojlo Milovanović), pp. 56–57.

that following the NATO air strikes, the VRS should respond by conducting operations against selected targets and “if UNPROFOR continues its operations against our military and civilian targets, all units of the Corps must be on stand-by for action against UNPROFOR checkpoints and bases”.<sup>19247</sup> It further ordered the prevention of all movement of UNPROFOR vehicles and of all other international organisations in the area and to fire on UNPROFOR if fired upon.<sup>19248</sup>

**(#The most reasonable decision in the given situation#. The UN representatives on the terrain were ordering the NATO attacks and destroying the Serb defence abilities#. So all that are in the service of the power that is attacking the Serb side, anyway weaker in manpower, must have been put under the control, and disabled to move around and direct the bombs with an unseen preciseness! But, there is nothing more illustrative as the Akashi’s report to Annan on 20 May 1995, only a week before the crisis with the NATO bombardment, see D1174, p. 13,**

**and accepted political settlement. Except for use in self-defence, the Council has also created an expectation that UNPROFOR should apply air power to the advantage of one party and the detriment of another. Such a use of force by UNPROFOR is generally incompatible with UNPROFOR’s mediatory role designed to bring about a stabilization of the situation. If it is not the intention of the Council that UNPROFOR become a party to the war, then the Council should adjust the Force’s mandate, and hence the parties expectations, accordingly and not ask UNPROFOR to pursue a policy of war and peace at the same time. If, however, it is the intention of the Council to intervene in the military aspects of the conflict, then UNPROFOR should be supplanted by a Force more capable of carrying out this policy.**

**(#... “that UNPROFOR become a party to the war...” which was exactly what happened#! No privileges that belong to a peace-keepers if they are a “party to the war”! So, the entire responsibility is on those who abused the UN power, violated the UN mandate in BiH, and became a warring faction. This must not happen any time in the future, or the UN would not have any future! Another, more grave mistake, is that the UN Court sentence the Serb military and civilian officials!#)**

5858. On the evening of 25 May 1995, the VRS shelled all the safe areas, which also included an attack on Tuzla and Goražde that killed approximately 70 civilians and injured 150 others.<sup>19249</sup> **(#There was no attack on Tuzla, and this is still a matter of litigation in BiH. But, the most important fact is that there was no any “safe areas” in BiH. All of the so called “safe areas” had been a military strongholds of the Muslim forces (ABiH) an ste UN Secretary General properly estimated and qualified. The only “safe” in these areas wevr the combatant/terrorist units of the ABiH, protected by the UNPROFOR, to be able to kill, rob, burn and devastate the surrounding Serbian villages and civilians unpunished, because the arms of the VRS were tied by this “protection”. This is another matter that should never be repeated! Otherwise, all what the UN and it’s agencies and the high officials had done good and precious for the population in the crisis areas is annihilated by a detrimental abuse of the UN by some countries with**

<sup>19247</sup> P2149 (Order of Drina Corps, 25 May 1995), p. 1.

<sup>19248</sup> P2149 (Order of Drina Corps, 25 May 1995), p. 1.

<sup>19249</sup> Rupert Smith, T. 11369 (8 February 2011). *See also* P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2171 (UNPROFOR report, 27 May 1995), p. 2; D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 4; P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 74; P820 (Witness statement of David Harland dated 4 September 2009), para. 183; D1051 (UNPROFOR report on air strikes, 26 May 1995); P5013 (UNPROFOR report re air-strikes in Bosnia, 26 May 1995); *see* Adjudicated Fact 2794. *See also* P6573 (Cable of Akashi to Annan re Air Strikes - Sarajevo, 26 May 1995).



**their separate interests!)** The following day, NATO air strikes started again around 10 a.m. in Pale and continued until 12 p.m.<sup>19250</sup> The VRS fired weapons from the Bare, Ilidža, Osijek, and Polinje WCPs in the afternoon, after the expiration of the deadline to return those weapons.<sup>19251</sup> There were 44 reported incidents involving firing of heavy weapons within the Sarajevo TEZ.<sup>19252</sup> Negotiations between UNPROFOR and the SRK commander for the return of the weapons continued.<sup>19253</sup>

5859. On 26 May 1995, Dragomir Milošević issued an order to all units of the SRK to immediately establish a full blockade of UN forces at check-points and on all roads in the “entire zone of the Corps” and to “use additional forces if the blockade is detected by the UN forces”.<sup>19254</sup>

5860. On 27 May 1995, the VRS Main Staff issued an order, approved by the Accused, to the commands of the 1<sup>st</sup> Krajina Corps, 2<sup>nd</sup> Krajina Corps, SRK, Eastern Bosnia Corps, Herzegovina Corps, Drina Corps, as well as other VRS units, stating that based on information that NATO will continue its air strikes on important targets in the RS, captured UNPROFOR personnel were to be disarmed and placed in “the areas of command posts, firing positions and other potential targets that may come under the air strike”.<sup>19255</sup> **((Let us see what is in the exhibit P2137, which was the basis for this paragraph:**

The reception and deployment  
of the UNPROFOR members in the  
Corps’ area of responsibility, order –

At the meeting held in Naples on 27 May 1995 between the highest NATO Military Officials led by the US Defence Minister William Perry, it has been decided that NATO shall continue bombing the warehouses, important command posts, firing positions of the support assets and other important infrastructure installations in the RS territory. We also have information that NATO has grouped in Italy about 130 F-18 planes and large number of ships and helicopters in order to pull out from the territory of the former BiH /Bosnia and Herzegovina/ the remaining UNPROFOR forces (personnel without equipment) though a lightning-quick operation using helicopter landings. It is possible that NATO Special Purpose units may engage from the territory of the NDH /Independent State of Croatia/. In order to prevent NATO leaders from carrying out their intentions:

4. UNPROFOR staff shall be transported in motor vehicles with covers in order to prevent them from observing the route.

During the transportation and reception of the UNPROFOR staff make sure that they are treated properly with military respect, treat them as prisoners of war and provide them with food and water like the VRS troops.

<sup>19250</sup> D1051 (UNPROFOR report on air strikes, 26 May 1995); Patrick Rechner, T. 11084 (2 February 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6; *see* Adjudicated Fact 2796.

<sup>19251</sup> P2171 (UNPROFOR report, 27 May 1995), p. 1.

<sup>19252</sup> There were 16 reported incidents of weapons fired from the WCPs and eight VRS weapons still remaining in the TEZ. P2171 (UNPROFOR report, 27 May 1995), p. 2.

<sup>19253</sup> P2414 (Witness statement of KDZ182 dated 8 March 2011), p. 74 (under seal).

<sup>19254</sup> P6097 (SRK Order, 26 May 1995); Dragomir Milošević, T. 33228–33231 (5 February 2013) (testifying that while he did issue this order to detain UN personnel, the portion of the order stating “do not take into account any UN requests regarding the supplies of food, water, etc.” did not pertain to the treatment of detained UN personnel, but rather to UN supply convoys and that UN personnel were treated as prisoners of war and provided with food and water). Dragomir Milošević, T. 33228–33231, 33247–33249 (5 February 2013).

<sup>19255</sup> P2137 (VRS Main Staff Order, 27 May 1995), p. 1. *See also* P2151 (Order of Drina Corps, 27 May 1995), pp. 1–2 (implementing the order); Jonathon Riley, T. 10784 (26 January 2011).



8. The above GŠ VRS /Main Staff of the Army of Republika Srpska/ Order about the deployment of UNPROFOR staff has been approved by the President of the Republika Srpska and the local and foreign media was also informed about it.
9. The Commanders of the units are personally responsible to me for the execution of this order and they shall inform me in written about it by 28 May 1995.

**First: the information from the NATO meeting said that the NATO may have organised a serial of desants aimed to forcefully release the UN POWs. In such a case, there was a #necessity to disperse the UN personnel throughout the country#, some that a number of possible desants be so high that the NATO give up the idea. That was what had been presented to the President and that was what he approved. Nothing about deployment of the POWs at a sensitive sites of the VRS defence had never been mentioned, and since this President's approval had been given by telephone, there must have been a record of this conversation. But, with such a high degree of infidelity of some pro-communist officers, such an allegation and deception had been possible. The very document said only that the President approved the Order of the deployment of UNPROFOR staff.... The President accepted the idea to disperse the UN personnel, nothing else! Second, the UN personnel had been ordered to be treated as the Prisoners Of War (POWs) Third, it had been ordered that the Un staff be treated properly, with military respect, treat them as a prisoners of war, and provide them with food and water as the VRS soldiers. #This is in a direct contrast with the "order" to deploy the UN persosnnel at a possible target places, and President Karadzic never admitted it! The high VRS officers had known what are they entitled to do, and what not, and if by any chance the President ordered something in discord eith the Law of war, they must not have been executing it, and were supposed to refuse, and to demand an explanation! That was the purpose why the President handed his competences in operational and tactical command to the Main Staff on 15 June 1992, and could not have been responsible for such a deviant doings!) The order provided for the exact number of UNPROFOR personnel to be detained,<sup>19256</sup> the location where they should be sent, the manner in which they should be transported, as well as an instruction that "they are to be treated properly with military respect, treat them as prisoners of war and provide them with food and water like the VRS troops".<sup>19257</sup> (#As it can be seen, there is no any reference to the Supreme Commander's Order#. This comes from the "afterwards mind" of the witness, to secure his position. However, the main concern of the witness, as it is visible from his order, was a possibility of a (dessant) airborne attack with the aim to forcefully liberate the UN personnel, and that was the main reason to spread the detained all over the country. The President had never mentioned or meditated the possibility of deploying them to a spots of attack, but their detention (for which this Accused is indicted and sentenced) was completely justified, particularly due to the FAC among them. The first question of the VRS intelligence officers was: "how the NATO plains are so precise?" knowing and learning that the FAC were assisting them.)**

**5861.** On the same day, an urgent message was sent from the Intelligence and Security Sector of the VRS Main Staff, recommending the 1<sup>st</sup> Krajina Corps, 2<sup>nd</sup> Krajina Corps, the SRK, the Eastern Bosnian Corps, and the Herzegovina Corps to place the "captured members of

<sup>19256</sup> Specifically it stated that 18 UNPROFOR members be sent to the 2<sup>nd</sup> Krajina Corps, 40 UNPROFOR members sent to the 1<sup>st</sup> Krajina Corps, 27 UNPROFOR members sent to the Eastern Bosnia Corps, and 18 UNPROFOR members sent to the Herzegovina Corps. P2137 (VRS Main Staff Order, 27 May 1995), p. 1.

<sup>19257</sup> P2137 (VRS Main Staff Order, 27 May 1995), pp. 1–2.

UN forces” in areas of possible NATO air strikes.<sup>19258</sup> The next morning, the VRS again shelled Tuzla.<sup>19259</sup> **This is denied by the VRS.**

5862. As will be explained in further detail below, on 26 May 1995 following the NATO air strikes, a number of UNPROFOR and UNMO personnel throughout BiH were detained by the VRS.<sup>19260</sup> Some were taken from their posts or WCPs to various locations in the RS, such as the Bijeljina Barracks, the Lukavica Barracks, Jahorinski Potok, or Banja Luka.<sup>19261</sup> Others were simply detained at their locations by the VRS.<sup>19262</sup>

5863. By 29 May 1995, UNPROFOR estimated that approximately 347 UN personnel, including 32 UNMOs, were detained as “hostages” at their OPs and WCPs or held in isolated detachments, surrounded by Bosnian Serb Forces.<sup>19263</sup> Some of the UN personnel were held in locations of military significance for the VRS.<sup>19264</sup>

## 5. Detention and treatment of UN personnel

### a. General observations

5864. UNPROFOR and UNMO personnel were stationed throughout BiH. However, the charges in the Indictment under Count 11 focus on the UNPROFOR and UNMO teams located in Sector Sarajevo, in particular in the areas of Pale, Sarajevo, Banja Luka, and Goražde.<sup>19265</sup>

5865. As mentioned earlier,<sup>19266</sup> UNPROFOR’s responsibilities included monitoring the DMZ and the TEZ, and reporting any incoming or outgoing fire.<sup>19267</sup> UNPROFOR teams in Sarajevo were also tasked with escorting UNHCR convoys into the city and overseeing the supply of water, gas, and electricity.<sup>19268</sup> Further responsibilities included observing the

<sup>19258</sup> P2147 (VRS Main Staff Report, 27 May 1995), p. 1.

<sup>19259</sup> P2269 (UNPROFOR report re telephone conversation with Ratko Mladić, 29 May 1995), p. 2.

<sup>19260</sup> P2171 (UNPROFOR report, 27 May 1995), p. 1; P2284 (UNSG report entitled “The Fall of Srebrenica”, 15 November 1999), para. 190. See also P2172 (UNMO report, 26 May 1995), e-court p. 4; P2173 (UNPROFOR report, 28 May 1995), p. 5; P2136 (Map of BiH); P2145 (Map of BiH); P2142 (Map of BiH); P2162 (Map of BiH); P2173 (UNPROFOR report, 28 May 1995), pp. 1–6. In Sector Sarajevo, approximately 260 UNPROFOR personnel were taken by the VRS. P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 75.

<sup>19261</sup> See P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 75; P2140 (Witness statement of KDZ196 dated 10 March 1998), pp. 6–7 (under seal); P2142 (Map of BiH); P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995); P2171 (UNPROFOR report, 27 May 1995); P2172 (UNMO report, 26 May 1995); P2173 (UNPROFOR report, 28 May 1995); P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996); P2136 (Map of BiH); P2145 (Map of BiH); P2184 (Serbian TV news report re UN personnel, with transcript); P5013 (UNPROFOR report re air-strikes in Bosnia, 26 May 1995); P2179 (Video footage of UN personnel); P2180 (Video footage of UN personnel); P2181 (Video footage of UN personnel); P2432 (UNPROFOR protest letter to SRK, 3 June 1995). UNPROFOR personnel were taken to other locations, including Ilijaš, Rogatica, Sokolac, Knežina, Vlasenica, Vogosča, Višegrad, Blazuy, Milići, Bratunac, and Zvornik. P2150 (UK Report entitled “Final Debriefing Report - Goražde Hostages,” 3 July 1995); P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995).

<sup>19262</sup> See P2171 (UNPROFOR report, 27 May 1995); P2172 (UNMO report, 26 May 1995); P2173 (UNPROFOR report, 28 May 1995); P2145 (Map of BiH); P2270 (UNPROFOR report, 29 May 1995); P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995); P5013 (UNPROFOR report re air-strikes in Bosnia, 26 May 1995); P2432 (UNPROFOR protest letter to SRK, 3 June 1995).

<sup>19263</sup> P2178 (UNMO report, 30 June 1995); P2270 (UNPROFOR report, 29 May 1995), p. 1; P5023 (UNPROFOR report, 29 May 1995); P2173 (UNPROFOR report, 28 May 1995), p. 1; P2171 (UNPROFOR report, 27 May 1995); P2172 (UNMO report, 26 May 1995), e-court, pp. 3–4.

<sup>19264</sup> P2146 (VRS Main Staff Report, 26 May 1995); P2147 (VRS Main Staff Report, 27 May 1995); P2171 (UNPROFOR report, 27 May 1995); P2172 (UNMO report, 26 May 1995), e-court, pp. 3–4; P2173 (UNPROFOR report, 28 May 1995); P2178 (UNMO report, 30 June 1995). For locations where the UN personnel were held, see P2136 (Map of BiH); P2142 (Map of BiH); P2162 (Map of BiH); P2145 (Map of BiH).

<sup>19265</sup> Indictment, para. 86.

<sup>19266</sup> For more details on UNPROFOR and UNMO, see Section II.E.2: Vance Plan.

<sup>19267</sup> 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); P820 (Witness statement of David Harland dated 4 September 2009), paras. 79–80.

<sup>19268</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4.

parties, reporting any cease-fire violations, controlling traffic, and ensuring free passage for all UN vehicles.<sup>19269</sup>

5866. The role of the UNMO teams included working with the parties to the conflict, monitoring the implementation of cease-fire agreements, monitoring WCPs, reporting on any incoming or outgoing shelling, and drafting investigating reports about shooting incidents.<sup>19270</sup> All UNMO teams were unarmed.<sup>19271</sup> **(Unless some of them had a laser to guide the NATO bombs to be unbelievable precise!!! Those UNMO-s were armed, and made to the Serbs a huge damage. And taking into account that many of them participated in smuggling the weaponry to the Muslim side, and taking into account that the entire UN presence was completely biased and acted as an anti-Serb organisation, reporting in an dishonest manner (with the exception of the highest officers) no wonder the Serbs feared from them. But, as His Excellence Akashi reported in his letter to Annan on 20 May 1995, D1174, this was far from the practical conduct of the UN on the terrain in BiH, and Akashi was “crying out” for clarification of the UN mandate, in order not to be turned into a warring faction! Neither the UN secured the demilitarisation of the “safe zones” as obliged by the agreement, nor it reported correctly, nor it’s mid ranking officers and clerks testified correctly... In other word, this was the UN catastrophe that was payed by many Serb lives and sufferings of all the sides! In spite of a very precious effects in the humanitarian field, and a very important and useful achievement of the highest UN officials in a political issues and reaching the peace, many other aspects were horrible, and could have damage the UN reputation, so that every crisis area may think twice whether to accept the “good services” of such a UN!)**

5867. In 1995 in the city of Sarajevo, there were approximately 5,000 UNPROFOR personnel comprised of troops mainly from France, Russia, Ukraine, and Egypt.<sup>19272</sup> Sector Sarajevo UNPROFOR had six battalions and one detachment in charge of the Sarajevo airport.<sup>19273</sup> In Goražde, the UNPROFOR team was comprised of approximately 400 members of BritBat and one Ukrainian company of approximately 100 men.<sup>19274</sup>

5868. It was estimated that approximately 260 UNPROFOR personnel in Sector Sarajevo were taken and detained by the VRS.<sup>19275</sup> More specifically, a FreBat team stationed in Polinje was taken first to the Bijelina Barracks and then detained in Doboje.<sup>19276</sup> A FreBat team stationed at the Lukavica Barracks was detained there.<sup>19277</sup> Another FreBat team stationed at the Sierra Victor post near the Vrbanja Bridge was attacked and detained at the Lukavica Barracks.<sup>19278</sup> A UkrBat team in Sarajevo was taken to Bijeljina and then detained

<sup>19269</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 4.

<sup>19270</sup> Patrick Rechner, T. 11078 (2 February 2011); Marcus Helgers, T. 10747 (26 January 2011); P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4.

<sup>19271</sup> Marcus Helgers, T. 10747 (26 January 2011); Patrick Rechner, T. 11078 (2 February 2011); P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 5. *But see* D2762 (Witness statement of KW554 dated 14 September 2012), para. 26 (stating that many of the UNMO teams were armed). On cross-examination, KW554 clarified that he was only familiar with the Canadian UNMO team and that the UNMO teams he thought had weapons were not part of the group that was taken hostage in May 1995. KW554, T. 32034–32035 (16 January 2013). Given the inconsistency of KW554’s evidence, his deficiency in candour, and based on the totality of the evidence, the Chamber concludes that the UNMOs were unarmed.

<sup>19272</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), para. 6; D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 78.

<sup>19273</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 5.

<sup>19274</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), e-court p. 4.

<sup>19275</sup> P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 75.

<sup>19276</sup> [REDACTED]; P2142 (Map of BiH).

<sup>19277</sup> P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995), p. 1.

<sup>19278</sup> P2171 (UNPROFOR report, 27 May 1995), p. 1; P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995), p. 2; [REDACTED]; P2433 (UNPROFOR protest letter to SRK, 3 June 1995); P5924 (UNPROFOR report, 27 May 1995); D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995).

in Banja Luka.<sup>19279</sup> Members of the BritBat team based in Goražde were taken to various locations.<sup>19280</sup>

5869. The detained UNMOs in Sector Sarajevo were posted in areas such in Grbavica,<sup>19281</sup> Kasindo, Vogošća, and Pale.<sup>19282</sup> The UNMO team posted in the Bosnian Serb controlled area of Grbavica was taken to Jahorinski Potok and detained in the Pale Barracks.<sup>19283</sup> A UNMO team in Kasindo was taken to Grbavica, then to Pale, and detained at the Jahorina radar station.<sup>19284</sup> A UNMO team in Vogošća was detained in their accommodations and not allowed access to any communication.<sup>19285</sup> In Pale, there were two UNMO teams: the 7 Lima UNMO team and the SE-1 UNMO team.<sup>19286</sup> They were taken to Jahorinski Potok and detained at the Koran Barracks in Pale.<sup>19287</sup>

5870. The Chamber will now examine in more detail the sequence of events in relation to some of these UNMO and UNPROFOR teams.

*b. Evidence from the UkrBat team in Sarajevo*

5871. On 26 May 1995, members of the UkrBat team, including Aleksandr Vishnevski, were at the Zaria check-point when members of the VRS MP arrived.<sup>19288</sup> The VRS commander ordered that “in order to avoid bloodshed due to the NATO air strike on the Energoinvest plant”, the UkrBat team should hand over their weapons and the MP would take them to a safe place.<sup>19289</sup> While the UkrBat team initially handed over their weapons, the team’s lieutenant ordered that they stop doing so after Vishnevski had told him that he had seen on television the FreBat team being taken from their post, handcuffed, and treated harshly by some VRS soldiers.<sup>19290</sup> A clash ensued with the MP demanding that the UkrBat team hand over their remaining weapons.<sup>19291</sup> The MP commander put his pistol to the UkrBat Lieutenant’s head and threatened to fire if the UkrBat team failed to comply.<sup>19292</sup> Two UkrBat team members attempted to intervene and hit some of the MP.<sup>19293</sup> The MP then fired in the UkrBat team’s direction, above their heads, and ordered them to lie down.<sup>19294</sup> The UkrBat team members ultimately surrendered their weapons.<sup>19295</sup> The

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<sup>19279</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996); P2136 (Map of BiH).

<sup>19280</sup> P2150 (UK Report entitled “Final Debriefing Report - Goražde Hostages”, 3 July 1995) (indicating that locations included Rogatica, Sokolac, Knežina, Vlasenica, Milići, Bratunac, and Zvornik).

<sup>19281</sup> One of the UNMO teams in Grbavica was posted in the Bosnian Serb controlled area in the centre of Sarajevo. The other UNMO team in Grbavica was posted in the Bosnian Muslim area of Sarajevo. P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4; P2171 (UNPROFOR report, 27 May 1995), p. 5. Grbavica was a neighbourhood in the municipality of Novo Sarajevo, located in the southern-central part of the city of Sarajevo. Adjudicated Fact 65.

<sup>19282</sup> P2171 (UNPROFOR report, 27 May 1995); P2172 (UNMO report, 26 May 1995); P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4.

<sup>19283</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996).

<sup>19284</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995); P2117 (Witness statement of Marcus Helgers dated 3 August 1995).

<sup>19285</sup> P2171 (UNPROFOR report, 27 May 1995), p. 4; P2172 (UNMO report, 26 May 1995), e-court p. 3; P2145 (Map of BiH).

<sup>19286</sup> P2171 (UNPROFOR report, 27 May 1995), p. 4.

<sup>19287</sup> Janusz Kalbarczyk, T. 10832–10859 (28 January 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995); P2173 (UNPROFOR report, 28 May 1995).

<sup>19288</sup> Members of this squad were dressed in Bosnian Serb MP uniforms with black armbands around their sleeves. P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), pp. 1–2.

<sup>19289</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2; Aleksandr Vishnevski, T. 10707, 10714 (25 January 2011).

<sup>19290</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2; Aleksandr Vishnevski, T. 10707–10708 (25 January 2011).

<sup>19291</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19292</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19293</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19294</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19295</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

UkrBat team was then taken to the police station in Ilidža, moved to a hotel for several hours, and driven back to the Zaria check-point where they spent the night.<sup>19296</sup>

5872. On 27 May 1995, at 4 a.m., they were woken up and told to collect their belongings.<sup>19297</sup> They boarded a bus going in the direction of Krivoglavci.<sup>19298</sup> The bus stopped at the Palub check-point and five other UNPROFOR personnel were brought onboard.<sup>19299</sup> The bus, escorted by two VRS MP vehicles, arrived in Bijeljina where Vishnevski saw a group of 14 FreBat team members who had also been detained.<sup>19300</sup> The bus continued to Banja Luka where the UkrBat team members were taken to barracks near an airfield.<sup>19301</sup> They were ordered to separate into smaller groups.<sup>19302</sup> They refused to obey the order and as a result their flak jackets, shoulder straps, and shoe laces were taken away.<sup>19303</sup> They were told that they must carry out the orders of the MP and that they were held captive in order to force NATO to stop the air strikes against Bosnian Serb military positions.<sup>19304</sup> Leashed German shepherd dogs were set on the UkrBat team so that they were forced to move into the barracks.<sup>19305</sup> UkrBat members were detained in the Banja Luka Barracks until their release.<sup>19306</sup> During their detention, they received very little food and only cold water was available to wash but no towels or soap.<sup>19307</sup> They were released on 6 June 1995, transferred to Novi Sad, and flown to Zagreb.<sup>19308</sup> **(What some individual soldier or MP said to them do not matter: the official position was that they are a POW-s, and that they got in this position because the NATO bombed the Serb infrastructure, but it wasn't said to have an aim to force the NATO to stop, but to keep them until the conflict ends. And it was clearly notified to the POW-s, and publicly as well. The same manner the French UNPROFOR kept several Serb soldiers until the conflict ended! Is there any difference, and what?)**

*iii. Evidence from the UNMO team in Kasindo*

5873. The UNMO team in Kasindo, south of Sarajevo, had six members, including Marcus Helgers, Ahmad Manzoor, and Gunnar Westlund, the acting team leader.<sup>19309</sup> On 25 May 1995, after the first NATO air strike, a uniformed man claiming to be a VRS security officer entered the accommodations of the UNMO team in Kasindo.<sup>19310</sup> He informed them

<sup>19296</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19297</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2; P2138 (VRS Main Staff Report, 28 May 1995), p. 6.

<sup>19298</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2; Aleksandr Vishnevski, T. 10710, 10715 (25 January 2011).

<sup>19299</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 2.

<sup>19300</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; Aleksandr Vishnevski, T. 10712 (25 January 2011); P2138 (VRS Main Staff Report, 28 May 1995), p. 6.

<sup>19301</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; Aleksandr Vishnevski, T. 10709, 10711–10712 (25 January 2011); P2137 (VRS Main Staff Order, 27 May 1995), p. 1.

<sup>19302</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; Aleksandr Vishnevski, T. 10708 (25 January 2011).

<sup>19303</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; Aleksandr Vishnevski, T. 10708 (25 January 2011).

<sup>19304</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3 (first stating that they were told that they were “prisoners of war” but later explaining that they were informed that they “had been taken hostage”).

<sup>19305</sup> Aleksandr Vishnevski, T. 10708 (25 January 2011).

<sup>19306</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; *see also* Aleksandr Vishnevski, T. 10708–10709 (25 January 2011); P2137 (VRS Main Staff Order, 27 May 1995), p. 1; P2136 (Map of BiH).

<sup>19307</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3.

<sup>19308</sup> P2135 (Record of interview with Aleksandr Vishnevski, 5 February 1996), p. 3; Aleksandr Vishnevski, T. 10712–10713 (25 January 2011); P2139 (VRS Main Staff Order, 6 June 1995); P2136 (Map of BiH).

<sup>19309</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4; Marcus Helgers, T. 10747 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2; P2171 (UNPROFOR report, 27 May 1995), p. 4 (stating that the call signal for the UNMO team in Kasindo was SS-1).

<sup>19310</sup> Marcus Helgers, T. 10748 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2; P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4. Although Westlund’s witness statement states that the first NATO air strikes occurred on 24 May 1995, the Chamber finds that this is incorrect and the first NATO air strikes occurred on 25 May 1995.



that there had been a NATO air strike against the Bosnian Serbs and that the UNMO team was under house arrest.<sup>19311</sup> They were told that their interpreter would be allowed to go to the VRS barracks with a list of items they may need.<sup>19312</sup>

5874. On 26 May 1995, at noon, Westlund heard the second NATO air strike and saw a large cloud of smoke on the other side of the mountains in the direction of Pale.<sup>19313</sup> At around 2 p.m., he heard Nicholas Ribić on the radio identifying himself as a VRS soldier and saying: “We have your Pale team. We will kill them if you do not stop the NATO air strikes”.<sup>19314</sup> At 5:15 p.m., two armed soldiers wearing uniform-type trousers and green shirts with no insignia entered the UNMO office.<sup>19315</sup> They ordered the UNMO team to follow them immediately.<sup>19316</sup> The UNMO team was told to pack while their radios, flak jackets, and helmets were confiscated.<sup>19317</sup> Westlund and another UNMO were ordered to drive two UN vehicles with armed VRS soldiers sitting next to them.<sup>19318</sup> They were not told where they were going, but were ordered to take the back roads.<sup>19319</sup>

5875. The UNMOs eventually arrived in Grbavica, where they were taken to the basement of a civilian high-rise building where ten armed VRS soldiers were sitting.<sup>19320</sup> A stolen UN vehicle that had been painted black arrived and three armed men came out.<sup>19321</sup> The two soldiers who arrested the UNMO team appeared wearing stolen UN blue helmets and flak jackets; they were under the command of these three armed men.<sup>19322</sup> One of the soldiers ordered the UNMO team to take off their UN uniforms and to put on civilian clothing.<sup>19323</sup> The UNMOs did not have civilian clothing, so the soldiers gave them a combination of civilian clothes and old JNA uniforms to wear.<sup>19324</sup> They were allowed to keep their identification cards, wallets, and cigarettes.<sup>19325</sup> The two soldiers who arrested the UNMO team drove away in the two UN vehicles taken from the UNMO office.<sup>19326</sup> The UNMO team was placed in the back of the black vehicle and driven towards Pale.<sup>19327</sup> Around 7 p.m., the vehicle reached the police station in Pale where the leader went inside; he then took them to a cafe in downtown Pale.<sup>19328</sup> There, the UNMO team was ordered to get out of the vehicle and line up on the pavement.<sup>19329</sup> Westlund saw many drunken VRS soldiers standing outside the cafe wearing stolen UN equipment.<sup>19330</sup> They also saw members of the 7 Lima UNMO team from Pale who had been captured earlier that day.<sup>19331</sup>

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<sup>19311</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4; Marcus Helgers, T. 10748 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2.

<sup>19312</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4.

<sup>19313</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4.

<sup>19314</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4. Patrick Rechner identifies Nicholas Ribić as a “Canadian of Serbian origin” who was a VRS soldier. Patrick Rechner, T. 11087 (2 February 2011).

<sup>19315</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court pp. 4–5.

<sup>19316</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4.

<sup>19317</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 4.

<sup>19318</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5 (specifying that the armed soldier was pointing the gun at him).

<sup>19319</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19320</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19321</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5 (noting that the individual who seemed to be the leader had a long beard, long black hair, was dressed in black, and did not seem to be a “regular VRS soldier”).

<sup>19322</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19323</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5; Marcus Helgers, T. 10749 (26 January 2011).

<sup>19324</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5; Marcus Helgers, T. 10749 (26 January 2011).

<sup>19325</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19326</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19327</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19328</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19329</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19330</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19331</sup> P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2; Patrick Rechner, T. 11103–11104 (2 February 2011).

Ribić told them: “You are now our prisoners and we are going to take you to the radar station where you will be locked-up to protect it”.<sup>19332</sup> Ribić further stated that if there were any more NATO air strikes, one of the UNMOs would be shot, and if there was an air strike on the Mount Jahorina radar station, any of the UNMOs who survived would be executed afterwards.<sup>19333</sup> The UNMO team was then ordered to get into another stolen UN vehicle that had arrived at the cafe.<sup>19334</sup> **(#Just to be accurate: the changing of the clothing was for their safety, because if being seen in the UN uniforms, they could have been attacked by anyone angry with the UN and NATO. No any convincing argument to oppose this one!#)**

5876. Between 8 and 8:30 p.m., Westlund, Helgers, Manzoor, and other members of the UNMO team were driven to the Mount Jahorina ski resort and stopped *en route* at a cabin.<sup>19335</sup> The officer in charge came out of the cabin with three armed VRS soldiers.<sup>19336</sup> The officer spoke to Ribić and Ribić ordered Westlund to call the UNMO headquarters by radio and instructed him as follows: “Tell them that we will shoot you one by one if NATO does not stop the air strikes. Tell them that you are going to the Jahorina radar station where you will be locked up”.<sup>19337</sup> When UNMO headquarters acknowledged the call, Ribić grabbed the radio, identified himself as a VRS soldier and then repeated the message.<sup>19338</sup> Westlund, Helgers, and the UNMOs were ordered out of the vehicle and into a camouflaged Volkswagen minibus.<sup>19339</sup> Ribić and another soldier drove away in the stolen UN vehicle in the direction of Pale.<sup>19340</sup> The three remaining VRS soldiers were very drunk, aggressive, and hostile, and one of them hit three of the UNMOs on the head with the butt of a Kalashnikov rifle.<sup>19341</sup> They drove Westlund, Helgers, and the UNMOs up the mountain towards the Mount Jahorina radar station, which was approximately 50 metres from the main radar tower.<sup>19342</sup> When they arrived at the barracks, a man who introduced himself as the commander of the VRS unit gave the UNMOs paper to write down their names, nationalities, and ID numbers.<sup>19343</sup> He said he would send the information to the Lukavica Barracks so that the UNMO headquarters would know their whereabouts.<sup>19344</sup> He informed them that they were prisoners of war.<sup>19345</sup> **(That is correct, and it shold be counted only #what an officer said, #not a drunk soldiers!)** Later, the UNMOs were warned that the

<sup>19332</sup> Although Westlund does not name Ribić, he states that he recognised his voice as that of the Bosnian Serb soldier from Canada who had previously spoken on the radio, in very good English, stating that he had detained the UNMO team in Pale. P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court pp. 5–6. Rechner and Helgers also testified that it was Ribić who was present and made these statements. Patrick Rechner, T. 11087–11088 (2 February 2011); Marcus Helgers, T. 10750 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2.

<sup>19333</sup> Marcus Helgers, T. 10750 (26 January 2011); Patrick Rechner, T. 11087–11088 (2 February 2011).

<sup>19334</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 5.

<sup>19335</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6; P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 2; Marcus Helgers, T. 10751 (26 January 2011).

<sup>19336</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19337</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19338</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19339</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19340</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19341</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6; Marcus Helgers, T. 10751 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 3.

<sup>19342</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6 (specifying that after 20 minutes, the minibus stopped and they walked the rest of the way up the mountain).

<sup>19343</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6; P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 3.

<sup>19344</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

<sup>19345</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 6.

area around the radar station was mined.<sup>19346</sup> They were told that they had been taken pursuant to orders from the Bosnian Serb President or the VRS command.<sup>19347</sup>

5877. On 27 May 1995, Westlund, Helgers, Manzoor, and the UNMOs were woken up at 4:45 a.m. and taken by three VRS soldiers towards the radar station 200 metres away.<sup>19348</sup> Near the radar station, they were taken to a small shelter that contained four beds, blankets, pillows, and a heater.<sup>19349</sup> Two of the UNMOs were told to go outside with their blankets.<sup>19350</sup> Two hours later, they returned and told Westlund that they had been forced to sit around the radar station with their blankets and had been guarded by two armed soldiers at all times.<sup>19351</sup> Next, Westlund and another UNMO were taken outside and forced to sit between the two radar antennas for two hours before returning to the shelter.<sup>19352</sup> At 3 p.m., three VRS soldiers entered the shelter.<sup>19353</sup> One of them was the battalion commander and ordered Westlund and Manzoor to get into a car.<sup>19354</sup> They were driven towards the radar station.<sup>19355</sup> Westlund was ordered to get out and the car was driven off with Manzoor still inside.<sup>19356</sup> Westlund and a VRS soldier walked 50 metres over a hill to a large army building which housed the radio communication centre.<sup>19357</sup> A VRS Lieutenant Colonel was present.<sup>19358</sup> Westlund was locked in a room on the second floor of the radio communications centre building.<sup>19359</sup> A younger deputy VRS commander told Westlund that he was under orders to shoot him if he attempted to escape.<sup>19360</sup> Westlund was kept in this building and given meals.<sup>19361</sup> After several days, Manzoor was brought back and detained with Westlund.<sup>19362</sup> Several times during the following days, Westlund heard NATO aircraft flying overhead.<sup>19363</sup> When this occurred Westlund and Manzoor were ordered to go outside until the flights passed.<sup>19364</sup>

5878. On 13 June 1995, Westlund was told that he would be released but that Manzoor would not.<sup>19365</sup> Westlund was released in Pale where he met a member of his team and eight UNMOs from other teams.<sup>19366</sup> There were members of the BritBat and FreBat teams who had also been released.<sup>19367</sup> Helgers, Manzoor, and other members of the UNMO team were released over the next few days.<sup>19368</sup>

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<sup>19346</sup> Marcus Helgers, T. 10756–10757 (26 January 2011).

<sup>19347</sup> Marcus Helgers, T. 10756–10757 (26 January 2011).

<sup>19348</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19349</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19350</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19351</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19352</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19353</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19354</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19355</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19356</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19357</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19358</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7 (specifying that the Lieutenant Colonel was the commander of the air defence complex).

<sup>19359</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19360</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19361</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 7.

<sup>19362</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19363</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19364</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19365</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8.

<sup>19366</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 8; P2160 (UNPROFOR report re released hostages, 14 June 1995). *See also* March Helgers, T. 10758 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 3; para. 5936.

<sup>19367</sup> P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court pp. 8–9.

<sup>19368</sup> P2117 (Witness statement of Marcus Helgers dated 3 August 1995), e-court p. 4

iv. Evidence from the UNMO team in Grbavica

5879. The UNMO team posted in the Bosnian Serb controlled area of Grbavica included Joseph Gelissen, Sergey Golubev, and Harley Alves.<sup>19369</sup> On 26 May 1995, at 4 p.m., a group of VRS soldiers entered the UNMO team's house in Grbavica.<sup>19370</sup> The soldiers handcuffed Gelissen and Alves.<sup>19371</sup> They confiscated the UNMO's equipment and personal items.<sup>19372</sup> They were then taken outside by the VRS soldiers and placed in a vehicle, which had been painted black.<sup>19373</sup> Golubev remained behind at the UNMO team's house.<sup>19374</sup> The VRS soldiers stated that they had orders to detain the UNMOs and that the person in charge was Ribić.<sup>19375</sup> Gelissen and Alves were driven towards Pale and their car was joined by two other stolen UN cars, driven by VRS soldiers including Ribić.<sup>19376</sup> The cars were full of equipment taken from the UNMOs.<sup>19377</sup>

5880. In Pale, they stopped at a hospital, where they were made to wait on the staircase and filmed.<sup>19378</sup> They were surrounded by about 20 VRS soldiers and civilians who were very aggressive.<sup>19379</sup> At 5 p.m., they were driven to the front of the Pale Barracks where they were handcuffed to a flagpole.<sup>19380</sup> Romero Huelin and Griffith Evans, members of the 7 Lima UNMO team in Pale, were already there and also handcuffed to a second flagpole.<sup>19381</sup> They stayed handcuffed until 7 p.m.<sup>19382</sup> Gelissen saw NATO aircraft flying overhead and some of the VRS soldiers shouted at the aircraft and one VRS soldier made a gesture pretending to cut the UNMOs' throat.<sup>19383</sup> A VRS captain named Vojvodić was in charge and he sent a different set of soldiers to guard the UNMOs.<sup>19384</sup> At 7 p.m., the UNMOs were taken to the canteen to have dinner with the VRS soldiers.<sup>19385</sup> Thereafter, the UNMOs were taken back outside and handcuffed to the flagpoles again.<sup>19386</sup> Later in the evening, they were taken to a park where they rested.<sup>19387</sup> Other members from the 7 Lima UNMO team in Pale, including Patrick Rechner and Janusz Kalbarczyk, were brought in.<sup>19388</sup> All the UNMOs were then taken to a room in the Pale Barracks to sleep.<sup>19389</sup> Vojvodić explained to them that they were captured, that he could not give them any more information, but that they should do as they were told because he was responsible for their safety.<sup>19390</sup>

<sup>19369</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4; P2171 (UNPROFOR report, 27 May 1995), p. 5.

<sup>19370</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 5.

<sup>19371</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 5.

<sup>19372</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 5.

<sup>19373</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19374</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19375</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19376</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19377</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19378</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19379</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19380</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19381</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6. *See paras. 5918, 5921.*

<sup>19382</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19383</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19384</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19385</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19386</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19387</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 6.

<sup>19388</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court pp. 6–7.

<sup>19389</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court pp. 6–7. The UNMOs included Gelissen, Alves, Rechner, Kalbarczyk, Evans, Huelin, and four others. P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19390</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

5881. On 27 May 1995, at 10:30 a.m., all the UNMOs held at the Pale Barracks were driven in a truck to Jahorinski Potok and detained in a canteen.<sup>19391</sup> Alves and Kalbarczyk were taken to the radar station where they were filmed by Pale TV.<sup>19392</sup> While a NATO aircraft flew overhead, a Serbian reporter interviewed Alves and Kalbarczyk, who were handcuffed to the base of the radar station.<sup>19393</sup> Ribić came to see the UNMOs and told them they would be released in a few days.<sup>19394</sup> At 8 p.m., all the UNMOs were taken back to the Pale Barracks.<sup>19395</sup>

5882. On 28 May 1995, Gelissen and the UNMOs were detained in their room at the Pale Barracks the whole day while the two Russian UNMOs were released.<sup>19396</sup> Vojvodić had promised the UNMOs that they would be released soon but conditions at the Jahorinski Potok Barracks remained tense.<sup>19397</sup>

5883. On 31 May 1995, a VRS Major named Batinić came to see Gelissen and the UNMOs, he introduced himself as Vojvodić's superior.<sup>19398</sup> Gelissen asked if they could return to their accommodations to pick up their personal items, take a shower, and shave.<sup>19399</sup> Batinić promised to help them.<sup>19400</sup> At 3:40 p.m., Pale TV arrived and filmed the UNMOs.<sup>19401</sup> Vojvodić was present during the filming.<sup>19402</sup>

5884. On 1 June 1995, Gelissen was chosen by his fellow UNMOs to be their representative.<sup>19403</sup> They drafted a letter to Batinić stating that they knew that the VRS was referring to them as prisoners of war and as such, they made certain demands.<sup>19404</sup> **(Now, it is clear: the #VRS considered them as the POW-s,# and they accepted it by behaving in this terms, have chosen a representative and made their demands, according to the Geneve Conventions, providing the POW rights!)** At 8 p.m., two VRS officers from the Lukavica Barracks came to interrogate Evans and another UNMO about guided weapons systems because both men had backgrounds as pilots.<sup>19405</sup> **(It should be noticed that the VRS officers first asked for this “guided weapons systems” because the #UN personnel guided it as the Forward Air Controlers#, and this was the most flagran violation of their mandate, and a sufficient reason to take them prisoners of war!)** At 9 p.m., the UNMOs had a meeting with Vojvodić, during which Gelissen gave Vojvodić the letter he had drafted and told him he would not allow Pale TV to film them anymore and even “threatened him with the International Tribunal in The Hague”.<sup>19406</sup> Vojvodić got very

<sup>19391</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19392</sup> P2143 (Serbian TV news report re UN personnel, with transcript); P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19393</sup> P2143 (Serbian TV news report re UN personnel, with transcript). *See also* Janusz Kalbarczyk, T. 10841–10843 (28 January 2011).

<sup>19394</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19395</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19396</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19397</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 7.

<sup>19398</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19399</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19400</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19401</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19402</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19403</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.

<sup>19404</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8 (noting that these demands included having contact with their next of kin, access to the news, visits from a doctor, conversations with the Bosnian Serb authorities, a visit from the ICRC, and access to laundry and to their personal items). D3139 (Excerpt from manuscript of Mirko Šošić); Patrick Rechner, T. 11114–11115 (2 February 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court pp. 9–10. They were not allowed to meet with the ICRC until 8 June 1995, despite the insistence from the ICRC that they be allowed access to the UNMOs. Patrick Rechner, T. 11115 (2 February 2011).

<sup>19405</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8; *see para.* 5924.

<sup>19406</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 8.



nervous and promised to deliver the letter to Batinić.<sup>19407</sup> **(So, Gellisen behaved exactly as a POW should and had the right to do!)**

5885. On 3 June 1995, Batinić visited the UNMOs.<sup>19408</sup> He informed them that he had received their letter and promised to take some action soon.<sup>19409</sup> On 5 June 1995, two doctors from the Pale hospital visited the UNMOs.<sup>19410</sup> The following day, Huelin was released as a result of the doctor's visit.<sup>19411</sup> The ICRC visited them on 8 and 9 June 1995.<sup>19412</sup> Professor Mirko Šošić, a doctor at the Koran Hospital, told Gellisen and the other UNMOs that they would soon be released.<sup>19413</sup> On 10 June 1995, some of the UNMOs were taken to the 7 Lima UNMO team's former accommodations and allowed to call their families.<sup>19414</sup>

5886. On 13 June 1995, Kalbarczyk, Westlund, and other UNMOs were released.<sup>19415</sup>

*v. Evidence from the FreBat teams*

(A) FreBat team at Lukavica

5887. FreBat had three posts in and around Sarajevo.<sup>19416</sup> On 26 May 1995, at 10:30 a.m., members of the FreBat team who were part of the armed platoon posted at the entrance of the Lukavica Barracks were surrounded by armed VRS soldiers.<sup>19417</sup> At 12:30 p.m., a group of 30 armed men wearing VRS uniforms surrounded members of the other FreBat team located 800 metres away from the entrance.<sup>19418</sup> The VRS soldiers ordered this FreBat team to join the FreBat platoon team posted at the entrance of Lukavica Barracks.<sup>19419</sup> They refused to do so and waited for instructions from their headquarters.<sup>19420</sup> By this time, the second NATO air strike in Pale had occurred and the Bosnian Serbs wanted to take some FreBat members over to Pale to assess the damage that the civilian population had suffered.<sup>19421</sup> The FreBat Lieutenant in charge of the platoon at the entrance of the Lukavica Barracks refused.<sup>19422</sup> Tensions escalated.<sup>19423</sup> Five of the VRS tank crews were ordered to take up combat positions.<sup>19424</sup> FreBat also took up combat positions, prepared their rocket-

<sup>19407</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 8.

<sup>19408</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 8.

<sup>19409</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 8.

<sup>19410</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9; Mirko Šošić, T. 35756–35758 (21 March 2013); D989 (Medical report for UN personnel, 6 June 1995); D3139 (Excerpt from manuscript of Mirko Šošić).

<sup>19411</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9.

<sup>19412</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9.

<sup>19413</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9; Mirko Šošić, T. 5756–35758 (21 March 2013); D989 (Medical report for UN personnel, 6 June 1995); D3139 (Excerpt from manuscript of Mirko Šošić); D3138 (Witness statement of Mirko Šošić dated 17 March 2013), para. 10.

<sup>19414</sup> P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9.

<sup>19415</sup> Janus Kalbarczyk, T. 10868–10869 (28 January 2011); P49 (Witness statement of Gunnar Westlund dated 22 November 1995), e-court p. 9; P56 (Witness statement of Joseph Gellisen dated 18 January 1996), e-court p. 9. *See also* para. 5936.

<sup>19416</sup> P2171 (UNPROFOR report, 27 May 1995), p. 1.

<sup>19417</sup> [REDACTED].

<sup>19418</sup> [REDACTED].

<sup>19419</sup> [REDACTED].

<sup>19420</sup> [REDACTED].

<sup>19421</sup> [REDACTED].

<sup>19422</sup> [REDACTED].

<sup>19423</sup> [REDACTED].

<sup>19424</sup> [REDACTED].

launchers but were ordered not to load their guns.<sup>19425</sup> This confrontation lasted several hours.<sup>19426</sup>

5888. The FreBat team members at the entrance of the Lukavica Barracks were guarding their post when Milenko Indić arrived and attempted to negotiate with the FreBat Lieutenant to surrender.<sup>19427</sup> Indić stated that an order had come from “higher authorities” to disarm the UNPROFOR members at the Lukavica Barracks.<sup>19428</sup> The FreBat Lieutenant responded that he did not have the orders to surrender.<sup>19429</sup> Indić then ordered the Bosnian Serb soldiers to take up firing positions targeting the building until the FreBat team surrendered.<sup>19430</sup> Two rocket-propelled grenades hit a truck and an APC.<sup>19431</sup> Minutes later, the FreBat team came out of the building and surrendered.<sup>19432</sup>

5889. Around 7:30 p.m., the FreBat Lieutenant and his liaison officer, Captain Jouannic, went to the other FreBat post.<sup>19433</sup> Jouannic explained that, as the liaison officer, he was conveying an order that the FreBat team to lay down their arms and that Indić would talk to them.<sup>19434</sup> Then Indić came and introduced himself to this FreBat team.<sup>19435</sup> Indić was accompanied by a civilian who was videotaping the entire interaction.<sup>19436</sup> He informed the FreBat team that they were now prisoners of war of the VRS.<sup>19437</sup> The two FreBat teams at the Lukavica Barracksspent the night at their respective posts.<sup>19438</sup>

5890. On 27 May 1995, a team of reporters arrived, under VRS escort, to film and photograph the FreBat teams.<sup>19439</sup> FreBat members were asked to give the contact details of relatives or individuals to be informed but they refused to provide them.<sup>19440</sup> Around midnight, a number of VRS trucks arrived with more soldiers.<sup>19441</sup> The FreBat teams were ordered to get into the trucks.<sup>19442</sup> After being told they were “hostages” and not “prisoners

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<sup>19425</sup> [REDACTED].

<sup>19426</sup> [REDACTED].

<sup>19427</sup> Milenko Indić, T. 32630–32632 (24 January 2013); P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995). The UN personnel’s main contact with the VRS was Milenko Indić, the Liaison Officer of the VRS to the UN, *see* Milenko Indić, T. 32414–32415, 32428–32429 (22 January 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 39, 41–42, 44; P2447 (Witness statement of KDZ182 dated 8 March 2011, para. 11; Rupert Smith, T. 11371-11372 (8 February 2011); P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 8.

<sup>19428</sup> D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 171.

<sup>19429</sup> Milenko Indić, T. 32630–32632 (24 January 2013); P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995).

<sup>19430</sup> Milenko Indić, T. 32630–32632 (24 January 2013); P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995).

<sup>19431</sup> Milenko Indić, T. 32630–32632 (24 January 2013); P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995).

<sup>19432</sup> Milenko Indić, T. 32630–32632 (24 January 2013); P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995). [REDACTED]. Indić testified that he went into the building unarmed and was told by a FreBat officer that he had not received the order to surrender. Therefore, according to Indić, there was an agreement that the VRS would fire at the vehicles without jeopardising the lives of the UN personnel and then when the firing stopped, the FreBat officer would come out of the barracks with a white flag and surrender. Milenko Indić, T. 32632 (24 January 2013). Considering the totality of the evidence and Indić’s lack of credibility on this point, the Chamber does not accept Indić’s evidence that he did not make these statements.

<sup>19433</sup> [REDACTED].

<sup>19434</sup> [REDACTED].

<sup>19435</sup> D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 171; P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995); [REDACTED].

<sup>19436</sup> D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 171; P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995); [REDACTED].

<sup>19437</sup> D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 171; P6086 (Article from Associated Press entitled “French UN Platoon Surrenders to Bosnian Serbs”, 26 May 1995); [REDACTED].

<sup>19438</sup> [REDACTED].

<sup>19439</sup> [REDACTED].

<sup>19440</sup> [REDACTED].

<sup>19441</sup> [REDACTED].

<sup>19442</sup> [REDACTED].

of war” [REDACTED] refused to have any further dealings with the VRS soldiers.<sup>19443</sup>  
**(This is an #irresponsible conduct of an unidentified soldier#, but what Indjic told them was an official position of the VRS. Now, it is easy to say anything on the account of the Serbs, but it can not be checked. The most competent, and the only competent was Indjic, because he was an authorised official!)** The FreBat members were held at gunpoint and their equipment and UN IDs were forcibly taken from them.<sup>19444</sup> They were placed onto the trucks and driven to the Lukavica Barracks command post and detained there.<sup>19445</sup> Later, one FreBat member was taken to the Lukavica MP building.<sup>19446</sup> He was locked in a room with two UNMOs already inside.<sup>19447</sup> During this first week, the conditions were “very poor” and he was only allowed out of the room to eat.<sup>19448</sup> There were frequent visits by Indić and a VRS major, who continued to ask him for personal information about his FreBat team members.<sup>19449</sup> The following day, [REDACTED] saw ten more UNPROFOR members arrive at the barracks but they were detained on a separate floor of the building.<sup>19450</sup>

5891. On 2 June 1995, at 4 p.m., the commander of the Lukavica MP told [REDACTED] and two UNMOs also detained at the barracks to gather their belongings and follow him.<sup>19451</sup> Outside the entrance of the Lukavica Barracks there was a bus with other FreBat members onboard.<sup>19452</sup> Indić, Jouannic, and a VRS Major were standing next to the bus.<sup>19453</sup> Jouannic asked [REDACTED] and the two UNMOs to board the bus.<sup>19454</sup> [REDACTED].<sup>19455</sup> [REDACTED].<sup>19456</sup>

5892. On 6 June 1995, at 8 a.m., [REDACTED] was driven to Pale in a civilian vehicle and taken to a building which served as a prison where he met two other UNMOs.<sup>19457</sup> The three men were placed in a small VRS van and driven to the Serbian border where they were greeted by an official and were filmed shaking hands with him.<sup>19458</sup> They were taken to Novi Sad by helicopter and released, where [REDACTED] met the other members of his FreBat team.<sup>19459</sup>

#### (B) FreBat team at the Vrbanja Bridge

5893. On 27 May 1995, at 4:30 a.m., the UNPROFOR post near the Vrbanja Bridge was taken over by approximately 15 VRS soldiers wearing FreBat uniforms and carrying UNPROFOR equipment.<sup>19460</sup> The VRS soldiers swiftly encircled the FreBat team stationed

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<sup>19443</sup> [REDACTED].

<sup>19444</sup> [REDACTED].

<sup>19445</sup> [REDACTED].

<sup>19446</sup> [REDACTED].

<sup>19447</sup> [REDACTED].

<sup>19448</sup> [REDACTED].

<sup>19449</sup> [REDACTED].

<sup>19450</sup> [REDACTED].

<sup>19451</sup> [REDACTED].

<sup>19452</sup> [REDACTED].

<sup>19453</sup> [REDACTED].

<sup>19454</sup> [REDACTED].

<sup>19455</sup> [REDACTED].

<sup>19456</sup> [REDACTED].

<sup>19457</sup> [REDACTED].

<sup>19458</sup> [REDACTED].

<sup>19459</sup> [REDACTED].

<sup>19460</sup> P2171 (UNPROFOR report, 27 May 1995), p. 1; D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), para. 13; [REDACTED]; P2269 (UNPROFOR report re telephone conversation with Ratko Mladić, 29 May 1995), p. 2; [REDACTED]; P5924 (UNPROFOR report, 27 May 1995), pp. 4, 10–11; [REDACTED]; P2433 (UNPROFOR protest letter to SRK, 3 June 1995). *See also* P2028 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2433 (UNPROFOR protest letter to SRK, 3 June 1995).

there.<sup>19461</sup> One FreBat member was hit in the chin with the butt of a rifle during the attack.<sup>19462</sup> Attempts to contact UNPROFOR BiH command failed.<sup>19463</sup> The FreBat team was taken from the Vrbanja Bridge to the “Prisunic building”, which was held by Bosnian Serbs.<sup>19464</sup> They were then taken to the Lukavica Barracks, in a building previously occupied by UNPROFOR.<sup>19465</sup> They were detained for approximately three hours, before being taken back to the Prisunic building and led to a room on the second floor.<sup>19466</sup> They were made to sit on the floor, with their hands behind their necks, for hours at a time and were under constant surveillance.<sup>19467</sup> They were also forced to change into VRS uniforms.<sup>19468</sup> One of them was hit and physically mistreated.<sup>19469</sup> **(Now, it is obvious that #until that moment they hadn’t been detained by the VRS, but by some volunteers#. The diversity in cloathing and conduct are now understood!)**

5894. At 6 or 7 p.m., six members of the FreBat team were led outside to the courtyard.<sup>19470</sup> There was a large crowd gathered outside, including soldiers and civilians.<sup>19471</sup> [REDACTED] was physically mistreated by the two VRS soldiers who had been in charge of the FreBat team’s capture at the outset.<sup>19472</sup> The FreBat team was taken back inside the Prisunic building. FreBat members were tied, in pairs, with steel wire.<sup>19473</sup> Once tied together, they were taken back outside and forced to kneel in the middle of the road opposite the UN post which was facing the Bosnian Muslim sector.<sup>19474</sup> [REDACTED] heard the French interpreter behind him, on the radio, saying that if the UN did not heed the Bosnian Serbs’ request, that the UN would be responsible for their subsequent executions.<sup>19475</sup> This message was repeated twice.<sup>19476</sup> UNPROFOR was informed that unless NATO stopped air strikes, one of the French soldiers would be killed.<sup>19477</sup> After ten minutes passed, nothing happened and no executions took place.<sup>19478</sup> The FreBat team was

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In the attack by FreBat to retake the bridge, [REDACTED], two FreBat and four VRS soldiers were killed, and both FreBat and VRS soldiers were injured. FreBat took four VRS soldiers as prisoners and detained them. **(What was their capacity? A Hostages? A POW-s?)** P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 75; [REDACTED]; P5924 (UNPROFOR report, 27 May 1995), pp. 1, 4–7, 10–11; P2407 (Witness statement of KDZ304), p. 9; [REDACTED]; D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), para. 13; [REDACTED]. Andrey Demurenko stated that the ABiH check-point had been attacked by the VRS and the ABiH informed FreBat. This resulted in FreBat attacking the VRS soldiers. D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 38; Andrey Demurenko, T. 28973–28976 (17 October 2012). **(If the Chamber didn’t trust Demurenko, they shouls remind what Harland said: the UN came to help the BH Government and its forces!)** Considering the totality of the evidence, in particular the accepted relevant UN reports and Demurenko’s lack of credibility on this point, the Chamber does not accept his evidence that it was FreBat that initiated the attack against the VRS soldiers at the Vrbanja Bridge at the request of the ABiH.

