



**UNITED  
NATIONS**

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

**Case: IT-00-39-T**

**Date: 27 September 2006**

**Original: English**

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**TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Joaquín Martín Canivell  
Judge Claude Hanoteau

**Registrar:** Mr Hans Holthuis

**Judgement of:** 27 September 2006

**PROSECUTOR**

**v.**

**MOMČILO KRAJIŠNIK**

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**JUDGEMENT**

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**Office of the Prosecutor**

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**General abbreviations**

AbiH	<i>Armija Bosne i Hercegovine</i> – Army of Bosnia-Herzegovina
Adjudicated facts	List of facts adjudicated in previous proceedings and admitted pursuant to Rule 94(B) of the Rules by Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts of 24 March 2005
ARK	<i>Autonomna Regija Krajina</i> – Autonomous Region of Krajina
Arkan's men	Serbian paramilitary force led by Željko Ražnatović (Arkan) (also called Serb Volunteer Guard or Arkan's Tigers)
Blue Eagles	<i>Plavi Orlovi</i> - Serbian paramilitary formation
Bosnia-Herzegovina	Socialist Federal Republic of Bosnia and Herzegovina ( <i>later</i> , Republic of Bosnia and Herzegovina). Also abbreviated as Bosnia and Herzegovina, SRBH, BiH, or BH in documents
Bosnian-Serb Assembly	Assembly of the Serbian People of Bosnia-Herzegovina ( <i>later</i> , National Assembly of <i>Republika Srpska</i> )
Bosnian-Serb Government	Government of the Serbian Republic of Bosnia-Herzegovina ( <i>later</i> , Government of <i>Republika Srpska</i> )
Bosnian-Serb Presidency	Presidency of the Serbian Republic of Bosnia-Herzegovina ( <i>later</i> , Presidency of <i>Republika Srpska</i> )
Bosnian-Serb Republic	Serbian Republic of Bosnia-Herzegovina; on 12 August 1992, the name of the republic was officially changed to <i>Republika Srpska</i>
Council for Coordination of Positions on State Policy	<i>Sav(j)et za Usaglašavanje Stavova o Državnoj Politici</i> - Body comprising representatives of the various Serbian entities (such as Yugoslavia, Serbia, Montenegro, <i>Republika Srpska</i> , Republic of Serbian Krajina) meeting in Belgrade
CSCE	Conference on Security and Cooperation in Europe
CSB	<i>Centar Službi Bezbjednosti</i> – Security Services Centre
FRY	Federal Republic of Yugoslavia
Green Berets	<i>Zelene Beretke</i> - Muslim paramilitary formation
HDZ	<i>Hrvatska Demokratska Zajednica</i> – Croatian Democratic Union (main political party of Bosnian Croats)
Indictment municipalities	Banja Luka, Bijeljina, Bileća, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Brčko, Čajniče, Čelinac, Doboј, Donji Vakuf, Foča, Gacko, Hadžići, Ilidža, Ilijaš, Ključ, Kalinovik, Kotor Varoš, Nevesinje, Novi Grad, Novo Sarajevo, Pale, Prijedor, Prnjavor, Rogatica, Rudo, <sup>1</sup> Sanski Most, Šipovo, <sup>2</sup> Sokolac, Teslić, Trnovo, Višegrad, Vlasenica, Vogošća, Zvornik
JNA	<i>Jugoslovenska Narodna Armija</i> – Yugoslav People's Army

<sup>1</sup> The parties agreed to exclude Rudo; Rule 98 bis decision, T. 17133.

<sup>2</sup> The parties agreed to exclude Šipovo, Rule 98 bis decision, T. 17133.

Ministerial Council	Ministerial Council of the Bosnian-Serb Assembly ( <i>later evolved into Bosnian-Serb Government</i> )
MUP	<i>Ministarstvo Unutrašnjih Poslova</i> – Ministry of Internal Affairs
<i>Official Gazette</i>	<i>Službeni Glasnik Republike Srpske</i> - Official Gazette of the Bosnian-Serb Republic
Patriotic League	<i>Patriotska Liga</i> - Muslim paramilitary formation
Red Berets	<i>Crvene Beretke</i> - Serbian paramilitary formation
<i>Republika Srpska</i>	<i>see</i> Bosnian-Serb Republic
SAO	<i>Srpska Autonomna Oblast</i> – Serb Autonomous District
SDA	<i>Stranka Demokratske Akcije</i> – Party of Democratic Action (main political party of Bosnian Muslims)
SDK	<i>Služba Društvenog Knjigovodstva</i> – Social Accounting Service
SDS	<i>Srpska Demokratska Stranka</i> – Serbian Democratic Party (main political party of Bosnian Serbs)
SDP	<i>Socijal Demokratska Partija</i> – Social Democratic Party (former communist party of Bosnia-Herzegovina)
SFRY	Socialist Federal Republic of Yugoslavia
SJB	<i>Stanica Javne Bezbjednosti</i> – Public Security Station
SNB	<i>Savjet za Nacionalnu Bezbjednost</i> – National Security Council
SNO	<i>Sekretarijat za Narodnu Odbranu</i> – Council for National Defence
SOS	<i>Srpske Odbornbene Snage</i> – Serbian Defence Forces, paramilitary formation
SRK	<i>Sarajevo-Romanija Korpus</i> – Sarajevo-Romanija Corps of the VRS
SRS	<i>Srpska Radikalna Stranka</i> – Serbian Radical Party
SRSJ	<i>Savez Reformskih Snaga Jugoslavije</i> – Alliance of Reformist Forces of Yugoslavia (political party of Ante Marković)
SUP	<i>Sekretarijat za Unutrašnje Poslove</i> – Secretariat of Internal Affairs
TO	<i>Teritorijalna Odbrana</i> – Territorial Defence
UNPROFOR	United Nations Protection Force – Initially established in Croatia to ensure demilitarization of designated areas. Mandate was later extended to Bosnia-Herzegovina to support the delivery of humanitarian relief, monitor “no-fly zones” and “safe areas”
VJ	<i>Vojska Jugoslavije</i> – Yugoslav Army, remainder of the former JNA was to become the army of the new Federal Republic of Yugoslavia (Serbia and Montenegro)
VRS	<i>Vojska Srpske Republike Bosne i Hercegovine</i> , later <i>Vojska Republike Srpske</i> – Army of the Bosnian-Serb Republic

White Eagles	<i>Beli Orlovi</i> – Paramilitary formation, also “Šešelj’s men”
Wolves of Vučjak	<i>Vukovi s Vučjaka</i> – Serbian paramilitary formation
Yellow Wasps	<i>Žute Ose</i> – Serb paramilitary formation headed by Vojin (Žučo) Vučković and Dušan Repić

## **1. Introduction and overview**

### 1.1 The Accused

1. Momčilo Krajišnik was born on 20 January 1945 in Zabrđe, Novi Grad municipality, Sarajevo, Bosnia-Herzegovina.<sup>3</sup> He studied economics and completed his military service in Sarajevo.<sup>4</sup> In 1968 he started working in the financial services of Energoinvest and some of its subsidiaries in Sarajevo.<sup>5</sup> In 1973 he married Milenka Mičević, with whom he had three children.<sup>6</sup> She died in August 1992.<sup>7</sup>

2. The Accused first met Radovan Karadžić in 1983, who at the time was also employed at Energoinvest. It was through Karadžić that the Accused met Nikola Koljević.<sup>8</sup> In 1985 the Accused stood trial for embezzlement together with Radovan Karadžić and was acquitted four years later.<sup>9</sup>

3. The Accused became member of the SDS at its founding, on 12 July 1990.<sup>10</sup> Soon after, the Accused attended two meetings of the Novi Grad SDS, where he accepted the post of local SDS chairperson.<sup>11</sup> He was put on the list of SDS candidates for the Chamber of Citizens in the Bosnia-Herzegovina Assembly.<sup>12</sup> During the election campaign, the Accused as the SDS representative on economic matters participated in four or five radio and television debates.<sup>13</sup> He also assisted in creating the Smiljevići and Zabrđe SDS boards.<sup>14</sup> On 20 September 1990 he was elected deputy (representative) to the Bosnia-Herzegovina Assembly and, on 20 December 1990, became its President.<sup>15</sup> On 12 July 1991 the Accused was elected to the SDS Main Board.<sup>16</sup>

4. When the Bosnian-Serb Republic was created, the Accused held several high-ranking positions in its institutions. From 24 October 1991 through November 1995 the

<sup>3</sup> List of matters admitted by the Accused, 31 August 2001, p. 1; Krajišnik, T. 22981.

<sup>4</sup> Krajišnik, T. 22981-2.

<sup>5</sup> Krajišnik, T. 22982-4.

<sup>6</sup> Krajišnik, T. 22984.

<sup>7</sup> Krajišnik, T. 24789.

<sup>8</sup> Krajišnik, T. 22985-8.

<sup>9</sup> Krajišnik, T. 22990; Trbojević, T. 12161; P583.B (Prosecution interview with Milan Trbojević, 4 May 2004), p. 13.

<sup>10</sup> Krajišnik, T. 22988.

<sup>11</sup> Krajišnik, T. 22992-4.

<sup>12</sup> Krajišnik, T. 22994-6.

<sup>13</sup> Krajišnik, T. 22990-2.

<sup>14</sup> Krajišnik, T. 23000.

<sup>15</sup> Treanor, T. 1301.

Accused was President of the Bosnian-Serb Assembly. He was also a member of the National Security Council. From 12 May until 17 December 1992 the Accused was an active member of the Presidency of the Bosnian-Serb Republic.

### 1.2 Indictment

5. The indictment charges Momčilo Krajišnik with eight counts. The counts are brought under Article 3 of the Tribunal's Statute (murder – count 6), Article 4 (genocide, complicity in genocide – counts 1 and 2), and Article 5 (persecution, extermination, murder, deportation, inhumane acts – counts 3, 4, 5, 7, and 8). Criminal responsibility is charged under Articles 7(1) and 7(3) of the Statute. The crimes were allegedly committed in 35 municipalities between 1 July 1991 and 30 December 1992.<sup>17</sup> Four schedules are attached to the indictment: (A) killings not related to detention facilities; (B) killings related to detention facilities; (C) list of detention facilities; (D) cultural monuments and sacred sites destroyed.

6. The Prosecution alleges that the Accused participated, as a co-perpetrator or aider and abettor, in a joint criminal enterprise (JCE), together with, among others, Biljana Plavšić, Radovan Karadžić, Nikola Koljević, Slobodan Milošević, Željko (“Arkan”) Ražnatović, General Ratko Mladić, General Momir Talić, Radoslav Brđanin, and other named and unnamed individuals. The objective of the JCE was the permanent removal, by force or other means, of Bosnian Muslims and Bosnian Croats from large portions of Bosnia-Herzegovina through the commission of the crimes mentioned above.

7. The indictment alleges that the Accused participated in the joint criminal enterprise, by formulating, initiating, promoting, or encouraging the development and implementation of SDS and governmental policies intended to advance the objective of the JCE. The Accused allegedly participated in the establishment, support, or maintenance of SDS and various Bosnian-Serb Government bodies at the Republic, regional, municipal, and local levels, exercised control over them, and directed, instigated, encouraged, and authorized the Government bodies and Serb forces to carry out acts in order to further the objective of the JCE. Moreover, the Accused allegedly assisted, participated in, or encouraged the arming of Bosnian Serbs, and requested the assistance, facilitated, or coordinated the

<sup>16</sup> Treanor, T. 1272, 1276; P65, tab 29 (Record of session of SDS, 12 July 1991), p. 92.

<sup>17</sup> Rule 98 bis decision, T. 17133.

participation of paramilitary formations from Bosnia-Herzegovina and Serbia to further the objective of the JCE. He also aided and abetted or instigated the commission of further crimes by failing to investigate or punish subordinates. Through control of the above-mentioned institutions, the Accused also allegedly supported, encouraged, facilitated, or participated in spreading propaganda and engendering fear and hatred against Bosnian Muslims and Bosnian Croats, and he allegedly participated in providing misleading information to the public as well as to the international community and non-governmental organizations about crimes committed by Bosnian-Serbs.

8. The Accused allegedly held prominent positions in the Bosnian-Serb leadership and was associated with Radovan Karadžić, Biljana Plavšić, Nikola Koljević, other members of the Bosnian-Serb leadership, as well as other members of the joint criminal enterprise. He also held positions in various SDS and republican bodies. According to the indictment, the Accused was a member of the SDS Main Board, President of the Bosnian-Serb Assembly from 24 October 1991 until at least November 1995, and a member of the Bosnian-Serb National Security Council and of the Expanded Presidency of the Bosnian-Serb Republic. By virtue of these positions of superior authority, the Accused allegedly had de facto control and authority over the Bosnian-Serb forces and Bosnian-Serb political and governmental organs and is responsible for their acts or omissions which he did not prevent or punish under Article 7(3).

9. More specifically, the indictment charges the Accused for acting individually, or in concert with other participants in a joint criminal enterprise, or for planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of the partial destruction of the Bosnian-Muslim and Bosnian-Croat national, ethnic, racial, or religious groups in territories within Bosnia-Herzegovina, persecution, extermination, murder, forced transfer, and deportation of Bosnian Muslims and Bosnian Croats in 35 indictment municipalities.<sup>18</sup>

10. The Accused pleaded not guilty to all charges.

11. On 3 April 2000, the Accused was arrested by SFOR in Sarajevo on the basis of a sealed indictment, issued on 25 February 2000,<sup>19</sup> and transferred to The Hague on the

<sup>18</sup> The parties agreed to exclude Šipovo and Rudo. Rule 98 bis decision, T. 17133.

<sup>19</sup> Indictment, 21 February 2000; Motion for Presentation of an Indictment for Review and Application for Warrant of Arrest and for Related Orders and a Decision Concerning an Order for Non-Disclosure, 21 February 2000; Decision on Review of Indictment Pursuant to Article 19 of the Statute and Order for Non-

same day.<sup>20</sup> On 23 February 2001 the joinder of two cases, *Prosecutor v. Momčilo Krajišnik* and *Prosecutor v. Biljana Plavšić*, was granted and a consolidated indictment was filed by the Prosecution on 9 March 2001.<sup>21</sup> On 7 March 2002, the Prosecution filed an amended consolidated indictment.<sup>22</sup>

### 1.3 Bosnia-Herzegovina: geography, population, history

12. Bosnia-Herzegovina, more than any other republic of the former Yugoslavia, has been multi-ethnic for centuries, with Serbs, Muslims, and Croats as the predominant nationalities.<sup>23</sup> The large Muslim population of Bosnia-Herzegovina owes its religion and culture to the long Turkish occupation, during which time many Slavs adopted the Islamic faith.<sup>24</sup>

13. During the Second World War, Bosnia-Herzegovina was occupied by the German and Italian armies.<sup>25</sup> Three distinct Yugoslav forces fought one another. Whereas the strongly nationalist Ustasha forces of the Croatian state supported the occupying powers, the Chetniks, Serb nationalist forces, and the partisans, a largely Communist and Serb group, both opposed the German and Italian forces.<sup>26</sup> Muslims were found in the ranks of both the Ustasha and the Partisans.<sup>27</sup> Bosnia-Herzegovina was particularly affected by serious crimes committed against the civilian population.<sup>28</sup>

14. After the Second World War, Yugoslavia was reconstituted as the Socialist Federal Republic of Yugoslavia (SFRY), consisting of six republics – Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia – and two regions within Serbia –

Disclosure, 25 February 2000; Warrant of Arrest – Order for Surrender, 25 February 2000; Motion for Presentation of an Indictment for Review and Application for Warrant of Arrest and for Related Orders and a Decision Concerning an Order for Non-Disclosure, 21 February 2000; Decision on Review of Indictment Pursuant to Article 19 of the Statute and Order for Non-Disclosure, 25 February 2000; Indictment, 21 February 2000.

<sup>20</sup> Order on Detention on Remand, 7 April 2000; Krajišnik, T. 23002.

<sup>21</sup> Decision on Motion for Joinder, 23 February 2001; Consolidated Indictment, 9 March 2001.

<sup>22</sup> Decision on Prosecution's Motion for Leave to Amend the Consolidated Indictment, 4 March 2002. The Defence's Application for Leave to Appeal was rejected by a bench of the Appeals Chamber on 6 May 2002.

<sup>23</sup> Adjudicated facts 1-2. According to expert witness Treanor, the two words translated as "ethnic" and "national" from Serbo-Croatian both refer, in the context of Bosnia-Herzegovina, to the three national communities (Serbs, Muslims, Croats) recognized in that republic. National identification in Yugoslavia was on the basis of self-declaration. Treanor, T. 1300, 1619-20.

<sup>24</sup> Adjudicated facts 2-4.

<sup>25</sup> Adjudicated facts 7-8.

<sup>26</sup> Adjudicated facts 7-8.

<sup>27</sup> Adjudicated fact 9.

<sup>28</sup> Adjudicated facts 10-11.

Vojvodina and Kosovo.<sup>29</sup> The 1946 SFRY Constitution did not recognize a distinct Bosnian nation due to the fact that, unlike the other republics, there was no single majority national group in Bosnia-Herzegovina.<sup>30</sup>

15. It was only in the 1970s that the Muslims of Bosnia-Herzegovina came to be recognised as one of the nations of federal Yugoslavia.<sup>31</sup> As of 1991, some 44 per cent of the Bosnians described themselves as Muslims, 31 per cent as Serbs, and 17 per cent as Croats.<sup>32</sup>

16. With Tito's death in 1980 and the deterioration of the economy, the unity of the federal state began to weaken.<sup>33</sup> By the late 1980s, the leading political role of the League of Communists was formally abandoned.<sup>34</sup>

17. In February 1990 a law was passed in Bosnia-Herzegovina allowing the formation of non-Communist parties. Parties established pursuant to this law included: the (predominantly Muslim) Party of Democratic Action (SDA), established on 26 May 1990; the Serbian Democratic Party (SDS), established on 12 July 1990; and the Croatian Democratic Union (HDZ), established on 18 August 1990.<sup>35</sup>

18. The armed forces of the SFRY consisted of the active and reserve federal army, navy, and air force, collectively known as the JNA, and a separate system of Territorial Defence (TO) equipped with light weaponry stored mostly in municipal warehouses. Each republic had its own TO, which was under the control of the republic's Minister of Defence.<sup>36</sup> In the early 1990s the traditional predominance of Serb officers in the JNA quickly increased. Very few non-Serb officers remained in the JNA. From 1991 to early 1992 the Serb component of JNA conscripts rose from just over 35 per cent to around 90 per cent.<sup>37</sup>

19. On 18 November 1990, the first multi-party elections for the republican legislature and the municipal assemblies were held in Bosnia-Herzegovina.<sup>38</sup> The outcome essentially

<sup>29</sup> Adjudicated fact 14.

<sup>30</sup> Adjudicated facts 15-17.

<sup>31</sup> Adjudicated facts 14-18; Treanor, T. 1518, 1612.

<sup>32</sup> Adjudicated fact 6.

<sup>33</sup> Adjudicated facts 24-6.

<sup>34</sup> Adjudicated facts 24-5.

<sup>35</sup> Treanor, T. 1263-6; P280 (Witness 623 statement), para. 9; Divčić, T. 17770-2; Savkić, T. 20461-2.

<sup>36</sup> Adjudicated facts 73-80.

<sup>37</sup> Adjudicated facts 81-2.

<sup>38</sup> P64 (Treanor report), paras 7, 9, 10; Treanor, T. 1299; List of matters admitted by the Accused, 31 August 2001, para. 48 (in part); Adjudicated fact 42.

reflected the ethnic census of the population, since each ethnic group voted for the party claiming to represent its nationality.<sup>39</sup>

#### 1.4 Structure of judgement

20. This judgement is divided into eight parts. Part 1 consists of this introduction. Part 2 provides a short account of the background to the conflict in Bosnia-Herzegovina prior to and during the indictment period. Part 3 deals with the administration of the Bosnian-Serb Republic, and in particular with the Bosnian-Serb republican and municipal institutions. In part 4, the Chamber presents its factual findings regarding the Serb take-over of power in the indictment municipalities in Bosnia-Herzegovina. Part 5 addresses the legal findings on the crimes committed in the municipalities. In part 6, the Chamber presents its legal findings on the individual criminal responsibility of the Accused. Sentencing is set out in part 7, followed by the disposition in part 8.

21. The trial record contains a vast amount of evidence. The presentation of evidence started on 4 February 2004 and ended on 14 July 2006, stretching over more than 27,000 pages of transcripts. The mere number of exhibits tendered during the case (more than 3,800 Prosecution exhibits, more than 330 Defence exhibits, and 27 Chamber exhibits were finally admitted into evidence) does not come close to showing the actual volume of material, since several exhibits contain dozens, or even hundreds, of pages.

22. The Chamber has considered all of the evidence in accordance with the Statute and the Rules of procedure and evidence (Rules), in such a way as to best favour a fair determination of the case and consistent with the spirit of the Statute and the general principles of law, in particular the principle of *in dubio pro reo*. The Chamber has, on occasions, explicitly refuted some evidence. However, it has generally simply disregarded evidence when, after having considered the record as a whole, it deemed it unreliable or irrelevant for the purpose of reaching an informed decision.<sup>40</sup>

23. This judgement also contains four appendices – (A) the sources and uses of evidence; (B) the procedural history; (C) a list of exhibits which have multiple exhibit

<sup>39</sup> Adjudicated fact 45.

<sup>40</sup> “Sources and uses of evidence” can be found in Appendix A to this judgement.

numbers; and (D) a table of cases with abbreviations and maps. The maps are considered important by the Chamber for the understanding of the present case.

## **2. Political precursors**

24. The purpose of this part of the judgement is to provide a short account of the background to the conflict in Bosnia-Herzegovina. It includes some evidence on non-indictment municipalities not related to crimes.

### **2.1 Political developments, 1990 to early 1991**

#### *2.1.1 Creation of the SDS*

25. Radovan Karadžić, Aleksandar Buha, Velibor Ostojić, Rajko Dukić, and Aleksandar Divčić were some of the persons involved in the establishment of the SDS.<sup>41</sup> From the moment of its creation, the SDS political platform included an emphasis on the protection of the Serb nation, which was said to be disadvantaged by the purported lower birth rate of Serbs and by the way Bosnia-Herzegovina had been divided into municipalities, effectively making Serbs an ethnic minority in areas where they might otherwise have dominated. The SDS advocated the maintenance of a federal Yugoslavia, respect for the rule of law, and an equal distribution of power between the three main national groups in Bosnia-Herzegovina.<sup>42</sup>

26. In 1990 and 1991 the SDS was funded by voluntary contributions and enjoyed the support of the overwhelming majority of Bosnian Serbs.<sup>43</sup> Its main organs included the party Assembly, formally the supreme body; the SDS Main Board, the highest party organ at times when the Assembly was not in session; the SDS Executive Board, the executive arm of the Main Board; the president of the party, who was also the president of the Main Board; and several advisory bodies, such as the SDS Political and Economic Councils and

<sup>41</sup> Divčić, T. 17762, 17765-9, 17776, 17809.

<sup>42</sup> P64 (Treanor report), para. 7; Treanor, T. 1268-71, 1295, 1501, 1528, 1617, 1760, 1872-4, 1897-8, 1978; P65, tab 1 (Remarks by Karadžić at SDS founding assembly, 19 July 1990), pp. 1-2; P65, tab 62 (Remarks by Velibor Ostojić at 3rd session of Bosnian-Serb Assembly, 11 December 1991), pp. 48-9; P65, tab 74 (Remarks by Milutin Najdanović reported in Maksimović diary, 24 December 1991), p. 12; P65, tab 94 (Remarks by Karadžić at SDS Deputies' Club meeting, 28 February 1992), p. 36; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), p. 85; P65, tab 2 (Programme of SDS, 12 July 1990), items 6, 9; P65, tab 4 (Statute of SDS of Bosnia-Herzegovina, 12 July 1990), art. 4; P65, tab 3 (Interview with Radovan Karadžić in *Nin* newspaper, 20 July 1990), P65, tab 13 (Interview with Radovan Karadžić in *Nin* newspaper, 9 November 1990), p. 8.

<sup>43</sup> Divčić, T. 17789-90; Radojko, T. 21250.

the Commission for Personnel and Organization.<sup>44</sup> The party was a hierarchical structure, organized into municipal assemblies and boards resembling the republican organs.<sup>45</sup> Speaking in early November 1990, SDS president Radovan Karadžić said that SDS boards in the municipalities had the responsibility to maintain contact with “10 to 20 Serbian households, so that information from the most remote village reaches the Main Board in two hours at most.”<sup>46</sup> In the following months, the close relationship between SDS municipal organs and the apex of the party was enhanced: by July 1991, for example, members of the Main Board and of the Executive Board were instructed to be involved in the work of local boards in the areas they represented. Local officials frequently addressed the central leadership in order to solve local problems.<sup>47</sup>

27. As mentioned in part 1 of this judgement, on 18 November 1990 the first multi-party elections were held in Bosnia-Herzegovina at the municipal and republican levels. In the Republic’s Assembly, composed of the House of Citizens and the House of Municipalities, voters gave the SDA 86 seats, the SDS 72 seats, and the HDZ 44 seats, out of a total of 240.<sup>48</sup> The three parties went on to form a coalition Government.<sup>49</sup>

### *2.1.2 Division of power among the coalition parties*

28. Despite calls by Radovan Karadžić as early as in October 1990 for each of the three recognized national groups to be given veto power over legislative measures which might adversely affect a national group’s interests, such a measure was never implemented.<sup>50</sup> The Chamber received some evidence on the Council for Ethnic Equality, an advisory body where each of the three recognized nationalities had the possibility to raise matters that

<sup>44</sup> P65, tab 5 (Statute of SDS); arts 30, 31-2, 34-5, 37-43, and 49; P64 (Treanor report), para. 20; Treanor, T. 1273-6, 1874-7, 1881-2; P64 (Treanor report), paras 14, 23-7, 28, 32-7, 39, 40; Divčić, T. 17779-89, 17795-6.

<sup>45</sup> Prstojević, T. 14499-501, 14769-85, 14807-8; Witness 646, T. 10230-4, 10402-3; Treanor, T. 1272-3; P64 (Treanor report), para. 21.

<sup>46</sup> P65, tab 13 (Interview with Radovan Karadžić in *Nin* newspaper, 9 November 1990), p. 1.

<sup>47</sup> Nešković, T. 16621-2, 16630-2, 16641-2, 16672, 16738, 16760, 16808, 16829; P64 (Treanor report), p. 3; P65, tab 57 (Minutes of 6th session of SDS Executive Board, 20 November 1991), p. 3; P899 (Telephone conversation between Karadžić and Stanić, 26 September 1991); P898 (Telephone conversation between Karadžić, Nešković, Mišković, and Srdić, 10 September 1991); P292 (Telephone conversation between Karadžić and Đurović, 19 November 1991); P913 (Minutes from 13th session of Novo Sarajevo SDS, 28 February 1992).

<sup>48</sup> P64 (Treanor report), paras 7, 9, 10-11; Treanor, T. 1299-300; List of matters admitted by the Accused, 31 August 2001, para. 48 (in part); Adjudicated fact 42.

<sup>49</sup> P64 (Treanor report), paras 10-11; Treanor, T. 1300-1.

<sup>50</sup> Treanor, T. 1286-7, 1891; P65, tab 9 (Request for adjustment of constitutional amendments, 8 October 1990).

would affect its vital interests. This body was described by witnesses either as “dormant”, or as having functioned only on a couple of occasions.<sup>51</sup>

29. Following the November 1990 elections, the SDA, SDS, and HDZ reached an agreement among themselves on a formula for the distribution of power. It was agreed that, at the most senior level, the Prime Minister would be from the HDZ, the President of the Assembly from the SDS, and the President of the Presidency from the SDA (the persons appointed were Jure Pelivan, Momčilo Krajišnik, and Alija Izetbegović, respectively).<sup>52</sup> Biljana Plavšić and Nikola Koljević were appointed to the Presidency of Bosnia-Herzegovina as SDS representatives.<sup>53</sup> Positions in all Government organs and public institutions with government appointees were distributed in accordance with party quotas. This meant that, for practical purposes, personnel were chosen on the basis of nationality and allegiance to the views of the three coalition parties. This arrangement stamped out opposition by smaller parties and sowed the seeds for the establishment of parallel ethnic structures.<sup>54</sup> The SDS, for example, received a vice-presidential position, two Ministers without portfolio, and five out of thirteen departmental portfolios in the Government, as well as eight out of thirty chairmanships of Assembly committees and commissions.<sup>55</sup>

30. The three parties also divided among themselves top positions in the Ministry of Internal Affairs (MUP), which controlled the police. Alija Delimustafić (SDA) became MUP Minister, Vitomir Žepinić (SDS) became deputy Minister, Avdo Hebib (SDA) became assistant Minister for police affairs, and Momčilo Mandić (SDS) became assistant Minister for the prevention and detection of crime.<sup>56</sup> The regional organization of the Bosnia-Herzegovina MUP was based on nine Security Services Centres (CSBs), located in Bihać, Banja Luka, Doboj, Tuzla, Livno, Mostar, Zenica, Sarajevo, and Goražde. Chief positions in three of these were assigned to the SDS.<sup>57</sup>

31. At the local level, a similar division of posts was made, reflecting the percentages gained by each party in the elections. These percentages corresponded to the ethnic

<sup>51</sup> Bjelobrck, T. 8285-7, 8379-80; Kecmanović T. 22333-5; Witness 623, T. 5792.

<sup>52</sup> P64 (Treanor report), paras 10-11; Treanor, T. 1300; P280 (Witness 623 statement), paras 23-6.

<sup>53</sup> C7 (Plavšić statement), para. 3; P64 (Treanor report), paras 10-11; Treanor, T. 1300.

<sup>54</sup> Witness 623, T. 5671-4, 5679, 5894; P280 (Witness 623 statement), paras 30-2; Antić, T. 18157-9, 18164-7, 18169-71, 18182-4, 19159; Bjelica, T. 22667-8; D160 (Bjelica statement), p. 1.

<sup>55</sup> P64 (Treanor report), para. 11.

<sup>56</sup> P763 (Nielsen report), para. 7.

<sup>57</sup> P763 (Nielsen report), para. 8.

composition of each municipality. After the quotas were distributed, the three parties shared control over appointments made at every level of administration.<sup>58</sup>

32. The municipal assembly was by law the highest organ of municipal authority. It was headed by the assembly president and one or more vice-presidents, who were elected by the assembly from its members for a four-year term. It consisted of a single chamber with quotas for its ethnic composition. The law provided that assembly delegates were to be chosen by secret ballot in popular elections for a four-year term.

33. The municipal assembly was accorded a wide range of powers. In particular, the assembly was to issue the municipal statute, the defence plan, the municipal budget, and could call a municipal referendum. The assembly could also determine the organization and functioning of the executive board and other local government authorities. The assembly president was to convene assembly sessions, initiate debate, and sign assembly decisions, which were to be reached by majority vote.<sup>59</sup>

34. An executive organ (a board or a committee), together with a number of administrative organs or departments, was to be in charge of the implementation of assembly decisions. This body consisted of the committee president, elected from among the municipal assembly delegates for a four-year term, and of functionaries directing various municipal administrative organs.<sup>60</sup>

## 2.2 Arming and mobilization of population

35. Following the 1990 elections, mistrust grew among the three main ethnic groups in Bosnia-Herzegovina. During the period between the multiparty elections and early 1991, the SDS relied on the JNA and the MUP to defend the sovereignty and territorial integrity of Yugoslavia, which were the SDS's main political objectives at the time. This meant that most Serbs felt protected by federal and republican institutions,<sup>61</sup> despite some

<sup>58</sup> Davidović, T. 14155-6; P764 (Davidović statement), p. 4; Antić, T. 18142-8; 18151-2; Stavnjak, T. 17894, 17899-913, 17972-4, 17982-3; P966 (Goražde SDS letter to Karadžić, 25 May 1991), p. 2; Savkić, T. 20455-6, 20461-2; P934 (Donia report), p. 22.

<sup>59</sup> P64 (Treanor report), paras 102-5; P64.A, tab 379 (Amendments to Statute of Banja Luka, 19 September 1990); P64.A, tab 381 (Amendments to Statute of Prijedor municipality, 17 September 1990).

<sup>60</sup> P64 (Treanor report), paras 106, 109; P64.A, tab 379 (Amendments to Statute of Banja Luka, 19 September 1990), arts 16-18; P64.A, tab 380 (Statute of Prijedor municipality, 25 October 1984), arts 270, 279; P64.A, tab 381 (Amendments to Statute of Prijedor municipality, 17 September 1990), arts 19-20.

<sup>61</sup> Babić, T. 3350-3, 3376-7; P152 (Statement, 22 January 2004), para. 21; Divčić, T. 17797.

preparations for self-defence known to the SDS leadership.<sup>62</sup> At the same time, with an eye on the developments in Slovenia and Croatia, which were both moving towards independence, Bosnian Croats and Bosnian Muslims started storing weapons and even organized their own armed groups. This process intensified throughout 1991 and the first months of 1992.<sup>63</sup> The (Muslim) Patriotic League, for example, organized secret arming of Muslims in Herzegovina in the early summer of 1991, as well as secret military training in Croatia and in other countries between April and September 1991. The League grew to about 100,000 members between 1991 and early 1992.<sup>64</sup> Lazar Stavnjak, an engineer and politician from Goražde municipality, testified that in early 1991, Serbs at the Pobjeda explosives factory in Goražde, where the witness worked, were systematically replaced by Muslims. An explosion in October 1991 at the house of a Muslim Pobjeda employee helped spread fears that Muslims were appropriating explosives from the factory.<sup>65</sup>

36. By spring of 1991, the SDS, in coordination with Yugoslav authorities, also started arming and mobilizing the Serb population in many municipalities throughout Bosnia-Herzegovina. JNA and MUP officers assisted them in acquiring and distributing weapons.

37. An example of this process was described by Witness 636. In March 1991, the witness was hired by the SDS and joined a group of 60 to 80 men whose task was to receive, secure, and distribute weapons from the JNA in Croatia. The weapons were brought in trucks, with escort provided by the Drvar Public Security Station (SJB), and were stored in an old school building. The members of the group guarded the weapons round the clock. Witness 636 personally saw Vinko Kondić from Ključ, Dragan Ivanić from Bosanski Petrovac, and Simo Drljača of the Prijedor SJB visit the school to collect weapons. He also heard that weapons had been collected from the school by SDS members Vlado Vrkeš, president of the Sanski Most SDS, and Nedeljko Rašula, president of Sanski Most municipal assembly; by Miroslav Vještica, SDS deputy from Bosanska Krupa and later president of the local crisis staff; and by Stojan Župljanin, SDS chief of the Banja

<sup>62</sup> Odobašić, T. 7689-90, 7711-12; P362 (Odobašić statement), paras 2, 7; P65, tab 16 (Maksimović's diary, 4 February 1991), p. 8; P910.A (Witness 79 statement), pp. 3-4.

<sup>63</sup> P708 (Agić statement), p. 3; P498 (Muhamed Filipović statement), pp. 2-3; P498.A (Muhamed Filipović statement), p. 2; Divčić, T. 17797; Maričić, T. 21708-10, 21712; P718 (Witness 654 statement), p. 3; P582.B (Witness 458 transcript), pp. 3898-901; P582.D (Witness 458 transcript), p. 4070, 4105-6; Antić, T. 18173-4, 18178-9; Banduka, T. 18649-52; 18842-3; Witness 165, T. 15727-8, 15779-82, 15788-91; P860 (Witness 165 statement), pp. 1-3; Witness 636, T. 14449-50; P789 (Witness 636 statement), p. 5; Brown, T. 16425-31; P51 (Report of 2nd military district, March 1992), p. 3.

<sup>64</sup> Bjelica, T. 22598-60, 22657; D167 (Report on crimes against humanity, FRY, January 1998), pp. 1-2; D120 (Excerpt from book *Cunning Strategy* by Sefer Halilović, 1997), p. 4.

<sup>65</sup> Stavnjak, T. 17913-17, 17920, 18032-4.

Luka SJB. These delegations were received by the SDS president in Drvar, Dragan Knežević. Serb police officers from the Drvar SJB provided security for the transport of weapons from Drvar to other municipalities. Nenad Stevandić, who later became a member of the ARK crisis staff and was the head of a paramilitary group,<sup>66</sup> once said that the SDS leadership had taken the decision to use Drvar as a staging post for the supply arms to other municipalities. According to the witness, the weapons were finally distributed to individual Serbs via local SDS boards.<sup>67</sup>

38. Witness 458 described how, in September 1991, thirty crates of military rifles, machine-guns, and ammunition manufactured at a factory in Serbia were seized at a farm, close to Banja Luka, owned by Veljko Milanković, a Serb leader of a paramilitary group which terrorized the Muslim population. Milanković explained that the weapons were given to him by the JNA 5th Corps, based in Banja Luka, for distribution to Serbs. Local (Serb) authorities released Milanković without prosecution.<sup>68</sup>

39. During a speech delivered in 1993, Nemanja Vasić, president of the Prnjavor municipal assembly, stated that “the SDS played a key role ... in the prevention of a genocide against the Serbian people by having armed it on time.”<sup>69</sup>

40. In a 1992 nomination for commendation by the Ilidža SJB, Tomislav Kovač was commended for having organized “illegal” meetings in 1991 in his capacity as commander of the SJB. According to the text of the nomination, “At those meetings which were held in Dobrinja, Ilidža and Blažuj, in addition to the obligations of gathering Serbs and their preparations for war, it was agreed to work intensively on the arming of citizens of Serbian nationality. The supplying of weapons was carried out from Ravna Romanija, Pale, Sokolac, Kalinovik, Nedavići village, Trnovo, Tošići village, Hadžići, Jusuf Džonlagić Barracks, Lukavica and Neđarići.” Kovač organized and was in charge of “the illegal work and arming of Serbian people.” The “illegal” meetings organized in Ilidža were held in cooperation with local SDS representatives and pursuant to SDS directives.<sup>70</sup>

<sup>66</sup> P892, tab 54 (Report on paramilitary formations, 28 July 1992), pp. 4-5.

<sup>67</sup> Witness 636, T. 14446-52; P789 (Witness 636 statement), pp. 2-7.

<sup>68</sup> P582.B (Witness 458 transcript), pp. 3873-93; P582.D (Witness 458 transcript), pp. 4094, 4100-4102; P582 (Witness 458 statement), paras 21, 23, 28; Witness 458, T. 11338-41; P582.H (Cover letter, 23 September 1991); P582.I (Report on the activity of armed groups in Banja Luka, 23 September 1991).

<sup>69</sup> P947 (Speech by Nemanja Vasić, September 1993); Vasić, T. 17516-17, 17520-23.

<sup>70</sup> Nielsen, T. 13863-4, 13893-6, 13901-3; P763 (Nielsen report), para. 67; P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993). See also: P529, tab 49 (Record of 50th session of Bosnian-Serb Assembly, 16 April 1995), pp. 323-4; P64 (Treanor Report), para. 82; Deronjić, T. 947-51, 956, 961-4; P46.A.1 (Telephone conversation between Kerteš and Karadžić, 24 June 1991); P184 (War record of 6th

41. Despite claims that the Serbs did not react effectively to the arming of Muslims and Croats and to their paramilitary formations,<sup>71</sup> the evidence shows that Serbs armed themselves in 28 indictment municipalities: Banja Luka,<sup>72</sup> Bileća,<sup>73</sup> Bosanska Krupa,<sup>74</sup> Bosanski Novi,<sup>75</sup> Bosanski Petrovac,<sup>76</sup> Bratunac,<sup>77</sup> Brčko,<sup>78</sup> Čelinac,<sup>79</sup> Doboj,<sup>80</sup> Donji Vakuf,<sup>81</sup> Foča,<sup>82</sup> Gacko,<sup>83</sup> Hadžići,<sup>84</sup> Ilidža,<sup>85</sup> Kalinovik,<sup>86</sup> Ključ,<sup>87</sup> Novi Grad,<sup>88</sup> Novo

Infantry Brigade); P1001 (List of armed men, no date); Banduka, T. 18845-7; P910.A (Witness 79 statement), pp. 3-4; P912 (Witness 114 statement), p. 3.

<sup>71</sup> Savkić, T. 20468-84, 20486-92, 20524-9, 20532-3, 20541-2, 20545-53, 20634-7, 20644-7, 20681-9, 20744-59, 20766-8, 20780-90, 20794-5; D131 (Vlasenica SJB report to CSB-SJB in Tuzla, 11 June 1991); D132 (Statement of Behto Kahrimanović, 8 June 1991); D130 (SDA party letter to SDA executive committee president, 11 July 1991); D133 (Letter from Bosnia-Herzegovina assistant to MUP, 12 March 1992); P1072 (Declaration on ethnic distribution of selected names, 26 January 2006); P1073 (Bosnian-Serb MUP list of employees, 21 July 1992); P1060 (Minutes of Milići war presidency, 8 December 1992); P1061 (Report from Milići war presidency, 18 August 1995); D141 (Report of Vlasenica TO to Main Staff, 19 July 1992).

<sup>72</sup> Witness 458, T. 11338-41, 11367-9, 11373-4; P582 (Witness 458 statement), paras 5-6, 9-14, 21, 23, 28, 30, 40, 43, 79; P582.B (Witness 458 transcript), pp. 3860-3, 3873-74, 3890-3, 3897, 3908; P582.C (Witness 458 transcript), pp. 3949, 4004; P582.D (Witness 458 transcript), pp. 4040-1, 4059, 4070-6, 4094, 4100-2; P582.H (Cover letter for exhibit P582.I, 23 September 1991); P582.I (Report on activity of armed groups on territory of Banja Luka CSB, 23 September 1991); 21, 28; Witness 636, T. 14429-30, 14446, 14450-2; P789 (Witness 636 statement), pp. 5-7; P790.A (Telephone conversation between Nenad Stevandić and Radovan Karadžić, 17-18 August 1991).

<sup>73</sup> P910.A (Witness 79 statement), pp. 3-4.

<sup>74</sup> P307 (Report on work of Bosanska Krupa municipal assembly and war presidency, April 1992), p. 4; P529, tab 42 (Minutes of 3rd meeting of executive board of Bosanska Krupa, 24 December 1991), p. 1; P64 (Treanor report), p. 151; P507 (Velić statement), pp. 2, 4-7.

<sup>75</sup> Nielsen, T. 13863-4, 13893-6, 13901-3; P763 (Nielsen report), para. 67; P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), pp. 1-4; P468 (Hasan Alić statement), p. 3; P468.B (Hasan Alić statement), p. 1.

<sup>76</sup> Witness 636, T. 14446, 14450-52; P789 (Witness 636 statement), pp. 5-7.

<sup>77</sup> Deronjić, T. 863; 889-90, 936, 945-6, 964-7, 971-86, 988-91, 1004-11, 1184, 1187-90, 1193-5, 1200-1; P37 (Record of SDS party meeting, Sarajevo, 12 July 1991), p. 93; P52 (Letter sent by Rajko Dukić to Radovan Karadžić, 15 December 1992); P51 (Report of 2nd military district, March 1992), p. 6; P515 (Gušić statement), pp. 3-4; P515.B (Gušić transcript), 20100; Dubičić, T. 779, 800-1, 804-5; P481 (Dubičić statement), paras 11, 19, 22, 30.

<sup>78</sup> Gaši, T. 390-2, 402-6, 535; P22 (Brčko war presidency situation report), p. 3; P514 (Redžić statement), pp. 2-4; P514.B (Redžić transcript), pp. 762-6, 769-75, 778, 795-7.

<sup>79</sup> P504 (Witness 428 statement), p. 3.

<sup>80</sup> Witness 132, T. 12477, 12481, 12503; P636 (Witness 132 statement), para. 16.

<sup>81</sup> P758.F (Report on setting up of Serbian SJB in Donji Vakuf, 4 October 1993), p. 1.

<sup>82</sup> Witness 305, T. 12888, P683 (Witness 305 statement), pp. 2-3; Adjudicated facts 340-1; P696 (Witness 577 transcript), pp. 455-6, 462-3; P912 (Witness 114 statement), p. 3.

<sup>83</sup> P910.A (Witness 79 statement), pp. 3-6; P912 (Witness 114 statement), p. 3.

<sup>84</sup> Nielsen, T. 13863-4, 13893-96, 13901-03; P763 (Nielsen report), paras 67-8; P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), pp. 1-2, 4; P763.C, tab 7 (Award commendation for Sreto Samardžija, no date), pp. 1-3.

<sup>85</sup> P702.A (Čevro statement), pp. 2-4; P702 (Čevro statement), pp. 3-4.

<sup>86</sup> Nielsen, T. 13863-4, 13893-6, 13901-3; P763 (Nielsen report), paras 67-8; P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), pp. 1-2, 4; P763.C, tab 7 (Award commendation for Sreto Samardžija, no date), pp. 1-3.

<sup>87</sup> Egrlić, T. 4635-6, 4641-2, 4663-4, 4883.

<sup>88</sup> Nielsen, T. 13863-4, 13893-6, 13901-3; P763 (Nielsen report), paras 67-8; P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), pp. 1-2, 4; P763.C, tab 7 (Award commendation for Sreto Samardžija, no date), pp. 1-3.

Sarajevo,<sup>89</sup> Pale,<sup>90</sup> Prijedor,<sup>91</sup> Prnjavor,<sup>92</sup> Rogatica,<sup>93</sup> Sanski Most,<sup>94</sup> Sokolac,<sup>95</sup> Trnovo,<sup>96</sup> Višegrad,<sup>97</sup> Vlasenica,<sup>98</sup> and Vogošća.<sup>99</sup> Evidence on the record shows that they also armed themselves in three non-indictment municipalities: Drvar, Kladanj, and Šekovići.<sup>100</sup> In addition to weapons, Bosnian Serbs were also often provided with training by JNA and police officers, and were in some cases organized into paramilitary groups.<sup>101</sup>

42. A report on the situation in Bosnia-Herzegovina in March 1992 by General Milutin Kukanjac, commander of the JNA 2nd Military District (covering Bosnia-Herzegovina and small areas of Croatia) stated that “the leadership of Serbian people and all Serbs are ready for the war, in the case that the confederation in Bosnia and Herzegovina is not accepted”, and indicated that the SDS had distributed 17,298 weapons to “volunteer units” in the 2nd Military District. Kukanjac acknowledged that the JNA and the SDS had armed 69,198 Serbs, mostly volunteers outside the ranks of the TO and the JNA. The report also indicated that SDS leaders “at all levels” were trying to obtain weapons from the JNA and from the Serbian MUP.<sup>102</sup> On 31 August 1992 the 1st Krajina Corps reported to the VRS Main Staff that weapons and other military equipment were being issued, since 1991, to the TOs and other “structures outside the armed forces”, that is paramilitary units and the

<sup>89</sup> P702.A (Čevro statement), pp. 2-4; P702 (Čevro statement), pp. 3-4.

<sup>90</sup> Črnčalo, T. 5291, 5302-6, 5362-4; P270 (Črnčalo statement), paras 17-18.

<sup>91</sup> Witness 636, T. 14446, 14450-52; P789 (Witness 636 statement), pp. 5-7.

<sup>92</sup> Vasić, T. 17375-6, 17455-7, 17459-60, 17516-23; D75 (Decision of Prnjavor municipal assembly, 11 October 1991); P947 (Speech by Nemanja Vasić, September 1993).

<sup>93</sup> Alajbegović, T. 10996, 11015-18, 11019-20, 11024; P566 (Alajbegović statement), p. 1; Witness 382, T. 11228-31, 11295, 11305; P576 (Witness 382 statement), pp. 2-3; P526 (Džambasović statement), paras 1, 3, 7, 12, 22; P526.A (Džambasović statement), paras 1, 10, 39, 59, 80, 81; P566 (Alajbegović statement), paras 15-16, 37-8; P567 (Data sheet and map created from 1991 census, no date); P708 (Agić statement), p. 2; P709 (Dobrača statement), pp. 2-3; P710 (Pašić transcript), pp. 428-30, 438-9; P710.A (Pašić transcript), pp. 549, 552-3, 580-2.

<sup>94</sup> Witness 628, T. 3662; P158 (Witness 628 statement), pp. 9-11, 20, 39; Witness 633, T. 3838, 3847-8, 3854-5.

<sup>95</sup> P711 (Gagula statement), pp. 2-4.

<sup>96</sup> Witness 646, T. 10253, 10255, 10265; P531, tab 16 (Minutes of Trnovo SDS, 13 November 1991), p. 1; P531, tab 17 (Minutes of Trnovo SDS, 28 November 1991), p. 1; P529, tab 448 (Minutes of 3rd session of Trnovo SDS, 12 February 1992), p. 1; P529, tab 449 (Members of Trnovo SDS, 10 May 1992).

<sup>97</sup> P506 (Bičo statement), pp. 3-4; Treanor, T. 1394-5; P64 (Treanor report), para. 136; P68, tab 13 (Map of SAOs); Adjudicated facts 613-15.

<sup>98</sup> Redžić, T. 5008, 5016-21, 5030, 5140-3; P259.B (Telephone conversation between Zvonko Bajagić, Radovan Karadžić, and Nikola Koljević, 11 December 1991).

<sup>99</sup> Zečević, T. 13765, 13755, 13805-8; P753 (Zečević statement), paras 2, 14, 21-3; P529, tab 223 (Interview with Jovan Tintor to Serbian Radio TV, July and August 1994), p. 5.

<sup>100</sup> Witness 636, T. 14446, 14450-2; P789 (Witness 636 statement), pp. 5-7; P790.A (Telephone conversation between Nenad Stevandić and Radovan Karadžić, 17-18 August 1991); Witness 623, T. 5693-4, 5890-1.

<sup>101</sup> Deronjić, T. 966-7; P507 (Velić statement), pp. 2, 4-5, 7; P752 (Witness 665 transcript), pp. 21048-54, 21056-8, 21061-5; P752.J (Witness 665 transcript), pp. 30812-13, 30816; Subotić, T. 26475-7, 26538-9; C3 (Subotić statement), paras 27-9.

Serb population in general.<sup>103</sup> This was for the protection of Serbs “from genocide in Croatia and the Serbian Republic”.<sup>104</sup>

### 2.3 State of fear

43. There was fear among Bosnian Serbs that Muslims and Croats would engage in extreme violence against them. Several factors were seen to support this belief. First, some Bosnian Serbs had memories of crimes committed against Serbs during the Second World War,<sup>105</sup> and of injustices suffered during, and immediately after, World War I.<sup>106</sup> Second, some Bosnian Muslims and Bosnian Croats expressed extreme and aggressive messages, even hinting at the physical annihilation of Serbs in Croatia and Bosnia-Herzegovina.<sup>107</sup> Third, armed gangs perpetrated crimes against Serbs or federal institutions – often viewed as “Serb-dominated” – based on ethnic motives.<sup>108</sup> This type of action fuelled fear and mutual distrust. Fourth, the SDS leadership did not discourage such fears, but rather shared them and made them public, thus exacerbating the mutual distrust among the ethnicities.<sup>109</sup> In the face of a growing divide between the SDA and the HDZ, on the one side, and the SDS, on the other, Bosnian Serbs experienced instances of “outvoting” by the other two main parties both at the central and the local levels, and feared for the future.<sup>110</sup> Moreover, Bosnian Croats and Bosnian Muslims, supported by their leaders, often did not respond to mobilization for the conflict in Croatia, and this deepened the rift between the national parties.<sup>111</sup>

<sup>102</sup> Treanor, T. 1664-6; Brown, T. 16201, 16204-5; P733 (Selak transcript), pp. 12951-2; P733.A (Selak transcript), p. 12959; P51 (Report of 2nd military district, March 1992), pp. 4-6.

<sup>103</sup> P733 (Selak transcript), pp. 12932-3, 12937-9, 12945.

<sup>104</sup> P741 (Inventory of weapons issued, report from Command of 1st Krajina Corps to VRS Main Staff, 31 August 1992).

<sup>105</sup> Treanor, T. 1278; D14, T. 20140; Deronjić, T. 1008; Čenić, T. 22308; Đokanović, T. 10704-5; Witness 628, T. 4070; Witness 629, T. 11161-3; Maričić, T. 21717-8; Savkić, T. 20457-8; C3 (Subotić statement), paras 16-18; Subotić, T. 26504-5, 26541; P65, tab 68 (Record of 4th session of Bosnian-Serb Assembly, 21 December 1991), p. 19.

<sup>106</sup> Savkić, T. 20457.

<sup>107</sup> Đokanović, T. 10705; Savkić, T. 20459-60; Vukailović, T. 10246.

<sup>108</sup> Kecmanović, T. 22346.

<sup>109</sup> Redžić, T. 5022; Witness 628, T. 4156; 4163; Okun, T. 4164; Witness 583, T. 6992; Čučak, T. 3687-8; P161 (Informator of SDS Sanski Most, St Peter’s Day 1992); Babić, T. 3382-3; P152 (Statement, 22 January 2004), para. 6; P154 (Babić statement), para. 10.

<sup>110</sup> Treanor, T. 1411; P64 (Treanor Report), para. 111; P65, tab 47 (Record of Party Council, 15 October 1991), p. 2.

<sup>111</sup> Čengiđ, T. 8164-5; Dubičić, T. 789-95; P481 (Dubičić statement), paras 8, 11; P483 (Witness 128 statement), p. 3; P515 (Gušić statement), p. 3; Treanor, T. 1403.

44. According to Bogdan Subotić, JNA officer until early 1992 and Minister of Defence in the Bosnian-Serb Government from April 1992 onwards, Bosnian Serbs knew of, and were anxious about, an alleged plan by Alija Izetbegović to turn Bosnia-Herzegovina into a Muslim state within ten years pursuant to an “Islamic Declaration”, written by Izetbegović.<sup>112</sup>

45. This state of fear, and the propaganda that went with it, did not abate. Herbert Okun was special advisor to Cyrus Vance from 1991 to 1993, and participated in negotiations on a peace plan for the former Yugoslavia as deputy chairperson of the International Conference on the Former Yugoslavia. He met frequently with the Bosnian-Serb leadership.<sup>113</sup> Okun testified that Radovan Karadžić, Slobodan Milošević, the Accused, Nikola Koljević, and Alexander Buha repeatedly sought to justify the claim of the Bosnian-Serb leadership to extensive territories in Bosnia-Herzegovina through the “genocide” committed in the Second World War. When the issue of “ethnic cleansing” was raised, the Bosnian-Serb leadership again pointed at the genocide against the Serbs, linking it to the crimes that were being committed against the Serbs in 1991-1993.<sup>114</sup>

46. In an interview published on 26 January 1992, the Accused stated that, in his view, an independent Bosnia-Herzegovina would become “an Islamic state” within ten years and added:

As much as I do understand that the Muslims do not want to live in an Orthodox republic of BH, I also expect the Muslims to understand that the Serbs do not want to risk having to live in a republic that would resemble or be an Islamic republic.<sup>115</sup>

47. The fear that the Bosnian Serbs could be left as a minority in someone else’s state was a paramount consideration in the minds of the SDS leadership. This theme was presented as justification for their claims to the territories where Serbs had been a majority before the genocide of the Second World War.<sup>116</sup> The question of the “national and physical survival of the Serbian people in Bosnia and Herzegovina, who in recent history have been exposed to one of the worst genocides and policies of forced resettlement in

<sup>112</sup> C3 (Subotić statement), paras 3, 5, 16-18; Subotić, T. 26504-5, 26541; D260 (Islamic Declaration, dated “1990”).

<sup>113</sup> Okun, T. 4137, 4151-3.

<sup>114</sup> Okun, T. 4191-2; 4369; P404 (Interview with Momčilo Krajišnik in *Oslobođenje* newspaper, 26 January 1992), p. 2; P803, tab 8 (Interview with Milomir Stakić in *Kozarski Vjesnik* newspaper, 28 April 1994).

<sup>115</sup> P404 (Interview with Momčilo Krajišnik in *Oslobođenje* newspaper, 26 January 1992), p. 5.

<sup>116</sup> Treanor, T. 1515.

Europe” was highlighted in a document signed by the Accused and issued by the Bosnian-Serb Assembly on 19 December 1991.<sup>117</sup>

#### 2.4 Creation of Serb autonomous regions and districts

48. During the first months of 1991 the SDS began to organize Serb-majority municipalities in Bosnia-Herzegovina into communities of municipalities, in some cases severing ties with pre-existing communities of municipalities.<sup>118</sup> This led to the creation of the Community of Municipalities of the Bosnian Krajina on 7 April 1991, followed by the associations of Romanija, and Eastern and Old Herzegovina, both formed in May 1991.<sup>119</sup>

49. SDS party leaders justified the associations in terms of economic necessity.<sup>120</sup> However, among the functions the SDS assigned to the Bosnian Krajina community of municipalities was the organization of its defence in times of war or imminent threat of war.<sup>121</sup> The Chamber finds that, when considered together with the arming and mobilization of the Serbian population, this policy shows that the SDS was prepared to oppose even by force the possibility that Bosnia-Herzegovina would become an independent unitary state.

50. The SDS party leadership, in agreement with the political establishment in Serbia, began considering options for a break-up of Bosnia-Herzegovina along ethnic lines and a realignment of component parts with neighbouring states. On 14 February 1991 Slobodan Milošević briefed Radovan Karadžić, Biljana Plavšić, and the Accused on the stance of each of the Presidents of the Yugoslav republics with respect to maintaining a federal Yugoslavia. A few days after this meeting, Karadžić gave an interview in which he stated that, should Croatia and Slovenia secede, the “core Yugoslavia” that remained would have to adjust its borders by applying “the ethnic principle”: to the extent possible, Serb villages

<sup>117</sup> Treanor, T. 1503; P65, tab 64 (View on right to self-determination of Serbian people), p. 4.

<sup>118</sup> Witness 646, T. 10248; P64 (Treanor report), paras 117-19, 134; P65, tab 23 (Agreement on formation of community of Bosnian-Krajina municipalities, 29 April 1991); P65, tab 24 (Statute of Association of Bosnian-Krajina municipalities, May 1991).

<sup>119</sup> P934 (Donia report), pp. 25-6; P64 (Treanor Report), paras 117-37; P506 (Bičo statement), pp. 3-4.

<sup>120</sup> P934 (Donia report), p. 25.

<sup>121</sup> Treanor, T. 1325-6; P65, tab 23 (Agreement on formation of community of Bosnian-Krajina municipalities, 29 April 1991), art. 9; P65, tab 24 (Statute of Association of municipalities Bosanska Krajina, May 1991), art. 16.

would remain in Yugoslavia, and Croatian villages would become part of the new Croatian state.<sup>122</sup>

51. A confidential SDS document, dated 23 February 1991, considered specific actions to be taken should Bosnia-Herzegovina move towards independence.<sup>123</sup> In such a case municipal authorities were to ensure that only Yugoslav (federal) law would apply, suspending the implementation of republican regulations and thus creating “a legal foundation for direct communication (assistance, cooperation, and the like) between these municipalities and the Federation and its organs (such as the SFRY Assembly, Presidency, federal Executive Council ...) and through them, this would provide particularly for the need to engage the Yugoslav People’s Army, [and] the Federal Secretariat for National Defence.”<sup>124</sup> This policy was adopted by the SDS Deputies’ Club, the parliamentary caucus of the party,<sup>125</sup> and was made public in a document dated 10 June 1991.<sup>126</sup>

52. By June 1991 the SDS leadership ordered SDS organs in the municipalities to prepare maps of the municipalities showing as precisely as possible, in colour, the ethnic composition of each territory.<sup>127</sup>

53. On 25 June 1991 Croatia and Slovenia declared their independence from the SFRY. The JNA’s attempts to seize control of strategic assets in Slovenia were thwarted by the local TO, and the conflict in Slovenia effectively ended on 18 July.<sup>128</sup>

54. The armed conflict in Croatia commenced in the summer of 1991 and the fighting continued into the autumn. In September 1991, as part of a wider JNA operation in Croatia, the JNA 5th Corps (based in Bosnia-Herzegovina during peacetime) was mobilized and deployed in Croatia.<sup>129</sup> The Yugoslav Government said that the military action in Croatia was necessary to protect Croatian Serbs from “physical liquidation”.<sup>130</sup> In connection with the conflict in Croatia, sporadic clashes occurred in Bosnia-Herzegovina when federal

<sup>122</sup> Đokanović, T. 10451-4; 10469-71; P539 (Press report from *Oslobođenje* entitled, 23 February 1991); P540 (Interview with Radovan Karadžić in *Borba* newspaper, 26 February 1991), p. 2.

<sup>123</sup> Treanor, T. 1318.

<sup>124</sup> Treanor, T. 1316-19; P65, tab 19 (Document on steps to be undertaken by municipalities, 23 February 1991); P65, tab 20 (Excerpts from Maksimović’s diary, 18 March 1991), pp. 10-11.

<sup>125</sup> Treanor, T. 1302-3; Krajišnik, T. 26057-8.

<sup>126</sup> Treanor, T. 1327-31; P65, tab 27 (Stance on resolution of Yugoslav State crisis, 10 June 1991), pp. 1, 6.

<sup>127</sup> Babić, T. 3325-6, 3406-11, 3608-9; P152 (Statement, 22 January 2004), paras 15, 17; Deronjić, T. 900-1, 1146-8, 1150-1.

<sup>128</sup> Adjudicated facts 35-6; P934 (Donia report), p. 15.

<sup>129</sup> Brown, T. 16434-5; Babić, T. 3384.

<sup>130</sup> P934 (Donia report), p. 16.

authorities attempted to mobilize part of the non-Serb population.<sup>131</sup> A cease-fire was reached in Croatia on 2 January 1992, with the acceptance of the Vance Plan.<sup>132</sup>

55. The armed conflicts in Slovenia and Croatia increased animosity between the SDS, on the one hand, and the SDA and HDZ, on the other.<sup>133</sup> In late August 1991 the SDS leadership began to consider the creation of a separate Serb territory in Bosnia-Herzegovina with a view to enabling Serbs to remain in Yugoslavia should the other national communities proceed with the creation of an independent republic. This plan envisaged the institution of separate Serb political, police, and military structures in order to institute, at a later stage, separate governmental functions uniting the Serbs in Bosnia-Herzegovina.<sup>134</sup> On the other hand, the possibility that Croatia and Slovenia might secede from SFRY worried the SDA and the HDZ, for it would leave Bosnia-Herzegovina in a Serb-dominated diminished Yugoslavia.<sup>135</sup>

56. In July 1991 Karadžić expressed the view that the SDS, if needed, was able to create parallel state structures in a very short time.<sup>136</sup> In a conversation on 22 August 1991, Biljana Plavšić told her interlocutor that “if there is no other way to settle our Bosnian matters here, we shall, let me tell you, opt for secession [from Bosnia-Herzegovina] and get it over with”. She went on to state that it was unacceptable for Serbs to become a minority in an independent Bosnia-Herzegovina.<sup>137</sup>

57. On 7 September 1991, at a meeting in Pale, the SDS issued a “Decision on promulgation of autonomous regions as unquestionable parts of the federal state of Yugoslavia and as constituent parts of the federal unit of Bosnia and Herzegovina and on separation of settlements of one municipality and their integration into another municipality”.<sup>138</sup> During the same month the SDS implemented a policy of

<sup>131</sup> Čengić, T. 8036, 8164-5, Dubičić, T. 789-95, P481 (Dubčić statement), paras 6, 8-11; P482 (Bečirević statement), pp. 2-5; P482.A (Bečirević transcript), p. 20500; P483 (Witness 128 statement), p. 3; P515 (Gušić statement), p. 3.

<sup>132</sup> Babić, T. 3350-3, 3376-7, 3384; P152 (Statement, 22 January 2004), para. 21; P934 (Donia report), pp. 15-16.

<sup>133</sup> Treanor, T. 1261.

<sup>134</sup> Bjelobrk, T. 8220, 8278, 8410-16; P392 (Bjelobrk statement), paras 20, 39; Witness 623, T. 5694-5, 5686-7, 5829-31; P280 (Witness 623 statement), paras 36, 40, 42-5.

<sup>135</sup> Kljuić, T. 11925-6; Krajišnik, T. 23037; P64 (Treanor report), para. 82.

<sup>136</sup> P397.A (Telephone conversation between Radovan Karadžić and Vitomir Žepinić, 8 July 1991), p. 1.

<sup>137</sup> P67.A, tab 8 (Telephone conversation between Plavšić and Mladenović, 22 August 1991), p. 2; Treanor, T. 1359.

<sup>138</sup> Treanor, T. 1393; P64 (Treanor report), para. 135; P67.A, tab 12 (Telephone conversation between Milošević and Karadžić, 6 September 1991); P65, tab 39 (Decision to appoint regionalization staff, 25 September 1991).

“regionalization”. This consisted in the creation of “regions” in which Serbs were the relative majority. On 16 September the SDS Executive Board approved the appointment of a regionalization staff. At least three communities of municipalities – Eastern and Old Herzegovina, Bosnian Krajina (ARK), and Romanija – became Serb Autonomous Districts or Regions (SAOs) in September 1991. More SAOs were formed between September and November 1991: Semberija-Majeveica, Northern Bosnia, and Birač.<sup>139</sup>

58. The ARK, in particular, distinguished itself for strong independent action since its inception, when its authorities started taking over television and radio installations, and broadcasting “Serb” programs that intimidated persons of other nationalities. Muslim leaders were barred from the radio while SDS leaders had unlimited access.<sup>140</sup>

59. The pursuit of regionalization, according to the Accused, was used by the SDS in response to the HDZ’s and SDA’s attempts to discuss independence of Bosnia-Herzegovina. Regionalization was a leverage, in his view, to suggest to the SDS’s coalition partners that the three parties should reach an overall agreement on the whole of Bosnia-Herzegovina: its status within Yugoslavia as well as its internal organization.<sup>141</sup>

60. However, the situation made the SDS leadership increasingly feel they were being pushed into a corner. They therefore resolved to start requesting loyal officials in republican organs to report along party lines. In September and October 1991, SDS officials and top-ranking personnel of republican (Bosnia-Herzegovina) organs met to exchange information and establish coordination and cooperation between SDS members in various organs.<sup>142</sup> They adopted a resolution to set up “a duty system in order to monitor activities, implementation of tasks in state organs, day-to-day problem management in different fields and serve as a liaison with the SDS.”<sup>143</sup>

61. Witness Stjepan Kljuić was president of the HDZ and a member of the Bosnia-Herzegovina Presidency.<sup>144</sup> In the summer of 1991 the Bosnia-Herzegovina MUP Minister

<sup>139</sup> Treanor, T. 1393-5; P64 (Treanor report), para. 136; P65, tab 40 (Record of 3rd meeting of SDS Executive Board, 16 September 1991), p. 2; P68, tab 13 (Map of SAOs); Deronjić, T. 922-4, 927; P41 (Minutes of Bratunac SDS, 19 October 1991); P39 (Minutes of Bratunac SDS, 25 October 1991).

<sup>140</sup> Egrić, T. 4665; Adjudicated fact 115; P564 (Sejmenović transcript), pp. 4480-1, 4553-6; P64 (Treanor Report), para. 136.

<sup>141</sup> Krajišnik, T. 23020, 23026, 23030, 23039.

<sup>142</sup> P65, tab 34 (Record of meeting of SDS officials, 12 September 1991), p. 1.

<sup>143</sup> Treanor, T. 1386, 1390-1, 2218; P65, tab 34 (Record of meeting of SDS members working in Bosnian state organs, 12 September 1991), p. 7; P65, tab 38 (Confidential instructions from SDS president introducing a code system, August 1991); P65, tab 37 (Secret communication codes, no date).

<sup>144</sup> P291 (Kljuić statement), para. 5.

presented Kljuić with a recording of a telephone conversation between Slobodan Milošević and Radovan Karadžić.<sup>145</sup> Kljuić understood from that conversation that the territories around Banja Luka, together with the existing Serb holdings in Croatia, were to become the western border of a “Serb” state, which would encompass 70 to 75 per cent of the territory of Bosnia-Herzegovina.<sup>146</sup> In the autumn of 1991 Milošević confirmed this plan to the witness, adding that the left bank of the Neretva river (in southern Bosnia-Herzegovina) belonged to the Serbs.<sup>147</sup> Also in the autumn of 1991 Kljuić met with the Accused and other SDS leaders in the Accused’s office. Kljuić suggested that Bosnia-Herzegovina should recognize the existing borders of Croatia and Serbia and Montenegro, so that those states would not make territorial claims to Bosnia-Herzegovina.<sup>148</sup> The Accused, Karadžić, and Koljević all disagreed with this proposal and insisted that either Bosnia-Herzegovina as a whole would remain in Yugoslavia, or it would be divided: Western Herzegovina would become part of Croatia, while the Bosnian Serbs would join Yugoslavia.<sup>149</sup>

62. Thus, by autumn 1991, two political options for the settlement of the “Bosnian question” openly competed in the Assembly of Bosnia-Herzegovina.<sup>150</sup> One option, espoused by the SDA and the HDZ as well as the majority of opposition parties,<sup>151</sup> envisaged sovereign and internationally recognized statehood for Bosnia-Herzegovina. The other option, preferred by the SDS and some of the smaller parties, was that Bosnia-Herzegovina should remain within Yugoslavia.<sup>152</sup> Each side radically opposed the other’s option, and the SDS was ready to have “Serb” territories secede from an independent Bosnia-Herzegovina if that was the only way for Serbs to remain in Yugoslavia.<sup>153</sup>

<sup>145</sup> Kljuić, T. 6365-6.

<sup>146</sup> Kljuić, T. 6366-8.

<sup>147</sup> Kljuić, T. 6078-9, 6368-72.

<sup>148</sup> Kljuić, T. 6088-9, 11851-3, 11863-75; D40 (Kljuić’s notes relating to meeting in autumn 1991, no date).

<sup>149</sup> Kljuić, T. 6089, 6115-16.

<sup>150</sup> Witness 623, T. 5684.

<sup>151</sup> Witness 623, T. 5685-6.

<sup>152</sup> Witness 623, T. 5684-5, 5821-3; P280 (Witness 623 statement), paras 34-5.

<sup>153</sup> For example: Witness 623, T. 5686-96.

### 2.5 Creation of Bosnian-Serb Assembly

63. By October 1991, the three-party coalition was crumbling.<sup>154</sup> The SDA and HDZ pressed the Bosnia-Herzegovina Assembly to discuss a declaration of sovereignty of Bosnia-Herzegovina, which would pave the way for the republic to assert its independence from Yugoslavia. The SDS protested that such a declaration would be unconstitutional as it would infringe on the rights of one nationality recognized by the Bosnia-Herzegovina constitution, namely the Serbs, and it had not been vetted by the Council for Ethnic Equality.<sup>155</sup>

64. In the course of the debate on whether to vote on such a declaration of sovereignty, during the night of 14 and 15 October 1991, Radovan Karadžić expressed strong opposition and warned that the SDS would make use of constitutional mechanisms to prevent a vote.<sup>156</sup> When the other parties decided to proceed with the vote, the Accused, as President of the Assembly, adjourned the session to the next morning.<sup>157</sup> The SDS deputies, as well as most Serb deputies not in the SDS, left the hall. However, the vice-president of the Assembly then reconvened the session and the declaration was adopted. Without intervening, the Accused followed events on television from his office with some other deputies.<sup>158</sup>

65. On 15 October 1991 the SDS Political Council met to assess the situation. Addressing the meeting, the Accused suggested that, since the decision to adopt the declaration was illegal and unconstitutional, the SDS had to find a method of denouncing it.<sup>159</sup> During this and other meetings, the idea emerged that the SDS should form its own institutions, which would function in parallel to those of Bosnia-Herzegovina.<sup>160</sup> On 16 October the SDS's "Announcement to the Serbian people" stated that the SDA and HDZ had breached the constitutional order. It reiterated the SDS's support for federal

<sup>154</sup> Antić, T. 18157-62; Banduka, T. 18641-4; D104 (Letter of Hadžici SDS municipal board to newspaper, October 1991).

<sup>155</sup> Treanor, T. 1416-22; Witness 623, T. 5774-8, 5791-4, 5907-15; Kecmanović, T. 22333-8, 22437; Đokanović, T. 10498-9, 10644-6; C7 (Plavšić statement), para. 10; C8 (Excerpts from Biljana Plavšić's book *I Testify*), pp. 89-90, 100.

<sup>156</sup> P67.A, tab 17 (Record of Karadžić's speech to Bosnian Assembly, 15 October 1991), p. 3.

<sup>157</sup> Treanor, T. 1419; P934 (Donia report), p. 34.

<sup>158</sup> Treanor, T. 1419-22; P65, tab 46 (Conclusions regarding the memorandum, 14 October 1991); Đokanović, T. 10502-3; Kecmanović, T. 22335-8, 22437; Kljuić, T. 6102; C7 (Plavšić statement), para. 10; Plavšić, T. 26789-92.

<sup>159</sup> Treanor, T. 1423-30, 1941-3; P65, tab 47 (Record of expanded session of SDS party council, 15 October 1991), p. 3; C7 (Plavšić statement), para. 11.

<sup>160</sup> C8 (Excerpts from Biljana Plavšić's book *I Testify*), p. 98.

institutions, including the JNA.<sup>161</sup> At the SDS Deputies' Club meeting of 18 October the SDS leadership decided to hold a plebiscite on the question of secession from Yugoslavia.<sup>162</sup>

66. On 23 October 1991, the Yugoslav presidency invited Radovan Karadžić, the Accused, Nikola Koljević, and Biljana Plavšić, among others, to a meeting.<sup>163</sup> The main object was to “calculate the percentage of the population from the territories of the former Yugoslavia who were supporting Yugoslavia, the concept of Federation, the policy promoted by Milošević.”<sup>164</sup> The next day, Karadžić spoke with Milošević on the phone, and stated:

We will establish Yugoslavia in all the areas where we live ... You can talk to [Izetbegović and] tell him that Karadžić and the others will not give up on establishing an Assembly and parallel organs of authority ... We will establish full authority over the Serbian territories in BH and none of his lawyers will be, will be able to show his nose there. He will not be able to exercise power. He will not have control over 65% of his territory. That is our goal ... No, we're not excited at all. Our steps are calculated and we have to establish authority and control over our territories, so that he doesn't get [a] sovereign Bosnia.<sup>165</sup>

67. On 24 October 1991 the SDS deputies convened separately and established the Assembly of the Serbian People of Bosnia-Herzegovina (Bosnian-Serb Assembly).<sup>166</sup> The Accused was elected President of this Assembly. Nikola Koljević, Biljana Plavšić, Radovan Karadžić, Milutin Najdanović, and Miodrag Simović were “authorised to represent and protect the interests of the Serbian people of Bosnia-Herzegovina.” It was resolved that, for the time being, Serb representatives in republican bodies would not relinquish their offices and would carry out their duties “in accordance with the law”.<sup>167</sup> In practice, the Bosnian-Serb Assembly began as a gathering of the SDS Deputies' Club, joined by a few Serb non-SDS deputies from the Bosnia-Herzegovina Assembly. The Accused testified that the Assembly was only open to Serbian deputies elected in the Bosnia-Herzegovina Assembly because it was they who had a right to have a say when

<sup>161</sup> Treanor, T. 1430; P65, tab 48 (Announcement to the Serbian people, 16 October 1991).

<sup>162</sup> Treanor, T. 1431-4, 1438-42, 1948-53; P65, tab 50 (Record of SDS Deputies' Club meeting, 18 October 1991), pp. 2-3.

<sup>163</sup> Babić, T. 3514-15.

<sup>164</sup> Babić, T. 3517.

<sup>165</sup> P64 (Treanor Report), para. 85.

<sup>166</sup> Treanor, T. 1445-50, 1455-62; P65, tab 53 (Record of founding session of Bosnian-Serb Assembly, 24 October 1991); Đokanović, T. 10544-5, 10550; P934 (Donia report), p. 34.

<sup>167</sup> P65, tab 53 (Record of founding session of Bosnian-Serb Assembly, 24 October 1991), pp. 81-4.

“vital interests were decided upon”.<sup>168</sup> At that founding session the Accused said that the reason which prompted Serb deputies to establish the Assembly was the “serious attempt of transgressing against the national sovereignty of the Serbian people of Bosnia-Herzegovina ... which, consequently, endangers its existence in the territory of Bosnia-Herzegovina”.<sup>169</sup>

68. During the same session, Bosnian-Serb deputies passed a resolution that “the Serbian people of Bosnia-Herzegovina shall stay in the joint state of Yugoslavia together with Serbia, Montenegro, SAO Krajina, SAO Slavonija, Baranja, Western Sirmium [Zapadni Srem], and others who may declare that they wished to stay,” subject to confirmation by a plebiscite.<sup>170</sup>

69. Twenty-three sessions of the Bosnian-Serb Assembly were held between October 1991 and December 1992. The evidence shows that all were chaired by the Accused, except for the 15th session (held on 6 and 7 April 1992), when at least part of the session was chaired by Milovan Milanović.<sup>171</sup> Deputies attending these sessions came from the following indictment municipalities: Banja Luka, Bijeljina, Bileća, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Brčko, Čajniče, Čelinac, Doboј, Donji Vakuf, Foča, Gacko, Sarajevo, Ključ, Kalinovik, Kotor Varoš, Nevesinje, Prijedor, Prnjavor, Sanski Most, Sokolac, Teslić, and Zvornik.<sup>172</sup>

70. On 26 October 1991 all SDS presidents of the municipalities in the ARK as well as ARK government met with Radovan Karadžić. During this meeting an order was presented and “fully accepted” by those present.<sup>173</sup> (It is not clear whether the order pre-dated 26 October, and whether it was distributed outside the ARK before that date). The order consisted of fourteen points and called for, among other things, a “town command” amounting to a military administration; intensified mobilization of the TO; formation of military units; subordination of the TO to the JNA; disbanding of paramilitary units and their reassignment to the TO; take-over of public enterprises, the post office, banks, judiciary, media, and the SDK (Social Accounting Service); coordination with local

<sup>168</sup> Krajišnik, 23152-3.

<sup>169</sup> Treanor, T. 1448; P65, tab 53 (Record of founding session of Bosnian-Serb Assembly, 24 October 1991), p. 8.

<sup>170</sup> Treanor, T. 1458-62; P65, tab 53 (Record of founding session of Bosnian-Serb Assembly, 24 October 1991), pp. 79-80, 85-7; P934 (Donia Report), p. 34.

<sup>171</sup> P64 (Treanor report), pp. 184-5.

<sup>172</sup> P68, tab 11 (Map with figures, no date).

<sup>173</sup> P228 (Sarajevo SDS order, 29 October 1991); P64 (Treanor Report), para. 86.

directors and with the SDS in Sarajevo to ensure supplies for the population; and imposition of war taxes. The order was sent by telex on 29 October 1991 to presidents of all municipalities in the ARK by Radoslav Brđanin, in his capacity as “coordinator for implementing decisions”.<sup>174</sup>

71. Already on 18 October 1991 Radovan Karadžić, as president of SDS, had declared a state of emergency in the SDS and ordered the organization of daily meetings of the SDS municipal boards and round-the-clock duty watches, indicating that instructions would follow on a daily basis.<sup>175</sup> There is evidence that two SDS municipal boards, Bosanski Petrovac and Bratunac, responded to the emergency by setting up crisis staffs in their municipalities.<sup>176</sup>

72. The Chamber considers these events to be important, since they are early examples of SDS (party) documents requiring direct implementation of instructions by organs of the public administration, such as republican and regional institutions.

73. At a rally in Banja Luka in November 1991 the Accused stated in reference to the Serb plebiscite: “All the dark forces have for various reasons harnessed to destroy our common fatherland, to tear us into pieces. And I hope we won’t allow that.”<sup>177</sup> The plebiscite was held on 9 and 10 November 1991. Although all ethnicities were allowed to vote in the plebiscite, ballots were of different colours depending on the ethnicity of the voter.<sup>178</sup> Few non-Serbs participated.<sup>179</sup> The figures reported at the Bosnian-Serb Assembly on 21 November were: 99.9 per cent of the 1,162,032 Serbs who voted and 99.1 per cent of the 49,342 non-Serbs who voted, voted in favour of remaining in Yugoslavia.<sup>180</sup>

74. On 21 November 1991 the Bosnian-Serb Assembly proclaimed as part of the territory of federal Yugoslavia all those municipalities, communes, and settlements where

<sup>174</sup> P228 (Sarajevo SDS order, 29 October 1991); Egrlić, T. 4671-2, 4877-89.

<sup>175</sup> Treanor, T. 1442-3; P528 (Hanson Report), para. 9; P65, tab 51 (Telegram by SDS president Karadžić to Zavidovići SDS, 18 October 1991, 18 October 1991); P529, tab 8 (Telegram by Karadžić to Donji Vakuf SDS, 18 October 1991); P65, tab 52 (Fax by Novi Travnik SDS to SDS Main Board, 19 October 1991); P529, tab 10 (Reply by Odžak SDS, 20 October 1991); P529, tab 11 (Minutes from SDS Sarajevo council and executive committee joint session, 27 November 1991), p. 4.

<sup>176</sup> Hanson, T. 9622, 10001-2; Deronjić, T. 922-4, 927; P529, tab 14 (Conclusion of Bosanski Petrovac SDS, 24 October 1991); P41 (Minutes of Bratunac SDS, 19 October 1991); P39 (Minutes of Bratunac SDS, 25 October 1991), pp. 8-9; P529, tab 16 (Minutes of 1st meeting of Bratunac crisis staff, 26 October 1991).

<sup>177</sup> P354.A (Record of SDS rally for plebiscite, November 1991); Radić, T. 7377.

<sup>178</sup> Trbojević, T. 12206; P934 (Donia report), p. 34.

<sup>179</sup> Treanor, T. 1476-81; P934 (Donia report), p. 34.

a majority of registered citizens of Serb nationality had voted in favour of remaining in Yugoslavia.<sup>181</sup> If the majority in one municipality had voted to remain within Yugoslavia, the whole of that municipality would remain. Municipalities where the majority of people had not participated in the plebiscite (and were, thus, presumably, non-Serb-majority municipalities), the SDS proposed to look at single communes or settlements: if local communities had voted to remain, then only that community would be considered part of Yugoslavia, while the rest of the territory of the municipality would be allowed to join an independent Bosnia-Herzegovina.<sup>182</sup>

75. Also on 21 November, the Bosnian-Serb Assembly adopted a resolution declaring full support for the JNA in defence of the common state of Yugoslavia and in conducting mobilization of the Serb people in Bosnia-Herzegovina, in order to reinforce military units. The resolution added: “Serbian people and other people who wish to preserve Yugoslavia are called upon to respond to military call-ups”.<sup>183</sup>

76. The third act of the Assembly on 21 November was to certify the proclamation of the SAOs in Bosnia-Herzegovina.<sup>184</sup> The ARK had its seat in Banja Luka and comprised the following indictment municipalities: Banja Luka, Bosanski Novi, Bosanski Petrovac, Čelinac, Ključ, Kotor Varoš, Prijedor, Prnjavor, Sanski Most, “as well as parts of other municipalities from this region with a majority Serbian population”.<sup>185</sup>

77. Fourth, the Assembly appointed a commission on the adoption of a constitution. The Accused was elected to this commission.<sup>186</sup>

78. Fifth, the Assembly recommended to the SDS Deputies’ Club in the Bosnia-Herzegovina Assembly to foster a division of the joint mass media and the creation of separate radio and television channels, “which shall provide objective, true and just accounts of the Serbian people.”<sup>187</sup>

<sup>180</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), pp. 15-16; Witness 646, T. 10250-2.

<sup>181</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), pp. 25-9.

<sup>182</sup> Treanor, T. 1490-1, 1499-500; P65, tab 75 (Record of meeting, 8 January 1992), p. 43; P65, tab 88 (Minutes of 7th session of Bosnian-Serb Assembly, 15 February 1992), p. 25; P65, tab 108 (Letter of SDS Executive Board to municipal boards, 13 March 1992).

<sup>183</sup> Treanor, T. 1493; P65, tab 61 (Conclusions of Bosnian-Serb Assembly, 21 November 1991), p. 1.

<sup>184</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), pp. 29-30.

<sup>185</sup> P64.A, tab 504 (Decision on verification of declared SAOs, 12 November 1991).

<sup>186</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), pp. 36-40.

<sup>187</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), pp. 51-2.

79. Moreover, the Assembly voted to authorize Radovan Karadžić, Nikola Koljević, Biljana Plavšić, the Accused, Aleksandar Buha, and Vojislav Maksimović to negotiate with Muslim and Croat representatives “on the organisation of the future common life” in the territory of Bosnia-Herzegovina.<sup>188</sup> The Accused, Koljević, and Karadžić remained negotiators until at least 2 August 1992.<sup>189</sup>

80. During the same session of 21 November 1991, the Accused declared that “these are crucial times for the survival of the Serbian people in Bosnia and Herzegovina, and I would dare to say – even more broadly – when it comes to the Serbian people as such.” He cautioned that “All proposed solutions must be based on the Constitution and the laws, reflecting the interests of the Serbian people, but not at the expense of other peoples in Bosnia and Herzegovina”.<sup>190</sup>

#### 2.6 SDS Instructions of 19 December 1991

81. It soon became clear to the Bosnian-Serb leadership that the creation of a parallel Assembly and the calls for support of federal institutions (primarily the JNA) would most likely not result in Bosnia-Herzegovina remaining in Yugoslavia. Between November and December 1991, therefore, the SDS leadership began practical preparations for a separate state, should Bosnia-Herzegovina secede.

82. A letter signed by the Accused as President of the Bosnian-Serb Assembly on 19 December 1991, addressed to the government of the self-proclaimed Republic of Serbian Krajina (on the territory of Croatia), reflected not only the shared goal that all Serbs live in one state, but also the idea that Serbs in Croatia and Bosnia-Herzegovina were, even as minorities, on territory which historically belonged to them:<sup>191</sup>

Your struggle for freedom and your demands represent the demands of the entire Serbian people. They all add up to the realization of our basic right not to allow any power, whatever it may be, to divide us into several states and transform us into a people without a future. All Serbs are engaged in a struggle for the same goal ... and we are all convinced of our ultimate victory. Every Serb, and particularly we who have been elected to lead our people, is individually responsible for those obligations of ours which we have not yet fulfilled ... not

<sup>188</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), p. 26; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), p. 51; Krajišnik, T. 23393, 23396-8.

<sup>189</sup> P65, tab 184 (Minutes of 21st session of Bosnian-Serb Presidency, 2 August 1992).

<sup>190</sup> Treanor, T. 1484; P65, tab 59 (Record of 9th session of SDS Executive Board), pp. 7, 11.

individually to the Serbs of Krajina, Slavonia, Baranja and Western Srem, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia, but to all Serbs in Yugoslavia and the world.<sup>192</sup>

83. On 2 December 1991 Herbert Okun and Cyrus Vance met with Radovan Karadžić in Belgrade. According to Okun, Karadžić expressed his concern that Bosnia-Herzegovina would become independent. He strongly advocated the preservation of Yugoslavia as a federal state, in order to ensure that the Bosnian Serbs would not become a minority in Bosnia-Herzegovina. He expressed fear that the Muslims wanted to control all of Bosnia-Herzegovina and that they expected to achieve this through their higher birth rate. He also said that unless the Bosnian-Serb municipalities formed a lawful connection with Yugoslavia, war would result. Okun and Vance understood Karadžić to mean that unless the Bosnian Serbs were able to satisfy their demands through peaceful means, they would attempt to satisfy them through war.<sup>193</sup>

84. At the third session of the Bosnian-Serb Assembly, held on 11 December 1991, the Accused told the deputies:

In municipal assemblies where Serb representatives are in the minority, such as Novi Grad, Olovo, where decisions against the Serbian people are imposed on them by the majority, they should form municipal assemblies just like we formed the Assembly of the Serbian people here ... The initiative has come from numerous municipalities, which claim that the representatives cannot achieve anything, that everything is being done by outvoting and the will of others imposed on them that way.<sup>194</sup>

85. A recommendation was passed that separate (Serb) municipal assemblies should be formed in areas where Serbs were in the minority.<sup>195</sup> Nonetheless, the Bosnian-Serb Assembly emphasized that the deputies should continue to work in their (Bosnia-Herzegovina) municipal assemblies and organs “unless such work is inconsistent with the need for preserving the equality and interests of the Serbian people”.<sup>196</sup>

<sup>191</sup> Babić, T. 3399-400; 3594; P154 (Babić statement), para. 3.

<sup>192</sup> P65, tab 67 (Letter signed by Momčilo Krajišnik to Croatian Krajina, 19 December 1991), paras 3-5.

<sup>193</sup> Okun, T. 4163-4; 4171-3; P210 (Okun’s diary, entry for 2 December 1991).

<sup>194</sup> Treanor, T. 2133-9; P65, tab 62 (Record of 3rd session of Bosnian-Serb Assembly, 11 December 1991), pp. 14-15.

<sup>195</sup> P529, tab 21 (Recommendation on establishment of municipal assemblies, 11 December 1991); Treanor, T. 1495-8; P64 (Treanor Report), para. 88; P528 (Hanson report), para. 12; P65, tab 62 (Record of 3rd session of Bosnian-Serb Assembly, 11 December 1991), pp. 14, 22-3, 28; Ostojić, T. 26657-9.

<sup>196</sup> P529, tab 21 (Recommendation on establishment of municipal assemblies, 11 December 1991).

86. On 19 or 20 December 1991 a document entitled “Instructions for the Organisation and Activity of the Organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances”, dated “Sarajevo, 19 December 1991”, was introduced to the participants of a meeting of high-level SDS representatives. The text of the document is under the heading “Serbian Democratic Party of Bosnia and Herzegovina – Main Board” and is marked strictly confidential. The words “SDS Crisis Staff” appear on the last page of the document.<sup>197</sup> Various exemplars of the document exist, with different handwritten marks and numbers on them, sometimes indicating that the document was faxed to SDS municipal boards.<sup>198</sup> Karadžić, in addressing the meeting, said that SDS municipal boards would become responsible, pursuant to these Instructions, for creating a network that would cover all Serbs living in the municipalities.<sup>199</sup> All members of the SDS Main Board, including the Accused, were present at that meeting.<sup>200</sup>

87. The Instructions begin with the following paragraphs:

1. The adoption of the following Instructions was prompted by well-founded suspicions that certain forces were working, in a persistent, thorough and organised manner, toward a forced separation of Bosnia and Herzegovina, and thereby of the Serbian people, from Yugoslavia. The standardised tasks, measures and activities outlined here will be carried out within the Serbian national community in Bosnia and Herzegovina in order to implement the plebiscitary decision of the Serbian people in Bosnia and Herzegovina to live in one state, both under existing conditions and in any circumstances that might arise from the current political and security situation.

2. The tasks, measures and other activities described in these Instructions will be undertaken in order to enhance the preparedness of the Serbian people and its readiness to defend its interests.

3. The tasks, measures and other activities described in these Instructions shall be implemented on the entire territory of the SR BiH, i.e. in all the municipalities inhabited by the Serbian people, to wit:

- in their entirety, in municipalities where the Serbs are a majority (Variant “A”) and,

<sup>197</sup> P43 (Variant A and B instructions, 19 December 1991); Treanor, T. 1529, 2092-2118, 2121 2105; P64 (Treanor report), fn. 181; Hanson, T. 9622, 9660-2; P529, tab 376 (Telephone conversation between “Miroslav” and Radovan Karadžić, 7 January 1992), p. 7; P529, tab 383 (Telephone conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991), p. 3.

<sup>198</sup> Treanor, T. 2105-18; Hanson, T. 9622-3.

<sup>199</sup> Deronjić, T. 933, 1169-70; Nešković, T. 16647-8, 16651-6, 16783, 16788, 16794-5; Prstojević, T. 14501-3, 14791-9; P64 (Treanor report), para. 62; Treanor, T. 2162-8.

<sup>200</sup> Prstojević, T. 14501-3, 14791-9; Krajišnik, T. 23423-5.

- partially, in municipalities where the Serbs are not a majority (Variant “B”).

4. In order to ensure uniform and timely implementation, the tasks, measures and other activities shall be implemented in variants “A” and “B”, each consisting of two stages.<sup>201</sup>

88. The “first stage” of Variant A, applicable in municipalities with Serbs in the majority, includes the following instructions:

The SDS municipal board shall immediately form a crisis staff of the Serbian people in the municipality, to be composed of:

- all members of the secretariat of the SDS municipal board;
- municipal officials who are also SDS nominees in the following organs: president of the municipal assembly or president of the municipal executive committee; chief of the public security station or commander of the police; commander or chief of the municipal territorial defence staff; secretary of the municipal national defence secretariat or another SDS-nominated official from the secretariat;
- assemblymen in the Assembly of the Serbian people of BH
- members of the Main Board of the SDS of BH from the municipality in question.<sup>202</sup>

89. The Instructions set out a number of other actions to be taken at the municipal level:

Convene and proclaim an assembly of the Serbian people in the municipality ... Carry out preparations for the setting up of state organs in the municipality (executive committee, administrative organs, magistrates’ court, public security station, etc.) and propose individuals for posts and duties in these organs. Prepare the take-over of staff, facilities and equipment of security services centres and their incorporation into the newly established internal affairs organ ... Upgrade the protection and security of vital buildings and facilities in the municipality ... Make an estimate of the necessary size of active and reserve police forces, TO units, and Civil Defence units; on the basis of the estimate, these structures shall be reinforced and other necessary measures shall be taken for their activation, as may be required by further developments. The order to activate these units shall be issued by the crisis staff in each municipality ... Carry out preparations (create organisational means and other conditions) for:

- ... reinforcing combat units as classified by the JNA with manpower as well as inventoried materiel and livestock, according to federal regulations, based on the Serbian

<sup>201</sup> P43 (Variant A and B Instructions, 19 December 1991), p. 2.

<sup>202</sup> P43 (Variant A and B instructions, 19 December 1991), pp. 2-3.

principles of fairness and humanity, with SDS officials, other leaders and distinguished Serbs serving as personal examples;

- the protection of material resources important for defence and resistance, as well as for the survival and activities of the population.

90. The main actions of the second stage include the establishment of state organs in the municipality; the mobilization of all Serb members of the police forces in cooperation with “JNA commands and staffs”; the implementation of orders to mobilize reserve JNA forces and TO units; the assumption of control over public finances; and the take-over of the staff, premises, and equipment of the security services.

91. The second stage of Variant A also includes the following instruction: “In the implementation of all these measures, ensure respect for the national and other rights of members of all peoples and, subsequently, ensure their involvement in the administrative authorities to be set up by the assembly of the Serbian people in the municipality.”

92. The instructions forming part of the first stage of Variant B, relating to municipalities where Serbs did not constitute a majority, are substantially the same as those relating to Variant A, including the membership in the crisis staffs. The only significant difference in the first stage of Variant B is the instruction qualifying the actions for setting up state organs in the municipality, which states: “Ensure proportionate representation in government organs of members of other nations and nationalities who have expressed their loyalty to federal Yugoslavia.”

93. In some respects the instructions relating to the second stage of Variant B demand less forceful action. They are focused primarily on municipal sub-regions in which Serbs were in the majority. Thus, for example, unlike in Variant A, there is no instruction to take over the staff, premises, and equipment of the security services in the municipality. Instead, at this point Variant B states: “At the approaches to places inhabited by Serbs, organize covert surveillance and set up a system for reporting all possible threats to the Serbian population.”

94. The Instructions have a general section on their mode of implementation. This requires the crisis staff to “obtain and respect expressions of loyalty (in written form, if possible) to the constitutional order and judicial system of the federal state of Yugoslavia by citizens of other nationalities.” Implementation of the Instructions was to be “in accordance with the federal Constitution, federal laws and other federal regulations, as well

as regulations issued by the Republic, when these do not conflict with federal regulations.”<sup>203</sup>

95. The Instructions conclude: “The tasks, measures and other activities set out in these Instructions may be implemented only by order of the president of the SDS BH, according to a secret procedure especially established for the purpose ... at a later date.”<sup>204</sup>

96. The authorities of Republika Srpska, in a letter to the Tribunal’s Office of the Prosecutor dated November 2001, stated that the Instructions “were given by a certain number of retired officers of the former Yugoslav People’s Army”, and not by the SDS Main Board or another SDS body.<sup>205</sup>

97. Some witnesses heard by the Chamber claimed that the Instructions never existed or that they did not reflect official SDS policy.<sup>206</sup> However, despite some uncertainty about who authored the Instructions and how they were disseminated, the Chamber finds that they reflected SDS policy and that they found their way to local SDS leaders between 20 December 1991 and the early months of 1992. Moreover, the Instructions were received and implemented, fully or partially, in several municipalities in Bosnia-Herzegovina.<sup>207</sup> The SDS in several municipalities relied on the Instructions for actions, in particular when proclaiming the municipality as being Serb.<sup>208</sup> As detailed below, Karadžić also referred to their implementation in the weeks following 20 December 1992.

<sup>203</sup> P43 (Variant A and B instructions, 19 December 1991), pp. 3-8.

<sup>204</sup> P43 (Variant A and B instructions, 19 December 1991), p. 8.

<sup>205</sup> Treanor, T. 2167-79; D9 (Letter from SDS main office, 5 November 2001).

<sup>206</sup> Savkić, T. 20613-17; Bjelica, T. 22614-17; D9 (Letter from Milovan Bjelica to Ministry of Justice, Bosnian-Serb Republic, 5 November 2001), p. 2; Kecmanović, T. 22350-1; Mičić, T. 19422, 19469-70; Hrvačanin, T. 19199-200, 19217, 19220.

<sup>207</sup> Hanson, T. 9622-9, 9638-60, 9946-50, 9979-81; Deronjić, T. 934; P44 (Minutes of meeting of Bratunac SDS, 23 December 1991); P529, tab 381 (Telephone conversation between Miroslav Mičević and Radovan Karadžić, 1 January 1992); P529, tab 382 (Telephone conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992); P529, tab 40 (Conclusions of Zvornik SDS meeting, 22 December 1991); P529, tab 41 (Minutes of 6th meeting of Ključ executive board, 23 December 1991); P529, tab 42 (Minutes of 3rd meeting of Bosanska Krupa executive board, 24 December 1991); P529, tab 43 (Notes from meeting of Sarajevo crisis staff, 24 December 1991); P529, tab 51 (Minutes of 1st meeting of Bosanski Petrovac SDS, 26 December 1991); P529, tab 378 (Minutes of meeting of Novo Sarajevo SDS crisis staff, 23 December 1991); P529, tab 379 (Minutes of Trnovo SDS meeting, 25 December 1991); P529, tab 37 (Minutes of meeting of Prijedor SDS, 27 December 1991); P45 (Minutes of meeting of Bratunac SDS, 24 February 1992).

<sup>208</sup> Hanson, T. 9670-1; P528 (Hanson report), para. 18; P529, tab 50 (Order from Bosanska Krupa crisis staff, 5 April 1992); P529, tab 52 (Decision on establishment of Donji Vakuf municipality, 15 February 1992); P529, tab 53 (Decision on proclamation of Ilidža assembly, 3 January 1992); P529, tab 56 (Decision on allocation of flat, 19 July 1992); P529, tab 57 (Decision on establishment of Tuzla municipality, 3 March 1992); P529, tab 58 (Decision on establishment of Zvornik Municipality, 27 December 1991); P529, tab 451 (Decision by Trnovo crisis staff, 5 July 1992).

98. Preparations for take-over in municipalities started immediately after the Instructions were announced. On 21 December 1991 the Bosnian-Serb Assembly appointed a coordinator of the work of governments and executive bodies of the SAOs, Jovan Čizmović, who was tasked with, among other things, the implementation of the 19 December Instructions.<sup>209</sup> Despite differences due to the circumstances of each municipality, several SDS officials in Bosnia-Herzegovina deemed the Instructions as providing guidance during that exceptional period.<sup>210</sup>

99. The majority of the Serb crisis staffs were created by the first months of 1992.<sup>211</sup> Among the exceptions are the crisis staffs in Bratunac and Bosanski Petrovac,<sup>212</sup> established already in October 1991, as discussed above, and the crisis staffs of Foča,<sup>213</sup> Brčko,<sup>214</sup> Sokolac,<sup>215</sup> Bosanski Novi,<sup>216</sup> and the ARK,<sup>217</sup> which were not established until April or May 1992.

<sup>209</sup> Hanson, T. 9660-9; P529, tab 383 (Telephone conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991), p. 3; P529, tab 384 (Decree by Bosnian-Serb Assembly on appointment of coordinator, 21 December 1991); P529, tab 385 (Telephone conversation between Radovan Karadžić and Jovan Čizmović, 16 January 1992); P65, tab 84 (Record of 6th session of Bosnian-Serb Assembly, 26 January 1992), p. 14.

<sup>210</sup> Deronjić, T. 934, 937-45, 1171-80, 1183-4, 1217; P39 (Minutes of meeting of Bratunac SDS, 25 October 1991), pp. 8-15; Nešković, T. 16660, 16664, 16800; P529, tab 378 (Minutes of meeting of Novo Sarajevo SDS crisis staff, 23 December 1991), items 6-9, 11; Witness 646, T. 10259-60; 10263; P531, tab 23 (Minutes of session of Trnovo SDS municipal board, 25 December 1991), p. 1; Radojko, T. 21278-82; P90.H (Minutes of meeting of SDS Bosanski Petrovac, 26 December 1991); Prstojević, T. 14506-16, 14823-5; Radić, T. 7384-5; P636 (Witness 132 statement), para. 13.

<sup>211</sup> P528 (Hanson report), para. 18; Hanson, T. 9622. For example: Prstojević, T. 14506-7, 14509-16, 14539, 14545, 14619, 14808-9, 14812-13, 14823-5, 14827-32; P529, tab 148 (Report of the work of the crisis staff Ključ, 29 July 1992); P529, tab 40 (Conclusions from the SDS Zvornik Municipal Board, 22 December 1991); P529, tab 42 (Minutes of third meeting of the Executive Board of Bosanska Krupa, 24 December 1991); P529, tab 37 (Minutes of meeting of the Prijedor SDS, 27 December 1991); P529, tab 44 (Minutes of session of Trnovo SDS, 27 December 1991); P529, tab 378 (Minutes of meeting of Novo Sarajevo crisis staff, 23 December 1991); P912 (Witness 114 statement), p. 4; P709 (Dobrača statement), pp. 5, 7; Črnčalo, T. 5292; P270 (Črnčalo statement), paras 10, 30; P912 (Witness 114 statement), p. 4.

<sup>212</sup> P528 (Hanson report), para. 11; P529, tab 14 (Conclusion from Bosanski Petrovac SDS, 24 October 1991); P41 (Minutes of Bratunac SDS, 19 October 1991); P529, tab 16 (Minutes of 1st meeting of Bratunac crisis staff, 26 October 1991); P710.A (Pašić transcript), pp. 556, 582.

<sup>213</sup> Adjudicated facts 343-6; P529, tab 464 (Decision on establishment of Foča crisis staff, 3 April 1992).

<sup>214</sup> P22 (Brčko war presidency situation report, May 1992), p. 1.

<sup>215</sup> Tupajić, T. 15321-7, 15330-9, 15361-2, 15403; P828 (Decision on mobilization of members of Sokolac crisis staff, 29 May 1992); P829 (Conclusion from meeting of Sokolac crisis staff, 20 April 1992); P833 (Crisis staff order to municipal SNO, 21 April 1992); P834 (Order from the Sokolac crisis staff to the Sokolac SJB, 20 April 1992); P837 (Record of meeting with the Sokolac crisis staff, 10 April 1992); P843 (Letter by the President of the Sokolac crisis staff, 15 July 1992); P711 (Gagula statement), p. 3.

<sup>216</sup> D115 (Report on work of Bosanski Novi crisis staff, no date), p. 1; Radomir Pašić, T. 19582, 19587; Radomir Pašić, T. 19586-9, 19591, 19599, 19626-9, 19637-40, 19643, 19735-6.

<sup>217</sup> P64.A, tab 488 (Decision on formation of ARK crisis staff, 5 May 1992); P512.A (Džonlić transcript), p. 2418; P512.B (Džonlić transcript), p. 2504; P512.D (Džonlić transcript), pp. 2640-1; Radić, T. 7364, 7378-9, 7497; P911.B (Witness 545, Extracts from diary), pp. L0034658, L0034661-2.

## 2.7 Proclamation of Bosnian-Serb Republic

100. Around 20 December 1991, SDS members Nikola Koljević and Biljana Plavšić voiced their opposition to the Bosnia-Herzegovina Presidency's decision to apply to the Badinter Commission – established by the European Community to issue advisory opinions on legal matters relating to the Yugoslav crisis – for recognition as an independent state.<sup>218</sup>

101. On 21 December 1991 the Bosnian-Serb Assembly adopted a statement pointing out that the decisions of the Bosnia-Herzegovina Presidency in favour of independence were taken unconstitutionally and contrary to the equality of the three ethnicities.<sup>219</sup> It also decided “to commence preparations for the establishment of the Republic of Serbian Bosnia and Herzegovina as a federal unit within Yugoslavia”,<sup>220</sup> despite the fact that, by that time, Milošević had informed Karadžić and the Accused that the international community intended to foster an independent, federal, Bosnia-Herzegovina and that Yugoslavia would only consist of Serbia and Montenegro.<sup>221</sup>

102. The deputies proceeded to establish a Ministerial Council, which was to act under the Assembly.<sup>222</sup> Vitomir Žepinić and Mićo Stanišić, high-level officials in the Bosnia-Herzegovina MUP, were named to the Council, the former as Minister of Internal Affairs and the latter as Minister without portfolio.<sup>223</sup> The proclamation of a Bosnian-Serb Republic was set for 14 January 1992.<sup>224</sup> Radovan Karadžić suggested that a solution to the crisis might lie in the creation of three entities, each with ties to different states. He said that while his proposal might seem complicated,

we can accommodate everything; everything is better than civil war; everything is better than imposing one's solution onto others. Everything is better than chaos and hell ... we are committed not to take part in any such thing, unless it is imposed upon us in the way that it was imposed on our brothers in Croatia.<sup>225</sup>

<sup>218</sup> P934 (Donia report), p. 35.

<sup>219</sup> P65, tab 68 (Record of 4th session of Bosnian-Serb Assembly, 21 December 1991), pp. 13-14; Krajišnik, T. 23335-6, 23684.

<sup>220</sup> Treanor, T. 1513; P65, tab 68 (Record of 4th session of Bosnian-Serb Assembly, 21 December 1991), pp. 4-15.

<sup>221</sup> Krajišnik, T. 23350, 23356-61, 23364-7, 23372, 23386.

<sup>222</sup> Treanor, T. 1525-6; P65, tab 71 (Decision on establishment of Ministerial Council, 21 December 1991).

<sup>223</sup> P763 (Nielsen report), paras 17, 41; Nielsen, T. 13904.

<sup>224</sup> Treanor, T. 1520; P65, tab 68 (Record of 4th session of Bosnian-Serb Assembly, 21 December 1991), p. 38.

<sup>225</sup> P65, tab 68 (Record of 4th session of Bosnian-Serb Assembly, 21 December 1991), pp. 38-9.

103. On 9 January 1992 the Bosnian-Serb Assembly unanimously proclaimed “the Republic of the Serbian People of Bosnia and Herzegovina” to be:

a federal unit of the Yugoslav federal state in the territories of the Serbian autonomous areas in the region and of other Serbian ethnic entities in Bosnia-Herzegovina, including the regions in which the Serbian people remained in minority due to the genocide conducted against it in World War II, and on the basis of the plebiscite held on 9 and 10 November 1991, at which the Serbian people decided to remain in the joint state of Yugoslavia.<sup>226</sup>

The Assembly added that the “territorial delimitation with political communities of other peoples in Bosnia-Herzegovina, as well as the solution of other mutual rights and obligations, shall be performed in a peaceful manner and with mutual agreement”.<sup>227</sup> The implementation of the proclamation was conditional upon the recognition of independence of Bosnia-Herzegovina by the international community.<sup>228</sup> Nevertheless, the SDS-backed arming of the Serb population during this period shows that the Bosnian-Serb leadership was also simultaneously preparing for another course of action.

104. The SDS leadership had lost hope that a compromise could be reached with the other parties. On 31 December 1991 the *Oslobođenje* newspaper published an interview with Alija Izetbegović, in which he called for the establishment of a sovereign and independent Bosnia-Herzegovina.<sup>229</sup> In a conversation the following day, Radovan Karadžić and the Accused reacted to this development. Karadžić said that “We will release our tigers and let them do their job ... we shouldn’t hold them back.” The Accused replied “We have to, but they’ll do it anyway, whether you want them to or not.” They both agreed that following Izetbegović’s proclamation they would no longer be able to calm the Serb people, as they had managed to do until that moment. Karadžić said that “he [Izetbegović] wants war. He’s playing with fire thinking Serbs wouldn’t ...”; the Accused interjected, saying “We have to use the first opportunity to tell him that he’s playing with fire.”<sup>230</sup>

105. The SDS leadership thus decided to proceed on two tracks, in order to keep its options open for as long as possible. On the one hand, they participated in negotiations

<sup>226</sup> P65, tab 76 (Record of 5th session of Bosnian-Serb Assembly, 9 January 1992), pp. 10-13, 62; List of matters admitted by the Accused, 31 August 2001, para. 63.

<sup>227</sup> P65, tab 77 (Declaration on proclamation of Bosnian-Serb Republic, 9 January 1992), art. 3.

<sup>228</sup> P65, tab 76 (Record of 5th session of Bosnian-Serb Assembly, 9 January 1992), p. 13; Krajišnik, T. 23684-5; Adjudicated facts 43, 75.

<sup>229</sup> T. 8323-4; P402 (Interview with Alija Izetbegović in *Oslobođenje* newspaper, 2 January 1992).

<sup>230</sup> P403.B (Telephone conversation between Radovan Karadžić and Momčilo Krajišnik, 1 January 1992), pp. 5-6.

with the other parties to find acceptable arrangements for the three nationalities in Bosnia-Herzegovina. On the other hand, they actively prepared for unilateral separation of what they considered Serb territories from Bosnia-Herzegovina in case the negotiations failed to achieve results. Karadžić warned that international recognition of Bosnia-Herzegovina without the necessary transformation would lead to armed conflict.<sup>231</sup> For this second option, they could build upon the solid SDS structure throughout the republic.

106. On 11 January 1992 Radovan Karadžić and the Accused attended the first meeting of the Bosnian-Serb Ministerial Council, where they participated in a discussion on “execution of tasks resulting from the Declaration ... of the Republic of the Serbian People of Bosnia and Herzegovina” which, as mentioned above, had been adopted two days earlier. The list of priorities identified at the meeting included definition of Bosnian-Serb ethnic territory and the establishment of government organs in that territory.<sup>232</sup> Following this meeting, Bosnian-Serb authorities moved ahead with the organization of a separate Serb MUP.<sup>233</sup> This meeting also shows the officialization of the SAOs within the structure of the nascent Serb state: SAO presidents were made ex officio members of the Ministerial Council.<sup>234</sup>

107. On 17 January 1992, at a session of the Ministerial Council, at which the Accused was also present, a draft programme of work for the Council was presented. It called for the adoption of the Constitution and for the organization of the territory in such a way so as to “enlarge the territory of the regions and encompass a larger number of inhabitants wherever possible in order to consolidate the regions both ethnically and economically.” It placed “particular stress ... on the need for political and territorial organization of the regions by the formation of new municipalities in border areas of these regions.”<sup>235</sup> At that same session it was decided that the Commission on the Constitution, of which the Accused was a member, and the Ministerial Council, would be tasked with preparation, by 15 February 1992, of draft legislation to enable the Bosnian-Serb Republic to start functioning.<sup>236</sup>

<sup>231</sup> Krajišnik, T. 24326.

<sup>232</sup> P412 (Minutes of 1st session of Ministerial Council, 11 January 1992).

<sup>233</sup> Mandić, T. 8645.

<sup>234</sup> P64 (Treanor Report), para. 149.

<sup>235</sup> Treanor, T. 1549-50; P65, tab 82 (Minutes of 2nd session of Ministerial Council, 17 January 1992), pp. 4-5.

<sup>236</sup> P65, tab 84 (Record of 6th session of Bosnian-Serb Assembly, 26 January 1992), pp. 23-4, 31, 37.

108. During this period, the SDS started contemplating military conflict as a likelihood, and no longer as a mere possibility. Thus, as mentioned above, arming and mobilization of the population in cooperation with the JNA increased. For example, the SDS formed its own military unit in Milići, Vlasenica municipality, which was equipped by the JNA's 216th Brigade. Furthermore, in order to replace Croat and Muslim soldiers who refused to mobilize in Rogatica and Sokolac municipalities, two exclusively Serb battalions of the 216th Brigade were formed with the assistance of the SDS. These battalions then armed and equipped Serb civilians in neighbouring villages and, from March 1992 onwards, their commanders reported exclusively to the brigade commander, Colonel Dragomir Milošević who, in turn, reported directly to General Vojislav Đurđević, commander of the JNA 4th Corps.<sup>237</sup> Rajko Kušić, a prominent SDS leader of Rogatica, created his own unit composed of Serb volunteers, under the auspices of Colonel Milošević. Between January and March 1992, Colonel Milošević had frequent meetings with SDS leaders, including Rajko Đukić.<sup>238</sup>

109. A confidential document, contextually dated January or early February 1992, from the "organs of the Republic of Serbian Bosnia-Herzegovina" to the JNA Chief of the Main Staff in Belgrade and the commanders of the 2nd and 4th Military Districts (covering Bosnia-Herzegovina and small areas of Croatia), noted that the Bosnian-Serb Assembly had decided to "institutionalize" a situation, in which the "Serbian territories" of Bosnia-Herzegovina would remain in federal Yugoslavia. The document stated that this was to be done through peaceful means, but went on to note that the organs of the Bosnian-Serb Republic were soon to establish full control over these Serb territories, and requested various forms of assistance from the JNA in this respect. First, the "organs" requested the JNA to assign officers to assist municipal TOs, SJBs, and CSBs, and to supply materiel, including weapons, ammunition, vehicles, helicopters, communications equipment, and uniforms, all of which was required by 20 February 1992 at the latest. Second, the "organs" asked the JNA to support them in taking over "Serbian territories in [Bosnia-Herzegovina] that remain part of Yugoslavia". The requested support included deploying JNA units to positions, from which they could protect the borders of Serb territories and preparations for providing rapid assistance in establishing control of territory by securing important areas. The "deadline" for completion of tasks in relation to the second request

<sup>237</sup> P526.A (Džambasović statement), paras 46-7, 72, 79-80, 91-3; P526 (Džambasović statement), paras 17, 19-20, 24; Džambasović, T. 6027-8.

was 25 February. In their turn, the “organs” undertook to enlist volunteers through municipal organs, and to designate persons (municipal presidents and TO commanders) to coordinate cooperation and joint operations with the JNA – a list with the phone numbers of these persons was to be provided to JNA Military District commands.<sup>239</sup>

110. On 11 February 1992 Momčilo Mandić attended a meeting of Serb officials from the Bosnia-Herzegovina MUP.<sup>240</sup> Mićo Stanišić, then a member of the Bosnian-Serb Ministerial Council, stated that the Council and the Bosnian-Serb Assembly had decided to create a separate Serb MUP, and that it would be organized at state, regional, and municipal levels.<sup>241</sup> The minutes of the meeting record a resolution to create a steering committee, a “Serbian advisory board” within the Bosnia-Herzegovina MUP under the direction of Momčilo Mandić “to carry out all preparations necessary for the functioning of the Serbian MUP after the adoption of the constitution of the Serbian Republic of BiH.”<sup>242</sup> On 13 February 1992 Mandić directed the CSB chiefs in Banja Luka, Doboј, and Goražde, the SJB heads in Nevesinje, Sokolac, and Bijeljina, and the chief of the SUP in Sarajevo to prepare for the Serb MUP.<sup>243</sup> Part of the preparation for separation included the arming of Serb police officers and Serb police stations. The CSBs and SJBs reassigned stockpiled weapons belonging to the reserve police force to the new Serb MUP.<sup>244</sup>

111. On or about 12 February 1992 a meeting of representatives of three SAOs was held in Doboј, which Karadžić, the Accused, and Maksimović attended. During the meeting, an exchange of population was discussed to achieve territorial continuity between Croatian and Bosnian Krajina, on the one side, and Semberija and Serbia proper, on the other.<sup>245</sup> This shows that, at this point in time, the SDS leadership considered a transfer of population at least as a possible corollary to the establishment of authorities in order to create entities that were geographically and ethnically homogeneous.

112. On 14 February 1992, at a joint meeting of the SDS Main Board and the Executive Board, Karadžić called for a “slow” implementation of the second “stage” of the 19 December Instructions, in particular the part relating to control of police and local

<sup>238</sup> P526.A (Džambasović statement), paras 46, 51-7, 79, 81, 85, 97, 171, 175.

<sup>239</sup> P64.A, tab 308 (Confidential document from organs of Bosnian-Serb Republic to JNA General Staff and others, undated).

<sup>240</sup> Mandić, T. 8646; P415 (Minutes of meeting of Serb MUP officials February 1992), p. 1.

<sup>241</sup> Mandić, T. 8646-8, 9322-4; P415 (Minutes of meeting of Serb MUP officials, 11 February 1992), p. 1.

<sup>242</sup> P415 (Minutes of meeting of Serb MUP officials, 11 February 1992), pp. 4-5.

<sup>243</sup> Mandić, T. 8649; P416 (Letter on conclusions reached on 11 February 1992, 13 February 1992).

<sup>244</sup> Mandić, T. 8650-5.

authorities with a view to monitor the movement of people.<sup>246</sup> Three days later, the Prijedor SDS municipal board noted that “it is necessary to activate the second stage of the position stated by the SDS BH Main Board. It is absolutely necessary to cover the territory and population (Serbs) by activists and representatives. Each should secure his own area.”<sup>247</sup>

113. On 15 February 1992 the Bosnian-Serb Assembly discussed a draft Constitution, according to which the Bosnian-Serb Republic would become part of federal Yugoslavia. The Assembly also discussed the adoption of a Law on the Implementation of the Constitution.<sup>248</sup>

114. On a parallel track, by 23 February 1992, representatives of the SDS (among them Karadžić and the Accused<sup>249</sup>) and of the other two national groups had agreed on a statement of principles for a new constitutional arrangement for Bosnia-Herzegovina. According to this statement, the territory of Bosnia-Herzegovina would keep its external borders. It would become an independent state made up of three constituent units which would group municipalities according to the nationality principle based on the last three censuses (1971, 1981, and 1991). Freedom of movement would be allowed only within each unit, while resettlement from one unit to another would be subject to a “special permit”.<sup>250</sup>

115. During the session of the Bosnian-Serb Assembly held on 25 February 1992, the Accused told the deputies that the Serb people had two options before them, namely to “fight by political means, to make the most out of the present time, as a first phase; or, to break off the talks and go for what we have done over the centuries: win our own territories by force.”<sup>251</sup> He added: “We have the opportunity to preserve the Serbian people in a single state, to preserve the entire Serbian people in Bosnia and Herzegovina and to have it become part of the Serbian empire.”<sup>252</sup>

<sup>245</sup> Treanor, T. 1567-73; P65, tab 86 (Article in *Dervenski List* newspaper, 13 February 1992).

<sup>246</sup> P67.A, tab 27 (Record of speech by Radovan Karadžić, 14 February 1992), pp. 5-6, 17, 24; Treanor, T. 1574, 1578-81, 2152-62.

<sup>247</sup> P65, tab 89 (Record of Prijedor SDS meeting, 17 February 1992), p. 4; Krajišnik, T. 23479-84.

<sup>248</sup> Treanor, T. 1630, 1644; P65, tab 99 (Law on implementation of the constitution).

<sup>249</sup> P65, tab 59 (Record of 2nd session of Bosnian-Serb Assembly, 21 November 1991), p. 26.

<sup>250</sup> Treanor, T. 1593-7; P65, tab 93 (Record of 8th session of Bosnian-Serb Assembly, 25 February 1992), p. 9.

<sup>251</sup> P65, tab 93 (Record of 8th session of Bosnian-Serb Assembly, 25 February 1992), p. 20.

<sup>252</sup> Treanor, T. 1600, 1609; P65, tab 93 (Record of 8th session of Bosnian-Serb Assembly, 25 February 1992), p. 63.

116. During the negotiations, the SDS advocated the establishment of security links between Bosnian Serbs and Serbia, ethnic division within Bosnia-Herzegovina, and the possibility of relocating populations. This statement of principles was later rejected by the SDA.<sup>253</sup>

117. On 28 February 1992, at a meeting of the SDS Deputies' Club, the Accused reiterated the objective of dividing Bosnia-Herzegovina and mentioned that the European Community had also started to think along the same lines. He said: "every Serb has a pistol and a map."<sup>254</sup> Radovan Karadžić elaborated: "until two or three months ago we were hoping to be able to play the "Yugoslav card" and to say, the Yugoslav army, Yugoslavia, legality, etc. This is slipping out of our grasp. That's why we started on another track: a Serbian Bosnia and Herzegovina. Our sovereign right, our army."<sup>255</sup>

118. On the same day, the Bosnian-Serb Assembly unanimously adopted the Constitution of the Serbian Republic of Bosnia-Herzegovina,<sup>256</sup> along with a Government Act, a Law on Defence, and a Law on Internal Affairs. The Constitution defined the Bosnian-Serb Republic as part of federal Yugoslavia, and not of Bosnia-Herzegovina.<sup>257</sup> It stated:

Citizens of the Republic have equal rights in their freedom, rights and obligations. They are equal before the law and enjoy the same legal protection regardless of race, sex, language, ethnic origin, social background, birth, education, financial situation, political and other beliefs, social position or other personal attributes.<sup>258</sup>

Biljana Plavšić and Nikola Koljević became the two acting Presidents of the Bosnian-Serb Republic.<sup>259</sup>

119. In January 1992 the Badinter Commission had indicated that the "will of the peoples" of Bosnia-Herzegovina should be fully established, "possibly by means of a referendum", as a precondition of independence from Yugoslavia. On 25 and 26 January

<sup>253</sup> Treanor, T. 1594-610; P65, tab 93 (Record of 8th session of Bosnian-Serb Assembly, 25 February 1992), pp. 8-10, 19, 23.

<sup>254</sup> P65, tab 94 (Record of SDS Deputies' Club meeting, 28 February 1992), p. 9.

<sup>255</sup> P65, tab 94 (Record of SDS Deputies' Club meeting, 28 February 1992), p. 37.

<sup>256</sup> P65, tab 95 (Record of 9th session of Bosnian-Serb Assembly, 28 February 1992), pp. 14-15.

<sup>257</sup> Treanor, T. 2027-31; P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992).

<sup>258</sup> Treanor, T. 1629, 2019; P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 1, 10.

<sup>259</sup> List of matters admitted by the Accused, 31 August 2001, para. 34(a); P64 (Treanor Report), para. 229; Treanor, T. 1651.

1992, the Assembly of Bosnia-Herzegovina, with the SDS deputies once again withdrawing from the proceedings, scheduled such a referendum for the end of February or beginning of March 1992.<sup>260</sup>

120. The SDS's position on this matter was discussed in a telephone conversation between the Accused and Karadžić. The Accused's view was that the decision to hold a referendum should not be frustrated, but should be considered valid only for Muslims and Croats. Serbs would take part only if an agreement on the ultimate status of Bosnia-Herzegovina were to be reached by political parties.<sup>261</sup> On 26 January 1992 the Accused put this view before the Bosnian-Serb Assembly, which endorsed it.<sup>262</sup>

121. The referendum took place on 29 February and 1 March 1992. The vote was overwhelmingly in favour of independence, but Bosnian-Serbs abstained *en masse*. Despite evidence of local disturbances,<sup>263</sup> the SDS abided by its pledge to boycott, but not to obstruct, the referendum.<sup>264</sup>

### 2.8 Establishment of Bosnian-Serb Republic

122. The looming crisis was poorly handled in March and early April 1992 by the republican organs, weakened by dissent among the coalition parties. For example, the Council for the Protection of Constitutional Order, a body constituted of representatives of the three constituent peoples from the Bosnia-Herzegovina Government and the Assembly, issued recommendations to the parties and the organs of public administration, but they were not followed up.<sup>265</sup> Armed clashes among ethnic groups occurred throughout Bosnia-Herzegovina: checkpoints and barricades were erected in and around Sarajevo by people associated with the three national parties. Word of extensive arming by paramilitary forces and of attacks by the (Muslim) Green Berets, on the one side, and by Serb employees of

<sup>260</sup> Treanor, T. 1554-6; P934 (Donia report), p. 35; Krajišnik, T. 23684.

<sup>261</sup> Treanor, T. 1556; P67.A, tab 24 (Telephone conversation between Momčilo Krajišnik and Radovan Karadžić, January 1992), pp. 3-5.

<sup>262</sup> Treanor, T. 1484, 1555-66; P65, tab 84 (Record of 6th session of Bosnian-Serb Assembly, 26 January 1992), pp. 18-20.

<sup>263</sup> P519.A (Draganović transcript), pp. 4891-6; Odošašić, T. 7701-2; P362 (Odošašić statement), para. 28; Vasić, T. 17477-9.

<sup>264</sup> Treanor, T. 1590-2; P65, tab 90 (Letter from SDS executive board, 20 February 1992); P65, tab 91 (Text of proclamation).

<sup>265</sup> P64.A, tab 93 (Record of 13th session of Council for the Protection of the Constitutional Order, 9 March 1992); Lakić, T. 21503-18; Antić, T. 18186-9, 18219; P980 (Record of 64th session of Presidency of Bosnia-Herzegovina, 3 April 1992); Đerić, T. 27141-3.

the Bosnia-Herzegovina MUP headed by deputy MUP Minister Momčilo Mandić, on the other, increased tensions and led to localized skirmishes.<sup>266</sup>

123. After the republican referendum, and due to the fact that the Yugoslav leadership had by then clearly expressed its position to SDS leaders that a Bosnian-Serb entity would not be allowed to be part of the new Yugoslavia in the near future,<sup>267</sup> negotiations persisted, but mainly turned on the nature of what an independent Bosnia-Herzegovina would be like (unitary or federal) and what the division of power among the entities would be.

124. For example, on 11 March 1992 the Bosnian-Serb Assembly decided to continue international negotiations on a confederative arrangement for the three national groups, albeit on its own terms.<sup>268</sup> The Accused, Karadžić, Koljević, Plavšić, Buha, and Maksimović remained members of the negotiating delegation.<sup>269</sup> In response to an invitation from José Cutileiro, international mediator, to continue the multi-party negotiations, the Bosnian-Serb Assembly unanimously rejected a draft of constitutional arrangements in Bosnia-Herzegovina. During that session, the Accused tabled a proposal that the Bosnian-Serb delegates would continue the negotiations, subject to the restriction that the negotiators, at a minimum, seek to preserve Yugoslavia or pursue “three sovereign national states which may be linked up on the confederal principle.” Both the proposal and the restriction were adopted by the Assembly.<sup>270</sup>

125. On 18 March 1992 the negotiators once again reported to the Bosnian-Serb Assembly. The new draft proposal, they explained to the deputies, aimed at a division of Bosnia-Herzegovina into three constituent units based not only on nationality, but also on economic and geographic considerations. Each component nation would moreover be allowed special ties with other states. The proposal was marked as “basis for further negotiations.”<sup>271</sup> During the 18 March session, Karadžić also predicted the imminent

<sup>266</sup> P744 (Bosnia-Herzegovina MUP report on security situation, 6 March 1992), pp. 1-9; P745 (List of MUP employees who took part in setting up barricades, 13 March 1992); Črnčalo, T. 5332-7, 5390-91; P270 (Črnčalo statement), paras 31-2; P495 (Omerović statement), pp. 2-3; Krsman, T. 21908, 21911, 21934-40, 21948-52, 21956, 21960; D154 (Map marked by witness in court, no date); P64.A, tab 659 (Establishment of Rajlovac municipality, 23 February 1993).

<sup>267</sup> Treanor, T. 1663-4; Krajišnik, T. 23357.

<sup>268</sup> P65, tab 107 (Record of 10th session of Bosnian-Serb Assembly, 11 March 1992), pp. 3, 50-1.

<sup>269</sup> P65, tab 107 (Record of 10th session of Bosnian-Serb Assembly, 11 March 1992), pp. 34-5, 50-1; Krajišnik, T. 23780-4, 23788-91.

<sup>270</sup> P65, tab 107 (Record of 10th session of Bosnian-Serb Assembly, 11 March 1992), p. 36.

<sup>271</sup> P65, tab 109 (Record of 11th session of Bosnian-Serb Assembly, 18 March 1992), pp. 4-10, 14; D5 (Statement of principles, 18 March 1992), pp. 2-3; Krajišnik, T. 23554-5.

withdrawal of Bosnian Serbs from the Bosnia-Herzegovina MUP.<sup>272</sup> More evidence about this period, which is essential for understanding the role of the Accused and of the rest of the Bosnian-Serb leadership, is presented in parts 3 and 6 of this judgement.