19461 P2171 (UNPROFOR report, 27 May 1995); [REDACTED]; P2269 (UNPROFOR report re telephone conversation with Ratko Mladić, 29 May 1995), p. 2; [REDACTED].

19462 [REDACTED]. KDZ304 reported that the FreBat members were threatened with death and “when these threats did not have the expected result” the FreBat members were taken back to Lukavica barracks. P2407 (Witness statement of KDZ304), p. 9.

19463 [REDACTED].

19464 [REDACTED]; D2296 (UNPROFOR daily report, 28 May 1995), pp. 10–11; P5924 (UNPROFOR report, 27 May 1995), p. 13.

19465 [REDACTED].

19466 [REDACTED].

19467 [REDACTED].

19468 [REDACTED].

19469 [REDACTED].

19470 [REDACTED].

19471 [REDACTED].

19472 [REDACTED].

19473 [REDACTED].

19474 [REDACTED]; P2434 (UNPROFOR protest letter to SRK, 3 June 1995) (in which Gobilliard protests to Dragomir Milošević against the “disgusting sight of a French officer, Lt. Bonraisin, forced to kneel in the street, his hands tied behind his back, and with a gun at his head, while Serbian soldiers threatened to shoot him if the UNPROFOR troops refused to withdraw from the OP”).

19475 [REDACTED].

19476 [REDACTED].

19477 P2434 (UNPROFOR protest letter to SRK, 3 June 1995) (referring to the fact that Indić had spoken to a UNPROFOR officer and said: “if you don’t stop the attack immediately, I will kill one of the French soldiers”); [REDACTED].

19478 [REDACTED].

taken back to the first floor of the Prisunic building.<sup>19479</sup> In the evening, they were moved to different buildings on two different occasions before finally being taken to a warehouse where they were detained overnight.<sup>19480</sup>

5895. On 28 May 1995, in the morning, the FreBat team members were untied.<sup>19481</sup> They were visited by a young woman, dressed in civilian clothes, who spoke French.<sup>19482</sup> She informed them that negotiations for their release, which had taken place the previous day between UNPROFOR and the Bosnian Serbs, had not been conclusive and that some of them were scheduled to die.<sup>19483</sup> She asked [REDACTED] to provide a list of his men along with their ages, which he did.<sup>19484</sup> She informed [REDACTED] that he and a corporal were to die first and that [REDACTED] was to designate two other individuals.<sup>19485</sup> After the woman had left, a male wearing a dark suit and a navy blue sailor's cap whom [REDACTED] recognised as "Duke Alexis" came in.<sup>19486</sup> This man hit [REDACTED] on the side of his head with a dagger and then kicked him in the face.<sup>19487</sup> After "Duke Alexis" left, two VRS officers entered the room and asked [REDACTED] and others to follow them.<sup>19488</sup> The FreBat members were told they would be handed over to the "Serbian regular army".<sup>19489</sup> **(Again, it is obvious that until that moment they hadn't been detained by the VRS, but by some volunteers#. The diversity in cloathing and conduct are now understood!)** They were taken and detained in the Lukavica Barracks where they met a commander who informed them that they would be well-treated as long as NATO did not conduct any further air strikes.<sup>19490</sup>

5896. On 29 and 30 May 1995, four FreBat members were taken from the Lukavica Barracks and handcuffed to military equipment at a factory near the barracks while being filmed by a Bosnian Serb cameraman.<sup>19491</sup> When asked how they were feeling, if they were afraid, and if they were being treated well, they responded that they were not afraid and that they were being treated well.<sup>19492</sup>

5897. On 2 June 1995, Gobilliard wrote a letter to Dragomir Milošević protesting that the ICRC had not been allowed to visit the detained FreBat members.<sup>19493</sup> The following day, Gobilliard wrote again to Milošević noting that although 20 FreBat members had been released, their equipment had been confiscated.<sup>19494</sup> **(Already on 2 or 3 June 20 of them had been released!)** Gobilliard also noted that UNPROFOR soldiers remained detained at WCPs and other positions and demanded their full release. **(But, the French arrogance shows that the only Frenchs were entitled to have a pride. That is not so! In spite of the centuries long friendship of the Serbs and French, this didn't effect many lower French**

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19479 [REDACTED].

19480 [REDACTED].

19481 [REDACTED].

19482 [REDACTED].

19483 [REDACTED].

19484 [REDACTED].

19485 [REDACTED].

19486 [REDACTED].

19487 [REDACTED].

19488 [REDACTED].

19489 [REDACTED].

19490 [REDACTED].

19491 [REDACTED].

19492 [REDACTED].

19493 P2430 (UNPROFOR protest letter to SRK, 2 June 1995); [REDACTED].

19494 P2431 (UNPROFOR protest letter to SRK, 3 June 1995); [REDACTED]. See also P2432 (UNPROFOR protest letter to SRK, 3 June 1995). [REDACTED].



**military officers, who could have improved the justice in BiH conflict, but were blind for what was happening. The highest French officers were a pride of France!**

5898. On 13 June 1995, [REDACTED] and his FreBat team members were taken to Pale and then released in Belgrade.<sup>19495</sup>

(C) FreBat team at Polinje WCP

5899. On 26 May 1995 at 2:15 p.m., a VRS soldier came to speak to KDZ196 who was posted at the WCP in Polinje.<sup>19496</sup> KDZ196 was told that Captain Vlado Medić wanted to see him at the VRS post headquarters which was located approximately 50 metres away.<sup>19497</sup> KDZ196 and a fellow FreBat member left their WCP to speak to Medić.<sup>19498</sup> Upon arriving at the VRS post, Medić told them that the FreBat team should surrender, lay down their weapons, and that they were prisoners.<sup>19499</sup> They were told that they had been detained due to the NATO air strikes and that the Bosnian Serbs hoped to recover the weapons that had been placed under UNPROFOR control.<sup>19500</sup> A few hours later, KD196 was allowed to return to his UNPROFOR post and establish radio contact with the commander of his battalion who told him that negotiations were underway for their release.<sup>19501</sup> KDZ196 returned to the VRS post and told Medić about his conversation with the UNPROFOR commander.<sup>19502</sup> Medić left to make a phone call and upon his return, the situation quickly escalated.<sup>19503</sup> Medić was very upset and accused KDZ196 of lying.<sup>19504</sup> Medić ordered a VRS soldier to fire a rocket launcher at the UNPROFOR post, which destroyed the watchtower.<sup>19505</sup> The UNPROFOR personnel took up combat positions and this stand-off lasted for ten minutes.<sup>19506</sup> They refused to surrender their weapons and Medić stated that next time he would order his soldiers to shoot the UNPROFOR members.<sup>19507</sup> Later, a Bosnian Serb captain arrived, accompanied by soldiers.<sup>19508</sup> He threatened to kill KDZ196 and another FreBat member.<sup>19509</sup> He ordered the VRS soldiers to fire rocket launchers at the UNPROFOR tank.<sup>19510</sup> KDZ196 realised that they were losing control of the situation and so he laid down his weapons.<sup>19511</sup> They were immediately surrounded by 50 armed VRS soldiers who confiscated their weapons and equipment.<sup>19512</sup> Some members of the FreBat team were punched and kicked.<sup>19513</sup> All members of the FreBat team were placed in a military truck and driven to the military hospital in Jagomir, in the suburbs of Sarajevo where they stayed.<sup>19514</sup>

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<sup>19495</sup> [REDACTED].

<sup>19496</sup> [REDACTED].

<sup>19497</sup> [REDACTED]. Medić was identified by KDZ196. KDZ196, T. 10728, 10735 (25 January 2011); P2141 (Order of Koševo Brigade, 27 May 1992).

<sup>19498</sup> [REDACTED].

<sup>19499</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), paras. 13–14.

<sup>19500</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 16.

<sup>19501</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 17.

<sup>19502</sup> [REDACTED].

<sup>19503</sup> [REDACTED].

<sup>19504</sup> [REDACTED].

<sup>19505</sup> KDZ196, T. 10728, 10735 (25 January 2011); P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 17.

<sup>19506</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 17.

<sup>19507</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 17.

<sup>19508</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 18.

<sup>19509</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 18.

<sup>19510</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 19.

<sup>19511</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 19.

<sup>19512</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), paras. 20, 22; P2109 (SRK Order, 27 May 1995).

<sup>19513</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 22.

<sup>19514</sup> KDZ196, T. 10727 (25 January 2011); P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 23.

5900. On the morning of 28 May 1995, KDZ196 and his team were taken to the Bijelina barracks.<sup>19515</sup> They were first transported in a military truck and later boarded civilian buses where they met with other UNPROFOR and UNMO personnel.<sup>19516</sup> In discussing amongst themselves, it became clear that the detention of UN personnel had been carried out in the same manner and at the same time across numerous locations.<sup>19517</sup> The large group of UN personnel were divided into two groups; one of the groups remaining at the Bijelina Barracks and KDZ196 and his group being taken to Doboje.<sup>19518</sup> In Doboje, KDZ196 and his team were housed in an ammunition depot.<sup>19519</sup>

5901. On 6 June 1995, KDZ196 and his fellow FreBat team members were taken back to the Bijelina Barracks by bus.<sup>19520</sup> Later they were driven to Belgrade, via Novi Sad, together with another bus of UNPROFOR soldiers.<sup>19521</sup> They were released in Novi Sad.<sup>19522</sup>

*vi. Evidence from the BritBat teams in Goražde*

(A) BritBat team, including Nightingale

5902. On 26 May 1995, at 11 a.m., Hugh Nightingale, an OP commander and liaison officer, was asked to meet with the local VRS commander, at the VRS headquarters, 15 metres away from his OP in Goražde.<sup>19523</sup> The VRS commander informed him that the VRS was taking over the OP, that the BritBat members needed to pack up, and they would be taken to a safe location.<sup>19524</sup> Nightingale told the VRS commander that he was willing to withdraw from the area but intended to take his troops to UNPROFOR headquarters in Goražde.<sup>19525</sup> The commander responded: “You do not understand, you are coming with us to Višegrad, we can do it two ways. With shooting or without”.<sup>19526</sup> Nightingale agreed to co-operate.<sup>19527</sup> He returned to his OP to brief the BritBat team and they packed their kits.<sup>19528</sup> VRS soldiers entered the OP and the BritBat team got into two UN vehicles.<sup>19529</sup> They were escorted down the road where they met up with two vehicles from the BritBat team stationed at another OP.<sup>19530</sup> On the way down, one of the UNPROFOR vehicles slid and rolled over down the hill causing five members of the BritBat team to sustain serious injuries.<sup>19531</sup> At the bottom of the hill, the vehicles stopped and Nightingale met Lieutenant Colonel Radomir Furtula, the Commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade.<sup>19532</sup>

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<sup>19515</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 25. See also P2142 (Map of BiH); KDZ196, T. 10728–10729 (25 January 2011).

<sup>19516</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 26.

<sup>19517</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), para. 26.

<sup>19518</sup> P5907 (Witness statement of KDZ196, dated 10 March 1998), paras. 27–31; KDZ196, T. 10722–10723 (25 January 2011). See also P2142 (Map of BiH); KDZ196, T. 10729 (25 January 2011).

<sup>19519</sup> KDZ196, T. 10726 (25 January 2011); P5907 (Witness statement of KDZ196, dated 10 March 1998), paras. 27–31.

<sup>19520</sup> [REDACTED]; P2139 (VRS Main Staff Order, 6 June 1995); KDZ196, T. 10725–10726 (25 January 2011). See also P2142 (Map of BiH); KDZ196, T. 10729 (25 January 2011).

<sup>19521</sup> [REDACTED].

<sup>19522</sup> [REDACTED].

<sup>19523</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 2 (noting that he never learned who this commander was).

<sup>19524</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3. See also P2033 (BBC news report re UN hostage-taking in Goražde, with transcript).

<sup>19525</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19526</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19527</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19528</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19529</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19530</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19531</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

<sup>19532</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3. Jonathon Riley identifies “Radomir Fortula” as the VRS commander of the “Goražde/Višegrad Light Mountain Brigade, assigned to the Drina Corps”. Riley stated that Fortula told him “by

5903. Upon arriving at the military barracks in Višegrad, the BritBat team members were informed by Furtula that they were hostages and if they did as they were told, there would be no problem.<sup>19533</sup> The VRS soldiers took the BritBat team's protection kits, weapons, ammunition, grenades, and rations.<sup>19534</sup> Their UN identification numbers and names were written down.<sup>19535</sup> The injured BritBat team members received medical care.<sup>19536</sup> Furtula asked Nightingale to guarantee the good behaviour of his soldiers and in return, they would not handcuff them.<sup>19537</sup> Nightingale did as asked.<sup>19538</sup> When Nightingale asked Furtula what was going to happen, he responded that it was outside his control.<sup>19539</sup>

5904. Nightingale returned to the room where the BritBat team was being held.<sup>19540</sup> There were guards outside and seven or eight armed VRS soldiers inside the room.<sup>19541</sup> A Bosnian Serb television crew who had come to film the detained BritBat team asked Nightingale for an interview, which he gave.<sup>19542</sup> At 10 p.m., they were placed in a truck.<sup>19543</sup> The injured members were dropped off at the Sokolac Hospital.<sup>19544</sup> Some of the remaining BritBat members were paired off and dropped off in various locations where VRS troops were present.<sup>19545</sup> Nightingale remained on the truck, which drove through Rogatica and continued into the night.<sup>19546</sup>

5905. On the morning of 27 May 1995, Nightingale and another BritBat member were dropped off at an unknown location and taken to a building, which was a jail located next to a warehouse that stored military clothing and equipment.<sup>19547</sup> They were taken to the guards' accommodations.<sup>19548</sup> The door to their room was locked.<sup>19549</sup> There were always two armed guards present with them at all times.<sup>19550</sup> They were occasionally visited by the local VRS soldiers.<sup>19551</sup> They were fed twice per day the same food as the guards.<sup>19552</sup> They were detained in this room for six days.<sup>19553</sup>

5906. After the seventh day of detention, they were told to prepare for departure.<sup>19554</sup> They were blindfolded and placed in the back of a troop carrier.<sup>19555</sup> Along the way, the vehicle picked other BritBat members from Nightingale's team and the injured BritBat

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Mladić's orders" if any further air strikes took place, UNPROFOR would be shelled. P2148 (Witness statement of Jonathon Riley dated 30 May 1996), pp. 3-4. The commander of the 5<sup>th</sup> Podrinje Light Infantry Brigade of the Drina Corps was Lieutenant Colonel Radomir Furtula. P4920 (Diagrams of various VRS Military Command structures), p. 2.

19533 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 3.

19534 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19535 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19536 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19537 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19538 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19539 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19540 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19541 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19542 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19543 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19544 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4. See also P3805 (VRS Main Staff hospital record, 2 June 1995).

19545 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19546 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19547 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19548 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19549 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19550 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 4.

19551 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

19552 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

19553 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

19554 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

19555 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

members from the Sokolac Hospital.<sup>19556</sup> They were taken to the police station, which Nightingale thought was in Višegrad.<sup>19557</sup> There, they were handed over to the Serbian authorities and driven over the border to Serbia.<sup>19558</sup> At the border, the vehicle also picked up some French Legionnaires and they met Jovica Stanisic.<sup>19559</sup> They were all driven to Novi Sad and released in Belgrade where they were flown to Zagreb.<sup>19560</sup> **(#Deadly combination#!No matter was it accurate, or not, it should be noticed that the entire 5 paragraphs had been founded on a 92bis evidence, i.e. no cross examination!)**

(B) BritBat team at OP-2 in Goražde

5907. On 27 May 1995, at 2 p.m., a team of BritBat, including Michael Cornish,<sup>19561</sup> were stationed at OP-2 in Goražde when they received a radio message from UNPROFOR command directing them to move to check-point 2.<sup>19562</sup> Given that check-point 2 did not exist, Cornish understood this as a signal for them to withdraw back to their camp.<sup>19563</sup> As they made their way past a VRS post called “Scabs 1”, VRS soldiers brought out two rocket-propelled grenades and placed them on the road.<sup>19564</sup> The UNPROFOR vehicle was forced to stop.<sup>19565</sup> The BritBat Corporal went into the VRS post and spoke to their local commander on the radio.<sup>19566</sup> He returned to the vehicle and informed the BritBat team that the VRS commander told him that because they were on Bosnian Serb controlled territory, they were now ordered to follow the VRS soldiers to Scabs 1.<sup>19567</sup> The BritBat team was escorted by armed VRS soldiers to Scabs 1 where they were disarmed.<sup>19568</sup> After several hours, they were taken to the cellar.<sup>19569</sup> They managed to maintain radio contact with the main UNPROFOR camp and reported back every hour, on the hour.<sup>19570</sup>

5908. On 28 May 1995, at 7 a.m., the BritBat team was moved to a house behind the VRS post, and there was a lot of firing coming towards the house from the Bosnian Muslim side.<sup>19571</sup> **(#Certainly, they were (the NATO and the ABiH) acting together#. The #Muslim Army was exploiting the effects of the bombardment#, and that was another proof that the Serbs had every reason to consider the UN-NATO as the enemies!)** The VRS fought back using the weapons and ammunition taken from the UNPROFOR team.<sup>19572</sup> They took the BritBat team through the valley, on foot.<sup>19573</sup> Multiple mortars landed near them as they were travelling through the valley towards a house where they were held for a

<sup>19556</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

<sup>19557</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

<sup>19558</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

<sup>19559</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

<sup>19560</sup> P50 (Witness statement of Hugh Nightingale dated 5 February 1996), p. 5.

<sup>19561</sup> Michael Cornish was a Lance Corporal and second in command of the B-company stationed on the east bank of the Drina River. P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 4.

<sup>19562</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5. Although Cornish’s statement does not mention the date, he stated that he heard on the BBC that the FreBat had been detained by the VRS and Goražde was being shelled as a result of the air strikes in Pale, therefore recalling paragraphs 5860, 5893, and 5894, the Chamber concludes that this radio message was received on 27 May 1995.

<sup>19563</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5.

<sup>19564</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5.

<sup>19565</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5.

<sup>19566</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5.

<sup>19567</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 5.

<sup>19568</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

<sup>19569</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

<sup>19570</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

<sup>19571</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

<sup>19572</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

<sup>19573</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 6.

short time.<sup>19574</sup> From this house, the BritBat team was moved to a house in Karpaci, approximately one kilometre away, where they spent the night.<sup>19575</sup> The house was on the other side of a bridge leading to Goražde where all the VRS soldiers going to Goražde would stop.<sup>19576</sup> Five UkrBat soldiers were also detained there.<sup>19577</sup> Cornish and a BritBat Corporal met a VRS Captain named Kepić who told them that they would be released shortly.<sup>19578</sup>

5909. On 29 May 1995, in the evening, everyone was moved to another house several hundred metres up the road, where they spent one night.<sup>19579</sup> The following day, a truck arrived, loaded with ammunition and they were all ordered to get inside.<sup>19580</sup> They were driven for two hours and taken to Cajnice where their kits were taken from them.<sup>19581</sup> Together with five UkrBat soldiers, they were driven for several hours, having to sit with their heads between their legs.<sup>19582</sup> After several stops, they stopped at a military camp, where they all got out of the truck and were taken into a building, a converted indoor firing range, and placed in a large cell.<sup>19583</sup> The door to the cell was locked and the VRS soldiers left the building.<sup>19584</sup>

5910. On 30 May 1995, Cornish saw a group of approximately 20 FreBat soldiers who were also being detained in a separate area of the same building.<sup>19585</sup> They were given meals but were not allowed to leave their cell.<sup>19586</sup> Cornish requested a visit from the ICRC which was denied.<sup>19587</sup> They were held for eight or nine days.<sup>19588</sup> On the day of their release, they were allowed to shower and were given clean clothes to wear.<sup>19589</sup> They boarded buses and were driven to Novi Sad; they were released and met staff from the British Embassy.<sup>19590</sup>

*vii. Evidence from the UNMO teams in Pale*

(A) 7 Lima UNMO team in Pale

5911. The 7 Lima UNMO team was led by Patrick Rechner and included three other officers.<sup>19591</sup> Unlike other UNMO teams, the 7 Lima UNMO team was tasked primarily with administrative and political functions.<sup>19592</sup> It served as the UNMO liaison office to the

<sup>19574</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court pp. 6–7.

<sup>19575</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p.7.

<sup>19576</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 7.

<sup>19577</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 7.

<sup>19578</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 7.

<sup>19579</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19580</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19581</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19582</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19583</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19584</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 8.

<sup>19585</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19586</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19587</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19588</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19589</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19590</sup> P52 (Witness statement of Michael Cornish dated 13 February 1996), e-court p. 9.

<sup>19591</sup> Patrick Rechner, T. 11081 (2 February 2011). The other UNMOs included Captains Oldrich Zidlik, Pavel Teterevsky, and Thelmos Reis. However, Reis was on leave during this time period. P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 8.

<sup>19592</sup> Patrick Rechner, T. 11079 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 8.



Bosnian Serb Presidency and the VRS Main Staff.<sup>19593</sup> The 7 Lima UNMO team's primary contact in the Bosnian Serb leadership was Koljević.<sup>19594</sup> They also had frequent contact with the Accused's secretary, Mira Mihajlović and Jovan Zametica, his political adviser.<sup>19595</sup> As the only UN liaison office in Pale, the UNMO office also acted as the liaison office for Akashi.<sup>19596</sup> It was responsible for facilitating communications between the UN and the Bosnian Serb political and military authorities and between the Bosnian Serbs and Bosnian Muslims.<sup>19597</sup> In addition, this UNMO team worked on behalf of the representative of UN Civil Affairs in Sarajevo and, in an unofficial capacity, assisted in the delivery of humanitarian aid to Pale, such as bringing medicine from Sarajevo to the hospital in Pale.<sup>19598</sup> **(Then, #why they needed the forward air controllers (FAC) who participated in the air attacks#? So, their help to the Serb side could have been seen by the ordinary people as a spying activity! No a confidence after taking part in the combats on the enemy's side!)**

5912. On 25 May 1995, Rechner saw two large explosions, due to the NATO air strikes, five to ten kilometres south of his UNMO team's office.<sup>19599</sup> Rechner made a request to the Accused, through Mihajlović, to make sure that the UNMO team's house and office were being watched by Bosnian Serb security forces in order to protect them from any locals trying to attack them out of revenge for the NATO air strikes.<sup>19600</sup> **(Don't tell me that! How Mr. Rechner did know that the locals may accuse the UN? Rechner didn't have any feed-back whether the President got his message or not, isn't it so? But, #Mr. Rechner rightfully assumed that the local population may express their rage against these who jeopardise their very survival! Many high UN officers and officials warned the UN Sead not to push them in a role of a warring party!)**

5913. On 26 May 1995, at approximately 10:30 a.m. and a few minutes after the NATO air strikes, Rechner, who was on the third floor of the UNMO team's house, heard some shots fired from outside and people yelling.<sup>19601</sup> Bosnian Serb soldiers had entered the house, one was armed.<sup>19602</sup> Rechner went downstairs to the kitchen and made two telephone calls.<sup>19603</sup> First, he phoned Mihajlović and told her that there were some armed people in their office and to send someone to investigate the situation.<sup>19604</sup> She asked if they were regular VRS soldiers, Rechner replied that he could not tell because they were not dressed in full uniform.<sup>19605</sup> Mihajlović then informed Rechner that these men were sent officially.<sup>19606</sup> When Rechner asked for clarification, she did not give any further information.<sup>19607</sup> The second telephone call was to Zametica.<sup>19608</sup> Rechner informed him of the situation and

<sup>19593</sup> Patrick Rechner, T. 11079–11080 (2 February 2011). Their main contact with the VRS was through Indić, *see* Milenko Indić, T. 32414–32415, 32428–32429 (22 January 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 39, 41–42, 44; P2447 (Witness statement of KDZ182 dated 8 March 2011, para. 11; P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 4.

<sup>19594</sup> Patrick Rechner, T. 11082–11083 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 10–11 (clarifying that he had almost daily communication with Koljević's secretary).

<sup>19595</sup> Patrick Rechner, T. 11082–11083 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 12.

<sup>19596</sup> Patrick Rechner, T. 11145 (2 February 2011).

<sup>19597</sup> Patrick Rechner, T. 11079 (2 February 2011).

<sup>19598</sup> Patrick Rechner, T. 11080 (2 February 2011).

<sup>19599</sup> Patrick Rechner, T. 11083 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 16.

<sup>19600</sup> Patrick Rechner, T. 11085 (2 February 2011).

<sup>19601</sup> Patrick Rechner, T. 11084 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), paras. 19–20.

<sup>19602</sup> Patrick Rechner, T. 11085 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2.

<sup>19603</sup> Patrick Rechner, T. 11085 (2 February 2011).

<sup>19604</sup> Patrick Rechner, T. 11085 (2 February 2011).

<sup>19605</sup> Patrick Rechner, T. 11086 (2 February 2011).

<sup>19606</sup> Patrick Rechner, T. 11086 (2 February 2011).

<sup>19607</sup> Patrick Rechner, T. 11086 (2 February 2011).

<sup>19608</sup> Patrick Rechner, T. 11086 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 23.

Zametica replied that “something had been organised to send some people” and suggested that Rechner be as co-operative as possible.<sup>19609</sup>

5914. Downstairs in the UNMO office, Rechner was met by two VRS soldiers—both heavily armed—one was Ribić, who was very angry and told him to sit down.<sup>19610</sup> Rechner and the two UNMOs in the office managed to establish radio contact with the UNMO headquarters and notified them that there were armed men in their office.<sup>19611</sup> Ribić then got on the radio and threatened that if the UNMO headquarters valued the lives of their UNMOs, they should call off the NATO air strikes.<sup>19612</sup> Ribić continued making threats and said that “for every bomb, one of the UNMOs will be killed”.<sup>19613</sup> UNMO headquarters responded that the UNMOs were not involved in the NATO air strikes and had no means of communicating with NATO to stop them.<sup>19614</sup> Ribić then demanded to speak to Smith and Rechner called Smith’s office.<sup>19615</sup> Ribić made the same threats directly to Smith.<sup>19616</sup> Another group of VRS soldiers arrived and the UNMO team was ordered to get into the UNMO vehicle outside.<sup>19617</sup> Ribić told Rechner to radio UNMO headquarters and tell them that the UNMO team would be taken to the target of the NATO air strikes at Jahorinski Potok.<sup>19618</sup>

5915. At 11:45 a.m., Rechner and his UNMO team were handcuffed, placed in the back of their UNMO vehicle, and driven to Jahorinski Potok where they stopped at the logistics and ammunition storage depot.<sup>19619</sup> They were then taken inside the building where they waited approximately 20 or 30 minutes before they received a call from UNMO headquarters stating that Smith had confirmed the NATO air strikes had been called off.<sup>19620</sup> Ribić responded to UNMO headquarters that if the air strikes continued, the UNMOs would “die for the sake of NATO”.<sup>19621</sup> The UNMO team was driven to the bunkers, one of which had been destroyed the previous day by the NATO air strike.<sup>19622</sup> Rechner and another UNMO were handcuffed to the lighting poles in front of the bunker.<sup>19623</sup> A third UNMO was handcuffed to the door of the bunker.<sup>19624</sup> The bunker was filled with ammunition.<sup>19625</sup>

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<sup>19609</sup> Patrick Rechner, T. 11086 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 23.

<sup>19610</sup> Patrick Rechner, T. 11086–11087 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), paras. 25–27.

<sup>19611</sup> Patrick Rechner, T. 11087 (2 February 2011).

<sup>19612</sup> Patrick Rechner, T. 11088 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 27.

<sup>19613</sup> Patrick Rechner, T. 11088 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2.

<sup>19614</sup> Patrick Rechner, T. 11089 (2 February 2011). Gelissen and the SG-1 UNMO team in Grbavica also heard on the radio that the 7 Lima UNMO team had been taken by VRS soldiers and the threats issued by Ribić. P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 5.

<sup>19615</sup> Patrick Rechner, T. 11089 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 28.

<sup>19616</sup> Patrick Rechner, T. 11089 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2; P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 28.

<sup>19617</sup> Patrick Rechner, T. 11089–11090 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2.

<sup>19618</sup> Patrick Rechner, T. 11090 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2.

<sup>19619</sup> Patrick Rechner, T. 11092–11093 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 31.

<sup>19620</sup> Patrick Rechner, T. 11093–11094 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 38; P2172 (UNMO report, 26 May 1995), p. 2.

<sup>19621</sup> P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 39; Patrick Rechner, T. 11128 (2 February 2011); P2172 (UNMO report, 26 May 1995), p. 2; P2174 (Video footage of UN personnel, with transcript).

<sup>19622</sup> Patrick Rechner, T. 11094–11095 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 41.

<sup>19623</sup> Patrick Rechner, T. 11094–11095, 11123–11124 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), paras. 42–43; P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2174 (Video footage of UN personnel, with transcript); Janusz Kalbarczyk, T. 10839–10840 (28 January 2011); P2153 (Serbian TV news report re UN personnel, with transcript). *See also* P2184 (Serbian TV news report re UN personnel, with transcript).

<sup>19624</sup> Patrick Rechner, T. 11094–11095, 11123–11124 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), paras. 42–43; P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2174 (Video footage of UN personnel, with transcript); Janusz Kalbarczyk, T. 10839–10840 (28 January 2011); P2153 (Serbian TV news report re UN personnel, with transcript).

<sup>19625</sup> Patrick Rechner, T. 11094–11095, 11123–11124 (2 February 2011); P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2174 (Video footage of UN personnel, with transcript); Janusz Kalbarczyk, T. 10839–10840 (28 January 2011); P2153 (Serbian TV news report re UN personnel, with transcript).

Rechner saw an UNMO vehicle drive past him in the back of which were members of the SE-1 UNMO team.<sup>19626</sup> The vehicle was driven by VRS soldiers.<sup>19627</sup> Rechner remained handcuffed to the lightning pole for five hours and the other UNMO remained handcuffed for nine hours.<sup>19628</sup>

5916. At 3:30 p.m., a group of Bosnian Serb military officers and government officials, including Zametica, came to inspect the area.<sup>19629</sup> Zametica spoke to both Rechner and his fellow UNMO.<sup>19630</sup> Rechner expressed his shock and surprise at the way they were treated and demanded an explanation as to the reason why the UNMOs had been attacked.<sup>19631</sup> Zametica told them that “times have changed”.<sup>19632</sup> At 5 p.m., Rechner was released from the lightning pole, handcuffed and placed in the back of a UN vehicle.<sup>19633</sup> Kalbarczyk, a member of another UNMO team in Pale, was in the vehicle and also handcuffed.<sup>19634</sup> They were both blindfolded for the duration of the drive.<sup>19635</sup> During the drive, they were told that the Bosnian Serbs thought the 7 Lima UNMO team was directing the NATO air strikes onto the Bosnian Serb military targets.<sup>19636</sup> They were taken to Pale, where more VRS soldiers joined them.<sup>19637</sup> They were then driven to the Mount Jahorina ski resort.<sup>19638</sup> They stopped in front of a large radar dome.<sup>19639</sup> Kalbarczyk was taken out of the vehicle and handcuffed to the radar dome.<sup>19640</sup> Two VRS soldiers guarded Kalbarczyk while he was filmed.<sup>19641</sup>

**(The entire episode with these UNMOs was led #by a Serb volunteer# that came to the RS to defend his people and his relatives. He was acting without anyone’s order, as many terrified Serb soldiers and civilians did, because the situation was unbleivable and threatening to completely destroy the Serbs in BiH. None of the Serbs knew how long the NATO strikes were to last, what was the final objective of the NATO, how much of advantage of the NATO actions the Muslims were to exploit, and so on. Simply as that: the UN shouldn’t change its mandate to which the sides gave their consent. That was the condition to accept the UN, and under no conditions the mandate should have been changed without a new accord of the sides. To imply the NATO against the weakest side in BiH, in the conditions of an overall sancrions imposed by the international community, by all the neighbouring states, including the motherland Yufoslavia (Serbia) and allowing Croatia too, to attack the Serbs in Bosnia – that should be an example how it must not be ever in the times ahead! It would be jus sufficient if the several UN documents are red and takein into account, such as D1174 above, and to bring the right jundgment!)**

<sup>19626</sup> Patrick Rechner, T. 11095 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 44.

<sup>19627</sup> Patrick Rechner, T. 11098 (2 February 2011).

<sup>19628</sup> Patrick Rechner, T. 11098 (2 February 2011).

<sup>19629</sup> Patrick Rechner, T. 11098–11099 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), paras. 46–47.

<sup>19630</sup> Patrick Rechner, T. 11098–11099 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 47.

<sup>19631</sup> Patrick Rechner, T. 11099 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 47.

<sup>19632</sup> Patrick Rechner, T. 11099 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 47.

<sup>19633</sup> Patrick Rechner, T. 11099–11100 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 51.

<sup>19634</sup> Patrick Rechner, T. 11099–11100 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 51; *see* para. 5917.

<sup>19635</sup> Janusz Kalbarczyk, T. 10843–10845 (28 January 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 51; P2154 (Video footage of UN personnel, with transcript).

<sup>19636</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19637</sup> Patrick Rechner, T. 11099–11100 (2 February 2011).

<sup>19638</sup> Patrick Rechner, T. 11099–11100 (2 February 2011).

<sup>19639</sup> Patrick Rechner, T. 1110–11101 (2 February 2011).

<sup>19640</sup> Patrick Rechner, T. 11101 (2 February 2011).

<sup>19641</sup> Patrick Rechner, T. 11101 (2 February 2011); *see* paras. 5919–5920.

(B) SE-1 UNMO team in Pale

5917. The SE-1 UNMO team in Pale had five members, including Kalbarczyk and Evans.<sup>19642</sup> On 26 May 1995, between 8 and 9 a.m., the sirens went off in Pale and approximately 40 minutes later, Kalbarczyk saw an explosion in the southeast area of Pale.<sup>19643</sup> He reported this to the UNMO sector headquarters in Sarajevo.<sup>19644</sup> He was told not to leave the building.<sup>19645</sup> Around 12:15 p.m., Bosnian Serb policemen came into the UNMO's accommodations; four were dressed in police uniforms and one was dressed as a civilian.<sup>19646</sup> The UNMOs were informed that they were under arrest and told that if there were any more NATO air strikes, they would be shot.<sup>19647</sup> Approximately 40 minutes later, two cars arrived and VRS soldiers got out and said that the UNMOs were being taken hostage by the VRS.<sup>19648</sup> UNMO headquarters attempted to reach them over the radio but they were not allowed to respond.<sup>19649</sup> Seven additional VRS soldiers came in and confiscated the UNMOs' garage and vehicle keys.<sup>19650</sup> The UNMOs were handcuffed in pairs, taken outside to the cars, and driven to the Pale police station.<sup>19651</sup> Ribić came to their vehicle, took the radio, and spoke to the duty officer at the UNPROFOR Sector Sarajevo headquarters.<sup>19652</sup> Ribić identified himself as a VRS soldier and stated, "three UN observers are now at the site of the warehouse. Any more bombing, they will be the first to go".<sup>19653</sup>

(C) Detention of the 7 Lima and SE-1 UNMO teams in Pale

5918. The UNMOs were driven to the ammunition depot in the Koran military barracks, which had just been struck by NATO.<sup>19654</sup> One UNMO was taken from the vehicle and handcuffed to the door of another ammunition bunker.<sup>19655</sup> The rest of the UNMOs were driven to the headquarters in the Koran barracks.<sup>19656</sup> Upon arriving in front of the headquarters building, Evans and others were handcuffed to the flagpoles outside.<sup>19657</sup> Kalbarczyk was taken up to the radar dome and handcuffed to the base where he was

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<sup>19642</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6. Other members of the team included Jose Antonio Romero, Dimitri Batiouchenkov, and Zlatko Kozusnik. Evans was the acting team leader at the time of the events alleged in the Indictment. P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6; Janusz Kalbarczyk, T. 10832–10833 (28 January 2011).

<sup>19643</sup> Janusz Kalbarczyk, T. 10834 (28 January 2011).

<sup>19644</sup> Janusz Kalbarczyk, T. 10834 (28 January 2011).

<sup>19645</sup> Janusz Kalbarczyk, T. 10834 (28 January 2011).

<sup>19646</sup> Janusz Kalbarczyk, T. 10834–10835 (28 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6.

<sup>19647</sup> Janusz Kalbarczyk, T. 10835 (28 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court pp. 6–7 (noting that one of the policemen was pointing a gun at them).

<sup>19648</sup> Janusz Kalbarczyk, T. 10835–10836 (28 January 2011).

<sup>19649</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 6.

<sup>19650</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court pp. 6–7.

<sup>19651</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19652</sup> P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19653</sup> P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19654</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19655</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19656</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19657</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7; Patrick Rechner, T. 11123–11124 (2 February 2011); P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); *see* para. 5880.

filmed and interviewed by a journalist.<sup>19658</sup> A VRS soldier told Rechner that Mladić wanted them to be filmed.<sup>19659</sup> **(In some of the statements there was an assertion that they had been #kept tied to the facilities only ten, fifteen minutes, just for the purpose of filming#, and then they were released and brought back in the accommodation facilities! For the sake of truth that should be mentioned!)**

5919. Approximately 20 minutes later, Ribić came and spoke to the UNMO headquarters in Sarajevo, telling them that they should inform NATO that two UNMOs had been chained to the bridge leading to Pale and that if NATO decided to bomb that bridge, then the UNMOs would go down with it.<sup>19660</sup> Evans and a fellow UNMO team member were immediately escorted into a vehicle, taken to the bridge and handcuffed there.<sup>19661</sup> A reporter from Pale TV came to film them.<sup>19662</sup> Ribić told them to memorise the following statement: “The NATO aircrafts have bombed civilian targets and killed civilians. This is a crime against humanity and General Smith should inform NATO to stop the bombings, otherwise we die”.<sup>19663</sup> They did as instructed and were filmed making this statement on Pale TV.<sup>19664</sup>

5920. After being filmed by Pale TV, the UNMOs were driven back to the Koran Barracks and handcuffed to the flagpoles.<sup>19665</sup> After a few hours, they were released and allowed to sit together in the shade.<sup>19666</sup> Kalbarczyk, Rechner, and another UNMO from the 7 Lima UNMO team were also brought to the same place and driven down from the radar station.<sup>19667</sup> Evans and the other UNMOs were introduced to Vojvodić and Batinić, who were in charge.<sup>19668</sup> The UNMOs were told that unless there was a clear declaration from NATO to stop the air strikes, they would continue to be held by the VRS in locations of strategic military importance to the VRS, which were the likely targets of the NATO air strikes.<sup>19669</sup> The UNMOs were then taken back to the Jahorina ski resort hotel where they had dinner with the VRS soldiers.<sup>19670</sup> After dinner, they were taken back to their accommodations to collect their belongings.<sup>19671</sup> They were told they would be taken to bunkers or other “strategic targets” to spend the night.<sup>19672</sup> They were taken back to Pale and *en route* Rechner saw the UNMO team from Kasindo in another UN vehicle being driven to a different location.<sup>19673</sup> Rechner, Kalbarczyk and six other UNMOs spent the night at the Koran Barracks in Pale.<sup>19674</sup>

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<sup>19658</sup> Janusz Kalbarczyk, T. 10847–10849 (28 January 2011); P2155 (Serbian TV news report re UN personnel, with transcript); Patrick Rechner, T. 11101, 11121–11122 (2 February 2011); P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript).

<sup>19659</sup> Patrick Rechner, T. 11102, 11122–11123 (2 February 2011). *See also* P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript).

<sup>19660</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 7.

<sup>19661</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court pp. 7–8.

<sup>19662</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8.

<sup>19663</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8.

<sup>19664</sup> P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8; Patrick Rechner, T. 11138 (2 February 2011).

<sup>19665</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8 (specifying that two other UNMOs were also handcuffed to flagpoles).

<sup>19666</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8.

<sup>19667</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8; Janusz Kalbarczyk, T. 10849–10850 (28 January 2011).

<sup>19668</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8; *see para.* 5880.

<sup>19669</sup> Janusz Kalbarczyk, T. 10850 (28 January 2011).

<sup>19670</sup> Patrick Rechner, T. 11103–11104 (2 February 2011).

<sup>19671</sup> Patrick Rechner, T. 11103 (2 February 2011).

<sup>19672</sup> Patrick Rechner, T. 11103 (2 February 2011).

<sup>19673</sup> Patrick Rechner, T. 11103 (2 February 2011).

<sup>19674</sup> Janusz Kalbarczyk, T. 10849–10850 (28 January 2011); Patrick Rechner, T. 11103–11104 (2 February 2011). The other UNMOs were from the SE-1 UNMO Team and the SG-1 UNMO Team.



5921. On 27 May 1995, Ribić took Rechner outside the barracks and ordered him to send a message to the UNMO headquarters in Sarajevo.<sup>19675</sup> He gave Rechner a list of UN personnel and where they were being held.<sup>19676</sup> Rechner was ordered to relay this to UNMO headquarters, which he did.<sup>19677</sup> Meanwhile, Evans and the other UNMOs were taken to the ammunition depot near the Koran barracks.<sup>19678</sup> They were kept outdoors but not handcuffed.<sup>19679</sup> Kalbarczyk and another UNMO were taken from the Pale barracks, blindfolded, placed in a car, and driven to the radar station.<sup>19680</sup> At the radar station, they were handcuffed, interviewed, and filmed again by Pale TV.<sup>19681</sup> They were taken back to the barracks afterwards and spent the night there with the rest of the UNMOs.<sup>19682</sup> Later in the afternoon, two Russian UNMOs were brought in and joined the eight UNMOs at the Koran barracks.<sup>19683</sup> Rechner and a member of the UNMO team from Kasindo were allowed to go back to their accommodations to pick up personal items for themselves and the other UNMOs.<sup>19684</sup>

5922. On 28 May 1995, Evans, Kalbarczyk, and the other UNMOs were moved to another part of the Koran Barracks where they were guarded at all times.<sup>19685</sup> Food was brought to them but they did not have access to a radio or a television.<sup>19686</sup> Vojvodić visited them a few times per day and told them they were prisoners of war.<sup>19687</sup> **(#Vojvodic was an official, and he was right, they were the POW-s.# All others, including these who threatened the UN soldiers #weren't in any sense officials, but rather scared people for their families and their country!)** The UNMOs were detained in this building for one week.<sup>19688</sup> Once again, Rechner was allowed to go to the 7 Lima UNMO team's accommodations to pick up personal items as they were going to be detained for several more days.<sup>19689</sup> Rechner saw that confidential UN situation reports had been sent to their office in their absence.<sup>19690</sup> The landlord of the house told Rechner that Krajišnik had called the house and said telephone calls and faxes were not permitted, and that the UNMOs should just do as they were told and they would be released in a few days.<sup>19691</sup>

5923. On 29 May 1995, Rechner was again allowed to go back to the 7 Lima UNMO team's accommodations.<sup>19692</sup> He stopped by the UNMO team in Kasindo's accommodations first and tried to arrange a meeting with Koljević through his

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<sup>19675</sup> Patrick Rechner, T. 11105 (2 February 2011).

<sup>19676</sup> Patrick Rechner, T. 11105–11106 (2 February 2011); P2171 (UNPROFOR report, 27 May 1995), p. 2.

<sup>19677</sup> Patrick Rechner, T. 11105–11106 (2 February 2011); P2171 (UNPROFOR report, 27 May 1995), p. 2.

<sup>19678</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8 (specifying that they included five from SE-1 UNMO team, three from the 7 Lima UNMO team, and two from the SG-1 UNMO team).

<sup>19679</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 8.

<sup>19680</sup> Janusz Kalbarczyk, T. 10852–10856 (28 January 2011); P2143 (Serbian TV news report re UN personnel, with transcript); Marcus Helgers, T. 10752–10756 (26 January 2011).

<sup>19681</sup> Janusz Kalbarczyk, T. 10852–10856 (28 January 2011); P2143 (Serbian TV news report re UN personnel, with transcript); March Helgers, T. 10752–10756 (26 January 2011).

<sup>19682</sup> Janusz Kalbarczyk, T. 10857–10858 (28 January 2011).

<sup>19683</sup> Patrick Rechner, T. 11106–11107 (2 February 2011).

<sup>19684</sup> Patrick Rechner, T. 11107 (2 February 2011).

<sup>19685</sup> Janusz Kalbarczyk, T. 10857–10859 (28 January 2011); Patrick Rechner, T. 11104 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 57; P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19686</sup> Janusz Kalbarczyk, T. 10858–10859 (28 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19687</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19688</sup> Janusz Kalbarczyk, T. 10859 (28 January 2011).

<sup>19689</sup> Patrick Rechner, T. 11108 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 58.

<sup>19690</sup> Patrick Rechner, T. 11108 (2 February 2011).

<sup>19691</sup> Patrick Rechner, T. 11108–11109 (2 February 2011). Rechner explained that the landlord of the 7 Lima UNMO team's office was a close friend or colleague of Krajišnik and this is why there was this message from Krajišnik to Rechner.

<sup>19692</sup> Patrick Rechner, T. 11109–11110 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 59.

secretary.<sup>19693</sup> When Rechner returned to the Koran barracks, he spoke to Vojvodić and agreed to draft a letter outlining the issues he wanted to discuss with Koljević.<sup>19694</sup> Topics for discussion included the circumstances surrounding the UNMOs capture and detention, their mistreatment, and possible ways to resolve the situation.<sup>19695</sup> The proposed meeting with Koljević never took place.<sup>19696</sup> The next time Rechner met Koljević was on 15 June 1995.<sup>19697</sup>

5924. On 1 June 1995, Mladić visited the barracks to check on the UNMOs and their accommodations.<sup>19698</sup> He stayed there for 30 minutes and spoke to Evans about whether UNMOs were able to guide NATO aircrafts and direct their air strike targets.<sup>19699</sup> Evans told them that this was impossible.<sup>19700</sup> An UNMO from the 7 Lima UNMO team was also interviewed and asked the same questions to which he gave similar answers as Evans.<sup>19701</sup>

**(#Certainly, that was the main reason for capturing them and treating them as a POW-s, #“for guiding NATO” not to condition the NATO to cease the bombing. However, the questioned soldiers didn’t say the whole truth: look what Ambassador Akashi, a Secretary General Special Representative testified in the French National Assembly, D:3488, p 15.**

- close air support, designed to ensure the safety and protection of our staff. We send out air controllers to the area to determine whether our staff are being physically attacked. It is only when this has been confirmed that the NATO planes target the weaponry directed at our staff.

**So, #the “air controllers” were combatants#, much more efficient and dangerous for the Serb safety than these in the planes!**

5925. On 5 June 1995, two Bosnian Serb doctors came and examined the UNMOs.<sup>19702</sup> Two days later, one of the UNMOs was released due to the doctor’s recommendation.<sup>19703</sup>

5926. On 8 June 1995, the ICRC visited the UNMOs and registered them.<sup>19704</sup> Dragan Bulajić, the president of the Bosnian Serb Exchange Commission, accompanied the ICRC on this visit.<sup>19705</sup> Rechner spoke to him about their detention.<sup>19706</sup> When Bulajić said they were prisoners of war, Rechner reminded him that they were unarmed UNMOs, and not soldiers, and the UNMOs were working on Bosnian Serb held territory with the permission of the Accused.<sup>19707</sup> **(But, #nobody authorised them to guide the**

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<sup>19693</sup> Patrick Rechner, T. 11109–11110 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 59.

<sup>19694</sup> Patrick Rechner, T. 11110–11111 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 61.

<sup>19695</sup> Patrick Rechner, T. 11111 (2 February 2011).

<sup>19696</sup> Patrick Rechner, T. 11111 (2 February 2011).

<sup>19697</sup> Patrick Rechner, T. 11111 (2 February 2011); P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 62; *see* para. 5930.

<sup>19698</sup> Janusz Kalbarczyk, T. 10859–10860, 10891–10892 (28 January 2011); P653 (Video still of Ratko Mladić with two men). *See also* Jonathon Riley, T. 10777 (26 January 2011); P2148 (Witness statement of Jonathon Riley dated 30 May 1996), p. 5.

<sup>19699</sup> Janusz Kalbarczyk, T. 10860–10861 (28 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19700</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19701</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 9.

<sup>19702</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19703</sup> 593P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19704</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10; Patrick Rechner, T. 11115–11116 (2 February 2011).

<sup>19705</sup> Patrick Rechner, T. 11115–11116 (2 February 2011).

<sup>19706</sup> Patrick Rechner, T. 11116 (2 February 2011).

<sup>19707</sup> Patrick Rechner, T. 11116 (2 February 2011).

**NATO aircrafts#. Just to remind: many times the UNPROFOR officials asked their superiors #not to involve them in the combats of the two sides, because another side would treat them as enemies!#! that would be legitimate!#)**

5927. On the morning of 13 June 1995, Kalbarczyk was released and transferred to the police station in Pale where he met other UN personnel who had also been released.<sup>19708</sup> From Pale, they were driven in buses to Novi Sad.<sup>19709</sup> Upon arriving in Novi Sad, Kalbarczyk and the UNMOs were taken to a holiday resort called Sloboda and placed under the custody of the VJ.<sup>19710</sup>
5928. On 14 June 1995, 18 UNPROFOR members and eight UNMOs, including Westlund and Kalbarczyk, were transported to Belgrade airport where they were flown to Zagreb and released.<sup>19711</sup>
5929. On 15 June 1995, other UNMOs, including Rechner, Evans, Gelissen, and Helgers, were taken to the police station in Pale where they met with ICRC representatives.<sup>19712</sup> Afterwards, they were taken back to the Pale Barracks and two more UNMOs from the Banja Luka team were brought in.<sup>19713</sup>
5930. On 15 June 1995, 15 UNMOs remained in detention.<sup>19714</sup> Rechner, Evans, Gelissen, and six UNMOs were still detained at the Pale barracks.<sup>19715</sup> Helgers and three UNMOs were detained at the Jaharina radar station.<sup>19716</sup> There were two UNMOs from Banja Luka whose whereabouts were unknown.<sup>19717</sup> The following day, the UNMOs detained at the Pale Barracks were told by Vojvodić that they would be released that day.<sup>19718</sup> They were taken to their accommodations to pick up personal items and then driven to the Koran Hospital where they met Koljević.<sup>19719</sup> Rechner related all of his concerns about the UNMOs' capture and detention to him, including their limited opportunity to make contact with their families.<sup>19720</sup> Rechner also discussed the actual details of their capture and detention.<sup>19721</sup> Koljević knew what had happened but was surprised to hear that the UNMOs had been threatened.<sup>19722</sup> **(Certainly! #This was never an intent of the official authorities of the RS#, but this wasn't a professional army. An ordinary people defended and protected, literally, their homes which were close to the confrontation lines! Knowing what the enemies were doing to each other, including family members, no wonder many of these soldiers were out of their minds because of fear for their families! These who ordered the bombardment should have known that this action must not be conveyed in a civil war, in which the civilians were fighting**

<sup>19708</sup> Janusz Kalbarczyk, T. 10861–10863 (28 January 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19709</sup> Janusz Kalbarczyk, T. 10862, 10865–10866 (28 January 2011); P2157 (Serbian TV news report re UN personnel, with transcript).

<sup>19710</sup> Janusz Kalbarczyk, T. 10868 (28 January 2011).

<sup>19711</sup> Janusz Kalbarczyk, T. 10869–10870 (28 January 2011); P2159 (UNPROFOR report, 14 June 1995), p. 1; P2160 (UNPROFOR report re released hostages, 14 June 1995), pp. 1–3.

<sup>19712</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 9.

<sup>19713</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 9.

<sup>19714</sup> P2161 (UNPROFOR report re released hostages, 14 June 1995), pp. 1–3; Janusz Kalbarczyk, T. 10870–10872 (28 January 2011).

<sup>19715</sup> P2161 (UNPROFOR report re released hostages, 14 June 1995), pp. 1–3; Janusz Kalbarczyk, T. 10870–10872 (28 January 2011).

<sup>19716</sup> P2161 (UNPROFOR report re released hostages, 14 June 1995), pp. 1–3; Janusz Kalbarczyk, T. 10870–10872 (28 January 2011).

<sup>19717</sup> P2161 (UNPROFOR report re released hostages, 14 June 1995), pp. 1–3; P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19718</sup> P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19719</sup> Patrick Rechner, T. 11111–11112 (2 February 2011); P2525 (Witness statement of Griffiths Evans dated 6 September 1995), e-court p. 10.

<sup>19720</sup> Patrick Rechner, T. 11112–11113 (2 February 2011).

<sup>19721</sup> Patrick Rechner, T. 11113 (2 February 2011).

<sup>19722</sup> Patrick Rechner, T. 11113 (2 February 2011).

**each other in front of their homes!)** In relation to the NATO air strikes, Koljević told Rechner that due to the intensity of the air strikes, which was not expected by the Bosnian Serbs, they felt that they needed to react in a way that would send a shock to the UN.<sup>19723</sup> Koljević also told Rechner that due to these air strikes, the Bosnian Serbs' relationship with the UN would be completely different and the UNMO office in Pale would be closed.<sup>19724</sup>

5931. On 18 June 1995, the UNMOs were taken to the Pale police station by bus and handed over to the Serbian authorities.<sup>19725</sup> Koljević apologised to the UNMOs for the treatment they had received but emphasised that due to the NATO air strikes, the Bosnian Serbs had needed to react and take extreme measures.<sup>19726</sup> **(Although professor Koljević wasn't completely familiar with the reasons (namely, he didn't know about the FAC-a) he was right, since such a mighty power as NATO got involved in the civil war, whose final aim was to kill as many Serbs as possible, and to expel all the survived Serbs out of BiH! There can not be any doubt about the ultimate objectives of the Muslim fundamentalist extremists, while the Muslim elite and secular parties were helps against a religious propaganda of imams in favour of the SDA and other extreme circles!)** He informed them that they were being handed over to the Serbian authorities of the FRY.<sup>19727</sup> Koljević asked them to give a statement and Rechner did so.<sup>19728</sup> Indić also spoke to the UNMOs stating that he was happy the situation had ended well.<sup>19729</sup> Indić signed a release document and the UNMOs were handed over to the Serbian authorities.<sup>19730</sup> The UNMOs were escorted by Serbian Special forces, wearing red berets, who accompanied them to Novi Sad.<sup>19731</sup> The next day, they were taken to Belgrade and then flown to Zagreb where they were met by Akashi.<sup>19732</sup>

#### d. Negotiations and release

5932. Communication between the UN and the Bosnian Serbs on negotiating the release of the UN personnel began shortly after the first group was detained.<sup>19733</sup> Charles Kirudja, the UN Delegate of the Special Representative of the Secretary General to the FRY, was involved in these negotiations.<sup>19734</sup> From the FRY, Jovica Stanišić was the special negotiator for Slobodan Milošević.<sup>19735</sup> Janvier emphasised that the release of the UN

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<sup>19723</sup> Patrick Rechner, T. 11114 (2 February 2011).

<sup>19724</sup> Patrick Rechner, T. 11114 (2 February 2011).

<sup>19725</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 10. *See also* P2156 (Radovan Karadžić's Order to VRS Main Staff, 13 June 1995.)

<sup>19726</sup> Marcus Helgers, T. 10758 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 4; Patrick Rechner, T. 11117 (2 February 2011).

<sup>19727</sup> Marcus Helgers, T. 10758 (26 January 2011); P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 4.

<sup>19728</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 10.

<sup>19729</sup> P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 4.

<sup>19730</sup> P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 4.

<sup>19731</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 10.

<sup>19732</sup> P56 (Witness statement of Joseph Gelissen dated 18 January 1996), e-court p. 10; P5211 (UNPROFOR daily report, 20 June 1995); D1131 (UNPROFOR Weekly Situation Report, 18 June 1995), p. 2 (specifying that "[t]he Bosnian Serbs had linked the release of these hostages to that of four Bosnian Serb soldiers held by UNPROFOR since the [VRS] attack on the Vrbanja Bridge in Sarajevo on 27 May 1995. These four soldiers were handed over to the Bosnian Serb military authorities at Lukavica Barracks in Sarajevo today.")

<sup>19733</sup> P2268 (UNPROFOR report re telephone conversations with Ratko Mladić, 26 May 1995); D1055 (UNPROFOR report to Kofi Annan, 27 May 1995); P5023 (UNPROFOR report, 29 May 1995), p. 5.

<sup>19734</sup> P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 149.