126. On 24 March 1992 the Bosnian-Serb Assembly elected Branko Đerić as Prime Minister,<sup>273</sup> and he was sworn in on the same day.<sup>274</sup> The Bosnian-Serb Assembly proceeded to instruct the new Government to prepare, by 27 March,

an operational plan for assuming power, that is, for establishing power in the Serbian Republic of Bosnia and Herzegovina, and in particular in the field of internal affairs, national defence and money transactions ... in all municipalities where we already have Serbian authorities, and in those municipalities where we have only recently established Serbian municipalities.<sup>275</sup>

127. On 24 March 1992 the Bosnian-Serb Assembly also issued a decision verifying the proclamation of various Serb municipalities.<sup>276</sup> Parts 4 and 6 of this judgement provide more detailed explanations on how Bosnian Serbs implemented the take-over of municipalities from April 1992 onwards. It is apparent to the Chamber that, by this time, the Bosnian-Serb leadership was increasingly losing its confidence in diplomatic efforts, into which the Accused and the other negotiators had invested so much of their political capital.

128. On 6 April 1992 the independence of Bosnia-Herzegovina was recognized by the European Community.<sup>277</sup> The next day, the Bosnian-Serb Assembly, chaired by Milovan Milanović, declared the independence of the Bosnian-Serb Republic (on 12 August 1992, the name of the republic was changed to “Republika Srpska”<sup>278</sup>). Plavšić and Koljević resigned from their positions in the Presidency of Bosnia-Herzegovina.<sup>279</sup> On 17 April Radovan Karadžić called upon all employees of Serb ethnicity, appointed by the SDS to

<sup>272</sup> P65, tab 109 (Record of 11th session of Bosnian-Serb Assembly, 18 March 1992), p. 37.

<sup>273</sup> Treanor, T. 1667-8; P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 3, 7, 10, 24-5.

<sup>274</sup> P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 24 March 1992), pp. 4-6.

<sup>275</sup> Treanor, T. 1671-2; P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 24 March 1992), pp. 12-13.

<sup>276</sup> Savkić, T. 20659-62; P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 1, 23-4.

<sup>277</sup> P64 (Treanor report), para. 229; Treanor, T. 1688, 1828; Adjudicated facts 40-2.

<sup>278</sup> P65, tab 192 (Minutes of 19th session of Bosnian-Serb Assembly, 12 August 1992), p. 3.

<sup>279</sup> Treanor, T. 1682-8; P65, tab 117 (Letter to Bosnia-Herzegovina MUP, 31 March 1992); P65, tab 119 (Report from radio Beograd Network, 7 April 1992); Krajišnik, T. 23848-50.

serve in institutions of Bosnia-Herzegovina, to withdraw from their positions and to be re-appointed in the corresponding Bosnian-Serb institutions.<sup>280</sup>

<sup>280</sup> P64.A, tab 366 (Decision by Radovan Karadžić, 17 April 1992).

### **3. Administration of Bosnian-Serb Republic**

#### **3.1 Bosnian-Serb Assembly**

##### *3.1.1 Statutory framework*

129. The Constitution of the Bosnian-Serb Republic, adopted by the Bosnian-Serb Assembly on 28 February 1992, vested the Bosnian-Serb Assembly with constitutional and legislative authority. It stipulated that the Assembly was to consist of 120 deputies reflecting as closely as possible the national composition of the Bosnian-Serb Republic. Chaired by a President (Speaker) and two vice-presidents, this legislative body could adopt laws and determine the budget and territorial organization of the Republic. It could also call referendums, elections for deputies, and elections for the President of the Republic.<sup>281</sup>

130. Proposals for legislation could be launched by the deputies, by the Government, or by the President of the Republic. Thereafter, a draft would be prepared by the relevant Ministry, adopted by the Government, and then forwarded to the Assembly. This meant that, regardless of who initiated the legislation, the body officially proposing it would always be the Government. A legislative and a constitutional commission examined the text before it was voted on by the Assembly.<sup>282</sup>

131. The Bosnian-Serb Assembly was to exercise control over the matters within the competence of the Bosnian-Serb Government. It elected the Prime Minister and voted to appoint the Government Ministers.<sup>283</sup> In addition, the Assembly debated matters related to the work of the Supreme Court, the Public Prosecutor, and the constitutionality of the laws of the Republic upon advice given to it by the Constitutional Court.

132. The Assembly was also tasked with cooperating with the assemblies of other republics, autonomous provinces, and municipalities, through information exchange and visits by Assembly deputies.<sup>284</sup>

133. The President of the Bosnian-Serb Assembly controlled the procedure of the legislative body. The Accused, as President, had the power to propose the agenda of

<sup>281</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 70-1.

<sup>282</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 90; Trbojević, T. 11696-7.

<sup>283</sup> P65, tab 97 (Rules of Procedure of Bosnian-Serb Assembly, 15 February 1992), art. 176; Mandić, T 9112, 9114-16, 9327, 9355.

<sup>284</sup> P65, tab 97 (Rules of Procedure of Bosnian-Serb Assembly, 15 February 1992), art. 228, 232, 233-7.

Assembly sessions and to convene the Assembly at his initiative, or upon demand of the Bosnian-Serb Government or one-third of the deputies of the Assembly.<sup>285</sup>

134. Rules of procedure were to regulate the Assembly's legislative work. The rules stipulated that, prior to adoption, all bills were to be debated on the Assembly floor. The Assembly President was to sign laws following their adoption. The procedure also allowed for a shortened draft adoption of laws. In a state of war or imminent threat of war, the Assembly President could propose that laws be adopted without debate.<sup>286</sup>

135. In certain circumstances, the Assembly President was to assume the duties of the President of the Bosnian-Serb Republic. For example, the former was to act on the latter's behalf if the term of the latter ended prior to its official expiration.<sup>287</sup>

### 3.1.2 Assembly operations

136. As explained in part 2 of this judgement, the Bosnian-Serb Assembly was created on 24 October 1991. The Accused held the position of the President of the Assembly from that date onwards, until at least November 1995.<sup>288</sup>

137. On 27 March 1992, the Bosnian-Serb Assembly established the National Security Council (SNB).<sup>289</sup> It was to be an advisory organ to the Assembly, on political, legal, constitutional, and other issues relevant to the security of Serbs in Bosnia-Herzegovina, and it was to be responsible to the Assembly.<sup>290</sup> Its decisions were sometimes published in the Bosnian-Serb Republic's *Official Gazette*. The President of the Bosnian-Serb Republic was to preside over the SNB and, in practice, SNB decisions were not approved by the Assembly but by the President (or acting Presidents) of the Bosnian-Serb Republic.<sup>291</sup> The Accused, as President of the Assembly, was an ex officio member of the SNB.<sup>292</sup>

<sup>285</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 74; P65, tab 97 (Rules of Procedure of Bosnian-Serb Assembly, 15 February 1992), arts 26, 82, 89.

<sup>286</sup> P65, tab 97 (Rules of Procedure of Bosnian-Serb Assembly, 15 February 1992), arts 116, 126, 129-33, 150, 238-42.

<sup>287</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 87.

<sup>288</sup> List of matters admitted by the Accused, 31 August 2001, para. 6; C7 (Plavšić statement), para. 7; C8 (Excerpts from Biljana Plavšić's book *I Testify*), p. 100; Witness D24, T. 22775-7.

<sup>289</sup> Treanor, T. 2193; P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), p. 14; P64 (Treanor report), paras 255-8.

<sup>290</sup> Treanor, T. 1679-82; P65, tab 116 (Decision to set up the SNB, no date), p. 1.

<sup>291</sup> Treanor, T. 2195.

<sup>292</sup> P65, 116 (Decision to set up the SNB, no date), p. 1.

138. Assembly sessions were often attended by the President of the Bosnian-Serb Republic, other members of the Presidency, Ministers of the Bosnian-Serb Republic, members of the SDS Main Board, presidents of municipalities, and representatives of the Orthodox clergy. Following the establishment of the VRS on 12 May 1992, Generals Ratko Mladić, Milan Gvero, and Momir Talić, as well as Colonel Zdravko Tolimir, would also often attend. They, together with other military officials, would address the Bosnian-Serb Assembly on the strategic situation and proposed plans of action.<sup>293</sup> The deputies were regularly informed about the political and military situation by Radovan Karadžić, Biljana Plavšić, and the Accused.<sup>294</sup>

139. In its early days, the Bosnian-Serb Assembly was composed of 82 deputies. All but seven were SDS members. Other parties represented in the Bosnian-Serb Assembly were the Reformist Party, the former Communist League, and the Serb Renewal Movement.<sup>295</sup> According to Milan Trbojević, the deputy Prime-Minister of the Bosnian-Serb Republic, decisions taken in the Assembly were often taken under pressure from the SDS.<sup>296</sup> The members of the SDS Main Board would at times be allowed in the hall where the Assembly was meeting to put pressure on the deputies.<sup>297</sup> In addition, the activities of the Assembly were supported financially by the SDS.<sup>298</sup>

140. The Assembly's composition and operating methods thus ensured that the decision-making process was heavily influenced by SDS policy. The Accused, both as President of the Assembly and as a prominent member of the SDS, played an important role in effecting the SDS's influence over the Bosnian-Serb Assembly.<sup>299</sup>

<sup>293</sup> Mičić, T. 19414-15, 19424-5, 19464; Trbojević, T. 11530, 11775; Savkić, T. 20608-13, 20623-5, 20628-31; P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), pp. 35-48; P65, tab 200 (Minutes of 20th session of Bosnian-Serb Assembly, 14-15 September 1992), p. 2; P65, tab 213 (Record of 22nd session of Bosnian-Serb Assembly, 23-24 November 1992), pp. 80, 86, 89.

<sup>294</sup> Trbojević, T. 11530, 11631-2; P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), pp. 35-48; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), pp. 9-20; P65, tab 200 (Minutes of 20th session of Bosnian-Serb Assembly, 14-15 September 1992), pp. 4-5.

<sup>295</sup> Trbojević, T. 11417-20; Savkić, T. 20610; P64 (Treanor report), para. 165.

<sup>296</sup> Trbojević, T. 11725-6.

<sup>297</sup> P583.A (Prosecution interview with Milan Trbojević, 23 March 2004), p. 21; Trbojević, T. 11724-5, 11737-9, 11742-3.

<sup>298</sup> Trbojević, T. 11397-403; P583, tab 69 (Telephone conversation between Milan Trbojević and Radovan Karadžić, 5 November 1991), pp. 3-4; P583, tab 114 (Copy of contract signed on 21 November 1991 attached to newspaper article, 16 January 1992); P52 (Letter by Rajko Dukić to Radovan Karadžić, copied to Momčilo Krajišnik, 15 December 1992).

<sup>299</sup> Nešković, T. 16605-7, 16843; Đerić, T. 27092; Hrvačanin, T. 19330, 19344; Trbojević, T. 11425, 12157-9, 12169-73, 12177, 12179; P583.B (Prosecution interview with Milan Trbojević), pp. 22-3, 33; Kljuić, T. 6104, 11827; Đokanović, T. 10620-1, 10626-7, 10723-5, 10672-5; D39 (Đokanović statement), pp. 7-8; Mandić, T. 8621, 8628, 8635, 9109, 9282-7, 9304-7; Čengić, T. 8119-20, 8169-70; Witness 623, T. 5876,

### 3.2 Bosnian-Serb Government and judiciary

#### *3.2.1 Statutory framework of the Government*

141. The Bosnian-Serb Constitution vested the Bosnian-Serb Government with executive authority, under the formal control of the Assembly. Headed by the Prime Minister, two deputy Prime Ministers, and thirteen Ministers, the Government functioned through the work of its Ministries and permanent working bodies. As mentioned above, the Bosnian-Serb Assembly elected the Prime Minister and voted for or against ministerial candidates proposed by the Prime Minister. The Bosnian-Serb Government was to implement the enactments of the Bosnian-Serb Assembly, as well as those of the Republic's President. It was to report to the Assembly on its progress in policy implementation and law enforcement. Based on an evaluation of the Government's work, the Assembly could hold a vote of no-confidence.

142. The Government was to make its decisions by a simple majority vote, in sessions with a majority of the members attending. It was to cooperate with municipal executive organs by having their representatives participate in Government sessions, as well as by having Ministers participate in sessions of the municipal organs.<sup>300</sup>

#### *3.2.2 Establishment of the Government*

143. As mentioned in part 2 of the judgement, the Ministerial Council established on 21 December 1991 became the Bosnian-Serb Government following the Assembly's passage of the Government Act on 28 February 1992.<sup>301</sup>

144. While still a member of the Bosnia-Herzegovina Government, Branko Đerić was nominated by Biljana Plavšić for the post of Prime Minister in the Bosnian-Serb Government. He was elected by the Bosnian-Serb Assembly on 24 March 1992 and, for a while, worked as Prime Minister from his Bosnia-Herzegovina Government office. Serbs

5887-8; P280 (Witness 623 statement), para. 88; Babić, T. 3396; P154 (Babić statement), paras 7-8; Witness 680, T. 15033; Witness 528, T. 14917-21, 14924-5; 14931-4; P811 (Witness 528 statement), para. 31; Okun, T. 4154-56, 4333-4, 4237-9; P210 (Okun's diary, entry for 6 January 1993); Wilson, T. 13079; Prstojević, T. 14566-7.

<sup>300</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 69, 70, 90, 92, 94 and 97; P65, tab 100 (Decree on Promulgation of Government Act, 28 February 1992), arts 5-7, 10, 15, and 18-21.

<sup>301</sup> P64 (Treanor Report), paras 227-8; Krajišnik, T. 23682.

who had been serving in ministerial posts in the Government of Bosnia-Herzegovina were appointed by the Bosnian-Serb Assembly as Ministers to equivalent positions in the Bosnian-Serb Government.<sup>302</sup> Where no Serb sat as Minister or deputy Minister in the Bosnia-Herzegovina Government, the Prime Minister was to propose candidates for ministerial posts in the Bosnian-Serb Government to the Bosnian-Serb Assembly. Radovan Karadžić, in his capacity as SDS president, would suggest candidates to Branko Đerić. Đerić testified that his “hands were tied” and described his role as one of a mere “formal nominator”.<sup>303</sup> Persons chosen in this manner included Momčilo Mandić, Minister of Justice (from 19 May 1992 to November 1992); Mićo Stanišić, Minister of Interior; and Bogdan Subotić, Minister of Defence.<sup>304</sup>

145. Aleksandar Buha, Minister of Foreign Affairs, was in charge of contacts with international representatives, including those from the United States and OSCE. The Ministry of Information, under Velibor Ostojić, dealt with general public information, and would distribute and report on the statements from Government sessions, press briefings, and news conferences.<sup>305</sup> The Bosnian-Serb Republic’s news agency (SRNA) produced press clippings in Serbo-Croatian, summarizing foreign press releases and submitting them to the President of the Republic, the President of the Assembly, the Prime Minister, and other Government Ministers.<sup>306</sup> Dragan Kalinić, Minister of Health and Social Affairs, was in charge of cooperation with international humanitarian organizations.<sup>307</sup> The Ministry of Interior (MUP) will be discussed below, in part 3.5 of this judgement.

146. The Accused participated in the first two meetings of the Ministerial Council in January 1992 and in joint meetings of the SNB and the Government. He did not attend Government meetings after 20 May 1992.<sup>308</sup> The Government sat for the first time as an independent executive body, distinct from the SNB, at its 13th session on 23 May 1992.<sup>309</sup>

<sup>302</sup> Đerić, T. 27060-4.

<sup>303</sup> Đerić, T. 27062-5; Treanor, T. 1667-8; P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 3, 7, 10, 24-5.

<sup>304</sup> Đerić, T. 27062-5, 27192, 27231, 27239; P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 24 March 1992), pp. 4-6.

<sup>305</sup> Krajišnik, T. 24451; C6 (Ostojić statement), para. 7.

<sup>306</sup> Ostojić, T. 26692-3, 26703.

<sup>307</sup> Krajišnik, T. 24120.

<sup>308</sup> Krajišnik, T. 24118-9, 24386; Treanor, T. 1449-50, 1542-3, 1546, 1997-8; P65, tab 78 (Minutes of 1st session of Ministerial Council, 11 January 1992); P65, tab 82 (Record of 2nd session of Ministerial Council, 17 January 1992), pp. 4-6; Trbojević, T. 11675.

<sup>309</sup> Lakić, T. 21553-5; P529, tab 107 (Minutes of session of Bosnian-Serb Government, 23 May 1992).

147. In the first days of April 1992, following international recognition of Bosnia-Herzegovina as an independent state and the beginning of the conflict, the Bosnian-Serb leadership relocated to Pale, about 20 kilometers from Sarajevo. The Accused moved there on or about 15 April.<sup>310</sup> At that time roads to Sarajevo were cut off and the resources and facilities of the Bosnian-Serb leadership were elementary. Aleksandar Divčić, a member of the SDS Political Council and the vice-president of the Dobrotvor charity, assisted Bosnian-Serb leaders to find accommodation. The Kikinda Hotel functioned as the seat of the Bosnian-Serb institutions (Assembly, Presidency, Government) until June 1992. It had little office space and only two intermittently working telephone lines.<sup>311</sup> However, military telecommunication lines were used to share information and transmit orders between Pale and local authorities.<sup>312</sup>

148. As a result of its growing size, the Government moved to the Bistrica Hotel on Mount Jahorina.<sup>313</sup> The Accused remained in the Kikinda Hotel, as did Koljević, Plavšić, and Karadžić. By the end of July 1992, Biljana Plavšić moved to Mount Jahorina.<sup>314</sup>

149. In April 1992, Nikola Koljević proposed to JNA colonel Bogdan Subotić that he set up a Bosnian-Serb Ministry of Defence. Branko Đerić and the Assembly were aware of this approach. Subotić accepted the assignment, moved to Pale, and with the assistance of the SFRY Ministry of Defence, started organizing the Ministry and preparing drafts of the Law on Defence and Law on the Army. These drafts were eventually adopted by the Government and submitted to the Bosnian-Serb Assembly. The Ministry's central office was located at the Bistrica Hotel and consisted of approximately 30 staff members. Branches of the Ministry existed in Banja Luka, Bijeljina, and Sarajevo. Since communication was often disrupted in the first months, local military detachments were asked to dispatch messages through deputies travelling to Pale for Assembly sessions.<sup>315</sup>

<sup>310</sup> Krajišnik, T. 23930, 24099-100.

<sup>311</sup> Divčić, T. 17805-8, 17816-17, 17837-8; Lakić, T. 21581, 21640-51.

<sup>312</sup> Radić, T. 7530-6.

<sup>313</sup> Krajišnik, T. 24350; Đerić, T. 27060-1; Subotić, T. 26430, 26595-6; Lakić, T. 21530, 21666-8.

<sup>314</sup> Lakić, T. 21530-2, 21666-8; Witness D24, T. 22795-6, 22911-12; Trbojević, T. 11382, 11408, 11413-15, 11497, 11587, 11660, 11707-10, 11765-6.

<sup>315</sup> C3 (Subotić statement), paras 4, 9; C5 (Subotić statement), paras 3, 15-18; Subotić, T. 26430, 26469, 26496, 26592-6; Kapetina, T. 19946-8, 19954, 19957, 19961.

### 3.2.3 Government operations

150. In the course of 1992, the Bosnian-Serb Government held around 90 sessions. Nedeljko Lakić, secretary of the Government from 27 April 1992 onwards, would see Prime Minister Đerić about twice a week and would liaise with him and other Ministers to organize the sessions. After each session, Lakić would write the minutes of the meetings, and show them to Đerić. Legislative proposals were forwarded to the Assembly, while decisions within the competence of the Government were published in the *Official Gazette*.<sup>316</sup>

151. As far as its input on the municipal level is concerned, the Government exercised a certain amount of control over, and cooperated with, municipal authorities and crisis staffs. For example, on 15 May 1992, Đerić ordered that a number of people from Bratunac who were detained in Pale be transferred to Visoko, in the territory of Bosnia-Herzegovina outside Bosnian-Serb control. According to Lakić, this was “for safety reasons”. Đerić ordered the Sokolac crisis staff to provide three trucks for their transportation, the Pale crisis staff to arrange their escort, and the Ilijaš crisis staff to allow the convoy to pass. The letter to the Ilijaš crisis staff bore the following request: “please destroy that approval [for passage] the moment when the prisoners leave Ilijaš municipality.”<sup>317</sup>

152. The Government was also concerned with the issue of deserted houses and apartments in the municipalities, as well as the issue of Muslim-owned property in general.<sup>318</sup> It would send individual Ministers to visit municipal assemblies in order to be kept up to date on the situation.<sup>319</sup>

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

<sup>316</sup> Lakić, T. 21529-31.

<sup>317</sup> Lakić, T. 21557-60, 21635-8; P583, tab 123 (Order by Branko Đerić to Sokolac crisis staff, 15 May 1992); P583, tab 124 (Request from Nedeljko Lakić to Ilijaš crisis staff, 15 May 1992).

<sup>318</sup> P1113 (Letter from Nedeljko Lakić to Ilidža municipal assembly, 5 June 1992); Lakić, T. 21613-18; P529, tab 350 (Decision by Sanski Most Crisis Staff on Departure 2 July 1992); P65, tab 173 (Minutes of 36th session of Bosnian-Serb Government, 4 July 1992), pp. 4-5.

<sup>319</sup> Lakić, T. 21580.

“units and institutions in Pale”, and “units in Sokolac”.<sup>320</sup> Some of the delivered documents were long and confidential.<sup>321</sup>

### 3.2.4 Judiciary

154. The Bosnian-Serb Constitution vested the Constitutional Court and lower courts of the Bosnian-Serb Republic with judicial authority. The judicial system of the Bosnian-Serb Republic, with the Constitutional Court at the top of the hierarchy, was to be autonomous and independent and was entrusted with protection of human rights and freedoms. Members of the judiciary, including judges and public prosecutors, were to be elected by the Bosnian-Serb Assembly.<sup>322</sup> The Assembly discussed and voted on appointment and dismissal of judges and prosecutors at its 19th and 22nd sessions on 12 August 1992 and 23-24 November 1992, respectively. The discussions on the Assembly records show unwillingness on the part of deputies to elect non-Serbs to the posts, even when they had been provisionally appointed earlier on by Karadžić – who was worried of the image portrayed by the fact that Serbs held posts in Bosnia-Herzegovina institutions, while few non-Serbs held posts in Bosnian-Serb institutions.<sup>323</sup>

155. The lower courts were to ensure that all coercive actions on behalf of the state authorities were conducted in accordance with the rule of law. For example, no state official could enter a dwelling against the tenant’s will without a court warrant. No-one could be deprived of his or her freedom without a valid court decision. In addition, pre-trial detention could not exceed two months, unless extended by the Constitutional Court for up to another two months. The Constitution set forth the principle of a fair trial in criminal proceedings. An accused person had the right to be informed of the nature of the allegation against him or her in the shortest time provided by the law, and guilt could not be established except by pronouncement of a valid court verdict.<sup>324</sup>

<sup>320</sup> P1114 (Request from Bosnian-Serb Information Centre to Ministry of Defence, 14 June 1992), p.1.

<sup>321</sup> Lakić, T. 21623-8, 21662-5; P1115 (Letter from Nedeljko Lakić to Regional Information Centre, 9 May 1992); P1116 (Article in *Glas* newspaper, 9 May 1992); P529, tab 189 (Fax from Bosanski Šamac crisis staff president to Bosnian-Serb Prime Minister, 15 May 1992).

<sup>322</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 10, 69, 121, 124, and 135; P65, tab 97 (Rules of Procedure of Bosnian-Serb Assembly, 15 February 1992), art. 179.

<sup>323</sup> P583, tab 87 (Record of 19th session of Bosnian-Serb Assembly, 12 August 1992), pp. 11-29; P65, tab 213 (Record of 22nd session of Bosnian-Serb Assembly, 23-24 November 1992), p. 7; Krajišnik, T. 26119-49.

<sup>324</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 15, 18, 20, and 24.

### 3.2.5 Exchange Commission

156. On 24 April 1992, at a joint session of the SNB and the Bosnian-Serb Government, it was agreed that the exchange of prisoners of war would be handled by the Ministry of Justice.<sup>325</sup> On 8 May 1992, the Government established a Central Commission for the Exchange of Prisoners of War and Arrested Persons. On 10 May the SNB and the Government appointed the members of the Commission, who included representatives from the Bosnian-Serb Ministry of Defence, the MUP, and the Ministry of Justice. The commission was initially headed by Rajo Čolović and, from 26 June 1992, Slobodan Avlijaš, an official with the Ministry of Justice. A network of regional and municipal exchange bodies reported to the Commission.<sup>326</sup>

157. The Commission's official role was to coordinate exchanges and provide information on captured persons.<sup>327</sup> As part of that role the Commission was to differentiate between civilians and prisoners of war, with a view to releasing the former and preventing crisis staffs or paramilitary formations from committing crimes against the latter.<sup>328</sup> In practice, however, exchanges of prisoners were left to the authority of the individual exchange commissions in each region.<sup>329</sup>

## 3.3 Bosnian-Serb Presidency

### 3.3.1 Statutory framework

158. In accordance with the Bosnian-Serb Constitution, the President of the Republic would represent the Bosnian-Serb Republic. Until direct popular elections could take place, the Bosnian-Serb members of the Bosnia-Herzegovina Presidency, elected on 18

<sup>325</sup> Trbojević, T. 11503, 11596-7; P583, tab 2 (Minutes of joint session of SNB and Bosnian-Serb Government, 24 April 1992), p. 2.

<sup>326</sup> P436 (Decision to form a Central Commission, signed by Prime Minister Branko Đerić, 8 May 1992); Mandić, T. 8746, 8754, 8770; Lakić, T. 21561-6; P583, tab 5 (Minutes of joint session of SNB and Bosnian-Serb Government, 10 May 1992), p.2; P583, tab 19 (Minutes of 24th session of Bosnian-Serb Government, 9 June 1992), p. 1; P583, tab 28 (Minutes of 33rd session of Bosnian-Serb Government, 26 June 1992), p. 5; P435 (Order from president of Central Commission for exchanged persons, 6 June 1992), p. 4; P437 (Minutes of 24th session of Bosnian-Serb Government, 9 June 1992), pp. 1-2.

<sup>327</sup> P436 (Decision to form a Central Commission, signed by Prime Minister Branko Đerić, 8 May 1992); P443 (Order from Minister of Defence on treatment of captured persons, 13 June 1992), p. 2.

<sup>328</sup> Mandić, T. 8762-3.

<sup>329</sup> Trbojević, T. 11503, 11575; P64.A, tab 785 (Communication of VRS Main Staff on treatment of prisoners of war, 12 June 1992).

November 1990, were to carry out the functions of the President of the Bosnian-Serb Republic.<sup>330</sup>

159. The President was to conduct affairs of state in compliance with the Constitution. Other constitutional duties included proposing to the Bosnian-Serb Assembly a candidate for the post of Prime Minister and proclaiming laws by edict.<sup>331</sup> The President was the commander-in-chief of the Army, with authority to define the Army's organization, establish the system of Army command, prepare the Army for war, and issue basic regulations related to combat.<sup>332</sup>

160. Furthermore, the President of the Republic had a legislative function in case of emergency situations. In contrast to the situation in peace time, when the President could merely propose laws, in a state of war or immediate threat of war, the President, on his or her own initiative, could enact laws on questions falling within the jurisdiction of the Bosnian-Serb Assembly, subject to confirmation by the Assembly as soon as it was able to reconvene.<sup>333</sup> The President of the Republic could also set up war presidencies in the municipalities.<sup>334</sup>

### *3.3.2 National Security Council as predecessor to Presidency*

161. As explained earlier, on 27 March 1992, the Bosnian-Serb Assembly established the SNB. Radovan Karadžić performed the role of the president of the SNB between 27 March and early May 1992, even though he was not the President of the Bosnian-Serb Republic at the time.<sup>335</sup> Ex officio members of the SNB also included the President of the Bosnian-Serb Assembly (the Accused) and the Bosnian-Serb Republic's Prime Minister, and the Ministers of Defence and Interior.<sup>336</sup> The Accused did not dispute that he attended meetings of the SNB.<sup>337</sup>

<sup>330</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 69 and 83; P65, tab 99 (Law for Implementing the Constitution, 28 February 1992), arts 4 and 5.

<sup>331</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 80 and 83.

<sup>332</sup> P65, tab 146 (Law on the Army, 1 June 1992), art. 174.

<sup>333</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 76, 81.

<sup>334</sup> P65, tab 144 (Law amending the Law for Implementing the Constitution, 2 June 1992), art. 1.

<sup>335</sup> P65, tab 118 (Letter to Bosnian-Serb Assembly signed by Radovan Karadžić as "Council President", 4 April 1992); P64 (Treanor report), para. 236.

<sup>336</sup> Treanor, T. 1683-4; P65, tab 116 (Decision to establish the SNB, no date), p. 1; List of matters admitted by the Accused, 31 August 2001, paras 7 and 34(b).

<sup>337</sup> Krajišnik, T. 23927-30.

162. By early April 1992, the SNB developed into an executive organ issuing instructions to, and receiving reports from, municipal crisis staffs and TOs.<sup>338</sup> As mentioned earlier, the SNB would meet in joint sessions with the Bosnian-Serb Government for the purpose of taking decisions on military, political, and administrative matters.<sup>339</sup>

163. The idea of creating a collective presidency for the Bosnian-Serb Republic first emerged when the Assembly was drafting the Law for Implementing the Constitution. Biljana Plavšić and Nikola Koljević, as elected Serb members of the Bosnia-Herzegovina Presidency, became ipso facto members of this collective body.<sup>340</sup> According to Milan Trbojević, deputy Prime Minister in the Bosnian-Serb Government, Radovan Karadžić insisted that he should be appointed to the Presidency as well.<sup>341</sup>

164. On 12 May 1992, the Bosnian-Serb Assembly passed a constitutional law instituting a three-member Presidency until a President of the Bosnian-Serb Republic could be elected by the people.<sup>342</sup> Radovan Karadžić, Nikola Koljević, and Biljana Plavšić were appointed to the Presidency on that same day.<sup>343</sup>

165. Also on 12 May, the Presidency held its first session, and Karadžić was elected President of the Presidency, thus becoming the President of the Bosnian-Serb Republic.<sup>344</sup> The President was bestowed with the authority to appoint, promote, and discharge military officers, military judges, and military prosecutors.<sup>345</sup>

<sup>338</sup> Treanor, T. 1696-8; P65, tab 118 (Public announcement on activation of crisis staffs, 4 April 1992); P65, tab 122 (Minutes of joint session of SNB and Bosnian-Serb Government, 22 April 1992); P65, tab 124 (Minutes of joint session of SNB and Bosnian-Serb Government, 28 April 1992).

<sup>339</sup> P65, tab 122 (Minutes of joint session of SNB and Bosnian-Serb Government, 22 April 1992); P65, tab 124 (Minutes of joint session of SNB and Bosnian-Serb Government, 28 April 1992); P65, tab 126 (Minutes of joint session of SNB and Bosnian-Serb Government, 10 May 1992); P65, tab 136 (Minutes of joint session of SNB and Bosnian-Serb Government, 15 May 1992).

<sup>340</sup> Trbojević, T. 11431-2. See, for example, P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 24-5.

<sup>341</sup> Trbojević, T. 12199.

<sup>342</sup> P64 (Treanor report), para. 260; P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), p. 58; P65, tab 132 (Amendment to the Law for the implementation of the constitution, 12 May 1992).

<sup>343</sup> P64 (Treanor report), para. 260; P65, tab 133 (Decision on election of members of Bosnian-Serb Presidency, 12 May 1992); List of matters admitted by the Accused, 31 August 2001, paras 34(d) and 10 (in part).

<sup>344</sup> P64 (Treanor report), para. 260; P65, tab 134 (Minutes of 1st session of Bosnian-Serb Presidency, 12 May 1992).

<sup>345</sup> P65, tab 135 (Decision on proclaiming amendments I-IV to constitution of Bosnian-Serb Republic, 12 May 1992), p. 2; P65, tab 145 (Defence Act, 1 June 1992), art. 7; P65, tab 146 (Law on the Army), art. 174.

166. The Accused, in his capacity as President of the Bosnian-Serb Assembly, was present at the first session of the newly established Presidency. He also attended Presidency's second session, on 31 May 1992.<sup>346</sup>

167. Following the establishment of the Presidency, the last reported meeting of the SNB took place on 15 May 1992.<sup>347</sup> The SNB was effectively replaced by the Presidency.

### 3.3.3 Presidency operations

168. The sessions of the Presidency were regularly attended by five persons, namely, Radovan Karadžić, Biljana Plavšić, Nikola Koljević, Branko Đerić, and the Accused. The three members of the Presidency envisaged by the Constitution, that is, Karadžić, Koljević, and Plavšić, never once met alone.<sup>348</sup> The Accused was present at all recorded official sessions in 1992, except possibly for one.<sup>349</sup>

169. The sessions were informal and were usually chaired by Karadžić or, in his absence, the Accused.<sup>350</sup> Members of the Bosnian-Serb Government, such as Minister of Defence Subotić, participated when a particular topic within their field of competence was discussed.<sup>351</sup> Occasionally, people from municipal authorities also attended, as did lawyers, experts, and military officials. In addition, according to Plavšić, Karadžić's wife was often present, simply because she felt bored at home.<sup>352</sup>

170. There was no official summons: Karadžić would call the meetings when necessary. An agenda was not distributed in advance. Some meetings discussing military and policy matters appear not to have been minuted at all.<sup>353</sup> When minutes were prepared, they were not taken during the sessions. Instead, Karadžić preferred to dictate them to his secretary

<sup>346</sup> P64.A, tab 693 (Minutes of 2nd session of Bosnian-Serb Presidency, 31 May 1992); Krajišnik, T. 24409-10.

<sup>347</sup> P64 (Treanor report), p. 175.

<sup>348</sup> C7 (Plavšić statement), paras 4, 27, 29; C8 (Excerpts from Biljana Plavšić's book *I Testify*), p. 201; Plavšić, T. 26853; P64 (Treanor report), pp. 186-7.

<sup>349</sup> P64 (Treanor report), pp. 186-7; Krajišnik, T. 24789.

<sup>350</sup> For example: P65, tab 203 (Minutes of session of Bosnian-Serb Presidency, 9 October 1992); Treanor, T. 1783-4; C7 (Plavšić statement), para. 29; C8 (Excerpts from Biljana Plavšić's book *I Testify*), p. 201.

<sup>351</sup> Subotić, T. 26478-81; C5 (Subotić statement), paras 27, 43.

<sup>352</sup> Đerić, T. 27073-5, 27096; C7 (Plavšić statement), paras 27-9; C8 (Excerpts from Biljana Plavšić's book *I Testify*), pp. 201, 216; Witness D24, T. 22820.

<sup>353</sup> For example P892, tab 59 (Diary of Colonel Novica Simić), pp. 38-39; Brown, T. 16327-8.

afterwards. At the beginning of the Presidency sessions the minutes of the previous session, sometimes abridged, were looked at, but not formally adopted.<sup>354</sup>

171. Decisions by the Presidency were not taken through formal voting. The Presidency operated on the basis of a consensus.<sup>355</sup> The different opinions were not reflected in the minutes.<sup>356</sup>

172. As stated earlier, while legislative power normally rested with the Assembly, in the state of imminent threat of war, declared on 15 April 1992 during a joint session of the SNB and the Government,<sup>357</sup> it was the President of the Republic who wielded legislative power.<sup>358</sup> In the period between April and August 1992, the Presidency often invoked a provision of the Constitution allowing it to pass laws. For example, on 1 May 1992, the Presidency, pursuant to its emergency powers under the Constitution, issued a “Decision on the establishment of penitentiary re-education organization in the territory of the Serbian Republic of Bosnia and Herzegovina”. This authorized the Minister of Justice to establish detention units for pre-trial detention within prisons.<sup>359</sup> Moreover, Karadžić appointed judges and prosecutors in the Bosnian-Serb Republic through decisions ratified later by the Assembly.<sup>360</sup> The Presidency also had authority to pardon “prisoners”, and the ARK Assembly addressed it with such requests.<sup>361</sup> Occasionally, laws passed by the Presidency were discussed by the Government and then forwarded for approval to the Assembly.<sup>362</sup>

173. As far as being informed, Presidency members had contacts with foreign negotiators and would go to Belgrade for consultations on negotiations and on the general situation in Bosnia-Herzegovina. Second, as will be explained later in more detail, the SDS

<sup>354</sup> Witness D24, T. 22798, 22813-19, 22925-6, 22937; Đerić, T. 27075-8; Krajišnik, T. 24782-3; Plavšić, T. 26800-1, 26852, 26854, 26885-6; C7 (Plavšić statement), para. 30; P65, tab 178 (Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992), item 8.

<sup>355</sup> Krajišnik, T. 24418; Đerić, T. 27079-80, 27100; Witness D24, T. 22826-30; Đokanović, T. 10621-6, 10678.

<sup>356</sup> P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992, p.1; P65, tab 178 (Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992, p.1; Đerić, T. 27078.

<sup>357</sup> P65, tab 120 (Minutes of joint session of SNB and Bosnian-Serb Government, 15 April 1992); P65, tab 121 (Declaration of imminent threat of war, 15 May 1992); P64 (Treanor report), para. 178.

<sup>358</sup> Mandić, T. 9111-13, 9391-2, 9430-1; P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 81.

<sup>359</sup> Treanor, T. 1701-4; P65, tab 125 (Decision of 1 May 1992).

<sup>360</sup> Trbojević, T. 11429. See also D174 (Minutes of 21st session of Bosnian-Serb Presidency, 2 August 1992), p. 2.

<sup>361</sup> P64.A, tab 565 (Request for pardon of 13 Muslim prisoners in Manjača, 1 October 1992).

<sup>362</sup> Trbojević, T. 11776, 12190-2, 11429; P65, tab 141 (Minutes of 17th session of Bosnian-Serb Government, 31 May 1992), p. 2.

party structure and the municipal crisis staffs reported on different matters to the Accused in his capacity as President of the Assembly. They also reported to the Presidency. Third, various Ministers and army commanders reported directly to the Presidency. Finally, on several occasions, Presidency members went out in the field.<sup>363</sup> Accordingly, the Presidency was well informed about the overall situation in the Republic. Indeed, it was generally the members of the Presidency, often Karadžić, who reported to the Assembly on the military and strategic situation in the Bosnian-Serb Republic.<sup>364</sup>

### 3.3.4 Expanded Presidency

174. On 1 June 1992, the Bosnian-Serb Presidency amended the Constitution pursuant to its emergency powers in time of war or immediate threat of war.<sup>365</sup> The amendment provided that “during a state of war” the three-member Presidency was to be expanded by two members, thus becoming an Expanded Presidency. The two additional members were to be the President of the Assembly and the Prime Minister.<sup>366</sup>

175. A “Declaration of the Ending of the War” was issued by the Bosnian-Serb Assembly, and signed by the Accused as its President, on 17 December 1992.<sup>367</sup> However, a state of war had not been officially declared by the Bosnian-Serb Presidency prior to this date. As stated earlier, only a state of imminent threat of war was declared on 15 April 1992 during a joint session of the SNB and the Government.<sup>368</sup> The Presidency appears to have decided not to declare a state of war.<sup>369</sup> This means that the formal condition for the establishment of the Expanded Presidency was not met at any time in 1992.

<sup>363</sup> Trbojević, T. 11718-23, 11789-91; P65, tab 155 (Minutes of 4th session of Bosnian-Serb Presidency, 9 June 1992); Subotić, T. 26536-8, 26596; C5 (Subotić statement), para. 40. See also part 3.6.3 of this judgement.

<sup>364</sup> P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), pp. 9-20, 37-8 (Plavšić and Karadžić reporting); Trbojević, T. 11530, 11631-2; P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), pp. 7-15 (Karadžić reporting); P65, tab 200 (Record of 20th session of Bosnian-Serb Assembly, 14-15 September 1992), p. 1 (Karadžić and Mladić reporting).

<sup>365</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb constitution, 28 February 1992), art. 81, para. 2.

<sup>366</sup> Treanor, T. 2187; P65, tab 144 (Law amending the Law for Implementing the Constitution, 2 June 1992); P64 (Treanor report), para. 261.

<sup>367</sup> Treanor, T. 1801-2; P64.A, tab 657 (Minutes of 20th session of Bosnian-Serb Assembly, 19 September 1992), p. 11; P65, tab 216 (Record of 23rd session of Bosnian-Serb Assembly, 17 December 1992), pp. 8-9.

<sup>368</sup> P65, tab 120 (Minutes of joint session of SNB and Bosnian-Serb Government, 15 April 1992); P65, tab 121 (Declaration of imminent threat of war, 15 May 1992); P64 (Treanor report), para. 178.

<sup>369</sup> Trbojević, T. 11708-9; Lakić, T. 21579-80; P583.B (Prosecution interview with Milan Trbojević), p. 38. See also: P892, tab 86 (MUP report to President of Presidency and Prime Minister, 17 July 1992), p. 4; P529, tab 198 (Decision by crisis staff of SAO Birač on state of war, 29 April 1992).

176. Nonetheless, the Chamber finds that the ordinary Presidency did not function as envisaged by the Constitution. From 12 May 1992, the very first session of the three-member Presidency, the Accused and Đerić attended, in addition to the three constitutional members.<sup>370</sup> Prior to this, the same persons had already been convening as members of the SNB. Furthermore, at the third session of the Presidency, on 8 June 1992 (which was the first session held following the constitutional amendments of 1 June), the attendees were Karadžić, Plavšić, Koljević, the Accused, and Đerić. This was the first time the Accused was recorded present at a Presidency session not in his capacity as “president of the Bosnian-Serb Assembly” but simply as “present”.<sup>371</sup>

177. The fact that the Accused was a member of the Presidency, as this body operated in practice, is supported by other evidence. The record of the Presidency meeting of 2 August 1992 reads: “Members of the negotiating delegation, who were also members of the Presidency (Dr. Karadžić, Dr. Koljević and Krajišnik), reported [on] the last conference on Bosnia and Herzegovina held in London”.<sup>372</sup> At its session on 9 October 1992 the Presidency functioned with only the Accused, Koljević, and Đerić present; the record is signed by the Accused as chairman.<sup>373</sup> On three occasions known to the Chamber, between June and October 1992, the Accused signed Presidency documents over Karadžić’s printed name.<sup>374</sup> Moreover, while the majority of the minutes bear the heading of “Presidency meeting held during an imminent threat of war” or some variant thereof,<sup>375</sup> other minutes are under the heading of “Presidency”,<sup>376</sup> or “expanded meeting of the War Presidency”.<sup>377</sup>

<sup>370</sup> P64 (Treanor report), pp. 175, 186-7; Treanor, T. 1737, 1796-9, 2187-91; P65, tab 214 (Minutes of session of Bosnian-Serb Presidency, 30 November 1992); Witness D24, T. 22804, 22807; 22927-8; Đerić, T. 27071, 27074; Trbojević, T. 11436-40, 11723, 12203-4; P583.B (Prosecution interview with Milan Trbojević, 4 May 2004), pp. 29-31; Đokanović, T. 10438, 10450-1, 10460-1, 10621-6, 10678; D39 (Đokanović statement, 16-18 December 2003), p. 7; Radić, T. 7434; D35 (Prosecution interview with Predrag Radić), p. 41; Prstojević, T. 14595, 14620-1, 14818-19; Okun, T. 4154, 4338; Antić, T. 18195, 18206-7.

<sup>371</sup> P65, tab 152 (Minutes of 3rd session of Bosnian-Serb Presidency, 8 June 1992).

<sup>372</sup> P65, tab 184 (Minutes of 21st session of Bosnian-Serb Presidency, 2 August 1992), p. 1; D24, T. 22817-18.

<sup>373</sup> P65, tab 203 (Minutes of session of Bosnian-Serb Presidency, 9 October 1992); Treanor, T. 1783-4.

<sup>374</sup> Treanor, T. 1784-6; P65, tab 204 (Certificate of appointment of state commissioner, 16 June 1992); P65, tab 205 (Certificate of appointment of state commissioner); P65, tab 206 (Certificate of appointment of state commissioner, 2 October 1992).

<sup>375</sup> For example: P65, tab 152 (Minutes of 3rd session of Bosnian-Serb Presidency, 8 June 1992); P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992); P65, tab 161 (Record of 6th session of Bosnian-Serb Presidency, 13 June 1992); P65, tab 163 (Minutes of 7th session of Bosnian-Serb Presidency, 16 June 1992).

<sup>376</sup> P65, tab 142 (Minutes of session of Bosnian-Serb Presidency, 31 May 1992); P65, tab 174 (Record of 15th session of Bosnian-Serb Presidency, 6 July 1992).

<sup>377</sup> P65, tab 155 (Minutes of 4th session of Bosnian-Serb Presidency, 9 June 1992); D24, T. 22804-5.

178. The Bosnian-Serb Presidency thus operated in fact with five members from its inception on 12 May 1992. Several witnesses denied the existence of an “Expanded”, “Extended”, or “War” Presidency,<sup>378</sup> and at a formal level they might have been correct. But the Chamber here looks to the substance, not the form.

179. The Accused forcefully denied that he was a member of the Presidency,<sup>379</sup> and much of the Defence case rests upon this denial.<sup>380</sup> However, it is ultimately irrelevant whether an Expanded Presidency existed de jure. What is relevant, as mentioned above, is that the Accused was present at practically every recorded meeting of the Presidency from 12 May 1992 onwards, as well as in informal meetings for which minutes are not available but which were confirmed by witnesses and documents.

180. The Accused was an active member of a five-member Presidency or a de facto Expanded Presidency. According to Biljana Plavšić, he was more important than both herself and Koljević, as he would have informal meetings with Karadžić during which important decisions would be made.<sup>381</sup> The establishment of the Presidency did not change or affect the division of power. It merely formalized the authority already wielded by the Accused and Karadžić. The Accused’s membership in the SNB confirms that, regardless of formal names and titles, he was always at the centre of power.

181. It is for all these reasons that the Chamber will use the term “Presidency” to denote a body consisting of five members, including the Accused. This Presidency acted as the commander-in-chief of the Bosnian-Serb Republic until 17 December 1992 when the Bosnian-Serb Assembly elected Karadžić as President of the Bosnian-Serb Republic, with Koljević and Plavšić as vice-presidents.<sup>382</sup>

<sup>378</sup> Plavšić, T. 26859; C7 (Plavšić statement), paras 34-5; C8 (Excerpts from Biljana Plavšić’s book *I Testify*), pp. 201-2, 216, 294, 308-9; P65, tab 174 (Minutes of 15th session of Bosnian-Serb Presidency, 6 July 1992), item 1; Subotić, T. 26556-8, 26575-7; C3 (Subotić statement), paras 14, 49; C4 (Subotić statement), p. 5; Trbojević, T. 11442-3, 11448; P583.B (Prosecution interview with Milan Trbojević), p. 31; Hrvačanin, T. 19351-2; Lakić, T. 21577-82; Divčić, T. 17844-6; Savkić, T. 20608-9, 20628-9; Witness D24, T. 22805-6, 22826; Kapetina, T. 19951; Ostojić, T. 26761-4.

<sup>379</sup> For example Krajišnik, T. 24409-10, 24420, 24433-4, 24679-80, 24713-17, 24783-4, 24799.

<sup>380</sup> For example, Defence Final Brief, paras 298-328.

<sup>381</sup> Plavšić, T. 26859; C7 (Plavšić, witness statement, 7 July 2006), para. 34; C8 (Excerpts from Biljana Plavšić: *I Testify*), pp. 216, 308-9. See also Đerić, T. 27093, 27099-100, 27155-6; Trbojević, T. 12157-9, 12169-73, 12177, 12179; P583.A (Prosecution interview with Milan Trbojević, 23 March 2004), pp. 22-3; P583.B (Prosecution interview with Milan Trbojević, 4 May 2004), p. 33; Đokanović, T. 10626-7, 10723-5; D39 (Đokanović, witness statement, 16-18 December 2003), pp. 7-8.

<sup>382</sup> Treanor, T. 1803; P65, tab 216 (Record of 23rd session of Bosnian-Serb Assembly, 17 December 1992), pp. 86-7.

182. The members of the Presidency were assigned different tasks. The Accused was, for example, in charge of commissioners – the link between the (republican) centre and municipal authorities – and the economy.<sup>383</sup> However, considering the informal nature of the body, and in view of the evidence reviewed above, assignment of a task to a member may not be interpreted as excluding the involvement of other members in that matter.

### 3.3.5 Relationship between Presidency and Government

183. According to the constitutional provisions referred to above,<sup>384</sup> individual Ministers should have been under the authority of the Prime Minister, Branko Đerić. In addition, the Government as a whole should have been accountable to the Assembly. However, on 22 November 1992, Branko Đerić openly complained before the Bosnian-Serb Assembly that the Minister of Justice and the Minister of Interior were reporting directly to the President of the Republic and to the President of the Assembly.<sup>385</sup>

184. The Chamber received evidence that there was a falling out between Mićo Stanišić, Minister of Interior, and Momčilo Mandić, Minister of Justice, on the one side, and Branko Đerić, Prime Minister, and Milan Trbojević, deputy Prime Minister, on the other. The former two often failed to attend Government sessions and would instead report directly to Radovan Karadžić and the Accused.<sup>386</sup> Stanišić, for example, would report to the Presidency on his consultations with the Ministry of Interior of Serbia. On at least one occasion, the Presidency directly ordered the Bosnian-Serb Ministry of Interior to examine the conduct of authorities and individuals guarding prisoners of war and report back.<sup>387</sup> Only on rare occasions would Stanišić report to Đerić.<sup>388</sup> When Đerić tried to have Stanišić

<sup>383</sup> P64.A, tab 726 (Minutes of 15th Bosnian-Serb Presidency session, 6 July 1992); Krajišnik, T. 24431-2, 24435, 24451, 24502, 24504, 24510, 24513, 24679; C7 (Plavšić statement), para. 31; C8 (Excerpts from Biljana Plavšić's book *I Testify*), p. 242.

<sup>384</sup> See *supra*, part 3.2.1.

<sup>385</sup> P583, tab 106 (Record of 22nd session of Bosnian-Serb Assembly, 22-23 November 1992), p. 17.

<sup>386</sup> Lakić, T. 21654-9; Trbojević, T. 11417, 11452-7, 11498, 11549-50, 11701, 11720-3; Mandić, T. 9301.

<sup>387</sup> Mandić, T. 8813-14, 8885, 8902-3, 9300-2; P583.B (Prosecution interview with Milan Trbojević), pp. 17; Trbojević, T. 11690-3, 11718-20; P65, tab 213 (Minutes of 24th session of Bosnian-Serb Presidency, 6 August 1992), p. 2; Đerić, T. 27147-8.

<sup>388</sup> Trbojević, T. 11777-88; P65, tab 141 (Minutes of 17th session of Bosnian-Serb Government, 31 May 1992), p. 5; P65, tab 148 (Minutes of 19th session of Bosnian-Serb Government, 2 June 1992), p. 2; P64.A, tab 662 (Minutes of 21st session of Bosnian-Serb Government, 5 June 1992), p. 2; P64.A, tab 671 (Minutes of 27th session of Bosnian-Serb Government, 13 June 1992), p. 3.

and Mandić replaced, he consulted with the Accused and Karadžić. They did not allow Đerić to proceed despite the fact that Plavšić, and Koljević both sided with him.<sup>389</sup>

185. Other Ministers would also report directly to Karadžić and the Accused. Bogdan Subotić, the Minister of Defence, would report on legislative developments, decrees to be issued, or instructions being prepared by the Ministry.<sup>390</sup> Dragan Kalinić, Minister of Health, reported directly to Karadžić after an agreement was signed on 23 May 1992 under the auspices of the ICRC, whereby the parties to the conflict agreed to undertake the necessary steps regarding release of prisoners.<sup>391</sup> Further, according to Đerić, Velibor Ostojić, Minister of Information, was “more in the Presidency than he was in the government”.<sup>392</sup>

186. Already in June 1992, the Government publicly expressed its dissatisfaction with the lack of relevant information coming from the Ministries of Internal Affairs and Defence, as well as from the Main Staff of the VRS.<sup>393</sup> This situation eventually led Branko Đerić to resign from his post as Prime Minister on 9 October 1992. Đerić himself testified that he resigned from his post as Prime Minister because he considered that the authorities of the Bosnian-Serb Republic did not function and that “the party structures outweighed the rule of law aspect of the state”.<sup>394</sup> Similarly, deputy Prime Minister Trbojević observed that the Government was merely an agency implementing policies dictated by the Presidency.<sup>395</sup>

187. The Presidency was composed entirely of SDS members, and the Assembly almost exclusively. This meant that, when the Bosnian-Serb institutions started operating, control over the SDS meant control over the policies of the Bosnian-Serb state-to-be. Soon enough, party operations and the policies of state organs became almost indiscernible. The two were essentially one in the same. Furthermore, the functions and roles performed by

<sup>389</sup> Trbojević, T. 11457-9.

<sup>390</sup> Đerić, T. 27103, 27141, 27158; C5 (Subotić statement), paras 9-12; C3 (Subotić statement), paras 14, 49; C4 (Subotić statement), p. 5; Subotić, T. 26581-2.

<sup>391</sup> P583.B (Prosecution interview with Milan Trbojević), pp. 17; Trbojević, T. 11693-6; Trbojević, T. 11478-80; P583, tab 109 (Agreement among parties to the conflict, 23 May 1992).

<sup>392</sup> Đerić, T. 27238.

<sup>393</sup> Lakić, T. 21619-23; 21669-70; P64.A, tab 671 (Minutes of 27th session of Bosnian-Serb Government, 13 June 1992), p.3; P583, tab 87 (Record of 19th session of Bosnian-Serb Assembly, 12 August 1992), pp. 62-3.

<sup>394</sup> Đerić, T. 27066, 27080, 27104, 27148, 27241-2; Lakić, T. 21610-12; P1112 (Handwritten notes of a meeting of Bosnian-Serb Government, 14 September 1992), pp. 4-5. This appears to have been an informal session of Presidency and the Government during the two-day 20th Assembly Session held in Bijeljina as recorded in P64 (Treanor Report), p. 184.

<sup>395</sup> Trbojević, T. 11427-8; 11433-5, 11711-4, 11760, 11788; P583.A (Prosecution interview with Milan Trbojević), pp. 23-5; P583.B (Prosecution interview with Milan Trbojević), pp. 8, 10; Lakić, T. 21582.

the Accused (President of the Assembly, member of the Presidency) and Karadžić (President of the Bosnian-Serb Republic and president of the SDS), left no gaps in their power: the already existing links between the party and the state structures were fortified while, at the same time, new ones, de jure or otherwise, were created. All were under substantial de facto control of the two men. This meant that the Bosnian-Serb Government, and by extension, the Bosnian-Serb Republic, was nothing more than an agency implementing policies dictated by the leadership of the SDS under the watchful eyes and strong hands of Karadžić and the Accused.

### 3.4 Armed forces

#### *3.4.1 Statutory framework*

188. According to the Bosnian-Serb Constitution, citizens of the Bosnian-Serb Republic had the right and obligation to be part of the armed forces of the JNA and the TO. The Constitution defined the members of the armed forces as citizens taking part in the defence of the Bosnian-Serb Republic.<sup>396</sup> On 1 June 1992, the Law on the Army proclaimed the Army of the Bosnian-Serb Republic (VRS), which was charged with defending the Republic's sovereignty, territory, and independence.<sup>397</sup>

189. As explained earlier, the Bosnian-Serb President was commander-in-chief and had authority to define the VRS organization, establish the system of command, establish a plan for deployment, and make decisions on deployment, define the demarcation of military territory, and issue regulations related to combat.<sup>398</sup> Other important functions relevant to the armed forces were to be carried out by the Ministry of Defence, the Ministry of Interior, and by the Bosnian-Serb Assembly. The Government had the authority to propose a defence plan and carry out defence preparations. The Ministry of Defence was to be in charge of mobilization efforts. The MUP would deploy the police force in case of conflict. The Assembly was responsible for adopting a defence development plan, determining sources of defence finance, and enabling the acquisition of material supplies.<sup>399</sup>

<sup>396</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 109, 112.

<sup>397</sup> P65, tab 146 (Law on the Army, 1 June 1992), arts 1-2.

<sup>398</sup> P65, tab 146 (Law on the Army, 1 June 1992), arts 173-4.

<sup>399</sup> P65, tab 145 (Defence Act, 1 June 1992), arts 6, 10 (paras 1-7), 75.

190. In accordance with the Bosnian-Serb Republic's Defence Act, defence equipment, funds, and other property previously belonging to Bosnia-Herzegovina were to be transferred to the Bosnian-Serb Republic.<sup>400</sup> JNA officers, Bosnian-Serb Republic citizens, and citizens of other Yugoslav republics who wished to serve in the VRS, could be transferred to the Bosnian-Serb Republic's Army.<sup>401</sup>

### 3.4.2 Establishment of VRS

191. Early on in its existence, the Bosnian-Serb Assembly became concerned with defence of the state and started debating the issue of armed forces. Already on 11 December 1991, at the 3rd session of the Bosnian-Serb Assembly, Dragan Kapetina, chief inspector in the Ministry for National Defence of Bosnia-Herzegovina, presented a paper to the deputies. It contained two proposals for the composition of defence forces. Both proposals, which were dependent on whether Bosnia-Herzegovina gained independence, were prepared "from the aspect of the interests of the Serbian people."<sup>402</sup> Kapetina testified that he was tasked to do so by Miodrag Simović, vice-premier in charge of defence in the Bosnia-Herzegovina Ministry of Defence.<sup>403</sup> On 11 January 1992, at the 1st session of the Ministerial Council, Kapetina was tasked with ensuring that cooperation with JNA organs and command was incorporated into the Rules of Procedure of the Ministerial Council.<sup>404</sup> This decision merely formalized the situation that already existed, since some of the Serb TOs had already mobilized and coordinated with the JNA.<sup>405</sup>

192. The Accused was adamant that the JNA was neutral prior to 12 May 1992, and that General Kukanjac, commander of the JNA 2nd Military District (covering Bosnia-Herzegovina and small areas of Croatia), would have stayed neutral had the Muslims not attacked the JNA first.<sup>406</sup> This is contradicted by the evidence. Part 2.2 of this judgement already dealt with the level of involvement of the JNA in the arming of the Bosnian Serbs. Moreover, in addition to the already mentioned preparations by the Bosnian-Serb Assembly to coordinate with the JNA, on 27 March 1992, at a Bosnian-Serb Assembly

<sup>400</sup> P65, tab 145 (Defence Act, 1 June 1992), art. 81.

<sup>401</sup> P65, tab 146 (Law on the Army, 1 June 1992), art. 377.

<sup>402</sup> P65, tab 62 (Record of 3rd session of Bosnian-Serb Assembly, 11 December 1991), pp. 58-9.

<sup>403</sup> Kapetina, T. 20042-3.

<sup>404</sup> P64.A, tab 660 (Minutes of 1st session of Ministerial Council, 11 January 1992), p. 3; Kapetina, T. 20043-4.

<sup>405</sup> Prstojević, T. 14540-1.

<sup>406</sup> Krajišnik, T. 23892, 24101-2.

session, Karadžić ordered the deputies to place the Serb TO, which was essentially a municipal defence force, under JNA command, where possible.<sup>407</sup> On 15 April 1992, at a joint meeting of the SNB and the Government, a JNA colonel was appointed commander of the Serb TO and tasked with supervising and controlling local TOs.<sup>408</sup> On 16 April 1992, the Ministry of Defence of the Bosnian-Serb Republic publicly affirmed the state of imminent threat of war declared the day before by the Bosnian-Serb Presidency pursuant to its emergency powers, and informed the ARK, other SAO governments, and all Serb municipalities of the decision made the previous day by the Bosnian-Serb Presidency that the Serb TO would become “an armed force” of the Bosnian-Serb Republic. The Ministry also ordered mobilization and called for coordination of TOs with the JNA, where possible, under unified command.<sup>409</sup>

193. Despite these measures geared towards coordination between the TO and JNA and the establishment of a unitary armed force, the Bosnian-Serb leadership was not satisfied with the progress of the two armed forces, especially the TOs since they

failed to achieve the main strategic objectives of the armed struggle of the Serbian people in [Bosnia-Herzegovina]. They failed to open up and secure corridors ... between the Krajina and the FRY, or a corridor [through the] Drina river valley, they failed to gain control over a considerable part of the territory of former BH which historically and ethnically belongs to the Serbian people.<sup>410</sup>

194. On 12 May 1992, at a session of the Bosnian-Serb Assembly, the Accused promoted the creation of the VRS, explaining that acquisition of territory was the ultimate goal.<sup>411</sup> At the same session, a decision was passed formally establishing the VRS, renaming TO units to VRS units, and appointing Ratko Mladić as commander of the VRS Main Staff.<sup>412</sup> The Accused conceded that, in this capacity, Mladić was directly subordinated to the Presidency.<sup>413</sup>

<sup>407</sup> Brown, T. 16285-6; P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), p. 23.

<sup>408</sup> Subotić, T. 26440-1, 26545-6; C3 (Subotić statement), paras 12-13; C5 (Subotić statement), paras 7, 25, 41; P64.A, tab 618 (Minutes of joint session of SNB and Bosnian-Serb Government, 15 April 1992), item 3.

<sup>409</sup> Prstojević, T. 14540-1; P892, tab 47 (Decision of Bosnian-Serb Ministry of Defence on declaration of a state of imminent threat of war, 16 April 1992); P901, pp. 2474-8;

<sup>410</sup> P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), p. 69.

<sup>411</sup> P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), pp. 50-2.

<sup>412</sup> P891 (Brown report), paras 1.39, 1.63-1.64.

<sup>413</sup> List of matters admitted by the Accused, filed on 31 August 2001, para. 65.

195. Despite the creation of the VRS, TO units were not disbanded completely and the role of the TO remained significant. On 15 May 1992, Mićo Stanišić mobilized the TO further pursuant to a decision of Biljana Plavšić and Nikola Koljević.<sup>414</sup>

196. The formal withdrawal of the JNA from Bosnia-Herzegovina occurred on 19 and 20 May 1992, which is also the period when the transformation of what remained of the JNA in the territory of Bosnia-Herzegovina into the VRS was completed.<sup>415</sup> On 21 May 1992, the Bosnian-Serb Presidency called for general mobilization of able-bodied citizens of the Bosnian-Serb Republic.<sup>416</sup> In addition, in the months that followed, and despite some delay,<sup>417</sup> many Serb TO units were renamed “light brigades” of the VRS.<sup>418</sup>

### 3.4.3 Composition and logistics

197. In June 1992 the VRS comprised 177,341 personnel divided into five Corps, as well as some units not attached to any specific Corps, all under the command of an Army Main Staff headed by Ratko Mladić. The five Corps were the 1st Krajina Corps (formerly the JNA 5th Corps, headed by Momir Talić from 17 March 1992); the 2nd Krajina Corps (formerly the JNA 10th Corps); the East Bosnia Corps (formerly the JNA 17th Corps); the Sarajevo-Romanija Corps (formerly the JNA 4th Corps); and the Herzegovina Corps (formerly part of the JNA 9th Corps). In November 1992 the Drina Corps was created on territory previously under the authority of the East Bosnia Corps and the Sarajevo-Romanija Corps.<sup>419</sup>

198. Following the establishment of the VRS, the army continued to receive substantial financial and material support from the JNA and SFRY. VRS officers continued to receive

<sup>414</sup> P763 (Nielsen report), para. 184.

<sup>415</sup> Adjudicated facts 83-6; Witness 680, T. 14966-73, 15001, 15060-3, 15099, 15112-14; P891 (Brown report), paras 1.73, 1.75, 1.88.

<sup>416</sup> P529, tab 271 (Order of 1st Krajina Corps command on general mobilization of VRS, 21 May 1992); P891 (Brown report), para. 1.77; P910 (Witness 79 transcript), pp. 27761-3; P910.A (Witness 79 statement), pp. 5, 9.

<sup>417</sup> P583, tab 120 (Order from Birač Brigade command to Zvornik TO, 28 May 1992).

<sup>418</sup> Brown, T. 16298; P892, tab 52 (Proposal of 1st Krajina Corps command to VRS Main Staff, 27 May 1992); P891 (Brown report), paras 1.76, 1.81, 3.10. 1; P871 (Order to rename TO staffs and TO units, 6 June 1992), arts 1, 2 3 and 4; Witness 666, T. 16028; C5 (Subotić statement), para. 46; Krsman, T. 21950-2.

<sup>419</sup> P891 (Brown report), paras 1.62-1.64; P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), p. 71; Brown, T. 16236. On the area of responsibility of the 1st Krajina Corps, see: Brown, T. 16206-7; P891 (Brown report), paras 1.90-1.93, 2.1 (footnote 237); P892, tab 5 (Map of responsibility zone of 1st Krajina Corps, no date).

their salaries and pensions from the JNA.<sup>420</sup> Its assistance was not limited to financial resources. Large quantities of military and medical supplies, as well as foodstuffs and means of communication, were delivered in the course of 1992 from Yugoslavia both to the VRS Main Staff and to the various Corps of the VRS.<sup>421</sup>

199. The VRS had control over several weapons-production plants in Bosnia-Herzegovina. They manufactured air-jet engines, radar and telecommunications systems, artillery and non-guided rocket munitions, armoured vehicles, optical electronics, and engines for military vehicles. The Pretis artillery and rocket-manufacturing plant in Vogošća municipality was the only plant to manufacture ammunition.<sup>422</sup>

200. The communication systems of the VRS were more than adequate on the most important matters such as enemy activity, the situation in the field, logistical issues, and staffing issues.<sup>423</sup> The Presidency received written and oral reports on “crisis areas” and the situation in the field regularly, as recorded by the minutes of the Presidency sessions.<sup>424</sup>

201. The ethnic make up of the armed forces changed significantly in the first half of 1992. Already in early 1992, and partly due to the refusal of non-Serbs to mobilize for the war in Croatia,<sup>425</sup> the JNA units in Bosnia-Herzegovina were progressively becoming all-Serb units.<sup>426</sup> By April 1992, more than 90 per cent of all JNA officers were Serbs or Montenegrins, and the JNA was openly favouring Serbs in its personnel policy.<sup>427</sup> The

<sup>420</sup> P733 (Selak, transcript, 17 January 2003), p. 13112-13; Subotić, T. 26573-5; P979 (Guidelines on modes of action in state of war, July 1992), para. 6; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), pp. 22, 101; P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), pp. 127-9.

<sup>421</sup> P891 (Brown report), paras 2.254-2.259.

<sup>422</sup> Zečević, T. 13752-4, 13870, 13873-8; P753 (Zečević statement), paras 25, 31-4, 38; P757 (Report from Pretis factory to Bosnian-Serb Ministry of Defence, 11 February 1993), p. 10; P755 (Information on resuming production in certain enterprises, 8 June 1992); P756 (Decision appointing the director of Pretis, 18 June 1992).

<sup>423</sup> Brown, T. 16207-13; P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), pp. 33-41; Treanor, T. 1800-1; P65, tab 215 (Decision to establish VRS Supreme Command, 30 November 1992), p. 1; Brown, T. 16455-7; P892, tab 44 (Record of 16th session of Bosnian-Serb Assembly, 12 May 1992), p. 16; P65, tab 165 (Minutes of 8th session of Bosnian-Serb Presidency, 17 June 1992); Brown, T. 16239-40, 16248-9; P892, tab 38 (Report from Milutin Vukelić, 9 June 1992); D58 (Transcript from, 28 October 2003), pp. 21582-90; Brown, T. 16212-15, 16456.

<sup>424</sup> P65, tab 161 (Minutes of 6th session of Bosnian-Serb Presidency, 13 June 1992); P65, tab 163 (Minutes of 7th session of Bosnian-Serb Presidency, 16 June 1992); P65, tab 165 (Minutes of 8th session of Bosnian-Serb Presidency, 17 June 1992).

<sup>425</sup> See part 2.3 of this judgement.

<sup>426</sup> Džambasović, T. 5938-9; P526 (Džambasović statement), paras 3, 7, and 42; P526.A (Džambasović statement), paras 1, 21, 24, 42-3, 54, 59, 72, 92; P526 (Džambasović statement), paras 3, 7, and 42.

<sup>427</sup> P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), p. 27; P891 (Brown report), paras 1.128-1.130.

political leadership often exerted influence on the military leaders to remove the remaining non-Serbs from the armed forces. There was also pressure from within the JNA on non-Serb officers to resign which was expressed in the form of threats coming from Serb soldiers and reassignments to menial jobs. On 9 June Colonel Vukelić, assistant commander for moral guidance in the VRS 1st Krajina Corps, reported to the VRS Main Staff and the Bosnian-Serb Presidency about a decision taken by the ARK crisis staff. The decision was an ultimatum to the Corps and other military units to remove Muslims and Croats from “vital and command posts” before 15 June, or the crisis staff would take control of the armed forces. Colonel Vukelić described the ultimatum as “reasonable”, but considered it impossible to find replacements for the 67 Muslim and Croat officers remaining in the Corps. He stated that the Corps was already excluding those persons from important decision-making processes. The VRS Main Staff’s response on the same date was that officers of Muslim and Croat nationality should be sent on leave immediately and that they should be referred to the JNA in order to resolve their status in the service.<sup>428</sup>

202. Most non-Serb officers were indeed dismissed. By late 1992 or early 1993 out of 2,579 VRS officers, the majority were Serb (2,165, or 84 per cent) or Yugoslav (204, or 8 per cent). Only 62 (or 2 per cent) were Croat and 33 (1 per cent) were Muslim.<sup>429</sup> The fact that a few non-Serbs did remain appears to be due to the circumstance that, after 16 July 1992, in view of lack of qualified personnel, non-Serbs who proved themselves in combat and declared that they wanted to become citizens of the Bosnian-Serb Republic were allowed to remain in the VRS.<sup>430</sup>

203. The JNA was not the only armed force in the Bosnian-Serb Republic whose composition changed in such dramatic fashion. The TO was also struggling to fill up its ranks following the departure of non-Serbs. In a letter dated 27 April 1992 Minister of Defence Subotić requested reinforcements from the JNA’s 2nd Military District, pursuant to an order received by Prime Minister Đerić. The letter provided as follows:

<sup>428</sup> Selak, T. 13332-3, 13365-6; P733 (Selak transcript), p. 12890; P733.A (Selak transcript), pp. 12030, 12959, 13036-43; P733.B (Selak transcript), pp. 13049-50, 13058-61, 13065, 13068; P733.C (Selak transcript), pp. 13194, 13202-3; 1; P192 (Conclusions adopted at a sub-regional meeting of political representatives of different municipalities, 7 June 1992); P739 (Report by Command of 1st Krajina Corps to VRS Main Staff and Bosnian-Serb Presidency, 9 June 1992); P736 (Order by VRS Main Staff to the Command of 1st Krajina Corps, 9 June 1992); Brown, T. 16248-50; P892, tab 38 (Report from Milutin Vukelić to VRS Main Staff, 9 June 1992); P891 (Brown report), para. 1.131-1.135; D58 (Brown transcript), pp. 21584-90; P735 (Document from command of 30th Partizan Brigade, 21 June 1992).

<sup>429</sup> Brown, T. 16529-31; P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), p. 80. Subotić, T. 26433-4; Krajišnik, T. 24113.

<sup>430</sup> P891 (Brown report), paras 1.131, 1.135; D58 (Brown transcript), pp. 21592-4.

In view of the essential need to bring the TO in the Serbian Republic of Bosnia and Herzegovina up to the basic level of manpower, in accordance with an agreement reached and a promise made in Belgrade, we request your urgent assistance in providing us with the following officers.<sup>431</sup>

#### *3.4.4 Control over and operations of VRS*

204. The close relationship between the SDS leadership, the TO, and the JNA before the JNA's withdrawal from the territory of Bosnia-Herzegovina was explored, in part 3.4.2, as well as in part 2 of the judgement.

205. The supreme military commander of the VRS was the President of the Republic, Radovan Karadžić. Directly below him was Mladić, who was the Commander of the VRS Main Staff. Despite the Accused's attempts at downplaying the role of the Presidency,<sup>432</sup> the Chamber received sufficient evidence to conclude that, from May to November 1992, General Mladić would consult the Bosnian-Serb leadership regularly.<sup>433</sup> The Presidency would frequently discuss military-related issues and make decisions on those matters.<sup>434</sup> In addition, the Presidency had the authority to initiate investigations on alleged crimes related to combat activities,<sup>435</sup> order cease-fires,<sup>436</sup> and halt military operations if political or diplomatic needs so dictated.<sup>437</sup> It was the Presidency that had the power to secure the release of prisoners of war.<sup>438</sup> The Chamber heard about one incident in July 1992, in which Minister of Justice Mandić arranged the release of a number of Croats held in the military detention facility at Manjača camp in Banja Luka municipality by contacting his

<sup>431</sup> P1211 (Request by Subotić to JNA 2nd military district for officers, 27 April 1992); Subotić, T. 26489-90.

<sup>432</sup> Krajišnik, T. 23346-7, 24112-15, 24218, 24400, 24441, 24443-6, 24453-4, 24467-71.

<sup>433</sup> Wilson, T. 13032-3, 13066, 13073, 13075, 13106; P721 (Record of discussion between John Wilson, Biljana Plavšić, and Ratko Mladić, on 25 May 1992), para. 7; Subotić, T. 26450-1; C5 (Subotić statement), para. 31; Krajišnik, T. 24293.

<sup>434</sup> Treanor, T. 1743-4, 1747-8, 1756, 1764, 1783-4; P65, tab 155 (Minutes of 4th session of Bosnian-Serb Presidency, 9 June 1992); P65, tab 165 (Minutes of 8th session of Bosnian-Serb Presidency, 17 June 1992); P65, tab 172 (Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992); P65, tab 181 (Minutes of 21st session of Bosnian-Serb Presidency, 24 July 1992); P65, tab 185 (Minutes of 22nd session of Bosnian-Serb Presidency, 4 August 1992); Witness 680, T. 15144-5; P65, tab 203 (Minutes of Presidency session, 9 October 1992), p. 2.

<sup>435</sup> Krajišnik, T. 24475-7.

<sup>436</sup> Krajišnik, T. 24637-8, 24640; P64.A, tab 221 (Telephone conversation between Biljana Plavšić and Mićo Stanišić, 14 May 1992).

<sup>437</sup> Subotić, T. 26448-9, 26463, 26506-7, 26547-53; C5 (Subotić statement), para. 33.

<sup>438</sup> Mandić, T. 9045; P461.A (Telephone conversation between Brane Kvesić and Momčilo Mandić, 10 July 1992).

“boss”.<sup>439</sup> According to Mandić, this was Karadžić, whom he would go to in order to effect such exchanges. Mandić also testified that he would see Mladić or the Accused for the same purpose.<sup>440</sup> Other examples of the powers of the Presidency and its members in military affairs are detailed in part 6 of the judgement.

206. The chain of command and the resulting close relationship between the members of the Presidency and the Main Staff also meant that the former were well briefed on the military situation throughout the Bosnian-Serb Republic by the latter.<sup>441</sup> Orders were then passed from the political leadership to military officers. This included, when the structure of the Bosnian-Serb Republic became more hierarchical, oral orders and orders given to military officials attending Presidency sessions.<sup>442</sup>

207. The chain of command described above created an unusual relationship between the Ministry of Defence and the VRS. There was not much room for input in VRS affairs from the civilian authorities other than the Presidency.<sup>443</sup> Minister of Defence Subotić was not in the chain of command nor was he extensively briefed by the VRS. He and the other Ministers were called to meetings of the Presidency for consultations concerning specific matters only occasionally.<sup>444</sup> The Ministry of Defence did not receive reports on combat operations, but only on supply and logistics of military operations, promotions, and appointments. These came not from the field, but from either the “Supreme Commander”, or the Prime Minister.<sup>445</sup> Although Subotić often travelled to the field, Mladić would not allow him to visit units and barracks on the front lines during military actions, nor would

<sup>439</sup> P461.A (Telephone conversation between Brane Kvesić and Momčilo Mandić, 10 July 1992).

<sup>440</sup> Mandić, T. 9048-9.

<sup>441</sup> Witness 680, T. 14979-84, 14999-5001, 15013-19, 15034-9, 15048-9, 15150, 15182-4, 15186-7, 15205-7; 15166-7; P65, tab 171 (Minutes of 12th session of Bosnian-Serb Presidency, 27 June 1992), p. 1.

<sup>442</sup> Brown, T. 16221-3; P529, tab 271 (Order of 1st Krajina Corps command on general mobilization of VRS, 21 May 1992; Brown, T. 16220-1; P67, tab 32 (Telephone conversation between Momčilo Krajišnik and Ratko Mladić, 27 May 1992); P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), p. 159; Brown, T. 16220; P65, tab 152 (Minutes of 3rd session of Bosnian-Serb Presidency, 8 June 1992); P65, tab 155 (Minutes of 4th session of Bosnian-Serb Presidency, 9 June 1992); P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992); P65, tab 178 (Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992); P65, tab 184 (Minutes of 21st session of Bosnian-Serb Presidency, 2 August 1992); P65, tab 194 (Minutes of 27th session of Bosnian-Serb Presidency, 31 August 1992); Brown, T. 16250-2; P892, tab 37 (Order from VRS Main Staff pursuant to decision of Bosnian-Serb Presidency and Main Staff, 1 June 1992); P892, tab 40 (Order from SRK Command to SRK brigades and battalions pursuant to a conference on military and political matters, 12 September 1992); Brown, T. 16329-31; P892, tab 60 (Excerpts from record of 20th Bosnian-Serb Assembly, 14-15 September 1992), p. 3.

<sup>443</sup> Mandić, T. 8603, 9108-9, 9110-11, 9435-40, 9450-3.

<sup>444</sup> Subotić, T. 26458-9, 26553-6; C3 (Subotić statement), para. 30; C5 (Subotić statement), paras 14, 30.

<sup>445</sup> Subotić, T. 26431-2.

he let Subotić take an active part in the preparations for war operations.<sup>446</sup> The Ministry could not therefore take any decisions relating to military affairs.

### 3.4.5 Paramilitary formations

208. Even before the hostilities began in Bosnia-Herzegovina, there existed a centre in Belgrade where volunteers were gathered to be sent to fight in Bosnia-Herzegovina. Furthermore, the Serbian Radical Party (SRS) recruited volunteers from within Bosnia-Herzegovina. Karadžić, the Accused, and others from the Bosnian-Serb leadership were informed about this.<sup>447</sup>

209. Many paramilitary units were seen operating independently at first. Often, paramilitary units were later incorporated within the TO structures and eventually ended up being either disbanded or integrated within the VRS structures. The Bosnian-Serb leadership teetered between endorsing anybody who would fight for the “Serbian cause” and accepting among their ranks only those who would subordinate themselves to the chain of command of the army.<sup>448</sup> This discussion lasted during most of 1992, at both the top levels of the Bosnian-Serb Republic and at the Corps’ level.

210. A VRS Main Staff intelligence report on paramilitary formations dated 28 July 1992 was sent to the five VRS Corps, the President of the Presidency, the Prime Minister, and the commander of the Main Staff. According to the report, the paramilitary groups operating in the Bosnian-Serb Republic at that time (about 60 groups, totalling 4,000 to 5,000 men) were mostly formed of individuals of low morals, many of them convicted criminals, whose interest was looting. The paramilitaries were said to be weak or non-existent in those areas where the administrative, judicial, and executive branches of Government functioned. According to the report, paramilitaries did not express an affiliation with the SDS, but rather with parties in Serbia.<sup>449</sup>

<sup>446</sup> Subotić, T. 26431-7, 26439, 26444-5, 26586-91; C3 (Subotić statement), para. 10; C4 (Subotić statement), pp. 2-3; Kapetina, T. 19886, 19925, 19952-3, 19957, 19968-9.

<sup>447</sup> Poplašen, T. 20914-15, 20917, 21105-6; 21119, 21125-6; Mandić, T. 9025-9; P460.A (Telephone conversation between Momčilo Mandić and “Igor”, 21 April 1992); P1090 (Video clip); P1095 (Authorization for Nikodin Čavić to sign up volunteers, 13 December 1991; P892, tab 54 (Report on paramilitary formations from Colonel Zdravko Tolimir, 28 July 1992), p. 3.

<sup>448</sup> Witness 680, T. 15040-6, 15070-4, 15082-4; P1021.A (Transcript of video footage with Momčilo Krajišnik); P64.A, tab 633 (Minutes of 2nd session of Bosnian-Serb Assembly, 21 November 1991).

<sup>449</sup> Brown, T. 16305-7; P529, tab 463 (Report on paramilitary formations, 28 July 1992), pp. 1-6; P891 (Brown report), para. 2.71.

211. The VRS Main Staff intelligence report also listed Dragan Jočić's special company of about 80 members as being among the most important paramilitary groups operating in the Bosnian-Serb Republic at that time. According to the report, this company, while formally part of the local VRS Brigade, actually operated under the influence of individuals from the Teslić municipal authorities.<sup>450</sup>

212. The SOS paramilitary group under Nenad Stevandić, a member of the ARK crisis staff, was operative in Banja Luka in spring and summer 1992. It included convicted criminals and had links to SJB and CSB officials. Members of the SOS even acted as escorts for SDS leaders such as Radoslav Brđanin. At the time of the republican referendum on independence, on 29 February and 1 March 1992, members of the SOS blockaded the municipality building in Banja Luka town.<sup>451</sup> SOS groups were also active in Sanski Most, where the local crisis staff decided to transform them into a TO unit on 22 April.<sup>452</sup> Although the ARK assembly formally placed the SOS under the control of the Banja Luka CSB on or about 29 April 1992, the group retained a certain degree of autonomy.<sup>453</sup>

213. In Zvornik, in the period April to May 1992, the Yellow Wasps, a paramilitary unit consisting of around 100 heavily armed men, cooperated closely with the TO and was even issued arms by the TO's logistics staff. Once the VRS was established and the Zvornik Brigade formed towards the end of May, the Yellow Wasps were subordinated to it.<sup>454</sup> This paramilitary unit had direct contact with the Pale leadership. On 11 July 1992, the leader of the Yellow Wasps, Vojin (Žučo) Vučković, went to the Pale SJB to collect arms and ammunition. While in Pale, Vučković met with Plavšić.<sup>455</sup> He also met with the Minister of Defence Subotić. At this meeting, Subotić explained to Vučković that whoever took orders from VRS officers was considered to be a full member of the VRS, irrespective

<sup>450</sup> P529, tab 463 (Report on paramilitary formations, 28 July 1992), pp. 1-3.

<sup>451</sup> Witness 458, T. 11356-58; P582 (Witness 458 statement), paras 67, 69; P582.C (Witness 458, transcript), p. 3957; P582.D (Witness 458, transcript), p. 4056; P582.E (Witness 458 transcript), pp. 4124, 4127-8; P582.K (Articles in *Glas* newspaper, 3 April 1992); P529, tab 463 (Report on paramilitary formations, 28 July 1992), pp. 4-5; P763 (Nielsen report), para. 213.

<sup>452</sup> Brown, T. 16304; P892, tab 53 (Conclusion from Sanski Most crisis staff, 22 April 1992).

<sup>453</sup> P529, tab 463 (Report on paramilitary formations, 28 July 1992), pp. 4-5.

<sup>454</sup> Witness 682, T. 16864-6, 16869-70, 16875, 16877, 16879, 16881-6, 16897-8, 16904, 16915, 16918, 16954-7; P865.A (Order of incorporation of TO into VRS, 30 May 1992); P922 (Zvornik Brigade command, information report, 17 June 1992); P932 (Bijeljina CSB report, 20 July 1992), p. 1.

<sup>455</sup> Witness 682, T. 16918-19, 16920-2, 16986-95, 16999-17001; P927 (Pale SJB certificate, 11 July 1992); C7 (Plavšić statement), para. 43.

of whether that person was a reservist, a Serbian volunteer, or a member of a paramilitary.<sup>456</sup>

214. In Prnjavor, the “Wolves of Vučjak” were a paramilitary group, consisting of approximately 150 men. They were headed by Veljko Milanković, a convicted criminal, trained in Knin (Croatia) in the summer of 1991.<sup>457</sup> The Wolves were transferred from the Prnjavor TO to the command of the 327th Motorized Brigade on 5 June 1992, by General Talić, commander of the 1st Krajina Corps. General Talić commended the Wolves on several occasions. This despite the fact that they meddled in civilian affairs in Prnjavor town and committed crimes. The civilian police in Prnjavor, numbering at the time about 50 active members, was unable to stop this behaviour and requested the military police, the ARK crisis staff, and Radovan Karadžić to intervene. However, in September 1992, General Talić ordered that the military police would no longer operate in the town, but only at the front lines, and that police matters were to be taken care of by the civilian police only.<sup>458</sup>

215. Local SDS boards, crisis staffs, and regional (SAO) governments often invited and assisted paramilitary groups. This occurred, for example, with the Yellow Wasps, the Red Berets, Mauzer’s men, and Arkan’s men, operating in north-eastern Bosnia-Herzegovina (Bijeljina, Brčko, and Zvornik).<sup>459</sup> Crisis staffs only ceased to tolerate the paramilitaries when they lost control of them.<sup>460</sup>

216. On 28 July 1992, and as a result of the VRS Main Staff Intelligence report mentioned earlier, Mladić issued an order regarding the disarmament of paramilitary formations. The order noted that paramilitaries engaged in looting were operating in all territories under the VRS. It ordered all paramilitary formations with “honourable” intentions to place themselves under the command of the VRS. No individual or group responsible for crimes was to be incorporated into the army, and any member of a

<sup>456</sup> Subotić, T. 26427, 26572; C3 (Subotić statement), para. 37.

<sup>457</sup> Vasić, T. 17415-16, 17426-7, 17711; P749, tab 7 (Article in *Javnost* newspaper, 27 July 1996); P364 (Report on paramilitary formations on territory of Banja Luka CSB, 23 September 1991), p.1

<sup>458</sup> Vasić, T. 17416-19, 17423, 17496, 17548-50, 17712-15; P364 (Report on paramilitary formations on territory of Banja Luka CSB, 23 September 1991); P749, tab 3 (Order by General Talić, 5 June 1992); P529, tab 463 (Report on paramilitary formations, 28 July 1992), p. 4.

<sup>459</sup> Davidović, T. 14260-1, 15290-6; P764 (Davidović statement), pp. 19-21, 24-31, 29; P727, tab 7 (Transcript of TV interview with Ljubiša Savić, 1 July 1992), p. 2; P882 (Indictment against Duško (Repić) Vučković and Vojin (Žuća) Vučković, 28 April 1994), p. 5; P883 (Judgement of Šabac district court against Duško (Repić) Vučković and Vojin (Žuća) Vučković, 8 July 1996), pp. 9-10; Witness 165, T. 15794-5; P865.D (Bijeljina CSB official record of interview with Duško (Repić) Vučković, 9 August 1992); P865.E (statement of Vojin (Žućo) Vučković, 6 August 1992); P944 (Witness 674 statement), p. 6.

paramilitary unit who refused to submit to the unified command of the VRS was to be disarmed and arrested.<sup>461</sup>

217. The report, while aimed at bringing law back to areas now under Bosnian-Serb control, also shows that the VRS was more concerned with looting and the breakdown of order than with the widespread crimes committed by the paramilitaries, as described in more detail in part 4 of the judgement. The report also does not account for the fact that incorporation of paramilitaries had already been the rule even *before* July 1992 and that crimes were committed, and were continuing to be committed, by the paramilitaries under the auspices of the Bosnian-Serb armed forces.<sup>462</sup>

218. For example, the Prijedor paramilitary units named in the report took part in the attacks on Kozarac, Hambarine, and other areas in Prijedor as part of the VRS in May 1992. The group led by Veljko Milanković, active in Prnjavor, was integrated into the 1st Krajina Corps in 1992 and was subsequently involved in military operations in June 1992.<sup>463</sup>

219. On 1 June 1992, General Momir Talić of the 1st Krajina Corps ordered his officer Osman Selak to distribute weapons to paramilitary formations that had been trained at Manjača (Banja Luka).<sup>464</sup> On 9 June a report of the 1st Krajina Corps command complained about the slow pace of disarmament of paramilitary formations by civilian authorities.<sup>465</sup> On 18 June, Talić issued an order according to which all paramilitary formations in the Corps' area of responsibility were to be disarmed. This was decided at a meeting of the ARK crisis staff attended by Talić. However, instead of disarming the paramilitaries, the VRS incorporated them into regular forces.<sup>466</sup>

220. In the period May to August 1992, the Sarajevo-Romanija Corps also incorporated a paramilitary group into its ranks. Paramilitary formations that would oppose subordination were not allowed to remain in the Corps' area of responsibility (Sarajevo and adjacent municipalities).<sup>467</sup>

<sup>460</sup> Davidović, T. 14246-50, 15290-1; P764 (Davidović statement), p. 19, 24-31.

<sup>461</sup> P819 (Order from Ratko Mladić on disarmament of paramilitary formations, 28 July 1992).

<sup>462</sup> Brown, T. 16310-11.

<sup>463</sup> Brown, T. 16304, 16308-11, 16319; D58 (Transcript from), pp. 21498-9; P891 (Brown report), paras 2.71-2.72.

<sup>464</sup> P733.B (Selak, transcript), pp. 13097-9.

<sup>465</sup> P891 (Brown report), para. 1.120, footnote 199.

<sup>466</sup> P733.C (Selak, transcript), pp. 13159-60.

<sup>467</sup> Witness 680, T. 14974, 15039-44, 15047, 15076-81.

221. In addition, and despite General Mladić's order of 28 July, some paramilitaries remained active in relative independence from the VRS. For example, an order of the commander of the Zvornik Brigade shows that as late as 13 October 1992 a paramilitary unit, the White Eagles, was operational in Zvornik. For that reason, the commander of the VRS Zvornik Brigade, Dragan Petković, ordered the temporary transfer of the White Eagles unit from the Zvornik Brigade to the Birač Brigade, for the purpose of "combat assignments".<sup>468</sup>

222. In Chamber's view, the evidence shows that, from very early on following its creation, the VRS was aware of the serious problems posed by the paramilitary formations in various municipalities, as well as their unruly behaviour. The same can be said of the Bosnian-Serb leadership. Nevertheless, instead of suppressing these groups, the leadership and the VRS attempted, on several occasions to incorporate them into the regular VRS units. Some groups, "invited" by SDS local boards, crisis staffs, and regional government, were accepted as fighters for the "Serbian cause" despite their record of lawlessness and ruthless efficiency. Others were tolerated as long as they did not pose too much of a problem for Bosnian-Serb "legitimate" authorities.

#### *3.4.6 Military justice*

223. The Law on the Army regulated the administration of justice within the Bosnian-Serb Republic's armed forces. The law provided for criminal responsibility in accordance with the Republic's criminal law. It created disciplinary offences, which included "overt nationalistic, racial or religious hatred." Disciplinary offences were to be punished by such measures as suspension of promotion, discharge from the Army, or correctional custody.<sup>469</sup> The President of the Bosnian-Serb Republic had the power to reduce or rescind a disciplinary measure or punishment.<sup>470</sup>

224. The Law on the Army vested superior officers with the authority to adjudge minor disciplinary infringements.<sup>471</sup> Serious offences were to be tried by disciplinary courts martial, conducted by a court-martial president, judges, and a military disciplinary prosecutor, all appointed by the President of the Bosnian-Serb Republic for a term of two

<sup>468</sup> P889, tab 9 (Order on transfer of White Eagles unit to Birač Brigade, 13 October 1992).

<sup>469</sup> P65, tab 146 (Law on the Army, 1 June 1992), arts 62, 63, 65, 68.

<sup>470</sup> P65, tab 146 (Law on the Army, 1 June 1992), arts 73, 144.

<sup>471</sup> P65, tab 146 (Law on the Army, 1 June 1992), art. 78.

years. To that end, on 24 July 1992, the Bosnian-Serb Presidency (at a session attended by Karadžić, Plavšić, Koljević, the Accused, and Đerić), adopted a decree on the appointment of the president and judges of military disciplinary courts, military disciplinary prosecutors and their deputies, and secretaries of military disciplinary courts.<sup>472</sup>

### 3.5 Ministry of Internal Affairs (MUP)

#### *3.5.1 Statutory framework*

225. The Bosnian-Serb Law on Internal Affairs was enacted by the Bosnian-Serb Assembly on 28 February 1992, on the same day that the Assembly adopted the Constitution. The law was published in the *Official Gazette* on 23 March 1992.<sup>473</sup> Article 81 of the Constitution provided for the police to be commanded by the Presidency where an imminent threat of war had been declared.

226. The new Law on Internal Affairs was based to an overwhelming extent on the 17 April 1990 Bosnia-Herzegovina Law on Internal Affairs.<sup>474</sup> One of the differences was that the 1992 law referred to “national security” whereas the 1990 law referred to “state security”.<sup>475</sup> Another difference was that the new law made reference to the MUP’s ethnic composition and invited “employees of Serbian nationality and other employees who so desire” to take employment in the MUP.<sup>476</sup>

227. The Bosnian-Serb MUP was to handle security affairs on behalf of the Government.<sup>477</sup> In accordance with the law, two divisions within the MUP executed the Ministry’s security functions: the National Security Service and the Public Security Service. The function of the former was mainly to collect intelligence and make security assessments.<sup>478</sup> Its performance was to be evaluated by the President of the Republic, who would report on the agency’s work to the Bosnian-Serb Assembly.<sup>479</sup> The Public Security Service, on the other hand, was responsible for administrative and technical affairs related

<sup>472</sup> P65, tab 181 (Minutes of 21st session of Bosnian-Serb Presidency, 24 July 1992).

<sup>473</sup> P763 (Nielsen report), para. 91.

<sup>474</sup> P763 (Nielsen report), paras 92, 94.

<sup>475</sup> P763 (Nielsen report), paras 95, 108.

<sup>476</sup> P763 (Nielsen report), para. 164.

<sup>477</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 33.

<sup>478</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), arts 18-19; P763 (Nielsen report), paras 305-16; P763.C, tab 23 (MUP annual report, January 1993), pp. 8-12.

<sup>479</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 25.

to protection from threats to state security, crime prevention, and detection and confiscation of illicit weapons; in other words, regular policing tasks.<sup>480</sup>

228. The 1992 law provided for five Security Services Centres (CSBs) in the Bosnian-Serb Republic: Banja Luka for the territory of the ARK; Trebinje for the SAO of Herzegovina; Doboj for the SAO of Northern Bosnia; Sarajevo for the SAO of Romanija-Birač; and Bijeljina for the SAO of Semberija.<sup>481</sup> Each of the five CSBs was in charge of a number of Public Security Stations (SJBs) found in municipalities covered by that particular CSB. In this structure the SJBs would continue to play the role of the main organ of the Ministry of Internal Affairs at the municipal level.<sup>482</sup>

229. The new law stipulated that CSBs and SJBs were to cease cooperating with the Bosnia-Herzegovina MUP.<sup>483</sup> The law specified SJB competencies as including protection of life and personal security of citizens, prevention and detection of criminal acts, and the tracking down and apprehension of perpetrators.<sup>484</sup> The law tasked SJBs to cooperate with any “organs” or “organizations” that had been legally charged with maintaining order in a given area.<sup>485</sup>

230. The 1992 law extended the maximum period of allowable detention on the premises of CSBs and SJBs to three days (from the maximum of 24 hours permitted by the 1990 law). In addition, persons of unknown identity suspected of serious criminal offences could be detained indefinitely under the 1992 law.<sup>486</sup>

231. According to internal regulations, the MUP’s head office was to coordinate the work of CSBs, and, in circumstances that jeopardized the security of the Bosnian-Serb Republic, to activate reserve police forces and supply police units with arms.<sup>487</sup> In addition to tasks assigned to them by the MUP’s head office, the CSBs and SJBs were to implement the regulations of municipal assemblies in connection with the maintenance of law and order.<sup>488</sup>

<sup>480</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 15.

<sup>481</sup> P763 (Nielsen report), para. 112.

<sup>482</sup> Nielsen, T. 13857.

<sup>483</sup> P763 (Nielsen report), para. 163.

<sup>484</sup> P763 (Nielsen report), para. 106.

<sup>485</sup> P763 (Nielsen report), para. 102.

<sup>486</sup> P763 (Nielsen report), para. 126.

<sup>487</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 33.

<sup>488</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 27.

232. The Law on Internal Affairs authorized the MUP Minister to form additional police units to carry out specific tasks, if needed to preserve peace and public order.<sup>489</sup> The Minister could also limit public movement and assembly if the security of the Republic, the work of republican organs, or the freedom and rights of the citizens of the Republic were threatened, although before doing so the Minister was obliged to consult the Assembly – or, if the circumstances made it impossible to consult the Assembly, the Republic’s President.<sup>490</sup>

233. The new law tasked all MUP personnel to “preserve the lives of people and human dignity” in the course of carrying out their duties.<sup>491</sup> Moreover, it provided that “Authorized officials shall execute orders issued by the Minister, or by their immediate supervisor, given in order to carry out matters and tasks of national and public security, except when such orders are contrary to the constitution of the law.”<sup>492</sup>

234. On the question of the division of existing assets, the Law on Internal Affairs stipulated that fixed assets, equipment, and archives were to be transferred to the Bosnian-Serb MUP in proportion to the percentage of the representatives of the Serb people in the Bosnia-Herzegovina Assembly. Fixed and movable assets of the CSBs and SJBs in districts, parts of which had become part of SAOs, were to be transferred to the Bosnian-Serb Republic in proportion to the size of the parts separated from the districts.<sup>493</sup>

### 3.5.2 Establishment of MUP

235. As mentioned in part 2 of this judgement, the Bosnian-Serb MUP was one of the first institutions of the nascent Republic to start functioning effectively. At its session of 11 March 1992, the Bosnian-Serb Assembly unanimously called for the implementation of the new Law on Internal Affairs by the Ministerial Council.<sup>494</sup> At the next session, one week later, Radovan Karadžić predicted the imminent withdrawal of Bosnian Serbs from the Bosnia-Herzegovina MUP,<sup>495</sup> and Miroslav Vještica, an SDS delegate from Bosanska

<sup>489</sup> P763 (Nielsen report), para. 117.

<sup>490</sup> P763 (Nielsen report), para. 117. P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), arts 38, 49-51, 56-7.

<sup>491</sup> P763 (Nielsen report), para. 103.

<sup>492</sup> P64.A, tab 598 (Law on Internal Affairs, 28 February 1992), art. 43.

<sup>493</sup> P763 (Nielsen report), para. 165.

<sup>494</sup> P763 (Nielsen report), para. 73.

<sup>495</sup> Krajišnik, T. 23805-13, 23820-1; P65, tab 109 (Record of 11th session of Bosnian-Serb Assembly, 18 March 1992), pp. 23, 37, and 44-6; P763 (Nielsen report), para. 75.

Krupa, described the establishment of a Bosnian-Serb MUP as a precondition for Bosnian Serbs to seize control of “their territories”.<sup>496</sup> On 24 March 1992, Mićo Stanišić was appointed Minister of Internal Affairs by the Bosnian-Serb Assembly.<sup>497</sup>

236. The Law on Internal Affairs, published in the *Official Gazette* on 23 March 1992 was to enter into force on 31 March 1992.<sup>498</sup> From that date, all CSBs and SJBs of Bosnia-Herzegovina throughout the territory of the Bosnian-Serb Republic were to stop functioning.<sup>499</sup> On 24 March, the Bosnian-Serb Assembly instructed the Ministerial Council to prepare an operational plan for “assuming power, that is for establishing power and rendering operational the authorities in the territory of the [the Bosnian-Serb Republic] and in particular in the field of internal affairs” and to submit it to the Assembly on 27 March.<sup>500</sup> On 27 March, the Constitution of the Bosnian-Serb Republic was adopted by the Bosnian-Serb Assembly.<sup>501</sup> No operational plan was on the agenda that day.<sup>502</sup> The plan was eventually issued on 26 April 1992.<sup>503</sup>

237. Already on 30 March 1992, the Bosnian-Serb MUP was set up in SAO Romanija.<sup>504</sup> On 31 March 1992, Momčilo Mandić sent a dispatch to the Bosnia-Herzegovina Minister of Interior, as well as to all SJBs, CSBs, and to the Secretary of the Bosnia-Herzegovina SUP in Sarajevo. The dispatch reads:

At its meeting held on 27 March 1992, the Assembly of the Serbian People in Bosnia and Herzegovina, in accordance with the political orientation of the Serbian people and the Sarajevo Agreement, promulgated the Constitution of the Serbian Republic of Bosnia and Herzegovina. In addition, the Assembly of the Serbian People passed a number of laws and other regulations necessary for the functioning of the Republic of the Serbian people in Bosnia and Herzegovina. In that respect, it passed a law on internal affairs, which shall be uniformly applied on the territory of the Republic of the Serbian people in Bosnia and Herzegovina as of 1 April 1992, and appointed Mićo Stanišić, until now an adviser in the BH MUP, as Minister. This law, among other things, regulates a unified Public Security Service, regulates and organises the National Security Service within the framework of the rights and

<sup>496</sup> P763 (Nielsen report), para. 74.

<sup>497</sup> Krajišnik, T. 23826-34; P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 24 March 1992), pp. 6-8 and 12-13; P763 (Nielsen report), para. 79; Nielsen, T. 14062.

<sup>498</sup> P64.A, tab 598 (Law on Internal Affairs), art. 130.

<sup>499</sup> P64.A, tab 598 (Law on Internal Affairs), art. 126.

<sup>500</sup> P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 24 March 1992), pp. 13-14.

<sup>501</sup> P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), pp. 7-8.

<sup>502</sup> P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), p. 7.

<sup>503</sup> P529, tab 76 (Instructions for Serbian People’s crisis staffs in municipalities, 26 April 1992).

<sup>504</sup> D160 (Bjelica statement), p. 2.

duties of the Republic of the Serbian people in Bosnia and Herzegovina, regulates the duties and powers of MUP employees, mutual relationships and cooperation between the organs of the Interior, and the education, professional training and specialist training of employees. In order to conduct internal affairs on the territory of the Republic of Serbian people in Bosnia and Herzegovina, the Ministry of the Interior of the Serbian Republic of Bosnia and Herzegovina based in Sarajevo, is setting up the following security services centres as territorial units: [Banja Luka, Trebinje, Doboje, Sarajevo, Ugljevik]. Within the above-mentioned Security Services Centres, in order to carry out specific tasks and duties within the competence of the organs of internal affairs, Public Security Stations are set up for the territories of municipalities. On the day this law comes into force, the Security Services Centres and Public Security Stations of [Bosnia-Herzegovina] MUP on the territory of [the Bosnian-Serb Republic] are abolished and cease to function, and their authority, i.e. tasks and duties, within the competence of organs of internal affairs, are taken over by the above-mentioned organisational units of MUP of the [Bosnian-Serb Republic] ... The contents of this dispatch should be made known to all the employees of the [Bosnia-Herzegovina] MUP, in order to provide objective and timely information and to avoid incidents or disagreeable situations.<sup>505</sup>

238. The Chamber finds this chronology of events enough to dispel any doubt raised by the Accused during his testimony as to the creation of an operative Bosnian-Serb MUP by the end of March 1992.<sup>506</sup>

239. On 6 April 1992, Momčilo Mandić organized the take-over of the Vraca police academy, which became the first headquarters of the new MUP and the CSB Sarajevo.<sup>507</sup> The MUP headquarters was later moved to two locations in Pale.<sup>508</sup> At the beginning of July 1992, CSB Sarajevo was moved to Lukavica.<sup>509</sup>

### 3.5.3 Composition and logistics

240. In its early days the Bosnian-Serb MUP coordinated with, and was helped by, the forces of the Republic of Serbia. Reports prepared by the (Yugoslav) Federal State

<sup>505</sup> P65, tab 117 (Letter to Bosnia-Herzegovina MUP, 31 March 1992); Mandić, T. 8688, 9314-15, 9324, 9412-13, 9429, 9448-9; D160 (Bjelica statement), p. 2; P763 (Nielsen report), paras 80, 85; Krajišnik, T. 23697-9.

<sup>506</sup> Krajišnik, T. 23700-6, 23717, 23721-4, 23734-8, 23805-26.

<sup>507</sup> Nielsen, T. 13912; P763 (Nielsen report), paras 89-90.

<sup>508</sup> P763.C, tab 23 (MUP annual report, January 1993), p. 7.

<sup>509</sup> P763.C, tab 57 (Annual report for CSB Sarajevo, January 1993), p. 4.

Security Services in March 1992 confirm formal cooperation between the Federal SUP in Belgrade and the Bosnian-Serb police in the take-over of power and maintenance of power in the territories claimed by the Bosnian Serbs in Bosnia-Herzegovina. The coordination plan included the deployment of members of the Serbian MUP and the Federal SUP in Bosnia-Herzegovina.<sup>510</sup> In addition, in March and April 1992, the Federal SUP used JNA helicopters to send weapons and military equipment for use by the Bosnian-Serb MUP, in Pale and Banja Luka.<sup>511</sup>

241. By September 1992, the Bosnian-Serb MUP numbered 11,240 employees, which was more than the 10,195 employees in all of the Bosnia-Herzegovina MUP in January 1990.<sup>512</sup>

242. Already in April 1992 the Bosnian-Serb MUP started establishing special police units armed with weaponry up to and including 120 mm mortars.<sup>513</sup> The commander of the first Bosnian-Serb MUP special unit was Milenko Karišik.<sup>514</sup> By 29 April, Stojan Župljanin, head of the Banja Luka CSB, had at his disposal armed combat vehicles, anti-aircraft artillery, and helicopters. The SOS units discussed above would, he said, be absorbed into the special police detachment.<sup>515</sup> By early May, Župljanin had established a “counter-sabotage and counter-terrorist” police unit equipped for combat and numbering 150 men who had had combat experience in Croatia.<sup>516</sup> At the end of June 1992, the MUP noted the presence of special police units at Sokolac and Pale. By September 1992 the Special Brigade of the police had five detachments, one based at each of the five CSBs. Some SJBs, such as those in Ilidža and Novo Sarajevo, also had their own special police units.<sup>517</sup>

#### 3.5.4 Control over and operations of MUP forces

243. As stated earlier, on 16 April 1992, the Minister of Defence, Bogdan Subotić, declared that a state of imminent threat of war existed in the Bosnian-Serb Republic, and

<sup>510</sup> P763.A (Addendum to Nielsen report), para. 14.

<sup>511</sup> Davidović, T. 14162-3; P764 (Davidović statement), p. 11; P733 (Selak, transcript, 15 January 2003), pp. 12871, 12930-2; P763.A (Addendum to Nielsen report), paras 18, 20.

<sup>512</sup> P763 (Nielsen report), para. 173.

<sup>513</sup> Nielsen, T. 13906; P763 (Nielsen report), para. 208.

<sup>514</sup> Nielsen, T. 13907; P763 (Nielsen report), paras 209, 212.

<sup>515</sup> P763.C, tab 40 (Interview with Stojan Župljanin in *Glas* newspaper, 29 April 1992), p. 1; P763 (Nielsen report), para. 213.

<sup>516</sup> P763.C, tab 27 (Conclusions of 6 May 1992 Banja Luka CSB meeting, 20 May 1992), p. 5.

ordered full mobilization. Subotić's order allowed the authorities to take "all necessary measures appropriate to the situation." The measures decreed by the ARK on 4 May pursuant to Subotić's order included a general mobilization, introduction of a curfew, and a deadline of 11 May for the surrender of illegal weapons.<sup>518</sup> These orders were disseminated to all SJBs within CSB Banja Luka.<sup>519</sup>

244. The MUP was responsible to the Minister of Interior which in turn was responsible, first and foremost, to the Presidency and then to the Government. Instructions went down from the Minister to the CSB, and from there to the SJBs. Reports went up to the Minister and thus to the Presidency.<sup>520</sup> At a joint meeting of the SNB and the Bosnian-Serb Government on 22 April 1992, the MUP was directed to report daily on the situation in the territory of the Bosnian-Serb Republic.<sup>521</sup> Witness 665 testified that every day a police report was sent to the Ministry, detailing the number and modalities of arrests made during that day, and informing the Minister of all important events.<sup>522</sup> In a report on the work of the MUP produced at the end of June 1992, the MUP noted that the Prime Minister had received almost 60 "Bulletins of Daily Events".<sup>523</sup> Subotić confirmed that the "President" of the Bosnian-Serb Republic received daily reports from the field, including reports from the MUP and from the VRS.<sup>524</sup> Subotić suggested that the MUP may have had the best communication system, among the branches of the Government, due to the presence of police stations throughout the territory.<sup>525</sup>

245. The MUP also cooperated closely with the VRS. On 15 May 1992, Stanišić ordered that all employees of the MUP organize into "war units".<sup>526</sup> This order formalized the cooperation by explaining how MUP units should cooperate with the VRS. Stanišić authorized the CSB heads to implement these arrangements.<sup>527</sup>

246. A report dated 17 June 1992 on aspects of the MUP's work states that the MUP "co-operation was immediately achieved with other parts of the Serb defence forces, i.e.

<sup>517</sup> P763 (Nielsen report), para. 210.

<sup>518</sup> P763 (Nielsen report), para. 191.

<sup>519</sup> P763 (Nielsen report), para. 192.

<sup>520</sup> Radić, T. 7439-40; P763 (Nielsen report), para. 218.

<sup>521</sup> P65, tab 122 (Minutes of joint session of SNB and Bosnian-Serb Government, 22 April 1992).

<sup>522</sup> Witness 665, T. 13620, 13621-3.

<sup>523</sup> P763 (Nielsen report), para. 223.

<sup>524</sup> C5 (Subotić statement), para. 40; Subotić, T. 26536-8.

<sup>525</sup> Subotić, T. 26596.

<sup>526</sup> Nielsen, T. 13949; P763 (Nielsen report), para. 205.

<sup>527</sup> P763 (Nielsen report), para. 205.

with the army.”<sup>528</sup> Momčilo Mandić testified that MUP special-purpose units, as well as the police force, were placed under army command, and that for the purpose of war operations, all MUP forces were subordinate to the army.<sup>529</sup> According to Mandić, this subordination was in accordance with a Presidential order and with military law as applicable in a situation of immediate threat of war.<sup>530</sup> Following this order, the Bosnian-Serb police force in Prijedor cooperated closely with the military, and the police units took part in military operation under army command.<sup>531</sup>

247. Thus, in addition to the TO units and the VRS, the MUP personnel played a major role in the armed conflict of 1992, both as combatants and as the responsible organs of security in the daily lives of the population.<sup>532</sup>

248. There is also evidence of both cooperation at first, and then discord later, between the Bosnian-Serb MUP and paramilitary formations. The problems between the two usually started at the moment when the paramilitaries began committing crimes against Bosnian Serbs and when the MUP could not control them anymore.<sup>533</sup> Eventually the MUP took some action against the paramilitary formations and even made arrests.<sup>534</sup> However, prominent MUP members continued to cooperate selectively with the paramilitaries without suffering disciplinary consequences. For example, Tomislav Kovač, chief of the Ilidža SJB, noted on 5 August 1992 that he had relied on “Serbian volunteers” since the outbreak of the war due to non-cooperation of local VRS units.<sup>535</sup>

249. In the course of 1992, the Bosnian-Serb MUP also became heavily involved in the operation of detention centres. On 20 July 1992 Stojan Župljanin, head of the Banja Luka CSB and a member of the ARK war staff,<sup>536</sup> explained this aspect of MUP operations to Mićo Stanišić. Župljanin noted that the processing of detainees had resulted in a three-fold categorization. The first comprised of persons suspected of the commission of criminal

<sup>528</sup> P447 (Report of Bosnian-Serb MUP, 17 July 1992), p. 4.

<sup>529</sup> Mandić, T. 8955-6; 9120-1, 9386-7.

<sup>530</sup> Mandić, T. 9107-8, 9120-1, 9387.

<sup>531</sup> Brown, T. 16344-5, 16350-2; Witness 665, T. 13619, 13667-9; P752 (Witness 665 transcript), pp. 21066-8, 21072-4; P892, tab 75 (Regular combat report by 1st Krajina Corps, 29 May 1992), p. 1; P892, tab 78 (Report on the work of the Prijedor SJB in April-December 1992 January 1993), pp. 2-4; P447 (Report of Bosnian-Serb MUP, 17 July 1992), p. 4.

<sup>532</sup> P763 (Nielsen report), para. 185; Nielsen, T. 14089-91.

<sup>533</sup> P763.A (Addendum to Nielsen report), paras 10-11; P763 (Nielsen report), paras 241 and 248-9.

<sup>534</sup> P763.C, tab 77 (Annual report of Zvornik SJB, January 1993), pp. 17, 28; P763 (Nielsen report), paras 326-7.

<sup>535</sup> P763 (Nielsen report), para. 332; P763.C, tab 38 (MUP activity report for July-September 1992, October 1992), p. 8.

<sup>536</sup> P348 (Decision on formation of ARK crisis staff, 5 May 1992).

acts. The second comprised of persons suspected of aiding and abetting those in the first category. The third category comprised of “adult males concerning whom the Service has not to date gathered any security-relevant data on the basis of which these persons may be treated as hostages.”<sup>537</sup>

250. The Bosnian-Serb MUP officials complained throughout 1992 about the impact of frequent and extensive combat engagements on policing.<sup>538</sup> MUP’s first annual report, covering the period April to December 1992, stated that participation in combat activities stood at “1,451 police officers, on average, every day.” The Ministry had put 6,167 police officers at the disposal of the VRS, most of them from the reserve.<sup>539</sup>

251. In July 1992 Radovan Karadžić issued “Guidelines on tasks, modes of action and functioning of defence forces, state organs, and all economic and social subjects of the Bosnian-Serb Republic in the state of war”. Pursuant to the guidelines, the MUP Minister was to pass an act adjusting the internal structure of the Ministry to wartime conditions, and to issue instructions on how members of the MUP were to perform tasks and duties. Active and reserve police, as well as special units which would not form part of the MUP’s wartime structure, were to be transferred to the Army or used for other wartime tasks.<sup>540</sup>

252. Minister Stanišić stated in several orders that his subordinates would be held responsible for not carrying out his orders, and also expressed an awareness that MUP employees had been involved in the commission of illegal acts such as theft and plunder, but no disciplinary committees or courts were ever established.<sup>541</sup> The MUP Ministry and the Bosnian-Serb leadership would only go so far as placing those who misbehaved under the auspices of the VRS.

253. On 6 September 1992, Mićo Stanišić issued an order pertaining to the confiscation of property. Confiscations were to be in accordance with the law and were to be properly documented. Confiscated property could not be given to municipal assemblies or other municipal organs. Those found to have violated the provisions cited in the order would face disciplinary and legal consequences. Stanišić referred to specific incidents in which

<sup>537</sup> Nielsen, T. 13953; P763 (Nielsen report), para. 263.

<sup>538</sup> P763.C, tab 77 (Annual report of Zvornik SJB, January 1993), p. 37; P746 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992), pp. 2-3.

<sup>539</sup> P763 (Nielsen report), paras 207, 254, 337, 339; P763.C, tab 23 (MUP annual report, January 1993), p. 3.

<sup>540</sup> P979 (Guidelines on modes of action in the state of war, July 1992), paras 9-10.

<sup>541</sup> P763 (Nielsen report), paras 216, 236.

property had been illegally confiscated and commented that such unlawful actions damaged the image of the MUP.<sup>542</sup>

254. In an interview with the newspaper *Javnost* on 3 October 1992 Mićo Stanišić gave a very positive account of the functioning of the Bosnian-Serb MUP. He asserted that it has “never happened that anybody in the entire territory of the RS ignored any of my orders issued, in compliance with the law of course.” He also said he believed that the MUP was the only Ministry to have disciplined staff members in those “rare” instances when they succumbed to “basic instincts”.<sup>543</sup>

255. As more fully described in part 4 of this judgement, MUP forces were involved in criminal activities in the indictment municipalities. These activities ranged from mere war profiteering to the running of detention centres where Bosnian Muslims and Bosnian Croats were subjected to ill-treatment. Units also participated in forcing non-Serbs to leave municipalities that ought to become “Serb” territory. Although there were some investigations, they were mostly aimed at stopping looting and the disruption of order. The evidence shows a conscious decision to use MUP forces in combat and “mopping up” operations rather than to protect the civilian population, especially non-Serbs.<sup>544</sup>

### 3.6 Crisis staffs, war presidencies, and war commissions

#### *3.6.1 Statutory framework*

256. The Bosnian-Serb Constitution provided for the territorial division of the Bosnian-Serb Republic into local units of self-management, such as cities and municipalities. Organization and operation of municipal authorities was to be determined and regulated by municipal statutes.<sup>545</sup> Each assembly had an executive committee and a network of municipal administrative organs charged with the implementation of the assembly decisions.<sup>546</sup> The Bosnian-Serb Constitution also bestowed on the municipalities the right and obligation to manage and organize territorial defence.<sup>547</sup>

<sup>542</sup> P763 (Nielsen report), para. 251.

<sup>543</sup> Nielsen, T. 13918-20; P763.C, tab 78 (Interview of Mićo Stanišić in *Javnost* newspaper, 3 October 1992), pp. 2-3.

<sup>544</sup> See also: P763.C, tab 22 (Annual report of Banja Luka CSB, March 1993), p. 8; P763 (Nielsen report), para. 235; P763.C, tab 39 (Summary of 11 July 1992 meeting of MUP officials in Sarajevo, July 1992), p. 10.

<sup>545</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), arts 100, 103, and 106.

<sup>546</sup> P64 (Treanor report), paras 101, 106, 109; P64.A, tab 379 (Decision on amendments and supplements to the Statute of Banja Luka municipality, 19 September 1990), arts 16-18; P64.A, tab 381 (Decision on

257. Although the Bosnian-Serb Constitution did not specify the mechanisms of municipal decision-making in times of conflict or envision the existence of crisis staffs, the 1974 Constitution of Bosnia-Herzegovina and the 1984 Law on All-People's Defence suggested that certain mechanisms could come into being if regular municipal authorities were unable to function properly. Thus, the 1974 Constitution provided for collective municipal presidencies. A collective presidency was to be formed in time of war or imminent threat of war to replace a municipal assembly, and was to remain in existence until the assembly was able to reconvene. This war presidency, consisting of the municipal assembly leadership and some additional members, was accorded extraordinary powers in dealing with situations of war or imminent threat of war.<sup>548</sup>

258. The 1984 Law on All-People's Defence provided for "operational and policy" committees. These committees were to consist of municipal leaders, the JNA, the TO, and the secretariats of national defence and internal affairs. The main function of a committee of this kind was to lead resistance in case of foreign occupation and act within the competence of government organs that were not able to function at the time.<sup>549</sup>

259. The Accused and other witnesses testified that crisis staffs were not uncommon, under the previous (Yugoslav) system, when extraordinary situations arose, and had no political connotation.<sup>550</sup> However, the crisis staffs that came into being in the Bosnian-Serb Republic in late 1991 and early 1992 were created without reference to the legal instruments mentioned above. Instead, they started out as SDS organs and were only later transformed into organs of the Bosnian-Serb Republic.

### 3.6.2 Functions of crisis staffs

260. As explained in part 2 of this judgement, the SDS crisis staffs in the Bosnian-Serb Republic were all fully set up and operational by April or May 1992. Once they became municipal organs they functioned as the municipal authority when municipal assemblies could not operate due to the state of emergency, replacing both the municipal assembly and

amendments of Statute of Prijedor municipality, 17 September 1990), arts 19-20; P64.A, tab 380 (Statute of Prijedor municipality, 25 October 1984), art. 279.

<sup>547</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 110.

<sup>548</sup> P528 (Hanson report), p. 3.

<sup>549</sup> P528 (Hanson report), p. 4.

<sup>550</sup> For example: Krajišnik, T. 23673, 24780-1; C3 (Subotić statement), para. 8; Subotić, T. 26440-1; C5 (Subotić statement), paras 47-8.

the executive committee.<sup>551</sup> As the leading governing body in the municipality, the crisis staffs exercised control over civilian, military, and paramilitary affairs.<sup>552</sup>

261. In addition, throughout the period of their existence, the crisis staffs functioned as the coordinating body between municipal authorities, the SDS, and the central republican level (both state and SDS) on the one side, and the military, the police, and other forces on the ground in the municipalities, on the other.<sup>553</sup> For example, from 1 April to 15 June 1992, municipal and regional SDS organs played a major role in organizing TO units. These units, sometimes working together with JNA,<sup>554</sup> then proceeded to secure Serb municipalities, especially in the ARK.<sup>555</sup>

262. On 24 February 1992, the SDS Executive Board assigned “coordinators” for the ARK and the different SAOs. Among other tasks, these coordinators were to ensure the implementation of decisions of the Bosnian-Serb Assembly and the Bosnian-Serb Government and to take part in the work of the regional crisis staffs.<sup>556</sup> The municipal crisis staffs in the ARK received instructions from, acted upon decisions of, and reported to the ARK crisis staff.<sup>557</sup> Municipal crisis staffs in the Sarajevo area, on the other hand, coordinated their work directly with the central organs of the Bosnian-Serb Republic and the JNA.<sup>558</sup>

<sup>551</sup> Hanson, T. 9820, 9699, 9731; P528 (Hanson report), para. 40; P529, tab 468 (Record of 46th session of Bosnian-Serb Assembly, 9-11 and 23 November 1994), pp. 347-8; P529, tab 158 (Report from Novo Sarajevo crisis staff to President of Bosnian-Serb Presidency, 5 June 1992), p. 1; P529, tab 145 (Decision of Bratunac crisis staff proclaiming a state of emergency, 1 January 1992), art. 2.

<sup>552</sup> P901, pp. 2486-7, 2529-30, 2539-40; P901.A, pp. 2642, 2644.

<sup>553</sup> Hanson, T. 9729-31; P528 (Hanson report), paras 35-6, 45; P991 (Article in *Glas* newspaper, 9 June 1992); Kasagić, T. 18597-8, 18602-3, 18714-20; P990 (Minutes of ARK assembly session, 17 July 1992), p. 1; P512.A (Džonlić transcript), p. 2409-11, 2418, 2423-7; P512.B (Džonlić transcript), pp. 2444-8, 2473-6, 2504-6; P512.C (Džonlić transcript), pp. 2582, 2585; P512.D (Džonlić transcript), pp. 2640-6, 2689; P512.E (Džonlić transcript), p. 2722.

<sup>554</sup> P892, tab 46 (Order from Command of JNA 5th Corps, 1 April 1992); P892, tab 47 (Decision of Bosnian-Serb Ministry of Defence, 16 April 1992); P892, tab 48 (Conclusions of Sanski Most crisis staff, 28 April 1992); P892, tab 50 (Report from Bosanski Novi SJB, 15 August 1992), p. 1.

<sup>555</sup> Brown, T. 16285-9, 16291-5; P892, tab 6 (Analysis of VRS Combat Readiness and Activities in 1992, April 1993), pp. 10, 69.

<sup>556</sup> P529, tab 62 (Decision by SDS Executive Board on appointing Rajko Dukić as coordinator for SAO Semberija and Birać, 24 February 1992); P529, tab 63 (Decision by SDS Executive Board on appointing Radislav Vukić as coordinator for ARK, 24 February 1992); P529, tab 64 (Decision by SDS Executive Board on appointing Vojo Krunić and Radomir Nešković as coordinators for SAO Eastern Herzegovina, 24 February 1992); P529, tab 65 (Decision by SDS Executive Board on appointing Jovo Šarac and Milovan Žugić as coordinators for SAO Romanija, 24 February 1992); P529, tab 67 (Decision by SDS Executive Board on appointing Simo Mihić and Slobodan Babić as coordinators for SAO Northern Bosnia, 24 February 1992).

<sup>557</sup> Witness D14, T. 20321-2; P334.A (Transcript of video from Krajina television to situation in Kotor Varoš), p. 2; P528 (Hanson report), para. 44. See for example P529, tab 148 (Report of work of Ključ crisis staff, July 1992), p. 5.

<sup>558</sup> Prstojević, T. 14499-501, 14565-85, 14807-8.

263. The crisis staffs were transformed from SDS organs to republican organs with the public announcement of 4 April 1992, in which the SNB ordered their activation and instructed that the TO and reserve police be put in readiness.<sup>559</sup> As explained earlier, already on 24 March 1992, the Bosnian-Serb Assembly asked the Government to draw up a plan on assuming power and rendering operational the new governmental authorities, for example in the field of internal affairs and national defence, in the territory of the Bosnian-Serb Republic.<sup>560</sup> Such a plan was then issued by the Government about a month later, on 26 April 1992, and concerned the functioning of crisis staffs in the municipalities:

In the conditions of war, the Crisis Staff shall take over all the prerogatives and functions of municipal assemblies when they are not able to convene ... The operation of the Crisis Staffs shall be based on constitutional and legal provisions and also on the decisions of the Assembly, the Presidency and the Government of the Serb Republic of Bosnia-Herzegovina. ... The Crisis Staffs shall collect information on the situation in the field and notify and consult competent authorities of the Serbian BiH, that is commissioners of the Government who shall be appointed especially for the communities and areas threatened by the war ... The Crisis Staffs shall ... prepare weekly reports which shall be submitted to the regional and state organs of the Serbian BiH.<sup>561</sup>

264. This plan was distributed and implemented in municipalities throughout the Bosnian-Serb Republic.<sup>562</sup> During the transformation from SDS to republican organs, which differed in speed and character in different municipalities, there was significant overlap between party and municipal functions.<sup>563</sup> Although the transformation, which did not include any change of membership, generally was completed by the end of April 1992, some crisis staffs continued to regard themselves as SDS organs after that time.<sup>564</sup>

<sup>559</sup> Hanson, T. 9688; P529, tab 73 (Announcement by National Security Council, 4 April 1992). This announcement was acted upon in at least the Autonomous Region of Birač. See P529, tab 198 (Decision by crisis staff of the Serbian Autonomous Region of Birač on the proclamation of the state of war for the entire Serbian Autonomous Region of Birač, 29 April 1992); P56 (Bratunac crisis staff order, 1 May 1992); P57 (Bratunac crisis staff order, 6 May 1992).

<sup>560</sup> Hanson, T. 9690-1; P65 tab 114 (Record of 13th session of Bosnian-Serb Assembly, 25 March 1992), pp. 8-9.

<sup>561</sup> Hanson, T. 9692-3; P529, tab 76 (Instructions for Serbian People's crisis staffs in Municipalities, 26 April 1992).

<sup>562</sup> Hanson, T. 9694-8 ; P528 (Hanson report), para. 26 ; D115 (Report on work of Bosanski Novi crisis staff), p. 7.

<sup>563</sup> Hanson, T. 9675-6, 9820-1, 9862-3, 9950, 9984; P529, tab 101 (Decision by Bihać crisis staff on appointment of TO commanders, 3 May 1992); P529, tab 105 (Order by Trnovo crisis staff, 2 May 1992); P529, tab 250 (Announcement signed by Jovan Tintor about general mobilization of Vogošća TO, 11 May 1992); P272 (Order by Pale crisis staff, 7 May 1992); Mičić, T. 19467.

<sup>564</sup> P528 (Hanson report), para. 26.

265. As for the membership, the crisis staffs included leaders at the municipal level but also people with ties to the republican level of the SDS.<sup>565</sup> Members of the SDS Main Board but, in particular, the Bosnian-Serb Assembly deputies “were the link from the republic level to the municipal”.<sup>566</sup> Almost every crisis staff in the municipalities covered by the indictment included at least one deputy from the Bosnian-Serb Assembly or member of the SDS Main Board. Their role was to transfer authority from the central to the municipal level,<sup>567</sup> and also to convey information between those two levels.<sup>568</sup>

266. This composition of the municipal crisis staffs reflected the coordinating role of the body, between political, military and other forces in the municipality, as well as the dominant influence of SDS.<sup>569</sup> For example, in Ključ municipality, the members of the crisis staff were the president of the municipal assembly, the chief of the SJB, the SNO secretary, the TO commander, the president of the SDS municipal board, a local deputy to the Bosnian-Serb Assembly, and the vice-president of the municipal executive committee.<sup>570</sup>

### 3.6.3 Control over crisis staffs

267. As stated above, the central republican level ensured that the members of the crisis staffs would include at least one Assembly deputy. By prescribing the membership of crisis staffs in this way, the central republican bodies and the Bosnian-Serb leadership exercised a substantial amount of control over them and were able to exert central influence on the municipal level. Due to the crisis staffs’ exceptional role as local legislative power, as well as the fact that the Bosnian-Serb Assembly deputies were linked to the crisis staffs, Nedjeljko Prstojević, the president of the Ilidža crisis staff, perceived this system as one of organisational subordination of the crisis staffs to the President of the Assembly himself.<sup>571</sup> Momčilo Mandić, deputy Minister of Interior for the Bosnian-Serb Republic from April to May 1992, testified that the Bosnian-Serb leadership, during the first phases of the conflict,

<sup>565</sup> Hanson, T. 9632.

<sup>566</sup> Hanson, T. 9677.