<sup>19735</sup> P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 149–150; P3872 (UNPROFOR report, 10 June 1995), p. 1.

personnel was his utmost priority.<sup>19736</sup> UNPROFOR's strategic aim was to negotiate the release of the detained personnel and re-establish UNPROFOR's mission in BiH.<sup>19737</sup>

5933. By 3 June 1995, 120 UNPROFOR personnel had been released by the VRS and handed over to the Serbian authorities.<sup>19738</sup> Akashi thanked the Accused for the release of these UNPROFOR members but noted that approximately 264 others were still being detained and demanded their unconditional release.<sup>19739</sup>

5934. By 9 June 1995, due to "increased shelling on Bosnian Serb positions in Trskavica, Majevisa, Kalenik and Livansko Polje," the Bosnian Serbs were refusing to release the remaining UN personnel.<sup>19740</sup> As Jovica Stanišić was planning on meeting with Mladić the following day, he asked Kirudja to provide him with information on the location of the remaining UN personnel, including the precise numbers, the conditions under which they were being held, and whether they were surrounded and blocked by Bosnian Serb forces.<sup>19741</sup> Kirudja stressed that a condition of their release was that they be released "unconditionally", namely with all of their equipment.<sup>19742</sup>

5935. On 10 June 1995, Kirudja met again with Jovica Stanišić to provide him with the latest information on the numbers and locations of the remaining UN personnel.<sup>19743</sup> Stanišić was certain that based on the information from the UN, Mladić had been withholding information from him and he would have to revise his approach for negotiations, particularly with respect to the UN personnel held in and around Sarajevo.<sup>19744</sup> Stanišić told Kirudja that he had spoken with the Accused in the morning and the Accused was very concerned that there may be further NATO air strikes in retaliation for detaining UN personnel whereas Mladić seemed intent on continuing to hold the UN personnel in Sarajevo "fearing that their release would set the conditions for renewed NATO air strikes and/or a renewed assault by government troops".<sup>19745</sup> Stanišić questioned whether it would be better to put pressure on the Accused and Mladić to release the UN personnel directly to UNPROFOR in Sarajevo or to release them to him for transportation to Belgrade, as had been done with the two previous groups who were released.<sup>19746</sup> Kirudja stated that it would be best to release them to UNPROFOR in Sarajevo and to propose this to Mladić.<sup>19747</sup> Stanišić thought that Mladić would rather release them to the FRY and be publicly seen as "handing them over" to Stanišić.<sup>19748</sup> Stanišić requested that there be a moratorium on any use of external force by the UN and NATO during and immediately after the process of releasing the UN personnel, which

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<sup>19736</sup> P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 194.

<sup>19737</sup> P5023 (UNPROFOR report, 29 May 1995), p. 3.

<sup>19738</sup> P5022 (Letter from Yasushi Akashi to Radovan Karadžić, 3 June 1995); P3873 (Official note of Pale SJB, 2 June 1995); P3874 (Official note of Pale SJB, 2 June 1995); P3875 (Official note of Pale SJB, 2 June 1995); P3876 (RS MUP report re handover of captured UNPROFOR members and military observers, 2 June 1995); P3877 (List of UNPROFOR members released by the VRS, 2 June 1995); P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 2. *See also* P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 159–160; P889 (Radovan Karadžić's Order to VRS and to RS MUP, 2 June 1995); P2152 (VRS Main Staff Order, 2 June 1995).

<sup>19739</sup> P5022 (Letter from Yasushi Akashi to Radovan Karadžić, 3 June 1995).

<sup>19740</sup> P3871 (UNPROFOR report, 9 June 1995), p. 1. *See also* P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 151–152.

<sup>19741</sup> P3871 (UNPROFOR report, 9 June 1995), pp. 2–3.

<sup>19742</sup> P3871 (UNPROFOR report, 9 June 1995), pp. 2–3.

<sup>19743</sup> P3872 (UNPROFOR report, 10 June 1995), p. 1.

<sup>19744</sup> P3872 (UNPROFOR report, 10 June 1995), pp. 1–2.

<sup>19745</sup> P3872 (UNPROFOR report, 10 June 1995), p. 2.

<sup>19746</sup> P3872 (UNPROFOR report, 10 June 1995), p. 2.

<sup>19747</sup> P3872 (UNPROFOR report, 10 June 1995), p. 3.

<sup>19748</sup> P3872 (UNPROFOR report, 10 June 1995), p. 3.



Kirudja said he would communicate to the UN and Akashi.<sup>19749</sup> Smith's response to this was that he would not agree to anything with the Bosnian Serbs, including entering into negotiations with them, and that his demand was they release the hostages immediately and unconditionally.<sup>19750</sup>

5936. By 13 June 1995, additional UNPROFOR personnel were released.<sup>19751</sup> On 16 June 1995, the Security Council passed resolution 998 demanding the immediate and unconditional release of all remaining UN personnel.<sup>19752</sup> By 18 June 1995, all remaining UNPROFOR and the remaining 15 UNMOs were released.<sup>19753</sup> The UNPROFOR and UNMO personnel were released by the VRS and handed over to Jovica Stanišić in Belgrade and flown back to UNPROFOR HQ in Zagreb.<sup>19754</sup>

## 6. Conclusion

5937. The Chamber finds that on 25 and 26 May 1995, following the NATO air strikes on Bosnian Serb military targets, over 200 UNPROFOR and UNMO personnel in BiH were detained by Bosnian Serb Forces and taken to various locations throughout BiH.<sup>19755</sup> Some of the UN personnel were taken from their locations and driven to locations of military significance for the VRS, such as the Mount Jahorina radar station, the Banja Luka barracks, Pale barracks, Lukavica barracks, Bijeljina barracks, Višegrad barracks, Jahorinski Potok, and Koran barracks. Others were simply detained at their locations, including OPs and WCPs. Threats were made by the VRS against the UN personnel, that they would be killed if NATO launched further air strikes and these threats were communicated to the UN. **(The #threats weren't made "by the VRS" because none of the officials said any threats, and all of the officials confirmed that they had been a POW-s, and it was known far in advance that they would be considered as enemies, if they take a side in this conflict! There is no better opportunity for the UN to forbid such a practice forever, and to oppose any particular national interest for involving the UN soldiers and agencies in a wars, "to the benefit of one and a detriment of another side" as Akashi wrote to Annan on 20 May 1995, see D:1174, p.13: and accepted political settlement. Except for use in self-defence, the Council has also created an expectation that UNPROFOR should apply air power to the advantage of one party and the detriment of another. Such a use of force by UNPROFOR is generally incompatible with UNPROFOR's mediatory role designed to bring about a stabilization of the situation. If it is not the intention of the Council that UNPROFOR become a party to the war, then the Council should adjust the Force's mandate, and hence the parties expectations, accordingly and not ask UNPROFOR to pursue a policy of war and peace at the same time. If, however, it is the intention of the Council to**

**The #Defence and President Karadzic had nothing to add to this official**

<sup>19749</sup> P3872 (UNPROFOR report, 10 June 1995), p. 3.

<sup>19750</sup> P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 157.

<sup>19751</sup> P2156 (Radovan Karadžić's Order to VRS Main Staff, 13 June 1995); P2159 (UNPROFOR report, 14 June 1995); P2160 (UNPROFOR report re released hostages, 14 June 1995); P2161 (UNPROFOR report re released hostages, 14 June 1995).

<sup>19752</sup> P5014 (UNSC Resolution 998, 16 June 1995), p. 2.

<sup>19753</sup> P2156 (Radovan Karadžić's Order to VRS Main Staff, 13 June 1995); P2183 (VRS Main Staff Order, 17 June 1995). *See also* P2175 (Video footage of UN personnel, with transcript).

<sup>19754</sup> P2156 (Radovan Karadžić's Order to VRS Main Staff, 13 June 1995); P2159 (UNPROFOR report, 14 June 1995); P2160 (UNPROFOR report re released hostages, 14 June 1995); P2161 (UNPROFOR report re released hostages, 14 June 1995).

<sup>19755</sup> While paragraph 86 of the Indictment alleges that over 200 UNPROFOR and UNMOs were detained, the evidence reflects that the total number of UNPROFOR personnel detained was more than 300. *See* P2173 (UNPROFOR report, 28 May 1995); P2270 (UNPROFOR report, 29 May 1995); P5024 (Annex A to UNPROFOR report re UN hostages, 2 June 1995); P5022 (Letter from Yasushi Akashi to Radovan Karadžić, 3 June 1995).

**consideration of the highest UN authorities#, just a week before the NATO massive bombardment of the Serbs in BiH. Nobody should do such a thing and expect any kind of respect and tolerance of this way of “impartiality”!)**

2. Legal findings on crimes

a. Chapeau requirements for Article 3

5938. In relation to the Hostages component of the case, the Accused is charged with one count of violations of the laws or customs of war under Article 3 of the Statute, namely the taking of hostages. The Chamber recalls that before entering findings on counts under Article 3 of the Statute, the Chamber must first be satisfied that a number of general requirements are met.

5939. The Chamber found that there was an armed conflict in BiH throughout the period relevant to the crimes alleged in the Indictment. The Chamber further finds that the taking of hostages, as analysed above, is closely related to the armed conflict. In relation to the four so called “*Tadić* Conditions”,<sup>19756</sup> the Chamber refers to the applicable law section of this Judgement, which expanded on the legal basis for each of the crimes charged in the Indictment under Article 3 of the Statute.<sup>19757</sup> In relation to the taking of hostages, the prohibition stems from Common Article 3 which is deemed to be part of customary international law.<sup>19758</sup> Further, the Appeals Chamber has confirmed that violations of the provisions of Common Article 3 entail individual criminal responsibility.<sup>19759</sup>

5940. The Chamber is therefore satisfied that the four *Tadić* Conditions are met, and consequently that the chapeau requirements for Article 3 of the Statute are fulfilled, in relation to the crime of taking hostages. **(The #Defence strongly deny that they were hostages#, and as it was repeated contemporaneously, as well as in advance (see the documents about Karadzic – Smith meetings in May 1995, the Serb warnings that the UN should not get involved in the conflict#, P2263, P2264, P2265, P2266) and afterwards, that they were the POW-s, and not hostages. The NATO and these in the UN who invited and authorised the NATO to get involved in the war, with the UN authority, and to “the detriment of one of sides” are fully responsible for the crisis, whice derived from the General Smith intentions and plans to end the war by using a large scale force against the Serbs, as Harlans confirmed in his testimony! Are the leaders of the UN member countries, particularly these of the permanent members of the Security Council, agree that this kind of conduct be conveyed in their names? If not, they should act immediately!)**

b. Crime of hostage-taking: Count 11

i. *Actus reus of hostage-taking*

5941. The Chamber refers to its findings above that on 25 and 26 May 1995, following the NATO air strikes on Bosnian Serb military targets, over 200 UNPROFOR and UNMO personnel in BiH were detained by Bosnian Serb Forces and taken to various locations in

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<sup>19756</sup> See para. 443.

<sup>19757</sup> See Section III.A.1: Article 3 of the Statute of the Tribunal.

<sup>19758</sup> *Čelebići* Appeal Judgement, para. 143.

<sup>19759</sup> *Čelebići* Appeal Judgement, paras. 167, 170, 173–174 (holding at para. 173: “It is universally acknowledged that the acts enumerated in common Article 3 are wrongful and shock the conscience of civilised people, and thus are, in the language of Article 15(2) of the ICCPR, ‘criminal according to the general principles of law recognised by civilised nations’.”).

BiH. Some of the UN personnel were taken to locations of military significance for the VRS, such as the Banja Luka barracks, Mount Jahorina radar station, Pale barracks, Lukavica barracks, Bijeljina barracks, Višegrad barracks, Jahorinski Potok, and Koran barracks. Others were simply detained at their locations, including OPs and WCPs.

5942. The Accused has argued throughout the case, that the status of the UN personnel at the time of the alleged hostage taking was determinative for a finding on the existence of the crime. He argued that due to the NATO air strikes, the UN personnel were transformed into persons taking active part in the hostilities and thus not entitled to the protections of Common Article 3.<sup>19760</sup>

5943. The Chamber finds the Accused's argument in this regard to be unconvincing. As a preliminary matter, the Chamber recalls that the UN and its associated peacekeeping forces were not a party to the conflict. UNPROFOR was established and deployed pursuant to Security Council Resolution 743 as "an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis".<sup>19761</sup> While the details of its operations were enlarged and strengthened over the course of the conflict in order to preserve the security of its personnel and enable the implementation of its mandate, it remained a peacekeeping force.<sup>19762</sup> **This is not true, for a several reasons: #just look at the D1174, the Akashi's cable to Annan on 20 May 1995; further, not only the UNPROFOR didn't fulfil its obligation due to the Agreement on TEZ of 16 February 1994 and the Memorandum of 18 February 1994, and didn't inform the NATO that there was an understanding that the Serbs were entitled to use their weapons had they been attacked by the ABiH. Further, they didn't stop the ABiH in conducting a fierce offensive on the Serb Sarajevo civilian zones, and this was an ultimate jeopardy to this population and to the entire Serb population in BiH. Further, by calling for the NATO air strikes, the UN became the part of the alliance against the Serbs, although the Muslims were the one who initiated the offensive and were to be warned and punished, if a punishment was in the UN mandate. This alliance consisted of the ABiH, HVO of the Croats, the NATO, and the UN. Finally, what made the UN personnel accomplices was the obvious and confirmed fact that they had assisted the NATO planes by guiding**

<sup>19760</sup> See *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR73.9, Appeal from Denial of Judgement for Acquittal for Hostage Taking, 25 July 2012, paras. 42–52; Hearing, T. 28619–28626 (11 June 2012). See the Accused's line of questioning during the testimony of Michael Rose, T. 7391–7397 (6 October 2010), T. 7568–7569 (8 October 2010); Rupert Smith, T. 11488–11498 (10 February 2011); John Zometica, T. 42473–42475 (29 October 2013); David Harland, T. 2293–2294 (11 May 2010);

<sup>19761</sup> UNSC Resolution 743 (1992), S/RES/743, 21 February 1992.

<sup>19762</sup> See P981 (UNSC Resolution 758, 8 June 1992); P985 (UNSC Resolution 836, 4 June 1993) (authorising UNPROFOR, in carrying out its mandate, acting in self-defence, to take the necessary measures, including the use of force, in reply to bombardments against the safe areas by any of the parties or to armed incursion into them or in the event of any deliberate obstruction in or around those areas to the freedom of movement of UNPROFOR or of protected humanitarian convoys); UNSC Resolution 914 (1994), S/RES/914, 27 April 1994; UNSC Resolution 982 (1995), S/RES/982, 31 March 1995 (extending UNPROFOR's mandate until 30 November 1995 and paying tribute to all UNPROFOR personnel, especially those who have given their lives for the cause of peace); UNSC Resolution 947 (1994), S/RES/947, 30 September 1994 (stressing that UNPROFOR plays an essential role in preventing and containing hostilities and thus creating the conditions for achieving an overall political settlement); P5014 (UNSC Resolution 998, 16 June 1995) (authorising the increase in the number of UNPROFOR personnel in order to carry out its mandate). **But, none of those Resolutions were followed. The Muslim side was protected by the same UN Forces to freely attack the Serb parts of Sarajevo, which should be a safe zone as well, and when the Serbs were forced to defend, the Muslim side wasn't even warned. This kind of bias is unbearable, and makes the UN Forces a very dangerous participand in a peace keeping process, dangerous only for the Serbs. It should neve be repeated again in any country. And the UN officers begged their superiors to spare them from such an involvement.**

**the bombs with a laser. And that kind of conduct wasn't any peacekeeping, but a very active participation in combats#! No wonder all the VRS intelligence officers, and Mladic himself complained to the detained UN personnel their assistance in guiding the bombs. Even if it wasn't true, which was, the conviction that it was so actually determined the conduct of the VRS, and not a hostage taking motives!** Accordingly, at the time the UN personnel were detained on 25 and 26 May 1995, they were persons taking no active part in the hostilities and, as such, were afforded the protection of Common Article 3. The NATO air strikes of 25 and 26 May 1995 did not transform the status of all of the UN personnel in BiH into that of persons taking active part in the hostilities. However, even if the UN personnel had been combatants prior to their detention, as the Accused argues, they were in any event rendered *hors de combat* by virtue of their detention and thus were also entitled to the minimum protections guaranteed by Common Article 3.<sup>19763</sup> **(This is right, but no officials violated their security and commodity, nor their rights. They had been informed that they were the POW-s, and that they may enjoy all the rights of the POW-s, and they accepted it and did pose their demands. A few rare verbal violations were made by the non-professional soldiers, since this was an unprofessional army, composed mainly of the ordinary people!)** As confirmed by the Appeals Chamber in this case, Common Article 3 applies to the detained UN personnel irrespective of their status prior to detention.<sup>19764</sup> Therefore, the Chamber finds that all UN personnel who were detained by the Bosnian Serb Forces were entitled to the protections under Common Article 3, including the prohibition against hostage-taking. **(Once in a detention as a POW-s, how could they become a hostages? They had been entitled to have the protections as the POW-s, and if there was an omission, that may be a violation, but certainly it could have been committed only by a low ranking un-professional soldiers. Remember, Mira Mihajlovic asked whether those soldiers intruding into the Pale post of the UNMO-s were "regulars" or irregulars!)**

5944. While the UNPROFOR and UNMO personnel were detained, Bosnian Serb Forces threatened to kill, injure, or continue to detain them unless NATO ceased its air strikes. These threats were communicated by the Bosnian Serb Forces to the detained UN personnel and to UNMO and UNPROFOR headquarters.<sup>19765</sup> **(It was done only by an unauthorised persons, though the members of the VRS, but not by anyone who was authorised to talk to the detained.)**

5945. The Chamber therefore finds that between 25 May and 18 June 1995, UNPROFOR and UNMO personnel were detained by Bosnian Serb Forces and threats were used against them in order to obtain a concession, namely that NATO cease its air strikes against Bosnian Serb military targets in BiH. **(How possibly the NATO could gave known about these "threats" spoken out by a non-professional and un-authorised individuals that fought within a peoples, popular army?)**

ii. *Mens rea* of hostage-taking

5946. The Chamber finds that the detention of the UNPROFOR and UNMO personnel by Bosnian Serb Forces was intentionally carried out to compel NATO to refrain from conducting further air strikes on Bosnian Serb military targets. In reaching this conclusion,

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<sup>19763</sup> See Appeal Decision on Count 11, para. 21 (holding that "Common Article 3's prohibition on hostage-taking 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" and that the Chamber did not err in making this finding).

<sup>19764</sup> See Appeal Decision on Count 11, paras. 21–22.

<sup>19765</sup> See paras. 5871–5872, 5874–5876, 5880, 5890, 5894–5895, 5899, 5902, 5914–5915, 5917.

the Chamber has had regard to orders and reports from the VRS, threats made to the UN personnel and communicated to UNMO and UNPROFOR headquarters, and statements made by the Accused, Mladić, Zamećica, and Krajišnik.<sup>19766</sup> **(This is not true. First, #none of the authorised officials of the VRS or the Presidency ever said that the detainees were hostages, but explicitly – a prisoners of war. Second, it was always said that if the international community gets involved in the conflict on whatever side, the other side would treat them as the enemies. Certainly, they were so biased on the Muslim side, so it was always only the Serb side to be attacked. This was known to the highest UN officers. Finally, they didn't have any right to attack the Serbs except in a case of an immediate danger to their troops! The UN generally couldn't and shouldn't change its mandate without a consent of the warring factions, which gave their consent to the initial mandate. Otherwise, once the UN forces enter a process in some country, with a consent of the parties involved, they may change a mandate, which may appear to be detrimental to one of the sides. What was said by an ordinary soldiers, among them many volunteers and uneducated people, is not relevant. The UN personnel were the POW-s as well as the four Serbs captured at the Vrbanja bridge by the French UN soldiers!)**

5947. In addition, the Chamber finds that members of the Bosnian Serb Forces knew or should have been aware that when the crime of hostage-taking was committed, the detained UN personnel were taking no active part in the hostilities. **(This is also not true. Why Mladic and the intelligence officers would investigate about the guided fire? The preciseness was the most damaging to the Serb side, and it was a result of the FAC (Forward Air Controllers) among the UNPROFOR troops, no doubt about it, pproven and confirmed by Akashi and other UN officials, in the UN documents!)**

*iii. Special defence: reprisals*

5948. The Accused submits that even if the Chamber finds that the elements of hostage-taking are met, the conduct of the Bosnian Serbs was justified by the defence of reprisals.<sup>19767</sup> The Prosecution submits that detainees may never be subjected to reprisals and therefore, the unlawful act of threatening detainees so as to obtain a concession cannot be justified as a reprisal.<sup>19768</sup> **(#The detainees hadn't been threatened by any official person, and as noticed by the Chamber, Professor Koljevic was surprised when learned about the threats.# So, there was no threats by anyone responsible or authorised!)**

5949. In the law of armed conflict, a belligerent reprisal is an act that would otherwise be unlawful but, in exceptional circumstances and if strict conditions are met, is considered lawful when it is used as an enforcement measure in reaction to unlawful acts of an adversary.<sup>19769</sup> However, the prohibition of reprisals against protected persons is absolute and can therefore not be used as a defence for the crime of taking protected persons

<sup>19766</sup> See paras. 5857, 5859–5861, 5871–5872, 5874–5876, 5880, 5890, 5894–5895, 5899, 5902, 5914–5915, 5917, 5958–5961.

<sup>19767</sup> Defence Final Brief, para. 2743. See also Notice of Special Defence as to Count 11: Reprisals, 14 December 2012, wherein the Accused contends that (i) “the NATO/UN bombing of the Pale ammunition depot on 25- 26 May 1995, not being in self-defence, was a violation of the law of armed conflict; (ii) he had provided a formal warning that UN personnel would be taken prisoner if air strikes were launched; (iii) the decision to detain UN personnel was made at the highest levels of the [RS]; (iv) the detention of UN personnel was a proportionate response to the air strikes; and (v) there was no impact on the civilian population”. Notice of Special Defence as to Count 11: Reprisals, 14 December 2012, para. 7.

<sup>19768</sup> Prosecution Final Brief, para. 1109. See also Prosecution’s Submission Re. Notice of Special Defence as to Count 11: Reprisals, 5 March 2013.

<sup>19769</sup> ICRC Customary IHL, Rule 145; *Martić* Trial Judgement, paras. 465–467.



hostage.<sup>19770</sup> **(The offence should be specified: was it a threats, or simply taking the UN soldiers as prisoners of war? The conduct of the RS officials, both civilian and military was not criminal, for at least two reasons: the Serb officials considered the detained UN personnel as a participants in combats on the enemy side, and therefore prone to be captured and treated as the POW-s; if it is the RS officials conduct to be judged, then there is no any crime, since the officials never threatened the detainees, and they clearly informed them that they were the POW-s. On the other hand, the UN violated the agreement according to which they had been granted stay in the Serb part of BiH under the condition they were impartial, but they protected only one side on an account of the other, they called the NATO to do a strategic bombardment of the Serb side, thus decreasing it's ability to defend, and the NATO accepted to do an unlawful act. There was no "protected persons". And once in the custody, they hadn't been threatened by a relevant people, nor anyone who threatened them could carry out those threats!)**

**5950.** Therefore, the Chamber finds that the taking of UN personnel hostage cannot be justified as a lawful reprisal and the Accused's argument in this regard is dismissed. **(The Defence mentioned a "reprisal" only conditionally, but the captured troops had been armed by the lasers and other locating devices, and had been helping the NATO bombardment of the Serb vital facilities!)**

*iv. Conclusion*

5951. The Chamber therefore finds that the detention of UN personnel by the Bosnian Serb Forces in order to compel NATO to cease its air strikes against Bosnian Serb military targets constitutes the crime of taking hostages, as a violation of the laws or customs of war.

3 Hostages JCE and the Accused's responsibility

a. Submissions of the Parties

5952. The Prosecution charges the Accused with having participated in a JCE during May and June 1995, the objective of which was to take UN personnel hostage in order to compel NATO to abstain from conducting air strikes against Bosnian Serb military targets.<sup>19771</sup> It alleges that this objective involved the commission of the crime of taking hostages.<sup>19772</sup>

5953. The Prosecution further alleges that the Accused shared the intent for the commission of this crime with other members of the JCE, including Mladić.<sup>19773</sup> The Prosecution identifies the other members of the JCE as members of the Bosnian Serb Political and Governmental Organs; and commanders, assistant commanders, senior officers, and chiefs of the VRS and MUP.<sup>19774</sup> It alleges that each member of the JCE implemented its objective by personally committing crimes, and/or through and by using

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<sup>19770</sup> ICRC Customary IHL, Rule 146. The Geneva Conventions prohibits belligerent reprisals against "persons in the power of a party of the conflict, including the wounded, sick and shipwrecked, medical and religious personnel, captured combatants, civilians in occupied territory and other categories of civilians in the power of an adverse party to the conflict". ICRC Customary IHL, Rule 146, citing First Geneva Convention, art. 46; Second Geneva Convention, art. 47; Third Geneva Convention, art. 13; and Fourth Geneva Convention, art. 33.

<sup>19771</sup> Indictment, para. 25.

<sup>19772</sup> Indictment, para. 25.

<sup>19773</sup> Indictment, para. 26.

<sup>19774</sup> Indictment, para. 27.

members of the VRS and MUP to carry out the crimes committed in furtherance of the objective.<sup>19775</sup> Alternatively, the Prosecution alleges that some or all of these individuals were not members of the JCE but were used by members of the JCE to carry out the crimes committed in furtherance of its objective.<sup>19776</sup>

5954. The Prosecution alleges that the Accused significantly contributed to achieving the objective of taking hostages and that he was a central participant at every stage of the implementation of the common purpose.<sup>19777</sup>

5955. The Prosecution submits that following the NATO air strikes on Bosnian Serb military targets on 25 and 26 May 1995, Bosnian Serb Forces took over 200 UN personnel hostage and informed the UN that the hostages would be killed or injured if the NATO air strikes continued.<sup>19778</sup> It argues that these acts were part of a JCE to compel NATO to abstain from conducting further air strikes and that the Accused, with others, intended that the UN personnel be taken hostage and that the Accused ordered subordinates in the VRS and the MUP to seize them and use them as human shields.<sup>19779</sup>

5956. In relation to his responsibility under Count 11, the Accused submits that the Prosecution has failed to prove his *mens rea* for an essential element of the offence.<sup>19780</sup> The Accused argues that while he did agree that UN personnel should be detained following the NATO air strikes, he never agreed or contemplated that threats should be made against them.<sup>19781</sup> He also argues that there is no evidence that the plan to detain the UN personnel included the issuance of threats against them.<sup>19782</sup> He further argues that the threats that were made to the detained UN personnel were “not part of orders coming down the chain of command” and that while there were VRS orders to place the UN personnel in areas where air strikes may occur, he also ordered that the UN personnel be “treated properly with military respect”.<sup>19783</sup> The Accused submits that the crime of taking hostages requires an essential element, namely that the perpetrator threatened to kill, injure, or continue to detain such person or persons and since he never agreed to this element, he cannot be found guilty of this crime under the basic form of JCE.<sup>19784</sup>

b. Findings on the common purpose and plurality of persons

5957. The Chamber found that following the NATO air strikes on 25 and 26 May 1995, the Bosnian Serb Forces detained UN personnel in various locations throughout BiH.<sup>19785</sup> The Accused had warned UNPROFOR that he would “treat UN soldiers as enemies” if NATO air strikes were conducted and UNPROFOR had expressed its own concerns about UN personnel being targeted by the VRS.<sup>19786</sup> (#The Chamber completely neglected everything else from this meeting between the President and Gen. Smith. First of all,

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<sup>19775</sup> Indictment, para. 28.

<sup>19776</sup> Indictment, para. 27.

<sup>19777</sup> Indictment, para. 29, referring to paras. 14(a), (b), (d), (e), and (h) of the Indictment. *See also* Prosecution Final Brief, para. 1108.

<sup>19778</sup> Prosecution Final Brief, para. 1102.

<sup>19779</sup> Prosecution Final Brief, paras. 1102, 1108.

<sup>19780</sup> Defence Final Brief, para. 3352. In relation to the third form of JCE, the Accused argues that there is no evidence that he should have foreseen the making of such threats to the detained UN personnel. He argues that since the threats were not foreseeable, he cannot be found guilty of hostage taking under the third form of JCE. Defence Final Brief, paras. 3366–3368. The Chamber notes that for the Hostages component of the case, the Prosecution does not charge the Accused with criminal responsibility through the third form of JCE, therefore the Chamber will not address the Accused’s argument with respect to this form of responsibility.

<sup>19781</sup> Defence Trial Brief, paras. 3354, 3359–3360.

<sup>19782</sup> Defence Trial Brief, para. 3355.

<sup>19783</sup> Defence Final Brief, para. 3358.

<sup>19784</sup> Defence Final Brief, para. 3360.

<sup>19785</sup> *See* para. 5937.

<sup>19786</sup> *See* para. 5964.

**Gen. Smith shouldn't ask for a meeting with the President, unless he wanted to estimate whether the Serbs were close to a collapse, and to inform their superiors. And that was the case, obviously. Otherwise, the record of this "secret" meeting wouldn't be presented in the Court. Further, the Chamber didn't notice the President's complains to the UN conduct, their bias and support to the Muslim side, his complains to the SAs nature and a protection of the terrorists that were illegally present in the SAs.**

4. Safe Areas. Gen Smith explained that as a UN commander he had to ensure that mandates on Safe Areas (SAs) were applied and that those instructions connect him to the employment of NATO airpower if SAs are attacked. Karadzic clearly views the SAs as BiH strongholds. He made it quite clear he views the application on the SA mandate as illegal in international law and that the SAs and EZ had been violated by the BiH by their use of them for military purposes. He stated he could not accept SAs unless it were reaffirmed that they were for the protection of civilians, that the definitions of SAs were mutually agreed and that the areas were fully demilitarised. He asked Gen Smith to convey this message to the UNSG.

**How possibly the Serb side could comply with anything that came from the UN #while there was a big confusion whether it was coming from the UN or from the NATO#, and particularly because both the UN and NATO didn't make anything to pacify the SAs? Finally, the Chamber didn't estimate, and didn't take into account the COHA agreement totally annihilated by the Muslim side. So, the Serb side found itself in an impossible situation thanks to the UN, which changed its mandate even not informing the Serb side, let alone obtaining the consent. Many misunderstandings rose up out of the "new mandate" that wasn't even known to the Serbs.**

6. UN Mandate for BiH. It was interesting that Karadzic was clearly not aware a new mandate for BiH was likely. He asked Gen Smith for some details. Karadzic was quite clear the Bosnian Serbs could not accept a UN mandate unless he was party to the negotiations.

**#Who was responsible for changing the mandate without even informing the Serb side?# None of the Serbs could have not be accused for anything that comes out of this misunderstanding. Nobody had any right to jeopardize the very existence and survival of the 1,500,000 Serbs in Bosnia. This was a matter of the ultimate defence. Let us see what President Karadzic said to the media (D1056) about the mandate:.**

He also insisted U.N. Secretary-General Boutros Boutros-Ghali must consult the Bosnian Serb leadership before any decision on a new mandate for the peacekeeping mission, which has been paralysed since Serbs retaliated for the allied strikes.

5958. Immediately after the air strikes, the Accused ordered Milovanović to "activate" a decision made the previous year to "arrest everything foreign in RS territory and to treat military personnel as prisoners of war and hold them as hostages till the end of the war".<sup>19787</sup> **(This is #out of question that the President ever thought or said the word "hostages" and this can be seen from all his previous statements. What the Chamber used in this paragraph was an *aid memoir* of General Milovanovic, an "a posterior" diary aimed to protect General Milovanovic from a false accusations. Neither he was for any "hostage business" – and all and every Serb official kept repeating that the UN soldiers had been a POW-s, detained for their participation in the bombardment!)** Members of the Bosnian Serb Forces, including Mladić, Milovanović, Dragomir Milošević, and Živanović, carried out an operation with swift efficiency resulting in the detention of over 200 UN personnel throughout BiH during the few days

<sup>19787</sup>

See paras. 5857, 5965.

immediately following the NATO air strikes.<sup>19788</sup> Some of the UN personnel were taken to locations of military significance to the VRS, while others were detained at their OPs or WCPs.<sup>19789</sup>

5959. Once it was clear that NATO air strikes would cease, the negotiations for the release of the hostages were successful.<sup>19790</sup> **(Whatever inference is drawn, #it is not “the only”# because this one is the most probable: “once the bombing ceased, there was no more danger that the FAC among the UN personnel could help the NATO to be so precise, and therefore the negotiations could have been successful. Why negotiations? Because the UN kept some Serb soldiers as a POW-s too, and once a mutual animosity ceased, the negotiations commenced, as in any similar situation! Whoever has another impression, it doesn’t mean that the Serbs had anything else on their minds!)** On 2 June 1995, the Accused issued an order to the Main Staff and the MUP that 120 detained UNPROFOR personnel should be released.<sup>19791</sup> Also on this day, Krajišnik, in a private telephone conversation, stated that the Bosnian Serbs were very pleased with the things they had achieved and that the hostages were the Bosnian Serbs’ “trump card” and were used to avert the danger of NATO bombing their positions.<sup>19792</sup> **(A private conversation, with somebody who didn’t play any role in the Bosnian conflict!!! Why Mr. Krajisnik would talk with such a person in a strict terms and official positions? If he was expected to brag, or to show a “bravado”, he could, but it didn’t mean it was even his, let alone the President’s official position!)** The following day, Krajišnik stated that “we let some go and we captured some others” but that the Bosnian Serbs were holding on to some of the hostages, as “an excellent method” and they always had “an ace up our sleeve”.<sup>19793</sup> **This is not relevant, because it was a private chatting, and meant no an official position. Beside, Mr. Krajisnik wasn’t in any branch of the executive authority, he was a parliamentarian and sometimes even didn’t know what the Army was doing!)**

5960. On 4 June 1995, Janvier met with Mladić to discuss the remaining detained UN personnel.<sup>19794</sup> Janvier stated that the situation was unacceptable and demanded that the Bosnian Serbs release all detained UN personnel with all of their material and equipment.<sup>19795</sup> Mladić stated that the intention of the Bosnian Serbs in detaining UN personnel was that air strikes would never be repeated in the future and that the release of the UN personnel was dependent on this guarantee by the UN.<sup>19796</sup> Mladić proposed an agreement that he, as the VRS Commander, and Janvier, as the Commander of UNPROFOR, state the following:

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<sup>19788</sup> See paras. 5857, 5859–5863, 5913, 5916, 5937.

<sup>19789</sup> See para. 5937.

<sup>19790</sup> See paras. 5932–5936.

<sup>19791</sup> P889 (Radovan Karadžić’s Order to VRS and to RS MUP, 2 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 189; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 160. See also P3807 (Dispatch from RS MUP to Radovan Karadžić, 2 June 1995).

<sup>19792</sup> P6520 (Intercept of conversation between Petar Makara and Momčilo Krajišnik, 02 June 1995); Momčilo Krajišnik, T. 43894–43898 (20 November 2013).

<sup>19793</sup> P2271 (Intercept of conversation between Momčilo Vinković and Momčilo Krajišnik, 3 June 1995); Momčilo Krajišnik, T. 43890–43894 (20 November 2013). Krajišnik testified that he did not agree with Vinković, who he qualified as a radical in the Serbian diaspora, but he did not want to offend him during the phone conversation. Momčilo Krajišnik, T. 43890–43894 (20 November 2013).

<sup>19794</sup> P2273 (UNPROFOR report re meeting with Ratko Mladić, 4 June 1995); Rupert Smith, T. 11414–11416 (9 February 2011). On 1 June 1995, Mladić visited the Koran barracks to check on the detained UNMOs and their accommodations. Janusz Kalbarczyk, T. 10859–10860, 10891–10892 (28 January 2011); P653 (Video still of Ratko Mladić with two men). See also Jonathon Riley, T. 10777 (26 January 2011); P2148 (Witness statement of Jonathon Riley dated 30 May 1996), p. 5.

<sup>19795</sup> P2273 (UNPROFOR report re meeting with Ratko Mladić, 4 June 1995), p. 1; Rupert Smith, T. 11414–11416 (9 February 2011).

<sup>19796</sup> P2273 (UNPROFOR report re meeting with Ratko Mladić, 4 June 1995), p. 4; Rupert Smith, T. 11414–11416 (9 February 2011).

- (1) The VRS will no longer threaten the life and the security of members of UNPROFOR by the use of force;
- (2) UNPROFOR will not engage any of its forces or air strikes against Bosnian Serb objectives or territory; and
- (3) the signing of this agreement immediately engages the liberation of all prisoners of war.<sup>19797</sup> **(Clearly, that meant that the two sides, UN and VRS cease to be enemies!)**

**5961.** On 15 June 1995, Krajišnik, in a private conversation, stated that the hostage situation was the “biggest deal and quite a lucrative one, I am not saying we could have gotten more out of it”.<sup>19798</sup> In addition to the detention, the Chamber found that threats to kill and harm were used against the detained UN personnel in order to obtain a concession, namely that NATO cease its air strikes, including by the Accused.<sup>19799</sup> **(Under these paras there are calling upon another paras, and another paras. The Chamber nowhere found that President Karadzic shared the views of the different officials, which weren’t supposed to have an official opinion, since they didn’t deal with this affair. The Defence has every right to expect that an opinion of many others will not be allocated to President Karadzic, particularly since there are many direct and blatant statements and assertions of the President, known to everyone. The way the Trial Chamber did, combining the President statements or public standpoints with a different statements of others, given in a different occasions, unauthorised, private, with no a proper knowledge, and thus the Chamber makes a poison cookies and present it as the President Karadzic’s position!)** Mladić, Indić, Zametica, Ribić, and members of the Bosnian Serb Forces communicated these threats directly to the detained UN personnel, Smith, and UNPROFOR.<sup>19800</sup> These threats were made in order to stop the NATO air strikes.<sup>19801</sup> Further, both Krajišnik and Zametica issued public statements following the NATO air strikes, that the Bosnian Serbs would treat the UN as their enemy.<sup>19802</sup> **(So what? #Why the Serbs would capture them unless they considered them as an enemy#? No one of the named said that the UN personnel were hostages!)** The Accused publicly warned against the use of military intervention to free the hostages, stating that it would end in “catastrophe” and “a slaughter”.<sup>19803</sup> **(So what? First of all,**

<sup>19797</sup> P2273 (UNPROFOR report re meeting with Ratko Mladić, 4 June 1995), p. 4; Rupert Smith, T. 11414–11416 (9 February 2011).

<sup>19798</sup> P6521 (Intercept of conversation between Petar Makara and Momčilo Krajišnik, 15 June 1995), p. 1; Momčilo Krajišnik, T. 43899–43900 (20 November 2013). Koljević told Rechner that due to the intensity of the NATO air strikes, which was unexpected on the part of the Bosnian Serbs, the Bosnian Serbs felt that they needed to react in a way that would send a shock to the UN. Patrick Rechner, T. 11113–11114 (2 February 2011).

<sup>19799</sup> See paras. 5944–5945.

<sup>19800</sup> See paras. 5944–5945, 5871–5872, 5874–5876, 5880, 5890, 5894–5895, 5899, 5902, 5914–5915, 5917. See also P2268 (UNPROFOR report re telephone conversations with Ratko Mladić, 26 May 1995); P5013 (UNPROFOR Report re air strikes in Bosnia, 26 May 1995); Rupert Smith, T. 11371–11373 (8 February 2011); P2269 (UNPROFOR report re telephone conversation with Ratko Mladić, 29 May 1995), p. 2; [REDACTED]; P2434 (UNPROFOR protest letter to SRK, 3 June 1995). [REDACTED]. In discussing the hostage taking with Rechner, Koljević stated that he knew what had happened but was surprised to hear that the UNMOs had been threatened. Patrick Rechner, T. 11113–11114 (2 February 2011). Milenko Indić stated that he never told Smith that UNPROFOR personnel would be killed or harmed. D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 171. The Chamber notes that the evidence shows that repeated threats were made to harm and kill the UN personnel, these threats were communicated to Smith, among others, by Indić, and the UN personnel were placed in locations of strategic and military importance to the VRS, placing them at great risk of being harmed or killed in the event of a NATO air strike.

<sup>19801</sup> See paras. 5871–5872, 5874–5876, 5880, 5890, 5894–5895, 5899, 5902, 5914–5915, 5917.

<sup>19802</sup> John Zametica, T. 42498–424501 (29 October 2013); P6474 (Article from Reuters Press entitled “Serb Official Vows Heavy Price for Raids”, 26 May 1995); D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 6. Krajišnik testified that detaining UN personnel was a “desperate attempt” on the part of the VRS to prevent further NATO air strikes but it was in no way done to harm the actual UN personnel who were shown on television. He further testified that the intent of the Bosnian Serb leadership was to deter the air strikes and that is why the detained UN personnel were shown on television but that “we had no wish to destroy these young people”. Momčilo Krajišnik, T. 43339–43340 (12 November 2013). The Chamber notes that whether or not the Bosnian Serb leadership intended to actually harm the hostages is not an element of the crime of hostage taking. The accepted evidence discussed in this section of the Judgement shows that the Bosnian Serb political leadership was involved in the detention of the UN personnel at locations which placed them at a high risk of being harmed and this amounted to threatening to harm the UN personnel.

<sup>19803</sup> D1056 (Reuters report re Radovan Karadžić, 1 June 1995), p. 1.



**#President Karadzic never said the word “hostages”#. Second, these threats had been an original motive to spread the UN prisoners of war throughout the country, and not to pose them along the military installations. That is what anyone could hear from the Accused. Would it be for the first time that the great powers try to free their captured men? In that case, there is no president or commander who could order the guards not to defend. It must be brought to the Appeal Chamber that a soldier is sovereign in his rights to defend himself and his unit. See what was said in the D1056 pertaining to a possible rescue:**

Britain, France and the United States have moved troops and arms into the region since the hostage crisis erupted and have left open the possibility of mounting a rescue.

"We are changing the location of those prisoners often. They have been kept in many places," he said.

**That was the President’s motive to approve moving the detainees around. He threatened to escalate retaliation by the Bosnian Serbs if the UN ordered more NATO air strikes.<sup>19804</sup> (But he didn’t threaten the already detained. It would be completely legal to retaliate against those who order an attack, particularly after a warning. The entire international community should rather reconsider how this situation appeared, than how to punish a small nation of 1,500,000 Serbs attacked by so many enemies, and under the sanctions imposed by the entire world, including the motherland of Yugoslavia!)**

5962. The Chamber is therefore satisfied beyond reasonable doubt that between 25 May and June 1995, there existed a JCE, the common purpose of which was to take UN personnel hostage in order to compel NATO to abstain from conducting further air strikes against Bosnian Serb targets. This common purpose came to fruition following the NATO air strikes on 25 and 26 May 1995 and involved a plurality of persons. These members of the JCE, including the Accused,<sup>19805</sup> Mladić, Krajišnik, and Milovanović, shared the intent for the crime of hostage-taking. Members of the JCE implemented the common purpose themselves and/or by using members of the VRS and the MUP to act in furtherance of the common purpose. In doing so, orders were issued to take UN personnel hostage, the orders were implemented, and information was reported about the hostages taken. The common purpose lasted until the last of the UN personnel was released on 18 June 1995.

**(Not entirely correct!!! First, #there was no order prior to the first spontaneous arrest of the UN personnel deployed on the terrain that had been bombed#. Second, President Karadzic never mentioned the “hostages”, and always went speaking about the Prisoners of War, even far prior to the crisis. The same was with the Main Staff of the VRS. There is no a single doubt about the fact that among them there were the FAC, who guided the bombs to the Serb targets, and no time or judgment can change it. And the FACs were combatants. Also, no NATO or the UN had any right to be so blatantly partial, biased and aggressive towards the Serb community in BiH!)**

c. Findings on the Accused’s intent: whether the Accused shared the common purpose of the JCE

5963. The Accused argues that, while he did agree that UN personnel should be detained, he never agreed or contemplated that threats should be made against them and that there is no evidence that the plan to detain the UN personnel included the issuance of threats.<sup>19806</sup>

<sup>19804</sup> D1056 (Reuters report re Radovan Karadžić, 1 June 1995), p. 2.

<sup>19805</sup> The Accused’s intent is discussed further below.

<sup>19806</sup> Defence Final Brief, paras. 3354–3355, 3359–3360.

In contrast, the Prosecution submits that the Accused was a central participant at every stage of the hostage taking.<sup>19807</sup> Given the importance placed by the Accused on whether he shared the intent that threats be issued against the detained UN personnel, the Chamber will examine this element in detail below.

5964. Prior to the hostage-taking events, the Accused warned UNPROFOR that he would treat UN soldiers as enemies if NATO air strikes were conducted.<sup>19808</sup> **This was said as in**

**the P02264, pertaining to the President's talks with Gen. Smith.**

Karadzic responded with an expression of disillusionment and dissatisfaction with the UN over the recent HV offensive in Western Slavonia, "the UN helped our enemies", "the UN does not exist" were typical of the tone of his reaction. He explained that he had intelligence that the BiH had begun an offensive to lift the Siege of Sarajevo he threatened that he "could not allow the UN to help them beat us". If NATO was used against the BSA he threatened that; "our relationship would disappear and we would treat you as the enemy". In spite of the threats and warnings he

made it very clear that the UN will be targeted if NATO air is used against the BSA. He did make a distinction between UNHCR and ICRC and the UN, who he described as the "armed force of the Security Council".

Comment: It is clear the BSA will continue to fight the BiH and if the UN and NATO are drawn into the fight the decision has been made to treat UN and NATO as enemies.

**So, the Serb position was based on the UN bias against the Serbs everywhere in the former Yugoslav territory. Threats are made as to the Serb attitude towards the UN, not towards the detained members of it. And this is another report on the same meeting, what the President said about the Safe zones:**

There were some discussions of Safe Areas, Karadzic made the predictable claim that he saw these as violations of international law. He explained that Safe Areas should be mutually agreed and demilitarised, less for police; they would not be respected until these conditions had been met.

**Was it a violation of the international law of war? This is what the Appeal Chamber should find out and respond, and if it was so, who then would be responsible? Certainly, not President Karadzic or any Serb official! Any abuse of regulations and agreements committed with the aim to gain a military advantage and defeat the Serb Army, and would result in a total annihilation of the Serb existence in a certain area must be ruled out, and the international community institutions should under no conditions back such a cunning strategy!**

UNPROFOR had expressed its own concerns about UN personnel being targeted by the VRS.<sup>19809</sup> During a meeting with Smith on 9 May 1995, the Accused informed Smith that anyone who attacked the Bosnian Serbs was "their enemy" and made it clear that if NATO were to conduct air strikes against Bosnian Serb targets, then the UN forces would be attacked in retaliation or at least be "detained".<sup>19810</sup> **(Neither "retaliation" nor "detention" had been mentioned in the entire document about the Karadzic – Smith meeting. What certainly had been said was that if the UN uses NATO against the Bosnian Serbs, except for the Close Air Support to an attacked UN unit, the Serbs would consider the UN and NATO as enemies. Because they would act as the enemies, no other reason. And no more natural response! Who authorised the UN to betray the original mandate, to which the Serbs accepted the UN presence in BiH? The UN would do better if**

<sup>19807</sup> Prosecution Final Brief, paras. 1107–1108.

<sup>19808</sup> P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995); P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 3. See also P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), e-court pp. 2–3 (the Accused stated to Akashi that if the international community treated the [Bosnian] Serbs like 'beasts in a cage', then that is how they would behave).

<sup>19809</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995); P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), e-court p. 4; P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995); P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995).

<sup>19810</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 3; John Zametica, T. 42474 (29 October 2013); Rupert Smith, T. 11357–11358 (8 February 2011); P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995).

investigated these aberrations of the principle of a peace-keeping good services of the UN. That was what President Karadzic said to General Smith, see P2264, a note on the Karadzic -Smith meeting;

attacks on Sarajevo and the press reports of a possible NATO response during which Karadzic made it quite clear that in the event of a NATO attack the UN would be treated as enemies. Karadzic confirmed the BSA has decided to put the UN under sanctions. Finally Gen Smith and Karadzic discussed future options and strategy open to RS. Karadzic gave the impression that opposed to a large counter offensive, Bosnian Serb military actions might be limited to a vigorous defence of their territory and comprehensive sanctions in the form of a blockade against the UN.

General Smith changed the term "blockade" into "detention". Further,

3. NATO Air Strikes. Gen Smith explained why he had recommended that NATO air strikes in response to the BSA mortar and artillery attacks on Sarajevo 7/8 May. He made it clear that his recommendation was not as a consequence of the specific attack on Butmir but as a result of a concentrated attack by heavy weapons on the Sarajevo Safe Area and the civilian population. Karadzic responded with an expression of disillusionment and dissatisfaction with the UN over the recent HV offensive in Western Slavonia, "the UN helped our enemies", "the UN does not exist" were typical of the tone of his reaction. He explained that he had intelligence that the BiH had begun an offensive to lift the Siege of Sarajevo he threatened that he "could not allow the UN to help them beat us". If NATO was used against the BSA he threatened that: "our relationship would disappear and we would treat you as the enemy". In spite of the threats and warnings he

made it very clear that the UN will be targeted if NATO air is used against the BSA. He did make a distinction between UNHCR and ICRC and the UN, who he described as the "armed force of the Security Council".

Comment: It is clear the BSA will continue to fight the BiH and if the UN and NATO are drawn into the fight the decision has been made to treat UN and NATO as enemies.

Comment: The BSA feel confident that they can contain and defeat the ARBiH offensives. It is clear that we can expect a further increase in military activity in Sarajevo. The BSA will defend vigorously, a general counter-offensive is not expected but pre-emptive attacks remain likely.

However, General Smith made his report to the UN on the basis of these notes, this is P2265:

A record of the meeting will be sent to you shortly. However, there are two points that I drew from it which I think you would wish to consider more quickly, particularly in the present circumstances where your judgement is being questioned. When discussing air attacks Karadzic made it clear, and wished me to do so to you and the Security Council, that the Bosnian Serbs had made a decision to pursue only their own interests. They would not cooperate with the Security Council, Contact Group or anyone else unless it served their purpose. The events in Croatia had confirmed them in this view. The Muslims were attacking them and they would strike back whatever the Security Council said. Anybody who attacked the Serbs was their enemy. If NATO attacked them the UN forces would be attacked or at the least "detained". They were not going to let go of Sarajevo. The Muslims were preparing a big battle there and the Serbs would defeat them.

My reasons for raising these two points, which are not new but have not been so clearly stated to me before, is that I think they highlight the dilemma that results from our many and various mandates.

think the Bosnian Serbs are of a mind to take on whom-so-ever opposes them until they are either dealt with in their own right or defeated. Therefore, we should ascertain whether or not the nations and particularly the TCN's are prepared to start a process which if it is to succeed must be expected to involve escalation and being seen to be partial. If they are not then they must expect fighting between the Government and the Serbs to continue particularly in and around Sarajevo and the Enclaves until such time as they are prepared to discuss peace terms. (This is essentially the same the same question as that asked by the Bosnian Government).

**There is nothing wrong with the President's position: whoever attacks us, is our enemy. Only two weeks after General Smith asked for a clarification about the UN mandate, there had been a massive bombardment of the most sensitive facilities of the Serb defence! The UN shouldn't do that!**

The Accused again warned that the UN and NATO would be treated as enemies of the Bosnian Serbs.<sup>19811</sup>

**(What else the UN could have been to the Serbs, but an enemies? Could they have been the Serb friends? If the UN presented any possibility to act as a combat force helping the Serb enemies, the Serb side would never give any consent to the deployment of the UN in the Serb areas! Let us see what Mr. Harland admitted in his testimony, T.2145:**

**Q** *But what I'm saying here is this: I'm sure that you know that Muslims launched a number of offensives and were never shelled, and whenever we launched a counter-offensive we always had to suffer consequences. We were always shelled. Do you agree?* **A** *It is true that we in the international community never used force against the Bosniak side, but we often did against the Serbs and occasionally against the Croats.*

**So, that was not an incident, that was a systemic approach of the United Nations present in BiH. Harland testified about the full awareness of the UN Generals of the Muslim tactics to drag the UN-NATO into the war on their side, T.2145:**

**Q.** *ID982 is what we have now, although that's the old number. I mean, 204 is the old number. ID982 is the number, actually. So now I'd like us to have 1, 2, 3, 4, 5, 6 -- page 6. General Janvier's report. It's the penultimate paragraph. I'll read it out in English, "Similar": "[In English] Similar to what happened in Gorazde (spring 94) the BiH can attempt to draw UNPROFOR including the rapid reaction forces or NATO into the conflict on the BiH side. Sudden abandoning of positions along the confrontation line, the simulation of a collapse of the enclave or alarming reports from Bosnian side on the situation in the enclaves will be indicators for this. A stronger involvement of the international community could be interpreted by the Bosnian Serb army as an incentive to step up operations and try to eliminate the enclave, as well as retaliate against UN forces."* [Interpretation] *Do you agree with this conclusion made by General Janvier? I understand that you're not a military expert, but this is a general question, after all.* **A.** *I can confirm that that was the view of both General Rose and General Janvier.*

**Being completely aware of the cunning strategy, some of the UN Generals facilitated the abuse of the UN presence, which is gravely compromising the UN itself! Just to remind ourselves: Mr. Harland testified that General Smith came to end the war by using a formidable force, and that he was to use in once he gets an incentive, a triggering incident, see T2044-2045, "There, General Smith had a plan to end the war in Bosnia and Herzegovina, or at least a series of initiatives that would contribute to the end of the war, and central to those initiatives was the need to direct NATO air-strikes against the Bosnian Serbs on a massive scale. [...] Now, nobody could predict, when this Markale atrocity happened, that this would be the incident that would trigger these air attacks, and very unfortunately for UNPROFOR, exactly on that day there was a small unit of very vulnerable British troops, that is,**

<sup>19811</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 7; John Zametica, T. 42474 (29 October 2013); P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995).



*UNPROFOR troops of NATO nationality, stuck on Bosnian-Serb-controlled territory. I think it was a unit that was leaving the Bosnian government pocket of Gorazde enclave of Gorazde and going home, or rotating for leave, perhaps, and they were, I think, in a little village called Dobrun. So General Smith desperately needed a few hours of time. He needed to buy a few hours so that he could quickly get these British troops out of the way of the Serbs....)* **There may be no doubts that #the intention of General Smith as a UN commander, was to facilitate an opportunity to the NATO to end the war by destroying the Serb abilities to defend themselves and their settlements!# And this was not legal intention!#)**

**5965.** On 25 May 1995, after a warning issued by Smith prior to the NATO air strikes, the Accused, who was in Banja Luka at the time, again stated in a press interview that if the UN and NATO were to conduct air strikes, that he would “treat UN soldiers as ‘enemies’”.<sup>19812</sup> **(So what? Which ethnic community and which army wouldn’t treat an attacker as an enemy? Was there any mentioning of a threats? No, this was letting the UN officials on the terrain to know what they already knew, that they shouldn’t get involved in the war on any side!)** On the same day, the Accused ordered Milovanović to activate the decision made the previous year ordering the VRS to arrest everything foreign in RS territory and to treat military personnel as prisoners of war and “hold them as hostages” till the end of the war.<sup>19813</sup> **(#This is a contradiction, since President Karadzic never said, prior to or after the crisis that the UN personnel would be a “hostages” and they #couldn’t be a “prisoners of war” and a “hostages at the same time#. They had been supposed to be kept “till the conflict with them be ended”, and noth “till the end of the war!” But, this is a sort of a “backward mind” of Gen. Milovanovic. In his order he never mentioned this previous order of the Accused, or the Supreme Command, but anyway, it would be legitimate if attacked to consider those who attacked as an enemy. However, in P02264 it was clearly said that the Accused excluded the humanitarian organisations from the “enemies”.)**

**5966.** On 27 May 1995, the Accused approved an order issued by Milovanović to the commanders of the VRS corps to “place the captured UNPROFOR staff, as well as staff of the other international humanitarian organisations” at the “warehouses, in the areas of command posts, firing positions and other potential targets that may come under the air strike”.<sup>19814</sup> **(However, President Karadzic approved the spreading of the detained in many places because of the possibility that the NATO makes an airborne action. He, however, never mentioned any members of the “humanitarian organisations” nor any of them had been captured. All other in this “decision of the Main Staff” was not presented to the President. Let us see what the President accepted:**

8. The above GŠ VRS /Main Staff of the Army of Republika Srpska/ Order about the deployment of UNPROFOR staff has been approved by the President of the Republika Srpska and the local and foreign media was also informed about it.

**As we can see, no other “organisations” were mentioned, no threats.**

**5967.** On 1 June 1995, the Accused gave an interview to the Bosnian Serb television station in Pale stating that any attempt to liberate the detained UN personnel would “end in

<sup>19812</sup> D988 (Article from AFP entitled “Serbs Will Treat UN as Enemies if Smith Airstrikes: Karadžić”, 25 May 1995); Patrick Rechner, T. 11149 (2 February 2011); P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995).

<sup>19813</sup> D2149 (Aide mémoire of Manojlo Milovanović), pp. 56–57. See para. 5857.