<sup>567</sup> Hanson, T. 9770; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), p. 58.

<sup>568</sup> Hanson, T. 9947-9, 9955-6.

<sup>569</sup> Hanson, T. 9733-4 ; P528 (Hanson report), paras 35-6, 45.

<sup>570</sup> P529, tab 41 (Minutes of 6th meeting of Ključ executive board, 23 December 1991).

<sup>571</sup> Prstojević, T. 14619-20, 14809, 14813-16; P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), p. 23.

did not always know what was happening on the territory of Bosnia-Herzegovina and was unable to direct events on the ground.<sup>572</sup> The Chamber, in view of the evidence on the record, does not accept that the Bosnian-Serb leadership ever lost overall control of what was happening. Moreover, as further explained below, as well as in part 6 of this judgement, it was not through direct or operational control of crisis staffs that the Bosnian-Serb leadership managed to achieve its objectives on the ground.

268. The Bosnian Serb leadership saw the crisis staffs as an extension of the leadership's authority in the municipalities. For example, the Bosnian Serb leadership, through the party or the republican organs, issued direct orders or instructions both to crisis staffs in general and to individual crisis staffs,<sup>573</sup> and these were received and acted upon.<sup>574</sup> The crisis staffs themselves would cite orders and decisions from regional and central organs as the basis for their actions.<sup>575</sup>

269. On 15 April 1992, in pursuance of this goal of subordination and centralization of power, the Bosnian-Serb Government and the SNB concluded that the political leaderships of all the SAOs should be notified that cooperation and all contacts between them were to be conducted through the central organs of the Bosnian-Serb Republic. According to the Accused, the aim was to avoid having every SAO acting on its own, and "behaving like a state in its own right".<sup>576</sup>

270. Other examples of attempts at centralization exist. The central authorities would support the crisis staffs materially, in the form of loans,<sup>577</sup> direct funding,<sup>578</sup> and material,

<sup>572</sup> Mandić, T. 9101-2.

<sup>573</sup> Hanson, T. 9737, 9957; P528 (Hanson report), paras 20, 41. See for example P529, tab 157 (Letter from Nedeljko Lakić, Secretary of Bosnian-Serb Government, to Ilijaš crisis staff, 15 May 1992); P529, tab 433 (Diary), pp. 19-20; P839 (Order by Bosnian-Serb Government to Sokolac crisis staff, 15 May 1992).

<sup>574</sup> P528 (Hanson report), paras 41-2; Hanson, T. 9742-3, 9772, 9827.

<sup>575</sup> Hanson, T. 9735-40, 9742-3, 9749-51, 9772, 9827 ; P528 (Hanson report), paras 24-5, 41, 42; P529, tab 165 (Decision by Bosnian-Serb Presidency on Return of Displaced Persons to Territory of Bosnian-Serb Republic, 2 June 1992); P529, tab 185 (Kotor Varoš crisis staff Bulletin No. 6, 24 July 1992), pp. 4-5; P529, tab 357 (Revenues and costs of Ilijaš for period 11 May 1992 to 30 June 1992, 30 June 1992), p. 1; P554 (List of TO members paid by Ilijaš crisis staff, 16 May 1992), pp. 2-3.

<sup>576</sup> Krajišnik, T. 23938-9, 24063; Savkić, T. 20659-62; P64.A, tab 618 (Minutes of joint session of SNB and Bosnian-Serb Government, 15 April 1992), item 3; P64.A, tab 697 (Minutes of joint session of Bosnian-Serb Government and the SNB, 24 April 1992), p. 2; P64.A, tab 611 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 1, 23-4.

<sup>577</sup> Hanson, T. 9745-6; P65, tab 137 (Minutes of session of Bosnian-Serb Government, 18 May 1992), item 1.

<sup>578</sup> Hanson, T. 9746-7, 9868-71; P65, tab 137 (Minutes of meeting of Bosnian-Serb Government, 18 May 1992), item 2; P65, tab 138 (Minutes of 12th session of Bosnian-Serb Government, 21 May 1992), item 4; P529, tab 357 (Spread sheet balance of Ilijaš municipal assembly for the period 11 May to 30 June 1992, 30 June 1992); P529, tab 220 (Recapitulation of cashier's office of Vogošća crisis staff between 1 and 31 May 1992, 1 June 1992); P529, tab 212 (Minutes of meeting of Trnovo crisis staff, 29 April 1992).

including weapons and ammunition.<sup>579</sup> Such support was often requested by the crisis staffs.<sup>580</sup> The crisis staffs would report on their activities to the Bosnian-Serb leadership, although not necessarily formally or in written form. Reflecting the conflation of state and party organs, such reporting was sometimes done via the SDS Main Board,<sup>581</sup> sometimes via the Bosnian-Serb Assembly,<sup>582</sup> sometimes via individual leaders such as Karadžić or the Accused,<sup>583</sup> and sometimes directly to the Bosnian-Serb Presidency.<sup>584</sup>

271. Accordingly, the Chamber finds that, despite the occasional loss of direct or operational control in some municipalities, the Bosnian-Serb leadership still held a tight grip over the crisis staffs in the majority of the municipalities and, through them, over the municipalities themselves.

#### *3.6.4 War presidencies and war commissions*

272. In June 1992, in order to further centralize the power and streamline its authority, the Bosnian-Serb leadership pursued efforts to transform the municipal crisis staffs first into war presidencies and then, later, into war commissions. The three were, however, essentially the same body.<sup>585</sup> One distinction between them was that while the crisis staffs

<sup>579</sup> Hanson, T. 9747; P529, tab 176 (Letter by Božidar Antić, Minister of Economy, about issuing certain specified weapons and ammunitions to Grbavica crisis staff); P529, tab 178 (Letter by Branko Đerić to company “Boksit” in Milići); P529, tab 212 (Minutes of meeting of Trnovo crisis staff, 29 April 1992).

<sup>580</sup> Hanson, T. 9829-30; P529, tab 244 (Letter by President of Ilijaš crisis staff to President of Bosnian-Serb Presidency); P529, tab 462 (Request by Trnovo crisis staff to Bosnian-Serb Government, 30 April 1992).

<sup>581</sup> P528 (Hanson Report), paras 20 and 43; P529, tab 69 (Report from Bijeljina crisis staff to SDS Main Board, 1 April 1992).

<sup>582</sup> Hanson, T. 9677, 9679-88, 9755-7, 9761-5, 9767-9, 9774-7; P528 (Hanson Report), paras 20 and 43; P65, tab 109 (Record of 11th session of Bosnian-Serb Assembly, 18 March 1992), pp. 38-9; P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 17, 20 and 22; P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), pp. 20-1; P65, tab 127 (Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992), pp. 16-17, 19-20, 24-, 48; P65, tab 182 (Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992), pp. 65, 70.

<sup>583</sup> P528 (Hanson Report), paras 20 and 43; P529, tab 406 (Telephone conversation between Jovan Tintor and Momčilo Krajišnik, 4 April 1992); P67 tab 29 (Telephone conversation between Momo Garić and Momčilo Krajišnik, 21 April 1992).

<sup>584</sup> Hanson, T. 9678, 9754-5, 9773-4; P843 (Letter from President of Sokolac crisis staff to Bosnian-Serb Presidency, 15 July 1992); P65, tab 124 (Minutes of joint session of SNB and Bosnian-Serb Government, 28 April 1992), items 9-10; P529, tab 158 (Report from Novo Sarajevo crisis staff to President of Bosnian-Serb Presidency, 5 June 1992); P65, tab 151 (Minutes of 22nd session of Bosnian-Serb Government, 7 June 1992), item 6. As part of informal reporting, Bosnian-Serb leadership also visited the municipalities, P65, tab 93 (Minutes of 8th session of Bosnian-Serb Assembly, 25 February 1992); P529, tab 195 (Radio announcement about visit of a delegation, headed by Momčilo Krajišnik, to Ilijaš municipality, 29 June 1992); P65, tab 113 (Record of 12th session of Bosnian-Serb Assembly, 24 March 1992), pp. 15, 17, 20, 22; P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), pp. 20-1; P65, tab 114 (Record of 13th session of Bosnian-Serb Assembly, 25 March 1992), pp. 8-9.

<sup>585</sup> Hanson, T. 9699-700, 9723, 9728-9 ; P528 (Hanson report), paras 27, 34.

were meant to be replacing the municipal assemblies only, the war presidencies and war commissions were to replace both the assembly and the executive committee.<sup>586</sup> There might not have been any practical difference, however, since, as explained above, the crisis staffs already acted as executive organs.

273. Abolition of the crisis staffs and establishment of war presidencies were first discussed within the Bosnian-Serb Government on 23 May 1992.<sup>587</sup> On 24 May 1992, the Bosnian-Serb Presidency gave “instructions for organization and work of presidencies in municipalities in conditions of the imminent threat of war and a state of war”, clarifying that the war presidencies had “to organize, co-ordinate and synchronize activities for the defence of the Serbian people, and to establish governmental power”.<sup>588</sup> The same instructions provided for a commissioner, appointed by the “state leadership of the Serbian Republic of BiH”, who was responsible for appointment of members to the municipal war presidencies, for their organization and work, and for the coordination and implementation of the policy of the state organs and the Main Staff of the VRS.<sup>589</sup>

274. On 31 May 1992, the Bosnian-Serb Presidency took the formal decision to form war presidencies in the municipalities.<sup>590</sup> The war presidencies were to consist of the president of the municipal assembly or another prominent figure in the municipality and “a representative of the Republic”.<sup>591</sup> This representative was in fact the commissioner mentioned in the Bosnian-Serb Government instructions above.<sup>592</sup> One representative could cover several municipalities “in conformity with the organization of the Army of the Serbian Republic of Bosnia and Herzegovina”.<sup>593</sup> This was essentially an exercise in renaming municipal crisis staffs and changing their name to “war presidencies”, without altering their membership.<sup>594</sup>

<sup>586</sup> P528 (Hanson report), para. 30; P65, tab 143 (Decision on formation of war presidencies, 31 May 1992), arts 1 and 3.

<sup>587</sup> Hanson, T. 9700; P529, tab 107 (Minutes of meeting of Bosnian-Serb Government, 23 May 1992).

<sup>588</sup> P529, tab 108 (Instructions from Bosnian-Serb Presidency for municipalities during conditions of imminent threat of war or state of war, 24 May 1992), item 1.

<sup>589</sup> P529, tab 108 (Instructions from Bosnian-Serb Presidency for municipalities during conditions of imminent threat of war or state of war, 24 May 1992), item 4.

<sup>590</sup> Hanson, T. 9702-3; P65, tab 143 (Decision on formation of war presidencies, 31 May 1992).

<sup>591</sup> P65, tab 143 (Decision on formation of war presidencies, 31 May 1992), art. 2.

<sup>592</sup> Hanson, T. 9702-3; P65, tab 143 (Decision on formation of war presidencies, 31 May 1992), art. 4.

<sup>593</sup> P65, tab 143 (Decision on formation of war presidencies, 31 May 1992), art. 4.

<sup>594</sup> Đokanović, T. 10576, 10773-4.

275. The presidents of SAO Herzegovina, SAO Romanija, and SAO Semberija were informed about this decision in a letter by the SDS Executive Board on the same date.<sup>595</sup> In the letter, the Executive Board informed the presidents that if they had any question concerning the implementation of the decision they should direct them to the Bosnian-Serb Presidency.<sup>596</sup> On 1 June 1992, the Constitution of the Bosnian-Serb Republic was amended by the Bosnian-Serb Presidency to allow war presidencies at both the republican and municipal levels.<sup>597</sup> It was clear from this amendment that the power to form the municipal war presidencies, as well as “the manner, composition and competence” of these, was a prerogative of the Bosnian-Serb Presidency.<sup>598</sup> The decision to establish war presidencies was acted upon in some municipalities.<sup>599</sup>

276. In order to further tighten the central grip over the municipalities, the Bosnian-Serb Presidency decided to replace municipal war presidencies with war commissions.<sup>600</sup> Accordingly, on 10 June 1992, it issued an official decision establishing war commissions.<sup>601</sup> The war commissions were to consist of “four members from the ranks of the most influential citizens within the crisis staff, the economy and the ruling party” and a “state commissioner”, appointed by the Bosnian-Serb Presidency.<sup>602</sup> The state commissioner was responsible for appointing municipal war commissions and providing them with his expertise and other assistance.<sup>603</sup> A list of commissioners was drawn up on the same day and included Dragan Đokanović, Nikola Poplašen, Milimir Mučibabić, Miroslav Radovanović, Jovan Tintor, and Danilo Veselinović.<sup>604</sup> Soon thereafter, Dragan Đokanović was appointed state commissioner for Zvornik, Vlasenica, Skelani, Bratunac,

<sup>595</sup> Hanson, T. 9722; P529, tab 68 (Memo by Secretary of SDS Executive Board to Presidents of SAO Herzegovina, SAO Romanija – Birač and SAO Semberija, 31 May 1992).

<sup>596</sup> Hanson, T. 9722; P529, tab 68 (Memo by Secretary of SDS Executive Board to the Presidents of SAO Herzegovina, SAO Romanija – Birač and SAO Semberija, 31 May 1992).

<sup>597</sup> Hanson, T. 9703-4; P65, tab 144 (Law amending the Law for Implementing the Constitution, 2 June 1992).

<sup>598</sup> Hanson, T. 9703-4; P65, tab 144 (Law amending the Law for Implementing the Constitution, 2 June 1992).

<sup>599</sup> Witness D14, T. 20271-2, 20324-6; Kapetina, T. 20099-103; P528 (Hanson report), para. 33; P342 (Minutes of 31st meeting of Kotor Varoš crisis staff, 24 June 1992), item 2.

<sup>600</sup> Đokanović, T. 10574-8, 10678-84, 10697-700, 10772-8, 10807; Divčić, T. 17837; D38 (Đokanović statement), pp. 13-15, 17; D39 (Đokanović statement), pp. 6-7.

<sup>601</sup> P529, tab 112 (Decision by Bosnian-Serb Presidency on establishment of war commissions, 10 June 1992).

<sup>602</sup> P529, tab 112 (Decision by Bosnian-Serb Presidency on establishment of war commissions, 10 June 1992), arts 2 and 4.

<sup>603</sup> P529, tab 112 (Decision by Bosnian-Serb Presidency on establishment of war commissions, 10 June 1992), art. 4.

<sup>604</sup> P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992), p. 1.

Šekovići, and Novo Sarajevo.<sup>605</sup> The Bosnian-Serb Presidency appointed state commissioners on several occasions during the summer of 1992,<sup>606</sup> including the appointment of Biljana Plavšić as commissioner for the war commission of Pale municipality.<sup>607</sup> Nikola Poplašen, was appointed state commissioner in Vogošća municipality on 10 June 1992.<sup>608</sup> Once a state commissioner was appointed he or she would appoint the remaining members of the war commission,<sup>609</sup> which would then have to be confirmed by the Bosnian-Serb Presidency.<sup>610</sup>

277. Nikola Koljević at first, and the Accused later, were the Presidency's contact persons for war commissioners in the Bosnian-Serb Presidency. As such, they had the responsibility to report about their work to the other members of the Presidency.<sup>611</sup> The Accused was officially assigned this task at the Presidency meeting of 6 July 1992.<sup>612</sup>

278. In this capacity, the Accused signed at least two decisions appointing state commissioners,<sup>613</sup> and at least one decision requiring all civilian and military authorities to cooperate with the state commissioners.<sup>614</sup> He would also regularly meet with municipal

<sup>605</sup> Đokanović, T. 10442-4, 10581; D38 (Đokanović statement), p. 14; P533 (Document proposing members of Zvornik war commission, 13 June 1992); P529, tab 397 (Decision appointing members of Zvornik war commission, signed by Radovan Karadžić, 17 June 1992); P534 (Document proposing members of Vlasenica war commission, 16 June 1992); P535 (Document proposing members of Skelani war commission, 16 June 1992).

<sup>606</sup> P529, tab 396 (Certificate appointing Vojislav Maksimović state commissioner for Foča municipality, 4 June 1992); P529, tab 458 (Certificate appointing Dragan Đokanović state commissioner, 10 June 1992); P65, tab 204 (Certificate of appointment of state commissioner, 16 June 1992); P529, tab 395 (Certificate appointing Stari Grad and Centar Sarajevo commissioners, 10 July 1992); P65, tab 205 (Certificate of appointment of state commissioner, 21 August 1992); P529, tab 399 (Certificate appointing Milan Trbojević state commissioner for Herzegovina, 1992).

<sup>607</sup> Plavšić, T. 26806; C7 (Plavšić statement), para. 44; P529, tab 196 (Confirmation by Bosnian-Serb Presidency on appointment of members of Pale war commission, 25 June 1992).

<sup>608</sup> P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992); P529, tab 400 (Confirmation by Bosnian-Serb Presidency on appointment of members of Vogošća war commission, 18 June 1992).

<sup>609</sup> P529, tab 434 (Decision by Dragan Đokanović, state commissioner, and Ljubo Simić, President of Bratunac, 16 June 1992).

<sup>610</sup> P529, tab 397 (Confirmation by Bosnian-Serb Presidency on appointment of members of Zvornik war commission, 17 June 1992); P529, tab 398 (Confirmation by Bosnian-Serb Presidency on appointment of members of Bratunac war commission, 17 June 1992); P529, tab 400 (Confirmation by Bosnian-Serb Presidency on appointment of members of Vogošća war commission, 18 June 1992); P64.A, tab 739 (Confirmation of the appointment of members of Novo Sarajevo war commission, 21 July 1992); P692 (Decision on appointment of Čajniče war commissioners, 17 September 1992).

<sup>611</sup> Poplašen, T. 20942-59; P65, tab 157 (Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992).

<sup>612</sup> P65, tab 174 (Minutes of 15th session of Bosnian-Serb Presidency, 6 July 1992); Đokanović, T. 10630-2, 10728-9.

<sup>613</sup> Hanson, T. 9709, 9712-14, 10005-7; P65, tab 205 (Certificate of appointment of state commissioner, 21 August 1992); P65, tab 206 (Certificate of appointment of state commissioner, 2 October 1992).

<sup>614</sup> Hanson, T. 9712-14; P529, tab 139 (Decision by Momčilo Krajišnik, 2 October 1992).

representatives in his office in the Kikinda hotel.<sup>615</sup> Illustrating further his personal interest in the municipal operations and work of war commissioners, the Accused explained, during a session of the Bosnian-Serb Assembly in late November 1992, that the commissioners were people sent out from the Bosnian-Serb Assembly to collect information about the problems faced by the municipality, assist in establishing governments, and assist in governing.<sup>616</sup>

279. The exact setting up and transformation from crisis staff, to war presidency, to war commission varied from municipality to municipality. Some of the factors determining this variation were location, time, and personalities.<sup>617</sup> Nevertheless, as illustrated by the fact that many state commissioners were appointed by the Presidency, and sometimes even the Accused himself, the main role of the war commissions was to keep the Presidency and the Bosnian-Serb Assembly informed about the situation on the ground.<sup>618</sup> As the connecting link between these bodies, the Accused was a prominent figure.

### *3.6.5 Crisis staffs, war presidencies, war commissions, and armed forces*

280. The relationship between crisis staffs and the various military forces present in the municipalities (JNA units, the TO, paramilitary units, and the VRS), differed from municipality to municipality. At a minimum, however, the relationship involved a coordinating and supporting role for the crisis staffs.<sup>619</sup> In at least one municipality, Zvornik, the local JNA commander was listed as member of the crisis staff.<sup>620</sup>

281. Generally there was a progression from SDS-formed military units to infantry units under the command of the crisis staffs, to full VRS control of military units by mid-June 1992.<sup>621</sup> Thus, the crisis staffs filled the gap between the withdrawal, disintegration, or

<sup>615</sup> Plavšić, T. 26846-8, 26897-9; C7 (Plavšić statement), para. 8.

<sup>616</sup> Hanson, T. 9785-6; P65, tab 213 (Record of 22nd session of Bosnian-Serb Assembly, 24 November 1992), p. 104. See also other speakers during the same session, pp. 106-7 (Maksimović) and pp. 109-11 (Mijatović).

<sup>617</sup> Hanson, T. 9944-5 ; P528 (Hanson Report), para. 33.

<sup>618</sup> Nešković, T. 16593, 16680, 16684-5; Tupajić, T. 15402-3, 15494-5; Prstojević, T. 14594-6; Krsman, T. 21901-3, 21978-9, 21983-4; P529, tab 126 (Speech commemorating the declaration of Rajlovac municipality, no date).

<sup>619</sup> P528 (Hanson Report), paras 46, 55-6; Hanson, T. 9759-60, 9791, 9873, 10004.

<sup>620</sup> P529, tab 40 (Conclusions from Zvornik SDS municipal board, 22 December 1991), item 3.

<sup>621</sup> Hanson, T. 9790-1, 9828, 9843; P528 (Hanson report), para. 48; P529, tab 255 (Analysis of combat readiness of VRS in 1992, April 1993).

general failure of command structures within the JNA, and the establishment of a VRS with effective control of the armed forces on the ground.<sup>622</sup>

282. The Chamber will now examine the individual relationship that existed between the crisis staffs on one side and the JNA, VRS, MUP, TO, and the paramilitaries, on the other.

283. *Relations with the JNA.* At the time when the SDS crisis staffs were being formed, the JNA was the dominant military structure in the municipalities of Bosnia-Herzegovina. As mentioned earlier, the Zvornik SDS municipal board elected a crisis staff for the municipality, consisting of leading SDS persons from Zvornik, as well as the municipal command staff of the JNA.<sup>623</sup> In a formal sense no other relationship existed, however, in practice, the military presence in the crisis staffs ensured a high degree of commonality of purpose.<sup>624</sup>

284. In April 1992, in apparent implementation of Radovan Karadžić's instruction of 27 March 1992 that crisis staffs should organize municipal TOs and place them under JNA command where possible,<sup>625</sup> Prime Minister Đerić issued detailed instructions outlining the responsibilities of crisis staffs. Karadžić's 27 March instruction and its implementation in the ARK municipalities show that crisis staffs and the military had common objectives, but that one did not have authority over the other.<sup>626</sup>

285. *Relations with the TO.* According to the Bosnian-Serb Constitution, it was "the right and the obligation of regions and municipalities to set up and organize the national defence in their territories and to manage the territorial defence".<sup>627</sup> As the municipal defence force, the TO came to have close links with the crisis staffs. Many crisis staffs appointed and dismissed municipal TO commanders<sup>628</sup> and received reports from TO units.<sup>629</sup> In some cases, crisis staffs issued orders to the TO on military matters.<sup>630</sup> On a few occasions

<sup>622</sup> Hanson, T. 9791, 9848; Brown, T. 16321-4; P529, tab 264 (Record of meeting of presidents of municipalities, 14 May 1992), pp. 1, 3-4;

<sup>623</sup> P529, tab 40 (Conclusions from Zvornik SDS municipal board, 22 December 1991); Mehinagić, T. 12606; P644 (Mehinagić statement), pp. 5, 12.

<sup>624</sup> Hanson, T. 9801-4, 9809, 9826-8; P528 (Hanson report), paras 16, 46; P43 (Variant A and B instructions, 19 December 1991), pp. 5 and 9; P529, tab 263 (Report from the JNA 2nd military district reserve to the operation centre, 6 April 1992).

<sup>625</sup> P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), pp. 23-4.

<sup>626</sup> P891 (Brown report), para. 1.107.

<sup>627</sup> P65, tab 96 (Decision on proclaiming Bosnian-Serb Constitution, 28 February 1992), art. 110.

<sup>628</sup> Selak, T. 13353-4; Hanson, T. 9820-1; P528 (Hanson Report), para. 50.

<sup>629</sup> P528 (Hanson Report), para. 50.

<sup>630</sup> P528 (Hanson Report), para. 50; Hanson, T. 9987; P529, tab 101 (Decision by Bihać crisis staff on appointment of TO commanders, 3 May 1992), item 5; P529, tab 248 (Order by Bosanska Krupa crisis staff, 5 April 1992); P529, tab 252 (Decision by Zvornik Provisional Government on forming a special unit of TO,

crisis staffs or their members assumed a very direct military role and got involved in military activities.<sup>631</sup> Crisis staffs also provided various forms of general assistance to the TO, calling for mobilization within their municipalities<sup>632</sup> and providing financial assistance.<sup>633</sup> As stated earlier, at the Bosnian-Serb Assembly session of 27 March 1992, Karadžić recommended that TO units formed by the crisis staffs should, where possible, be placed under the command of the JNA.<sup>634</sup> Some of these units were integrated into the JNA,<sup>635</sup> while other existing Bosnian-Serb forces were integrated into the TO.<sup>636</sup> Once the JNA formally withdrew from Bosnia-Herzegovina they all became part of the VRS.<sup>637</sup> Thus, even though the local TOs had certain autonomy prior to the establishment of the VRS, soon after they were subordinated to the Presidency.<sup>638</sup> Nevertheless, the local crisis staffs were often responsible for logistical support to the TO.<sup>639</sup>

286. *Relations with paramilitary units.* The contacts between municipal crisis staffs and paramilitary units varied from municipality to municipality. The crisis staff of Ilijaš

18 April 1992), art. 3; P529, tab 198 (Decision by Birač crisis staff on proclamation of state of war for Birač, 29 April 1992), art. 3; P529, tab 275 (Order of Bosanska Krupa war presidency); P186 (Conclusions of Sanski Most crisis staff, 30 May 1992), item 4; P529, tab 50 (Order by Bosanska Krupa crisis staff for full mobilisation, 5 April 1992).

<sup>631</sup> Hanson, T. 9829-36, 9989-90, 10003; P529, tab 244 (Letter by Ratko Adžić, President of Ilijaš crisis staff to President of Bosnian-Serb Presidency); P529, tab 223 (Transcript of interview with Jovan Tintor, August 1994), pp. 7-8; P529, tab 447 (Minutes of meeting of Trnovo crisis staff, 30 April 1992); P529, tab 446 (Minutes of meeting of Trnovo crisis staff, 2 May 1992); P529, tab 445 (Minutes of meeting of Trnovo crisis staff, 3 May 1992); P529, tab 229 (Minutes of meeting of Trnovo crisis staff, 9 May 1992); P529, tab 435 (Minutes of meeting of Trnovo crisis staff, 11 May 1992); P529, tab 274 (Minutes of meeting of Trnovo crisis staff, 18 May 1992); P529, tab 440 (Minutes of meeting of Trnovo TO Command, 15 May 1992); P529, tab 119 (Minutes from the Šipovo crisis staff, 19 May 1992).

<sup>632</sup> Hanson, T. 9805, 9809, 9825-6, 9862-3, 9987; P644 (Mehinagić statement), p. 8; P657 (Order of Zvornik crisis staff, 5 April 1992); P613 (Order of Novo Sarajevo crisis staff, 22 April 1992); P699 (Witness 109 statement), pp. 1-2; P529, tab 158 (Report from Novo Sarajevo crisis staff to President of Bosnian-Serb Presidency, 5 June 1992), item 5; Witness 84, T. 12351-2; P702.A (Čevro statement), p. 4; P703.A (Witness 86 statement), p. 2; P699.A (Witness 109 statement), p. 2; Witness 84, T. 12313-14; P610 (Witness 84 statement), pp. 1-2; P609 (Witness 84 statement), p. 11; P528 (Hanson Report), para. 49; P307 (Report on work of Bosanska Krupa municipal assembly and war presidency, April 1992), pp. 4, 6; P529, tab 252 (Decision by Zvornik provisional government, 18 April 1992); P64.A, tab 260 (Record of 50th session of Bosnian-Serb Assembly, 16 April 1995), pp. 323-4; P529, tab 255 (Analysis of combat readiness of VRS in 1992, April 1993), pp. 10 and 13; P529, tab 148 (Report of work of Ključ crisis staff, July 1992), pp. 5-6; P529, tab 226 (Minutes of meeting of Trnovo SDS municipal board, 7 March 1992), item 1; P529, tab 450 (Minutes of meeting of Trnovo crisis staff, 20 March 1992), item 2; P529, tab 245 (Order of Bratunac crisis staff, 12 April 1992); P529, tab 198 (Decision by Birač crisis staff on proclamation of state of war, 29 April 1992), art. 3.

<sup>633</sup> Hanson, T. 9867; P802, tab 2 (Ledger of expenses for Ilijaš crisis staff, 30 June 1992).

<sup>634</sup> P65, tab 115 (Record of 14th session of Bosnian-Serb Assembly, 27 March 1992), p. 23.

<sup>635</sup> P529, tab 261 (Memo from Dragoljub Simonović to 2nd military district, 3 April 1992), p. 2.

<sup>636</sup> P529, tab 241 (Conclusions from meeting of Sanski Most crisis staff, 22 April 1992), item 6.

<sup>637</sup> Hanson, T. 9808, 9826; P529, tab 255 (Analysis of combat readiness and activities of VRS, April 1993), p. 13; Radomir Pašić, T. 19568, 19644-6, 19691; D15 (Conclusion by Bosanski Novi municipal assembly, 16 June 1992).

<sup>638</sup> Prstojević, T. 14541-6.

<sup>639</sup> Vasić, T. 17376, 17395, 17445, 17525-6.

municipality invited Arkan's men to come to its assistance.<sup>640</sup> The crisis staff in the municipality of Ilidža also had extensive dealings with various paramilitary groups, including Arkan's men, and Nedjeljko Prstojević, the president of the Ilidža crisis staff, was visited by Vojislav Šešelj several times.<sup>641</sup> In some cases the municipal authorities extended financial and logistical support to paramilitary groups operating in the municipality.<sup>642</sup> Other examples show that paramilitary units on certain occasions worked together with the TO, under the command or supervision of the municipal crisis staffs, on specific military tasks.<sup>643</sup> There are however also examples of municipal authorities attempting to ban paramilitary groups from acting in the municipality.<sup>644</sup>

287. *Relations with VRS.* With the establishment of the VRS, the central role envisioned for the crisis staffs when it came to defence became less pertinent, as the aim was then to place all armed forces under the unified command of the Main Staff of the VRS.<sup>645</sup> Coordination and contacts between the crisis staffs and the armed forces continued, however.<sup>646</sup> Indeed, the relationship between the two became closer and more institutionalized at this point.<sup>647</sup> One example of this is the fact that some VRS officers

<sup>640</sup> P528 (Hanson Report), para. 49; P529, tab 240 (Request for manpower, 14 June 1992).

<sup>641</sup> Prstojević, T. 14546-8, 14551-9, 14586-93, 14618-19; P794 (Telephone conversation between Nedjeljko Prstojević and unknown man, 21 April 1992); P793 (Telephone conversation between Milosav Gagović and Nedjeljko Prstojević, 14 May 1992).

<sup>642</sup> P528 (Hanson Report), para. 49; P529, tab 232 (Record of statement given by Svetislav Mitrović, 3 August 1992), p. 1; P529, tab 234 (Pay list for members of Serbian volunteers' guard from Teslić); P529, tab 238 (Payment order by Zvornik provisional government to Žuća unit, 4 May 1992); P529, tab 239 (Document and related receipt regarding transport of volunteers, Zvornik provisional government, 30 April 1992); P529, tab 415 (Telephone conversation between unknown male, Legija, and Arkan, 15 May 1992), pp. 7, 13.

<sup>643</sup> P529, tab 122 (Report by Bijeljina police station to the MUP, 9 April 1992), p. 2; P529, tab 415 (Telephone conversation between unknown male, Legija, and Arkan, 15 May 1992), p. 4.

<sup>644</sup> P56 (Bratunac crisis staff order, 1 May 1992); P57 (Bratunac crisis order, 6 May 1992).

<sup>645</sup> Hanson, T. 9857, 9860; P529, tab 273 (Order from Commander Major General Momir Talić to 1st Krajina Corps Command, 1 July 1992).

<sup>646</sup> Witness 382, T. 11255-6; P579 (Report from Rogatica brigade command of VRS to Sarajevo Romanija corps command, 11 June 1992), p. 1; Tupajić, T. 15361-2, 15403; Hanson, T. 9850-7, 9840-1; P529, tab 265 (Telephone conversation between Unković and Ratko Mladić, 13 May 1992); P529, tab 266 (Telephone conversation between Gliša Simanić and Ratko Mladić, 25 May 1992); P529, tab 417 (Telephone conversation between Nedjeljko Prstojević and Milosav Gagović); P529, tab 368 (Minutes of meeting of Kotor Varoš war presidency, 11 November 1992), item 2; P529, tab 55 (Report on work of Rogatica municipal assembly, 1 October 1993), p. 24; Brown, T. 16331-2, 16338-41, 16344; P892, tab 66 (Conclusions of Sanski Most crisis staff, 30 May 1992); P892, tab 67 (Conclusions of Sanski Most crisis staff, 18 June 1992); P341 (Minutes of 26th session of Kotor Varoš crisis staff, 19 June 1992); P344 (Minutes of 40th session of Kotor Varoš crisis staff, 26 June 1992); P892, tab 68 (Minutes of Kotor Varoš crisis staff, 7 July 1992); P892, tab 74 (List of phone numbers of ARK war staff, 6 May 1992); P891 (Brown report), para. 1.101; P892, tab 61 (Report on military consultations, 14 September 1992), p. 1; P709 (Dobrača statement), p. 8; Witness 382, T. 11255-6; P579 (Report from Rogatica brigade command of VRS to Sarajevo Romanija Corps command, 11 June 1992), p. 1; Tupajić, T. 15361-2, 15403.

<sup>647</sup> Radojko, T. 21192-3; 21333-4, 21351, 21464-5, 21448, 21466; Witness D14, T. 20136, 20156, 20164, 20211; P528 (Hanson report), para. 54; P529, tab 124 (Interview with Bogdan Subotić in *Glas* newspaper, 7

were members of the crisis staffs, or participated in the meetings of these organs.<sup>648</sup> In at least one municipality, Ključ, these officers reported on their activities to the crisis staffs.<sup>649</sup> In addition, the crisis staffs also issued orders to the armed forces.<sup>650</sup>

288. *Relations with MUP.* The relationship between the crisis staffs and the police was much closer than the relationship between the crisis staffs and the army.<sup>651</sup> Some crisis staffs were active in setting-up Serb police forces in the municipality, including appointing and dismissing police officers.<sup>652</sup> In many municipalities, including Bosanska Krupa, Sanski Most, Zvornik, Prijedor, Prnjavor, and Sokolac, the crisis staffs issued direct orders to the police on various subjects.<sup>653</sup> There are also examples on how the police reported back to the crisis staff on its activities.<sup>654</sup> Although usually in control of the regular police,

July 1992), p. 1; P1100 (Minutes of 17th meeting of Bosanski Petrovac crisis staff, 24 May 1992), pp. 3-4; P90.FF (Minutes of 34th session of Bosanski Petrovac crisis staff, 14 June 1992), p. 1; P342 (Minutes of 31st meeting of Kotor Varoš crisis staff, 24 June 1992), item 2; P528 (Hanson report), para. 53.

<sup>648</sup> Hanson, T. 9857-9, 9951.

<sup>649</sup> P529, tab 87 (Minutes of Ključ crisis staff, 4 June 1992), p. 11-12; P529, tab 89 (Minutes of Ključ crisis staff, 5 June 1992), p. 13; P529, tab 90 (Minutes of Ključ crisis staff, 6 June 1992), p. 14; P892, tab 70 (Report on work of Ključ crisis staff, July 1992), pp. 3-6.

<sup>650</sup> Tupajić, T. 15330-9, 15361-2, 15403; P804, tab 2 (Minutes of crisis staff meeting, 15 May 1992), p. 3; P828 (Decision on mobilization status of members of Sokolac crisis staff, 29 May 1992); P829 (Conclusion from meeting of Sokolac crisis staff, 20 April 1992); P833 (Crisis staff order to municipal secretariat for national defence, 21 April 1992); P834 (Order from Sokolac crisis staff to Sokolac SJB, 20 April 1992); P837 (Record of meeting of Sokolac crisis staff, 10 April 1992); P843 (Letter by President of Sokolac crisis staff to Bosnian-Serb Presidency, 15 July 1992); P830 (Letter by Secretary of Bosnian-Serb Government to Sokolac crisis staff requesting food for Vogošća crisis staff, 11 May 1992); P831 (Letter by Secretary of Bosnian-Serb Government to Sokolac crisis staff requesting food for Ilijaš crisis staff, 9 May 1992); P840 (Order by Bosnian-Serb Government to Sokolac crisis staff, 15 May 1992); P842 (Telegram signed by Radovan Karadžić, undated); P690 (Fax from Bosnian-Serb Presidency, 14 July 1992).

<sup>651</sup> P528 (Hanson report), para. 57; Hanson, T. 9874.

<sup>652</sup> P528 (Hanson report), para. 57; Hanson, T. 9879; P529, tab 285, p. 2 (Statements by Muslim police officers of, 24 March 1992); P529, tab 290 (Conclusions of Sanski Most crisis staff, 27 April 1992), item 4; P529, tab 91 (Minutes of meeting of Ključ crisis staff, 9 June 1992), p. 15; P529, tab 183 (Public statement issued by Ključ crisis staff, 7 May 1992); P529, tab 461 (Decision by Trnovo crisis staff, 30 April 1992).

<sup>653</sup> Hanson, T. 9876, 9883-8; P529, tab 50 (Order by Bosanska Krupa crisis staff, 5 April 1992); P529, tab 248 (Order by Bosanska Krupa crisis staff, 5 April 1992); P186 (Conclusions of Sanski Most crisis staff, 30 May 1992), item 4; P529, tab 418 (Order by Zvornik crisis staff, 8 April 1992), art. 3; P529, tab 278 (Conclusions, Orders and Decisions by Prijedor crisis staff, 29 May to 24 July 1992), pp. 2-3; P529, tab 289 (Report by Prijedor public security station to Prijedor crisis staff, 1 July 1992); P529, tab 291 (Order by Sanski Most crisis staff to public security station, 6 June 1992); P529, tab 301 (Decision by Bosanski Šamac crisis staff, 15 May 1992); P529, tab 428 (Decision of Prnjavor crisis staff, 22 June 1992), art. 2; P529, tab 342 (Order by Bosanska Krupa war presidency, 22 May 1992); P529, tab 82 (Minutes of meeting of Ključ crisis staff, 29 May 1992), p. 5, item 3; P834 (Order by Sokolac crisis staff, 20 April 1992).

<sup>654</sup> P529, tab 87 (Minutes of Ključ crisis staff, 4 June 1992), p. 11; P529, tab 88 (Minutes of Ključ crisis staff, 4 June 1992), p. 12; P529, tab 89 (Minutes of Ključ crisis staff, 5 June 1992), p. 13; P529, tab 90 (Minutes of Ključ crisis staff, 6 June 1992), p. 14; P529, tab 122 (Report by Bijeljina police station to Ministry of Interior, 9 April 1992); Radojko, T. 21192-3, 21298-9, 21448-9; P64.A, tab 265 (Diary of Jovo Radojko, 4 January 1992 – 2 September 1992), p. 105.

some crisis staffs did not have much power over the special police units, which were under the control of the CSBs.<sup>655</sup>

<sup>655</sup> P343 (Minutes of 36th session of Kotor Varoš crisis staff, 24 June 1992); Witness 144, T. 7154-7, 7201-2; P348 (Decision on formation of ARK crisis staff, 5 May 1992; P344 (Minutes of 40th session of Kotor Varoš crisis staff, 26 June 1992).

## **4. Take-over of power and crimes in the municipalities**

### **4.1 Introduction**

289. The following part of the judgement contains the Chamber's factual findings with regard to the Bosnian-Serb take-over of power and crimes committed in 35 of the 109 municipalities of Bosnia-Herzegovina. Some of the 35 municipalities are located in the north-west bordering with Croatia, some in the north-east bordering with Serbia, and others in the south-east bordering with Montenegro.

290. In 1991, 4,377,033 persons lived in Bosnia-Herzegovina. The ethnic composition of the territory was 1,902,956 Muslims, 1,366,104 Serbs, 760,852 Croats, 242,682 Yugoslavs, and 104,439 of other or unknown ethnicity. In the 35 municipalities, there lived a total of 1,692,313 persons, among them 675,657 Muslims, 742,100 Serbs, 128,275 Croats, 100,911 Yugoslavs, and 45,370 persons of other or unknown ethnicity. Serbs were in the relative majority in fifteen municipalities, and Muslims were the relative majority in another fifteen. In five municipalities there was no clear relative ethnic majority.

291. The Chamber heard a large amount of evidence relating to take-overs and crimes allegedly committed in the municipalities. The Chamber had to decide upon 97 incidents of killings listed in Schedules A and B of the indictment and also upon numerous other alleged killings not listed in the indictment. Schedule C of the indictment lists approximately 400 detention centres, whereas Schedule D lists about 120 religious monuments. Reference to these incidents of killings, detention, and destruction listed in the schedules is made by use of special codes.<sup>656</sup> The Chamber further made numerous findings on persecutorial acts committed against Bosnian Muslims and Bosnian Croats in the indictment municipalities, such as discriminatory and restrictive measures imposed on non-Serbs; physical, psychological, or sexual abuse; forced labour; as well as appropriation, plunder, or destruction of private property belonging to non-Serbs. Furthermore, the Chamber made findings on evidence relating to forced transfer of

<sup>656</sup> Codes are used in the following way: [A1.1], for example, stands for Schedule A, first listed killing incident in the first listed municipality in the schedule (Bijeljina), [B2.1] stands for Schedule B, first listed killing incident in a detention facility in the second listed municipality in the schedule (Bosanska Krupa), [C5.2] stands for Schedule C, second listed detention centre in the fifth listed municipality in the schedule (Bosanski Novi), and [D16.4] stands for Schedule D, fourth listed cultural monument or sacred site in sixteenth listed municipality in the schedule (Kotor Varoš). In some cases, the same killing incident, detention centre, cultural monument, or sacred site has been referred to twice in one of the schedules. This has been indicated here by "=" between the two codes.

Bosnian Muslims and Bosnian Croats out of the indictment municipalities to other parts of Bosnia-Herzegovina, whether occupied by Bosnian-Serb forces or not, or to other states in the region.

292. The Chamber notes that there is no practical way of presenting in detail all the evidence it has heard and received during the trial. The Chamber has been able to present only the most relevant parts of the evidence in detail, but generally has had to confine itself to presenting evidence in a summarized form.<sup>657</sup> The term “forces”, for example, is used in this part as a general term, and stands for armed soldiers, paramilitary units, police, or any other armed persons. The way in which the population in the municipalities was armed has already been dealt with in part 2.2 of the judgement, and will therefore not be further explored in relation to the municipalities in the present part. Likewise, the establishment of new local administrative structures in the municipalities, in particular the setting up of crisis staffs and war commissions, has already been described in part 3.6 of the judgement, where references to municipalities are given.

293. Documents like SJB reports often contain euphemistic language. The Chamber interpreted the text and content of such documents in light of other evidence relating to the events described, thus revealing the frequently obfuscatory nature of these documents. Likewise, the Chamber interpreted statements of witnesses about individual incidents in light of all other evidence received. The Chamber thereby took into consideration patterns of conduct that become evident when the evidence on all municipalities is considered in its totality. For example, the expression “voluntary departure” was used for what was often a forced removal of persons. Another example is the expression “to leave property in custody” which in fact often meant the forced hand-over of property. With regard to the term “ethnic cleansing”, which was sometimes used by witnesses or in reports, the Chamber wishes to note that it has not treated the term as legally significant.

294. The Chamber has heard evidence about attacks and crimes committed against Bosnian Serbs. One witness testified, for example, that on 18 or 19 December 1992, sixty-three Serb civilians who had been celebrating St Nicholas Day, including women and children, were killed by Muslim forces near the village of Josanica in Foča municipality.<sup>658</sup> Another witness testified that, between 26 and 27 August 1992, Serbs from Goražde left in a convoy towards Rogatica and that several persons, including members of the witness’s

<sup>657</sup> The footnotes refer to the relevant witness statements, documents, or other exhibits.

family, were killed by Muslims during an attack on a bus north of Mesići, near the predominantly Muslim village of Kukavice, in Rogatica municipality.<sup>659</sup> The 60-year-old father of another witness, who was living in the Muslim-controlled side of Hadžići municipality, was allegedly taken prisoner and died while incarcerated in a silo in Tarčin where 700 to 800 Serb men between the ages of 17 and 70 from Tarčin and Pazarići were held.<sup>660</sup> Also, in Pale, the son of another witness was allegedly physically abused by the Green Berets due to his Serbian background. After the witness had left Pale, the apartment he was living in was severely damaged.<sup>661</sup> The Chamber is thus aware that it was not only Serbs who conducted military operations or committed crimes in Bosnia-Herzegovina during the indictment period.<sup>662</sup> However, the Chamber is called upon to decide on whether the Accused, as a member of the Bosnian-Serb leadership, is responsible for crimes committed against Bosnian Muslims and Bosnian Croats. Therefore, the Chamber has not made findings on crimes committed by Muslims or Croats against Serbs, unless it was evident that these crimes triggered events that led to the commission of crimes by Serbs.

295. The events that unfolded in the municipalities of Bosnia-Herzegovina and eventually led to the commission of crimes by Serbs, Muslims, and Croats against people of other ethnicities are better understood when taking into account the increasing ethnic tension in Bosnia-Herzegovina and the mutual fear of being outnumbered and dominated by other ethnicities. As discussed in part 2 of the judgement, a number of witnesses described that already around the time of the multiparty elections of 1990, tensions existed among the different ethnic groups in Bosnia-Herzegovina. Inter-ethnic relations deteriorated after the elections.<sup>663</sup> According to Witness 629, members of each ethnic community were trying to prevent a war, but they were also fearful that they would be deceived by members of another ethnic group.<sup>664</sup>

296. The factual findings in this part are presented in relation to each indictment municipality. The municipalities are arranged in four regions: North-eastern Bosnia-Herzegovina, North-western Bosnia-Herzegovina, Sarajevo municipalities, and South-

<sup>658</sup> Dorđević, T. 18111-15.

<sup>659</sup> Stavnjak, T. 17943-5, 18022-4; P970 (Article in *New York Times* newspaper, 18 September 2002), pp. 1-2.

<sup>660</sup> Kapetina, T. 19945-6.

<sup>661</sup> Lakić, T. 21522-5.

<sup>662</sup> Banduka, T. 18696-7, 18707-8; Witness D24, T. 22793-5; 22882-3; Mičić, T. 19447-9.

<sup>663</sup> See also part 2.3 of the judgement.

eastern Bosnia-Herzegovina. Maps at the end of this judgement identify the geographical location in Bosnia-Herzegovina of each indictment municipality.

## 4.2 North-eastern Bosnia-Herzegovina

### *4.2.1 Bijeljina*

297. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bijeljina municipality was 57,389 (59 per cent) Serbs, 30,229 (31 per cent) Muslims, 492 (1 per cent) Croats, 4,426 Yugoslavs, and 4,452 persons of other or unknown ethnicity.<sup>665</sup> The municipality of Bijeljina is located in the north-east of Bosnia-Herzegovina. Approximately two-thirds of its municipal boundaries form part of the border between Bosnia-Herzegovina and Serbia. Bijeljina is the closest municipality in Bosnia-Herzegovina to Belgrade. One of the roads connecting Sarajevo and Belgrade crosses the municipality.<sup>666</sup>

298. Bijeljina was the first municipality in Bosnia-Herzegovina to be taken over by the Bosnian Serbs in 1992. This seizure of power established a pattern which was later repeated in other municipalities in north-eastern Bosnia-Herzegovina. First, paramilitary groups, or so-called “volunteer units”, from Serbia arrived, and started intimidating and terrorizing local Muslims, as well as Serbs they considered “disloyal”. Many Muslims were killed. As a result, many of the remaining Muslims would eventually leave the territory.<sup>667</sup>

299. Actual fighting started in Bijeljina town on 31 March 1992. Members of Željko (Arkan) Ražnatović’s paramilitary group came to Bijeljina and, in cooperation with a local paramilitary group under the command of Mirko Blagojević, took control of important town structures. On 1 or 2 April 1992, armed JNA reservists surrounded the town and columns of JNA tanks and other vehicles were seen in the area.<sup>668</sup> Despite some resistance, Serb forces quickly took control of Bijeljina, and by 4 April, Serb flags had been hoisted

<sup>664</sup> Witness 629, T. 11163.

<sup>665</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 52-5.

<sup>666</sup> P527 (Book of maps), pp. 1-2, 5.

<sup>667</sup> Deronjić, T. 1016-17; P857 (Tokača report).

<sup>668</sup> P511 (Witness 57 statement), p. 3; P511.A (Witness 57 statement), p. 2; Gaši, T. 417-20; P727, tab 3 (Excerpt from interview with Mirko Blagojević, 1995), pp. 8-9.

on the two mosques in the town.<sup>669</sup> Arkan's men were installed in the local SDS building and, for several days, accompanied all regular police patrols and were involved in arresting members of Bijeljina's SDA presidency.<sup>670</sup> At this time, members of the White Eagles and the local TO were also present in Bijeljina town.<sup>671</sup>

300. At least 48 civilians, most of whom were non-Serbs, had been killed by Serb paramilitaries during the Serb take-over of Bijeljina [A1.1].<sup>672</sup> Around 3 April 1992, Witness 57, a police officer, was sent by his commander to protect a hearse collecting dead bodies in Bijeljina town. A total of 48 bodies, including those of women and children, were collected from the town's streets and houses, 45 of these victims were non-Serbs and none wore uniforms. Most of the dead had been shot in the chest, mouth, temple, or back of the head, some at close range.<sup>673</sup>

301. The removal of bodies from the streets of Bijeljina was ordered by Serb forces in anticipation of a visit on 4 April 1992 of a delegation of high-ranking Bosnia-Herzegovina officials, including Biljana Plavšić, Fikret Abdić, Minister of Defence Jerko Doko (a Croat), and chief-of-staff of the JNA 2nd Military District General Prašćević.<sup>674</sup> At the time of the visit, the roads to Bijeljina town were blocked by checkpoints attended by Serb soldiers in olive-green uniform. Journalists and European monitors were prevented from entering the town with the delegation.<sup>675</sup> On arrival in Bijeljina, the delegation visited the crisis staff to inform itself about the situation,<sup>676</sup> as well as the military barracks a few kilometres from the town centre. At the military barracks [C2.2], a large number of displaced persons of different ethnicities were surrounded by ten to fifteen JNA soldiers. At the time, General Janković, commander of the 17th Corps of the JNA, claimed he was providing shelter to 309 Muslims and Serbs at the barracks, and that another 1,500 Muslims were at the Patkovača barracks [C2.8]. However, his official report placed the

<sup>669</sup> P511 (Witness 57 statement), p. 4; P727, tab 3 (Excerpt from interview with Mirko Blagojević, 1995), p. 10; P1177.B (Confidential report of Bijeljina CSB, 29 July 1992), p. 2; Omeragić, T. 11946, 11950, 11994-5, 12017.

<sup>670</sup> P511 (Witness 57 statement), p. 6; P511.A (Witness 57 statement), p. 2.

<sup>671</sup> Omeragić, T. 11979, 12009-10; P511 (Witness 57 statement), pp. 4-5.

<sup>672</sup> P584 (Article in *Slobodna Bosna* newspaper, 10 April 1992), pp. 1-4; Omeragić, T. 11948, 11951-2, 12041-51; P857 (Tokača report).

<sup>673</sup> P511 (Witness 57 statement), pp. 2, 4-7; P511.A (Witness 57 statement), p. 2.

<sup>674</sup> Omeragić, T. 11946, 11948-9, 11957-8, 12017; P511.A (Witness 57 statement), p. 2; Plavšić, T. 26917; C7 (Plavšić statement), para. 14.

<sup>675</sup> Omeragić, T. 11949-50; P584 (Article in *Slobodna Bosna* newspaper, 10 April 1992), p.1.

<sup>676</sup> P591.A (Interview with Biljana Plavšić); C7 (Plavšić statement), para. 15.

total number of displaced persons at 3,000.<sup>677</sup> The Chamber finds that both the Bijeljina barracks and the Patkovača barracks were used by Serb authorities to detain mainly Muslims, if not at this time then subsequent to the events described.<sup>678</sup>

302. At one stage during the official visit, Arkan took the delegation on a tour of the town.<sup>679</sup> A Serb journalist who had slipped into town by avoiding the checkpoints approached the group and told Arkan: “You’ll never be forgiven for what you have done to the Muslims in Bijeljina. History will judge you”.<sup>680</sup>

303. Arkan and the SDS appeared to be in control of the town.<sup>681</sup> When, in the course of the visit, Plavšić asked Arkan to hand over control of Bijeljina to the JNA, he replied that he had not yet finished his “business” there, and that he would settle the situation in Bosanski Brod next. Plavšić did not persist with her request, and repeatedly praised the good job Arkan had done in saving the local Serb population from the threat of the Muslims.<sup>682</sup> When the group returned to the municipality building, Plavšić publicly thanked and kissed Arkan. This scene was met by shouts of approval from the local SDS members present.<sup>683</sup> At a dinner with UNPROFOR representative Cedric Thornberry on 20 April 1992, Plavšić described Bijeljina as a “liberated” town.<sup>684</sup> Arkan’s men remained in Bijeljina until at least May 1992.<sup>685</sup>

304. From at least June 1992 until the end of the indictment period, Serbs detained Muslims and Croats in the Batković camp in Bijeljina municipality [C2.5]. The detainees originated from a large number of different municipalities, including Brčko, Ključ, Lopare, Rogatica, Sokolac, Ugljevik, Vlasenica, and Zvornik. Many had been transferred from other detention facilities, particularly Sušica camp in Vlasenica and Manjača camp in Banja Luka.<sup>686</sup> In August 1992, the commander at the camp was Velibor Stojanović. At

<sup>677</sup> Omeragić, T. 11995-7, 12018-19, 12033, 12035; P584 (Article in *Slobodna Bosna* newspaper, 10 April 1992), p. 2; P590 (Daily Operative Report, 4 April 1992), pp. 1-2; C7 (Plavšić statement), para. 17.

<sup>678</sup> Malešević, T. 16118-20, 16136-41.

<sup>679</sup> P511 (Witness 57 statement), p. 6; Plavšić, T. 26934-5; C7 (Plavšić statement), para. 16.

<sup>680</sup> Omeragić, T. 11972-3.

<sup>681</sup> Omeragić, T. 11968, 11977, 11981-2, 12015, 12010; P590 (Daily Operative Report, 4 April 1992), p. 1; C7 (Plavšić statement), paras 13, 18.

<sup>682</sup> Omeragić, T. 11978, 12022-3.

<sup>683</sup> Kljuić, T. 6176-8; Omeragić, T. 11974-7; P300 (Video clip, no date).

<sup>684</sup> P900.A (Thornberry statement), pp. 2-3; C7 (Plavšić statement), para. 42.

<sup>685</sup> P764 (Davidović statement), p. 16.

<sup>686</sup> Osmanović, T. 5240, 5277; P265 (Osmanović statement), para. 51; P524 (Ferhatović transcript), pp. 488-9; Kuralić, T. 12568-9; P642 (Kuralić statement), paras 31-3; P710.A (Elvir Pašić transcript), pp. 566, 572; P710 (Elvir Pašić transcript), pp. 439, 441, 451; P708 (Agić statement), p. 7; P473 (Witness 43 transcript), pp. 53-5, 65; P473.A (Witness 43 transcript), p. 86. P474.A (Witness 212 transcript), pp. 1555, 1565-6, 1573, 1586-7, 1594-5, 1608; P474 (Witness 212 statement), p. 3; P474 (Witness 212 statement), pp. 4, 7.

that time, around 1,280 Muslim men were detained in a single warehouse. There were also some women, children, and elderly persons detained in a separate area.<sup>687</sup> Sanitary conditions at Batković were poor and detainees were given little food or water.<sup>688</sup> The detainees were beaten by Serb guards. Three detainees were beaten to death while one detainee was shot dead.<sup>689</sup> Ten detainees were singled out for especially harsh treatment. They were beaten three times a day, forced to beat each other, and repeatedly forced to engage in degrading sexual acts with each other in the presence of other detainees.<sup>690</sup> Detainees at Batković were forced to perform manual labour daily, including digging trenches and carrying munitions at the front line, burying bodies, working in fields and factories, and assisting in the construction of an airport near Bijeljina.<sup>691</sup> In late August or September 1992, when representatives of the ICRC visited Batković, the youngest and oldest prisoners, together with the most badly beaten detainees, were temporarily removed from the camp.<sup>692</sup> Conditions at Batković improved after the ICRC began to visit the facility.<sup>693</sup>

305. In addition to the Batković camp, Serb authorities detained mostly Croat and Muslim civilians in six detention centres in Bijeljina municipality, namely the Bijeljina agricultural school [C2.1], KP Dom Bijeljina [C2.3], the Bijeljina SUP [C2.4], the Bijeljina sugar factory [C2.9], a fortified castle [C2.11], and the “4th of July” public utilities building [C2.12].<sup>694</sup> In addition, in July 1992, five Muslims were detained in a slaughterhouse in Bijeljina which Witness Davidović referred to as “Mauzer’s private jail”. Ljubiša (Mauzer) Savić was a leading SDS figure in Bijeljina and commander of the Serb (National) Guard paramilitary unit. In “Mauzer’s private jail”, the detainees were kept in a refrigerated room, one of them hanging from a freezer hook. The five Muslims were subsequently freed, after the intervention of Witness Davidović.<sup>695</sup>

<sup>687</sup> Kuralić, T. 12568-72; P642 (Kuralić statement), paras 31-3; P880 (Report of the CSCE mission, 29 September 1992), pp. 32, 40, 42.

<sup>688</sup> Witness 18, T. 726-8; Osmanović, T. 5241-2.

<sup>689</sup> P710.A (Elvir Pašić transcript), pp. 568-9; P710 (Elvir Pašić transcript), p. 449; Witness 18, T. 726-8; Osmanović, T. 5244, 5247, 5272-5; P265 (Osmanović statement), paras 54-60; D26 (Osmanović statement), p. 1; P524 (Ferhatović transcript), pp. 488-92.

<sup>690</sup> Kuralić, T. 12569-71, P642 (Kuralić witness statement), p. 8.

<sup>691</sup> Osmanović, T. 5242-3; D26 (Osmanović statement), p. 1; P710.A (Elvir Pašić transcript), p. 570; P710 (Elvir Pašić transcript), pp. 449, 450; P524 (Ferhatović transcript), pp. 488-92.

<sup>692</sup> Kuralić, T. 12572-4; P710.A (Elvir Pašić transcript), p. 571; P710 (Elvir Pašić transcript), p. 450.

<sup>693</sup> P524 (Ferhatović transcript), pp. 491-2.

<sup>694</sup> Malešević, T. 16118-20, 16136-9, 16140-1.

<sup>695</sup> Davidović, T. 14268-9; P764 (Davidović statement), p. 23; P773 (Inspection report), 7 July 1992.

306. In the months following the take-over of Bijeljina, paramilitary groups in the municipality, together with members of the local MUP, engaged in criminal activities on a massive scale.<sup>696</sup> Muslim residents of Bijeljina, as well as some Serbs, were terrorized by these groups through killings, rapes, house searches, and looting. During the summer of 1992, two mosques in Bijeljina municipality were damaged or destroyed [D1.1].<sup>697</sup> Both Muslims and Serbs were leaving Bijeljina as a result of this pressure and terrorization.<sup>698</sup> On 15 June 1992, Mauzer stated that the presidency of SAO Semberija-Majevica had decided to replace Muslims in managerial positions in Bijeljina, and should “the genocide against the Serbian people” in Bosnia-Herzegovina continue, all Muslims would be fired from their jobs and expelled from the territory. Mauzer also stated that the 2,500 Muslims aged between 18 and 35 who had fled Bijeljina in the aftermath of the Serb take-over would lose their jobs, and their apartments would be seized and sealed, and he advised them not to return.<sup>699</sup>

307. From at least July 1992, Muslims in Bijeljina were targeted by an organized campaign of looting and expulsion. The Bijeljina SDS compiled a list of names of wealthy Muslims. Aided by Mauzer’s men, Vojkan Đurković of the Bijeljina SDS paid visits to those on the list in order to extort property from them. Some of these Muslims initially paid to be able to stay in Bijeljina. Others were detained immediately, stripped of their valuables, and transferred to “no-man’s land” between the warring factions, where they remained, sometimes for days, before being able to cross into Muslim-controlled territory. The abandoned Muslim houses were looted, and then allocated by Đurković to Serbs upon payment of a fee.<sup>700</sup>

308. The Bijeljina SDS was determined to rid the municipality of its remaining Muslims. The plan was to kill a Muslim family on each side of town to create an atmosphere of fear. This plan was implemented in September 1992 by Duško Malović’s special police unit, at the instigation of Drago Vuković, an employee of the local MUP and a member of the Bijeljina crisis staff. At the same time, the Serb municipal assembly passed a decision that Muslims who refused to be mobilized would be fired, have their electricity, water, and

<sup>696</sup> P777 (Report on activities of Bosnian-Serb MUP, 29 July 1992); Davidović, T. 15294-6; P764 (Davidović statement), pp. 19-20.

<sup>697</sup> P732 (Riedlmayer report), Appendix 2.1.

<sup>698</sup> P777 (Report on activities of Bosnian-Serb MUP, 29 July 1992), pp. 2-4; P857 (Tokača report); P732 (Riedlmayer report), Appendix 2.1.

<sup>699</sup> P727, tab 11 (TV interview with Ljubiša (Mauzer) Savić, 1 July 1992), p. 3; Davidović, T. 14314-15; P764 (Davidović statement), p. 37

telephone services cut off, and be required to report for work detail. Prominent Muslims were humiliated by being forced to perform menial tasks, and those who refused were taken to Batković camp or expelled from the municipality. The SDS operation caused large numbers of Muslims to flee Bijeljina.<sup>701</sup>

309. The Chamber concludes that at least 52 persons of mainly Muslim ethnicity were killed by Serb forces in Bijeljina municipality in April-September 1992. After the take-over of Bijeljina in early April, paramilitary groups, in particular Arkan's men, terrorized mainly Muslims through killings, rapes, house searches, and looting. During the summer of 1992, two mosques in Bijeljina town were damaged or destroyed. From at least July 1992, Muslims in Bijeljina were targeted by an organized campaign of looting and expulsion. Many Muslims were transferred out of the municipality and from there fled to Muslim-controlled territory. Serbs also detained Muslim and some Croat civilians in nine detention centres in the Bijeljina municipality under harsh conditions. In the Batković camp, detainees originated from a large number of different municipalities, and were subjected to forced labour at the front lines. In September 1992, the Bijeljina SDS implemented a plan to expel the remaining Muslim population. The Chamber finds that large numbers of Muslims left the municipality out of fear.

#### 4.2.2 Bratunac

310. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bratunac municipality was 21,535 (64 per cent) Muslims, 11,475 (34 per cent) Serbs, 40 Croats, 223 Yugoslavs, and 346 persons of other or unknown ethnicity.<sup>702</sup>

311. In early April 1992, Muslim police officers in Bratunac municipality were forced to turn over their firearms, and on 9 April Serbs established their own police force displaying the insignia of the Bosnian-Serb Republic.<sup>703</sup> Thereafter, Bratunac Serbs set up barricades and checkpoints, and carried out attacks with firearms and explosives. Two coffee bars, one owned by a Muslim and the other owned by a Croat were blown up.<sup>704</sup> On 16 April, the TO in Bratunac was mobilized and in the following days, Arkan's and Šešelj's

<sup>700</sup> Davidović, T. 14227-9, 14232-5, 14317; P764 (Davidović statement), pp. 17, 19, 21-2, 32, 39.

<sup>701</sup> Davidović, T. 14228, 14314-17, 15268; P764 (Davidović statement), pp. 32, 36-9.

<sup>702</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 72-5.

<sup>703</sup> Hasanović, T. 2458-9, 2480; P72 (Hasanović statement), p. 5; P482 (Bećirević statement), p. 6; P481 (Dubčić statement), para. 24; Dubčić, T. 779-80.

paramilitary units, and a JNA unit under the command of Captain Reljić, arrived in the municipality.<sup>705</sup> While the JNA and TO began disarming Muslim villagers throughout the municipality, including the majority-Muslim villages Podčauš and Suha, the paramilitaries harassed locals and pillaged abandoned Muslim homes.<sup>706</sup> Most of the Muslim leadership left Bratunac municipality for Srebrenica after receiving threats from these Serb paramilitary units. This effectively surrendered Bratunac to Serb control.<sup>707</sup>

312. Serb authorities issued a 29 April deadline by which non-Serbs, almost exclusively Muslims, had to sign oaths of loyalty to Serb rule in the municipality. Most Muslims had left Bratunac municipality by that date. Serb soldiers looted the abandoned Muslim properties.<sup>708</sup>

313. On 1 May 1992, the Bratunac crisis staff ordered that all paramilitaries and “illegal citizens” cease activity and leave the municipality within one week. The paramilitary units, however, did not leave. It further declared that only JNA and TO units had the right to deal with military issues and perform duties in the state of war that had been declared in the territory.<sup>709</sup> Two days later, the Serb TO surrounded the Muslim village of Hranča and torched 43 houses. Over the following week, they attacked and arrested the remaining residents of the village. They captured nine villagers, and killed four of them, including a six-year-old girl. On 9 May, members of the same TO shot eight Muslim neighbours of Witness Ibišević. On 11 May, the Serb TO of Bratunac brought approximately 250 of Hranča’s inhabitants to the municipal hall of Bratunac. From there, approximately 60 men, including Witness Ibišević, were taken to the Vuk Karadžić school [C7.4].<sup>710</sup>

314. On 8 May 1992, during a Muslim attack against Serb paramilitaries in Potočari, Goran Zekić, a prominent SDS main board member visiting from Srebrenica, was killed. The Bratunac crisis staff met the same day and planned to attack the Muslim village of Glogova the next morning, and to forcibly transfer the population to Muslim-controlled

<sup>704</sup> P481 (Dubičić statement), para. 24, 26; Dubičić, T. 779-80.

<sup>705</sup> P72 (Hasanović statement), pp. 4-7; P53 (Decision of Bosnian-Serb Presidency, 15 April 1992), p. 2; P54 (Bratunac crisis staff mobilization order, 16 April 1992), p. 1; P481 (Dubičić statement), paras 28-9; P482 (Bećirević statement), p. 6; P485 (Ibišević statement), p. 4; P515 (Gušić statement), p. 6; P515.B (Gušić transcript), p. 20114; Deronjić, T. 1023-4, 1032-3, 1037-9, 1045-6.

<sup>706</sup> Deronjić, T. 1037-8, 1046-50, 1196-7; Hasanović, T. 2373-4; P72 (Hasanović statement), pp. 7-8.

<sup>707</sup> Dubičić, T. 803-6; P481 (Dubičić statement), paras 28-31; Deronjić, T. 1033-4, 1036, 1202; P485 (Ibišević statement), p. 5.

<sup>708</sup> Hasanović, T. 2372-3; P72 (Hasanović statement), p. 7.

<sup>709</sup> Deronjić, T. 1044-6; P56 (Bratunac crisis staff order, 1 May 1992); P57 (Bratunac crisis staff order, 6 May 1992).

<sup>710</sup> P485 (Ibišević statement), pp. 1, 3-5; P857 (Tokača report).

Kladanj municipality. On 9 May, JNA forces and Serb TO units surrounded Glogova. There was no armed resistance to the Serb advance because the village had already been disarmed on 25 April. Approximately 65 inhabitants of Glogova were killed during the operation [A4.1]. The remaining Muslims were taken into Serb custody, and most of the buildings in the village were then burned.<sup>711</sup> Also on 9 May, Serb forces set fire to houses in the Muslim villages of Cerivac and Polje in Bratunac municipality.<sup>712</sup> The following day, Serb soldiers attacked the Muslim villages of Suha and Mihaljevići, near the town of Bratunac. Male villagers were arrested and taken to the Vuk Karadžić school [C7.4], while women and children were taken to the Bratunac football stadium [C7.2, C7.5].<sup>713</sup>

315. On 10 May 1992, Serb paramilitaries also attacked Krasan Polje, near Vitkovići in Bratunac municipality.<sup>714</sup> On that day, over 500 Muslim men from villages in Bratunac were detained in the Vuk Karadžić School. Detainees were severely mistreated and beaten repeatedly. Dozens were killed by armed Serb locals and member of paramilitary groups. Witness Hasanović, who was detained at the school from 10-13 May, saw how, on one occasion, three guards forced all detainees to huddle in a section of the sports hall, resulting in seven or eight men suffocating to death. Several men were taken out by the guards and killed. On another occasion, the witness was ordered to carry the body of a detainee to a hangar, where he saw a large pile of bodies. In total, Witness Hasanović saw about 50 detainees beaten or shot to death by the guards in the sports hall [B3.1].<sup>715</sup> About 400 detainees were to be exchanged for Serb prisoners in Pale, among them Witness Ibišević who was detained at Vuk Karadžić school from 11 to 14 May.<sup>716</sup>

316. Around 5,000 Muslims who had been forcibly removed from their homes were detained at the Bratunac football stadium [C7.2, C7.5]. Armed Serbs forced the Muslims to surrender their valuables, after which the women and children were separated from the men, placed in buses, and transported out of the municipality.<sup>717</sup>

<sup>711</sup> Deronjić, T. 1055, 1065-6, 1071, 1074-80, 1200; P483 (Witness 128 statement), pp. 5-7; P857 (Tokača report).

<sup>712</sup> P485 (Ibišević statement), p. 3.

<sup>713</sup> Hasanović, T. 2374-5; P72 (Hasanović statement), p. 8; Malešević, T. 16122.

<sup>714</sup> Džafić, T. 744-745, 760; P484 (Džafić statement), p. 3; P484.B (Džafić transcript), p. 23222; P484.D (Džafić statement), p. 2; Deronjić, T. 1081-3.

<sup>715</sup> Deronjić, T. 1083-4, 1101-7; P483 (Witness 128 statement), p. 7; P485 (Ibišević statement), pp. 5-6; P485 (Ibišević statement), pp. 2, 5; Hasanović, T. 2372, 2378-84, 2386, 2388, 2390-5, 2398-405, 2407-18, 2468-9, 2483-4; P73 (Map of Bratunac town); P72 (Hasanović statement), pp. 9-16; P857 (Tokača report, no date).

<sup>716</sup> P485 (Ibišević statement), pp. 2, 5-6; P61 (400 Muslims taken from Bratunac to Pale).

<sup>717</sup> Hasanović, T. 2385-6, 2435; P72 (Hasanović statement), p. 11; Malešević, T. 16122.

317. On 17 May 1992, police chief Vidoje Radović demanded that all Muslims in the village of Vitkovići hand in their weapons. Armed local Serbs dressed in camouflage uniform surrounded the village. The next day, soldiers from the Novi Sad Corps entered the village and told the Muslims to gather in the streets at noon with their belongings, to be taken to Tuzla. Around noon, two buses arrived escorted by armed paramilitary units. Witness Džafić and his fellow villagers were taken to the Bratunac football field [C7.2, C7.5]. They were later placed on buses and sent to Vlasenica municipality, where they were detained under the guard of additional armed Serb paramilitaries, including members of Arkan's men and the White Eagles.<sup>718</sup> Also on 17 May, Serbs shelled the Muslim settlement of Koljević Polje, near Hrnčići, and attacked it on 27 May.

318. Four Muslim monuments in Bratunac municipality were heavily damaged or completely destroyed between April and June 1992, including the mosque in Bratunac town and the mosque in Glogova, which was demolished with explosives during the 9 May attack [D5.1, D5.2].<sup>719</sup>

319. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim civilians in three detention centres in Bratunac municipality in 1992, namely the Bratunac town police station [C7.3], the warehouse [C7.6], and the basement of the "Express" restaurant [C7.9].<sup>720</sup>

320. The Chamber concludes that Serb forces killed, in total, over 134 Muslims in Bratunac municipality in May 1992. During attacks on Muslim villages, including Glogova, Serb forces deliberately torched and destroyed Muslim houses and mosques. Muslim civilians were detained in five detention centres in the municipality, over 500 in the Vuk Karadžić school, and over 5,000 on the Bratunac football field in May 1992. The detainees were severely mistreated, and some were killed by local Serbs and members of Serb paramilitary units. From mid-May on, detainees held at the Bratunac football field were forced on buses and sent to Vlasenica municipality. The Chamber finds that already between 10 and 29 April 1992, much of the Muslim population left the municipality due to threats by Serb paramilitary forces.

<sup>718</sup> Džafić, T. 762; P484 (Džafić statement), pp. 3-4; P484.B (Džafić transcript), pp. 23215-42, 23252; P484.D (Džafić statement), p. 2; Malešević, T. 16122.

<sup>719</sup> P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), p. 23813; Deronjić, T. 1078, 1080-1.

## 4.2.3 Brčko

321. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Brčko municipality was 38,617 (44 per cent) Muslims, 22,252 (25 per cent) Croats, 18,128 (20 per cent) Serbs, 5,731 Yugoslavs, and 2,899 persons of other or unknown ethnicity.<sup>721</sup>

322. In February 1992, Brčko SDS officials began to call openly for the division of the municipality along ethnic lines. Milenko Vojnović (Dr Beli) explained to leading Muslims that, on the orders from Radovan Karadžić and other senior SDS officials, local SDS members were seeking to establish a Serb autonomous entity in Brčko encompassing 70 per cent of Brčko town. He warned that the division would be carried out by force if necessary.<sup>722</sup> Maps began to appear in Brčko town showing the division proposed by the SDS.<sup>723</sup> On 17 April, hoping to avoid bloodshed, SDA members of the Brčko municipal assembly accepted the SDS proposal for physical division of Brčko town.<sup>724</sup>

323. Already in February 1992, the JNA began preparations for military operations in Brčko. In February or March, the JNA distributed weapons to Serb villagers and erected checkpoints on major roads around Brčko town.<sup>725</sup> In April, JNA heavy vehicles were seen in Brčko town. The JNA dug trenches and set up machine-gun nests.<sup>726</sup> By the end of April, it had moved artillery, weapons and ammunition stores, out of Brčko town and into neighbouring Serb villages. During this period, local Serbs were mobilized, with a total of 3,400 Serbs joining military units. The policy was to place conscripts under the command of the Brčko JNA garrison, and to have the garrison lead all war operations in order to prevent local Serbs from forming paramilitary groups. The Brčko crisis staff met daily with local Serbs and told them that they were under threat from the Muslims.<sup>727</sup>

<sup>720</sup> Malešević, T. 16121-2, 16136-41.

<sup>721</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 76-9.

<sup>722</sup> P22 (Brčko war presidency situation report, May 1992), p. 3; P23 (Transcript of television documentary, 4 February 1998), pp. 5-6; Ramić: T. 2229; P513.G (Ramić transcript), pp. 26203, 26219; P513.A (Ramić statement), p. 6; P513.E (Ramić transcript), p. 1730; P513.F (Ramić transcript), pp. 1856-8; Gaši, T. 407-8, 506, 514; Maričić, T. 21772.

<sup>723</sup> Gaši, T. 408-10.

<sup>724</sup> P513.A (Ramić statement), p. 6; P513.E (Ramić transcript), p. 1731.

<sup>725</sup> Ramić, T. 2229; P513.A (Ramić statement), p. 6; P513.G (Ramić transcript), p. 26207; P513.E (Ramić transcript), pp. 1769-70; Maričić, T. 21696-7, 21702-3.

<sup>726</sup> Ramić, T. 2272; P513.E (Ramić transcript), p. 1728; P513.G (Ramić transcript), p. 26199.

<sup>727</sup> P22 (Brčko war presidency report, May 1992), pp. 1-2; P474 (Witness 212 statement), p. 1.

324. On 30 April 1992, the two bridges crossing the Sava river and linking Brčko town to Croatia were blown up.<sup>728</sup> The Chamber is convinced that they were blown up by Serbs because Serbs were warned beforehand about the operation. On the day of the attack, Witness Maričić, a Serb, for example, was advised to seek shelter and he thus went to Stanovi, six kilometers outside Brčko.<sup>729</sup> On 1 May, a total of 1,000 Serb forces, which included Serb units of the JNA from Bosnia and Serbia, White Eagles, Arkan's men, and others, launched an attack on Brčko town using heavy weapons, tanks and artillery.<sup>730</sup> Areas of the town that were predominantly Muslim were shelled for several days.<sup>731</sup> Large paramilitary groups came from other areas of SAO Semberija-Majeveica, of which Brčko municipality was a part, to participate in operations in Brčko town. The first group was the Serb (National) Guard, established by SAO Semberija-Majeveica and comprised of 600 men under Mauzer's command.<sup>732</sup> Another group was the Serbian Radicals under the command of Mirko Blagojević.<sup>733</sup> Blagojević's group put itself at the disposal of the Brčko war presidency and cooperated with local JNA officers, including Pavle Milinković (commander of the Brčko garrison), and Captain Šehovac.<sup>734</sup> Other formations present in Brčko at the time of the attack included a TO battalion from Bijeljina sent by the presidency of SAO Semberija-Majeveica.<sup>735</sup>

325. The attack on Brčko was initially met with armed resistance from groups using light infantry weapons.<sup>736</sup> Serb forces, however, quickly took control of the town.<sup>737</sup> On 2 May 1992, the TO from neighbouring Bijeljina took control of the Brčko SJB. The war presidency appointed Dragan Veselić as chief of police and began re-staffing the SJB with

<sup>728</sup> P22 (Brčko war presidency report, May 1992), p. 2; P23 (TV documentary, 4 February 1998); P727, tab 5 (Report on situation in Brčko SJB, 2 May 1992), p. 1; Ramić, T. 2230; P513 (Ramić statement), p. 5; P513.E (Ramić transcript), pp. 1733, 1735-6; P513.G (Ramić transcript), p. 26246; Gaši, T. 411-13; Witness 19, T. 675; P472 (Witness 18 statement), p. 1.

<sup>729</sup> Maričić, T. 21719, 21817-18.

<sup>730</sup> Ramić, T. 2263; Gaši, T. 417-22, 485, 545; P477 (Witness 215 statement), p. 2; Witness 18, T. 669, 722; P22 (Brčko war presidency report, May 1992), pp. 3-4; P23 (TV documentary, 4 February 1998), p. 7.

<sup>731</sup> P514.B (Fadil Redžić transcript), pp. 781-2; P514 (Fadil Redžić statement), p. 5.

<sup>732</sup> P727, tab 7 (TV interview with Ljubiša (Mauzer) Savić, 1 July 1992), pp. 1-2; P727, tab 9 (Order from Eastern Bosnia Corps, 3 June 1992).

<sup>733</sup> P22 (Brčko war presidency report, May 1992), p. 3.

<sup>734</sup> P727, tab 3 (Interview with Mirko Blagojević, 1995), pp. 13-14.

<sup>735</sup> P727, tab 6 (Report from Bijeljina CSB, 7 May 1992).

<sup>736</sup> Ramić, T. 2259-60; Witness 18, T. 710-11, 714-15; P514.B (Fadil Redžić transcript), 781-2; P514 (Fadil Redžić statement), pp. 4-5; Maričić, T. 21712.

<sup>737</sup> P727, tab 3 (Interview with Mirko Blagojević, 1995), p. 14; P727, tab 8 (Report from Bijeljina CSB, 19 May 1992); Witness 18, T. 675; P472 (Witness 18 statement), p. 1.

Serb members of the pre-war police force.<sup>738</sup> On 4 May, a group of soldiers led by Mauzer arrived at the Brčko hospital, where 40 to 50 Muslim civilians had sought refuge. Mauzer told those present that Brčko town was now under his occupation. He interrogated and beat some of the hospital personnel. Later they were brought to Luka camp [C8.7].<sup>739</sup>

326. In the days following the occupation of Brčko, a number of civilians, mostly of Muslim ethnicity, were killed, beaten, or otherwise abused by Serb forces. On 4 May 1992, Muslim firemen who had been detained at the fire station by JNA soldiers [C8.1] were beaten by Blagojević and taken to the SUP building where they saw other detainees covered in blood.<sup>740</sup> Another 30 men, mostly Muslim, were taken to the SUP building by Serb soldiers,<sup>741</sup> and approximately 26 men were detained at the Posavina hotel [C8.8]. Several detainees at the hotel were beaten by Goran Jelisić, and three were subsequently killed, two by Jelisić himself. The bodies of another four recently dead men dressed in civilian clothes were seen outside the hotel [A5.1].<sup>742</sup> The Chamber is not in a position to assess circumstances surrounding the deaths of these four men.

327. On 7 May 1992, there were a number of incidents where police and soldiers executed approximately twelve unarmed civilians in Brčko town, in the vicinity of the police station [A5.3].<sup>743</sup> On the same day, at least six Muslim men who had been hiding in Mujkići, a part of Brčko town, were shot dead by Mauzer and soldiers presenting themselves as Šešelj's men. On 7 May, the dead bodies of men, women, and children from Mujkići were seen on the ground outside their homes [A5.2].<sup>744</sup> On 10 May, one of the workers detained at the fire station was shot on the orders of JNA Captain Šehovac. Detainees were told that anyone not on the Serb side would face the same fate.<sup>745</sup> On 21 June, a group of armed men in uniform identifying themselves as police beat and shot dead an elderly Muslim woman in her home [A5.5]. Ranko Češić, a local Serb, then sexually abused the woman's granddaughter.<sup>746</sup>

<sup>738</sup> P22 (Brčko war presidency report, May 1992), p. 3; P727, tab 5 (Report on situation in Brčko SJB, 2 May 1992), p. 1.

<sup>739</sup> Witness 224, T. 573-9, 602-3.

<sup>740</sup> Fazlović, T. 2294-7, 2301-5, 2316, 2318, 2355-6; P71 (Jasmin Fazlović statement), paras 3, 5, 7, 9-10, 44; P857 (Tokača report).

<sup>741</sup> Witness 18, T. 675, 723; P472 (Witness 18 statement), pp. 1-2.

<sup>742</sup> P472 (Witness 18 statement), pp. 1-4; P857 (Tokača report).

<sup>743</sup> Gaši, T. 423-34; P3-P8 (Photographs); D2 (Gaši statement), pp. 2-3.

<sup>744</sup> P477 (Witness 215 statement), pp. 2-4; P857 (Tokača report).

<sup>745</sup> Fazlović, T. 2306-7; P71 (Jasmin Fazlović statement), para. 15.

<sup>746</sup> P480 (Witness 436 statement), pp. 3-6.

328. From 3 May 1992 onwards, Muslim and Croat men, women, and children were systematically detained in various locations in Brčko municipality. Češić told Witness Fazlović that his unit was cleansing sections of the town by taking people to the JNA barracks or to Luka camp [C8.3] under the alleged reason of protecting them.<sup>747</sup> Other Muslim civilians were temporarily detained by Mauzer's unit at Brčko hospital [C8.2].<sup>748</sup>

329. On 3 May 1992, approximately 200 persons were detained at the Kolobara mosque [C8.4] by soldiers in JNA uniform, Arkan's men, and the White Eagles. Prominent SDA members, those suspected of belonging to the SDA, and religious leaders, were specifically singled out by the soldiers for beatings. However, interrogations and beatings were not limited to Muslims, since Croats, and even Serbs who were not adhering to SDS policy, were subject to the same treatment. One of Arkan's men shot and killed Zikret Suljić, a detainee, who tried to escape.<sup>749</sup>

330. From 5 to 7 May 1992, a total of 200 Muslim and Croat men, women, and children were detained by local Serbs wearing uniforms at the Laser Bus Company in Brčko [C8.3].<sup>750</sup> Goran Jelisić told the detainees on 6 May that he had already killed 80 Muslims and was going to kill them, too.<sup>751</sup>

331. From 8 May until at least 17 June 1992, Serb forces detained Muslim men, women, and children in the village of Brezovo Polje [C8.6]. On 9 June, ten of those detainees were taken to the front lines at Begovača and forced to dig trenches.<sup>752</sup>

332. From 6 May until at least October 1992, non-Serb men were detained at the Brčko army barracks [C8.5]. Early in that period, women and children were also held at the barracks.<sup>753</sup> At least seven detainees were killed, including one detainee shot by Goran Jelisić while on work detail on or about 7 May.<sup>754</sup>

<sup>747</sup> Fazlović, T. 2310-11, 2354; P71 (Jasmin Fazlović statement), paras 23-5.

<sup>748</sup> P514.B (Fadil Redžić transcript), pp. 786-7; P514 (Fadil Redžić statement), pp. 4, 6.

<sup>749</sup> P475 (Witness 213 transcript), pp. 1115-17; P475.A (Witness 213 transcript), pp. 1139, 1142, 1158-61, 1166-8, 1171, 1190-2.

<sup>750</sup> P476 (Witness 220 transcript), pp. 163-4; P474.A (Witness 212 transcript), pp. 1555-6, 1572-4; P474 (Witness 212 statement), p. 3; P857 (Tokača report).

<sup>751</sup> P474.A (Witness 212 transcript), pp. 1556, 1574; P474 (Witness 212 statement), p. 3; P857 (Tokača report).

<sup>752</sup> P514.B (Fadil Redžić transcript), pp. 786-92, 794; P514 (Fadil Redžić statement), pp. 4, 6-7, 9.

<sup>753</sup> P478 (Witness 219 transcript), pp. 1691-3, 1702.

<sup>754</sup> P475.A (Witness 213 transcript), pp. 1133-8; P478 (Witness 219 transcript), pp. 1683-8, 1694-6; P857 (Tokača report).

333. From 4 May until at least August 1992, many non-Serbs from Brčko municipality were taken to Luka camp and detained in a hangar in crowded, unsanitary conditions [C8.7]. In early May, a large number of Muslim and Croat women, children, and elderly persons were transferred out of Brčko municipality to Čelić, a predominantly Muslim village in the neighbouring municipality of Lopare. Military-aged men were placed in detention at Luka camp.<sup>755</sup> Many of the detainees transferred to Luka camp came from other temporary detention facilities.<sup>756</sup> Between 27 May and 7 June, there were 100 to 200 detainees at Luka camp, consisting of mostly Muslim men aged between 20 and 60.<sup>757</sup> Jelisić was initially in charge of the camp.<sup>758</sup> Sometime in late May or June, he was replaced by Kosta (Kole) Simonović, a local Serb police officer.<sup>759</sup> Detainees at Luka camp were subjected to systematic abuse by Serb guards, particularly by Jelisić and Ranko Češić.<sup>760</sup> Detainees were frequently beaten<sup>761</sup> and some female detainees were raped.<sup>762</sup> When Witness 224 was raped by Češić, he said that it was a “pleasure to have one more balija woman to rape.”<sup>763</sup>

334. On numerous occasions, groups of detainees were taken out of the hangar and summarily executed, some of whom were shot by Jelisić personally. At least nine detainees were killed in this manner. On 9 May 1992, Jelisić brought Stjepo Glavočević, a Muslim, into the hangar, while he was holding the man’s cut-off ear. He then struck Glavočević with a sabre, killing him [B4.1].<sup>764</sup> Other detainees were forced to help dispose of the

<sup>755</sup> P474.A (Witness 212 transcript), pp. 1555-6, 1572-4; P474 (Witness 212 statement), p. 3.

<sup>756</sup> P473 (Witness 43 transcript), pp. 53-5, 65; P474.A (Witness 212 transcript), pp. 1555, 1558, 1572-3, 1605; P474 (Witness 212 statement), pp. 3-6; P476 (Witness 220 transcript), pp. 163-4; Witness 224, T. 562, 578-9, 616; P514.B (Fadil Redžić transcript), p. 792; Gaši, T. 451, 455, 459.

<sup>757</sup> Gaši, T. 451-4, 503; P21 (Map of Brčko, no date); P514.B (Fadil Redžić transcript), pp. 792-3; P514 (Fadil Redžić statement), p. 8; P476.A (Witness 220 transcript), pp. 210-11, 251.

<sup>758</sup> P479 (Witness 214 transcript), pp. 1936-7, 1941, 1945, 1947; P479.A (Witness 214 transcript), pp. 1952, 2010, 2053-4, 2058; Witness 224, T. 640.

<sup>759</sup> P514 (Fadil Redžić statement), p. 8; P514.B (Fadil Redžić transcript), p. 792; P473 (Witness 43 transcript), pp. 70-1; P473.A (Witness 43 transcript), pp. 124, 130-1; Gaši, T. 470.

<sup>760</sup> Witness 224, T. 586-8, 605-6, 608, 611.

<sup>761</sup> P473 (Witness 43 transcript), pp. 56, 65-6; Witness 224, T. 614; Gaši, T. 444, 456, 458, 468-9, 487-9, 527-30; D2 (Gaši statement), p. 5; P476 (Witness 220 transcript), pp. 184-5; P476.A (Witness 220 transcript), pp. 228-9, 230, 232.

<sup>762</sup> Witness 224, T. 596, 609, 613, 618; Fazlović, T. 2310-2; P71 (Jasmin Fazlović statement), paras 24-6.

<sup>763</sup> Witness 224, T. 596.

<sup>764</sup> P474.A (Witness 212 transcript), pp. 1558, 1561-3, 1565, 1592-3, 1605; P474 (Witness 212 statement), pp. 4-6; P476 (Witness 220 transcript), pp. 168-9, 171-3; P476.A (Witness 220 transcript), pp. 211-12, 225; P473 (Witness 43 transcript), pp. 65-70; P473.A (Witness 43 transcript), pp. 81, 113; P479.A (Witness 214 transcript), pp. 1954-6, 1964, 2048; Gaši, T. 461; P857 (Tokača report).

bodies, which included dumping them into a canal or the Sava river.<sup>765</sup> Jelisić, who called himself the “Serb Adolf Hitler”, told detainees he had a duty to eradicate Muslims, sometimes bragging about the number of people he had killed. While at the camp, one detainee saw a document entitled “People to be executed”, which listed approximately 50 prominent, educated, or wealthy Muslims and Croats.<sup>766</sup> Some of the bodies of those killed in Brčko municipality, including those killed in Luka camp, were buried in pits and covered with rubble from demolished mosques.<sup>767</sup>

335. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim and Croat civilians in five detention facilities in the municipality in 1992, namely the Vestfalija restaurant [C8.11], the football stadium [C8.12], Lončari elementary school [C8.13], DTV Partizan [C8.14], and the Pelagićevo farm cooperative shop [C8.15].<sup>768</sup>

336. In June or July 1992, the three mosques in the centre of Brčko town were destroyed within minutes of each other [D6.1, D6.2, D6.3]. Soldiers seen near one of the mosques expressed satisfaction at the mosque’s destruction.<sup>769</sup> One soldier told firemen not to put out the fire in the mosque.<sup>770</sup> Likewise, firemen were prevented from extinguishing fire in Muslim houses, unless they were close to Serb houses.<sup>771</sup> In the course of 1992, another ten Muslim and Catholic monuments in the municipality were either heavily damaged or completely destroyed by explosives or shelling.<sup>772</sup>

337. The Chamber concludes that over 41 Muslims were killed by Serb forces in Brčko municipality in May-June 1992. Serb forces mainly consisting of paramilitary groups quickly took control of Brčko town in early May 1992. They specifically targeted Muslim parts of the town and destroyed several mosques in the municipality. From 3 May onwards, Serbs systematically detained mostly Muslim and Croat civilians in fourteen locations in Brčko municipality in harsh conditions. They beat the detainees on a regular basis. Some detainees were forced to dig trenches on the front lines. In late May-early June, there were

<sup>765</sup> P474.A (Witness 212 transcript), pp. 1559-60, 1563-4; P474 (Witness 212 statement), pp. 5-6; P476 (Witness 220 transcript), pp. 172, 181-2; P473 (Witness 43 transcript), p. 69; P473.A (Witness 43 transcript), pp. 79-81, 113, 156; Gaši, T. 464-8.

<sup>766</sup> Witness 224, T. 604-5, 612; P474.A (Witness 212 transcript), p. 1565; P474 (Witness 212 statement), p. 6; P479.A (Witness 214 transcript), pp. 1964, 2048; Gaši, T. 455-6, 458; P857 (Tokača report).

<sup>767</sup> P727, tab 4 (Report from East Bosnia Corps intelligence service, 29 September 1992).

<sup>768</sup> Malešević, T. 16122-3, 16136-41; P474.A (Witness 212 transcript), pp. 1555-6, 1572-4; P474 (Witness 212 statement), p. 3.

<sup>769</sup> Witness 224, T. 620-1; Fazlović, T. 2312-15; P71 (Jasmin Fazlović statement), para. 36.

<sup>770</sup> Fazlović, T. 2313, 2322-8; P71 (Jasmin Fazlović statement), paras 36-7.

<sup>771</sup> Fazlović, T. 2295-6.

<sup>772</sup> P732 (Riedlmayer Report), Appendix 2.1; P732.C (Riedlmayer transcript), p. 23800.

100 to 200 detainees at Luka camp who were systematically abused by Serb guards, in particular by Goran Jelisić and Ranko Češić. A large number of Muslim and Croat women, children, and elderly persons were transferred out of Brčko municipality to the neighbouring municipality of Lopare.

#### 4.2.4 Doboj

338. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition in Doboj municipality was 41,164 (40 per cent) Muslims, 39,820 (39 per cent) Serbs, 13,264 (13 per cent) Croats, 5,765 Yugoslavs, and 2,536 persons of other or unknown ethnicity.<sup>773</sup>

339. In March and April 1992, the JNA set up checkpoints in Doboj town.<sup>774</sup> In late March, at the last session of the Doboj municipal assembly, the president of the Doboj SDS Milan Ninković proposed a division of Doboj town into a Serb and a Muslim-Croat section. SDA members of the assembly disagreed with the division, and left the session in protest. The division was debated again at a meeting attended by Ninković, JNA garrison commander Čazim Hadžić (a Muslim), his deputy Major Stanković, and Borislav Paravac, president of the SDS and of the Serb crisis staff. According to the proposal, all the main municipal facilities and military buildings would be within the Serb-controlled part of the town.<sup>775</sup>

340. A large unit of the White Eagles had entered the municipality around January or February 1992. This paramilitary group consisted of approximately 500 men in olive-drab uniforms that often came to the town's JNA barracks for meals. Just prior to 3 May, this paramilitary group took over an area of Ankare, near Doboj town, and forced the residents to leave. On 3 May, Serb paramilitaries, the JNA, and the police took over Doboj town. The Serb crisis staff took control of the municipality, and all remaining Muslim police officers were arrested. Muslims and Croats were ordered to surrender their weapons. The Serb authorities issued a curfew allowing Muslims and Croats to be outside their homes for only two hours per day, prompting many Muslims and Croats to leave town.<sup>776</sup> Around 10

<sup>773</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 96-9.

<sup>774</sup> P503 (Garić statement), p. 5; Witness 132, T. 12535; P636 (Witness 132 statement), para. 19.

<sup>775</sup> Witness 132, T. 12496, 12503-4.

<sup>776</sup> Witness 132, T. 12482, 12518, 12526-7, 12532, 12537, 12541; P636 (Witness 132 statement), paras 18, 21-4.

May, Šešelj's men intimidated the remaining residents of Doboj town.<sup>777</sup> As a result of the Serb take-over and of rumours of incidents occurring in Bratunac and Bijeljina, thousands of Muslims, Croats, and displaced persons left Doboj town for Tešanj, a Muslim-majority town south of Doboj in Tešanj municipality. Muslims set up a crisis staff there, and established a line of defence to the south of Doboj town to prevent Serbs from taking control over the entire municipality of Doboj.<sup>778</sup>

341. During May and June 1992, 21 Muslim and Catholic monuments in Doboj municipality, including the Trnjak mosque and one other mosque in Doboj town [D9.1, D9.2], the mosque in Gornja Grapska [D9.5], and the Catholic Church in Doboj town [D9.4], were either heavily damaged or completely destroyed through shelling or explosives, or occasionally both.<sup>779</sup>

342. On 20 May 1992, Serb forces sealed off the Muslim town of Dragalovci and set up checkpoints. On 2 June, Serb police officers called the villagers to gather at the town railway station and ordered them to surrender their weapons. Armed Serbs then separated out the male villagers at gunpoint, and Serb police took 26 of these men, including Witness Garić, to Spreča prison in Doboj town [C11.6]. On 3 June, the witness saw four detainees return with severe injuries after being interrogated by Doboj SUP officers at the SUP building [C11.9] across the street from the prison. One of them told the witness that he had been kicked and struck with chair legs and batons over one hundred times. In the prison, detainees were threatened and abused by soldiers wearing red berets and black shirts. Around 12 June, Serbs transferred the detainees to hangars in Doboj town [C11.7]. Witness Garić was detained in a hangar packed with about 400 Muslims and Croats. The hangar was very hot inside and sanitary conditions were poor. The detainees were only allowed out to relieve themselves once a day, and were given little food or water. Around 22 June, the witness and several other detainees were taken in armoured trucks to a discotheque in Usora in Doboj municipality [C11.2]. The Serb guards packed them tightly into the building, together with other detainees already present, and beat them. One elderly man died due to the harsh conditions. Witness Garić was told by other detainees that they had been used as human shields and that some detainees had died [B6.1].<sup>780</sup> The Chamber

<sup>777</sup> P503 (Garić statement), p. 5.

<sup>778</sup> Witness 132, T. 12506, 12515-16, 12536; P636 (Witness 132 statement), para. 24.

<sup>779</sup> P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), pp. 23822, 23824; Witness 132, T. 12519-21.

<sup>780</sup> P503 (Garić statement, 5 August 1999), p.11; P857 (Tokača report, no date); Tokača, T. 15646.

considers that it is not in a position to sufficiently assess the fate of the detainees who were allegedly used as human shields.

343. Around 9 July, Witness Garić was transferred again, this time to a camp at Bare in Doboj municipality [C11.5]. By then, he had lost twelve kilograms. Serb soldiers forced him to herd cattle and pigs for sixteen hours a day. The camp was closed on 15 August 1992.<sup>781</sup>

344. In addition to the facilities mentioned above, Serb authorities detained mainly Muslim and Croat civilians in 21 detention centres in Doboj municipality in 1992, namely the JNA (Milikovac) 4th of July barracks [C11.1, C11.24], Šešlija camp [C11.3], a warehouse in Usora [C11.4, C11.8], the railway station [C11.10], SRC Ozren [C11.11], the high school [C11.12], the tyre factory in Bare [C11.13], the Stanari mine [C11.14], Stanari elementary school [C11.15], the handball stadium [C11.16], Bosanska [C11.17], the Rudanka transmission line factory [C11.18], Kotoroko village [C11.19], Majeвица hangar PD [C11.20], the Putnikovo brdo military premises [C11.21], Seona [C11.22], Grapska elementary school [C11.23], Piperi shop [C11.25], the Ševarlije military barracks [C11.26], and Podnovlje [C11.27].<sup>782</sup>

345. The Chamber concludes that Doboj town was taken over by Serb forces on 3 May 1992. In May and June 1992, Serb authorities in Doboj municipality detained Muslim and Croat civilians in 33 detention centres under cramped and inhumane conditions. The detainees were severely mistreated, and at least one detainee died as a result. Serb authorities restricted the freedom of movement of Muslims and Croats, and Serb paramilitaries terrorized the population in Doboj town. Muslim and Croat monuments were deliberately damaged or destroyed through shelling or explosives. The take-over of Doboj town and the threats and intimidation of Muslims in Doboj prompted many thousands to leave the town for Tešanj.

<sup>781</sup> P503 (Garić statement), pp. 5-11; Witness 132, T. 12516-17, 12519.

<sup>782</sup> Malešević, T. 16123-4, 16136-9, 16140-1; Witness 132, T. 12516-17, 12519; P636 (Witness 132 statement), para. 25.

#### 4.2.5 Vlasenica

346. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Vlasenica municipality was: 18,727 (55 per cent) Muslims, 14,359 (42 per cent) Serbs, 39 Croats, 340 Yugoslavs, and 477 persons of other or unknown ethnicity.<sup>783</sup>

347. From late 1991 and up to May 1992, Muslims working in state-owned companies and other public services in Vlasenica municipality were dismissed from their jobs.<sup>784</sup> Muslim shopkeepers feared keeping their businesses open, and Muslim workers of the local bauxite company stopped being paid, while their Serb colleagues continued to receive salaries.<sup>785</sup>

348. A large number of soldiers and reservists were present in the municipality,<sup>786</sup> and during the first days of April 1992, tanks, artillery, and armed vehicles from Milići, Han Pijesak, and Šekovići, were deployed there.<sup>787</sup> Also in the beginning of April 1992, SDS and local Muslims negotiated the division of the municipality into Serb and Muslim parts.<sup>788</sup> During the negotiations, Milenko Stanić, the SDS-appointed president of the municipal assembly of Vlasenica, consulted with Rajko Dukić, president of the SDS executive board. Dukić told Izet Redžić, SDA-appointed president of the executive board of Vlasenica municipality, that he was following orders coming from “higher up”. Redžić also received threats from Tomislav Savkić, the local SDS president that, if the Muslims refused the partition, armed intervention would follow.<sup>789</sup>

349. On or about 23 April 1992, JNA soldiers took over the town of Vlasenica with the assistance of local armed Serbs, by taking control of the municipality premises, the police station, the post office, and the bank.<sup>790</sup> Immediately after that, the seat of the Serb municipality of Vlasenica was moved from Milići to Vlasenica town, and a Serb crisis staff was set up. The crisis staff, under Milenko Stanić, issued passes which Muslims were required to use in order to move around Vlasenica municipality or to travel to other

<sup>783</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 286-91.

<sup>784</sup> Redžić, T. 5028-9.

<sup>785</sup> Osmanović, T. 5211-12.

<sup>786</sup> P525 (Saim statement), pp. 2-3.

<sup>787</sup> Redžić, T. 5039-40.

<sup>788</sup> Savkić, T. 20534-41, 20553-5, 20568-70, 20626-7; P258 (Protocol, 11 April 1992), D140 (Map of Vlasenica, 27 January 2006).

<sup>789</sup> Redžić, T. 5042, 5047-50, 5057, 5053; Savkić, T. 20537-41.

<sup>790</sup> Osmanović, T. 5223-5, 5245, 5253; P265 (Osmanović statement), paras 5-8, P1059 (Report of 1st Vlasenica Light Infantry Brigade, 19 December 1994).

municipalities.<sup>791</sup> Checkpoints were erected under the authority of Dragiša Milaković, an SDS member. The crisis staff ordered Muslims to surrender their weapons to the Serb authorities and introduced work obligations for them.<sup>792</sup>

350. At the beginning of May 1992, the Muslims in Zaklopača, a Muslim-majority village, were asked to hand over their weapons by a Serb delegation led by Milenko Đurić, a manager at the Milići bauxite mines and SDS member. The Muslims did not comply and hid their hunting rifles. On 16 May 1992, four or five army vehicles together with a white police car arrived in Zaklopača. The men in those vehicles were in army and police uniforms and some wore masks. The population tried to flee, but approximately 80 people, mostly men, were shot dead by the Serbs. The soldiers killed a witness' uncle and continued to shoot for about fifteen minutes [A17.2]. The dead bodies were left lying around the village.<sup>793</sup> A group of women and children and one elderly man surrendered to the Serbs on the following day. The Serbs took them to the municipality building in Vlasenica town, where the women had to sign statements giving away their houses and properties to, as one witness put it, "the Serbs". They were then put on a bus and dropped off at a point about ten kilometres outside Kladanj. From there, they walked to Kladanj town.<sup>794</sup>

351. In May and June 1992, a MUP special unit led by Mićo Kraljević, but ultimately under the command of the local crisis staff, conducted two operations, one in Sušica, and another in Gradina and other Muslim hamlets in the municipality, occasionally encountering armed resistance. Their orders were to search for weapons, detain men who surrendered for questioning, kill men trying to escape, and send women and children to Vlasenica town. Some men were arrested, detained at the municipal court house, and then transferred to Sušica camp [C32.6]. During these operations, the unit was explicitly ordered to burn all the houses to prevent the owners from returning, and almost all the Muslim houses in the area were in fact destroyed.<sup>795</sup>

<sup>791</sup> Osmanović, T. 5216-24, 5258-63, 5277-8; P265 (Osmanović statement), paras 4-5, 9-10, 65; P266 (Osmanović statement), paras 7-11; P267 (Pass, no date).

<sup>792</sup> Osmanović, T. 5225, 5263; P265 (Osmanović statement), paras 7-10, 65; P266 (Osmanović statement), para. 16.

<sup>793</sup> P525 (Saim statement), pp. 3-4; Witness 666, T. 15890-2; Redžić, T. 5062, 5104; Savkić, T. 20729-39, 20765-6, 20778-80; P1069 and P1070 (Report of duty officer Milan Bačić, 16 May 1992).

<sup>794</sup> P525 (Saim statement), p. 4.

<sup>795</sup> Witness 666, T. 15864, 15869-78, 15880, 15883-4, 15913-14; P857 (Tokača report).

352. Early in the morning on 2 June 1992, Serb soldiers supported by an APC with a machine gun, attacked the predominantly Muslim hamlet of Drum near the town of Vlasenica. The soldiers moved from house to house firing automatic weapons, and breaking into homes. More than 20 Muslim males were killed in a few minutes. Only three of the male residents of Drum survived the attack. The soldiers took the three male survivors and 20 Muslim women by bus to Sušica camp [A17.1].<sup>796</sup>

353. Sušica camp [C32.6] was established on 31 May 1992 by order of Svetozar Andrić, commander of the Birač Brigade, and pursuant to a decision of the Birač SAO which regulated the moving out of the Muslim population from the territory of Birač.<sup>797</sup> The guards at the camp, under camp warden Veljko Bašić and deputy Vidosav Mladenović, were members of the MUP and VRS. The local MUP and the municipal crisis staff, led by Milenko Stanić, received regular reports on the situation at the camp. The crisis staff made decisions concerning the camp and detainees, such as decisions on release, visits, and exchanges. Approximately 2,000 to 2,500 Muslims of both genders and all ages passed through Sušica camp. The camp remained operational for four months, from June to September 1992.<sup>798</sup> In the first days, over 1,000 persons were detained there. Just a few days later, Serb officials allowed the great majority of the women, more than 800, to leave after they were stripped of their valuables and had signed a declaration that they were leaving the municipality voluntarily.<sup>799</sup> The living conditions in the camp were extremely bad. The detainees performed several types of forced labour, including burial of the men killed in Drum (see above), digging of trenches, and carrying munitions at front lines. They were insufficiently fed, water was very scarce, sanitary conditions were poor, and medical care was not provided.<sup>800</sup> Some time in June 1992, Dragan Nikolić was put in charge of Sušica. He told the detainees that he was “God and the law”, and submitted them to all kinds of mistreatment, including frequent beatings.<sup>801</sup> During this period, nine detainees in the camp were killed by camp guards or died from mistreatment [B19.3].

<sup>796</sup> P523.A (Babić statement), pp. 2-5; P266 (Osmanović statement), para. 15.

<sup>797</sup> P668 (Order by Svetozar Andrić, 31 May 1992).

<sup>798</sup> Witness 666, T. 15863, 15898-9, 15901-3, 15905, 15917-18, 15923-4, 15927-8; P873 (Map of Vlasenica).

<sup>799</sup> P523.A (Mehemed Babić statement), p. 6; P524 (Ferhatović transcript), pp. 461-8; Redžić, T. 5067-70.

<sup>800</sup> Osmanović, T. 5234-6, 5242-3; P265 (Osmanović statement), paras 31-49; D26 (Osmanović statement), p. 1; P524 (Ferhatović transcript), pp. 465-94; P710 (Elvir Pašić transcript), pp. 439, 441, 443-5; P710.A (Elvir Pašić transcript), p. 566; P523.A (Babić statement), pp. 4-6.

<sup>801</sup> Witness 666, T. 15887-9, 15918, 15922-4, 15927-8; P873 (Map of Vlasenica municipality); Kuralić, T. 12563-8; P642 (Kuralić statement), paras 7, 29-30; Osmanović, T. 5234, 5254, 5257, 5264; P265 (Osmanović statement), paras 20, 30-3, 64-70; P269 (Photograph).

These deaths were reported to warden Bašić with no consequences.<sup>802</sup> On two occasions, members of international organizations visited the camp. During both visits, Nikolić managed to conceal many detainees and the true state of the conditions of detention.<sup>803</sup>

354. Around this time, Muslims were also detained in other locations in the municipality. About 150 detainees were held in very poor conditions in five rooms of the Vlasenica municipal prison [C32.3], under the control of the police. Detainees were forced to perform tasks such as burying bodies, removing property from abandoned Muslim houses, and digging trenches at the front lines.<sup>804</sup> When the commander of the prison Sukanović was present, however, the premises were aired and cleaned, and no ill-treatment of detainees took place.<sup>805</sup>

355. Muslims aged between 18 and 60 and five minors were detained at the police station in Vlasenica town [C32.1], where they were repeatedly mistreated and beaten with metal pipes, chains, and other objects. No health care was provided, and the conditions of detention were poor.<sup>806</sup> Džemal Ambesković, who had organized a local referendum on the independence, was killed while in detention at the police station on or about 22 May 1992.<sup>807</sup> On 21 May, the detainees were ordered out of their cell by two police officers and placed on buses where soldiers confiscated their personal belongings, including money and documents. The bus headed in the direction of Bratunac, accompanied by an armoured vehicle and four cars. It stopped on the outskirts of the village of Nova Kasaba, where the detainees were ordered off the bus in groups of five. As the detainees got off, they were shot by Serb soldiers using automatic rifles and a machine gun mounted on the armoured vehicle. Witness Džafić, his brother, two cousins, and another male relative, were in the last group to come off the bus. They were fired at and the witness was wounded. The soldiers, at least one of whom Džafić knew, searched for survivors and shot them in the head. Džafić lay on the ground pretending to be dead until the soldiers left, and then fled to Muslim-held territory. Muslim soldiers were sent to retrieve the bodies, but encountered

<sup>802</sup> Witness 666, T. 15918-22; P524 (Ferhatović transcript), pp. 465-94; P857 (Tokača report).

<sup>803</sup> Witness 666, T. 15933-6; 16040-50, 16057-8, 16060, 16066-8, 16071, 16086-7.

<sup>804</sup> Osmanović, T. 5229, 5232-3; P265 (Osmanović statement), paras 25-7; P266 (Osmanović statement), para. 15.

<sup>805</sup> Osmanović, T. 5231.

<sup>806</sup> Džafić, T. 757-8; P484 (Džafić statement), p. 4; P484.A (Džafić transcript), pp. 23239-40; P484.B (Džafić transcript), p. 23240; P484.D (Džafić statement), p. 4; Osmanović, T. 5227-9, 5231, 5246; P265 (Osmanović statement), paras 17-23, 25; P266 (Osmanović statement), para. 11; P268 (Photograph); Osmanović, T. 5265-70, 5274.

<sup>807</sup> P265 (Osmanović statement), paras 19-20.

fire from a Serb patrol and were therefore only able to recover the bodies of sixteen out of the 29 detainees killed [B19.2].<sup>808</sup>

356. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim civilians at eleven detention centres in Vlasenica municipality in 1992, namely the SUP [C32.2], Vlasenica town secondary school [C32.4], the sawmill at Milići [C32.8], the elementary school [C32.9], the Piskavice cooperative stables [C32.10], the high school [C32.11], Panorama hotel [C32.12], the military sports hall [C32.14], the community centre at Milići [C32.15], Luka camp [C32.16], and the Šošari chicken farm [C32.17].<sup>809</sup>

357. On the last day of September 1992, a public burial of more than 20 Serb soldiers killed in an ambush by the Bosnia-Herzegovina army was held in Vlasenica town. Radovan Karadžić was present and held a speech where he called on the audience never to forget the victims or to forgive what had happened.<sup>810</sup> Following the funeral, one of those present expressed his concerns to certain senior Serb officials, including the local MUP chief that Karadžić's inflammatory words might lead to violence against Muslim detainees at Sušica camp. That same night, three MUP officers arrived at the camp with a bus, removed all 140 to 150 inmates in four loads, and killed them. The massacre was reported to the Vlasenica crisis staff members, who took no action except to order the dismantling of the camp and the concealment of its traces.<sup>811</sup>

358. The Chamber concludes that, in total, over 279 Muslims were killed by Serb forces in Vlasenica municipality between mid-May and end of September 1992. After the take-over of the town of Vlasenica in April 1992, Muslims were dismissed from their jobs and subjected to all kinds of discriminatory measures. Serb forces entered many Muslim villages and hamlets in the municipality, occasionally encountering armed resistance. They destroyed Muslim houses, arrested Muslim civilians, and detained them in seventeen facilities where they were often mistreated. Some detainees were forced to leave the municipality. On 21 May 1992, 29 detainees in the police station were put on a bus and shot by Serb soldiers on the outskirts of the village of Nova Kasaba. On 16 May 1992, Serb forces killed approximately 80 people in Zaklopača. A large number of Muslims were transferred to and detained at Sušica camp, where about 2,000 to 2,500 Muslims of both

<sup>808</sup> Džafić, T. 738; P484 (Džafić statement), pp. 5-7; P484.B (Džafić transcript), 23241-9; P484.D (Džafić statement), pp. 4-6; P32 (List of killed persons); P857 (Tokača report).

<sup>809</sup> Malešević, T. 16134-5, 16136-41.

<sup>810</sup> P877.A (Video of funeral in Vlasenica, 30 September 1992).

<sup>811</sup> Witness 666, T. 15863, 15941-4, 16084-5.

genders and all ages passed through during the period of June to September 1992. Detainees at Sušica performed forced labour, sometimes at the front lines. Some detainees were killed by camp guards or died from mistreatment. A massacre was committed during the night of 30 September 1992, when the remaining 140 to 150 detainees at Sušica camp were driven out of the camp with buses and executed.

#### 4.2.6 Zvornik

359. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Zvornik municipality was 48,102 (59 per cent) Muslims, 30,863 (38 per cent) Serbs, 122 Croats, 1,248 Yugoslavs, and 960 persons of other or unknown ethnicity.<sup>812</sup>

360. On 3 April 1992, despite ongoing discussions between representatives of the SDA, SDS, and JNA about defence measures to be taken in case of an attack, a long convoy of Serbs left Zvornik town.<sup>813</sup> On 5 April 1992, the Serb TO was mobilized pursuant to an order of the Serb crisis staff.<sup>814</sup> Around this time, paramilitary forces, including the White Eagles, the Yellow Wasps and the Red Berets, began to arrive in the municipality. They had been invited by Branko Grujić, president of the crisis staff of Zvornik, who later became a member of the Zvornik war commission on 17 June 1992 by decision of the Bosnian-Serb Presidency.<sup>815</sup>

361. On 5 and 6 April 1992, Serb police and paramilitary forces – mainly Arkan's men – erected barricades throughout the municipality, the police was divided along ethnic lines pursuant to a dispatch of Momčilo Mandić, and Serb members of the Zvornik SJB relocated to Karakaj, where the Serb crisis staff was located. During the night of the 7 April, the SDA also erected barricades, on the bridge linking Zvornik to Serbia.<sup>816</sup>

362. When shooting broke out on 8 April 1992, the barricades were temporarily taken down, allowing hundreds of Muslims and Serbs to leave the municipality.<sup>817</sup> The Serb civilians had been informed of a plan to have them killed, and some were forced by Serb

<sup>812</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 296-301.

<sup>813</sup> P644 (Mehinagić statement), pp. 6-8; P645 (Telegram, 8 April 1992).

<sup>814</sup> P644 (Mehinagić statement), p. 8; P657 (Order of Zvornik crisis staff, 5 April 1992).

<sup>815</sup> P533 (Document Zvornik war commission, 13 June 1992); P529, tab 397 (Appointing members of Zvornik war commission); P719 (Banjanović statement), p. 2; P719.A (Banjanović statement), pp. 4, 6; P529, tab 252 (Decision by Zvornik provisional government, 18 April 1992); P944 (Witness 674 statement), p. 6; P648.A (Interview of Arkan, July-August 1994), pp. 11, 13; P944 (Witness 674 statement), p. 9.

<sup>816</sup> Mehinagić, T. 12608; P644 (Mehinagić statement), pp. 9, 13; P944 (Witness 674 statement), p. 5; P716 (Hadžiefendić statement), p. 2; P889, tab 1 (Report on situation at Zvornik SJB), p. 2.

paramilitaries to abandon their homes.<sup>818</sup> That same day, a combination of Serb forces – the police, the TO, the JNA, and Arkan’s men – launched an attack against Zvornik town,<sup>819</sup> which originated, at least partially, from inside Serbia.<sup>820</sup> Many civilians were killed during the attack, and Zvornik town was taken over by the Serb forces within a day. The Serbian flag was hoisted on top of the main town mosque. On 10 April, Arkan’s men looted houses in Zvornik town and piled dozens of dead bodies – including the bodies of children, women, and elderly persons – onto trucks. More dead bodies lay in the streets and outside houses [A18.1]. As a result of the take-over, many Muslims withdrew to the nearby deserted village of Kula Grad, which was also attacked and taken over by paramilitaries and local police on 26 April.<sup>821</sup>

363. After the attack on Zvornik town, Witness 583, a member of a humanitarian organization, saw a group of thousands of Muslims who had sought refuge in a close-by valley. Among the group were wounded persons, as well as the bodies of those who had died. The witness left the valley in order to organize a convoy of vehicles to take the displaced persons to a safer place, however when the transport vehicles returned, the Muslims had moved on. Some of the group reached Tuzla a few days later.<sup>822</sup>

364. On 10 April 1992, the provisional government of Zvornik instructed all persons with tenancy rights in socially owned apartments, as well as all owners of immovable property including private houses and businesses, to return and lay claim to those properties before 15 May, or face loss of title to the municipality.<sup>823</sup> On 5 May, the provisional government established a “real estate exchange agency” authorized to execute exchanges of real estate between residents of Zvornik municipality and other municipalities.<sup>824</sup>

365. By late April 1992, Serb authorities had taken control of the Muslim village of Đulići in Zvornik municipality, and the villagers surrendered their weapons to Serb forces.

<sup>817</sup> P944 (Witness 674 statement), p. 7; P716 (Hadžiefendić statement), pp. 2-3.

<sup>818</sup> Witness 583, T. 6756-7; Witness 680, T. 15193-5.

<sup>819</sup> Mehinagić, T. 12617-18, 12702, 12704, 12705; P644 (Mehinagić statement), pp. 13, 16; P653 (Letter, 23 March 1992); P655 (List of payments); P763.C, tab 77 (Report of Zvornik SJB, January 1993), p. 16; P763.C, tab 23 (MUP report, January 1993), p. 5.

<sup>820</sup> Witness 583, T. 6759, 6910; Witness 165, T. 15730-1; P944 (Witness 674 statement), p. 7-8; P860 (Witness 165 statement), p. 3.

<sup>821</sup> Witness 682, T. 16864; P718 (Witness 654 statement), pp. 3-4; P716 (Hadžiefendić statement), p. 3; P763.C, tab 77 (Report of Zvornik SJB, January 1993), p. 16; P763.C, tab 23 (MUP Report, January 1993), p. 5; Witness 583, T. 6758-9, 6896, 6910, 6990-1; P857 (Tokača report); P944 (Witness 674 statement), p. 8.

<sup>822</sup> Witness 583, T. 6759-62; P857 (Tokača report).

<sup>823</sup> P529, tab 362 (Decision by Zvornik provisional government, 10 April 1992), arts 1-2.

In order to remain employed, Muslims had to sign a pledge of loyalty to the Serb authorities.<sup>825</sup> Also in late April or early May, Serb forces demanded the surrender of the Muslim village of Divič. However, before the deadline for surrender had expired, Divič was attacked by Serb forces consisting of Arkan's men, White Eagles, and reserve police officers. About 1,000 Muslims fled towards the nearby village of Jošanica. When some of them attempted to return later in May, they were turned away by Serb forces. Around 28 May, between 400 and 500 Muslims from Divič village, including women, children, and elderly persons, were forced onto buses by members of the Yellow Wasps and told that they would be taken to Muslim territory. In Crni Vrh, the captives were released and allowed to depart on foot.<sup>826</sup> The same day, Major Svetozar Andrić, commander of the VRS 1st Birač Brigade, ordered the Zvornik TO to organise and co-ordinate the moving out of the Muslim population with municipalities through which they would pass. Only women and children would be moved out, while men fit for military service were to be placed in camps for exchange.<sup>827</sup> In early June, Serbs were seen moving into the villages in Zvornik municipality where Muslims had been evicted. Some of them had been ordered to do so by the provisional government of the Serb municipality of Zvornik.<sup>828</sup>

366. By the end of May 1992, a large number of Muslim villagers gathered in the Muslim-majority village of Kozluk fearing paramilitaries and Serb forces who harassed them with demands to surrender arms. After the take-over of Zvornik town, paramilitary groups and local Serbs had set up barricades in nearby villages and isolated Kozluk. The police force in the village was split into Muslim and Serb parts. In the beginning of June, Muslim police officers in Kozluk were forced to surrender their uniforms and weapons to a Serb police officer. On the night of 20 June, the Serb TO under the command of Marko Pavlović attacked Kozluk. On 26 June, a large number of Serb soldiers, TO, and paramilitary units entered Kozluk in tanks and other military vehicles. Among the group were Branko Grujić, president of the Zvornik SDS and crisis staff, Pavlović, and Jovan Mijatović, a member of the Zvornik crisis staff and a deputy to the Bosnian-Serb Assembly. They informed the Muslims that they had one hour to leave, or they would be

<sup>824</sup> P529, tab 348 (Decision by Zvornik provisional government, 5 May 1992).

<sup>825</sup> Witness 101, T. 12784-5, 12787-8, 12794-9, 12832-3, 12835-8; P675 (Receipt of temporarily confiscated items, 29 April 1992).

<sup>826</sup> Witness 165, T. 15729-36, 15738-44; P860 (Witness 165 statement), pp. 3-5; P861 (Witness 165, supplemental information), p. 1.

<sup>827</sup> P583, tab 120 (Order of Birač Brigade command, 28 May 1992); Trbojević, T. 11576-8.

<sup>828</sup> P679 (Review of transport of refugees, 8 June 1992); Witness 101, T. 12817-19.

killed. They also told them that they could not take any personal belongings with them, and forced them to sign statements surrendering their property. On the same day, a convoy of vehicles organized by the Serbs who had attacked and taken over Kozluk transported approximately 1,800 persons out of the municipality to Serbia.<sup>829</sup>

367. Most of the nineteen Muslim monuments in Zvornik municipality had been damaged or completely destroyed through shelling or explosives during the attacks on Muslim villages in April and May 1992.<sup>830</sup> According to the Zvornik SJB's own reports, during the same period the Serb police engaged in house searches and interrogations of Muslims on a massive scale, accusing the Muslims of having "prepared the liquidation of Serbs".<sup>831</sup> Many were detained in various locations in the municipality. For example, the Serb police, Arkan's men, and the White Eagles detained Muslims in the Alhos factory in the Karakaj area of Zvornik town, [C34.18] where the Muslims were extensively mistreated. On 9 April 1992, Witness 674 was interrogated and beaten by Branko Grujić, and approximately eighteen other Muslim detainees were killed by Arkan's men that same day or soon thereafter.<sup>832</sup>

368. Around the end of April 1992, several Muslim men were detained at the Standard factory [C34.5, C34.19] in Karakaj, guarded by local Serbs. Around 10 May, they were moved by the Serb police to the Ekonomija factory, also in Karakaj, where a lot of Muslim men were already detained [C34.9]. Some time later, they were moved again, to the Novi Izvor factory, guarded by the reserve police [C34.1, C34.2]. This detention centre received another 186 Muslim detainees from Divič village on 27 May 1992. Armed groups, including members of paramilitaries from Serbia, frequently visited those three detention centres and severely mistreated the detainees. One detainee died in the Ekonomija factory [B21.1].<sup>833</sup>

369. On 30 May 1992, about 150 Muslim men, women, and children from the village of Kostijerevo in Zvornik municipality were arrested by JNA soldiers. They were taken to Dom Kulture in Drinjače [C34.23], where they were guarded by the JNA. Muslim

<sup>829</sup> P719 (Banjanović statement), pp. 2-4, 7-8; P719.A (Banjanović statement), pp. 5, 7-8; P719.C (Banjanović transcript), pp. 20617, 20619-30, 20633, 20635-8, 20655, 20644, 20706; P529, tab 253 (Decision by Zvornik provisional government, 28 April 1992)

<sup>830</sup> P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), pp. 23802-3, 23805.

<sup>831</sup> P763.C, tab 77 (Report of Zvornik SJB, January 1993), pp. 31-32.

<sup>832</sup> P944 (Witness 674 statement), pp. 8-10, 12; P857 (Tokača report).

<sup>833</sup> P716 (Hadžiefendić statement), pp. 3-13; Witness 165, T. 15744-6; P860 (Witness 165 statement), pp. 5-6.

detainees from other villages in the municipality were also brought there, although all women and children were soon released. The male detainees who remained were beaten by the guards and by Arkan's men. Soon after the arrival of the detainees, a unit of White Eagles took them out in groups of ten and shot them dead. In total, 88 people, including family members of Witness 654, were killed at Dom Kulture [A18.3].<sup>834</sup>

370. In late May 1992, Muslim representatives met with local Serbs, including a member of the Zvornik provisional government, to discuss the removal of Muslims from the municipality. A group of approximately 3,000 Muslim men, women, and children left in fear for their safety. On 1 June 1992, soon after the group had set off, Serb soldiers separated out men fit for military service from the column, and took the women, children, and elderly to Muslim-controlled territory.<sup>835</sup> The men were taken, together with other Muslim men captured in the village of Klisa on the same day, to the Karakaj technical school [C34.10], where they were detained in a workshop building. The facility was guarded by Serb soldiers. Within hours of arriving at the school, approximately 20 detainees had died from heat stroke and lack of water. Over the course of several days, many of the detainees were severely beaten. About 160 detainees were removed in small groups and executed by Serb guards. [B21.4]<sup>836</sup>

371. On 5 June 1992, a total of 550 detainees from the Karakaj technical school, including Witness 571, were taken in a lorry to a cinema hall in Pilića [C34.12]. From there Witness 571 together with another 63 men was taken to Gero's slaughterhouse in Karakaj [C34.13]. Guards in JNA uniform forced the men to face the wall and shot them dead. The witness, who managed to escape the execution, saw two more buses arrive at the slaughterhouse. A total of 190 men were executed [B21.5].<sup>837</sup>

372. From late May 1992 onwards, Muslims were detained in the Dom Kulture building in Čelopek village [C34.8] and subjected to severe physical and psychological abuse. In early June, a paramilitary group from Serbia assaulted the detainees with spiked

<sup>834</sup> P718 (Witness 654 statement), pp. 5-9, 11; P718.B (Witness 654 transcript), pp. 21387, 21391, 21393, 21401-4.

<sup>835</sup> Witness 101, T. 12789-1, 12796, 12799-803, 12806-8; P529, tab 40 (Conclusions of SDS Zvornik municipal board); P673 (Witness 101 statement), pp. 4-5; P676 (Order, 1 June 1992); P717 (Witness 571 statement), pp. 2-3.

<sup>836</sup> Witness 101, T. 12789-92, 12801-3, 12805, 12807, 12812-17, 12819-23, 12827-8, 12838-9; P673 (Witness 101 statement), pp. 5-10; P676 (Order, 1 June 1992); P678 (Payroll, June 1992); P680 (Handwritten notes, 29 June 1992); P717 (Witness 571 statement), pp. 2-6; P717.A (Addendum to P717, 24 November 1996), p. 2.

<sup>837</sup> P717 (Witness 571 statement), pp. 6-7.

metal bars and chains. Some detainees were forced to beat each other, and three were murdered by the guards. The Yellow Wasps, headed by the Vučković brothers, Repić and Žučo, arrived at the Dom Kulture on 11 June and killed at least five detainees. One man had his ear cut off, others had their fingers cut off, and at least two men were sexually mutilated. Repić's men forced detainees to eat the severed body parts, killing two detainees who could not bring themselves to do so. On 27 June, Repić returned to the Dom Kulture alone and shot 20 detainees dead and wounded 22 others [B21.3]. In mid July, the remaining detainees were transferred, with the assistance from the Serb municipal authorities of Zvornik, to Batković camp in Bijeljina municipality.<sup>838</sup>

373. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim civilians at thirteen detention centres in Zvornik municipality in 1992, namely the Orahovac CS headquarters [C34.3], a prison near Novi Izvor [C34.4], the Zvornik prison [C34.6], the SUP [C34.7], the Zvornik town police station [C34.11], the Kneževići school [C34.14], a clay factory in Karakaj [C34.15], an administration building entrance [C34.17], the Hladnjača refrigeration plant [C34.20], the youth village [C34.21], the sports hall [C34.22], the house of Paša Salihović and elementary school at Liplje [C34.25], and the Vidikovac motel [C34.26].<sup>839</sup>

374. The Chamber concludes that, in total, approximately 507 Muslim civilians were killed by Serb forces in Zvornik municipality from April to June 1992. Dozens were killed during the attack on Zvornik town on 8 April 1992 and many left the town in the direction of Tuzla. In April and May 1992, Serb forces attacked other villages in Zvornik municipality, including Divič. Most of the nineteen Muslim monuments in Zvornik municipality were either deliberately damaged or completely destroyed through shelling or explosives; Serb paramilitaries looted Muslim houses. The attack on Divič prompted about 1,000 Muslim villagers to flee. They were not allowed to return to their homes, and 400 to 500 were forced onto buses by paramilitary units and brought to Crni Vrh. Moreover, Serb

<sup>838</sup> Witness 165, T. 15747-8, 15752-6, 15791-3 17756-8; P860 (Witness 165 statement), pp. 6-10; P863 (Photograph); D45 (Interview, 25 February 1995), p. 4; P865.D (Notes of interview with Duško (Repić) Vučković, 9 August 1992), p. 3.