<sup>19814</sup> P2137 (Order of VRS Main Staff, 27 May 1995), p. 1. See para. 5860.



catastrophe” and it would “be a slaughter”.<sup>19815</sup> He stated that the detained UN personnel were prisoners of war but he threatened to escalate the Bosnian Serb response if the UN ordered more NATO air strikes.<sup>19816</sup> **(This clearly shows what was the #main worry: that there could be an airborne operation#. Also, it is clear that the UN under the command of an aggressive general, namely Smith, ordered the air attacks, which should never happen, since both, the Serb and the Muslim Sarajevo was the safe zone, but the Muslims used it, as all other SAs, as a stronghold and attacked the Serbs permanently. The UN was responsible for those attacks from the SAA, and when the Serbs defended against these attacks, the UN ordered the NATO strikes against the Serbs. This doesn't require so high education to realise that it was not fair, and that it was not allowed by any international norm: to come to the peace-keeping mission on the consent of all the three sides, and then to turn against one of them!)**

**5968.** On 21 June 1995, the Accused gave an interview to the BBC, in which he discussed the detention of the UN personnel.<sup>19817</sup> He admitted that the detention of the UN personnel was a mistake but that “one drastic move causes another drastic reaction”, referring to the NATO air strikes as the first drastic move and the detention as the drastic reaction.<sup>19818</sup> He stated that he needed to do something very drastic “in order to prevent further attacks [from NATO]”.<sup>19819</sup> The Accused called the detainees “UN war prisoners” and stated that he had ordered their release.<sup>19820</sup> He stated that he was responsible for the actions of the VRS soldiers on the ground, stating that “we [he and the VRS] function as a State and I am Commander-in-Chief, Supreme Commander and everything that my Army do, I do back”.<sup>19821</sup> **(This is also a #fake and an unfair interpretation, i.e. adoption of the Prosecution's formulation and wording on the account of President Karadzic#. The President was asked, in the middle of war, to distant himself from his commanders and to worsen the status of national defence. #President Karadzic clearly said that it was a mistake#, but he do back his Army, while releasing the UN prisoners of war. It is clear to everyone impartial that the President distanced himself from depicting the UN prisoners tied to some facilities, which was an action of a terrified soldiers on the terrain, and not ordered by any commander!)**

**5969.** The Chamber is of the view that the statements, acts, and conduct of the Accused, as described above, are tantamount to having issued threats to injure, kill, or continue to detain the UN personnel and that he deliberately used the detained UN personnel as a bargaining tool to stop NATO air strikes. It is also clear from the Accused's statements and actions that he envisaged using the UN personnel as hostages. The only reasonable inference the Chamber can draw from this evidence is that the Accused intended not only to detain the UN personnel but also to issue threats while they were detained in order to achieve his objective of stopping further NATO air strikes of Bosnian Serb targets. **(This is #not the only reasonable inference#, since the previous assertion was not true, and it must be corrected: if the President said that he backed the VRS decisions, there was no a VRS decision to threaten the detainees, it had never been decided or said by any officer of the VRS. So, if we take this assertion out of the context, there are many other reasonable inferences, such as: the Accused accepted what had been happening**

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<sup>19815</sup> D1056 (Reuters report re Radovan Karadžić, 1 June 1995), p. 1; Rupert Smith, T. 11886–11887 (15 February 2011). See also P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 2.

<sup>19816</sup> D1056 (Reuters report re Radovan Karadžić, 1 June 1995), p. 2. See also D928 (BBC news report re UN personnel), at 07:30–08:16; Martin Bell, T. 9917–9918 (15 December 2010).

<sup>19817</sup> P5026 (Video footage of interview of Radovan Karadžić by John Simpson).

<sup>19818</sup> P5026 (Video footage of interview of Radovan Karadžić by John Simpson).

<sup>19819</sup> P5026 (Video footage of interview of Radovan Karadžić by John Simpson).

<sup>19820</sup> P5026 (Video footage of interview of Radovan Karadžić by John Simpson).

<sup>19821</sup> P5026 (Video footage of interview of Radovan Karadžić by John Simpson).

**on the terrain, i.e capturing the UN personnel, but even before, during and after that, he kept saying that they were the POW-s, nothing else. The President explicitly ordered that the UN personnel be treated properly, in accord with the law and with their dignity of military people. The UN ordered the attacks with no rights and no reasons. They were a part of the force which attacked, not only because of the order, but additionally because of the FAC!)**

5970. Further, Mladić, Indić, Zametica, Ribić, and members of the Bosnian Serb Forces communicated threats directly to UNPROFOR.<sup>19822</sup> **This reference calls upon a P2268, a telephone conversation between Mladic and Smith. But in the entire conversation Mladic never used any word about the detained people, nor his demands to stop bombardment was in any way connected to the fate of the detained. Even if Mladic was harsh in conversation with Smith, it was no threat, because a threat must be directed to a persons that are threatened by consequences, not to somebody else! The same concerns with Zametica and Indjic!)** In particular, the evidence shows that Accused's close subordinates who the Chamber finds were the members of the JCE, were involved in issuing threats. When proposing an agreement to Janvier, Mladić stated that the VRS would no longer threaten the life and the security of members of UNPROFOR by the use of force. The only reasonable inference that can be drawn from this is that Mladić was aware of the threats and that he was involved in issuing threats. **(#Not “the only reasonable inference”#! There is another reasonable inference: that Mladic had learnt from Janvier that somebody was threatening the detainees, and promised to stop it.)** In addition, public statements were issued by Krajišnik and Zametica and media coverage at that time showed videos of UN personnel being threatened, handcuffed, and detained in locations of potential NATO air strikes.<sup>19823</sup> **(#Words of others!#Again, the President seems to be #responsible for a statements of other persons#, even from a private conversations!)**

5971. On 26 May 1995, at 12 a.m., Zametica gave a statement to Bosnian Serb Radio in response to the NATO air strikes.<sup>19824</sup> Zametica reiterated that the Bosnian Serbs had always maintained that if there were air strikes against them, the Bosnian Serbs would treat UNPROFOR personnel as their “enemies” and that the UN had “hired an assassin” in the form of NATO to execute its tasks.<sup>19825</sup> He stated that if the NATO air strikes continued, the Bosnian Serbs would respond in the same manner but that they were also ready to negotiate.<sup>19826</sup> On the same day, he visited Jahorinski Potok where UN personnel were detained.<sup>19827</sup> The Chamber notes that as the Accused's personal advisor, Zametica was privy to “everything that was important” in the Presidency and would also communicate with the international community on behalf of the Accused.<sup>19828</sup> **(Not correct. The Chamber calls upon its own paras, after paras, but this is not contained there. #Not even Mladic threatened, let alone the President#. Remember, Koljevic was very**

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<sup>19822</sup> See para. 5961.

<sup>19823</sup> See paras. 5961, 5967–5968; P2184 (Serbian TV news report re UN personnel, with transcript); P2179 (Video footage of UN personnel); P2180 (Video footage of UN personnel); P2181 (Video footage of UN personnel); P2174 (Video footage of UN personnel, with transcript); P2024 (BBC news report re UN hostage-taking in Sarajevo, with transcript); P2153 (Serbian TV news report re UN personnel, with transcript).

<sup>19824</sup> D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 5.

<sup>19825</sup> D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 5; John Zametica, T. 42498–424501 (29 October 2013); P6474 (Article from Reuters Press entitled “Serb Official Vows Heavy Price for Raids”, 26 May 1995).

<sup>19826</sup> D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 5; John Zametica, T. 42499–42500, 42504 (29 October 2013).

<sup>19827</sup> See para. 5916; P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 47; Patrick Rechner, T. 11098–11099 (2 February 2011).

<sup>19828</sup> John Zametica, T. 42441, 42443–42444 (29 October 2013) (stating that he would appear in public to present the views of the Bosnian Serb leadership and he could not remember a “single occasion when [the Accused] or anyone else from the leadership, civilian leadership or even military leadership of the [RS] ever denied anything I said in public”).

surprised. And President Karadzic didn't deal with the detainees except shortly, and how Zametica could have known anything about the President's thoughts, apart from the known position, which Mr. Zametica repeated correctly? An information that the Serbs would treat an enemy as usual is not a treat.)

5972. Given his relationship with Mladić, Krajišnik, and Zametica the only reasonable inference that can be drawn is that the Accused knew that threats were issued and that he approved of these threats. Moreover, as will be described below in relation to the Accused's contribution to the JCE, the Accused was closely involved at every stage of these events. (What does it mean: "given his relationship..."? the #threats had never been mentioned, let alone discussed or ordered#. The President's relationship was the closest with Prof. Koljevic, with whom he was a friend for almost fifty years, and only with him communicated "per tu" while all other mentioned were "per si", and that is another reasonable inference: Koljevic wouldn't be surprised if the President knew anything about the threats!)

5973. Therefore, in light of the foregoing, the Chamber finds that the Accused intended for the threats to be issued in order to compel NATO to cease its air strikes and that he shared the common purpose and the intent for the crime of hostage taking, along with other members of the JCE. (If it was so, why President Karadzic didn't mention threats, in the interview with BBC or in the intercepted telephone conversations?)

d. Findings on the Accused's contribution to the JCE

i. *The Accused involvement in the lead up to NATO air strikes*

5974. On 5 April 1995, the Accused met with Smith at a hotel near Pale.<sup>19829</sup> Smith expressed serious concerns to the Accused about the recent attacks on the safe areas, the breaches of the TEZ, the direct targeting of UNPROFOR personnel, and the disruption of humanitarian aid convoys.<sup>19830</sup> Smith told the Accused that eventually UNPROFOR would be forced to respond with NATO air strikes.<sup>19831</sup> (#UNPROFOR would have never got the Serb approval for the deployment had the UN disclosed it's intents to attack and to involve in the war#!. That was the #golden rule of the peacekeeping#, as some of the UN military officers said, begging the superiors not to involve them in the war! The only use of the force that the Serb side accepted and supported was a possible "close air support" CAS, in a case the UN forces are being attacked!) The Accused responded that he thought the UN was assisting the Bosnian Muslims and that the VRS was going to start a counter-offensive.<sup>19832</sup> (Certainly, not a counter-offensive against the UNPROFOR, but against those who exerted an offensive against the Serb lines and settlements!) The Accused wanted the UN to withdraw from all areas of confrontation.<sup>19833</sup> Smith responded that as the UN commander, he needed to ensure that the UN's mandate to protect the safe areas was respected and that he could use NATO airpower if the safe areas were attacked.<sup>19834</sup> (#General Smith, or any other UN General, didn't have this right#, because the Serb side never accepted any idea of the air strikes, while the CAS (close air support) was acceptable, since it pertained to the

<sup>19829</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 1; Rupert Smith, T. 11344–11347 (8 February 2011).

<sup>19830</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 1. See paras. 4987–4990.

<sup>19831</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 1; Rupert Smith, T. 11346 (8 February 2011).

<sup>19832</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 1.

<sup>19833</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 1.

<sup>19834</sup> P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), p. 2.

security of the UN forces. How this can be accepted, to defend the safe zones, while there was no any “safe zones” but a military strongholds” as named by the UN SG. Since the UN didn’t make the SAs to be a real SAs, the entire responsibility was upon them, and they didn’t have any right to attack the Serbs, together with the attacks of the Muslim side. This must be posed before the Appeal Chamber and the entire world, with the question: is that right and just?

**But, in the same document it had been said that the #President seemed to be unaware of the changed mandate of the UN#. It couldn’t be changed without the Serb consent. See: P2260.**

6. UN Mandate for BiH. It was interesting that Karadzic was clearly not aware a new mandate for BiH was likely. He asked Gen Smith for some details. Karadzic was quite clear the Bosnian Serbs could not accept a UN mandate unless he was party to the negotiations.

**In order to show that the UN, and in particular General Smith and Ambassador Akashi knew what the UN was supposed to do, and what not, let us see #what they talked with the Muslim Government, P0063:**

whether the UN can deliver”. Gen Smith explained that UNPROFOR was operating in a war under peacekeeping principles; UNPROFOR would continue to seek to bring about a cessation of hostilities by peaceful means. force could only be used in self defence and the key role remained the delivery of humanitarian aid. Sacirbey and Ganic criticised this “narrow and inadequate” interpretation of the Mandate. Sacirbey questioned whether extant SCRs actually envisaged UNPROFOR as a peacekeeping mission, while Ganic called for punitive air strikes.

**#And Ganic got what he was asking for#. And the Serbs were to pay the price! #And the UN reputation was severely damaged too! Also, Ambassador Akashi confirmed in a cable to the superiors that the Muslim side had a heavy weaponry in Sarajevo out of the collecting site, as well as that the UN was in control of the NATO use of force, see D1051:**

Russian Embassy sought my assurances that NATO involvement in enforcing the terms of my statement and General Smith’s warning of 24 May would be even-handed. It was explained that UNPROFOR was monitoring violations by both sides of the exclusion zone, that General Smith is aware that there are government weapons in Sarajevo that are not in the Tito Barracks weapons collection point , and that there are firm procedural arrangements between UNPF-HQ and NATO that ensure the necessary United Nations control over the use of air power. I shall keep you informed.

5975. On 1 May 1995, the Accused, Krajišnik, Subotica, and Zametica met with Akashi and Smith in Pale to discuss an extension of the COHA.<sup>19835</sup> The Accused told Akashi that the UN could count on the goodwill of the Bosnian Serbs but if the situation deteriorated (referring to the armed conflict in Croatia), so too would the relationship between the UN and the Bosnian Serbs.<sup>19836</sup> Following this meeting, the UNPROFOR assessment was that the Bosnian Serbs would strike against their “international enemy” by targeting the UN and taking UN personnel hostage.<sup>19837</sup> The assessment further stated that

they [the Bosnian Serbs] will seek to bring NATO into play at the earliest opportunity so as to gain Serbian sympathy and to have the excuse to seize hostages and possibly ‘punish’ the UN by fire; methods that have always neutralized NATO in the past. We [UN] should expect more provocation for NATO and possibly the denial of convoy clearances to or from the enclaves; leave [sic] convoys would be an attractive choice

<sup>19835</sup> P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), pp. 2–3; Rupert Smith, T. 11352–11355 (8 February 2011).

<sup>19836</sup> P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), pp. 2–3.

<sup>19837</sup> P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), p. 3.

for hostage taking.<sup>19838</sup> (A #serious chamber should not take anyone's meditations and assumptions of the other's intentions as a proof#. This would rather be a sort of projection than an evidence on fact! But, since the Chamber paid an attention to the P02263 and the UN person's (Mr. Baxter) esteem of the intentions of the warring sides, let us see what he envisaged for the Muslim Government: (P02263)

The Government intend to maintain the military pressure on the BSA so as to; distract and disperse, work towards breaking the siege of Sarajevo over time, and push enemy artillery out of at least observed fire range of their major population centres. They seek to do this at a tempo they can sustain comfortably, for commercial and morale reasons and to preserve their victim status in the eyes of the World. In parallel with the military action they will continue vigorously to demand that the UN, NATO and the World should fight for them and the Arms Embargo should be lifted.

#This sounds more as a fact than Baxter's guessing what the Serb intentions may be. No matter the UN red from the communication with the Muslims what they intend to do, there was no a reaction to suppress their aggressive intents#. But, let us see what they envisaged for the Serbs: (this is the integral para concerning the Serbs:

The Serbs are harder to read. Nevertheless, they appear to have decided to be about to seek a decision by military means, the decision would seem to have the support of all at Pale. They are isolated and increasingly unworldly. Their only ways of striking against their "international enemy" are to, sanction the UN in the Enclaves, to target the UN, and to take hostages. To strike the BiH they must concentrate and coordinate with their allies, the RSK and possibly JNA. In taking the offensive they will seek to bring NATO into play at the earliest opportunity so as to gain Serbian sympathy and to have the excuse to seize hostages and possibly 'punish' the UN by fire: methods that have always neutralized NATO in the past.

The assumption that the Serbs wanted the NATO involved against themselves couldn't be understood even as a projection, but it always was the last what the Serbs would seek for! But, what is even more interesting is the next para, marked as a "Confidential" so must stay in our Appeal, but it is so important, because it shows how the UN were playing a game with the Serbs in Bosnia. It is now more than clear that the UN played a game of a mouse and a cat: The Serbs in Bosnia were the victims of a wide conspiracy to isolate them and exhaust their resources. "The Serbs were reacting, in part at least..." that was a plan of the parts of the UN, to make the Serbs suffer. And to react, and punish them. Now it is worthwhile to remind about what Harland said: General Smith came to end the war by the means of a large scale of force. How absurd is this construction about the Serb interest to get in conflict with the NATO, see D929:

#### ASSESSMENT

19. The ABiH are taking advantage of the BSA preoccupation with the UN and NATO to mount offensives in the KOMOSINA and CEREN SALIENT. It is thought that most of their assets are likely to be committed to these offensives but future action with an objective of DONJI VAKUF cannot be ruled out.

(#But it is of a particular importance to note that those meetings were about the "reading" the Serbs### All of that was a sort of spying, and the reports about their findings of the state of the Serbs, their self-confidence, moods, etc. were sent to the UN, although almost for sure to their national governments. The Serbs and the President knew this, and they played a game, talking to make an impression and impact on the future decisions of the UN. So, these talks could not be taken for granted, since it had its own purpose, and wasn't literally meant. It is also a matter to consider whether those "secret" meeting reports should appear before any court.



We should expect more 'provocation' for NATO and possibly the denial of convoy clearances to or from the enclaves; leave convoys would be an attractive choice for hostage taking. The Serbs are and will be "very provoked" by the attacks on their RSK brothers.

Based on the foregoing the plan of isolating the Bosnian Serbs appears to be working. It is going to be important to recognise that the Serbs are reacting, in part at least, to this pressure and not to give into the counter pressure. We must be prepared for the long and painful haul if we intend to remain as peacekeepers. The pressures of keeping open the routes into Sarajevo, be they air or land, demanded by the Government, and the reactions demanded by the Safe Area and Exclusion Zone regime, in the light of what is anticipated, will be difficult to manage so as not to lose the impartiality required of peacekeepers and avoiding making matters worse. It may well be best when the opportunity occurs to play the "Air Card" early in the game: if it works all well and good, if not, and with no evident willingness or immediate capability to escalate, UNPROFOR can close up and ride out the storm before matters become to dire.

**#So much about the UN and its "impartiality". And it was their wording about a hostage taking, and it could not be allocated to President Karadzic, and for the same reason this part of document shouldn't be "confidential" because it has a public consequences. Who said the properly red the Serbs, since they admitted that the Serbs were "harder to read"? And having in mind what happened later, it is obvious, particularly from this "Confidential" addendum, that a "hostage taking" was planned by the UN and General Smith himself?)**

5976. On 9 May 1995, the Accused and Zametica had another meeting with Smith.<sup>19839</sup> Smith explained to the Accused that he had recommended NATO air strikes against VRS military targets in response to the VRS mortar and artillery attacks in Sarajevo on 7 and 8 May 1995 against the civilian population.<sup>19840</sup> The Accused informed Smith that anyone who attacked the Bosnian Serbs was "their enemy" and made it clear that if NATO were to conduct air strikes against Bosnian Serb targets, then the UN forces would be attacked in retaliation or at least be "detained".<sup>19841</sup> **(Again repeated wrongly as in para 5964, in the original notes on the meeting there is no any retaliation mentioned, but only a treatment of the UN as enemies for their engagement of the NATO to attack and jeopardize the Serb defence!)** Furthermore, the Accused stated that the UN and NATO would be treated as enemies of the Bosnian Serbs.<sup>19842</sup> The Accused told Smith that he would instruct Mladić to speak to Smith soon because he himself would be away for a few days in Banja Luka.<sup>19843</sup> **(Let us see #how General Smith treated and named the Serb soldiers captured by the French soldiers in the UNPROFOR, see D1059, of 30 May 1995:**

4. I DO NOT THINK THAT WE THE COMMANDERS SHOULD BE THE ONES WHO NEGOTIATE. WE HAVE THINGS TO GIVE. THIS IS PARTICULARLY TRUE OF MYSELF AND GOBILLIARD WHO HOLD THE FOUR BSA SOLDIERS.

5. I WOULD WELCOME GUIDANCE ABOUT THESE DETAINEES. I UNDERSTAND LEGAL OPINION IS VARIOUS AND DIVIDED OVER THIS UNIQUE CASE. HOWEVER, I AM CLEAR IN MY OWN MIND THAT:-

A. THEY ARE 'DEFACTO' POW.

**How come the Serb captured soldiers in the same crisis were a "de facto" POWs, while the UN soldiers doing many damaging things to the Serb Army and civilians were named a hostages? Further, the same D1059:**

<sup>19839</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995); Rupert Smith, T. 11355–11360 (8 February 2011).

<sup>19840</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court pp. 3, 6; Rupert Smith, T. 11355–11357 (8 February 2011).

<sup>19841</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 3; John Zametica, T. 42474 (29 October 2013); Rupert Smith, T. 11357–11358 (8 February 2011).

<sup>19842</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 7; John Zametica, T. 42474 (29 October 2013).

<sup>19843</sup> P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995).

6. I HAVE ORDERED COMD SECTOR SARAJEVO TO HOLD AND SECURE THEM. THEY ARE NOT TO LEAVE SARAJEVO. WHO SHOULD INVESTIGATE THE CASE? IN ANY EVENT I DO NOT THINK THEY SHOULD BE HANDED BACK TO THE BSA UNTIL AN INVESTIGATION TAKES PLACE AND ALL OUR DETAINEES ARE RETURNED.

**So, the exchange of the Prisoners of War was General Smith's idea! However, General Smith kept an illegal position, see D1060:**

1. UN HAS NOT THE LEGAL RIGHT TO HOLD PRISONERS OF WAR.
2. IF PEOPLE ARE DETAINED BY UN THEY MUST BE RETURNED UNCONDITIONALLY TO THEIR UNITS AS SOON AS IT POSSIBLE WITH REGARD TO THEIR PERSONAL SECURITY.
3. IF UN USES SUCH DETAINEES AS BARGAINING CHIPS IN NEGOTIATIONS ABOUT UN PERSONNEL DETAINED BY ONE OF THE PARTIES TO THE CONFLICT, UN IS DE FACTO ACCEPTING THE RULES OF THE HOSTAGE GAME SET BY THE PARTY.
4. THE CREDIBILITY OF UN REGARDING INTERNATIONAL HUMANITARIAN LAW IS ALSO DERANGED IF SUCH A PRACTICE IS BEING IMPLEMENTED. THIS CREDIBILITY IS CRUCIAL IN MANY OTHER CONNECTIONS, AMONG THEM IN MATTERS CONCERNING THE SICK AND THE INJURED. THIS CONCERN IS THE IMMEDIATE REASON FOR FMEDO RAISING THIS ISSUE, WHICH OTHERWISE DOES NOT LIE UNDER HIS DOMAIN.
4. FOR THE REASONS MENTIONED, FMEDO ADVISES THAT THE SERBIAN SOLDIERS HELD BY UNPROFOR IN SARAJEVO MUST BE RELEASED IMMEDIATELY AND UNCONDITIONALLY.

**This is an "INTEROFFICE MEMORANDUM" of the UN issued on 28 May 1995. Therefore, General Smith violated the international law much more than President Karadzic, who accepted for a limited period of time the detention of the UN, while the other side, the UN kept the Serb soldiers to the end of exchange! Now this is more clear that the UN should never get involved in an interethnic war in which the UN entered as an unbiased peace-keeping force!**

**5977.** On 21 May 1995, the Accused had a meeting with Smith near Pale to discuss, *inter alia*, the mandate of the UNPROFOR in BiH.<sup>19844</sup> Smith expressed his concern to the Accused about the "increasing targeting of UN personnel" and the debilitating effect of the denial of supplies and movement to the eastern enclaves.<sup>19845</sup> The Accused told Smith that he had "no belief in the impartiality, efficiency or credibility of the UN".<sup>19846</sup> **(There should be the entire paragraph on this subject, because the Chamber selected the sentences as if the Prosecution did and would do it. It is obvious that the Chamber looked for a support to their ready-made decision on guilt, the entire para is as follows:**

4. The Eastern Enclaves. On the issue of the Enclaves, Karadzic maintained the UN had failed to implement any of the previous agreements relating to the Eastern Enclaves and the outcome of the fighting in Western Slavonia had proved the UN cannot be an effective guarantor. Karadzic accepted the UN had been a moderating influence especially in light of the military potential of the Enclaves. Again he asserted he could not respect the Safe Area Mandates as the Enclaves were effectively safe havens for the ARBiH. He said he expected the BiH to attempt to break out of one of the Enclaves and he expected UNPROFOR to be caught in the crossfire. The Enclaves, he said, are "a time bomb about to explode". He maintained the UN should get out but also that UNHCR would be safe to remain. UNPROFOR presence he stated was welcome "only if the Enclaves are demilitarized and become safe areas for civilian population".

**The #UN conduct in the Eastern enclaves was completely unacceptable#, and this is**

<sup>19844</sup> P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995); Rupert Smith, T. 11362–11364 (8 February 2011).

<sup>19845</sup> P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995).

<sup>19846</sup> P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995).

one of the things why the UN does not have any right to sue me. No country all over the world should accept them. But, the Chamber was privy of the President Karadzic letter to the UN SG Butros Butros-Ghali, which reflects the President's position more than any guessing of the UN drafters of reports, see: P2500

Excellency.

EXECUTIVE OFFICE  
THE SECRETARY-GENERAL

The latest developments in the former Bosnia-Herzegovina have brought about the deepest crisis yet in this troubled land. I regret to say this, but it has to be said that the UN has allowed itself to be manipulated into a no-win position, and that it has been compromised beyond belief through its fatal embrace of the NATO alliance. The results are so damning for the UN that they require no comment. This represents a tragedy for the UN not only here, but in the world at large.

Not everything, however, is lost. Although time is rapidly running out, we propose the following steps to avoid further escalation and to create an atmosphere conducive to the resumption of a meaningful peace process:

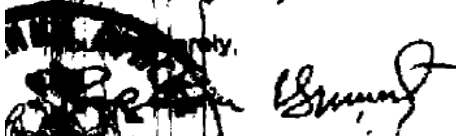
1. Guarantees to be given by the UN and NATO countries that the use of force is no longer an option, and that the international community is committed to a peaceful, political solution. We would urge you to send here more diplomats and fewer soldiers. Potentially, the more soldiers you send, the more violence you will get. The talk about "strengthening the mandate of UNPROFOR" is careless and it could cost lives. Let me make it absolutely clear that we shall accept no change of UNPROFOR mandate without prior consultation with us and without our approval. Please talk to us before you act.

2. Immediate and complete demilitarization of the "safe areas". This is in many ways the heart of the problem. You must understand, as I am sure you do, that there is a contradiction between the humanitarian purpose of UNPROFOR and the willingness to implement a safe areas policy without the negotiated demilitarization of the safe areas. Since, as you know perfectly well, the Muslims have always refused to demilitarize the safe areas, we can only respect them provided the UN are in complete control of those areas.

3. In accordance with the UN resolution on embargo of importation of military weapons into the territory of the former Yugoslavia, all deliveries of arms, military equipment, and other items of warfare from Iran, Turkey and other countries should cease immediately.

Excellency, as you can note, we are not asking for anything extraordinary. The present crisis is almost entirely the result of other people's brazen violations of various agreements and understandings. We ask you, first and foremost, to be what you invariably claim to be: an impartial third force. We cannot, and we shall not, tolerate a UN that is biased against us.

We take this opportunity to assure Your Excellency once again that we want peace, and an orderly and just settlement of the civil-religious war in our devastated homeland.

Yours faithfully,  
  
Radovan Karadzic  
President, Republic of Srpska

DPKO-OUSG  
INCOMING MAIL

This is #the most accurate source of the mens rea and the political position of President Karadzic about this crisis#. "...we are not asking for anything extraordinary" said the President. To support the Muslim side in it's claims for a domination in the entire BiH, over the Christian majority of the Serbs and Croats, it was a madness that resulted in a crimes and sufferings of so many people. Even if it was not a Christian majority, when the constituent peoples are in question, nobody is supposed to change their constituent position and turn them into a position of deprived minority, and at least the UN should have understand and pursued that! Also, a "complete demilitarisation of the "safe areas", what else? Why the UN would protect the Muslim military strongholds and enable them to kill "5 to 15 Serbs a day" as reported in the UN document D2032:

Messages from maj tucker.

- MAZAR ORIC
- MAZAR ORIC, the local military commander of SREBRENICA, received the order from HALILOVIC to stop any offensive action towards or against the Serbs. As already stated before, every night some raids were conducted and between 5 and 15 Serbs were killed every night. This could be an important day, the cessation of these actions could make our activities easier.



**:There was no any sentiment or solidatiry with these numerous Serb civilians killed every night by those protected by the UN in a false “safe areas”! But, let us see what was a real picture of the UN prisoners of war in the Serb detention, and what President Karadzic knew and approved after it already happened: D1056:**

PALE, Bosnia, June 2 (Reuter) - Bosnian Serb leader Radovan Karadzic has warned that if the major powers used force to free hundreds of U.N. hostages under Serb detention it would result in "slaughter".

"Any attempt to liberate them by force would end in catastrophe. It would be a slaughter," Karadzic said on Thursday evening in an interview on Bosnian Serb television in Pale, outside Sarajevo.

"They have to be regarded as prisoners of war because they have the same commander as the one who ordered NATO air attacks."

Britain, France and the United States have moved troops and arms into the region since the hostage crisis erupted and have left open the possibility of mounting a rescue.

"We are changing the location of those prisoners often. They have been kept in many places," he said.

**Therefore, #no need to guess what was the position of President Karadzic, particularly since it was clear that he didn't pose any condition pertaining to the NATO strikes to cease! Also, there is a first hand confirmation of the reason to disperse the POWs throughout the country, in order to prevent a forceful rescue!**

5978. As discussed above, on 24 May 1995, Smith called Mladić to express his concern about the situation in and around Sarajevo and issued a warning that if the heavy weapons taken by the Bosnian Serbs were not returned to the WCPs by 12 p.m. on 25 May 1995, then NATO air strikes would commence.<sup>19847</sup> The following day, Akashi spoke to the Accused and informed him that the VRS needed to return the four missing heavy weapons taken from the WCP earlier.<sup>19848</sup> The Accused spoke to Milovanović about the deadline and told him that Akashi “had been after” him all day although the Accused did not want to talk to him and that he told Akashi that the Bosnian Serbs would treat the UN as enemies if they called in the NATO air strikes.<sup>19849</sup> The Accused stated in a press interview that if the UN and NATO were to conduct air strikes, that he would “treat UN soldiers as ‘enemies’”.<sup>19850</sup>

*ii. The Accused's involvement in hostage taking*

5979. Following the NATO air strikes, the Accused ordered that the UN personnel be detained and kept in detention until assurances were made that there would be no further NATO air-strikes. On 25 May 1995, the Accused ordered Milovanović to activate the decision made the previous year ordering the VRS to “arrest everything foreign in RS territory and to treat military personnel as prisoners of war and hold them as hostages till

<sup>19847</sup> Rupert Smith, T. 11367–11368 (8 February 2011). *See also* P820 (Witness statement of David Harland dated 4 September 2009), para. 183.

<sup>19848</sup> P5019 (UNPROFOR report re airt strike near Pale, 25 May 1995); D987 (Intercept of conversation between Radovan Karadžić and General Milovanović, 25 May 1995).

<sup>19849</sup> D987 (Intercept of conversation between Radovan Karadžić and General Milovanović, 25 May 1995); Patrick Rechner, T. 11150–11151 (2 February 2011). *See also* Momčilo Krajišnik, T. 43341 (12 November 2013) who testified that there were a number of statements made by the Accused and the Bosnian Serbs in which they warned UNPROFOR and the international community that they should not “meddle” in the conflict and if they did so, they would be considered the “enemies” of the Bosnian Serbs. Later, in June 1995, the Accused stated to the Bosnian Serb Assembly that the Bosnian Serb leadership had decided to heat up the conflict and “take whatever we can, create a fiery atmosphere and dramatize, threaten an escalation, etc.” and the Bosnian Serbs did that around Sarajevo by taking the four artillery pieces”. **(This is not correct. First, the Serb weaponry around Sarajevo was taken because of the Muslim offensive against the Serb Sarajevo, which was supposed to be a safe zone itself, but was never protected by anyone but by it's inhabitants. Second, “merging” such a speech and another fact is not correct, and does not help the justice. Third, the Serbs couldn't afford themselves to meet the Muslim tactics of a maintaining a low intensity war, while the Serbs were under the sanctions. Their tactics probably was legitimate, but the Serb counter move also** P1410 (Transcript of 51<sup>st</sup> session of RS Assembly, 14-15 June 1995), p. 329.

<sup>19850</sup> D988 (Article from AFP entitled “Serbs Will Treat UN as Enemies if Smith Airstrikes: Karadžić”, 25 May 1995); Patrick Rechner, T. 11149 (2 February 2011).

the end of the war”.<sup>19851</sup> Consequently, Živanović issued an order to all units of the Drina Corps that “NATO aircrafts, which are a part of UNPROFOR, conducted operations against” the VRS and the VRS should respond by conducting operations against selected targets.<sup>19852</sup> It stated that “if UNPROFOR continues its operations against our military and civilian targets, all units of the Corps must be on stand-by for action against UNPROFOR checkpoints and bases”.<sup>19853</sup> It further ordered the prevention of all movement of “UNPROFOR vehicles and of all other international organisations” in the area and to fire on UNPROFOR if fired upon.<sup>19854</sup> The following day, Dragomir Milošević issued an order to all units of the SRK to immediately establish a full blockade of UN forces at checkpoints and on all roads in the “entire zone of the Corps” and to “use additional forces if the blockade is detected by the UN forces”.<sup>19855</sup>

5980. On 26 May 1995, Akashi sent a letter to the Accused expressing serious concerns about the situation in BiH and his wish that the UN and the Bosnian Serbs could resume a constructive working relationship.<sup>19856</sup> Akashi warned that the deliberate harming of UNPROFOR personnel would result in pressure from the international community for additional military action, including further air strikes.<sup>19857</sup> **(That was a threat, but in another direction, against the Serbs!)**

5981. On 27 May 1995, the Accused approved an order issued by Milovanović to the commanders of the VRS corps to “place the captured UNPROFOR staff, as well as staff of the other international humanitarian organisations” at the “warehouses, in the areas of command posts, firing positions and other potential targets that may come under the air strike”.<sup>19858</sup> **(#Words of others#! This is again an interpretation of another person. What had been said in this Order was that there were the intelligence information**

<sup>19851</sup> D2149 (Aide mémoire of Manojlo Milovanović), pp. 56–57. The Chamber notes UN personnel were already detained following the NATO air strikes in Goražde on 10 and 11 April 1994, *see* P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 81–82, 84, 90–92, 172; P1661 (Report from Ratko Mladić to VJ General Staff, 11 April 1994) and P1660 (Order of Drina Corps, 10 April 1994) (order from Milutin Škočaljčić to the Drina Corps to block UNPROFOR convoys, disarm the UNPROFOR personnel, and take them to a “collection centre at a designated location”); P1662 (VRS Main Staff Report to Radovan Karadžić and VJ General Staff, 11 April 1994), pp. 3–4 (report from Milovanović, on 11 April 1994, to the Accused, Main Staff, and all corps command that following NATO air strikes, the order of the VRS Main Staff to ban all movement of UNPROFOR in the RS is being carried out); P1788 (VRS Main Staff Order, 13 April 1994), p. 1 (wherein Mladić issues an order on 13 April 1994 to place UN personnel in “premises outside of the facilities where they had been stationed to date, that is, in military facilities which are a potential target of the NATO Air Force, as per your choice”, to limit their movement, guard them, prevent all communication, and treat them as prisoners of war); P855 (VRS Main Staff Order, 19 April 1994) (wherein Mladić issues an order, on 19 April 1994, to all the commands of the VRS corps to “immediately increase measures for the security and control of UNPROFOR and humanitarian organisations. In the event of massive air-raids against RS units and facilities, disarm and arrest them immediately, confiscate their weapons and combat equipment and use them for PVB/anti-aircraft warfare”); Rupert Smith, T. 7275–7277 (5 October 2010); D3497 (UNPROFOR report, 17 April 1994), p. 1. At other times, threats and orders were issued for the detention of UN personnel, *see* D3499 (UNPROFOR report, 4 May 1994), pp. 9–10 (at a meeting between the Accused and Akashi on 3 May 1994, the Accused stated that the VRS would retaliate against UNPROFOR if NATO launched air strikes and it would not limit itself to shooting down one plane); D3500 (UNPROFOR report, 7 October 1994) (at a meeting between the Accused, Mladić, Akashi, and others on 5 October 1994, Mladić stated that the next NATO air strikes will be “fatal” for UNPROFOR and he would “launch shelling on your positions immediately”); D2174 (VRS Main Staff Order, 23 November 1994); Manojlo Milovanović, T. 25708–25710 (5 March 2012) (wherein Milovanović testified that he issued an order, on 23 November 1994, to the VRS Main Staff and all VRS corps to arrest, disarm, and “put in prison near the firing positions” all UN personnel and that they “should be held hostage”); D3502 (Letter from Radovan Karadžić to Yasushi Akashi, 22 November 1994), p. 2 (where in the Accused informs Akashi that the Bosnian Serbs would treat UNPROFOR as their enemy if NATO air strikes were conducted in Bihać); Yasushi Akashi, T. 37721 (24 April 2013).

<sup>19852</sup> P2149 (Order of Drina Corps, 25 May 1995), p. 1; Marcus Helgers, T. 10778–10779, 10790–10791 (26 January 2011).

<sup>19853</sup> P2149 (Order of Drina Corps, 25 May 1995), p. 1.

<sup>19854</sup> P2149 (Order of Drina Corps, 25 May 1995), p. 1.

<sup>19855</sup> P6097 (SRK Order, 26 May 1995); Dragomir Milošević, T. 33228–33231 (5 February 2013). Dragomir Milošević testified that while he did issue this order to detain UN personnel, the portion of the order stating “do not take into account any UN requests regarding the supplies of food, water, etc.” did not pertain to the treatment of detained UN personnel, but rather to UN supply convoys and that UN personnel were treated as prisoners of war and provided with food and water. Dragomir Milošević, T. 33228–33231, 33247–33249 (5 February 2013).

<sup>19856</sup> D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 2; Rupert Smith, T. 11884–11886 (15 February 2011); John Zametica, T. 42498–42501 (29 October 2013).

<sup>19857</sup> D1055 (UNPROFOR report to Kofi Annan, 27 May 1995), e-court p. 2.

<sup>19858</sup> P2137 (Order of VRS Main Staff, 27 May 1995), p. 1; Rupert Smith, T. 11376 (8 February 2011); Manojlo Milovanović, T. 25721–25722 (5 March 2012). *See* para. 5860.



**about an imminent airborne operation to rescue the detainees, and the President agreed with the idea to spread the detained across the country, and the approval pertained only to this, not to the deployment of the detainees to any facility. Since it didn't happen that way, Milovanovic invented as if the Accused asked him to first put off his recorder, which the President never supposed and suspected that his Army was recording their conversations! Had General Milovanovic been so obedient to the President's orders – there would be less misunderstandings!)** The purpose of this order was to prevent NATO from carrying out further air strikes.<sup>19859</sup> The “commanders of the units” were “personally responsible” to Milovanović for the execution of the order and were required to inform him in writing by the following day.<sup>19860</sup> Following this order, on the same day, Lieutenant Colonel Jovica Karanović of the Main Staff Intelligence and Security Sector, issued an order to the Intelligence and Security Departments of the 1<sup>st</sup> Krajina Corps, 2<sup>nd</sup> Krajina Corps, Airforce and Anti-Aircraft Defence, the SRK, the Eastern Bosnia Corps, and the Herzegovina Corps stating that he had information that the NATO air strikes would continue against VRS military positions and that all commanders should familiarise themselves with this information.<sup>19861</sup> He recommended that the captured UN personnel be placed in areas of possible NATO air strikes.<sup>19862</sup> **(Again, this is not correct, but #distorted information#: first, it was a Lt.Colonel, and second, it was not an order, but a “recommendation”, see P2147**

The operation will allegedly be led directly by William PERRY of the US Defence Department. Our assessment is that they will concentrate operations on ammunition dumps, fire positions of anti-aircraft defence equipment, artillery, OMJ /armoured mechanised units/ and KM /command posts/.

Familiarise commanders with this information and recommend that captured members of UN forces be placed in an area of a possible NATO air strike.

**.Certainly, not legal, but not an order, and it should have been depicted as it is. What does it have to do with the President?)** Similarly, on this day, Dragomir Milošević ordered all SRK units to include in their regular combat reports for that day the following: (i) the numbers of UN personnel who were “taken prisoner” and what country they were from; (ii) the numbers of UN personnel who were “under blockade” and their locations; and (iii) the number of equipment and ammunition seized from the UN personnel.<sup>19863</sup> He also ordered all SRK units to deploy stronger forces at the check-points that were “taken from UNPROFOR” and not to allow any recapturing of these check-points from UNPROFOR or “enemy forces”.<sup>19864</sup> Also implementing the order, Živanović issued an order to all commands of the Drina Corps to capture, disarm, and relocate UN personnel to locations such as depots and forward command posts.<sup>19865</sup>

5982. On 28 May 1995, Milovanović sent a report to the Accused and various VRS units stating that the 1<sup>st</sup> Krajina Corps Command took approximately 57 UNPROFOR soldiers from the Eastern Bosnia Corps, including 43 UkrBat and 14 FreBat members.<sup>19866</sup> The

<sup>19859</sup> P2137 (Order of VRS Main Staff, 27 May 1995), p. 1; Momčilo Krajišnik, T. 43887, 43897–43898 (20 November 2013).

<sup>19860</sup> P2137 (Order of VRS Main Staff, 27 May 1995), p. 1; Momčilo Krajišnik, T. 43887, 43897–43898 (20 November 2013). Dragomir Milošević testified that this order was respected. Dragomir Milošević, T. 33247–33249 (5 February 2013).

<sup>19861</sup> P2147 (VRS Main Staff Report, 27 May 1995).5

<sup>19862</sup> P2147 (VRS Main Staff Report, 27 May 1995); Marcus Helgers, T. 10760–10761 (26 January 2011).

<sup>19863</sup> P2109 (SRK Order, 27 May 1995); [REDACTED]. However, Dragomir Milošević ordered that Russian UNPROFOR members must not be taken and if they were captured, they must be freed. P2109 (SRK Order, 27 May 1995); Rupert Smith, T. 11375 (8 February 2011). With respect to the incident on the Vrbanja Bridge, [REDACTED] could not “believe that General Milošević did not know that the SRK acted in violation of international law”. See para. 5893; P2407 (Witness statement of KDZ304), p. 9.

<sup>19864</sup> P2416 (SRK Order, 27 May 1995), p. 1; [REDACTED].

<sup>19865</sup> P2151 (Order of Drina Corps, 27 May 1995); Jonathon Riley, T. 10784 (26 January 2011).

<sup>19866</sup> P2138 (VRS Main Staff Report, 28 May 1995), p. 6; Aleksandr Vishnevski, T. 10711–10712 (25 January 2011).

Herzegovina Corps Command held over 18 UNPROFOR soldiers.<sup>19867</sup> In addition, the Accused was informed that the Drina Corps had captured 27 members of the BritBat Team.<sup>19868</sup>

5983. On 28 May 1995, at a meeting of the Supreme Command in Pale, attended by, *inter alios*, the Accused and Mladić, the detention of UN personnel was discussed.<sup>19869</sup> The Supreme Command decided to further restrict the movement of UN forces in the enclaves, including in Sarajevo, and that the detained UN personnel should be treated as prisoners of war.<sup>19870</sup> **(Clear, #with no mentioning any threats#. Every soldier knew what that meant, to treat them as a POW-s. and they claimed their rights accordingly. See what President Karadzic told to the Reuters in his intervies, D1056**  
He said the hostages were being treated correctly and that their families should not be worried for their safety.

**Or #another President's interview at the same time, confirming that the UN soldiers kept as the prisoners of war were treated as the Serb soldiers!#)**

5984. On 29 May 1995, the Accused and Krajišnik spoke with an individual in contact with the British Ministry of Defence about the hostage situation.<sup>19871</sup> The Accused demanded, as a condition for the release of the UN personnel, that NATO air strikes would cease and “they [UN] need to make a decision at the Security Council about abolishing the use of force. That is very important; that abolishing the use of force and then we’ll see. The solution is the more important because then negotiations follow”.<sup>19872</sup> **(But, #it was not posted as a precondition to release the detainees, it was to stop the animosity#, i.e. to cease to be enemies. How possibly could the Serbs release the forward air controllers (FAC) if there was to be the continuation of the bombardment. This is not a blackmail, this is simply a claim to stop being enemies!)** On the same day, the Accused sent a letter to Akashi demanding a guarantee that the use of force by the UN and NATO was no longer an option.<sup>19873</sup> **(Also, to quit the hostilities from the NATO, which had been very precise by the help of those detained!)** The Bosnian Serbs issued a press release stating that at a session of the VRS Supreme Command chaired by the Accused and attended by Mladić, the VRS declared “all UN Security Council resolutions, all NATO ultimatums, and all agreements with the United Nations that have been abused are hereby declared null and void”.<sup>19874</sup> **(Right, anything that had been abused should be declared null and void. “Pacta sunt servanda!” The very moment something is abused, it is declared null and void by itself, particularly if this abuse damaged the one side interests!)**

5985. On 30 May 1995, the Accused, the RS representative in Moscow at that time, Todor Dutina, and Krajišnik discussed the hostage situation.<sup>19875</sup> Dutina told the Accused, “let me tell you, Radovan, we made a move and now we should wait for a move of the

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<sup>19867</sup> P2138 (VRS Main Staff Report, 28 May 1995), p. 6.

<sup>19868</sup> P2138 (VRS Main Staff Report, 28 May 1995), p. 6.

<sup>19869</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), pp. 148–149.

<sup>19870</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 149.

<sup>19871</sup> P5626 (Intercept of conversation between Radovan Karadžić, and unidentified male, and Momčilo Krajišnik, 29 May 1995).

<sup>19872</sup> P5626 (Intercept of conversation between Radovan Karadžić, and unidentified male, and Momčilo Krajišnik, 29 May 1995), p. 2.

<sup>19873</sup> P5015 (Letter from Radovan Karadžić to Boutros Boutros-Ghali, 29 May 1995).

<sup>19874</sup> P887 (SRNA news report, 29 May 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 185; P2501 (RS Office for Press Contacts statement, 29 May 1995); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 170.

<sup>19875</sup> P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik, and Radovan Karadžić, 30 May 1995), e-court pp. 5–6; John Zametca, T. 42492–42493 (29 October 2013); Momčilo Krajišnik, T. 43884–43890 (20 November 2013).

other side”.<sup>19876</sup> (#Words of others#! What relevance has something that is said by somebody else, out of any official capacity?) The Accused was informed that an intermediary from France was going to try to negotiate with the Bosnian Serbs.<sup>19877</sup> The Accused replied, “we are not interested in letting them [the detained UN personnel] go as much as they are interested in us letting them go”.<sup>19878</sup> He further stated that he thought of the UN as opponents and that the UN would not be able to rescue all the UN personnel, “but let them come; how can they come by aircrafts when we keep them [the detained UN personnel] at three hundred places? They can’t liberate that, maybe one or none”.<sup>19879</sup> (It should have been noticed that the President spoke about many places where the prisoners had been kept, but no any clue that they had been deployed in a vicinity of the military objects and facilities. So, the spreading and deploying the prisoners had the only one purpose, to prevent a forceful rescue, and not to shield the objects, which President Karadzic never ordered, as he never knew, let alone ordered any threatening!) Krajišnik testified that the detention of the UN personnel was a “desperate attempt” by the Bosnian Serbs to prevent further air strikes.<sup>19880</sup> (Nothing unusual. #They had been conceived as the help to the NATO planes in their bombardment, which they had been, and thus the enemy soldiers#. But, if we see the UN documents from April and May, we will see that it was carefully planned to drag the Serbs into the crisis of that kind, (see: P02263 and P2264, on the Smith – Karadzic meeting on 1 May 1995:

Based on the foregoing the plan of isolating the Bosnian Serbs appears to be working. It is going to be important to recognise that the Serbs are reacting, in part at least, to this pressure and not to give into the counter pressure. We must be prepared for the long and painful haul if we intend to remain as peacekeepers. The pressures of keeping open the routes into Sarajevo, be they air or land, demanded by the Government, and the reactions demanded by the Safe Area and Exclusion Zone regime, in the light of what is anticipated, will be difficult to manage so as not to lose the impartiality required of peacekeepers and avoiding making matters worse. It may well be best when the opportunity occurs to play the “Air Card” early in the game: if it works all well and good, if not, and with no evident willingness or immediate capability to escalate, UNPROFOR can close up and ride out the storm before matters become to dire.

**What a mean and #cunning strategy, developed already on 1 May 1995#!!! THIS MUST HAVE NEVER BE DONE WITHIN THE UNITED NATIONS, BECAUSE ALREADY NOW, A TFER THIS DISGRACE IN BOSNIA, THE UNITED NATIONS ARE NOT AS SAME AS BEFORE THIS!#** To isolate the Serbs in Bosnia, to make them react and, if possible to counter-react, to do many things that would be harmful and painful to the Serbs, to make a “painful haul” about their “peacekeeper’s” position, maintaining the pressure over the Serbs on a humanitarian issues so to emotionally engage the international community, with a full awareness that it will be “difficult to manage so as not to lose impartiality required of peacekeepers and avoiding making the matters worse.” See this sentence: “It may well be best when the opportunity occurs to play the “Air Card” early in the game: if it works all well and good, if not, and with no evident willingness or immediate capability to escalate. UNPROFOR can close up and ride out the storm before the matters become to dire”. The UN do not have any right to accuse, indict and sentence the people like President Karadzic, caught in such a cunning traps and nets in their

<sup>19876</sup> P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik, and Radovan Karadžić, 30 May 1995), p. 5.

<sup>19877</sup> P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik, and Radovan Karadžić, 30 May 1995), p. 6.

<sup>19878</sup> P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik, and Radovan Karadžić, 30 May 1995), p. 6.

<sup>19879</sup> P5607 (Intercept of conversation between Todor Dutina, Momčilo Krajišnik, and Radovan Karadžić, 30 May 1995), p. 11.

efforts to defend their people. And who was creating these traps – the institution that should have done all the opposite! Nota bene – “when the opportunity occurs” – and #you will recognize the Markale incidents or any return of fire against the weapons in the city as this “opportunity”, and if the Serbs do not create this “opportunity”, their Muslim allies would be planting and staging in such an incident! And when it happens, the commanders that planned and facilitated the “storm” play a role of an innocent and protected side, whose soldiers and forward air controllers are a “protected group”! after this document issued on 1 May 95, there is the next, P2264, about General Smith’s private visit to the President, which was a classic reconnaissance of the President Karadzic mood, self-confidence and possible reaction to what General Smith had planned! Is that the UN role in the world? The P2265 and P2266 are of the similar nature, all about General Smith’s private and secret meetings with President Karadzic, on 9 May and 21 May 1995, only four days before the first massive bombardment of the Serbs around Sarajevo, which resulted in taking the UN as prisoners of war!#)

iii. *The Accused’s involvement in the release of UN hostages*

5986. Once it became clear that NATO would no longer be conducting air strikes against Bosnian Serb military targets, the Accused ordered the release of the UN hostages. On 2 June 1995, the Accused issued an order to the Main Staff and the MUP that 120 detained UNPROFOR personnel should be released.<sup>19881</sup> The Accused also ordered that a detailed report be submitted to him upon completion of this order.<sup>19882</sup> On the same day, Mladić implemented the order to the 1<sup>st</sup> Krajina Corps, 2<sup>nd</sup> Krajina Corps, Airforce and Anti-Aircraft Defence, the SRK, the Eastern Bosnia Corps, the Herzegovina Corps, and the Drina Corps to release 120 UNPROFOR personnel who were “taken prisoner” in the Pale area and turned them over to the MUP who would organise their transport to the FRY.<sup>19883</sup>
5987. On 6 June 1995, the Accused issued an order to release 95 more UNPROFOR soldiers and to hand them over to the MUP in the garrisons of Bijeljina and Višegrad on 7 June 1995.<sup>19884</sup> Again, Mladić implemented this order but all other UNPROFOR soldiers who were still detained were to remain until further instructions.<sup>19885</sup> Approximately 150 UN personnel remained detained by the VRS.<sup>19886</sup>
5988. On 13 June 1995, the Accused issued an order to the Commander and Assistant Commander for Intelligence and Security of the Main Staff, directing them to release all captured UN soldiers at 11 a.m. that day and to hand them over to Jovica Stanišić.<sup>19887</sup> 15 UNMOs were to remain in VRS custody near Pale and be released on 18 June 1995.<sup>19888</sup> The following day, the Accused made a statement to the Belgrade media stating that 15

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<sup>19881</sup> P889 (Radovan Karadžić’s Order to VRS and to RS MUP, 2 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 189; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 160. *See also* P3807 (Dispatch from RS MUP to Radovan Karadžić, 2 June 1995).

<sup>19882</sup> P889 (Radovan Karadžić’s Order to VRS and to RS MUP, 2 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 189. *See also* P3807 (Dispatch from RS MUP to Radovan Karadžić, 2 June 1995).

<sup>19883</sup> P2152 (Order of VRS Main Staff, 2 June 1995), p. 1; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 159–160; *see also* D4530 (Intercept of conversation between Radovan Karadžić and Fnu Gojević, undated), p. 5 (referring to one third having been released).

<sup>19884</sup> P891 (Radovan Karadžić’s Order to VRS and RS MUP, 6 June 1995); Aleksandr Vishnevski, T. 10712–10713 (25 January 2011); KDZ196, T. 10725–10726 (25 January 2011); P820 (Witness statement of David Harland dated 4 September 2009), para. 192.

<sup>19885</sup> P2139 (Order of VRS Main Staff, 6 June 1995), p. 3.

<sup>19886</sup> P890 (UNPROFOR Weekly Situation Report (Sarajevo), 10 June 1995), p. 2; P820 (Witness statement of David Harland dated 4 September 2009), para. 191.

<sup>19887</sup> P2156 (Radovan Karadžić’s Order to VRS Main Staff, 13 June 1995), p. 1; Janusz Kalbarczyk, T. 10863–10864 (28 January 2011).

<sup>19888</sup> P2156 (Radovan Karadžić’s Order to VRS Main Staff, 13 June 1995), p. 1.

UN personnel would be released later due to “technical reasons”.<sup>19889</sup> The Accused stated: “[W]e regret what we had to do”; however, the Bosnian Serbs were attacked, they needed to defend themselves by all means.<sup>19890</sup>

5989. On 15 June 1995, at the 51<sup>st</sup> Session of the RS Assembly, the Accused recalled the escalation of hostilities, that he “decided to opt for an aggravation of the situation”, and that they [Bosnian Serbs] had to “heat up the situation”, the Accused stated:

We ordered the arrest, we didn't go into detail as to when they would be tied up, but it had a good effect, it was very shocking for the world, now it's easy, when they ask us if that was a nice gesture, I ask if it's a nice gesture to bomb the Serbian rear and frighten our children and old people. [...] we couldn't let them all go at once, but in proportions, we even left 15 until the end of this week so we could keep the weapons we have in Sarajevo, knowing about the offensive and planning to do something in Sarajevo. Now any return of weapons is out of the question because of this offensive, so that, in a way, we even somewhat benefited from this whole crisis.<sup>19891</sup>

**(The President had to give an acceptable response to the MP-s why the detainees had been released so soon. But, certainly, the UN and NATO trespassed first, their illegal conduct gave the Serbs every right to defend, and particularly to remove their helpers from the terrain. Anyway, the Prosecution/Chamber alliance is using the President's political speeches as an evidence without any context, even when it should be commended! At the same time, on June 16 1995, the UN reported the situation around Sarajevo, with the full awareness of the ABIH aggressive campaign against the Serb settlements in the city, while the Serbs had been exposed to the pressures described above. See: D958: 16 JUNE 95:**

\* The Bosnian army has launched a major offensive around Sarajevo. After one full day of fighting the Bosnians appear to have gained some ground, but a Serb counter-attack is expected.

\* UNPROFOR seems to be powerless to stop the erosion of the military situation: the Sarajevo Total Exclusion Zone has collapsed completely, with both sides removing heavy weapons at will from the Weapons Collection Points.

\* The UNPROFOR hostage crisis has largely been resolved. The Serbs continue to hold 26 hostages, and want to exchange them for Serb fighters captured by UNPROFOR on the Vrbanja bridge three weeks ago.

**(#Not the both sides were responsible, but only the Muslim side, and the biased UNATO#! It wasn't only UN nor only NATO, it was a sort of bastardous creature, UNATO! By the end of so called “hosiage crisis” the ABIH took advantage to attack, and the UNATO was helples, or indifferent to the Serb sufferings#! There was no such an example that somebody fought for a mere survival with so many enemies, including the parts and instances of the UN present there. For the sake of truth, there must have been said that the seat of the UN, as well as the highes commanders had been extremely cautious and fair, which can not be said for all of the middle and low ranking officials!)**

<sup>19889</sup> P2159 (UNPROFOR report, 14 June 1995), p. 1; P2182 (Video footage of Radovan Karadžić's press conference re UN personnel).

<sup>19890</sup> P2182 (Video footage of Radovan Karadžić's press conference re UN personnel).

<sup>19891</sup> P1410 (Transcript of 51<sup>st</sup> Session of RS Assembly, 14-15 June 1995), pp. 329–332.