In 1996, pursuant to an indictment based on the 27 June 1992 incident at Čelopek, a district court in Serbia found Repić guilty of murdering 16 Muslim civilians and wounding ; P882 (Indictment against Duško (Repić) Vučković and Vojin (Žuča) Vučković, 28 April 1994), pp. 1-2; P883 (Judgement of Šabac District Court against Duško (Repić) Vučković and Vojin (Žuča) Vučković, 8 July 1996), pp. 2-5; P865.C (Drina Trans invoice to Zvornik temporary government, 21 July 1992), p. 4; P764 (Davidović statement), pp. 32, 34.

<sup>839</sup> Malešević, T. 16135-9, 16140-1; P583, tab 100 (Report of Bosnian-Serb Ministry of Justice, 22 October 1992), p. 3.

soldiers separated a column of approximately 3,000 Muslims who had left in fear of their safety, bringing the women, children, and elderly to Muslim-controlled territory, and detaining the military-aged men in a hangar in the Karakaj technical school. Serbs detained mainly Muslim civilians in 25 detention facilities in Zvornik municipality, where they were severely beaten, and large groups executed. A total of 88 detainees were executed by Serb paramilitaries in Dom Kulture on 30 May 1992. In the beginning of June 1992, about 160 detainees in Karakaj school were executed by Serb soldiers, and another 190 detainees were transported to Gero's slaughterhouse and executed there by Serb guards.

### 4.3 North-western Bosnia-Herzegovina

#### *4.3.1 Banja Luka*

375. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition in Banja Luka municipality was 106,826 (55 per cent) Serbs, 29,026 (15 per cent) Croats, 28,558 (15 per cent) Muslims, 23,656 Yugoslavs, and 7,626 of other ethnicity.<sup>840</sup>

376. The SOS paramilitary group under Nenad Stevandić, a member of the ARK crisis staff, operated in Banja Luka municipality in spring and summer of 1992. It included many criminals and had links to SJB and CSB officials.<sup>841</sup> They wore green camouflage uniforms with red ribbons marked "SOS". Although the ARK assembly formally placed the SOS under the control of the Banja Luka CSB on or about 29 April 1992, the group retained its autonomy after this.<sup>842</sup> Another paramilitary formation, led by Nikodin Čavić from the Serbian Radical Party, was also active in Banja Luka in the summer of 1992. The group consisted mostly of volunteers from Serbia.<sup>843</sup> Witness 458 often observed the SOS acting as escorts for SDS leaders such as Radoslav Brđanin. During the republican referendum on independence, 29 February and 1 March 1992, the SOS blockaded the municipality building in Banja Luka town. On 3 April, the SOS erected checkpoints around town<sup>844</sup> and issued a press statement calling on the president of the municipality to

<sup>840</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 46-9.

<sup>841</sup> P892, tab 54 (Report on paramilitary formations, 28 July 1992), pp. 4-5.

<sup>842</sup> P582 (Witness 458 statement), para. 67; P763 (Nielsen report), para. 213; P892, tab 54 (Report on paramilitary formations, 28 July 1992), pp. 4-5.

<sup>843</sup> P892, tab 54 (Report on paramilitary formations, 28 July 1992), p. 3.

<sup>844</sup> Witness 458, T. 11356-58; P582 (Witness 458 statement), paras 67, 69; P582.C (Witness 458 transcript), p. 3957; P582.D (Witness 458 transcript), p. 4056; P582.E (Witness 458 transcript), pp. 4124, 4127-8; P582.K (Articles in *Glas* newspaper, 3 April 1992).

establish a crisis staff in order to pursue several goals of the SOS, including dismissal of Banja Luka Corps officers and public utility managers who voted “against Yugoslavia”.

377. The SOS’s demands were adopted by the SDS.<sup>845</sup> Upon the establishment of a municipal Serb crisis staff in the beginning of April 1992, Predrag Radić, president of the crisis staff and a member of the SDS Main Board, announced several measures, including: the CSB employees had to pledge loyalty to the Bosnian-Serb Republic or lose their jobs; the presidency of the SFRY would be requested to reinforce the JNA’s Banja Luka Corps and dismiss or transfer JNA officers who had not voted “for Yugoslavia”; and the directors of several public enterprises who pursued “an anti-Serbian policy” would be dismissed. To enforce compliance with these orders, mixed patrols of the police, the TO, and the JNA were to take over control of the roads from the SOS.<sup>846</sup> The Banja Luka CSB, pursuant to Radić’s demands, set 15 April as the deadline for its staff to pledge loyalty to the Bosnian-Serb Republic or be suspended.<sup>847</sup> Witness 144 confirmed that, by early April, all SJBs throughout the ARK were cut off from Sarajevo and the Bosnia-Herzegovina Government, and the officers had started wearing the insignia of the Bosnian-Serb Republic.<sup>848</sup>

378. From March to October 1992, civilians were killed and frequent attacks carried out against businesses and private property owned by Muslims and Croats in Banja Luka municipality. Many of these crimes were committed by members of the special police detachment of the Banja Luka CSB, VRS soldiers and Serb paramilitaries.<sup>849</sup> Witness Džonlić stated that Serbs in Banja Luka did not need to commit “terrible crimes and killings” partly because they were able to gradually and quietly “cleanse” the city.<sup>850</sup> Predrag Radić testified that in 1992 Serbs destroyed mosques in various parts of the ARK in order to wipe out traces of the Muslims’ existence.<sup>851</sup>

379. On 11 May 1992, the ARK crisis staff issued an order confiscating the property of able-bodied men aged between 18 and 55 who had left the area and had not immediately

<sup>845</sup> Witness 458, T. 11361-6; P582.C (Witness 458 transcript), pp. 3958-9, 3966, 3980; P582.J (SOS press statement, 3 April 1992); P911.B (Witness 545 witness’s diary), p. L0034657-9.

<sup>846</sup> P582.K (Articles in *Glas* newspaper, 3 April 1992); Radić, T. 7378-9; P64 (Treanor report), p. 155.

<sup>847</sup> P582 (Witness 458 statement), paras 15, 37-9.

<sup>848</sup> Witness 144, T. 7110, 7127.

<sup>849</sup> P911.B (Witness 545 witness’s diary), pp. L0044261-9, L0044364, L0047476, L0054479, L0054837, L0055478, L0055708, L0055715-16, L0055940, L0057074; P763 (Nielsen report), paras 215, 241; P763.C, tab 22 (Report of Banja Luka CSB, March 1993), p. 6.

<sup>850</sup> P512.B (Džonlić transcript), pp. 2485-6.

<sup>851</sup> Radić, T. 7468; P911.B (Witness 545 witness’s diary), p. L0044269.

returned. This specifically applied to non-Serbs who had fled the territory of the ARK.<sup>852</sup> Before leaving Banja Luka municipality in February 1993, clients of Amir Džonlić, a Muslim lawyer, showed him documents stating that they had been dismissed from their jobs, sometimes upon direct orders of the ARK crisis staff, because they had failed to comply with a mobilization order. Their dismissals meant that they also automatically lost their accommodation, as it was common for employers to provide housing for employees.<sup>853</sup> Muslims and Croats in managerial posts were fired by the ARK crisis staff irrespective of their responses to the mobilization order.<sup>854</sup> On 22 June, the ARK crisis staff decided that “all executive posts involving a likely flow of information, posts involving the protection of public property, that is, all posts important for the functioning of economy, may only be held by the personnel of Serbian ethnicity. This refers to all socially owned enterprises, joint-stock companies, state institutions, public utilities, ministries of interior and the army”.<sup>855</sup> Employers in Banja Luka were told to evict non-Serbs from employer-owned apartments in order to make space for families of fallen Serb soldiers. Those who attempted to protect non-Serbs in Banja Luka were reprimanded or even replaced.<sup>856</sup>

380. Between May 1992 and February 1993, many Muslim and Croat civilians were leaving Banja Luka each month, out of fear and because they had lost their jobs and apartments.<sup>857</sup> An agency for resettlements, known as “Brđanin’s agency” in reference to Radoslav Brđanin, managed all aspects of relocation of the population.<sup>858</sup> In July and August 1992, crowds were seen queuing at the offices of Brđanin’s agency, and busloads of people left the municipality for Croatia and other places almost daily.<sup>859</sup>

381. During the armed conflict in the ARK between Serb and Muslim-Croat forces from April to July 1992, members of the Serb police and the armed forces arrested thousands of

<sup>852</sup> P512.B (Džonlić transcript), pp. 2448-50.

<sup>853</sup> P512.B (Džonlić transcript), pp. 2490-1; P512.C (Džonlić transcript), pp. 2562, 2573-4, 2577-8, 2581, 2586-7, 2685; P512.D (Džonlić transcript), p. 2674.

<sup>854</sup> P512.C (Džonlić transcript), p. 2581; P512.D (Džonlić transcript), p. 2685; P564.A (Sejmenović transcript), p. 4618.

<sup>855</sup> P358 (Order by ARK crisis staff, 22 June 1992); P359 (Report by Bosanski Petrovac crisis staff); P360 (Report by Prijedor crisis staff, 13 July 1992), p. 2; Radić, T. 7405-6, 7409-11, 7414, 7529; D34 (Radić, Prosecution interview), p. 43; P348 (Decision on formation of ARK crisis staffs, 5 May 1992).

<sup>856</sup> Radić, T. 7400, 7460-6.

<sup>857</sup> P512.A (Džonlić transcript), pp. 2395-7, 2399, 2401; P512.C (Džonlić transcript), pp. 2593-4; P512.E (Džonlić transcript), pp. 2768-70; Kasagić, T. 18572-3, 18575-7.

<sup>858</sup> P512.A (Džonlić transcript), pp. 2397-8; P512.B (Džonlić transcript), p. 2458.

<sup>859</sup> P911 (Witness 545 transcript), pp. 18004-5; P911.B (Witness 545 witness’s diary), pp. L0044500, L0046839.

Muslims and Croats. According to the information provided by the CSB Banja Luka to the Minister of Interior, they were mostly men fit for military service who were divided by the police and the Army into three categories: those of security interest to the Bosnian Serbs such as participants in the armed conflicts; those who helped to finance arms, supply arms or organize armed rebellions against Serbs; and those about whom the Serbs had no information and who were to be treated as hostages to be used in exchange for Serb citizens.<sup>860</sup>

382. From May 1992 onwards, Muslims and Croats civilians in Banja Luka and surrounding municipalities were arrested and brought directly or via other detention centres in the region, to Manjača camp [C1.4].<sup>861</sup> When Witness Begić, Witness 565, and Witness 633 were transferred with other Muslim detainees from Krings camp in Sanski Most municipality to Manjača camp on 7 July, 20 detainees died from injuries or from the heat and cramped conditions during this transport [B1.1].<sup>862</sup>

383. The number of detainees at Manjača at any one time between June and December 1992 varied from several hundred to over 3,000. The majority were Muslims.<sup>863</sup> The detainees lived in cramped and extremely unhygienic conditions and received little food and water. Some witnesses suffered extreme weight loss during their detention.<sup>864</sup> The Serb guards, and other individuals allowed into the camp, singled out detainees for beating every night.<sup>865</sup> An UNPROFOR report of 4 July 1992 described the treatment of Muslims

<sup>860</sup> P448 (Letter from CSB Banja Luka, 20 July 1992), pp. 1-2.

<sup>861</sup> Bišćević, T. 5536-39; P278 (Note of release, 26 August 1992); Witness 628, T. 3776; P204 (Report of Sanski Most public security station, 2 July 1992), p. 1; Medanović, T. 6684-5; P309 (Medanović statement), paras 32, 34, 35; P517 (Seferović statement), pp. 5, 7; P498 (Filipović statement), pp. 2, 4-5; P497 (Džafić statement), pp. 13-16; P683 (Witness 305 statement), pp. 7-8; P529, tab 277 (Report by SJB in Prijedor), p. 5; P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi and Sanski Most, 18 August 1992), pp. 4, 7; P529, tab 291 (Order by Sanski Most crisis staff, 6 June 1992).

<sup>862</sup> Begić, T. 2998-9, 3000, 3019; Witness 565, T. 4563, 4565-67; P216 (Witness 565 statement), paras 37, 51-3; Witness 633, T. 3861, 3994; P519.D (Draganović transcript), pp. 5551-2.

<sup>863</sup> P880 (CSCE report, 29 September 1992), pp. 32, 51; Karabeg, T. 2816, 2834; P309 (Medanović statement), para. 36; P517 (Seferović statement), p. 5; P498 (Filipović statement), pp. 4-5; P498.A (Filipović statement), pp. 3-4; P911.B (Witness 545 witness's diary), p. L0055348; P683 (Witness 305 statement), pp. 7-8; P519B (Draganović transcript), pp. 4994, 5003-4; P519.C (Draganović transcript), pp. 5455, 5467-9, 5506; P519.H (Draganović transcript), pp. 5868-9; P519.F (Draganović transcript), pp. 5716-17; Egrlić, T. 4795-6, 4820.

<sup>864</sup> P880 (CSCE Report, 29 September 1992), pp. 52-4; P497 (Džafić statement), pp. 17-18; P309 (Medanović statement), para. 36; P498 (Filipović statement), pp. 4-5; P498.A (Filipović statement), pp. 3-4; P911.B (Witness 545 witness's diary), pp. L0048328-9; P683 (Witness 305 statement), p. 10; Witness 565, T. 4572-4, 4578-80; P219 (Video of Manjača camp); P216 (Witness 565 statement), paras 54, 61-3.

<sup>865</sup> P497 (Džafić statement), pp. 17-18; P496 (Witness 26 transcript), pp. 9162, 9164-7; P496.A (Witness 26 transcript), pp. 9216, 9219-22; P517 (Seferović statement), p. 6; P683 (Witness 305 statement), p. 10; P216 (Witness 565 statement), paras 65-6.

in Manjača camp as “atrocious, with regular beatings, deprivation of food and water, [and] poor shelter”.<sup>866</sup>

384. The Muslim lawyer Amir Džonlić visited Manjača camp with members of a local human rights organization in late May or early June 1992. Predrag Radić, General Momir Talić, commander of the VRS 1st Krajina Corps, and Lieutenant Colonel Božidar Popović, head of Manjača camp, explained to Džonlić that the camp was under the control of the VRS 1st Krajina Corps, and that almost all the detainees were prisoners of war. Popović admitted that food at the camp was insufficient. Džonlić observed one of the stables in the camp, which held 350 to 400 detainees aged between 15 and 70 years, all in civilian clothing. He observed that some detainees bore signs of beatings, including blood stains, and were moaning. Džonlić was allowed to speak to five or six detainees, who said that the detainees at the camp were starving, and that others had been beaten with wooden sticks and cables, on some occasions to death, by officers on duty and camp guards. The detainees denied having been engaged in combat, although one stated that 300 bona fide prisoners of war were indeed being held at the camp. The delegation was able to obtain the release of 100 to 120 detainees who were elderly, minor, sick, and clerics, through the command of the VRS 1st Krajina Corps.<sup>867</sup>

385. Atif Džafić, the Muslim police commander in Ključ municipality, was detained in Manjača camp from 7 June to 16 December 1992, and confirmed that, apart from a few HVO soldiers confined to the camp’s infirmary, there were no members of the armed forces among the detainees.<sup>868</sup> Witness Asim Egrlić, an SDA member and president of Ključ municipality executive board, was arrested on 28 May and taken to the police station in Ključ, where he was severely beaten. In mid June, he was sent on to Manjača camp and detained for months. He was tortured, beaten, humiliated and deprived of food and water.<sup>869</sup>

386. Adil Draganović, president of the Sanski Most municipal court, was transferred to Manjača camp from a Sanski Most detention centre on 17 June 1992. Upon arrival at

<sup>866</sup> Kirudja, T. 3028, 3045-9, 3054-5, 3091, 3144-7; P120 (Kirudja statement), pp. 2, 25; P121 (Map of national battalions of UN Forces, 1993); P122, P123, P124 (Maps); P139 (UNPROFOR Memorandum by Kirudja, 4 July 1992).

<sup>867</sup> P512.A (Džonlić transcript), pp. 2356-9, 2362-3, 2366-73, 2377, 2379-80, 2383-4, 2387-90; P512.E (Džonlić transcript), pp. 2726-31, 2737-8, 2746-7; P683 (Witness 305 statement), p. 7; P519.G (Draganović transcript), p.5853.

<sup>868</sup> P497 (Džafić statement), pp. 16, 18-20; P517 (Seferović statement), p. 5.

<sup>869</sup> Egrlić, T. 4636-7, 4648, 4795-800.

Manjača, Draganović and other detainees had to pass through a gauntlet of military police officers who beat them with wooden bats and cursed their “balija mothers”. Draganović was first held in a stable with many other detainees in very poor conditions, and later sent to a cell with seven or eight other detainees. His valuables were stolen by the guards and he was forced to lie on the concrete floor. The detainees were regularly beaten by Serb police officers who were allowed into the camp at night.<sup>870</sup> When Draganović was returned to the stable, it was cramped and unhygienic, with excrement and urine everywhere. The witness lost 26 kilograms during his first month in Manjača. He witnessed some detainees beat to death by the Serb guards [B1.2].<sup>871</sup> On one occasion, Draganović saw eight detainees killed outside the camp’s entrance as they were being taken off buses arriving from Prijedor.<sup>872</sup> This incident was also described by Witness 26 and Witness 305, who saw police in black uniform kill three of the detainees arriving from Prijedor [B1.4].<sup>873</sup> The commander of the camp, who was not in charge of the police, managed to halt further executions of detainees by the police.<sup>874</sup> Another three detainees, after having been transported from Omarska camp in Prijedor to Manjača camp in August 1992, died of suffocation when the heat was turned on and the prisoners had to spend the night inside the bus [B1.4].<sup>875</sup>

387. On 22 June 1992, Witness Osman Selak, a Muslim officer in the JNA and later the VRS, was present at a meeting at which General Talić was informed by a representative of a Muslim organization that civilians were detained in inadequate conditions at Manjača camp and were being ill-treated. To Selak’s knowledge, Talić never had the matter investigated.<sup>876</sup> At the end of June 1992, Manjača camp was, however, inspected by an official delegation consisting of SDS representatives, military and police officials, and both the “Muslim” Red Cross and the Serbian Red Cross. Omer Filipović, former deputy president of Ključ municipality who was being detained at Manjača, told the delegation

<sup>870</sup> P519 (Draganović transcript), p. 4843; P519.B (Draganović transcript), pp. 4984, 5003-9; P519.C (Draganović transcript), pp. 5452-3.

<sup>871</sup> P519.B (Draganović transcript), pp. 5009-12; P519.C (Draganović transcript), pp. 5448-52, 5470-1; P519.H (Draganović transcript), p. 5860; P683 (Witness 305 statement), pp. 8-9; P216 (Witness 565 statement), paras 65-6, 69; P517 (Seferović statement), p. 6; Egrlić, T. 4797-800; P497 (Amendment to Džafić statement, 27 July 2001), p. 20.

<sup>872</sup> P519.H (Draganović transcript), p. 5860.

<sup>873</sup> P496 (Witness 26 transcript), pp. 9168-9, 9218; P683 (Witness 305 statement), pp. 8-9.

<sup>874</sup> P496.A (Witness 26 transcript), p. 9218.

<sup>875</sup> P683 (Witness 305 statement), p. 9; P519.D (Adil Draganović transcript), pp. 5551-2.

<sup>876</sup> P733.B (Selak transcript), pp. 13103-5.

that none of the detainees had been captured in combat and described the living conditions at the camp. No other detainee was allowed to speak afterwards, and the delegation left.<sup>877</sup>

388. On 14 July 1992, the ICRC visited Manjača camp. Witness 565, a Muslim resident of Sanski Most municipality who had been taken to Manjača camp with 60 other detainees on 7 July 1992, showed an ICRC doctor his wounds from beatings. Once the inspection staff left, he was called out and beaten by three Serb guards. After the visit, children and elderly persons were removed from the camp, and detainees were permitted to write to their families and to receive food packets once a week. The ICRC returned to the camp on several occasions, and the conditions of detention gradually improved from late August.<sup>878</sup>

389. In July and August 1992, Serb authorities appear to have taken a greater interest in the camp. For example, a delegation of officials from Banja Luka including Stojan Župljanin (head of CSB Banja Luka) visited Manjača camp at the end of July 1992.<sup>879</sup> On two occasions in late July and early August, the VRS 1st Krajina Corps reported to the VRS Main Staff that sanitary conditions at Manjača camp were poor and water was not available in sufficient quantity.<sup>880</sup> On 6 August, a colonel of the VRS 1st Krajina Corps sent the Prijedor SJB chief a letter advising him that the number of detainees in Manjača camp that could not be properly characterized as prisoners of war was “quite large” and urged him to organize their release.<sup>881</sup> At a meeting on 22 August, where the camp commander and a major of the 1st Krajina Corps were present, a “list of 92 persons for whom there is no evidence that they carried out – participated in combat activities and who have serious health problems and attract the attention of journalists and the representatives of humanitarian organisations because of their physical appearance” was considered.<sup>882</sup> On 22 August, Župljanin ordered that detainees at Manjača camp whose detention “could not be confirmed by any material evidence” be released.<sup>883</sup>

<sup>877</sup> P497 (Džafić statement), pp. 18, 20.

<sup>878</sup> Witness 565, T. 4563, 4579-80, 4584, 4624; P216 (Witness 565 statement), paras 37, 51, 53, 68, 70, 78.

<sup>879</sup> P497 (Amendment to Džafić statement, 27 July 2001), p. 2.

<sup>880</sup> P891 (Brown report), para. 2.119.

<sup>881</sup> P583, tab 58 (Letter from 1st Krajina Corps); Trbojević, T. 11605-6.

<sup>882</sup> P1250 (Meeting at Manjača, 20 August 1992).

<sup>883</sup> P763 (Nielsen report), para. 276.

390. Manjača camp was not closed until 16 December 1992. Some detainees were transferred, under the auspices of ICRC, to Croatia, some were transferred to Batković camp in Bijeljina, and some were released.<sup>884</sup>

391. In addition to Manjača camp, Serb authorities detained mostly Muslim and Croat civilians at seven detention centres in Banja Luka municipality in 1992, namely Banja Luka (Tunjice) prison [C1.1], the CSB building [C1.2], Mali Logor (the military investigation centre) [C1.3], a sports hall [C1.5], the Kozara barracks [C1.6], Kaštel [C1.7], and the old Army Camp [C1.8].<sup>885</sup>

392. The Chamber concludes that, in the period March to October 1992, in total, over 31 Muslims and Croats were killed by Serb forces in Banja Luka municipality. Frequent attacks were carried out against businesses and private property owned by Muslims and Croats. From April or May 1992 onwards, Serb forces arrested thousands of Muslims and Croats in Banja Luka municipality and brought many of them to Manjača camp. Detainees at Manjača camp were severely mistreated, and some were beaten to death. The conditions in Manjača camp were very harsh and only improved after visits by national and international delegations. Eight other detention centres were operating in Banja Luka municipality in 1992. The Chamber further finds that, from May 1992 onwards, many Muslims and Croats left Banja Luka out of fear and due to unbearable circumstances. An agency for resettlement managed all the aspects of relocation. In July and August 1992, busloads of people left the municipality for Croatia and other destinations almost daily.

#### 4.3.2 *Bosanska Krupa*

393. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bosanska Krupa municipality was 43,104 (74 per cent) Muslims, 13,841 (24 per cent) Serbs, 139 Croats, 708 Yugoslavs, and 528 persons of other or unknown ethnicity.<sup>886</sup>

<sup>884</sup> P512.E (Džonlić transcript), pp. 2747-8; P216 (Witness 565 statement), paras 2, 79; P517 (Seferović statement), pp. 5, 7; P519B (Draganović transcript), p.5009; P519.C (Draganović transcript), p. 5455; Begić, T. 3000-1; P891 (Brown report), para. 2.132; Brown, T. 16401; P892, tab 99 (Report of 1st Krajina Corps command, 16 December 1992); P496 (Witness 26 transcript), p. 9165; P309 (Medanović statement), para. 36; Bišćević, T. 5540; Egrlić, T. 4796; P249 (List of prisoners); Osmanović, T. 5240, 5277; P265 (Osmanović statement), para. 51.

<sup>885</sup> Malešević, T. 16117, 16136-9, 16140-1; P504 (Witness 428 statement), p. 5; Witness 633, T. 3880-1.

<sup>886</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 62-5.

394. Around March 1992, the SDS created its own police force in the municipality and demanded the division of Bosanska Krupa into Serb and Muslim areas. Members of the police in the areas claimed by the Serbs were asked to pledge loyalty to the Bosnian-Serb Republic.<sup>887</sup>

395. On 18 April 1992, at a meeting of the municipal political parties, Miroslav Vještica, the local SDS president who was also a member of the Bosnian-Serb Assembly, stated that he would exert influence on the “top” so that Bosanska Krupa would not be attacked, but only if the Muslims agreed to Serb claims to the right bank of the Una river.<sup>888</sup> The next day, the Serbs unilaterally proclaimed Bosanska Krupa a Serb municipality.<sup>889</sup> On 20 April, Serb soldiers from Sanski Most, armed with automatic weapons, anti-aircraft weapons, mortars, and artillery were seen around Bosanska Krupa town.<sup>890</sup> Serb paramilitaries, similarly armed with JNA weapons, and apparently under the control of Gojko Kličković, were seen near the Muslim village of Arapuša on the same day.<sup>891</sup> On 19 and 20 April, Serb civilians were seen leaving Bosanska Krupa town.<sup>892</sup>

396. On 21 April 1992, the Serbs issued an ultimatum over the radio requiring all Muslims to relocate to the left bank of the Una river, thus ordering the division of the municipality along ethnic lines. On that day, Serb forces attacked the town.<sup>893</sup> Serb paramilitaries shelled the town with mortars from surrounding hills.<sup>894</sup> Heavy shelling and sniper fire was directed against certain buildings, in particular the police station. Resistance was organized by members of the police and the Patriotic League.<sup>895</sup> Witness 19 saw the municipal building shelled by Serb forces, and Serb soldiers burning and looting Muslim houses.<sup>896</sup> Resistance in Bosanska Krupa town lasted four days, during which time most of the Muslim residents fled. The witness attended the funerals of twelve civilians killed in

<sup>887</sup> P507 (Velić statement), p. 7; Witness 48, T. 6414-7, 6445-7; P303.A (Witness 48 statement), paras 18-20, 27; P303.B (Witness 48 statement), paras 8, 28-9.

<sup>888</sup> P508 (Witness 19 statement), p. 2; P508.A (Witness 19 statement), pp. 4-5; P508.G (Diary of Witness 19), p. 2.

<sup>889</sup> P508 (Witness 19 statement), p. 5.

<sup>890</sup> P508 (Witness 19 statement), p. 3; P508.A (Witness 19 statement), p. 5.

<sup>891</sup> Witness 48, T. 6409, 6413, 6421-4, 6480-81; P303.A (Witness 48 statement), paras 13-14; P303.B (Witness 48 statement), para. 31.

<sup>892</sup> P508.G (Diary of Witness 19), p. 5.

<sup>893</sup> P508 (Witness 19 statement), p. 3; P508.A (Witness 19 statement), p. 6; P508.G (Diary of Witness 19), pp. 5-6.

<sup>894</sup> Witness 48, T. 6426-9; P303.B (Witness 48 statement), paras 39-43.

<sup>895</sup> P507 (Velić statement), pp. 7-8.

<sup>896</sup> P508 (Witness 19 statement), p. 4; P508.G (Diary of Witness 19), p. 6; P508.A (Witness 19 statement), p. 6.

the shelling. Their dead bodies had been lying in the streets for fifteen days [A2.1].<sup>897</sup> The Chamber is not in a position to assess the circumstances of their death. Also on 21 April 1992, Witness 19 saw Serb paramilitaries attack the Muslim village of Arapuša, after initially being held off by Gojko Kličković while negotiations were underway. Some villagers were killed and the rest were expelled.<sup>898</sup> The Chamber is not in a position to assess the circumstances surrounding the deaths of these villagers and, in particular, whether they were taking active part in the hostilities at the time of their death.

397. Witness 34, a Muslim civilian, was arrested on 23 April 1992 and detained at Jasenica school [C4.1]. The detainees, including the witness, were regularly and severely beaten by visiting members of two Serb paramilitary units, the Suha Rebra and Šešelj's men.<sup>899</sup> In May 1992, the witness was transferred with other detainees to the Petar Kočić school [C4.2]. Hygienic conditions at this site were poor. Members of the Serb police, who guarded the school, regularly beat and mistreated the detainees, occasionally applying electric shocks.<sup>900</sup> The witness heard the shooting of eleven detainees in a room adjacent to where he was detained. A member of the local TO, whom the witness knew, carried out the executions.<sup>901</sup> Another five detainees were killed in this school while the witness was detained there [B2.1].<sup>902</sup> On 21 May 1992, Witness 34 and 20 other detainees were taken to Kamenica camp, in Drvar municipality. In the course of his detention, he and his fellow Muslim detainees were forced to dig trenches at front lines.<sup>903</sup>

398. On 23 April 1992, Witness 19, a Muslim employee of the Bosanska Krupa municipal authority, and 35 others, including some Serbs, were arrested by local Serb reservists and taken by bus to Jasenica school. A commission separated them into groups of soldiers, civilians, and political prisoners. The next day, he was transferred with 76 civilians to Arapuša village. The detainees were held in the houses of Muslims. They were guarded by Serb military units from Donji Petrovac and Gornji Petrovac.<sup>904</sup> Paramilitary forces terrorized the detainees, beating them and looting their property.<sup>905</sup> During his

<sup>897</sup> Witness 48, T. 6433; P303.A (Witness 48 statement), p. 6; P303.B (Witness 48 statement), para. 54.

<sup>898</sup> Witness 48, T. 6424; P303.A (Witness 48 statement), para. 15; P857 (Tokača report).

<sup>899</sup> P509 (Witness 34 statement), p. 2; P509.B (Witness 34 statement), pp. 3-4.

<sup>900</sup> P509.B (Witness 34 statement), p. 4; P509 (Witness 34 statement), p. 3.

<sup>901</sup> P509.B (Witness 34 statement), p. 6.

<sup>902</sup> P509 (Witness 34 statement), pp. 3-4; P509.B (Witness 34 statement), pp. 5-6; P857 (Tokača report).

<sup>903</sup> P509.B (Witness 34 statement), pp. 4-7.

<sup>904</sup> P508 (Witness 19 statement), pp. 4-5; P508.G (Diary of Witness 19), p. 11-12; P747.G (Instructions by Committee of Refugees from Bosanska Krupa, 1 May 1992).

<sup>905</sup> P508 (Witness 19 statement), p. 5; P508.G (Diary of Witness 19), pp. 2, 14-15.

detention in Arapuša, Witness 19 saw the paramilitaries kill a young pregnant woman on 27 or 28 April.<sup>906</sup> On 28 April 1992, Gojko Kličković, who had become president of the Bosanska Krupa war presidency, ordered the commanders of three battalions of the 1st Podgrmeč Brigade to immediately “evacuate Muslim population” from the territory under their control. He wrote that the war presidency was “unable to guarantee safety to the Muslim population” and the evacuation of several villages, including Arapuša, was considered necessary.<sup>907</sup> Pursuant to this order, on 1 May 1992 the executive committee of Arapuša commune, jointly with the local “refugee committee” and the “battalion command”, issued instructions for the evacuation of all Arapuša residents and refugees, 460 people in total.<sup>908</sup> On 1 May 1992, the witness was transferred with 460 others to the village of Fajtovići in Sanski Most municipality, where 1,200 persons were already detained.<sup>909</sup>

399. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at three other detention centres in Bosanska Krupa in 1992, namely Suvaj elementary school [C4.4], Gorinja elementary school [C4.5], and Arapuša elementary school [C4.6].<sup>910</sup>

400. On 22 May 1992, the Bosanska Krupa war presidency issued an order to the SJB and the military police “To evacuate the remaining Muslim population from the territory” of the Serb municipality of Bosanska Krupa.<sup>911</sup> Three days later, it “proposed” to the command of the 1st Podgrmeč Brigade to prepare for a “mop-up” of the left bank of the Una river. As part of the mop-up, as many dwellings and other buildings as possible were to be destroyed and devastated. The purpose of this proposal was to “undermine enemy morale and provoke fear and panic”.<sup>912</sup> Four Muslim and Catholic monuments in Bosanska Krupa were heavily damaged or completely destroyed through fire or explosions during 1992. This included the Catholic Church [D2.2] in the Bosanska Krupa town, which was destroyed by Serb forces in May 1992.<sup>913</sup>

<sup>906</sup> P508 (Witness 19 statement), p. 5; P508.G (Diary of Witness 19), p. 15; P857 (Tokača report).

<sup>907</sup> P747.F (Order of Bosanska Krupa war presidency, 28 April 1992).

<sup>908</sup> P747.G (Instructions by, Committee of Refugees from Bosanska Krupa, 1 May 1992).

<sup>909</sup> P508 (Witness 19 statement), p. 5; P508.G (Diary of Witness 19), p. 28.

<sup>910</sup> Malešević, T. 16120, 16136-9, 16140-1.

<sup>911</sup> P529, tab 342 (Order by Bosanska Krupa war presidency, 22 May 1992).

<sup>912</sup> P747.H (Proposal by Bosanska Krupa war presidency, 25 May 1992).

<sup>913</sup> P732 (Riedlmayer report), Appendix 2.1; Riedlmayer transcript), pp. 23808-9; P507 (Velić statement), p. 8.

401. A May 1993 MUP report indicates that 43,300 Muslims, 143 Croats, 4,760 Serbs, and 256 persons of other ethnicity had moved out of the municipality that was now referred to as “Krupa na Uni”.<sup>914</sup>

402. The Chamber concludes that seventeen Muslims and Croats were killed by Serb forces in Bosanska Krupa municipality in May 1992. Serb forces shelled Bosanska Krupa town on 21 April and burned and looted Muslim houses. They also deliberately destroyed religious monuments in the municipality. Mainly Muslim and Croat civilians were held in five detention centers where they were regularly and severely beaten by members of Serb paramilitary units visiting the detention centres. Occasionally, electric shocks were applied, and some Muslim detainees were forced to dig trenches at front lines. The Chamber finds that by May 1992, most of the Muslims had left the right bank of the Una river out of fear and due to unbearable circumstances, and that eventually almost all Muslims moved out the municipality.

#### 4.3.3 *Bosanski Novi*

403. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bosanski Novi was: 25,101 (60 per cent) Serbs, 14,040 (34 per cent) Muslims, 403 (1 per cent) Croats, 1,557 Yugoslavs, and 564 persons of other or unknown ethnicity.<sup>915</sup>

404. In mid April 1992, the newly appointed Serb police chief dismissed all Muslim police officers in Bosanski Novi because they refused to sign an oath of loyalty to the Serb authorities. The remaining police officers were issued with a new camouflage uniform with a Serb flag on the epaulette. Muslims who worked in companies in Bosanski Novi municipality also lost their jobs.<sup>916</sup>

405. In the Muslim village of Suhača, discussions with SDS representatives from the village of Jošova about the handover of Muslim weapons began in late March 1992. The Muslims decided to surrender their firearms to the Serbs in late April. Soon after, the villagers were instructed to go to a field in Jošova, where they had to wait while Serb soldiers searched Suhača for any remaining weapons. Nothing was found. Three days after the search, Serb forces attacked Suhača with artillery for an unspecified period of time.

<sup>914</sup> P892, tab 100 (List of citizens, May 1993), pp. 5-6.

<sup>915</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 66-9.

<sup>916</sup> P467.A (Hamdija Krupić statement), p. 7; P468 (Hasan Alić statement), pp. 2-3.

Exits to the village were barricaded, making it impossible to escape. Serb soldiers burnt houses in the village and the surrounding hills<sup>917</sup> and destroyed two village mosques [D3.11, D3.10].<sup>918</sup>

406. Around 9 May 1992, the Bosanski Novi crisis staff under Radimir Pašić issued an ultimatum over Bosanski Novi radio for Muslims in the municipality to hand in their weapons within 24 hours.<sup>919</sup> In the following days, Serb forces launched an attack on Blagaj Japra using heavy artillery which had been positioned around the village beforehand. Shells were fired into the village for two days and JNA soldiers shot and wounded civilians.<sup>920</sup> Several houses and the mosque were damaged in the shelling [D3.6].<sup>921</sup> Around the same time, there was shooting in the town of Bosanski Novi, and the entire Muslim population of the Urije and Prekosanje neighbourhoods were taken by soldiers in JNA uniforms to the Đuro Radmanović school and detained there for a few days.<sup>922</sup> The mosques in Urije and Prekosanje were destroyed [D3.2, D3.3].<sup>923</sup> From May 1992 on, SDA members in the town of Bosanski Novi were taken away for interrogation at the Bosanski Novi hotel, the police station [C5.11], and the fire department, [C5.7] where they were badly beaten.<sup>924</sup>

407. During May 1992, other Muslim villages in the Japra valley such as Hozići and Agići were attacked and houses were set alight.<sup>925</sup> Mosques in those villages, including the wooden mosque in Blagaj Rijeka [D3.9], were destroyed.<sup>926</sup> On 24 May, Serb units forced the entire Muslim population in the Japra valley, which included villagers from Gornji Agići, Hozići, and Suhača, as well as from Donji Agići, Dedići, Dolovljani, Crna Rijeka, Ekići, and Maslovare, to move to the village of Blagaj Japra. Serb soldiers told Muslims in Suhača that they had to leave as their safety could no longer be ensured. The operation was completed in the course of two days. Houses were looted and burnt after villagers started

<sup>917</sup> Witness 44, T. 2676-7, 2682, 2684, 2711-14, 2718-19, 2720; P97 (Witness 44 statement), paras 1, 12, 15, 17; Midho Alić, T. 2518; P76 (Midho Alić statement), para. 25; P763.C, tab 49 (Report from Bosanski Novi SJB, 15 August 1992), pp. 1, 3.

<sup>918</sup> Midho Alić, T. 2491, 2518; Witness 44, T. 2706.

<sup>919</sup> Midho Alić, T. 2491, 2508-10, 2590; P468 (Hasan Alić statement), p. 4; D115 (Report Bosanski Novi crisis staff), p. 3.

<sup>920</sup> Midho Alić, T. 2509, 2512; P468 (Hasan Alić statement), p. 4; P468.B (Hasan Alić statement), p. 2; P97 (Witness 44 statement), paras 24-5; Witness 44, T. 2725.

<sup>921</sup> P468 (Hasan Alić statement), p. 4; P468.B (Hasan Alić statement), p. 2; Midho Alić, T. 2491, 2496, 2514-17; P79 (Photograph).

<sup>922</sup> Purić, T. 26996-8; Delić, T. 26333-8, 26340-2, 26391-2, 26398-9.

<sup>923</sup> Witness 44, T. 2704.

<sup>924</sup> Purić, T. 26990, 26999-700; Delić, T. 26369, 26393.

<sup>925</sup> Midho Alić, T. 2502, 2518, 2521; P78 (Map of Japra valley); P76 (Midho Alić statement), paras 25-6, 29.

moving out. A kilometre-long convoy of people driving from the settlements towards Bosanski Novi town was stopped in the village of Blagaj by Serb military police in JNA uniform.<sup>927</sup> Serb soldiers directed some of the Muslims to settle in private houses in Blagaj Japra which, as one witness who had 29 of the displaced Muslims living in his house testified, became like a prison camp. The presence of armed Serb patrols meant that the Muslims could not go anywhere [C5.3].<sup>928</sup> According to Radomir Pašić, the crisis staff could not control the situation and stop crimes that were being committed by paramilitary groups in the mentioned villages.<sup>929</sup> Despite this, Pašić took action to remove Muslims out of the municipality.

408. On 26 May 1992, Charles Kirudja, the UN civil coordinator in Sector North, a UN protected area in Croatia adjacent to the north-western border of Bosnia-Herzegovina, met with the mayor of Dvor, Jugoslav Borojević, in Croatia. Borojević told Kirudja that Radomir Pašić, president of the Bosanski Novi crisis staff, had informed him that about 5,000 Muslims were voluntarily seeking to leave that municipality and travel through Sector North to Slovenia and Austria. When asked why the Muslims wanted to leave, Borojević told Kirudja that Bosanski Novi was now part of “a new reality”, that is, the new reality of the Bosnian-Serb Republic, and that the Muslims did not wish to recognize this new Serb authority. The following day, Kirudja received a delegation from Bosanski Novi, which included Radomir Pašić, as well as the chief of police, and a member of the municipal executive committee. Pašić informed Kirudja that Muslims in Bosanski Novi had come under pressure from armed Serb irregulars to leave the area, largely because many Muslims had refused to disarm or to pledge loyalty to the new Serb government. According to Pašić, the 5,000 persons who wished to leave Bosanski Novi were at that time gathered in Blagaj Japra. They had refused to go to other parts of Bosnia-Herzegovina, fearing that they would be mobilized, and the Bosanski Novi police had therefore agreed to escort them to the Croatian border. Pašić requested that UNPROFOR see to the transit of the group through Sector North. Kirudja did not believe Pašić’s story,

<sup>926</sup> Midho Alić, T. 2496, 2514-18.

<sup>927</sup> P468 (Hasan Alić statement), pp. 5-6; P468.B (Hasan Alić statement), p. 4; P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5; P469.B (Witness 572 transcript), pp. 14128-30; P469 (Witness 572 statement), p. 4; Witness 44, T. 2685, 2723-5; P97 (Witness 44 statement), paras 20, 24, 27; Radomir Pašić, T. 19633-4, 19641, 19754-5, 19758, 19575; D115 (Report of Bosanski Novi crisis staff), pp. 8-9; Purić, T. 27003-4.

<sup>928</sup> P468 (Hasan Alić statement), p. 6.

<sup>929</sup> Radomir Pašić, T. 19629-35, 19637-40; D115 (Report of Bosanski Novi crisis staff), pp. 8-9.

and concluded that the Muslims in question were being forced out of the municipality. He therefore refused the request.<sup>930</sup>

409. On the night of 31 May 1992, shooting resumed in Bosanski Novi town and some Muslim houses, as well as the town mosque [D3.1] and the Vidorije mosque [D3.8] were set on fire. The day after, Witness Delić and his brother were arrested by Serb soldiers and brought to a huntsman's lodge where they were forced to kneel and face a wall. The Serb soldiers forced them to sing Serbian songs and opened fire on the wall around them.<sup>931</sup> From there, they were taken by bus to Mlakve stadium [C5.2] where detainees were encircled by Serb soldiers and guards. During the subsequent days, more people were brought to the stadium. A small number of people walked to the stadium themselves out of fear that they would be found at home and, in the words of Witness Delić, "simply disappear". The witness estimated that approximately 1,000 persons were detained at the stadium. They were given little food during the first day of detention, and wives and mothers of the detainees brought food in thereafter. The detainees slept on the grass, on the bleachers, or in the changing rooms. During the detention, the soldiers called out names of detained Muslims and brought them to the police station [C5.11], the fire department [C5.7] or Hotel Una [C5.6] for interrogation. The detainees, including Witness Delić, were released on 5 June 1992.<sup>932</sup>

410. In the beginning of June 1992, there were many rounds of negotiations between Muslim representatives, the Serb municipal authorities and international representatives. The subject of the negotiations was the departure of Croats and Muslims in a convoy from Bosanski Novi. The negotiations took place in Radomir Pašić's office, in Dvor, twice in Witness Emin Purić's house, and twice on the bridge over the Una river. There was no discussion regarding the possibility for people to return.<sup>933</sup> Purić described these

<sup>930</sup> Kirudja, T. 3088-93, 3095-9, 3110-11, 3234, 3236-9; P125 (UNPROFOR memorandum by Kirudja, 26 May 1992); P120 (Kirudja statement), pp. 16-17; P126 (UNPROFOR memorandum, 29 May 1992), pp. 3-54; P129 (UNPROFOR memorandum by Kirudja, 8 June 1992), pp. 1-2; P120 (Kirudja statement), pp. 18-19; Radomir Pašić, T. 19650, 19653, 19655; D115 (Report of Bosanski Novi crisis staff), p. 9.

<sup>931</sup> Delić, T. 26338-9, 26340, 26342-4.

<sup>932</sup> Delić, T. 26344-7, 26373, 26377, 26396-7; Purić, T. 26995-6; D115 (Report of Bosanski Novi crisis staff), pp. 9-10; P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi and Sanski Most, 18 August 1992), p. 9; P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5; P96 (Report of Bosanski Novi public security station, 15 August 1992), p. 2; Kirudja, T. 3117-18; P131 (UNPROFOR Memorandum by Kirudja, 6 June 1992); P120 (Kirudja statement), p. 21; T. 3104-5; P128 (UNPROFOR Memorandum by Thornberry, 6 June 1992); P129 (UNPROFOR memorandum by Kirudja, 8 June 1992), p. 2.

<sup>933</sup> Delić, T. 26331-3, 26349-52, 26354, 26356, 26364, 26367, 26393; D116.A (Photograph).

“negotiations” as a desperate attempt for help to “leave this hell in Bosanski Novi where we were under siege”.<sup>934</sup>

411. On 8 June 1992, the Bosanski Novi crisis staff issued an ultimatum to the 4,000 Muslims who had been forcibly gathered in Blagaj Japra since 24 May. They were told to leave the municipality in the direction of Banja Luka with the help of the crisis staff and the Red Cross, otherwise the crisis staff would not be able to provide for their security.<sup>935</sup> The next day, the Muslims in Blagaj Japra were driven out of the houses where they were staying by Serb soldiers firing weapons.<sup>936</sup> Some civilians were wounded.<sup>937</sup> Muslims forced to congregate at the Blagaj Japra bridge were stripped of their valuables by the military police before being taken to the Japra factory and detained [C5.1]. At one stage, a Serb soldier took three men out of the crowd and shot them dead. More such killings followed. Some of the people identified from an exhumation of mass graves in the Blagaj Japra area which contained 69 bodies were killed on this occasion [A3.1].<sup>938</sup>

412. Also on 9 June 1992, 25 to 30 Muslims were detained by Serb soldiers at an elementary school in Blagaj Japra [C5.8] before being ordered to go to the Japra factory.<sup>939</sup> Some of the Muslims detained at the factory were robbed and the men were separated from the women and children.<sup>940</sup> Members of the TO and military police then loaded all of the Muslims at the factory into train cars, by this time numbering approximately 4,000, and sent them towards Doboј with members of the SJB providing security. The group was, however, returned to Bosanski Novi where the Muslims were detained at the Mlakve stadium [C5.2].<sup>941</sup>

413. A report of the Bosanski Novi SJB noted that none of the approximately 700 military-aged men subsequently placed in Mlakve stadium by the TO were of security interest from the SJB’s point of view, and that the SJB played no role in their detention.<sup>942</sup>

<sup>934</sup> Purić, T. 26983.

<sup>935</sup> P529, tab 426 (Announcement by Bosanski Novi crisis staff, 8 June 1992).

<sup>936</sup> P468 (Hasan Alić statement), pp. 5-6; P468.B (Hasan Alić statement), p. 4.

<sup>937</sup> P97 (Witness 44 statement), paras 24-5; Witness 44, T. 2725.

<sup>938</sup> P97 (Witness 44 statement), paras 25, 27-35; Witness 44, T. 2689-91; P95 (Record of exhumation in Bosanski Novi, 28 October 1998), p. 3; P857 (Tokača report).

<sup>939</sup> P76 (Midho Alić statement), paras 28-9; Midho Alić, T. 2497, 2499, 2522, 2524, 2528.

<sup>940</sup> Midho Alić, T. 2497, 2592-7; P468 (Hasan Alić statement), pp. 5-6; P468.B (Hasan Alić statement), p. 4.

<sup>941</sup> Midho Alić, T. 2527-8, 2530, 2499; P76 (Midho Alić statement), paras 42-3; P96 (Report of Bosanski Novi public security station, 15 August 1992), pp. 2-3; P97 (Witness 44 statement), paras 36-43; P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5; Radomir Pašić, T. 19669-74, 19802, 19804-5, 19817, 19820, 19823-5, 19829; D115 (Report of Bosanski Novi crisis staff), p. 10; Delić, T. 26366, 26377; Purić, T. 27004-7; P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5.

<sup>942</sup> P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5.

The detainees held at Mlakve stadium from 11 June to 27 July 1992 received inadequate food and water. Hygienic conditions were poor, with no soap or hot water, and only two toilets for the whole group. The detainees slept on tile floors without blankets. For the most part, detainees were not harmed by the guards – a mixture of VRS soldiers and military police – who protected them from vengeful attacks by other Serbs. One witness suggested that this was because the Serbs needed the detainees for exchanges.<sup>943</sup> On one occasion, however, fifteen members of the SDA party were reported to have been separated from the rest of the group and taken to the fire station in town [C5.7]. There they were beaten and given wooden bats to beat each other. Only six of the men survived the beatings.<sup>944</sup>

414. In addition to the facilities mentioned above, Serb authorities detained mainly Muslim and Croat civilians in the following detention centres in Bosanski Novi in 1992, namely, the police station in Bosanska Kostajnica [C5.4], the Vatrogasno building (fire station) [C5.5], the Una hotel [C5.6], a location identified as Suha Međa, [C5.9], and private houses [C5.10].<sup>945</sup>

415. On 23 June 1992, armed Serbs attacked and entered the Muslim settlement of Alići. A group of 27 male villagers were brought to the cemetery and shot dead [A3.2].<sup>946</sup>

416. At the end of June or beginning of July 1992, the Bosanski Novi crisis staff issued instructions regulating the conditions for people to be allowed to leave. Persons who did not own property had to obtain an official document from the municipal land registry office certifying this. Those who owned property were required to draft a contract either leaving the property to the Serbs or the Serb state, or simply renouncing it. Persons wishing to leave also had to provide a list of all the members of the household, obtain a certificate showing that they had no previous convictions, obtain a certificate showing that all utility bills were paid; obtain documentation from the municipal secretariat for national defence stating that they had completed military service; and obtain a document from the

<sup>943</sup> Witness 44, T. 2693-5; P97 (Witness 44 statement), paras 44-6, 49-50; P96 (Report of Bosanski Novi public security station, 15 August 1992), p. 3; Midho Alić, T. 2499, 2533-4; P82 and P83 (Photographs); P76 (Midho Alić statement), para. 45; P468 (Hasan Alić statement), pp. 8-9; P468.B (Hasan Alić statement), p. 7.

<sup>944</sup> P468 (Hasan Alić statement), pp. 8-9; P468.B (Hasan Alić statement), p. 7; P857 (Tokača report).

<sup>945</sup> Malešević, T. 16120-1, 16136-9, 16140-1.

<sup>946</sup> P469.B (Witness 572 transcript), pp. 14118-19, 14135-40, 14142-7, 14154, 14157; P469.C (Witness 572 transcript), pp. 14189, 14191, 14204-5; P469 (Witness 572 statement), pp. 4-7; P857 (Tokača report).

SJB allowing them to leave. All documents had to state that the action taken was on a voluntary basis.<sup>947</sup>

417. On 16 July 1992, about 4,000 Muslims lined up in a convoy. Emin Purić led negotiations with UNPROFOR, who would not allow the convoy to enter Croatia. After a few hours, one of the representatives of the Danish battalion told the convoy that it could proceed to Bosanska Dubica where it would be allowed to enter Croatia. The convoy did so, headed by Radomir Pašić, but was prevented from entering that municipality and, after a few hours, turned towards Bosanska Kostajnica. Once there, the convoy was not allowed to cross the bridge over the Una river, so it returned to Bosanski Novi. Once in Bosanski Novi, many in the convoy could not return to their homes since Serbs had occupied them as soon as the convoy had left, or even before. People therefore stayed in whatever houses were available. Sometime between 17 and 23 July 1992, a UNHCR representative arrived in Bosanski Novi and informed the Muslims that Croatia had now approved the entry into the country. On 23 July 1992, a new convoy of about 9,000 persons lined up, stretching for many kilometres, and accompanied by international forces. This convoy included people who until then had been detained at Mlakve stadium. A small number of people stayed behind, but Witness Delić heard that armed soldiers went door-to-door forcing them to leave; in addition, a few buses stayed behind the convoy to bring the remaining people to Croatia. Witness Delić stressed that none of the people who left with the convoy did so voluntarily, but because of the dreadful situation for Muslims in the municipality. Once Muslims left their homes, Serbs started looting or moving into their houses. A couple of hundred Muslims still remained in the town of Bosanski Novi after the convoy had left. The people in the convoy were taken to the sports hall and the stadium in Karlovac, Croatia.<sup>948</sup> Several weeks later, the Bosanski Novi SJB reported that by 23 July it had “deregistered” 5,629 Muslims who had applied to leave the municipality “voluntarily”.<sup>949</sup>

<sup>947</sup> Delić, T. 26355, 26363; Kirudja, T. 3154-6, 3165-9; P141 (Letter by Radomir Pašić, 6 July 1992); P142 (UNPROFOR memorandum, 8 July 1992); P144 (UNHCR memorandum, 12 July 1992); P469.B (Witness 572 transcript), pp. 14166-8; P469.C (Witness 572 transcript), pp. 14191-4; P469 (Witness 572 statement), p. 7; P469.E (Declaration by Witness 572, 5 July 1992), p. 1; P469.G (Decision by Bosnian-Serb National Defence, 5 July 1992), pp. 1-2; P469.H (Permission, 6 July 1992), p. 1; P469.I, P469.J, P469.K (Change of residence forms, 6 July 1992), p. 1; P469.M, P469.N, P469.O (Permission to travel, 7 July 1992), p. 1; P469.P, P469.Q (Certificates of clean criminal record, 14 July 1992), p. 1.

<sup>948</sup> Delić, T. 26356-62, 26366-8, 26374, 26386-7, 26399; P468 (Hasan Alić statement), pp. 8-9; P468.B (Hasan Alić statement), pp. 7-8; P97 (Witness 44 statement), paras 44, 58-60, 63; P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5; Witness 583, T. 6786-7, 6790; P319 (Press release of Croatian Ministry of information, 24 July 1992); Midho Alić, T. 2500, 2535; Radomir Pašić, T. 19681-9; P145 (UNPROFOR memorandum, 13 July 1992).

<sup>949</sup> P763.C, tab 49 (Report of Bosanski Novi SJB, 15 August 1992), pp. 1-5.

418. Between 12 and 19 August 1992, Charles Kirudja received a further request from Radomir Pašić, together with SDS and SDA representatives from Bosanska Kostajnica in the north of Bosanski Novi, to “evacuate” 5,000 Muslims from that area. Pašić told Kirudja that the Muslims had come to realize that it was impossible for them to live side by side with Serbs. The SDA representative explained that Muslims feared reprisals every time Serbs were killed at the front line. Despite Pašić’s threat that if the demand to evacuate the Muslims were not respected, fatalities might result on both sides, Kirudja refused to acquiesce to UNPROFOR’s involvement in a population transfer.<sup>950</sup>

419. The Chamber concludes that more than 39 Muslims were killed by Serb forces in June 1992. Serb forces attacked a number of Muslim villages in the Japra valley and the town of Bosanski Novi, deliberately destroyed houses and mosques, and killed some villagers in May 1992. By the end of that month, they forced the Muslim population from the villages to gather in the village of Blagaj Japra. In May and June, Muslims were arrested and brought to ten detention centres, including Mlakve stadium. Through the mentioned acts, as well as pressure exerted on Muslim representatives, the Bosnian-Serb municipal authorities sought, and did in fact achieve that large parts of the Muslim population left the municipality and the Bosnian-Serb Republic. Convoys carrying of many thousands of persons, some of whom had been detained at Mlakve stadium, left the municipality and went to Croatia.

#### 4.3.4 Bosanski Petrovac

420. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bosanski Petrovac municipality was 11,694 (75 per cent) Serbs, 3,288 (21 per cent) Muslims, 48 Croats, 366 Yugoslavs, and 225 persons of other or unknown ethnicity.<sup>951</sup>

421. On 24 May 1992, the Bosanski Petrovac crisis staff decided that the SJB, with the help of the JNA and the TO, would begin the disarmament of paramilitaries and citizens “who illegally possess weapons”.<sup>952</sup> Muslims were ordered, through the media and from an APC driving round the town, to hand in their weapons.<sup>953</sup> On 27 or 28 May, Muslim

<sup>950</sup> Kirudja, T. 3183; P120 (Kirudja statement), pp. 32-3.

<sup>951</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 68-71.

<sup>952</sup> P90.O (Minutes of Bosanski Petrovac crisis staff, 23 May 1992), p. 2.

<sup>953</sup> Hidić, T. 2561-3; P87 (Hidić statement), para. 27; P471 (Družić transcript), pp. 16757-58.

houses in town were searched for weapons.<sup>954</sup> Roadblocks were set up around the municipality and the movement of non-Serbs was restricted.<sup>955</sup> Between April and June, the crisis staff dismissed many Muslims in the municipality from their jobs and ordered the disconnection of phone lines belonging to Muslim households.<sup>956</sup>

422. In the summer of 1992, several dozen unarmed Muslims including women, children, and elderly persons were attacked and killed by Serb civilians in the town of Bosanski Petrovac without intervention from the civilian police.<sup>957</sup> A Serb man shot and wounded an unarmed Muslim man in the street in Bosanski Petrovac. A military police officer handcuffed the Serb man and brought him to the SJB, but the man was set free the next day. The military police officer did not file a report on the incident because of what he described as the “chaos” at that time and because nobody requested him to do so.<sup>958</sup> On various occasions during the same period, Serb soldiers attacked and burnt Muslim houses in the village of Bjelaj, forcing the Muslim villagers to spend the nights in shelters around the village.<sup>959</sup> In the period May through September 1992, four mosques in the municipality were blown up [D4.2, D4.3, D4.5].<sup>960</sup>

423. On 13 June 1992, the Bosanski Petrovac crisis staff decided to take repressive measures against those who illegally armed paramilitaries and civilians.<sup>961</sup> On 16 June 1992, the crisis staff decided to detain all individuals who “possess illegal weapons or have been registered as Muslim extremists, thus posing a potential threat”. The crisis staff had already identified about 40 Muslim “extremists”, most of whom had been found to possess illegal weapons.<sup>962</sup> On 29 June, the crisis staff planned to arrest and bring into custody all Muslims fit for military service that were thought to be capable of causing harm to Serbs.<sup>963</sup>

<sup>954</sup> Hidić, T. 2562.

<sup>955</sup> P81 (Hidić statement), para. 23; P91 (Hidić transcript), pp. 16186-7.

<sup>956</sup> Hidić, T. 2560-1; P91 (Hidić transcript), pp. 16174-5; P471 (Družić transcript), pp. 16749-50, 16755-7; P748.C (Minutes of Bosanski Petrovac crisis staff, 14 June 1992), p. 2; P748.F (Decision of Petrovac executive committee, 29 June 1992), p. 2; P90.AA (Minutes of Bosanski Petrovac crisis staff, 13 June 1992), p. 3-4; P359 (Report by Bosanski Petrovac crisis staff, 25 June 1992); Radojko, T. 21331-2, 21447.

<sup>957</sup> P789 (Witness 636 statement), p. 14; Witness 636, T. 14424-5, 14439-40, 14468; P789 (Witness 636 statement), pp. 14-15; P857 (Tokača report); Radojko, T. 21195, 21196-7, 21200-3, 21208-10, 21299.

<sup>958</sup> Witness 636, T. 14443, 14470; P789 (Witness 636 statement), pp. 14-15.

<sup>959</sup> P470 (Dražić statement 19 August 1999), pp. 3-4, 6-7.

<sup>960</sup> Radojko, T. 21192-3, 21363-5, 21368; P90.DD (Report on events in Bosanski Petrovac), pp. 1-2.

<sup>961</sup> P90.AA (Minutes of Bosanski Petrovac crisis staff, 13 June 1992), p. 3.

<sup>962</sup> P90.HH (Minutes of Bosanski Petrovac crisis staff, 16 June 1992), p. 2.

<sup>963</sup> P90.GG (Minutes of Bosanski Petrovac crisis staff, 30 June 1992), p. 2.

424. Around this time, an increasing number of Muslims were detained in Bosanski Petrovac.<sup>964</sup> On 15 June 1992, Serb police arrested Mihdo Družić, a Muslim from Bosanski Petrovac, although he had handed in his hunting-rifle, and brought him to the SJB [C6.2] where he was detained with about 30 other Muslim men.<sup>965</sup> On 1 July, the group was taken to Kozila camp [C6.1], about 20 kilometers from Bosanski Petrovac. There were 80 detainees in the camp, who lived in windowless rooms without hygienic facilities. Družić was interrogated and severely mistreated by the commander of the camp and the guards until he lost consciousness. Other detainees were subjected to similar treatment.<sup>966</sup> This camp was closed on 21 August, after the ICRC had requested to visit the facilities.<sup>967</sup> Also in June, Mujo Dračić, a Muslim shopkeeper from the village of Bjelaj in Bosanski Petrovac municipality, was arrested by four Serb police officers who took him to the SJB [C6.2]. He stayed there for three days with approximately 40 other Muslim men in very cramped conditions. Most of the detainees were beaten by the police.<sup>968</sup>

425. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at six detention centres in the municipality in 1992, namely the sports centre [C6.4], a bus station [C6.5], a hotel [C6.6], Jasikovac [C6.7], Vrtoce [C6.8], and the workers' barracks in Oštrej [C6.9].<sup>969</sup>

426. Serbs in Bosanski Petrovac employed a variety of tactics to instill fear in non-Serbs and prompt them to leave.<sup>970</sup> In July and August 1992, the municipal authorities also asked the UNPROFOR, the ICRC, and the UNHCR for assistance in the moving out of Muslims from the municipality. These organizations refused, citing ethnic cleansing, and instead urged the local authorities to allow people to stay where they wanted.<sup>971</sup>

427. On 31 July 1992, the municipal authorities decided to create a commission to determine who could leave the municipality. The commission was also to set conditions for

<sup>964</sup> Hidić, T. 2571, 2577; P91 (Hidić transcript), pp. 16238, 16265; P90.DD (Report on events in Bosanski Petrovac), p. 1; Radojko, T. 21344-5, 21347-8, 21353-4.

<sup>965</sup> P471 (Družić transcript), pp. 16758-63.

<sup>966</sup> P471 (Družić transcript), pp. 16763-4, 16773-4, 16777-802; P1102 (Order of 2nd Krajina Corps, 25 June 1992), p. 1; Radojko, T. 21342-3.

<sup>967</sup> P90.DD (Report on events in Bosanski Petrovac), p. 4; Radojko, T. 21343.

<sup>968</sup> P470 (Dračić statement), pp. 3-4.

<sup>969</sup> Malešević, T. 16121, 16136-9, 16140-1; Witness D14, T. 20235-41, 20278-80, 20351; P336 (Minutes of Kotor Varoš war presidency, 8 August 1992), item 4.

<sup>970</sup> P81 (Hidić statement), para. 26.

<sup>971</sup> P90.DD (Report on events in Bosanski), pp. 2-4; Radojko, T. 21471-2, 21484; P64.A, tab 265 (Diary of Jovo Radojko), p. 156.

those leaving to exchange their property or assign it to the Serb municipality.<sup>972</sup> On 28 October, the war presidency of Bosanski Petrovac adopted a decision, stating that “all families that have signed contracts on the exchange of flats, houses and other immovable property may leave Petrovac Municipality.” Muslim families who had not produced exchange contracts were allowed to leave only if they donated all movable and immovable property to Bosanski Petrovac.<sup>973</sup> These decisions left Muslims with no choice but to sign over their property to the Serb municipality, receiving nothing in exchange except for a written authorization to leave the area.<sup>974</sup> At least two convoys of Muslims left the municipality in September 1992.<sup>975</sup>

428. The Chamber finds that in the summer of 1992 several dozen unarmed Muslims including women, children, and elderly persons, were killed by Serb civilians in the town of Bosanski Petrovac. Between April and June 1992, the crisis staff dismissed many Muslims from their jobs and imposed discriminatory measures against them. Mosques were deliberately damaged or blown up. In Bosanski Petrovac municipality, many Muslim civilians were held in eight detention centers in cramped conditions, where they were often subjected to beatings. At least two organized convoys of Muslims left the municipality in September 1992. People leaving the municipality had to sign over their property to the Serb municipality.

#### 4.3.5 Čelinac

429. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Čelinac municipality was 16,554 (88 per cent) Serbs, 1,446 (8 per cent) Muslims, 76 Croats, 377 Yugoslavs, and 260 persons of other or unknown ethnicity.<sup>976</sup>

430. Around February 1992, two non-Serb police officers were dismissed from the force. Various paramilitary groups arrived at the municipality. The paramilitary groups looted

<sup>972</sup> P90, tab 39 (Minutes of Petrovac Municipal Assembly, 3 August 1992), p. 2; Hidić, T. 2564, 2579-80; P92 (Hidić transcript), pp. 16273-5; P90.MM (Minutes of Board of commissioners, 3 August 1992), p. 2; P90.DD (Report on events in Bosanski Petrovac); Radojko, T. 21366-7, 21399.

<sup>973</sup> P748.I (Decision of war presidency, 28 October 1992), p. 1; P471 (Družić transcript), p. 16808-11; P90.NN (Certificates from commission for departure, 10 August 1992).

<sup>974</sup> Hidić, T. 2561, 2580-2; P87 (Hidić statement), para. 39; P90.NN (Certificates from commission for departure, 10 August 1992).

<sup>975</sup> Radojko, T. 21217, 21224-6, 21233-4, 21377-8; P90.DD (Report on events in Bosanski Petrovac), p. 6; Witness 636, T. 14424-5, 14440; P789 (Witness 636 statement), pp. 14-15; P892, tab 100 (List of citizens, May 1993), p. 3; Radojko, T. 21195, 21196-7, 21200-3, 21208-10, 21299.

<sup>976</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 90-3.

and destroyed houses that belonged to Muslims. Serb soldiers set up barricades close to the Muslim part of Čelinac town, restricting the movement of Muslims.<sup>977</sup>

431. On 23 July 1992, the war presidency of the municipality adopted a decision conferring special status on the non-Serb population in the municipality. According to the decision, non-Serbs had the right to live unhindered “within the boundaries of their property,” as well as the right to work, health care, pension, and other entitlements prescribed by law. They also had the right to leave the municipality, provided their departure was conducted in an organized fashion and that the entire household left. They were subject to a curfew from 4 p.m. to 6 a.m., and forbidden from selling or exchanging their dwellings without permission of the municipal authority, using any communication systems apart from the post office telephone, lingering in public places, or travelling to other towns without permission from the municipal authority. This decision was to be implemented by the Čelinac SJB and was distributed to the command of the local VRS brigade, the Čelinac SJB and all households.<sup>978</sup> By 5 August, municipal authorities had received requests from 180 Muslims seeking to move out of Čelinac municipality. At a session of the Čelinac municipal assembly on this day, Janko Trivić, a major in the Čelinac light infantry battalion, stated:

there is sporadic fire and destruction of property – Muslim and Croatian weekend homes – and increase in crime, car theft, destruction, arson, this is carried out by armed groups, who do this in a planned way and are helped out by some politicians. This manifests itself through gatherings of extremists and support to such people, which results in anarchy, and ends in genocide being carried out... All of this, as well as other perpetrators have contributed to the fact that the Muslim population has begun to move out of this area.<sup>979</sup>

The crimes against non-Serbs were being perpetrated by members of the Čelinac SJB and the CSB. Decisions were adopted to introduce an obligation to work, to allocate empty homes to refugees, and to set up a commission for the exchange of the population and property.<sup>980</sup>

432. At least five Muslim civilians, two women and three men, were killed during military operations of the 1st Krajina Corps in the village of Bastaši on 16 August 1992,

<sup>977</sup> P504 (Witness 428 statement), pp. 5-6.

<sup>978</sup> P529, tab 310 (Decision by war presidency, 23 July 1992), p. 2-4.

<sup>979</sup> P785.B (Minutes of Čelinac Municipal Assembly, 5 August 1992), pp. 4-5.

<sup>980</sup> P785.B (Minutes of Čelinac Municipal Assembly, 5 August 1992), pp. 4-5, 8, 11, 13-15.

and Muslim houses were set on fire in the village of Šamac. These incidents reportedly occurred following the deaths of thirteen VRS soldiers.<sup>981</sup>

433. In the course of August and September 1992, Witness 428, a Muslim resident of Čelinac municipality, was arrested and then released by the local Serb police on several occasions. On these occasions, he was detained at the Čelinac police station [C10.1], and in the basement of the SDK bank building [C10.4]. He was given insufficient food and was regularly and severely beaten by Serb police officers during his detention. In July and December 1992, the local crisis staff forced Witness 428 to perform various labour tasks in the municipality.<sup>982</sup>

434. In addition to the above-mentioned facilities, Serb authorities also detained mostly Croat and Muslim civilians at a school in Čelinac [C10.2] and in Popovac, a village in the municipality [C10.3].<sup>983</sup>

435. In 1992, two mosques and the Muslim community centre in the town of Čelinac were destroyed [D8.1 and sD8.2].<sup>984</sup>

436. The Chamber concludes that, in the municipality of Čelinac which had already been a predominantly Serb municipality in 1991, at least five Muslim civilians were killed by Serb forces. Serb authorities detained Muslim civilians in six detention facilities under inhumane conditions. Restrictive and discriminatory measures were imposed on Muslims, Muslim cultural monuments destroyed, and private property looted and destroyed by Serb forces and especially by paramilitary forces. Almost all of the Muslim residents moved out of Čelinac municipality.

#### 4.3.6 Donji Vakuf

437. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Donji Vakuf municipality was 13,509 (55 per cent) Muslims, 9,533 (39 per cent) Serbs, 682 (3 per cent) Croats, 593 Yugoslavs, and 227 persons of other or unknown ethnicity.<sup>985</sup>

<sup>981</sup> P891 (Brown report), para. 2.80, fn. 402; P200, tab 8.A (Order by Radovan Karadžić, 19 August 1992); Witness 633, T. 3893.

<sup>982</sup> P504 (Witness 428 statement), pp. 3-8.

<sup>983</sup> Malešević, T. 16123, 16136-9, 16140-1.

<sup>984</sup> P911 (Witness 545 transcript), p. 17996; P911.B (Witness 545 witness's diary), p. 934; P504 (Witness 428 statement), p. 8.

<sup>985</sup> P954 (Bosnia-Herzegovina 1991 Census, April 1995), pp. 100-1.

438. The local commander of the police station, a Serb, began preparing for a separate Serb SJB towards January 1992, and contacted the Banja Luka CSB at the end of February 1992. The latter offered support and possible financial aid to the leader of this project. According to an SJB report, the Muslim leadership in the municipality had agreed to divide the police station because they could not prevent it from happening. The Serb SJB of Donji Vakuf was set up on 17 April 1992 and took control of the entire town the same day.<sup>986</sup>

439. On 6 May 1992, a general Serb mobilization was declared and Muslims were requested to lay down their arms. The following day, the Serb flag was hoisted on the municipality building. Between May and September 1992, the VRS and Serb police, fighting together, took control over the entire territory of Donji Vakuf municipality. There were at least seven clashes between the Serb police, sometimes supported by VRS units, and Muslims. According to the Serb SJB, most of the Muslims in the municipality fled en masse from the municipality starting in May and throughout the summer.<sup>987</sup>

440. When Muslims and Croats left Donji Vakuf, their property was stolen by both private individuals and uniformed men, including reserve policemen. The SJB submitted 35 requests to the military police to institute misdemeanour proceedings in relation to such crimes.<sup>988</sup> The SJB stated, however, that it was not able to prevent theft of Muslim and Croat property due to its involvement in direct combat operations.

441. Serbs authorities held mostly Muslim civilians in ten detention centres in Donji Vakuf during 1992. These centres were: the Donji Vakuf SJB [C12.2], the TO warehouse [C12.3], the Vrbaspromet warehouse [C12.4], the Daljan barracks [C12.5], the Oborci elementary school [C12.6], the Semešnica hotel [C12.7], a kindergarten [C12.8], the garage in the house of Ivica Stanko [C12.9], the garage in the house of Lončar Goran [C12.10], and the Vrbas hotel [C12.11].<sup>989</sup>

442. A 1993 MUP report indicates that, in 1992, 12,970 Muslims and 480 Croats moved out of the municipality and that 5,450 Serbs moved in.<sup>990</sup>

<sup>986</sup> P758.F (Report on setting up of Serbian SJB in Donji Vakuf, 4 October 1993), p. 1.

<sup>987</sup> P758.F (Report on setting up of Serbian SJB in Donji Vakuf, 4 October 1993), p. 2-3; P758.E (Report on work of Donji Vakuf SJB, January 1993), p. 1.

<sup>988</sup> P758.E (Report on work of Donji Vakuf SJB between 1 April and 25 December 1992, January 1993), pp. 2-3.

<sup>989</sup> Malešević, T. 16124-5, 16136-41; P758.B (List of arrested persons in Donji Vakuf SJB, 12 July 1992); P758.C (List of detainees in Donji Vakuf prison, 31 July 1992); P758.E (Report on work of Donji Vakuf SJB, January 1993), p. 2; P758.F (Report on setting up of Serbian SJB in Donji Vakuf, 4 October 1993), pp. 2-3.

<sup>990</sup> P892, tab 100 (List of citizens, May 1993), p. 5.

443. The Chamber concludes that Serb forces detained mostly Muslim civilians in ten detention facilities in Donji Vakuf municipality in 1992. The property of Muslims was looted after most of the Muslims had left the municipality throughout the summer of 1992 due to harassment and threats by Serbs. Serb forces exercised control over the entire municipality of Donji Vakuf by September 1992.

#### 4.3.7 Ključ

444. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Ključ municipality was 18,506 (49 per cent) Serbs, 17,696 (47 per cent) Muslims, 330 (1 per cent) Croats, 579 Yugoslavs, and 280 persons of other or unknown ethnicity.<sup>991</sup>

445. By February 1992, Red Berets, White Eagles and a number of JNA units had entered the territory of the municipality and a Serb TO had been organized.<sup>992</sup> On 5 May, Jovo Banjac, in his capacity as president of the Council for National Defence, imposed a curfew in Ključ municipality pursuant to a decision of the ARK government.<sup>993</sup> Banjac told Witness Egrlić, the SDS-appointed president of Ključ municipality's executive board that Serbs would have to leave some territories of Bosnia-Herzegovina, while Muslims and Croats would have to leave others, so that their respective presence as minorities would amount to no more than five or six per cent.<sup>994</sup> In the following days, Serb army units of the JNA 6th Partizan brigade took control of the roads leading to the town of Ključ. The Serbian flag was hoisted on the municipal building and the local police station.<sup>995</sup> On 7 May, active and reserve police officers were asked to pledge loyalty to the ARK and were issued uniforms with ARK insignia.<sup>996</sup> Muslim and Croat police officers were given another chance to sign the pledge on 21 and 22 May. Those who refused to sign were relieved of their duties.<sup>997</sup> In the days prior to 7 May, Muslims were dismissed from the

<sup>991</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 154-7.

<sup>992</sup> Egrlić, T. 4733, 4737, 4888-9, 4795, 4808, 4855-6, 4866-9; P234 (Minutes of SDS municipal board, 18 February 1992), p. 1; P245 (Statement by Omer Filipović, 29 May 1992), pp. 4-5; P246 (Description of crisis staff members, 10 June 1992), p. 2; P250 (Report by Ključ police security service, 25 September 1992).

<sup>993</sup> Egrlić, T. 4750-2, 4755, 4814-15; P236 (Order for curfew in Ključ, 5 May 1992); P237 (ARK Decision for curfew, 4 May 1992); P252 (Transcript of videotape, 1 July 1992).

<sup>994</sup> Egrlić, T. 4777-9, 4918.

<sup>995</sup> Egrlić, T. 4756-7; 4759, 4885; P238 (Order by 6th Partizan Brigade command); P498 (Muhamed Filipović statement), p. 3; P497 (Atif Džafić statement), pp. 12-13.

<sup>996</sup> P496 (Witness 26 transcript), pp. 9099-100, 9102-3, 9105; P496.A (Witness 26 transcript), pp. 9199, 9251-2; P497 (Atif Džafić statement), p. 12; Egrlić, T. 4637, 4745-6, 4748-9, 4756.

<sup>997</sup> P497 (Atif Džafić statement), pp. 12-13.

SDK and from the local radio.<sup>998</sup> Muslims, who had failed to sign a pledge of loyalty to the new state, as well as one Serb married to a Muslim, were fired from executive posts in public bodies and companies. On 21 July, the war presidency of Ključ municipality issued a decision stating that all central positions in public institutions and companies were to be filled only by Serbs loyal to the Bosnian-Serb Republic.<sup>999</sup> Following this decision, the war presidency ordered the dismissal of several non-Serbs from municipal positions, including the positions of president and vice-president of the executive board of the municipality.<sup>1000</sup>

446. On 25 May 1992, after disarming Muslim police officers, the Serb police established a checkpoint between the predominantly Muslim villages of Biljani and Sanica. Freedom of movement for Muslims was severely restricted.<sup>1001</sup> Two days later, armed clashes broke out in the village of Krasulje between local Muslims and the Serb police.<sup>1002</sup> The Ključ crisis staff issued an order to surrender “illegally acquired” weapons to the local authorities on 28 May. While the order was not enforced against Serbs, non-Serbs were required to surrender all the weapons in their possession, including those that were legally owned.<sup>1003</sup> Also, all residents of the municipality, who at the time were members of armed units, including White Eagles, were ordered to place themselves under the command of the Ključ defence operative force.<sup>1004</sup>

447. Following the crisis staff’s order, one Catholic church, 3,500 Muslim-owned houses, and at least four Muslim monuments in Ključ municipality, including the Atik mosque in the town of Ključ [D15.6], were either completely destroyed or heavily damaged by fire and explosives set by Serb forces during 1992.<sup>1005</sup>

448. On 28 May 1992, the SDA-appointed president of Ključ municipality’s executive board, Asim Egrić, was arrested at a checkpoint, and taken to the police station in Ključ

<sup>998</sup> Erglić, T. 4738, 4756, 4760-1, 4765, 4781, 4885; P239 (Announcement by Ključ crisis staff, 8 May 1992); P240 (List of positions held by Muslims, 26 June 1992).

<sup>999</sup> P529, tab 313 (Decision by Ključ war presidency, 21 July 1992), items 1-3; P529, tab 152 (List of decisions, conclusions, agreements and orders by Ključ crisis staff), item 31; P529, tab 79 (Minutes of Ključ crisis staff, 27 May 1992), p. 2; P529, tab 152 (List of decisions, conclusions, agreements and orders by Ključ crisis staff), items 32-6.

<sup>1000</sup> P241 (Decision to relieve Egrić from his post, 21 July 1992); P529, tab 314; P529, tab 315; P529, tab 316; P529, tab 317; P529, tab 318 (Decisions by Ključ war presidency, 21 July 1992).

<sup>1001</sup> Witness 188, T. 4955-6, 4961; P497 (Atif Džafić statement), p. 13.

<sup>1002</sup> P498 (Muhamed Filipović statement), p. 3; P943.L (List of bodies exhumed in Ključ municipality), pp. 7, 9-10.

<sup>1003</sup> P574.D (92 bis witness transcript), p. 11672; P574.C (92 bis witness transcript), p. 11647; P247 (Order of Ključ crisis staff, 28 May 1992); P496 (Witness 26 transcript), pp. 9105-9; P498 (Muhamed Filipović statement), p. 4.

<sup>1004</sup> P247 (Order of Ključ crisis staff, dated 28 May 1992), pp. 1-2.

<sup>1005</sup> Erglić, T. 4817, 4820, 4822; P252 (Transcript of video, 1 July 1992); P906 (Kaiser report), annex.

where he was severely beaten [C19.1]. On the same day, Muhamed Filipović, a Muslim member of the Ključ municipal assembly, was arrested by two Serbs in military uniforms and taken to the local police station, where he was subjected to beatings by Serb soldiers [C19.1]. At the time, at least 22 other Muslims were held at the station. The detainees, including Egrlić and Filipović, were later taken from the police station to Stara Gradiška<sup>1006</sup> and subsequently to Manjača camp in Banja Luka [C1.4].<sup>1007</sup> On 24 June, a former Muslim reserve police officer was arrested pursuant to an order of Dragan Stojčić – the police commander in Ključ – and taken to the police station in Ključ. There the detainee was severely beaten by four reserve police officers and a man in civilian clothes. The next day he was transferred to Manjača camp and in December 1992 taken to Croatia.<sup>1008</sup>

449. Following the crisis staff's order to surrender weapons, a VRS battalion, together with other units, carried out "mopping up" operations from 28 May to around 31 May 1992.<sup>1009</sup> Serb forces entered or attacked a number of villages across the municipality, including Hadžići and [the hamlet of] Pudín Han. The population of Hadžići was almost exclusively Muslim. Houses were looted and destroyed, a village mosque in Pudín Han was leveled [D15.4] and village residents were forced to leave.<sup>1010</sup> Serb military and White Eagles searched Biljani village for weapons on 30 May 1992. No weapons were found during the search. Biljani was searched for weapons again on 27 June by JNA soldiers and by White Eagles.<sup>1011</sup> On 25 June, the command of the VRS 17th Light Infantry Brigade issued an order pursuant to which the brigade units, jointly with the 6th Infantry Brigade and police squads, were to carry out "a complete blockade, search and mopping up of the terrain" in the areas of Ramići, Krasulja, Hripavci, Ošljak, and Velagići. The order specifically forbade "the torching and destruction of houses except during combat operations if necessary".<sup>1012</sup>

<sup>1006</sup> P498 (Muhamed Filipović statement), pp. 2-4.

<sup>1007</sup> Egrlić, T. 4795-6.

<sup>1008</sup> P496 (Witness 26 transcript), pp. 9157-62; P496.A (Witness 26 transcript), p. 9216.

<sup>1009</sup> Brown, T. 16354-5, 16357-9; P892, tab 79 (Report from Šipovo of 1st infantry brigade, 28 May 1992); P892, tab 82 (Report from 1st Krajina Corps, 31 May 1992).

<sup>1010</sup> P496 (Witness 26 transcript), pp. 9100, 9117-19; P496.A (Witness 26 transcript), pp. 9186, 9202, 9209, 9237; Witness 636, T. 14423; P789 (Witness 636 statement), p. 13; Egrlić, T. 4791.

<sup>1011</sup> Witness 188, T. 4957-62.

<sup>1012</sup> P759, tab 5 (Order for operations, 25 June 1992), pp. 1-3.

450. Around 1 June 1992, approximately one hundred Serb police officers armed with automatic weapons arrived in the Muslim village of Prhovo.<sup>1013</sup> They assembled about 40 male villagers and a number of women and children, none of whom were armed. The villagers, among the Witness Brković, were ordered to line up facing the wall of a house. Several residents were beaten and between five and eight men were killed.<sup>1014</sup> The commander of the Serb unit, Marko Adamović, ordered the soldiers through a megaphone to set the village on fire and to kill the women and children.<sup>1015</sup> When the male residents were led out of the village<sup>1016</sup> in the direction of Peći, an explosion and gunshots were heard coming from the village, as the Serb soldiers opened fire on the civilians who remained in the village. A soldier threw a grenade into the group, killing several women and further wounding Witness Brković. As a result of the shooting, about 38 people were killed, including children, and at least one house was burnt down.<sup>1017</sup> Later, Serb soldiers killed a number of men from the convoy on the way to Peći. Only eleven men survived [A9.1].<sup>1018</sup>

451. On 1 June 1992, approximately one hundred male residents of the predominantly Muslim villages Hadžići, Velagići, and surrounding villages were gathered by Serb troops at the school building in Velagići, where they were first beaten. They were then ordered by the soldiers to line up against a wall and soldiers opened fire on them. After all the men had fallen to the ground, the soldiers began to kill those who showed signs of life. [B10.1].<sup>1019</sup> Serb police and military authorities, who arrived at the site after the shooting, made arrangements to transfer the bodies to a mass grave site in the woods outside Lanište. A total of 77 bodies were exhumed from the mass grave on Mount Grmeč (Lanište II), Ključ municipality. All the persons whose bodies were found at the site were male Muslim civilians who were identified as residents of Velagići village killed by Serb paramilitary forces outside Velagići primary school on 1 June 1992.<sup>1020</sup> Following the incident, an

<sup>1013</sup> Medanović, T. 6668; P309 (Medanović statement), paras 13, 16; Medanović, T. 6668; 6672; Brković, T. 5158, 5168-9, 5171.

<sup>1014</sup> Medanović, T. 6670, 6673; P309 (Medanović statement), para. 14; Brković, T. 5170-2; P261, P262 (Photographs, 16 March 2001); Brković, T. 5174-6, 5185, 5187; P264 (List of Ključ crisis staff); P857 (Tokača report).

<sup>1015</sup> Medanović, T. 6673-6; P309 (Medanović statement), paras 19, 21; P310 (Map of Ključ).

<sup>1016</sup> Brković, T. 5176-8.

<sup>1017</sup> Medanović, T. 6676; Brković, T. 5177-84; P262, P263 (Photographs, 16 March 2001).

<sup>1018</sup> Medanović, T. 6677-82; P309 (Medanović statement), paras 22, 27-31; Egrić, T. 4810-13, 4947-9; P857 (Tokača report).

<sup>1019</sup> P496 (Witness 26 transcript), pp. 9119-26, 9128-30, 19138.

<sup>1020</sup> P496 (Witness 26 transcript), pp. 9145, 9149; P496.A (Witness 26 transcript), p. 9187; P943.F (Order of exhumation by Ključ lower court, 4 October 1996), pp. 1-2; P943.K (List of identified bodies exhumed in

investigating judge was sent to the school to make a record of the crime. Several VRS soldiers were arrested in connection with the killings. The suspects were transferred to Mali Logor, in Banja Luka, where they were kept for a short time, before being released to their units in Ključ, without being tried for their participation in the killings.<sup>1021</sup>

452. Around 30 May 1992, approximately 400 non-Serbs were detained by Serb soldiers in JNA uniforms and were guarded at the Sanica school gym by reserve police officers [C19.4].<sup>1022</sup> The detainees were transferred to a gym in Ključ [C19.6], where approximately one hundred persons, including children and elderly, were detained. While in detention, Witness Atif Džafić, was interrogated by an inspector from the Banja Luka CSB. Džafić was placed in isolation, beaten on several occasions, and was later transferred to a detention centre in Sitnica [C19.3], in the east of Ključ municipality.<sup>1023</sup> Around 2 June, approximately 300 Muslim men were detained by Serb reserve police in the elementary school in Ključ [C19.2].<sup>1024</sup> On 5 June, Serb reserve police escorted detainees from the school to Manjača camp in Banja Luka municipality.<sup>1025</sup> Around 7 June, some 400 civilians were taken from a detention centre in Sitnica [C19.3] to Manjača camp.<sup>1026</sup>

453. On 10 July 1992, in accordance with an order issued by the commander of the local battalion,<sup>1027</sup> Muslim males, aged 18 to 60, were rounded up by VRS soldiers near Biljani primary school. Approximately 60 men were searched and then brought into a classroom inside the school building. Groups of five detainees were subsequently called outside the classroom and shot.<sup>1028</sup> More than 20 were killed. Following this, the remaining people were taken out, beaten and loaded into a bus. When the bus filled up, those still waiting to board were taken aside and shot. As the bus was about to drive away, a soldier took off four men, including a relative of Witness 188, and killed them. The bus drove a very short distance and stopped. The men were taken off the bus and led away at gunpoint by military police. When the witness realized that he too would be killed, he attempted to run away.

Sanski Most and Ključ), pp. 10-12; P943.H (Post mortem record by Ključ lower court, 8 October 1996); P943.L (List of bodies exhumed in Ključ), pp. 2, 11-13; P943.G (Investigation record by Ključ lower court, 5 October 1996), p. 1; P943.J (Report of exhumations by Bosnia-Herzegovina MUP, 22 October 1996), p. 3, pp. 10-11; P857 (Tokača report).

<sup>1021</sup> P789 (Witness 636 statement), pp. 10-11.

<sup>1022</sup> P497 (Atif Džafić statement), p. 14; P943.L (List of bodies exhumed in Ključ), pp. 7-9.

<sup>1023</sup> P497 (Atif Džafić statement), pp. 14-16.

<sup>1024</sup> Medanović, T. 6684-5; P309 (Medanović statement), paras 32, 34.

<sup>1025</sup> Medanović, T. 6685; P309 (Medanović statement), paras 35-6.

<sup>1026</sup> P497 (Atif Džafić statement), p. 16.

<sup>1027</sup> Witness 188, T. 4967-9; P255 (Note of Sanica reserve police station, 10 July 1992); P256 (Order to mop up Biljani, 9 July 1992).

The guards fired at the escaping detainees, calling out “balijas” after them. The witness fell down beside the body of an escapee who had been killed and pretended he was dead [A9.3].<sup>1029</sup> A total of 27 bodies were recovered from a mass grave and from several individual graves in Krasulje village. They were identified as having been male Muslims killed by Serbs on 10 July 1992.<sup>1030</sup>

454. In addition to the facilities mentioned above, Serb authorities detained mainly Croat and Muslim civilians in the following detention centres in Ključ municipality, namely the huts in Gornja Sanica [C19.4], and the Gornja Sanica railway station [C19.5].<sup>1031</sup> In July, the Ključ SJB reported to CSB Banja Luka that, by 27 August “no camps, prisons or collection centres [remained] in [Ključ] municipality.” All prisoners had been sent to the Manjača camp.<sup>1032</sup>

455. An agency for the reception and removal of refugees had already been established on 27 May 1992 by the crisis staff. Persons who wished to move out of the municipality had to obtain a permit issued by the municipal authorities.<sup>1033</sup> In accordance with the crisis staff decision of 30 July, those who wished to leave the municipality had to submit a statement saying that they were leaving permanently, and were to exchange their property or surrender it to the municipality.<sup>1034</sup> The SNO and SJB were in charge of issuing the relevant documents.<sup>1035</sup> In accordance with the ARK decision of 4 August, individuals leaving the ARK could take with them no more than 300 German marks.<sup>1036</sup> Out of the 17,000 or so Muslims who had been living in the Ključ area only around 600 remained by

<sup>1028</sup> Witness 188, T. 4965-8, 4972, 4979-80; P257 (Exhumation report on Lanište mass grave, 1996).

<sup>1029</sup> Witness 188, T. 4967-9; P255 (Note of Sanica reserve police station, 10 July 1992); P256 (Order to mop up Biljani, 9 July 1992); Witness 188, T. 4965-9.

<sup>1030</sup> Witness 188, T. 4973-8; P943.L (List of bodies exhumed in Ključ), pp. 2-5; P943.J (Report of exhumations by Bosnia-Herzegovina MUP, 22 October 1996), p. 3; P943.K (List of identified bodies exhumed in Sanski Most and Ključ), pp. 9-10; P857 (Tokača report). P943.P (Investigation report by Ključ lower court, 6 October 1996), pp. 5-6; P943.Q (Autopsy records by Ključ lower court, 7 November 1996), pp. 7-14; P943.S (Autopsy report by Ključ lower court), pp. 19-22; P943.L (List of bodies exhumed in Ključ municipality), pp. 7, 9-10; P943.O (Exhumation order by Ključ lower court, 14 October 1996), p. 4; Egrlić, T. 4733, 4737, 4810-11.

<sup>1031</sup> Malešević, T. 16127-8, 16136-9, 16140-1.

<sup>1032</sup> P759.H (Ključ SJB report), p. 1.

<sup>1033</sup> P529, tab 79 (Minutes of Ključ crisis staff, 27 May 1992), p. 3, items 11 and 18; P529, tab 351 (Declaration by Čamil Kuburaš, 31 July 1992).

<sup>1034</sup> C10, tab 7 (Statement, 8 September 1992); C10, tab 8 (Statement, 10 August 1992); C10, tab 9 (Statement, 17 August 1992); C10, tab 10 (Statement, 3 August 1992); C10, tab 11 (Statement, 4 August 1992); C10, tab 12 (Statement, 4 August 1992); C10, tab 13 (Statement, 7 August 1992); C10, tab 14 (Statement, 10 August 1992); C10, tab 15 (Statement, 17 August 1992); C10, tab 16 (Statement, 18 August 1992); C10, tab 17 (Statement, 18 August 1992).

<sup>1035</sup> P529, tab 349 (Decision by Ključ crisis staff, 30 July 1992), arts 1-2, 7.

<sup>1036</sup> P763 (Nielsen report), para. 284; P759, tab 4 (Bulletin from Banja Luka CSB, 3 June 1992), p. 1.

the summer of 1992.<sup>1037</sup> A report from the VRS 17th Ključ Light Infantry Brigade command of the 2nd Krajina Corps, dated 16 February 1993, detailed the numbers of people who had left Muslim villages and communes in Ključ municipality between May 1992 and January 1993: 4,154 of the 4,200 residents of Sanica; 3,429 of the 3,649 residents of Velagići (lists indicating the desired destinations for the remaining 220 residents had been drafted); 2,655 of the 2,815 residents of Peći; 1,250 of the 1,732 residents of Humići; all of the 778 residents of Sokolovo; and all 24 residents of Gornji Ribnik.<sup>1038</sup> A May 1993 MUP report indicates that between 14,000 to 15,000 Muslims, 200 Croats, and 1,000 Serbs had left the municipality; replaced by 2,000 to 3,000 Serbs.<sup>1039</sup>

456. The Chamber concludes that, in total, at least 148 Muslims and Croats were killed by Serb forces in Ključ municipality in the period June to mid-July 1992. Serb forces entered several villages and deliberately destroyed religious monuments and around 3,500 houses owned by Muslims. Already in May 1992, Muslims and Croats had been dismissed from their posts in public bodies and companies in the municipality. The Serb forces often arrested persons or rounded them up and sometimes opened the fire on them, for example at the villagers from Hadžići, Velagići, and surrounding villages on 1 June 1992, killing approximately 77, and at the Muslim villagers of Prhovo also on 1 June 1992. Several VRS soldiers were arrested, but they were never tried for their participation in the killings. In six detention centres in the municipality of Ključ, mostly schools, many Muslim and Croat civilians were detained in harsh conditions and often severely beaten. Many detainees were executed by Serb guards. By end of August, nearly all detainees had been transferred to Manjača camp in Banja Luka municipality. The Chamber finds that most of the Muslims moved out of the municipality in summer 1992 due to unbearable circumstances and out of fear.

#### 4.3.8 Kotor Varoš

457. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Kotor Varoš municipality was 14,056 (38 per cent) Serbs, 11,090 (30 per cent) Muslims,

<sup>1037</sup> Egrlić, T. 4766, 4820; P242 (Record of population in Ključ municipality, 3 August 1992).

<sup>1038</sup> P891 (Brown report), para. 2.158-2.159; P759, tab 10 (Report of legal state-system in Ključ, 16 February 1993), p. 3.

<sup>1039</sup> P892, tab 100 (List of citizens, May 1993), p. 2.

10,695 (29 per cent) Croats, 745 Yugoslavs, and 267 persons of other or unknown ethnicity.<sup>1040</sup>

458. During April and May 1992, public institutions in Kotor Varoš such as the social and health services and the financial and postal services, began receiving instructions from their respective headquarters in Banja Luka.<sup>1041</sup> The SJB in Kotor Varoš also followed the orders of the CSB in Banja Luka. However, in contrast to most SJBs in the ARK, officers of the Kotor Varoš SJB continued to wear the insignia of the Bosnia-Herzegovina Government until 11 June 1992.<sup>1042</sup>

459. On 11 and 12 June 1992, Serb soldiers in green camouflage uniform attacked the town of Kotor Varoš, causing many Muslims and Croats to flee into the woods. After a week, the Muslims and Croats surrendered their weapons and returned to the town.<sup>1043</sup> On 25 June, there was fighting between Muslim formations and a paramilitary unit under the command of Slobodan Dubočanin in the Kotor settlement. The members of this unit took a group of Muslims from Kotor outside the town and beat them with rifles, verbally abused them, calling them “balijas” and “Ustashas” and stripped them of their valuables. They also let a dog loose on one of the Muslims and forced several Muslims to beat their family members. Then they alleged that a Serb soldier had been killed and warned that for each Serb, five non-Serbs would be killed “in retaliation”. The paramilitaries killed six of the group and they mistreated many others. They also forced them to set stores and houses in town on fire. Another Muslim was killed near the hospital, in this instance by a police officer in the presence of the commander of the police station [A10.1].<sup>1044</sup>

460. During the summer of 1992, Serb forces attacked a number of Croat and Muslim villages in Kotor Varoš municipality, including the predominantly Muslim villages Hrvačani and Vatraći.<sup>1045</sup> Elvedin Pašić, from the Muslim village of Hrvačani in Kotor Varoš municipality, testified that he learned from Elvir Lihović, a villager from Dabovci, that sometime prior to July or August 1992, Serb soldiers led the men of Dabovci into a

<sup>1040</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 164-7.

<sup>1041</sup> P325 (Witness 144 statement), para. 96.

<sup>1042</sup> Witness 144, T. 7110, 7127.

<sup>1043</sup> P325 (Witness 144 statement), paras 104, 107; P488 (Witness 469 transcript), pp. 17892-5, 17948-9.

<sup>1044</sup> P488 (Witness 469 transcript), pp. 17896-7, 17899-907, 17910-12, 17915-20, 17928-30, 17951-4, 17959; P487 (Witness 321 statement), p. 6; P487.A (Witness 321 transcript), pp. 17636, 17638-9, 17654; Witness D14, T. 20162-3; P344 (Minutes of Kotor Varoš crisis staff, 26 June 1992), item 1; P892, tab 91 (Minutes of Kotor Varoš crisis staff, 29 June 1992), item 2; P857 (Tokača report); Tokača, T. 15646.

house outside the village and killed almost all of them and that Lihović narrowly survived the killing and escaped [A10.2].<sup>1046</sup>

461. In June and July 1992, a dozen Croats and Muslims were detained in the police station of Kotor Varoš town [C20.4] where they were beaten by special police officers and by Serb soldiers wearing red berets. One of them was nearly strangled while being interrogated about the activities of other SDA members. Some of them were also sexually abused by the police officers.<sup>1047</sup>

462. From the end of June 1992 until beyond the indictment period, Muslim and Croat men and women were detained in the prison of Kotor Varoš [C20.5.]. The detained men were repeatedly beaten and held in cramped conditions and without hygienic facilities and sufficient food. At least some of them were not informed of the reasons for their detention.<sup>1048</sup> In July or August, a number of Muslim men, women, and children detained at the elementary school in Grabovica [C20.13] were beaten and abused with axes, sticks and pitchforks during their detention.<sup>1049</sup> Some of the more than 100 Muslims and Croats detained at the Kotor Varoš elementary school [C20.3], including boys, were beaten and tortured by Serb soldiers and special police forces between 8 July and late September 1992.<sup>1050</sup> The Kotor Varoš elementary school and the municipal prison were run by the Serb special police.<sup>1051</sup>

463. In August 1992, approximately 1,000 women, children, and elderly civilians were detained at the Pilana sawmill [C20.7] Many women and girls aged 13 and older were raped by Serb soldiers prior to being sent to Travnik from where they were released. Along the way to Travnik, at Skender Vakuf, Šešelj's and Arkan's men boarded the bus in which they were travelling and stripped the detainees of their remaining money and jewellery.<sup>1052</sup>

<sup>1045</sup> Elvedin Pašić, T. 7256-7, 7239-40; D30 (Elvedin Pašić statement), pp. 3-4; P486 (Witness 148 statement), pp. 2-4, 8-9; P760, tab 6 (Minutes of Kotor Varoš war presidency, 21 September 1992), p. 1; P325 (Witness 144 statement), para. 107.

<sup>1046</sup> Elvedin Pašić, T. 7273.

<sup>1047</sup> P487 (Witness 321 statement), pp. 2-5; P487.A (Witness 321 transcript), pp. 17617-19, 17633, 17635; P325 (Witness 144 statement), paras 110-11.

<sup>1048</sup> P488 (Witness 469 transcript), pp. 17932-5, 17954, 17959-60; Witness 144, T. 7135-6, 7150-1; P325 (Witness 144 statement), paras 120-1, 129, 134, 158; P336 (Minutes of Kotor Varoš war presidency, 8 August 1992), item 4; P345 (List of camp prisoners in Kotor Varoš).

<sup>1049</sup> Elvedin Pašić, T. 7272, 7273-83, 7301; D30 (Elvedin Pašić statement), pp. 9-10.

<sup>1050</sup> Witness 144, T. 7135, 7140-3, 7151; P325 (Witness 144 statement), paras 111-12, 114-16, 119; P345 (List of camp prisoners in Kotor Varoš); P325 (Witness 144 statement), paras 125-8.

<sup>1051</sup> Witness 144, T. 7142-3, 7148, 7154-5, 7157, 7201-2 7209-10; P325 (Witness 144 statement), paras 120-1, 129.

<sup>1052</sup> P486 (Witness 148 statement), pp. 5-7.

464. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim and Croat civilians in the following detention centres in Kotor Varoš, namely Alagić's or Đevdo's café in Vrbanjci [C20.1 and C20.15], the Jelsingrad factory [C20.2], Maslovare school [C20.6], the high school [C20.8], the old court [C20.9], Šiprage [C20.10], Kozara [C20.11], the Dom Zdravlja medical centre [C20.12], and the Vrbanjci petrol station [C20.14].<sup>1053</sup>

465. By early October 1992, a small pocket surrounding the predominantly Muslim village Večići was the only area of Kotor Varoš municipality not under the control of the VRS 1st Krajina Corps. The local Muslim and Croat population had armed and defended Večići through the summer months and the area had seen combat actions including the ambushing and killing of Serb soldiers. By the autumn, however, the population of Večići had been surrounded by Serb forces and negotiations began for the surrender of the population. Due to the unwillingness of some of the Muslim and Croat population to disarm, there were discussions within the Serb authorities on whether to let the people go before they disarmed.<sup>1054</sup> On 1 November, the 1st Krajina Corps filed a report which shows that, following a meeting with General Mladić and Radovan Karadžić, a decision was made that the civilian population would be allowed to leave without imposing the condition that the armed forces be disarmed.<sup>1055</sup> On 2 November, during a session of the Kotor Varoš war presidency, Colonel Bogojević informed everyone present that he had received explicit orders from General Mladić that no one would be allowed to leave Večići until unconditional surrender of arms was completed.<sup>1056</sup> During the night of 2 and 3 November, armed men from Večići attempted to escape towards Travnik whilst the women and children decided to surrender. The Serb military was informed about this and as the armed men from Večići fled, they were ambushed and captured by the VRS. Some were killed and the others were brought to Grabovica school. The armed men were held separately in the school and the women, the elderly, and the children were sent with buses provided by the crisis staff to join the rest of the population.<sup>1057</sup> The war presidency decided to organize the departure of a convoy as soon as possible. It also decided that Pejić, Župljanin, Balaban and Lieutenant Colonel Novakonić should be responsible for the

<sup>1053</sup> Malešević, T. 16129, 16136-9, 16140-1.

<sup>1054</sup> P891 (Brown report), para. 2.92; P760, tab 8 (Minutes of Kotor Varoš war presidency, 1 November 1992), p. 1.

<sup>1055</sup> D125 (Document from 1st Krajina Corps Command, 1 November 1992).

<sup>1056</sup> P350 (Minutes of Kotor Varoš war presidency, 2 November 1992).

<sup>1057</sup> Witness D14, T. 20192-3.

captured soldiers.<sup>1058</sup> However, on 4 November, approximately 150 of these men were killed [B11.1].<sup>1059</sup> According to a report of the 1st Krajina Corps Command of 4 November, “a brutal massacre of the captured members of the Green Berets started because of the wounding of four and the killing of one soldier of the Kotor Varoš Light Infantry Brigade and the burning of wounded soldiers on Gola Planina (Jajce)”.<sup>1060</sup> Witness D14 also acknowledged that “something happened and serious crimes took place there... to members of the Muslim army who had arrived at the school that evening”.<sup>1061</sup> Nedeljko Đekanović, president of Kotor Varoš, went to Grabovica school [C20.13] on 5 November 1992 to monitor the “clearing up of the terrain and cleaning of the school”.<sup>1062</sup>

466. Already in 29 June 1992, the Kotor Varoš crisis staff had decided to establish an agency to oversee the resettlement of persons; all buses in the municipality were to be made available for that purpose. The crisis staff decided that all those who wanted to move out of Kotor Varoš had to submit written requests to the basic court in Kotor Varoš and to fill in certain forms declaring their assets and stating that they were “leaving them in custody” of the political and social community.<sup>1063</sup> Witness D14 explained that the term “leaving in custody” meant either selling at a lower price or exchanging assets.<sup>1064</sup> The persons moving out of the municipality were to be informed that they were allowed to take with them only 300 German Marks.<sup>1065</sup> Persons who wished to leave were to surrender their immovable property to the municipality and declare that they were leaving voluntarily.<sup>1066</sup> On 28 July 1992, the Kotor Varoš war presidency decided that money that was confiscated from persons moving out, was not to be returned to those persons but was to be used to assist the families of fallen soldiers and to cover municipal expenses.<sup>1067</sup> In July and August, there were incidents where Serb soldiers, as well as Šešelj’s and Arkan’s

<sup>1058</sup> P760, tab 9 (Minutes of Kotor Varoš war presidency, 4 November 1992), item 2.

<sup>1059</sup> P891 (Brown report), paras 2.93-2.95; P760, tab 9 (Minutes of Kotor Varoš war presidency, 4 November 1992), p. 1; P891 (Brown report), paras 2.96-2.98.; P857 (Tokača report); Tokača, T. 15646.

<sup>1060</sup> P352 (Report to VRS Main Staff from VRS 1st Krajina Corps, 4 November 1992), item 2.

<sup>1061</sup> Witness D14, T. 20193.

<sup>1062</sup> P760, tab 10 (Minutes of Kotor Varoš war presidency, 6 November 1992).

<sup>1063</sup> Witness D14, T. 20230; P892, tab 91 (Minutes of Kotor Varoš crisis staff, 29 June 1992), item 2; P340 (Statement, 21 August 1992).

<sup>1064</sup> Witness D14, T. 20230.

<sup>1065</sup> P529, tab 345 (Minutes of Kotor Varoš war presidency, 14 July 1992); P529, tab 354 (Minutes of Kotor Varoš war presidency, 29 July 1992).

<sup>1066</sup> P487.A (Witness 321 transcript), p. 17643; P487 (Witness 321 statement), p. 8; P487.A (Witness 321 transcript), pp. 17644, 17646-9; Witness 144, T. 7145-6, 7198, 7204, 7208-9; P339 (Conclusion of Kotor Varoš crisis staff, 18 June 1992); P340 (Statement, 21 August 1992); C10, tab 2 (Statement, 5 October 1992), C10, tab 3 (Statement, 1 August 1992); C10, tab 4 (Statement, 1 August 1992); C10, tab 5 (Statement, no date), C10, tab 6 (Statement, no date).

<sup>1067</sup> P529, tab 364 (Minutes of Kotor Varoš war presidency, 28 July 1992).

men, robbed Muslims and Croats who were leaving Kotor Varoš of their valuables.<sup>1068</sup> From some villages like Večići, Sokoline, Viševice, Ravan, and Bilice, the entire Muslim population left.<sup>1069</sup>

467. A total of fourteen Muslim and Catholic monuments in Kotor Varoš municipality were heavily damaged or completely destroyed in 1992, most of them in July and August, by fire, explosives, or shelling, or by a combination of the three. The monuments included mosques in Hanifići [D16.1], Kotor Varoš town [D16.2], Vrbanjci [D16.3], Hrvačani [D16.4], Ravni [D16.5], Vranić [D16.6], Donja Varoš [D16.7], and Večići [D16.8] The Nova mosque in Večići suffered minor shelling damage in August 1992 [D16.9].<sup>1070</sup>

468. The Chamber concludes that, in total, over 157 Muslims and Croats were killed by Serb forces in the municipality of Kotor Varoš in the period mid-June to the beginning of November 1992. During the summer of 1992, Serb forces attacked Kotor Varoš town and a number of Croat and Muslim villages in Kotor Varoš municipality and deliberately damaged or destroyed Muslim and Croat cultural monuments. They met with resistance of Muslim forces, but in many villages they prevailed. When the Muslim population in these villages surrendered, Serb forces stripped them of their valuables and killed some of them. On 4 November 1992, 150 Muslim men who had been captured near the village Večići were massacred. The Chamber further finds that Serb forces detained many Muslim and Croat civilians in fourteen detention centers in the municipality. For example, there were approximately 1,000 women, children, and elderly civilians at the Pilana sawmill in August 1992. They were held under cramped conditions and were beaten on a regular basis. Detainees were sent to Travnik, in Skender Vakuf municipality, by bus from where they were released. Other Muslims and Croats also left in buses organized by the crisis staff and an agency. Persons leaving had to surrender their property to the municipality and declare that they were leaving voluntarily. Large parts of the non-Serb population moved out of the municipality in 1992 due to unbearable circumstances in the municipality; some villages like Večići, Sokoline, Viševice, Ravan, and Bilice, were completely abandoned by their Muslim population.

<sup>1068</sup> Elvedin Pašić, T. 7271-2, 7282; P486 (Witness 148 statement), p. 8.

<sup>1069</sup> Witness D14, T. 20233.

<sup>1070</sup> P906 (Kaiser report), annex.

## 4.3.9 Prijedor

469. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Prijedor municipality was 49,351 (44 per cent) Muslims, 47,581 (42 per cent) Serbs, 6,316 (6 per cent) Croats, 6,459 Yugoslavs, and 2,836 persons of other or unknown ethnicity.<sup>1071</sup> Prijedor municipality was at a strategic location for the VRS and the Bosnian-Serb Republic because of its position in the corridor linking Western Bosnia with Serbia.<sup>1072</sup>

470. In the early hours of 30 April 1992, JNA forces and the Serb police took control of the town of Prijedor by setting up checkpoints and occupying its most important buildings, thus taking over municipal administration organs and important companies.<sup>1073</sup> Police officers were obliged to pledge loyalty to the new Serb authorities.<sup>1074</sup> Police commanders of Muslim ethnicity were replaced by these authorities with Serb commanders.<sup>1075</sup> The SDS, through the newly created bodies, removed SDA members from functions in the municipal assembly and the municipal administration. Muslim and Croat public officials were prohibited from entering the municipal assembly building.<sup>1076</sup>

471. With the assistance of soldiers and paramilitaries, the crisis staff, under SDS municipal board president Milomir Stakić,<sup>1077</sup> proceeded to expand restrictive measures against Muslims and Croats firing them from their jobs, barring their children from attending school, and restricting their movement within and from the municipality. SDS-controlled radio broadcast accusations and propaganda against Muslims and Croats including ethnic insults. Serb authorities prevented Muslims and Croats from travelling outside of the municipality. They often searched the houses of Muslims and Croats, cut their telephone lines, and partially shut down their electricity supplies.<sup>1078</sup>

<sup>1071</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp.198-203.

<sup>1072</sup> Adjudicated facts 101-4.

<sup>1073</sup> Adjudicated facts 114, 116-21; P564 (Sejmenović transcript), pp. 4479-80, 4556; P564.G (Sejmenović transcript), pp. 5387-8; P492 (Atlja transcript), pp. 5553-4; P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), p. 6; P529, tab 277 (Report by Prijedor SJB), p. 6; P763.C, tab 10 (Report on work of Prijedor SJB, January 1993), p. 2; P803, tab 1 (Information from Simo Drljača to Banja Luka CSB, 30 April 1992).

<sup>1074</sup> P564 (Sejmenović transcript), p. 4559; P763.C, tab 10 (Report on work of Prijedor SJB, January 1993), p. 3.

<sup>1075</sup> Adjudicated fact 210.

<sup>1076</sup> P901, pp. 2479-81, 2514-21; P490 (Witness 335 transcript), pp. 3914, 3917; P490.A (Witness 335 transcript), p. 4016; P564 (Sejmenović transcript), p. 4561; P803, tab 2 (Minutes of SDS municipal board, 9 May 1992).

<sup>1077</sup> Adjudicated fact 212; P803, tab 2 (Minutes of SDS Prijedor municipal board, 9 May 1992); P803, tab 3 (Instructions on establishment, composition and tasks of Prijedor crisis staffs in, June 1992); P803, tab 6 (Article in *Kozarski Vjesnik* newspaper, 25 September 1992).

<sup>1078</sup> Adjudicated facts 154-7, 164-5; P492 (Atlja transcript), pp. 5553-4; P492.A (Atlja transcript), p. 5659.

472. In early May 1992, shortly after the take-over of the town of Prijedor, Serb soldiers and reserve police officers proceeded to attack Prijedor's old town area, a predominantly Muslim neighbourhood. They forced the unarmed men, women, and children out of their homes, looted local businesses, and destroyed the local mosque and some houses. Heavy machinery was used to level the area of the old town.<sup>1079</sup>

473. From May to December 1992, mosques and other religious institutions throughout Prijedor municipality were targeted for destruction and the property of Muslims and Croats went missing.<sup>1080</sup> The mosque in the old town of Prijedor and a Catholic church [D18.5] were destroyed.<sup>1081</sup> Property of Muslims and Croats who had left the area was confiscated and assigned to Serbs. Soldiers and MUP special units took part in organized looting of villages, from which Muslims, Croats, and other non-Serbs, had been driven out.<sup>1082</sup>

474. In late May 1992, following clashes between Serbs and Muslims at a checkpoint in the Muslim village of Hambarine on 22 May, areas to the south-west of the town of Prijedor were attacked by Bosnian-Serb forces, including the police and VRS forces.<sup>1083</sup> The 1st Krajina Corps and the local MUP cooperated in mopping-up operations in Prijedor, in the villages of Kozarac, Kozaruša, Trnopolje, and elsewhere in Prijedor municipality.<sup>1084</sup> Several paramilitary groups, including those headed by Dragan (Zolja) Slijepčević and Momčilo (Cigo) Radanović, fought alongside the VRS in these operations.<sup>1085</sup> Slobodan Kuruzović, member of the SDS municipal board, commander of the local Serb TO and in charge of the Trnopolje camp, stated to prisoners in Trnopolje that the Serb plan was to reduce the number of Muslims in Prijedor to 10 per cent or less, and later to reduce this to 2 per cent or less.<sup>1086</sup>

475. The day after the incident at the Hambarine checkpoint on 22 May 1992, during which a Serb was shot, Serb forces attacked the area around that village. Because the Hambarine authorities had not complied with the ultimatum of the Prijedor crisis staff to

<sup>1079</sup> P901, pp. 2495-9; P901.A, pp. 2607, 2641.

<sup>1080</sup> Adjudicated fact 158.

<sup>1081</sup> P901, pp. 2482, 2495-9; P901.A, pp. 2607, 2641; P296 (Mazowiecki report on human rights in territory of former Yugoslavia, 17 November 1992), para. 17(i).

<sup>1082</sup> P564.A (Sejmenović transcript), p. 4619; P564.D (Sejmenović transcript), p. 4862; P763 (Nielsen report), para. 283.

<sup>1083</sup> Adjudicated fact 183.

<sup>1084</sup> Brown, T. 16344-5, 16350-2; P892, tab 78 (Report on work of Prijedor SJB), pp. 2-4; P892, tab 75 (Report by 1st Krajina Corps, 29 May 1992), p. 1; Witness 665, T. 13667-9; P752 (Witness 665 transcript), pp. 21072-4; P763.C, tab 10 (Report on work of Prijedor SJB, January 1993), p. 4.

<sup>1085</sup> Brown, T. 16308-11; 16319; P892, tab 54 (Report on paramilitary formations, 28 July 1992), pp. 1-3.

surrender all weapons, and also turn over the men staffing the checkpoint, the crisis staff ordered artillery shelling, which lasted several hours. Around 1,000 Serb soldiers then entered the area, supported by tanks and other weaponry. After a brief period of intermittent fighting local Muslim leaders collected and surrendered most of the weapons held by their side. By this time, many of the inhabitants of Hambarine, including women, children, and elderly persons, had fled north to other villages or south to a forested area, which was also shelled. A number of the displaced residents later returned to Serb-controlled Hambarine, although only temporarily. On 20 July, the last major cleansing in the municipality occurred with the removal of thousands of non-Serbs from Hambarine and nearby Ljubija.<sup>1087</sup> More than 40 villagers were killed in the attacks on Hambarine and in the attack on Ljubija.<sup>1088</sup> The Chamber is not in a position to assess the circumstances surrounding their death, in particular whether those killed were taking active part in the hostilities.

476. During late April and May 1992 tension developed between the new Serb authorities in Prijedor and the local authorities in Kozarac, a town to the east of Prijedor town, which had a large concentration of Muslims: of the 4,000 inhabitants of Kozarac town, 90 per cent were Muslim. Serbs and Muslims erected checkpoints in Kozarac and the surrounding area. Serbs on the police radio made continuous references to destroying mosques and everything that belonged to the Muslims, as well as Muslims themselves. JNA officers and SDS officials threatened to raze Kozarac to the ground if the population did not surrender its weapons.<sup>1089</sup>

477. On 22 May 1992 Kozarac was blockaded, rendering movement in and out of the town extremely difficult, and telephone lines were disconnected. The Prijedor crisis staff addressed an ultimatum to the Kozarac TO and the police to surrender all weapons and to pledge loyalty and declare subordination to the new authorities of the Serb municipality. On 24 May, after the expiration of the ultimatum, Kozarac was attacked. The attack,

<sup>1086</sup> Adjudicated fact 172; P803, tab 2 (Minutes of Prijedor SDS municipal board, 9 May 1992); P529, tab 215 (Report of Prijedor crisis staff, 17 June 1992), pp. 1, 7.

<sup>1087</sup> Adjudicated facts 124-30; P492 (Atlija transcript), pp. 5555-8, 5615; P492.A (Atlija transcript), p. 5660; P489 (Witness 562 transcript), pp. 2496-9; P491 (Našić statement), pp. 1-3; P490 (Witness 335 transcript), pp. 3914, 3917-20, 3927-8, 3932; P490.A (Witness 335 transcript), pp. 3989, 3993, 4016, 4033-4, 4043, 4046-7, 4054-5, 4072.

<sup>1088</sup> P943.M (Exhumation record by Bihać cantonal court, 6 August 1998), pp. 5-6, 8; P943.N (Exhumation record by cantonal court in Bihać, 28 August 1998), pp. 5.

<sup>1089</sup> Adjudicated facts 163, 183-5, 308; P564.A (Sejmenović transcript), pp. 4603-12, 4659-72; P564.F (Sejmenović transcript), pp. 5063-9; P803, tab 2 (Minutes of Prijedor SDS municipal board, 9 May 1992).

carried out by VRS 1st Krajina Corps, MUP and paramilitary forces, began with heavy shelling, followed by the advance of tanks and infantry. About 50 armed local men opposed the Serb forces. The Serb infantry entered Kozarac, set houses on fire, and rounded up, assaulted, and killed local residents not taking part in the hostilities [A13.1]. About half of Kozarac was destroyed, with damage continuing through the period of June and August 1992. The local mosque, unlike the Orthodox church, was destroyed during the attack [D18.4]. In the attack care was taken to avoid damage to Serb property. The men from Kozarac were taken to the Keraterm [C25.5] and Omarska detention camps [C25.4], while the women and elderly persons to the Trnopolje detention camp [C25.6].<sup>1090</sup>

478. On 26 May 1992 a special unit from Prijedor, composed of approximately 30 men and commanded by Slobodan Kuruzović, along with a detachment of the military police, arrived at Trnopolje. The unit surrounded the village, while the military police placed the remaining local residents in the elementary school [C25.41] after having separated Muslim TO members, reserve police officers, SDA activists, and senior officials, who were detained in the community centre.<sup>1091</sup>

479. The two Muslim villages of Jaskići and Sivci were attacked by armed Serbs on 14 June 1992. Women and children were separated from the men who were taken to Keraterm camp [C25.5]. During this operation four men were brutally beaten and five were shot and killed by Bosnian-Serb forces [A13.5].<sup>1092</sup>

480. Similar operations took place in Prijedor municipality at other times during the summer of 1992. Near the Muslim village of Biščani, a Serb joint military and civilian police operation resulted in the death of two Muslim civilians who were not taking active part in the hostilities [A13.6]. In the Muslim village Čarakovo, 30 to 50 Muslim civilians were killed, during an exchange of fire between an armed Muslim group and Serb military and police.<sup>1093</sup> The Chamber considers that the great number of killings of civilians indicate that they were not collateral damage in a firing exchange between warring parties.

<sup>1090</sup> P564.A (Sejmenović transcript), pp. 4673-4, 4679-81; P564.B (Sejmenović transcript), p. 4706-10, 4722; P738 (Report by Command of VRS 1st Krajina Corps, 27 May 1992); P733.B (Selak transcript), pp. 13090-3, 13095; P733.B (Selak transcript), pp. 13085-7; P683 (Witness 305 statement), pp. 2-6; Adjudicated facts 131-47, 163, 324-5; P892, tab 88 (1st Krajina Corps report, 1 June 1992), pp. 1-2; P943.M (Exhumation record by Bihać cantonal court, 6 August 1998), pp. 1-5, 7-8; P943.N (Exhumation record by Bihać cantonal court, 28 August 1998), pp. 9, 13.

<sup>1091</sup> P683 (Witness 305 statement), p. 5.

<sup>1092</sup> Adjudicated facts 188-90, 317-20.

<sup>1093</sup> Witness 665, T. 13599-605, 13618, 13674-6; P752 (Witness 665 transcript), pp. 21071, 21074-5, 21081-2, 21085-8, 21091, 21095-6; P752.K (Witness 665 transcript), pp. 31095-6; P943.M (Exhumation record by

481. Around 20 July 1992, Serb soldiers with an APC and at least two trucks conducted an operation in the predominantly Muslim villages on the Prijedor-Tukovi-Volar road, including Hegići, Mrkalji, Ravine, Duratovići Polje, and Čemernica. During the operation, 300 to 400 civilians were killed, including at least two women. Many of the victims had bullet wounds in their backs. In the following days, Serb soldiers forced Muslims from the village of Čemernica to remove dead bodies from the other villages and bury them.<sup>1094</sup>

482. On 24 July 1992, Serb forces attacked the predominantly Croat village of Briševo, after the local population had complied with the instruction to surrender weapons. Sixty-eight villagers were killed during the attack, including fourteen women, two boys, and four invalids, even though there was no armed resistance [A13.7]. Thirty-six men from the village were brought to the detention centre Krings Hall in Sanski Most [C28.3]. During the following weeks the soldiers looted the area and destroyed houses, as well as a Catholic church [D18.1].<sup>1095</sup>

483. Serb authorities detained mostly Croat and Muslim civilians in 58 detention and collection centres in Prijedor municipality in 1992. Five of them were considered long-term detention centres: Keraterm [C25.5], Trnopolje [C25.6], Omarska [C25.4], the police station in Prijedor town [C25.2], and the command post at Miška Glava [C25.3]. The other 53 locations mentioned in Schedule C of the indictment were places of short-term detention.<sup>1096</sup> Most of the Muslims and Croats in Prijedor were detained for some period of time at one of these detention or collection centres in 1992.<sup>1097</sup>

484. According to a police officer, detainees in Prijedor were investigated by Serb military or regular police and placed into three categories: group A detainees consisted of persons who were “not guilty of anything”; group B consisted of persons who had supported the SDA or an alleged Muslim “attack” on Prijedor; and group C consisted of those persons who belonged to the SDA, or who had taken part in or financed the alleged “attack” on Prijedor. Police commanders provided officers with lists of prominent Muslims

Bihać cantonal court, 6 August 1998), pp. 1-3, 5-7, 9-67; P943.N (Exhumation record by Bihać cantonal court, 28 August 1998), pp. 4-5, 8, 13.

<sup>1094</sup> P493 (Witness 552 statement), pp. 1-7.

<sup>1095</sup> P492 (Atlija transcript), pp. 5559-66; P492 (Atlija transcript), pp. 5571-5, 5578-83, 5587-9, 5595-7; P492.A (Atlija transcript), p. 5639.

<sup>1096</sup> Malešević, T. 16130-1, 16136-41.

<sup>1097</sup> Adjudicated fact 170.

from Prijedor who were to be arrested and investigated.<sup>1098</sup> In the days immediately following the take-over of Prijedor town several local non-Serb leaders were arrested, including the president of the municipal assembly, an SDA member, the president of the municipal court, the public prosecutor, the director of a local mine, the secretary for town planning, and the director of the municipality income administration.<sup>1099</sup>

485. On or about 26 May 1992, Serb police and JNA officers used the military prison in Prijedor barracks to detain briefly (up to 2 days) about 30 civilians, including Witness 30, who were beaten regularly by soldiers [C25.1].<sup>1100</sup>

486. In the beginning of July 1992, Serb soldiers rounded up Muslims and Croats in Gomjenica, near Tukovi, and took them to Zeger bridge. At the bridge many of them were killed, while others were loaded on buses.<sup>1101</sup> On or about 20 July 1992 about 100 armed Muslim men from Hambarine surrendered to Bosnian-Serb forces. The Serb soldiers interrogated and beat them over a period of four or five days in a small café in Miška Glava. Around 25 July the detainees were transferred to a stadium in Ljubija [C25.10], where Serb soldiers and police beat them, killing three [A13.9].<sup>1102</sup> That night about 90 detainees were taken by bus to Kipe, an iron-ore mine, where Serb soldiers ordered them off the bus in groups of three and shot them, sparing only five [A13.8].<sup>1103</sup>

487. As stated earlier, three large detention centres were established in the municipality: men of military age were brought mostly to Keraterm [C25.5] and Omarska [C25.4], while women, children, elderly persons, and other men to Trnopolje [C25.6]. Teams representing both military and civilian authorities screened detainees in Keraterm and Trnopolje in order to determine their role in the conflict. As armed conflict spread throughout the municipality in the following days, the need to process large numbers of captured persons led the municipal crisis staff to transform Keraterm into a transit centre and to establish another camp at Omarska.<sup>1104</sup> These three camps were guarded by soldiers, police forces,

<sup>1098</sup> P752 (Witness 665 transcript), pp. 21106-7; P752.A (Witness 665 transcript), p. 21117-22; P752.K (Witness 665 transcript), p. 31073.

<sup>1099</sup> P901, pp. 2481, 2489; P901.A, pp. 2601-2.

<sup>1100</sup> P683 (Witness 305 statement), pp. 6-10.

<sup>1101</sup> P490 (Witness 335 transcript), pp. 3932, 3937-49, 3956, 3971-4; P490.A (Witness 335 transcript), pp. 3994, 4019-21, 4063-4, 4066-7.

<sup>1102</sup> P491 (Našić statement), pp. 3-4.

<sup>1103</sup> P491 (Našić statement), pp. 4-6.

<sup>1104</sup> Adjudicated facts 159-60, 193; P752 (Witness 665 transcript), p. 21097; P752.J (Witness 665 transcript), pp. 30798-9; P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most to Banja Luka CSB, 18 August 1992), pp. 2, 4, 6; P529, tab 299 (Order by Prijedor SJB, 31 May 1992), items 1, 6, 9; P529,

TO units, or combination thereof. Detainees were executed and subjected to severe mistreatment, which included psychological abuse, beatings, sexual assaults, and torture. Detainees were forced to spit on the Muslim flag, sing Serbian nationalist songs or give the Serbian three-fingered salute. Members of paramilitary organizations and local Serbs were routinely allowed to enter the camps to abuse, beat, and kill prisoners.<sup>1105</sup> In the period before 21 August 1992 when Omarska and Keraterm were dismantled, 187 police employees in total were involved in guard duty at the camps. The Trnopolje collection centre remained in place until November 1992. Altogether, more than 5,500 persons were held and interviewed at the three camps.<sup>1106</sup>

488. Keraterm detention camp was located on the eastern outskirts of Prijedor town [C25.5]. It opened on 25 May and held up to 1,500 prisoners, Muslims and Croats, crowded in large rooms. Conditions of detention were very poor: there was inadequate ventilation, insufficient hygienic facilities, and very little food. Due to the environmental conditions, the detainees suffered from lice and dysentery.<sup>1107</sup> Detainees at Keraterm were beaten, or ordered to beat each other, and some died as a result.<sup>1108</sup> Around 24 to 26 July Serb guards shot Muslim and Croat detainees in one of the rooms of the camp using machine guns, killing 150 to 200 and injuring others [B15.3].<sup>1109</sup>

489. Already on 27 May 1992 the Prijedor crisis staff ordered detainees in Keraterm to be transferred to Omarska. According to a Prijedor SJB report of August 1992 addressed to the CSB in Banja Luka, the great majority of the transferred men were between the ages of 18 and 60. In the following days, Muslim men arrested in Kozarac were also transferred to Omarska.<sup>1110</sup> It was only on 31 May, however, that Simo Drljača, commander of the Prijedor SJB, issued an official order, pursuant to a decision of the crisis staff, to establish Omarska camp. The camp was to be set up at Ljubija's defunct iron-ore mine, two kilometres south of the village of Omarska. [C25.4] The order was implemented by Drljača in cooperation with the Banja Luka CSB. The Omarska camp, under Željko Meakić,

tab 277 (Report by Prijedor SJB), pp. 2-3; P529, tab 277 (Report by Prijedor SJB), pp. 2-3; P763.C, tab 10 (Report on work of Prijedor SJB, January 1993), pp. 4-5

<sup>1105</sup> Adjudicated facts 194-7; P752.J (Witness 665 transcript), p. 30799.