5990. The Accused further stated that after assessing the situation and noting that the media was describing the UN personnel as hostages, the Bosnian Serbs realised they may have a “spoil” in their hands which would result in a negative effect and “a justification for a possible military intervention” where they would lose their state.<sup>19892</sup> They therefore initiated a “cool down process” and “at the same time considered who to give those hostages back to”.<sup>19893</sup> **(#Another use of a political speech, but certainly one point in these depicted here was right: the entire Serb side didn’t think of the prisoners as a hostages, because a hostages wouldn’t be taken by the VRS, as it never happen during prior bombardments and other misunderstandings! In some cases there were some chaotic reactions on the terrain, but the upper commands prevented any development!)**

5991. On 16 June 1995, the Security Council passed Resolution 998 condemning the attacks on the UNPROFOR personnel and demanding that the VRS immediately and unconditionally release all detained UNPROFOR personnel.<sup>19894</sup> On 17 June 1995, the Accused issued an order to the Main Staff that all UN personnel in VRS custody be released by 2 p.m. on 18 June 1995.<sup>19895</sup> The order was implemented by Mladić, who issued it to the commanders of the 1<sup>st</sup> Krajina Corps, 2<sup>nd</sup> Krajina Corps, Eastern Bosnia Corps, Drina Corps, SRK, Herzegovina Corps, Air Force and Air Defence but ordering that 26 UN personnel be handed over to the MUP by 18 June 1995 only after UNPROFOR releases four captured VRS soldiers.<sup>19896</sup> By 18 June 1995, UNPROFOR reported that all remaining UN personnel had been released and UNPROFOR had also released the four VRS soldiers.<sup>19897</sup> **(An honest exchange, wasn’t it? How to name the Serb soldiers in the UN custody? As a hostages, or as a prisoners of war?)**

#### *iv. Conclusion*

5992. The Chamber is satisfied beyond reasonable doubt that the Accused significantly contributed to the common purpose to take UN personnel hostage in order to deter NATO from engaging in further air-strikes. **(#Wrong: it had been communicated to the UN far before the bombardment that the UN should not engage the NATO to attack the Serbs, otherwise the Serbs would tear them as enemies. When it was clear that such a high preciseness of hits was impossible without a help from the ground, that was another, additional reason to take the UN soldiers as a prisoners of war, at least to prevent the NATO to be assisted from the ground!)** The Accused was the driving force behind the hostage taking and an active participant in every aspect of the events. **(Wrong! The UN – NATO (UNATO) alliance was the “driving force” and the first arrests had been a spontaneous reactions of the jeopardized soldiers on the terrain, because any destroyed bridge could cost their families their lives!)** He directly participated in the operation to take UN personnel hostage as evidenced by his involvement in: (i) formulating and implementing the hostage taking plan, (ii) the statements he made prior to the NATO air strikes to attack and/or detain UN personnel, **(Wrong, not as a hostages, but as a prisoners of war, what they really had been!)** (iii) directing others to

<sup>19892</sup> P1410 (Transcript of 51<sup>st</sup> Session of RS Assembly, 14-15 June 1995), p. 330.

<sup>19893</sup> P1410 (Transcript of 51<sup>st</sup> Session of RS Assembly, 14-15 June 1995), pp. 330–331.

<sup>19894</sup> P5014 (UNSC Resolution 998 (1995), 16 June 1995).

<sup>19895</sup> P893 (Radovan Karadžić’s Order to VRS, 17 June 1995), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 194.

<sup>19896</sup> P2183 (Order of VRS Main Staff, 17 June 1995), p. 1; Patrick Rechner, T. 11185 (2 February 2011).

<sup>19897</sup> P892 (UNPROFOR Weekly Situation Report Sarajevo), 24 June 1995), pp. 2–3; P820 (Witness statement of David Harland dated 4 September 2009), para. 193.

detain the UN personnel and place them in locations of military significance to the VRS after the NATO air strikes, **(#Wrong, it didn't happen, he only approved their dispersion, to prevent an airborne rescue action, that would result in many casualties on both sides! There is no a single clue that President Karadzic even knew that the POWs were to be exposed to these places! It had been contrary to his direct orders about treatment of the POWs!)** (iv) monitoring the hostage taking operation, (v) receiving reports about the hostages, and vi) placing conditions on the release of the hostages.<sup>19898</sup> The Accused issued statements that the UN personnel would not be released unless NATO ceased the air strikes.<sup>19899</sup> **(Wrong: #unless the UN-NATO cease to be engaged as a Serb enemies!# )** Once the UN conceded to his demands that NATO air strikes would cease, the Accused issued orders for the release of the UN personnel.<sup>19900</sup>

## 7. Count 11: Conclusion

5993. The Chamber therefore finds that the Accused is criminally responsible, as a member of the Hostages JCE, under Article 7(1) of the Statute for the crime of taking hostages pursuant to Count 11 of the Indictment. **(The #Defence would conclude all the way around: the UN made a horrifying mistakes by siding in a civil war, and even taking so drastic hostile actions as were the "strategic bombardments of a large scale" as Harland testified#! Instead of persecuting President Karadzic and other Serb military and civilian officials, the UN should do better if revised it's role in the Yugoslav crisis and reaffirm it's Charter, so to commit to the impartiality and resistance to anyone's abuse of the UN power#! There are many other issues that should be revised, such as the testimonies of the lower ranking officials of the UN, such as preventing the side that can be accused to participate in investigations, such as the "safe areas" policy, such as an abuse of the humanitarian missions in spying on one of the participating sides, such as an abuse of the private contacts of the UN officials with the local leaders, and many other issues from the very foundation of the United Nations Charter!)**

5994. In addition to the Accused's liability through participation in a JCE, the Prosecution also alleges that the Accused is individually criminally responsible for planning, instigating, ordering, and/or aiding and abetting the crime of taking hostages through certain acts and omissions.<sup>19901</sup> It also charges the Accused with individual criminally responsibility pursuant to Article 7(3) of the Statute.<sup>19902</sup> However, having considered all of the evidence and in light of the findings made above, the Chamber finds that commission through JCE pursuant to Article 7(1) most accurately and appropriately reflects the Accused's responsibility for the crime of hostage taking as charged in the Indictment. The Chamber will therefore not analyse the Accused's responsibility under the other modes alleged by the Prosecution in the Indictment.

### E. SUMMARY OF FINDINGS

5995. In the previous sections of the Judgement, the Chamber has made findings on the charges related to each of the four components of this case and on the Accused's responsibility in relation thereto. The Chamber will now summarise these findings, first in

<sup>19898</sup> See paras. 5957, 5961, 5964–5966, 5968, 5975–5979, 5989, 5981–5982.

<sup>19899</sup> See paras. 5967, 5981–5985.

<sup>19900</sup> See paras. 5958, 5986–5988, 5990–5991.

<sup>19901</sup> Indictment, paras. 30–31; Prosecution Final Brief, paras. 1115–1118.

<sup>19902</sup> Indictment, para. 32; Prosecution Final Brief, paras. 1113–1114.

relation to each of the alleged JCEs and second with regard to each of the Counts of the Indictment.

a. Summary of findings on the four alleged JCEs

5996. In relation to the Municipalities component, the Chamber found that the Overarching JCE came into existence in October 1991 and continued until 30 November 1995. **(Since October 1991 until the breakout of the war there were so many variants of a possible solution incompatible with any JCE that this is not a reasonable finding or inference#!.** In the mid October 91 there was a violation of the Constitution by implementation of an illegal force, as Tucker testified, Since the Serb side was right, the Badinter's Commission rejected the BiH right to have the independence as other republics, demanding additional referendum, warning that the Serbs in BiH do not accept a unitary independent Bosnia, and had proclaimed their Republic, see Opinion No.4 of Badinter. The European Community recognized this standpoint and extended the ICFY on BiH, with the aim to reconcile different legal interests of the three ethnic sides. All the way until the war broke out, and even after that moment, the Serb side fought only for the right to have its own administration through their municipalities and their entity, while recognizing the Muslim and Croat side to have the same, even in the middle of the Serb entity – namely to form their own municipalities and run their own affairs independently. The municipalities in which there were the fiercest skirmishes and crimes, such as Foca, Visegrad, Gorazde, Rogatica, Vlasenica, Bratunac, Zvornik, in the eastern part of BiH, and Prijedor, Bosanski Novi, Sanski Most, Kljuc in the western part of BiH, had been a negotiations underway, with accomplished or nearly accomplished agreements about administrative reorganisation of these huge municipalities into a cities with more than one municipality. In such a case nobody would move out of their homes, there would be no a war, there would be no any need to move. **#THIS FACT MUST NOT BE NEGLECTED, BECAUSE NOBODY REBUTED IT VIABLY#!** Also, nobody contested that the Serb side remained faithful to this plan, as well as to the Lisbon Agreement and the Cutileiro Peace Plan. All of these plans, either initiated or supported by the Serbs, were securing the peace and avoiding the war, and all of them had been based on a Serb concessions! How it is possible that the UN Court is persisting in such a senseless and baseless assertion, which enabled such a **construction called JCE?** Its common purpose was to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory and was shared by the Accused, Momčilo Krajišnik, Nikola Koljević, Biljana Plavšić, Ratko Mladić, Mićo Stanišić, Momčilo Mandić, Željko Ražnatović (Arkan), and Vojislav Šešelj. The common plan of the Overarching JCE involved the commission of the crimes of deportation, inhumane acts (forcible transfer), and persecution (through forcible transfer, deportation, unlawful detention and imposition of discriminatory measures). **(#All of these fake findings and inferences are collapsing if confronted with the mere facts, such as:**

- 1) # This was a conflict among the ethnic and religious communities, and none of the belonging to one of them was feeling secure, and all of them fought for a mere survival. As said by President Karadzic, in a racial, religious or ethnic conflicts the entire community is engaged without any choice;**
- 2) # Had there not been a war, nobody would be removed temporarily or permanently from a native or residence place, and the Chamber saw so many evidence that the Serb side was against the war without any reserve;**

3) #A temporary removal of the civilian population from the combat zones was an obligation due to the international and domestic laws;

4) #A “permanent removal” was impossible, since all the rights had been protected by the Conference that lasted all the time before the war, throughout the war and after the war. Nothing “permanent” was possible, no matter territorial or legal, property, judicial or any other matters, and all had to be restored towards the “*status quo ante*” to the maximum possible degree!). The Chamber found that the Accused shared the intent for these crimes and, by virtue of his actions and omissions, significantly contributed to the furtherance of the common purpose of the Overarching JCE. In addition, the Chamber found that the Accused acted in furtherance of the common purpose of the Overarching JCE with the awareness of the possibility that the crimes of murder, extermination, and persecution (through killings, cruel or inhumane treatment, forced labour at the frontline, the use of non-Serbs as human shields, the appropriation or plunder of property, and the wanton destruction of private property, including cultural and sacred sites) might be committed either by members of the Overarching JCE or Serb Forces who were used by him or other members of the Overarching JCE to carry out the common plan, and that he willingly took that risk. (This kind of conclusions are indecent and nasty. #What was the alternative to the Serb side#? To accept an unlawfully imposed change of their state, to subjugate themselves to a hostile and completely strange regime based on an Islamic Fundamentalism? If the UN and its Court answer this question, then it could be discussed whether the Serbs exceeded the range of an “ultimate defence” and have done something that they didn’t have to! In any criminal case there should be a question of a choice of the indicted side, and if there was no a choice consistent with the survival, there must not be any indictment, let alone sentence!)

5997. In relation to the Sarajevo component, the Chamber found that the Sarajevo JCE came into existence in late May 1992 and continued until October 1995. The Chamber also found that the common plan of the Sarajevo JCE was to establish a campaign of sniping and shelling, the primary purpose of which was to spread terror among the civilian population of Sarajevo. The common purpose of the Sarajevo JCE was shared by the Accused, Ratko Mladić, Momčilo Krajišnik, Nikola Koljević, Biljana Plavšić, Stanislav Galić, and Dragomir Milošević. (This is so empty assertion that there was no a single evidence to that respect, nor will ever be. On the other side, it was clear from the beginning that the Serb side didn’t have any interest to have the citizens of Sarajevo suffering. Not only because at least one fifth to one quarter of the population was Serbian, forcefully kept in the city by the Muslim forces, but because of several other reasons:

1) #The Serb side didn’t intend to do any advancement or any capture of any Muslim or Croat settlement. Therefore, there was no any reason to initiate fire against the several times more numerous enemies, the 1<sup>st</sup> Corps of the ABiH;

2) #That was the Muslim side who wanted to maintain the image of victim in the eyes of the world, and any firing against the city was counterproductive and damaging for the Serb interests;

3) #The Serb side was interested in maintaining the status quo, i.e. to preserve the Serb settlements and population and to endure until the political solution, for that reason the Serb side was very interested in the continuation of the Conference. On the other side, the Muslim side used every single incident to call of the Conference and wait for the foreign military intervention;

4) #The file is full of the evidence that the Serb side kept sticking to a defensive strategy, a strategy on containment of the Muslim forces, and not to make any counteroffensive or initiate any firing;

5) #Out of all the cease fire violations, the UN established that 99% had been violated by the Government's (Muslim) forces! That would be for the first time in the modern times that a court made such an inversion in the relation: villain – victim, although there are all required evidence to establish the truth!) The common plan of the Sarajevo JCE involved the commission of murder, unlawful attacks on civilians, and terror. The Chamber found that the Accused shared the intent to commit these crimes and that, by virtue of his actions and omissions, the Accused significantly contributed to the furtherance of the common purpose of the Sarajevo JCE. (There must have been something very wrong with this world if these empty and voluntary assertions could have been accepted by a court chamber! If it was the case, the Muslim side would never have any need to stage in so many incidents. The making such a staging had been necessary exactly because the Serb side didn't bomb or otherwise fired towards the city as much as it was needed to satisfy the Muslim Government objectives. Another question that require an answer by the UN is: since it was established by the UN, and accepted by the Trial Chamber, that the Muslim side bombed and sniped their own citizens, and acted from the vicinity of hospitals, settled places, the UN facilities, with the aim to get a responding fire from the Serb side, the questions would be: why they did that, if the Serbs terrorised the city? And another question: did the UN clarified every single incident staged in by the Muslim side, and if not, how anyone to know how many staged incidents had been allocated to the Serb Army? But, let us see what the UN representatives knew and have reported about the Sarajevo situation, see: D1129, p.2

relevant Security Council Resolutions. Presumably Muratovic's opposition to UNPROFOR convoys passing through the FRY is based on two considerations: the government's wish to maintain the isolation of Belgrade as well as Pale; and its wish to see the perpetuation of the logistic crisis in the enclaves, prompting us to consider more extreme resupply measures.

So, a #Muslim Minister, Muratovic, used to dictate to the UN how to isolate the Serbs, Belgrade and Pale, and how to facilitate the Muslim side to perpetuate and maintain the "logistic crisis in the enclaves" hoping to cause another air or other kind of strikes against the Serbs.# Why the UN didn't cease to accept the game designed by the Muslim Government? See further, the same D1129, p.3:

6. Muratovic repeated the suggestion, made several times in the past, that the UNPF/UNPROFOR not deal with the top Bosnian Serb leadership, particularly those implicated in war crimes, but rather deal at the expert level with the Serbs. I pointed out the need to maintain access in order to maintain influence, and that the search for significant progress necessitated working with the top leadership. Interestingly, Vice President Ganic recently told the UNHCR Chief of Mission in Sarajevo that it was necessary to continue to meet with the Serb leadership.

This kind of requirements could be posed only to a very close ally! Se further, the same exhibit:

8. Muratovic's views in the meeting, and the attitude with which they were expressed, suggested a decreased willingness on the part of the government to cooperate with United Nations' efforts to calm the situation in Bosnia, and in Sarajevo in particular. The frustration felt by the government on aid supplies, and the difficult conditions in which the civilians are now living, are unfortunately contributing to a greater willingness by the government to embark on military adventurism around Sarajevo. The events of today in Sarajevo are a testimony to the government's current views in this regard.

In spite of knowing these facts, the UN Court is indicting and sentencing the President and military commanders for terrorizing Sarajevo! See further what the UN representatives were aware of: D1128, p.1:



1. Since yesterday, the situation in Sarajevo has been very tense with a higher than average level of firing incidents in the areas of Vogosca, Igman, Bare, Hrasnica and Golo Bredo. UNPROFOR's freedom of movement has been restricted by the proliferation of BiH check-points in the city, and its ability to assess the situation further diminished by a lack of OPs within the area. This morning, heavy fighting again resumed in the areas of Sharpstone and the Jewish cemetery. BH Command report that the fighting this morning was rapidly deteriorating situation. Clearly, the BiH actions are intended to break the current efforts of UNPF/UNPROFOR to stabilize the situation and return to the status quo ante. Thus, whether or not the BiH are in a position to break the siege of Sarajevo could be irrelevant to their calculations - if their actions prompt the usual over-reaction by the BSA on the city of Sarajevo, international sympathy for their cause will become further reinforced, calls for stronger action against the Serbs louder, and criticism of UNPF/UNPROFOR's inaction more strident. They could well be gambling that images of Sarajevo being pounded by Serb mortars could influence domestic opinion in the US, pressurizing President Clinton to reverse his decision on the unilateral lifting of the arms embargo. The Serbs, for their part, must recognise that the remaining UNPROFOR hostages in their possession are the only card they hold. They will gamble that as long as they retain our personnel, UNPF/UNPROFOR will be paralysed into inaction. They may also, rather cynically, assume that if they do harm any of the current hostages (most of whom are now not from NATO countries), international condemnation and calls for retaliation would not be as strong as before.

7. Overall the situation in BH and Croatia continues to be unpredictable. UNPF's efforts to stabilize the situation do not appear to have the concomitance of the Bosnian or Croatian governments, both of whom appear to be following their own agendas. The Bosnian and Krajina Serbs, under increasing pressure, could resort to more and more desperate measures. Thus, while on one hand they express every willingness to cooperate and negotiate, they continue on the other to indulge in strong and aggressive statements. UNPF's efforts continue to only succeed in those areas where our aims and those of the parties coincide. As a result, it is becoming clear that our short-term aim of a return to the status quo will need to be coupled with long-term pro-active actions that will make the mission viable and sustainable. The Force must find some way to reassert its primacy and authority in the mission area, with the full and unified support of the international community. Failure to do so could lead to an untenable situation requiring the withdrawal of the Force, the very thing that the international community has stated it does not want.

**So, the pressure over the Serbs, recommended in P2263 and P2264 exhibits, with General Smith's observation to be working, led to a "more and more desperate measures"! is that in the accord with the UN, its Charter and its mission in the contemporary world? If not, the UN should say it and reverse all wrong what had been done under the UN flag! See further, D2299, p. 8:**

THE GENERAL SITUATION IS EXTREMELY TENSE. ABIH FORCES BEGAN FULL SCALE OFFENSIVE TO MAKE THE CORRIDOR TO SARAJEVO. VERY HIGH LEVEL OF ACTIVITY WAS OBSERVED IN THE ALL AOR. THERE WERE TOTAL TEZ HAVY WEAPON VIOLATIONS FROM BOTH WF'S, WHAT MEANS THE END OF THE HEAVY WEAPON ISSUE FOR THE PRESENT TIME.

SEVERAL ABIH MORTARS WERE REPORTED FIRING FROM DOWNTOWN AND CENTAR OF THE TOWN (BP 922612, BP 917598).

**As can be seen from the next paragraph of the same exhibit, the UN was fully aware of the strictly defensive nature of the Serb actions, as well as of the military nature of the objects that the Serbs targeted!**

WEAPON AND THE...  
BY BOTH WF'S.  
SUPPOSEDLY THAT ABIH WILL TRY TO OPEN CORRIDOR TO SARAJEVO, IT IS THE MAIN COURSE OF ACTION FOR THE MOMENT BECAUSE OF POLITICAL REASONS FIRST OF ALL. IT WILL ALLOW THEM FIRSTLY BRING SERIOUS POLITICAL AND MILITARY DEFEAT TO BSA. SECONDLY, DURING THESE ACTIONS BSA WILL ALLOW TO THE COMBAT POSITIONS IN THE CITY AND HENCE, THE CITY WHAT WILL ALLOW TO EMPHASIZE ONCE AGAIN NECESSITY OF THE LIFTING OF EMBARGO AND ADDITIONAL FINANTIONAL AND OTHER AID. THIRDLY, IT IS GOOD TIME FOR MILITARY ACTIONS INSIDE TEZ (WHICH ACTUALLY DEAD "DE FACTO" FOR THE MOMENT) BEFORE INCOMING REINFORCEMENT OF THE UN TROOPS WITH ALL CONSEQUENCES SUCH AS POSSIBLY DEMILITARIZATION, ASSIGNING OF THE STATUS "SAFE AREA", SOME KIND OF CEASE FIRE ETC.  
IN THAT CASE, BSA WILL ACT AS USUALLY BY THE SHELLING OF THE MILITARY AND GOVERNMENT OBJECTS IN THE CITY AND FIRING AT IGMAN LOGISTIC ROAD IN ATTEMPTS TO CLOSE IT BY FIRE WALL. THERE ARE EXIST THREATEN OF USING MISSILE "GROUND-GROUND" WITH BIG DEFEAT CAPACITY BY BSA AS RETALIATION WEAPON AGAINST THE GOVERNMENT, ADMINISTRATIVE AND SYMBOLIC BUILDINGS IN THE CITY. THE STATE OF THE SITUATION ON THE GROUND WILL BE DETERMINED BY

WEAPON AGAINST THE GOVERNMENT...  
IN THE CITY.  
THE DEVELOPMENT OF THE SITUATION ON THE GROUND WILL BE DETERMINED BY  
ABIH STRATEGIC PLANE, MOST PROBABLY:  
- MAIN EVENTS AND FIERCE FIGHTING FOR TERRITORY ARE EXPECTED IN THE AREAS  
OF CEMERSKA PLANINA (BP9075) AND RATCOVCI (BP7868), LEADING DIRECTION  
STILL ALLEGEDLY SEMERSKA PLANINA - VOGOSCA;  
- ABIH WILL PUSH BSA IN THE AREAS OF THE LOGISTIC ROADS : DEBELO BRDO,  
SHARPSTONE, EMEROVICA (BP9661), VOGOSCA, ZUC, KRUPAC AND ILIDZA; THE SAME  
ACTIONS IS EXPECTED ALONG THE CONFRONTATION LINE NEARBY IGMAN LOGISTIC  
ROAD - DUPOVICI, BARE, BRESOVACA. THIS TACTIC ALLOWS THEM TO REFRAIN MAIN  
BSA FORCES AT THE MENTIONED HOT SPOTS AND PREVENT OF REINFORCEMENT  
AND MANEUVERS;

5998. In relation to the Srebrenica component, the Chamber found that the Srebrenica JCE came into existence as Srebrenica fell in July 1995. **(The Chamber had already known that there was no any plan to take Srebrenica, but only to re-establish the agreed delimitation line and separate Zepa from Srebrenica as agreed. In that case, the Chamber "found" that the four "accomplices" Karadzic, Mladic, Beara and Popovic agreed about the "Srebrenica JCE". When, how, since President Karadzic never heard about Popovic, and with Beara he never exchanged a single word and was convinced that Beara was no longer a member of the VRS, since in May 1995 he himself discharged him and ordered that he be returned to the Yugoslav Army (VJ)? Also, the President didn't get in touch with General Mladic long before, during and after the fall of Srebrenica, how these four made an accord on such a JCE? The Chamber also had a plethora of evidence that: 1) Srebrenica had never been a "safe area" (SA) as agreed among the sides; 2) the "safe area" was a military stronghold of the Muslim army (ABIH) as recognized by the UN Secretary General; 3) this stronghold was protected by the UN forces, while getting out of the SA as an integral part of the ABIH, See: D2079 of 17 June 95:**

#### ORDER

1. Complete all preparations in the Command of the 28<sup>th</sup> div. KoV for carrying out offensive combat operations with a view to liberating the territory of the R /Republic/ of BH, overextend and inflict losses on the A/S, coordinating action with the BH Army forces carrying out operations in the general sector of Sarajevo.
2. Plan realistic tasks which will assure certain success, on the basis of an accurate assessment and the capabilities of our forces in Srebrenica and Žepa.
3. The GŠA /Army General Staff/ will regulate, by an order, the commencement of offensive combat activities in the z/o /zone of responsibility/ of the 28<sup>th</sup> div. KoV.

**So, the ABIH protected by the UN units prepared a huge offensive, apart from a daily killings of the Serb soldiers and many civilians and robbing the Serb villages, and returning to their safety with a necklace of the Serb ears, all seen by the UN; see D3959, a regular combat report of 15 June 1995:**

The spring Muslim offensive is still going on. The RS /Republika Srpska/ Army has successfully halted the enemy breakthrough in the whole territory of the Republic and created appropriate conditions for launching a counteroffensive on certain axes of operations.

In Podrinje, the enemy is continuing combat attacks on positions of the Drina Corps units. Attacks on positions of the units in north-western part of the Corps Z/O /zone of responsibility/ are especially frequent, and, at the same time, enemy attacks from the enclaves, especially Goražde and Srebrenica, are intensified by infiltrating DTG-s /Sabotage Groups/ into the battle disposition of our units.

In the early morning hours of 14 June 1995, the enemy launched a synchronised artillery and infantry attack on positions of the 7<sup>th</sup> PB /Infantry Battalion/ of the 1<sup>st</sup> ZPBR (wider area of the village of Memići) and on positions of the 1<sup>st</sup> BPBR throughout the breadth of the zone of responsibility, with emphasis on axes Kalesija - Vis (k. /elevation/ 450), Živinice - village of Gračanica - village of Osmaci, and from the direction of the village of Stupari towards the village of Majdan and from the village of Gojakovići towards Bandijerka. The positions of the 1<sup>st</sup> VLPBR have also been attacked in the area of Sokolina.

**The first of such an attack should have resulted in a withdrawal of the “safe area” capacity of Srebrenica, but it lasted entire 27 months, with the undivided responsibility of the UN presence there; 4) one of the most recent, the most close to the fall of Srebrenica #was their assault on the Serb village Visnjica, a civilian settlement, resulting in burning the village, killing the peasants and robbing their livestock, all known to the UN, and noted in the Muslim military documents, see: D136.**

26 June 1995

In the morning hours of 26 June 1995 our forces attacked from the Srebrenica area and set fire to the village of Višnjica. According to as yet undetermined information, the Chetniks had casualties among the civilian population.

At 1421 hrs, it was reported that our forces carried out an attack in the Krivača area, where an ambush was also set up, and that the consequences were still not known.

**It was 26 June 95. #That was how the “safe area” (SA) was safe only for the Muslim criminals who fired down the whole undefended village of Visnjica, and the UN even didn’t warn them! The most urgent task for the UN should be to rectify this practice, and other failures noticen during its mission in Bosnia, so detrimental to it’s credibility and to a very “raison d’ etre”, and not to process so many innocent Serb officials, which is unique in the entire history!**

Its common purpose was to eliminate the Bosnian Muslims in Srebrenica—first through the forcible removal of the women, children, and the elderly, and later through the killing of the men and boys—and was shared by the Accused, Ratko Mladić, Ljubiša Beara , and Vujadin Popović. The Chamber found that the original scope of the common plan involved the commission of inhumane acts (forcible transfer) and persecution, and that the expanded scope of the common plan also involved the commission of murder and extermination. The Chamber also found that the Accused shared the intent for these crimes and that he agreed with the expanded common purpose, *i.e.*, the killing of the men and boys, on the evening of 13 July 1995. **(This is a miraculous assertion, founded on no evidence, not even hint, so that it would be remembered as a unique example of a wrongful deliberation!)** The Chamber further found that the members of the Srebrenica JCE intended to kill every able-bodied Bosnian Muslim male from Srebrenica while forcibly removing women, children and the elderly, and that such intent amounted to the intent to destroy the Bosnian Muslims in Srebrenica. **(#To “kill every able bodied male you catch,” is founded only on an unconvincing testimony of Deronjic, a “guilt plea” agreed witness. This testimony is derived from his statement admitted due to Rule 92quarter, after Deronjic died. However, there are at least two elements that make this assertion impossible: first, President Karadzic was not able to walk around the court yard with Deronjic, not only because he would never leave Krajisnik and J. Stanisic to wait for him, but also because the security wouldn’t allow him to stay a moment longer disposed to a possible shooter. But, the most important is: Deronjic was forced to lie to have saved his agreement with**

**the Prosecution, inventing as if President Karadzic said on 8 or 9 July that “all the Muslims you catch should be killed”#. Why it was impossible? On July 8 or 9 there was no any decision, or knowledge that the VRS would enter Srebrenica at all, and it had been approved only about midnight on 9 July. Second, there was no any clue that the Muslims would be escaping throughout the woods before 12 July. And finally, why the President would say that to a civilian official, since he didn’t command to any unit, and was not nominated in any official post in Srebrenica yet? This happened only on 11 July. Why the Chamber was so easy to be cheated on such an important issue? This is to the Appeal Chamber to respond, and to the UN as a founder of this Court to reconsider the entire practice of it!**

Therefore, the Chamber is satisfied that genocide was within the scope of the expanded common purpose. The Chamber finally found that, by virtue of his actions and omissions, the Accused significantly contributed to the furtherance of the common purpose of the Srebrenica JCE. In addition, the Chamber found that the Accused, as a superior exercising effective control over his subordinates, failed to punish the killings and the related acts of persecution that occurred prior to the evening of 13 July 1995, which he either knew or had reason to know. **(Pertaining to the “acts of persecution” “deportations” and other charges, there is a sufficient evidence that the Serb side never intended to deport any of these inhabitants, and that the Serb side and General Mladic himself was the last one to accept the idea of evacuation of the population. Another question that should be answered by the UN, the chambers and the professionals would be: what would happen if the Serb side denied the Muslim civilians demand to be evacuated? And who would be responsible if there was a development as alleged, that thousands of civilians had been killed in Srebrenica, in a sort of riots or an uncontrolled situation?)**

5998. The Chamber found that the Hostages JCE existed between 25 May and June 1995 and that its common purpose was to take UN personnel hostage in order to compel NATO to abstain from conducting further air strikes against Bosnian Serb targets. The Chamber found that this common purpose came to fruition following the NATO air strikes on 25 and 26 May 1995 and involved a plurality of persons, including the Accused, Ratko Mladić, Momčilo Krajišnik, and Manojlo Milovanović, who all shared the intent for the crime of hostage-taking. The Chamber further found that Accused significantly contributed to the furtherance of the common purpose the Hostages JCE.

b. Summary of findings on the Counts of the Indictment

i. *Count 1 (genocide)*

6000. In relation to Count 1, genocide in the Count 1 Municipalities, the Chamber found that it was not satisfied beyond reasonable doubt that the acts under Article 4(2) of the Statute in the Count 1 Municipalities were committed with genocidal intent. Further, the Chamber was not satisfied that the only reasonable inference to be drawn from the evidence was that named members of the alleged Overarching JCE, including the Accused, other Bosnian Serbs not named as alleged members of the Overarching JCE, or physical perpetrators possessed such intent to destroy the Bosnian Muslim and/or Bosnian Croat groups in the Count 1 Municipalities as such. Therefore, the Accused bears no individual criminal responsibility in relation to Count 1.

ii. *Count 2 (genocide)*

6001. In relation to Count 2, genocide in Srebrenica, the Chamber found that the Accused bears individual criminal responsibility pursuant to Articles 7(1) and 7(3) of the Statute. However, since the Chamber already found the Accused responsible for genocide on the



basis of his participation in the Srebrenica JCE, the Chamber will not enter a conviction pursuant to Article 7(3) of the Statute in relation to Count 2.

*iii. Count 3 (persecution, a crime against humanity)*

6002. In relation to the Municipalities component, the Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Overarching JCE. For the Srebrenica component, the Chamber found that the Accused bears responsibility pursuant to Article 7(1), on the basis of his participation in the Srebrenica JCE,<sup>19903</sup> and pursuant to Article 7(3) for having failed to punish the killings committed by his subordinates prior to the evening of 13 July 1995 and the related acts of persecution.

*iv. Count 4 (extermination, a crime against humanity)*

6003. In relation to the Municipalities component, the Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Overarching JCE. For the Srebrenica component, the Chamber found that the Accused bears responsibility pursuant to Article 7(1), on the basis of his participation in the Srebrenica JCE,<sup>19904</sup> and pursuant to Article 7(3) for having failed to punish the killings committed by his subordinates prior to the evening of 13 July 1995.

*v. Count 5 (murder, a crime against humanity)*

6004. In relation to the Municipalities and Sarajevo components, the Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) with regard to his participation in the Overarching JCE and the Sarajevo JCE. For the Srebrenica component, the Chamber found that the Accused bears responsibility pursuant to Article 7(1), on the basis of his participation in the Srebrenica JCE,<sup>19905</sup> and pursuant to Article 7(3) for having failed to punish the killings committed by his subordinates prior to the evening of 13 July 1995.

*vi. Count 6 (murder, a violation of the laws or customs of war)*

6005. In relation to the Municipalities and Sarajevo components, the Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Overarching JCE and the Sarajevo JCE. For the Srebrenica component, the Chamber found that the Accused bears responsibility pursuant to Article 7(1), on the basis of his participation in the Srebrenica JCE,<sup>19906</sup> and pursuant to Article 7(3) for having failed to punish the killings committed by his subordinates prior to the evening of 13 July 1995.

*vii. Count 7 (deportation, a crime against humanity)*

6006. The Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Overarching JCE.

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<sup>19903</sup> The Chamber has held that the Accused cannot be held responsible through his participation in the Srebrenica JCE for the killings and related acts of persecution which occurred prior to the evening of 13 July 1995.

<sup>19904</sup> The Chamber has held that the Accused cannot be held responsible through his participation in the Srebrenica JCE for the killings and related acts of persecution which occurred prior to the evening of 13 July 1995.

<sup>19905</sup> The Chamber has held that the Accused cannot be held responsible through his participation in the Srebrenica JCE for the killings and related acts of persecution which occurred prior to the evening of 13 July 1995.

<sup>19906</sup> The Chamber has held that the Accused cannot be held responsible through his participation in the Srebrenica JCE for the killings and related acts of persecution which occurred prior to the evening of 13 July 1995.



viii. *Count 8 (inhumane acts-forcible transfer, a crime against humanity)*

6007. The Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Overarching JCE and the Srebrenica JCE.

xix *Count 9 (terror, a violation of the laws or customs of war)*

6008. In relation to Count 9, terror, a violation of the laws or customs of war, the Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Sarajevo JCE.

x. *Count 10 (unlawful attacks on civilians, a violation of the laws or customs of war)*

6009. The Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Sarajevo JCE.

xi. *Count 11 (hostage taking, a violation of the laws or customs of war)*

6010. The Chamber found that the Accused bears individual criminal responsibility pursuant to Article 7(1) on the basis of his participation in the Hostages JCE.

F. CUMULATIVE CONVICTIONS

1. Law on cumulative convictions and specific charges in this case

5900. The Chamber can enter multiple convictions under different provisions of the Statute for the same conduct only if each statutory provision involved has a materially distinct element not contained in the other. An element is materially distinct from another if it requires proof of a fact not required by the other.<sup>19907</sup> If this test is not met, only a conviction under the more specific provision should be entered because the more specific offence subsumes the less specific one.<sup>19908</sup> The purpose of the cumulative conviction test is therefore to ensure that an accused “is convicted only for distinct offences, and at the same time, ensuring that convictions entered fully reflect his criminality”.<sup>19909</sup>

5901. In applying the cumulative convictions test, a Chamber must compare in the abstract all the general requirements of the statutory crimes in question, as well as the elements of the charged offences, to determine whether *each* crime requires, as a matter of law, proof of an element that the others do not.<sup>19910</sup> The focus of the test is, however, on the legal elements of each crime that may be subject to cumulative conviction rather than the underlying conduct of an accused.<sup>19911</sup>

a. Cumulative convictions under Articles 3 and 5 of the Statute

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<sup>19907</sup> *Čelebići* Appeal Judgement, para. 412 (confirmed in *Krajišnik* Appeal Judgement, para. 386; *Strugar* Appeal Judgement, para. 321; *Galić* Appeal Judgement, para. 163; *Naletilić and Martinović* Appeal Judgement, para. 584; *Stakić* Appeal Judgement, para. 355; *Kordić and Čerkez* Appeal Judgement, para. 1032; *Krstić* Appeal Judgement, para. 218). See also *Kunarac et al.* Appeal Judgement, para. 173.

<sup>19908</sup> *Galić* Appeal Judgement, para. 163; *Krstić* Appeal Judgement, para. 218; *Čelebići* Appeal Judgement, para. 413.

<sup>19909</sup> *Kordić and Čerkez* Appeal Judgement, para. 1033 (confirmed in *Stakić* Appeal Judgement, para. 356). See also *Naletilić and Martinović* Appeal Judgement, para. 585.

<sup>19910</sup> *Kordić and Čerkez* Appeal Judgement, paras. 1033, 1039–1040.

<sup>19911</sup> *Dragomir Milošević* Appeal Judgement, para. 39; *Nahimana* Appeal Judgement, para. 1020; *Stakić* Appeal Judgement, para. 356 (confirmed in *Strugar* Appeal Judgement, para. 322; *Krajišnik* Appeal Judgement, para. 387).

6013. In the Indictment, murder is the only offence charged both as a violation of the laws or customs of war punishable under Article 3 of the Statute and as a crime against humanity under Article 5 of the Statute.<sup>19912</sup>

6014. Cumulative convictions for the same conduct under Article 3 and Article 5 of the Statute are permissible given that crimes against humanity constitute crimes distinct from violations of the laws or customs of war because each contains an element not present in the other.<sup>19913</sup> Specifically, Article 3 requires a close link between the acts of an accused and the armed conflict, which is not required for crimes charged under Article 5; in contrast, Article 5 requires proof that the act occurred as part of a widespread or systematic attack against a civilian population, which is not required for crimes charged under Article 3.<sup>19914</sup> On this basis, the Appeals Chamber has held that cumulative convictions for murder under Article 3 as a violation of the laws or customs of war and murder as a crime against humanity under Article 5 are permissible given that “each Article has an element requiring proof of a fact not required by the other”.<sup>19915</sup>

b. Cumulative convictions for terror and unlawful attacks on civilians under Article 3 of the Statute

6015. Under 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.<sup>19916</sup> The Accused is also alleged to be criminally responsible for unlawful attacks on civilians, under Count 10 of the Indictment.<sup>19917</sup> Both offences are punishable as violations of the laws or customs of war under Article 3 of the Statute.

6016. The Appeals Chamber has clarified, that despite the similarities between the elements of terror and unlawful attacks on civilians, the two are separate and distinct offences as each requires proof of a fact not required by the other.<sup>19918</sup> Unlawful attacks on civilians require proof of death or serious injury to body or health which is not required for terror.<sup>19919</sup> Conversely, terror requires proof of a specific intent to spread terror among the civilian population which is not an element of unlawful attacks on civilians.<sup>19920</sup> Accordingly, the Chamber can enter cumulative convictions for these two offences, even when they are based on the same conduct.<sup>19921</sup>

c. Cumulative convictions for *intra* Article 5 convictions

6017. Under Article 5 of the Statute, the Accused is alleged to be criminally responsible for murder, extermination, deportation, other inhumane acts (forcible transfer), and persecution as crimes against humanity.<sup>19922</sup> With respect to persecution under Article

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<sup>19912</sup> Indictment, para. 67.

<sup>19913</sup> *Galić* Appeal Judgement, para. 165; *Kordić and Čerkez* Appeal Judgement, para. 1036; *Kunarac* Appeal Judgement, para. 176.

<sup>19914</sup> *Galić* Appeal Judgement, para. 165; *Jelišić* Appeal Judgement, para. 82 (confirmed in *Kordić and Čerkez* Appeal Judgement, para. 1036).

<sup>19915</sup> *Jelišić* Appeal Judgement, para. 82. See also *Kordić and Čerkez* Appeal Judgement, para. 1038.

<sup>19916</sup> Indictment, para. 82.

<sup>19917</sup> Indictment, para. 82.

<sup>19918</sup> *Dragomir Milošević* Appeal Judgement, para. 39.

<sup>19919</sup> See paras. 451–455.

<sup>19920</sup> See paras. 463–466.

<sup>19921</sup> *Dragomir Milošević* Appeal Judgement, para. 39.

<sup>19922</sup> Indictment, paras. 60, 67, 75.

5(h), the alleged underlying acts of this crime specifically identified in the Indictment include, *inter alia*, killings,<sup>19923</sup> forcible transfer,<sup>19924</sup> and deportation.<sup>19925</sup>

6018. The Appeals Chamber has held that convictions for persecution as a crime against humanity are permissibly cumulative with other crimes against humanity because each has a materially distinct element not contained in the other.<sup>19926</sup> Following this reasoning, it is possible for convictions to be entered for persecution as a crime against humanity under Article 5(h) on the one hand and murder under Article 5(a) of the Statute on the other.<sup>19927</sup>

6019. It has also been held that cumulative convictions for persecution and other inhumane acts are permissible given that other inhumane acts require proof that the accused caused serious bodily or mental harm to the victim(s) regardless of whether the act or omission causing the harm discriminates in fact or was specifically intended as discriminatory which is required by persecutions.<sup>19928</sup> It has been held by the Appeals Chamber that it is thus possible to enter cumulative convictions for persecution, deportation and other inhumane acts (forcible transfer).<sup>19929</sup> Similarly, it has been held that cumulative convictions for the crime of extermination under Article 5(b) of the Statute and persecution as a crime against humanity under Article 5(h) of the Statute are permissible.<sup>19930</sup>

6020. In contrast, the crime of murder does not require any material elements to be proven over and above those required for extermination; therefore, where the elements of murder under Article 5(a) of the Statute and extermination under Article 5(b) of the Statute are established on the basis of the same underlying facts, extermination is the more specific crime, and cumulative convictions under Articles 5(a) and 5(b) are impermissible.<sup>19931</sup>

#### d. Cumulative convictions with respect to genocide

6021. The Appeals Chamber has held that cumulative convictions for genocide and crimes against humanity are permissible on the basis of the same acts, given that each has a materially distinct element from the other.<sup>19932</sup> For example, cumulative convictions for extermination under Article 5(b) and for genocide under Article 4 are permissible.<sup>19933</sup> The same principle applies to convictions for genocide, which requires, *inter alia*, the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, and persecution as a crime against humanity, which must have been committed as part of a widespread or systematic attack on a civilian population<sup>19934</sup> and with the intention to discriminate on political, racial, or religious grounds.<sup>19935</sup>

## 2. Findings

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<sup>19923</sup> Indictment, para. 60(a).

<sup>19924</sup> Indictment, para. 60(f).

<sup>19925</sup> Indictment, para. 60(f).

<sup>19926</sup> *Naletilić* Appeal Judgement, para. 589; *Kordić and Čerkez* Appeal Judgement, paras. 1039–1043.

<sup>19927</sup> *Kordić and Čerkez* Appeal Judgement, paras. 1041–1043 (confirmed in *Bagosora* Appeal Judgement, para. 414; *Krajišnik* Appeal Judgement, paras. 388–391; *Naletilić and Martinović* Appeal Judgement, para. 589; *Stakić* Appeal Judgement, paras. 359–362, 367).

<sup>19928</sup> *Kordić and Čerkez* Appeal Judgement, para. 1042.

<sup>19929</sup> *Krajišnik* Appeal Judgement, para. 391; *Naletilić* Appeal Judgement, para. 589; *Stakić* Appeal Judgement, paras. 360, 366–367.

<sup>19930</sup> *Bagosora* Appeal Judgement, para. 735; *Nahimana* Appeal Judgement, para. 1026 (confirming *Stakić* Appeal Judgement, paras. 364, 367); *Naletilić and Martinović* Appeal Judgement, para. 589.

<sup>19931</sup> *Stakić* Appeal Judgement, para. 366; *Bagosora* Appeal Judgement, paras. 416 (confirmed in *Ntabakuze* Appeal Judgement, paras. 260–261), 736.

<sup>19932</sup> *Nahimana* Appeal Judgement, paras. 1029–1030. See also *Ntagerura* Appeal Judgement, para. 426.

<sup>19933</sup> *Simba* Appeal Judgement, para. 277; *Krstić* Appeal Judgement, paras. 219–227.

<sup>19934</sup> *Nahimana* Appeal Judgement, para. 1032; *Krstić* Appeal Judgement, paras. 228–229.

<sup>19935</sup> See paras. 497–500.

6022. The Chamber found that the Accused's individual criminal responsibility has been established pursuant to Articles 7(1) and/or 7(3)<sup>19936</sup> of the Statute for the following Counts:

- Count 2: Genocide (Article 4(3)(a));
- Count 3: Persecution, a crime against humanity (Article 5(h));
- Count 4: Extermination, a crime against humanity (Article 5(b));
- Count 5: Murder, a crime against humanity (Article 5(a));
- Count 6: Murder, a violation of the laws or customs of war (Article 3);
- Count 7: Deportation, a crime against humanity (Article 5(d));
- Count 8: Inhumane Acts (forcible transfer), a crime against humanity (Article 5(i));
- Count 9: Acts of violence the primary purpose of which is to spread terror among the civilian population, a violation of the laws and customs of war (Article 3);
- Count 10: Unlawful attacks on civilians, a violation of the laws or customs of war (Article 3); and
- Count 11: Taking of hostages, a violation of the laws or customs of war (Article 3).

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<sup>19936</sup> See paras. 5849—5850 (identifying crimes in Srebrenica for which convictions have been entered pursuant to Article 7(3)). All remaining convictions will be entered pursuant to Article 7(1).

6023. In the present case, the only crimes which are impermissibly cumulative are extermination and murder as crimes against humanity, charged pursuant to Counts 4 and 5 of the Indictment, respectively. Extermination has been found to be the more specific crime because it contains a material element—“that the killings occur on a mass scale and the perpetrator intended by his acts this result”—that murder does not.<sup>19937</sup> Accordingly, the Chamber will not enter a conviction for murder as a crime against humanity with respect to specific killing incidents which the Chamber found also amounted to extermination.<sup>19938</sup>

6024. For these overlapping incidents, murder as a crime against humanity is considered to be subsumed under extermination and no conviction with regard to these incidents will be entered under Count 5.<sup>19939</sup> For all remaining established killing incidents, the Chamber will enter a conviction for murder as a crime against humanity.<sup>19940</sup> This does not impact the conviction for murder as a violation of the laws or customs of war under Article 3 of the Statute, which is not impermissibly cumulative with murder or extermination as crimes against humanity.<sup>19941</sup>

## V SENTENCING

### A. Purposes of sentencing

6025. According to the Tribunal’s case-law, retribution and deterrence are the primary objectives of sentencing.<sup>19942</sup> The Appeals Chamber has held that “a sentence proportional to the gravity of the criminal conduct will necessarily provide sufficient retribution and deterrence”.<sup>19943</sup> Other factors, such as rehabilitation, are relevant to be considered in sentencing but should not play a predominant role.<sup>19944</sup>

6026. Retribution is not to be interpreted as desire for revenge or vengeance but as an expression of the outrage of the international community at the crimes committed; retribution, unlike vengeance, requires the imposition of a “just and appropriate punishment, and nothing more”.<sup>19945</sup> In relation to deterrence, the penalty imposed by a Chamber should be adequate to dissuade a convicted person from re-offending (individual

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<sup>19937</sup> *Krajišnik* Trial Judgement, para. 716 (not challenged on appeal) (relying on *Ntakirutimana and Ntakirutimana* Appeal Judgement, paras. 522, 542; *Stakić* Appeal Judgement, para. 260). See also *Stakić* Appeal Judgement, para. 366.

<sup>19938</sup> See paras. 2446–2464, 5607–5621. The Chamber notes that no allegation of extermination was made by the Prosecution with regard to the killing incidents alleged in the Sarajevo JCE. See Indictment, paras. 61–66.

<sup>19939</sup> Specifically, the Chamber found that extermination as a crime against humanity was committed with respect to the following incidents of the Overarching JCE: Bijeljina, Scheduled Incident A.1.1; Bratunac, Scheduled Incidents A.3.2, B.4.1; Brčko, Scheduled Incident B.5.1; Foča, Scheduled Incident B.8.1; Ključ, Scheduled Incidents A.7.2, A.7.3, B.10.1; Novi Grad, Scheduled Incident B.12.2 (Judge Morrison dissenting on the issue of the perpetrators of this Scheduled Incident, see Dissenting opinion of Judge Morrison, paras. 6074–6080); Prijedor, Scheduled Incidents A.10.1, A.10.6, A.10.7, A.10.9, B.15.1, B.15.2, B.15.3, B.15.4, B.15.6; Sokolac, Scheduled Incident A.13.1; Višegrad, Scheduled Incident A.14.2; Vlasenica, Scheduled Incidents A.15.2, B.18.2; Zvornik, Scheduled Incidents A.16.3, B.20.1, B.20.2, B.20.3. Additionally, the Chamber found that extermination as a crime against humanity was committed with respect to all Schedule E killing incidents within the Srebrenica JCE, except Scheduled Incident E.2.1, which was found not to have been established. See paras. 5221–5222, 5607; Indictment, Schedule E.

<sup>19940</sup> See fn. 20573.

<sup>19941</sup> See paras. 6013–6014.

<sup>19942</sup> *Krajišnik* Appeal Judgement, para. 775; *Stakić* Appeal Judgement, para. 402; *Deronjić* Sentencing Appeal Judgement, paras. 136–137; *Čelebići* Appeal Judgement, para. 806. See also *Kordić and Čerkez* Appeal Judgement, para. 1073.

<sup>19943</sup> *Krajišnik*, Appeal Judgement, para. 777.

<sup>19944</sup> *Stakić* Appeal Judgement, para. 402; *Deronjić* Sentencing Appeal Judgement, para. 136; *Kordić and Čerkez* Appeal Judgement, para. 1079; *Čelebići* Appeal Judgement, paras. 805–806.

<sup>19945</sup> *Kordić and Čerkez* Appeal Judgement, para. 1075 (citing the Supreme Court of Canada judgement *R. v. M. (C.A.)* [1996] 1 S.C.R. 500, para. 80 (emphasis in original)), cited by *Krajišnik* Appeal Judgement, para. 804. See also *Aleksovski* Appeal Judgement, para. 185.



deterrence) and should also ensure that other potential perpetrators are dissuaded from committing the same or similar crimes (general deterrence).<sup>19946</sup>

## B SENTENCING PRINCIPLES

### 1. Applicable law

6027. Sentencing is governed by Articles 23 and 24 of the Statute, as well as Rules 87(C) and 100 to 106 of the Rules. In determining an appropriate sentence, the Chamber is required to take into account “such factors as the gravity of the offence and the individual circumstances of the convicted person”.<sup>19947</sup> The Chamber should also take into account, *inter alia*, any aggravating and mitigating circumstances,<sup>19948</sup> the general practice regarding prison sentences in the courts of the former Yugoslavia,<sup>19949</sup> and the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 10(3) of the Statute.<sup>19950</sup> The Chamber should also give credit to the convicted person for any time spent in detention pending surrender to the Tribunal or pending trial or appeal.<sup>19951</sup> While the Chamber should consider the factors listed in the Statute and Rules, it retains broad discretion to determine the appropriate sentence to fit the circumstances of the convicted person and the gravity of the crime.<sup>19952</sup>

6028. A convicted person may be sentenced for a term up to and including life imprisonment.<sup>19953</sup> In addition to imprisonment, the Chamber may order restitution of any property and proceeds acquired by criminal conduct to their rightful owners.<sup>19954</sup>

6029. Previous sentencing decisions in other cases before this Tribunal may provide guidance if they relate to the same offences committed in substantially similar circumstances;<sup>19955</sup> however, previous sentencing practice is only one factor among a number of others to be considered, and the Chamber will not be bound by it when determining the appropriate sentence in accordance with the gravity of the offence and the individual circumstances of the convicted person.<sup>19956</sup>

### 2. Gravity of the offence

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<sup>19946</sup> *Krajišnik*, Appeal Judgement, paras. 776, 805; *Dragan Nikolić Sentencing* Appeal Judgement, paras. 45–46; *Kordić and Čerkez* Appeal Judgement, paras. 1076–1078.

<sup>19947</sup> Article 24(2) of the Statute.

<sup>19948</sup> Rule 101(B)(i) and (ii) of the Rules.

<sup>19949</sup> Article 24(1) of the Statute; Rule 101(B)(iii) of the Rules.

<sup>19950</sup> Rule 101(B)(iv) of the Rules.

<sup>19951</sup> Rule 101(C).

<sup>19952</sup> *Lukić and Lukić* Appeal Judgement, para. 640; *Boškoski and Tarčulovski* Appeal Judgement, para. 204; *Strugar* Appeal Judgement, para. 336; *Hadžihasanović and Kubura* Appeal Judgement, para. 302; *Limaj et al.* Appeal Judgement, para. 127; *Brđanin* Appeal Judgement, para. 500; *Galić* Appeal Judgement, para. 393.

<sup>19953</sup> Article 24(1) of the Statute; Rule 101(A) of the Rules.

<sup>19954</sup> Article 24(3) of the Statute.

<sup>19955</sup> *Furundžija* Appeal Judgement, para. 250. See also *Mrkšić and Šljivančanin* Appeal Judgement, para. 376; *Strugar* Appeal Judgement, para. 348; *Blagojević and Jokić* Appeal Judgement, para. 333; *Stakić* Appeal Judgement, para. 381; *Momir Nikolić* Judgement on Sentencing Appeal, para. 38; *Čelebići* Appeal Judgement, paras. 719–721.

<sup>19956</sup> *Popović et al.* Appeal Judgement, paras. 2093–2094; *Strugar* Appeal Judgement, paras. 348–349; *Blagojević and Jokić* Appeal Judgement, para. 333; *Stakić* Appeal Judgement, para. 381; *Momir Nikolić* Judgement on Sentencing Appeal, para. 38; *Krstić* Appeal Judgement, para. 248; *Čelebići* Appeal Judgement, paras. 720.

6030. It is clearly established in the jurisprudence of the Tribunal that the primary consideration in determining an appropriate sentence is the gravity of the offence.<sup>19957</sup>

6031. When assessing the gravity of the offence, the Chamber must take into consideration the particular circumstances surrounding the case and the form and degree of the Accused's participation in the crime,<sup>19958</sup> as well as the scale and brutality of the crimes,<sup>19959</sup> the vulnerability of the victims,<sup>19960</sup> the consequences and the effect or impact of the crime upon the victims and their relatives including the "long-term physical, psychological, and emotional suffering of the immediate victims",<sup>19961</sup> and the convicted person's position of authority.<sup>19962</sup>

6032. The gravity of an offence for which an accused is held responsible pursuant to Article 7(3) is assessed by reference to two factors: (i) the gravity of the crimes committed by the accused's subordinate, and (ii) the gravity of the accused's own conduct in failing to prevent or punish the underlying offences committed by the subordinate.<sup>19963</sup>

6033. Further, the Appeals Chamber has established that there is no hierarchy of crimes. Crimes against humanity are therefore not to be sentenced more harshly than violations of the laws or customs of war, in respect of the same acts or *vice versa*.<sup>19964</sup>

### 3. Aggravating and mitigating circumstances

6034. Given that neither the Statute nor the Rules exhaustively define factors which may constitute aggravating or mitigating circumstances,<sup>19965</sup> the Chamber has the discretion to determine which factors to take into account and the weight to be attributed to them.<sup>19966</sup>

6035. Aggravating circumstances must be directly related to the commission of the offence charged,<sup>19967</sup> and the burden of proof falls on the Prosecution to show the existence of such circumstances beyond reasonable doubt.<sup>19968</sup> The right of an accused to remain silent and not to testify,<sup>19969</sup> or the absence of a mitigating factor,<sup>19970</sup> does not constitute aggravating circumstances. Examples of aggravating circumstances identified in the jurisprudence of the Tribunal have included: (i) the accused's abuse of his position of authority;<sup>19971</sup> (ii) the

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<sup>19957</sup> *Mrkšić and Šljivančanin* Appeal Judgement, para. 375; *Galić* Appeal Judgement, para. 442; *Stakić* Appeal Judgement, para. 375; *Momir Nikolić* Judgement on Sentencing Appeal, para. 11; *Blaškić* Appeal Judgement, para. 683; *Kupreškić et al.* Appeal Judgement, para. 442; *Čelebići* Appeal Judgement, para. 731; *Aleksovski* Appeal Judgement, para. 182.

<sup>19958</sup> *Mrkšić and Šljivančanin*, Appeal Judgement, para. 375; *Blaškić* Appeal Judgement, para. 683; *Aleksovski* Appeal Judgement, para. 182.

<sup>19959</sup> *Lukić and Lukić* Appeal Judgement, para. 652; *Mrkšić and Šljivančanin*, Appeal Judgement, para. 400.

<sup>19960</sup> *Mrkšić and Šljivančanin*, Appeal Judgement, para. 400; *Blaškić* Appeal Judgement, para. 683; *Kunarac et al.* Appeal Judgement, para. 352.

<sup>19961</sup> *Mrkšić and Šljivančanin*, Appeal Judgement, paras. 400, 411; *Blaškić* Appeal Judgement, para. 683. See also *Krnojelac* Appeal Judgement, para. 260.

<sup>19962</sup> *Strugar* Appeal Judgement, para. 353; *Naletilić and Martinović* Appeal Judgement, paras. 608–613, 625–626; *Musema* Appeal Judgement, paras. 382–383.

<sup>19963</sup> *Čelebići* Appeal Judgement, paras. 732, 741.

<sup>19964</sup> *Kunarac et al.* Appeal Judgement, para. 171; *Furundžija* Appeal Judgement, para. 247; *Tadić* Sentencing Appeal Judgement, para. 69.

<sup>19965</sup> See Rule 101(B)(i) and (ii) of the Rules. Rule 101(B)(ii) does list "substantial cooperation with the Prosecutor by the convicted person before or after conviction" as an example of mitigating circumstances.

<sup>19966</sup> *Čelebići* Appeal Judgement, paras. 777, 780. See also *Dragomir Milošević* Appeal Judgement, para. 316; *Martić* Appeal Judgement, para. 329; *Blagojević and Jokić* Appeal Judgement, para. 328; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Babić* Sentencing Appeal Judgement, para. 43; *Galić* Appeal Judgement, para. 414; *Blaškić* Appeal Judgement, paras. 685, 696.

<sup>19967</sup> *Deronjić* Sentencing Appeal Judgement, para. 124 (citing *Kunarac et al.* Trial Judgement, para. 850). See also *Mrkšić and Šljivančanin* Appeal Judgement, paras. 386–387; *Simba* Appeal Judgement, para. 82.

<sup>19968</sup> *Blaškić* Appeal Judgement, para. 686; *Čelebići* Appeal Judgement, para. 763.

<sup>19969</sup> *Blaškić* Appeal Judgement, para. 687; *Čelebići* Appeal Judgement, para. 783.

<sup>19970</sup> *Blaškić* Appeal Judgement, para. 687.

<sup>19971</sup> The position of authority of the accused does not *per se* constitute an aggravating factor to be taken into consideration for sentencing purposes, it is the *abuse* of such position which may be considered an aggravating factor. *Hadžihasanović and Kubura* Appeal

length of time during which the crime continued;<sup>19972</sup> (iii) premeditation and motive;<sup>19973</sup> (iv) the sexual, violent, and humiliating nature of the acts and the vulnerability of the victims;<sup>19974</sup> and (v) the status of the victims, their age and number, and the effect of the crimes upon them.<sup>19975</sup>

6036. Examples of mitigating circumstances identified in the jurisprudence of the Tribunal have included: (i) co-operation with the Prosecution;<sup>19976</sup> (ii) the admission of guilt or a guilty plea;<sup>19977</sup> (iii) an expression of remorse, sympathy, compassion, or sorrow for the victims of the crimes;<sup>19978</sup> (iv) no prior criminal record;<sup>19979</sup> (v) voluntary surrender;<sup>19980</sup> (vi) good conduct in detention;<sup>19981</sup> (vii) family circumstances;<sup>19982</sup> (viii) the character of the convicted person subsequent to the conflict;<sup>19983</sup> (ix) duress;<sup>19984</sup> (x) preventing the commission of crimes;<sup>19985</sup> (xi) assistance to victims;<sup>19986</sup> and (xii) age.<sup>19987</sup> Determining whether a fact amounts to a mitigating circumstance will be reached “on a balance of probabilities”.<sup>19988</sup>

6037. Factors taken into account in assessing the gravity of an offence must not be considered again as separate aggravating circumstances, and *vice versa*.<sup>19989</sup> Evaluating both gravity and aggravating circumstances under the same heading is permissible when the Chamber clearly shows that it did not engage in double-counting, and classified each circumstance as either part of the gravity assessment or as an aggravating factor.<sup>19990</sup> For example for the purposes of convictions under Article 7(3) of the Statute, the Chamber

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Judgement, para. 320; *Blagojević and Jokić* Appeal Judgement, para. 324; *Galić* Appeal Judgement, para. 412; *Stakić* Appeal Judgement, para. 411.

<sup>19972</sup> *Blaškić* Appeal Judgement, para. 686 (citing *Kunarac et al.* Appeal Judgement, para. 356).

<sup>19973</sup> *Blaškić* Appeal Judgement, para. 686 (citing *Krstić* Trial Judgement, paras. 711–712). See also *Krstić* Appeal Judgement, para. 258; *Čelebići* Appeal Judgement, paras. 825, 833.

<sup>19974</sup> *Blaškić* Appeal Judgement, para. 686 (citing *Kunarac et al.* Trial Judgement, para. 867). See also *Kunarac et al.* Appeal Judgement, para. 352.

<sup>19975</sup> *Blaškić* Appeal Judgement, para. 686 (citing *Kunarac et al.* Trial Judgement, paras. 864, 866); *Kunarac et al.* Appeal Judgement, para. 355.

<sup>19976</sup> *Babić* Sentencing Appeal Judgement para. 43; *Blaškić* Appeal Judgement, para. 696; *Jokić* Sentencing Judgement, para. 76. See also Rule 101(B)(ii) of the Rules.

<sup>19977</sup> *Babić* Sentencing Appeal Judgement paras. 43, 67–68; *Blaškić* Appeal Judgement, para. 696; *Jelisić* Appeal Judgement, para. 122.

<sup>19978</sup> *Babić* Sentencing Appeal Judgement paras. 43, 72; *Blaškić* Appeal Judgement, para. 696. See also *Strugar* Appeal Judgement, para. 366 (noting that although sympathy, compassion, or sorrow for the victims of the crimes “does not amount to remorse as such, it may nonetheless be considered a mitigating factor.”).

<sup>19979</sup> *Krajišnik* Appeal Judgement, para. 816; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Kordić and Čerkez* Appeal Judgement, para. 1090; *Blaškić* Appeal Judgement, para. 696.

<sup>19980</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Babić* Sentencing Appeal Judgement, paras. 43, 75; *Kordić and Čerkez* Appeal Judgement, para. 1090; *Blaškić* Appeal Judgement, para. 696; *Jokić* Sentencing Judgement, para. 82.

<sup>19981</sup> *Krajišnik* Appeal Judgement, para. 816; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Simić* Appeal Judgement, para. 266; *Babić* Sentencing Appeal Judgement, para. 43; *Kordić and Čerkez* Appeal Judgement, para. 1091; *Blaškić* Appeal Judgement, paras. 696.

<sup>19982</sup> *Krajišnik* Appeal Judgement, para. 816; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Simić* Appeal Judgement, para. 266; *Kordić and Čerkez* Appeal Judgement, para. 1090; *Blaškić* Appeal Judgement, para. 696; *Kunarac et al.* Appeal Judgement, paras. 362, 408.

<sup>19983</sup> *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696. See also *Jokić* Sentencing Judgement, paras. 90–91, 103.

<sup>19984</sup> *Blaškić* Appeal Judgement, para. 696; *Erdemović* Second Sentencing Judgement, para. 17.

<sup>19985</sup> *Blagojević and Jokić* Appeal Judgement, para. 342. See also *Kupreškić et al.* Appeal Judgement, para. 430.

<sup>19986</sup> *Krajišnik* Appeal Judgement, para. 816; *Blaškić* Appeal Judgement, paras. 696. See also *Blagojević and Jokić* Trial Judgement, para. 854.

<sup>19987</sup> *Krajišnik* Appeal Judgement, para. 816; *Simić* Appeal Judgement, para. 266; *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696.

<sup>19988</sup> *Mrkšić and Šljivančanin* Appeal Judgement, para. 352; *Hadžihasanović and Kubura*, Appeal Judgement, para. 302; *Zelenović* Sentencing Appeal Judgement, para. 11; *Bralo* Sentencing Appeal Judgement, para. 8. See also *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 697.

<sup>19989</sup> *Momir Nikolić* Judgement on Sentencing Appeal, para. 58; *Deronjić* Sentencing Appeal Judgement, para. 106. See also *Limaj et al.* Appeal Judgement, para. 143.

<sup>19990</sup> *Krajišnik* Appeal Judgement, para. 751. See also *Deronjić* Sentencing Appeal Judgement, para. 106.

must not, double-count the convicted person's "position of authority as both an element of the offence and an aggravating factor".<sup>19991</sup>

a. General practice regarding prison sentences in the courts of the former Yugoslavia

6038. Under Article 24(1) of the Statute, the Chamber shall have "recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia."<sup>19992</sup> In conducting this assessment, a Trial Chamber is entitled to consider, in addition to the SFRY law in force at the time of the commission of the relevant crimes, how that law evolved subsequently.<sup>19993</sup> While the Statute requires the Chamber to take into account the general practice regarding prison sentences in the courts of the former Yugoslavia, "such practices only provide guidance and are not binding".<sup>19994</sup> However, where a Trial Chamber is to depart from the sentencing practices in the former Yugoslavia, it must give reasons for such departure and must go beyond merely reciting the relevant code provisions.<sup>19995</sup>

6039. If a Trial Chamber imposes a sentence in excess of the practice of the courts in the former Yugoslavia, this does not violate the principle of *nulla poena sine lege*, because the Trial Chamber is bound to apply the law of the Tribunal and not of the former Yugoslavia,<sup>19996</sup> and the accused must have been aware that the crimes for which he is indicted are the most serious violations of international humanitarian law, punishable by the most severe of penalties.<sup>19997</sup>

6040. The sentencing law in BiH was regulated during the period of the Indictment by the Criminal Code of the Socialist Federal Republic of Yugoslavia ("SFRY Criminal Code"), adopted by the Federal Assembly on 28 September 1976, and in force since 1 July 1977, and by the Criminal Code of the Socialist Republic of Bosnia and Herzegovina ("SRBH Criminal Code") of 10 June 1977. The SFRY Criminal Code regulated general aspects of criminal law and some specific offences, including genocide and war crimes, while the SRBH Criminal Code regulated specific offences and matters not addressed by the SFRY Criminal Code.<sup>19998</sup>

6041. Under the SFRY Criminal Code, the range of penalties included fines, confiscation of property, imprisonment, and capital punishment.<sup>19999</sup> In his final brief, the Accused refers to the fact that before the adoption of the Statute of the Tribunal on 25 May 1993, the maximum penalty that could be imposed pursuant to the SFRY Criminal Code was 20 years.<sup>20000</sup> Indeed, Article 38(1) and (2) of the SFRY Criminal Code provided for a maximum sentence of imprisonment of 15 years, except for offences punishable with the death penalty, in which case the maximum term of imprisonment was extended to 20

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<sup>19991</sup> *Naletilić and Martinović* Appeal Judgement, para. 610.

<sup>19992</sup> Article 24(1) of the Statute.

<sup>19993</sup> *Krstić* Appeal Judgement, para. 261.

<sup>19994</sup> *Krajišnik* Appeal Judgement, paras. 749, 811; *Hadžihasanović and Kubura* Appeal Judgement, para. 335, 346; *Galić* Appeal Judgement, para. 398; *Dragan Nikolić* Sentencing Appeal Judgement, para. 69; *Blaškić* Appeal Judgement, paras. 681–682; *Krstić* Appeal Judgement, paras. 260–261 (citing *Kumarac* Trial Judgement, para. 829).

<sup>19995</sup> *Krstić* Appeal Judgement, paras. 260–261 (citing *Kumarac* Trial Judgement, para. 829). See also *Dragan Nikolić* Sentencing Appeal Judgement, para. 69; *Kordić and Čerkez* Appeal Judgement, para. 1085; *Blaškić* Appeal Judgement, para. 682.

<sup>19996</sup> *Krajišnik* Appeal Judgement, para. 750; *Stakić* Appeal Judgement, para. 398. See also *Simić* Appeal Judgement, para. 264; *Čelebići* Appeal Judgement, paras. 816–817; *Tadić* Sentencing Appeal Judgement, para. 21.

<sup>19997</sup> *Blaškić* Appeal Judgement, para. 681; *Čelebići* Appeal Judgement, paras. 816–817.

<sup>19998</sup> See *Deronjić* Sentencing Judgement, para. 163; *Dragan Nikolić* Sentencing Judgement, para. 153.

<sup>19999</sup> SFRY Criminal Code, Article 34.

<sup>20000</sup> Defence Final Brief, paras. 3376–3378 (referring to this fact as a mitigating circumstance).

years.<sup>20001</sup> In 1998, BiH abolished the death penalty.<sup>20002</sup> The maximum sentence that may currently be imposed in BiH and in the RS is 45 years for “the gravest forms of serious criminal offences perpetrated with intent”.<sup>20003</sup>

6042. Chapter 16 of the SFRY Criminal Code outlined criminal offences against humanity and international law. Specifically, Article 141 of the SFRY Criminal Code prohibited genocide, Article 142 prohibited war crimes against the civilian population, Article 143 prohibited war crimes against the wounded and sick, and Article 144 prohibited war crimes against prisoners of war.<sup>20004</sup> The offences under Articles 141, 142, 143 and 144 of the SFRY Criminal Code were punishable by imprisonment for not less than five years or by the death penalty.<sup>20005</sup> The punishments for specific offences, such as murder, rape, and grievous bodily harm were regulated by the SRBH Criminal Code.<sup>20006</sup>

## 5. Credit for time spent in prison

6043. Pursuant to Rule 101(C), an accused is entitled to credit for the time spent in detention pending surrender to the Tribunal or pending trial.

## 6. Determination of sentence

6044. Under Rule 87(C), the Chamber may impose either a sentence for each finding of guilt, to be served either consecutively or concurrently, or a single sentence reflecting the totality of the criminal conduct of the accused.<sup>20007</sup> Due consideration must be given to each particular offence so that the gravity of an accused’s conduct may be properly assessed and the single sentence, if imposed, must reflect the totality of the criminal conduct in question.<sup>20008</sup>

# 100. DISCUSSION

## 1. Gravity of the offence

### a. Submissions

4208. In the present case, in relation to the gravity of the offence, the Prosecution identifies the scale and nature of the crimes, their systematic pattern and continuous repetition, the number of victims, and the effect of the crimes upon them.<sup>20009</sup> It submits:

Under his command and oversight, [the Accused]’s subordinates and those cooperating with them expelled, killed, tortured and otherwise mistreated hundreds of thousands of Muslims and Croats; they bombarded Sarajevo with shells and bullets, killing, maiming, and terrorising its civilian population for over three and a half years. The scale and scope of these criminal campaigns is

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<sup>20001</sup> SFRY Criminal Code, Article 38(1)–(2).

<sup>20002</sup> *Tadić* Sentencing Judgement, para. 12.

<sup>20003</sup> BiH Criminal Code, 2013, Article 42(2); RS Criminal Code, 2013, Article 31a(1).

<sup>20004</sup> SFRY Criminal Code, Articles 141–144. *See also* Articles 145 (organising a group and instigating the commission of genocide and war crimes), 150 (cruel treatment of the wounded, sick, and prisoners of war), 151 (destruction of cultural and historical monuments), and 154 (racial and other discrimination).

<sup>20005</sup> SFRY Criminal Code, Articles 141–144.

<sup>20006</sup> SRBH Criminal Code, Articles 36 (punishing murder with imprisonment of not less than five years, and in aggravated cases, not less than 10 years or the death penalty) and 88 (punishing rape with one to 10 years of imprisonment, in aggravated cases the lower limit being three years imprisonment).

<sup>20007</sup> Rule 87(C) of the Rules.

<sup>20008</sup> *Blaškić* Appeal Judgement, paras. 718–723; *Brđanin* Trial Judgement, para. 1149.

<sup>20009</sup> Prosecution Final Brief, fn. 4052.



vast. [The Accused] played a key role throughout each of them. The persistence with which [the Accused] pursued his goal of a 'clean' Drina in the face of immense international pressure, culminating in arguably the biggest single crime in Europe since WWII, is indicative of the 'form and degree' of his participation.<sup>20010</sup>

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<sup>20010</sup> Prosecution Final Brief, para. 1121.

## B. Findings

6046. The Accused has been found responsible for having committed, through his participation in four different joint criminal enterprises, a wide range of criminal acts throughout the entire period of the conflict in BiH. He has also been found responsible for having failed to punish certain crimes committed by his subordinates in the Srebrenica component. The Chamber finds that the crimes committed in this case, particularly with respect to the Municipalities, Sarajevo, and Srebrenica components, are among the most egregious of crimes in international criminal law and include extermination as a crime against humanity and genocide. The sheer scale of the crimes for which the Accused has been found responsible as well their systematic cruelty and their continued impact on the victims who have survived are evident. As described above, the Accused had a central role and made a significant contribution to the commission of these crimes. In determining the adequate sentence to be imposed on the Accused, the Chamber has given particular regard to these factors.
6047. More specifically, in the Municipalities component of the case, the Accused has been found responsible for having significantly contributed to a joint criminal enterprise the purpose of which was to permanently remove the Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory. The Chamber found that the Accused, together with the members of the Overarching JCE, intended that this objective would be achieved through the commission of the crimes of deportation, inhumane acts (forcible transfer), and persecution (through the underlying acts of unlawful detention and the imposition and maintenance of restrictive and discriminatory measures) as crimes against humanity. This common plan resulted in the uprooting of the overwhelming majority of the non-Serb population in the Municipalities and fundamentally changed the ethnic distribution in these territories. The Bosnian Muslim and Bosnian Croat populations of BiH were also subjected to atrocious crimes which the Chamber found were foreseeable to the Accused in carrying out the common plan of the Overarching JCE. Thousands of civilians were the victims of persecution, murder, and extermination and continue to suffer from the impact of these crimes to this day. These crimes were committed during or following the take-over of the Municipalities by Serb Forces and in the dozens of detentions facilities in which non-Serbs were unlawfully detained. The Chamber further found that as RS President and Supreme Commander of the VRS, the Accused was at the apex of power and played an integral role in this enterprise by promoting an ideology of ethnic separation, using a rhetoric that amplified historical ethnic grievances and promoting propaganda to that effect. He also established the institutions used to carry out the objective of the common plan, and created a climate of impunity for criminal acts committed against non-Serbs.
6048. In the Sarajevo component, the Accused has been found responsible for having significantly contributed to a joint criminal enterprise of sniping and shelling, the purpose of which was to spread terror among the civilian population of Sarajevo. For three and a half years, the civilians of Sarajevo lived in the extreme fear of being targeted by sniper and mortar fire and the Chamber found that this in fact subjected them to terror. The Chamber also found that shelling occurred on an almost daily basis throughout the duration of the siege. No place in the city was safe for the civilian population, including their own homes. The civilians of Sarajevo were shot while fetching water, walking in the city, and when using public transport. Children were sniped while playing in front of their houses, walking with their parents or walking home from school, and even when cycling. Hospitals were not spared; civilians were the subject of sniper and mortar fire while receiving treatment and medical staff exposed themselves to the same danger in order to

provide medical care to the citizens of Sarajevo. The Chamber found that terror was used intentionally as the SRK wanted to show to the civilian residents of Sarajevo that nobody was safe and that they were helpless. The shelling and sniping campaign ultimately resulted in a large number of civilian casualties. The Chamber found that the Accused's contribution to the Sarajevo JCE was so instrumental that without his support the SRK attacks on civilians could not have in fact occurred.

6049. In the Srebrenica component, the Chamber found the Accused responsible for having significantly contributed to a joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica by forcibly removing the women, children, and elderly men and killing the men and boys. In this component of the case, the Chamber found the Accused responsible for forcible transfer, persecution, murder, extermination, and genocide. The implementation of the common plan of the Srebrenica JCE resulted in the killing of at least 5,115 Bosnian Muslim men and the forcible transfer of 30,000 Bosnian Muslim women, children, and elderly men, from Srebrenica to Bosnian Muslim-held territory. The Accused was also found responsible as a superior for having failed to punish the killings which occurred prior to the evening of 13 July 1995. In earlier sections of this Judgement, the Chamber described in harrowing detail the systematic brutality with which these men and boys were killed as well as the mental and physical suffering they endured in the period leading up to their execution. As for the women, children, and elderly men who were the subject of the forcible transfer operation, in addition to them being uprooted, the Chamber stressed the serious mental trauma caused by their sudden separation at Potočari from their male relatives who were taken away to await an unknown fate. In relation to the gravity of the Accused's conduct in relation to the killings after 13 July, the Chamber found that he was the sole person in the RS with the power to prevent the Bosnian Serb Forces from moving the Bosnian Muslim males to Zvornik to be killed. Instead, he ordered their transfer to Zvornik, where they were ultimately killed. In doing so, the Accused agreed to and enabled the implementation of a systematic, organised, and large scale murder operation.

6050. In the Hostages component, the Chamber found the Accused responsible for having significantly contributed to the common purpose to take UN personnel hostage. The Chamber recalls that the mandate of the UN peace-keepers and monitors who were subjected to the crime of hostage-taking for which the Accused was found responsible was to establish and preserve peace between the parties to the conflict and provide assistance to the civilian population. As such, and in order to fulfil their mandate, the UNPROFOR and UNMOs should have been afforded the highest protection. Instead, they were used as a bargaining tool to obtain the cessation of NATO air-strikes, and the Accused was the driving force behind this enterprise.

## 2. Aggravating circumstances

6051. In addition to the factors identified as relevant to assessing the gravity of the offences for which the Accused is found responsible, the Prosecution submits that abuse of authority may be considered as an aggravating circumstance.<sup>20011</sup> As an example of such alleged sustained and massive abuse, the Prosecution refers to the fact that while the Accused was more able than any other individual in the RS to stop the course of his subordinates' violent actions, he did not stop them but instead provided strategic

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<sup>20011</sup> Prosecution Final Brief, para. 1120, fn. 4051.

supervision and issued specific directives in furtherance of these actions, rewarded perpetrators, lied to internationals, and covered up crimes.<sup>20012</sup>

6052. In its findings on the Accused's responsibility in relation to each of the components of the case, the Chamber gave particular regard to the Accused's unique position at the apex of power in the RS and his *de jure* authority over the VRS, MUP and other political organs, which he exercised in fact. The essential role the Accused played in the commission of the crimes in each of the components was a reflection of his position and the manner in which he used that position to further his objectives. The Chamber recalls that it also found the Accused responsible as a superior for having failed to punish the killings which took place before the evening of 13 July 1995 in Srebrenica. These factors have been abundantly discussed in the Chamber's findings on the Accused's responsibility and taken into consideration in relation to the gravity of the crimes for which he has been found responsible. The Chamber shall therefore not assess them further as a separate aggravating circumstance.

### 3. Mitigating circumstances

#### Submissions

6053. The Accused refers to the following mitigating circumstances: (i) the agreement which the Accused submits he entered into with Richard Holbrooke in July 1996 according to which he would not be prosecuted if he resigned from public office;<sup>20013</sup> (ii) the unprecedented number of disclosure violations by the Prosecution;<sup>20014</sup> (iii) his conduct during the war, including through the provision of assistance to victims or detainees and his prevention of the commission of crimes;<sup>20015</sup> (iv) his lack of training and preparation for war and the difficulties he faced in exercising command;<sup>20016</sup> (v) his personal and family circumstances, including his marital status; character, lack of prior criminal conviction, and age;<sup>20017</sup> (vi) his conduct at the Tribunal, including his good behaviour during the proceedings and at the UNDU, his expression of regret or sympathy to the victims of the crimes charged in the Indictment;<sup>20018</sup> and (vii) the length of his detention during the proceedings.<sup>20019</sup>

#### b Findings

##### i. *The Holbrooke Agreement*

6054. The Chamber first turns to the evidence presented by the Accused with regard to an agreement he claims to have entered into with Richard Holbrooke in July 1996 whereby he resigned from public and party office and withdrew from public life with the understanding that he would not be prosecuted at the Tribunal ("Holbrooke Agreement").

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<sup>20012</sup> Prosecution Final Brief, para. 1120.

<sup>20013</sup> Defence Final Brief, paras. 3379–3406 (contending that this agreement pertains to both his character and acts and conduct subsequent to the conflict as well as to a remedy for a violation of his rights).

<sup>20014</sup> Defence Final Brief, paras. 3407–3411 (submitting that such reduction in sentence should be granted as a remedy for the violation of his rights).

<sup>20015</sup> Defence Final Brief, paras. 3412–3416.

<sup>20016</sup> Defence Final Brief, para. 3417.

<sup>20017</sup> Defence Final Brief, paras. 3419–3423.

<sup>20018</sup> Defence Final Brief, paras. 3424–3425, 3427–3428.

<sup>20019</sup> Defence Final Brief, para. 3426.

6055. Witnesses testified that they were present at a meeting between the Accused and Holbrooke when such an agreement was entered into.<sup>20020</sup> The Chamber admitted additional evidence tendered by the Accused in support of the existence of this agreement.<sup>20021</sup>

6056. The Chamber admitted a one-page statement signed by the Accused, Krajišnik, Plavšić, and Aleksa Buha, reaffirming their commitment to fulfill the Dayton Agreement; in the statement, reference is made to the fact that “on July 19, 1996, Dr. Radovan Karadžić has relinquished the office of President of the [RS] and has relinquished all powers associated therewith”. The statement further provides that the Accused “states that he shall withdraw immediately and permanently from all political activities. He will not appear in public, or on radio or television or other media or means of communication, or participate in any way in the elections.” Finally, as of 19 July 1996, the Accused “relinquishes the office of President of the SDS and all the functions, powers and responsibilities of the President of the SDS shall be frozen until the SDS chooses a new President”.<sup>20022</sup> Defence witnesses testified that the part of the agreement which contained the undertaking by Holbrooke that the Accused would not be prosecuted by the Tribunal was made orally and not put in writing.<sup>20023</sup>

6057. For the purpose of sentencing, the Chamber is only concerned with the established fact that the Accused indeed resigned from all public and party offices as of 19 July 1996 and that he refrained from making public appearances from then on. The reason, or reasons, behind his decision to step down and withdraw from public life are not relevant. What is relevant is the fact that his decision had a positive influence on the establishment of peace and stability in BiH and the region in the wake of the Dayton Agreement. The Chamber therefore considers the Accused’s decision to resign from public and party offices in July 1996 to be a mitigating factor in determining the sentence to be imposed.

(A) The Accused’s conduct during the proceedings and at the UNDU

6058. The Chamber notes the Accused’s good conduct both during the proceedings before the Chamber and during the course of his detention at the UNDU.<sup>20024</sup> As such, the Chamber has considered this factor in its determination of the appropriate sentence.

6059. With regard to the Accused’s submission that his expression of regret or sympathy to the victims of the crimes charged in the Indictment should have a mitigating effect on the sentence to be imposed, the Chamber notes that in a few instances, the Accused expressed his regret to a witness on the stand for the crimes the witness had suffered.<sup>20025</sup> In his Final Brief, the Accused stated the following:

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<sup>20020</sup> Momčilo Krajišnik, T. 43383–43387 (13 November 2013), T. 43933–43934 (20 November 2013); D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 47–48. *See also* KDZ456, T. 21785–21786 (23 November 2011) (closed session).

<sup>20021</sup> D3682 (Witness statement of Gordan Milinić dated 8 June 2013), para. 23; D4313 (Witness statement of Gojko Kličković dated 7 February 2014), paras. 14–15; D4423 (Declaration of John Petrie, 16 May 2011); D4436 (Statement of Aleksa Buha, 21 April 2009), pp. 1–2; D4425 (Statement of Radomir Lukić, 16 April 2009), pp. 1–2; D4426 (Excerpt from Charles Ingrao’s book); D4431 (Article from Press TV Teheran of interview with Mohammad Sacirbey, 1 August 2008); D4432 (Statement of David Binder, 17 April 2009); D4433 (Statement of Obrad Kesic, 18 April 2009); D4434 (Statement of Victor Ben-Cnaan, 11 June 2009), pp. 1–2; D4435 (Statement of Puniša Lučić, undated); D4427 (Statement of Ljiljana Zelen-Karadžić, 21 April 2009); D4428 (Statement of Sonja Karadžić-Jovičević, 21 April 2009); D4429 (Statement of Branislav Jovičević, 21 April 2009); D4430 (Statement of Dragan Drašković, 21 April 2009).

<sup>20022</sup> D4424 (Written agreement between Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, and Aleksa Buha, 18 July 1996).

<sup>20023</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 48; Momčilo Krajišnik, T. 43383–43384 (13 November 2013).

<sup>20024</sup> D4422 (UNDU behaviour report of Radovan Karadžić, 21 January 2014).

<sup>20025</sup> Hearing, T. 8757 (1 November 2010); Hearing, T. 12097 (17 February 2011).



President Karadžić expresses his deep regret and sympathy to the victims of the crimes charged in his indictment and to their families. Regardless of the issue of his individual criminal responsibility for those crimes, he understands that as President of Republika Srpska, he bears moral responsibility for any crimes committed by citizens and forces of Republika Srpska. He knows that any expression of regret or sympathy is inadequate to compensate for the suffering that took place during the war. Nevertheless, he offers his heartfelt expression of regret and sympathy to the victims and their families.<sup>20026</sup>

6060. The Chamber recalls that although sympathy for the victims of the crimes does not amount to remorse as such, it may nonetheless be considered a mitigating factor.<sup>20027</sup> The Chamber has given due consideration to these expressions of regret in determining the appropriate sentence to be imposed.

*Iii The Accused's personal circumstances*

6061. The Accused was born on 19 June 1945 and is therefore 70 years old at the time of issuance of this Judgement. The Chamber has given due regard to the Accused's age in determining the appropriate sentence.

6062. The Chamber has also had regard to the Accused's lack of prior criminal conviction.

*Other mitigating circumstances identified by the Accused*

6063. The Chamber does not consider the number of disclosure violations by the Prosecution to be a mitigating circumstance. The Prosecution's disclosure practice does not have any bearing on the appropriate sentence to be imposed to the Accused in light of the gravity of the crimes and his involvement in their commission. Furthermore, the Chamber took all measures to protect the Accused's fair trial rights and suspended proceedings on multiple occasions, to allow him to review and incorporate large batches of newly disclosed material into his preparations. While the Prosecution's disclosure violations continued, to a great extent, the Chamber found that while the violations reflected badly on the Prosecution, the Accused did not suffer any prejudice.

6064. In light of all of the Chamber's findings as to the gravity of the crimes for which the Accused has been found responsible and the Accused's central involvement in these crimes, the Chamber does not consider his conduct during the war to be mitigating in any way. Similarly, in light of the Chamber's findings as to the Accused's authority over the Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs, the Chamber does not consider that the Accused's alleged lack of training and preparation for war is mitigating.

6065. The Chamber recalls that Rule 101(C) of the Rules entitles an accused to credit for the time spent in detention pending surrender to the Tribunal or pending trial. As such, the length of the Accused's detention is not a mitigating factor; rather, time already spent in detention will be duly deducted from the sentence to be imposed by the Chamber.

4. Sentences in related cases at the Tribunal

6066. The Accused argues that the Chamber should take into consideration the imposition of sentences in related cases to ensure consistency in its judgements and refers specifically to the sentence of 11 years imposed on Plavšić and the sentence of 20 years imposed on Krajišnik.<sup>20028</sup>

6067. With regard to Plavšić, the Chamber notes that her sentence was imposed following her guilty plea and the dismissal of the remaining counts by the Prosecution. As such, the sentence imposed on Plavšić is of no guidance to the Chamber. The Chamber notes, in relation to Krajišnik, that the case against him was similar to that against the Accused in so

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<sup>20027</sup> See *Strugar* Appeal Judgement, para. 366.

<sup>20028</sup> Defence Final Brief, para. 3429.

far as it pertained to the Municipalities component of this case. It did not involve any of the charges related to the Srebrenica, Sarajevo, and Hostages components of this case. The guidance provided by the sentence imposed on Krajišnik in determining the sentence against the Accused is therefore limited to the Municipalities component of the case.

5. General practice regarding prison sentences in the courts of the former Yugoslavia

6068. In determining the appropriate sentence for the Accused, and pursuant to Article 24(1) of the Statute, the Chamber has taken into account the general practice regarding prison sentences in the courts of BiH at the time of the commission of the crimes in relation to which the Accused was found responsible, and the manner in which it has developed.

6. Credit for time spent in prison

6069. The Chamber notes that the Accused was arrested on 21 July 2008 and taken into the custody of the Tribunal on 30 July 2008. Accordingly, he has been in custody for 2,804 days. Pursuant to Rule to Rule 101(C), he is entitled to credit for that period.

**500. CONCLUSION**

6070. Therefore, for all of the foregoing reasons, in particular given the scope and scale of the serious crimes for which the Accused was found responsible and his central involvement in the commission of these crimes, the Chamber decides that the imposition of a single sentence of 40 years is warranted.

## VI DISPOSITION

6071. For all of the foregoing reasons, pursuant to Articles 23, 24, and 27 of the Tribunal's Statute and Rules 98 *ter*, 101, 102, and 103 of the Tribunal's Rules of Procedure and Evidence, the Chamber finds the Accused, Radovan Karadžić:

- **NOT GUILTY** of **COUNT 1**: genocide.

- **GUILTY** of the following counts:

**COUNT 2**: genocide;

**COUNT 3**: persecution, a crime against humanity;

**COUNT 4**: extermination, a crime against humanity;

**COUNT 5**: murder, a crime against humanity;

**COUNT 6**: murder, a violation of the laws or customs of war;

**COUNT 7**: deportation, a crime against humanity;

**COUNT 8**: inhumane acts—forcible transfer, a crime against humanity;

**COUNT 9**: terror, a violation of the laws or customs of war;

**COUNT 10**: unlawful attacks on civilians, a violation of the laws or customs of war; and

**COUNT 11**: hostage-taking, a violation of the laws or customs of war.

6072. The Chamber hereby sentences the Accused, Radovan Karadžić, to a single sentence of 40 years of imprisonment. The Accused has been in custody since 21 July 2008; and, pursuant to Rule 101(C) of the Rules, he is entitled to credit for time spent in detention thus far.

6073. Pursuant to Rule 103(C) of the Rules, the Accused shall remain in the custody of the Tribunal pending the finalisation of arrangements for his transfer to the state where he shall serve his sentence.

Judge Howard Morrison and Judge Melville Baird append partially dissenting opinions to this Judgement.

Done in four volumes in English and French, the English text being authoritative.

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Judge O-Gon Kwon  
Presiding

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Judge Howard Morrison

Judge Melville Baird

Dated this twenty-fourth day of March 2016  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**



## VII DISSENTING OPINIONS

### DISSENTING OPINION OF JUDGE MORRISON

6074. In relation to Schedule Incident B.12.2 in Novi Grad municipality, the Majority found that it was satisfied beyond reasonable doubt that on 14 June 1992, Bosnian Serb Forces, including Žuti, other guards, and paramilitaries, attacked a bus filled with Bosnian Muslim male detainees with grenades and automatic weapons, and killed 47 Bosnian Muslim men.<sup>20029</sup> I agree with the Majority that there was indeed an attack on the bus on 14 June 1992 during which 47 Bosnian Muslim men were killed. However, I have not been able to reach a determinative conclusion as to the identity of the perpetrators. Therefore, I respectfully disagree with the Majority's finding on this Schedule Incident for the following reasons.
6075. First, there is conflicting evidence on the issue of the identity of the alleged perpetrators of the killings. While there is evidence indicating that Serb Forces conducted the attack, the evidence is not consistent in identifying which unit among these forces was responsible. For example, KDZ041 testified that he heard that the main organisers of the attack on the bus were Boro Radić,<sup>20030</sup> Dragan Ikanović, and Ratko Adžić.<sup>20031</sup> Further, Eset Muračević, a Bosnian Muslim who was imprisoned in Vogošća municipality in the second half of 1992, stated that he had heard from a fellow detainee that a Serb prison guard by the name Predrag Žarković, alias Božur, was “[a]mong the group of Chetniks” who carried out the attack on the bus.<sup>20032</sup> For his part, KDZ601, [REDACTED], testified [REDACTED], he heard [REDACTED] that Branislav Gavrilović from Vučija Luka and his unit had attacked the bus with *Zoljas*.<sup>20033</sup>
6076. There is also evidence suggesting that Muslim forces carried out the attack on the bus by mistake. In a conversation intercepted on 15 June 1992—one day after the attack on the bus—Mirko Krajišnik informed his brother, Momčilo Krajišnik, that Muslims had intercepted the bus, and mistaking its occupants for Serbs, opened fire on it, killing all the prisoners and heavily wounding two Serb guards.<sup>20034</sup> The Majority agrees with this.<sup>20035</sup> I also take note that six days prior to the attack on the bus, Momčilo Krajišnik repeatedly instructed two persons in Rajlovac, a certain Mijatović and Ljubiša Vladošić, the future

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<sup>20029</sup> See para. 2231.

<sup>20030</sup> According to KDZ020, Boro Radić was a common criminal from Vogošća who had the support of the SDS and was eventually integrated into the VRS and given the rank of colonel. P2344 (Witness statement of KDZ020 dated 17 February 2011), para. 72 (under seal); KDZ020, T. 12524 (28 February 2011).

<sup>20031</sup> KDZ041, T. 12075 (17 February 2011); P2310 (Witness statement of KDZ041 dated 14 February 2011), paras. 50, 61 (under seal).

<sup>20032</sup> P2361 (Witness statement of Eset Muračević dated 24 February 2011), paras. 20, 25, 60.

<sup>20033</sup> P3299 (Record of interview with KDZ601, 18 April 2005), pp. 38–42 (under seal); KDZ601, T. 18590–18592 (13 September 2011). There is evidence that Branislav Gavrilović was known and referred to by the municipal authorities of Ilidža as the commander of all SAO Romanija volunteer units. P2302 (Approval of the War Board of Commissioners of Ilidža Municipality, 9 July 1992); Nedeljko Prstojević, T. 12988 (8 March 2011). Witness Velimir Dunjić stated that the unit of Branislav Gavrilović was in the zone of responsibility of the Igman Brigade and that after a while, it put itself under the Igman Brigade command. D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 13.

<sup>20034</sup> D1088 (Intercept of conversation between Momčilo Krajišnik and Mirko Krajišnik, 15 June 1992), pp. 1, 5–6. I note that in an intercepted conversation on 20 June 1992, Mirko Krajišnik informed two Bosnian Muslims, Čamil and Šemso, that 284 prisoners from the cisterns near the Rajlovac Barracks had been exchanged whereas 50 additional prisoners had been sent home. During the same conversation, Mirko Krajišnik referred to the group of 50 prisoners and told Šemso “[y]ou heard that there were some casualties among them” to which Šemso replied “Yes, I did.” D1089 (Intercept of conversation between Čamil and Mirko Krajišnik, 20 June 1992), pp. 1–2.

<sup>20035</sup> See para. 2220.

president of the RS Refugee and Humanitarian Aid Committee,<sup>20036</sup> not to do anything to the “captured men”<sup>20037</sup>. Again, the Majority agrees with this.<sup>20038</sup>

6077. I have found no direct evidence that Žuti and the other guards attacked the bus as alleged by the Prosecution. KDZ041 for instance testified that he was unable to actually see what was taking place outside of the bus or who was attacking it.<sup>20039</sup> The Majority found that “notwithstanding his inability to see during and immediately after the attack, KDZ041 heard what was happening around him”<sup>20040</sup>. In the circumstances, I cannot agree with this assessment and find it difficult to accept KDZ041’s evidence that he heard the escort cars drive off after the attack on the bus had ended. In this regard, I note that the attack on the bus lasted 15 minutes, involved the use of machineguns, hand grenades, and Zoljas, and resulted in KDZ041 himself being wounded in the arm. In these extremely traumatic circumstances, it would have been difficult for KDZ041 to accurately interpret what was happening outside of the bus.

6078. I also find it peculiar that Žuti and the other guards decided to kill the detainees by attacking the bus on or near the confrontation line, thereby risking a number of survivors<sup>20041</sup> and also injuring themselves.<sup>20042</sup> In other words, if their intention was to kill the detainees as alleged by the Prosecution, then Žuti and the guards could have easily done so by executing them in a secluded area, where they could also make sure that they themselves were not injured and that there were no survivors. In addition, it seems unlikely that Serb Forces would deliberately and unnecessarily destroy one of their own vehicles. Many instances of executions have involved the victims being deliberately taken from vehicles and executed nearby. There appears to be no obvious reason why that procedure could not have been followed in this case.

6079. Further, immediately following the incident, the Bosnian Muslim TO appeared to be in control of the territory on which the bus was attacked.<sup>20043</sup> The Bosnian Muslim TO members not only removed all the bodies from the scene—which would have taken some time—but also filmed the bus. Finally, prior to this incident, Momčilo Krajišnik gave instructions to the Serbs in Rajlovac that nothing should happen to the Bosnian Muslim men detained there. Thus, bearing all those factors in mind, I consider it possible, as recounted by Mirko Krajišnik in the telephone conversation with his brother,<sup>20044</sup> that the bus strayed into the Bosnian Muslim side of the confrontation line and was mistakenly attacked by the Bosnian Muslim TO. While Mirko Krajišnik may have lied to his brother about the fate of the men on the bus because of his brother’s earlier instructions not to harm them, I am unable—in light of the totality of the evidence before the Chamber—to affirmatively conclude that this was the case.

6080. I am therefore unable to conclude, beyond reasonable doubt, that Serb Forces attacked the bus on 14 June 1992 in the incident that resulted in the death of 47 Bosnian

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<sup>20036</sup> Soniboj Škiljević, T. 36957 (10 April 2013);

<sup>20037</sup> P2334 (Intercept of conversation between Momčilo Krajišnik, Mijatović and Ljubiša Vladušić, 8 June 1992), pp. 1–4.

<sup>20038</sup> See para. 2221.

<sup>20039</sup> See P2310 (Witness statement of KDZ041 dated 14 February 2011), para. 53 (under seal); KDZ041, T. 12074, 12118 (17 February 2011).

<sup>20040</sup> See para. 2228.

<sup>20041</sup> I note the high number of survivors in this incident; 10 men survived the original attack on the bus, although two of them succumbed to their injuries later.

<sup>20042</sup> I note that according to the evidence, two Serb guards were wounded during the attack on the bus.

<sup>20043</sup> See para. 2229.

<sup>20044</sup> See para. 2220.

Muslim men, and I am therefore of the view that the Accused must be acquitted in this regard.

(1) Done in English and French, the English text being authoritative.

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(2) Howard Morrison

(3) Judge

(4)

(5) Dated this twenty-fourth day of March 2016

(6) At The Hague

(7) The Netherlands

(8)

(9) [Seal of the Tribunal]

B. DISSENTING OPINION OF JUDGE BAIRD

(6081) In this matter the majority was satisfied beyond reasonable doubt that the shell that struck the Markale market on 5 February 1994 was fired from SRK held territory by SRK soldiers. I respectfully disagree with this finding.

(6082) In his Final brief at paragraph 2056, the Accused submitted that the UN investigators had stated that in extracting the tail fin assembly from the crater, the FreBat 4 team (unavoidably) disturbed the integrity of the crater for any purpose which followed. At paragraph 2069, the Accused stated that the UN Investigative Team collectively and officially concluded that by the time the team had conducted its analyses, six days had elapsed since the explosion: it was reasonable to suspect that the crater had been thoroughly excavated by the local authorities during that period, hence the angles measured on 11 February were not beyond suspicion. They concluded that the results measured on 11 February were not sufficiently accurate to be used as a basis for a finding. At paragraph 2073 the Accused stated that the UN Investigative Team concluded that there was insufficient physical evidence to prove that one party or another had fired the mortar bomb. And at paragraph 2075, the Accused demonstrated that the findings of the UN Investigative Team were endorsed by Colonel Gauthier as he testified as a Defence witness in 2012. As far as I am aware the accuracy of these submissions was never challenged, neither was it made the subject of negative comment by the Chamber. Indeed, in some instances, the pertinent evidence was actually received by the Chamber.

(6083) As I see it, this is powerful language employed by the UN Investigative Team. They are in effect saying that there is reasonable doubt that the shell was fired by the Bosnian Serb Forces, and one must not lose sight of the fact that this is a report of Prosecution witnesses. The Prosecution witness Zečević however, was of opinion that the shell could only have been fired from the Bosnian Serb positions.

(6084) What I was presented with therefore, was clear and indisputable conflict in the evidence of the Prosecution witnesses. And this conflict went to the root of the Prosecution case.

(6085) In this situation I am of the view that the majority should have been driven to resolve this conflict in favour of the Accused.

(6086) At paragraph 4247, the majority stated that while the Chamber heard evidence to the effect that measurements and estimates of the angle of descent were unreliable in this incident due to the crater having been disturbed, it was also struck by the fact that all but one of the estimated angle ranges were relatively close to each other and in fact overlapped.

(6087) Defence witnesses apart, it is the witnesses for the Prosecution whose evidence the majority considered, and which evidence demonstrated that the measurements and estimates of the angle of descent were unreliable due to the disturbance of the crater. There is no clear indication from the majority whether they were accepting the evidence that the measurements and estimates of the angle of descent were unreliable, or whether

they were rejecting the evidence on this question. To my mind there was consensus among the UN Investigators who attended the scene, that once the Frebat 4 battalion had removed the tail fin without taking measurements it was not possible to calculate the angle of descent.

(6088) In the face of this evidence – evidence which I might add was pointedly favourable to the Accused – I am hard pressed to see why the majority should go on to be ‘struck’ by the relative closeness of the estimated angle ranges, bar one, and by their overlap.

(6089) In a criminal matter where the burden is on the Prosecution to prove the guilt of the Accused beyond the reasonable doubt, this evidence should have been enough to cause reasonable doubt to intrude on the minds of the majority.

(6090) Of some significance is the fact that the majority stated at paragraph 4248, that they could not be sure that the speed of the shell as determined by Zečević was ‘absolutely accurate’, particularly in light of Allsop’s evidence. Irrespective of the language used, the majority is rejecting the evidence of Zečević in this regard, in favour of that of Allsop.

(6091) It should be noted that the evidence of Zečević was that any inaccuracy in the measurement of the depth of the crater would have affected the calculations of the impact velocity of the shell and that it was more likely that the depth of the crater was not measured properly in this case, given the disturbance to the crater during the investigations that took place on 5 and 6 February 1994.

(6092) I come now to the question of the ‘common feature’ at paragraph 4248. The majority noticed a ‘common feature’ in the evidence of Zečević, Higgs, Allsop and Subotić, that is to say, that a mortar bomb fired at one of the higher charges would typically result in the stabiliser penetrating the ground and embedding therein. The majority noted that Higgs referred to ‘two highest charges in this respect’, Zečević to charges four, five and six, and Subotić to charge three or higher. The majority considered that in the case at hand, the stabiliser was found embedded in the ground with its top at a depth of around nine centimetres from the surface. In the final analysis, they concluded that the shell was fired on a charge higher than one or two and therefore from SRK positions.

(6093) Without going into the validity or otherwise of their reasoning, my concern is that the Accused was never given an opportunity to address this question as a discrete issue. It was never presented to the Accused for him to comment one way or another thereon. As a result the question was never fully ventilated before the Chamber as a contentious issue. The majority however made a seminal conclusion based on this question, and this in turn, played a crucial role in their decision that the shell had been fired by the Bosnian Serb side. This was unfortunate. It must be borne in mind that we are not within the realm of exact science and it would have been only fair to the Accused for him to be put on notice so that some input from him could have been forthcoming. A decision given under these circumstances therefore, would be flawed as offending against a basic principle of natural justice.

(6094) I will add that even if the mortar had been fired on the higher charges, the origin of fire could only have been determined if the proper angle of descent had been calculated and I ingeminate the evidence above quoted that all the Investigators who attended the scene



were unanimous that it was not possible to properly calculate the angle of descent once the integrity of the crater had been disturbed.

(6095) The majority noted at paragraph 4249, that while Gauthier suggested that the ABiH could have used mobile mortars, they were not convinced that it would have been possible for the ABiH to fire at the market area from a mobile mortar without being seen, given the densely populated area in the direction of fire and given the proximity of the residential area of Sedrenik to the ABiH positions in Grdonj. In this particular case, this was flagrant speculation, made in an evidential void, and could form no proper basis for the rejection of evidence that could have introduced reasonable doubt in the minds of the majority. The majority also considered that there was an absence of any evidence as to the sighting of mobile mortars on that date, or shell fire noise coming from within the city. I do not think that this is the proper case in which the absence of the evidence can contribute to the presence of proof beyond reasonable doubt.

1. KW586

6096. In paragraph 4252, the majority rejected the evidence of the witness that the Bosnian Muslim side had deliberately targeted Markale so as to achieve international condemnation of the Bosnian Serb and thus further its own political agenda, on the ground that the witness was lacking in credibility in relation to this evidence for a number of reasons. I will deal with these reasons *seriatim*.

6097. As a preface however, I must state that I do not think that the majority would dispute the fact that the witness answered the questions put to him under cross examination – which came from all directions – with a spontaneity and readiness that was quite impressive. Indeed, on occasions he actually corrected the Prosecution.

6098. The first reason identified in paragraph 4252 by the majority is that: “The majority found it unlikely that someone in KW586’s position would have been privy to such high level meetings where such sensitive matters were discussed”. This is speculation run riot. There is not an atom of evidence to support this conclusion. And this is not a matter of which the majority could properly have taken judicial notice. What is more, the witness gave an explanation that the Prosecution failed to contradict or neutralize. I see no good reason therefore, for the witness to be regarded as lacking in credibility.

6099. The second reason in paragraph 4252 is that: “KW586 exhibited a high degree of animosity towards the current political leadership in BiH, which obviously played a part in his coming forward with his evidence”. The witness did in fact, employ intemperate language in referring to the current political leadership in BiH. He explained that he came forward because after the war, he saw what he considered to be injustice – ‘if one who is liable is held to account, then another one should be held to account as well’.<sup>20045</sup> Whether there was merit in his reasoning or not, whether this was misguided reasoning or not, this was the reason he decided to come forward. And I cannot conceive how he could be regarded as lacking in credibility for his reasoning.

6100. The third reason listed in paragraph 4252 is: “There were also inconsistencies between his testimony in court and his witness statement, such as his evidence about the level of involvement of members of the Pakistani UNPROFOR contingent in the Markale incident and the involvement of Halilović, who the witness acknowledged had been removed from his position by Izetbegović at that time”.

6101. An examination of the evidence of the witness in this respect might be helpful:.

Q. Well, you said in your statement why they needed that UNPROFOR team. You said that they had some kind of agreements with them that they wouldn't register the firing of missiles from our positions, so UNPROFOR was part of the conspiracy you're alleging in your own words?

A. I never said that, and if it's written somewhere then it needs to be corrected. I never said that the UNPROFOR was part of the conspiracy; UNPROFOR wasn't. It's just that one crew, I don't know whether they were a bit careless or less attentive, but nobody ever said that UNPROFOR was part of the conspiracy.<sup>20046</sup>

6102. I can see no inconsistency in his reply. The Prosecutor began her question by stating that the witness had said in his statement why they needed the UNPROFOR 'team', but in ending the question she dropped the word 'team' and put to the witness: “[...] so UNPROFOR was part of the conspiracy you're alleging in your own words?” The witness then protested that he never said that UNPROFOR was part of the conspiracy; UNPROFOR was not, it was just that one 'crew'. He commented that the way the Prosecutor had put it, it sounded like the whole UNPROFOR conspired against the Bosnian Serbs. 'It was just one crew, two or three men’<sup>20047</sup>.

6103. I failed to see any inconsistency in this evidence. In paragraph 4252, the majority also considered the reference of the witness to Halilović as a reason for holding that the witness was inconsistent with his witness statement. The Prosecutor put to the witness that his evidence of conspiracy was fictional because at the time he said the discussions were going on, Halilovic had been ostracised and dismissed from the army. The witness admitted that Halilović had been ostracised and advanced reasons for his ostracism. He then went on to explain that although Itzetbegović had removed him 'under pressure'; he had not dismissed him from the army. And he would attend meetings whenever he was in Sarajevo. The Prosecutor did not specifically challenge this evidence and introduced no evidence to contradict the witness.<sup>20048</sup>

6104. It cannot be fair to the witness therefore to say that he was inconsistent with his witness statement. I must also emphasize that in the course of cross examination, the Prosecutor sought to contradict the witness by referring to comments he made during an interview with the Prosecution a few days earlier.<sup>20049</sup> The Prosecutor however, failed to put in evidence any written material that tended to contradict what the

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<sup>20046</sup> KW586 T.47222 (17 February 2014).

<sup>20047</sup> KW586 T.47224 (17 February 2014).

<sup>20048</sup> KW586, T. 47225–47226 (17 February 2014).

<sup>20049</sup> KW586, T. 47212–47213 (17 February 2014).

witness had said in the interview or to call *viva voce* evidence to that effect. The Prosecutor therefore, was bound by the answers of the witness and the witness could not be considered to have been contradicted.

6105. The fourth reason identified by the majority in paragraph 4252 is: “Essentially, KW586’s evidence implies a conspiracy of a large scale. However, in the majority’s view, such conspiracy is not supported by any other evidence on the record”. In this particular situation, I harbour the view that the fact that the evidence of conspiracy is not supported by any other evidence could not be a valid ground for the majority to hold that the witness lacked credibility. The evidence of conspiracy was presented by the Accused as a crucial and integral part of his case and the Defence is under no obligation to call corroborative evidence to support the evidence of any Defence witness. The fact therefore, that there is no other evidence supporting the evidence of conspiracy cannot be reason for the witness to be considered as lacking in credibility.

6106. The fifth reason identified by the majority is: “Finally, if true, it would have meant that the ABiH was able to make a successful hit on Markale market in only its second attempt. Recalling the evidence the Accused led on the low likelihood of such an intentional hit, the Chamber finds this to be impossible”. ‘Likelihood’ is synonymous with ‘probability’. And this is not, by any means, a proper instance in which ‘improbability’ could have been equated with ‘impossibility’. I can see no good reason therefore for deeming the witness to be lacking in credibility in this respect.

6107. In the final analysis I espouse the view that the reasoning the majority advanced for holding the witness to be lacking in credibility was itself deficient in substantiality and was unable to stand up to scrutiny.

6108. The majority also identified ‘other evidence’ which they considered indicated that the shell was fired from the SRK side. At paragraph 4249 they referred to the evidence that the SRK’s 7<sup>th</sup> battalion of the 1<sup>st</sup> Romanija Infantry Brigade had 120 mm mortars in the area of Mrkovići, which was north-northeast of Markale, whereas the evidence before the Chamber was consistent that the ABiH had no mortars in the area of Grdonj. They added that Gengo testified that the ABiH would open fire mostly from the area of Jajce Barracks and Koševo, rather than Grdonj. I experienced profound difficulty in seeing how this evidence could have convinced the majority to hold that *beyond reasonable doubt* the shell was fired from the Bosnian Serb side.

6109. Also at paragraph 4249, the majority seemed to have accepted the evidence of Gauthier that he could not recall any ABiH mortar positions in the established directions of fire. This could not possibly have amounted to proof *beyond reasonable doubt*. It is noteworthy that Gauthier, having given the above evidence, went on to state that the ABiH could have used mobile mortars. The majority however, rejected this evidence on what I considered to be speculative grounds (*ante*).

6110. At paragraph 4250, the majority referred to the evidence that the SRK would open fire on the area of Stari Grad from the SRK positions above Sedrenik. They also considered the testimony of Hamill regarding Cvetković’s admission that the SRK fired a large number of mortar rounds into Stari Grad prior to the incident in Markale, and the

UNMO's report on the morning of 5 February, prior to the Markale incident, that the city centre had been shelled on the night of 4 or 5 February.

6111. I experienced even greater difficulty in comprehending how the majority could have considered that this evidence established *beyond reasonable doubt* that the shell was fired from the Bosnian Serb side.

2. KW570

6112. I refer to an area of the evidence of KW570 which I consider apropos to the issue under consideration. The witness testified that at the meeting on 8 February between General Rose and the leadership of the Bosnian Muslim Military in Sarajevo, Rose stated that evidence was emerging that the market place shelling might have been carried out by their side. The witness testified that there was a complete silence after Rose's statement; thereafter, the Bosnian Military leadership claimed that they had taped a conversation involving the Bosnian Serbs to the effect that they had confessed to the 'atrocities'.<sup>20050</sup> The witness further stated that the Bosnian government never produced any such tape or evidence to demonstrate that the Bosnian Serbs had fired the mortar.<sup>20051</sup> The production of this alleged tape would have put a firm and definitive end to this matter and would have been incontrovertible attestation to the guilt of the Bosnian Serb side. The tape however, was never produced and nothing further was said about it. This left one with the abiding impression that their story was an egregious lie. This conduct on the part of the Bosnian Military Leadership led inexorably to the conclusion that, at the least, there was reasonable doubt that the shell had been fired by the Bosnian Serb side.

6113. To all appearances, the majority made no specific comment on this area of the evidence of this witness. What they did say at paragraph 4252 was that while they accept the 'general evidence' given by KDZ185, KW570 and Milovanović that the Bosnian Muslim side tried to gain sympathy from the international community and would provoke attacks by the SRK with that goal in mind, it was of 'general nature' and did not, as such, cast doubt on the majority's finding that the shell came from SRK positions.

6114. *In uno flatu* therefore, the majority seemed to be saying that they accepted the evidence of KW570 but dismissed it as being 'of general nature'. And because it was of 'general nature' (as such) it did not cast doubt on their finding that the shell came from the SRK positions.

6115. The majority failed to clarify what they meant by 'general nature'. And this was vital because it was due to the fact that the evidence was consigned to the category of 'general nature' that it did not succeed in casting doubt on their finding.

6116. Further, it is reasonable to assume that when the majority accepted the evidence of KW570, they accepted his narrative of the taped conversation. In this situation it would have been extremely helpful for the majority to give full reasons why in the face of accepting the evidence of the taped conversation, they were not prepared to address it but were merely disposed to gather it under the amorphous heading of 'general nature'. It is not insignificant that KW570 was a member of UNPROFOR at the time of the incident and

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<sup>20050</sup> D2770 (Witness statement of KW570 dated 21 November 2012) (under seal), para. 11.

<sup>20051</sup> D2770 (Witness statement of KW570 dated 21 November 2012) (under seal), para. 12.

he was also a Defence witness. The evidence he gave had the potential for casting doubt that the Bosnian Serb side was responsible for firing the shell. And this evidence formed an integral part of the Defence case.

6117. The Accused was therefore, entitled to some exposure to the minds of the majority for their dismissal of this evidence, other than the cryptic 'of general nature'.

3. Conclusion

6118. I am therefore, of the view that when all the factors I have identified above are collocated, the resulting edifice is of such, that I can hold that there is reasonable doubt that the Bosnian Muslim side fired the mortar bomb on the Markale Market.