<sup>1106</sup> P763 (Nielsen report), para. 259; P763.C, tab 10 (Report on work of Prijedor SJB during, January 1993), pp. 5, 12.

<sup>1107</sup> Adjudicated facts 193, 200, 263-72, 278.

<sup>1108</sup> Adjudicated facts 273-7, 279-80; P489 (Witness 562 transcript), pp. 2501-2, 2534.

<sup>1109</sup> Adjudicated facts 281-5; P752.J (Witness 665 transcript), pp. 30799-801; P752.K (Witness 665 transcript), pp. 31067-8; P489 (Witness 562 transcript), pp. 2500-7, 2509-12, 2514, 2516-19, 2532-5; P296 (Mazowiecki report on human rights in territory of former Yugoslavia, 17 November 1992), para. 30.

<sup>1110</sup> P733.B (Selak transcript), pp. 13090-3, 13095; Adjudicated facts 142-3, 146-7, 163.

functioned until late August 1992, when the detainees were transferred to Trnopolje and other camps.<sup>1111</sup> Meakić was required to submit daily reports to Drljača.<sup>1112</sup> Members of the MUP ran the camp and carried out interrogations, together with military investigators, while the military was in charge of access to Omarska.<sup>1113</sup> The crisis staff permitted only Drljača to release detainees.<sup>1114</sup>

490. Detainees in Omarska, who numbered up to 3,000 at one time, were mostly Muslims, Croats, and a dozen Serbs deemed to be on the side of Muslims. Overall, less than 40 women were detained in Omarska during the period of its operation. One of these women was repeatedly raped and beaten.<sup>1115</sup> When detainees arrived at Omarska, they were searched, stripped of their belongings, and often beaten. Some of the detainees were kept indoors, mostly in rooms in a hangar, but also in lavatories, in small garages, or in a building called “the white house” in very crowded conditions. Up to 600 others were kept in an open concrete area, in all weather conditions.<sup>1116</sup> Hygiene at the camp was very poor and detainees suffered from skin diseases and other illnesses. Food and water were scarce, and some detainees, especially those heavily beaten, could not reach the place where food was distributed. Some detainees were beaten to death [B15.1].<sup>1117</sup> One of the groups abusing prisoners at Omarska was a special MUP detachment placed under the command of the Banja Luka CSB.<sup>1118</sup> The most serious beatings took place in “the white house”, as well as in another building, “the red house” where detainees were taken and mistreated.<sup>1119</sup> Beatings also took place during night visits by civilians and soldiers who were allowed into the camp.<sup>1120</sup>

491. Around 17 July 1992 head of the Banja Luka CSB Stojan Župljanin, a member of the ARK crisis staff Radislav Vukić, the ARK crisis staff president Radoslav Brđanin, and

<sup>1111</sup> Adjudicated facts 201, 205, 211, 215, 219; P763 (Nielsen report), paras 256-7; P763.C, tab 34 (Report Prijedor SJB), pp. 5-7.

<sup>1112</sup> Adjudicated facts 216-18.

<sup>1113</sup> Adjudicated fact 213; Radić, T. 7436-8; D34 (Prosecution interview with Predrag Radić, 16 July 2001), p. 28.

<sup>1114</sup> Adjudicated fact 220; P803, tab 4 (Conclusions by Banja Luka CSB, 1 July 1992); P763 (Nielsen report), para. 256.

<sup>1115</sup> Adjudicated facts 202-4, 206, 261-2; P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), pp. 4-5; P529, tab 277 (Report by Prijedor SJB), p. 4.

<sup>1116</sup> Adjudicated facts 221-3, 228-31, 248-52.

<sup>1117</sup> Adjudicated facts 224-7, 232-9, 246; P902 (Sebire transcript), p. 16697; P902.A (Sebire transcript), pp. 17302-4; P296 (Mazowiecki report on human rights in territory of former Yugoslavia, 17 November 1992), para. 31.

<sup>1118</sup> P763 (Nielsen report), para. 283.

<sup>1119</sup> Adjudicated facts 253-60; P763 (Nielsen report), para. 283.

<sup>1120</sup> Adjudicated facts 240-5, 247; P564.B (Sejmenović transcript), pp. 4739-44; P564.C (Sejmenović

member of the SDS Main Board and of the ARK crisis staff at the time Predrag Radić, visited Omarska. They saw non-Serb civilians detained in inhumane conditions and subjected to verbal abuse and humiliation. Radić expressed his disapproval to Župljanin and the Red Cross office in Banja Luka.<sup>1121</sup> During a second visit by ARK officials, president of the ARK Vojo Kuprešanin, ordered the immediate release of Mevludin Sejmenović, a prominent Muslim, and discussed on the phone with Radovan Karadžić how to improve the appearance of Omarska for foreign reporters.<sup>1122</sup> Around the beginning of August 1992 Serbian and foreign journalists were allowed into Omarska camp. Detainees were warned not to complain about the conditions of detention.<sup>1123</sup>

492. Of the total number of persons processed at Omarska by mid-August 1992, 1,773 were transferred to facilities in Trnopolje and 1,331 to Manjača camp, in Banja Luka.<sup>1124</sup> On 24 and 25 May 1992 Prijedor radio inadequately described Trnopolje as an “open camp” established for the safety of the civilian population [C25.6]. Thousands of people were detained there over the following months between May and November 1992 by armed soldiers, under Slobodan Kuruzović, in cramped conditions.<sup>1125</sup> A VRS 1st Krajina Corps report from January 1993 states that at the Trnopolje “open reception centre”, in addition to women and children, there was a large concentration of Muslim men fit for military service including persons who had spent some time in Omarska and Keraterm because of their direct or indirect involvement in armed rebellion.<sup>1126</sup> At first Serb soldiers informed the detainees in Trnopolje that they were being held for their own protection against Muslim extremists. The camp later became a point where Serb soldiers would gather civilians, including men, women, and children, for deportation to other parts of Bosnia-Herzegovina and elsewhere.<sup>1127</sup> Although in certain periods, people in Trnopolje

transcript), pp. 4754-6, 4760, 4796-9.

<sup>1121</sup> Radić, T. 7436, 7438-41, 7611-13; P361 (Article in *Kozarski Vjesnik* newspaper, 17 July 1992); D34 (Prosecution interview with Predrag Radić, 16 July 2001), p. 30.

<sup>1122</sup> P564.C (Sejmenović transcript), p. 4805.

<sup>1123</sup> P564.C (Sejmenović transcript), pp. 4761-96.

<sup>1124</sup> P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), pp. 4-6; P529, tab 299 (Order by Prijedor SJB, 31 May 1992), items 6, 9; P529, tab 277 (Report by Prijedor SJB), pp. 3-5.

<sup>1125</sup> Adjudicated facts 199, 287-8; P564.B (Sejmenović transcript), pp. 4706, 4722-3, 4733; P564.C (Sejmenović transcript), p. 4815-19; P564.G (Sejmenović transcript), pp. 5388-92; P490 (Witness 335 transcript), pp. 3956-9; P490.A (Witness 335 transcript), p. 4061; P683 (Witness 305 statement), pp. 2, 5-6.

<sup>1126</sup> P763.C, tab 10 (Report on work of Prijedor SJB, January 1993), p. 5; Nielsen, T. 13970-1; P891 (Brown Report), paras 2.105-2.132.

<sup>1127</sup> Adjudicated facts 299, 304; P490 (Witness 335 transcript), pp. 3975-6; Trbojević, T. 11525.

were theoretically allowed to leave the camp, security conditions outside the camp rendered it, in effect, a place of detention.<sup>1128</sup>

493. Camp authorities in Trnopolje did not distribute food and, on occasion, Serb soldiers beat and killed Muslim and Croat detainees. In one such incident Serb soldiers took eleven detainees to a maize field and shot them dead [B15.2].<sup>1129</sup> Sanitary conditions were very poor, and the majority of detainees developed dysentery and scabies while at the camp.<sup>1130</sup> Moreover, soldiers coming from outside the camp and Slobodan Kuruzović, the camp commander, raped the female detainees.<sup>1131</sup>

494. On 21 August 1992, 154 Muslims from the camps of Trnopolje and Tukovi [C25.32], designated as category “C” detainees (members of the SDA or Muslims who were believed to have taken part in, or to have financed, the Muslim “attack” on Prijedor) were put on buses and taken to Korićanske Stijene, in Skender Vakuf municipality. There they were taken off the buses and executed by a Serb police unit from Prijedor and by soldiers in military uniform [B15.5].<sup>1132</sup> On the same day a local VRS infantry unit reported the incident to the 1st Krajina Corps command, stating that Prijedor and Sanski Most police had committed “genocide” against 154 Muslim civilians and requesting an investigation.<sup>1133</sup> On 22 August the VRS 1st Krajina Corps command reported the event to the VRS Main Staff twice, putting civilian casualties at about 100.<sup>1134</sup> On 23 or 24 August a police unit from Prijedor, accompanied by Drljača and Župljanin, returned to Korićanske Stijene and removed the bodies.<sup>1135</sup> This incident was mentioned again in a report of the 1st Krajina Corps, dated 3 September 1992, to the VRS Main Staff. It claimed that Drljača was responsible, adding: “This action caused indignation not only among citizens but also among 1st Krajina Corps soldiers. This dark stain which was created did not have support, but it is very fortunate that the international community did not find out about it in more detail.”<sup>1136</sup> On 14 September Drljača, responding to a request by Mićo Stanišić, the MUP

<sup>1128</sup> Adjudicated fact 298.

<sup>1129</sup> Adjudicated facts 291-2; P490 (Witness 335 transcript), p. 3999.

<sup>1130</sup> Adjudicated facts 300-3.

<sup>1131</sup> Adjudicated facts 293-7; P490 (Witness 335 transcript), pp. 3959, 3966-71, 3975; P490.A (Witness 335 transcript), p. 3997.

<sup>1132</sup> P752.A (Witness 665 transcript), pp. 21117-19, 21139-43, 21149; P752.B (Witness 665 transcript), pp. 21224-5; Brown, T. 16365-6; P892, tab 84 (Report of 22nd light infantry brigade, 21 August 1992).

<sup>1133</sup> Brown, T. 16365-6; P892, tab 84 (Report of 22nd light infantry brigade, 21 August 1992).

<sup>1134</sup> Brown, T. 16366-8; P892, tab 85 (Report from 1st Krajina Corps, 22 August 1992); P892, tab 83 (Report from 1st Krajina Corps, 22 August 1992).

<sup>1135</sup> P752.A (Witness 665 transcript), pp. 21157-9.

<sup>1136</sup> Brown, T. 16368-9; P892, tab 97 (Report of 1st Krajina Corps, 3 September 1992), pp. 3-4.

Minister, to start an investigation into the matter, wrote that an investigation could not be carried out because the officers who had participated in the convoy were currently deployed in the battlefield.<sup>1137</sup>

495. On 22 August 1992 an unsigned report stamped “Command of Doboj Operative Group 2” addressed to the Prijedor Operations Group command stated:

all are now washing their hands regarding camps and reception centres, attempting to pass responsibility for issuing orders for mass execution of civilians in the camps and centres onto someone else. This has become particularly noticeable since the visit of foreign reporters to Prijedor, more precisely to Omarska and Trnopolje. Forged (antedated) documents about this are even appearing ... One thing is certain: we are already starting to feel the cost of the needless spilling [of] Muslim blood.<sup>1138</sup>

496. On 28 August 1992 Simo Drljača, in response to a request from the Ministry of Health, informed the CSB that there were no camps, prisons, or collection centres in Prijedor and that 1,335 “prisoners of war” had been moved to Manjača.<sup>1139</sup> On or about 24 September 1992 Milomir Stakić, local SDS president, answered complaints by local Serbs on the release of detainees from Keraterm, Omarska, and Trnopolje, stating that the Government in Pale had decided to release them for two reasons: “pressure from international public opinion and official policy and the steep cost of maintaining the prisons.”<sup>1140</sup>

497. According to the Prijedor SJB’s own reporting, about 33,180 residents had moved out of the municipality in the period from the beginning of the conflict to August, or had filed successful requests to this effect with the local authorities. They comprised 13,180 Muslims who had complied with the required formalities, as well as about 20,000 (mainly, but not exclusively, Muslims and Croats) who had left without following the procedures. Two hundred and eighty families of Serbian refugees had already settled in Trnopolje by 18 August 1992, while arrangements were under way to find accommodation to 400 others there, as well.<sup>1141</sup> A 1993 MUP report indicates that 42,000 Muslims and 2,000 Croats

<sup>1137</sup> P763 (Nielsen report), paras 290-1.

<sup>1138</sup> P891 (Brown report), paras 2.125-2.126.

<sup>1139</sup> P64.A, tab 798 (Letter from Prijedor SJB, 28 August 1992).

<sup>1140</sup> P803, tab 6 (Article in *Kozarski Vjesnik* newspaper, 25 September 1992), p. 2.

<sup>1141</sup> P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), pp. 5-6.

moved out of Prijedor municipality in 1992, replaced by about 14,000 Serbs who moved in.<sup>1142</sup>

498. The Chamber concludes that, in total, over 508 Muslims and Croats were killed by Serb forces in Prijedor municipality between May and August 1992. Serb forces attacked Prijedor town and after the take-over proceeded to attack the old town area, a predominantly Muslim neighbourhood. They looted local businesses and deliberately destroyed houses with the assistance of paramilitary units. The crisis staff implemented restrictive measures against Muslims and Croats. Serb forces also attacked numerous predominantly Muslim or Croat villages in Prijedor municipality. Large numbers of Muslim and Croat civilians were killed during the attacks and many others were executed afterwards. On 20 July, the last major population displacement in the municipality occurred with the removal of thousands of non-Serbs from Hambarine and nearby Ljubija. From May to December 1992, mosques and other religious institutions throughout Prijedor municipality were targeted for destruction. Property of Muslims and Croats who had left the area was confiscated and assigned to Serbs.

499. The Chamber further concludes that most of the Muslims and Croats in Prijedor municipality were detained for some period of time at one of 58 detention centres in Prijedor municipality, five of which were long-term detention camps. Particularly in the long-term detention centres at Keraterm, Trnopolje, and Omarska, detainees were subjected to severe mistreatment, which included psychological abuse, beatings, sexual assaults, rapes, and torture, often leading to death. Altogether, more than 5,500 persons were held and interviewed at the three camps. On several occasions detainees were executed. Around 24 to 26 July, in one of the rooms of the Keraterm camp, 150 to 200 Muslim and Croat detainees were fired at with machine guns and killed. On 25 July, 85 detainees were killed by Serb soldiers at an iron-ore mine. On 21 August, 154 Muslim detainees were executed at Korićanske Stijene, in Skender Vakuf municipality. The Chamber concludes that over 30,000 of the Muslim and Croat population of Prijedor moved out of the municipality in the period from the beginning of the conflict in April through August 1992 out of fear or due to unbearable circumstances.

<sup>1142</sup> P892, tab 100 (List of citizens, May 1993), p. 2.

## 4.3.10 Prnjavor

500. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Prnjavor municipality was 33,508 (71 per cent) Serbs, 7,143 (15 per cent) Muslims, 1,721 (4 per cent) Croats, 1,757 Yugoslavs, and 2,926 persons of other or unknown ethnicity.<sup>1143</sup>

501. During the first half of 1992, the Serb crisis staff and local Serbs discriminatorily targeted Muslims in the municipality, dismissing them from the police and the judiciary, restricting their movements, and harassing and attacking them. Business premises and other property as well as the mosque [D19.1] and the Catholic Church in Prnjavor town were destroyed.<sup>1144</sup> The terrorization of Muslims in Prnjavor municipality was also carried out by the Wolves of Vučjak, a paramilitary group which worked closely with the local police and was headed by a local criminal called Veljko Milanković.<sup>1145</sup>

502. Around March 1992, a group consisting of police, Serb soldiers from Laktaši, and Veljko Milanković ordered the inhabitants of the Muslim village of Lišnja to leave their homes. Most of the villagers were taken and brought to a sawmill in Vijaka, where JNA soldiers and police officers were present.<sup>1146</sup> Some of the persons detained at the sawmill in Vijaka were released a day later, while about 250 to 300 Muslim men were put on buses and taken to the Sloga shoe factory in the town of Prnjavor. There they were guarded and interrogated by Serb police officers. They were subjected to beating by guards, local Serb reserve police officers and soldiers who were passing through the municipality. The detainees were not provided with food other than that brought by friends and relatives. They were forced to labour at various tasks. Some detainees were taken to the SJB in Prnjavor town where they were interrogated and beaten.<sup>1147</sup>

<sup>1143</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 202-5; P749.B (Report, 16 January 1992), pp. 4-5.

<sup>1144</sup> P697 (Witness 20 statement), pp. 2-4, 6-8; P700 (Witness 653 transcript), pp. 15986-90; P362 (Odobasić statement), para. 36; P749.B (Report, 16 January 1992), pp. 4-5; Vasić, T. 17471-2, 17660, 17664, 17715-22, 17751-4; P958 (Official Gazette of Prnjavor, 18 August 1992), pp. 21-110.

<sup>1145</sup> Witness 458, T. 11338-41; P582 (Witness 458 statement), paras 21, 28; P582.B (Witness 458 transcript), pp. 3873-4, 3890-3; P582.D (Witness 458 transcript), pp. 4094, 4100-2; P582.H (Cover letter for P582.I, 23 September 1991); P582.I (Report on activity of armed groups in Banja Luka CSB, 23 September 1991); P697 (Witness 20 statement), pp. 2-3, 5-7; P749.A (Telephone conversation between Ljubo Grković and Stojko Župljanin, 15 November 1991), p. 5; P700 (Witness 653 transcript), pp. 15983-5; Odobašić, T. 7701-2; P362 (Odobasić statement), para. 28.

<sup>1146</sup> P700 (Witness 653 transcript), pp. 15991-4, 15998, 16000, 16074; P697 (Witness 20 statement), p. 6; Odobašić, T. 7709-10; P362 (Odobasić statement), para. 40; P892, tab 87; Brown, T. 16386; P892, tab 87 (Regular by 1st Krajina Corps, 2 June 1992).

<sup>1147</sup> P700 (Witness 653 transcript), pp. 16001, 16015, 16045; P700.A (Witness 653 transcript), p. 16028; P700.A (Witness 653 transcript), pp. 16034-9, 16042-4, 16048; Odobašić, T. 7708-9, 7721; P362 (Odobasić statement), para. 39; P697 (Witness 20 statement), p. 6.

503. In June 1992, the SJB, under orders from CSB Banja Luka, a TO unit, the Wolves of Vučjak and some military units launched an attack on Lišnja and another Muslim village, Purači, with heavy artillery.<sup>1148</sup> During the attack, Dragan Đurić, a deputy to the Bosnia-Herzegovina and Bosnian-Serb Assemblies, said on a radio broadcast that 100 Muslims would be killed for every Serb killed.<sup>1149</sup> Fifty-four houses and a mosque [D19.2] in that village were destroyed during the attack.<sup>1150</sup> The mosque in Purači was also destroyed [D19.3].<sup>1151</sup> Witness Odobašić heard Nedeljko Davidović, a Serb captain, boast on the radio that he had defeated the “balijas” by shelling Lišnja and Purači, and that the Wolves had looted and burned houses there.<sup>1152</sup>

504. From the first half of 1992 and onwards, Muslims and Croats started to leave the municipality because of pressure and threats from the Serbs. Buses with Muslims were seen leaving the municipality in the direction of the Hungarian border. Persons were charged money for the permission to leave. They also had to sign statements authorizing a local lawyer to sell their immovable property within six months, failing which ownership of the property was transferred to the Bosnian-Serb Republic.<sup>1153</sup>

505. On 19 June 1992, the Serb crisis staff in Prnjavor decided that all “refugees” living in the municipality who were “disloyal” to the authorities of the Bosnian-Serb Republic, as well as “refugees” whose relatives were members of enemy formations, were obliged to leave the municipality. It ordered the SJB to implement the decision.<sup>1154</sup> On 23 June 1992, the crisis staff decided that persons who had left the municipality and who owned property were to report to the municipal authority by 10 July or face being treated “in accordance with the Decision of the [ARK] Crisis Staff”, meaning that their property would be declared property of the state and put at the disposal of the municipality.<sup>1155</sup>

<sup>1148</sup> Odobašić, T. 7689, 7703, 7708; P362 (Odobašić statement), paras 35-8; P700 (Witness 653 transcript), pp. 16012-13, 16015; P700.A (Witness 653 transcript), p. 16027; Vasić, T. 17404-5, 17509, 17528, 17550; D83 (Photographs in Lišnja, 15 June 1992); P892, tab 87 (Report from 1st Krajina Corps, 2 June 1992).

<sup>1149</sup> Odobašić, T. 7711-13; P64 (Treanor report), p. 151.

<sup>1150</sup> Odobašić, T. 7703-5; P362 (Odobašić statement), paras 35-6; P700 (Witness 653 transcript), pp. 16012-13, 16015; P700.A (Witness 653 transcript), p. 16027; P700 (Witness 653 transcript), pp. 16011, 16013-14, 16017; Vasić, T. 17441-4, 17528-9, 1761-7.

<sup>1151</sup> P700 (Witness 653 transcript), pp. 16012-13, 16015; P700.A (Witness 653 transcript), p. 16027; Vasić, T. 17441-4, T. 1752-9.

<sup>1152</sup> Odobašić, T. 7708; P362 (Odobašić statement), para. 38.

<sup>1153</sup> Odobašić, T. 7702-3, 7726-7; P362 (Odobašić statement), paras 33-4; P697 (Witness 20 statement), p. 8; Vasić, T. 17453-4, 17726-39; P529, tab 430 (Decision by Prnjavor crisis staff, 23 June 1992).

<sup>1154</sup> P529, tab 428 (Decision of Prnjavor crisis staff, 19 June 1992), arts 1-2.

<sup>1155</sup> P529, tab 430 (Decision of Prnjavor crisis staff, 23 June 1992).

506. A May 1993 MUP report indicates that 2,053 Muslims, 923 Croats, and 308 of other non-Serbian ethnicity had left the municipality while 2,500 Serbs had moved in.<sup>1156</sup>

507. The Chamber concludes that, during the first half of 1992, Muslims in Prnjavor municipality were subjected to discriminatory measures and dismissed from the police and the judiciary. In particular, the paramilitary group Wolves of Vučjak harassed and attacked Muslims. Business premises and other private property as well as the mosque and the Catholic Church in Prnjavor town were destroyed. From the first half of 1992 and onwards, the threats and pressure made Muslim and Croats leave the municipality. Some left on buses for the Hungarian border.

#### 4.3.11 Sanski Most

508. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Sanski Most municipality was 28,136 (47 per cent) Muslims, 25,363 (42 per cent) Serbs, 4,322 (7 per cent) Croats, 1,247 Yugoslavs, and 1,239 persons of other or unknown ethnicity.<sup>1157</sup>

509. In March 1992, local SDS officials acting on the orders of regional SDS officials in Banja Luka repeatedly requested the municipal assembly to discuss the issue of Sanski Most becoming part of the Bosnian-Serb Republic. When the assembly refused, the local SDS authorities called for a division of the municipality along ethnic lines.<sup>1158</sup> On 25 March, by proclamation signed by the president of the local SDS Vlado Vrkeš, and the president of the Sanski Most municipal assembly Nedjeljko Rašula, all Serb territories in the municipality were declared part of the Bosnian-Serb Republic as the unified Serb municipality of Sanski Most.<sup>1159</sup> On 3 April, the Serb assembly of Sanski Most decided that the municipality would become part of the ARK.<sup>1160</sup> The Serb crisis staff in Sanski Most issued a statement that, as of 20 April, only the Constitution and laws of the Bosnian-Serb Republic shall be in effect in the territory of Serb Sanski Most.<sup>1161</sup> On the same day,

<sup>1156</sup> P892, tab 100 (List of citizens, May 1993), p. 5.

<sup>1157</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 218-21.

<sup>1158</sup> Karabeg, T. 2772-4, 2782-5, 2796-8, 2876; P98 (Karabeg statement), p. 2.

<sup>1159</sup> Karabeg, T. 2796-8; P98 (Karabeg statement), p. 2; P103 (Decision of SDS president of Sanski Most, 25 March 1992), p. 1; P750.A (Decision, 25 March 1992); P519 (Draganović transcript), p. 4870; P519.A (Draganović transcript), p. 4919.

<sup>1160</sup> Karabeg, T. 2783; P167 (Decision by president of Sanski Most municipal assembly, 3 April 1992), p. 1; Witness 628, T. 3716.

<sup>1161</sup> P104 (Document of Sanski Most crisis staff, 20 April 1992).

the crisis staff declared the former municipal assembly illegal.<sup>1162</sup> The crisis staff dismissed many Muslims and Croats from their jobs, including judges and directors of public companies, the local radio, and the health centre; others were put off from going to work by the treatment they received there, and were replaced with Serbs.<sup>1163</sup> Serb managers who had allowed Croats and Muslims to work in their companies were also dismissed.<sup>1164</sup> SDS president Vrkeš, accompanied by SOS members and the Serb police, forced out the Croat director of the municipal SDK, appointing a Serb in her place.<sup>1165</sup>

510. On 11 April 1992, Witness Adil Draganović, the Muslim president of the Sanski Most municipal court, received a threatening letter signed by members of the White Eagles stating that he and the municipal deputy prosecutor, Enver Cerić, also a Muslim, were to leave Sanski Most by 15 May 1992 or their families would be harmed.<sup>1166</sup> On 15 May 1992, the Muslim employees of the court were informed by the Serb police that they had to take mandatory leave.<sup>1167</sup> Draganović was dismissed from his post and the judiciary authority was transferred to the Serbs, upon an order of the crisis staff.<sup>1168</sup>

511. On 17 April 1992, Stojan Župljanin, head of CSB Banja Luka, ordered the division of the police along ethnic lines. Police officers were ordered to demonstrate their loyalty to the Serb municipality by wearing the insignia of the Bosnian-Serb Republic and signing a declaration that they would respect its laws and regulations. Only persons of Serb ethnicity signed the declaration.<sup>1169</sup> Some non-Serb police officers and SDA leaders took refuge in the municipality building, where negotiations between the political parties continued. On 19 April, the crisis staff addressed an ultimatum to those inside. The building was surrounded by soldiers of the JNA 6th Krajina Brigade. Those inside the building managed to flee to surrounding villages. Nedjeljko Rašula, as head of the crisis staff, dismissed

<sup>1162</sup> P169 (Conclusions of Sanski Most crisis staff, 20 April 1992), p. 1; Witness 628, T. 3729.

<sup>1163</sup> P521.A (Witness 196 transcript), pp. 7705, 7728; P519.A (Draganović transcript), pp. 4914-15, 4922-3; P519.E (Draganović transcript), pp. 5650-1; P519.I (Draganović transcript), pp. 5961-2; Witness 628, T. 3723-7, 3732, 3735, 3737, 3818-19; P158 (Witness 628 statement), pp. 31-2; P196 (Decision of ARK crisis staff, 22 June 1992), p. 1; P173 (Conclusions of Sanski Most crisis staff, 29 April 1992), items 1, 3; P170 (Conclusions of Sanski Most crisis staff, 21-22 April 1992), item 3; P177 (Conclusions of Sanski Most crisis staff, 20 May 1992), item 1; Bišćević, T. 5487, 5512.

<sup>1164</sup> Witness 628, T. 3730.

<sup>1165</sup> P519.A (Draganović transcript), pp. 4901, 4922; P519.D (Draganović transcript), p. 5621.

<sup>1166</sup> P519.A (Draganović transcript), p. 4927.

<sup>1167</sup> P519.A (Draganović transcript), pp. 4946-8; P519.G (Draganović transcript), pp. 5824-5.

<sup>1168</sup> P519.A (Draganović transcript), pp. 4947-8; P519.C (Draganović transcript), pp. 5480-2; P519.G (Draganović transcript), pp. 5824-5; P519.I (Draganović transcript), p. 5961.

<sup>1169</sup> Witness 628, T. 3718; P521.A (Witness 196 transcript), p. 7871; P158 (Witness 628 statement), p. 30; P521 (Witness 196 transcript), p. 7652; Karabeg, T. 2786-8; P98 (Karabeg statement), p. 2; Bišćević, T. 5504; Witness 565, T. 4536-41; P216 (Witness 565 statement), paras 15, 19.

Muslim and Croat officers from the police force.<sup>1170</sup> On the same day, Serb forces attacked the municipality building in the town. Around that time, members of the SOS who were supported by the SDS, armed with automatic weapons and dressed in camouflage, destroyed 28 shops and restaurants belonging to Muslims and Croats in the Sanski Most area.<sup>1171</sup> As a result of these attacks and other acts of intimidation during March and April 1992, many Muslim and Croat inhabitants left the municipality.<sup>1172</sup>

512. In March and April 1992, Serb forces, including soldiers of the JNA 6th Krajina Brigade, and Serb police, erected checkpoints in the town of Sanski Most and around non-Serb villages, and the crisis staff established a curfew prohibiting movement at night.<sup>1173</sup> At the checkpoints, armed Serb forces checked the Muslims that went through.<sup>1174</sup>

513. During May 1992, various armed groups were seen in the municipality, including the SOS, the White Eagles, and local SUP and JNA units.<sup>1175</sup> On 5 August, the Sanski Most SJB reported that in the previous two months, there had been a great deal of activity by certain paramilitary groups that had 'broken free' from the command of the army and conducted their own operations, such as planting explosives, torching houses, killings, looting and other types of crime against the Muslim and Croatian population, all aimed at acquiring material profit and putting pressure on them to move out. It further referred to 45 explosions that had been set off at Muslim houses and business premises, and two mosques destroyed. It reported that it had registered four such groups, among them the SOS group, a

<sup>1170</sup> Karabeg, T. 2800; P98 (Karabeg statement), p. 7; Witness 628, T. 3713, 3722-3, 3733, 3763-5; P181 (Report of Banja Luka MUP, 26 May 1992); P168 (Order of Sanski Most Serbian TO), para. 4; P158 (Witness 628 statement), pp. 26, 30-1; Bišćević, T. 5504-5; P521 (Witness 196 transcript), pp. 7662-3, 7667-9, 7671-2; P521.C (Witness 196 transcript), p. 7863; P519.A (Draganović transcript), pp. 4920, 4923-6; P519.E (Draganović transcript), pp. 5633-4, 5637-40; P519.G (Draganović transcript), pp. 5798-9; P522.B (Witness 481 statement), p. 2.

<sup>1171</sup> P98 (Karabeg statement), pp. 1, 7-8; Karabeg, T. 2800, 2854-5; P520 (Islamčević transcript), pp. 7424-7; P520.B (Islamčević transcript), p. 7542; Witness 628, T. 3713, 3722-3, 3733, 3763-5; P181 (Report of Banja Luka MUP, 26 May 1992); P168 (Order from Sanski Most TO), para. 4; P158 (Witness 628 statement), pp. 26, 30-1; P521 (Witness 196 transcript), pp. 7662-3, 7667-9, 7671-2; P521.C (Witness 196 transcript), p. 7863; Bišćević, T. 5504-5; P519.A (Draganović transcript), pp. 4897-4903, 4913; P519.F (Draganović transcript), pp. 5778-9; P519.G (Draganović transcript), pp. 57901-7; P519.A (Draganović transcript), pp. 4920, 4923-6; P519.E (Draganović transcript), pp. 5633-4, 5637-40; P519.G (Draganović transcript), pp. 5798-9; P522.B (Witness 481 statement), p. 2.

<sup>1172</sup> P519.A (Draganović transcript), pp. 4897-4903, 4915-17; P519.E (Draganović transcript), p. 5630; P519.F (Draganović transcript), pp. 5746-8; P521 (Witness 196 transcript), pp. 7634-8; 7712.

<sup>1173</sup> P521.A (Witness 196 transcript), p. 7706; P521.B (Witness 196 transcript), p. 7839; Karabeg, T. 2796-8, 2803; P98 (Karabeg statement), p. 2; P519.A (Draganović transcript), pp. 4915-16, 4944-5; Begić, T. 2961-3, 2965, 3003; P522 (Witness 481 transcript), pp. 8046-8, 8051; P522.B (Witness 481 statement), p. 2; P158 (Witness 628 statement), pp. 30-1; Witness 628, T. 3714; P517 (Seferović statement), p. 3; P518 (Witness 563 transcript), pp. 6411-13.

<sup>1174</sup> P522 (Witness 481 transcript), p. 8051; P522.B (Witness 481 statement), p. 2; P518 (Witness 563 transcript), pp. 6411-13.

former paramilitary group with a strength of around 30 men, which had formally been placed under the command of the local military unit.<sup>1176</sup>

514. On 25 May 1992, calls upon Muslims to surrender their weapons to the Serb authorities were broadcast over Sanski Most radio. Serb patrols collected the weapons.<sup>1177</sup> The broadcasts also called on several named individuals – wealthy Muslims and Muslim intellectuals – to surrender.<sup>1178</sup> That same evening, Sanski Most town was shelled by Serb forces.<sup>1179</sup> Serb forces also shelled the hamlet of Okreč, which was predominantly Muslim.<sup>1180</sup> On or around 25 May, the JNA 6th Krajina Brigade and the TO also launched an artillery attack on the Muslim settlements of Mahala, Muhići, and Otoka. Serb soldiers forced Mahala residents to gather at a training ground and then shelled the village and partially destroyed houses and the local mosque.<sup>1181</sup> The attack on Mahala is confirmed by a report of the SJB of Sanski Most.<sup>1182</sup>

515. On 27 May 1992, between 50 to 100 Serb soldiers surrounded the majority-Muslim village of Lukavica and ordered the village be evacuated for the purpose of searching the houses for weapons.<sup>1183</sup> On 1 August, a group of soldiers in olive-coloured uniform with a red stripe pinned to their epaulettes came to Lukavica and broke into several houses. They led away fourteen civilian men aged 22 to 60 years. The following day, the villagers found the bodies of thirteen of the men, marked with bullet holes and severe wounds. Only one of the men survived [A14.4].<sup>1184</sup>

516. Also on 27 May, Serb forces shelled the village of Hrustovo, an almost exclusively Muslim village. On 30 May, the Muslims of the village decided to hand in their weapons,

<sup>1175</sup> Witness 565, T. 4539, 4542; P216 (Witness 565 statement), paras 10, 11, 13; Begić, T. 2965.

<sup>1176</sup> P750.G (Report from Sanski Most SJB, 5 August 1992).

<sup>1177</sup> P520 (Islamčević transcript), pp. 7427-8; Begić, T. 2967-9; P518 (Witness 563 transcript), pp. 6409-10, 6447; P522 (Witness 481 transcript), p. 8053; P522.B (Witness 481 statement), p. 3; Bišćević, T. 5507-8, 5512; P519.C (Draganović transcript), pp. 5518-20; P519.D (Draganović transcript), pp. 5541-5; P519.E (Draganović transcript), pp. 5649-50; P519.F (Draganović transcript), pp. 5740-2; P517 (Seferović statement), p. 3; P216 (Witness 565 statement), paras 21, 24; P750, tab 6 (Report by Sanski Most SJB, 15 June 1992).

<sup>1178</sup> P216 (Witness 565 statement, 14 June 2001), paras 16, 24, 30.

<sup>1179</sup> Bišćević, T. 5513-19; P519B (Draganović transcript), p. 4987-8; P519.G (Draganović transcript), pp. 5840-1.

<sup>1180</sup> P518 (Witness 563 transcript), pp. 6413-14; 6441.

<sup>1181</sup> Bišćević, T. 5513-19; P519.B (Draganović transcript), p. 4987-8; P519.G (Draganović transcript), pp. 5840-1; P182 (Order, 26 May 1992), p. 1, para. 3; P158 (Witness 628 statement), p. 34; Witness 628, T. 3775-6.

<sup>1182</sup> P750, tab 6 (Report by Sanski Most SJB, 15 June 1992).

<sup>1183</sup> P518 (Witness 563 transcript), pp. 6411-13; 6439-40.

<sup>1184</sup> P522 (Witness 481 transcript), T. 6426-33, 6444, 8075.

but the shelling continued.<sup>1185</sup> The next day, as people from 21 households were forced to leave Jelečevići, a Muslim hamlet in the area of Hrustovo, about 30 women and children and one man took refuge inside a garage. Eight to ten Serb soldiers in camouflage uniform came to the garage and ordered the Muslims out. A man who tried to mediate was shot and the soldiers killed sixteen women and children when they tried to run away [A14.1]. Between 50 and 100 Serb soldiers escorted the survivors with around 200 inhabitants of neighbouring villages to the hamlet of Kljevci, where their valuables were confiscated. Serb soldiers detained the villagers at various locations before transporting them by bus and train to Doboj, where they were ordered to find their way to Muslim-held territory.<sup>1186</sup>

517. On or around 28 May 1992, the Muslim village of Vrhpolje was shelled by Serb forces. Shortly thereafter, the inhabitants were summoned to hand in their weapons. They were told that that was a condition for them to be allowed to leave their village.<sup>1187</sup>

518. On 28 May 1992, the Sanski Most crisis staff decided that the location for the burial of people killed in the municipality would be the Muslim cemetery and that the dead were to be buried in a common grave “without the usual rituals (in the absence of family etc.)”.<sup>1188</sup>

519. On 31 May or 1 June 1992, Serb soldiers led by Jadranko Palja escorted nineteen Muslim men from the hamlet of Donji Begići to Vrhpolje bridge. Four of the men were killed by the soldiers along the way. The others arriving on the bridge were surrounded by 50 Serb soldiers, forced to surrender their belongings, beaten, and ordered to jump off the bridge. From the bridge the soldiers shot at the men in the water and killed almost all of them [A14.2].<sup>1189</sup>

520. On or around 27 June 1992, local Serb reservists in olive-grey uniform arrived in the Muslim hamlet of Kenjari. In a nearby house, 20 Muslim men were arrested, interrogated and taken before Vlado Vrkeš, president of the Sanski Most SDS, who assured them they had nothing to fear. They were led by Serb soldiers to a house in the hamlet of

<sup>1185</sup> P517 (Seferović statement), p. 3.

<sup>1186</sup> P516.A (Witness 155 statement), pp. 2-6; P516.C (Witness 155 transcript), pp. 7210, 7212-15, 7225-7; P750, tab 3 (Order by crisis staff, 2 June 1992); P750, tab 6 (Report by Sanski Most SJB, 15 June 1992).

<sup>1187</sup> P522 (Witness 481 transcript), p. 8053-4; P522.B (Witness 481 statement), pp. 2-3; P750, tab 6 (Report by Sanski Most SJB, 15 June 1992).

<sup>1188</sup> P750.B (Decision by Sanski Most crisis staff, 28 May 1992).

<sup>1189</sup> Begić, T. 2979-92, 3001, 3008-9, 3014-15; P117 (Map of Hrustovo-Vrhpolje area); P118 (Photograph of Vrhpolje bridge); P119 (Record of exhumations of mass graves at Vrhpolje Bridge), pp. 20-1; P517 (Seferović statement), p. 4; P750, tab 3 (Order by crisis staff, 2 June 1992); P750, tab 6 (Report by Sanski Most SJB, 15 June 1992); P519.D (Draganović transcript), pp. 5585, 5589-92.

Blaževići. The soldiers threw explosives into the house, and then opened fire with rifles against those trying to escape. The bodies of the dead were taken back into the house and the house was set on fire. Witness 481 identified eighteen persons killed in this incident [A14.3].<sup>1190</sup>

521. During 1992, at least nineteen Muslim and Catholic monuments in Sanski Most municipality were heavily damaged or completely destroyed. The monuments included mosques in Donji Kamengrad [D22.1], in Kukavice Hrustovo [D22.3], the mosque in Keranovići Hrustovo [D22.4], the mosque in Stari Mlađan [D22.5], the mosque in Pobježje [D22.6], the mosque in Ehovci [D22.9], and Hamza Bey mosque in Sanski Most town [D22.7]. In late May 1992, the Hasanbegova mosque in Sanski Most was destroyed by members of the 6th Krajina Brigade. A parking lot was laid out on top of its cemetery.<sup>1191</sup> In mid 1992, the SDS ordered the destruction of the Donji Kamengrad mosque. Mladen Majkić, a military engineer, was ordered by a member of the SDS to set explosives in the mosque.<sup>1192</sup>

522. The Betonirka prison camp [C28.1] and Krings Hall [C28.3] as well as the detention centre at the Hasan Kikić sports hall [C28.2] were set up by the crisis staff of Sanki Most municipality in the beginning of May 1992. The detainees were delivered to these centres by the army and the SJB, on direct orders from the crisis staff. The SJB was made responsible for the security at these detention centres. According to information from the Bosnian-Serb authorities, of the 1,655 detainees at the three centres, the majority were men from 18 to 65 years; 1,538 were Muslims and the rest Croats. About 900 detainees were sent to Manjača camp in Banja Luka upon an order of the crisis staff, and another 600 were set free.<sup>1193</sup>

523. In late May 1992, Serb forces began to arrest Croat and Muslim leaders.<sup>1194</sup> Some, including the secretary of the SDA municipal board, a Muslim judge, and the municipal

<sup>1190</sup> P522 (Witness 481 transcript), pp. 8055-6, 8058-60, 8063-5, 8075; P522.C (Witness 481 statement), p. 3.

<sup>1191</sup> P906 (Kaiser report), annex; Witness 633, T. 3864; P750, tab 8 (Report, October 1992), p. 3; P519.B (Draganović transcript), pp. 4997-8; P519.F (Draganović transcript), pp. 5725-30, 5744; P519.G (Draganović transcript), p. 5841.

<sup>1192</sup> P158 (Witness 628 statement), p. 39; Witness 628, T. 3780.

<sup>1193</sup> P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), pp. 7-8; P529, tab 291 (Order by Sanski Most crisis staff, 6 June 1992); P519.B (Draganović transcript), pp. 4994, 5003-4, 5009; P519.C (Draganović transcript), pp. 5455, 5506; Bišćević, T. 5536-9; P278 (Note of release of Nedim Bišćević from Manjača camp, 26 August 1992).

<sup>1194</sup> Witness 628, T. 3770; P105 (Diary of Nedeljko Rašula); P521.B (Witness 196 transcript), p. 7729, 7742-7, 7756, 7785, 7848; Karabeg, T. 2796; P519.B (Draganović transcript), pp. 4984-6.

chief of police, were killed.<sup>1195</sup> Adil Draganović, president of the municipal court, was detained at the local police station [C28.5] from 25 May to 17 June 1992, when he was transferred to Manjača camp in Banja Luka municipality.<sup>1196</sup> The conditions at the police station were bad, with little food, insufficient space to lie down, no toilet, and no shower.<sup>1197</sup> Police officers, soldiers and ordinary citizens severely beat the detainees on a regular basis. The detainees were not given any medical treatment.<sup>1198</sup>

524. Mirzet Karabeg, president of the executive board of the municipal assembly, was detained at the Sanski Most police station [C28.5] and in the Betonirka prison camp [C28.1] from 25 May to 28 August 1992. In the police station, he was held together with fourteen prominent Muslim and Croat civilians, and in Betonirka together with 75 persons.<sup>1199</sup> Approximately 30 men were detained in Betonirka prison camp by June 1992 [C28.1]. At four by five meters, the building where the detainees were kept was so crowded that the detainees were forced to sleep sitting up. The detainees were provided with insufficient food and water. Serb police officers and outsiders who were allowed into the camp beat and mistreated the detainees.<sup>1200</sup> On 22 June, around 20 detainees from Betonirka prison camp were taken to nearby Kriva Cesta, where they were ordered at gunpoint by soldiers in olive-grey uniforms to dig their own graves. A group of ten persons, among them Nedjeljko Rašula, sat at a picnic table nearby, watching the digging. When the detainees had finished, a soldier slit the throats of all but three detainees, who were taken back to the camp [B17.1].<sup>1201</sup>

525. Faik Bišćević, a member of the local SDA's main board, was arrested on 27 May 1992 and detained in a house in Magarice village for two days, without food or water. Around 29 May, he was transferred to Sanski Most prison [C28.7], where he was held in cramped conditions with inadequate food and hygiene facilities. He lost 32 kilograms

<sup>1195</sup> Witness 628, T. 3770.

<sup>1196</sup> P519.A (Draganović transcript), pp. 4951-2; P519.G (Draganović transcript), pp. 5826-8; P519 (Draganović transcript), p. 4843; P519.B (Draganović transcript), pp. 4973-4, 4984, 5003; P519.B (Draganović transcript), pp. 4994, 5003-4, 5009; P519.C (Draganović transcript), p. 5455, 5467-9; P519.H (Draganović transcript), pp. 5868-9; P519.F (Draganović transcript), pp. 5716-17.

<sup>1197</sup> P521.A (Witness 196 transcript), pp. 7750-4; Karabeg, T. 2821.

<sup>1198</sup> P521.A (Witness 196 transcript), pp. 7749-50, 7754-60; P521.C (Witness 196 transcript), p. 7895; Karabeg, T. 2820, 2823-4, 2826-8; P98 (Karabeg statement), pp. 9-10; P519.B (Draganović transcript), pp. 4973-9; P519.G (Draganović transcript), pp. 5828-9.

<sup>1199</sup> Karabeg, T. 2819-20; P98 (Karabeg statement), pp. 1, 8-9, 11; P519.B (Draganović transcript), pp. 4984-6; Karabeg, T. 2804, 2814; P105 (Diary of Nedeljko Rašula), p. 39.

<sup>1200</sup> Witness 565, T. 4547-9, 4553; P217 (Photograph of Betonirka camp); P218 (Photograph); P216 (Witness 565 statement), paras 31-4, 37, 41-4; P518 (Witness 563 transcript), pp. 6416-21, 6442-3.

whilst in prison. Prison guards and soldiers, who were allowed to enter the prison, regularly beat the detainees. A Muslim religious leader from Vrhpolje, Emir Seferović, was mistreated more frequently than other detainees and was forced by prison guards to eat pork. Nedjeljko Rašula was seen on several occasions eating in the prison kitchen.<sup>1202</sup>

526. On 1 June 1992, Adem Seferović, a Muslim from the village of Hrustovo, surrendered to Serb soldiers and was taken to Betonirka prison camp [C28.1].<sup>1203</sup> In early July 1992, all Muslims from Hrustovo, Trnopolje, and Kamićak who had sought refuge in Tomina elementary school [C28.22] were taken to the Krings Hall in Sanski Most [C28.3], where they were detained with 600 others. The hygiene conditions at this detention centre were extremely poor. Serb police officers beat the detainees with batons and rifles, and Witness 481 saw one man beaten to death in July 1992.<sup>1204</sup>

527. On 4 June 1992, the Sanski Most crisis staff tasked Mirko Vrućinić, Nedjeljko Rašula, and Colonel Aničić with specifying categories of detained persons in the municipality for transfer to Manjača camp. The categories comprised “politicians”, “nationalist extremists”, and people “unwelcome” in Sanski Most municipality. Witnesses 628 and 633 explained that the first two categories referred to members of the SDA and the HDZ and to those who had voted for the independence of Bosnia-Herzegovina.<sup>1205</sup>

528. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians in twelve detention centres in Sanski Most municipality in 1992, namely a military garage [C28.4], the Krkojevci sports hall [C28.6], the SUP building at Lušci Palanka [C28.8], the prison at Sana [C28.9], the Narodni Front elementary school [C28.10], Kamengrad [C28.11], the Gornja Mahala elementary school [C28.12], the house of Simo Miljuš [C28.13], Keramika [C28.14], Lufani [C28.15], Podvidača [C28.17], and Kozica school [C28.21].<sup>1206</sup>

<sup>1201</sup> Witness 565, T. 4554-6, 4591-3, 4560-61, 4620-21; P216 (Witness 565 statement), paras 45, 46, 48; P220 (Diary of Witness 565).

<sup>1202</sup> Bišćević, T. 5487, 5492, 5520-6, 5528-36; P274 (Statements); P 274.A (Transcript); P275, P276 (Photographs); P277 (Record of identification of Emir Seferović's body, 2 June 1998).

<sup>1203</sup> P517 (Seferović statement), pp. 5, 7.

<sup>1204</sup> P522 (Witness 481 transcript), pp. 8067-71; P522.B (Witness 481 statement), p. 4.

<sup>1205</sup> P200, tab 7 (Conclusions from Sanski Most crisis staff, 4 June 1992); P158 (Witness 628 statement), p. 33; Witness 628, T. 3801, 3803; P189 (Conclusions of Sanski Most crisis staff, 4 June 1992), p.1; Witness 633, T. 3840-44, 3856.

<sup>1206</sup> P519B (Draganović transcript), pp. 4995-5000; Witness 633, T. 3859-60; P158 (Witness 628 statement), p. 37; P206 (Minutes of Sanski Most executive committee, 30 July 1992), p. 3.

529. On 30 May 1992, the crisis staff of Sanski Most discussed “the problem of refugees” from the Mahala area, as well as that of Muslims and Croats who were disloyal to the Bosnian-Serb Republic and its laws. The crisis staff decided that all persons who had not taken up arms and who wished to leave the municipality would be allowed to do so. It also decided to contact the ARK leadership regarding population resettlement.<sup>1207</sup> In May or June, Bosnian-Serb police were seen forcing people out of their homes in a Muslim area of Sanski Most. Vlado Vrkeš, president of the Sanski Most SDS, told Witness 633 that the opinion in the SDS was that this type of action was taken as a countermove to Muslim actions elsewhere and that Muslims had to be resettled so that Sanski Most could become a purely Serb town.<sup>1208</sup>

530. In June 1992, Besim Islamčević, a Muslim from Podbriježje, organized a meeting attended by Vlado Vrkeš during which a procedure for the departure of the Muslims was discussed. Muslims wishing to stay had to sign an oath of loyalty to the Serb authorities in the municipality. After additional pressure on the Muslim community during June-July, Muslim representatives considered that it would be safer for the Muslims to leave Sanski Most. It was suggested that Islamčević and Vrkeš should discuss with UNPROFOR representatives the possibility of organizing the departure of Muslims. UNPROFOR’s representative told the delegation that the UN would not assist with a population transfer through Croatia. Despite this, convoys of thousands of Muslims, under the escort of civilian and military police, left the municipality during September 1992.<sup>1209</sup>

531. On 22 June 1992, the Sanski Most crisis staff was informed about the ARK crisis staff’s decision that every municipality in the region was to appoint a person responsible for matters relating to the removal and exchange of populations and prisoners, and that this person was to report to Vojo Kuprešanin of the ARK. The crisis staff of Sanski Most appointed Vrkeš for this purpose and established a five-member committee for population migration.<sup>1210</sup> The crisis staff also decided on 2 July 1992 that departure from the municipality would be granted to persons who had given a statement to the municipal

<sup>1207</sup> P186 (Conclusions of Sanski Most crisis staff, 30 May 1992), item 2.

<sup>1208</sup> Witness 633, T. 3841-2, 3860-1, 3924.

<sup>1209</sup> P520 (Islamčević transcript), pp. 7431-2, 7434-7; P520.A (Islamčević transcript), pp. 7456, 7459-60, 7463-5, 7468, 7470-9; P520.B (Islamčević transcript), pp. 7510, 7543-5, 7548, 7554-6, 7559; Kirudja, T. 3184, 3186-90, 3192-3, 3195, 3197; P149 (Report, 22 August 1992), p. 4; P150 (Report, 5 September 1992), p. 4; P120 (Kirudja statement), pp. 34-6.

<sup>1210</sup> P197 (Conclusions of Sanski Most crisis staff, 23 June 1992), items 2(d), 4.

authority that they were permanently leaving the municipality and who had exchanged their immovable property or surrendered it to the municipality.<sup>1211</sup>

532. Around 3,000 persons left Sanski Most municipality between May and August 1992, and as of 16 August 1992 the SJB had approved the applications of 12,000 persons, mostly Muslims, who wished to leave the municipality but had not been able to do so.<sup>1212</sup> A May 1993 MUP report indicates that 24,000 Muslims and 3,000 Croats had left the municipality and that 5,000 Serbs moved in.<sup>1213</sup>

533. The Chamber concludes that, in total, more than 88 Muslim civilians were killed by Serb forces in the municipality of Sanski Most in the period end of May to August 1992. Serb forces attacked many majority-Muslim villages and settlements in the municipality and deliberately destroyed mosques and Muslim houses and business premises. As a result of these attacks and other acts of intimidation, many Muslims and Croats left the municipality. Serb forces also detained more than 1,500 mainly Muslim and Croat civilians in eighteen detention facilities in the municipality. The detainees were mistreated on a regular basis. During September 1992, convoys of thousands of Muslims left the municipality under the escort of civilian and military police. They were forced to surrender their property to the municipality. Almost all Muslims had left the municipality of Sanski Most in 1992.

#### 4.3.12 Teslić

534. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Teslić municipality was 32,962 (55 per cent) Serbs, 12,802 (21 per cent) Muslims, 9,525 (16 per cent) Croats, 3,465 Yugoslavs, and 1,100 persons of other or unknown ethnicity.<sup>1214</sup>

535. In April 1992, Teslić town was barricaded and road signs appeared in Cyrillic.<sup>1215</sup> The Teslić SJB, which had been part of the Doboj CSB under the Bosnia-Herzegovina

<sup>1211</sup> P529, tab 350 (Decision by Sanski Most crisis staff, 2 July 1992); P519.E (Draganović transcript), pp. 5693-4; P113 (Decision by Sanski Most crisis staff, 2 July 1992), p. 1; Karabeg, T. 2835-6; P518 (Witness 563 transcript), pp. 6434, 6448-9.

<sup>1212</sup> P529, tab 295 (Report by SJBs in Prijedor, Bosanski Novi, and Sanski Most, 18 August 1992), p. 8.

<sup>1213</sup> P892, tab 100 (List of citizens, May 1993), p. 2.

<sup>1214</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 242-3.

<sup>1215</sup> P713 (Vlado Petrović statement), p. 4.

MUP, became part of the Banja Luka CSB.<sup>1216</sup> The SDS-appointed president of the municipality fired all non-Serb police officers.<sup>1217</sup>

536. Around May 1992, many paramilitary groups, such as Arkan's Men, the White Eagles, and the Red Berets arrived in the town of Teslić.<sup>1218</sup> They beat and killed people around the town and destroyed or damaged Muslim and Croat properties, including five or six mosques in Teslić town and surrounding villages [D25.2, D25.3], as well as Catholic churches [D25.1].<sup>1219</sup> The Teslić public prosecutor and the investigating judge initiated proceedings against persons who allegedly committed serious crimes against people and property in Teslić municipality.<sup>1220</sup> The accused were subsequently arrested and remanded in custody, but due to pressure and threats from the command of the Dobojski operational group, a paramilitary formation also called Mića's, were soon after released from the Banja Luka prison.<sup>1221</sup>

537. Witness 484, a Muslim resident of the suburbs of Teslić, was arrested on 3 June 1992 by soldiers in green camouflage uniforms and red berets and Serb police officers in blue camouflage uniform.<sup>1222</sup> He was detained at the Teslić Police station [C31.3, C31.6] in a cell measuring 12 square metres with around 50 other persons, including seven persons known to him – six Muslims and a Croat. The detainees were beaten and humiliated.<sup>1223</sup> Vlado Petrović, a Croat, saw Red Berets beating a Muslim detainee in the police station upon orders of the police commander.<sup>1224</sup> Several days later, one detainee was transferred to a detention centre in the TO building [C31.1, C31.8] and another to the hangar near the TO building [C31.2].<sup>1225</sup> Between 200 and 300 detainees, including some local politicians and other prominent figures from Teslić municipality, were being held in each of these facilities.<sup>1226</sup> Serb reserve police officers and soldiers in green camouflage uniform and Red Berets stationed in the TO hangar were under the command of Predrag

<sup>1216</sup> P787, tab 9 (Monograph by Teslić SJB, 25 September 1993), p. 1.

<sup>1217</sup> P713 (Vlado Petrović statement), pp. 4-5.

<sup>1218</sup> P713 (Vlado Petrović statement), pp. 5-6.

<sup>1219</sup> P713 (Vlado Petrović statement), pp. 5-6; P787, tab 1 (Report of Teslić war staff, 4 July 1992), p. 1.

<sup>1220</sup> P787, tab 4 (Report of Teslić office of prosecutor, 28 July 1992), p. 1.

<sup>1221</sup> P787, tab 4 (Report of Teslić office of Prosecutor), pp. 7, 15.

<sup>1222</sup> P712 (Witness 484 statement), pp. 2-3; P712.B (Witness 484 statement), p. 2.

<sup>1223</sup> P712 (Witness 484 statement), p. 3; Malešević, T. 16134.

<sup>1224</sup> P713 (Petrović statement), pp. 5-6.

<sup>1225</sup> P713 (Petrović statement), p. 6; P712 (Witness 484 statement), pp. 3-6; Malešević, T. 16134.

<sup>1226</sup> P712 (Witness 484 statement), pp. 3-6; P712.B (Witness 484 statement), p. 2; P713 (Petrović statement), pp. 5-6.

Markočević and Marinko Đukić.<sup>1227</sup> In the TO building, prisoners were severely beaten.<sup>1228</sup> Witness 484 who was detained in the TO hangar saw four detainees beaten to death and the president of the Teslić SDA, Fadil Isić, shot by Red Berets as he lay on a bed in a medical centre [B18.1].<sup>1229</sup> Another witness saw the Red Berets beat up a Muslim detainee.<sup>1230</sup> Witness 484 paid the Red Berets a large sum of money to be released, only to be arrested again by the Red Berets, who took him to the Pribinić post office, which was under the control of the military police [C31.9]. He was detained there with six other Muslim men and beaten by Dragan Babić, a local Serb wearing olive-grey military reserve uniform. Witness 484 was finally released on 23 July 1992.<sup>1231</sup>

538. Detainees that were released from the TO building, in August 1992, were obliged to report for work duties, such as cleaning streets, cutting wood, and digging trenches.<sup>1232</sup> In October 1992, one former detainee was issued a document by the local Serb TO which stated that he was not allowed to enter his home, nor remove any items because they now belonged to the municipality of Teslić.<sup>1233</sup>

539. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at five detention centres in the municipality in 1992, namely the detention centre in Pribinić [C31.4], Mladost school [C31.5], Teslić prison [C31.7], the Proleter football club stadium [C31.10], and the Banja Vrućica health resort [C31.11].<sup>1234</sup>

540. The Chamber concludes that, in total, more than five persons of Muslim or Croat ethnicity were killed by Serb forces in Teslić municipality in summer 1992. Serb paramilitaries beat and killed people in the town of Teslić and destroyed or damaged Muslim and Croat property, including mosques and Catholic churches. Serbs also detained Muslim and Croats in several detention centres under cramped conditions. Detainees were severely beaten and some died as a result. Former detainees were obliged to work and dig trenches.

<sup>1227</sup> P712 (Witness 484 statement), pp. 3-6.

<sup>1228</sup> P713 (Petrović statement), pp. 5-6.

<sup>1229</sup> P712 (Witness 484 statement), pp. 4-6; P857 (Tokača report).

<sup>1230</sup> P713 (Petrović statement), p. 5.

<sup>1231</sup> P712 (Witness 484 statement), pp. 6, 7-8.

<sup>1232</sup> P713 (Petrović statement), p. 7.

<sup>1233</sup> P712 (Witness 484 statement), p. 8.

<sup>1234</sup> Malešević, T. 16133-4, 16136-41.

#### 4.4 Sarajevo municipalities

##### *4.4.1 Hadžići*

541. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Hadžići municipality was 15,392 (64 per cent) Muslims, 6,362 (26 per cent) Serbs, 746 (3 per cent) Croats, 841 Yugoslavs, and 859 persons of other or unknown ethnicity.<sup>1235</sup>

542. From mid April 1992, SDS leaders and JNA barracks commanders in Hadžići cooperated openly in bringing in JNA reserve units from Serbia and Montenegro. These units occupied strategically important buildings and positions in the town of Hadžići in the course of the second half of April 1992. In early May 1992, the SDS held a session to establish a Serb municipality of Hadžići and to define its boundaries. On 7 May 1992, armed Serb reservists and Serb policemen entered the Hadžići municipal building, evicting the employees. The same day, the SDS issued an ultimatum demanding that the Muslim police, TO officers, and members of other municipal bodies leave Hadžići municipality by the following day. On 8 May 1992, an artillery attack against the police station of Hadžići was launched.<sup>1236</sup>

543. During the next few days, Serbs took control over parts of the municipality and started to arrest people and expel and evict large parts of the non-Serb population. Two to three thousand Muslim and Croat men, women and children left Hadžići town, many left on foot and withdrew through the woods. Serb women and children were evacuated from Hadžići on buses. Only two to three hundred members of the original Muslim and Croat population remained in Hadžići town. Serb reservists set up checkpoints and positions in the town centre, restricting movement.<sup>1237</sup>

544. Between 15 and 20 May 1992, the Serbs also shelled the settlement of Musići, part of the village of Ušivak. On 20 May 1992, armed Serbs in JNA uniform or dressed in olive-green camouflage uniforms entered Musići, gathered fourteen Muslim men and took them to the garage in the Hadžići municipal assembly building [C15.4]. Another 46 men

<sup>1235</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 30-1.

<sup>1236</sup> P500 (Dupovac transcript), pp. 5-6; P501 (Balić statement), pp. 3-4.

<sup>1237</sup> P500 (Dupovac transcript), p. 7; P501, (Balić statement), p. 4; Banduka, T. 18669-72, 18868; P499.B (Witness 141 statement), pp. 1-2.

were held in the same garage.<sup>1238</sup> The Serb forces ill-treated the detainees and did not give them sufficient food and water.<sup>1239</sup>

545. On 25 May 1992, Serb forces transferred some of the detainees from the garage of the municipal building to the Hadžići sports centre [C15.3, C15.5] where at that time 60 men and one woman were detained.<sup>1240</sup> Vidomir Banduka, a member of the crisis staff of Hadžići municipality, confirmed that it was a decision of the crisis staff to keep the Muslims there.<sup>1241</sup> While in detention in the Hadžići sports centre, the detainees were often beaten and sexually abused by members of the paramilitary units.<sup>1242</sup>

546. Around 22 June 1992, the detainees were transferred from the Hadžići sports centre to the Slaviša Vajner Čiča barracks in Lukavica, Novo Sarajevo municipality, in order to be exchanged.<sup>1243</sup> When the exchange attempts had failed, on 8 September 1992, Witness Musić was returned to Hadžići town and detained at the Hadžići sports centre along with 500 others. The majority of the detainees were women and children.<sup>1244</sup>

547. On 20 June 1992, Serb military police detained Witness 141 and her sister at the Hadžići civil defence headquarters [C15.1], where they were beaten and raped by the Serb guards. In the headquarters, military policemen intimidated Witness 141 by pretending to order her execution and by handing her an active grenade. Around 25 June 1992, they were moved to the garage of the municipal building [C15.4] where the witness's sister was sexually abused by a Serb paramilitary soldier. In mid July 1992, Ratko Radić, the SDS municipal president transferred the two women to the premises of a factory outside Hadžići [C15.2] where they were detained together with other Muslims from Hadžići and were forced to work. At the factory, Radić raped the witness's sister regularly. Other commanders and guards stationed at the factory raped both women on many occasions. Around 11 December 1992, the factory commander moved some detainees to the Vranica Dormitory Huts in Hadžići [C15.6] where another 30 Muslims and Croats, among them

<sup>1238</sup> Musić T. 8452, 8461; P407.A (Musić statement), paras 1, 3; P407.C (Musić statement), paras 23-9, 33-5; P407.D (Musić statement), paras 2-5.

<sup>1239</sup> P407.C (Musić statement), paras 36, 38; P499.B (Witness 141 statement), p. 3; P499 (Witness 141 statement), p. 4.

<sup>1240</sup> P407.A (Musić statement), para. 3; P407.C (Musić statement), paras 40, 52, 55; P407.D (Musić statement), para. 5; P501.A (Balić statement), pp. 1-2; Banduka, T. 18882, 18890.

<sup>1241</sup> Banduka, T. 18808, 18814-16, 18629-30, 18665-8.

<sup>1242</sup> P407.A (Musić statement), para. 5; P407.C (Musić statement), paras 45-50; P501.A (Balić statement), pp. 1-2; Banduka, T. 18809, 18882.

<sup>1243</sup> P407.A (Musić statement), para. 6; P407.B (Musić statement), para. 2; P407.C (Musić statement), paras 55-9; P501.A (Balić statement), p. 2; Banduka, T. 18820, 18883-4.

<sup>1244</sup> P407.A (Musić statement), paras 8-10.

women, were held. Serb soldiers passing by repeatedly beat and threatened the detainees.<sup>1245</sup>

548. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at eight detention centres in the municipality in 1992, namely the professional trades school, the Garaže (car garages), the Zgrada TO building, the basement of a hotel, Tarčin prison, the Žunovnica military barracks, the building of Social Affairs, and the Blažuj military barracks.<sup>1246</sup>

549. In late 1992, the Serb assembly of the municipality of Hadžići decided to rescind citizenship rights in the Bosnian-Serb Republic to all former residents of Hadžići who had not returned to the territory of the municipality or had not provided an explanation for their inability to return before 20 July 1992. The decision also terminated their tenancy rights and employment rights and stated that their property was to be used temporarily for the requirements of the defence of the municipality.<sup>1247</sup>

550. The Chamber concludes that Serb forces took over Hadžići town and parts of Hadžići municipality with the assistance of JNA forces and expelled most of the non-Serb population in May 1992. They detained mainly Muslim and Croat civilians in thirteen detention facilities under inhumane conditions, mistreated and sexually abused them.

#### 4.4.2 *Ilidža*

551. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Ilidža municipality was 29,337 (43 per cent) Muslims, 25,029 (37 per cent) Serbs, 6,934 (10 per cent) Croats, 5,181 Yugoslavs, and 1,456 persons of other or unknown ethnicity.<sup>1248</sup>

552. In the beginning of March 1992, a Serb SJB was created after the Muslim police officers were dismissed from their positions.<sup>1249</sup> In April and May 1992, various paramilitary formations arrived in the municipality, including Brne Gavrolović's group, Bokan's group, "Chetniks" from Zvornik, and Arkan's men, with some of whom the Ilidža

<sup>1245</sup> P499 (Witness 141 statement), pp. 3-5; P499.B (Witness 141 statement), p. 7; P499.B (Witness 141 statement), pp. 1-6.

<sup>1246</sup> Malešević, 16126-7, 16136-43; P886 (List of camps, 16 June 2005), p.1.

<sup>1247</sup> P824, tab 1 (Decision of municipal assembly, 15 September 1992), arts 1, 2-4.

<sup>1248</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 32-3.

<sup>1249</sup> P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), p. 2.

crisis staff cooperated.<sup>1250</sup> After the establishment of the VRS, some paramilitaries remained in Ilidža and assisted the VRS and MUP forces.<sup>1251</sup>

553. By the end of April 1992, under the orders of Lieutenant Colonel Tadija Manojlović, JNA heavy artillery, rocket launchers, anti-aircraft guns, and tanks, fired every evening on targets in Sarajevo, including the neighbourhoods of Butmir and Hrasnica in Ilidža municipality.<sup>1252</sup> The Serb SJB also took part in the attacks.<sup>1253</sup> By early May 1992, Serb forces controlled Ilidža.<sup>1254</sup>

554. In 1992, Serb authorities detained mostly Croat and Muslim civilians in ten detention centres in Ilidža municipality, namely the former ambulance building [C16.2], the Lužani trailer park [C16.3], the cultural and sports complex, the storage building of Energoinvest, Kasindol hospital, the “July 27” elementary school [C16.5], the graphic school, the kindergarten, the Ilidža SJB [C16.1], and the Blažuj military barracks. On 23 July 1992, Witness Musić was arrested by “Chetnik” police and detained in a small cell without windows at the Ilidža SJB [C16.1]. During Musić’s detention in Ilidža, “Chetnik” police officers forced him to help them loot Muslim houses in the town. All detained Muslims were interrogated in order for Serb authorities to obtain information regarding their intentions.<sup>1255</sup>

555. Due to repressive measures undertaken against them, many Muslims fled and moved out of the municipality. Tomislav Kovač, the wartime chief of the Ilidža SJB, said on one occasion that the civilian authorities had declared a general policy of expelling Muslims from Ilidža.<sup>1256</sup> On 25 June 1992, Nedjeljko Prstojević, president of the Ilidža crisis staff, spoke with Rade Ristić, a local official from Ilidža, about the situation in the Kasindol area. Upon hearing that the Serbs were holding their ground, Prstojević told Ristić: “All right. But have them hold on to it tightly and have them all killed there please ... Kill all the Muslims, like Alija ... I don’t want to see one military aged Muslim alive

<sup>1250</sup> Prstojević, T. 14546-8, 14550-1, 14555-9, 14586-93, 14618-19; P794 (Conversation between Nedjeljko Prstojević and unknown man, 21 April 1992; P763 (Nielsen report), para. 332; P763.C, tab 38 (MUP activity report, October 1992), p. 8; P825, tab 3 (Telephone conversation between Mićo Stanišić and Nedjeljko Žugić, 15 May 1992); P529, tab 415.A (Telephone conversation between Arkan and Legija, 15 May 1992).

<sup>1251</sup> Prstojević, T. 14547, 14551-5.

<sup>1252</sup> P702.A (Čevro statement), pp. 4-5.

<sup>1253</sup> P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), pp. 3-4.

<sup>1254</sup> P825, tab 2 (Daily MUP report, 8 May 1992), p. 2.

<sup>1255</sup> Malešević, 16126-7, 16136-41; P886 (List of camps), p.1; P407.A (Musić statement), para. 8; P407.C (Musić statement), paras 93-4, 97; P583, tab 100 (Report of Bosnian-Serb Ministry of Justice, 22 October 1992), pp. 5-6.

there”. He went on to authorize Ristić to give Muslim apartments in the area to Serbs involved in the fighting, saying that he had printed the requisite forms for the transfer of property, and that on that same day authorities in Ilidža had already filled out 30 such forms for apartments in the Nedžarići area, east of Ilidža town.<sup>1257</sup>

556. The Chamber concludes that, after Serb forces took control over Ilidža municipality in May 1992, they detained mainly Muslim and Croat civilians in twelve detention facilities in the municipality. Many Muslims left the territory of Ilidža municipality out of fear and due to repressive measures undertaken against them.

#### 4.4.3 Ilijaš

557. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Ilijaš municipality was 11,325 (45 per cent) Serbs, 10,585 (42 per cent) Muslims, 1,736 (7 per cent) Croats, 1,167 Yugoslavs, and 371 persons of other or unknown ethnicity.<sup>1258</sup>

558. In March 1992, Serb flags were hoisted on the Ilijaš municipal building and on the police station and SDA and HDZ representatives stopped attending the municipal assembly meetings. Around the same time, the SJB split along ethnic lines.<sup>1259</sup> The Serb part called itself the “Serb police” of SAO Romanija and came under the control of the Serb crisis staff.<sup>1260</sup> Muslim and Croat police officers, as well as Muslims and Croats employed at schools, banks, and hospitals, were dismissed.<sup>1261</sup> Muslims proceeded to establish their own crisis staff and police station in a village close to the town of Ilijaš.<sup>1262</sup>

559. The Serb crisis staff took over all the major military and civilian institutions and facilities in the municipality, including the SDK, banks, a JNA fuel warehouse, and the media.<sup>1263</sup> The local SDS was assisted by a paramilitary formation.<sup>1264</sup> Still later, on 14

<sup>1256</sup> P763.C, tab 4 (Ilidža SJB, award commendations, 20 September 1993), p. 2; Prstojević, T. 14659; P763 (Nielsen report), para. 189.

<sup>1257</sup> P1014 (Telephone conversation between Nedjeljko Prstojević and Rade Ristić, 25 June 1992); Witness D9, T. 19098-100.

<sup>1258</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 34-7.

<sup>1259</sup> P704.A (Mešetović statement), pp. 3-4; Witness 60, T. 10874-5, 10884; P551 (Record of interview, 10 June 1992), para. 3.

<sup>1260</sup> Witness 31, T. 15963, 15993; P879 (Witness 31 statement), para. 28.

<sup>1261</sup> Witness 31, T. 15963; P879 (Witness 31 statement), para. 28; P704.A (Mešetović statement), p. 4.

<sup>1262</sup> P879 (Witness 31 statement), para. 38.

<sup>1263</sup> Witness 31, T. 15965, 15967-9, 15973-6; P879 (Witness 31 statement), paras 31-32, 38-39.

<sup>1264</sup> P879 (Witness 31 statement), para. 36; P704.A (Mešetović statement), p. 5.

June 1992, the Serb crisis staff of the municipality invited Arkan's men to come to its assistance with at least one platoon.<sup>1265</sup>

560. Preparations to take over the majority-Muslim village of Lješevo began in March 1992 when Serbs erected checkpoints, distributed arms to the locals, and placed heavy artillery on the surrounding hills. In April 1992, the Muslims in the village organized village guards and in May they formed a crisis staff, charged with organizing life and work in the village. Also in May, the Serb police ordered the Muslims to surrender their weapons. Most of the Muslims complied and 60 to 80 per cent of the Muslims left the village in fear of an attack. On 4 June, Lješevo was hit with gunfire and shells. The shells hit several houses in the Muslim part of the village where no military target was present. On the following day, Serb soldiers entered the village and killed approximately 20 Muslim villagers, after capturing them and burning their personal documents [A8.1]. The Serb soldiers forced other villagers from their homes and assembled them at the railway station. From there, the Serb police transported the village residents by bus to a building in the Podlugovi area of Ilijaš [C17.5], where they were detained for two months.<sup>1266</sup>

561. On two occasions, in April and again on 4 June, Serb forces shelled the hamlet of Mlini. By early July, the attacks caused the majority of the village population to move to Breza municipality, to the north of Sarajevo.<sup>1267</sup>

562. Around May 1992, the Muslims in the predominantly Muslim village of Gornja Bioča organized guard shifts, armed with military and hunting rifles. On 29 May, Serb forces shelled the village. Serb soldiers killed two relatives of Witness Selimović outside their house. Soon thereafter local Serb soldiers detained the Muslim village residents, including women and children, and held them for five days in the village primary school [C17.1, C17.3]. Soldiers then moved 80 men to another school, in Podlugovi [C17.5].<sup>1268</sup> The detainees in Podlugovi [C17.5] were guarded by Serbs. They slept on the floor and received very little food, on some days nothing at all. Sometime in August 1992, a representative of the Ministry of Justice of the Bosnian-Serb Republic visited the detainees

<sup>1265</sup> P528 (Hanson Report), para. 49; P529, tab 240 (Request for manpower, 14 June 1992).

<sup>1266</sup> P695 (Fazlić statement), pp. 2-4; Witness 60, T. 10844, 10852-9, 10864-7; P550 (Witness 60 statement), paras 4-8, 14, 28, 30, 32-3; P551 (Record of interview, 10 June 1992), paras 3-9; P553 (Exhumation report, 8 June 1996); Witness 31, T. 15979-80, 16014; P879 (Witness 31 statement), paras 41-2, 44, 46; P943.B (Note by Ilijaš SJB, 5 April 1996), pp. 1-2; P943.C (Note of exhumation, 11 June 1996), pp. 1-5; P943.D (Forensic report, 2 July 1996), pp. 1-5.

<sup>1267</sup> P704.A (Mešetović statement), pp. 4-5.

and informed them that, because of the poor conditions in detention, they would be moved elsewhere. Around 17 August, the detainees were indeed transferred, to another detention centre in Semizovac, Vogošća municipality.<sup>1269</sup>

563. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at nine detention centres in the municipality in 1992, namely the industrial school, the former railway station, the INA gasoline storage plant, the old homes in Jamjanovići, the old pit in Podlugovi, the town police station and prison [C17.7], the Nišići winter services maintenance, the MIK factory hall in Podlugovi, and a concrete bunker by the Stavanja river in Podlugovi.<sup>1270</sup>

564. During 1992, Serb forces destroyed a large number of historical and religious sites in Ilijaš, including the Catholic cathedral in Taračin Do and 21 Muslim religious monuments, including the mosque in Stari Ilijaš [D13.1, D13.2], the mosque in Misoča [D13.3], the mekhtab in Bioča [D13.4], and a mosque in Srednje.<sup>1271</sup>

565. The Chamber concludes that, in total, at least 22 Muslims were killed by Serb forces in the municipality of Ilijaš in May and June 1992. Serb forces attacked several Muslim-majority villages and destroyed a large number of historical and religious monuments. The attacks on the hamlet Mlini caused the majority of the population to move to Breza municipality, to the north of Sarajevo. In other villages, Serbs forced villagers out of their houses and detained many of them in twelve detention centres in the municipality in poor conditions.

#### 4.4.4 Novi Grad

566. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Novi Grad municipality was 69,430 (51 per cent) Muslims, 37,591 (28 per cent) Serbs, 8,889 (7 per cent) Croats, 15,580 Yugoslavs, and 5,126 persons of other or unknown ethnicity.<sup>1272</sup>

<sup>1268</sup> Selimović, T. 10903, 10918-21, 10934-6; P555 (Selimović statement), paras 1, 3, 5-6, 11-12, 16; P556 (Selimović statement), paras 3, 5-6, 9-12, 14.

<sup>1269</sup> P695 (Fazlić statement), pp. 3-4; Selimović, T. 10921-3; P555 (Selimović statement), paras 15, 17, 23; P556 (Selimović statement), paras 16-18, 20-1; P379 (Photograph).

<sup>1270</sup> Malešević, T. 16126-7, 16136-41; P886 (List of camps, 16 June 2005), p. 2.

<sup>1271</sup> Witness 31, T. 15960-1, 15983-5; P879 (Witness 31 statement), paras 14-18.

<sup>1272</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 36-9.

567. On or about 22 February 1992, a Serb municipality was established in Rajlovac, comprised of mixed population villages including the predominantly Muslim village Ahatovići.<sup>1273</sup> In March, at the talks between local SDA and SDS representatives in the village, the Serbs threatened to attack the Muslims if they did not leave the village. The Muslims refused to comply with the demand and established a local crisis staff, set up barricades, organized village guards and armed themselves with infantry weapons. In April, Serbs set up barricades in other places in the municipality. One barricade was set up at the bridge across the Bosna River in the Reljevo settlement where only Serbs could pass through. When Witness Mujkić tried to pass, he was told that no “balijas” could pass.<sup>1274</sup> In early May, Arkan’s men and the White Eagles arrived at the village. On 24 or 25 May, women, children, and the elderly attempted to leave Ahatovići for the nearby municipality of Visoko, but were prevented from doing so by Serb soldiers who fired at them. Following this incident, about 120 men from Ahatovići, armed with light infantry weapons, organized resistance in the village. On or about 27 May, Serb tanks and armoured vehicles took up positions in the hills around Ahatovići. Using megaphones, the Serbs urged the villagers to surrender. They threatened: “Balijas, surrender, or we kill your children.” When they refused, Serb infantry launched an attack but they were repelled by the Muslims. The Serb forces proceeded to shell the village from the hills. Serb former JNA soldiers and White Eagles then entered the village with APCs and tanks whereupon the Muslim villagers surrendered. During the attack, a number of Muslim villagers were killed and about fifteen wounded and captured Muslims were executed by Serb soldiers [A12.1]. The Chamber finds that, with the exception of the fifteen wounded Muslims who were killed upon capture, there is not sufficient evidence to conclude that the Muslims killed in Ahatovići were not taking active part in the hostilities. Almost all 130 houses in Ahatovići were damaged or destroyed during the attack.<sup>1275</sup> A few days after the attack, the village mosque was blown up. All the surviving Muslims in the village were either arrested or expelled, together with some Serbs and Croats who were married to Muslims.<sup>1276</sup>

<sup>1273</sup> P389, tab 8 (Telephone conversation between Radovan Karadžić and Ljubo Grković, 22 February 1992), p. 1; P65, tab 65 (Diary of Ljubo Grković), p. 107; Mujkić, T. 7923-5, 7928-9; Krsman, T. 21906, 21970, 21973.

<sup>1274</sup> Mujkić, T. 7931-2.

<sup>1275</sup> Mujkić, T. 7926-7, 7931-2, 7934, 7937-40, 7942-7, 7957-8, 7962-3, 7982, 7990, 8028-9, 9210, 9242; P371 (Map of Ahatovići area); P705 (Witness 122 statement), pp. 2-5; P705.A (Witness 122 statement), pp. 1-2; Jahić, T. 7742-3, 7746-56, 7758-64, 7767-70, 7902, 7910.

<sup>1276</sup> Mujkić, T. 7947-50; Jahić, T. 7817, 7875.

568. On 2 June 1992, after the attack on Ahatovići, Witness 122, Elvir Jahić and other Muslims from the village were taken to the Rajlovac army barracks [C22.1] where other Muslims were already being detained. On the way to the barracks, the Serbs cursed Alija Izetbegović and “balija mothers”. The commander of the detention centre at the barracks was Mile Stojanović. The detainees received no food and little water during their detention. Members of a special unit, under the command of Nikola Stanišić, severely beat the detainees and unleashed dogs on them. At least two men died as a result of the beatings [B13.1]. On 10 June, a Serb man called Žuti launched a hand bomb with poisonous gas into the reservoir where the detainees were being held and said “breathe in, balijas”. One of the guards allowed the detainees out soon thereafter.<sup>1277</sup>

569. On 14 June 1992, Žuti and some other guards took Witness 122, Elvir Jahić and about 50 other detainees by bus to Sokolina, near Srednje, in Ilijaš municipality. There the guards and the driver got off the bus and attacked it with grenades and automatic weapons. A total of 47 detainees were killed during this incident. Witness 122 escaped and Jahić survived the massacre [B13.2].<sup>1278</sup>

570. Witness Ramiz Mujkić was also detained at the Rajlovac army barracks in the period from 6 to 9 August 1992. On the first night, an officer in olive-green army uniform hit him with a grenade, breaking his jaw.<sup>1279</sup> Witness Ferid Čutura, a Muslim from Vogošća, was detained at the military airport barracks in Novi Grad during the first two weeks of May 1992. He and other detainees were severely beaten on a regular basis by the Serb guards. The detainees were also forced by the guards to beat other detainees. On 13 May, the witness was transferred to a detention centre in Vogošća municipality.<sup>1280</sup>

571. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at three other detention centres in Novi Grad municipality, all in the commune of Rajlovac, in 1992, namely the Energopetrol gasoline storage plant, a distribution centre, and the Kisikana oxygen storage plant.<sup>1281</sup>

<sup>1277</sup> P705 (Witness 122 statement), pp. 5-7; P705.A (Witness 122 statement), pp. 2-6; Jahić, T. 7774-94, 7796-7801, 7808, 7823-4, 7878-9; P367 (Photograph of metal hangars, no date); D30 (Jahić statement), paras 11, 14-15, 19, 21; Mujkić, T. 7938-9, 7950-1, 7953-5, 7989-90; P371 (Map of Ahatovići area).

<sup>1278</sup> P705 (Witness 122 statement), p. 8; P705.A (Witness 122 statement), pp. 4-6; Jahić, T. 7810-15, 7817, 7863, 7913-15; D30 (Jahić statement), paras 23-7.

<sup>1279</sup> Mujkić, T. 8002-9, 8011-12, 8014, 9204.

<sup>1280</sup> P715 (Čutura statement), pp. 2-4.

<sup>1281</sup> Malešević, 16126-7, 16136-41; P886 (List of camps, 16 June 2005), p. 1.

572. A May 1993 MUP report indicates that 13,000 Muslims and 40 Croats had left the municipality while 3,400 Serbs had arrived.<sup>1282</sup>

573. The Chamber concludes that Serb forces killed 64 Muslims in total in Novi Grad municipality in May-June 1992. In Ahatovići, Serb forces killed fifteen wounded persons by the end of May 1992. On 14 June 1992, 47 detainees were killed in Sokolina, near Srednje, in Ilijaš municipality. Serbs detained mostly Muslim and Croat civilians in four detention centres around the municipality. The detainees were severely beaten and mistreated by Serb guards. Numerous houses and one mosque were destroyed during the attack of one village, and about 13,000 Muslims and some Croats were subsequently expelled by force.

#### 4.4.5 *Novo Sarajevo*

574. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Novo Sarajevo municipality was 33,902 (36 per cent) Muslims, 32,899 (35 per cent) Serbs, 8,798 (9 per cent) Croats, 15,099 Yugoslavs, and 4,391 persons of other or unknown ethnicity.<sup>1283</sup>

575. On 1 March 1992, Serbs, including Serb employees of the Bosnia-Herzegovina MUP such as the then assistant Minister of Interior, Momčilo Mandić, and the head of the Novo Sarajevo SJB, Milenko Jovanović, and SDS officials such as Rajko Dukić, Jovan Tintor, and Ratko Adžić, began to organize barricades at strategic points in Sarajevo and surrounding municipalities.<sup>1284</sup> The following day, Muslims set up barricades.<sup>1285</sup> During the following months, Serb police and Serb soldiers in JNA uniforms continued to restrict the movement of non-Serbs.<sup>1286</sup>

576. At the end of April 1992, JNA forces shelled Sarajevo and its neighbourhoods, such as Bijelo Polje and Novo Sarajevo.<sup>1287</sup> From June 1992 onwards, soldiers, assigned to sniper duty, took position at the upper floors of four multi-storey buildings in the commune

<sup>1282</sup> P892, tab 100 (List of citizens, May 1993), p. 2.

<sup>1283</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 38-9.

<sup>1284</sup> P744 (MUP report on security situation, 6 March 1992), pp. 1-5; P745 (List of MUP employees, 13 March 1992).

<sup>1285</sup> P744 (MUP report on security situation, 6 March 1992), pp. 3, 6-7.

<sup>1286</sup> P699 (Witness 109 statement), p. 1; Witness 239, T. 12381, 12384-5, 12394; P703.A (Witness 86 statement), pp. 3-4.

<sup>1287</sup> P702.A (Čevro statement), p. 5; P703.A (Witness 86 statement), p. 3; P609 (Witness 84 statement), pp. 3, 7; P610 (Witness 84 statement), p. 2.

of Grbavica. A VRS soldier reported that he had heard sounds of gunfire coming from the upper floors and was told by the snipers that they had shot people.<sup>1288</sup> Members of the Serb army, the Serb police, and Šešelj's men, searched Muslim and Croat houses in the commune of Grbavica for weapons.<sup>1289</sup> Three women, two Muslim and one of mixed ethnicity, were raped during these house searches from June to September 1992, by an armed man, named Batko, who had come to their apartments.<sup>1290</sup> Batko also committed several other crimes, including looting and plundering, in Grbavica in June-July 1992.<sup>1291</sup>

577. From the outbreak of conflict until October 1992, KP Dom Butmir or Kula [C23.2] in Novo Sarajevo accommodated 10,000 Muslim civilians of all ages, for periods ranging from a few days to several months.<sup>1292</sup> Between 12 May 1992 and 20 May 1992, 118 unarmed persons, including 31 from Dobrinja, were detained by TO forces on various grounds at Kula.<sup>1293</sup> Kula was under the Serb MUP jurisdiction until the beginning of August 1992, when it was taken over by the Ministry of Justice.<sup>1294</sup> The inadequacy of accommodation, food, and hygiene, and the poor health of the detainees were addressed by the SJBs in Ilidža and Novi Grad who asked the MUP and the Ministry of Justice on 20 May 1992 to solve the situation.<sup>1295</sup>

578. Another detention centre in Novo Sarajevo where non-Serbs were detained was under army jurisdiction and located at Lukavica, Novo Sarajevo [C23.6].<sup>1296</sup> In both Kula and Lukavica detainees were regularly beaten.<sup>1297</sup> In Kula, two detainees were beaten to death by the guards on or about 7 April 1992.<sup>1298</sup> In several cases, detainees were transferred to Kula prison within a month after their arrival at the Lukavica barracks.<sup>1299</sup> In both the detention centres, detainees were forced to perform manual labour such as digging

<sup>1288</sup> P706 (Witness 238 transcript), pp. 1919-21, 1932; Nešković, T. 16706-7.

<sup>1289</sup> Witness 84, T. 12328; P609 (Witness 84 statement), p. 5; P610 (Witness 84 statement), p. 2; Witness 239, T. 12388; P699 (Witness 109 statement), p. 2; P699.A (Witness 109 statement), p. 2; P703.A (Witness 86 statement), p. 4; P703.B (Witness 86 statement), p. 3; P494.A (Smajš statement), p. 1.

<sup>1290</sup> P699.A (Witness 109 statement), pp. 2-4; P699 (Witness 109 statement), pp. 2-3; P494 (Smajš statement), p. 2.

<sup>1291</sup> Nešković, T. 16703-6.

<sup>1292</sup> Mandić, T. 8742, 8749-50; P432 (Letter, 29 October 1992), p. 1.

<sup>1293</sup> P431 (Letter from SJB Ilidža, SJB Novi Grad, and Kula police station, 20 May 1992), p. 1; P464 (Letter from SJB Novi Grad and Kula police station, 29 May 1992).

<sup>1294</sup> Mandić, T. 8730-4; Malešević, 16126-7; P887 (List of camps, 16 June 2005), p. 1.

<sup>1295</sup> P431 (Letter from SJB Ilidža, SJB Novi Grad, and Kula police station, 20 May 1992), p. 2.

<sup>1296</sup> Mandić, T. 8789, 8879.

<sup>1297</sup> P708 (Agić statement), pp. 9-10; P501.A (Balić statement), p. 2.

<sup>1298</sup> P494.A (Smajš statement), p. 2; P494 (Smajš statement), p. 3.

<sup>1299</sup> P501.A (Balić statement), p. 2-4; Musić, T. 8533; P407.A (Musić statement), paras 6, 8; P407.B (Musić statement), para. 2; P407.C (Musić statement), paras 55-59, 79-84; P708 (Agić statement), p. 9.

trenches and graves.<sup>1300</sup> In Kula, detainees were obliged to participate in a work platoon. Some of them were ordered to dig trenches at front lines, and as a result, at least four detainees were killed by snipers or shells and others were injured.<sup>1301</sup>

579. On 16 June 1992, Witness 329, a Croat woman from Novo Sarajevo, was detained in the “Šoping” building in Grbavica [C23.1] where she was questioned and beaten by Serb soldiers. According to the witness, Biljana Plavšić entered the room and told the soldiers to take away the witness and two other detainees – who showed signs of beatings – because she was trying to have breakfast in the room next door.<sup>1302</sup> The Chamber accepts the testimony of the witness, but is not in a position to make a finding on whether Biljana Plavšić realized that the witness was detained. The witness was transferred to the Lukavica barracks in Novo Sarajevo where she was kept in poor conditions with 26 other persons.<sup>1303</sup> On one occasion she saw the Accused, Radovan Karadžić, Biljana Plavšić, and Nikola Koljević arrive together by helicopter.<sup>1304</sup>

580. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at the following detention centres in the municipality in 1992: the garages and basements in Grbavica [C23.3], the Digitron Buje shop [C23.4], the rooms of Vrace MZ (local community) [C23.5], the Bane Šurbat students’ dormitory, and the Vraca police station.<sup>1305</sup>

581. In early June 1992, many non-Serbs, in order to escape harassment or arrest, paid large sums of money to the Serb authorities to allow them to leave the municipality.<sup>1306</sup> Serb forces expelled Muslims on a large scale from the commune of Grbavica.<sup>1307</sup> On 30 September 1992, UN representatives saw 25 families crossing the frontline from Grbavica into the city of Sarajevo, and the ICRC also informed UN representatives that they had received 150 families who had been forcibly driven from the area.<sup>1308</sup>

582. The Chamber concludes that, in total, at least six Muslims were killed by Serb forces in Novo Sarajevo municipality in summer 1992. Serb forces detained many non-

<sup>1300</sup> P708 (Agić statement), pp. 9-10.

<sup>1301</sup> P501.A (Balić statement), p 3.

<sup>1302</sup> Witness 239, T. 12396-7; P634 (Record of witness interview, 15 March 1993), p. 2.

<sup>1303</sup> Witness 239, T. 12397-8, 12400, 12403.

<sup>1304</sup> Witness 239, T. 12402-5, 12423, 12426-7, 12433.

<sup>1305</sup> Malešević, 16126-7, 16136-41; P886 (List of camps, 16 June 2005), p. 1.

<sup>1306</sup> Witness 239, T. 12390, 12392.

<sup>1307</sup> Nešković, T. 16699-701; Witness 84, T. 12342-4; P609 (Witness 84 statement), pp. 1-2.

<sup>1308</sup> P614 (Message, 30 September 1992).

Serbs in six detention centers. The largest detention centre KP Dom Butmir or Kula accommodated as many as 10,000 Muslim civilians of all ages in Novo Sarajevo in the period from end of April until October 1992. Detainees were regularly beaten, some to death. They were forced to work in a work platoon and some of them had to dig trenches at front lines, and were injured or killed as a result. Since early June 1992, many non-Serbs left the municipality. Serb forces expelled Muslims on a large scale from the commune of Grbavica on 30 September 1992.

#### 4.4.6 Pale

583. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Pale municipality was 11,284 (69 per cent) Serbs, 4,364 (27 per cent) Muslims, 129 (1 per cent) Croats, 396 Yugoslavs, and 182 persons of other or unknown ethnicity.<sup>1309</sup>

584. In early March, Muslims were dismissed from the police in Pale.<sup>1310</sup> During the same month, the Serbs started a campaign to convince Muslims to leave the municipality. In some parts of the municipality, Serb police officers and paramilitary commanders attempted, on a daily basis and for many weeks in a row, to convince Muslims to leave in peace and thereby avoid trouble later. In the second half of March, a Muslim delegation from the municipality met with Nikola Koljević and the Pale chief of police, Koroman. Koljević told the delegation that local Serbs did not want Muslims living in Pale. Koroman informed the delegation that he could no longer guarantee the Muslims' safety as he could not control the Red Berets who had arrived in the municipality.<sup>1311</sup> Around the same time, in March and April 1992, Serbs paramilitaries, local police and reserve soldiers set up checkpoints in Pale which severely restricted the movements of Muslims.<sup>1312</sup> In connection with this, many local Serbs were armed and assisted at the barricades.<sup>1313</sup> In May and June 1992, there was an increasing concentration of regular and paramilitary personnel in the municipality.<sup>1314</sup> On 22 May, Serb forces attacked and shelled the predominantly Muslim village of Donja Vinča, setting houses on fire and forcing the villagers to leave.<sup>1315</sup>

<sup>1309</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 38-41.

<sup>1310</sup> Črnčalo, T. 5304, 5312-14.

<sup>1311</sup> Črnčalo, T. 5320-7, 5386, 5412-13; P270 (Črnčalo statement), para. 26; Divčić, T. 17841-2.

<sup>1312</sup> Črnčalo, T. 5332-7, 5390-91; P270 (Črnčalo statement), paras 31-2; P495 (Omerović statement), pp. 2-3.

<sup>1313</sup> P744 (MUP report on security situation, 6 March 1992), pp. 8-9.

<sup>1314</sup> Črnčalo, T. 5340-1; P270 (Črnčalo statement), para. 35.

<sup>1315</sup> P495 (Omerović statement), pp. 3-4.

585. Witness Mirsad Smajš and other detainees from the Sarajevo area were transferred from the Kula prison in Novo Sarajevo to the sport complex in Pale on 10 May 1992. They were detained at the sport complex [C24.2] for three days before they were exchanged. At this time, the sport complex held between 400 and 600 detainees. The sport complex was close to the police station, and about three kilometres from the Kikinda and Panorama hotels which functioned as the seat of the Bosnian-Serb institutions (Assembly, Presidency, Government) until June 1992. In mid-May, Witness Rešid Hasanović and others who had been arrested and detained in Bratunac were also brought to the sports complex. When, on 4 June 1992, Witness Azem Omerović and three other men were taken to the sport complex by Serbs in camouflage uniforms using police cars, there were about 50 detainees held there. The conditions at the detention centre were harsh: the detainees slept on the floor without blankets and were provided with food only every other day. Many of the detainees were humiliated and beaten by guards and Serb men who were allowed into the facility. On one occasion three detainees were beaten to death [B14.1]. However, there was no beating of detainees when Ratomir Kojić, who was in charge of the detention centre, was present. In early August, the detainees were told that they were going to be taken for exchange but were instead transferred back to Kula in Novo Sarajevo.<sup>1316</sup>

586. In addition to the sport complex, Serb authorities detained mostly Croat and Muslim civilians at three other detention centres in the municipality in 1992, namely the movie theatre [C24.4], the cultural centre, and the military barracks in Hrenovica.<sup>1317</sup>

587. In late June and early July, the transfer of Muslims from the municipality was organized, with announcements and schedules indicating which streets would be affected each day. This was carried out with the support of the SDS crisis staff. The Muslims were transported to the Muslim part of Sarajevo in around 20 busloads and were allowed to take with them only the items they could carry.<sup>1318</sup>

588. The Chamber concludes that, in total, at least three Muslims were killed by Serb forces in the municipality in summer 1992. Serb forces shelled the predominantly Muslim

<sup>1316</sup> Hasanović, T. 2407-18; P72 (Hasanović statement), pp. 15-16; P74.A (Transcripts of video); P75 (Photograph of victims); P61 (400 Muslims taken from Bratunac to Pale); P494.A (Smajš statement), pp. 2-3; P494 (Smajš statement), pp. 3-4; P495 (Omerović statement), pp. 5-6; Divčić, T. 17852-3, 17861-2; Witness D24, T. 22902-3; P857 (Tokača report).

<sup>1317</sup> Malešević, 16126-7, 16136-41; P887 (List of camps, 21 June 2005), p. 1; Kapetina, T. 19954; Lakić, T. 21598. Črnalo, T. 5343, 5346.

<sup>1318</sup> Črnčalo, T. 5347-52, 5256, 5400-4; P270 (Črnčalo statement), paras 40-2; Divčić, T. 17840-3, 17850-1; Witness D24, T. 22895-6.

village of Donja Vinča on 22 May forcing the villagers to leave. In Pale, Muslims were detained in five detention facilities. For example, between 400 and 600 detainees, mainly of Muslim ethnicity, were detained in harsh conditions in the sport complex where they were severely beaten, occasionally to death. In late June and July 1992, buses organized by the crisis staff transported a huge number of Muslims from Pale to the Muslim part of Sarajevo.

#### 4.4.7 Trnovo

589. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Trnovo municipality was 4,790 (69 per cent) Muslims, 2,059 (29 per cent) Serbs, sixteen Croats, 72 Yugoslavs, and 54 persons of other or unknown ethnicity.<sup>1319</sup>

590. In March and April 1992, Serbs and Muslims both erected checkpoints in and around Trnovo.<sup>1320</sup> Also, around March or early April 1992, Serb police officers formed their own police force, based at the local culture centre, and hoisted a Serb flag on the building.<sup>1321</sup> At the session of the SDS municipal board on 26 April 1992, Drašković, a member of the board, called for a division of the municipal administration along ethnic lines.<sup>1322</sup>

591. Soldiers wearing Serb insignia and tanks appeared in Trnovo and dug trenches in town around 25 May 1992.<sup>1323</sup> Around 29 or 30 May 1992, Serb residents started leaving Trnovo expecting an imminent attack.<sup>1324</sup> The following day, Serb forces under the command of Ratko Bundalo shelled Trnovo for several hours. Houses owned by Muslims were the main target of the shelling.<sup>1325</sup> In addition, a Serb unit set Muslim houses in town on fire and destroyed the town mosque.<sup>1326</sup> At least five Muslim residents of Trnovo were

<sup>1319</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 41-2.

<sup>1320</sup> Vatrić, T. 7050-1, 7067, 7074, 7078; P322 (Omer Vatrić statement), para. 15; Witness 646, T. 10284, 10286-7; P744 (MUP report on security situation, 6 March 1992), pp. 1-4.

<sup>1321</sup> Vatrić, T. 7034-6, 7049-50; P322 (Omer Vatrić statement), paras 1-7, 11; Witness 646, T. 10305, 10365; P531, tab 33 (Minutes of Trnovo SDS municipal board, 26 April 1992), p. 1; P714 (Mulaosmanovic statement), p. 7.

<sup>1322</sup> Witness 646, T. 10305, 10365; P531, tab 33 (Minutes of Trnovo SDS municipal board, 26 April 1992), p. 1.

<sup>1323</sup> P322 (Omer Vatrić statement), para. 17.

<sup>1324</sup> Vatrić, T. 7056-7; P322 (Omer Vatrić statement), para. 19; Witness 646, T. 10314, 10396; P714 (Mulaosmanović statement), p. 7.

<sup>1325</sup> Witness 646, T. 10315-7, 10321-3, 10397; P531, tab 36 (Witness 646's Diary), p. 6

<sup>1326</sup> Witness 646, T. 10334-6, 10366, 10386; P531, tab 36 (Witness 646's Diary), p. 7.

killed in the shelling and fourteen Muslims were captured by the Serbs.<sup>1327</sup> The Chamber is not in a position to assess the circumstances of the death of the five Muslim residents.

592. About 2,500 Muslims left Trnovo as a result of this attack.<sup>1328</sup> Those who remained – mainly women, children, and the elderly – were taken for questioning before the crisis staff.<sup>1329</sup> On 11 June 1992, Colonel Ratko Bundalo of the VRS declared the Kalinovik and Trnovo municipalities to be war zones. The movement of the Muslim population was further restricted.<sup>1330</sup> Muslims were detained in two week-end cottages<sup>1331</sup> and, in early July 1992, exchanged or released to Muslim-held territories.<sup>1332</sup>

593. The Chamber concludes that Serb forces attacked Trnovo town and deliberately destroyed houses owned by Muslims and the town mosque at the end of May 1992. More than half of the Muslim population left Trnovo municipality as a result of the attack and other restrictions imposed on them. Some Muslims left the municipality after having being detained.

#### 4.4.8 *Vogošća*

594. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Vogošća municipality was 12,499 (51 per cent) Muslims, 8,813 (36 per cent) Serbs, 1,071 (4 per cent) Croats, 1,730 Yugoslavs, and 534 persons of other or unknown ethnicity.<sup>1333</sup>

595. In early March 1992, the SDS delegates withdrew from the Vogošća municipal assembly and established their own assembly.<sup>1334</sup> Jovan Tintor, member of SDS Main Board and president of Vogošća crisis staff, Rajko Koprivica, president of the local SDS, and other local SDS leaders wanted the municipality of Vogošća to be divided along ethnic lines. The division, as envisaged by them, would leave the Serbs with the town centre, the important communication links, and all local industry.<sup>1335</sup> In March, the JNA set up roadblocks around important factories in Sarajevo, including the Pretis artillery and rocket

<sup>1327</sup> Vatrić, T. 7058-60, 7065-6.

<sup>1328</sup> Witness 646, T. 10324; Vatrić, T. 7058-62, 7064-5, 7075-6, 7079-81; P322 (Omer Vatrić statement), para. 20.

<sup>1329</sup> Witness 646, T. 10324-5, 10327.

<sup>1330</sup> Hadžić, T. 5976-9; P289 (Order, 11 June 1992); Witness 646, T. 10315-17, 10321-3, 10397.

<sup>1331</sup> Witness 646, T. 10328-9; 10331; P531, tab 36 (Witness 646's Diary), p. 7.

<sup>1332</sup> Witness 646, T. 10332-4.

<sup>1333</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 44-7.

<sup>1334</sup> Witness 73, T. 12142; P742.A (Hasanović statement), p. 4; Hasanović, T. 13478-80, 13509-16, 13533-4.

<sup>1335</sup> Witness 73, T. 12238; Hasanović, T. 13480-1; P742.A (Hasanović statement), pp. 4-5.

manufacturing plant in Vogošća,<sup>1336</sup> which was one of the largest in Europe.<sup>1337</sup> In late March, the police were divided along ethnic lines.<sup>1338</sup>

596. A large part of Vogošća was brought under Serb control by military force between 4 and 17 April 1992 by Serb army units and the police organized by the Vogošća crisis staff.<sup>1339</sup> SDS and crisis staff control did not extend to the Serb paramilitaries which appeared in the municipality in the period April until August 1992. Paramilitaries acted in collusion with some members of Vogošća's military command, police force, and municipal authorities.<sup>1340</sup> On 30 July 1992, the Vogošća war commission decided to remunerate the volunteers under Major Jovo Ostojić, referred to as the "Šoša detachment".<sup>1341</sup>

597. On the basis of instructions received from the MUP and the local military command, all Serb police forces in Vogošća municipality were sent to the front lines as early as mid-April 1992. Rather than maintaining law and order, police officers engaged in combat activities. Many police officers participated in criminal activities, such as looting of Muslim houses. They also robbed the TAS factory in Vogošća, which manufactured "Golf" vehicles, of around 2,000 cars by June 1992. A special platoon from Sokolac, led by Duško Malović and assigned to Mićo Stanišić, was involved in the large scale theft of cars from the TAS factory in Vogošća, while the reserve police looted Muslim houses.<sup>1342</sup>

598. On 1 May 1992, a Muslim police officer in Sarajevo and his colleague were arrested by the Serb TO while driving to his home in Vogošća. They were taken to the police station in Vogošća town [C33.8], where they were interrogated and beaten by Jovan Tintor.<sup>1343</sup>

599. On 2 May 1992, Serbs surrounded and shelled the villages of Svrače and Semizovac, in Vogošća municipality. Military aeroplanes bombed the villages, following

<sup>1336</sup> P753 (Zečević statement), para. 29; Witness 73, T. 12232, 12241.

<sup>1337</sup> P753 (Zečević statement), para. 2; Zečević, T. 13755, 13765.

<sup>1338</sup> Witness 73, T. 12241; Hasanović, T. 13480-8, 13530-2; P742.A (Hasanović statement), pp. 2, 4-5.

<sup>1339</sup> P746 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992), p. 1; P763.C, tab 73 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992).

<sup>1340</sup> P746 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992), pp. 3-5; P763.C, tab 73 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992), pp. 2-3; Witness 680, T. 14974, 15039-40, 15044, 15047, 15076-81; P764 (Davidović statement), p. 13.

<sup>1341</sup> P762, tab 9 (Conclusion by Vogošća war commission, 30 July 1992).

<sup>1342</sup> P746 (Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992), pp. 2-5; Witness 680, T. 14974, 15039-40, 15044, 15047, 15076-81; P764 (Davidović statement), p. 13.

<sup>1343</sup> P715 (Čutura statement), pp. 2-3; P529, tab 250 (Announcement on general mobilization of TO Vogošća, 11 May 1992); P64 (Treanor report), p. 155.

which residents surrendered their weapons.<sup>1344</sup> After the take-over of Svrake and Semizovac in early May 1992, the Serbs took 470 Muslim men, women, and children to the barracks in Semizovac [C33.3.]. The women, children, and the elderly were later released, but the men were kept.<sup>1345</sup> They were supposed to be exchanged for nine Serbs who had been taken prisoner by Muslim forces.<sup>1346</sup>

600. On 29 May 1992, Gornja Bioča was shelled by Serb forces. Some Muslim men who had been guarding Gornja Bioča with hunting and military rifles fled into the woods.<sup>1347</sup> They were arrested and detained in Planjo's house in Semizovac on 31 May 1992. Since the beginning of June 1992, Serb police also detained men from the village of Lješevno, in Ilijaš municipality, in Planjo's house.<sup>1348</sup> On 8 July, the municipal secretariat for town planning, property rights, housing policy, and land register decided, upon request of the Ministry of Justice, to temporarily turn over Planjo's house to the Ministry, for use as a prison.<sup>1349</sup> On 17 August, a group of more than 80 Muslim men who had been in detention in a school Podlugovi, in Ilijaš municipality, were transferred by police officers in camouflage uniform to Planjo's house. [C33.1.] There were a total of 113 men detained at Planjo's house, most of whom were Muslims, but also some Croats and one Serb. Women and children were held in separate quarters upstairs. They were guarded by Serb soldiers and police officers in camouflage uniform, who would often severely beat them.<sup>1350</sup> In October, 172 people were detained here.<sup>1351</sup> In the period between August and November 1992, Serbs would come from Serbia on the weekends to beat the detainees and force them to perform sexually humiliating acts.<sup>1352</sup>

601. At the end of August 1992, Serb military personnel began to take Muslim detainees from Planjo's house to perform labour at the front lines in Ravne and Žuč. This included digging trenches, carrying ammunition, and removing the bodies of Serb soldiers killed in

<sup>1344</sup> Hasanović, T. 13492-3, 13499-500, 13503-13, 537; P742.A (Hasanović statement), p. 6.

<sup>1345</sup> P742.A (Hasanović statement), p. 6.

<sup>1346</sup> Hasanović, T. 13455-6; P742.A (Hasanović statement), pp. 6-8; P743.B (Decision on release of Muslim citizens, 25 May 1992).

<sup>1347</sup> Selimović, T. 10903, 10918-23, 10934-6; P555 (Selimović statement), paras 1, 3, 5-6, 11-12, 15-7, 23; P556 (Selimović statement), paras 3, 5-6, 9-12, 14, 16-18, 20-1; P379 (Photograph of Planjo's house); Mujkić, T. 8006-9, 8011-12, 8014, 9204; P380 (List of persons detained in Vogošća prison, 3 September 1992).

<sup>1348</sup> P695 (Fazlić statement), pp. 3-4.

<sup>1349</sup> P1097 (Decision), 8 July 1992.

<sup>1350</sup> Selimović, T. 10924-8; P555 (Selimović statement), paras 27, 34; P556 (Selimović statement).

<sup>1351</sup> Musić, T. 8486-7; P407.A (Musić statement), para. 11; P407.C (Musić statement), paras 108-9.

<sup>1352</sup> Mujkić, T. 8006-9, 8011-12, 8014-17, 9204; P380 (List of persons detained in Vogošća prison, 3 September 1992).

battle.<sup>1353</sup> Sometimes groups of detainees from Planjo's house were used as human shields.<sup>1354</sup> During the month of September 1992, at least fifteen Muslim detainees were killed while performing labour at the front lines or being used as human shields [B20.2]. Several detainees were also wounded.<sup>1355</sup>

602. In May 1992, some detainees from a detention facility called "bunker" [C33.2] where 35 male villagers from a Muslim majority village Svrače were detained were taken out by a man called Boro Radić and also sent to dig trenches in Žuč.<sup>1356</sup> According to one witness, some detainees never returned. The Chamber is not in a position to further assess the fate of these detainees.

603. Another detention centre in Vogošća was located in the Sonja café-restaurant. Brano Vlačo was the warden. The conditions at the detention centre were inadequate, as there was overcrowding and insufficient food.<sup>1357</sup>

604. In addition to the facilities mentioned above Serb authorities detained mostly Croat and Muslim civilians at the following detention centres in the municipality in 1992, namely the Sonje bunker beside the Kon Tiki boarding house, a sports complex, the Krivoglavci tunnel, the Kisikana Company Building [C33.4], the UPI Distribution centre [C33.5], Nake's garage [C33.7], the Park hotel [C33.9], and the UNIS factories.<sup>1358</sup>

605. The mosque in Svrače and the mosque at Kobilja Glava were destroyed [D28.1, D28.2].<sup>1359</sup> Also, the following places of worship were destroyed during the war in Vogošća: the mosque in Ugorsko, the *masjid* (mosque without minaret) in Karaula-Donja Vogošća, the *masjid* in Tihovići, the *masjid* in Gora, the *masjid* in Krč, the mosque under construction in the Park Hotel vicinity, and the Catholic church in Semizovac.<sup>1360</sup>

<sup>1353</sup> Selimović, T. 10930-1; P555 (Selimović statement), para. 24; P556 (Selimović statement), para. 26; P558 (Note of Vogošća branch prison warden, 30 August 1992); Selimović, T. 10929-30; P695 (Fazlić statement), pp. 4-5; Mujkić, T. 8009, 8013-14, 9204.

<sup>1354</sup> P556 (Selimović statement), para. 27; P695 (Fazlić statement), pp. 4-6.

<sup>1355</sup> Selimović, T. 10929-31; P555 (Selimović statement), paras 27-8; P556 (Selimović statement), paras 27-35; P558 (Note of Vogošća branch prison warden, 30 August 1992); P457 (Bulletin of Vogošća prison department, 19 September 1992); P559 (Letter of Vogošća brigade command Vogošća prison, 17 September 1992); P563 ((Bulletin of Vogošća prison department, 24 September 1992); P560, P562 (Reports by Sarajevo-Romanija Corps command); P695 (Fazlić statement), pp. 4-5; Mujkić, T. 8009, 8013-17, 9204.

<sup>1356</sup> P715 (Čutura statement), pp. 4-5.

<sup>1357</sup> Poplašen, T. 20959-60, 20962, 21127, 21164-7.

<sup>1358</sup> Malešević, 16126-7; P887 (List of camps, 21 June 2005), p. 1.

<sup>1359</sup> Hasanović, T. 13456-7.

<sup>1360</sup> P742 (Hasanović statement), p. 2.

606. The Chamber concludes that at least fifteen Muslim and Croat detainees were killed by Serb forces in Vogošća municipality in September 1992. A large part of Vogošća was brought under Serb control by military force already between 4 and 17 April, but Serb forces shelled other villages in the municipalities and damaged or destroyed several mosques in the following months. Many police officers participated in criminal activities, such as looting of Muslim houses and robbing the TAS factory in Vogošća. After the take-over of villages, Serb forces arrested Muslims and Croats and detained them in ten detention centers in the municipality under harsh conditions. Some of the prisoners were used as human shields and were killed. Until November 1992, Serbs regularly came from Serbia to beat the detainees and force them to perform sexually humiliating acts.

#### 4.5 South-eastern Bosnia-Herzegovina

##### *4.5.1 Bileća*

607. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Bileća municipality was 10,628 (80 per cent) Serbs, 1,947 (15 per cent) Muslims, 39 Croats, 222 Yugoslavs, and 448 persons of other or unknown ethnicity.<sup>1361</sup>

608. After the 1990 elections, Serbs occupied all positions of power in municipal offices in Bileća, including the head of police.<sup>1362</sup> In January 1992, all police officers were required to wear insignia showing their loyalty to the Bosnian-Serb Republic and the Muslim officers, who all refused to comply, were dismissed from their jobs.<sup>1363</sup> During 1992, many more Muslims were dismissed from their jobs.<sup>1364</sup> Leading up to April 1992 and onwards, Muslims in Bileća were intimidated by Serbs who increasingly carried weapons in public. Checkpoints were erected in the municipality and restrictions on the movement of Muslim residents were imposed.<sup>1365</sup>

609. On 10 June 1992, Serb paramilitary groups entered Bileća from Gacko. They included Arkan's Men, Yellow Wasps, and White Eagles.<sup>1366</sup> Serb regular and reserve police officers selectively arrested Muslim civilians and confiscated all firearms held by Muslims. A total of 41 arrested persons were accommodated in the Bileća barracks, which

<sup>1361</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 54-6.

<sup>1362</sup> P908 (Witness 10 statement), p. 3.

<sup>1363</sup> P510 (Murguz statement), pp. 4-5; P908 (Witness 10 statement), pp. 4-5.

<sup>1364</sup> P908 (Witness 10 statement), pp. 4-5.

<sup>1365</sup> P510 (Murguz statement), p. 5; P908 (Witness 10 statement), pp. 4-5.

were only intended to hold approximately fifteen persons, for 48 hours [C3.1]. During and after this operation, Muslim property was looted throughout the entire municipality, and Serbs from other municipalities moved into the abandoned Muslim homes.<sup>1367</sup>

610. On 10 June 1992, Witness 10 was taken to the Bileća police station, [C3.2] beaten by Serb paramilitaries and then taken to the Bileća barracks, also known as the JNA compound Moše Pijade, [C3.1] where he was detained for fifteen days. Around this time, the Bileća barracks accommodated 244 detainees, including several women and children. Witness 10 was soon returned to the police station, and detained in a cell with 20 to 25 other men in a building behind the station [C3.4]. In the following months, the detainees were beaten regularly by the police and paramilitaries, resulting in at least two fatalities.<sup>1368</sup> During this period, Serb authorities, among them the Bileća police chief and Milorad Vučerević, president of SAO Herzegovina, visited the detainees. Following a visit by the UNHCR in December 1992, the witness and a number of other detainees were released and transported, together with their families, in buses out of the municipality to Montenegro.<sup>1369</sup>

611. Witness Murguz, a former police officer, was arrested by Serb police on 4 July 1992 while attempting to flee the municipality and taken to the student dormitory Đački Dom [C3.5] with around 70 other Muslim men. He and many other Muslim men were subjected to severe mistreatment, including heavy electric shocks and tear gas, while in the custody of the Serb police who were guarding the facility. On one occasion, the guards took Murguz out of his cell, attached cables to his fingers, and subjected him to electric shocks which left him unconscious.<sup>1370</sup> On 2 September 1992, a CSCE delegation inspected 74 detainees in poor condition at the student dormitory Đački Dom [C3.5] in Bileća. The delegation noticed that detainees had been mistreated. The facility where the detainees were held was inadequate and food provided was insufficient.<sup>1371</sup> Witness Murguz was released in October 1992 after being compelled to sign a declaration

<sup>1366</sup> P908 (Witness 10 statement), p. 7.

<sup>1367</sup> P510 (Murguz statement), p. 7; P783 (Letter from Herzegovina Corps, 11 June 1992), pp. 5-6.

<sup>1368</sup> P908 (Witness 10 statement), pp. 3, 8-9; P783 (Letter from Herzegovina Corps, 11 June 1992), p. 5; P857 (Tokača report).

<sup>1369</sup> P908 (Witness 10 statement), pp. 3, 8-9.

<sup>1370</sup> P510 (Murguz statement), pp. 8-10.

<sup>1371</sup> P880 (Report of CSCE, 29 September 1992), pp. 32, 59; P783 (Letter from Herzegovina Corps, 11 June 1992), pp. 5-6.

indicating that he was leaving the municipality voluntary. He and other detainees, as well as their families, were taken in buses directly from the Đački Dom to Montenegro.<sup>1372</sup>

612. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at the Bileća prison [C3.3] in 1992.<sup>1373</sup> The detention centres in Bileća also received Muslims who had been arrested during 1992 in the neighbouring municipality of Gacko.<sup>1374</sup>

613. Serbs destroyed three mosques in Bileća, using explosives and further demolished them with heavy machinery.<sup>1375</sup> The Chamber is, however, not in a position to clarify whether the mosques have been destroyed in 1992.

614. The Chamber concludes that two detained Muslims were killed by Serb forces in the municipality of Bileća in summer 1992. Serb forces looted Muslim property throughout the entire municipality. From June 1992 on, Muslim civilians were arrested and detained in five detention centers where they were regularly beaten by police and paramilitaries. In one detention centre, they were subjected to heavy electric shocks and tear gas. Some of the detainees were released after international delegations had visited the detention centres.

#### 4.5.2 Čajniče

615. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Čajniče municipality was 4,709 (53 per cent) Serbs, 4,024 (45 per cent) Muslims, five Croats, 77 Yugoslavs, and 141 persons of other or unknown ethnicity.<sup>1376</sup>

616. In March 1992, the local SDS leader and municipal president, Duško Kornjača, gained control of local armed forces, assumed the presidency of the Čajniče crisis staff, and became SAO Herzegovina defence minister.<sup>1377</sup> That month, local Serbs also formed a paramilitary brigade in the municipality and Serbs began to carry weapons openly. In April, local Serb authorities dismissed Muslim police officers and many other Muslims from positions of public authority. Serb authorities erected barricades on the roads out of

<sup>1372</sup> P510 (Murguz statement), pp. 8-10.

<sup>1373</sup> Malešević, T. 16120, 16136-41.

<sup>1374</sup> P502.B (Witness 3 statement), p. 3; P502 (Witness 3 statement), pp. 3-5; P910.A (Witness 79 statement, p. 7; P529, tab 427 (Proclamation of Gacko war presidency, 31 July 1992).

<sup>1375</sup> P908 (Witness 10 statement), p. 9.

<sup>1376</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 88-9.

<sup>1377</sup> P685 (Witness 280 statement), para. 38, 47, 50-1; P686 (Witness 280 statement), para. 24; Witness 280, T. 12942-3; P689 (Video from Novi Sad Television).

Čajniče with the effect of controlling the movement of the Muslims in the municipality. Muslims were required to have documents, signed by Kornjača, in order to leave Čajniče. As a result of these events, many Muslims began to leave the municipality for Goražde and Montenegro.<sup>1378</sup>

617. In April 1992, the crisis staff in Čajniče ordered the disarming of local Muslims and the arrest of well-known Muslims.<sup>1379</sup> Serb authorities detained mostly Croat and Muslim civilians at three detention centres in the municipality in 1992, namely the Mostina lodge [C9.1], the Čajniče town police station [C9.2], and the school [C9.3].<sup>1380</sup>

618. In mid-April 1992, several Muslim civilians were arrested and detained in a storage container adjacent to a hunting lodge at Mostina [C9.1], a Serb checkpoint along the road from Čajniče to Pljevlja in Montenegro. Duško Kornjača's brother, Milun Kornjača, was in charge at the checkpoint, which was operated by the paramilitary group the Blue Eagles. The paramilitaries occasionally took detainees out of the container and beat them. The ill-treatment got more and more severe. On 18 May 1992, members of the Blue Eagles massacred around 30 detainees in the container [B5.1], reportedly in retaliation for the death of a Serb soldier elsewhere.<sup>1381</sup>

619. Following this incident, the majority of the Muslims were removed from Čajniče. The local SDS organized buses to facilitate their immediate departure from the municipality while others left by their own means. The evacuation was later justified by Kornjača as being in the best interests of the Muslims.<sup>1382</sup> In the meantime, in early May 1992, Serb forces, some in JNA uniform, some in police uniform, worked in conjunction with paramilitary forces, including the Blue Eagles, as they occupied by force Muslim towns in the area. Muslim homes were looted and burned in multiple areas across western and central Čajniče.<sup>1383</sup>

<sup>1378</sup> P685 (Witness 280 statement), paras 54-6; Witness 280, T. 12934-6; P688 (Protocol, 12 April 1992); P506 (Bičo statement), pp. 5-6; P505 (Witness 281 statement), p. 2.

<sup>1379</sup> P686 (Witness 280 statement), paras 24-9.

<sup>1380</sup> Malešević, T. 16123, 16136-41.

<sup>1381</sup> Witness 280, T. 12938-49; P685 (Witness 280 statement), paras 49, 54, 56, 60, 78-9, 81-2; P686 (Witness 280 statement), paras 37-9; P689 (Video from Novi Sad Television); D55 (Excerpts from statement), item 1b; D55 (Excerpt from Popović statement), item 3a; D55 (Translation of Bosnian Government file on Witness 280), item 3b; P505 (Witness 281 statement), pp. 2-4; P857 (Tokača report).

<sup>1382</sup> Witness 280, T. 12956-60; P685 (Witness 280 statement), para. 80; P691 (Newspaper article from Associated Press News Agency, 5 August 1992).

<sup>1383</sup> P685 (Witness 280 statement), paras 52-60, 67-77; P505 (Witness 280 statement), p. 2; Witness 280, T. 12943; P689 (Video from Novi Sad Television); P527 (Book of maps), p. 12.

620. In June 1992, Serb authorities destroyed the mosques in the town of Čajniče [D7.1, D7.2] using artillery and explosives. The SDS crisis staff president Kornjača was reported to be publicly enthusiastic about this action. Later in 1992, he ordered the destruction of all other Muslim religious sites in order to eradicate traces of the Muslim presence in Čajniče.<sup>1384</sup> On 17 September 1992, the Bosnian-Serb Presidency appointed Kornjača a member of the war commission of Čajniče municipality.<sup>1385</sup>

621. The Chamber concludes that, in total, around 30 Muslim detainees were killed in the municipality in May 1992. After the imposition of many restrictive measures upon Muslims and the dismissal of Muslim police officers and other Muslims from positions of public authority in April, many Muslims began to leave the municipality for Goražde and Montenegro. In early May 1992, Serb forces occupied Muslim towns in the municipality by force. Muslim homes were looted and burned, the mosques in the town of Čajniče were destroyed. The Chamber finds that in Čajniče municipality, Muslim and Croat detainees were kept in three detention centres. On 18-19 May 1992, members of the Blue Eagles killed around 30 detainees held in a hunting lodge. After that, the majority of the Muslims were removed from or left Čajniče. The local SDS organized buses for the departure from the municipality.

#### 4.5.3 Foča

622. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Foča municipality was 20,790 (51 per cent) Muslims, 18,315 (45 per cent) Serbs, 94 Croats, 463 Yugoslavs, and 851 persons of other or unknown ethnicity.<sup>1386</sup>

623. From April 1992, Muslims in Foča municipality were dismissed from their jobs or were, with the support of the Serb crisis staff, prevented or discouraged from reporting to work.<sup>1387</sup> Restrictions were placed on the movement of Muslims.<sup>1388</sup> At the same time, the Serb population could move around freely, with the exception of a night curfew from 8

<sup>1384</sup> P685 (Witness 280 statement), para. 89-90; P732 (Riedlmayer report), appendix 2.1.

<sup>1385</sup> P692 (Appointment of Čajniče war commissioners, 17 September 1992).

<sup>1386</sup> Adjudicated fact 330; P954 (Bosnia-Herzegovina 1991 Census, April 1995), pp. 102-11.

<sup>1387</sup> Adjudicated facts 353, 403-4.

<sup>1388</sup> Adjudicated facts 355, 405, 407.

p.m. to 6 a.m. affecting all inhabitants.<sup>1389</sup> The SDS political propaganda grew more aggressive, and there were outbursts of violence and house-burning.<sup>1390</sup>

624. Immediately prior to the outbreak of the conflict on 8 April 1992, Serbs began evacuating their families and children from Foča, generally to Serbia or to Montenegro.<sup>1391</sup> Some Muslims, alerted by the movements of their Serb neighbours coupled with general tension in the town, also fled or managed to evacuate their families before the outbreak of the conflict.<sup>1392</sup> Others, both Serbs and Muslims, relocated to areas of Foča town where people of their own ethnicity were in majority.<sup>1393</sup>

625. On 7 April 1992, following pressure from the SDS leadership, the SJB was divided along ethnic lines.<sup>1394</sup> By then, there was already a Serb military presence in the streets and many Serbs were mobilized on that day and issued with weapons. On the night between 7 and 8 April, Serbs took over the Foča radio station, the warehouse of the regional medical centre, and the TO warehouse where weapons were stored.<sup>1395</sup>

626. The Serbs deployed heavy artillery on elevated sites around Foča, controlling not only heavy weapons which belonged to the JNA, but also the weaponry of the TO.<sup>1396</sup>

627. On 8 April 1992, an armed conflict between the Serb and Muslim forces broke out in Foča. On that day, roadblocks were set up throughout the town.<sup>1397</sup> Sometime between 8.30 and 10 a.m., a Serb attack on Foča town began, with a combination of infantry fire and shelling from artillery weapons. Serb forces included local soldiers as well as soldiers from Montenegro and Serbia, and in particular the White Eagles.<sup>1398</sup> Most of the shooting and shelling was directed at predominantly Muslim neighbourhoods, in particular Donje Polje, but the Serbs also attacked neighbourhoods with both Serb and Muslim inhabitants, such as Čohodar Mahala.<sup>1399</sup> Muslim resistance consisted mostly of infantry concentrated in Donje Polje and Šukovac. Serb forces proceeded to take over Foča town area by area,

<sup>1389</sup> Adjudicated fact 406.

<sup>1390</sup> Adjudicated fact 356.

<sup>1391</sup> Adjudicated facts 349, 352, 358; P696 (Witness 577 transcript), pp. 455-6, 462-3.

<sup>1392</sup> Adjudicated fact 350.

<sup>1393</sup> Đorđević, T. 18072-3.

<sup>1394</sup> Adjudicated fact 348.

<sup>1395</sup> Adjudicated fact 357.

<sup>1396</sup> Adjudicated fact 342.

<sup>1397</sup> Adjudicated facts 352, 358-9; P696 (Witness 577 transcript), pp. 455-6, 462-3; Đorđević, T. 18075-6.

<sup>1398</sup> Adjudicated fact 360; P807 (Witness 68 statement), pp. 2-3.

<sup>1399</sup> Adjudicated fact 361.

including the hospital and the KP Dom prison facility.<sup>1400</sup> During the conflict, many civilians hid or left Foča altogether.<sup>1401</sup> Many of the Muslims in hiding gave up their personal weapons so that they could not be accused of participating in the conflict. It took about a week for the Serb forces to secure Foča town and about ten days more for them to be in complete control of Foča municipality.<sup>1402</sup> The military attack resulted in large numbers of wounded civilians, most of them Muslims, and many Muslims leaving the town.<sup>1403</sup> Muslim neighbourhoods were destroyed systematically by Serb soldiers during the battle for control of the town, as well as after the town had been secured. Also Serb houses were set on fire during the fighting in town.<sup>1404</sup>

628. After the Serb take-over of Foča, there was a noticeable presence of Serb soldiers and Serb paramilitary units and the attack against the Muslim civilian population continued. Around 14 or 15 April 1992, Muslims and some Serbs were arrested in the centre of Foča town. While the Serbs were allowed to return home after a few hours, the Muslims had to stay in detention.<sup>1405</sup> Between 14 and 17 April, local paramilitaries arrested and detained Muslim civilians from other areas of Foča town, including several doctors and medical staff from the Foča hospital, at the TO military warehouses at Livade [C13.11].<sup>1406</sup> During the arrests, Serb soldiers and military police severely beat and injured several of the detainees.<sup>1407</sup> On 17 April, all male Muslim civilians detained at Livade were transferred to the KP Dom [C13.8].<sup>1408</sup>

629. In April and May 1992, Muslims stayed in residences in Foča under virtual house arrest, either because they were hiding or at the order of Serb soldiers.<sup>1409</sup> Houses such as “Planika’s” and “Šandal’s” were used as interim detention centres by the Serb military.<sup>1410</sup> Military checkpoints were established, controlling access in and out of Foča and its surrounding villages.<sup>1411</sup> The crisis staff ordered the Muslims to surrender their weapons

<sup>1400</sup> Adjudicated fact 362.

<sup>1401</sup> Adjudicated fact 367.

<sup>1402</sup> Adjudicated facts 366, 368-9.

<sup>1403</sup> Adjudicated facts 363, 369; Đorđević, T. 18081, 18088-90, 18117.

<sup>1404</sup> Adjudicated facts 416-19, 421; P696 (Witness 577 transcript), pp. 469, 474, 484, 486-7; Đorđević, T. 18076-8.

<sup>1405</sup> Adjudicated facts 370, 401, 435-6.

<sup>1406</sup> Adjudicated facts 434, 437; P696 (Witness 577 transcript), pp. 463-4, 471-2, 474-5, 506.

<sup>1407</sup> Adjudicated facts 426-8, 438; P696 (Witness 577 transcript), pp. 479-80.

<sup>1408</sup> Adjudicated facts 467; P696 (Witness 577 transcript), pp. 480-1.

<sup>1409</sup> Adjudicated fact 408.

<sup>1410</sup> Adjudicated fact 409.

<sup>1411</sup> Adjudicated fact 411.

while Serbs were allowed to keep theirs.<sup>1412</sup> Serb military police and soldiers searched Muslim households for weapons, money and other items.<sup>1413</sup> Serb houses were not searched, or at most were searched superficially.<sup>1414</sup> Muslim businesses were looted or burned, or had equipment confiscated.<sup>1415</sup>

630. Outside the town of Foča, Serb forces took over or destroyed Muslim villages in Foča municipality.<sup>1416</sup> The attacks continued until early June 1992.<sup>1417</sup> The Serb forces consisted of military, police, paramilitaries, and, sometimes, Serb villagers. During attacks, Muslim houses and apartments were systematically ransacked or burnt down, Muslim villagers were rounded up or captured, and sometimes beaten or killed in the process.<sup>1418</sup> The local Foča Tactical Group, including a reconnaissance group under the command of Dragoljub Kunarac together with Dragomir “Gaga” Vuković and about fourteen others (including Montenegrin soldiers) took part in the armed activities in the municipality.<sup>1419</sup>

631. In the period April to June 1992, 25 Muslim monuments in Foča municipality, including the Alažda mosque (or the Coloured Mosque of Hasan Nazir) in the town of Foča [D11.1] and the mosque in Jeleč [D11.2], were either heavily damaged or completely destroyed by fire and explosives. The Alažda mosque was blown up by Serbs in April and the ruins were razed by bulldozer in August of the same year.<sup>1420</sup>

632. In one attack, Serb troops followed fleeing Muslims in the direction of Goražde, and captured the JNA fuel depot warehouse at Filipovići where many Muslim civilians had been seeking shelter. At the warehouse, Muslim men were separated from women and children.<sup>1421</sup> The Serb forces separated nine men from the rest and shot them. One of these men survived the shooting and another one managed to escape [A6.2].<sup>1422</sup>

633. The village of Brod, four kilometres from Foča town, was attacked on 20 April 1992, after the village authorities had not responded to a Serb crisis staff demand that the

<sup>1412</sup> Adjudicated facts 354, 414; P701 (Witness 558 statement), p. 2.

<sup>1413</sup> Adjudicated facts 412.

<sup>1414</sup> Adjudicated fact 413.

<sup>1415</sup> Adjudicated fact 415.

<sup>1416</sup> Adjudicated fact 371.

<sup>1417</sup> Adjudicated fact 372.

<sup>1418</sup> Adjudicated facts 376, 443.

<sup>1419</sup> Adjudicated facts 578-9.

<sup>1420</sup> Adjudicated facts 422-4; Riedlmayer, T. 13303-6; P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), pp. 23801-2; P696 (Witness 577 transcript), pp. 469, 474, 484, 486-7.

<sup>1421</sup> Adjudicated fact 373.

<sup>1422</sup> Adjudicated facts 374-5.

villagers should surrender.<sup>1423</sup> Serb forces in Miljevina set the surrounding Muslim villages on fire, and arrested male Muslim civilians.<sup>1424</sup> On 25 or 26 April, the villages of Filipovići and Paunci were attacked and Muslim houses were burned to the ground. Civilians from Filipovići were killed.<sup>1425</sup>

634. Around 28 April 1992, Serb troops attacked Ustikolina where some Muslims had tried to form a resistance.<sup>1426</sup> After taking the village, Serb forces set fire to Muslim houses. From there, Serb forces continued attacking and destroying Muslim villages along the left bank of the Drina, downstream from Ošanica, while the population was fleeing. Some people were killed.<sup>1427</sup>

635. On 4 and 5 May 1992, Serb forces shelled and took over the Muslim village of Jeleč.<sup>1428</sup> When the forces set the village on fire, the population fled to a nearby forest. Muslims who stayed in their homes or who tried to escape were killed [A6.3].<sup>1429</sup> Other male Muslim villagers were captured and detained in facilities in the municipalities of Kalinovik and Bileća and later transferred to the Foča KP Dom [C13.8].<sup>1430</sup>

636. In mid-June 1992, about 27 Muslim civilians, mostly women and children, were killed in the Čohodor Mahala neighbourhood in the town of Foča.<sup>1431</sup>

637. On 22 June 1992, all fifteen adult men from the village of Trnovača, including Witness 558's husband, were taken from the village to a bridge over the Drina river in the area of Foča called Brod, where fourteen were killed [A6.6].<sup>1432</sup> On 24 June, local Serbs took a number of women from the same village to Bukovica motel [C13.9], where one woman was raped. Two days later the remaining women were taken to the "Srednja Škola" [C13.1, C13.2] where some local Serbs, including Miroslav Stanić and Mitar Sipčić from the Serb crisis staff, told them that they were trying to ensure a safe route for them out of the municipality. During that night one soldier attempted to enter the school but Mitar

<sup>1423</sup> Adjudicated fact 388.

<sup>1424</sup> Adjudicated fact 389.

<sup>1425</sup> Adjudicated facts 394, 430.

<sup>1426</sup> Adjudicated fact 395.

<sup>1427</sup> Adjudicated fact 396.

<sup>1428</sup> Adjudicated fact 390.

<sup>1429</sup> Adjudicated facts 391, 430.

<sup>1430</sup> Adjudicated fact 392.

<sup>1431</sup> Adjudicated fact 429.

<sup>1432</sup> P701 (Witness 558 statement), pp. 3-4.

Sipčić prevented him. The next day, on 27 June, the women were transported to Montenegro.<sup>1433</sup>

638. In early July 1992, local Serb soldiers, including Gojko Janković and Radomir Kovač, attacked the Muslim village of Mješaja/Trošanj.<sup>1434</sup> At the time of the attack, some Muslim villagers were in the woods where they spent the nights in fear of attacks.<sup>1435</sup> Three villagers, including the mother of Witness 295, were killed during the attack. The rest of the villagers, consisting of a group of about 50 Muslims, were violently forced towards a meadow and another two male villagers were severely mistreated. Serb soldiers hit the villagers with rifle butts and tree branches, kicking them, and calling them Ustashas. One of the Muslims lost an eye as a result of the brutal beating. At the meadow, the Serb soldiers separated the men from the women and the women were chased down a hill towards the village of Trošanj. The seven detained men, including the brother of Witness 295, were killed [A6.7].<sup>1436</sup> Some of the women were brought to one of the attacking soldier's apartment and were raped repeatedly by many soldiers; they were later sold.<sup>1437</sup> Some other women from the village of Mješaja/Trošanj were taken by Serb soldiers to a detention centre at the construction site Buk Bijela [C13.6], where Gojko Janković was in charge. At this detention centre, Witness 295 was raped by around ten Serb soldiers until she lost consciousness. The witness's uncle was killed there on 3 July 1992.<sup>1438</sup> Witness 295 was later transferred to the Srednja Škola [C13.1, C13.2], where women and children were being held in a classroom. Mitar Sipčić was in charge of the guards at the school. Witness 295 and nine other women were raped almost every night by local Serb soldiers either in one of the classrooms or at a location outside the school.<sup>1439</sup>

639. Between 10 April and the beginning of June 1992, large-scale arrests of Muslim civilian men and women were carried out throughout Foča and its environs. They were arrested, rounded up, separated and imprisoned or detained at several detention centres in the municipality. Some of them were killed, raped or severely beaten.<sup>1440</sup> Some men spent

<sup>1433</sup> P701 (Witness 558 statement), pp. 4-6.

<sup>1434</sup> Adjudicated facts 397, 594-5; P694 (Witness 295 statement), pp. 2-4; P694.A (Witness 295 statement), p. 2.

<sup>1435</sup> Adjudicated facts 398-9; P694 (Witness 295 statement), p. 2.

<sup>1436</sup> Adjudicated facts 400, 431, 595; P694 (Witness 295 statement), pp. 3-4.

<sup>1437</sup> Adjudicated facts 595-7.

<sup>1438</sup> Adjudicated fact 605; P694 (Witness 295 statement), pp. 2, 5-6; P694.A (Witness 295 statement), p. 2.

<sup>1439</sup> P694 (Witness 295 statement), pp. 4, 6-9; P694.A (Witness 295 statement), p. 2; Malešević, T. 16125.

<sup>1440</sup> Adjudicated facts 377, 432-3, 439, 448, 469, 476; Witness 68, T. 14876.

as much as two and a half years in detention.<sup>1441</sup> The sole reason for this treatment of the civilians was their Muslim ethnicity.<sup>1442</sup>

640. There were Muslim civilians held at Foča high school [C13.20] and Partizan Hall [C13.4] in intolerably unhygienic conditions, without medical care, and with insufficient food.<sup>1443</sup> All this was done in full view, with complete knowledge and sometimes with the direct involvement of the local authorities, particularly the police forces.<sup>1444</sup> The Partizan hall was in fact guarded by police officers. Serb soldiers or policemen, including the chief of Foča's police, Dragan Gagović, would come to these detention centres, select one or more women, take them out and rape them.<sup>1445</sup> On one occasion, when women who were being transferred from Buk Bijela to Foča high school tried to seek the protection of the police in Foča, their complaints were ignored. On another occasion, a woman who tried to seek refuge at the SJB was hit by a policeman with the butt of his rifle.<sup>1446</sup> Some of the women were also taken out of these two detention centres by Serb soldiers, including Dragoljub Kunarac, to privately owned apartments and houses where they had to cook, clean and serve the residents. They were also subjected to sexual assaults. During one rape, Kunarac expressed with verbal and physical aggression his view that rapes against Muslim women were one of the many ways in which the Serbs could assert their superiority and victory over the Muslims. After months of captivity, many women were transferred from the municipality or exchanged.<sup>1447</sup>

641. Some of the women from Partizan Hall were at some point moved to different houses and apartments where they continued to be raped and mistreated. In particular, at "Karaman's house" in Miljevina [C13.3, C13.15], soldiers had easy access to women and girls whom they raped.<sup>1448</sup> Radovan Stanković was in charge at the house.<sup>1449</sup> Two female detainees, including a twelve-year-old girl, spent about 20 days in another apartment in the so-called Lepa Brena block in Foča during which they were constantly raped by the two occupants of the apartment and by other men who visited. In mid-November 1992, the two female detainees were taken to a house near the Hotel Zelengora. They stayed in this house

<sup>1441</sup> Adjudicated fact 387.

<sup>1442</sup> Adjudicated facts 378, 463, 478.

<sup>1443</sup> Adjudicated facts 379, 382-3, 455; P694 (Witness 295 statement), pp. 7, 9-10, 13.

<sup>1444</sup> Adjudicated fact 384.

<sup>1445</sup> Adjudicated facts 380, 385, 450, 453-4, 457.

<sup>1446</sup> Adjudicated facts 451-2.

<sup>1447</sup> Adjudicated facts 381, 386, 456, 581-4, 589-91, 593, 606-8; P694 (Witness 295 statement), pp. 10-12.

<sup>1448</sup> Adjudicated facts 458-9, 585-8; Malešević, T. 16125.

<sup>1449</sup> P694 (Witness 295 statement), p. 13.

for approximately 20 days during which they were continually raped by a group of soldiers. This group of soldiers subsequently took them to yet another apartment where they continued to rape them for approximately two weeks.<sup>1450</sup>

642. Detainees at the KP Dom [C13.8] numbered between 350 and 500 with peaks at over 500 in the summer of 1992.<sup>1451</sup> They were held there for periods lasting from four months to more than two and a half years.<sup>1452</sup> In addition to the mainly civilian population at the KP Dom, there were some Muslim soldiers kept in isolation cells, separately from the civilian Muslim detainees.<sup>1453</sup> The detainees ranged in age from 15 to almost 80 years.<sup>1454</sup> While some Serbs were also held in the KP Dom, they were held legally, having been convicted by courts prior to the outbreak of the conflict or having been detained for military offences during the conflict. By contrast, the Muslims were not detained on any legal ground, nor was their continued confinement subject to review.<sup>1455</sup> Apart from a short period at the beginning of their detention at the KP Dom, Muslim detainees were denied any contact with the outside world or with their families, and (for a long time) with the ICRC.<sup>1456</sup> None of the detainees was ever charged, tried or convicted for any crime before being detained or while in detention at the KP Dom.<sup>1457</sup>

643. During the first weeks after the start of the conflict, the KP Dom was guarded by the Užice Corps of the JNA.<sup>1458</sup> Muslims were rounded up, arrested and taken to the KP Dom by paramilitary units.<sup>1459</sup> From about 18 or 19 April 1992 onwards, former Serb guards from the KP Dom returned to carry out their work assignments under the authority of the warden, Milorad Krnojelac.<sup>1460</sup>

644. As warden, formally appointed by the Ministry of Justice on 17 July 1992, Krnojelac was responsible to the Ministry of Justice and to a certain extent to the Military Command.<sup>1461</sup> Krnojelac could inform the Foča Tactical Group of convicted Serbs who

<sup>1450</sup> Adjudicated facts 461, 599-601; P694 (Witness 295 statement), pp. 4-16; P694.A (Witness 295 statement), p. 2.

<sup>1451</sup> Adjudicated facts 462, 470; Witness 280, T. 12979.

<sup>1452</sup> Adjudicated fact 471; P807 (Witness 68 statement), pp. 5, 10; P808 (Witness 68 statement), p. 3.

<sup>1453</sup> Adjudicated fact 477; P823, tab 2 (Request from Foča tactical group, 8 May 1992).

<sup>1454</sup> Adjudicated fact 479.

<sup>1455</sup> Adjudicated facts 472, 487-8.

<sup>1456</sup> Adjudicated fact 473.

<sup>1457</sup> Adjudicated fact 486; P807 (Witness 68 statement), pp. 5, 10; P808 (Witness 68 statement), p. 3.

<sup>1458</sup> Adjudicated facts 467, 490, 492; P696 (Witness 577 transcript), pp. 476-80, 507.

<sup>1459</sup> Adjudicated fact 491.

<sup>1460</sup> Adjudicated facts 493, 502-3; P807 (Witness 68 statement), p. 6; P808 (Witness 68 statement), pp. 5-6.

<sup>1461</sup> Adjudicated fact 496; P823, tab 5 (Decision by Bosnian-Serb Presidency); P454 (Appointing warden at KP Dom, 17 July 1992).

wished to be released from the KP Dom to allow them to join fighting units and make recommendations as to who should be released for this purpose. Foča Tactical group included a reconnaissance group under the command of Dragoljub Kunarac, and about fourteen others (including Dragomir “Gaga” Vuković and Montenegrin soldiers).<sup>1462</sup> Otherwise the Military Command and the Ministry of Justice had the power over the continued detention of convicted Serb detainees.<sup>1463</sup> It was the Military Command and not the Ministry of Justice, who had power to make decisions concerning which Muslim detainees would be detained in and released from the KP Dom.<sup>1464</sup> In this respect, Krnojelac was obliged to forward requests for release of these detainees to the Serb crisis staff or the Foča Tactical Group, which could decide on these matters.<sup>1465</sup> The Military Command could also make decisions about which persons would be permitted to enter the KP Dom, and it had some power over the appointment of persons to work assignments at the KP Dom and the type of work to be completed by persons assigned to such work.<sup>1466</sup>

645. There were certain groups who entered the KP Dom over whom Krnojelac could exercise only limited control. These included investigators and paramilitaries.<sup>1467</sup> Members of the military would enter the KP Dom, although they needed prior permission by the military authorities.<sup>1468</sup> Krnojelac was able to ensure that such persons did not remove detainees from the KP Dom without the approval by the Military Command.<sup>1469</sup>

646. The detainees had to endure brutal living conditions at KP Dom where they were kept in cramped conditions without heating and without adequate food and hygiene facilities. Medical care was insufficient.<sup>1470</sup> Muslim detainees, unlike the Serb detainees, were fed starvation rations so that many suffered from severe weight loss and other health problems. They were not allowed to receive visits after April 1992 and therefore could not supplement their meagre food rations and hygienic supplies.<sup>1471</sup>

<sup>1462</sup> Adjudicated facts 497, 578-9.

<sup>1463</sup> Adjudicated facts 508-9.

<sup>1464</sup> Adjudicated facts 498, 500.

<sup>1465</sup> Adjudicated facts 499, 507; P696 (Witness 577 transcript), pp. 497-8; P823, tab 3 (Certificate by Foča crisis staff, 7 July 1992).

<sup>1466</sup> Adjudicated fact 501.

<sup>1467</sup> Adjudicated fact 504.

<sup>1468</sup> Adjudicated fact 505.

<sup>1469</sup> Adjudicated fact 506.

<sup>1470</sup> Adjudicated facts 465, 510-20, 527-9; Đorđević, T. 18084, 18087, 18106, 18131-3; P807 (Witness 68 statement), p. 6.

<sup>1471</sup> Adjudicated facts 521-6.

647. Interrogations of detainees at KP Dom were conducted sometimes within a few days or weeks of arrival, sometimes only after months and, in some cases, not at all.<sup>1472</sup> Both in the course of interrogations and as part of the daily life at KP Dom, many detainees were insulted, threatened, and brutally mistreated by guards and people from outside the camp. Some were beaten so severely that they were unable to walk for days. Acts which resulted in beatings or periods spent in the isolation cells included efforts to get additional food, or access to warm water, and attempts to communicate with each other, the guards, or the outside world.<sup>1473</sup> The screams and moans of those being beaten could be heard by other detainees, instilling fear among all detainees.<sup>1474</sup> Since they could not identify any criteria for the selection, many Muslim detainees lived under the constant fear that they would be taken away next for similar treatment.<sup>1475</sup> Some of the detainees at the KP Dom were taken out for forced labour.<sup>1476</sup> Between 28 June and 5 July 1992, Serb guards murdered 36 Muslims from the Foča area at the KP Dom [B7.1].<sup>1477</sup> Another 62 bodies were found and exhumed from a mass grave on Maluša mountain, Foča municipality. The bodies were male, were clad in civilian clothes and a number of them were identified as having been Muslims. The limbs of almost every body had been tied and the discovery of a large amount of spent infantry ammunition in the vicinity of the grave showed that the persons were killed at that location [B7.1].<sup>1478</sup> The Chamber finds that these men had been Muslim civilians who had been detained at the time of their killing. Around 17 or 18 September 1992, at least another 35 detainees were taken away from the KP Dom and killed.<sup>1479</sup>

648. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at twelve detention centres in the municipality in 1992, namely Foča hospital [C13.7], Miljevina police station [C13.10], Brioni [C13.12], the house of Slobodan Matović [C13.13], the Velečevo reformatory [C13.14], Brod na Drini elementary school [C13.17], the Čohodar Mahala military warehouse [C13.18], a Muslim house in

<sup>1472</sup> Adjudicated fact 483; P807 (Witness 68 statement), pp. 5, 10; P808 (Witness 68 statement), p. 3.

<sup>1473</sup> Adjudicated facts 466, 474, 484, 494-5, 532-6, 545-52, 555-7, 559-60, 562-3; P807 (Witness 68 statement), pp. 5, 10; P808 (Witness 68 statement), p. 3; P809 (Witness 68 statement), p. 2; P810 (Witness 68, corrections to written evidence); Witness 68, T. 14875.

<sup>1474</sup> Adjudicated facts 475, 485, 530.

<sup>1475</sup> Adjudicated fact 531.

<sup>1476</sup> Adjudicated facts 431, 464.

<sup>1477</sup> Adjudicated facts 537-44, 553-4, 558, 565-6, 568; P807 (Witness 68 statement), pp. 7-9; P808 (Witness 68 statement), pp. 3-4; P810 (Witness 68, corrections to written evidence).

<sup>1478</sup> P943.T (Exhumation record by Sarajevo cantonal court, 9 June 2001), pp. 3-18.

<sup>1479</sup> Adjudicated facts 561, 564, 567, 572, 575-7.

Trnovača [C13.19], the house of Munib Hodžić [C13.21], Presjeka Ustikolina [C13.22], the apartment of Asima Džanko in Donde Polje [C13.23], and houses in the village of Điđevo [C13.24].<sup>1480</sup>

649. Initially there was a military order preventing citizens from leaving Foča. However, most of the Muslim civilian population was eventually forced to leave the municipality.<sup>1481</sup> In May 1992 buses were organized to take civilians out of town, and around 13 August some Muslims in Foča, mostly women and children, were taken to Rožaje, Montenegro.<sup>1482</sup> On 23 October, a group of women and children from the municipality, having been detained for a month at Partizan Hall [C13.4], were transported by bus to Goražde.<sup>1483</sup> Many Muslims left the municipality out of fear for their safety. In order to leave they had to arrange for certificates from the local police and sign a form transferring whatever property they had to the Bosnian-Serb Republic.<sup>1484</sup>

650. Groups of detainees were transferred from the KP Dom to other camps in Bosnia-Herzegovina.<sup>1485</sup> Detainees were also taken out of the KP Dom on exchanges.<sup>1486</sup> Around 30 August 1992, a group of approximately 55 men were taken for exchange in Montenegro, but the bus on which they were being transported was intercepted by a Serbian soldier in Nikšić, Montenegro, and sent back to the KP Dom.<sup>1487</sup> The group was then divided in two with approximately 20 younger men being taken away, possibly to Goražde, and never seen again. The remaining group of 35 men was taken to be exchanged in Rožaj in Montenegro.<sup>1488</sup>

651. As a result of the events described above, all traces of Muslim presence and culture were wiped out of Foča.<sup>1489</sup> In January 1994, the Serb authorities crowned their complete victory - their “gaining supremacy” over the Muslims - by renaming Foča “Srbinje”, literally “the town of the Serbs”.<sup>1490</sup> In the autumn of 1994, the Accused addressed a

<sup>1480</sup> Malešević T. 16125-6, 16136-41.

<sup>1481</sup> Adjudicated fact 440.

<sup>1482</sup> Adjudicated fact 441.

<sup>1483</sup> Adjudicated fact 442.

<sup>1484</sup> Adjudicated fact 410; P696 (Witness 577 transcript), pp. 485-6, 488-9, 491, 493-5.

<sup>1485</sup> Adjudicated fact 570.

<sup>1486</sup> Adjudicated fact 571.

<sup>1487</sup> Adjudicated fact 573.

<sup>1488</sup> Adjudicated fact 574.

<sup>1489</sup> Adjudicated fact 446.

<sup>1490</sup> Adjudicated fact 447.

gathering of people in Foča town, thanking them for creating a “true Serbian town” and for preventing it from becoming “another Mecca.”<sup>1491</sup>

652. The Chamber concludes that over 192 persons, mainly of Muslim ethnicity, were killed by Serb forces in the municipality of Foča in the period April to July 1992. By end of April 1992, Serb forces had taken control of Foča town and of Foča municipality. Serb forces proceeded to attack many Muslim villages, systematically rounded up and imprisoned Muslim civilians, they burned and destroyed mostly Muslim, properties and demolished several mosques in the Foča town and municipality. Many Muslim civilians were killed.<sup>1492</sup> Muslim and Croat civilians were detained in nineteen detention centres under harsh conditions. Muslim women were raped or sexually abused on a regular basis and detained in private houses. Detainees in KP Dom numbered between 350 and 500 with peaks at over 500 in the summer of 1992. They were brutally mistreated by guards and people from outside the camp. Some of the detainees in KP Dom were taken out for forced labour. The Chamber finds that, in total, 133 detainees were killed in KP Dom.

653. The Chamber further concludes that many Muslims left the municipality out of fear for their safety. Since May 1992, buses were organized to take civilians out of town. In order to leave, they had to transfer their property to the Bosnian-Serb Republic. Around 13 August, some Muslims in Foča, mostly women and children, were taken to Rožaje, Montenegro. Others were transported to Muslim territory, for example some detainees, were transported by bus to Goražde on 23 October 1992.

#### 4.5.4 Gacko

654. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Gacko municipality was 6,661 (62 per cent) Serbs, 3,858 (36 per cent) Muslims, 29 Croats, 84 Yugoslavs, and 156 persons of other or unknown ethnicity.<sup>1493</sup>

655. In early 1992 Serb reservists, the police (by then exclusively Serb), and Serb members of the TO put up barricades in the town of Gacko.<sup>1494</sup> In March, violence against non-Serbs began when members of a local Serb paramilitary unit arrested and later killed

<sup>1491</sup> P855 (Transcript of Krajišnik addressing crowd in Foča, 1994).

<sup>1492</sup> Adjudicated fact 445.

<sup>1493</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 112-15.

<sup>1494</sup> P502 (Witness 3 statement), p. 4.

two Muslim men.<sup>1495</sup> Units of the White Eagles, under the command of Ljubo Jorgić, equipped with artillery and infantry weapons and cooperating with the local JNA, patrolled the town. They beat Muslims and looted their property with no response from the authorities. Serbs burned Muslim houses and businesses.<sup>1496</sup> Around May or early June 1992, all Muslim police officers were dismissed, as were Muslim directors of local businesses and factories, all replaced by Serbs. The Muslim police commander was replaced by the Serb deputy commander, Vitimir Popić.<sup>1497</sup> At a meeting held on 2 June 1992, a JNA Herzegovina Corps officer and a Colonel from a JNA unit based in Niš threatened to use force against the Muslims of Gacko if they did not comply with an SDS order to surrender all weapons. Members of the White Eagles were also present at this meeting.<sup>1498</sup> In early June, the Yellow Wasps and Arkan's men were in Gacko, from where they then moved on to Bileća.<sup>1499</sup>

656. From as early as April 1992, Bosnian Serbs, including paramilitary groups active in the municipality, detained mostly Muslim and Croats in Gacko in at least six locations, namely Avtovac post office [C14.1], the Gacko SJB [C14.2], the Avtovac barracks [C14.3], Fazlagića Kula [C14.4], the power plant [C14.5], and the Samački hotel [C14.6].<sup>1500</sup> In late May or early June 1992, the local police, under commander Popić, together with the local leader of the White Eagles began arresting Muslims and taking them to a detention camp in Bileća municipality.<sup>1501</sup> In early June, there were around 120 Muslim detainees at the Gacko police station [C14.2]. Some of the detainees were beaten.<sup>1502</sup> These detainees were later moved to the Dom Kulture in Avtovac (three kilometres outside Gacko).<sup>1503</sup> Witness 3 was arrested on 10 June 1992 and brought to the police station [C14.2] where he was held with six other Muslim men. The conditions of detention were harsh; the witness and the other inmates were beaten on several occasions. On 3 July 1992, the witness saw the execution of five of these Muslim men by seven local Serb men led by police commander Popić [B8.1]. The two remaining detainees, the witness and another detainee, were forced to load the bodies on a truck and ordered to clean the

<sup>1495</sup> P910.A (Witness 79 statement), p. 6; P857 (Tokača report).

<sup>1496</sup> P910.A (Witness 79 statement), pp. 5-6, 9; P910 (Witness 79 transcript), pp. 27758-63; P502.B (Witness 3 statement), p. 2; P502 (Witness 3 statement), p. 4.

<sup>1497</sup> P502.B (Witness 3 statement), p. 3; P502 (Witness 3 statement), pp. 3-5.

<sup>1498</sup> P910 (Witness 79 transcript), pp. 27761-3; P910.A (Witness 79 statement), p. 9.

<sup>1499</sup> P908 (Witness 10 statement), pp. 2, 7.

<sup>1500</sup> Malešević, T. 16126, 16130, 16136-41; P910.A (Witness 79 statement), pp. 7-9.

<sup>1501</sup> P502.B (Witness 3 statement), p. 3; P502 (Witness 3 statement), p. 5.

<sup>1502</sup> P910.A (Witness 79 statement), p. 8.

blood of the walls and the floor. On 4 July 1992, in the same police station, the witness was forced by Popić to watch the rape of his own wife by a Serb man from the Munja unit of the Red Berets assisted by two other armed Red Berets. On 5 July Witness 3 was taken under military escort to various detention centres in Montenegro and Serbia.<sup>1504</sup>

657. In the meantime, a large part of the Muslim population of Gacko town had withdrawn to the locations Fazlagića Kula and Borać in the municipality, where they were trying to organize their evacuation from the municipality. On 17 June 1992, Serb forces attacked Fazlagića Kula and killed 130 women, children, and elderly who had not fled prior to the attack [A7.1]. Muslims had tried to defend themselves, but the Serb forces used artillery, mortars, and tanks.<sup>1505</sup> A convoy of Muslims managed to leave from Borać in the direction of Kalinovik but was attacked by Serb forces on 4 July 1992. While the men in the convoy managed to continue, the women and children were left behind and one witness heard that they were captured and brought to Kalinovik and Foča.<sup>1506</sup>

658. On 31 July 1992, the Gacko war presidency directed the Muslim residents of Bjelašnica, a village in the municipality, to surrender their weapons and gather at a collection area, where they were to be put on buses. Men were all to be considered prisoners of war and detained in Bileća, with the possibility of being exchanged.<sup>1507</sup> Women, children and the elderly were to be transferred to nearby municipalities or to Macedonia. The military police of the Bileća Corps and, according to the proclamation of the war presidency, the ICRC, would guarantee transport safety.<sup>1508</sup> Some people from the town of Gacko had stayed behind when others withdrew to Fazlagića Kula and Borać and these people were later moved to Macedonia.<sup>1509</sup>

659. The Chamber finds that, throughout the summer of 1992, Serb forces and local Serb men killed, in total, 137 Muslims, most of whom were women, children, and elderly persons. The Chamber finds that in Gacko municipality, Muslims and Croats were detained in six detention facilities where they were kept in cramped conditions and beaten on a regular basis. In March 1992, Serb paramilitary units beat Muslim men and looted Muslim

<sup>1503</sup> P910.A (Witness 79 statement), p. 9.

<sup>1504</sup> P502.B (Witness 3 statement), pp. 4-10; P502 (Witness 3 statement), pp. 5-9; P857 (Tokača report).

<sup>1505</sup> P910.A (Witness 79 statement), p. 9; P857 (Tokača report, no date).

<sup>1506</sup> P910.A (Witness 79 statement), p. 9.

<sup>1507</sup> P910.A (Witness 79 statement), p. 7.

<sup>1508</sup> P529, tab 427 (Proclamation of Gacko war presidency, 31 July 1992); P910.A (Witness 79 statement), p. 9.

<sup>1509</sup> P910.A (Witness 79 statement), p. 9.

houses in Gacko town. The Chamber finds that in June-July 1992, large numbers of Muslims and Croats left the municipality. Women, children and elderly persons were transferred to nearby municipalities or to Macedonia.

#### 4.5.5 Kalinovik

660. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Kalinovik municipality was 2,826 (61 per cent) Serbs, 1,716 (37 per cent) Muslims, seventeen Croats, 46 Yugoslavs, and 62 persons of other or unknown ethnicity.<sup>1510</sup>

661. Starting already in 1991, Muslims in Kalinovik municipality were subjected to harassment and physical intimidation by Serbs.<sup>1511</sup> On 20 April 1992, Muslim police officers, including the chief of police, were dismissed from their jobs following an order from Momčilo Mandić.<sup>1512</sup> In May 1992, Grujo Lalović, president of the municipal assembly and president of the SDS municipal crisis staff, issued a request for Muslim residents to surrender their weapons.<sup>1513</sup> In addition, Serbs went to every village in the municipality, demanding that the Muslims hand over their weapons.<sup>1514</sup> Muslim residents complied.<sup>1515</sup>

662. On 17 May 1992, the SDS crisis staff issued an order calling upon all military-aged Muslim men to report to the municipal secretariat for national defence, and to the police twice a week.<sup>1516</sup> Also in May 1992, Muslims in the municipality were required to carry a permit issued by the crisis staff in order to move around.<sup>1517</sup> When Kalinovik municipality was declared a war zone by the Serb armed forces on 11 June 1992, the movement of the Muslim population was further restricted.<sup>1518</sup>

663. On 25 June 1992, Muslim men were summoned by order of Nedžo Banjanin, secretary of the municipal secretariat for national defence, to the municipal assembly

<sup>1510</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 144-5.

<sup>1511</sup> P912 (Witness 114 statement), pp. 3-4.

<sup>1512</sup> P912 (Witness 114 statement), p. 5.

<sup>1513</sup> Hadžić, T. 5968-71, 6034, 6053-4.

<sup>1514</sup> P912 (Witness 114 statement), p. 5.

<sup>1515</sup> Hadžić, T. 5971-3; P287 (Certificate from Kalinovik public security station, 9 May 1992); P912 (Witness 114 statement), p. 5.

<sup>1516</sup> Hadžić, T. 5975-6; P288 (Decision of Kalinovik crisis staff, 17 May 1992); P912 (Witness 114 statement), p. 4.

<sup>1517</sup> P912 (Witness 114 statement), p. 4.

<sup>1518</sup> Hadžić, T. 5977-9; P289 (Order of tactical group, 11 June 1992).

building to be given work assignments at the Zelengora wood-processing plant.<sup>1519</sup> Around 60 Muslim men responded, were arrested, and taken to the Kalinovik elementary school [C18.2]. Those men who had failed to respond to the summons were later arrested and also brought to the school.<sup>1520</sup> On 6 July 1992, the detainees were transferred to an ammunition warehouse in Jelašačko Polje [C18.4] where, by the beginning of August 1992, some 85 Muslim men were held and where many detainees were severely beaten.<sup>1521</sup> There were no sanitary facilities in the warehouse, the detainees had to sleep on the concrete floor and received little food and water.<sup>1522</sup> On 5 August 1992, around 25 Muslim detainees were called out by Serb soldiers and transported under police escort to the village of Ratine near Jeleč, in Foča municipality. The detainees were severely mistreated, their hands tied with wire, and their valuables taken away. At a stable in Ratine, the convoy stopped and about 20 Muslims were shot. Four men were spared and ordered to place the dead bodies in the stable. Later on, they were shot, as well. The soldiers poured petrol over the bodies, set the stable on fire and left. There was only one survivor [B9.1].<sup>1523</sup>

664. At the end of July and beginning of August 1992, villages such as Ljuta, Jelašca, Jezero, Mjehovina, and Daganj were shelled, burnt, and taken by the VRS. Many villagers, including elderly and women, were killed during these attacks.<sup>1524</sup> The mosques of Kalinovik, namely in Ulog [D14.1], Hotovlje [D14.2], Kutina and Jesalica were destroyed during the war.<sup>1525</sup>

665. Between 1 and 5 August 1992, Serbs arrested, rounded up, separated and imprisoned, or detained almost all remaining Muslims men and women from Kalinovik, and also approximately 190 women, children, and elderly persons from Gacko. All detainees were subsequently taken to Kalinovik elementary school [C18.2].<sup>1526</sup> During

<sup>1519</sup> Hadžić, T. 5980; P290 (Notification from Kalinovik municipal secretariat for national defence, 25 June 1992); P285.A (Hadžić statement), para. 27; P285.B (Hadžić statement), para. 1; P285.C (Hadžić statement), para. 2; P912 (Witness 114 statement), pp. 5-6.

<sup>1520</sup> P285.B (Hadžić statement), para. 1.

<sup>1521</sup> Hadžić, T. 5965, 5980-81, 5985, 6047; P285.A (Hadžić statement), para. 27; P285.B (Hadžić statement), para. 1; P285.C (Hadžić statement), para. 2; P286 (Map of Kalinovik); P912 (Witness 114 statement), p. 6.

<sup>1522</sup> Hadžić, T. 5965, 5980-81, 6047; P285.A (Hadžić statement), para. 27; P285.B (Hadžić statement), para. 1; P285.C (Hadžić statement), para. 2; P286 (Map of Kalinovik); P912 (Witness 114 statement), p. 6.

<sup>1523</sup> Hadžić, T. 5982-3; P285.A (Hadžić statement), para. 34; P285.B (Hadžić statement), para. 6; P912 (Witness 114 statement), p. 6.

<sup>1524</sup> P912 (Witness 114 statement), p. 6; P857 (Tokača report), p. 5.

<sup>1525</sup> Hadžić, T. 6032; P912 (Witness 114 statement), p. 6.

<sup>1526</sup> P912 (Witness 114 statement), p. 6.

detention, some detainees were beaten and killed, and women were raped.<sup>1527</sup> The sole reason for this treatment of the civilians was their Muslim ethnicity.<sup>1528</sup>

666. In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at four detention centres in the municipality in 1992, namely the Kalinovik town SJB [C18.3], Miladin Radojević elementary school [C18.5], a gunpowder warehouse [C18.6], and the Pavlovac farm [C18.7].<sup>1529</sup>

667. The Chamber concludes that over 24 Muslims were killed in Kalinovik municipality in August 1992. On 5 August 1992, 24 detained Muslim men were shot by Serb soldiers. In late July and early August 1992, several villages in Kalinovik were shelled, burnt, and taken by Serb forces; the mosques in Kalinovik were destroyed. In the beginning of August 1992, Serbs arrested, rounded up, separated, and detained almost all remaining Muslim men and women from Kalinovik and also approximately 190 women, children, and elderly persons from Gacko. The detainees were held in several facilities in harsh conditions. During detention, some detainees were beaten and killed, and women were raped.

#### 4.5.6 Nevesinje

668. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Nevesinje municipality was 10,711 (74 per cent) Serbs, 3,313 (23 per cent) Muslims, 210 (1 per cent) Croats, 123 Yugoslavs, and 91 persons of other or unknown ethnicity.<sup>1530</sup>

669. On 16 June 1992, soldiers in camouflage uniform led by Krsto Savić, the commissioner for SAO Eastern Herzegovina, entered the house of Witness Trebović, a Muslim resident of Nevesinje municipality. They claimed to be looking for weapons and radio equipment. During this operation, Savić shot the witness' husband, Redžep Trebović, in the leg. The Serb soldiers held the witness back from helping her husband. When the witness and the family were allowed to bring the husband to the hospital four hours later, Redžep Trebović had died from his injury. The witness' house was burnt down [A11.1].<sup>1531</sup>

<sup>1527</sup> Adjudicated fact 377; P912 (Witness 114 statement), p. 6; P857 (Tokača report), p. 5.

<sup>1528</sup> Adjudicated fact 378.

<sup>1529</sup> Malešević, T. 16127, 16136-41.

<sup>1530</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 190-5.

<sup>1531</sup> P698 (Trebović statement), pp. 2, 5-6; P857 (Tokača report).

670. On 22 June 1992, Serb forces shelled Presjeka village in Nevesinje municipality.<sup>1532</sup> Witness 270, a Muslim, her family, and a group of about 150 to 200 other Muslim civilians from Presjeka and Kljuna fled to the Velež mountains. Sixteen elderly persons who could not keep pace, were left behind, and were later killed by a local Serb.<sup>1533</sup> The group wandered the mountains for three to four days before an artillery attack split the group in two. Near Mostar, the witness and 75 others were detained by Serbs in JNA uniform or mixed civilian-military clothing.<sup>1534</sup> They were taken to Dnopolje, in Mostar municipality. In front of a school, 29 men were separated from the women and 20 children in the group. The men, among them Witness 270's husband, were later killed at Dubravica. A total of 27 bodies of men from this group were exhumed at Teleća Lastva, to where they had been moved [B12.1].<sup>1535</sup> On the order of Major Zdravko Kandić of the 5th JNA battalion, the women and children, including babies, were taken to the basement of a heating plant in Kilavci, in Nevesinje municipality [C21.1]. The basement of the heating plant was bare and had no lavatory. No food or water was given to the group, not even for the babies, and Witness 270 and the other mothers had to give urine to them to avoid dehydration.<sup>1536</sup> After four days, Witness 270 and four other detained women were separated from their children and taken to Boračko Jezero lake resort, in Konjic municipality [C21.2]. The remaining women and children in the basement of the heating plant in Kilavci were killed and placed in a pit at Lipovača by the Serb military. During an official exhumation in 1999, the bodily remains of adult persons and seven children were found at Lipovača [B12.1].<sup>1537</sup>

671. In addition to the basement of the heating plant in Kilavci, Serb authorities detained mostly Muslim civilians at two detention centres in Nevesinje in 1992, namely Gornje Rakitno [C21.3], and the tool factory and workshop, which was one detention facility [C21.4, C21.5].<sup>1538</sup> Also, in June 1992, Muslim men were detained and beaten at the Nevesinje police station and on 16 June, one witness observed a dead body of a Muslim man lying in front of the station [A11.2].<sup>1539</sup> The Chamber is not in a position to assess the circumstances of his death.

<sup>1532</sup> P724 (Witness 270 statement), p. 5.

<sup>1533</sup> Witness 270, T. 13156; P857 (Tokača report).

<sup>1534</sup> P724 (Witness 270 statement), p. 5; Witness 270, T. 13157.

<sup>1535</sup> P724 (Witness 270 statement), pp. 6, 12-13; Witness 270, T. 13168-9; P857 (Tokača report).

<sup>1536</sup> P724 (Witness 270 statement), p. 7.

<sup>1537</sup> P724 (Witness 270 statement), pp. 9, 11; Witness 270, T. 13167; P857 (Tokača report).

<sup>1538</sup> Malešević, T. 16130, 16136-41; P724 (Witness 270 statement), p. 7.

<sup>1539</sup> P698 (Trebović statement), p. 6.

672. During the spring and summer of 1992, nine Muslim and Catholic monuments in Nevesinje municipality, including three mosques in the town of Nevesinje and the mosque in Kljuna were either heavily damaged or destroyed through fire and explosives [D17.1, D17.2, D17.3, D17.4]. Already in September 1991, the Old Mosque at Odzak had been almost completely destroyed through shelling and explosions.<sup>1540</sup>

673. The Chamber concludes that, in total, over 53 Muslims were killed by Serb forces in June 1992. Serb forces shelled villages in the municipality of Nevesinje and deliberately damaged or destroyed religious monuments. Mostly Muslim civilians were detained in four detention centres. Most of the women and children who had been detained in the basement of a heating plant in Kilavci in June were killed by Serb soldiers.

#### 4.5.7 Rogatica

674. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Rogatica municipality was 13,209 (60 per cent) Muslims, 8,391 (38 per cent) Serbs, nineteen Croats, 186 Yugoslavs, and 173 persons of other or unknown ethnicity.<sup>1541</sup>

675. By the beginning of 1992, Rajko Kušić, a prominent SDS leader in Rogatica and a member of the SDS Main Board, had formed a paramilitary unit composed of 45-50 Serbs, among them SDS supporters from Rogatica municipality.<sup>1542</sup> Kušić and Sveto Veselinović, the municipal SDS president, sought the partition of the municipality as well as the division of the police and the TO in Rogatica. In March 1992, Muslim negotiators agreed to the partition in order to avoid war. The Serbs then implemented the division of the police station, keeping the weapons they had been issued, a part of the police building, and two-thirds of the vehicles.<sup>1543</sup> Around the same time, the SDS established a Serb crisis staff, of which Kušić and Veselinović were members. The crisis staff ordered that Muslims be fired from their jobs and be restricted in their movement, although it is unclear whether the restrictions were applied throughout the municipality. Serbs also declared the

<sup>1540</sup> P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), pp. 23806-7; P698 (Trebović statement), p. 6.

<sup>1541</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 208-15.

<sup>1542</sup> P526.A (Džambasović statement), paras 51-2, 79, 81, 85, 97; P710.A (Pašić transcript), pp. 550-1, 582; Alajbegović, T. 11032, 11040; P566 (Alajbegović statement), para. 26; P37 (Minutes of SDS Main Board, 12 July 1991); Witness 382, T. 11234; P576 (Witness 382 statement), pp. 2-4; P64 (Treanor report), p. 155.

<sup>1543</sup> P708 (Agić statement), p. 3; P709 (Dobrača statement), pp. 4-5; P710.A (Pašić transcript), pp. 554-5; Alajbegović, T. 11045-9; P566 (Alajbegović statement), paras 32-5; P576 (Witness 382 statement), pp. 2-3.

establishment of the Serb municipality of Rogatica.<sup>1544</sup> Kušić and the SDS ordered all Muslims in Rogatica municipality to surrender their weapons under threat of arrest and expulsion.<sup>1545</sup>

676. On 5 or 6 March 1992, about 50 people in camouflage armed with automatic weapons, including six members of the reserve police force, gathered in the majority-Serb village Borika, declared themselves to be “Serbian police”, and proceeded to tour other majority-Serb villages in the municipality, firing weapons into the air threatening the Muslim population.<sup>1546</sup> From March onwards, armed Serb locals and JNA soldiers, including the Užice Corps of the JNA and Rajko Kušić’s paramilitary unit, robbed, harassed and mistreated Muslims in the Rogatica area. Witness Dobrača was among the victims.<sup>1547</sup>

677. At the end of March 1992, most of the Serb population left Rogatica town.<sup>1548</sup> Following their departure, there commenced provocative shooting at the town, from rifles and anti-aircraft machinegun fire installed in the villages of Plješevica and Krnčiči.<sup>1549</sup> At the beginning of May 1992, representatives of the local SDS, including the SDS board member Tomo Batinić, and by that time president of the crisis staff Milorad Sokolović demanded control of the whole municipality of Rogatica from Muslim representatives with whom they were negotiating. The Muslim authorities objected.<sup>1550</sup>

678. On the night of 12 to 13 May 1992, the area of Živaljevina in Rogatica municipality was shelled by mortar and anti-aircraft weapons, airplanes, and cannons from the villages of Plješevica and Seljani.<sup>1551</sup> Beginning on 22 May and for approximately seven days, Serb forces – including the VRS, Kušić’s men, and volunteer forces – shelled and, finally, took control of Rogatica town and the surrounding villages. They met resistance from only about 50 Muslims armed with light weapons.<sup>1552</sup> After the shelling, the Serbs ordered the Muslims to gather in the town’s central square. Soldiers in JNA uniform, including a reserve JNA captain, demanded that the Muslim population sign a loyalty oath to surrender

<sup>1544</sup> P709 (Dobrača statement), pp. 5, 7.

<sup>1545</sup> Alajbegović, T. 11043-4; P709 (Dobrača statement), p. 8.

<sup>1546</sup> P804, tab 1 (Letter regarding security situation in Bosnia-Herzegovina, 7 March 1992).

<sup>1547</sup> P709 (Dobrača statement), pp. 6-8; Witness 382, T. 11236-7; P576 (Witness 382 statement), p. 4.

<sup>1548</sup> Witness 382, T. 11239.

<sup>1549</sup> P708 (Agić statement), p. 3.

<sup>1550</sup> Alajbegović, T. 11050-1.

<sup>1551</sup> P710 (Pašić transcript), pp. 433, 576.

and move to the Veljko Vlahović secondary school, under the threat of being killed if they did not comply [C26.1, C26.6].<sup>1553</sup> A total of 2,500-3,000 Muslims assembled in the town square.<sup>1554</sup> Serb police and others in olive-green camouflage uniform removed from their homes those who did not comply with the orders to go to the secondary school, proceeding to separate the men from the women and then beating the men.<sup>1555</sup>

679. Witness 382 and his family were among those who went to the secondary school.<sup>1556</sup> Later on, local Serbs under the authority of Rajko Kušić detained up to 1,100 Muslims of Rogatica in the secondary school.<sup>1557</sup> Guards and machine-gun nests were posted around the secondary school and the detainees were informed that the surrounding area had been set with landmines.<sup>1558</sup> Serb soldiers, police officers, special unit members, and paramilitaries interrogated Muslims detained in the secondary school for periods of up to three and a half months. The guards beat, raped, and tortured the Muslim detainees. On some occasions between June and September 1992, male detainees were taken out and killed.<sup>1559</sup>

680. On 21 June 1992, “Chetniks” in olive drab uniform captured Witness Agić, who had been involved in organizing the defence in Rogatica before the shelling. They beat him and took him to the Sladara malt-house in Rogatica [C26.5] where they detained him for two or three days. He was then moved to a local nursery in the municipality and after another two days, to the Rogatica SUP [C26.7] where he was interrogated and beaten by the guards.<sup>1560</sup>

681. A total of 28 Muslims who had surrendered to the Serbs after the May shelling of Rogatica town were taken to the area of Duljevac village, in Rogatica municipality, where 24 of them died being used as human shields by Kušić’s paramilitary unit. A total of 24 Muslims from the area of Rogatica, some of them from Seljani village, who had surrendered to the Serbian authorities were buried in a mass grave in Duljević. Two

<sup>1552</sup> P708 (Agić statement), p. 4; P710 (Pašić transcript), pp. 431, 433, 576; P710.A (Pašić transcript), pp. 557-8, 564, 579; Alajbegović, T. 11060; P566 (Alajbegović statement), para. 42; P709 (Dobrača statement), p. 8; Witness 382, T. 11238-45; P576 (Witness 382 statement), p. 4.

<sup>1553</sup> P710.A (Pašić transcript), pp. 558-9, 583; P710 (Pašić transcript), pp. 431-2; P576 (Witness 382 statement), p. 5; Malešević, T. 16131.

<sup>1554</sup> Witness 382, T. 11240-5, 11247-52; P576 (Witness 382 statement), p. 5.

<sup>1555</sup> P710.A (Pašić transcript), pp. 560, 562; P710 (Pašić transcript), p. 434.

<sup>1556</sup> P576 (Witness 382 statement), p. 5.

<sup>1557</sup> Witness 382, T. 11254-5, 11264-7; P576 (Witness 382 statement), pp. 5, 7.

<sup>1558</sup> Witness 382, T. 11250-52.

<sup>1559</sup> P710 (Pašić transcript), pp. 435-6; P710.A (Pašić transcript), pp. 562-4; Witness 382, T. 11250, 11258-62, 11308-10; P576 (Witness 382 statement), pp. 5-8.

doctors, several directors or managers of companies in Rogatica and some minors and elderly villagers were among them.<sup>1561</sup>

682. A group of 1,500-2,000 Muslims left Rogatica town due to the intensified shelling in May 1992. When the group arrived at the village of Vragolovi in Rogatica municipality, there were approximately 5,000-6,000 displaced Muslims and refugees. In July, 1,500 of these Muslims escaped to Goradže when Serb forces shelled Vragolovi. In August, all but ten of the remaining refugees left the village for Goradže after having received a warning about another Serb attack.<sup>1562</sup>

683. In addition to the facilities mentioned above Serb authorities detained mostly Muslim civilians in four detention centres in the municipality in 1992, namely Rogatica farm [C26.2], Rogatica school [C26.3], the stud farm in Borika [C26.8], and Crkveni dom (church premises) [C26.10].<sup>1563</sup>

684. By the end of 1992, more than ten mosques in the municipality were destroyed by mines. They included the Rogatica town mosque [D20.2], the Arnaudija mosque [D20.1] and three mosques in the Vragolovi area, west of Rogatica town, including the mosque in Vragalovi [D20.5].<sup>1564</sup>

685. The Chamber concludes that Serb forces, in total, killed over 24 Muslim civilians in Rogatica municipality, most of whom were used as human shields. Serb forces shelled and took control of Rogatica town and the surrounding villages in May 1992 and deliberately destroyed many mosques. Serb forces detained mostly Muslim civilians in seven detention facilities, among them up to 1,100 at the secondary school in Rogatica where they were mistreated, beaten and raped in the period June to August 1992. Many thousand Muslims were expelled by constant shelling of their villages.

<sup>1560</sup> P708 (Agić statement), pp. 1, 4-9; P708.A (Agić statement), p. 4.

<sup>1561</sup> P571 (List of killed Muslim civilians); Alajbegović, T. 11063-6; P857 (Tokača report).

<sup>1562</sup> P709 (Dobrača statement), pp. 1, 9-10.

<sup>1563</sup> Malešević, T. 16131, 16136-41.

<sup>1564</sup> Witness 382, T. 11281-4, 11311; Alajbegović, T. 11072; P572 (Book of maps); P709 (Dobrača statement), p. 10.

#### 4.5.8 Sokolac

686. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Sokolac municipality was 10,195 (69 per cent) Serbs, 4,493 (30 per cent) Muslims, nineteen Croats, 83 Yugoslavs, and 93 persons of other or unknown ethnicity.<sup>1565</sup>

687. In March 1992, barricades were set up and some local Serbs began appearing in JNA and camouflage uniforms and carrying automatic weapons.<sup>1566</sup> Some time in March or April, Zoran Cvijetić, chief of the Sokolac SJB, dismissed all Muslim police officers from their jobs.<sup>1567</sup> During April, several paramilitary units based themselves in Sokolac town and its surrounding villages. These units included Arkan's men, the White Eagles, and some local groups.<sup>1568</sup>

688. In May 1992, Milan Tupajić, president of the Sokolac crisis staff, held several official and unofficial meetings with Muslim families on the dangers of remaining in Sokolac municipality, explaining that he would not be able to protect them. At the time, columns of Muslim refugees from the Drina valley were passing through Sokolac, according to Tupajić, fleeing mass killings and other crimes. Others were transported through the municipality in bus convoys, escorted by the police of the Bosnian-Serb Republic.<sup>1569</sup> During the second half of May 1992 and throughout the following months, the Muslim population started leaving the town of Sokolac and the village of Knežina because they felt frightened by the situation in the municipality. Muslims from the surrounding villages stayed.<sup>1570</sup>

689. In the period from the end of July to the end of September 1992, the VRS 2nd Romanija Brigade attacked and destroyed several Muslim villages in Sokolac municipality, including Pihlice, Kaljina, Sahbegovići, Mangurići, and Meljine. Attacks began with artillery fire, followed by infantry incursions and lastly, the villages were burnt. All five mosques in Sokolac municipality, namely in Knežina, Kruševci [D24.1], Kaljina, Novoseoci, and Košutica, were blown up or destroyed during these attacks.<sup>1571</sup> During the

<sup>1565</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 222-7.

<sup>1566</sup> P711 (Gagula statement), p. 4.

<sup>1567</sup> P909 (Hamzić statement), p. 5; P711 (Gagula statement), p. 5; Bjelica, T. 22690-1.

<sup>1568</sup> P711 (Gagula statement), pp. 4-5.

<sup>1569</sup> Tupajić, T. 15375-9, 15381.

<sup>1570</sup> P711 (Gagula statement), p. 5; P711.A (Gagula statement), p. 1.

<sup>1571</sup> Tupajić, T. 15409, 15416, 15427, 15430-1; P909 (Hamzić statement), pp. 5, 8; P711 (Gagula statement), p. 6.

attack on Meljine, four women were killed, one through the shelling and three by having their throats cut [A15.2].<sup>1572</sup>

690. Around 20 July 1992, four Serbs from Sokolac and Knežina dressed in military police uniforms, driving an APC with an anti-aircraft machine placed on it, arrested Witness Gagula, a Muslim teacher from Knežina in Sokolac municipality. They brought him to a barrack situated in the former KTK factory in Knežina [C30.7], where he was interrogated and beaten by one of the officers. He was then transported to the elementary school “Slaviša Vajner Čiča” in Sokolac [C30.2] by local Serb soldiers where he was detained with thirteen other detainees until 3 October 1992. On his arrival at the school, the witness was again interrogated and beaten by members of Serb soldiers. On 3 October, the witness, along with other detainees, was transferred to the former elementary school in Čavarine [C30.1]. The witness identified the commander and some of the guards there as former teachers from Sokolac and Knežina. The conditions in the detention centre were harsh with insufficient food and hygiene facilities. Detainees were beaten by Serb paramilitaries coming from Ilijaš. Gagula was detained in Čavarine until 15 March 1993, when he was transferred to the Batković camp in Bijeljina [C2.5].<sup>1573</sup>

691. On 22 September 1992, members of the VRS 2nd Romanija Brigade surrounded the village of Novoseoci and, despite there being no armed resistance, killed 40 to 45 Muslim men [A15.4] and put the women and children on buses and transported them to Sarajevo.<sup>1574</sup> General Krstić informed the VRS Main Staff on the same date that “During the day, the village of Novoseoci was cleansed”.<sup>1575</sup>

692. In addition to the facilities mentioned above, Serb authorities detained mostly Muslim detainees in eight detention centres in Sokolac municipality in 1992, namely the Podromanija cattle farm [C30.3], Knežina post office [C30.4], elementary school gymnasium [C30.5], the winter road maintenance point [C30.6], KTK Knežina plant [C30.7], Šipad Romanija [C30.8], houses in Čavarina [C30.9], and the slaughter house in Sokolac [C30.10].<sup>1576</sup>

<sup>1572</sup> P909 (Hamzić statement), p. 9; P909.A (Hamzić statement), p. 2.

<sup>1573</sup> P711 (Gagula statement), pp. 2, 6; P711.A (Gagula statement), pp. 1-3.

<sup>1574</sup> Tupajić, T. 15428-30; P909 (Hamzić statement), p. 8; P905 (Report on ICTY Operations), pp. 14-15, 17; P857 (Tokača report).

<sup>1575</sup> Bjelica, T. 22629-33, 22712; P1160 (Report of 2nd Romanija motorized brigade, 22 September 1992), p. 1.

<sup>1576</sup> Malešević, T. 16133, 16136-41; Bjelica, T. 22717-18.

693. The Chamber concludes that, in total, more than 44 Muslims were killed by Serb forces. On 22 September 1992, over 40 Muslim male civilians were killed by Serb soldiers in the village of Novoseoci. In the period July through September 1992, Serb forces attacked and destroyed several Muslim villages and deliberately destroyed the five mosques in the municipality of Sokolac. From at least July on, Muslim civilians were detained in ten detention centres throughout the municipality. The threat of violence felt by the Muslim population in the town of Sokolac and the village of Knežina, and the lack of protection from the municipal authorities, forced them to leave their homes from May 1992 and onwards. Some women and children from the villages Novoseoci were transported to Sarajevo on buses.

#### 4.5.9 Višegrad

694. According to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Višegrad municipality was 13,471 (64 per cent) Muslims, 6,743 (32 per cent) Serbs, 32 Croats, 319 Yugoslavs, and 634 persons of other or unknown ethnicity.<sup>1577</sup>

695. From early 1992, Muslims in Višegrad were disarmed or requested to surrender their weapons.<sup>1578</sup> From 4 April 1992, Serb politicians repeatedly requested the division of the police in the municipality along ethnic lines.<sup>1579</sup> Soon thereafter, both of the opposing groups raised barricades around the town of Višegrad, and this was followed by random acts of violence, including shooting and shelling. In the course of one such incident, mortars were fired at Muslim neighbourhoods.<sup>1580</sup> As a result, many civilians fearing for their lives fled from their villages.<sup>1581</sup> When the JNA Užice Corps entered Višegrad around 14 April 1992, the situation calmed down for a while. After securing the town, JNA officers and Muslim leaders jointly led a media campaign to encourage people to return to their homes. Many actually did so in late April 1992. The JNA also set up negotiations between the two sides to try to defuse ethnic tension.<sup>1582</sup>

696. On 19 May 1992, the JNA withdrew from Višegrad. Paramilitary groups stayed behind, and other paramilitaries arrived as soon as the army had left the town. Some local

<sup>1577</sup> P954 (Bosnia-Herzegovina 1991 census, April 1995), pp. 276-85.

<sup>1578</sup> Adjudicated fact 613.

<sup>1579</sup> Adjudicated fact 616.

<sup>1580</sup> Adjudicated fact 617.

<sup>1581</sup> Adjudicated fact 618.

Serbs joined them.<sup>1583</sup> Those Muslims who remained in the area of Višegrad or those who had returned to their homes found themselves trapped, disarmed, and at the mercy of paramilitaries. Others were subjected to mistreatment and humiliation, to rapes or beatings. The paramilitary groups operated at least with the acquiescence of local Serb authorities, in particular from, by this time, exclusively Serb police force.<sup>1584</sup> Many were deprived of their valuables by, among others, Milan Lukić and his men.<sup>1585</sup> Muslim houses were looted and often burnt down.<sup>1586</sup> In addition, six Muslim monuments in the municipality, including the two mosques in the town of Višegrad [D26.1], were completely destroyed by fire and explosives during 1992.<sup>1587</sup>

697. In May 1992, convoys were organized, emptying many villages of their Muslim population.<sup>1588</sup> On one occasion thousands of Muslims from villages on both sides of the Drina river from the area around the town of Višegrad were taken to the local football stadium.<sup>1589</sup> There, a JNA commander told them that people living on the left side of the Drina river could return to their villages, which had been cleansed of “reactionary forces”, whereas people from the right side were not allowed to go back.<sup>1590</sup> As a consequence, many people from the right side of the river stayed in the town of Višegrad, went into hiding, or fled.<sup>1591</sup>

698. In June 1992 and the following months approximately 200 non-Serb civilians, mostly Muslims, women, children, and elderly persons among them, were killed. Some of them were shot on a bridge over the Drina river and their bodies then pushed over the side. The bodies were exhumed from a number of graves in 2000 and 2001. During these exhumations it was concluded that the victims’ clothing was civilian and that there was no evidence of firearms. Ligatures were found on or near some of the bodies. The majority of the victims died of gunshot wounds, predominantly a single shot. Relatively few wounds were on the lower half of the body, which would suggest closeness of the perpetrator to the victim. Some of the bodies showed signs of blunt force trauma, which indicated injuries

<sup>1582</sup> Adjudicated facts 621-4.

<sup>1583</sup> Adjudicated fact 630.

<sup>1584</sup> Adjudicated facts 631, 639.

<sup>1585</sup> Adjudicated fact 640.

<sup>1586</sup> Adjudicated fact 645.

<sup>1587</sup> Adjudicated fact 646; P732 (Riedlmayer report), Appendix 2.1; P732.C (Riedlmayer transcript), pp. 23815-16.

<sup>1588</sup> Adjudicated fact 626.

<sup>1589</sup> Adjudicated fact 627.

<sup>1590</sup> Adjudicated fact 628.

<sup>1591</sup> Adjudicated fact 629.

caused prior to death by blows from weapons, or, less likely, by kicking or falling [A16.1].<sup>1592</sup>

699. On 14 June 1992, a large group of Muslim civilians of all ages fleeing from Koritnik and Sase were locked up in a Muslim house in Pionirska Street, Višegrad, by local Serb paramilitaries led by Milan Lukić.<sup>1593</sup> The house was then set on fire and those who tried to escape through the windows were shot at.<sup>1594</sup> Approximately 66 people died as a result of the fire [A16.2].<sup>1595</sup>

700. Many Muslim civilians who had not yet fled of their own accord were systematically expelled, sometimes with police escorts.<sup>1596</sup> In the process of their transfer identification documents and valuables were often taken away.<sup>1597</sup> Within a few weeks, the municipality of Višegrad was almost completely cleansed of its Muslim citizens.<sup>1598</sup>

701. The Chamber finds that, in total, more than 266 persons, mostly Muslims, were killed by Serb forces in the municipality of Višegrad in June 1992 and the following months. On 14 June 1992, approximately 66 Muslims were locked up by Serb paramilitaries and burnt alive in a Muslim house in Višegrad town. The Chamber finds that many civilians fled from their villages in Višegrad municipality out of fear for their lives. Those who remained or returned to their homes were humiliated, mistreated, beaten or raped. Serb paramilitaries looted and often burnt down Muslim houses. It is the Chamber's finding that many Muslim civilians who had not fled of their own accord were systematically expelled, sometimes with police escorts. During 1992, six Muslim monuments in the municipality were deliberately destroyed.

<sup>1592</sup> Adjudicated facts 632, 634, 636-7, 644; P905.A (Report from ICTY), pp. 1, 5, 7-9, 11; P905 (Report on ICTY Operations), pp. 5-6; P857 (Tokača report).

<sup>1593</sup> Adjudicated fact 654.

<sup>1594</sup> Adjudicated facts 655-6, 682-3.

<sup>1595</sup> Adjudicated fact 684; P857 (Tokača report).

<sup>1596</sup> Adjudicated fact 641-2.

<sup>1597</sup> Adjudicated fact 643.

<sup>1598</sup> Adjudicated fact 650.

## **5. Legal findings on crimes**

### **5.1 Crimes against humanity: general elements and jurisdictional requirements**

#### *5.1.1 Applicable law*

702. The indictment charges the Accused with five counts of crimes against humanity under Article 5 of the Statute of the Tribunal. He is charged with extermination (count 4) or, in the alternative, murder (count 5), pursuant to Articles 5(b) and 5(a) of the Statute, respectively. The crimes of deportation (count 7) and “other inhumane acts (forced transfer)” (count 8) are charged separately and cumulatively pursuant to Articles 5(d) and 5(i) of the Statute, respectively. The Accused is also charged with persecution on political, racial, or religious grounds (count 3) pursuant to Article 5(h) of the Statute.

703. Article 5 of the Statute states: “The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population.” A list of crimes follows. The quoted paragraph incorporates the general requirements of crimes against humanity. The Chamber will proceed to consider the judicial interpretation of these requirements.

704. *Committed in armed conflict.* This is a jurisdictional limitation on the Tribunal which is not part of the customary-law definition of crimes against humanity.<sup>1599</sup> It requires only that there existed an armed conflict at the relevant time and place.<sup>1600</sup> An armed conflict is defined as a resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state.<sup>1601</sup> An armed conflict is understood to continue beyond the cessation of hostilities, until a general conclusion of peace is reached, or, in the case of internal conflicts, a peaceful settlement is achieved. The geographical scope of an armed conflict is understood to cover the whole of the territories of the warring states, or, in the case of internal conflicts, the whole of the territories under the control of the parties to the conflict, whether or not actual combat takes place there.<sup>1602</sup>

<sup>1599</sup> *Tadić* Appeal Judgement, para. 249.

<sup>1600</sup> *Ibid.*, paras 249, 251; *Kunarac et al.* Appeal Judgement, para. 83.

<sup>1601</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70.

<sup>1602</sup> *Ibid.*, paras 67, 70.

705. *Widespread and systematic attack directed against a civilian population.* For the acts of the perpetrator to amount to a crime against humanity they must be part of a widespread or systematic attack directed against a civilian population. The following elements under this general requirement may be distinguished:

- (i) there must be an attack;
- (ii) the attack must be widespread or systematic;
- (iii) the attack must be directed against a civilian population;
- (iv) the acts of the perpetrator must be part of the attack;
- (v) the perpetrator must know that there is a widespread or systematic attack directed against a civilian population and that his or her acts are part of that attack.<sup>1603</sup>

706. The Chamber also makes the following observations on the law:

(a) *Attack.* The notion of “attack” is different from that of “armed conflict”, even though the attack and the armed conflict might be related or even indistinguishable.<sup>1604</sup> An attack is formed of conduct causing physical or mental injury, as well as acts preparatory to such conduct.<sup>1605</sup>

(b) *Widespread or systematic.* “Widespread” refers to the large-scale nature of the attack.<sup>1606</sup> “Systematic” refers to the organized nature of the attack.<sup>1607</sup> Proof of the existence of a plan or policy behind the attack is relevant to proof of this element, but the existence of a plan or policy is not a distinct legal element of the crime.<sup>1608</sup>

(c) *Directed against any civilian population.* In determining the scope of the “civilian” population, the Appeals Chamber has regarded Article 50 of Additional Protocol I to the 1949 Geneva Conventions as relevant,<sup>1609</sup> even though the Conventions are primarily sources of international humanitarian law. The Protocol defines a “civilian” as an individual who is not a member of the armed forces or otherwise a combatant.<sup>1610</sup> A

<sup>1603</sup> *Kunarac et al.* Appeal Judgement, para. 85; *Blaškić* Appeal Judgement, para. 124.

<sup>1604</sup> *Tadić* Appeal Judgement, para. 251.

<sup>1605</sup> *Kunarac et al.* Appeal Judgement, para. 86; *Krnjelac* Trial Judgement, para. 61; *Naletilić and Martinović* Trial Judgement, paras 238-40; *Simić et al.* Trial Judgement, paras 978-80; *Brđanin* Trial Judgement, para. 159.

<sup>1606</sup> *Kunarac et al.* Appeal Judgement, para. 94.

<sup>1607</sup> *Ibid.*, para. 94.

<sup>1608</sup> *Ibid.*, paras 98, 101.

<sup>1609</sup> *Blaškić* Appeal Judgement, para. 110.

<sup>1610</sup> Additional Protocol I, Art. 50 (2).

civilian *population* comprises all persons who are civilians in this sense. Common Article 3 of the Geneva Conventions is also a source of guidance on the meaning of “civilian population” for the purposes of crimes against humanity. This provision reflects “elementary considerations of humanity” applicable under customary international law to any armed conflict.<sup>1611</sup> It sets out a minimum level of protection for “persons taking no active part in the hostilities”. In conformity with the case law on this point, the Chamber understands that “civilian population”, for the purposes of crimes against humanity, includes not only civilians narrowly defined, but also persons who are not taking active part in the hostilities.<sup>1612</sup>

The phrase “directed against” indicates that it is the civilian population that must be the primary object of the attack.<sup>1613</sup> There is no requirement that the attack should be directed against the civilian population of the entire area under consideration.<sup>1614</sup>

(d) *The acts of the perpetrator must be part of the attack.* This element aims at excluding isolated acts.<sup>1615</sup> An act would be regarded as isolated when it is so far removed from the attack that, having considered the context and circumstances in which it was committed, it cannot reasonably be said to have been part of the attack.<sup>1616</sup>

(e) *Perpetrator’s knowledge.* The perpetrator must know that there is a widespread or systematic attack directed against a civilian population and that his or her acts are part of that attack.<sup>1617</sup> The perpetrator need not have detailed knowledge of the attack.<sup>1618</sup> The motives of the perpetrator for taking part in the attack are not relevant. The perpetrator need not share the purpose of the attack, and may commit a crime against humanity for purely personal reasons.<sup>1619</sup>

<sup>1611</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 102.

<sup>1612</sup> *Tadić* Trial Judgement, para. 643; *Kupreškić* Trial Judgement, para. 547-8; *Krnojelac* Trial Judgement, para. 56; *Naletilić and Martinović* Trial Judgement, para. 235; *Galić* Trial Judgement, para. 143; *Brdanin* Trial Judgement, para. 134; *Blagojević and Jokić* Trial Judgement, para. 544.

<sup>1613</sup> *Kunarac et al.* Appeal Judgement, paras 90-2.

<sup>1614</sup> *Ibid.*, para. 90.

<sup>1615</sup> *Ibid.*, para. 100; *Blaškić* Appeal Judgement, para. 101; *Kordić and Čerkez* Appeal Judgement, para. 94.

<sup>1616</sup> *Kunarac et al.* Appeal Judgement, para. 100.

<sup>1617</sup> *Blaškić* Appeal Judgement, para. 124.

<sup>1618</sup> *Kunarac et al.* Appeal Judgement, para. 102.

<sup>1619</sup> *Tadić* Appeal Judgement, paras 248, 252; *Kunarac et al.* Appeal Judgement, para. 103.

### 5.1.2 Legal findings

707. As the Chamber stated above, an armed conflict is considered to cover the whole of the territories of the parties to the conflict, or under the control of the parties to the conflict, regardless of whether any actual combat has taken place in a specific area under consideration. Temporally, an armed conflict continues until a general conclusion of peace is reached, or a peaceful settlement is achieved. The Chamber finds that at least from June 1991, and extending beyond the indictment period, one or more armed conflicts existed, in the required sense, in the territory of Bosnia-Herzegovina. At first, when Bosnia-Herzegovina was still part of the SFRY, the armed conflict centered on Slovenia and Croatia, both of which declared independence on 25 June 1991.<sup>1620</sup> During the conflict in Croatia, Bosnia-Herzegovina was a vital base for JNA operations, and Bosnian Serbs were an important source of manpower for both the JNA and the TO.<sup>1621</sup> The conflict between Serbia and Croatia also served greatly to exacerbate the tension between Bosnia-Herzegovina's three ethnic groups.<sup>1622</sup> Later the conflict became focused on the territory of Bosnia-Herzegovina, and armed clashes erupted at latest during April 1992 in connection with the declarations of independence of Bosnia-Herzegovina and the Bosnian-Serb Republic, and continued beyond the indictment period.

708. On the basis of the evidence discussed in part 4 of this judgement, the Chamber finds that, from 18 March 1992 until the end of the indictment period (30 December 1992) there was an attack directed against the Bosnian-Muslim and Bosnian-Croat civilian population residing in the indictment municipalities. The Chamber notes that, as described above in part 2, there might have been various factors or actions attributed to members of these groups which may have influenced the timing and motivation of the attack. However, these factors are not to be misunderstood as a justification for conducting a widespread and systematic attack on a civilian population. The attack included a wide range of discriminatory measures taken against Bosnian Muslims and Bosnian Croats, such as the imposition of curfews; the setting-up of barricades and checkpoints where members of these ethnic groups were regularly stopped and searched; regular searches of the houses of Muslims and Croats; and dismissals of Muslims and Croats from employment in the armed forces, the police, municipal organs, and private and publicly owned companies. Beginning

<sup>1620</sup> Adjudicated fact 35.

<sup>1621</sup> Adjudicated fact 92.

<sup>1622</sup> Adjudicated fact 64.

in April 1992, Serb forces attacked Muslims and Croats living in towns, villages, and smaller settlements, most of which were undefended and contained no military targets, in order to take control of the municipality. Muslims and Croats were mistreated and killed. Men were often arrested and taken to detention centres, while women and children were forced to leave their homes and often the municipality. Serb forces then looted and destroyed the houses, rendering it impossible for the villagers to return. Religious monuments and sacred sites of importance to Muslims and Croats were also destroyed. The Muslim and Croat men and women kept in detention were often beaten or raped by members of Serb forces, some of whom were employed as guards for the facility and others who were allowed access to the detention centres. The conditions in many of the detention centres were intolerable, with insufficient food, water, medical care, and hygiene facilities. As a result of the treatment of the detainees, and the conditions of detention, many detainees suffered injuries and health problems, sometimes fatal. In addition, many detainees were executed at the detention centres. Beginning towards the end of 1992, detainees were either directly transferred out of the municipalities, or released and forced to leave their municipality by their own means, after being compelled to sign over their property to the municipality or to local Serbs. From the summer 1992 onwards, forcible transfer out of the municipality was also the fate of many Muslims and Croats who, until then, had managed to remain in their homes.

709. This illustrates the nature of the attack on the Muslim and Croat civilian population during the indictment period. The various acts comprising the attack will be further dealt with below in parts 5.2.2, 5.3.2, and 5.4.2. Although the Chamber finds that this was the general pattern followed in the municipalities, it recognizes that there were differences, mostly depending on the ethnic composition of the municipality in question. In municipalities where Muslims were a majority and had control over local institutions, such as Bratunac, Rogatica, Vlasenica, and Zvornik, local Serb civilians were evacuated, whereupon Serbian paramilitary forces launched attacks, expelling the Muslims and Croats and repopulating the areas with displaced Serbs. In municipalities where Serbs were a majority and had control over the local institutions, such as Banja Luka, Bijeljina, and Bosanski Novi, Serb authorities and armed forces exercised relentless and methodical pressure on Muslims and Croats, which included threats, arrests, and killings, as well as destruction of their religious and cultural institutions, in order to compel them to leave.

710. The Chamber finds that in the present case the attack aimed at forcibly displacing Bosnian Muslim and Bosnian Croats in order to change the ethnic composition of a municipality or smaller area within a municipality. The attack was undertaken throughout the indictment municipalities, and required the involvement of the Bosnian-Serb authorities, on central, regional, and municipal levels. The Chamber therefore finds that the attack was both widespread and systematic. The evidence heard and referred to in part 4, shows that the actions taken, with few exceptions, targeted Bosnian Muslims and Bosnian Croats who were not taking an active part in the hostilities. The Chamber therefore finds that the attack itself was clearly directed against the Bosnian-Muslim and Bosnian-Croat civilian population.

711. The Chamber finds beyond reasonable doubt that the perpetrators knew about the attack and that their acts were part thereof.

712. Having determined the existence of both an armed conflict and a widespread and systematic attack directed against a civilian population at the relevant time and place, the Chamber will now examine the individual acts charged as crimes against humanity.

713. In its discussion on the crimes, in parts 5.2.2, 5.3.2, and 5.4.2, below, the Chamber has made references to incidents, detention centres, and destroyed cultural monuments and sacred sites, listed in schedules A, B, C and D of the indictment. In instances where the Chamber has received no, or insufficient, evidence on a certain item in the schedules, no such reference has been made.

## 5.2 Murder or extermination as crimes against humanity

### *5.2.1 Applicable law*

714. The indictment charges the Accused with extermination or murder, in the alternative, for killings, including those during and after the attacks on towns and villages listed in Schedule A, and those related to detention facilities listed in Schedule B.<sup>1623</sup> The Chamber will set out the legal requirements for the crimes of murder (count 5) and extermination (count 4). The general requirements of these crimes, when charged as crimes against humanity, have been discussed in part 5.1, above.

715. *Murder.* The crime of murder consists of the following elements:

- (a) the victim died;
- (b) an act or omission of the perpetrator caused the victim's death; and
- (c) the act or omission was committed with intent to kill or in the reasonable knowledge that it might lead to death.<sup>1624</sup>

716. *Extermination.* The crime of extermination subsumes the elements of murder under Article 5 of the Statute. Extermination additionally requires that the killings occur on a mass scale and that the perpetrator intended by his acts this result.<sup>1625</sup> Although “mass scale” refers primarily to the number of killings, it does not suggest a numerical minimum.<sup>1626</sup> The killings constituting the extermination must form part of the same incident, taking into account such factors as the time and place of the killings, the selection of the victims, and the manner in which they were targeted.<sup>1627</sup>

### 5.2.2 Legal findings

717. Based on the evidence received, the Chamber finds that approximately 3,000 Muslims and Croats were killed in 30 municipalities during the indictment period. To avoid any misunderstanding, the Chamber notes that this is not a historical finding, but a legal one. The Chamber is bound to make its findings exclusively on the basis of the evidence received. This finding does not therefore exclude for the possibility that more Muslims and Croats were killed in these municipalities during the relevant time period. For purposes of this judgement, however, the Chamber may only take into account those specific killings which were proven beyond a reasonable doubt. The Chamber further notes that the number of killings mentioned in this paragraph does not include killings in such incidents where, on the basis of the evidence, the Chamber was unable to assess the definite number of victims.

718. *Murder.* The following incidents of killings have been proven:

<sup>1623</sup> Indictment, para. 24.

<sup>1624</sup> *Kvočka et al.* Appeal Judgement, para. 261.

<sup>1625</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgement, paras 522, 542; *Stakić* Appeal Judgement, para. 260.

<sup>1626</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgement, para. 516; *Stakić* Appeal Judgement, para. 260.

<sup>1627</sup> *Stakić* Trial Judgement, para. 640; *Blagojević and Jokić* Trial Judgement, para. 573; *Nahimana et al.* Trial Judgement, para. 1061.

*Banja Luka (NW)*: Twenty Muslim detainees died during transport from Krings camp to Manjača camp on 7 July 1992 [B1.1]; an unknown number of non-Serb male detainees at Manjača camp beaten to death by Serb guards between June and September 1992 [B1.2]; eight detainees transported from Prijedor killed at the entrance to Manjača camp [B1.4]; and three detainees suffocated to death on a bus while being transported from Omarska camp in Prijedor to Manjača on 6 August 1992 [B1.4].

*Bijeljina (NE)*: Forty-eight mainly Muslim men, women, and children, killed by Serb paramilitaries during the take over of the town of Bijeljina on or about 2 April 1992 [A1.1]; three detainees beaten to death and one shot dead by Serb guards in Batković Camp sometime between July and September 1992.

*Bileća (SE)*: Two Muslim detainees at the Bileća police station beaten to death by police and paramilitaries during the summer of 1992.

*Bosanska Krupa (NW)*: Eleven detainees at Petar Kočić school shot dead by a member of the TO in May 1992 [B2.1]; five detainees killed by Serb police while being held at the Petar Kočić school in May 1992 [B2.1]; and a young pregnant woman killed by paramilitaries in Arapuša village in Bosanska Krupa municipality on 27 or 28 April 1992.

*Bosanski Novi (NW)*: At least three Muslim men killed by Serb soldiers while being forcibly expelled from Blagaj Japra on 9 June 1992 [A3.1]; and nine Muslim detainees taken from the Mlakve stadium and beaten to death by guards at the fire station sometime between 11 June and 27 July 1992.

*Bosanski Petrovac (NW)*: Several dozen unarmed Muslim civilians, including women, children, and elderly persons, killed by Serb civilians in the town of Bosanski Petrovac during the summer of 1992.

*Bratunac (NE)*: Twelve Muslim villagers, four of whom had been captured which included one six-year-old girl, killed by Serb forces during the attack on Hranča from 3 to 9 May 1992; approximately 65 civilians killed by Serb TO and JNA forces on 9 May 1992 during the attack on the Muslim village of Glogova, which met no armed resistance [A4.1]; at least 50 Muslim detainees at the Vuk Karadžić school beaten or shot to death by Serb guards and paramilitaries from 10 to 13 May 1992 [B3.1]; and seven Muslim male detainees suffocated to death at the Vuk Karadžić school when forced by Serb guards to huddle together in May 1992.

*Brčko (NE)*: Three Muslim male detainees killed in Posavina hotel by Goran Jelisić on 4 May 1992 [A5.1]; approximately 12 civilians executed in Brčko town by police officers and soldiers on 7 May 1992 [A5.3]; at least seven Muslim men, women and children in Mujkići shot dead by Mauzer and soldiers presenting themselves as Šešelj's men on 7 May 1992 [A5.2]; one Muslim fireman shot dead by a JNA soldier at the Brčko fire station upon an order by Captain Šehovac on 10 May 1992; an elderly Muslim woman beaten and shot dead in her home by uniformed men on 21 June 1992 [A5.5]; Zikret Suljić shot dead by one of Arkan's men while trying to escape detention in a mosque in May 1992; seven Muslim and Croat male detainees killed while being held at the Brčko army barracks on or about 7 May 1992; and at least nine detainees at Luka camp executed by Goran Jelisić and others on various dates, including Stjepo Glavočević, killed by Jelisić on 9 May 1992 [B4.1].

*Čelinac (NW)*: Five Muslim men and women, who were not taking part in the hostilities, killed during Serb military operations in the village of Bastaši on or about 16 August 1992.

*Doboj (NE)*: One elderly male detainee beaten to death while being held in a discotheque in Usora on or about 22 June 1992.

*Foča (SE)*: Seven Muslim male civilians shot dead by Serb soldiers at the JNA fuel depot warehouse in Filipovići [A6.2]; an unknown number of Muslim civilians killed by Serb forces during an attack on Filipovići on 25 or 26 April 1992; an unknown number of Muslim civilians killed by Serb forces while they were fleeing attacks on Muslim villages along the left bank of the Drina river downstream from Ošanica on or about 28 April 1992; an unknown number of Muslim civilians killed by Serb forces during the attack on the village of Jeleč on 4 and 5 May 1992 [A6.3]; twenty-seven Muslim civilians, predominantly women and children, killed by Serb forces in the Čohodor Mahala neighbourhood in mid-June 1992; ten civilians, including at least one female, killed by Serb soldiers during and after the attack on the Muslim village of Mješaja/Trošanj in early July 1992 [A6.7]; one Muslim male detainee from the village of Mješaja/Trošanj killed by Serb forces at the construction site Buk Bijela on 3 July 1992; fourteen Muslim men from the village of Trnovača taken to a bridge over the Drina river in Brod and killed by Serb forces on 22 June 1992 [A6.6]; sixty-two detained civilians killed on Maluša mountain; and 35 non-Serb detainees from KP Dom killed on or about 17 September 1992.

*Gacko (SE)*: Two Muslim men arrested and killed by a Serb paramilitary unit in Gacko town in March 1992; and five Muslim male detainees held at the Gacko police station executed by local Serb men led by police commander Popić on 3 July 1992 [B8.1].

*Ilijaš (Sarajevo)*: Two villagers killed outside their house by Serb soldiers during the attack on the Muslim village of Gornja Bioča on 29 May 1992; approximately 20 Muslim villagers captured and killed by Serb soldiers during the attack on Lješevo on 5 June 1992 [A8.1].

*Kalinovik (SE)*: An unknown number of villagers, including women and elderly persons, killed during the VRS attacks on Ljuta, Jelašca, Jezero, Mjehovina, and Daganj at the end of July and beginning of August 1992; and an unknown number of Muslim civilians from Gacko and Kalinovik killed while detained at Kalinovik elementary school.

*Kotor Varoš (NW)*: Six Muslims killed by Serb paramilitaries and one Muslim killed by a police officer in Kotor settlement on 25 June 1992 [A10.1]; and an unknown number of male villagers from Dabovci killed by Serb soldiers in the summer of 1992 [A10.2].

*Nevesinje (SE)*: Redžep Trebović shot dead by Serb soldiers in his home in the town of Nevesinje on 16 June 1992 [A11.1]; sixteen elderly Muslims killed by a local Serb in Presjeka village while fleeing the attack on the village by Serb forces on 22 June 1992; twenty-nine Muslim male villagers from Presjeka and Kljuna killed by Serb soldiers at Dubravica on or about 25 June 1992 [B12.1]; and at least seven children and several Muslim women detained in the basement of the heating plant in Kilavci killed by Serb military and placed in a pit at Lipovača [A11.4 and B12.1].

*Novi Grad (Sarajevo)*: Fifteen wounded and captured Muslims executed by Serb soldiers during the attack on Ahatovići on or about 27 May 1992 [A12.1]; and two Muslim male detainees at the Rajlovac army barracks beaten to death by a Serb special unit in June 1992 [B13.1].

*Novo Sarajevo (Sarajevo)*: Two Muslim detainees at Kula detention facility beaten to death by guards on or about 7 April 1992; and at least four detainees from Kula killed by snipers or shells while performing forced labor at front lines.

*Pale (Sarajevo)*: Three male detainees at the sport complex beaten to death by guards and Serb men in June or July 1992 [B14.1].

*Prijedor (NW)*: An unknown number of Muslim villagers killed by Serb forces, during the attack on Kozarac on 24 May 1992 [A13.1]; five Muslim men killed by Serb forces during the attack on Jaskići and Sivci villages on 14 June 1992 [A13.5]; two Muslim civilians killed near the Muslim village of Biščani during the summer of 1992 during a Serb joint military and civilian police operation [A13.6]; thirty Muslim civilians killed during an exchange of fire between an armed Muslim group and Serb military and police in the village of Čarakovo during the summer of 1992 [A13.6]; three Muslim men from Hambarine who had surrendered to Serb forces beaten to death in the Ljubija stadium on or about 25 July 1992 [A13.9]; an unknown number of detainees in Omarska beaten to death by Serb guards, police, soldiers, and civilians allowed into the camp [B15.1]; and eleven Muslim male detainees from Trnopolje taken to a maize field and executed by Serb soldiers [B15.2].

*Rogatica (SE)*: An unknown number of Muslim male detainees killed by Serb guards at the Veljko Vlahović secondary school between June and September 1992; and 24 Muslims, some from Seljani village, killed while being used as human shields by Kušić's paramilitary unit after the shelling of Rogatica town in May 1992.

*Sanski Most (NW)*: Sixteen Muslim women and children and one Muslim man from Jelečevići killed by Serb soldiers on 31 May 1992 [A14.1]; the secretary of the SDA municipal board, a Muslim judge, and the municipal chief of police killed when Serb forces arrested Muslim and Croat leaders in late May 1992; one Muslim male detainee at Krings Hall beaten to death by Serb police in July 1992; and 13 male civilians shot dead by Serb soldiers in the Muslim village of Lukavica on 1 August 1992 [A14.4].

*Sokolac (SE)*: Four women killed, one from shelling and three by having their throats cut, during the attack by the VRS on the Muslim village of Meljine in the summer of 1992 [A15.2].

*Teslić (NW)*: An unknown number of civilians killed in the town of Teslić by Arkan's men, the White Eagles, and the Red Berets in May 1992; four detainees at the TO hangar beaten to death by Serb police and soldiers [B18.1]; and Fadil Isić, president of the Teslić SDA, shot dead by Red Berets as he lay on a bed in a medical centre.

*Višegrad (SE)*: Approximately 200 non-Serb civilians, mostly Muslim, including women, children, and elderly persons, killed in Višegrad during the summer of 1992 [A16.1].

*Vlasenica (NE)*: Nine Muslim detainees killed at Sušica camp by guards between June and September 1992 [B19.3]; and Džemal Ambesković killed while in detention at the Vlasenica police station on or about 22 May 1992.

*Vogošća (Sarajevo)*: Fifteen Muslim male detainees from Planjo's house killed while being used by Serb military to perform forced labour and act as human shields in September 1992 [B20.2].

*Zvornik (NE)*: Dozens of men, women, and children killed during the attack on Zvornik town by Serb forces and Arkan's men on 8 April 1992 [A18.1]; approximately 18 Muslim detainees at the Alhos Factory in the Karakaj area of Zvornik town killed by Arkan's men on or about 9 April 1992; one Muslim detainee killed at Ekonomija farm in Karakaj sometime after 10 May 1992 [B21.1]; approximately 20 Muslim male detainees at Karakaj Technical School died from heat stroke and lack of water on 1 June 1992; three Muslim detainees at the Dom Kulture in Čelopek killed by guards in early June 1992; seven Muslim detainees at the Dom Kulture in Čelopek killed by the Yellow Wasps on 11 June 1992; and 20 Muslim detainees at the Dom Kulture in Čelopek shot dead by Dušan Repić on 27 June 1992 [B21.3].

719. The Chamber finds that all the victims in the incidents above died as a result of acts of the perpetrators, who intended to kill them. The Chamber further finds that the victims were captured or detained at the time of their killing, or otherwise not taking active part in the hostilities. The Chamber finds that the killings were part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that all the above incidents constitute murder as a crime against humanity.

720. *Extermination*. The Chamber finds that for the following incidents of killings, the element of mass scale is fulfilled, considering the number of deaths in each incident and the circumstances surrounding the deaths, including the selection of the victims, the time and place of the killings, and the manner in which the killings were carried out. Incidents where large numbers of persons were killed under circumstances that were not sufficiently clear to the Chamber have not been included. The following killings on a mass scale have been proven:

*Bosanski Novi (NW)*: Twenty-seven male villagers brought to a cemetery and killed by armed Serbs during an attack on the Muslim settlement of Alići on 23 June 1992 [A3.2].

*Čajniče (SE)*: Approximately 30 Muslim detainees being held in a storage container near a hunting lodge in Mostina killed by members of Blue Eagles paramilitary on or about 18 May 1992 [B5.1].

*Foča (SE)*: Thirty-six Muslim detainees from the Foča area killed at KP Dom by Serb guards between 28 June and 5 July 1992 [B7.1];

*Gacko (SE)*: Approximately 130 Muslim women, children, and elderly persons waiting to be evacuated from the municipality killed by Serb forces during the attack on Fazlagića Kula on 17 June 1992 [A7.1].

*Kalinovik (SE)*: Twenty-four Muslim male detainees from an ammunition warehouse in Jelašaćko Polje executed by Serb soldiers and the police in a stable in Ratine on 5 August 1992, after having been severely mistreated, bound, and stripped of their valuables. Twenty were killed first and the remaining four ordered to place the dead bodies in the stable after which they were killed as well. The soldiers poured petrol over the bodies, set the stable on fire and left [B9.1].

*Ključ (NW)*: Forty-four men, women, and children in the Muslim village of Prhovo rounded up, forced to face a wall and killed by Serb forces on 1 June 1992 [A9.1]; twenty-seven Muslim males executed by Serb VRS soldiers and police officers at Biljani primary school on 10 July 1992 [A9.3]; and seventy-seven Muslim men from Hadžići, Velagići, and surrounding villages lined up against a wall and shot dead by Serb forces at the Velagići school on 1 June 1992. After all men had fallen to the ground, the soldiers killed those who showed signs of life [B10.1].

*Kotor Varoš (NW)*: Approximately 150 Muslim men from Večići killed by Serb military after being captured and detained at the Grabovica school on 4 November 1992 [B11.1].

*Novi Grad (Sarajevo)*: Forty-seven detainees from the Rajlovac army barracks taken by bus to Sokolina and killed by Serb guards using grenades and automatic weapons on 14 June 1992 [B13.2].

*Prijedor (NW)*: Sixty-eight men, women, and children killed by Serb forces during an attack on the predominantly Croat village of Briševo on 24 July 1992 [A13.7]; eighty-five Muslim male detainees from Ljubija stadium brought by bus to the Kipe iron-ore mine and executed by Serb soldiers on or about 25 July 1992 [A13.8]; between 150 and 200

Muslim and Croat detainees in Keraterm shot dead in one room by Serb guards between 24 and 26 July [B15.3]; and 154 Muslim detainees from the camps of Trnopolje and Tukovi bussed to Korićanske Stijene in Skender Vakuf municipality and executed by Serb police and Serb soldiers on 21 August 1992 [B15.5].

*Sanski Most (NW)*: Nineteen Muslim men from Donji Begiči brought to Vrhpolje bridge by 50 Serb soldiers, beaten, ordered to jump off the bridge and shot dead in the water on or about 31 May 1992 [A14.2]; eighteen Muslim men interrogated by Serb soldiers on or about 27 June 1992 and then taken to a house in Blaževići whereupon the soldiers threw explosives into the house and opened fire on those trying to escape [A14.3]; and approximately 17 Muslim and Croat detainees from Betonirka camp killed in Kriva Cesta by Serb soldiers on 22 June 1992 after being forced at gunpoint to dig their own graves [B17.1].

*Sokolac (SE)*: Between 40 and 45 Muslim male civilians in the village of Novoseoci killed by VRS soldiers on 22 September 1992, after which General Krstić informed the VRS Main Staff that “the village of Novoseoci was cleansed” [A15.4].

*Višegrad (SE)*: Sixty-six Muslim civilians from Koritnik and Sase burnt alive by local Serb paramilitaries led by Milan Lukić in a house on Pionirska Street in Višegrad on 14 June 1992 [A16.2].

*Vlasenica (NE)*: Twenty Muslim men, all but three in the village of Drum, killed in a few minutes by Serb soldiers moving house to house during the attack on 2 June 1992 [A17.1]; approximately 80 men, women, and children killed by Serb soldiers and police, while attempting to flee the attack on the village of Zaklopača on 16 May 1992 [A17.2]; the 140-150 remaining Muslim detainees from Sušica camp removed in four bus loads on 30 September 1992 and executed by three MUP officers; and twenty-nine Muslim detainees from the Vlasenica police station taken by bus to the outskirts of the village of Nova Kasaba and shot dead by Serb soldiers on 21 May 1992, after which the soldiers searched for survivors and shot them in the head [B19.2].

*Zvornik (NE)*: Eighty-eight Muslim male detainees at Dom Kulture in Drinjača taken out in groups of ten and executed by the White Eagles on 30 May 1992 [A18.3]; approximately 160 Muslim male detainees at Karakaj Technical School removed in small groups and executed by Serb guards on or about 1 June 1992 [B21.4]; and 190 male

detainees brought to Gero's slaughterhouse in busloads and executed by guards in JNA uniforms on 5 May 1992 [B21.5].

721. The Chamber finds that all the victims in the above incidents died as a result of acts of the perpetrators who intended to kill on a mass scale. The Chamber further finds that the victims referred to above were either captured or detained at the time of their killing, or otherwise not taking active part in the hostilities. The Chamber finds that the killings were part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that all the above incidents constitute extermination as a crime against humanity.

### 5.3 Deportation and other inhumane acts (forced transfer) as crimes against humanity

#### *5.3.1 Applicable law*

722. The indictment charges the Accused with deportation and forced transfer as crimes against humanity committed in the indictment municipalities. The crime of deportation (count 7) is listed in Article 5(d) of the Statute, whereas forced transfer (count 8) is a charge under "other inhumane acts" in Article 5(i). The general requirements of these crimes, when charged as crimes against humanity, have been discussed in part 5.1, above.

723. *Actus reus.* Deportation and forcible transfer both entail the forcible displacement of persons from the area in which they are lawfully present, without grounds permitted under international law. The crime of deportation requires that the victims be displaced across a de jure state border, or, in certain circumstances, a de facto border.<sup>1628</sup> Forcible transfer involves displacement of persons within national boundaries.<sup>1629</sup> The Chamber will not consider the transfer of detainees from one detention centre to another as forcible transfer.

724. Forcible displacement means that people are moved against their will or without a genuine choice.<sup>1630</sup> Fear of violence, duress, detention, psychological oppression, and other such circumstances may create an environment where there is no choice but to leave, thus amounting to the forcible displacement of people.<sup>1631</sup> Displacement of persons carried out

<sup>1628</sup> *Stakić* Appeal Judgement, paras 278, 300.

<sup>1629</sup> *Ibid.*, para. 317.

<sup>1630</sup> *Krnojelac* Appeal Judgement, paras 229, 233; *Stakić* Appeal Judgement, para. 279.

<sup>1631</sup> *Stakić* Appeal Judgement, para. 281.

pursuant to an agreement among political or military leaders, or under the auspices of the ICRC or another neutral organization, does not necessarily make it voluntary.<sup>1632</sup>

725. International humanitarian law recognizes limited circumstances under which the displacement of civilians during armed conflict is allowed, namely if it is carried out for the security of the persons involved, or for imperative military reasons.<sup>1633</sup> In such cases the displacement is temporary and must be carried out in such a manner as to ensure that displaced persons are returned to their homes as soon as the situation allows.<sup>1634</sup>

726. *Mens rea*. The perpetrator of deportation or forcible transfer must intend to forcibly displace the persons, however, the intent need not be to displace on a permanent basis.<sup>1635</sup>

### 5.3.2 Legal findings

727. The Chamber finds that a large number of Muslims in Bijeljina, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Čajniče, Čelinac, Donji Vakuf, Foča, Gacko, Hadžići, Ilidža, Ilijaš, Ključ, Kotor Varoš, Novi Grad, Novo Sarajevo, Pale, Prijedor, Rogatica, Sanski Most, Sokolac, Trnovo, Višegrad, and Zvornik, were displaced from their homes to other places in the same municipality or to other municipalities within the territory under Bosnian-Serb control. The Chamber also finds, based on the evidence presented, that Croats were displaced in the same manner from a few of these municipalities, namely Bosanska Krupa, Hadžići, Novi Grad, Prijedor, and Sanski Most, although in lower numbers.

728. The Chamber further finds that a large number of Muslims in Banja Luka, Bijeljina, Bileća, Bosanski Novi, Bratunac, Brčko, Čajniče, Doboj, Foča, Gacko, Nevesinje, Pale, Prnjavor, Rogatica, Sanski Most, Vlasenica, and Zvornik, were displaced to Croatia, Macedonia, or other places outside the territory under Bosnian-Serb control. The Chamber also finds, based on the evidence presented, that Croats were displaced in the same manner from a few of these municipalities, namely Banja Luka, Doboj, and Prnjavor, although in lower numbers.

<sup>1632</sup> Ibid., para. 286; *Simić et al.* Trial Judgement, para. 127.

<sup>1633</sup> Geneva Convention III, art. 19; Geneva Convention IV, art. 49; Additional Protocol II, art. 17; *Stakić Appeal Judgement*, paras 284-5; *Blagojević and Jokić Trial Judgement*, paras 597-8.

<sup>1634</sup> Geneva Convention IV, art. 49; *Krstić Trial Judgement*, para. 524; *Blagojević and Jokić Trial Judgement*, para. 599.

<sup>1635</sup> *Stakić Appeal Judgement*, paras 278, 304-7, 317.

729. The displacement of Muslims and Croats occurred in a similar way in all the above mentioned municipalities. Serb municipal authorities and Serb forces created severe living conditions for Muslims and Croats which aimed, and succeeded, in making it practically impossible for most of them to remain. The measures undertaken increased in severity by time, starting with dismissals from employment, house searches, and the cutting off of water, electricity, and telephone services. Once Serb forces had taken over towns and villages, many Muslims and Croats were arrested and interrogated, during which they were often tortured and beaten by their captors. The terrorization of the Muslim and Croat population very often included individual killings and massacres, as described in part 5.2.2, above. News of such massacres served to further instil fear among the Muslim and Croat population. All this caused many Muslims and Croats in municipalities like Banja Luka, Bijeljina, Čelinac, Ilidža, and Sanski Most, to abandon their homes in fear for their own safety. In other municipalities, such as Bosanska Krupa, Foča, Gacko, Hadžići, Ilijaš, Prijedor, Rogatica, Trnovo, and Zvornik, it was an armed attack by Bosnian-Serb forces on the particular town or village that lead many Muslims and Croats to flee their homes, in order to avoid the killings, detention, and destruction that might follow.

730. Some Muslims and Croats decided, or simply had no other choice than, to remain in their homes despite the killings, arrests and widespread discrimination occurring. In these cases, Serb authorities and Serb forces often proceeded to physically drive these groups out. This occurred in many municipalities, including Banja Luka, Bijeljina, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Brčko, Čajniče, Foča, Gacko, Hadžići, Novi Grad, Novo Sarajevo, Pale, Prnjavor, Sanski Most, Trnovo, Vlasenica, and Zvornik. In some cases, this was done through large-scale operations where transportation and escorts were provided by the Serb authorities, who additionally attempted, sometimes successfully, to involve international organizations in the movement of the population.

731. One such example is the forcible displacement of the Muslim population of Bosanski Novi. During May 1992, Serb forces drove Muslims from their homes in nine villages in the Japra valley to the village of Blagaj Japra. At the same time, Muslims in the town of Bosanski Novi were being arrested. At that point, Serb authorities began “negotiations” with persons informally representing the Muslims community and UN officials, with the aim of transferring the Muslims out of the municipality. One of the Muslim representatives described these “negotiations” as a desperate attempt to receive

some help to “leave this hell in Bosanski Novi where we were under siege”.<sup>1636</sup> Serb municipal authorities put forth the stance that the departure of Muslims from the municipality was on a voluntary basis. However, the Chamber excludes the possibility that the municipal authorities actually believed that this was the case. Rather, in this respect, the Serb authorities were, in the Chamber’s opinion, deliberately cynical. As another of the Muslim representatives testified, “in view of all that had happened to me before, from the arrest, the camp, the killing of my uncle, the torchings, the chaos, how can one say that we left of our own will?”<sup>1637</sup> This involuntary character was also clear to UN officials, who hesitated to comply with requests for assistance in the movement of the Muslim population from Serb authorities. In July, a large convoy of approximately 9,000 persons, including the displaced persons from Blagaj Japra who were at that time being detained at Mlakve stadium, set out for Croatia.

732. The Chamber finds that all the Muslims and Croats referred to above were displaced against their will, and that they were not taking active part in the hostilities at the time the forcible displacement was committed. The Chamber further finds that the displacement was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the displacement of Muslims and Croats from Banja Luka, Bijeljina, Bileća, Bosanski Novi, Bratunac, Brčko, Čajniče, Doboj, Foča, Gacko, Nevesinje, Pale, Prnjavor, Rogatica, Sanski Most, Vlasenica, Zvornik, referred to above, constitutes deportation. The Chamber also finds that the displacement of Muslims from Bijeljina, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Čajniče, Čelinac, Donji Vakuf, Foča, Gacko, Hadžići, Ilidža, Ilijaš, Ključ, Novi Grad, Novo Sarajevo, Pale, Prijedor, Rogatica, Sanski Most, Sokolac, Trnovo, Višegrad, and Zvornik, referred to above, constitutes forcible transfer. As seen, there were in some municipalities, namely Bijeljina, Bosanski Novi, Bratunac, Čajniče, Foča, Gacko, Pale, Rogatica, Sanski Most, and Zvornik, instances of both deportation and forcible transfer.

<sup>1636</sup> Purić, T. 26983.

<sup>1637</sup> Delić, T. 26362.

## 5.4 Persecution as a crime against humanity

### *5.4.1 Applicable law*

#### *Common elements of persecution as a crime against humanity*

733. The indictment charges the Accused, pursuant to Article 5(h) of the Statute, with persecution as a crime against humanity committed against Bosnian Muslims and Bosnian Croats in the indictment municipalities.<sup>1638</sup> The general requirements of crimes against humanity have been discussed in part 5.1, above.

734. The crime of persecution consists of an act or omission which:

- (a) discriminates in fact and denies a fundamental human right laid down in international law; and
- (b) is carried out with the intention to discriminate on one of the listed grounds, namely politics, race, or religion.<sup>1639</sup>

735. Acts listed under the other sub-headings of Article 5 of the Statute or provided for elsewhere in the Statute, as well as acts not explicitly mentioned in the Statute, may qualify as underlying acts of persecution.<sup>1640</sup> The underlying act itself need not constitute a crime in international law.<sup>1641</sup> In practice, not every denial of a fundamental human right will be serious enough to constitute a crime against humanity.<sup>1642</sup> The underlying act committed on discriminatory grounds, considered in isolation or in conjunction with other acts, must be of the same gravity as other crimes listed under Article 5 of the Statute.<sup>1643</sup>

#### *Underlying acts of persecution*

##### *(a) Imposition and maintenance of restrictive and discriminatory measures involving denial of fundamental rights*

736. Paragraph 19(a) of the indictment charges the Accused with persecution through “the imposition and maintenance of restrictive and discriminatory measures including: (i)

<sup>1638</sup> Indictment, paras 18-23. In accordance with an agreement between the parties, accepted by the Chamber, the words “or other non-Serb populations” in the indictment are “meaningless for the purpose of this case”: T. 17076, 17085, 17132, 17139-40.

<sup>1639</sup> *Krnjelac* Appeal Judgement, para. 185.

<sup>1640</sup> *Tadić* Trial Judgement, paras 700, 702-3; *Kupreškić et al.* Trial Judgement, paras 605, 614.

<sup>1641</sup> *Kvočka et al.* Appeal Judgement, para. 323.

<sup>1642</sup> *Kupreškić et al.* Trial Judgement, para. 621; *Krnjelac* Trial Judgement, para. 434.

the denial of freedom of movement; (ii) the denial of employment through the removal from positions of authority in local government institutions and the police and the general dismissal from employment; (iii) the invasion of privacy through arbitrary searches of homes; (iv) the denial of the right to judicial process; and (v) the denial of equal access to public services.”

737. The Prosecution has pleaded the imposition and maintenance of restrictive and discriminatory measures by using the open-ended term “including”. The indictment alleges that five specific rights were denied on a discriminatory basis. As the Accused is entitled to be clearly informed of the charges against him, the Chamber will confine its analysis to the specific allegations.

738. The Nuremberg Tribunal entered convictions on crimes against humanity and war crimes for various acts committed against Jews, ranging from economic discrimination to extermination. These acts included three of the acts set out in paragraph 19(a) of the indictment, namely the denial of freedom of movement, the denial of employment, and the denial of the right to judicial process.<sup>1644</sup> These types of acts, as well as the denial of equal access to public services and the invasion of privacy through arbitrary searches of homes, were addressed in the context of crimes against humanity by tribunals applying the Allies’ Control Council Law No. 10.<sup>1645</sup> In the *Justice* case, in which numerous representatives of the judiciary in Germany were tried for war crimes and crimes against humanity, the United States Military Tribunal convicted the defendants for the exclusion of Jews from public service and from educational institutions, and for discriminatory treatment of Jews and Poles in the judicial system. The Tribunal argued that:

The record contains innumerable acts of persecution of individual Poles and Jews, but to consider these cases as isolated and unrelated instances of perversion of justice would be to overlook the very essence of the offence charged in the indictment ... lesser forms of racial

<sup>1643</sup> *Blaškić* Appeal Judgement, para. 135.

<sup>1644</sup> *United States et al. v. Hermann Göring et al.* (Nuremberg Judgement), International Military Tribunal (1 October 1946), in 1 Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945 – 1 October 1946, Nuremberg 1947, pp. 171, 247-9, 254, 298, 300, 304-5, 329, 335, 339-40.

<sup>1645</sup> *Trial of Hans Albin Rauter*, Netherlands Special Court, The Hague (4 May 1948), in 14 Law Reports of Trials of War Criminals, selected and prepared by the United Nations War Crime Commission, London 1947-1949 (LRTWC), pp. 89, 92-3. The conviction of Rauter was confirmed by the Netherlands Special Court of Cassation on 12 January 1949 (14 LRTWC 89, 107-11); *Trial of Dr. Joseph Buhler*, Supreme National Tribunal of Poland (10 July 1948), in 14 LRTWC 23, 29; *Trial of Artur Greiser*, Supreme National Tribunal of Poland (7 July 1946), in 13 LRTWC 70, 94, 105.

persecution [than the extermination of Jews and Poles] were universally practiced by governmental authority and constituted an integral part in the general policy of the Reich.<sup>1646</sup>

739. The *Justice* case and the other cases cited dealt with acts of the same kind as those included in paragraph 19(a) of the indictment. These acts, carried out on discriminatory grounds, were considered both in conjunction with each other and in conjunction with other acts, some of which were considered crimes under international law in their own right. No conviction was entered for the equivalent of a paragraph 19(a) act in isolation.

740. Some of the acts referred to in paragraph 19(a) of the indictment have also been considered in the case law of this tribunal. The *Brđanin* Trial Chamber considered the denial of freedom of movement, the denial of employment, the denial of the right to judicial process, and the denial of equal access to public services, and concluded that these acts constitute persecution only when taken in conjunction with each other since, taken in isolation, each act is not of the same gravity as the other crimes listed in Article 5 of the Statute.<sup>1647</sup>

741. Based on the above, the Chamber finds that the various acts mentioned in paragraph 19(a) of the indictment, carried out on discriminatory grounds (henceforth to be understood as discriminatory in fact and carried out with discriminatory intent), and for which the general elements of crimes against humanity are fulfilled, constitute the crime of persecution when considered in conjunction with other acts.

*(b) Killings (murder)*

742. Paragraphs 19(b) and (f) of the indictment charge the Accused with persecution through “killings during and after attacks on towns and villages in the Municipalities, including those listed in Schedule A” and “killings related to detention facilities, including those listed in Schedule B”. These acts are also charged elsewhere in the indictment as genocide and/or complicity in genocide under Article 4(3)(a) and (e) of the Statute, murder or extermination as a crime against humanity under Article 5(a) and (b) of the Statute, and murder as a violation of the laws or customs of war under Article 3 of the Statute.

<sup>1646</sup> *United States v. Josef Altstötter et al. (Justice case)*, American Military Tribunal (4 December 1947), in 3 Trials for War Criminals Before the Nuremberg Military Tribunals under Control Council Law No. 10, Nuremberg, October 1946 – April 1949 (TWC), pp. 954, 1063-4.

<sup>1647</sup> *Brđanin* Trial Judgement, para. 1049.

743. The Chamber interprets the charge of “killings” in paragraphs 19(b) and (f) of the indictment as relating to the crime of murder. The elements of the crime of murder have been discussed in part 5.2.1, above.

744. An act of murder, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1648</sup>

*(c) Cruel or inhumane treatment*

745. Paragraphs 19(c) and (g) of the indictment charge the Accused with persecution through “cruel or inhumane treatment during and after the attacks on towns and villages in the Municipalities including torture, physical and psychological abuse, sexual violence and forced existence under inhumane living conditions”, as well as “cruel or inhumane treatment in detention facilities including torture, physical and psychological abuse and sexual violence”.

746. The crime of cruel or inhumane treatment requires proof of an act or omission which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.<sup>1649</sup> It must be shown that the perpetrator had the intention to inflict serious mental or physical suffering or injury, or to commit a serious attack on the human dignity of the victim, or that he or she knew that the act or omission was likely to cause serious mental or physical suffering or injury, or a serious attack on human dignity, and was reckless as to that result.<sup>1650</sup>

747. An act of cruel or inhumane treatment, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1651</sup>

*(d) Forced transfer or deportation*

748. Paragraph 19(d) of the indictment charges the Accused with persecution through “forced transfer or deportation”. The crimes of forced transfer and deportation are also

<sup>1648</sup> *Vasiljević* Appeal Judgement, para. 143; *Blaškić* Appeal Judgement, para. 143.

<sup>1649</sup> *Čelebići* Appeal Judgement, paras 424, 426.

<sup>1650</sup> *Krnojelac* Trial Judgement, para. 132.

<sup>1651</sup> *Krnojelac* Appeal Judgement, para. 188; *Vasiljević* Appeal Judgement, para. 143; *Blaškić* Appeal Judgement, para. 143; *Kordić and Čerkez* Appeal Judgement, paras 106-7.

charged elsewhere in the indictment as crimes against humanity punishable under Article 5(d) and (i) of the Statute.

749. The Chamber has dealt with the crimes of forcible transfer and deportation in part 5.3.1, above. An act of forcible transfer or deportation, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1652</sup>

*(e) Unlawful detention (imprisonment)*

750. Paragraph 19(e) of the indictment charges the Accused with persecution through “unlawful detention in detention facilities, including those listed in Schedule C” to the indictment.

751. Unlawful detention is not listed, as such, as a crime in the Statute, although Article 5(e) provides for the act of imprisonment as a crime against humanity. The Chamber interprets the charge in paragraph 19(e) of the indictment as relating to this act.

752. The term imprisonment in Article 5(e) is understood as “arbitrary imprisonment, that is to say, the deprivation of liberty of the individual without due process of law”.<sup>1653</sup>

The crime of imprisonment consists of the following elements:

- (1) an individual is deprived of his or her liberty;
- (2) the deprivation of liberty is carried out arbitrarily, that is, there is no legal basis for it; and
- (3) the perpetrator acted with the intent to deprive the individual arbitrarily of his or her liberty.<sup>1654</sup>

753. If there is a legal basis for the deprivation of liberty, it must apply throughout the period of imprisonment, for the deprivation of liberty will become arbitrary as soon as the legal basis ceases to exist. When a national law is relied upon to justify a deprivation of liberty, this law must not violate international law.<sup>1655</sup>

<sup>1652</sup> *Krnjelac* Appeal Judgement, para. 222; *Blaškić* Appeal Judgement, para. 153.

<sup>1653</sup> *Kordić and Čerkez* Appeal Judgement, para. 116.

<sup>1654</sup> *Krnjelac* Trial Judgement, para. 115.

<sup>1655</sup> *Ibid.*, para. 114.

754. Unlawful detention, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1656</sup>

*(f) Establishment and perpetuation of inhumane living conditions*

755. Paragraph 19(h) of the indictment charges the Accused with persecution through “the establishment and perpetuation of inhumane living conditions in detention facilities including those listed in Schedule C”. It alleges that “these conditions included the failure to provide adequate: accommodation or shelter; food or water; medical care; or hygienic sanitation facilities”.

756. The concept of “inhuman living conditions” is considered a subcategory of cruel or inhumane treatment,<sup>1657</sup> which has been discussed under (c) above.

*(g) Forced labour*

757. Paragraph 19(i) of the indictment charges the Accused with persecution through “forced labour including digging graves and trenches and other forms of forced labour at front lines”.

758. When determining whether the labour was forced, a Chamber may consider whether the objective circumstances surrounding the performance of work were so coercive as to negate any possibility of consent.<sup>1658</sup>

759. Under international humanitarian law not all forms of labour are prohibited, provided that the labour is performed under certain protective conditions.<sup>1659</sup> Considering that the indictment is limited to digging graves and trenches and other forced labour performed at front lines, the Chamber finds that the acts charged cannot fall within any lawful exceptions to the prohibition of forced labour.

<sup>1656</sup> *Blaškić* Appeal Judgement, para. 155; *Tadić* Trial Judgement, paras 714, 717.

<sup>1657</sup> *Kvočka et al.* Trial Judgement, paras 189-90; *Krnjelac* Trial Judgement, paras 439, 443; *Čelebići* Trial Judgement, para. 558.

<sup>1658</sup> *Krnjelac* Appeal Judgement, paras 194-5.

<sup>1659</sup> Geneva Convention III, art. 50, 52; Geneva Convention IV, art. 51; *Kunarac et al.* Trial Judgement, para. 542; *Krnjelac* Appeal Judgement, para. 200; *Naletilić and Martinović* Trial Judgement, para. 253.

760. The Appeals Chamber has held that forced labour, considered in conjunction with “a series of acts comprising unlawful detention and beatings” constitute persecution.<sup>1660</sup> The Appeals Chamber has also held that “the use of persons taking no active part in hostilities to prepare military fortifications for use in operations and against the forces with whom those persons identify or sympathise is a serious attack on human dignity and causes serious mental (and depending on the circumstances physical) suffering or injury” and thereby constitutes cruel or inhumane treatment.<sup>1661</sup> As established under (c) above, cruel or inhumane treatment carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes a crime of persecution.

761. An act of forced labour at front lines, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1662</sup>

*(h) Human shields*

762. Paragraph 19(i) of the indictment charges the Accused with persecution through “the use of Bosnian Muslim [and] Bosnian Croat [...] populations as human shields”.

763. The Chamber understands human shields to mean the placement or detention of persons in areas where they may be exposed to combat operations, for the purpose of rendering certain areas or activities immune from military operations or armed attack.<sup>1663</sup>

764. The use of persons as human shields, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1664</sup>

*(i) Appropriation or plunder of property*

765. Paragraph 19(j) of the indictment charges the Accused with persecution through the “appropriation or plunder of property during and after attacks, in detention facilities and in the course of deportations or forcible transfers”. The indictment exemplifies the charge

<sup>1660</sup> *Krnojelac* Appeal Judgement, para. 199.

<sup>1661</sup> *Blaškić* Appeal Judgement, para. 597; *Simić et al.* Trial Judgement, para. 91.

<sup>1662</sup> *Blaškić* Appeal Judgement, paras 154-5; *Kordić and Čerkez* Appeal Judgement, para. 107 (referring to trench-digging “in hostile, hazardous and combat conditions”).

<sup>1663</sup> *Blaškić* Appeal Judgement, paras 652-4.

with “the practice of forcing Bosnian Muslims [and] Bosnian Croats ... to sign documents turning over their property to Bosnian Serb governmental authorities in order to be allowed to leave the Municipalities”.

766. Plunder of public and private property was explicitly included in the Nuremberg Charter and Control Council Law No. 10 as a war crime. Acts of plunder were charged both as a war crime and as a crime against humanity in many of the trials based on these instruments, including the trial of the major war criminals in Nuremberg.<sup>1665</sup> The Nuremberg Tribunal dealt with plunder as a crime against humanity and considered, for example, “looting of Jewish businesses” as part of the persecution of the Jews.<sup>1666</sup> In relation to one defendant, Hermann Göring, the Tribunal stated:

Göring persecuted the Jews ... not only in Germany where he raised the billion-mark fine ... but in the conquered territories as well. His own utterances then and his testimony now shows this interest was primarily economic – how to get their property and how to force them out of the economic life of Europe.<sup>1667</sup>

767. The Nuremberg Tribunal entered convictions on plunder only for appropriations on a nation-wide scale.<sup>1668</sup> This was also true of many of the cases under Control Council Law No. 10.<sup>1669</sup> In the *Flick* case, however, the American Military Tribunal held that the scale of the appropriation was not the critical issue when the act is considered as a crime against humanity. Rather, it was the impact of the appropriation on the victim. Under one of the counts, Friedrich Flick, an industrialist, was charged with crimes against humanity for acquiring industrial property formerly owned or controlled by Jews. The Tribunal stated that:

A distinction could be made between industrial property and the dwellings, household furnishings, and food supplies of a persecuted people. In this case, however, we are only

<sup>1664</sup> *Ibid.*, paras 155, 653.

<sup>1665</sup> Indictment in the case *United States et al. v. Hermann Göring et al.*, International Military Tribunal (6 October 1945), in 1 Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945 – 1 October 1946, Nuremberg 1947, pp. 27, 55-60, 65; indictment in the case *United States v. Ulrich Greifelt et al. (RuSHA case)*, American Military Tribunal (July 1947), in 4 TWC 608, 610, 616, 618; indictment in the case *United States v. Oswald Pohl et al. (Pohl case)*, American Military Tribunal (Indictment, 13 January 1947), in 5 TWC 200, 204, 207.

<sup>1666</sup> Nuremberg Judgement, p. 248.

<sup>1667</sup> *Ibid.*, p. 283.

<sup>1668</sup> *Ibid.*, p. 296 (Alfred Rosenberg), p. 298 (Hans Frank), pp. 306-7 (Walter Funk), pp. 328-9 (Arthur Seyß-Inquart), p. 335 (Konstantin von Neurath), p. 171 (Martin Bormann).

<sup>1669</sup> *RuSHA case*, American Military Tribunal (10 March 1948), in 5 TWC 88, 147-52; *Pohl case*, American Military Tribunal (3 November 1947), in 5 TWC 958, 976-8; *United States v. Ernst von Weizsäcker et al. (Ministries case)*, American Military Tribunal (13 April 1949) 314, 680-794.

concerned with industrial property ... The ‘atrocities and offenses’ listed [in Article 6(c) of the Charter] ‘murder, extermination,’ etc., are all offenses against the person. Property is not mentioned. Under the doctrine of *ejusdem generis* the catch-all words ‘other persecutions’ must be deemed to include only such as affect the life and liberty of the oppressed peoples.<sup>1670</sup>

768. The Chamber considers that appropriation or plunder as an underlying act of persecution is to be understood as any intentional appropriation of public or private property that has a severe impact on the owner or user of the property.

769. Some appropriation of property cannot be regarded as unlawful. For example, under international humanitarian law there is a general exception to the prohibition of appropriation of property as a grave breach under the Geneva Conventions when the appropriation is justified by military necessity.<sup>1671</sup>

770. The Appeals Chamber has found that destruction of property, depending on the nature and extent of the destruction, may constitute persecution. In addition, it confirmed that plunder, in conjunction with “killings, beatings, unlawful attacks on civilians and civilian objects, the unlawful imprisonment of civilians, [and] destruction of civilian objects”, constitutes persecution.<sup>1672</sup>

771. Based on the above, the Chamber finds that an act of appropriation or plunder that has a severe impact on the victim, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.

772. An act of appropriation or plunder which in itself does not have a severe impact on the victim, may still, when carried out on discriminatory grounds, and when the general elements of crimes against humanity are fulfilled, constitute the crime of persecution, when considered in conjunction with other acts.

<sup>1670</sup> *United States v. Friedrich Flick et al.*, American Military Tribunal (22 December 1947), in 6 TWC 1187, 1214-5. This reasoning was adopted by the American Military Tribunal in the *I.G. Farben* case when considering various instances of plunder and spoliation of industrial property in German occupied territory (*United States v. Carl Krauch et al. (I.G. Farben case)*, American Military Tribunal (30 July 1948), in 8 TWC 1081, 1129-30).

<sup>1671</sup> Geneva Convention IV, art. 147.

<sup>1672</sup> *Kordić and Čerkez Appeal Judgement*, paras 109 and 672.

*(j) Destruction of private property*

773. Paragraph 19(k) of the indictment charges the Accused with persecution through the “intentional or wanton destruction of private property including homes and business premises”.

774. The Appeals Chamber has clarified that acts of destruction of property, “depending on the nature and extent of the destruction”, may constitute persecution.<sup>1673</sup> As with appropriation of property, it is the impact on the victims that is the determining factor.<sup>1674</sup> The Appeals Chamber has held that there are “certain types of property whose destruction may not have a severe enough impact on the victim as to constitute a crime against humanity, even if such a destruction is perpetrated on discriminatory grounds: an example is the burning of someone’s car (unless the car constitutes an indispensable and vital asset to the owner)”.<sup>1675</sup>

775. The Chamber considers that destruction of private property as an underlying act of persecution is to be understood as any intentional destruction of private property that has a severe impact on the victim.

776. Some destruction of property cannot be regarded as unlawful. For example, under international humanitarian law there is a general exception to the prohibition of destruction of property as a grave breach under the Geneva Conventions when the destruction is justified by military necessity.<sup>1676</sup>

777. The Appeals Chamber has confirmed that “destruction of civilian objects”, in conjunction with “killings, beatings, unlawful attacks on civilians and civilian objects, the unlawful imprisonment of civilians, ... and looting”, constitutes persecution.<sup>1677</sup>

778. Based on the above, the Chamber finds that an act of destruction of property that has a severe impact on the victim, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1678</sup>

<sup>1673</sup> *Blaškić* Appeal Judgement, para. 149.

<sup>1674</sup> *Ibid.*, paras 146, 149.

<sup>1675</sup> *Ibid.*, para. 146 (quoting *Kupreškić et al.* Trial Judgement, para. 631).

<sup>1676</sup> Geneva Convention IV, art. 147.

<sup>1677</sup> *Kordić and Čerkez* Appeal Judgement, paras 108, 672.

<sup>1678</sup> *Blaškić* Appeal Judgement, para. 149.

779. An act of destruction of property which in itself does not have a severe impact on the victim, may still, when carried out on discriminatory grounds, and when the general elements of crimes against humanity are fulfilled, constitute the crime of persecution, when considered in conjunction with other acts.

*(k) Destruction of cultural monuments and sacred sites*

780. Paragraph 19(k) of the indictment charges the Accused with persecution through “intentional or wanton destruction of ... public property, including cultural monuments and sacred sites listed in Schedule D”.

781. The destruction of cultural property may have a severe impact on persons who value that property. The *Kordić and Čerkez* Trial Chamber held that the destruction of religious property, “when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of ‘crimes against humanity’”.<sup>1679</sup>

782. The Chamber considers that the destruction of cultural property as an underlying act of persecution is to be understood as destruction or damage of an institution dedicated to religion, charity, education, or the arts and sciences, historic monuments and works of art and science, when the perpetrator acted with the intent to destroy or damage that property or in the reckless disregard of the substantial likelihood of the destruction or damage.<sup>1680</sup>

783. An act of destruction of cultural monuments and sacred sites carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.<sup>1681</sup>

<sup>1679</sup> *Kordić and Čerkez* Trial Judgement, para. 207.

<sup>1680</sup> *Ibid.*, paras 206, 362; *Stakić* Trial Judgement, paras 765-7; *Brđanin* Trial Judgement, paras 596-9, 1021, 1023; *Strugar* Trial Judgement, paras 308-11.

<sup>1681</sup> *Kordić and Čerkez* Trial Judgement, para. 207; *Stakić* Trial Judgement, para. 768; *Brđanin* Trial Judgement, paras 1023-4.