6119. In the circumstances I am of opinion that the Accused must be acquitted of this charge.

Done in English and French, the English text being authoritative

\_\_\_\_\_  
Melville Baird

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Dated this twenty-fourth day of March 2016

At The Hague

The Netherlands

[Seal of the Tribunal]



PROCEDURAL HISTORY

1. Pre-trial proceedings

a. From confirmation of the Indictment to the Accused's plea

6120. On 25 July 1995, an indictment was confirmed against the Accused and Ratko Mladić, charging them for crimes allegedly committed in BiH between April 1992 and July 1995.<sup>20052</sup> On 16 November 1995, a second indictment against these accused, charging them for crimes alleged to have taken place in Srebrenica in July 1995, was also confirmed.<sup>20053</sup>

6121. Due to the failure to execute their warrants of arrest and to serve the indictments upon them,<sup>20054</sup> a hearing was subsequently held under Rule 61 of the Rules, and the two indictments were joined on 11 July 1996.<sup>20055</sup>

6122. In 2000, the Prosecution sought to amend the joined indictment insofar as it pertained to the Accused, which was then confirmed.<sup>20056</sup> In 2002, a similar process was undertaken with regard to Mladić.<sup>20057</sup> The cases against the two accused were ultimately severed in 2009.<sup>20058</sup>

6123. The Accused was arrested on 21 July 2008 in Belgrade and transferred to The Hague on 30 July 2008. His initial appearance was held the following day.<sup>20059</sup> Shortly thereafter, the Prosecution requested leave to make certain amendments to the indictment.<sup>20060</sup> On 16 February 2009, the Chamber issued a decision granting the Prosecution's motion in large part,<sup>20061</sup> and, on 27 February 2009, the Prosecution filed its Third Amended Indictment, which remains the operative "Indictment".<sup>20062</sup>

6124. On 3 March 2009, during the Accused's further initial appearance, and upon his failure to enter a plea, the pre-trial Judge entered pleas of not guilty to all eleven counts of the Indictment on behalf of the Accused, pursuant to Rule 62(iv) of the Rules.<sup>20063</sup>

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<sup>20052</sup> *Prosecutor v. Karadžić and Mladić*, Case No. IT-95-5-I, Review of the Indictment, 25 July 1995.

<sup>20053</sup> *Prosecutor v. Karadžić and Mladić*, Case No. IT-95-18-I, Review of the Indictment, 16 November 1995.

<sup>20054</sup> *Prosecutor v. Karadžić and Mladić*, Case No. IT-95-18-I, Warrant for Arrest Order for Surrender [Karadžić], 16 November 1995; *Prosecutor v. Karadžić and Mladić*, Case No. IT-95-18-I, Warrant for Arrest Order for Surrender [Mladić], 16 November 1995.

<sup>20055</sup> *Prosecutor v. Karadžić and Mladić*, Case Nos. IT-95-5-R61 and IT-95-18-R61, Rule 61 Hearing, T. 918–993 (11 July 1996).

<sup>20056</sup> *Prosecutor v. Karadžić*, Case No. IT-95-5/18-I, Order Granting Leave to Amend the Indictment and Confirming the Amended Indictment, 31 May 2000.

<sup>20057</sup> *Prosecutor v. Mladić*, Case No. IT-95-5/18-I, Order Granting Leave to File an Amended Indictment and Confirming the Amended Indictment, 8 November 2002.

<sup>20058</sup> Order Severing Ratko Mladić, 15 October 2009.

<sup>20059</sup> Initial Appearance, T. 1–28 (31 July 2008).

<sup>20060</sup> Motion to Amend the First Amended Indictment, 22 September 2008.

<sup>20061</sup> Decision on Prosecution Motion to Amend the First Amended Indictment, 16 February 2009.

<sup>20062</sup> Third Amended Indictment, 27 February 2009.

<sup>20063</sup> Further Initial Appearance, T. 133–134 (3 March 2009).

b. Self-representation

6125. From his transfer to The Hague, the Accused decided to represent himself at all stages of the proceedings. The Registry provided financial support for the assignment of a set number of support staff, ultimately assigning the Accused a team of four legal associates, two case managers, and two investigators.<sup>20064</sup> Furthermore, as discussed in detail below, after the Accused's refusal to appear before the Chamber for the commencement of trial, an appointed counsel was selected to prepare to represent the Accused's interests, should the Chamber order counsel to do so.<sup>20065</sup>

b. Language

6126. The Accused initially maintained that his level of English was not sufficient to understand complex legal proceedings and requested that all documents be presented to him in BCS. In a 25 September 2008 decision, the Chamber denied the Accused's requests that all court transcripts be translated into BCS.<sup>20066</sup> On 26 March 2009, the Chamber granted a Prosecution motion for a determination that the Accused understands English for the purpose of the Rules.<sup>20067</sup>

c. Challenges to jurisdiction and to the form of the Indictment

6127. From the beginning, the Accused maintained that the Tribunal lacked the authority to prosecute him due to the alleged agreement that he entered into with U.S. Ambassador Richard Holbrooke in July 1996, who promised him immunity in return for his withdrawal from public life in BiH ("Holbrooke Agreement").<sup>20068</sup> Throughout the pre-trial phase of the case, the Chamber issued a number of decisions in connection thereto.<sup>20069</sup> On 8 July 2009, the Chamber denied the Accused's motion seeking dismissal of the Indictment for lack of personal jurisdiction on the basis of the Holbrooke Agreement.<sup>20070</sup>

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<sup>20064</sup> See Registrar's Submission Pursuant to Rule 33(B) regarding Radovan Karadžić's Motion for Adequate Facilities and Equality of Arms, 2 December 2008; Decision on Accused Motion for Adequate Facilities and Equality of Arms: Legal Associates, 28 January 2009; Decision on Accused Request for Judicial Review of the Registry Decision on the Assignment of Mr. Marko Sladojević as Legal Associate, 20 April 2009.

<sup>20065</sup> See para. 6133.

<sup>20066</sup> Decision on the Accused's Request that All Materials, Including Transcripts, Be Disclosed to Him in Serbian and Cyrillic Script, 25 September 2008.

<sup>20067</sup> Decision on Prosecution Motion Seeking Determination that the Accused Understands English for the Purposes of the Statute and the Rules of Procedure and Evidence, 26 March 2009. The Appeals Chamber subsequently upheld the Chamber's decision. Decision on Interlocutory Appeal of the Trial Chamber's Decision on Prosecution Motion Seeking Determination that the Accused Understands English, 4 June 2009.

<sup>20068</sup> Official Submission Concerning My First Appearance and My Immunity Agreement with the USA, 6 August 2008.

<sup>20069</sup> See Decision on Accused Motion for Inspection and Disclosure, 9 October 2008; Decision on Accused's Second Motion for Inspection and Disclosure: Immunity Issue, 17 December 2008; Decision on Accused's Application for Certification to Appeal Decision on Inspection and Disclosure, 19 January 2009; Order Pursuant to Rules 54 and 70, 5 March 2009; Decision on Accused Motion for Interview of Defence Witness and Third Motion for Disclosure, 9 April 2009; Decision on Motion for Further Explanation from the Prosecution Concerning General Wesley Clark, 5 June 2009; Order Pursuant to Rules 54 and 70, 18 June 2009; Decision on Motion for Subpoena to Douglas Lute and John Feeley, 8 July 2009. See also Decision on Appellant Radovan Karadžić's Appeal Concerning Holbrooke Agreement Disclosure, 6 April 2009.

<sup>20070</sup> Decision on the Accused's Holbrooke Agreement Motion, 8 July 2009. The Chamber granted leave to appeal its decision, and the Appeals Chamber subsequently upheld the Chamber's decision in October 2009. Decision on Accused's Application for Certification to Appeal Decision on Holbrooke Agreement Motion, 17 July 2009; Decision on Karadžić's Appeal of Trial Chamber's Decision on Alleged Holbrooke Agreement, 12 October 2009. On 26 February 2014, the Chamber granted the Accused's request to admit into evidence a number of documents which relate to the issue of the Holbrooke Agreement for the limited purpose of sentencing deliberations. Decision on Admission of Information Relating to Sentencing, 26 February 2014.

6128. The Chamber issued a decision disposing of six preliminary motions filed by the Accused—which he characterised as challenges to jurisdiction—, granting one of them in part.<sup>20071</sup> The Accused filed a direct appeal against the Chamber’s decision that three of his motions did not raise genuine issues of jurisdiction; the Chamber also granted both the Accused and the Prosecution leave to appeal its decision insofar as it related, respectively, to the crime of hostage-taking, and to the correct *mens rea* standard for the third form of JCE liability; the Appeals Chamber ultimately confirmed the Chamber’s findings appealed by the Accused and found that the Chamber had erred in law in relation to the portion appealed by the Prosecution.<sup>20072</sup> The Chamber also issued a decision denying two motions filed by the Accused challenging the form of the Indictment.<sup>20073</sup>

d. Motions to disqualify

6129. In May 2009, the Accused filed a motion requesting that Judge Picard be disqualified from these proceedings because of her former position as President of the Human Rights Chamber of BiH, and other related factors.<sup>20074</sup> Four months later, following the re-composition of the pre-trial bench,<sup>20075</sup> the Accused filed a motion seeking the disqualification of Judge Baird, on the basis of the provisions of Article 13 of the Statute.<sup>20076</sup> Both motions were denied by the panels of three judges ultimately appointed to determine each of them.<sup>20077</sup>

e. Applications under Rule 73 bis of the Rules

6130. In July 2009, the Chamber issued an order directing the Prosecution to file a written submission on the issue of the application of Rule 73 bis.<sup>20078</sup> The

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<sup>20071</sup> Decision on Six Preliminary Motions Challenging Jurisdiction, 28 April 2009. *See also* Preliminary Motion to Dismiss Paragraph 60 (k) for Lack of Jurisdiction, 10 March 2009; Preliminary Motion to Dismiss Joint Criminal Enterprise III – Foreseeability, 16 March 2009; Preliminary Motion to Dismiss Count 11 for Lack of Jurisdiction, 18 March 2009; Preliminary Motion on Lack of Jurisdiction Concerning Omission Liability, 25 March 2009; Preliminary Motion to Dismiss JCE III – Special Intent Crimes, 27 March 2009; Preliminary Motion on Lack of Jurisdiction: Superior Responsibility, 30 March 2009.

<sup>20072</sup> Decision on Radovan Karadžić’s Motions Challenging Jurisdiction (Omission Liability, JCE III–Special Intent Crimes, Superior Responsibility), 25 June 2009; Decision on Prosecution’s Motion Appealing Trial Chamber’s Decision on JCE III Foreseeability, 25 June 2009; Decision on Appeal of Trial Chamber’s Decision on Preliminary Motion to Dismiss Count 11 of the Indictment, 9 July 2009.

<sup>20073</sup> Decision on Two Motions Alleging Defects in the Form of the Indictment, 12 May 2009. *See also* Preliminary Motion Alleging Defect in Form of Indictment – Multiple Joint Criminal Enterprises, 19 March 2009; Preliminary Motion Alleging Defect in Form of the Indictment - Joint Criminal Enterprise Members and Non-Member Participants, 20 March 2009. After the close of his Defence case, the Chamber denied a motion by the Accused in which he argued that parts of the Indictment were vague and defective and failed to properly inform him of the nature and scope of the charges against him and requested an order precluding considerations of those allegations by the Chamber in its deliberations or, in the alternative, that the Indictment be amended and that he be allowed to re-open his case to defend against the newly specified allegations. Decision on Accused’s Motion for Relief from Defects in the Indictment, 30 September 2014.

<sup>20074</sup> Motion to Disqualify Judge Picard, 1 May 2009.

<sup>20075</sup> *See* Order Designating Pre-Trial Judge, 2 September 2009; Order Regarding Composition of a Bench of the Trial Chamber, 4 September 2009.

<sup>20076</sup> Motion to Recuse Judge Melville Baird, 22 September 2009.

<sup>20077</sup> Decision on Motion to Disqualify Judge Picard and Report to the Vice-President Pursuant to Rule 15(B)(ii), 22 July 2009; Decision on Motion to Recuse Judge Baird and Report to Judge Güney, 20 October 2009. *See also* Decision on Motion to Disqualify Judge Picard, 18 May 2009; Decision on Appeal from Decision on Motion to Disqualify Judge Picard, 26 June 2009; Report by Presiding Judge to President on Motion to Recuse Judge Baird, 25 September 2009; Order Assigning a Motion to a Judge, 25 September 2009; Decision on Radovan Karadžić’s Motion to Recuse Judge Melville Baird, 30 September 2009; Decision on Motion for Leave to File a Reply, 9 October 2009. On 31 July 2014, the Chamber denied the Accused’s “Motion to Disqualify Judges Kwon, Morrison, Baird & Lattanzi” filed on 17 July 2014 in which he argued that the Judges of the Chamber should be disqualified as their four-year terms of office had expired and they had not been re-elected by the General Assembly. The Chamber found that the motion raised an issue of jurisdiction rather than disqualification under Rule 15 of the Rules and held on the contrary that the terms of office of the Judges of the Chamber had been appropriately extended. Decision on Accused’s Motion to Disqualify Judges Kwon, Morrison, Baird, and Lattanzi, 31 July 2014.

<sup>20078</sup> Order to the Prosecution under Rule 73 bis (D), 22 July 2009; Status Conference, T. 330–336 (1 July 2009). The deadline was extended at the Status Conference of 23 July 2009 to 31 August 2009. Status Conference, T. 386–388, 390 (23 July 2009).

Prosecution filed its first Rule 73 bis submission on 31 August 2009.<sup>20079</sup> Having been invited by the Chamber to propose further reductions to its case,<sup>20080</sup> the Prosecution filed a second submission on 18 September 2009, in which it opposed any further reductions<sup>20081</sup> During the pre-trial conference held on 6 October 2009, the Chamber rendered an oral decision on the application of Rule 73 bis (C) and (D), reducing the number of crime sites and incidents and allocating the Prosecution 300 hours for the presentation of its case.<sup>20082</sup>

## 2. Trial proceedings

### a. Delay of commencement of trial proceedings

6131. The pre-trial Judge declared the case ready for trial during a status conference held on 20 August 2009. During a further status conference held on 9 September 2009, and following a submission by the Accused requesting ten additional months to prepare his defence, the Chamber set the date for commencement of trial at 19 October 2009, and a pre-trial conference was held on 6 October 2009. The Accused appealed the Chamber's decision on the commencement of trial, and the Appeals Chamber subsequently determined that the trial should proceed with a delay of one week.<sup>20083</sup> The Chamber subsequently issued an order setting the date for the commencement of trial at 26 October 2009.<sup>20084</sup>

6132. On 8 October 2009, the Chamber issued an order adopting a set of detailed guidelines on the manner in which it expected the trial proceedings to be conducted.<sup>20085</sup> The Chamber also issued a number of orders and decisions in anticipation of the imminent commencement of the case.<sup>20086</sup>

6133. The Chamber held its first hearing on 26 October 2009 in the absence of the Accused who maintained that he was inadequately prepared.<sup>20087</sup> The Prosecution gave its opening statement on 27 October and 2 November 2009.<sup>20088</sup> After several warnings to the Accused, the Chamber issued a decision on 5 November 2009, ordering the Registrar to appoint counsel to begin preparing to represent the Accused at trial, should the Chamber order him to do so, and adjourning the trial until 1 March 2010 to

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<sup>20079</sup> Prosecution Rule 73 bis Submission.

<sup>20080</sup> Status Conference, T. 450–454 (8 September 2009).

<sup>20081</sup> Prosecution Second Submission Pursuant to Rule 73 bis (D), 18 September 2009. On 30 September 2009, the Accused filed a written response without making any specific proposals or submissions. Response to Prosecution's Second Rule 73 bis Submission, 30 September 2009.

<sup>20082</sup> Pre-Trial Conference, T. 465–468 (6 October 2009). See also Decision on the Application of Rule 73 bis, 8 October 2009 (ordering the Prosecution to file a marked-up version of the Indictment in accordance with that decision by 19 October 2009). The Chamber notes its "Decision on Motion for Withdrawal of Charges" issued on 13 October 2014, in which it denied the Accused's motion requesting the Prosecution to withdraw the charges in relation to which it was instructed not to lead evidence as per the 8 October 2009 decision. After the close of the Defence case, the Prosecution notified the Chamber that it would withdraw Scheduled Incident A.5.1 (Foča Municipality) and Scheduled Detention Facility C.25.4 (Vlasenica Municipality) from the Indictment. Notice of Withdrawal of Incident A.5.1., 18 August 2014; Notice of Withdrawal of Incident C.25.4, 22 August 2014.

<sup>20083</sup> Decision on Radovan Karadžić's Appeal of the Decision on Commencement of Trial, 13 October 2009.

<sup>20084</sup> Scheduling Order for the Commencement of Trial, 14 October 2009.

<sup>20085</sup> Order on the Procedure for the Conduct of Trial, 8 October 2009. The Chamber issued a follow-up order following a request from the Prosecution seeking clarification on certain aspects of the guidelines. Order on Prosecution Request for Clarification and Proposal Concerning Guidelines for the Conduct of Trial, 20 October 2009.

<sup>20086</sup> See *inter alia* Order on Prosecution's Notification of Order of Witnesses, 12 October 2009.

<sup>20087</sup> During that hearing, the Presiding Judge read a letter sent by the Accused a few days earlier explaining his reasons for his refusal to appear in court. After hearing from the Prosecution on the Accused's absence, the Chamber adjourned the hearing until the following day. Hearing, T. 502–509 (26 October 2009).

<sup>20088</sup> Prosecution's opening statement, T. 513–610 (27 October 2009); T. 612–672 (2 November 2009).

allow the appointed counsel sufficient preparation time.<sup>20089</sup> On 19 November 2009, the Registrar selected Richard Harvey as “counsel to prepare to represent the interests of the Accused at trial”.<sup>20090</sup>

6134. On 1 February 2010, the Accused filed a motion requesting a further postponement of the trial.<sup>20091</sup> The Chamber denied the motion and ordered the Accused’s opening statement to be heard on 1 and 2 March 2010, following which the trial proceedings would continue on 3 March 2010 with the hearing of evidence.<sup>20092</sup> The Accused gave his opening statements on 1 and 2 March, as scheduled. However, on 1 March he filed a motion for certification to appeal the Chamber’s decision on the postponement of trial, which the Chamber granted.<sup>20093</sup> On 31 March, the Appeals Chamber issued a decision dismissing the Accused’s appeal in its entirety.<sup>20094</sup>

6135. On 13 April 2010, the Chamber designated Harvey as standby counsel.<sup>20095</sup> On 15 April, through a follow-up written decision, the Chamber set out the specific functions to be carried out by the standby counsel during the proceedings.<sup>20096</sup>

b. Prosecution case

6136. Following the dismissal of the Accused’s appeal on the commencement of the trial, as discussed above, the Chamber ordered that the presentation of evidence in the case should begin on 13 April 2010.<sup>20097</sup> The Prosecution’s first witness began his testimony on that day.<sup>20098</sup> During the Prosecution case, a total of 195 Prosecution witnesses and one Chamber’s witness testified.<sup>20099</sup> 19 of these testified as *viva voce* witnesses and the remainder pursuant to Rule 92 *ter* of the Rules. The last Prosecution witness testified on 4 May 2012.<sup>20100</sup>

6137. Additionally, the Chamber issued 16 decisions disposing of the Prosecution’s motions for the admission of evidence of 232 witnesses pursuant to Rule 92 *bis*, and 22 witnesses pursuant to Rule 92 *quater* of the Rules.<sup>20101</sup> The Chamber

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<sup>20089</sup> Decision on Appointment of Counsel and Order on Further Trial Proceedings, 5 November 2009.

<sup>20090</sup> During the adjournment period, the Chamber denied the Accused’s motion opposing the Registrar’s appointment of Mr. Harvey, and granted his request to appeal the Chamber’s decision upholding such appointment (which was eventually upheld by the Appeals Chamber). Decision on the Accused’s Motion to Vacate Appointment of Richard Harvey, 23 December 2009; Decision on Accused’s Application for Certification to Appeal the Trial Chamber’s Decision on Motion to Vacate Appointment of Richard Harvey, 13 January 2010; *Prosecutor v. Radovan Karadžić*, Case No. IT-05-5/18-AR73.6, Decision on Radovan Karadžić’s Appeal from Decision on Motion to Vacate Appointment of Richard Harvey, 12 February 2010.

<sup>20091</sup> Motion for Postponement of Trial, 1 February 2010.

<sup>20092</sup> Decision on the Accused’s Motion for Postponement of Trial, 26 February 2010.

<sup>20093</sup> The Chamber granted the Accused leave to appeal the Chamber’s decision, and stayed the effect of its decision on postponement until the Appeals Chamber resolved the matter. Oral Ruling, T. 993–995 (2 March 2010).

<sup>20094</sup> Decision on Appeal from Decision on Motion for Further Postponement of Trial, 31 March 2010.

<sup>20095</sup> Oral Ruling, T. 998–999 (13 April 2010).

<sup>20096</sup> Decision on Designation of Standby Counsel, 15 April 2010. On 21 June 2012, after the close of the Prosecution’s case, the Chamber issued a decision stating that the role of the standby counsel should remain unchanged during the Defence case. Decision on Continuation of Standby Counsel Assignment, 21 June 2012.

<sup>20097</sup> Scheduling Order, 1 April 2010.

<sup>20098</sup> Ahmet Zulić, T. 1004 (13 April 2010).

<sup>20099</sup> The Chamber issued a subpoena ordering Momčilo Mandić to testify as a Prosecution witness. Mandić appeared before the Chamber on 30 June 2010; however, upon appearing before the Chamber he requested to testify as a Chamber’s witness and not as a witness for the Prosecution. The Chamber ultimately granted Mandić’s request. Hearing, T. 4403–4412 (30 June 2010). See Decision on Prosecution’s Urgent Motion to Subpoena Momčilo Mandić with Appendices A-D, confidential, 16 June 2010.

<sup>20100</sup> KDZ071, T. 28508–28562 (4 May 2012).

<sup>20101</sup> Decision on Third Prosecution’s Motion for Admission of Evidence of Statements and Transcripts of Evidence In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* (Witnesses for Sarajevo Municipality), 15 October 2009; Decision on Prosecution Motion for Admission of Testimony of Witness KDZ198 and Associated Exhibits Pursuant to Rule 92 *quater*, 20 August 2009; Decision on



ultimately admitted the written evidence of 142 witnesses pursuant to either of these two Rules.

6138. On 26 April 2012, the Chamber issued an order stating that the Prosecution case shall be considered closed on the day that the Chamber issues its decision on the last pending evidence-related motion filed by the Prosecution.<sup>20102</sup> The Prosecution case was thus closed on 25 May 2012, following the Chamber's decision on the last pending evidence-related motion filed by the Prosecution.<sup>20103</sup>

B. JUDGEMENT OF ACQUITTAL PURSUANT TO RULE 98 *BIS*

6139. Following the parties' Rule 98 *bis* oral submissions on 12 and 13 June 2012,<sup>20104</sup> on 28 June 2012, the Chamber delivered its oral ruling on the Accused's motion for a judgement of acquittal, pursuant to Rule 98 *bis* of the Rules. The Chamber dismissed the Accused's motion on ten counts of the Indictment but granted his motion in relation to Count 1.

6140. On 25 July 2012, the Accused filed an appeal in relation to Count 11 before the Appeals Chamber.<sup>20105</sup> On 11 December 2012, the Appeals Chamber issued its decision in relation to Count 11, dismissing the Accused's appeal.<sup>20106</sup> On 24 September 2012, the Prosecution filed its appeal in relation to Count 1 before the Appeals Chamber.<sup>20107</sup> On 11 July 2013, the Appeals Chamber reversed the Chamber's acquittal of

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Prosecution's Motion for Admission of Evidence of KDZ290 (Mirsad Kučanin) Pursuant to Rule 92 *quater*, 25 September 2009; Decision on Prosecution Motion for Admission of Testimony of Witness KDZ446 and Associated Exhibits Pursuant to Rule 92 *quater*, 25 September 2009; Decision on Prosecution's Sixth Motion for Admission of Statements In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*: Hostage Witnesses, 2 November 2009; Decision on Prosecution's Motion for Admission of Evidence of Eight Experts Pursuant to Rules 92 *bis* and 94 *bis*, 9 November 2009; Decision on Prosecution's First Motion for Admission of Statements and Transcripts of Evidence In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* (Witnesses for Eleven Municipalities), 10 November 2009; Public Redacted Version of "Decision on Prosecution's Fifth Motion for Admission of Statements In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* (Srebrenica Witnesses)" Issued on 21 December 2009, 6 March 2012; Decision on Prosecution's Seventh Motion for Admission of Transcripts of Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*: Delayed Disclosure Witnesses, 21 December 2009; Further Decision on Prosecution's First Rule 92 *bis* Motion (Witnesses for Eleven Municipalities), 9 February 2010; Decision on Prosecution's Fourth Motion for Admission of Statements and Transcripts of Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*-Sarajevo Siege Witnesses, 5 March 2010; Decision on Prosecution's Second Motion for Admission of Statements and Transcripts of Evidence In Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis* (Witnesses ARK Municipalities), 18 March 2010; Decision on Prosecution's Motion for Admission of the Evidence of KDZ172 (Milan Babić) Pursuant to Rule 92 *quater*, 13 April 2010; Decision on Prosecution's Motion for Admission of the Evidence of Milenko Lazić Pursuant to Rule 92 *quater* and for Leave to Add Exhibits to Rule 65 *ter* Exhibit List, 9 January 2012; Decision on Prosecution's Second Motion for Admission of Slobodan Stojković's Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*, 22 March 2012; Decision on Prosecution Motion for Admission of Milan Tupajić's Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*, 24 May 2012.

<sup>20102</sup> Scheduling Order on Close of the Prosecution Case, Rule 98 *bis* Submissions, and Start of the Defence Case, 26 April 2012.

<sup>20103</sup> Further Order on Close of Prosecution Case, 1 June 2012.

<sup>20104</sup> Accused's Rule 98 *bis* Submission, T. 28569–28626 (11 June 2012); Prosecution's Response to Rule 98 *bis* Submission, T. 28628–28728 (13 June 2012). See also Scheduling Order on Close of the Prosecution Case, Rule 98 *bis* Submissions, and Start of the Defence Case, 26 April 2012; Further Scheduling Order on Rule 98 *bis* Submissions, 18 May 2012.

<sup>20105</sup> Appeal from Denial of Judgement of Acquittal for Hostage Taking, 25 July 2012. See also Prosecution Response to Appeal from Denial of Judgement of Acquittal for Hostage Taking, 6 August 2012; Reply Brief: Appeal from Denial of Judgement of Acquittal for Hostage Taking, 10 August 2012. By way of background, the Chamber notes that on 5 July 2012, the Accused filed an application for certification to appeal the Judgement of Acquittal in relation to Count 11. Application for Certification to Appeal Denial of Motion for Judgement of Acquittal on Count Eleven, 5 July 2012. The Chamber granted the application on 18 July 2012. Decision on Accused's Application for Certification to Appeal Denial of Motion for Judgement of Acquittal under Rule 98 *bis* (Count 11), 18 July 2012.

<sup>20106</sup> Decision on Appeal from Denial of Judgement of Acquittal for Hostage-Taking, 11 December 2012.

<sup>20107</sup> Notice of Filing Public Redacted Version of Prosecution Rule 98 *bis* Appeal Brief, 25 September 2012; Notice of Filing Public Redacted Version of Respondent's Brief, 5 November 2012. See also Prosecution Notice of Appeal of Judgement of Acquittal under Rule 98 *bis*, 22 July 2012. On 28 September 2012, the Accused filed a motion to strike the Prosecution's appeal brief which was followed by a response from the Prosecution on 8 October 2012, and a further reply from the Accused on that same date. On 9 November 2012, the Appeals Chamber issued a decision granting the Accused's motion, and ordering the Prosecution to file a *corrigendum* to its Appeals Brief. The Prosecution filed such *corrigendum* on 19 November 2012, and a reply to the Accused's response a day later. See Motion to Strike Prosecution's Brief, 27 September 2012; Response to Motion to Strike Prosecution's Rule 98 *bis* Appeal Brief, 5 October 2012; Reply to Motion to Strike Prosecution's Brief, 5 October 2012; Decision on Motion to Strike Prosecution's Brief, 9 November 2012; *Corrigendum* to Prosecution Rule 98 *bis* Appeal Brief, 19 November 2012; Notice of Filing Redacted Public Version of Prosecution Reply Brief for Rule 98 *bis* Appeal, 20 November 2012. By way of background, the Chamber notes that on 3 July 2012, the Prosecution filed a request for certification to appeal the Chamber's Judgement of Acquittal on Count 1 of the Indictment. Prosecution Request for

the Accused for genocide under Count 1 and reinstated the charges against the Accused.<sup>20108</sup>

d. Defence case

6141. On 26 April 2012, the Chamber ordered that the Accused shall make his opening statement on 16 October 2012, should he so wish, and call his first witness immediately thereafter.<sup>20109</sup> On 19 September 2012, the Chamber issued a decision pursuant to Rule 73(B) of the Rules granting the Accused 300 hours for the presentation of his case.<sup>20110</sup> The Accused made his opening statement on 16 October 2012.<sup>20111</sup> The first Defence witness began his testimony on that same date.<sup>20112</sup>

6142. On 16 July 2013, following the issuance of the Appeal on Count 1, as explained above, the Accused filed a motion requesting the Chamber to order that Count 1 be severed from the Indictment pursuant to Rule 54 or, alternatively, direct the Prosecution to proceed on all counts of the Indictment except Count 1 pursuant to Rule 73 bis (E).<sup>20113</sup> On 24 July 2013, the Accused filed another motion requesting the Chamber to suspend the case for four months to enable him to prepare his defence for Count 1.<sup>20114</sup> On 2 August 2013, the Chamber disposed of the motions, denying the Accused's request for severance, but suspending the proceedings until 28 October 2013 in order to give the Accused time to adjust his preparations to include a defence on Count 1.<sup>20115</sup> On 7 August 2013, the Accused simultaneously filed an application before the Chamber for certification to appeal the Chamber's decision, as well as an appeal before the Appeals Chamber.<sup>20116</sup> The Chamber issued a decision stating that certification was not required in the present case, but declaring nevertheless that the requirements for certification to appeal under Rule 73(C) were met.<sup>20117</sup> On 12 September 2013, the Appeals Chamber issued a decision dismissing the Accused's appeal in its entirety.<sup>20118</sup>

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Certification to Appeal Judgement of Acquittal Under Rule 98 bis, 3 July 2012. The Chamber issued a decision stating that certification was not required before the Judgement of Acquittal could be appealed, but declaring nevertheless that the requirements for certification to appeal under Rule 73(C) were met with respect to the Prosecution's request; Decision on Prosecution Request for Certification to Appeal Judgement of Acquittal under Rule 98 bis, 13 July 2012.

<sup>20108</sup> *Prosecutor v. Karadžić*, Case No. IT-95-5/18-AR98bis.1, Judgement, 11 July 2013 ("Appeal Judgement on Count 1"). The Appeals Chamber subsequently denied the Accused's request to clarify a portion of its judgement, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-AR98bis.1, Decision on Motion for Clarification, 1 August 2013. See also *Prosecutor v. Karadžić*, Case No. IT-95-5/18-AR98bis.1, Motion for Clarification, 22 July 2013.

<sup>20109</sup> Scheduling Order on Close of the Prosecution Case, Rule 98 bis Submissions, and Start of the Defence Case, 26 April 2012.

<sup>20110</sup> Decision on Time Allocated to the Accused for the Presentation of his Case, 19 September 2012. On 5 October 2012, the Chamber issued a decision granting the Accused's request for certification to appeal the Chamber's decision on allocation of time; Decision on Application for Certification to Appeal Decision on Time for Defence Case, 5 October 2012. See also Application for Certification to Appeal Decision on Time for Defence Case, 24 September 2012. On 12 October 2012, the Accused filed his appeal before the Appeals Chamber; Appeal from Decision on Duration of Defence Case, 12 October 2012. See also Prosecution Response to Appeal from Decision on Duration of Defence Case, 22 October 2012; Reply Brief: Appeal from Decision on Duration of Defence Case, 25 October 2012; Prosecution Request for Sur-Reply and Proposed Sur-Reply in Appeal from Decision on Duration of Defence Case, 29 October 2012. On 29 January 2013, the Appeals Chamber issued a decision denying the Accused's request and upholding the Chamber's decision; Decision on Appeal from Decision on Duration of Defence Case, 29 January 2013.

<sup>20111</sup> Accused's opening statement, T. 28849–28881 (16 October 2012).

<sup>20112</sup> Andrey Demurenko, T. 28881 (16 October 2012).

<sup>20113</sup> Motion to Sever Count One, 16 July 2013.

<sup>20114</sup> Motion for Suspension of Defence Case, 24 July 2013.

<sup>20115</sup> Decision on Accused's Motions for Severance of Count 1 and Suspension of Defence Case, 2 August 2013.

<sup>20116</sup> Application for Certification to Appeal Decision on Remand of Count One, 7 August 2013; *Prosecutor v. Karadžić*, Case No. IT-95-5/18-AR98bis.1, Appeal of Decision on Remand of Count One, 7 August 2013. See also Prosecution Response to Karadžić's Application for Certification to Appeal Decision on Remand of Count One, 9 August 2013.

<sup>20117</sup> Decision on Accused's Application for Certification to Appeal Decision on Remand of Count One, 3 September 2013.

<sup>20118</sup> *Prosecutor v. Karadžić*, Case No. IT-95-5/18-AR98bis.1, Decision on Appeal of Decision on Remand of Count One, 12 September 2013.

6143. On 28 August 2013, the Chamber issued a decision denying the Accused’s request to dismiss the Indictment based on the fact that the Security Council did not have the authority to establish the MICT, that there is therefore no legal entity to which he could appeal in the event he is convicted, and thus his fundamental right to appeal had been abridged.<sup>20119</sup>
6144. On 29 October 2013, in light of the Accused’s request to recall witnesses to give testimony relevant to Count 1, and for additional time in which to present his case, the Chamber issued a decision granting the Accused 25 additional hours for the presentation of his case.<sup>20120</sup>
6145. During the Defence case, a total of 238 witnesses testified for the Accused: 24 testified as *viva voce* witnesses and the remainder testified pursuant to Rule 92 *ter* of the Rules. The Accused informed the Chamber that he would testify as a witness in his own case in August 2012 and maintained this position for most of the Defence case.<sup>20121</sup> Subsequently, the Accused requested to testify in a narrative form, which the Chamber denied.<sup>20122</sup> By the end of the Defence case, the Accused, referring to his “dilemmas and quandaries”, informed the Chamber that he had ultimately decided not to testify.<sup>20123</sup> The last Defence witness testified on 20 February 2014.<sup>20124</sup>
6146. Additionally, the Chamber admitted the evidence of three Defence witnesses pursuant to Rule 92 *bis* of the Rules, and of seven witnesses pursuant to Rule 92 *quater*.<sup>20125</sup>
6147. The Defence case was considered closed on 1 May 2014, following the Chamber’s decision on the last pending evidence-related motion filed by the Accused.<sup>20126</sup>

e. Re-opening/rebuttal/rejoinder

<sup>20119</sup> Decision on Accused’s Motion to Dismiss the Indictment, 28 August 2013.

<sup>20120</sup> Decision on Accused’s Request for Additional Time to Present his Defence Case and on Motion to Recall Defence Witnesses, 29 October 2013. *See also* Motion to Recall Defence Witnesses, 16 October 2013.

<sup>20121</sup> Defence Submission Pursuant to Rule 65 *ter* and Related Motions, 27 August 2012; Annex “A” to Rule 65 *ter* Submission: Defence Witness List, confidential, 27 August 2012, p. 65. *See also inter alia* Defence Supplemental Submission Pursuant to Rule 65 *ter*, confidential, 7 November 2013, Annex J, p. 18; Defence Witnesses for February 2014, 20 January 2014, Annex “A”.

<sup>20122</sup> Oral ruling, T. 45933–45935 (27 January 2014). *See* Hearing, T. 45187–45188 (16 December 2013); Prosecution Submission on Form of Karadžić’s Testimony, 8 January 2014.

<sup>20123</sup> Hearing, T. 47541 (20 February 2014). On 15 October 2014, the Chamber dismissed the “Motion to Treat Unsworn Statement as Evidence” filed on 25 September 2014, wherein the Accused requested that the Chamber give the statement which he made on 16 October 2012 pursuant to Rule 84 *bis* the same consideration in its deliberations as it would give statements admitted pursuant to Rule 92 *quater*. Decision on Motion to Treat Unsworn Statement as Evidence, 15 October 2014.

<sup>20124</sup> Mončilo Gruban, T. 47422–47463 (19 February 2014); T. 47464–47534 (20 February 2014).

<sup>20125</sup> Decision on Accused’s Motion for Admission of Statement of Srđo Srdić Pursuant to Rule 92 *quater*, 21 September 2012; Decision on Motion to Admit Statement of Nada Stojanović pursuant to Rule 92 *quater*, confidential, 27 September 2012; Decision on Accused’s Motion for Admission of Statement of Vlado Lizdek Pursuant to Rule 92 *quater*, 10 October 2012; Decision on Accused’s Motion to Admit Evidence of Velibor Ostojić Pursuant to Rule 92 *quater*; 23 October 2012; Decision on Accused’s Motion for Admission of Evidence of Milorad Krnojelac Pursuant to Rule 92 *quater*; 6 December 2012; Decision on Accused’s Motion for Admission of Evidence of Radislav Krstić Pursuant to Rule 92 *quater*, 26 November 2013; Decision on Accused’s Motion to Admit Testimony of Witness KW582 Pursuant to Rule 92 *quater*, 3 February 2014; Decision on Accused’s Motion to Admit Testimony of Pero Rendić Pursuant to Rule 92 *bis*, 6 February 2014; Decision on Accused’s Motion to Admit the Testimony of Branko Basara Pursuant to Rule 92 *bis*, 19 February 2014; Decision on Accused’s Motion to Admit Testimony of Borivoje Jakovljević Pursuant to Rule 92 *quater*, 25 February 2014; Decision on Accused’s Motions for Admission of Evidence Pursuant to Rule 92 *bis*, 18 March 2014; Decision on Motion for Reconsideration of Decision Denying Admission of Dušan Đenadija’s Statement Pursuant to Rule 92 *bis*, 1 May 2014.

<sup>20126</sup> Further Order on Closure of Defence Case, 2 May 2014. *See* Order Regarding the Close of the Defence Case, 20 February 2014.

6148. On 20 March 2014, the Chamber issued a decision denying the Prosecution's motion to re-open its case in order to introduce the evidence of five witnesses in relation to the Tomašica gravesite discovered in September 2013 in Prijedor municipality.<sup>20127</sup> Further, on 21 March 2014, the Chamber denied the Prosecution's request to allow it to tender the evidence of 14 rebuttal witnesses.<sup>20128</sup>

6149. The Accused also filed motions to re-open his Defence case in order to tender in evidence newly discovered material or to secure the attendance of an additional witness; the Chamber ruled on all of them in writing.<sup>20129</sup>

#### f. Final briefs and closing arguments

6150. Having heard from the parties as to the time they would need to file their final trial briefs,<sup>20130</sup> the Chamber ordered them on 21 March 2014, to file their briefs by no later than 29 August 2014, adding that the briefs shall not exceed 300,000 words, including any appendices.<sup>20131</sup> On 29 August 2014, the parties filed their final briefs.<sup>20132</sup>

6151. On 7 April 2014, the Chamber issued a decision setting the schedule for the presentation of closing arguments, and ordering that the presentation of closing arguments shall commence on 29 September 2014.<sup>20133</sup> The Chamber also granted the Prosecution and the Accused up to ten hours each to present their closing arguments, and 1.5 hours each to present their rebuttal and rejoinder arguments, respectively.<sup>20134</sup> The Chamber heard the parties' closing arguments between 29 September and 7 October 2014.

### 3. Various rulings

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<sup>20127</sup> Decision on Prosecution Motion to Re-open its Case and Prosecution Motion for Protective Measures for Witness KDZ614, 20 March 2014. *See* Prosecution Motion to Re-open its Case with Public Appendix A and Confidential Appendix B, 4 March 2014; Prosecution's Motion for Protective Measures for Witness KDZ614, 4 March 2014; Response to Prosecution's Motion to Re-open its Case, 18 March 2014.

<sup>20128</sup> Decision on Prosecution's Motion to Admit Evidence in Rebuttal, 21 March 2014. *See* Prosecution Motion to Admit Evidence in Rebuttal, 4 March 2014; Response to Motion for Rebuttal Evidence and 90<sup>th</sup> Disclosure Violation Motion, 17 March 2014; Prosecution Request to Reply to Karadžić's Response to the Prosecution's Motion for Rebuttal Evidence, 21 March 2014. *See also* Hearing, T. 47078 (14 February 2014); Oral ruling, T. 47544 (3 March 2014); Urgent Prosecution Motion to Exceed Word Limit in Motion to Admit Rebuttal Evidence, 28 February 2014.

<sup>20129</sup> Decision on Accused's First Motion to Re-open Defence Case, 12 September 2014; Decision on Accused's Second Motion to Re-open Defence Case, 30 October 2014; Decision on Accused's Third Motion to Re-open Defence Case, 17 December 2014; Decision on Application for Certification to Appeal Denial of Third Motion to Re-open Defence Case, 15 January 2015 (wherein the Chamber denied the Accused's application for leave to appeal the decision on his third motion to re-open his Defence case); Decision on Accused's Fourth Motion to Re-open Defence Case, 24 February 2015; Decision on Accused's Sixth Motion to Re-open Defence Case, confidential, 3 March 2015; Decision on the Accused's Fifth Motion to Re-open Defence Case (Zimmerman Cable), 9 March 2015; Decision on Accused's Seventh Motion to Re-open Defence Case, 20 April 2015; Decision on Accused's Sixth *bis* Motion to re-open Defence Case, confidential, 7 May 2015; Decision on Accused's Ninth Motion to Re-open Defence Case, 9 July 2015; Decision on Accused's Tenth Motion to Re-open Defence Case, 9 July 2015.

<sup>20130</sup> The Accused requested the Chamber to set a deadline for the filing of closing briefs 12 months after the testimony of the last Defence witness; Submission on Schedule for Filing of Closing Briefs, 26 February 2014, while the Prosecution requested the Chamber leave to submit a final brief not exceeding 375,000 words on or before 17 September 2014; Prosecution Motion for Variation of the Word Limit for its Final Trial Brief and Submission on Timing of Filing of Final Trial Briefs with Appendix A, 3 March 2014. *See also* Hearing, T. 47543 (20 February 2014).

<sup>20131</sup> Order on Filing of Trial Briefs, 21 March 2014.

<sup>20132</sup> Prosecution's Final Trial Brief, confidential, 29 August 2014; Defence Final Trial Brief, confidential, 29 August 2014. Both parties subsequently filed public redacted versions of their final briefs, *see* Notice of Filing Public Redacted Version of Prosecution Final Trial Brief, 24 September 2014; Notice of Filing Public Redacted Version of Prosecution Final Trial Brief Appendices A to D, 13 October 2014; Defence Final Trial Brief, public redacted version, 29 September 2014.

<sup>20133</sup> Order on Closing Arguments, 7 April 2014, p. 3.

<sup>20134</sup> Order on Closing Arguments, 7 April 2014, p. 3.

6152. Throughout the various phases of the case, the Chamber issued approximately 1,100 written decisions, orders and invitations, as well as more than 350 oral decisions. The summary below gives an illustration of some of the most significant issues the Chamber has dealt with during the course of these proceedings.

a. Disclosure

6153. Given the unprecedented size of the case, disclosure to the Accused has been voluminous throughout the case. The Chamber did its utmost to protect the Accused's fair trial rights. To ensure that the Accused's preparations for trial were not affected, the Chamber decided to suspend the proceedings on multiple occasions, for a total period of more than four months during the Prosecution case, to allow him time to review and incorporate large batches of newly disclosed material into his preparations.<sup>20135</sup> In addition to the suspension of proceedings, the testimony of some Prosecution witnesses had to be postponed or delayed when witness specific material was disclosed in violation of the Prosecution's disclosure obligations.<sup>20136</sup>

6154. During the Prosecution phase of the case, the Accused filed more than 70 motions requesting the Chamber to find the Prosecution in violation of its disclosure obligations under the Rules. The Chamber issued either written or oral decisions disposing of each of them<sup>20137</sup> and found *inter alia* that, while the number of disclosure violations reflected badly on the Prosecution, the Accused had not been prejudiced.<sup>20138</sup> The Accused also filed a motion requesting a new trial based on the

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<sup>20135</sup> Decision on Accused's Motion for Suspension of Proceedings, 18 August 2010; Hearing, T. 6593–6594 (13 September 2010); Decision on Accused's Seventeenth Motion for Finding of Disclosure Violation and for Remedial Measures, 29 September 2010; Hearing, T. 8907–8908 (3 November 2010); Decision on Accused's Twenty-Second, Twenty-Fourth and Twenty-Sixth Disclosure Violation Motions, 11 November 2010; Hearing, T. 11474–11476 (10 February 2011); Decision on Accused's Motion for Fourth Suspension of Proceedings, 16 February 2011; Decision on Accused's Motion for Fifth Suspension of Proceedings, 17 March 2011; Decision on Accused's Forty-Seventh Motion for Finding of Disclosure Violation and for Further Suspension of Proceedings, 10 May 2011.

<sup>20136</sup> See Decision on Accused's Third, Fourth, Fifth and Sixth Motions for Finding of Disclosure Violation and for Remedial Measures, 20 July 2010; Decision on Accused's Eighteenth to Twenty-First Disclosure Violation Motions, 2 November 2010; Decision on Accused's Twenty-Ninth Disclosure Violation Motion, 11 January 2011; Decision on Accused's Forty-Ninth and Fiftieth Disclosure Violation Motions, 30 June 2011.

<sup>20137</sup> See Decision on Accused's Second Motion for Finding Disclosure Violation and for Remedial Measures, 17 June 2010; Decision on Accused's Third, Fourth, Fifth, and Sixth Motions for Finding of Disclosure Violations and for Remedial Measures, 20 July 2010; Decision on Accused's Seventh and Eighth Motions for Finding of Disclosure Violations and for Remedial Measures, 18 August 2010; Decision on Accused's Ninth and Tenth Motions for Finding of Disclosure Violations and for Remedial Measures, 26 August 2010; Decision on Accused's Eleventh to Fifteenth Motions for Finding of Disclosure Violation and for Remedial Measures, 24 September 2010; Decision on Accused's Seventeenth Motion for Finding of Disclosure Violation and for Remedial Measures, 29 September 2010; Decision on Accused's Sixteenth Motion for Finding of Disclosure Violation and for Remedial Measures, 5 October 2010; Decision on Accused's Eighteenth to Twenty-First Disclosure Violation Motions, 2 November 2010; Decision on Accused's Twenty-Second, Twenty-Fourth and Twenty-Sixth Disclosure Violation Motions, 11 November 2010; Decision on Accused's Twenty-Seventh Disclosure Violation Motion, 17 November 2010; Decision on Accused's Seventeenth *bis* and Twenty-Eighth Disclosure Violation Motions, 16 December 2010; Decision on Accused's Twenty-Ninth Disclosure Violation Motion, 11 January 2011; Decision on Accused's Thirtieth and Thirty-First Disclosure Violation Motions, 3 February 2011; Decision on Accused's Thirty-Second, Thirty-Third, Thirty-Fifth and Thirty-Sixth Disclosure Violation Motions, 24 February 2011; Decision on Accused's Thirty-Seventh to Forty-Second Disclosure Violation Motions With Partially Dissenting Opinion of Judge Kwon, 29 March 2011; Decision on Accused's Forty-Third to Forty-Fifth Disclosure Violation Motions, 8 April 2011; Decision on Accused's Forty-Sixth Disclosure Violation Motion, 20 April 2011; Decision on Accused's Forty-Seventh Motion for Finding of Disclosure Violation and for Further Suspension of Proceedings, 10 May 2011; Decision on Accused's Forty-Eighth Disclosure Violation Motion, 30 May 2011; Decision on Accused's Forty-Ninth and Fiftieth Disclosure Violation Motions, 30 June 2011; Decision on Accused's Fifty-First and Fifty-Second Disclosure Violation Motions, 7 July 2011; Decision on Accused's Fifty-Third and Fifty-Fourth Disclosure Violation Motions, 22 July 2011; Decision on Accused's Fifty-Fifth Disclosure Violation Motion, 19 August 2011; Oral Ruling on 56<sup>th</sup> Disclosure Violation Motion, T. 17484 (19 August 2011); Oral Ruling on 58<sup>th</sup> Disclosure Violation Motion, T. 18638 (8 September 2011); Decision on Accused's Fifty-Ninth Disclosure Violation Motion, 14 October 2011; Decision on Accused's Sixtieth, Sixty-First, Sixty-Third, and Sixty-Fourth Disclosure Violation Motions, 22 November 2011; Decision on Accused's Sixty-Fifth Disclosure Violation Motion, 12 January 2012; Decision on Accused's Sixty-Sixth Disclosure Violation Motion, 8 February 2012; Public Redacted Version of "Decision on Accused's Sixty-Seventh and Sixty-Eighth Disclosure Violation Motions" Issued on 1 March 2012, 1 March 2012; Oral Ruling on 69<sup>th</sup> Disclosure Violation Motion, T. 26316–26317 (15 March 2012); Oral Ruling on 70<sup>th</sup> Disclosure Violation Motion, T. 27902–27903 (23 April 2012).

<sup>20138</sup> See Decision on Accused's Eighteenth to Twenty-First Disclosure Violation Motions, 2 November 2010; Decision on Accused's Twenty-Second, Twenty-Fourth and Twenty-Sixth Disclosure Violation Motions, 11 November 2010; Decision on Accused's Twenty-



cumulative prejudice he had suffered from such violations. The Chamber issued its decision disposing of the motion in September 2012, and denying the Accused's request.<sup>20139</sup>

6155. The Accused continued filing disclosure violation motions during the Defence case and the Chamber disposed, either orally or in writing, of all of them, finding, for the most part that the Prosecution had violated its disclosure obligations under the Rules with respect to the late disclosure of certain documents, but concluding that the Accused was not prejudiced by such violations having reviewed the underlying documents in light of other material available to the Accused and other evidence received in the case.<sup>20140</sup>

6156. After the completion of the Defence case, the Accused continued to file disclosure violations and the Chamber disposed in writing of all of them, finding that the Prosecution had violated its disclosure obligations under the Rules with respect to the late disclosure of certain documents, but concluding for the most part that the Accused was not prejudiced by such violations, having reviewed the underlying documents in light of other material available to the Accused and other evidence received in the case.<sup>20141</sup> The Accused also filed a second motion requesting a new trial again based on the cumulative prejudice he had suffered from such violations. The Chamber issued its decision disposing of the motion in August 2014, and denying the Accused's request.<sup>20142</sup>

6157. The Chamber also issued decisions disposing of Prosecution's motions alleging disclosure violations by the Accused due to his failure to provide adequate 65 *ter* summaries.<sup>20143</sup>

## 1. Binding orders

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Seventh Disclosure Violation Motion, 17 November 2010; Decision on Accused's Twenty-Ninth Disclosure Violation Motion, 11 January 2011; Decision on Accused's Forty-Ninth and Fiftieth Disclosure Violation Motions, 30 June 2011.

<sup>20139</sup> Decision on Accused's Motion for New Trial for Disclosure Violations, 3 September 2012.

<sup>20140</sup> See Decision on Accused's Seventy-First Disclosure Violation Motion, 1 June 2012; Decision on Accused's Seventy-Second Disclosure Violation Motion, 27 June 2012; Decision on Accused's Seventy-Third Disclosure Violation Motion, 21 August 2012; Decision on Accused's Seventy-Fourth Disclosure Violation Motion, 6 November 2012; Oral Ruling on 75<sup>th</sup> Disclosure Violation Motion, T. 32151–32152 (17 January 2013); Oral Ruling on 76<sup>th</sup> Disclosure Violation Motion, T. 32881–32883 (29 January 2013); Decision on Accused's Seventy-Seventh and Seventy-Eighth Disclosure Violation Motions, 11 March 2013; Oral Ruling on 79<sup>th</sup> Disclosure Violation Motion, T. 38096–38098 (9 May 2013); Decision on Accused's Eightieth and Eighty-First Disclosure Violation Motions, 9 July 2013; Decision on Accused's Eighty-Second Disclosure Violation Motion, 7 November 2013; Decision on Accused's Eighty-Third Motion for Finding of Disclosure Violation, 21 November 2013; Decision on Accused's Eighty-Fourth Disclosure Violation Motion, 16 January 2014; Decision on Accused's Eighty-Fifth Disclosure Violation Motion, 21 January 2014; Decision on Accused's Eighty-Seventh Disclosure Violation Motion, 10 March 2014; Oral Ruling on 86<sup>th</sup> Disclosure Violation Motion, T. 47545–47546 (3 March 2014); Decision on Accused's Eighty-Eighth Disclosure Violation Motion, 18 March 2014; Decision on Accused's Eighty-Ninth and Ninetieth Disclosure Violation Motions, 16 April 2014; Decision on Accused's Ninety-First Disclosure Violation Motion, 7 May 2014.

<sup>20141</sup> Decision on Accused's Ninety-Second Disclosure Violation Motion, 10 June 2014; Public Redacted Version of "Decision on Accused's Ninety-Third Disclosure Violation Motion" Issued on 13 October 2014, 20 March 2015; Decision on Accused's Ninety-Fourth Disclosure Violation Motion, 13 October 2014; Decision on Accused's Ninety-Fifth Disclosure Violation Motion, 5 December 2014; Decision on Accused's Ninety-Sixth Disclosure Violation Motion, 21 January 2015; Decision on Accused's Ninety-Eighth and Ninety-Ninth Disclosure Violation Motions, 8 June 2015; Decision on Accused's One-Hundredth Disclosure Violation Motion, 13 July 2015; Decision on Accused's 101<sup>st</sup> Disclosure Violation Motion, 20 July 2015; Decision on Accused's 102<sup>nd</sup> and 103<sup>rd</sup> Disclosure Violation Motion, 4 November 2015; Decision on Accused's 104<sup>th</sup> and 105<sup>th</sup> Disclosure Violation Motions, 18 February 2016; Decision on Accused's 106<sup>th</sup> Disclosure Violation Motion, 4 March 2016; Decision on Accused's 107<sup>th</sup> Disclosure Violation Motion, 14 March 2016. The Chamber notes that the Accused withdrew his 97<sup>th</sup> Motion for Disclosure Violation. See Withdrawal of 97<sup>th</sup> Motion for Finding of Disclosure Violation and for Remedial Measures, 9 March 2015.

<sup>20142</sup> Decision on Accused's Second Motion for New Trial for Disclosure Violations, 14 August 2014.

<sup>20143</sup> Decision on Prosecution's Motion for Relief for Defence Disclosure Violations, 26 March 2013; Decision on Prosecution Motion for Relief for Defence Disclosure Violations – Srebrenica Witnesses, 11 April 2013.

6158. Throughout the proceedings, the Chamber issued more than 60 invitations in relation to the approximately 40 motions filed by the Accused requesting the Chamber to issue binding orders compelling the governments of various states and several international organisations to produce categories of documents that he intended to use during his trial.<sup>20144</sup>

6159. As an attempt to give an opportunity to states to be heard, and to resolve some of the pending motions, the Chamber held hearings with states' representatives in 2010, 2011, and 2013.<sup>20145</sup> The information obtained through these hearings assisted the Chamber in the process of determining some of the motions. The Chamber ultimately issued decisions on 11 of the Accused's motions for binding orders, granting four of them,<sup>20146</sup> rejecting one without prejudice,<sup>20147</sup> and denying the Accused's requests on six occasions.<sup>20148</sup> The remaining motions for binding orders were withdrawn

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<sup>20144</sup> See Invitation to the United States of America, 18 June 2009; Invitation to the Kingdom of Norway, 9 July 2009; Invitation to the Kingdom of Belgium, 21 July 2009; Invitation to the North Atlantic Treaty Organisation, 23 July 2009; Invitation to the Italian Republic, 5 August 2009; Invitation to the Republic of Austria, 5 August 2009; Invitation to the People's Republic of Bangladesh, 6 August 2009; Invitation to the Republic of Malta, 6 August 2009; Invitation to Malaysia, 10 August 2009; Invitation to the Islamic Republic of Pakistan, 11 August 2009; Invitation to the Federal Republic of Germany, 14 August 2009; Invitation to the Republic of Poland, 14 August 2009; Invitation to the Arab Republic of Egypt, 17 August 2009; Invitation to the Hashemite Kingdom of Jordan, 17 August 2009; Invitation to the French Republic, 25 August 2009; Invitation to the Republic of Turkey, 25 August 2009; Invitation to the Islamic Republic of Iran, 31 August 2009; Invitation to Bosnia and Herzegovina, 2 September 2009; Second Invitation to the Republic of Malta, 2 September 2009; Invitation to the Kingdom of Denmark, 4 September 2009; Invitation to the Kingdom of Sweden, 7 September 2009; Invitation to the Republic of Croatia, 15 September 2009; Invitation to the Kingdom of The Netherlands, 15 September 2009; Invitation to the United Kingdom of Great Britain and Northern Ireland, 15 September 2009; Invitation to the United States of America, 15 September 2009; Second Invitation to the Islamic Republic of Pakistan, 23 September 2009; Invitation to the Republic of Greece, 30 September 2009; Second Invitation to the Arab Republic of Egypt, 6 October 2009; Second Invitation to the Kingdom of Norway, 7 October 2009; Second Invitation to the French Republic, 13 October 2009; Second Invitation to the Government of Bosnia and Herzegovina, 13 October 2009; Third Invitation to the Islamic Republic of Pakistan, 13 October 2009; Second Invitation to the Kingdom of the Netherlands, 2 November 2009; Second Invitation to the Republic of Poland, 10 November 2009; Invitation to Bosnia and Herzegovina, 1 March 2010; Invitation to Republic of Croatia, 1 March 2010; Invitation to the Kingdom of The Netherlands, 30 March 2010; Invitation to Canada, 18 August 2010; Invitation to the Kingdom of Belgium, 20 August 2010; Invitation to the Kingdom of Denmark, 3 September 2010; Invitation to France, 8 September 2010; Second Invitation to Canada, 29 September 2010; Invitation to European Union, 27 October 2010; Invitation to United Nations, 2 November 2010; Invitation to the Bolivarian Republic of Venezuela, 2 November 2010; Invitation to the United Nations and the North Atlantic Treaty Organisation, 2 December 2010; Second Invitation to the Bolivarian Republic of Venezuela, 9 December 2010; Third Invitation to Canada, 9 December 2010; Invitation to the Islamic Republic of Iran, 16 December 2010; Invitation to the United States of America, 17 December 2010; Invitation to the Government of Bosnia and Herzegovina, 13 January 2011; Invitation to the Kingdom of Saudi Arabia, 25 January 2011; Invitation to the United Arab Emirates, 25 January 2011; Invitation to the United States of America, 27 January 2011; Second Invitation to European Union, 31 January 2011; Third Invitation to the Bolivarian Republic of Venezuela, 31 January 2011; Second Invitation to Republic of France, 8 February 2011; Invitation to Bosnia and Herzegovina, 10 February 2011; Invitation to the Bolivarian Republic of Venezuela and the United Nations, 17 August 2011; Invitation to the Government of Croatia Regarding Interview of Miroslav Tudman, 14 September 2011; Invitation to the Kingdom of Spain, 22 September 2011; Invitation to the United Kingdom of Great Britain and Northern Ireland, 17 November 2011; Invitation to France, 27 January 2012; Invitation to Germany Regarding the Accused's Motion to Report Germany to United Nations Security Council, 30 January 2012; Invitation to The United Kingdom of Great Britain and Northern Ireland, 10 February 2012; Invitation to France, 29 March 2012; Invitation to Bosnia and Herzegovina, 17 April 2012; Second Invitation to Germany Regarding the Accused's Motion to Report Germany to United Nations Security Council, 18 April 2012; Invitation to The United States of America, 10 July 2012; Invitation to France, 27 September 2013; Invitation to the Kingdom of The Netherlands, 18 October 2013; Invitation to The United States of America, 30 October 2013.