#### 5.4.2 Legal findings

##### *(a) Imposition and maintenance of restrictive and discriminatory measures involving denial of fundamental rights*

784. On the basis of the evidence presented and described above in part 4, the Chamber finds that Serb authorities and Serb forces restricted the freedom of movement of mainly Muslims, but also some Croats, through the institution of curfews, checkpoints, compulsory reporting to local police, or mandatory travel permits in the following municipalities: Bileća, Čajniče, Čelinac, Doboj, Foča, Kalinovik, Ključ, Novo Sarajevo, Pale, Prijedor, Prnjavor, Rogatica, Sanski Most, and Trnovo. The Chamber further finds that Serb authorities and Serb forces violated the right to privacy of mainly Muslims, but also some Croats, through arbitrary house searches, often under the pretext of searching for weapons, in the following municipalities: Bijeljina, Bosanski Novi, Bosanski Petrovac, Foča, Hadžići, Nevesinje, Novo Sarajevo, Prijedor, Sanski Most, and Zvornik.

785. The Chamber finds that Serb authorities dismissed mainly Muslim, but also some Croat, police officers, judges, public servants, members of the armed forces, and other employees in the following municipalities: Banja Luka, Bileća, Bosanski Novi, Bosanski Petrovac, Čajniče, Čelinac, Foča, Gacko, Hadžići, Kalinovik, Ključ, Pale, Prijedor, Prnjavor, Rogatica, Sanski Most, Sokolac, Teslić, and Vlasenica.

786. The Chamber also finds that Serb authorities denied Muslims and Croats equal access to public services in the municipalities of Bijeljina, Bosanski Petrovac, Čelinac, and Prijedor, by discontinuing the supply of electricity, water, or telephone services to their homes, and in addition, by barring children of Muslims and Croats from attending public school in Prijedor municipality.

787. The Chamber finds that the measures clearly targeted Muslims and Croats and that they were therefore discriminatory in fact. The measures were applied specifically to Muslims and Croats on the basis of their ethnicity. By way of example, the Čelinac war presidency adopted a decision conferring special status on the non-Serb population in the municipality. According to the decision, non-Serbs had the right to live unhindered “within the boundaries of their property,” and the right to leave the municipality, provided their departure was conducted in an organized fashion and that the entire household left. They were subject to a curfew from 4 p.m. to 6 a.m., forbidden from selling or exchanging their

dwellings without permission of the municipal authority, using any communication systems apart from the post office telephone, “lingering” in public places, or travelling to other towns without permission from the municipal authority. The population of Čelinac consisted overwhelmingly of Serbs, with a small minority of Muslims and only a few Croats and the war presidency’s decision was clearly directed at members of these minorities for no other reason than their ethnicity. In Foča, restrictions were placed on the movement of Muslims while the Serb population could move around freely, and Muslim households were searched by Serb military police and soldiers for weapons, money and other items while Serb houses were not searched, or at most were searched superficially.

788. The Chamber also finds that the discriminatory measures were applied in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the measures were carried out on discriminatory grounds.

789. The restrictive measures described above were undertaken during a period when Muslims and Croats were increasingly targeted for killings, arbitrary arrests, detention, looting, and destruction of property. For example, the Muslims villagers of Jošova in Bosanski Novi were instructed by Serb soldiers to leave their homes and gather in a field while the soldiers searched their homes for weapons. No weapons were found, and three days later Serb forces attacked the village, burning down houses and destroying two mosques. In Novo Sarajevo, in the process of searching Muslim and Croat homes for weapons, Serb police and paramilitaries also committed rape and plunder. The Chamber finds that when the restrictive measures are considered in conjunction with crimes against Muslims and Croats, such as the ones mentioned, they constitute persecution.

790. The Chamber finds that the restrictive and discriminatory measures, namely the denial of employment, restriction on freedom of movement, violation of right to privacy and denial of equal access to public services, were part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that all above acts imposing restrictive and discriminatory measures against Muslims and Croats constitute persecution as a crime against humanity.

791. The Chamber has heard ample evidence on a fifth discriminatory measure referred to in the indictment, namely the denial of the right to judicial process, but will deal with this in parts 5.4.2 (e) and (h) below.

*(b) Killings (murder)*

792. The Chamber has found that approximately 3,000 Muslims and Croats were killed in 30 municipalities during the indictment period and that this was part of a widespread and systematic attack against the Muslim and Croat civilian population (see part 5.2.2, above). The Chamber finds that these killings were discriminatory in fact.

793. The Chamber further finds that the perpetrators of the killings chose their victims on the basis of their Muslim and Croat identity. The fact that Muslims were specifically targeted for murder and extermination is demonstrated by the deliberate targeting of predominantly Muslim villages for attack, such as Hozici and Agici in Bosanski Novi, Prhovo in Ključ, Donja Vinča in Pale, and Jaskici and Sivci in Prijedor, to name but a few. In some cases, such as in Suhača in Bosanski Novi and Lješevu in Ilijaš, the Muslim villagers were disarmed just prior to the attack, ensuring that no defence would be possible. Serb forces then used such weapons to attack the town which would ensure a high number of casualties, including heavy artillery. In addition to the discriminatory intent which can be inferred from the attacks on Muslim villages, examples of expressed intent are also found. During the attack on the Muslim village of Ahatovići in Novi Grad, Serb forces called out to Muslim villagers hiding in the forest, “Balijas, surrender yourselves or we’ll kill your women and children.” *Balija* is a derogatory term for Muslims. During this attack, 15 of the Muslim villagers were captured and killed. In Luka camp in Brčko, one night the Serb guards sang songs which included lines such as “*balija*, you’ve had it. There’s a little left for you. We will exterminate you.” On that night, at least two detainees were executed, after which Goran Jelisić stated “another *balija* less!” Also in Foča, Muslim civilians were rounded up and killed for the sole reason of their Muslim ethnicity.

794. The Chamber also finds that the killings were committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the killings were carried out on discriminatory grounds. The Chamber therefore finds that they constitute persecution as a crime against humanity.

*(c) Cruel or inhumane treatment, including establishment and perpetuation of inhumane living conditions*

795. The Chamber finds that, through acts and omissions, the Serb authorities established and perpetuated inhumane living conditions in many of the detention centres where Muslims and Croats were held (see section (e), below). Detainees were not provided with sufficient food, water, or medical care, and were kept in extremely cramped and unhygienic conditions.

796. For example, detainees in KP Dom [C13.8] in Foča were given starvation rations and suffered extreme weight loss. In addition, they were not allowed to receive visits and could therefore not supplement their meagre food rations. In Zvornik, 20 detainees died from heat stroke and lack of water within hours of arriving at the Karakaj technical school [C34.10]. In Omarska camp [C25.4] in Prijedor, up to 600 detainees were kept in an open concrete area in all weather conditions, while in Betonirka prison [C28.1] in Sanski Most, conditions were so cramped that detainees were forced to sleep sitting up. Some detention centres, such as Omarska camp, functioned as long-term detention facilities, where detainees were subjected to inhumane living conditions for several months.

797. In addition to the detention centres mentioned above, the Chamber finds that inhumane living conditions were established and maintained in Manjača camp [C1.4] in Banja Luka; Đački Dom [C3.5] in Bileća; Mlakve stadium [C5.2] in Bosanski Novi; Kozila camp [C6.1] in Bosanski Petrovac; Luka camp [C8.7] in Brčko; Foča high school [C13.20] and the Partizan Hall [C13.4] in Foča; Podlugovi detention centre [C17.5] in Ilijaš; the ammunition warehouse Jelašačko Polje [C18.4] in Kalinovik; the Kotor Varoš prison [C20.5]; the basement of a heating plant [C21.1] in Nevesinje; the Rajlovac army barracks [C22.1] in Novi Grad; Kula prison [C23.2] in Novo Sarajevo; the sports hall [C24.2] in Pale; the Keraterm [C25.5] and Trnopolje camps [C25.6] in Prijedor; the Sanski Most prison [C28.7]; and Sušica camp [C32.6] in Vlasenica.

798. The Chamber also finds that Muslim and Croat detainees in numerous detention centres were physically and psychologically ill-treated by members of Serb forces, some of whom were employed as guards for the facility, and others who were allowed access to the detention centres. Detainees were beaten on a regular basis in many detention centres. In Batković camp [C2.5] in Bijeljina, for example, some detainees were beaten three times a day and were forced to beat each other. Extremely serious beatings took place in KP Dom

[C13.8] in Foča, where detainees were sometimes beaten so severely that they could not walk for days. In the Petar Kočić school [C4.2] in Bosanska Krupa and in Đački Dom [C3.5] in Bileća, detainees were subjected to electric shocks. Many detainees sustained severe injuries as a result of these beatings. On many occasions, detainees were in fact beaten to death. The Chamber has dealt with such incidents in part 5.2.2, above.

799. In addition to the detention centres mentioned above, detainees were also physically or psychologically ill-treated in the following detention centres: Manjača camp [C1.4] in Banja Luka; the Bileća police station [C3.2]; the police station [C5.11], the fire station [C5.7], Mlakve stadium [C5.2] and Hotel Una [C5.6] in Bosanski Novi; the police station [C6.2] and Kozila camp [C6.1] in Bosanski Petrovac; Vuk Karadžić School [C7.4] in Bratunac; the fire station [C8.1], Posavina hotel [C8.8], Kolobara mosque [C8.4], and Luka camp [C8.7] in Brčko; the police station [C10.1] and the SDK building [C10.4] in Čelinac; Spreča prison [C11.6] and the municipal prison [C32.3] in Doboј; the military warehouse at Livade [C13.11] in Foča; Gacko police station [C14.2]; the civil defence headquarters [C15.1], the municipal assembly building [C15.4], the sports centre [C15.3=C15.5] and Vranica Dormitory huts [C15.6] in Hadžići; the ammunition warehouse Jelašaćko Polje [C18.4] and the elementary school [C18.2] in Kalinovik; the police station [C19.1] and the sports hall [C19.6] in Ključ; Kotor Varoš elementary school [C20.3], the police station [C20.4], the prison [C20.5] and the Grabovica elementary school [20.13] in Kotor Varoš; the basement of a heating plant [C21.1] in Nevesinje; the Rajlovac barracks [C22.1] in Novi Grad; Lukavica [C23.6], Kula prison [C23.2], and the Šoping building in Grbavica [C23.1] in Novo Sarajevo; the Pale sports hall [C24.2]; the Ljubija [C25.10], Trnopolje [C25.6], Omarska [C25.4] and Keraterm [C25.5] camps in Prijedor; the police station [C28.5], Betonirka prison camp [C28.1] and Krings Hall [C28.3] in Sanski Most; Teslić police station [C31.3=C31.6]; the municipal prison and Sušica camp [C32.6] in Vlasenica; the police station [C33.8] and Planjo's house [C33.1] in Vogošća; Karakaj technical school [C34.10], Alhos factory [C34.18], the Standard factory [C34.5=C34.19], Ekonomija [C34.9], Novi Izvor [C34.1=C34.2], the Dom Kulture Drinjače [C34.23], and the Dom Kulture Čelopek [C34.8] in Zvornik.

800. The Chamber finds that in a number of detention centres, Muslim and Croat detainees were raped or sexually abused. For example, in Batković camp [C2.5] in Bijeljina, male detainees were forced to engage in degrading sexual acts with each other in the presence of other detainees. In several detention centres in Foča, women and young

girls were raped on a regular basis, namely in Bukovica motel [C13.19], the workers huts at Buk Bijela [C13.6], Srednja Škola [C13.1], and Karaman's house in Miljevina [C13.3=13.15]. Sexual abuse also occurred in Luka camp [C8.7] in Brčko; the civil defence headquarters [C15.1], a factory outside the town of Hadžići [C15.2], and the sports centre [C15.3=15.5] in Hadžići; Kalinovik elementary school [C18.2]; the police station [C20.4] and Pilana sawmill [C20.7] in Kotor Varoš; the police station [C33.8] in Vogošća; and the Dom Kulture Čelopek [C34.8] in Zvornik.

801. The Chamber finds that also during armed attacks on towns and villages, Serb forces beat and otherwise ill-treated Muslim and Croat civilians, causing them serious mental and physical harm, in the following municipalities: Bosanski Novi, Kotor Varoš, Prijedor, Novo Sarajevo, Teslić, Foča, Gacko, Rogatica, and Višegrad.

802. For example, during the attack on Bosanski Novi town, one witness was arrested together with his brother by Serb soldiers, and forced to kneel and face a wall. The Serb soldiers then forced them to sing Serbian songs and opened fire on the wall around them. In Kotor Varoš, members of a Serb paramilitary unit severely mistreated a group of Muslims from Kotor settlement. The Serbs beat them with rifles and verbally abused the Muslims, calling them "balijas" and "Ustashas". The Serbs also let a dog loose on one of the Muslims, and forced several Muslims to beat their family members. In Foča, after the attack on the Muslim village of Mješaja/Trošanj, Serb soldiers beat the Muslim villagers with rifle butts and tree branches, kicked them, and called them "Ustashas". One of the victims lost an eye as a result of the brutal beating.

803. The Chamber finds that the inhumane living conditions at the detention centres, and the ill-treatment of Muslims and Croats during the attacks on towns and villages, and in detention centres, resulted in serious injuries and serious mental and physical suffering of the victims. Regarding the creation and maintenance of inhumane living conditions in detention centres, the Chamber finds that the perpetrators either had the intention to inflict serious mental and physical harm on the detainees, or that they knew that their acts or omissions was likely to cause serious mental or physical suffering or injury, or a serious attack on human dignity, and was reckless as to that result. Regarding the ill-treatment of Muslims and Croats during attacks on towns and villages and in the detention centres, the Chamber finds that the perpetrators intended to inflict such serious injuries and serious

mental and physical harm. The Chamber therefore finds that all these acts and omissions constitute cruel or inhumane treatment.

804. The victims of the cruel and inhumane treatment were exclusively Muslims and Croats, and the Chamber therefore finds that these killings were discriminatory in fact. In addition, the victims were selected on the basis of their ethnicity. Many Muslim detainees were called “balija”, or were otherwise insulted. Some Muslim detainees were forced to spit on the Muslim flag or to sing Serb nationalistic songs. While raping a woman in a Foča detention centre, Dragoljub Kunarac expressed with verbal and physical aggression his view that rapes against Muslim women were one of the many ways in which the Serbs could assert their superiority and victory over the Muslims. In this respect, the Chamber also considers the fact that Muslims and Croats were detained on discriminatory grounds (see section (e), below).

805. The Chamber also finds that the cruel or inhumane treatment was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the cruel or inhumane treatment was carried out on discriminatory grounds.

806. The Chamber further finds that the victims referred to above were either captured or detained, or otherwise not taking active part in the hostilities, at the time of the cruel or inhumane treatment. The Chamber finds that the cruel or inhumane treatment was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that all above incidents of cruel and inhumane treatment constitute persecution as a crime against humanity.

*(d) Forced transfer or deportation*

807. The Chamber has found that Muslims and Croats were forcibly displaced from 32 municipalities, and that this was part of a widespread and systematic attack against the Muslim and Croat civilian population (see part 5.3.2). The Chamber finds that the forcible displacement was discriminatory in fact.

808. The Chamber further finds that Muslims and Croats were forced to leave or were expelled from the municipalities on the basis of their ethnicity. As was described in part 5.3.2, above, many Muslims and Croats were forced to leave their homes due to the

discriminatory measures instituted by Serb authorities and the violence directed specifically at them. Their expulsion was often accompanied by the destruction of religious sites and property of significance to these groups. In a number of municipalities, Muslims and Croats were forced to sign over their property to Serb authorities, as a precondition for their departure. Orthodox churches were never destroyed and Serb property was not looted or confiscated.

809. The Chamber finds that the forcible displacement of Muslims and Croats was the very aim of the discriminatory attack against these groups in all the indictment municipalities, as described in part 5.1.2, above. For this reason, the Chamber finds that the forcible displacement was clearly carried out on discriminatory grounds.

*(e) Unlawful detention (imprisonment)*

810. The Chamber finds that Serb authorities detained mainly Muslim, but also Croat civilians in more than 350 detention facilities, the majority of which are referred to in schedule C of the indictment, located in 33 municipalities, namely Banja Luka, Bijeljina, Bileća, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Brčko, Čajniče, Čelinac, Doboј, Donji Vakuf, Foča, Gacko, Hadžići, Ilidža, Ilijaš, Kalinovik, Ključ, Kotor Varoš, Nevesinje, Novi Grad, Novo Sarajevo, Pale, Prijedor, Rogatica, Sanski Most, Sokolac, Teslić, Trnovo, Vlasenica, Vogošća, and Zvornik.<sup>1682</sup> With regard to 36 of the facilities listed in the indictment schedule, the Chamber either did not receive sufficient evidence to conclude that they functioned as detention centres where Muslim and Croat

<sup>1682</sup> As for the detention centres set out in schedule C of the indictment, the Chamber refers to part 4 of this judgement where all centres which the Chamber considers proven are indicated by name and code. In addition, part 4 discusses the following detention centres which were not explicitly set out in the indictment but which the Chamber considers proven: Bijeljina: Mauzer's private jail or slaughterhouse; Hadžići: the professional trades school, the Garaže (garages), the Zgrada TO building, the basement of a hotel, Tarčin prison, the Žunovnica military barracks, the building of Social Affairs, and the Blažuj military barracks; Ilidža: the cultural and sports complex, the storage building of Energoinvest, Kasindol hospital, the graphic school, the kindergarten, and the Blažuj military barracks; Ilijaš: the industrial school, the former railway station, the INA gasoline storage plant, the old homes in Jamjanovića, the old pit in Podlugovi, the Nišići winter services maintenance, the MIK factory hall in Podlugovi, and a concrete bunker by the Stavanja river in Podlugovi; Novi Grad: the Energopetrol gasoline storage plant, a distribution centre, and the Kisikana oxygen storage plant; Pale: the cultural centre and the military barracks in Hrenovica; Trnovo: weekend cottages; Vlasenica: the municipal court house; Vogošća: the Sonje bunker beside the Kon Tiki boardinghouse, a sports complex, the Krivoglavci tunnel and the UNIS factory.

civilians were unlawfully held, or has not found that they operated within the indictment period or within one of the indictment municipalities.<sup>1683</sup>

811. Various facilities, such as prisons, police stations, schools, municipal buildings, industrial premises, hotels, and sports facilities, within the municipalities were all used as detention centres. Serb forces often arrested and detained Muslims and Croats after having attacked their villages and towns. Sometimes persons were put in temporary detention facilities before being transferred to other long-term detention facilities. For example, in Vlasenica municipality, following attacks on Sušica and several other villages, a MUP special unit detained men in the municipal court house before they were transferred to Sušica camp.

812. Serb forces arrested many thousands of Muslims and Croats and detained them in the detention centres referred to above. Detainees were sometimes divided into different categories, for example, detainees who were of security interest to the Serbs; detainees who helped to finance or supply arms; and detainees about whom the Serbs had no information and who were to be treated as hostages to be used in exchange for Serb citizens. According to another categorization in Prijedor municipality, group A detainees consisted of persons who were “not guilty of anything”; group B and group C consisted of persons who had supported the SDA or belonged to the SDA, or who had taken part in or financed attacks on Prijedor. The Chamber finds that these categories reveal that the arrest and detention of Muslims and Croats was widespread and not limited to lawful detention. This is also consistent with numerous witness testimonies received by the Chamber. The Chamber also notes that while the detainees in many cases consisted exclusively, or almost exclusively, of Muslims and Croats, the guards were always of Serb ethnicity. The Chamber finds that Serb forces detained Muslims and Croats on the basis of their ethnicity, and that the arrest and detention therefore was unlawful, discriminatory in fact, and carried out on discriminatory grounds.

813. As for the discriminatory ground, the Chamber also takes into consideration the fact that the unlawful detention was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2,

<sup>1683</sup> Bijeljina: C2.6, C2.7, C2.10, C2.13-C2.15; Bosanska Krupa: C4.3; Bosanski Petrovac: C6.3; Bratunac: C7.1, C7.7, C7.8; Brčko: C8.10, C8.16; Doboj: C11.28, C11.29, C11.30; Donji Vakuf: C12.1, C12.12; Foča: C13.5, C13.16; Ilidža: C16.4; Ilijaš: C17.4, C17.6; Kalinovik: C18.1; Ključ: C19.7; Nevesinje: C21.2; Pale: C24.1, C24.3; Rogatica: C26.4, C24.9; Sanski Most: C28.16, C28.18-C28.20; Vlasenica: C.32.7; Vogošća: C33.6.

above. In conclusion, the Chamber finds that the unlawful detention was carried out on discriminatory grounds.

814. The Chamber finds that the unlawful detention was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the unlawful detention constitutes persecution as a crime against humanity.

*(f) Forced labour*

815. The Chamber finds that Serb forces used Muslims and Croats for labour at front lines, including digging trenches and carrying munitions, in seven municipalities, namely Bijeljina, Bosanska Krupa, Brčko, Novo Sarajevo, Teslić, Vlasenica, and Vogošća. All the victims in the mentioned instances were held at various detention centres when they were taken for forced labour. For example, detainees at Batković camp in Bijeljina and Sušica camp in Vlasenica were regularly forced to perform manual labour, including digging trenches. Considering the findings on illegal detention and the conditions at detention centres (sections (c) and (e), above), the Chamber finds that there was no real possibility for the detainees to consent to be used for work and that the labour was therefore forced.

816. As the victims were Muslims and Croats, the Chamber finds that the acts of forced labour were discriminatory in fact. As the Chamber has already found that Muslims and Croats were held on discriminatory grounds in the detention centres at which forced labour was practiced, it can be inferred that they were chosen for forced labour on the same grounds.

817. The Chamber also finds that the acts of forced labour were committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the acts of forced labour were carried out on discriminatory grounds.

818. The Chamber finds that the forced labour was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the acts of forced labour constitute persecution as a crime against humanity.

*(g) Human shields*

819. The Chamber finds that Muslim and Croat detainees and villagers were used by Serb soldiers as human shields in Rogatica and Vogošća. The Chamber has found that during these incidents, 39 Muslims were killed. The Chamber has addressed these killings in part 5.2.2 above and will therefore not consider them further here.

*(h) Appropriation or plunder of property*

820. The Chamber finds that acts of appropriation and plunder of property of Muslims and Croats were committed in 27 municipalities, namely Banja Luka, Bijeljina, Bileća, Bratunac, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Čajniče, Čelinac, Donji Vakuf, Foča, Gacko, Hadžići, Ilidža, Kalinovik, Ključ, Kotor Varoš, Novo Sarajevo, Prijedor, Prnjavor, Rogatica, Sanski Most, Teslić, Višegrad, Vlasenica, Vogošća, and Zvornik.

821. In many municipalities, Serb authorities implemented decisions forcing Muslims to surrender all their property to the municipality in order to be allowed to leave. As discussed above in part 5.3.2, the departure was prompted by violence and discriminatory measures against Muslims and Croats. Muslims were given no option but to sign over their property to the Serb municipality, receiving nothing in exchange except for written authorization to leave the area.

822. For example, in Bosanski Petrovac, the war presidency adopted a decision that “all families that have signed contracts on the exchange of flats, houses and other immovable property may leave Petrovac Municipality.” Muslim families who had not produced exchange contracts were allowed to leave only if they donated all movable and immovable property to the municipality. Similar procedures were adopted in Bosanski Novi, Foča, Ključ, Prnjavor, Vlasenica and Zvornik. In some municipalities, Muslims who owned property and had already left the area were instructed to report to the municipal authorities on very short notice or risk forfeiting their property to the municipality. In other cases, Serbs simply took over houses and flats from which Muslims and Croats had been forced.

823. The acts of appropriation and plunder also included the looting of Muslim- and Croat-owned private houses and businesses by armed Serb forces. The looting took place during and after attacks on towns and villages, and in the course of deportation or forcible

transfer. In addition, detained Muslims and Croats were forced to surrender their belongings, jewellery, money, and documents to Serb soldiers or guards at detention centres while being detained.

824. Regarding the confiscation of private houses, the Chamber has considered both the economic and emotional value of the property, as well as the purpose of the confiscation, that is to force Muslims and Croats to leave the municipality and not return. The Chamber is convinced that this type of appropriation had a severe impact on the victims. The Chamber had insufficient information to assess the impact on the victims the instances of plunder of private houses and business premises, and the other forms of plunder described above.

825. As the victims of the appropriation and plunder described were Muslims and Croats, the Chamber finds that it was discriminatory in fact. The Chamber considers that the appropriation and plunder in the present case often took place in connection with illegal detention and forcible displacement. For example, in Vlasenica, Muslims detained at the police station in Vlasenica [C32.1] were ordered out of their cells on 21 May 1992 and placed in buses. Serb soldiers proceeded to confiscate their personal belongings, including money and documents, before these detainees were taken to their execution. This incident has been described in greater detail in part 4. A number of women, children, and elderly civilians detained at the Pilana sawmill [C20.7] in Kotor Varoš were being released, put on buses and forcibly removed from the municipality in August 1992. Along the way paramilitaries boarded the buses in which they were travelling and stripped the detainees of their remaining money and jewellery. The Chamber further considers that the decisions and instruction issued by municipal authorities on property, as referred to above, was an integral part of the forcible transfer of Muslims and Croats from the municipality. The Chamber has found that the illegal detention and the forcible displacement was carried out on discriminatory grounds (see sections (d) and (e), above)

826. The Chamber also finds that the appropriation and plunder was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the appropriation and plunder was carried out on discriminatory grounds.

827. The Chamber finds that the confiscation of private houses constitutes persecution. The Chamber further finds that, although the other instances of appropriation or plunder

might not in and of itself constitute persecution, these acts must be considered in conjunction with the killings, deportation, and unlawful detention of Muslims and Croats that took place in connection with these acts. The Chamber therefore finds that all above incidents constitute persecution.

828. The Chamber finds that the appropriation and plunder of property of Muslims and Croats was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the appropriation and plunder of property constitutes persecution as a crime against humanity.

*(i) Destruction of private property*

829. The Chamber finds that acts of destruction of private property belonging to Muslims and Croats, including homes and business premises, were committed in 19 municipalities, namely Banja Luka, Bratunac, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Brčko, Čajniče, Čelinac, Foča, Ilijaš, Ključ, Kotor Varoš, Novi Grad, Pale, Prijedor, Prnjavor, Sanski Most, Trnovo, and Vlasenica.

830. The destruction of private houses belonging to Muslims and Croats took place during attacks and take-overs of towns and villages by Serb forces in all the mentioned municipalities. Houses were destroyed by shelling, through explosives, or burnt down. For example, when Serb forces shelled the Muslim village Ahatovići in Novi Grad, almost all 130 houses in the village were destroyed. In Bratunac, during the attack on Glogova on 9 May 1992 after 65 villagers had been killed and the remaining ones had been detained, Serb forces burnt most of the houses in the village. In Vlasenica, Serb forces conducted military operations in a number of Muslim villages and hamlets in May and June 1992, during which they were under explicit order to burn all the houses to prevent the owners from returning. Almost all the Muslim houses in the area were in fact destroyed. Destruction of business premises were carried out in Banja Luka, Kotor Varoš, Prnjavor, and Sanski Most. For example, in Sanski Most, members of the paramilitary group SOS destroyed 28 shops and restaurants belonging to Muslims and Croats.

831. The Chamber finds that the acts of destruction of private houses had a severe impact on the victims, for the same reasons described in section (h), above. The Chamber had

insufficient information to assess the impact on the victims of destruction of their business premises.

832. As the victims of the destruction of private property were Muslims and Croats, the Chamber finds that the destruction was discriminatory in fact. The Chamber considers that the destruction was done in connection with attacks on Muslim and Croat towns, villages and hamlets and that the private property of these groups therefore was targeted, while Serb property was spared. In Brčko, for example, Serb soldiers prevented firemen from putting out fires in Muslim houses unless they were close to Serb houses.

833. The Chamber also finds that the destruction of private property was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the appropriation and plunder was carried out on discriminatory grounds.

834. The Chamber finds that the destruction of private houses constitutes persecution. The Chamber further finds that, although the instances of destruction of business property might not in and of itself constitute persecution, these acts must be considered in conjunction with the killings, deportation, and unlawful detention of Muslims and Croats that took place in connection with these acts. The Chamber therefore finds that all above incidents constitute persecution.

835. The Chamber finds that the destruction of private property was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the destruction of private property constitutes persecution as a crime against humanity.

*(j) Destruction of cultural monuments and sacred sites*

836. The Chamber finds that more than 200 cultural or religious sites, mainly mosques, but also Catholic churches, the majority of which are referred to in schedule D of the indictment, were heavily damaged or destroyed by Serb forces in 26 municipalities, namely Bijeljina, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Brčko, Čajniče, Čelinac, Doboј, Foča, Ilijaš, Kalinovik, Ključ, Kotor Varoš, Nevesinje, Novi Grad, Prijedor, Prnjavor, Rogatica, Sanski Most, Sokolac, Teslić, Trnovo, Višegrad,

Vogošća, and Zvornik.<sup>1684</sup> The Chamber did not receive sufficient evidence to conclude that several of the mosques listed in schedule D of the indictment were destroyed by Serb forces, during the period of the indictment, or within an indictment municipality.<sup>1685</sup>

837. The Chamber finds that Serb forces intentionally and wantonly destroyed the mosques, churches, and other religious monuments referred to above. Mosques were often destroyed using explosives and then further demolished with heavy machinery.

838. As the monuments and sites were Muslim and, in some instances Croat, the Chamber finds that destruction was discriminatory in fact. The Chamber finds that the Muslim and Croat monuments and sites were targeted specifically as religious symbols for the respective ethnic groups. For example, the Hasanbegova mosque in Sanski Most was destroyed by members of the 6th Krajina Brigade, and afterwards a parking lot was laid on top of the cemetery. When a mosque in the centre of Brčko town was burning, soldiers expressed satisfaction at the mosque's destruction and told firemen not to put out the fire. The Chamber finds that Serb forces destroyed mosques in order to wipe out traces of the Muslim culture and religion.

839. The Chamber also finds that the destruction of the cultural monuments and sacred sites was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the destruction was carried out on discriminatory grounds.

840. The Chamber finds that the destruction of cultural monuments and sacred sites was part of the widespread and systematic attack against the Muslim and Croat civilian

<sup>1684</sup> As for the monuments and sites set out in schedule C of the indictment, the Chamber refers to part 4 of this judgement where all the monuments and sites which the Chamber considers proven are indicated by name and code. In addition, part 4 discusses the following monuments and sites which were not explicitly set out in the indictment, but which the Chamber considers proven: Bijeljina: one mosque; Bosanska Krupa: three Muslim and Catholic monuments; Bosanski Petrovac: one mosque; Bratunac: two mosques; Doboj: seventeen mosques; Foča: twenty-three mosques; Ilijaš: eighteen mosques; Kalinovik: Kutina and Jesalica; Ključ: four Muslim monuments; Kotor Varoš: five mosques; Nevesinje: one Catholic church; Novi Grad: one mosque; Prijedor: one mosque; Prnjavor: one mosque; Rogatica: seven mosques; Sanski Most: eleven mosques; Sokolac: four mosques; Teslić: four mosques; Trnovo: one mosque; Višegrad: five mosques; Vogošća: the mosque in Ugorsko, the *masjid* (mosque without minaret) in Karaula-Donja Vogošća, the *masjid* in Tihovići, the *masjid* in Gora, the *masjid* in Krč, the mosque under construction in the Park Hotel vicinity, and the Catholic church in Semizovac; Zvornik: nineteen Muslim monuments.

<sup>1685</sup> Bosanska Krupa: D2.1; Bosanski Novi: D3.4, D3.5, D3.7; Bosanski Petrovac: D4.1, D4.4; Čajniče: D7.3; Doboj: D9.3; Donji Vakuf: D10.1-D10.5; Foča: D11.4, D11.4; Hadžići: D12.1, D12.2; Ključ: D15.1-D15.3, D15.5, D15.7; Nevesinje: D17.5; Prijedor: D18.2, D18.3, D18.6-D18.11; Rogatica: D20.3, D20.4; Rudo: D21.1-D21.4; Sanski Most: D22.2, D22.8, D22.9; Šipovo: D23.1-D23.3; Vlasenica: D27.1; Vogošća: D28.2; Zvornik: D29.1-D29.4.

population. The Chamber therefore finds that the destruction of cultural monuments and sacred sites constitutes persecution as a crime against humanity.

## 5.5 Murder as a violation of the laws or customs of war

### *5.5.1 Applicable law*

841. The Accused is charged with murder as a violation of the laws or customs of war (count 6) pursuant to Article 3 of the Statute. This crime is charged in the alternative to murder as a crime against humanity which, in turn, is charged in the alternative to extermination as a crime against humanity (counts 4 and 5, respectively).

842. Article 3 of the Statute is a “residual clause” which gives the Tribunal jurisdiction over any serious violation of international humanitarian law not covered by Articles 2, 4, or 5 of the Statute.<sup>1686</sup> To fall within this residual jurisdiction, the offence charged must meet four conditions: (i) it must constitute an infringement of a rule of international humanitarian law; (ii) the rule infringed upon must be customary in nature or, if it belongs to treaty law, the treaty provisions were unquestionably binding on the parties at the time of the alleged offence and do not derogate from peremptory norms of international law; (iii) the violation must be serious, that is to say, it must involve a breach of a rule protecting important values and the breach must have grave consequences for the victim; and (iv) the violation of the rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.<sup>1687</sup>

843. In the present case, the charge of murder as a violation of the laws or customs of war is based on Article 3(1)(a) common to the four Geneva Conventions of 1949. It is well established in the jurisprudence of this Tribunal that violations of Common Article 3 fall within the ambit of Article 3 of the Statute.<sup>1688</sup> With respect to a charge of murder under Common Article 3(1)(a), the four jurisdictional requirements set out above are clearly met. Common Article 3 is part of customary international law applicable in both internal and international armed conflicts.<sup>1689</sup> The crime of murder prohibited by Common Article 3

<sup>1686</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paras 89-93; *Čelebići* Appeal Judgement paras 125, 131, 133.

<sup>1687</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paras 94, 143.

<sup>1688</sup> *Ibid.*, para. 89; *Čelebići* Appeal Judgement, paras 125, 133-6; *Kunarac et al.* Appeal Judgement, para. 68.

<sup>1689</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paras 89, 98; *Čelebići* Appeal Judgement, paras 138-9, 147.

undoubtedly breaches a rule protecting important values and involves grave consequences for the victim. It also entails individual criminal responsibility.<sup>1690</sup> The Chamber therefore has jurisdiction.

844. Once jurisdiction is established, there are two general conditions that must be met for the applicability of Article 3 of the Statute: first, there must be an armed conflict; and second, there must be a nexus between the alleged offence and the armed conflict.<sup>1691</sup>

845. *Armed conflict.* The Chamber has already found that an armed conflict existed at the relevant time and place (see part 5.1.2, above). As indicated above, the nature of the conflict (internal or international) is immaterial for the purposes of Common Article 3.

846. *Nexus.* The alleged crime need not have occurred at a time and place in which there was actual combat, so long as the acts of the perpetrator were “closely related” to hostilities occurring in territories controlled by parties to the conflict.<sup>1692</sup> The existence of this close relationship between the crime and the armed conflict will be established where it can be shown that the conflict played a substantial part in the perpetrator’s ability to commit the crime, his or her decision to commit it, the manner in which it was committed, or the purpose for which it was committed.<sup>1693</sup>

847. The final requirement for the application of an Article 3 charge based on Common Article 3 is that the victim was taking no active part in the hostilities at the time the offence was committed. This covers, among other persons, members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.<sup>1694</sup> The perpetrator must know or should have known the status of the victims as persons taking no active part in the hostilities.<sup>1695</sup>

848. The elements of the crime of murder have been discussed in part 5.2.1, above.

<sup>1690</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 134; confirmed in *Čelebići* Appeal Judgement, paras 173-4; *Strugar* Trial Judgement, para. 219.

<sup>1691</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70; *Kunarac et al.* Appeal Judgement, para. 55; *Stakić* Appeal Judgement, para. 342.

<sup>1692</sup> *Kunarac et al.* Appeal Judgement, para. 57; *Stakić* Appeal Judgement, para. 342.

<sup>1693</sup> *Kunarac et al.* Appeal Judgement, para. 58.

<sup>1694</sup> Common Article 3(1); *Čelebići* Appeal Judgement, para. 420.

<sup>1695</sup> *Halilović* Trial Judgement, para. 36.

### 5.5.2 Legal findings

849. All incidents of killings have been found to constitute either murder or extermination as crimes against humanity (see part 5.2.2, above). As murder as a violation of the laws or customs of war was charged in the alternative to these crimes, the Chamber will not make any legal findings on the former. The Chamber has classified all proven killings under Article 5 of the Statute, so the allegation regarding Article 3 of the Statute (violations of the laws or customs of war), which was charged in the alternative to murder as a crime against humanity, is rendered moot.

## 5.6 Genocide and/or complicity in genocide

### 5.6.1 Applicable law

850. The indictment charges genocide and complicity in genocide (count 1 and count 2) cumulatively or in the alternative (“and/or”).<sup>1696</sup>

851. *Mens rea*. The hallmark of the crime of genocide is the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such.<sup>1697</sup> The constituent elements of the mens rea of genocide will be discussed for the most part briefly, as the applicable law is by now generally settled.

852. Paragraph 15 of the indictment alleges participation in an enterprise to bring about the *partial* destruction of the Bosnian-Muslim and Bosnian-Croat groups in territories within Bosnia-Herzegovina. Any ambiguity as to whether this allegation denotes the intent of the participants, or the actual extent of the crime, is resolved in paragraph 16, where destruction of the groups *in part* is said to have been the intent.

853. Thus the indictment alleges intent to achieve destruction “in part”. This can be proven only if the intent to destroy a *substantial* part of the protected group is proven.<sup>1698</sup> To determine whether the targeted part of the group is substantial, the numerical relation of the part to the overall size of the group should be considered, as well as its prominence

<sup>1696</sup> The cumulative possibility is relevant only where *different* acts are concerned. In relation to one and the same act, either genocide or complicity in genocide may be established against a person, but not both, since at stake are two alternative modes of personal liability for a crime, not two different substantive crimes. This point will be revisited in the section below on complicity in genocide.

<sup>1697</sup> As indicated in paragraph 16 of the indictment, genocide may be considered an extreme form of persecution, although it should be noted, too, that the actus reus of genocide is significantly narrower than that of persecution.

within the group as a whole.<sup>1699</sup> In *Krstić*, the proven intent to destroy approximately 40,000 Bosnian Muslims of Srebrenica was said by the Appeals Chamber to meet the substantiality requirement.<sup>1700</sup>

854. “Destruction”, as a component of the mens rea of genocide, is not limited to physical or biological destruction of the group’s members, since the group (or a part of it) can be destroyed in other ways, such as by transferring children out of the group (or the part) or by severing the bonds among its members.<sup>1701</sup> Thus it has been said that one may rely, for example, on evidence of deliberate forcible transfer as evidence of the mens rea of genocide.<sup>1702</sup>

855. As with “destruction”, the group as either national, ethnic, racial, or religious is a notion that occurs both in the mens rea of genocide and in the actus reus. In the context of the present case it is the least problematic notion. There is no dispute that the Bosnian Muslims and Bosnian Croats were national or ethnic groups in the sense of the Genocide Convention.

856. The words “as such” which conclude the statement of intent have been interpreted by the Appeals Chamber to mean that one of the proscribed acts was committed against a victim *because* of his or her membership of the protected group, but not necessarily *solely* because of that membership.<sup>1703</sup>

857. A peculiarity of the present case, which involves multiple levels of actors, is that a crime committed by a person of low political or military rank without genocidal intent may nevertheless be characterized as an act of genocide if it was procured by a person of higher authority acting with that intent. The Chamber will therefore make findings on the intent of genocide in two separate places in this judgement: in the present part, in relation to lower-level perpetrators, and in part 6, in relation to the Accused.

858. Lastly, on intent, genocide requires proof of intent to commit the underlying act, or actus reus, in addition to proof of the specific intent of genocide.

<sup>1698</sup> *Krstić* Appeal Judgement, paras 8-12.

<sup>1699</sup> *Ibid.*, para. 14.

<sup>1700</sup> *Ibid.*, paras 15-16.

<sup>1701</sup> It is not accurate to speak of “the group” as being amenable to physical or biological destruction. Its members are, of course, physical or biological beings, but the bonds among its members, as well as such aspects of the group as its members’ culture and beliefs, are neither physical nor biological. Hence the Genocide Convention’s “intent to destroy” the group cannot sensibly be regarded as reducible to an intent to destroy the group physically or biologically, as has occasionally been said.

<sup>1702</sup> *Krstić* Appeal Judgement, para. 33.

859. *Actus reus*. Of the five types of *actus reus* listed in Article 4 of the Statute, the indictment charges the first three:

(i) Killing members of the Bosnian-Muslim or Bosnian-Croat groups. This is to be understood as *murder* of members of those groups,<sup>1704</sup> murder having been defined already in part 5.2.1, above.

(ii) Causing serious bodily or mental harm to members of the same groups, by cruel or inhuman treatment, including torture, physical and psychological abuse, sexual violence, and beatings.

(iii) Inflicting on the groups conditions of life calculated to bring about their physical destruction. The conditions are alleged to have been: cruel or inhuman treatment, including torture, physical and psychological abuse, and sexual violence; inhumane living conditions, namely failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities; and forced labour.

860. The *actus reus* of genocide, as charged in the indictment, is further narrowed in the case of (i), to killings committed in connection with attacks on towns and villages or in connection with detention centres, as specified in schedules A and B of the indictment; and in the cases of (ii) and (iii), to acts committed in detention centres, as shown in schedule C.

861. The meanings of the terms used in the indictment to particularize the acts falling under (ii) and (iii) – cruel or inhuman treatment, inhumane living conditions, and forced labour – have been explained above in part 5.4. However, in the context of genocide the act must contribute, or tend to contribute, to the destruction of the protected group or part thereof. Murder has that effect, as do the two types of *actus reus* *not* charged in the indictment, namely measures to prevent births in the group and transfer of children out of the group. The *actus reus* in (iii) – “inflicting on the group conditions of life calculated to bring about its physical destruction” – by its own terms must have, or tend to have, a destructive effect on the group or the part.

862. Thus, only (ii) – “causing serious bodily or mental harm” – remains somewhat open to interpretation, but a fair and consistent construction of this clause alongside the four other types of *actus reus* is that, in order to pass as the *actus reus* of genocide under (ii), the act must inflict such “harm” as to contribute, or tend to contribute, to the destruction of the

<sup>1703</sup> *Niyitegeka* Appeal Judgement, para. 53.

group or part thereof. Harm amounting to “a grave and long-term disadvantage to a person’s ability to lead a normal and constructive life” has been said to be sufficient for this purpose.<sup>1705</sup>

863. At the same time, it follows that “failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities” will not amount to the *actus reus* of genocide if the deprivation is not so severe as to contribute to the destruction of the group, or tend to do so. Living conditions, which may be inadequate by any number of standards, may nevertheless be adequate for the survival of the group.

864. *Complicity in genocide.* Where acts of genocide are found to have been committed, it becomes possible to find that a person associated himself or herself with those acts to such an extent that he or she may be found guilty of complicity.

865. The term “complicity” comes from the Genocide Convention, not from Article 7(1) of the Tribunal’s Statute, and as it has been suggested that there is a difference between complicity, on the one hand, and the cognate “aiding and abetting” found in Article 7(1), on the other, the Chamber will pause briefly to consider this difference. The Appeals Chamber has said that complicity, as it occurs in the Genocide Convention, may encompass conduct “broader” than aiding and abetting.<sup>1706</sup> For complicity that is “broader”, the Prosecution must prove that the accomplice not only *knew* of the principal’s specific intent to destroy the protected group in whole or in part, but also shared that intent himself or herself.<sup>1707</sup>

866. In sum, genocide will be proven if one or more of the acts specified in (i) (ii), or (iii), above, was committed with the intent to destroy, in part, the Bosnian-Muslim or Bosnian-Croat ethnic group, as such. The acts must destroy, or tend to destroy, a substantial part of the group, and the intent must be that that part of the group exists no more.

<sup>1704</sup> *Kayishema and Ruzindana* Appeal Judgement, para. 151.

<sup>1705</sup> *Krstić* Trial Judgement, para. 513.

<sup>1706</sup> *Krstić* Appeal Judgement, para. 139. In the *Ntakirutimana and Ntakirutimana* Appeal Judgement, the Appeals Chamber said that “the prohibited act of complicity in genocide, which is included in the Genocide Convention and in Article 2 of the [ICTR] Statute, *encompasses* aiding and abetting” (para. 371, emphasis added).

<sup>1707</sup> *Krstić* Appeal Judgement, para. 142; *Ntakirutimana and Ntakirutimana* Appeal Judgement, paras 500-1.

### 5.6.2 *Legal findings*

867. The Chamber finds that some of the crimes described earlier in part 5 meet the requirements of the actus reus for genocide. This is the case with regard to all of the crimes of murder and extermination, described above in part 5.2.2, as well as some instances of cruel or inhumane treatment, discussed above in part 5.4.2. The Chamber does not find, however, that any of these acts were committed with the intent to destroy, in part, the Bosnian-Muslim or Bosnian-Croat ethnic group, as such.

868. In the instances of extermination, the Chamber has considered whether a genocidal intent of the perpetrator could be inferred directly from the large number of killings. In this context, the Chamber has also considered the number of victims relative to the number of Muslims and Croats present in the village or detention centre where the killings took place, and the selection of the victims. The Chamber finds that in no instance are the killings themselves sufficient to make a conclusive finding on whether the perpetrator had a genocidal intent.

869. In addition to the acts themselves, the Chamber has considered the surrounding circumstances, including words uttered by the perpetrators and other persons at the scene of the crime and official reports on the crimes, in order to establish the mens rea. Considering the evidence as a whole, the Chamber can make no conclusive finding that any acts were committed with the intent to destroy, in part, the Bosnian-Muslim or Bosnian-Croat ethnic group, as such.

## **6. The Accused's responsibility**

### 6.1 Overview

870. In this part the Chamber sets out the law applicable to joint criminal enterprise liability (JCE). Facts relevant to the Accused's criminal liability are discussed in the subsequent sections, after which these facts are interpreted in light of the applicable law. Having determined the Accused's criminal liability, the Chamber concludes this part by making findings on the charges in the indictment and on the permissibility of multiple convictions for the same acts.

### 6.2 Law of joint criminal enterprise

#### *6.2.1 Arguments of the parties*

871. The Defence submitted that JCE as pleaded by the Prosecution is not an appropriate mode of liability in this case.<sup>1708</sup> According to the Defence, the case law relied upon by the *Tadić* Appeals Chamber to prove the doctrine's existence in customary international law consists mainly of "low-level, small scale criminal activity, usually the unlawful killings of small groups of POWs, committed by small groups of German soldiers, or civilians."<sup>1709</sup> The political leaders held criminally responsible following the Second World War were convicted under theories of conspiracy and organizational liability, not JCE, according to the Defence.<sup>1710</sup> Thus, in the Defence view, customary international law does not support the application of JCE to the present case.

872. The Defence relied on the *Brđanin* Trial Judgement, where it is held that "JCE is not an appropriate mode of liability to describe the individual criminal responsibility of the Accused, given the extraordinarily broad nature of this case, where the Prosecution seeks to include within a JCE a person as structurally remote from the commission of the crimes charged in the Indictment as the Accused."<sup>1711</sup> The Defence submitted that the reasoning in *Brđanin* should be applied here, and JCE rejected.<sup>1712</sup>

<sup>1708</sup> Defence final trial brief, para. 102.

<sup>1709</sup> Ibid., para. 106.

<sup>1710</sup> Ibid., para. 121.

<sup>1711</sup> *Brđanin* Trial Judgement, para. 355.

<sup>1712</sup> Defence final trial brief, paras 131-3.

873. Closely related to this argument was the Defence's next assertion, also based on the reasoning in *Brđanin*,<sup>1713</sup> that liability under JCE requires proof that the Accused had entered into an agreement with the individuals who were the principal perpetrators of the underlying crimes<sup>1714</sup> and that the Accused carried out acts which substantially assisted or significantly effected the furtherance of the JCE's objective.<sup>1715</sup>

874. The Prosecution replied that, according to the Appeals Chamber, JCE liability can apply to a massive criminal campaign, and that there is no geographic limitation on JCE.<sup>1716</sup> The Prosecution also cited an Appeals Chamber decision which states that "liability for participation in a criminal plan is as wide as the plan itself, even if the plan amounts to a nation-wide government-organized system of cruelty and injustice."<sup>1717</sup>

875. The Prosecution further submitted that the principal perpetrators of the crimes do not have to be members of the JCE, and no agreement between the Accused and the principal perpetrators is required for JCE liability.<sup>1718</sup> According to the Prosecution, the *Stakić* Appeal Judgement implicitly confirms that a JCE may be comprised of participants at the leadership level who use the principal perpetrators of the crimes as their "instruments".<sup>1719</sup> As for the agreement requirement, the Prosecution argued that the only support for this conclusion of the *Brđanin* Trial Chamber is an interlocutory decision in the same case, which itself cites no authority.<sup>1720</sup>

### 6.2.2 Discussion

876. The Prosecution's case is that the Accused is responsible pursuant to Article 7(1) of the Statute for the crimes charged in the indictment, and in particular that he is responsible as a co-perpetrator in a joint criminal enterprise. The Defence's assertion that JCE is not an appropriate mode of liability in this case, due to the size of the case, its scope, and the fact that the Accused was structurally remote from the commission of the crimes charged in the indictment, is incorrect, as the Appeals Chamber has never suggested that JCE liability can

<sup>1713</sup> *Brđanin* Trial Judgement, para. 347.

<sup>1714</sup> Defence final trial brief, para. 140.

<sup>1715</sup> *Ibid.*, para. 143.

<sup>1716</sup> T. 27320-1; *Prosecutor v. Edouard Karemera et al.*, Decision on Jurisdictional Appeals: Joint Criminal Enterprise, 12 April 2006.

<sup>1717</sup> T. 27321, citing *Prosecutor v. André Rwamakuba*, Decision on Interlocutory Appeal Regarding Application of Joint Criminal Enterprise to the Crime of Genocide, 22 October 2004, para. 25.

<sup>1718</sup> T. 27322.

<sup>1719</sup> T. 27323.

arise only from participation in enterprises of small size or scope.<sup>1721</sup> Far from being inappropriate, JCE is well suited to cases such as the present one, in which numerous persons are all said to be concerned with the commission of a large number of crimes.

877. On the facts of this case, as discussed later in this section, the Chamber finds JCE to be the most appropriate mode of liability. Therefore, other forms of liability charged in the indictment will not be further considered in this judgement.

878. In the context of the Tribunal's jurisprudence the JCE doctrine received its first detailed treatment in the *Tadić* Appeal Judgement.<sup>1722</sup> The *Tadić* Appeals Chamber found in broad terms that a person who in execution of a common criminal purpose or JCE contributes to the commission of crimes by a group of persons may be held criminally liable subject to certain conditions.<sup>1723</sup> The Appeals Chamber's analysis of customary international law resulted in the identification and definition of three forms of JCE liability.

879. In the first JCE form:

all co-defendants, acting pursuant to a common design, possess the same criminal intention; for instance, the formulation of a plan among the co-perpetrators to kill, where, in effecting this common design (and even if each co-perpetrator carries out a different role within it), they ... all possess the intent to kill.

The objective and subjective prerequisites for imputing criminal responsibility to a participant who did not, or cannot be proven to have effected the killing are as follows:

(i) the accused must voluntarily participate in one aspect of the common design (for instance, by inflicting non-fatal violence upon the victim, or by providing material assistance to or facilitating the activities of his co-perpetrators); and

(ii) the accused, even if not personally effecting the killing, must nevertheless intend this result.<sup>1724</sup>

880. The second form of JCE, which is described as a special case of the first form, was found to have served cases where the offences charged were alleged to have been committed by members of military or administrative units, such as those running

<sup>1720</sup> T. 27323.

<sup>1721</sup> *Prosecutor v. Edouard Karemera*, Decision on Jurisdictional Appeals: Joint Criminal Enterprise, 12 April 2006, paras 15-16.

<sup>1722</sup> *Tadić* Appeal Judgement, paras 172-85.

<sup>1723</sup> *Ibid.*, para. 190.

<sup>1724</sup> *Ibid.*, para. 196.

concentration camps and comparable “systems”.<sup>1725</sup> The Prosecution’s attempt to revive this notion in its final trial brief and closing arguments,<sup>1726</sup> when the notion had been left behind already at the Rule 98 bis stage,<sup>1727</sup> does not warrant consideration here.

881. The third form of JCE is characterized by a common criminal design to pursue a course of conduct where one or more of the co-perpetrators commits an act which, while outside the common design, is a natural and foreseeable consequence of the implementation of that design.<sup>1728</sup>

882. There are two requirements in this context, one objective and the other subjective.<sup>1729</sup> The objective element does not depend upon the accused’s state of mind. This is the requirement that the resulting crime was a natural and foreseeable consequence of the JCE’s execution. It is to be distinguished from the subjective state of mind, namely that the accused was aware that the resulting crime was a possible consequence of the execution of the JCE, and participated with that awareness.<sup>1730</sup>

883. To summarize the elements of the first and third forms of JCE:

(i) *Plurality of persons.* A joint criminal enterprise exists when a plurality of persons participate in the realization of a common criminal objective.<sup>1731</sup> The persons participating in the criminal enterprise need not be organized in a military, political, or administrative structure.<sup>1732</sup>

(ii) *A common objective which amounts to or involves the commission of a crime provided for in the Statute.* The first form of the JCE exists where the common objective amounts to, or involves the commission of a crime provided for in the Statute. The mens rea required for the first form is that the JCE participants, including the accused, had a common state of mind, namely the state of mind that the statutory crime(s) forming part of the objective should be carried out.<sup>1733</sup> The third form of the JCE depends on whether it is natural and foreseeable that the execution of the JCE in its first form will lead to the

<sup>1725</sup> Ibid., paras 202-03. For the notion of “system”: *Krnjelac* Appeal Judgement, para. 89, and *Vasiljević* Appeal Judgement, para. 105.

<sup>1726</sup> Prosecution’s final trial brief, para. 5, and T. 27459-60, respectively.

<sup>1727</sup> T. 17131.

<sup>1728</sup> *Tadić* Appeal Judgement, para. 204.

<sup>1729</sup> *Prosecutor v. Radoslav Brđanin and Momir Talić*, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001, paras 28-30.

<sup>1730</sup> *Blaškić* Appeal Judgement, para. 33.

<sup>1731</sup> *Kvočka* Trial Judgement, para. 307.

<sup>1732</sup> *Tadić* Appeal Judgement, para. 227.

<sup>1733</sup> Ibid., para. 228.

commission of one or more other statutory crimes. In addition to the intent of the first form, it is required that the accused took the risk that another statutory crime – not forming part of the common criminal objective but nevertheless being a natural and foreseeable consequence of the JCE – would be committed.<sup>1734</sup>

According to the Appeals Chamber, the common objective need not have been previously arranged or formulated.<sup>1735</sup> This means that the second JCE element does not presume preparatory planning or explicit agreement among JCE participants.<sup>1736</sup> Moreover, a JCE may exist even if none or only some of the principal perpetrators are part of it, because, for example, they are not aware of the JCE or its objective and are procured by members of the JCE to commit crimes which further that objective.<sup>1737</sup>

(iii) *Participation of the accused in the objective's implementation.* This is achieved by the accused's commission of a crime forming part of the common objective (and provided for in the Statute). Alternatively, instead of committing the intended crime as a principal perpetrator, the accused's conduct may satisfy this element if it involved procuring or giving assistance to the execution of a crime forming part of the common objective.<sup>1738</sup> A contribution of the accused to the JCE need not have been, as a matter of law, either substantial<sup>1739</sup> or necessary to the achievement of the JCE's objective.<sup>1740</sup>

884. In relation to the first two elements of JCE liability, it is the common objective that begins to transform a plurality of persons into a group or enterprise, as this plurality has in common the particular objective. It is evident, however, that a common objective alone is not always sufficient to determine a group, as different and independent groups may happen to share identical objectives. Rather, it is the interaction or cooperation among persons – their joint action – in addition to their common objective, that makes those persons a group. The persons in a criminal enterprise must be shown to act together,<sup>1741</sup> or

<sup>1734</sup> Ibid.; *Prosecutor v. Radoslav Brđanin and Momir Talić*, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001, para. 31; *Krstić* Trial Judgement, para. 613; *Blaškić* Appeal Judgement, para. 33.

<sup>1735</sup> *Tadić* Appeal Judgement, para. 227.

<sup>1736</sup> *Kvočka et al.* Appeal Judgement, paras 115-19.

<sup>1737</sup> *Prosecutor v. Milan Milutinović et al.*, Decision on Ojdanić's Motion Challenging Jurisdiction: Indirect Co-Perpetration, 22 March 2006, Separate Opinion of Judge Bonomy.

<sup>1738</sup> *Tadić* Appeal Judgement, para. 227; *Prosecutor v. Milorad Krnojelac*, Decision on Form of Second Amended Indictment, 11 May 2000, para. 15.

<sup>1739</sup> *Kvočka et al.* Appeal Judgement, para. 97.

<sup>1740</sup> Ibid., para. 98.

<sup>1741</sup> *Stakić* Appeal Judgement, para. 69.

in concert with each other,<sup>1742</sup> in the implementation of a common objective, if they are to share responsibility for the crimes committed through the JCE. A concern expressed by the Trial Chamber in *Brđanin*<sup>1743</sup> about the issue of alleged JCE participants acting independently of each other, is sufficiently addressed by the requirement that joint action among members of a criminal enterprise is proven.

885. The *Tadić* Appeals Chamber concluded by noting the differences between responsibility arising from membership of a JCE and responsibility for aiding and abetting crimes, these being distinct forms of individual criminal liability under Article 7(1) of the Statute. The differences are twofold:

*Actus reus*: The aider and abettor carries out acts specifically directed to assist, encourage, or lend moral support to the perpetration of a certain *specific* crime (murder, etc.), and this support has a substantial effect upon the perpetration of that crime. By contrast, in the case of action pursuant to a common criminal objective, it is sufficient for the participant to perform acts which in some way are directed to the furtherance of the common objective through the commission of crimes.<sup>1744</sup>

*Mens rea*: In the case of aiding and abetting, the requisite mental element is knowledge that the acts performed by the aider and abettor assist the commission of a specific crime by the principal. By contrast, in the case of co-perpetration as part of a JCE, intent to achieve the criminal objective is required.<sup>1745</sup>

886. As stated by the Appeals Chamber in the *Kvočka* case, there is no form of responsibility provided for in the Statute or in customary law which could be described as “aiding and abetting a JCE.”<sup>1746</sup> Gradations of fault within the JCE doctrine are possible, and may be reflected in the sentences given. However, a person's conduct either meets the conditions of JCE membership, as set out above, in which case he or she is characterized as a co-perpetrator, or the conduct fails the threshold, in which case there is no JCE responsibility. The last sentence of paragraph 4 of the indictment in the present case (“Alternatively, he participated as an aider or abettor”) thus is an inaccurate plea of criminal responsibility, and will be disregarded.

<sup>1742</sup> *Prosecutor v. Radoslav Brđanin and Momir Talić*, Decision on Objections by Momir Talić to the Form of the Amended Indictment, 20 February 2001, para. 12. Also *Gacumbitsi* Appeal Judgement, Separate Opinion of Judge Shahabuddeen, para 32.

<sup>1743</sup> *Brđanin* Trial Judgement, para. 351.

<sup>1744</sup> *Tadić* Appeal Judgement, para. 229.

<sup>1745</sup> *Ibid.*, para. 229.

### 6.3 Observations preliminary to discussion of facts

887. The Chamber wishes to make three preliminary observations that are especially relevant to this part of the judgement.

888. The Accused expressed several times his wish to prove his innocence.<sup>1747</sup> The Accused of course enjoys a presumption of innocence. In evaluating the evidence given by the Accused as a witness, the Chamber found that in many matters the Accused's evidence did not cast doubt on incriminating evidence which the Chamber received from other sources, such as documents and other witnesses. Although the Accused's testimony assisted the Chamber to better understand some issues, the Chamber found the Accused, especially upon cross-examination, to be of very low credibility. On key points, therefore, little or no weight has been given to his evidence. A conclusion on the credibility of a witness cannot always be fully explained, nor is a Trial Chamber required to give such an explanation. Nevertheless, in what follows, the Chamber will highlight certain aspects of the Accused's testimony, and explain why it did not consider these aspects of his testimony credible.

889. Second, the Chamber cannot possibly discuss here all the evidence relevant to the Accused's responsibility which it received in the course of two-and-a-half years of trial and subsequently analysed. Having carefully deliberated on this vast amount of evidence, what the Chamber can (and must) do is to illustrate the types of fact that underlie its conclusions, so that these conclusions are sufficiently explained.

890. Third, vast though the amount of evidence in this case is, some findings must be made through secure inferences from other proven evidence. The Accused's knowledge of events, acceptance of new circumstances, and general intentionality during the indictment period, are one area where inferences must be made. The information the Accused received during this period is an important element for the determination of his responsibility, because knowledge combined with continuing participation can be conclusive as to a person's intent. When testifying, the Accused denied that he had knowledge of many facts surrounding crimes committed by Bosnian-Serb authorities in 1992.

<sup>1746</sup> *Kvočka et al.* Appeal Judgement, para. 91.

<sup>1747</sup> E.g. T. 12909.

891. The Chamber has before it a large body of evidence directly proving the Accused's intent, as well as his knowledge of many facts. For example, the Accused's intent and state of knowledge are directly proven by witnesses who testified that they had presented the Accused with information about crimes that were being committed against Muslims and Croats. The evidence sometimes includes the Accused's response to such information. Minutes of meetings which the Accused attended or presided over (including Assembly and Presidency sessions) contain much evidence of this kind. Recordings of telephone calls made by the Accused are also directly probative. At other times the evidence is less direct, such as the evidence of constant interaction between the Accused and knowledgeable persons – Assembly deputies, army officers, local SDS leaders, etc. This evidence, combined with information about the Accused's positions, powers, and interests, can be conclusive as to the kind of information that was made known to the Accused.

892. Documents produced by the Bosnian-Serb administration – copious in number – and by international organizations are usually clearly addressed, but normally the flow of such information does not come to a halt at the addressee. For example, information in important documents addressed to the Accused as Assembly President, or to Radovan Karadžić as President of the Republic, or simply addressed to the Bosnian-Serb Presidency, or to the VRS Main Staff, or to Prime Minister Đerić, who was also a member of the Presidency, can be assumed in the context of the times to have been shared among those persons who, as shown by the evidence on the structure and functioning of the Bosnian-Serb authorities, worked together very closely and were cleared to receive the most sensitive information, in particular the Accused and Karadžić. The Chamber found no evidence suggesting that any matters were kept from the Accused (as a member of the Presidency he partook of information-sharing on topics too sensitive to record, as indicated in the minutes of some Presidency sessions) or that he was uninformed about any issue of substance to the present case, except when we find the Accused actively seeking information following up on events.

893. According to this reasoning, the Chamber has made findings, detailed later in this part, that the Accused became aware of information – if not always its specifics, then at least in outline – on such matters reported to the Bosnian-Serb leadership, if not to him in particular, as the civilian detention, deportation or forced transfer, cruel or inhumane treatment, murder and extermination, and destruction of personal and cultural property of Muslims and Croats by Bosnian-Serb forces. Such inferences are made secure by the

Chamber's finding that the Accused was no passive repository of information, but was eager to obtain information, indeed detailed information, about the unfolding events. He cultivated daily contact with expertly informed persons and was a focus of consultation for the administrators of the Bosnian-Serb provinces. The Chamber has no doubt that he and his closest associate, Radovan Karadžić, shared between themselves all important information about Bosnian-Serb affairs.

#### 6.4 Retrospective

894. In August 1995, before the Bosnian-Serb Assembly, Radovan Karadžić praised the achievements of the struggle which began in 1992: "We absolutely cannot let ourselves get any ideas about them taking our traditional territories from us. To tell the truth, there are towns that we've grabbed for ourselves, and there were only 30% of us. I can name as many of those as you want, but we cannot give up the towns where we made up 70%." He continued: "Don't let this get around, but remember how many of us there were in Bratunac, how many in Srebrenica, how many in Višegrad, how many in Rogatica, how many in Vlasenica, in Zvornik, etc. Due to strategic importance they had to become ours, and no one is practically questioning it any more."<sup>1748</sup>

895. The Serb component of pre-conflict population of Bratunac municipality had been 34 per cent; Višegrad's 32 per cent; Rogatica's 38 per cent; Vlasenica's 42 per cent; and Zvornik's 38 per cent.<sup>1749</sup> These territories were "grabbed" by the Bosnian Serbs in the manner explained in part 4 of this judgement, and the departure of Muslims and Croats, and the influx of Serbs from other regions of Bosnia-Herzegovina, had turned the peacetime demographic on its head.<sup>1750</sup>

896. In the period following 1992, the aim of the Accused and other leaders of the Bosnian-Serb secession was to maintain control of the territories they had grabbed and ethnically recomposed through force. On 21 August 1994 the Accused expressed admiration for fellow speakers on a Banja Luka television show, whose chauvinistic and

<sup>1748</sup> P1240, pp. 68-69; T. 24960-61.

<sup>1749</sup> See part 4 of this judgement.

<sup>1750</sup> In 1993 Karadžić stated that an ethnically clean territory had already been achieved in certain areas, giving the example of Zvornik, where by January 1993 the population was, according to Karadžić, numerically at roughly the same level as before the Bosnian-Serb take-over, although by then all the inhabitants were Serb (P65, tab 220, p. 20). According to the Chamber's findings in part 4 of this judgement,

self-congratulatory addresses aimed at cementing the status quo.<sup>1751</sup> Rajko Kasagić had said on that occasion that “the Muslims and Croats ... turned us into Turks and converted us to their religion, they impaled us, they plucked out our eyes.”<sup>1752</sup> Vojo Kuprešanin had sermonized about ethnic purity: “There can be no Muslim state on land that has been forever Serbian. There is no Muslim people and the entire world knows this. There are only Serbian people in these parts.”<sup>1753</sup> Radoslav Brđanin had portrayed Muslims as filth, some of which still clung to the Serbian boot: “it is the obligation of the Serbs over the next hundred years to wipe their feet from the foul non-Christians who have befouled this soil of ours.”<sup>1754</sup> The rhetorical frenzy was thrown into high gear by the next speaker, Milenko Gligorić: “Dear brothers and sisters, the Serbian volcano has been ignited, and nothing can stop it.”<sup>1755</sup> Biljana Plavšić, whose turn came next, dwelt on the “terrible genocide” of the Second World War, in which 1,200,000 Serbs (as she told the story) had perished, and which lay at the root of latter-day Bosnian-Serb separatism.<sup>1756</sup>

897. The Accused, as the last speaker on the show, having expressed his “great satisfaction” for “these wonderful words by my predecessors”, wrapped up the lesson for the television audience: “We simply want to separate because we cannot live together. ... It would take a great war to force us to live together again. We don't need war to separate us – we are already separate. The war would be necessary for someone to assemble us together in the same state.”<sup>1757</sup> “Separation” can be understood in a number of ways, but the events of 1992 help to narrow the alternatives. Karadžić's speech of July 1994 to the Bosnian-Serb Assembly, that the aim of the Bosnian Serbs had been to “get rid of the enemy in our house, meaning the Croats and Muslims and not to be together in one state anymore”,<sup>1758</sup> is the meaning of separation that the Accused was celebrating in public one month after this speech.

898. As the Accused had indicated on the occasion of his television appearance, the war of separation and expulsion was already history by that time. Only a few Serb aspirations

much of the Muslim population was driven out of the municipalities of Bratunac, Višegrad, Rogatica, Vlasenica, and Zvornik.

<sup>1751</sup> P1184, p. 9.

<sup>1752</sup> P1184, p. 3.

<sup>1753</sup> P1184, p. 6.

<sup>1754</sup> P1184, p. 6.

<sup>1755</sup> P1184, p. 7.

<sup>1756</sup> P1184, p. 8.

<sup>1757</sup> P1184, p. 12; T. 24946-9.

<sup>1758</sup> P1201, p. 2.

remained unfulfilled. Sarajevo, which the Bosnian-Serb administration had had to abandon in April 1992 when it moved to Pale, was unfinished business for the Accused. It was his home town and he wanted it back on his own terms. In an *Oslobodenje* article published in November 1994, he set out his vision of an ethnically cleansed Sarajevo: “The significance of Sarajevo for our struggle is huge. ... We are talking about two towns, two countries here. That is the first phase. I will tell you now publicly what I think, for the first time to the ‘Oslobodenje’. The perspective for Sarajevo is such that in the future it will be a unified town but a Serb one completely. The Muslims will have to look for a capital outside of Sarajevo, somewhere else. That is the natural course of things. This town will belong to the Republika Srpska in its totality. ... It is our goal to achieve all this without war but I doubt that the Muslims want the same. I am afraid that for this reason the deciding battle of this war will take place exactly here, in Sarajevo.”<sup>1759</sup>

899. In 2006, when the Accused was testifying as a witness in this case, he resiled from the above words, remarking that they were “inappropriate and really, it’s almost as if it wasn’t me who said them.”<sup>1760</sup> However, by the end of 1992, the Bosnian Serbs had, for the most part, restored “the natural course of things” – Serb dominance over historical Serb lands – in Bosnia-Herzegovina.

900. In another *Oslobodenje* article, dated November 1995, the Accused is quoted as saying: “I will remind you of something. At the beginning of the war, we adopted six strategic goals. The first was to separate ourselves from Muslims and Croats”.<sup>1761</sup> This was the Accused’s most important goal, and as President of the Bosnian-Serb Assembly and a member of the Bosnian-Serb Presidency he pursued it ceaselessly. Expressions of ethnic hatred and scaremongering in the Bosnian-Serb Assembly were a staple under his chairmanship throughout, and beyond, the indictment period. At an Assembly meeting on 8 January 1993, the Accused praised an incendiary speech by Vlado Kovačević, which included the following imagery: “[The] two-headed dragon has opened his jaws over the Serb people in order to swallow it, to destroy it, to wipe it off the face of the earth. Both heads, the Islamic one as well as the Vatican one are equally dangerous for us. All those democracies ... of Europe ... want ... to have us imprisoned in the dark realm of Islam.”<sup>1762</sup>

<sup>1759</sup> P850, p. 11; T. 25718-24.

<sup>1760</sup> T. 25749.

<sup>1761</sup> P1241; T. 25663.

<sup>1762</sup> P65, tab 218, pp. 32-3.

The Accused commended the speaker: "I have to conclude that you are the best when we have opponents", he said while thanking him.<sup>1763</sup>

901. The rhetoric of fear was interspersed with belittlement of the adversary aimed at dehumanization of the Muslim identity. At the 8 January 1993 session of the Assembly, the Accused questioned the very existence of a Muslim identity. For him, "Muslims" were pseudo-Turks, pseudo-Muslims, a fake people, at most a transient sect: "We should really take a stand concerning whether the Muslims are a nation. ... Let us [call them] 'a religious group of Turkish orientation'. That would be very important to say, because they are not from any Muslim world, but the Muslims of Turkish orientation, which is different from the real Muslims." He then placed a resolution before the Assembly and invited a vote: "All right gentlemen, let us conclude. The Assembly is at the position that the Muslims are a communist creation and that they are a religious group of Turkish orientation. ... We do not accept this artificial nation. We believe that the Muslims are a sect ... Who is for? Is there anyone against? Abstaining? Gentlemen, thank you, we adopted the conclusions unanimously."<sup>1764</sup>

902. As mentioned earlier, the Accused's credibility as a witness was very low, but the Accused did tell the Chamber in a rare moment of relative frankness that his characterization of Muslim identity as a fiction was "nonsense ... I have to say I never thought like this. If I could distance myself from this Momčilo Krajišnik, I would."<sup>1765</sup> By that parliamentary act of 8 January 1993, the Accused fashioned a theoretical underpinning for the removal of Muslims from Serb lands the year before: the Muslims were not a nation, and therefore had no right to the territory they had been deprived of.

### 6.5 Consolidation of Bosnian-Serb central authority

903. Calls to take over territories and create a Serb-dominated state in Bosnia-Herzegovina became strong and distinct in the Bosnian-Serb Assembly beginning in January 1992. At the Assembly session of 26 January 1992, a member of the Ministerial Council, Jovan Čizmović, addressed the Accused as Assembly President: "Taking the

<sup>1763</sup> P65, tab 218, p. 33; T. 24878-9.

<sup>1764</sup> P65, tab 218, pp. 79-80; T. 24964-6.

<sup>1765</sup> T. 24967; also T. 24983-9. Other evidence of this nature is cited below. Thus the Chamber does not accept the evidence of certain witnesses, to the effect that the Accused was a moderate who never expressed

constitutional and legal status of the peoples as a starting point, it is both politically and legally correct to allow all peoples to create their own sovereign and independent states on the basis of the right of each people to self-determination and an absolute respect of the will of all other peoples, and not on the basis of a unilateral act and by the use of force. To solve this problem, I propose that we begin with an urgent operationalization and a declaration on the establishment and promulgation of the Serbian Republic of Bosnia and Herzegovina. Tasks set out in the instructions of 19 December 1991 should be carried out.”<sup>1766</sup>

904. This undoubtedly was a reference to an eight-page document entitled “Instructions for the Organisation and Activity of the Organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances”,<sup>1767</sup> whose contents and dissemination at an SDS Main Board session on 19 or 20 December 1991 were discussed in part 2 of this judgement. The Instructions were on their face a kind of crisis-management manual for municipalities. Their significance lies not, as the Prosecution alleges, in their having served as a blueprint for municipal action in 1992 (which is not to say that some municipal organs did not purport to act pursuant to them, or that general similarities cannot be found between the arrangements outlined in that document and actual events) but in the fact that the Instructions were endorsed by the Bosnian-Serb leadership and had been received by many Bosnian-Serb municipal authorities. In early 1992, the foremost priority of the Accused and his associates was to concoct an idea of central authority and to promote the idea throughout the Bosnian-Serb territories. To this end, the Instructions served to shape calls for joint and coordinated action (as illustrated by Čizmović in this instance). The document represented a trapping of central authority, and such authority was an essential prerequisite for the success of Bosnian-Serb secessionism.

905. Even as late as the end of February 1992 there were fractures in the Bosnian-Serb body politic. The greatest challenge for the Accused and Radovan Karadžić in this respect was to secure the obeisance of Banja Luka and the Krajina (ARK) region, a Bosnian-Serb stronghold, constituted of a well-organized network of strongmen (Radoslav Brđanin, Vojo Kuprešanić, Stojan Župljanin, and others), and displaying a worrying political orientation away from Sarajevo and towards an abutting Serb enclave in the state of Croatia (also

animosity towards other ethnicities: for example, T. 9288, 9306, 1126-8, 1210-12, 18210, 18410-2, 18545, 18547-48, 19026-7, 19256-7, 22199, 22203, 22320-1, 26757; C3, para. 20; D263; D264.

<sup>1766</sup> P65, tab 84, p. 13; T. 25068-73.

calling itself the Krajina region).<sup>1768</sup> The Accused deftly handled the political fracture at the 28 February 1992 meeting of the Deputies' Club: "My proposal is that tonight ... all municipal committees of the SDS hold meetings with deputies from Krajina in the municipalities. So then the municipalities can decide, without any pressure or coercion, whether they are in favour of the option of a Serbian, that is to say Krajina state or for an integral Serbian BH. Every conclusion should be presented to the Assembly ... There would be no pressure. I think that we can find a solution here. Don't worry that they will do something against our will. The essential thing is that if we are not organised, then we will lose the battle. ... we must not persuade and pressure the people of Krajina that they have to be in Serbian BH if that is not in their interest. We must find a mode to explain what is not right. If we do not succeed in explaining it, we are not capable, and then they are right."<sup>1769</sup>

906. The Accused had an argument working in his favour, namely that Banja Luka would be less exposed militarily were it to submit to the pressure of centralization: "there is no force which will allow Krajina to remain unprotected, we gave our word that the army must protect Serbian Krajina."<sup>1770</sup>

907. Karadžić used similar rhetoric as Čizmović – also seemingly alluding to the December Instructions – at a joint session of the SDS Main and Executive Boards on 14 February 1992 (the Accused was present): "It's up to each individual to do his part of the job. We shall also talk about that today, but I have to say that we must be wise, unified, dedicated in order to take the last drop of power into our hands, in a humane way of course, carry it out in a humane way, a just way towards both Muslims and Croats who live there, that is particularly important, that there would be no fleeing from our areas. But also, that a bird cannot come in without ... your knowledge. ... That is, therefore, the stage number two, the second stage in smaller or bigger variations, but you have to implement that slowly now, to have absolute control who is traveling along your roads, what are they transporting, for which purposes ... you have to have at your disposal ... legal organs, reserve police and regular police which has to carry out their duties on orders of civil

<sup>1767</sup> P43.

<sup>1768</sup> P65, tab 93, pp. 61-3.

<sup>1769</sup> P292, tab 21.A, pp. 1-2.

<sup>1770</sup> P292, tab 21.A, p. 5.

authorities, because you are civil authorities in most municipalities, in large number of municipalities, in all our municipalities it is you.”<sup>1771</sup>

908. At this stage in early 1992, respect for the interests of other peoples was still being expressed by Karadžić, as separation and homogenization were not yet the declared aim of the nascent leadership. In a 1994 speech to the Bosnian-Serb Assembly, Karadžić remarked upon the benefits that had accrued to the Bosnian Serbs from the early establishment of a de facto overall Bosnian-Serb authority: “we won the battle for our Republic on 18 March [1992] ... thanks to Mr Krajišnik’s skills. We were talking all the time. ... The international community made a huge mistake by sending Cutileiro and Carrington to see us before the war and by accepting us as a party in the conflict. If they had ignored us, kept silent and acknowledged Bosnia and then said afterwards that some rebels were overthrowing their own state, we would have faced difficult problems; nobody would have talked to us.”<sup>1772</sup>

909. The Accused confirmed in court that this external recognition of a Bosnian-Serb authority had been “a great achievement”.<sup>1773</sup> In reality, however, the Western-style democratic structure of the Bosnian-Serb Republic was a veneer meant for international as well as local diversion. Behind it, the Chamber has found an accumulation of unchecked power in the hands of a few individuals in the name of ethnic chauvinism. One of those individuals was the Accused.

#### 6.6 Expansionism and the pursuit of ethnically recomposed territories

910. As Karadžić recalled in his 1994 speech, the battle for the Republic began on 18 March 1992, the day on which the Bosnian-Serb leadership, in the person of the Accused, made known to the Assembly deputies its wish to pre-emptively take over territories in Bosnia-Herzegovina, while separating the Bosnian Serbs from the other two ethnic groups.

911. Such action had been adumbrated already at the Assembly session the week before by deputy Rakić (“I propose that we occupy our territories and keep them”).<sup>1774</sup> “I think”, said the Accused on 18 March, “the problem is that they [the Muslims] want Bosnia and Herzegovina to be internationally recognised at any cost. They want it to be a state. In this

<sup>1771</sup> P67, tab 27.A, pp. 5-6; T. 25073-77.

<sup>1772</sup> P1201, pp. 5-6.

<sup>1773</sup> T. 25168.

respect, it would be good if we could do one thing for strategic reasons: if we could start implementing what we have agreed upon, the ethnic division on the ground. That we start determining the territory, and once the territory is determined, it remains to be established in additional negotiations whose authorities are to function and in what way. I cannot say whether this will be fair in political terms, there is not much fairness in politics after all, and yes, if it does not turn out to be fair, the Serbian people will be blamed. But we cannot accept a state designed in the mind of the SDA people.”<sup>1775</sup>

912. The essence of the Accused's message to the representatives of the Bosnian-Serb people was that he wanted new facts created on the ground in order to strengthen the hand of the Bosnian-Serb negotiators, of whom himself and Karadžić were the most prominent. (Their prominence is confirmed by Ambassador Herbert Okun, who was the special advisor to Cyrus Vance and a participant in the negotiations.<sup>1776</sup>) The Accused acknowledged that strengthening a negotiating position through the creation of facts which were the very subject of the negotiations was not a fair method; yet, he insinuated, better that the Serbs be unfair to the Muslims, than vice versa. The 18 March speech was a call to arms.

913. The Accused told the Chamber that he had not been talking about territorial expansion on that occasion, but “about agreement among the three sides. I was talking about the Sarajevo agreement.”<sup>1777</sup> But it is clear that he was not, or there would not have been any mention of an SDA design necessitating pre-emptive action by the Serbs, nor would there have been talk of unfairness. An agreement, the Accused was saying on 18 March, could await the time when the Serbs could negotiate from a position of superiority.

914. The Accused's directive was endorsed by deputies. Milovan Bjelošević noted that Croats had tried the same political-action model: “their armed units are occupying the areas they consider to be theirs.”<sup>1778</sup> Vidoje Ijačić said: “It has been stressed here that the actual situation on the ground was very important, and I would like to add that the more we achieve on the ground, the less will have to be said by our negotiators to achieve more.”<sup>1779</sup> Miroslav Vještica pushed the Accused for a deadline for action: “Mr President,

<sup>1774</sup> P65, tab 107, p. 36.

<sup>1775</sup> P65, tab 109, pp. 12-13.

<sup>1776</sup> T. 4154-55, 4333-34, 4237-39; P210 (Okun's diary, entry for 6 January 1993).

<sup>1777</sup> T. 23797.

<sup>1778</sup> P65, tab 109, p. 22; T. 25174-6.

<sup>1779</sup> P65, tab 109, p. 29; T. 25174-6.

I think that you have to give us an order, that after the next Assembly [session] you should order this, that we arrange it for the areas where it has not been done and to implement this: that the Serbs should occupy their territories so that no other forces could enter them.”<sup>1780</sup> Vještica was from Bosanska Krupa, and his willingness to submit to the Accused's directions on a matter of such vital importance is indicative of the authority the Accused had accumulated by mid March 1992.<sup>1781</sup>

915. It is clear from all the evidence examined by the Chamber that the Accused intended that not only *existing* Serb-dominated territories should separate from Bosnia-Herzegovina proper; if that were not so, there would have been no call for the creation of new facts on the ground. The Accused's “ethnic division” on the ground meant expulsion of the superfluous ethnicities (as Radoslav Brđanin called them<sup>1782</sup>) from claimed territories where the Serbs were in the minority, giving rise to new Serb-majority lands. Even in safe territories already dominated by Serbs, certain Muslim or Croat enclaves had to be uprooted and driven out in order to ensure a more complete Serb domination.

916. At the 18 March Assembly session, speaking after the Accused had launched the programme of ethnic-territorial conquest, Goran Zekić asserted the necessity of a separate Serb state on the territory of Bosnia-Herzegovina in order to avoid the result that Muslims “with their birth-rate ... will gradually stifle our territories.”<sup>1783</sup> The Accused, replying to Zekić, passed over the remark about the birth rate, as if it were an indisputable fact that Muslim prolificacy posed a threat to any Serb-held territory, no matter how favourable to the Serbs its ethnic composition happened to be to begin with.<sup>1784</sup>

917. At the end of February 1992, the Accused had preached at the Deputies' Club that the Muslims “want the armed forces of Bosnia and Herzegovina; they want the currency; they want a unitary Bosnia and Herzegovina; they want an Islamic state.”<sup>1785</sup> The fear of Islamization may have been the Accused's own, or perhaps it was only politics. Karadžić

<sup>1780</sup> P65, tab 109, p. 38; T. 25178-80.

<sup>1781</sup> The Accused said in court: “But you're quite right, I was chairing that session and everybody was addressing me as Mr. President, as of Mr. President of the Assembly. However, I'm sure that he meant Karadžić, as far as issuing orders was concerned. But even if he addressed me, it doesn't matter. I was not in charge of that. I could not do that. But he considered Karadžić to be the top person, although he was only president of the party. I'm saying that for the sake of the truth. It's not that I'm trying to disassociate myself.” (T. 25180.) The Chamber does not accept this argument. A series of speakers, including Vještica, had addressed the Accused as “Mr President”, and there is no indication that Vještica was addressing a different person at this point in his speech.

<sup>1782</sup> P361, p. 2.

<sup>1783</sup> P65, tab 109, p. 32.

<sup>1784</sup> P65, tab 109, pp. 32-3; T. 24865, 24869.

kept a notebook at his meetings with international peace negotiators, and at one of those meetings, on 27 February 1992, the day before the aforementioned Deputies' Club meeting, he noted an opinion expressed by the Accused, in the presence of Jose Cutileiro, that "Interest of EC is that [Bosnia-Herzegovina] does not fall apart. It should stay within present borders. This is against our interests, but we accepted it in order to prevent the creation of an Islamic republic in Europe."<sup>1786</sup> While some Muslims may indeed have called for an Islamic state, the fact that the Accused had adopted such language and put it to work for his own political ends, shows that by February 1992 he himself had moved to an extreme position in the political spectrum.

918. The Accused's point at the Deputies' Club on 28 February 1992 was that the Serbs, on the verge of being swamped, could not afford to share their future, which came down to their living space, with the Muslims. (The Accused, giving his explanation of the message sent by the Bosnian-Serb leadership to the Serb population, said in court: "If the Muslims do not want to live with us in Yugoslavia, if they want to impose a unitary Bosnia on us in an unconstitutional way, then we are rightfully afraid to live with them in a sealed-off Bosnia-Herzegovina where they are dominant."<sup>1787</sup>)

919. The Accused and Karadžić held this opinion in common; but whereas the Accused was a managerial type of comparatively few words, whose key role was to maintain a functioning central authority and an illusion of good governance while a new ethnic reality was being forged on the ground, Karadžić was the ideologue-visionary who gave expression to problems, and legitimization to solutions, which he had come to presume were on the mind of every Bosnian Serb:<sup>1788</sup> "Muslims cannot live with others," Karadžić railed at the same Club gathering in February 1992. "We must be clear on that. They couldn't live with the Hindu, who are as peaceful as sheep". The populations, he continued, would have to be separated in "each and every village" because the Muslims "will overwhelm you with their birth rate and their tricks."<sup>1789</sup> (Karadžić affected concern that the Muslims could "quadruple" their number from one generation to the next.<sup>1790</sup>)

<sup>1785</sup> P65, tab 94, p. 44.

<sup>1786</sup> P1148, p. 9; T. 22477-9.

<sup>1787</sup> T. 24886-8.

<sup>1788</sup> Herbert Okun described Karadžić as an "emotional and voluble" person, whereas the Accused was "much more reserved, much more to the point, much graver in his manner" during his meetings with the witness: T. 4155.

<sup>1789</sup> P65, tab 94, p. 36.

<sup>1790</sup> P65, tab 182, p. 85.

920. According to some Assembly deputies, Muslim “tricks” held in store for the Serbs a fate far worse than being an oppressed minority everywhere; as Zekić warned already in December 1991, “We need to be particularly aware of another issue – genocide against Serbian people, because many areas were depopulated thanks to certain enemies of ours that have arisen once again.”<sup>1791</sup>

921. The Accused himself worried that his home settlement in a Sarajevo suburb would be left behind, as he put it, in “Muslimania” in the course of Bosnia-Herzegovina’s division, and that minority-status Serbs who were not “resettled” in Serb-controlled territories would find themselves “in a genocidal position” in the hands of the Muslims.<sup>1792</sup> He expressed fear that the Bosnian Serbs faced “slavery, humiliation and extinction”.<sup>1793</sup>

922. The threat of genocide against the Serbs was a constant refrain in the rhetoric of Bosnian-Serb officialdom in 1992, as further illustrated by a Ministry of Information proclamation from 16 May 1992, signed by the Minister, Velibor Ostojić: “terror equal to genocide is being conducted against the innocent Serbian inhabitants in this war forced upon the Serbian people in Bosnia and Herzegovina. Day in day out, the hordes of slayers and robbers, under the patronage of the fascist authority of the so-called Republic of Bosnia and Herzegovina, engage in the most brutal actions assaulting the Serbian population at their hearths. Mercilessly, the members of the Serbian people are being eliminated and massacred, their property plundered, their villages burned, their cities destroyed, and the monuments of Serbian culture and history shattered.”<sup>1794</sup>

923. The bogey of the Serb holocaust was utilized in the usual, predictable ways by Bosnian-Serb politicians, but it also had a deeper ideological significance, as it could be deployed in justification of the recovery of territories which in the beginning of 1992 were populated by Serb minorities. The invocation of genocide thus worked in two directions. It was meant to strike fear, but also to evoke a birthright to historical lands. In a 26 January 1992 interview with the *Oslobođenje* newspaper, the Accused revealed how in his own thinking the past wrong of genocide and the territorial claims of the present were intertwined: “the Republic of the Serb People of BH is composed of Serb autonomous areas that are already familiar and of ethnic units where the Serbs are a relative majority, as

<sup>1791</sup> P65, tab 68, p. 19; T. 24886.

<sup>1792</sup> P65, tab 127, p. 50.

<sup>1793</sup> P65, tab 182, p. 2. See also part 2.3 of this judgement.

<sup>1794</sup> P1267, p. 1.

well as of areas that historically belonged to the Serb people and in which the Serbs are now a minority due to the genocide committed against them during the last war.”<sup>1795</sup>

924. A related refrain of the Bosnian-Serb leadership was that Bosnian Serbs had a claim to at least 65 per cent of the land, even though they represented only 35 per cent of the population of Bosnia-Herzegovina.<sup>1796</sup> Radovan Karadžić told Slobodan Milošević about the 65 per cent claim on 24 October 1991.<sup>1797</sup> On 11 April 1992, Karadžić, Nikola Koljević, and the Accused met at a hotel in Ilidža. They discussed a map of territory which the SDS wanted to place under Serb control. It corresponded to approximately 70 per cent of Bosnia-Herzegovina, and included a part of Sarajevo.<sup>1798</sup> The same idea is found at several levels of the Bosnian-Serb hierarchy. For example, Milutin Vukelić, assistant commander for moral guidance in the 1st Krajina Corps, wrote on 21 May 1992: “The constituent Serbian people, who live on around 65 per cent of the area and represent more than 35 per cent of the population of BH, must struggle for complete separation from the Muslim and Croatian peoples and form their own state”.<sup>1799</sup> The genocide had depleted the Bosnian-Serb people but had not diminished the share of territory which the survivors were entitled to. (Years later, Slobodan Milošević mocked these ideas: “There were some others who had arguments such as: ‘Well, Serbs owned 62% of the territory.’ As if someone would believe it! We know that it was all socially owned property. The meadows, grazing land, and mountains were nobody’s property. For God’s sake, what kind of owners are they talking about? After all, I said to Karadžić: ‘If you had a villa in Geneva, you are an owner. Still, you cannot annex Geneva to Republika Srpska if you have a villa there! No one would touch your private property’.”<sup>1800</sup>)

### 6.7 Knowledge of and support for arming activities

925. How did the Bosnian-Serb leadership implement the take-over of territories and the expulsion of Muslims and Croats from Serb-minority and other areas, following the Accused’s call to arms at the Assembly session on 18 March 1992? At this point the Bosnian-Serb leadership did not have a regular armed force under its exclusive command.

<sup>1795</sup> P404, p. 2.

<sup>1796</sup> T. 4165-66.

<sup>1797</sup> P67, tab 18.A, p. 7.

<sup>1798</sup> T. 6767, 6773-4, 6879, 6887-8, 6909, 6926-30, 6939-41, 7010.

<sup>1799</sup> P892, tab 58, p. 2; also P65, tab 89, p. 3.

<sup>1800</sup> P1197, p. 6; T. 25132-40.

What it had to rely on was an armed population, which could deploy armed units locally, and the support and cooperation of the JNA. Miroslav Vještica summarized the situation as of that date: “we must urgently establish a Serbian MUP in the Republic of Serbian Bosnia and Herzegovina, we must establish national defence, our Serbian army, which is already there on the ground, we just need to transform it into what we need to have.”<sup>1801</sup> The “Serbian army” already there on the ground was, at that point, the JNA and the non-enlisted Bosnian-Serb men of fighting age.

926. The Accused's evasions and protestations aside – “it is not that it was totally unknown that there was some kind of arming but I didn't want to get involved in that kind of thing”,<sup>1802</sup> and “Why am I supposed to infer something, and why am I supposed to ask whether the rumours are correct? There's the MUP, there's the government; let them resolve it”<sup>1803</sup> – the Accused knew that the Bosnian-Serb population was being armed beginning around mid 1991.<sup>1804</sup> (The extent of the arming was discussed in part 2 of this judgement.) Already on 24 May 1991 an SDS member of the Bosnia-Herzegovina Assembly who was also a member of the SDS Main Board was caught transporting a large load of weapons and ammunition.<sup>1805</sup> Giving evidence before the Chamber, the Accused at first denied knowledge of the incident: “I didn't know anything about this. I didn't know that he had been stopped or that he was seeking immunity, nothing.”<sup>1806</sup> Then the Accused changed his story: “We had a session of the Assembly, and then deputies in the corridors started discussing this. ‘You Serbs are arming yourselves’ ... I heard about this, that the MPs amongst themselves were mentioning this case, and that is when I learned of it”.<sup>1807</sup>

927. On 12 July 1991 Radovan Karadžić addressed an SDS gathering at which the Accused was present: “We know that Serbs are arming themselves with smuggled weapons and some ancient ones. We as a party do not have a right to arm the people, but we do not have the right to discourage it either.”<sup>1808</sup>

928. As it turned out, arming *did* have something to do with the SDS. Witness 636 testified that he was involved in the distribution of weapons by the SDS between April and

<sup>1801</sup> P65, tab 109, p. 37; T. 25178.

<sup>1802</sup> T. 25276; also 23082, 23339, 23341-4.

<sup>1803</sup> T. 25300.

<sup>1804</sup> T. 25278, 25284-6.

<sup>1805</sup> P1213; P1214; T. 25292-310.

<sup>1806</sup> T. 25296.

<sup>1807</sup> T. 25296, 25298-9.

<sup>1808</sup> P37, pp. 101-4; T. 25310-14.

September 1991. The weapons originated from the JNA in Croatia and were stored in a school in the village of Kamenica, in Drvar municipality. The weapons were distributed from there to nearby municipalities. Nenad Stevandić, a member of the ARK crisis staff, supervised the distribution. In August 1991 Stevandić invited Radovan Karadžić to witness the distribution for himself. Karadžić visited Drvar and toured the Kamenica school.<sup>1809</sup>

929. In early November 1991, in a long speech on the meaning of the upcoming Bosnian-Serb plebiscite, Karadžić could boast to his audience, which included the Accused (“I probably heard it”, the Accused conceded),<sup>1810</sup> that the Bosnian Serbs were better armed than the Muslims, had “got themselves a lot” of weapons, and those weapons were in addition to the weapons at the disposal of the pro-Serb JNA.<sup>1811</sup> (The pro-Serb stance of the JNA is discussed in part 3 of this judgement.) By the time General Mladić detailed his ideas about a new Bosnian-Serb army before the Assembly on 12 May 1992 (see below), the utility of an armed population had already been proven: “We are not starting from scratch. That is very important. Our starting point are the armed Serbian people in the Republika Srpska of Bosnia and Herzegovina, who have, in the course of the war so far, responded, insofar as they did, to the call to put a stop ... to the fascist and phantom Ustasha dragon. And so far, we have saved this people from being totally wiped out.”<sup>1812</sup> In 1995 Karadžić said: “Distribution of weapons was carried out thanks to the JNA. What could be withdrawn was withdrawn and distributed to the people in the Serbian areas, but it was the SDS which organised the people and created the army.”<sup>1813</sup>

930. Elements of a Bosnian-Serb police force were already in place by 18 March 1992. All that had to be done was for the Serb police officers to break away from the Muslim and Croat officers. The Assembly promptly set up the Bosnian-Serb MUP, passing a Law on Internal Affairs on 27 March 1992, and handing the ministerial post to Mićo Stanišić. He, on 31 March 1992, distributed a press release announcing the formation of five CSBs, one for each of the self-proclaimed and territorially vaguely defined Bosnian-Serb SAOs (Krajina, Herzegovina, Northern Bosnia, Romanija-Birač, and Semberija), and ordered the affected police officers to sever their ties with the old republic and swear an oath of

<sup>1809</sup> T. 14429-30, 14446, 14450, 14452; P789, pp. 2-7; P790.A; P582.B, pp. 3860-61; P582, para. 6.

<sup>1810</sup> T. 25282.

<sup>1811</sup> P1191, pp. 5, 10; T. 25280-82.

<sup>1812</sup> P65, tab 127, p. 45.

<sup>1813</sup> P65, tab 128, p. 145.

allegiance to the new state.<sup>1814</sup> (The disintegration of the old MUP and the emergence of a new Bosnian-Serb police force were discussed in parts 2, 3, and 4 of this judgement.)

931. On 13 March 1992 Rajko Dukić, president of the SDS Executive Board, had sent a letter to SDS municipal boards requiring them “to assess the possibility of establishing a Serbian municipality in the areas of your activity”.<sup>1815</sup> This was followed up by a letter from SDS President Karadžić on 23 March (marked “Strictly confidential – Destroy after reading”) to all Serb municipality presidents, informing them of the formation of a “Republican Operations Center”, and that “The municipalities now face an obligation to urgently connect their own information centers with the regional centers ... and provide for the personnel and other requirements in order to monitor the situation in the field. ... it would be useful if you personally informed yourself on the state of affairs in the information centers in your municipality, as well as on their performance capabilities. You should also order removal of, or help remove, possible deficiencies and make sure that non-stop duty shifts were introduced”.<sup>1816</sup>

932. Thus the end of March 1992 saw the rapid establishment of a Bosnian-Serb state. At the Assembly session on 24 March, Karadžić had said: “at a desired moment, and this will be very soon, we can form whatever we want. ... At that moment, all the Serbian municipalities, both the old ones and the newly established ones, would literally assume control of the entire territory of the municipality concerned. ... Then, at a given moment, in the next three or four days, there will be a single method used and you will be able to apply it in the municipalities you represent, including both things that must be done as well as how to do them. How to separate the police force, take the resources that belong to the Serbian people and take command.”<sup>1817</sup> The Assembly proceeded on the same day to approve the proclamations of “Newly Established Serbian Municipalities passed by Municipal Assemblies”: Bihać, Kladanj, Livno, Rajlovac, Donji Vakuf, Konjic, Čapljina, Turbe, Bosanski Šamac, Petrovo, Milići, Vogošća, Žepče, Jajce, Mostar, Srebrenica, Zavidovići, Bratunac, Modriča, Prijedor, Bugonjo, Kotor Varoš, Stolac, Višegrad, Bosanska Krupa, Bosanski Brod, Srebrenik, Foča, Brčko, Olovo, Tuzla, Zvornik, Goražde, Derventa, and Doboj.<sup>1818</sup>

<sup>1814</sup> P65, tab 117; T. 25185-92; this was followed by P1203.

<sup>1815</sup> P65, tab 108; P64, para. 97.

<sup>1816</sup> P65, tab 112; P64, para. 97.

<sup>1817</sup> P65, tab 113, p. 22.

<sup>1818</sup> P65, tab 113, pp. 23-4.

933. Also on 24 March 1992 the Bosnian-Serb Government was sworn in, with Branko Đerić as Prime Minister.<sup>1819</sup> The Accused instructed the new Government to prepare, by 27 March, “a plan of assuming power and rendering operational the authorities in the territory of the Serbian Republic of Bosnia and Herzegovina. The Government will propose the plan to the Assembly on Friday”.<sup>1820</sup> Friday 27 March 1992 was the day on which the Constitution of the Republic was proclaimed by the Assembly.<sup>1821</sup> (The Government plan was not submitted until later in April.) Karadžić told the delegates during that session: “The moment you arrive in your municipalities, you must urgently establish crisis staffs. You must try to organise the people so that they can defend themselves. ... They should organise territorial defence and if the JNA is there, they must be placed under its command. If they are not, let them be placed under the command of reserve officers.”<sup>1822</sup>

934. Thus the Bosnian-Serb leadership completed its preparations for the assumption of power. The take-over of municipalities began on 1 April 1992.

#### 6.8 Knowledge of and support for take-over operations

935. Already in late March 1992, a Muslim delegation from Pale municipality met with Nikola Koljević and the Pale chief of police, Malko Koroman. Koljević informed the delegation that local Serbs did not want Muslims living in Pale. Koroman added to that that he could no longer guarantee the safety of the Muslims, as he could not control the Red Berets who had arrived in the municipality.<sup>1823</sup> By early April 1992, several checkpoints had been set up by Serb paramilitaries and reserve soldiers in the region, severely restricting the movement of Muslims.<sup>1824</sup>

936. But the first take-over was not in Pale but in Bijeljina. In a report to the command of the JNA's 2nd Military District, dated 4 April 1992, General Janković, commander of the JNA's 17th Corps, wrote that “A big influence of the SDS and Arkan's propaganda is felt in the 38th [Partisan Division] and the 17th [Mixed Artillery Regiment], because of which some [conscripts] have left their units with arms. ... The situation in the territory is extremely complex. The town of Bijeljina is controlled by the SDS and Arkan's men, who

<sup>1819</sup> P65, tab 114, pp. 4-5.

<sup>1820</sup> P65, tab 114, p. 13.

<sup>1821</sup> P65, tab 115, pp. 7-8.

<sup>1822</sup> P65, tab 115, p. 23.

<sup>1823</sup> T. 5320-7, 5386, 5412-13; P270, para. 26.

do not even allow our anti-tank unit to reach certain positions in the town. There are about 3,000 refugees in the barracks and the Cooperative Hall area in Patkovača. A team from the BH Presidency led by Fikret Abdić, Biljana Plavšić, the chief of staff of the 2nd Military District and the commander of the 17th Corps, has been in Bijeljina barracks since 1200 hours.”<sup>1825</sup> General Janković made this prediction: “In the following days further deterioration of the entire security and political situation is expected. There is a threat that interethnic conflicts in Posavina and Semberija might spread to other parts of the zone of responsibility ... Direct armed provocations by SDA, HDZ and SDS paramilitary units against commands and units are also possible, as well as attacks by them on military warehouses and isolated facilities.”<sup>1826</sup>

937. Sead Omeragić, a Muslim journalist, had accompanied Biljana Plavšić and Fikret Abdić on this visit to Bijeljina on 4 April 1992. In Bijeljina town the witness saw Serb flags on the mosques and broken glass and bullet holes on several buildings.<sup>1827</sup> He saw Arkan's men in uniforms bearing the insignia “Serbian Volunteer Guard”; members of the TO; and members of the White Eagles.<sup>1828</sup> Omeragić came upon a fellow reporter who informed him that the town had been cleaned in order to conceal atrocities that had been committed in the last few days.<sup>1829</sup> Plavšić's first stop was at the Bijeljina crisis staff to take stock of the situation.<sup>1830</sup> Then Omeragić, along with Abdić and Plavšić, visited the barracks at which the large number of displaced persons referred to in General Janković's report had sought refuge.<sup>1831</sup> Plavšić kept her distance from the displaced persons.<sup>1832</sup> The visiting delegation met with Arkan who, Omeragić observed, was in total control of the situation.<sup>1833</sup> When Plavšić saw Arkan, she kissed him (this image is captured on film).<sup>1834</sup> Plavšić said on several occasions that Arkan had done a good job in saving the Serb population from the Muslim threat.<sup>1835</sup> When Plavšić asked Arkan to hand over control to the JNA, he refused, saying that the “job” had not yet been finished, and that he would be

<sup>1824</sup> T. 5332-7, 5390-1; P270, paras 31-2.

<sup>1825</sup> P590, p. 1.

<sup>1826</sup> P590, p. 2.

<sup>1827</sup> T. 11950, 11994-5.

<sup>1828</sup> T. 11979, 12009-10.

<sup>1829</sup> T. 11957-8.

<sup>1830</sup> P591A.

<sup>1831</sup> T. 11996-7, 12033, 12035.

<sup>1832</sup> T. 11996.

<sup>1833</sup> T. 11977, 11981-2, 12015, 12010.

<sup>1834</sup> P300.

<sup>1835</sup> T. 12022-3.

going to Bosanski Brod next.<sup>1836</sup> According to Omeragić, at one point during their tour they came upon a journalist from the *Oslobođenje* newspaper, Vlado Mrkić. In a loud voice, he condemned the attack on Bijeljina, telling Arkan, as Omeragić recalled, “You will never be forgiven for what you have done to the Muslims in Bijeljina. History will judge you.” Arkan demanded Mrkić’s identification card, looked it over, and said “So you are a Croat.” At that point, according to the witness, Plavšić interjected: “No, he is a Serb, but what kind of Serb?” Arkan told Mrkić to get lost.<sup>1837</sup>

938. Plavšić stated in her evidence before this Chamber that she had been instructed by the Bosnia-Herzegovina Presidency to go to Bijeljina. Alija Izetbegović said that Muslims had been massacred there and that the minority Muslim population in the municipality was in danger.<sup>1838</sup> In Bijeljina, on 4 April 1992, Plavšić noticed that a Serb flag had been hoisted on the mosque across from the municipality building.<sup>1839</sup> Plavšić testified that she did not see any dead bodies in Bijeljina, but had talked to persons whose family members had been killed in the attacks.<sup>1840</sup> Soon after her the visit to Bijeljina, on 8 April 1992, Plavšić resigned from the Bosnia-Herzegovina Presidency.<sup>1841</sup> Although in her testimony she sought to play down her role in the Bijeljina events, a contemporaneous document paints a different and more accurate picture. In November 1992, a dispute with MUP Minister Stanišić caused Plavšić to defend her early support for Arkan, and more generally the methodology that was followed in the first territorial take-overs: “since there has been a lot of meaningless talk, mostly about the crime that is destroying our country and our people ... I would like to say to Minister Stanišić that it is not just a rumour but it is the truth that, after hearing the statement of the President of the Republic, his call to all volunteers from the Serbian and orthodox countries, I sent letters ... I tried to gather all those people who wanted to fight for the Serbianhood. ... I was looking for men who wanted to fight with the Serbs, on the territory of Republika Srpska. Those letters ... went to Šešelj, Arkan and Jović.”<sup>1842</sup>

939. Around May 1992, Stanišić told Milorad Davidović, a Serb from Bijeljina who worked for the Federal SUP, that Arkan’s forces in Bijeljina and Zvornik had his approval

<sup>1836</sup> T. 11978.

<sup>1837</sup> T. 11972-3.

<sup>1838</sup> T. 26917; C7, para. 14.

<sup>1839</sup> T. 26919; C7, para. 20.

<sup>1840</sup> C7, para. 19.

<sup>1841</sup> C7, para. 22.

<sup>1842</sup> P64A, tab 641, p. 23; C7, para. 41.

to be there and were helping to “liberate” territory that the Bosnian Serbs believed should be part of the Bosnian-Serb Republic. Stanišić also spoke of an agreement that Arkan’s forces could do as they wished with any property in the “liberated” territories.<sup>1843</sup>

940. The municipalities reported power take-overs to the central leadership. For example, on 21 April 1992 the Zvornik SJB telephoned the Bijeljina CSB to report the “cleansing” of Zvornik by police forces. (As explained in part 4 of this judgement, a combination of Serb forces – police, TO, JNA, and Arkan’s men – launched an attack against Zvornik town; many civilians were killed during the attack; Arkan’s men looted houses in the town and piled dozens of dead bodies – including the bodies of children, women, and elderly persons – into trucks; more dead bodies lay in the streets and outside houses; many Muslims withdrew to the nearby deserted village of Kula Grad, which was in turn attacked and taken over by paramilitaries and local police.) The Zvornik SJB’s report was conveyed to both MUP Minister Stanišić and deputy MUP Minister Mandić.<sup>1844</sup> On the basis of the Chamber’s overall appreciation of the role of the Accused at the time, the Chamber finds that this information eventually found its way to the Accused.

941. Another illustration of a municipality take-over conducted under the auspices of the Bosnian-Serb leadership is the case of Bratunac. Miroslav Deronjić, the SDS leader in Bratunac, testified that around 10 May 1992, after the Muslim population of the village of Glogova was forcibly transferred (leaving behind 65 dead in the partially burned village), he was summoned to Pale to a meeting of SDS crisis-staff and municipality presidents chaired by Ratko Mladić, Radovan Karadžić, and Velibor Ostojić.<sup>1845</sup> There were about 50 people in attendance.<sup>1846</sup> The purpose of the meeting was for local officials to report to Mladić on the military situation in the municipalities. Deronjić reported the attack on Glogova and the continuing operation to transfer the Muslim population out of Bratunac municipality. He said that he received a round of congratulatory applause. Ostojić commented that Bratunac municipality could now be painted blue on the map, the colour used to represent Serb ethnicity.<sup>1847</sup>

942. On 12 May 1992 the Accused heard from a deputy in the Assembly about progress in the take-over of the area of Brčko, a municipality where the Serbs were 20 per cent of

<sup>1843</sup> T. 14253-4.

<sup>1844</sup> P763, para. 218.

<sup>1845</sup> T. 896-7, 1225.

<sup>1846</sup> T. 1084-5.

<sup>1847</sup> T. 1086-8, 1199, 1225-6.

the population. The deputy, Dr Beli, was responding to a proposal by Radovan Karadžić to create a “corridor between Semberija and Krajina.”<sup>1848</sup> Dr Beli reported that the project of taking over control from the Muslims in the corridor area was well underway: “the operations to establish this communication [between Semberija and Krajina] have been completed, to a degree, in the military aspect. However, Brčko itself, being a fierce stronghold, primarily of Muslim forces, remains uncompleted ... for definitive clearing of the area it will be necessary to have many more forces there. ... We have not accomplished anything if it turns out that after a while we find ourselves in a position where we cannot control Brčko”.<sup>1849</sup>

943. Also on 12 May the Accused heard about the Bosnian-Serb take-over of power in Bosanska Krupa municipality, when Miroslav Vještica addressed the Assembly: “I must ... remind you all, that only 24% of the population are Serbs in the Serbian Municipality of Bosanska Krupa, there are 14,500 of us and there are 47,000 Muslims. ... We have mined the right bank, we have mined the iron bridge, blown up the wooden one ... On the right bank of the Una river there are no more Muslims in the Serbian Municipality of Bosanska Krupa, all the enclaves that were there, Rapuša, Veliki Vrbovik, Ostrožnica, Babić, Muslim Jasenica and Zavir, we have evacuated them ... Will they have a place to return to? I think it is unlikely.”<sup>1850</sup>

944. In the neighbouring municipalities of Bosanski Novi (Serb majority) and Sanski Most (Muslim majority), the take-over of power was still a work-in-progress: “I was there yesterday”, Vještica informed the Assembly on 12 May: “Bosanski Novi is sealed off. An ultimatum has been issued and a deadline set for the Muslims to surrender their weapons. Some of them did, some did not. Yesterday there was shooting. What will happen today? I believe they will surrender. The same is going on in Sanski Most. I think that the Muslims will soon be disarmed there too.” The Accused thanked Vještica for this report.<sup>1851</sup> (As explained in part 4 of this judgement, around the time Vještica gave this report, Serb forces were launching attacks on Muslim settlements in Bosanski Novi, including an attack on Blagaj Japra using heavy artillery; shells were fired into the village over a period of two days and soldiers shot and wounded civilians. The entire Muslim population of the Urije

<sup>1848</sup> P65, tab 127, p. 13.

<sup>1849</sup> P65, tab 127, p. 16; T. 25509-15.

<sup>1850</sup> P65, tab 127, p. 24.

<sup>1851</sup> P65, tab 127, p. 25; T. 25244-5.

and Prekosanje neighbourhoods of Bosanski Novi town was led away by Serb forces and placed in detention.)

945. The Accused did not need to wonder about the source of the strength of the Bosnian Serbs; not only did he know that they had been armed and had activated their own police force, not only would he have known about the assistance rendered by paramilitary units, he also knew that they were being helped by JNA forces. (In the case of both Bosanska Krupa and Sanski Most, the helping hand was given by Colonel Basara of the JNA's 6th Krajina Brigade.<sup>1852</sup>) On 20 March 1992 General Kukanjac, of the JNA's 2nd Military District, noted in a report on the military situation that the relationship between the JNA and the Bosnian-Serb people was generally good, and that on this subject he was soon to hold talks with the "leadership" of the Bosnian Serbs, namely "Karadžić, Koljević, Plavšić, Krajišnik, Dukić".<sup>1853</sup> The Accused conceded that "maybe" there had been such a meeting, attended at least by himself and Karadžić.<sup>1854</sup>

946. In a letter dated 24 April 1992, General Kukanjac informed his superiors in Belgrade that the Bosnian-Serb MUP had presented him with a long list of military equipment (including a request for six helicopters) needed by the special-purposes police detachment at the Banja Luka CSB.<sup>1855</sup> The requested equipment was issued.<sup>1856</sup> On 27 April the Bosnian-Serb Minister of Defence Bogdan Subotić wrote to the command of the JNA's 2nd Military District requesting the assignment of active-duty military personnel to the ranks of the Bosnian-Serb TO.<sup>1857</sup> Already on 15 April 1992, a JNA colonel had been appointed commander of the Bosnian-Serb TO, to supervise and control local TOs.<sup>1858</sup> That such cooperation between the JNA and the Bosnian-Serb leadership was on-going was not a closely guarded secret.

947. The Chamber finds that the Accused knew about the JNA's cooperation in the Bosnian-Serb take-over of power. He was not speaking the truth when he told the Chamber that he "possibly" knew that Muslim-majority municipalities were being "liberated" in April 1992 but that he did not know which forces were involved on the Bosnian-Serb

<sup>1852</sup> P184, p.2; P168; T. 25242-7.

<sup>1853</sup> P51, p. 5; T. 25326-7.

<sup>1854</sup> T. 25328.

<sup>1855</sup> P733, pp. 12930-1; P1217, p. 1; T. 25332-3; also relevant to the question of arm supplies from the JNA to the Bosnian Serbs is P64.A, tab 308.

<sup>1856</sup> P733, pp. 12871, 12931-2.

<sup>1857</sup> P1211; T. 25258-9.

<sup>1858</sup> T. 26545-6.

side.<sup>1859</sup> Had the Accused not known, he would have inquired. No-one in the Bosnian-Serb leadership was better placed to be informed about events in the contested territories than the Assembly President. Had he had “no idea”,<sup>1860</sup> as he put it, about the attacks on Muslims in, for example, Bratunac municipality, he would have inquired into the matter at the time when he was informed<sup>1861</sup> of the arrival in Pale under escort of hundreds of Bratunac Muslim civilians. And had he really had a need to inquire and be informed about goings-on in Bratunac, as he claims he had, he certainly would not have had accepted for an answer that “Mr. Deronjić, in revolt, sent the Muslims to the leadership in Pale. That’s the only thing I know” – which is the answer he suggests he did receive and did accept.<sup>1862</sup>

948. It was conceded by the Accused that taking military control of Muslim-majority enclaves was “not right”.<sup>1863</sup> But for an Assembly President who presided over nineteen Assembly sessions in the course of 1992 to claim that “I had no contact whatsoever with MPs and they did not report to me what was going on, whether the JNA had been in contact with them or not”<sup>1864</sup> is tantamount to saying that he remained wilfully blind throughout that year – a possibility the Chamber does not accept. The Accused made his position worse by his insistence that he *cared*. About detention-camp conditions (discussed below) he said, for example, “I would have asked for a debate to see what could be done, and if there was anything negative, I would have demanded that those who were responsible should take steps. But I was not able to punish anyone or take any steps.”<sup>1865</sup> Power was so partitioned in the Bosnian-Serb Republic, according to the Accused, that in effect he was rendered powerless.

949. The actual reach of the Accused’s power is demonstrated by the following example. Milorad Davidović was requested by MUP Minister Stanišić to go to Zvornik, where an out-of-control Serb gang was causing havoc, harassing Serbs as well as non-Serbs.<sup>1866</sup> Stanišić told Davidović that Radovan Karadžić and the Accused had had enough.<sup>1867</sup> The gang, which had taken control of the Zvornik SJB, was called the Yellow Wasps, a paramilitary unit of 100 to 300 men led by Vojin (Žučo) Vučković and his brother Dušan

<sup>1859</sup> T. 25248; also T. 25250.

<sup>1860</sup> T. 25251.

<sup>1861</sup> T. 25252.

<sup>1862</sup> T. 25252.

<sup>1863</sup> T. 25677-8.

<sup>1864</sup> T. 25262.

<sup>1865</sup> T. 25865.

<sup>1866</sup> T. 16914, 16922-24, 16933-34, 26686-9, 26754-6; P928; C6, para. 45, p. 13.

<sup>1867</sup> P764, p. 32.

(Repić).<sup>1868</sup> Around 29 July 1992, Davidović and his men, together with military and special police units,<sup>1869</sup> arrested some 47 members of the Yellow Wasps, including Žučo and Repić.<sup>1870</sup> Davidović placed some of the men he arrested under the control of the VRS so that they might be incorporated into the armed forces.<sup>1871</sup> Thus, the Accused had direct access to the levers of Bosnian-Serb state power.

#### 6.9 Knowledge of and support for crimes related to attacks

950. Witness 623, of Serb ethnicity, was a senior member of the government of Bosnia-Herzegovina. In April or May 1992 he attended a meeting with the Accused in Sarajevo.<sup>1872</sup> The armed conflict was escalating. Witness 623 asked the Accused to convey his appeals to Radovan Karadžić to return to a political solution.<sup>1873</sup> The Accused was “obsessed”, in the witness’s assessment, with the project of ethnic division of Serbs from Muslims and Croats.<sup>1874</sup> The Accused said that the SDS’s most crucial concern was how to subdivide territories in such a way as to bring them under exclusive Serb control, especially in the Sarajevo region (Novo Sarajevo, Novi Grad, Ilidža, and Vogošća).<sup>1875</sup> The following day, Witness 623 had another meeting with the Accused, which was also attended briefly by Karadžić.<sup>1876</sup> The Accused said at this meeting that joint life with the Muslims was not possible anymore, as it was not possible to come to any agreement with them.<sup>1877</sup> At the Geneva peace negotiations, the Accused and Karadžić insisted throughout on having an ethnically pure Serb area in Bosnia-Herzegovina, as a precondition for a peaceful settlement.<sup>1878</sup>

951. It is imponderable that the Accused knew nothing about the heavy and indiscriminate bombardment by Bosnian-Serb forces of the city of Sarajevo, just down the road from Pale, in the course of May and June 1992.<sup>1879</sup> The Accused claimed, in the

<sup>1868</sup> T. 14313; P764, p. 32; P780.

<sup>1869</sup> T. 14295.

<sup>1870</sup> P764, p. 35; P779; P780.

<sup>1871</sup> T. 14301-2; P764, p. 35.

<sup>1872</sup> T. 5722; P280, paras 61-68.

<sup>1873</sup> T. 5725-6.

<sup>1874</sup> P280, para. 64.

<sup>1875</sup> P280, paras 66-67.

<sup>1876</sup> T. 5728.

<sup>1877</sup> P280, para. 72; T. 5730.

<sup>1878</sup> T. 5838.

<sup>1879</sup> T. 24587, 24693-4, 25418-27.

alternative, that this was an event he “was not following”,<sup>1880</sup> or was a problem being handled by others (“there must have been complaints through the usual channels”),<sup>1881</sup> or that it was “just fighting” free of shelling.<sup>1882</sup> When asked whether the Bosnian Serbs had taken any offensive military action around the Dobrinja area in Sarajevo, the Accused gave four different answers at once: “No, no. Possibly. I don’t know. Probably.”<sup>1883</sup> He later said: “When [military] actions were planned, in the initial stage I knew nothing about any of them. Once they were completed, I was informed about them just as everybody was. ... We would meet and then we would be provided with information about what had happened a day or two before, where our army had liberated a certain territory.”<sup>1884</sup> The Accused readily conceded, though, that “if any shelling is being done, that’s a crime, and it’s not only that it’s a crime, it’s that it’s politically damaging”.<sup>1885</sup>

952. The evidence shows that the Accused actively supported this “crime” against the inhabitants of Sarajevo. As has been mentioned, he wanted to ethnically recompose Sarajevo by force. (Months earlier, the Accused had played a role in the creation of the Serb municipality of Rajlovac, which split away from the Sarajevo municipality of Novi Grad.<sup>1886</sup>) The Bosnian-Serb leadership started exercising military pressure on Sarajevo already in April 1992. The Accused was an ex officio member of the SNB, the highest Bosnian-Serb executive organ in the period 27 March to 12 May 1992. At a joint session of the SNB and the Government on 22 April 1992, the attendees decided that the Bosnian-Serb Republic should “maintain the positions that had been taken, especially in Sarajevo”, and that Radovan Karadžić, as SNB President, was to “coordinate command over the territorial defence forces and over political operations.”<sup>1887</sup> Nenad Kecmanović brokered a meeting between Alija Izetbegović and the Accused at the Bosnia-Herzegovina Presidency building in Sarajevo on 28 or 30 April 1992, primarily to try to halt the clashes around Sarajevo. At the meeting, the Accused proposed ethnic separation in order to prevent further conflict.<sup>1888</sup>

<sup>1880</sup> T. 25422.

<sup>1881</sup> T. 25425.

<sup>1882</sup> T. 25426-7.

<sup>1883</sup> T. 25437.

<sup>1884</sup> T. 25579-80.

<sup>1885</sup> T. 25425.

<sup>1886</sup> T. 8051-5, 8090; P65, tab 65, p. 107; P385; P389, tab 4; P390; P826, tab 6.

<sup>1887</sup> P65, tab 122, pp. 1-2; T. 1696-8.

<sup>1888</sup> T. 22357-63, 22446-9, 22510-11, 22547-9.

953. On 5 May 1992 Momčilo Mandić, by then Minister of Justice of the Bosnian-Serb Republic, said in a telephone conversation with Brano Kvesić, that “we are holding Turks under siege [in Sarajevo]. We’ll starve them a bit.”<sup>1889</sup> He added that “we want to build a new and nice Sarajevo ... we don’t like this, old synagogues and mosques, we have to change architecture and everything.”<sup>1890</sup>

954. The Accused, being at the head of the Bosnian-Serb Assembly, enjoyed the services of many mouthpieces for his views. He did not need to constantly articulate what was on his mind. When he was not generating or echoing extreme political views himself, his method was to lend support to aggressive elements in the Assembly by giving them a platform for their views. Vojo Maksimović’s statement before the Accused in the Assembly in July 1992, that Sarajevo “was a Serb town before the Turks came here, it had a different name. The graves under the Assembly building and the Executive Council are ours ... no concessions and no big negotiations are needed at this point, not until we have achieved a military victory, until we have defeated them in this territory that we consider to be ours”,<sup>1891</sup> is no different from the idea of an all-Serb Sarajevo expressed by the Accused in November 1994 (see above).

955. The Accused said in his defence: “All I could do was chair that Assembly and try to come to a high quality outcome ... And whenever you try to say anything in favour of the Muslims, they would accuse you of defending them. ... I couldn’t prevent anybody from doing anything. ... I was trying to lead a wartime parliament that sometimes sounded as being full of warmongers. All I could say to him was, ‘What are you talking about?’”<sup>1892</sup> The Chamber has not found any evidence that the Accused ever tried to defend Muslims in the Assembly, or ever tried to prevent any Assembly delegate from “doing anything” against Muslims, or ever tried to confront proponents of extreme views with a “What are you talking about?”

956. Some lone voices *did* try to moderate the policies of the Bosnian-Serb leadership. They might have been ignored, but their voices demonstrate that criticism was possible. At the same Assembly session at which Maksimović remonstrated against the Turkish occupation of Sarajevo, a deputy from Ozren, Miladin Nedić, said: “I am not for waging a war in order to enslave some and us to become oppressors. Let us treat the soldiers in

<sup>1889</sup> P292, tab 34.A, p. 5.

<sup>1890</sup> P292, tab 34.A, p. 7.

<sup>1891</sup> P65, tab 182, p. 46.

accordance with military codes, let us not kill women and children for wearing dimijas [Turkish trousers], or whatever. I told a colonel that I am for a knightly warfare and not for genocide".<sup>1893</sup>

957. It was not until their meeting of 9 June 1992 that the members of the Presidency (joined by General Mladić, General Gvero, and Colonel Tolimir) called off the attack on Sarajevo which had begun in May, deciding that "the heavy artillery fire on the town be halted", but also that "a strong unit from Krajina be transferred to assist in fighting around Sarajevo".<sup>1894</sup> (As explained in part 3 of this judgement, from May 1992 onwards the Presidency consisted of Karadžić, Koljević, Plavšić, Đerić, and the Accused.<sup>1895</sup> According to Plavšić, the "core" members of the Presidency, namely Karadžić, Koljević, and herself, never met alone.<sup>1896</sup> Presidency sessions would not be held if neither Karadžić nor the Accused were available.<sup>1897</sup> When Karadžić was not present, sessions were chaired by the Accused.<sup>1898</sup>) The reasons for the decision to halt the bombardment of Sarajevo are not given in the minutes, although it is apparent that the decision came after an in-depth briefing by Mladić on the "overall situation in the Serbian Army", including figures on the quantities of weapons, ammunition, reserves of oil, and food.<sup>1899</sup>

958. The Accused sought to mislead the international community about Bosnian-Serb actions in Sarajevo. In a letter dated 27 May 1992 addressed to Lord Carrington, Jose Cutileiro, Cyrus Vance, and the UN Secretary-General, among others, the Accused wrote: "We strongly and responsibly refuse the allegations that SR BH Army has fired a single projectile on Sarajevo or attacked the town, for all the time. On the contrary, we have introduced very strict measures in order to prevent any cease fire violations. We convince you that our forces are entirely under our control."<sup>1900</sup> As for attacks, the reality was quite different. For example, on 23 April 1992, deputy MUP Minister Mandić ordered Tomislav Kovač of the Ilidža SJB to bomb and destroy a Sarajevo settlement:

Mandić: "And do you have any heavy weaponry?"

Kovač: "O.K., we have heavy weaponry on the side ..."

<sup>1892</sup> T. 25407; also T. 25431-4.

<sup>1893</sup> P65, tab 182, p. 59.

<sup>1894</sup> P65, tab 155; T. 25423-25.

<sup>1895</sup> C7, para. 27.

<sup>1896</sup> C8, p. 201.

<sup>1897</sup> T. 26853.

<sup>1898</sup> C7, para. 29; C8, p. 201.

<sup>1899</sup> P65, tab 155.

Mandić: "Yes, yes, and give a warning, alert stage one ... have to inform Vojkovići and Lukavica in time, to shell Sokolović Kolonija in case they attack you."

Kovač: "Listen, if this happens, Momo, we have to get this straight, we can't take this anymore, we can't just be defending here around Ilidža, you understand, we have to organise ourselves once and either win this thing or lose. We can't take this anymore, they attack we stop them, they attack again. If there is a chance we should finish them off once for all. I suggest that we attack Sokolović Kolonija from both sides."

Mandić: "As for me, it should be destroyed. I would level it to the ground."<sup>1901</sup>

Another example: on 14 May 1992, Biljana Plavšić herself became caught up in the Bosnian-Serb bombardment of Sarajevo. She telephoned a person named Radmila, on the Bosnian-Serb side,<sup>1902</sup> to protest:

Radmila: "You are being shelled, ha?"

Plavšić: "Well, it's a disaster. ..."

Radmila: "Well, they are shooting from up there, they must retaliate, you understand. ..."

Plavšić: "Tell me, please, do they really have to shell civilian targets?"

Radmila: "I can not tell you anything. I was told not to disclose any information over the phone ..."

Plavšić: "I know, I know we cannot talk. ... only, I was wondering if civilian targets must really ..."

Radmila: "What is being done, had to be done, that is all I can tell you."<sup>1903</sup>

959. Bosnian-Serb attacks on Sarajevo resumed almost immediately after the 9 June Presidency decision. Around 10 June 1992 Witness 680 attended a meeting with Ratko Mladić, Radovan Karadžić, Biljana Plavšić, Nikola Koljević, and the Accused, among others. General Mladić announced his intention to shell Sarajevo with all available means.<sup>1904</sup> During a long discussion with Mladić in the presence of the political leaders, one Bosnian-Serb military expert expressed strong opposition to the bombardment, emphasizing that due to the inaccuracy of artillery weapons, civilians would be at risk.<sup>1905</sup> Mladić did not change his mind, and resolved to implement the plan.<sup>1906</sup> The political

<sup>1900</sup> P619.

<sup>1901</sup> P429.A, p. 5.

<sup>1902</sup> P64A, tab 222, p. 2.

<sup>1903</sup> P64A, tab 780.

<sup>1904</sup> T. 15048-50, 15180.

<sup>1905</sup> T. 15050-1, 15059, 15114-5, 15180-2.

<sup>1906</sup> T. 15052-3.

leadership did not engage, or show any opposition to Mladić's proposal.<sup>1907</sup> Sometime between 15 and 20 June 1992 Witness 680, from a vantage point 11 kilometres from the city, observed the bombardment of Sarajevo, which took place under Mladić's command.<sup>1908</sup> In Witness 680's estimation, most, if not all, of the 200 artillery pieces at the SRK's disposal were used during the 24-hour bombardment. He observed that "everything" was being hit, including civilian housing.<sup>1909</sup>

960. The Accused was telephoned by his brother, Mirko Krajišnik, on 15 June 1992:

Momčilo K.: "What's new?"