<sup>20145</sup> See Order Scheduling a Hearing Pursuant to Rule 54 *bis*, 29 January 2010; Order Scheduling a Hearing Pursuant to Rule 54 *bis* (Bosnia and Herzegovina), 7 September 2010; Order to Bosnia and Herzegovina in Preparation for the Hearing pursuant to Rule 54 *bis*, 6 October 2010; Scheduling Order Relating to Rule 54 *bis* Hearing (Bosnia and Herzegovina), 13 October 2010; Invitation to Bosnia and Herzegovina Following Rule 54 *bis* Hearing, 19 October 2010; Order Scheduling a Hearing Pursuant to Rule 54 *bis* (Bolivarian Republic of Venezuela), 22 March 2011; Scheduling Order Relating to Rule 54 *bis* Hearing (Bolivarian Republic of Venezuela), 9 May 2011; Invitation to the Bolivarian Republic of Venezuela Following Rule 54 *bis* Hearing, 13 May 2011; Scheduling Order for Rule 4 Hearing, confidential, 18 February 2013.

<sup>20146</sup> Decision on the Accused's Application for Binding Order Pursuant to Rule 54 *bis* (Austria), 15 October 2009; Decision on the Accused's Application for Binding Order Pursuant to Rule 54 *bis* (Federal Republic of Germany), 19 May 2010; Decision on the Accused's Binding Order Motion (The French Republic), 30 June 2010; Decision on the Accused's Third Motion for Binding Order (Bosnia and Herzegovina), 6 May 2011.

<sup>20147</sup> Decision on the Accused's Application for Binding Order Pursuant to Rule 54*bis* (United States of America), 12 October 2009.

<sup>20148</sup> Decision on the Accused's Motion for Binding Order (The Islamic Republic of Iran), 9 June 2010; Decision on the Accused's Motion for Binding Order (United Nations and NATO), 11 February 2011; Decision on the Accused's Third Motion for Binding Order (United States of America), 17 February 2011; Decision on the Accused's Second Motion for Binding Order (The Islamic Republic of Iran) and Motion for Subpoena to Interview General Director Sadeghi, 10 May 2011; Decision on the Accused's Motion for Binding Order (The Kingdom of Saudi Arabia), 30 June 2011; Decision on Accused's Fifth Motion for Binding Order (United States of America), 22 August 2012.

by the Accused as a result of the voluntary co-operation by various states and organisations with the Accused.<sup>20149</sup>

6160. The Accused's wish to challenge the conclusions reached by the ICMP and Prosecution witness Thomas Parsons, as to the identification through DNA analysis of Srebrenica victims, was the subject of considerable discussion throughout the pre-trial phase of the case, and involved ongoing communication between the Prosecution, the Accused's legal adviser, the Accused's expert, and the ICMP. Given the complexity of the topic, the discussion also required the involvement of the Chamber, which issued a number of decisions on the matter.<sup>20150</sup> In 2012, the Accused filed a binding order motion requesting that the Chamber issue an order compelling the ICMP to make available to him a number of DNA case files for testing by his DNA expert.<sup>20151</sup> The Chamber denied the binding order motion on 4 March 2013 after receiving additional information from the parties.<sup>20152</sup> On 16 April 2013, the Chamber denied a motion filed by the Accused requesting the Chamber to exclude all evidence of the results of DNA analysis entered into evidence on behalf of the Prosecution.<sup>20153</sup>

c. Subpoenas

6161. Throughout the proceedings, the Accused filed a number of motions requesting the Chamber to issue subpoenas compelling various former or current state officials to be interviewed by his Defence team, and the Chamber issued various invitations to a number of the states involved in these matters.<sup>20154</sup> The Chamber granted the Accused's request on five occasions, issuing subpoenas for four individuals ordering

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<sup>20149</sup> See Withdrawal of Motion for Binding Order to NATO, 10 August 2009; Withdrawal of Motion for Binding Order to Bangladesh, 24 August 2009; Withdrawal of Motion for Binding Order to Jordan, 4 September 2009; Withdrawal of Motion for Binding Order: Government of Malaysia, 28 September 2009; Withdrawal of Motion for Binding Order: Government of Sweden, 30 September 2009; Withdrawal of Motion for Binding Order: Government of United Kingdom, 14 October 2009; Withdrawal of Motion for Binding Order: Government of Denmark, 21 October 2009; Withdrawal of Motion for Binding Order: Government of Egypt, 2 November 2009; Withdrawal of Motion for Binding Order: Government of Greece, 2 November 2009; Withdrawal of Motion for Binding Order: Government of Turkey, 2 November 2009; Withdrawal of Motion for Binding Order: Government of Austria, 4 November 2009; Withdrawal of Motion for Binding Order: Government of Belgium, 30 November 2009; Withdrawal of Motion for Binding Order: Government of Norway, 30 November 2009; Withdrawal of Motion for Binding Order: Government of Poland, 1 December 2009; Withdrawal of Motion for Binding Order: Government of Netherlands, 13 April 2010; Withdrawal of Second Motion for Binding Order: Government of Belgium, 10 September 2010; Withdrawal of Motion for Binding Order: Government of Canada, 6 January 2011; Withdrawal of Motion for Binding Order: European Union, 24 February 2011; Withdrawal of Second Motion for Binding Order: Government of Denmark, 5 April 2011; Withdrawal of Second Motion for Binding Order: Government of Bosnia, 11 April 2011; Withdrawal of Fourth Motion for Binding Order: United States of America, 2 May 2011; Withdrawal of Motion for Binding Order: United Arab Emirates, 18 May 2011; Withdrawal of Motion for Binding Order: Government of Bosnia, 27 September 2011; Withdrawal of Motion for Binding Order: United Nations, 21 March 2012; Withdrawal of Motion for Binding Order: Government of Venezuela, 21 March 2012.

<sup>20150</sup> Order on Selection of Cases for DNA Analysis, 19 March 2010; Decision in Relation to Selection of Cases for DNA Analysis, 23 September 2011; Decision on the Accused's Motion to Unseal ICMP Exhibits, 25 April 2012; Decision on Prosecution's Motion for Partial Reconsideration or Clarification of the Chamber's Decision on the Accused's Motion to Unseal ICMP Exhibits, 5 September 2012. See Interim Decision on Prosecution's Motion for Partial Reconsideration or Clarification on the Chamber's Decision on the Accused's Motion to Unseal ICMP Exhibits, 11 July 2012; Interim Order on the Accused's Motion for Binding Order to International Commission for Missing Persons, 19 July 2012.

<sup>20151</sup> Motion for Binding Order to International Commission for Missing Persons, 15 May 2012. See also Prosecution's Response to Accused's Motion for Binding Order to International Commission for Missing Persons, 29 May 2012; Reply Brief: Motion for Binding Order to International Commission for Missing Persons, 11 June 2012; Prosecution's Sur-Reply to Accused Reply Brief: Motion for Binding Order to International Commission for Missing Persons, 11 June 2012.

<sup>20152</sup> Decision on the Accused's Motion for Binding Order to International Commission for Missing Persons, 4 March 2013. See also Submission on Motion for Binding Order to International Commission on Missing Persons, 13 December 2012; Prosecution's Submission on Applicability of Rule 54 and Rule 54 bis to ICMP and on Karadžić's Supplemental Submission, 20 December 2012.

<sup>20153</sup> Decision on the Accused's Motion to Exclude DNA Evidence, 16 April 2013. See also Motion to Exclude DNA Evidence, 11 March 2013; Prosecution's Response to Motion to Exclude DNA Evidence, 25 March 2013.

<sup>20154</sup> See Invitation to Croatia Regarding Motion for Subpoena of Miroslav Tudman, 8 September 2010; Invitation to France Regarding Motion for Subpoena of Colonel Guy de Haynin de Bry, 17 November 2010; Invitation to Germany Regarding Motion for Subpoena of Christoph Von Bezold, 8 April 2011; Invitation to the Government of Croatia Regarding Interview of Miroslav Tudman, 14 September 2011; Invitation to Croatia Regarding Interview of Vladimir Zagorec, 25 January 2012; Invitation to Greece Regarding Motion for Subpoena of President Karolos Papoulias, 27 January 2012; Invitation to Norway Regarding Motion for Subpoena of Thorvald Stoltenberg, 1 May 2012; Invitation to The United States of America, 20 July 2012; Invitation to Malaysia, 13 June 2013.

each of them to submit to an interview by the Accused's legal adviser, and issuing an order to a State to facilitate an interview with another individual.<sup>20155</sup> The Accused himself withdrew some of his motions<sup>20156</sup> and the Chamber denied the remainder.<sup>20157</sup>

6162. The Prosecution filed a number of motions requesting the Chamber to issue subpoenas to various individuals who had refused to testify in this case. The Chamber granted the Prosecution's requests and issued subpoenas to six individuals, namely Momčilo Mandić, Berko Zečević, Milan Tupajić, KDZ310, KDZ379, and KDZ532, to appear before the Chamber.<sup>20158</sup> Following the Chamber's orders, KDZ310, KDZ379, and KDZ532 appeared before the Chamber and testified as Prosecution witnesses; as discussed above, Momčilo Mandić also testified but as a Chamber's witness.<sup>20159</sup> Milan Tupajić continued to refuse to testify, and the Chamber held contempt proceedings against him, as described in detail below.<sup>20160</sup> While Berko Zečević also continued to refuse to testify, following his arrest and subsequent transfer to the Tribunal, he testified voluntarily before the Chamber, as described in detail below.<sup>20161</sup>

6163. Similarly, the Accused also filed various motions requesting the Chamber to issue subpoenas to various individuals to appear for testimony in his Defence case, and the Chamber issued a number of invitations to a number of the states involved in these matters.<sup>20162</sup> As a result of the Chamber's efforts, at least one individual reconsidered his view and agreed to appear voluntarily before the Chamber. The Chamber ultimately issued 18 decisions denying the Accused's requests.<sup>20163</sup> The Chamber issued

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<sup>20155</sup> Decision on Accused's Motion for Subpoena to Interview: General Sead Delić and Brigadier Refik Brđanović, 5 July 2011; Order to the Government of Bosnia and Herzegovina Concerning Subpoena, 5 July 2011; Subpoena, 5 July 2011; Decision on the Accused's Motion for Subpoena to Interview Miroslav Tuđman, 14 July 2011; Order to the Government of Croatia Concerning Subpoena, 14 July 2011; Subpoena, 14 July 2011; Decision on the Accused's Motion for Subpoena to Interview Christoph Von Bezold, 1 December 2011; Order to the Government of the Federal Republic of Germany Concerning Subpoena, 1 December 2011; Subpoena, 1 December 2011; Decision on Accused's Motion for Subpoena to Interview Vladimir Zagorec, 12 March 2012; Order to the Government of Croatia Concerning Subpoena, 12 March 2012; Subpoena, 12 March 2012; Order to France, 4 May 2012. *See also* Decision on Accused's Motion for Withdrawal of Order to France, 13 June 2012.

<sup>20156</sup> *See inter alia* Withdrawal of Motion for Subpoena to Interview Yasushi Akashi, 27 September 2012.

<sup>20157</sup> *See inter alia* Decision on Motion to Subpoena Prosecution Witness Ronald Eimers for Interview, 29 March 2010; Decision on Accused's Motion to Compel Interview: General Sir Rupert Smith, 25 January 2011; Decision on Accused's Motion to Compel Interviews: Sarajevo 92 *bis* Witnesses, 21 March 2011; Decision on Accused's Motion to Compel Interview: Griffiths Evans, 20 April 2011; Decision on Motion for Subpoena to Interview Edin Garaplija, 15 November 2012; Decision on Motion for Subpoena to Interview President Karolos Papoulias, 20 March 2012.

<sup>20158</sup> Decision on Prosecution's Urgent Motion to Subpoena Momčilo Mandić with Appendices A-D, confidential, 16 June 2010; Decision on Prosecution's Motion to Subpoena KDZ310, confidential, 14 September 2010; Decision on Prosecution's Motion to Subpoena Berko Zečević, confidential, 20 January 2011, made public on 15 February 2011; Decision on Prosecution's Motion to Subpoena Witness, confidential, 24 August 2011; Decision on Prosecution's Motion to Subpoena Milan Tupajić, 23 September 2011; Decision on Prosecution's Motion to Subpoena Witness KDZ532, confidential, 19 October 2011.

<sup>20159</sup> *See* para. 6136, fn. 20734.

<sup>20160</sup> *See* para. 6173.

<sup>20161</sup> *See* para. 6173.

<sup>20162</sup> *See* Invitation to Japan and the United Nations Regarding Motion for Subpoena of Yasushi Akashi, 23 August 2012; Invitation to Greece Regarding Motion to Subpoena President Karolos Papoulias, 23 August 2012; Invitation Regarding Motion to Subpoena Ambassador Jose Cutileiro, 25 September 2012; Invitation to the United States of America, 17 December 2012; Invitation to the Government of Bosnia and Herzegovina, 6 June 2013; Second Invitation to the Government of Bosnia and Herzegovina, 28 June 2013; Invitation to the Government of Bosnia and Herzegovina, 12 December 2013; Invitation to The United States of America, 21 January 2014. *See also* Invitation to Australia, 25 February 2013.

<sup>20163</sup> *See* Decision on the Accused's Second Motion for Subpoena to Interview President Bill Clinton, 21 August 2012; Decision on Accused's Motion to Subpoena President Karolos Papoulias, 23 October 2012; Decision on Accused's Motion to Subpoena Prime Minister Milan Panić, 13 December 2012; Decision on Accused's Motion to Subpoena Ranko Mijić, 11 January 2013; Decision on Accused's Motion to Subpoena Naser Orić, 11 January 2013; Decision on Accused's Motion to Subpoena Ambassador Hall, 16 January 2013; Decision on Accused's Motion to Subpoena Dragoš Milanković, 18 January 2013; Decision on Accused's Motion to Subpoena Slavko Budimir, 22 January 2013; Decision on Accused's Motion to Subpoena Miloš Tomović, 28 January 2013; Decision on Accused's Motion to Subpoena Fikret Abdić, 26 February 2013; Decision on Accused's Second Motion to Subpoena Naser Orić, 4 April 2013; Decision on Accused's Motion to Subpoena Hasan Čengić, 6 May 2013; Decision on Accused's Motion to Subpoena Thomas Karremans, 29 May 2013; Decision on Accused's Motion to Subpoena Nikola Tomašević, 11 December 2013; Decision on Accused's Motion to Subpoena Dragan Kalinić, 18 December 2013; Decision on Accused's Motion to Subpoena Srdan Forca, 18 December 2013; Public Redacted Version of "Decision on Accused's Motion to Subpoena Witness KW540" Issued on 3 February 2014, 4 March 2015; Decision on Accused's Motion for Subpoena to Norman Schindler, 19 February 2014.

subpoenas to appear before it to 12 individuals who had refused to testify as Defence witnesses, namely Radislav Krstić, Edin Garaplija, Jose Cutileiro, Slavko Puhalić, Milenko Živanović, Zdravko Tolimir, Ljubiša Beara, Radivoje Miletić, Svetozar Andrić, John Zametica, Ratko Mladić, and Mićo Stanišić.<sup>20164</sup>

6164. Following the Chamber's orders, Garaplija, Cutileiro, Puhalić, Živanović, Andrić, Zametica, and Stanišić appeared before the Chamber and testified as Defence witnesses. Radislav Krstić continued to refuse to testify, and the Chamber held contempt proceedings against him, as described in detail below.<sup>20165</sup> On 4 June 2013, the Chamber granted Tolimir's request to suspend the subpoena against him and granted him leave to appeal the decision compelling him to testify in the present case.<sup>20166</sup> On 2 July 2013, the Chamber issued an oral order granting the Accused's request to postpone the testimony of Beara and Miletić until such time as the Appeals Chamber issued its decision on Tolimir's appeal.<sup>20167</sup> On 13 November 2013, the Appeals Chamber issued a decision denying Tolimir's appeal.<sup>20168</sup> Tolimir and Beara testified as Defence witnesses in December 2013 and January 2014.<sup>20169</sup> Mladić appeared before the Chamber on 28 January 2014 after the Chamber denied his request to appeal the decision compelling him to testify, as well as his and the Prosecution's motions for reconsideration of the Chamber's denial to appeal the subpoena.<sup>20170</sup> Despite appearing before the Chamber, Mladić continued to invoke his right not to testify and the Chamber chose not to compel him to answer the questions put to him by the Accused.<sup>20171</sup> Finally, following a request from Miletić himself to postpone his testimony, the Chamber *proprio motu* vacated its decision to subpoena Miletić, as well as the subpoena issued against him.<sup>20172</sup>

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<sup>20164</sup> See Public Redacted Version of "Decision on Accused's Motion to Subpoena Radislav Krstić" issued on 23 October 2012; Decision on Second Motion for Subpoena: Edin Garaplija, 18 December 2012; Order to the Government of Bosnia and Herzegovina Concerning Subpoena *Ad Testificandum*, 18 December 2012; Subpoena *Ad Testificandum*, 18 December 2012; Decision on Accused's Motion to Subpoena Ambassador José Cutileiro, 19 December 2012; Order to the Government of the Portuguese Republic Concerning Subpoena, 19 December 2012; Subpoena *Ad Testificandum*, 19 December 2012; Decision on Accused's Motion to Subpoena Slavko Puhalić, 20 March 2013; Subpoena *Ad Testificandum*, 20 March 2013; Order to the Government of Bosnia and Herzegovina Concerning Subpoena *Ad Testificandum*, 20 March 2013; Decision on Accused's Motion to Subpoena Milenko Živanović, 23 April 2013; Subpoena *Ad Testificandum*, 23 April 2013; Order to the Government of the Republic of Serbia Concerning Subpoena *Ad Testificandum*, 23 April 2013; Decision on Accused's Motion to Subpoena Zdravko Tolimir, 9 May 2013; Subpoena *Ad Testificandum*, 9 May 2013; Decision on Accused's Motion to Subpoena Ljubiša Beara, 9 May 2013; Subpoena *Ad Testificandum*, 9 May 2013; Decision on Accused's Motion to Subpoena Radivoje Miletić, 9 May 2013; Subpoena *Ad Testificandum*, 9 May 2013; Decision on Accused's Motion to Subpoena Svetozar Andrić, 28 May 2013; Subpoena *Ad Testificandum*, 28 May 2013; Order to the Government of the Republic of Serbia Concerning Subpoena *Ad Testificandum*, 28 May 2013; Decision on Accused's Motion to Subpoena John Zametica, 27 August 2013; Subpoena *Ad Testificandum*, 27 August 2013; Order to the Government of the Republic of Austria Concerning Subpoena *Ad Testificandum*, 27 August 2013; Decision on Accused's Motion to Subpoena Ratko Mladić, 11 December 2013; Subpoena *Ad Testificandum*, 11 December 2013; Decision on Accused's Motion to Subpoena Mićo Stanišić, 13 December 2013; Subpoena *Ad Testificandum*, 13 December 2013. See also Decision on Motion for Subpoena: Edin Garaplija, 26 November 2012; Oral Ruling, T. 40841–40842 (5 July 2013); Addendum to Subpoena *Ad Testificandum* Issued 20 March 2013, 28 August 2013.

<sup>20165</sup> See para.6174.

<sup>20166</sup> Decision on Tolimir Request for Certification to Appeal Subpoena Decision, 4 June 2013. See also Request to the Trial Chamber to Suspend the Subpoena to Allow Tolimir to File an Appeal Against the Decision on the Accused's Motion to Subpoena Zdravko Tolimir and Against the Subpoena", 15 May 2013.

<sup>20167</sup> See T. 40639–40640 (2 July 2013) for parties' submissions. See T. 40717 (2 July 2013) for the Chamber's oral ruling.

<sup>20168</sup> Decision on Appeal Against the Decision on the Accused's Motion to Subpoena Zdravko Tolimir, 13 November 2013.

<sup>20169</sup> Zdravko Tolimir, T. 45059–45067 (12 December 2013); Ljubiša Beara, T. 45198–45212 (17 December 2013); T. 45794–45806 (22 January 2014).

<sup>20170</sup> Ratko Mladić, T. 46047–46055 (28 January 2014); Decision on Mladić Request for Certification to Appeal Subpoena Decision, 23 December 2013; Decisions on Urgent Motions for Reconsideration of Decision Denying Mladić Request for Certification to Appeal Subpoena Decision, 22 January 2014. See also Motion of Ratko Mladić for Certification to Appeal Decisions of 11 December 2013 by Karadžić Chamber, 18 December 2013; Mladić Urgent Motion for Reconsideration of Decision on Motion for Certification to Appeal, 14 January 2014; Urgent Prosecution Motion for Reconsideration of Decision on Mladić Request for Certification to Appeal Subpoena Decision, 15 January 2014.

<sup>20171</sup> Ratko Mladić, T. 46039–46055 (28 January 2014).

<sup>20172</sup> Public Redacted Version of "Decision on Request by Radivoje Miletić to Postpone Date of Testimony" Issued on 13 February 2014, 14 February 2014. See also Request of Radivoje Miletić to Postpone His Court Appearance, confidential, 4 February 2014; Response to General Miletić's Request for Postponement of Subpoena, 6 February 2014.



d. Judicial notice

6165. In 2008 and 2009, the Prosecution filed five large motions for judicial notice of adjudicated facts pursuant to Rule 94(B), covering in total more than 3,000 facts.<sup>20173</sup> The Chamber issued five decisions taking judicial notice of approximately 2,400 of the facts proposed.<sup>20174</sup>

6166. In early 2010, the Prosecution filed a motion pursuant to Rule 94(B), for the judicial notice of the authenticity of hundreds of documents that were admitted into evidence in previous trials, including a large number of intercepts, relating to the Sarajevo component of the case. In March 2010, the Chamber denied the Prosecution's motion with respect to a large number of documents tendered by the Prosecution, and denied without prejudice the admission of various intercepts.<sup>20175</sup> In February 2011, the Chamber granted in part the motion filed by the Prosecution resubmitting its request to the Chamber to take judicial notice of the authenticity of various intercepts relating to the Sarajevo component of the case.<sup>20176</sup> The Accused applied for certification to appeal the Chamber's decision, but it was denied.<sup>20177</sup>

6167. On 21 January 2014, the Chamber issued a decision denying the Accused's motion requesting the Chamber to take judicial notice of 26 facts relating to Count 1, also pursuant to Rule 94(B) of the Rules.<sup>20178</sup>

a. Protective measures

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<sup>20173</sup> First Prosecution Motion for Judicial Notice of Adjudicated Facts, 27 October 2008; Second Prosecution Motion for Judicial Notice of Adjudicated Facts and *Corrigendum* to First Prosecution Motion for Judicial Notice of Adjudicated Facts, 17 March 2009; Third Prosecution Motion for Judicial Notice of Adjudicated Facts, 7 April 2009; Fourth Prosecution Motion for Judicial Notice of Adjudicated Facts, 26 August 2009; Fifth Prosecution Motion for Judicial Notice of Adjudicated Facts, 15 December 2009. *See also* Submission of Renumbered Appendix to Fifth Prosecution Motion for Judicial Notice of Adjudicated Facts, 2 February 2010; *Corrigendum* to Fifth Prosecution Motion for Judicial Notice of Adjudicated Facts with Appendix A", 9 February 2010.

<sup>20174</sup> Decision on First Prosecution Motion for Judicial Notice of Adjudicated Facts, 5 June 2009; Decision on Third Prosecution Motion for Judicial Notice of Adjudicated Facts, 9 July 2009; Decision on Second Prosecution Motion for Judicial Notice of Adjudicated Facts, 9 October 2009; Decision on Fourth Prosecution Motion for Judicial Notice of Adjudicated Facts, 14 June 2010; Decision on Fifth Prosecution Motion for Judicial Notice of Adjudicated Facts, 14 June 2010; *Corrigendum* to the Trial Chamber's Decision on First Prosecution Motion for Judicial Notice of Adjudicated Facts, 24 June 2013. Furthermore, on 14 June 2010, the Chamber rendered a decision denying two motions for reconsideration filed by the Accused, requesting the Chamber to reconsider its findings in the three adjudicated facts decisions issued during the pre-trial phase of the case based upon findings by other Trial Chambers which had allegedly applied a different standard than this Chamber; Decision on Accused's Motions for Reconsideration of Decisions on Judicial Notice of Adjudicated Facts, 14 June 2010; *see* Motion for Reconsideration of Decisions on Judicial Notice of Adjudicated Facts, 4 March 2010; Second Motion for Reconsideration of Decision on Judicial Notice of Adjudicated Facts, 26 April 2010. Similarly, in 2012, the Chamber rendered a decision denying three motion filed by the Accused requesting the Chamber to reconsider its decisions on adjudicated facts based on the approach taken on a number of adjudicated facts decisions issued by the *Mladić* Chamber; Decision on Three Accused's Motions for Reconsideration of Decisions of Judicial Notice of Adjudicated Facts, 4 May 2012; *see* Third Motion for Reconsideration of Decision on Judicial Notice of Adjudicated Facts, 12 March 2012; Fourth Motion for Reconsideration of Decision on Judicial Notice of Adjudicated Facts, 26 March 2012; Fifth Motion for Reconsideration of Decision on Judicial Notice of Adjudicated Facts, 17 April 2012. In its "Notice of Withdrawal of Incident A.5.1" of 18 August 2014, the Prosecution notified that Chamber that it no longer intended to rely on Adjudicated Facts 758 and 759.

<sup>20175</sup> Decision on the Prosecution's First Motion for Judicial Notice of Documentary Evidence Related to the Sarajevo Component, 31 March 2010. *See also* Decision on Motion for Extension of Time to File Response to Prosecution Motion for Judicial Notice of Documents, 30 October 2009; Decision on the Accused's Response to Prosecution Motion for Judicial Notice of Documents and Motion for Further Extension of Time, 24 December 2009; Order Regarding the Prosecution's Request for Leave to Reply to Karadžić's Response to Prosecution Motion for Judicial Notice of Documents, 30 December 2009; Decision on Prosecution Request for Leave to Reply to "Second Supplemental Response to Motion for Judicial Notice of Documents", 15 March 2010.

<sup>20176</sup> Decision on the Prosecution's Motion for Judicial Notice of Intercepts Related to the Sarajevo Component and Request for Leave to Add One Document to the Rule 65 *ter* Exhibit List, 4 February 2011. Following the amendment to Rule 94(B) of the Rules during the plenary session held on 8 December 2010, the Chamber focused its analysis in the decision on whether to take judicial notice of the authenticity of documentary evidence which had been admitted in prior proceedings, and not in the admission into evidence of the documents.

<sup>20177</sup> Decision on Accused's Motion for Certification to Appeal Decision on Judicial Notice of the Authenticity of Intercepts, 17 February 2011.

<sup>20178</sup> Decision on Accused's Motion for Judicial Notice of Adjudicated Facts Related to Count One, 21 January 2014.

6168. During 2008 and the first half of 2009, the Chamber issued a number of decisions on protective measures.<sup>20179</sup> On 24 July 2009, the Chamber issued a confidential decision which included a chart setting out all the protective measures in place for witnesses appearing on the Prosecution's Rule 65 ter witness list at that date (totalling 161 of 541 witnesses).<sup>20180</sup> Following further submissions from the parties, the chart was finalised and appended to an order issued on 14 August 2009.<sup>20181</sup>
6169. Throughout the case, the Chamber continued to issue a large number of decisions granting, varying, rescinding, augmenting, or noting protective measures for Prosecution witnesses.<sup>20182</sup> As a result of the various decisions issued by the Chamber, and in order to keep the record of protective measures in place as accurate and up-to-date as possible, the Chamber produced and updated nine charts on protective measures in place for Prosecution witnesses.<sup>20183</sup>
6170. The Chamber was also seized of a large number of motions filed by the Accused for the granting of protective measures to Defence witnesses and issued 19 decisions on the matter.<sup>20184</sup> The Chamber continued with its practice and created a

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<sup>20179</sup> See Preliminary Order on Prosecution Motion for Protective Measures for Witnesses, 26 September 2008; Decision on Protective Measures for Witnesses, 30 October 2008; Decision on Motion for and Notifications of Protective Measures, 26 May 2009; Decision on Prosecution's Motion for Delayed Disclosure for KDZ456, KDZ493, KDZ531, and KDZ532 and Variation of Protective Measures for KDZ489, 5 June 2009; Decision on Prosecution's Motion for Protective Measures for Witnesses KDZ182, KDZ185, KDZ304, and KDZ450 Pursuant to Rule 70, 2 July 2009.

<sup>20180</sup> Decision on Protective Measures, confidential, 24 July 2009.

<sup>20181</sup> Order on Chart of Protective Measures for Witnesses, 14 August 2009.

<sup>20182</sup> See Decision on Prosecution's Motion for Rescission of Protective Measures (KDZ546), 29 October 2009; Decision on Prosecution's Motion for Rescission of Protective Measures of KDZ263, 26 February 2010; Decision on Accused's Motion for Modification of Protective Measures: Witnesses KDZ490 and KDZ492, 25 March 2010; Decision on Prosecution's Motion for Rescission of Protective Measures for KDZ323, 22 June 2010; Decision on Video-Conference Link and Request for Protective Measures for KDZ595, 18 August 2010; Reasons for Trial Chamber's Decision on Defence Request for Certification to Appeal: Modification of Protective Measures for KDZ088, 14 September 2010; Decision on Prosecution Motion for Protective Measures for Witness Bogdan Vidović, 21 September 2010; Decision on the Accused's Application for Certification to Appeal Decision on Reconsideration of Protective Measures (KDZ531), 16 August 2011; Decision on Prosecution Motions for Protective Measures for Witnesses KDZ601 and KDZ605, 19 August 2011; Public Redacted Version of "Decision on Accused's Motion to Recall KDZ080 and for Rescission of Protective Measures" Issued on 3 July 2013, 12 March 2015; Decision on Accused's Motion to Rescind Protective Measures for Prosecution Witnesses KDZ033 and KDZ523, confidential, 5 February 2014; Decision on Prosecution Motion to Re-open its Case and Prosecution Motion for Protective Measures for Witness KDZ614, 20 March 2013.

<sup>20183</sup> Second Order on Chart of Protective Measures for Witnesses, 24 August 2010; Third Order on Chart of Protective Measures for Witnesses, 23 November 2010; Fourth Order on Chart of Protective Measures for Witnesses, 22 August 2011; Fifth Order on Chart of Protective Measures for Witnesses, 6 October 2011; Sixth Order on Chart of Protective Measures for Witnesses, 24 January 2012; Decision on Protective Measures for Witnesses, 2 March 2012; Eight Order on Chart of Protective Measures for Prosecution Witnesses, 18 January 2013; Ninth Order on Chart of Protective Measures for Prosecution Witnesses, 12 December 2013.

<sup>20184</sup> Order in Relation to Accused's Notice of Request of Protective Measures for Witnesses, 2 October 2012; Addendum to Order in Relation to Accused's Notice of Request of Protective Measures for Witnesses Issued on 8 October 2012, 9 October 2012; Decision on Motion for Protective Measures for Witness KW456, 12 October 2012; Decision on Motion for Consideration of Protective Measures for Witness KW341, 17 October 2012; Decision on Motion for Protective Measures for Witness KW285, 17 October 2012; Decision on Accused's Motions for Protective Measures for Witnesses KW289, KW299, KW378, and KW543, 1 October 2012; Decision on Accused's Motion for Video Link Testimony and Consideration of Protective Measures for Witness KW533, 9 November 2012; Decision on Accused's Motion for Protective Measures for Witness KW194, 12 November 2012; Decision on Accused's Motion for Rescission of Protective Measures for KW60, 14 November 2012; Decision on Accused's Motion for Protective Measures for Miladin Trifunović, 15 November 2012; Decision on Accused's Motion for Video Link Testimony for Witnesses Janko Ivanović and Ilija Mišević, 21 November 2012; Decision on Accused's Motion for Protective Measures for Witness KW492, 23 November 2012; Decision on Accused's Motion for Protective Measures for Witness KW007, 19 December 2012; Decision on Accused's Motion for Protective Measures for Witness KW402, 8 January 2013; Decision on Accused's Motion for Protective Measures for Witness KW466, 25 January 2013; Decision on Accused's Motion for Protective Measures for Witness KW392, 14 February 2013; Decision on Accused's Motion for Protective Measures for Witness KW012, confidential, 24 June 2013; Decision on Accused's Motion for Protective Measures for Witness KW428, 9 July 2013; Decision on Accused's Motion for Protective Measures for Witness KW586, confidential, 19 November 2013; Decision on Accused's Second Motion for Protective Measures for Witness KW586, confidential, 17 January 2014.

comprehensive chart, which was attached to an explanatory order.<sup>20185</sup> The chart was updated as necessary.<sup>20186</sup>

f. Access to confidential material

1. 6171. The Accused was granted access to confidential material in ongoing cases as well as in more than 30 completed cases.<sup>20187</sup> The Chamber also issued a number of decisions on motions filed by accused in other proceedings requesting access to confidential materials in the case.<sup>20188</sup>

g. Exhibit-related issues

6172. Throughout the case, the Chamber was seized of, and issued decisions on, a number of bar table motions filed by the parties covering hundreds of items.<sup>20189</sup> At the end of the Prosecution's case, the Chamber issued 11 decisions admitting approximately 750 documents.<sup>20190</sup> Similarly, at the end of the Defence case, the Chamber issued six decisions admitting approximately 415 documents.<sup>20191</sup>

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<sup>20185</sup> Order on Chart of Protective Measures for Defence Witnesses, 18 January 2013.

<sup>20186</sup> Second Order on Chart of Protective Measures for Defence Witnesses, 12 December 2013, Third Order on Chart of Protective Measures for Defence Witnesses, 19 May 2014.

<sup>20187</sup> Decision on Motion for Access to Confidential Materials in Completed Cases, 5 June 2009; Decision on Motion to Modify Decision Re Access by Karadžić to Confidential Materials in Completed Cases, 3 July 2009; Decision on the Accused's Motion for Access to *Ex Parte* Filings in the Slobodan Milošević Case (Srebrenica Intercepts), 28 February 2011; Decision on the Accused's Motion for Access to Confidential Material from the Dragomir Milošević Case, 14 July 2011; Decision on Accused's Motion for Access to Exhibits in *Orić* Case, 18 November 2011; Decision on Prosecution Motion to Modify the Decision Granting the Accused Access to Confidential Materials in the *Vasiljević* Case, 8 March 2012; Order for Access to Audio Recordings from *Brđanin* Case, 25 September 2013.

<sup>20188</sup> Decision on Momčilo Perišić's Motion for Access to Confidential Materials in the *Radovan Karadžić* Case, 14 October 2008; Decision on Accused Application for Certification to Appeal Trial Chamber's Decision on Momčilo Perišić's Motion for Access to Confidential Materials in the *Radovan Karadžić* Case, 13 November 2008; Decision on Supplement to Momčilo Perišić's Motion for Access to Confidential Materials in the *Radovan Karadžić* Case, 13 November 2008; Decision on Jovica Stanišić's Motion for Access to Confidential Materials in the *Karadžić* Case, 20 May 2009; Decision on General Miletić's Request for Access to Confidential Information in the *Karadžić* Case, 31 March 2010; Decision on Mičo Stanišić's and Stojan Župljanin's Requests for Access to Confidential Information in the *Karadžić* Case, 7 March 2011; Decision on Zdravko Tolimir's Motion for Disclosure of Confidential Materials from the *Karadžić* Case, 12 January 2012; Decision on Defence Request for Access to Confidential Materials from *Karadžić* Case, 8 November 2012; Decision on Gvero Defence Request for Access to Confidential Materials from the *Karadžić* Case, 6 February 2013.

<sup>20189</sup> Decision on Prosecution Bar Table Motion for the Admission of Bosnian Serb Assembly Records, 22 July 2010; Decision on Second Prosecution Bar Table Motion for the Admission of Bosnian Serb Assembly Records, 5 October 2010; Decision on Prosecution's Motion for Admission of an Exhibit from the Bar Table Following Major Thomas's Testimony, 28 October 2010; Decision on Motion for Admission of Evidence from Bar Table: General Michael Rose, 29 October 2010; Decision on Second Motion for Admission of Evidence from Bar Table: General Michael Rose, 17 December 2010; Decision on the Accused's Motion to Admit Document Relevant to Incident G4 from the Bar Table, 3 June 2011; Decision on Prosecution's Motion for the Admission of 68 Sarajevo Romanija Corps Documents from the Bar Table, 16 June 2011; Decision on the Prosecution's Bar Table Motion Relating to Witness Dorothea Hanson, 27 June 2011; Decision on Accused's Motion to Admit Document Relevant to Incident G7 from the Bar Table, 6 July 2011; Decision on Prosecution Bar Table Motion for the Admission of Records of Bosnian Serb Organs, 18 July 2011; Decision on Accused's Motion to Admit Documents Relevant to Witnesses KDZ490 and KDZ492 from the Bar Table, 9 January 2012; Decision on Prosecution's Motion for Admission of Evidence from the Bar Table and for Leave to Add Exhibits to the Rule 65 *ter* Exhibit List, 21 February 2012; Decision on the Accused's Bar Table Motion (Sarajevo Intercepts), 9 October 2012; Decision on Accused's Motion for Admission of Documents from Bar Table: General Miletić Documents, 27 February 2014.

<sup>20190</sup> Decision on Prosecution's Motion for Admission of Evidence from the Bar Table (Hostages), 1 May 2012; Decision on Prosecution's Bar Table Motion for the Admission of Documents Related to the Sarajevo Component, 11 May 2012; Corrigendum to Decision on Prosecution's Bar Table Motion for the Admission of Documents Related to the Sarajevo Component, 14 May 2012; Decision on Prosecution's First Bar Table Motion for the Admission of Intercepts, 14 May 2012; Decision on Prosecution's Motion for the Admission of Evidence from the Bar Table (Srebrenica), 22 May 2012; Decision on Prosecution's Motion for the Admission of Two Intercepts from the Bar Table, 22 May 2012; Corrigendum to Decision on Prosecution's Motion for the Admission of Evidence from the Bar Table (Srebrenica), 24 May 2012; Decision on Prosecution's Third Bar Table Motion for the Admission of Intercepts (Srebrenica), 24 May 2012; Decision on Prosecution's Motion for the Admission of Documents from the Bar Table (Municipalities), 25 May 2012; Decision on Prosecution's Second Bar Table Motion for the Admission of Intercepts, 25 May 2012; Corrigendum to Decision on Prosecution's Third Bar Table Motion for the Admission of Intercepts (Srebrenica), 29 May 2012.

<sup>20191</sup> Decision on Accused's Motion for Admission of Documents from Bar Table: General Miletić Documents, 27 February 2014; Decision on Accused's Bar Table Motion: Disclosure Violation Documents, 19 March 2014; Decision on Accused's Bar Table Motion (Karadžić Statements), 2 April 2014; Decision on Accused's Bar Table Motion (Sarajevo Component Documents), 7 April 2014;

#### 4. Contempt proceeding

6173. As stated above, at the request of the Prosecution the Chamber issued subpoenas ordering two individuals in the Prosecution's Rule 65 *ter* witness list, namely Berko Zečević and Milan Tupajić, to appear and testify before the Chamber.<sup>20192</sup> Following the individuals' continued refusal to comply with the subpoenas and appear before the Chamber, the Chamber ordered that the witnesses be prosecuted for contempt of the Tribunal, therefore issuing a warrant for arrest for each of them.<sup>20193</sup> Following the arrest and subsequent transfer of Zečević to the Tribunal, he decided to voluntarily testify before the Chamber as a Prosecution witness.<sup>20194</sup> However, Milan Tupajić continued to refuse to comply with the subpoena so the Chamber conducted contempt proceedings against him, finding him guilty of contempt and sentencing him to two months of imprisonment, which he served at the Tribunal's Detention Unit.<sup>20195</sup>

6174. Following Radislav Krstić's continued refusal to testify as a Defence witness after being ordered by the Chamber to do so, and the preparation of a detailed medical report on the witness's health, the Chamber issued an order in lieu of indictment initiating contempt proceedings against him on 27 March 2013.<sup>20196</sup> On 18 July 2013, the Chamber issued its Judgement and found by majority, Judge Kwon dissenting, that Krstić was not guilty of contempt.<sup>20197</sup>

#### 5. Site visits

6175. During the Prosecution phase of the case, the Chamber conducted two visits aimed at allowing the Chamber to become more familiar with the topography of certain key locations and thus assist its determination of the charges in the Indictment. In May 2011, the Judges visited various locations in and around Sarajevo.<sup>20198</sup> In June 2012, the Judges visited locations in and around Srebrenica.<sup>20199</sup> In both cases, a delegation which included, amongst others, a representative of the Prosecution and of the Accused, accompanied the Judges.

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Decision on Accused's Bar Table Motion for Admission of Intercepts, 7 April 2014; Decision on Accused's Bar Table Motion: Municipality Component Documents, 14 April 2014.

<sup>20192</sup> Decision on Prosecution's Motion to Subpoena Berko Zečević, confidential, 20 January 2011 (made public on 15 February 2011); Subpoena Ad Testificandum, confidential, 20 January 2011 (made public on 15 February 2011); Order to the Government of Bosnia and Herzegovina Concerning Subpoena, confidential, 20 January 2011 (made public on 15 February 2011); Subpoena Ad Testificandum, confidential, 23 September 2011; Second Subpoena Ad Testificandum, confidential, 3 November 2011; Order to the Government of Bosnia and Herzegovina Concerning Second Subpoena Ad Testificandum, confidential, 3 November 2011; Decision on Prosecution's Motion to Subpoena Milan Tupajić, 23 September 2011.

<sup>20193</sup> Order in Lieu of Indictment, confidential, 4 February 2011 (made public on 15 February 2011); Warrant of Arrest and Order for Surrender, confidential, 4 February 2011 (made public on 15 February 2011); Order in Lieu of Indictment, confidential, 30 November 2011 (made public on 14 December 2011); Warrant of Arrest and Order for Surrender, confidential, 30 November 2011 (made public on 14 December 2011).

<sup>20194</sup> Following the filing by the Prosecution of a motion to withdraw the order in lieu of the indictment, the Chamber issued a decision suspending the contempt proceedings; Decision on Motion for Withdrawal of Order In Lieu of Indictment, 18 February 2011.

<sup>20195</sup> See Public Redacted Version of "Judgement on Allegations of Contempt" Issued on 24 February 2012.

<sup>20196</sup> Order in Lieu of Indictment, 27 March 2013. See Oral ruling, T. 33422–32423 (7 February 2013); Oral ruling, T. 35416–35417 (13 March 2013); Deputy Registrar's Notification Concerning the Appointment of an Independent Medical Expert, confidential, 14 February 2013; Krstić's Request for Reconsideration of the Order dated 13 March 2013, confidential, 19 March 2013; Oral ruling, T. 35748–35749 (21 March 2013).

20834. See Public Redacted Version of Judgement Issued on 18 July 2013.

<sup>20198</sup> Order on Submissions for a Site Visit, 15 November 2010; Decision on Site Visit, 28 January 2011; Order Lifting Confidentiality of Decision on Site Visit and Related Pleadings, 24 May 2011.

<sup>20199</sup> Decision on Second Site Visit, 10 February 2012; Order Lifting Confidentiality of Decision on Second Site Visit and Related Pleadings, 4 July 2012.

GLOSSARY AND TABLE OF AUTHORITIES

Glossary

<b>Abbreviation</b>	<b>Full citation</b>
<b>ABiH</b>	Army of the Republic of Bosnia and Herzegovina ( <i>Armija Bosne i Hercegovine</i> )
<b>Accused</b>	Radovan Karadžić
<b>Additional Protocol I</b>	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
<b>Additional Protocol II</b>	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
<b>Adjudicated Fact</b>	Adjudicated fact which judicial notice was taken by decisions of the Trial Chamber on 5 June 2009, 9 July 2009, 9 October 2009, and 14 June 2010
<b>a.k.a</b>	Also known as
<b>APC</b>	Armoured Personnel Carrier
<b>ARK</b>	Autonomous Region of Krajina ( <i>Autonomna Regija Krajina</i> )
<b>art.</b>	Article
<b>BiH</b>	Republic of Bosnia and Herzegovina
<b>BCS</b>	Acronym commonly used at the Tribunal to describe the Bosnian-Croatian-Serbian language
<b>BiHCMP</b>	Bosnian Federal Commission on Missing Persons or Bosnian Commission on Missing Persons
<b>BiHIMP</b>	Bosnia and Herzegovina Institute for Missing Persons
<b>BritBat</b>	British Battalion of UNPROFOR
<b>BVP</b>	Armoured Infantry Combat Vehicle
<b>CanBat</b>	Canadian Battalion of UNPROFOR



<b>CJB</b>	Public Security Centre (regional level) ( <i>Centar Javne Bezbednosti</i> )
<b>COHA</b>	Cessation of Hostilities Agreement of 23 December 1994
<b>Common Article 3</b>	Common Article 3 of the Geneva Conventions of 1949
<b>Convention Against Torture</b>	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984)
<b>Croatia</b>	Republic of Croatia
<b>CSB</b>	Security Services Centre ( <i>Centar Službi Bezbednosti</i> )
<b>CSCE</b>	Conference on Security and Co-operation in Europe
<b>D</b>	Defence exhibit admitted into evidence
<b>Defence Pre-Trial Brief</b>	<i>The Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-5/18-PT, Karadžić Pre-Trial Brief, 29 June 2009
<b>Defence Final Brief</b>	<i>The Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-5/18-T, Defence Final Trial Brief, confidential, 29 August 2014. A public redacted version was filed on 29 September 2014.
<b>DMZ</b>	Demilitarised zone
<b>DutchBat</b>	Dutch Battalion of UNPROFOR
<b>EC</b>	European Community
<b>ECHR</b>	European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950
<b>ECMM</b>	European Community Monitoring Mission
<b>EgyptBat</b>	Egyptian Battalion of UNPROFOR
<b>EU</b>	European Union
<b>Federal SUP</b>	SUP of the FRY, whose seat was in Belgrade
<b>fn.</b>	Footnote
<b>FreBat</b>	French Battalion of UNPROFOR
<b>FRY</b>	Federal Republic of Yugoslavia

<b>Geneva Convention I</b>	Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, August 12, 1949, 75 UNTS 31
<b>Geneva Convention II</b>	Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, August 12, 1949, 75 UNTS 85
<b>Geneva Convention III</b>	Convention Relative to the Treatment of Prisoners of War. Geneva, August 12, 1949, 75 UNTS 135
<b>Geneva Convention IV</b>	Relative to the Protection of Civilian Persons in Time of War. Geneva, August 12, 1949, 75 UNTS 2
<b>Genocide Convention</b>	Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948
<b>Hague Regulations</b>	Hague Convention (IV) respecting the Laws and Customs of War on Land, and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907
<b>HDZ</b>	Croatian Democratic Party ( <i>Hrvatska Demokratska Zajednica</i> )
<b>HQ</b>	Headquarters
<b>HV</b>	Croatian Army ( <i>Hrvatska Vojska</i> )
<b>HVO</b>	Croatian Defence Council ( <i>Hrvatsko Vijeće Obrane</i> )
<b>ICC</b>	International Criminal Court
<b>ICCPR</b>	International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171
<b>ICC Statute</b>	(Rome) Statute of the International Criminal Court, 17 July 1998, UN Doc. A/CONF.183/9
<b>ICFY</b>	International Conference on the former Yugoslavia (superseded the European Community Conference on Yugoslavia (ECCY) in August 1992)
<b>ICJ</b>	International Court of Justice
<b>ICMP</b>	International Commission on Missing Persons
<b>ICRC</b>	International Committee of the Red Cross

<b>ICTR</b>	International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994
<b>ICTR Rules</b>	Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda, July 5, 1995, as amended
<b>ICTR Statute</b>	Statute of the International Criminal Tribunal for Rwanda, <i>in</i> Security Council Resolution 955, UN SCOR, 49 <sup>th</sup> Year, Res. And Dec., at 15, UN Doc. S/INF/50 (1994)
<b>IKM</b>	Forward command post ( <i>istureno komandno mjesto</i> )
<b>ILC</b>	International Law Commission
<b>IMT</b>	International Military Tribunal sitting at Nuremberg, Germany
<b>Indictment</b>	<i>The Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-5/18-PT, Third Amended Indictment, 27 February 2009
<b>JCE</b>	Joint Criminal Enterprise
<b>JNA</b>	Yugoslav People's Army ( <i>Jugoslavenska Narodna Armija</i> )
<b>KDZ</b>	Counter Sabotage Protection Department of Bosnian Muslim Ministry of Interior ( <i>Kontradiverziona Zaštita</i> )
<b>Lima</b>	UNMO position monitoring SRK forces
<b>L UNMO</b>	UNMO team at Lukavica barracks, south of Sarajevo
<b>Markale I</b>	Shelling of Markale Market on 5 February 1994 (Scheduled Incident G8)
<b>Markale II</b>	Shelling of Markale Market on 28 August 1995 (Scheduled Incident G19)
<b>MBO</b>	Muslim Bosniak Organisation ( <i>Muslimanska Bošnjačka Organizacija</i> )
<b>MP</b>	Military Police
<b>MSF</b>	<i>Médecins Sans Frontières</i>

<b>MUP</b>	Ministry of Internal Affairs ( <i>Ministarstvo Unutrašnjih Poslova</i> )
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-governmental organisation
<b>Nuremberg Charter</b>	Charter of the International Military Tribunal for the Prosecution and Punishment of the German Major War Criminals, Berlin, 6 October 1945
<b>Nuremberg Principles</b>	Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal, unanimously adopted by the International Law Commission, 1950, UNGAOR, 5 <sup>th</sup> Session, Supp. No. 12, UN Doc. A/1316
<b>OP</b>	UNPROFOR Observation Post
<b>P</b>	Prosecution Exhibit Admitted into Evidence
<b>p. / pp.</b>	Page/pages
<b>para. / paras.</b>	Paragraph/paragraphs
<b>PJP</b>	Special Police Forces
<b>POW</b>	Prisoner of war
<b>Prosecution</b>	Office of the Prosecutor
<b>Prosecution Pre-Trial Brief</b>	<i>The Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-5/18-PT, Prosecutor's Final Pre-trial Brief, 18 May 2009
<b>Prosecution Final Brief</b>	<i>The Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-18-T, Prosecution's Submission on Final Trial Brief, confidential with confidential appendices, 29 August 2014. A public version was filed on 13 October 2014.
<b>RDB</b>	State Security Sector ( <i>Resor Državne Bezbednosti</i> )
<b>RJB</b>	Public Security Sector ( <i>Resor Javne Bezbednosti</i> )
<b>RS</b>	<i>Republika Srpska</i> (before 12 August 1992, named Serbian Republic of Bosnia and Herzegovina (SerBiH))
<b>RSK</b>	Republic of Serbian Krajina ( <i>Republika Srpska Krajina</i> )
<b>Rules</b>	Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia, 14 March 1994, as amended

<b>RusBat</b>	Russian Battalion of UNPROFOR
<b>SAO</b>	Serbian Autonomous Region ( <i>Srpska Autonomna Oblast</i> )
<b>SBP</b>	Special Police Brigade
<b>Scheduled incidents</b>	Sniping and shelling incidents alleged to have occurred in Sarajevo during the time-period related to the Indictment contained in the schedules to the Indictment
<b>SDA</b>	Party of Democratic Action ( <i>Stranka Demokratske Akcije</i> )
<b>SDB</b>	State Security Service ( <i>Služba Državne Bezbjednosti</i> )
<b>SDC</b>	Supreme Defence Council ( <i>Vrhovni Savet Odbrane</i> )
<b>SDS</b>	Serbian Democratic Party ( <i>Srpska Demokratska Stranka</i> ) in BiH
<b>SDP</b>	Social Democratic Party ( <i>Socijaldemokratska Partija</i> ) of BiH
<b>SerBiH</b>	Serbian Republic of Bosnia and Herzegovina, renamed Republika Srpska on 12 August 1992
<b>SFOR</b>	Multinational Stabilisation Force
<b>SFRY</b>	Socialist Federal Republic of Yugoslavia
<b>SJB</b>	Public Security Station (local level) ( <i>Stanica Javne Bezbjednosti</i> )
<b>SMO</b>	Senior Military Observer
<b>SNB</b>	National Security Council ( <i>Savjet za Nacionalnu Bezbjednost</i> )
<b>SNSC</b>	Serbian National Security Council ( <i>Srpski Savjet za Nacionalnu Bezbjednost</i> )
<b>SOS</b>	Serbian Defence Forces, paramilitary formation ( <i>Srpske Odbrambene Snage</i> )
<b>SPO</b>	Serbian Movement of Renewal ( <i>Srpski Pokret Obnove</i> )
<b>SPS</b>	Socialist Party of Serbia ( <i>Socijalistička Partija Srbije</i> )
<b>SRBiH</b>	Socialist Republic of Bosnia and Herzegovina (1945-1992)
<b>SRK</b>	Sarajevo-Romanija Corps of the VRS ( <i>Sarajevo-Romanija Korpus</i> )



<b>SRNA</b>	Bosnian Serb Press Agency
<b>SRS</b>	Serbian Radical Party ( <i>Srpska Radikalna Stranka</i> )
<b>Statute</b>	Statute of the International Criminal Tribunal for the Former Yugoslavia established by Security Council Resolution 827 (1993)
<b>Strategic Goals</b>	A list of six goals presented by the Accused at the 16 <sup>th</sup> Session of SerBiH Assembly on 12 May 1992
<b>SUP</b>	Secretariat for Internal Affairs ( <i>Sekretarijat za Unutrašnje Poslove</i> )
<b>T.</b>	Trial Transcript
<b>TEZ</b>	Total Exclusion Zone
<b>TO</b>	Territorial Defence ( <i>Teritorijalna Odbrana</i> )
<b>Tribunal</b>	International Criminal Tribunal for the former Yugoslavia
<b>UK</b>	The United Kingdom of Great Britain and Northern Ireland
<b>UkrBat</b>	Ukraine Battalion of UNPROFOR
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNPROFOR</b>	United Nations Protection Forces
<b>UNMO</b>	United Nations Military Observers
<b>UNTS</b>	United Nations Treaty Series
<b>UN Special Representative</b>	United Nations Special Representative to the Former Yugoslavia
<b>USA</b>	United States of America
<b>Variant A/B Instructions</b>	Document issued by the Main Board of the SDS on 19 December 1991 entitled "Instructions for the Organisation and Activity of Organs of Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances"
<b>VJ</b>	Army of the Federal Republic of Yugoslavia (this came into existence after the JNA in BiH became the VRS) ( <i>Vojska Jugoslavije</i> )

<b>VRS</b>	<i>Army of Republika Srpska (Vojska Republike Srpske)</i>
<b>WCP</b>	Weapons Collection Point
<b>ZOBK</b>	Association of Municipalities of the Bosnian Krajina ( <i>Zajednica opština Bosanske Krajine</i> )
<b>ZOBK Assembly</b>	Association of the Bosnian Krajina Municipalities Assembly
<b>ZOBL</b>	Banja Luka Community of Municipalities ( <i>Zajednica opština Banja Luke</i> )
<b>1<sup>st</sup> Krajina Corps</b>	First Krajina Corps of the VRS
<b>7 Lima UNMO</b>	UNMO team stationed in Pale
<b>28<sup>th</sup> Division</b>	Military unit of the ABiH
<b>26 April 1992 Instructions</b>	Document issued by the Bosnian Serb Government under Prime Minister Đerić on 26 April 1992 entitled “Instructions for the Work of Crisis Staffs of the Serbian People in Municipalities”

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