Mirko K.: "Fuck, lots of things, you?"

Momčilo K.: "My mate Momo is here, so I thought to ask you if you needed him to do anything for you? Nothing?"

Mirko K.: "Nothing. I don't know what would be worth doing. ... Did they inform you about that thing with [Fahrija] Karkin?"

Momčilo K.: "Yes. ... We called the Presidency um ... but he had gone. ... What did he tell you he wanted?"

Mirko K.: "... He asked of you not to shoot at the JAT skyscraper up there. His mother has been wounded and things like that."

Momčilo K.: "Not to shoot at the JAT skyscraper?"

Mirko K.: "Yeah."

Momčilo K.: "Damn ...".<sup>1910</sup>

(The Accused said in his defence: "He's letting me know about his personal problem, although that has nothing to do with me or any kind of command nor could I have given any orders one way or another, nor was anybody targeting the skyscraper, but it was probably somebody doing something inappropriate."<sup>1911</sup>)

961. On 27 June 1992 the Presidency (Karadžić absent) ordered another ceasefire in Sarajevo: "The Main Staff of the Army of the Serbian Republic of BH is ordered to cease all artillery and infantry operations in the suburb of Dobrinja immediately. The order is given to dig in and move from offensive to defensive positions."<sup>1912</sup> This restraint did not

<sup>1907</sup> T. 15052-3, 15116, 15142.

<sup>1908</sup> T. 15053-5, 15095-6, 15102-3.

<sup>1909</sup> T. 15053-8, 15096-7.

<sup>1910</sup> P282, pp. 2-3.

<sup>1911</sup> T. 24367.

<sup>1912</sup> P65, tab 171; T. 25437-9.

last long, and the Bosnian Serbs resumed their attacks. In October 1992 the Presidency, chaired by the Accused, issued another decision to halt artillery bombardment of Sarajevo, apparently because UNPROFOR had been complaining.<sup>1913</sup> The Accused testified that the Presidency “did not have the right to give orders”.<sup>1914</sup> But whether it had the right to or not, it did give orders. Some orders did not even have to be delivered to General Mladić for he was right there. The 27 June Presidency order was passed on to field commanders by the Main Staff.<sup>1915</sup>

962. On 11 April 1992 Witness 583, a member of an international organization, informed Radovan Karadžić about events he had experienced in Zvornik, when he had travelled through the territory on 8 April. This is what Witness 583 saw, and it is this experience that he conveyed to Karadžić:

I was travelling with a driver from Sarajevo to Belgrade where I had meetings, including President Milošević. So we went by road, and I was crossing – arriving to Zvornik when I realised that there were hundreds of people in the streets, very excited, many of them crying, with a very high level of tension. ... I met with – I say several hundreds of Muslim people that were – I would described them as quite terrified, because for several days already – I can't say if it were two days or three days – an increasing tension was created in Zvornik with some shooting at nights, some – some explosions, some threats, some killings. And they report the presence of foreign ... people from Serbian origin that were not neighbours of Zvornik but that came from outside and that were pushing the Serbs from Zvornik to leave Zvornik on the basis of threats that the Muslims were going to kill the Serbs in that town. ... I mean, Serbs came into Zvornik, start creating tensions and informing the local Serbs living in Zvornik that the Muslims have a plan to kill them. So they were pushing the Serbs out of Zvornik. All the people in Zvornik, all the Muslims I met and that surrounded my car, told me that they knew what happened in Bijeljina and that the radical Serbs were preparing the same in Zvornik, which means arrival of people from outside, increasing of tensions, rumours, threats, explanations that the Muslims were going to kill the Serbs. ... So the Muslims told me that they were terrified because as soon as the Serbs leave the town, it will happen what happened in Bijeljina. That means that paramilitary troops were going to enter Zvornik, and they were going to kill and expel all the Muslims.<sup>1916</sup>

<sup>1913</sup> P65, tab 203, p. 2.

<sup>1914</sup> T. 25438.

<sup>1915</sup> T. 15149-50.

<sup>1916</sup> T. 6755-6.

963. Karadžić told the witness that these crimes, committed by irregular paramilitary units, were an inevitable consequence of Bosnia-Herzegovina's declaration of independence. He added that Bosnian Serbs were victims of similar violence, threats, and expulsions.<sup>1917</sup> Another time Witness 583 reported "ethnic cleansing" to the Bosnian-Serb leadership was on 23 July 1992, when around 9,000 Muslims and Croats were forced to cross into Croatia. As the witness recalled, Karadžić, Koljević, and Plavšić responded that "This is a very cruel war. Everybody is committing crimes or whatever. But in that case, I think that they were saying it's better for them to leave. They want to leave. They don't want to stay. They have signed voluntary declarations that they want to leave and that they want to exchange properties with others."<sup>1918</sup> The Bosnian-Serb leadership had come to accept the expansion of criminality as inevitable. (Witness Amir Delić explained the meaning of "voluntary" in this context: "all the documents had to state that what we were doing was on a voluntary basis and without duress. ... as for leaving, or perhaps running is a better term, that was not on our mind at all initially. However, when all that happened to us happened, we realised we had to run to save our lives. It didn't matter where, just as long as we got away. ... However, there was no question on our side whether we were going or not, whether we had to run or not. And there was no doubt on their side, because everything had been done so that we would leave."<sup>1919</sup>)

964. Again in relation to Zvornik, Dragan Đokanović, who travelled to several municipalities to set up war commissions, spoke to Radovan Karadžić, Biljana Plavšić, Nikola Koljević, and the Accused about events in Zvornik upon his return to Pale on 16 June 1992. He conveyed what he had heard about people being killed or driven from their homes, specifying that war crimes had probably been committed in that municipality.<sup>1920</sup>

965. Around June 1992, members of the VRS and the MUP, as well as Šešelj's men, searched Muslim and Croat houses in the commune of Grbavica for weapons.<sup>1921</sup> Three women, two Muslim and one of mixed ethnicity, were raped during these house searches by an armed man named Batko.<sup>1922</sup> Biljana Plavšić stated that in June or July 1992 she was informed by people living in Grbavica that Batko and an armed group associated with him

<sup>1917</sup> T. 6764-6, 6930-1, 6992.

<sup>1918</sup> T. 6785-90.

<sup>1919</sup> T. 26355, 26366-7.

<sup>1920</sup> T. 10581-7, 10605, 10609-13, 10694-5, 10800-2.

<sup>1921</sup> T. 12328, 12388; P609, p. 5; P610, p. 2; P699, p. 2; P699.A, p. 2; P703.A, p. 4; P703.B, p. 3; P494.A, p. 1.

<sup>1922</sup> P699.A, pp. 2-4; P699, pp. 2-3; P494, p. 2.

were committing crimes against non-Serbs.<sup>1923</sup> When she returned to Pale she had a meeting with Radovan Karadžić, the Accused, Nikola Koljević, Mićo Stanišić, and Momčilo Mandić regarding what she had heard from the people in Grbavica. The reaction was one of indifference, Mandić smiling and saying, “Oh, Batko.”<sup>1924</sup>

966. In late July 1992 the Bijeljina CSB reported to Radovan Karadžić that paramilitary groups in Bijeljina, including Mauzer's men, together with some members of the local MUP, were engaged in criminal activities on a “massive scale”. Muslim residents of Bijeljina, as well as some Serbs, were being “terrorized” by these groups through home invasions, looting, or rapes. More than ten persons of unspecified ethnicity had been killed. Muslims and some Serbs were leaving Bijeljina as a result of this “pressure and terrorization”.<sup>1925</sup>

967. Milorad Davidović visited Bijeljina regularly in the course of 1992 because his family lived there. During those visits he observed widespread looting in the municipality. On a number of occasions he saw Radovan Karadžić and the Accused in Bijeljina. According to the witness, in early July 1992 the municipality crisis staffs, consisting exclusively of SDS members, had set up guards in the villages, who engaged in the organized looting of Muslim houses. Some Muslims were expelled by the looters. Others who paid to be allowed to stay, later fled the municipality. Their abandoned and looted homes were sold to Serb refugees.<sup>1926</sup>

968. On 11 July 1992 Doboј CSB chief Andrija Bjelošević reported to MUP Minister Mićo Stanišić about the fact that Serbs were committing crimes, mainly looting of property, in areas of the municipality recently captured or “liberated” by the army. The looting was committed primarily by soldiers and reserve police officers, including commanding officers, who went so far as to organize convoys to whisk away the loot.<sup>1927</sup>

969. Minister of Justice Momčilo Mandić confirmed that, in mid 1992, looting of non-Serb property was committed in areas where people had abandoned their homes due to military operations and what he called “ethnic cleansing”.<sup>1928</sup> A MUP report from 17 July 1992, which was sent to Radovan Karadžić and Prime Minister Đerić, stated that looting

<sup>1923</sup> T. 26936-8; C7, para. 45.

<sup>1924</sup> T. 26940-2; C7, para. 46; C8, pp. 262-3.

<sup>1925</sup> T. 15294-6; P764, pp. 19-20; P777, pp. 2-4.

<sup>1926</sup> T. 14227-9, 14232-5; P764, pp. 17, 19, 21-2.

<sup>1927</sup> P763.C, tab 39, p. 10.

<sup>1928</sup> T. 8944-53.

generally occurred during “mopping-up operations” and involved Serb police as well as military and paramilitary formations.<sup>1929</sup> The report expressed the need to detect and prevent the commission of war crimes by both sides and to ensure cooperation between the MUP and Ministry of Justice in prosecuting those who committed crimes. Mandić testified that he often met with MUP Minister Mićo Stanišić to discuss the problem of theft and destruction of property in conflict zones. It was also discussed at Government sessions.<sup>1930</sup>

970. In the case of one large massacre of Muslims, at Korićanske Stijene on 21 August 1992, the Presidency decided to become involved in what turned out to be a cover-up. Defence Minister Bogdan Subotić testified that Karadžić received two reports about the massacre, one from the Banja Luka MUP and the other from the ICRC. Karadžić convened an informal session of the Presidency with Biljana Plavšić and Nikola Koljević, and invited Mićo Stanišić and Subotić. The Accused did not attend, according to Subotić. At the meeting, Subotić was instructed to go to Banja Luka to meet with the people involved in the investigation of the massacre and to report back to Pale.<sup>1931</sup> However, according to Simo Drljača, the Prijedor SJB chief at the time, an investigation could not be carried out, because the officers who had allegedly participated in the massacre were currently deployed in the battlefield.<sup>1932</sup> Undoubtedly the Accused was informed about this event.

971. In Sokolac municipality, the 2nd Romanija Brigade directed a campaign against Muslim villages, the last of which was Novoseoci, attacked on 22 September 1992.<sup>1933</sup> Following the expulsion of women and children from Novoseoci,<sup>1934</sup> Colonel Radislav Krstić ordered<sup>1935</sup> the massacre of 40 to 45 Muslim male civilians.<sup>1936</sup> Krstić reported to the VRS Main Staff that “During the day the village of Novoseoci was cleansed”.<sup>1937</sup> Krstić’s unit blew up all mosques in Sokolac, including the mosque in Novoseoci.<sup>1938</sup>

972. In September 1992 the intelligence service of the Eastern Bosnia Corps Command reported to the VRS Main Staff that as of 30 April 1992, Brčko had been flooded by “patriotic elements” which were responsible for robberies, rapes, and murders, including

<sup>1929</sup> P447, pp. 1-5.

<sup>1930</sup> T. 8950-3.

<sup>1931</sup> C3, para. 47; T. 26564-8, 26593-4.

<sup>1932</sup> P763, para. 290.

<sup>1933</sup> T. 15427.

<sup>1934</sup> T. 22714.

<sup>1935</sup> T. 22632.

<sup>1936</sup> T. 15428-30, 22629-33.

<sup>1937</sup> P1160, p. 1.

<sup>1938</sup> T. 15430-1.

murders at Luka camp, and that some of the bodies of those killed had been buried in pits and covered with material from demolished mosques. The report stated that the head of the war presidency, Đorđe Ristanić, acknowledged that 300 people had been killed. It also expressed concern that this information might be leaked.<sup>1939</sup>

973. Regular reports on the killings of civilians in military operations in the ARK from April 1992 onwards were sent by the 1st Krajina Corps to the VRS Main Staff. These included killings during the attack on Čelinac (reports of 16 and 17 August 1992), in Keraterm camp (report of 25 July 1992), during a transfer from Omarska to Manjača camp in Banja Luka (report of 7 August 1992), on Mt Vlašić (report of 22 August 1992), in Kotor Varoš (report of 4 November 1992), in Sasina village in Sanski Most (report of 6 December 1992), and in Čarakovo village in Prijedor (report of 22 August 1992).<sup>1940</sup> Expert Witness Brown stated that his review of the records of the 1st Krajina Corps military prosecutor's office identified only two or three incidents in which the killing of non-Serb civilians in the custody of Bosnian Serbs was followed up through the military judicial process; even then, no trial was recorded.<sup>1941</sup>

974. The Bosnian-Serb leadership accepted that destruction of civilian settlements would be swift and vast. Details of such destruction of towns and villages have been discussed in part 4 of this judgement. Trifko Radić reported to the Bosnian-Serb Assembly on 12 May 1992 that "we have no other solution but to shell and destroy towns. We have destroyed one third of Visoko, maybe tonight another third will go."<sup>1942</sup> There is thus no doubt that the Bosnian-Serb leadership, including the Accused, were regularly informed of, and came to accept the range of crimes against Bosnian Muslims and Bosnian Croats described above. These crimes included killings of civilians, at times on a large scale, and looting and destruction of civilian property.

#### 6.10 Knowledge of and support for armed forces

975. The Accused did not just *know* about the operations of Bosnian-Serb armed forces in 1992, he actively supervised them as a member of the leadership. The Bosnian-Serb Assembly was a forum for the formulation and coordination of military strategy. On 12

<sup>1939</sup> P727, tab 4.

<sup>1940</sup> P891, para. 2.80.

<sup>1941</sup> T. 16360-1, 16369-74, 16378-9; P891, para. 2.80.

<sup>1942</sup> P65, tab 127, p. 48.

May 1992, in a long speech to the Assembly, General Ratko Mladić explained his “vision” that the Serbs could prevail in the territories they considered theirs without completely destroying the Muslims:<sup>1943</sup> “we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay, or that the Serbs would fall through and the rest leave. ... I do not know how Mr. Krajišnik and Mr. Karadžić would explain this to the world. ... that would be genocide.”<sup>1944</sup> But there was an alternative to genocide. Mladić advised the Bosnian-Serb leadership on how to achieve controversial military objectives quietly, cynically, ruthlessly, while staying below the radar of international attention: “We should not say: we will destroy Sarajevo, we need Sarajevo. We are not going to say that we are going to destroy the power supply pylons or turn off the water supply, no, because that would get America out of its seat, but ... one day there is no water at all in Sarajevo. What it is we do not know ... And the same with the electrical power ... we have to wisely tell the world, it was they who were shooting, hit the transmission line and the power went off, they were shooting at the power supply facilities ... that is what diplomacy is”.<sup>1945</sup>

976. Mladić appealed for unity across politics and military affairs: “that is why we need one common wisdom. Well now, the things that Karadžić knows, Krajišnik, Koljević, the political leaders ... does not have to be ... on the tongue of each member of our people ... Only when the house starts burning will they realise it’s war. ... let us be of one mind, and that we are all clear among ourselves”.<sup>1946</sup>

977. Mladić’s impassioned speech persuaded his superiors to fast-track the unification of the Bosnian-Serb armed forces, under Mladić, who was to be under the Presidency’s control. But the most immediate reaction to the speech was that of the Accused. Seizing on Mladić’s notion of “diplomacy”, he spoke in support of declaring a unilateral ceasefire whose real purpose would be to buy the Bosnian Serbs time to reorganize their armed forces as well as gain them some credit at the international level. “A unilateral proclamation of a cease-fire, in political terms it is quite useful to have the Assembly of the Serbian People adopting, saying, there, we want to do it, see, we are letting the world see”, he said.<sup>1947</sup> The essence of his proposal was for Serbs to fight a war without ever declaring it a war: “It would not look good if the conclusion of the Assembly would be that we have

<sup>1943</sup> P65, tab 127, pp. 38-9.

<sup>1944</sup> P65, tab 127, p. 39.

<sup>1945</sup> P65, tab 127, pp. 42-3.

<sup>1946</sup> P65, tab 127, p. 43.

<sup>1947</sup> P65, tab 127, p. 49; T. 25430-4.

chosen the option of war.”<sup>1948</sup> The Bosnian Serbs themselves would of course not be fooled by such a tactic: “it is obvious”, the Accused continued, “that we must not believe that we are only playing at war. We are at war, and it will be possible to solve this thing with Muslims and Croats only by war.”<sup>1949</sup>

978. The Accused saw that territorial expansion presupposed not only a united political leadership but a united army: “it will be easier to achieve this [acquisition of territories] now, once we establish the Serbian army.”<sup>1950</sup> “This is a time for being certain”, he declared, and what he meant was that the Bosnian Serbs were not to feel any moral compunction about Muslims or Croats.<sup>1951</sup> The Assembly deputies would come to be seen as heroes by the generations to come: “let us not compete to see who is the greater Serb. If it were up for election, no-one in this hall is a greater one than me. ... if we acquire the territories which we agree on and have conceived of today ... this generation will have done so much for the Serbian people that this debt will be impossible to re-pay”.<sup>1952</sup> The Accused said in court that he was really making an anti-war speech,<sup>1953</sup> but the Chamber finds the contrary.

979. The Bosnian-Serb leadership vacillated in its relationship with paramilitary groups, including “volunteers” from Serbia, using them opportunistically to terrorize Muslims and Croats, or at other times complaining about them when their actions threatened the new order of the Bosnian-Serb Republic. There is evidence that, from July 1992 onwards, when most of the territories had already been seized, the Bosnian-Serb leadership generally regarded paramilitaries as a nuisance.<sup>1954</sup>

980. However, back in April 1992, when Serbian volunteers, including Arkan's men, helped seize Bijeljina and Bratunac, their services were certainly appreciated;<sup>1955</sup> and the positive relationship continued into the next month, as the following telephone conversation from 13 May 1992 illustrates:

Unković: “We have some Arkan's men here.”

Mladić: “Yes?”

<sup>1948</sup> P65, tab 127, p. 49.

<sup>1949</sup> P65, tab 127, pp. 50-1; T. 25434-6.

<sup>1950</sup> P65, tab 127, p. 51.

<sup>1951</sup> P65, tab 127, p. 50.

<sup>1952</sup> P65, tab 127, p. 51.

<sup>1953</sup> T. 25434-6.

<sup>1954</sup> For example, P529, tab 463, p. 1 (28 July 1992).

<sup>1955</sup> For example, P292, tab 20.A (23 April 1992).

Unković: "Are they under our command?"

Mladić: "All are. All under arms are under my command, if they want to stay alive."

Unković: "Excellent! Excellent!"

Mladić: "So, all shall be under our command. No one shall do things on their own".<sup>1956</sup>

981. As mentioned above, Biljana Plavšić met with Arkan in Bijeljina on 4 April 1992. She met with him again on 20 April. (At this meeting she referred to Bijeljina and Zvornik as "liberated" towns.<sup>1957</sup>) She also tried to contact Arkan by telephone on 23 April 1992.<sup>1958</sup>

982. Also in April 1992, Vojislav Šešelj told Branislav Gavrilović, one of his men in Sarajevo:<sup>1959</sup> "I've just called Pale, I can't find Radovan ... But I've left a message that if they don't get our men out, we'll withdraw all our men from the frontlines and we'll never deploy them again".<sup>1960</sup> He was referring to a group of his men surrounded by Muslim forces at Vraca, in Novo Sarajevo.<sup>1961</sup> Momčilo Mandić, then deputy MUP Minister, testified that around 21 April he was informed about the situation involving Šešelj's men by leading MUP figures.<sup>1962</sup> Mandić indicated that he had attempted to organize aid for the men through Milenko Karišik.<sup>1963</sup> On 21 April the Accused made three calls to Vraca to ask about the situation in the field.<sup>1964</sup> On getting through, he was told that a part of the Bosnian-Serb force was withdrawing after going "down there to try to get those men out of the encirclement".<sup>1965</sup> This was a reference to Šešelj's men.

983. In April or May 1992, Milorad Davidović attended a meeting at Bosanska Villa at which Karadžić, Stanišić, the Accused, and Arkan, were present among others.<sup>1966</sup> During the meeting, tasks were distributed to these groups. According to Davidović, Arkan was not given specific tasks, but instead was told that he was not to interfere in certain matters. Davidović understood that Arkan was being permitted a free hand to do anything that was not specifically prohibited.<sup>1967</sup> Davidović met with Karadžić and General Mladić at the

<sup>1956</sup> P529, tab 265.A, p. 2; T. 25360-1. Also P1223 (May 1992).

<sup>1957</sup> P900.A, pp. 2-3.

<sup>1958</sup> C7, para. 42.

<sup>1959</sup> T. 9029.

<sup>1960</sup> P292, tab 32.A.

<sup>1961</sup> T. 9025-9; P460A; P624.A.

<sup>1962</sup> T. 9025-9.

<sup>1963</sup> T. 9028, 9407.

<sup>1964</sup> P292, tab 33.A; P292, tab 13.A; P625.A.

<sup>1965</sup> P625.A.

<sup>1966</sup> T. 14255-7, 14354-5, 14362-3, 15281.

<sup>1967</sup> T. 14256-8.

Lukavica barracks in May 1992. Some of Arkan's men arrived. Mladić asked why the men were there, whereupon Karadžić explained that Arkan would be involved in the Sarajevo military operations.<sup>1968</sup>

984. In August 1992, twenty of Arkan's men were staying at the same hotel in Pale where the Accused resided, according to two police reports addressed to the MUP Minister. The Pale SJB chief Malko Koroman was trying to get them to leave the area.<sup>1969</sup> (The Accused said that the report was not credible: "They certainly weren't staying with me. This is a pure lie. I lived in Panorama. I don't know where they were, but they were not where I was."<sup>1970</sup>)

985. The Accused was certainly grateful to Arkan for his services to the Bosnian-Serb Republic, praising him publicly in 1993.<sup>1971</sup> Thus his claim that he was not aware that Arkan's or Šešelj's men, among other paramilitary formations, fought on the side of the Bosnian Serbs cannot be accepted.<sup>1972</sup>

986. The paramilitary Wolves of Vučjak and their leader Veljko Milanković, whose criminal accomplishments in Prnjavor municipality were discussed in parts 3 and 4 of this judgement, also enjoyed the Accused's praise. In July 1996, at a five-year-anniversary commemoration of the creation of the Wolves, the Accused is recorded as saying: "Both your friends and your enemies will remember your bravery. Led by your legendary commander Veljko Milanković, you will go down in history. You belonged to the unit that every Army of this world would be proud of. Your deeds are immortal. You are the heroes of the third Serbian uprising and you belonged to the whole Serbian nation!"<sup>1973</sup>

#### 6.11 The Accused's style of leadership

987. The Accused and Radovan Karadžić may have located themselves at recognizable nodes of a modern state structure (President of Assembly, President of Republic), but in reality they ran Republika Srpska as a personal fief. They intervened and exerted direct influence at all levels of Bosnian-Serb affairs, including military operations.

<sup>1968</sup> T. 14357.

<sup>1969</sup> P1224, p. 3; P1225, p. 3.

<sup>1970</sup> T. 25370-4, 25378-85.

<sup>1971</sup> P1021.A; T. 25386-88, 25439-40.

<sup>1972</sup> T. 25336-65.

<sup>1973</sup> P749, tab G, p. 2.

988. As indicated above in connection with Šešelj's men, on 21 April 1992 the Accused telephoned Milenko Karišik, commander of a MUP special unit:

Krajišnik: "Tell me, what's the situation like down there? I hear there's chaos there."

Karišik: "Well, there's lots of shooting down there. The members of the TO are engaged."

Krajišnik: "... It's chaos and the Army can't engage because then we would have real problems. Can you make contact with them just so that we know how they're doing? I need to know this, damn it."

Karišik: "I can do that."

Krajišnik: "Please do."<sup>1974</sup>

The conversation continued in this manner, the Accused pressing Karišik for operational details. (The Accused said in court that he was just "curious to know what is going on".<sup>1975</sup>)

989. On the same day the Accused made more inquiries:

Krajišnik: "What's the situation like down there?"

Voice: "Well, one part is withdrawing."

Krajišnik: "Our men? ... Can they withdraw?"

Voice: "Well, they've tried. They went down there to try to get those men out of encirclement."

And so on.<sup>1976</sup> (A "purely personal" interest, according to the Accused.<sup>1977</sup>)

990. And then a *third* link with the field on 21 April: "Momo" Garić, a member of the Novo Sarajevo crisis staff<sup>1978</sup> and TO commander, reported to the Accused about the military situation on the ground. The Accused cautioned him not to say too much over the telephone and asked him to come to see him.<sup>1979</sup>

991. On 27 May 1992 this exchange took place:

Grković: "How are you Mister President?"

Krajišnik: "Fine, who's that?"

Grković: "Radivoje Grković, the Commander of the Nedžarići battalion."

<sup>1974</sup> P67, tab 30, p. 2; T. 25446-52.

<sup>1975</sup> T. 25452.

<sup>1976</sup> P625.A, p. 2; T. 25453-8.

<sup>1977</sup> T. 25456.

<sup>1978</sup> T. 9777.

<sup>1979</sup> T. 1695; P67A, tab 29.

Krajišnik: "... What's the situation like in Halilovići, can you give us a ..."

Grković: "You know what, I can't tell you much over the phone, it's tapped."

Krajišnik: "Yes I know ... Is anyone attacking the barracks, do you know?"

Grković: "... Who's going to attack now? Why should they attack it when it's empty."

Krajišnik: "But it's not empty."

Grković: "How do you mean, it's not?"

Krajišnik: "There's a lot of artillery there and other things. ... A lot of equipment was left there, cannons, howitzers, other things."

Grković: "... I contacted the barracks commander last night, he said that nothing will be left there, they have plenty of vehicles, but that idiot left them the vehicles, the ammunition and weapons in the negotiations. ... It looks as if the Maršalka barracks was attacked."

Krajišnik: "Well, that's a minor problem, I'm just interested in that barracks, whether it's being attacked, because it's full of weapons."

Krajišnik: "... Keep in touch with the commanders, don't do anything on your own."

Grković: "We won't, we won't."

Krajišnik: "You contact them. ... That equipment shouldn't fall into their hands."

Grković: "OK, OK, I'll ask...to attack again."

Krajišnik: "But don't attack, ask them first."

Grković: "I'll ask them for permission, I've already told you."

Krajišnik: "Agreed, OK."<sup>1980</sup>

It was an unencumbered style of leadership that cut straight to the source and displayed little patience for lines of reporting.

992. Nedjeljko Prstojević, president of the Ilidža crisis staff, testified that around 17 April 1992 a meeting was held in Ilidža between local authorities and representatives of the Bosnian-Serb leadership, including Radovan Karadžić and the Accused. The meeting discussed security and military matters relating to the municipality.<sup>1981</sup> During 1992, according to Prstojević, dozens of meetings were held between the Ilidža crisis staff and the Accused, Radovan Karadžić, and Ratko Mladić,<sup>1982</sup> to discuss the strategic situation and cooperation in logistical matters.<sup>1983</sup> At these meetings, requests were made for

<sup>1980</sup> P292, tab 16A.

<sup>1981</sup> T. 14663-4, 14819-21.

<sup>1982</sup> T. 14574-81.

<sup>1983</sup> T. 14574-81, 14827-32.

material and assistance from Government Ministries. The Accused, according to Prstojević, would channel those requests through to the relevant Ministers.<sup>1984</sup>

993. The Accused was sought after to give advice on Bosnian-Serb military operations in Ilijaš municipality, as a deputy from that municipality, Trifko Radić, reported to the Bosnian-Serb Assembly in September 1992: “The Ustasha attack us on all fronts every day, we have no help, I went to see Mr. Krajišnik and General Mladić and if they hadn’t come we would have fallen a long time ago. If Ilijaš falls, so will Rajlovac, Vogošća and others.”<sup>1985</sup> (The Accused claimed that while this particular deputy would come to see him “very often” in Pale, the Accused himself had not visited Ilijaš to offer his services.<sup>1986</sup>) The Chamber received much evidence about this type of contact.<sup>1987</sup>

994. The VRS had a plan of action broadly formulated by the political leadership. Neither Karadžić nor the Accused found it necessary to become involved in the affairs of the VRS on a daily basis. This was done by their trusted commander Ratko Mladić, whom Karadžić and the Accused had selected for the job.<sup>1988</sup> General Mladić was guided by the strategic goals articulated by Karadžić and the Accused<sup>1989</sup> at the Bosnian-Serb Assembly session of 12 May 1992. In Karadžić’s own words: “The first such goal is separation from the other two national communities – separation of states. Separation from those who are our enemies and who have used every opportunity, especially in this century, to attack us, and who would continue with such practices if we were to stay together in the same state. The second strategic goal, it seems to me, is a corridor between Semberija and Krajina. ... there will be no Krajina, Bosnian Krajina, Serbian Krajina or alliance of Serbian states if we do not secure that corridor ... The third strategic goal is to establish a corridor in the Drina Valley, that is, elimination of the Drina as a border between two worlds. We are on both sides of the Drina, and our strategic interest and our living space are there. ... The fourth strategic goal is establishment of the border on the Una and Neretva rivers. The fifth strategic goal is division of the city of Sarajevo into Serbian and Muslim parts ... The sixth strategic goal is the access of the Serbian Republic of Bosnia and Herzegovina to the sea.”<sup>1990</sup>

<sup>1984</sup> T. 14583.

<sup>1985</sup> P1136, p. 46; T. 25502-4.

<sup>1986</sup> T. 25503-4.

<sup>1987</sup> For example, T. 24228-9, 24231-3, 24235; P292, tab 16.A.

<sup>1988</sup> P65, tab 224, p. 146.

<sup>1989</sup> The Accused acknowledged his own role in the adoption of the strategic goals: P65, tab 127, p. 49.

<sup>1990</sup> P65, tab 127, pp. 13-14.

995. It would be incorrect to place these goals on a pedestal, as the Prosecution does,<sup>1991</sup> for in the final analysis they are anodyne statements, serving as official state policy and even qualifying for publication in the Bosnian-Serb Republic's *Official Gazette*. If one is inclined to find in them insidious hidden meanings, it is because of the context and the events that followed. An anachronistic reading of the May goals is not only inadvisable, it misses the point, just as an anachronistic reading of the December Instructions misses the point. The instructions and the goals lacked substance and utility, but they did symbolize a new central authority at a time when the old order had disintegrated. The extent to which they found currency among Bosnian Serbs is an indication of the degree of acceptance of that new authority.

996. Much more important in relation to actual policy was the feedback loop of coordination and support that existed between the Bosnian-Serb forces on the ground and the central leadership. Take-overs, killings, detention, abuse, expulsions, and appropriation and destruction of property had begun in the territories claimed by the Bosnian Serbs well before the pronouncement of the strategic goals on 12 May 1992. These incidents were discussed in part 4 of the judgement, were launched in early April 1992, and were repeated throughout the claimed territories in the months to come. *This* was the Bosnian-Serb leadership's goal, and if there was any goal needed on 12 May, it was the continued pursuit of this same goal.

997. The VRS's 1993 retrospective report, signed by Karadžić as Supreme Commander of the Bosnian-Serb armed forces, whose passage below the Prosecution relies on, is, therefore, not without relevance, but its relevance lies more with its affirmation of a deliberative and purposeful Main Staff within the VRS than with any admission of a criminal objective: "The strategic objectives of our war which were promptly defined and set before the Main Staff of the Army of RS, the Commands and units, served as a general guideline upon which we planned the actual operations and concerted battles. This means that, objectives were set before us rather than specific tasks spelled out, although the President of the Republic, as the supreme commander of the Armed Forces of RS, did orally assign a number of tasks which were of general and vital significance to our struggle in protecting the Serbian people and its territories. ... We can say with certainty that even though often without an operational-tactical link i.e. contact, our operations, the operations

<sup>1991</sup> T. 25504ff.

of all units are mutually supportive and in pursuit of single goals, which we have defined, such as: The defence of the Serbian people against genocide at the hands of the Muslim-Croat forces. ... The liberation of territories which are ours and which belong to us by historical birthright.”<sup>1992</sup>

998. In court, the Accused said about Mladić's contact with political leaders that “He was far away, and he acted with ... autonomy.”<sup>1993</sup> This is contradicted by the facts, some of them already mentioned. The following passage from an order Mladić issued to his subordinate officers on 22 July 1992 illustrates the integration of Bosnian-Serb political and military objectives, and represents the fulfilment of a wish expressed by the Accused on 18 March of that same year, that the Bosnian Serbs create facts on the ground for the purpose of strengthening their negotiating position: “We liberated the territories we consider ours and created conditions for political and military leadership of SR BIH, so that they could perform all activities and negotiations regarding the future state of BIH from the position of the stronger one in this territory.”<sup>1994</sup>

999. By “liberation” Mladić meant both military defeat of the enemy and mass expulsion from the conquered territory of persons of a different ethnicity. In an order dated 19 November 1992, he wrote: “The Drina Corps: From its present positions, its main forces shall persistently defend Višegrad (the dam), Zvornik and the corridor, while the rest of its forces in the wider Podrinje region shall exhaust the enemy, inflict the heaviest possible losses on him and force him to leave the Birač, Žepa and Goražde areas together with the Muslim population.”<sup>1995</sup> This language (including the requirement that the Muslim population be expelled following the enemy's surrender) was reproduced in the orders of officers down the line of command.<sup>1996</sup> The political goal of ethnic recomposition had become absorbed into regular army orders.

1000. The Accused conceded that Mladić's order and its offshoots called for “ethnic cleansing” and were “unlawful ... a crime. I don't know why he did that.”<sup>1997</sup> In fact, the Bosnian-Serb policies, plans, and actions on the ground coincided with the Accused's own ideas, and he served them and supported them willingly throughout 1992.

<sup>1992</sup> P529, tab 255, p. 159; T. 25549-50, 25572-3.

<sup>1993</sup> T. 25591.

<sup>1994</sup> P1236, p. 1; T. 25600-2.

<sup>1995</sup> P727, tab 18, p. 5.

<sup>1996</sup> P892, tab 13A, p. 1; P892, tab 14A, p. 1; T. 25603-6.

<sup>1997</sup> T. 25607-8.

1001. The Accused and Radovan Karadžić could be relied on to communicate the ideas of the leadership to the Bosnian-Serb public directly. This was an important role, as it helped people make sense of, and lend support to, actions of the higher authorities. There was an expectation among deputies in the Assembly that the Accused would make the planned aggression more palatable to the Bosnian-Serb public: “so I would ask President Karadžić and President Krajišnik”, said Dr Beli, “because they can communicate with the Serbian people through the media, to promote this more, and I must say that the Serbian people, especially in parts like Brčko, where we are 20% ... are not a conquering people and do not get involved easily in these conquests that are currently necessary.”<sup>1998</sup> (Beli’s speech was made on 12 May 1992. The Bosnian-Serb take-over of Brčko, which started on 30 April 1992 and had been completed by the end of the first week of May 1992, was discussed in part 4 of this judgement.)

1002. Assembly deputies, very often provincial SDS strongmen who controlled armed forces of various descriptions, took their policy cues from Karadžić and the Accused and translated them into military action on the ground. Referring to the strategic goals of 12 May 1992, Vojo Kuprešanin said at the July 1992 meeting of the deputies: “This is the Serb Assembly here, it makes decisions and when I return to Krajina I want to tell the soldiers: ‘Gentlemen, these are our ultimate goals!’ At the last session, in Banja Luka, we said that the northern border of the Serb Republic of BiH was the right bank of the Sava river. ... We ordered the army to realise that goal.”<sup>1999</sup> The Accused insisted during his testimony that “The assembly could only enact political goals, not military goals.”<sup>2000</sup> But the deputies’ perception of the Assembly’s role refutes this assertion.

1003. At the Assembly session of 25 July 1992, the Accused asserted that the take-over of territories to date had been insufficient: “The people created the borders and we have to agree here today on territories that are not under our control right now but to which we claim rights ... due to them being ethnic territories”.<sup>2001</sup> He then sketched the desired extent of the emerging Bosnian-Serb state: “the indisputable borders are: the western border is the Una River, the northern border is the Sava River, the eastern border is the border with the Federal Republic of Yugoslavia”, and so on. He proceeded to list the “disputable borders”, which he defined as “the points of ethnic contact between the Serb people and other ethnic

<sup>1998</sup> P65, tab 127, p. 17.

<sup>1999</sup> P65, tab 182, pp. 69-70; T. 25517-19.

<sup>2000</sup> T. 25524.

groups”.<sup>2002</sup> The Assembly unanimously adopted his delineation of a state, and while the language adopted made the borders “subject to corrections and verifications in accordance with international agreements”,<sup>2003</sup> this speech by the Accused set the parameters for further military action.

1004. When the Supreme Command of the Bosnian-Serb armed forces was formally established in November 1992, the Accused became one of its members.<sup>2004</sup> An informal Supreme Command had existed before that date, as accepted by the Accused; its members were the members of the Presidency together with General Mladić.<sup>2005</sup> A letter which the Accused addressed to Lord Carrington, Jose Cutileiro, James Baker, and Cyrus Vance, among others, on 28 May 1992 states: “Since the day members of the Supreme Command of the Serbian Army were appointed, all armed forces are under our full control.”<sup>2006</sup> The Accused was, and may have even regarded himself, as one of the most important figures in the Bosnian-Serb military establishment at the time.

1005. While the Accused in court did not deny that he had some contact with the military authorities, he claimed that “It was simply a dialogue. They would say: We need food, we need clothing ... They saw the civilian authorities as logistical support ... There was no discussion of military operative issues, only the support they needed in order to act. And all their other problems they could deal with in the Ministry of Defence. That’s where they could go.”<sup>2007</sup> This represents another attempt by the Accused to mislead the Chamber into thinking that he was a weak and hierarchically isolated bureaucrat who dealt exclusively with inconsequential matters of administration, such as the supply of food and clothing. This insistence by the Accused is so incompatible with the evidence built up against him that it forced him down paths of obfuscation and incoherence. Asked whether his position was that he never bothered to inquire about the military’s objectives, he closed up: “Well, you’re asking me to guess now, to speculate. I was in dialogue with them. I can’t remember what I did.”<sup>2008</sup>

<sup>2001</sup> P65, tab 182, p. 48; T. 25689.

<sup>2002</sup> P65, tab 182, pp. 102-3; T. 25671-2.

<sup>2003</sup> P65, tab 182, p. 103.

<sup>2004</sup> T. 25613; P65, tab 215.

<sup>2005</sup> T. 24638, 24640.

<sup>2006</sup> P620, p. 2.

<sup>2007</sup> T. 25618.

<sup>2008</sup> T. 25619.

### 6.12 Information flows

1006. Much has already been said about information flows between Bosnian-Serb centre and periphery – between the Accused and strongmen on the ground, as well as between the Accused and his colleagues in the Bosnian-Serb leadership. The Accused's cognitive immersion in the facts and figures of the project of Bosnian-Serb territorial expansion and ethnic domination is further illustrated in this section.

1007. Radovan Karadžić claimed in 1993 that “This relationship between the command structures and the organs of government and the Supreme Command made it impossible for the Main Staff to make decisions absolutely on its own, rather every operational battle was politically endorsed on the basis of the interests of the Serbian people, and approved by the highest authorities of Republika Srpska.”<sup>2009</sup> Even allowing for the possibility that Karadžić was here inflating his own role, there were several forums besides those already referred to for the feedback loop between military action on the ground and the Bosnian-Serb leadership to take effect.

1008. One such meeting, for example, was called by the Bosnian-Serb Presidency. The Chief of Staff of the VRS referred to the event in a letter to the commanders of the VRS's five Corps: “Pursuant to the decision of the Presidency of the Serb Republic of Bosnia and Herzegovina and the Main Staff of the Army, a meeting of the political leadership of the Republic and the military commanders is to be held in Pale” on 3 June 1992. The Corps commanders were ordered to brief the leadership on operational details and objectives in 10-to-15 minute presentations.<sup>2010</sup> Asked whether he had attended, the Accused replied, “I'm not saying it's not possible. I probably was there if the others were there as well.”<sup>2011</sup>

1009. The Accused was asked about other sources of his knowledge of military action. He recalled another conference, along the lines of the one held in Pale in June, which he had attended in Bijeljina sometime in 1992.<sup>2012</sup> At other meetings he had attended, at which military briefings were given, “Sometimes it was Mr. Mladić, but it's hard for me to say now. Maybe a member of the Main Staff, maybe the minister of defence, maybe the minister of the MUP, maybe Mr. Karadžić.”<sup>2013</sup> The Accused did not say whether all these were meetings of the Presidency, but we have seen that the Accused was briefed by Mladić

<sup>2009</sup> P529, tab 255, p. 153; T. 25613.

<sup>2010</sup> P892, tab 37A, p. 1; T. 25614-5.

<sup>2011</sup> T. 25615, 25684.

<sup>2012</sup> T. 25615-6, 25684.

at the 9 June 1992 session of that body. There was another briefing of Presidency members by Mladić at the 2 August 1992 session of the Presidency, when Mladić reported “on the assessment of the military situation in Serbian Bosnia and Herzegovina, describing the situation in each combat sector, the necessary tasks ... Due to security considerations and the detailed nature of the information, the conclusions and alternatives [that] were adopted were not put on record.”<sup>2014</sup>

1010. The Accused tried to downplay this last event by saying: “No. He did not really conduct a briefing. He came to ask for funds, and that’s the main reason why soldiers came to meetings. ... And Karadžić said, well, tell us ... how much you need in terms of potatoes”.<sup>2015</sup> The Chamber finds this answer to be untruthful. The topmost leadership of the Bosnian Serbs dealt with matters of utmost seriousness.

1011. For example, on 10 May 1992, at a joint SNB/Government meeting, an agenda prepared for a session of the Bosnian-Serb Assembly included the adoption of an amendment to the Bosnian-Serb Constitution relating to “replenishment” of the armed forces and a decision to incorporate JNA soldiers into the Bosnian-Serb Army.<sup>2016</sup> Another example: on 15 May 1992 the Bosanski Šamac crisis staff sent a fax to the attention of Prime Minister Đerić requesting aviation and armoured mechanized equipment for combat use. The text of the fax bore the handwritten notes “Forwarded to the Government at 2300 hours” and “Very urgent! Personal attention: Karadžić and Krajišnik”.<sup>2017</sup> (On that day, the situation in Bosanski Šamac was discussed at the joint SNB/Government meeting.<sup>2018</sup>) And as a last example, at the 31 August 1992 session of the Presidency, again attended by Mladić and General Gvero, the following was noted: “The Generals briefed the Presidency in detail on military and strategic questions, the state and position of military units, their equipment ... All details were discussed, but they were not put on the record because of the level of their confidentiality. Certain conclusions were adopted on the basis of the detailed discussion which are not recorded here.”<sup>2019</sup>

<sup>2013</sup> T. 25580-1.

<sup>2014</sup> P65, tab 184, p. 2; T. 25699-706.

<sup>2015</sup> T. 25699-700, 25702.

<sup>2016</sup> T. 1708-9; P65, tab 126, p. 1.

<sup>2017</sup> P529, tab 189; T. 21630-1.

<sup>2018</sup> P583, tab 7, p. 1.

<sup>2019</sup> P65, tab 194, p. 2; T. 25617-18.

1012. The Accused conceded the “possibility” that he was sent a military report now and then.<sup>2020</sup> But it was more than a possibility. The Bosnian-Serb MUP’s first annual report summarized the number of internal and external reports produced by the MUP on the security situation. These included approximately 150 issues of the “Bulletin of Daily Events”. “In addition to this, over 90 various individual reports were sent to the Prime Minister, and the President and members of the Presidency received more than 80 various reports on the security issues.”<sup>2021</sup> At the 9 October 1992 Presidency meeting at which the Accused presided, the members of the Presidency sought to fine-tune the information the Presidency was receiving from Mladić: “It is necessary to determine the way in which the Supreme Commander regularly informs us about the situation on the front – every day”,<sup>2022</sup> according to the minutes.

1013. The political leadership did not stay put in Pale but made the rounds of the claimed territories during the course of 1992. We find the Accused in Banja Luka on 12 May 1992 presiding over the 16th session of the Bosnian-Serb Assembly, as well as in attendance at the 1st session of the Presidency, also in Banja Luka.<sup>2023</sup> He returned to Banja Luka on 11-12 August for the 18th and 19th sessions of the Assembly.<sup>2024</sup> On 14-15 September 1992 he and the deputies travelled to Bijeljina for the 20th Assembly session. Next, from 30 October to 1 November 1992, he convened the Assembly in Prijedor.<sup>2025</sup> (The ARK fracture in the Bosnian-Serb body politic had by this time fully healed. Milan Babić, who attended the Prijedor session, observed that “Karadžić and Krajišnik seemed to interact as equals, support each other’s views and were treated by the others as the leaders.”<sup>2026</sup>) And on 23-24 November the Accused was in Zvornik, one of those “grabbed” – and by then Serbianized – municipalities mentioned by Karadžić, for the 22nd Assembly session.<sup>2027</sup> These adroit political gestures had a democratic overtone (taking the state leadership to the people), but they also emphasized unity, commonality of purpose, and central control over the provinces.

1014. At the Bijeljina session of the Assembly in September 1992, Karadžić took the opportunity to re-emphasize that he and the Accused were no ivory-tower politicians, but

<sup>2020</sup> T. 25614.

<sup>2021</sup> P763.C, tab 23, p. 23; also P763.C, tab 38, p. 23.

<sup>2022</sup> P65, tab 203, p. 1.

<sup>2023</sup> P65, tab 127; P65, tab 134.

<sup>2024</sup> P65, tab 191; P583, tab 87.

<sup>2025</sup> P583, tab 102.

<sup>2026</sup> P154, para. 8.

travelled the land learning the facts and conferring with and counselling Bosnian-Serb leaders on the ground: “The situation on the Drina has resulted in a more difficult military situation than we were in the last time because when pressure on Goražde eased up, this enabled their forces to amass and put pressure on Višegrad. Messrs Krajišnik, Koljević and I were in Višegrad yesterday and then we went to Rudo. The military leadership of the Čajniče Brigade was in Rudo and we discussed the situation. Since easing pressure on Goražde meant more tension in those municipalities, we will again have to increase pressure on Goražde to ease the pressure from those municipalities. Consultations with commanders will be held there tomorrow and we believe that we will adopt some very important decisions with them.”<sup>2028</sup> (The Accused claimed that the commanders were just “telling us their strategy”.<sup>2029</sup>)

1015. Other events also drew the Accused away from Pale. On 14 May 1992 he was at a parade in Banja Luka in celebration of the Bosnian-Serb security services. Karadžić addressed large crowds at the parade, saying that the Serbs had been drawn into the conflict against their will by the militant part of the leadership of the other two ethnic parties, who wanted to reduce Serbs to second-class citizens.<sup>2030</sup> On 17 May 1992, together with Karadžić and General Mladić, the Accused attended a meeting in Sokolac with representatives of the Romanija SAO and the municipalities of Olovo and Rogatica. He informed those present that “all Serb patriots will have the same emblem, the Serb tricolour.” He said that the time had come for separate Croat, Serb, and Muslim areas, because a common state was no longer possible; the Muslims had led the Serbs into war, despite the Serbs’ desire to find political solutions to all problems.<sup>2031</sup>

1016. During his many journeys through the Bosnian-Serb territories, the Accused would have seen with his own eyes the destruction wrought by Bosnian-Serb forces on Muslim and Croat settlements, and, in particular, on one salient feature, or former feature, of the landscape – the mosques.<sup>2032</sup>

1017. As indicated already, the Assembly itself was a vast feedback loop for the Accused: “When we arrived at an Assembly session, MPs informally informed others about the

<sup>2027</sup> P65, tab 213.

<sup>2028</sup> P1252, p. 14; T. 25683.

<sup>2029</sup> T. 25684.

<sup>2030</sup> P763.C, tab 46, p. 2.

<sup>2031</sup> P569; T. 11055-6.

<sup>2032</sup> Also T. 15448.

situation in their municipality, whether the situation was redressed. It was not a formal briefing, but I was able to find out from MPs.”<sup>2033</sup> Deputies and presidents of municipalities would also meet with the Accused in his office to discuss, as he put it, “various issues”.<sup>2034</sup> Nedjeljko Prstojević, president of the Bosnian-Serb crisis staff of Ilidža municipality, would call on the Accused to discuss local issues, sometimes several times a month.<sup>2035</sup> Witness D9 testified that municipal officials frequently sought consultations with the Accused in his capacity as President of the Bosnian-Serb Assembly.<sup>2036</sup> Đerić, the Prime Minister in 1992, testified that he often saw municipality representatives, especially from the Sarajevo municipalities, visiting the Accused.<sup>2037</sup> Biljana Plavšić testified that the Accused's office was always full of deputies and municipality representatives.<sup>2038</sup> “I knew every deputy as well as I know myself”, the Accused said.<sup>2039</sup>

1018. The armed conflict undoubtedly introduced communication difficulties, but the Bosnian Serbs found ways to work around them. The following conversation from 7 May 1992 further illustrates the forms of communication at the time:

Karlo: “Greetings, Speaker! How are you?”

Krajišnik: “... Tell me, I've just received information that they're attacking Vraca. Is this true?”

Karlo: “No, they're not attacking Vraca but this part of the Vrbanja Bridge there.”

Krajišnik: “... Who told me this? um ... this professor Plavšić, so I um ...”

Karlo: “Oh, yes, she's down there, so she hears the echoing and thinks it's here where we are.”

Krajišnik: “... I hear it's rather peaceful in Ilidža. They say individual shots are fired, but ... nothing special. Alright. I'm glad to have talked to you.”

Karlo: “Speaker...”

Krajišnik: “Yes?”

Karlo: “I was going to pay you a half-hour visit with another gentleman tomorrow.”

Krajišnik: “Only if I'm not gone on a trip, you know. ... Just check where we went.”

<sup>2033</sup> T. 25581.

<sup>2034</sup> T. 25581.

<sup>2035</sup> T. 14568-73, 14584.

<sup>2036</sup> T. 18935-7, 18956, 19005-6.

<sup>2037</sup> T. 27090-1.

<sup>2038</sup> T. 26842, 26846-8, 26897-9; C7, paras 6, 8.

<sup>2039</sup> T. 24623.

Karlo: "Is Mr. President up there?"

Krajišnik: "Yes, he is. I'm afraid though he too will be away on a business trip, so you should check before you leave, ok?"

Karlo: "... Sure, will do. I don't think we would take up too much of your time, and you could use this."

Krajišnik: "... Hold on, please, professor Đerić would like to talk to you."<sup>2040</sup>

And so the conversation continued.

1019. A large amount of information about military operations was, of course, in the public domain: "I could also have learnt it from the media, from a television broadcast, for example. There was the SRNA agency."<sup>2041</sup> Minister of Information Velibor Ostojić testified that one section of the SRNA produced press clippings summarizing foreign press releases. These were sent to the President of the Republic and the President of the Assembly, among others.<sup>2042</sup> And the Accused read the newspapers.<sup>2043</sup> He was, as he said in court, "interested in every single village".<sup>2044</sup>

1020. The Accused travelled internationally during the period in question, an experience which undoubtedly broadened his sources of information. He was in Brussels and Lisbon on 30 or 31 March 1992 for talks with Jose Cutileiro of the European Community.<sup>2045</sup> He went to Lisbon again at the end of April 1992, but the talks were called off; so he travelled on to Graz to meet with Croatian representatives.<sup>2046</sup> At the end of July 1992 the Accused was in London for a conference on Bosnia-Herzegovina called by Lord Carrington.<sup>2047</sup> In late August 1992 he visited Belgrade.<sup>2048</sup> In addition, as discussed below, in mid September 1992 the Accused engaged in negotiations in Geneva with Herbert Okun.

### 6.13 Knowledge of and support for population expulsions

1021. On 2 June 1992 Nedjeljko Prstojević and Momčilo Mandić had a conversation on the politics of ethnic cleansing. The Minister of Justice remarked: "It has come to our

<sup>2040</sup> P627A, pp. 1-2; T. 24220-1, 24223.

<sup>2041</sup> T. 25581.

<sup>2042</sup> Ostojić, T. 26692-3, 26703.

<sup>2043</sup> T. 25618.

<sup>2044</sup> T. 25704.

<sup>2045</sup> T. 23838-9, 23847, 25241.

<sup>2046</sup> T. 18954-6, 19087, 25241.

<sup>2047</sup> P65, tab 184.

<sup>2048</sup> T. 26246.

attention and that of the Government that you are issuing ultimatums to some Turks; evicting people from certain settlements and people respond badly to it. They are abusing this, those Muslims and the media and so on.” Prstojević agreed. Mandić continued: “You have to be a little bit more flexible there and not touch those Muslims who are willing to listen and who are loyal. We cannot ethnically cleanse Ilidža or any other place. At least that is the attitude of the Government and political leadership and all. It has already reached the top how in some settlement you gave them 24 hours to move out”. Prstojević said that at least he had not expressed himself in public and had not written anything down – “That’s not our politics”.<sup>2049</sup>

1022. Mandić proceeded to air his idea about how to deal with the “motherfuckers” who had not yet left: “Fadil Mušanović is a judge, but look, talk to him if he has not already fled, place him to work for us, so that we can say that we employ everyone, Muslims, Croats and Serbs, regardless of nationality, as long as they are loyal to the Serbian state. So, have a look, please, place two or three Muslims somewhere, mother-fuckers”. Prstojević was of the opinion that that was easier said than done, for the Muslims were despised on account of their conduct towards Serbs in other parts of Bosnia-Herzegovina. (Rajko Dukić gave the Bosnian-Serb Assembly another reason why “all Muslim judges from Vlasenica, Bratunac and Zvornik” had been “expelled”: “I would be ashamed and I would regret all the victims if I lived in a state in which Muslims and Muslim ideology would judge and where their justice was done.”<sup>2050</sup>) Mandić insisted that, if not a judgeship, Prstojević could surely find *some* position to which to appoint a Muslim.<sup>2051</sup>

1023. The take-over and ethnic cleansing of Ilidža had begun in late April 1992. Prstojević recalled those early days at a Bosnian-Serb Assembly session on 25 July 1992, presided over by the Accused: “when the Serbs started the uprising in Sarajevo and when they seized control over certain territories ... we even did not know if Mr Karadžić was alive during the first couple of days. When we learnt that he was alive and when he visited us in Ilidža and encouraged us, the Serbs from Sarajevo retained control over the territory, and even extended their territory in some areas, driving the Muslims out of the territories

<sup>2049</sup> P799.A, pp. 3-4.

<sup>2050</sup> P65, tab 182, pp. 71-2.

<sup>2051</sup> P799.A, pp. 4-5.

where they had actually been majority.”<sup>2052</sup> (Karadžić had attended the Ilidža crisis staff meeting around 17 April 1992.<sup>2053</sup>)

1024. The forced displacement of Muslims was reported up the VRS line of command to the Main Staff, and, therefore, to General Mladić, who kept the Presidency members informed about the growth and stabilization of the Bosnian-Serb Republic. There are many reports of this kind in evidence, and while it is not the Chamber's finding that the Accused received the reports themselves, the Chamber does find that information of this kind was communicated to the Accused, as well as to Karadžić, once it had reached Pale.

1025. On 14 June 1992 a report from General Talić of the 1st Krajina Corps to the VRS Main Staff stated that “The most difficult situation concerns the Muslim and Croat refugees in the area of AR Krajina, their security and the provision of food. The attempt to expel them to Central Bosnia failed because of transportation difficulties and their resistance to leaving their places of residence”.<sup>2054</sup> On 28 July 1992 the 1st Krajina Corps reported to the Main Staff that “In the city of Banja Luka and other large towns there is an increased demand for, and organisation of, the departure of Croatian and Muslim population. We consider that the municipal and regional authorities should work much harder at this.”<sup>2055</sup>

1026. Another 1st Krajina Corps report to the Main Staff, on 2 August 1992, described the situation on the ground: “Control and security measures in the city of Banja Luka have been stepped up. Methods of exercising pressure are increasing, as are organised expulsions of the Muslim and Croat population from the area of Bosnian Krajina and further afield.”<sup>2056</sup> (The Accused was in Banja Luka ten days later for the 18th and 19th sessions of the Assembly.) The Main Staff was also informed by the 1st Krajina Corps on 14 December 1992 of a convoy of buses transporting 1,008 detainees from Manjača camp in Banja Luka to Gradiška in Croatia. Security during the journey was provided by General Kelečević of the VRS.<sup>2057</sup> On 16 December 1992 the 1st Krajina Corps informed the Main Staff of another 1,001 detainees from Manjača being moved out of the territory of the Bosnian-Serb Republic.<sup>2058</sup>

<sup>2052</sup> P65, tab 182, p. 65.

<sup>2053</sup> T. 14663-4.

<sup>2054</sup> P892, tab 90, p. 3.

<sup>2055</sup> P892, tab 94, p. 1.

<sup>2056</sup> P892, tab 57, p. 2.

<sup>2057</sup> P891, para. 2.132.

<sup>2058</sup> P892, tab 99, p. 1.

1027. Predrag Radić was SDS president of the Banja Luka municipal assembly and a member of the SDS Main Board. Between the start of the war and the end of 1992, Radić saw Radovan Karadžić in Banja Luka about 20 to 25 times,<sup>2059</sup> as well as the Accused when the Assembly sessions were held there.<sup>2060</sup> On one occasion in 1992, the witness was present at a meeting attended by the Accused, among others. Karadžić complained that insufficient steps had been taken to remove Muslims and Croats from Banja Luka,<sup>2061</sup> and that non-Serbs still held positions in municipal organs.<sup>2062</sup>

1028. That Banja Luka municipality had begun to fall behind in its cleansing efforts was a problem that Radoslav Brđanin remarked upon in mid July 1992. After touring combat zones and detention facilities in Prijedor, he praised efforts there to create a new Serb state: “What we have seen in Prijedor is an example of a job well done and it is a pity that many in Banjaluka are not aware of it yet, just as they are not aware of what might happen in Banjaluka in the near future. Due to the circumstances, there is a constantly growing number of superfluous Muslims in Banjaluka who have fled the surrounding municipalities and who are already planning to join the jihad.”<sup>2063</sup> (See part 4 of this judgement for a summary of the situation around this time in the municipalities of Banja Luka and Prijedor.) For Brđanin, even reduced to a minority, Muslims were a danger to Serbs, and could not be trusted: “They are showing loyalty simply because they still constitute a minority. Because we suffered from the illusion that they had accepted the Serbian state and the AR Krajina, we had 55 casualties in Kotor Varoš.”<sup>2064</sup>

1029. In Rogatica municipality, Rajko Kušić, member of the SDS Main Board and leader of a 50-man-strong paramilitary unit, was also worried about lagging behind with the expulsion programme. Kušić told Muslim detainees at the Veljko Vlahović school – a house of horrors even by the standards of the time – that they had to be more cooperative, as he was now having to report to the leadership in Pale on why he was running late with the cleansing of Rogatica. The slow progress could cause him problems with Pale, he told a witness. According to this witness, Kušić mentioned on several occasions both his obligation to report to Pale and decisions made in Pale on the number of Muslims who

<sup>2059</sup> T. 7569-70.

<sup>2060</sup> T. 7571-4.

<sup>2061</sup> T. 7478-82, 7485-87, 7493-4, 7585.

<sup>2062</sup> T. 7487-8.

<sup>2063</sup> P361, p. 2.

<sup>2064</sup> P361, p. 2.

could remain in Rogatica.<sup>2065</sup> (Slobodan Kuruzović, an SDS member and TO commander who was in charge of Trnopolje camp, told Trnopolje detainees that the Serb plan was to reduce the number of Muslims in Prijedor to 10 per cent or less, and then later to reduce this to 2 per cent or less.<sup>2066</sup>)

1030. Witness 583 was a member of an international organization. In July 1992 his organization informed the mayor of Bosanski Novi, as well as Radovan Karadžić, Nikola Koljević, and Biljana Plavšić that the forced mass population transfers out of that municipality on ethnic grounds were illegal.<sup>2067</sup> The response from the three leaders was that the Muslims were leaving voluntarily.<sup>2068</sup> Similar protests were addressed on a regular basis to Plavšić, Koljević, and General Mladić.<sup>2069</sup>

1031. On several occasions Herbert Okun and Cyrus Vance discussed with the Bosnian-Serb leadership, including the Accused, the widespread “ethnic cleansing” taking place in the country. This issue was at the forefront of two meetings attended by the Accused in Geneva on 18 and 19 September 1992. The meeting on the first day dealt with the situation of Muslims and Croats who had been forcibly removed from their homes and were being held by the Bosnian Serbs in camps. The route along which these civilian detainees were to be evacuated from Bosnia-Herzegovina was discussed in the presence of a UNHCR representative, Sadako Ogata. Okun's notes from the meeting on the second day show that the situation of persons detained by Serbs in camps was again discussed. The witness testified that when the issue of “ethnic cleansing” was raised at the negotiations, the Bosnian-Serb leaders did not deny that it was taking place. Their standard response, often expressed by Karadžić and Koljević, was to point to crimes allegedly committed by Muslims or Croats against Serbs, or to cite the genocide carried out against Serbs in the Second World War.<sup>2070</sup>

1032. An expulsion of hundreds of Muslims from Grbavica commune, in Novo Sarajevo municipality, occurred in the period up to 30 September 1992.<sup>2071</sup> General Morillon, of UNPROFOR, wrote to Karadžić on 1 October 1992 expressing his dismay, especially in light of the fact that the expulsion happened “while you were in Geneva endeavouring to

<sup>2065</sup> T. 11274-80, 11301-15; P576, p. 8.

<sup>2066</sup> T. 9865; P529, tab 215, pp. 1, 5; Adjudicated fact 172; P803, tab 2.

<sup>2067</sup> T. 6789.

<sup>2068</sup> T. 6789.

<sup>2069</sup> T. 6780, 6835, 6900-4, 6958.

<sup>2070</sup> T. 4391-3, 4369, 4393, 4397-9, 4418; P210 (Okun's diary, entries for 18 and 19 September 1992).

<sup>2071</sup> T. 12342-4; P609, p. 2; P614; P617.

restore the image of your side". He urged Karadžić to rectify the situation.<sup>2072</sup> According to a Serbian press report dated 2 October 1992, the Bosnian-Serb Presidency reacted "urgently" to the Grbavica expulsion, sending Biljana Plavšić to the area.<sup>2073</sup> A statement by the Bosnian-Serb authorities, carried by SRNA on 1 October, cynically stated that there had been no "ethnic cleansing" in Grbavica, but rather that "This was a case of some groups arbitrarily trying, through expulsion of Muslim citizens, to pressurise the Muslim authorities in former Bosnia-Herzegovina into implementing the conclusions of the London and Geneva agreement on free movement of civilians, which the Muslim side is not honoring." The official statement then criticized UNPROFOR "for not condemning the Muslim side for genocide carried out against Serbs in Sarajevo, Bihac and other towns".<sup>2074</sup> On 8 October 1992 Plavšić again denied that there had been "ethnic cleansing" in Grbavica, and stated euphemistically that "The truth is that Muslims have been able freely to leave the suburb, accompanied and protected" by the VRS.<sup>2075</sup>

1033. A letter sent by Radovan Karadžić on 19 July 1992 to the municipalities of Novo Sarajevo, Pale, Ilidža, Hadžići, Rajlovac, Sokolac, and Han Pijesak requested an inventory of "all housing facilities ... that are vacant following the voluntary departure of Muslims". The housing stock was to be used to accommodate Serbs leaving the Muslim part of Sarajevo.<sup>2076</sup> The influx of Serbs from other parts of Bosnia-Herzegovina would help to consolidate Serb ethnic domination in the acquired territories.

1034. The Mazowiecki report, dated 27 October 1992, states that "the principal objective of the military conflict in Bosnia and Herzegovina is the establishment of ethnically homogenous regions. Ethnic cleansing does not appear to be the consequence of the war, but rather its goal. This goal, to a large extent, has already been achieved through killings, beatings, rape, destruction of houses, and threats." The report continues that the "Serbian leaders in Bosnia and Herzegovina are not ready to desist in their plans. The Muslim and Croatian populations, in the territory controlled by Serbian authorities, live under enormous pressure and terror. Hundreds of thousands of people are being forced to leave their homes and to abandon their belongings in order to save their lives."<sup>2077</sup> A follow-up report by Mazowiecki, dated 17 November 1992, states that "The greater prevalence of

<sup>2072</sup> P617.

<sup>2073</sup> P615.

<sup>2074</sup> P615.

<sup>2075</sup> P616.

<sup>2076</sup> P273.

ethnic cleansing in Serbian-occupied territories is undoubtedly related to the political objectives formulated and pursued by Serbian nationalists, namely, ensuring Serbian control over all territories inhabited by significant numbers of Serbs, as well as adjacent territories assimilated to them owing to logistical and military considerations. It should be noted that ethnic cleansing is not practiced exclusively in areas where Serbs form a majority of the population. In some of the cities, most strongly affected by Serbian ethnic cleansing, such as Prijedor, Muslims and Croats were in the majority.”<sup>2078</sup>

#### 6.14 Knowledge of and support for detention of civilians

1035. A decision to establish a central commission for the exchange of prisoners-of-war was forecast at an SNB meeting, on 24 April 1992,<sup>2079</sup> and eventually formalized by the Prime Minister of the Bosnian-Serb Republic on 8 May 1992.<sup>2080</sup> It was followed by a 6 June 1992 order of the Central Exchange Commission to municipal SJBs and commissions of exchange, among others, to the effect that lists of persons deprived of their liberty were to be submitted by the municipal commissions to the central commission “for the purpose of co-ordination and establishment of unique register”.<sup>2081</sup> No detainee was to be released or exchanged without an order from the central commission *except for* “All women whose detention or deprivation of liberty is not related to the war or war activities, all the children and minors up to 16 years of age, old and helpless persons should be released immediately and ensure their return according to their own free will without setting any conditions to them or exchanging them”.<sup>2082</sup> The 400 Muslim civilian men expelled from Bratunac via Pale, on 14 May 1992, were processed by this commission.<sup>2083</sup>

1036. The Accused testified that he had “no idea” whether the Central Exchange Commission came to deal with civilians held captive by the Bosnian-Serb authorities.<sup>2084</sup> He said that he knew nothing about detention of civilians by the Bosnian Serbs, at least not before the first week of August 1992: “Who opened Sušica, Batkovići, Manjača, I didn’t

<sup>2077</sup> P297, para. 6.

<sup>2078</sup> P296, para. 12.

<sup>2079</sup> P529, tab 163, p. 1.

<sup>2080</sup> P436, p. 1.

<sup>2081</sup> P435, p. 4.

<sup>2082</sup> P435, pp. 1, 3.

<sup>2083</sup> P61; T. 1104-8, 25810.

<sup>2084</sup> T. 25727, 25810-11.

know anything about that. I didn't know that these camps existed."<sup>2085</sup> Only at the Presidency session of 6 August 1992 did the Accused hear allegations, purportedly for the first time, that "the accommodation of prisoners is not good, etc."<sup>2086</sup>

1037. The Chamber finds, on the contrary, that many of the facts about detention of civilians were known to the Accused well before August 1992.

1038. Prime Minister Đerić acknowledged in a 28 April 1992 letter to the MUP and the TO that both military and civilian prisoners were being held by the Bosnian-Serb authorities.<sup>2087</sup> Indeed, soon after its establishment, the VRS issued written orders for the detention of all Muslim men fit for military service.<sup>2088</sup> The massive and widespread detention of Muslim and Croat civilians by Bosnian-Serb authorities has been detailed in part 4 of this judgement.

1039. On 10 June 1992, at a Presidency session attended by the Accused, Prime Minister Đerić was assigned the task of reporting back to the Presidency "on prisoners, with proposed measures".<sup>2089</sup> Đerić held a Government meeting on the same day, at which it was decided that "the Ministry of Justice should make a Report about prisoners. This Report should pay special attention on treatment of civilian population, prisoners of war, accommodation, food etc. The Report would be considered by the Government, after which it would be submitted to the Presidency of the Republic".<sup>2090</sup> This sequence of events alone shows that the Accused was not speaking the truth when he said that he did not know about detained civilians.

1040. On 22 June 1992 the Accused engaged in a conversation on civilian prisoners with his brother Mirko Krajišnik:

Mirko K.: "... Vlatka Krsmanović. She is some kind of professor from Sarajevo. Do you know her?"

Momčilo K.: "Yes."

Mirko K.: "She is allegedly detained up there."

Momčilo K.: "And who wants to intervene?"

<sup>2085</sup> T. 25731, 25736-40, 25774-5, 25780-2, 25786, 25822-3, 25844-9.

<sup>2086</sup> T. 25841.

<sup>2087</sup> P529, tab 167, p. 2; T. 25729-30.

<sup>2088</sup> P865; T. 25730-1.

<sup>2089</sup> P65, tab 157, p. 2; T. 25750-3.

<sup>2090</sup> P65, tab 156, p. 3; T. 25753-6.

Mirko K.: "The town wants her back. Mirko Pejanović does. ... Can she be exchanged so that she can come back? She is a Serb."

Momčilo K.: "What do you mean, a Serb?"

Mirko K.: "Is she a Croat then?"

Momčilo K.: "Sorry?"

Mirko K.: "What is she then? I don't know."

Momčilo K.: "... Pejanović is only asking for matters that interest him. Release people from Dobrinja, that one from ... the one that Bradina has from Novi grad. Say hello to him and tell him please that they are in Bradina ... Serbs. Let him engage a bit more as a Serb. They should let it go. ... People will be released. There is a Committee for that. He should not be dealing with it."<sup>2091</sup>

(When testifying, the Accused claimed that he no longer recalled which committee he had been talking about at the time.<sup>2092</sup>)

1041. A conversation which took place on 26 June 1992 between the Accused and Momčilo Mandić, by that time Minister of Justice, gives much away about the Accused's knowledge and involvement in the detention of civilians and forced displacement via prisoner exchanges:

Mandić: "There is this Vuković, a member of the youth organisation, a Serb who is criticising us because we er ... have four hundred prisoners here, you know?"

Krajišnik: "... Filip Vuković? ... Communist?"

Mandić: "Yes, yes."

Krajišnik: "What does he want?"

Mandić: "He is the President of that Exchange Commission."

Krajišnik: "Their Commission?"

Mandić: "Yes."

Krajišnik: "And what is it that he wants?"

Mandić: "War prisoners, no they are ex for them [sic]. They are hardly interested in people, they are interested in ammunition and meat and now we let those women and children go to Vrbanja, to go to their own people, he says that's ethnic cleansing what we do."

Krajišnik: "... And where is he now?"

Mandić: "Somewhere there, I do not know."

<sup>2091</sup> P283, pp. 2-3; T. 25811-13.

Krajišnik: "With them, isn't he?"

Mandić: "Yes."

Krajišnik: "That means he is theirs?"

Mandić: "Yes, yes, yes."

Krajišnik: "God, traitors are all around."<sup>2093</sup>

1042. The "traitor" Vuković was the chairman of the Bosnia-Herzegovina state Commission for the Exchange of Prisoners of War and Detainees. He had faxed a letter to his counterparts at the Central Exchange Commission of the Bosnian-Serb Republic on the same day as the above conversation. He was attempting to secure the release of a large number of detainees, including women and families. He referred to persons previously exchanged at Vrbanja bridge, as well as to an attachment listing 3,441 prisoners yet to be released. He added: "It is our opinion that, once released, the detainees should be sent to their places of residence, i.e. to their domicile address. Otherwise, this would signify typical deportation, exile and ethnic cleansing of the area."<sup>2094</sup> It is this fax which caused Mandić to raise the matter of Vuković with the Accused.

1043. Vuković's opinion as reported by Mandić was echoed in the Mazowiecki report of 28 August 1992: "The detention of civilians is clearly being used as a method of pressuring them to leave the territory."<sup>2095</sup> The links between detention, exchange, and expulsion are further illustrated by an order of 28 May 1992 from the commander of the VRS 1st Birač Brigade to the Zvornik TO: "The moving out of the Muslim population must be organised and co-ordinated with the municipalities through which the moving is carried out. Only women and children can move out, while men fit for military service are to be placed in camps for exchange."<sup>2096</sup>

1044. On 16 June 1992, Witness 239, a Croat woman from Novo Sarajevo was detained in the "Šoping" building in Grbavica where she was questioned and beaten by Serb soldiers. Biljana Plavšić entered the room and told the soldiers to take away the witness and two other detainees, who showed visible signs of having been beaten, because she was trying to have breakfast in the room next door. Witness 239 was transferred to the Lukavica barracks in Novo Sarajevo where she was kept in poor conditions with 26 other persons.

<sup>2092</sup> T. 25813.

<sup>2093</sup> P529, tab 409.A, p. 3; T. 25814-22.

<sup>2094</sup> P439, pp. 4-5; 25839-40.

<sup>2095</sup> P295, p. 5; T. 25796-9.

One day she saw the Accused, Radovan Karadžić, Biljana Plavšić, and Nikola Koljević arrive together at Lukavica by helicopter.<sup>2097</sup>

1045. Planjo's house in Semizovac, Vogošća municipality, was a pick-up point for forced-labour assignments.<sup>2098</sup> The Vogošća war commission, on 7 July 1992, temporarily turned the house over to the Ministry of Justice for use as a prison.<sup>2099</sup> On 6 August 1992, the war commission sought approval from the Ministry to "occasionally" engage detainees in construction and other works.<sup>2100</sup> Minister of Justice Mandić, approved the request on 10 August.<sup>2101</sup> On 16 August a person introducing himself as the Minister of Justice, accompanied by police in camouflage uniform, visited detainees in the village of Podlugovi and told the detainees that they would be moved to a location in Semizovac where they would be given work duties. The next day they were transferred to Planjo's house.<sup>2102</sup> Around 150 Muslims and Croats were detained there in August through October 1992.<sup>2103</sup> The man who had introduced himself as the Minister of Justice visited the detainees once at Planjo's house.<sup>2104</sup> At the end of August 1992, Serb military personnel began to take Muslim detainees from Planjo's house to perform labour at the front lines in Ravne and Žuč. The work included digging trenches, carrying ammunition, and removing the bodies of Serb soldiers killed in battle.<sup>2105</sup>

1046. Momčilo Mandić confirmed the existence in some municipalities of "prisons, collection centres, and other facilities where POWs were sheltered or people who had undergone ethnic cleansing ... were held by the army or police."<sup>2106</sup> He said that some of those detention facilities were taken over by the Ministry of Justice in the course of 1992.<sup>2107</sup> (Mandić appointed Milorad Krnojelac warden of the Foča detention camp on 17 July 1992.<sup>2108</sup>) Mandić knew of two detention facilities in the Sarajevo area. Muslims and Croats were detained at Lukavica in Novo Sarajevo, a facility under army jurisdiction,<sup>2109</sup>

<sup>2096</sup> P583, tab 120.

<sup>2097</sup> T. 12396-8, 12400-5, 12423-33; P634, p. 2.

<sup>2098</sup> P695, pp. 3-4.

<sup>2099</sup> P1097, 8 July 1992.

<sup>2100</sup> P743G.

<sup>2101</sup> P455.

<sup>2102</sup> P555, para. 23; P556, paras 20-1; P379.

<sup>2103</sup> T. 8486-7, 10924-8; P555, paras 27, 34; P556; P407.A, para. 11; P407.C, paras 108-9.

<sup>2104</sup> T. 10923.

<sup>2105</sup> T. 8009, 8013-14, 9204, 10929-31; P555, para. 24; P556, para. 26; P558; P695, pp. 4-5.

<sup>2106</sup> T. 8757-8, 8761-2, 8878, 8955-9, 9073.

<sup>2107</sup> T. 9441-2.

<sup>2108</sup> P454.

<sup>2109</sup> T. 8789, 8879.

and at a facility known as KP Dom Butmir, or Kula, under MUP jurisdiction until the beginning of August 1992, when it was taken over by the Ministry of Justice.<sup>2110</sup> Detainees at Kula were forced to perform manual labour such as digging trenches and graves.<sup>2111</sup> On 20 May 1992, the Ilidža and Novi Grad SJBs urged the MUP and Ministry of Justice to resolve the status of the detainees at Kula, citing the inadequacy of accommodation, food, and hygiene, and the poor state of health of detainees.<sup>2112</sup> Radovan Karadžić visited the prison around July 1992 and spoke with the detainees.<sup>2113</sup> On 26 June 1992, Mandić told the Accused about the presence of 400 detainees at the Kula detention facility.<sup>2114</sup>

1047. Mandić testified that by mid 1992 he had specifically informed the Accused about all matters within his knowledge concerning irregularities and inhumane treatment in detention facilities.<sup>2115</sup> Thus the Accused was both involved in the maintenance of detention centres for civilians and knew about the inhumane treatment of persons held there.

1048. On 24 May 1992, Prime Minister Đerić wrote to the US Secretary of State, James Baker, on behalf of the Bosnian-Serb Government, assuring him that the “Serbian side is holding no hostages, operating no concentration camps and is not killing unarmed civilians in Bosnia. The reports alleging such crimes, appearing in the U.S. press and elsewhere, are not based on facts.”<sup>2116</sup> But the large-scale arrest of Muslims and Croats was creating problems for the Bosnian Serbs, diverting manpower from the front and raising political risks. As Milovan Milanović acknowledged before the Accused at the July 1992 session of the Assembly, “We have a huge problem with captured people of other nationalities, we have hundreds and thousands of these prisoners.”<sup>2117</sup> (This came immediately after Milanović’s acknowledgment that “boozing” and “totally plastered” Serb soldiers, paramilitaries, and private armies roamed Banja Luka engaging in criminal activities, which went unpunished.<sup>2118</sup>)

1049. A 15 July 1992 report from an assistant commander in the 1st Krajina Corps to his command notes that “There are more than 2500 prisoners in the POW camp of the 1st

<sup>2110</sup> T. 8730-4.

<sup>2111</sup> P708, pp. 9-10.

<sup>2112</sup> P431, p. 2.

<sup>2113</sup> P495, p. 10.

<sup>2114</sup> T. 8846-50, 8869-78, 9073, 9377-81; P292, tab 18; P292, tab 19; P439, pp. 4-5.

<sup>2115</sup> T. 8932-3, 9072-4, 9376.

<sup>2116</sup> P583, tab 52, p. 1.

<sup>2117</sup> P65, tab 182, p. 31; T. 25766.

Krajina Corps, but the number of detainees in Omarska, Prijedor and Trnopolje is much higher. The local authorities are slow in determining what crimes they are responsible for, and want to shift responsibility to the military organs.”<sup>2119</sup>

1050. Stojan Župljanin, as chief of the Banja Luka CSB, represented one of those local authorities. At a meeting of MUP officials on 11 July 1992, presided over by MUP Minister Mićo Stanišić, Župljanin noted, according to the minutes of the meeting, that “The army and Crisis Staffs/Wartime Presidencies demand gathering as many Muslims as possible and leave such non-defined camps to the Internal Affairs. The conditions in these camps are poor: there is no food, some individuals do not comply with the international standards because, among other things, the concentration centres are not appropriate or for other reasons.”<sup>2120</sup> The meeting resolved to hold talks with the Ministry of Justice to solve “the question of the moving out of certain inhabitants, villages, etc. which is not the jurisdiction of the MUP but some are trying to attribute it to the MUP”.<sup>2121</sup>

1051. Hence, at least in early July 1992 Stanišić knew about the illegal and widespread detention of Muslim and Croatian civilians in inhumane conditions. He reported the situation to Radovan Karadžić and the Prime Minister on 17 July 1992 using words from the minutes of the meeting the week before: “The Army, crisis staffs and war presidencies have requested that the Army round up or capture as many Muslim civilians as possible, and they leave such undefined camps to internal affairs organs. The conditions in some of these camps are poor: there is no food, individuals sometimes do not observe international norms, etc. ... Special emphasis should be placed on the issue of relocating certain citizens, villages, etc. because this does not fall within the competence of the MUP”.<sup>2122</sup> Here is the logic of ethnic cleansing cast in the banal language of officialdom: round up civilians, place them in camps, camps and their staff do not meet international standards, citizens and whole villages are thus relocated.

1052. It was around this time that the international community began to request access to – and to produce reports critical of – Bosnian-Serb detention facilities. As the Accused put

<sup>2118</sup> P65, tab 182, p. 30.

<sup>2119</sup> P1033, p. 2. T. 25771-2.

<sup>2120</sup> P763.C, tab 39, p. 8; T. 25773.

<sup>2121</sup> P763.C, tab 39, p. 27; T. 25774.

<sup>2122</sup> P583, tab 77, pp. 3, 6; T. 25777-8.

it, “terrible accusations were made by the international community” (he corrected himself: “not terrible accusations but accusations”).<sup>2123</sup>

1053. Sometime in July 1992 the Minister of Information, Velibor Ostojić, accompanied foreign journalists on a visit to detention camps. (Velibor Ostojić testified that he accompanied journalists to Prijedor, but that he himself did not visit any camps.<sup>2124</sup> The Chamber does not accept the latter part of Ostojić's assertion as truthful.) The Accused claimed that Ostojić, upon his return from the visit, had lulled him into thinking that “everything was fine”.<sup>2125</sup> The Prime Minister and, it would seem, the whole of the Presidency were also lulled into this thought, according to the Accused.<sup>2126</sup>

1054. The Chamber does not accept the Accused's version of events. The Accused would not have accepted such an account by Ostojić, even if that had been Ostojić's account. The Bosnian-Serb leadership initiated superficial improvements at camps in advance of visits by journalists, as illustrated by General Mladić's order of 3 August 1992, giving notice of a forthcoming tour by foreign journalists and ICRC representatives of several detention facilities, including Omarska and Trnopolje.<sup>2127</sup> (There are other such examples of attempts to deceive international visitors.<sup>2128</sup>) The authorities engaged, in other words, in a cover-up.

1055. The civilian detention centres were an instrument, as much as they were an intermediate step, in the logic of dislocation and expulsion. In early August 1992, the Bosnian-Serb leadership was still hoping to prolong the operations of detention centres. On 5 August 1992 Karadžić boasted in an interview with Belgrade television that “What we have are prisons for prisoners of war and prisons for criminals. We have excellent conditions in all prisons, or in almost all prisons ... the fact is that we do not have camps for civilians”.<sup>2129</sup>

<sup>2123</sup> T. 25823-4.

<sup>2124</sup> T. 26754.

<sup>2125</sup> T. 25824.

<sup>2126</sup> P1248; T. 25828-31.

<sup>2127</sup> P1247; T. 25824-6.

<sup>2128</sup> Vojo Kuprešanin, the ARK president, held a telephone conversation with Radovan Karadžić about how to improve the appearance of Omarska in the eyes of foreign reporters (P564C, p. 4805). In Batković camp in Bijeljina, detainees who had been beaten, minors, and the elderly were removed from the facility and replaced by Serbs during visits by the Red Cross and foreign journalists (T. 12572-3; P860, p. 11; P710.A, pp. 571-2; P710, p. 450). In Sušica detention facility in Vlasenica, detainees were hidden in a nearby forest prior to visits from international organizations (T. 15932-5).

<sup>2129</sup> P583, tab 57.

1056. The suffering of civilians in the camps was known to the members of the Presidency. The ICRC sent a report prepared on 22 July 1992 to Karadžić, copied to Biljana Plavšić, about its visit to Manjača camp from 14 to 16 July 1992. On 7 August 1992, Karadžić forwarded the report to Prime Minister Đerić, asking him to “take prompt action, through the Ministries of Justice and Interior, to improve the living conditions in the prisons on our territories that are being held by civil authorities”.<sup>2130</sup> According to the ICRC report, whose assessment would have been made known to the Accused as a member of the Presidency:

The ICRC visit was terminated prematurely at 12.15 on 16.07 when delegates observed that two detainees had been subjected to ill treatment during the visit. All eight delegates present in camp observed on detainees frequent and widespread traces of recent and often severe beatings; those most often were fresh haematomas inflicted in a time period since arrival at Manjaca. ... General living conditions with regard to food, hygiene, clothing and accommodation ... are absolutely insufficient. Many detainees show marked weight loss and signs of anaemia with severity often corresponding to length of detention. Facilities for washing are limited by inconsistent water supply and inadequate provision of taps. Prisoners have the opportunity to take a shower twice a month. Facilities for clothes washing are nonexistent and most prisoners don't have a change of clothes. Stables are not suitable for the housing of prisoners and provide inadequate sanitary conditions and protection from the elements. ... Basic conditions of poor nutrition and hygiene, along with ill treatment, were assessed by delegates to be the biggest health problems. These create a risk of infectious disease spread, injury and general physical and mental deterioration for even the healthiest detainees. They also represent serious health hazards for a large number of detainees with prior illness or injury. These include: more than a dozen detainees with interrupted tuberculosis treatment, several of whom have signs of active disease; dozens of patients suffering from chronic physical or mental illnesses who are unable to obtain needed medications or therapy; more than a dozen war wounded patients who are without the physical therapy, sanitary conditions, or good nutrition needed for proper healing and recovery of function, at least ten handicapped or disabled persons who are unable to work normally because they walk, hear or see only with severe limitations. ... Detainee medical team provides competent and conscientious medical care, but is without the means to meet the multitude of medical needs: medications are limited and scarce, and special facilities for care of sick are grossly inadequate.<sup>2131</sup>

<sup>2130</sup> P1292.

<sup>2131</sup> P1292.

The ICRC recommended that “Manjaca camp is not suitable for detention and should be closed, with civilian detainees released and military detainees transferred to adequate facilities”.<sup>2132</sup> Two weeks passed before the Bosnian-Serb authorities gave any indication that they were taking measures to comply.

1057. A document dated 20 August 1992 contains an account of a meeting held at Manjača regarding the “treatment and processing of the persons who participated in armed rebellion”. Major Stupar, of the 1st Krajina Corps, is recorded as having made “introductory remarks about the views of the Presidency of Republika Srpska”.<sup>2133</sup> The topic of the meeting is somewhat misleading, because what the participants actually considered, according to the minutes, was a “List of 92 persons for whom there is no evidence that they carried out – participated in combat activities and who have serious health problems and attract the attention of journalists and the representatives of humanitarian organisations because of their physical appearance.”<sup>2134</sup> The minutes list 39 detainees suffering from a variety of ailments or disabilities, such as heart disease, epilepsy, spinal fracture, severed limbs, diabetes, loss of bowel-movement control, kidney disease, tuberculosis, mental illness, and retardation.<sup>2135</sup> The person described as retarded was 17 years old at the time.<sup>2136</sup> All had been in detention since May or June 1992. Another twenty or so detainees on the list (their health status is not specified) were aged 17 to 18 years.<sup>2137</sup>

1058. Besides what to do with the Manjača sick and adolescents, the participants were tasked “To review the list of 400 persons for whom there is no evidence that they committed the crime of armed rebellion.”<sup>2138</sup>

1059. The Accused said that he did not know whether the Presidency had ordered these reviews.<sup>2139</sup> He tried to play down the significance of this item of evidence.<sup>2140</sup> However, the Presidency was following events closely, and on 6 September 1992 its members (absent Đerić) spent the whole session on the Manjača question. According to the minutes: “The Military Prosecutor’s Office attached to the Command of the 1st Krajina Corps

<sup>2132</sup> P1292, p. 2.

<sup>2133</sup> P1250, p. 1; T. 25876.

<sup>2134</sup> P1250, p. 1; T. 25876.

<sup>2135</sup> P1250, pp. 3-10.

<sup>2136</sup> P1250, p. 8.

<sup>2137</sup> P1250, pp. 10-14.

<sup>2138</sup> P1250, p. 15.

<sup>2139</sup> T. 25877.

submitted to the Presidency of the Serbian Republic a list of a certain number of prisoners of war held in the Manjača camp and a proposal for the adoption of a decision that they be spared further criminal prosecution. ... The Presidency of the Serbian Republic considered the proposal of the Military Prosecutor's Office, recognised the reasons and circumstances of the proposal for pardon and unanimously adopted the decision to spare the persons named in the list enclosed with proposal of Military Prosecutor's Office from criminal prosecution."<sup>2141</sup>

1060. A list of names of those "pardoned" was attached to the original Presidency minutes, but the attachment has not been preserved. Fortunately, another document assists. On 11 September 1992 the 1st Krajina Corps reported receipt of a Presidency directive, under Karadžić's name, exempting 69 persons from criminal prosecution, pursuant to a decision reached by the Presidency at its 6 September session.<sup>2142</sup> (The Accused did not acknowledge a connection: "I cannot confirm anything. I don't know. I just see that there was a discussion about this. I don't think that this list was at the meeting."<sup>2143</sup>)

1061. Karadžić's list, which gives names but no other details, refers to three of the persons who also appear on the 20 August 1992 list of sick and adolescents: Gromilić (a seventeen-year-old); Salihović (suffering from pulmonary tuberculosis); and Dedić (kidney disease).<sup>2144</sup> These three were among the 92 which Major Stupar, of the 1st Krajina Corps, knew were being held at Manjača for no legitimate reason whatsoever.

1062. The Accused said in court: "I was present at this meeting that was dealing with the pardon. ... I did not know about their condition. I did not know whether they were sick or not. ... I only knew that this was done, and I felt it was positive. But what the reason was, I can't recall that."<sup>2145</sup> The Chamber does not accept this explanation. The Presidency would have been informed by the military prosecutor about the reasons these persons were being "pardoned". The sanitized minutes, the figment of a deliberative process, the pretence of a pardon, were all meant to conceal the Bosnian-Serb leadership's determination in late August 1992 that civilian detention camps had become too costly politically, and were to be phased out.

<sup>2140</sup> T. 25878-81.

<sup>2141</sup> P65, tab 196; T. 25883.

<sup>2142</sup> P1251; T. 25883.

<sup>2143</sup> T. 25883.

<sup>2144</sup> T. 25887-8.

<sup>2145</sup> T. 25884, 25891.

1063. This did not bring the detention-centre crimes to an end. For example, on 30 September 1992 Witness 666, joined a large crowd, including Radovan Karadžić, Nikola Koljević, and Velibor Ostojić, to attend a funeral of 28 young Serb men in Vlasenica. In his speech, Karadžić said of the deceased that “we will never and must never forget. Nor may we forget their executors and attackers. I do not know whether I am allowed to say that we must never forgive either”. Following the funeral, concerns were expressed to certain senior Serb officials, including the local MUP chief, that Karadžić’s inflammatory words might lead to violence against the Muslims detained at Sušica camp. That same evening, 140 to 150 detainees were taken from the camp by MUP officers and killed.<sup>2146</sup>

1064. A combat report from the 1st Krajina Corps to the VRS Main Staff dated 4 November 1992 describes a “massacre” of about 200 captured Muslim men in the village of Večići in Kotor Varoš municipality, the area of responsibility of the Kotor Varoš Light Infantry Brigade, carried out in retaliation for the wounding or killing of VRS soldiers.<sup>2147</sup> There is no evidence of any action taken by the Bosnian-Serb authorities. The commander of the Brigade remained in his post until at least 1993.<sup>2148</sup>

#### 6.15 Cover-up of detention-centre crimes

1065. On 6 August 1992 Radovan Karadžić ordered the MUP and Ministry of Justice to collect information on the conditions and treatment of “prisoners of war” by the Bosnian-Serb authorities, and to deliver a report within 10 days.<sup>2149</sup> On 9 August 1992 the Government formed two commissions, linked to Momčilo Mandić as Minister of Justice, to look into conditions in detention centres and speed up the procedure of categorizing detainees. One commission was headed by Vojin Lale, Assistant Minister of Justice and Administration, and by Mirko Erkić, Police Inspector in the MUP.<sup>2150</sup> The other commission consisted of Slobodan Avlijaš, an official with the Ministry of Justice, and Goran Sarić, a MUP official. Both were a whitewash.

1066. The Lale/Erkić commission visited the detention centres of Trnopolje, Omarska, and Keraterm in Prijedor municipality, Manjača in Banja Luka, Krings in Sanski Most, and

<sup>2146</sup> T. 15932, 15941-2, 16085; P877.A.

<sup>2147</sup> P891, paras 2.96-2.98.

<sup>2148</sup> T. 16361-2, 16370, 16376; P892, tab 82.

<sup>2149</sup> P64A, tab 791.

<sup>2150</sup> P65, tab 189, p. 4; P763, para. 268; T. 1770, 8918-9, 8966-7, 9097.

the Middle School Centre in Bosanski Šamac. It filed a classified report on 17 August 1992, which gave an overall positive description of the conditions in those camps.<sup>2151</sup>

With respect to Trnopolje, the report stated that it was an “open refugee centre”, where people gathered voluntarily. People moved freely in and out, provided that “certain personal documents” were shown and that departures were organized.<sup>2152</sup> The report concluded that regulations concerning the treatment of civilian refugees did not exist, and that “the problem of the open refugee centre in Trnopolje should be dealt with in such way that the refugees can leave the region as soon as possible”.<sup>2153</sup>

With respect to Omarska, the report mentioned 174 men detained, including “those who were arrested in combat zones and are of no security significance”. Prisoners were accommodated in a hall with military beds and clean toilet facilities, and were provided with food and medical care.<sup>2154</sup>

With respect to Keraterm, the report stated that at the time it was empty, although prior to 5 August 1992 about 4,000 people had been divided into refugees (sent to Trnopolje in Prijedor municipality) and prisoners of war (sent to Manjača in Banja Luka municipality).<sup>2155</sup>

With respect to Manjača, the report stated that about 3,500 prisoners there (95 per cent Muslims, 5 per cent Croats) were treated in accordance with international conventions, and that Red Cross and foreign journalists had visited the camp. Around 20 prisoners not of military age were to be released pending a short investigative procedure.<sup>2156</sup> The report did remark on the “extremely poor conditions of accommodation” in Manjača.<sup>2157</sup>

With respect to Krings, the report stated that 112 prisoners of military age, captured in combat operations against the Bosnian-Serb Army, were kept there in good conditions. In both Manjača and Krings the detainees slept on concrete floors, covered with blankets.<sup>2158</sup>

<sup>2151</sup> P583, tab 89; P763, para. 269; T. 14113-17.

<sup>2152</sup> P583, tab 89, pp. 2-3.

<sup>2153</sup> P583, tab 89, pp. 6-7; T. 11525.

<sup>2154</sup> P583, tab 89, pp. 3-4.

<sup>2155</sup> P583, tab 89, p. 4.

<sup>2156</sup> P583, tab 89, p. 4.

<sup>2157</sup> P583, tab 89, p. 6.

<sup>2158</sup> P583, tab 89, p. 5.

1067. The report's conclusions stressed the unsatisfactory accommodations, as most facilities visited had "inadequate rooms of poor quality" and lacked proper beds. The report urged the Government to continue to monitor the situation and set up regulations on "treatment of prisoners in refugee and investigation centres".<sup>2159</sup>

1068. On 19 August 1992 a "special closed Government session" was held to discuss this report.<sup>2160</sup> The minutes of the session reveal that the Government adopted the report as accurately describing the situation, and concluded it would arrange for municipal organs to ensure that conditions and accommodation are in accordance with international conventions.<sup>2161</sup>

1069. On 22 August 1992 the Avlijaš/Sarić commission issued its report on visits to Trebinje, Gacko, and Bileća municipalities. They established that there were no longer detention facilities in Trebinje and Gacko, while the prisoners in the Bileća barracks had been exchanged the day before. About 140 Muslims were accommodated in isolation under the authority of the Bileća SJB, and were reported to be "in reasonably good conditions".<sup>2162</sup> The report was discussed and adopted by the Bosnian-Serb Government on 7 September 1992.<sup>2163</sup>

1070. The conditions in the detention centres as portrayed in the two commission reports to the Bosnian-Serb Government of 17 August and 22 August are in stark contrast to the conditions as described by witnesses before this Chamber, in the Mazowiecki report, and in the factual accounts attested to in previous trials before the Tribunal of which this Chamber has taken judicial notice. The Keraterm and Omarska detention facilities both received positive assessments in the report of the Lale/Erkić commission. In contrast, witnesses gave detailed accounts of unsatisfactory conditions at those facilities (such as overcrowding, poor hygiene, and lack of food), severe mistreatment by guards (such as beatings, sexual abuse, and torture), and executions. The 17 August report described satisfactory conditions at Krings Hall in Sanski Most municipality, save for the fact that detainees slept on blankets on concrete floors. Witness 481, who was detained at Krings hall from 4 July to 4 August 1992, described it as extremely unhygienic, and stated that

<sup>2159</sup> P583, tab 89, pp. 6-7.

<sup>2160</sup> P583, tab 38, p. 1.

<sup>2161</sup> P583, tab 91, p. 1.

<sup>2162</sup> P583, tab 92, p. 1.

<sup>2163</sup> P583, tab 39, p. 5.

detainees were regularly beaten.<sup>2164</sup> The report is more critical of Manjača camp, although it still found that detainees were treated in accordance with the Geneva Conventions. In contrast, the Chamber has heard substantial testimony of unhygienic conditions, severe beatings, and executions at Manjača.

1071. Similarly, the 22 August report of the Avlijaš/Sarić commission stated that detainees at the Bileća police station and the Đački Dom dormitory, also in Bileća, were in “reasonably good condition”. In contrast, Witness Murguz, who was detained at this facility from July to October 1992, testified that he and other detainees were regularly mistreated and subjected to electric shock and tear gas.<sup>2165</sup>

1072. Detention facilities such as Batković camp in Bijeljina municipality, Kula in Novo Sarajevo, and various locations in Foča municipality, were not included in the investigation, despite the fact that they were operational at the time of the inspections. The commissions' reports do not indicate why some detention centers were not investigated, nor do they reveal how the commissions determined which facilities to visit.

1073. The commissions did not report comprehensively on those detention facilities they did inspect. The 17 August report mentioned Keraterm in Prijedor, acknowledging that 4,000 detainees were known to have passed through this facility. Virtually no information is provided on the facility or the conditions which existed during its use as a detention facility, due to the commission's finding that no detainees were at the time being held at the facility. Similarly, the 22 August report did not provide any details on detention facilities in Trebinje and Gacko due to its finding that detainees were not currently being held in those areas.

1074. On 22 October 1992 Momčilo Mandić sent Radovan Karadžić, the Accused, and the Prime Minister a report on the situation in prisons and collection centres for prisoners of war in the territory of the Bosnian-Serb Republic. The report, compiled after visits between 10 and 17 October 1992 by Slobodan Avlijaš, covered the municipalities of Vlasenica, Zvornik, Brčko, Prijedor, Sanski Most, Doboj, Banja Luka, Ilidža, and Hadžići, and represents another whitewash.<sup>2166</sup>

<sup>2164</sup> P522, P522.B, p. 4, T. 8067-71.

<sup>2165</sup> P510, pp. 7-10.

<sup>2166</sup> P583, tab 100.

With respect to Vlasenica, the report stated that no prisoner was kept in the so-called "Luke" camp, while a number of Muslims had been briefly kept there at the beginning of the hostilities and later exchanged.<sup>2167</sup>

With respect to Zvornik: 64 Muslims were detained under the supervision of the local SJB because "the other side" was refusing to conduct exchanges.<sup>2168</sup>

With respect to Brčko: there was no prison or camp for the temporary accommodation of detained enemy soldiers. Avlijaš visited the town and met with Bosnian-Serb officials to verify the claim by the ICRC that about 2,500 Muslims had been "liquidated" there. He ascertained that mass graves with 226 corpses existed in a suburb of Brčko; he was told that they had died either of natural causes or during combat activities.<sup>2169</sup>

With respect to Prijedor: "officially" there were no facilities for prisoners of war in the municipality, but 3,000 people gathered spontaneously in Trnopolje after being misinformed that this was the only way to leave. The ICRC was notified that the Bosnian-Serb Republic did not consider Trnopolje under its jurisdiction.<sup>2170</sup>

With respect to Sanski Most: no camp existed, and the only four people taken prisoner were transferred to Manjača in Banja Luka municipality.<sup>2171</sup>

With respect to Doboј, the district prison was used by both the military and the civilian authorities and was awarded "high marks" upon a visit by the ICRC.<sup>2172</sup>

With respect to Banja Luka: prisoners in Manjača camp were being exchanged and 98 Muslims requested permission to leave the town of Banja Luka.<sup>2173</sup>

With respect to Ilidža: the local SJB detained prisoners of war in satisfactory conditions in a secondary school, but they would be transferred shortly to the Butmir Correction House in Vogošća.<sup>2174</sup>

With respect to Hadžići: ninety prisoners of war were detained in the sports centre under the authority of the local SJB awaiting exchange with Serbs.<sup>2175</sup>

<sup>2167</sup> P583, tab 100, p. 2; T. 11551.

<sup>2168</sup> P583, tab 100, p. 3; T. 11551.

<sup>2169</sup> P583, tab 100, p. 3; T. 11554.

<sup>2170</sup> P583, tab 100, pp. 3-4.

<sup>2171</sup> P583, tab 100, p. 4.

<sup>2172</sup> P583, tab 100, p. 4.

<sup>2173</sup> P583, tab 100, pp. 4-5.

<sup>2174</sup> P583, tab 100, p. 5.

1075. On 27 October 1992, the Bosnian-Serb Government discussed the Avlijaš report and decided that “existing illegal camps and assembly centres are to be dissolved as soon as possible. The existing penal institutions legally formed in large centres in Republika Srpska are to be used, since the conditions there are suitable for legal treatment of prisoners and inmates.”<sup>2176</sup> According to Trbojević, who was present at the 27 October meeting, there had been no discussion on prosecuting the persons responsible for the establishment and the management of the “existing illegal camps”.<sup>2177</sup>

#### 6.16 The achievement of Momčilo Krajišnik's objectives

1076. Towards the end of 1992 (sometime between September and December, according to Herbert Okun<sup>2178</sup>), when the enterprise which the Accused had helped lead had largely achieved its criminal objective of ethnic recomposition of territories through forcible expulsion of Muslim and Croat populations, the Accused was able to capitalize on the realization of his demand of March 1992 that new ethnic facts be created on the ground. With thousands of Muslims and Croats killed and more than one hundred thousand driven out of the territories, the Accused was now in a position to claim, not untruthfully, that the Bosnian Serbs were only desiring to hold on to territories in which they were the majority. Speaking on Kanal S, a television channel in Serbia, with a colour-coded map of Bosnia-Herzegovina in the background, Momčilo Krajišnik gestured at the new home for Serbs that he and Karadžić had carved out of a once-multicultural corner of the Balkans, and announced to his audience: “We are standing in front of the ethnic map of former Bosnia and Herzegovina, with marked borders of the territory that is presently possessed by the Bosnian Serb Army. I can only say that what was being said, that we are possessing the territories ethnically populated by the other national communities, that is not true, which can be seen on the ethnic map of Bosnia and Herzegovina, which [we] can cover with the transparent sheet on which the territories are exactly marked, which is possessed by our Army, that those are in fact areas that belong to our people.”<sup>2179</sup> The unfulfilled aspiration of an ethnically cleansed Serb Sarajevo notwithstanding, “this continuity of our territory”,

<sup>2175</sup> P583, tab 100, p. 6.

<sup>2176</sup> P65, tab 212, p. 6.

<sup>2177</sup> T. 11545-9.

<sup>2178</sup> T. 4300, 4306-7; also T. 25672-3.

<sup>2179</sup> P70.A, p. 1; T. 25635-7.

the Accused emphasized, "it is in one piece, if I may say so ... What is a condition is that our Republic be integral, and not divided into several parts."<sup>2180</sup>

1077. At a Vogošća municipal assembly meeting, on 14 November 1992, where the Accused was a guest of honour, he joked: "There are no Muslims around so one should look for an Albanian in order to prevent that Serbs quarrel with each other."<sup>2181</sup> In an interview from late November 1992, he took credit for rescuing his people from slaughter and genocide.<sup>2182</sup> On another occasion around this time he sounded wistful about the Bosnian Serbs' slow progress in achieving control over Sarajevo: "Sarajevo is a separate problem. At the moment ... the area of [the] city proper is marked as Muslim territory, but we shall plead for demilitarisation and division between the two national communities."<sup>2183</sup> Overall, however, the Accused had, by the year's end, achieved most of his goals.

#### 6.17 Conclusions on the Accused's responsibility

1078. From the above considerations, the Chamber concludes that the Accused committed crimes mentioned in part 5 of this judgement as a member of a JCE. The features of the JCE in which he participated are summarized below.

##### *6.17.1 Plurality of persons*

1079. Paragraph 7 of the indictment alleges the existence of a group in the following terms :

Numerous individuals participated in this joint criminal enterprise. Each participant, by acts or omissions, contributed to achieving the objective of the enterprise. Momčilo Krajišnik and Biljana Plavšić worked in concert with other members of the joint criminal enterprise, including Radovan Karadžić and Nikola Koljević. Other members of the joint criminal enterprise included: Slobodan Milošević, Željko Ražnatović (aka "Arkan"), General Ratko Mladić, General Momir Talić, Radoslav Brđanin, and other members of the Bosnian Serb leadership at the Republic, regional and municipal levels; members of the SDS leadership at the Republic, regional and municipal levels; members of the Yugoslav People's Army

<sup>2180</sup> P70.A, pp. 1-2.

<sup>2181</sup> P762, tab R.A, p. 3.

<sup>2182</sup> P851, p. 5.

("JNA"), the Yugoslav Army ("VJ"), the army of the Serbian Republic of Bosnia and Herzegovina, later the army of the Republika Srpska ("VRS"), the Bosnian Serb Territorial Defence ("TO"), the Bosnian Serb police ("MUP"), and members of Serbian and Bosnian Serb paramilitary forces and volunteer units and military and political figures from the (Socialist) Federal Republic of Yugoslavia, the Republic of Serbia and the Republic of Montenegro.

1080. In its final trial brief, the Prosecution allowed for the existence of a JCE constituted of a "core group" of persons:

Should the Trial Chamber find that the members of the JCE consisted only of a core group (such as Krajišnik, Karadžić, Plavšić, Koljević, Mladić, Mićo Stanišić and Mandić), liability still attaches to Krajišnik for participation in that JCE, as the physical perpetrators of the crimes were acting as instruments of that JCE. Similarly, insofar as any crimes were committed by local Bosnian Serbs who were not members of the JCE, those Serbs were acting as instruments under the direction of participants in the JCE.<sup>2184</sup>

1081. The Prosecution was invited by the Chamber to comment on the kinds of evidence which would distinguish perpetrators of crimes acting as part of a JCE from persons not part of that JCE but who were committing similar crimes. The Prosecution listed some distinguishing factors:

Whether the perpetrator was a member of, or associated with, any organised bodies connected to the JCE; whether the crimes committed were consistent with the pattern of similar crimes by JCE members against similar kinds of victims; whether the perpetrator acted at the same time as members of the JCE, or as persons who were tools or instruments of the JCE; whether the perpetrator's act advanced the objective of the JCE; whether the perpetrator's act was ratified implicitly or explicitly by members of the JCE; whether the perpetrator acted in cooperation or conjunction with members of the JCE at any relevant time; whether any meaningful effort was made to punish the act by any member of the JCE in a position to do so; whether similar acts were punished by JCE members in a position to do so; whether members of the JCE or those who were tools of the JCE continued to affiliate with the perpetrators after the act; finally – and this is a non-exhaustive list – whether the acts were performed in the context of a systematic attack, including one of relatively low intensity over a long period.<sup>2185</sup>

<sup>2183</sup> P70.A, p. 1; T. 25708-11.

<sup>2184</sup> Prosecution's final trial brief, para. 3.

<sup>2185</sup> T. 27468-9.

1082. The Chamber accepts the submissions in the previous paragraph, which essentially identify indicia (from an indefinite range of such indicia) concerning connections or relationships among persons working together in the implementation of a common objective. A person not in the JCE may share the general objective of the group but not be linked with the operations of the group. Crimes committed by such a person are of course not attributable to the group. On the other hand, links forged in pursuit of a common objective transform individuals into members of a criminal enterprise. These persons rely on each other's contributions, as well as on acts of persons who are not members of the JCE but who have been procured to commit crimes, to achieve criminal objectives on a scale which they could not have attained alone.

1083. One aspect of the Accused's defence was to deny that he was linked to any persons who might have been connected with the commission of crimes: "Everybody had their own province of work."<sup>2186</sup> Moreover, the officials in the municipalities had "great" autonomy.<sup>2187</sup>

1084. The Accused said about the MUP's July 1992 reporting on civilian detainees: "I really don't understand why they would tell me about this. It is their job to get this done, to take measures, to punish, to investigate. All of that is up to them, the government."<sup>2188</sup> "For me, it was sufficient that they would take care of it."<sup>2189</sup> And, somewhat inconsistently: "If you wouldn't be interested in this kind of thing, then you would be committing a crime."<sup>2190</sup> About detention of civilians the Accused said, "Officially, I knew nothing."<sup>2191</sup> Asked whether he would have reacted to rumours of abuse of detention powers, the answer was drowned in legalisms: "this was under the jurisdiction of the government. It [the Assembly] would have to interfere with the powers of the government. It was for the government to investigate this, to submit a report to the Assembly ... That is the proper channel."<sup>2192</sup> Even though as both leader of the Assembly and member of the Presidency the Accused's powers were enormous, in the witness box, he tried to cast himself as a pathetic figure: "I could only suggest ... I could not ask for a report on my own ... I could speak out within the Presidency, and that was the end of all my activity. I

<sup>2186</sup> T. 25776.

<sup>2187</sup> T. 23917.

<sup>2188</sup> T. 25784.

<sup>2189</sup> T. 25785.

<sup>2190</sup> T. 25786.

<sup>2191</sup> T. 25864.

<sup>2192</sup> T. 25874-5.

couldn't punish. ... I couldn't *not* trust the government ... I could say, Wait a minute, is this correct? if there were any indications elsewhere that this was not the case, but there was nothing I could do.”<sup>2193</sup>

1085. According to Biljana Plavšić, Momčilo Mandić of the Ministry of Justice and Mićo Stanišić of the MUP were very close to the Accused and Karadžić, and Prime Minister Đerić had no control over the two Ministers.<sup>2194</sup> This is borne out by other evidence. Đerić was Prime Minister in little more than name only, a cover for the dictatorial ways of a core group which had amassed unto itself all important executive powers. Đerić's statement that “Mr Karadžić considered Mr Krajišnik to be his very own, private Prime Minister”,<sup>2195</sup> is apposite. Momčilo Mandić testified that, in terms of power and influence, Karadžić was “absolute number one”. In Mandić's opinion, the Accused was number two.<sup>2196</sup> This assessment is equivalent to Đerić's, and in light of all the evidence, the Chamber finds it to be correct.

1086. It is clear that paragraph 7 of the indictment alleges a JCE consisting of a large and indefinite group of persons. The Chamber does not find it possible on the evidence to specify fully the membership of the JCE; and even if it were possible, it is neither desirable nor necessary to do so. What is necessary is to be convinced that the Accused was sufficiently connected and concerned with persons who committed crimes pursuant to the common objective in various capacities, or who procured other persons to do so.

1087. The Chamber finds that the JCE of which the Accused was a member consisted of persons situated throughout the territories of the Bosnian-Serb Republic. There was a Pale-based leadership component of the group, including, but not limited to, the Accused, Radovan Karadžić, Biljana Plavšić, Nikola Koljević, Momčilo Mandić, Velibor Ostojić, Mićo Stanišić, and, as of 12 May 1992, General Ratko Mladić. The JCE rank and file consisted of local politicians, military and police commanders, paramilitary leaders, and others. It was based in the regions and municipalities of the Bosnian-Serb Republic, and maintained close links with Pale.

1088. The local component included Arkan (Željko Ražnatović),<sup>2197</sup> Dr Beli (proper name Milenko Vojnović: a local SDS official, deputy to the Bosnian-Serb Assembly, and SDS

<sup>2193</sup> T. 25865, emphasis added.

<sup>2194</sup> T. 26865-6; C8, pp. 263-4.

<sup>2195</sup> T. 27093.

<sup>2196</sup> T. 8618, 9281-2.

Main Board member),<sup>2198</sup> Mirko Blagojević (paramilitary leader),<sup>2199</sup> Radoslav Brđanin (ARK crisis staff president and deputy to Bosnian-Serb Assembly),<sup>2200</sup> Simo Drljača (chief of Prijedor SJB),<sup>2201</sup> Rajko Dukić (president of SDS Executive Board and SDS Main Board member),<sup>2202</sup> Gojko Kličković (president of Bosanska Krupa war presidency and SDS Main Board member),<sup>2203</sup> “Vojo” Kuprešanin (president of ARK and SDS Main Board member),<sup>2204</sup> Rajko Kušić (SDS leader of Rogatica, paramilitary leader, and SDS Main Board member),<sup>2205</sup> Mauzer (paramilitary leader; proper name Ljubiša Savić),<sup>2206</sup> Jovan Mijatović (member of Zvornik crisis staff and deputy to Bosnian-Serb Assembly),<sup>2207</sup> Veljko Milanković (paramilitary leader),<sup>2208</sup> Nedeljko Rašula (president of Sanski Most municipal assembly and deputy to Bosnian-Serb Assembly),<sup>2209</sup> Momir Talić (commander of 1st Krajina Corps),<sup>2210</sup> Jovan Tintor (president of Vogošća crisis staff and SDS Main Board member),<sup>2211</sup> Vojin (Žučo) Vučković (paramilitary leader),<sup>2212</sup> and Stojan Župljanin (chief of Banja Luka SJB),<sup>2213</sup> among others.

#### 6.17.2 Common objective

1089. The second element of JCE responsibility, namely the common objective of the enterprise, is pleaded in the indictment as being “the permanent removal, by force or other means, of Bosnian Muslim, Bosnian Croat or other non-Serb inhabitants from large areas of Bosnia and Herzegovina through the commission of crimes which are punishable under Articles 3, 4, and 5 of the Statute”, and that “The crimes enumerated in all the Counts of

<sup>2197</sup> See part 4 of the judgement, on Bijeljina, Brčko, and Zvornik; P529, tab 240; P944, p. 9.

<sup>2198</sup> For example: T. 1715-16; P513.F, pp. 1856, 2229; T. 21681-2, 25508-16.

<sup>2199</sup> See part 4 of the judgement, findings on Bijeljina and Brčko; P727, tab 3, pp. 3-4, 13-14, 19.

<sup>2200</sup> See part 4 of the judgement, findings on Banja Luka and Prijedor; also P64, p. 151; P64, p. 178.

<sup>2201</sup> See part 4 of the judgement, findings on Prijedor.

<sup>2202</sup> For example: T. 1201, 11636-8, 15328-9, 15892-3, 20709-11, 22620-1.

<sup>2203</sup> For example: T. 6409, 6413, 6421-4, 6480-81; P303.A, paras 13-15; P303.B, para. 31; P747.F.

<sup>2204</sup> See part 4 of the judgement, findings on Prijedor and Sanski Most.

<sup>2205</sup> See part 4 of the judgement, findings on Rogatica.

<sup>2206</sup> See part 4 of the judgement, findings on Bijeljina and Brčko.

<sup>2207</sup> See part 4 of the judgement, findings on Zvornik, and, for example, T. 24760.

<sup>2208</sup> See part 2.2 of the judgement, and part 4 findings on Banja Luka and Prnjavor; P749, tab 7.

<sup>2209</sup> For example: T. 2796-800; P98, pp. 2, 7; T. 3713, 3722-3, 3733, 3763-5; P181; P168, para. 4; P103, p. 1; P750.A; P158, pp. 26, 30-1; T. 5504-5; P521, pp. 7662-3, 7667-9, 7671-2; P521.C, p. 7863; P519, p. 4870; P519.A, pp. 4919-20, 4923-6; P519.E, pp. 5633-4, 5637-40; P519.G, pp. 5798-9; P522.B, p. 2; 565, T. 4554-6, 4591-3, 4560-61, 4620-21; P216, paras 45, 46, 48; P220; P200, tab 7; T. 16386-7, 9829-30.

<sup>2210</sup> See part 3 of the judgement, and part 4 findings on Banja Luka and Prnjavor.

<sup>2211</sup> For example: T. 1433-5, 11927-8, 12097-100, 14598, 14981-2, 15011-13; P744, pp. 1-5; P745; T. 13480-1; P742.A, pp. 4-5.

<sup>2212</sup> See part 3.4.5 of this judgement, and part 4 findings on Bileća, Gacko, and Zvornik.

<sup>2213</sup> See parts 2.2, 3.5.3, 3.5.4 of the judgement, and part 4 findings Banja Luka and Prijedor.

this indictment were within the object of the joint criminal enterprise, and Momcilo Krajišnik ... held the state of mind necessary for the commission of each of these crimes.”<sup>2214</sup>

1090. The Chamber finds that the above allegations have been proven in relation to Article 5 of the Statute (crimes against humanity). The Bosnian-Serb leadership wanted to ethnically recompose the territories under its control by expelling and thereby drastically reducing the proportion of Bosnian Muslims and Bosnian Croats living there. In the words of a decision of representatives from Bihać, Bosanski Petrovac, Sprska Krupa, Sanski Most, Prijedor, Bosanski Novi, and Ključ, on 7 June 1992, “Muslims and Croats should move out of our municipalities until a level is reached where Serbian authority can be maintained and implemented on its own territory in each of these municipalities”.<sup>2215</sup>

1091. The evidence does not show that the Accused or other members of the JCE had the mens rea of genocide (Article 4 of the Statute). Nor does it support the conclusion that the Accused was complicit in genocide. The Chamber has classified all proven killings under Article 5 of the Statute, so the allegation regarding Article 3 of the Statute (violations of the laws or customs of war), which was charged in the alternative to murder as a crime against humanity, is rendered moot.

1092. An explanation of the Chamber's conclusion in relation to Article 4 of the Statute is in order. The evidence does not show that the crime of genocide formed part of the common objective of the JCE in which the Accused participated. When reviewing speeches and statements, witness evidence and documentation, in search of evidence of genocidal intent, utterances must be understood in their proper context.<sup>2216</sup> Statements and speeches of the Accused and others in the Bosnian-Serb leadership hinged on two main ideas, namely that Serbs had to separate from Muslims and Croats (since it was impossible for them to live together), and that there existed historically Serb territories. Even the more extreme statements of the Accused, such as his speech at the Bosnian-Serb Assembly session of 8 January 1993, do not enable the Chamber to conclude that his intent went further than the removal of Muslims and Croats from territories in Bosnia-Herzegovina. The discriminatory remarks uttered by the Accused at that time, and the Assembly resolution adopted in this connection, served, as the Chamber explained above, to

<sup>2214</sup> Indictment, paras 4-5. The phrase “or other non-Serb inhabitants” in paragraph 4 was withdrawn by the Prosecution: T. 17085.

<sup>2215</sup> P192, p. 2.

retrospectively legitimize the forcible removal. They did not reveal an intent to destroy an ethnic group in whole or in part.

1093. The Chamber must consider whether all of the evidence taken together demonstrates a genocidal mental state.<sup>2217</sup> A review of the crimes committed in the indictment municipalities during 1992 provides some of the context of the speeches and statements of the Accused and his associates. The Chamber has found that, on the evidence presented, at least 3,000 Muslims and Croats were killed as part of a widespread or systematic attack against them. These persons were killed over a period of many months in a variety of circumstances. Yet the main focus of the JCE was to forcibly remove Muslims and Croats from the indictment municipalities, which it succeeded in doing in very large numbers. Killings and ill-treatment were often carried out with the aim to instill fear and force the population to leave. Destruction and appropriation of property was seen as a measure to prevent expelled people from returning.

1094. As explained in part 5, the Chamber has not found in the evidence that crimes of genocide were committed in the indictment municipalities, which of course is not to say that such crimes did not occur. It is only to say that the evidence is not conclusive beyond reasonable doubt as to the commission of genocide. Proof of genocide is not possible without proof of the mens rea at some level of the hierarchy of actors. This may be present from the start, or materialize later. Considering all the evidence, the Chamber does not find that the evidence supports a finding beyond reasonable doubt that at any time during the indictment period the common objective of the JCE came to include the crime of genocide (JCE form 1). Since JCE form 3 is not activated except through the commission of a crime of genocide by a co-perpetrator or agent of the JCE – something which has not been proven in this case – the charges of genocide must be dismissed.

1095. The indictment charges the Accused with persecution, murder, extermination, deportation, and forced transfer. The underlying acts of persecution are the imposition and maintenance of restrictive and discriminatory measures, killings during and after attacks, cruel or inhumane treatment during and after attacks, forced transfer or deportation, unlawful detention, killings related to detention facilities, cruel or inhumane treatment in detention facilities, inhumane living conditions in detention facilities, forced labour at front lines, use of human shields, appropriation or plunder of property, and destruction of private

<sup>2216</sup> *Stakić* Appeal Judgement, para. 52.

property, cultural monuments, and sacred sites. The Chamber, in part 5 of this judgement, has found that the full range of these crimes was committed against Muslims and Croats in the indictment municipalities, although the use of human shields has been incorporated under the heading of killing (murder).

1096. The question arises whether one or more of these crimes was not part of the common objective of the JCE (JCE form 1) but rather was a natural and foreseeable consequence of the implementation of the JCE's common objective (JCE form 3) or fell outside the JCE altogether. In relation to the crime of persecution, the same question arises for a second time: were any of the underlying acts not part of the common objective but rather the natural and foreseeable consequences of that objective?

1097. The Chamber finds that the crimes of deportation and forced transfer (as charged under counts 7 and 8 of the indictment and as incorporated in the charge of persecution in count 3) were necessary means of implementing the common objective of removal by force of Bosnian Muslims and Bosnian Croats from large areas of Bosnia-Herzegovina. The Chamber will refer to these crimes as "original" crimes. These were the crimes which constituted the JCE's common objective as of late March 1992, when the Accused called for "implementing what we have agreed upon, the ethnic division on the ground". Witness 583 reported "ethnic cleansing" to the Bosnian-Serb leadership in July 1992, when around 9,000 Muslims and Croats were forced to cross into Croatia. The Main Staff was informed by the 1st Krajina Corps in December 1992 of a convoy of buses transporting 1,008 detainees from Manjača camp to Croatia. At around the same time, the 1st Krajina Corps informed the Main Staff of another 1,001 detainees from Manjača being moved out of the Bosnian-Serb Republic. The Bosnian-Serb authorities tried to misinform the world about the forced-transfer crimes, such as when they denied in a press release that there had been "ethnic cleansing" in Grbavica, claiming that it was a case of some groups acting arbitrarily. In October 1992 Biljana Plavšić again denied that there had been ethnic cleansing in Grbavica, stating euphemistically that "The truth is that Muslims have been able freely to leave the suburb, accompanied and protected" by the VRS.

1098. These are just some examples of the knowledge the Bosnian-Serb leadership had on crimes of forcible displacement. Whether other crimes were "original" to the common objective or were added later is of course a matter of evidence, not logical analysis. The

<sup>2217</sup> Ibid., para. 55.

Chamber's preference is for a strictly empirical approach which does not speculate about the crime-profile of the original JCE objective, but conceptualizes the common objective as fluid in its criminal means. An expansion of the criminal means of the objective is proven when leading members of the JCE are informed of new types of crime committed pursuant to the implementation of the common objective, take no effective measures to prevent recurrence of such crimes, and persist in the implementation of the common objective of the JCE. Where this holds, JCE members are shown to have accepted the expansion of means, since implementation of the common objective can no longer be understood to be limited to commission of the original crimes. With acceptance of the actual commission of new types of crime and continued contribution to the objective, comes intent, meaning that subsequent commission of such crimes by the JCE will give rise to liability under JCE form 1.

1099. Notwithstanding the above, even before the Bosnian-Serb take-overs began in April 1992, the Accused and Radovan Karadžić were aware that an armed conflict between the ethnic groups would have devastating consequences. On 15 October 1991, speaking before the Bosnia-Herzegovina Assembly, Radovan Karadžić said: "This is the road that you want Bosnia and Herzegovina to take, the same highway of hell and suffering that Slovenia and Croatia went through. Don't think you won't take Bosnia and Herzegovina to hell and Muslim people in possible extinction."<sup>2218</sup> Three days earlier, he had said in a telephone conversation with Gojko Đogo that the Bosnian Serbs would fight against secession from Yugoslavia, that "Sarajevo will be a black cauldron where 300,000 Muslims will die", and that "they'd be up to their necks in blood and that the Muslim people would disappear".<sup>2219</sup> Other evidence confirms that the Accused knew where the events he had helped set in train were heading. Witness 623, of Serb ethnicity, was in 1992 a senior member of the government of Bosnia-Herzegovina. He stated that the leading figures of the SDS, including the Accused, had created a policy of ethnic cleansing in full awareness that it entailed the use of force.<sup>2220</sup> In April or May 1992 he attended a meeting with the Accused in Sarajevo.<sup>2221</sup> He expressed his view to the Accused that any ethnic separation for the

<sup>2218</sup> P69.A, p. 3.

<sup>2219</sup> P67, tab 16.A, pp. 7-8. Similar remarks in P64A, tab 320, p. 2; P64A, tab 322, p. 3.

<sup>2220</sup> P280, para. 45.

<sup>2221</sup> 623, T. 5722; P280, paras 61-68.

purpose of creating an entity under Serb rule could not be achieved without the violent displacement of civilians, causing bloodshed among them.<sup>2222</sup>

1100. If unlawful detention of civilians was not an original crime of the common objective of the JCE of which the Accused was a member, it very soon joined the intended crimes of deportation and forced transfer. As mentioned above, the Bosnian-Serb take-over of Bijeljina in early April 1992 immediately caused a large population of displaced persons to seek refuge at the JNA barracks in town. Biljana Plavšić, who had invited Arkan to Bijeljina, saw around 3,000 displaced persons when she visited the barracks. After that first Bosnian-Serb take-over operation, displaced persons were herded into public buildings and other structures that served as detention centres. Miroslav Deronjić sent hundreds of detained Muslim civilians under escort to Pale after the take-over of Bratunac municipality in May 1992. This fact was known to the Accused at the time. The acts of Rajko Kušić, who told Muslim detainees at the Veljko Vlahović school in Rogatica that he was having to report to the leadership in Pale on why he was running late with ethnically cleansing his municipality further illustrate this point. Kušić mentioned decisions made in Pale, on the number of Muslims who could remain in Rogatica.<sup>2223</sup>

1101. Similarly, if cruel or inhumane treatment of detainees were not original crimes of the common objective, they too came to be added to the crimes of deportation and forced transfer. Stanišić knew about the illegal and widespread detention of Muslim and Croatian civilians and their inhumane treatment, and reported the situation to Radovan Karadžić and Prime Minister Đerić in July 1992: “The Army, crisis staffs and war presidencies have requested that the Army round up or capture as many Muslim civilians as possible, and they leave such undefined camps to internal affairs organs. The conditions in some of these camps are poor: there is no food, individuals sometimes do not observe international norms, etc.” – the last being a euphemism for the mistreatment of detainees.

1102. In June 1992, Biljana Plavšić entered a room where Witness 239 was being questioned and beaten by Serb soldiers. She told the soldiers to take away the witness and two other detainees, who showed visible signs of having been beaten, because she was trying to have breakfast in the room next door. Milanović told the Bosnian-Serb Assembly in July 1992 that “We have a huge problem with captured people of other nationalities, we

<sup>2222</sup> 623, T. 5726, 5901-2.

<sup>2223</sup> The facts cited in this section for purposes of illustration of reporting practices have all been discussed in greater detail earlier in this part of the judgement, with full citation to sources.

have hundreds and thousands of these prisoners.” He acknowledged that “boozing” and “totally plastered” Serb soldiers, paramilitaries, and private armies roamed Banja Luka engaging in criminal activities which went unpunished.

1103. The ICRC reported mistreatment directly to the Bosnian-Serb leadership. The ICRC's July 1992 report stated that “detainees had been subjected to ill treatment during the visit. All eight delegates present in camp observed on detainees frequent and widespread traces of recent and often severe beatings ... Basic conditions of poor nutrition and hygiene, along with ill treatment, were assessed by delegates to be the biggest health problems.” The Bosnian-Serb leadership did not give up their programme of expulsion .

1104. Killings in detention were also known to the Bosnian-Serb leadership and became a crime of the common objective. The records of the 1st Krajina Corps military prosecutor's office identify only two or three incidents in which the killing of non-Serb civilians in the custody of Bosnian Serbs was followed up through the military judicial process; even then, no trial was recorded. A combat report from the 1st Krajina Corps to the VRS Main Staff from November 1992, which would have put General Mladić and other members of the Bosnian-Serb leadership on notice, describes a “massacre” of about 200 Muslims prisoners of war in the village of Večići in Kotor Varoš municipality.

1105. Sexual violence was committed against persons in and out of detention and reported to the Bosnian-Serb leadership. In late July 1992 the Bijeljina CSB reported to Radovan Karadžić that Mauzer's men, together with some members of the local MUP, “terrorized” Muslim residents of Bijeljina through crimes including rapes. Around June 1992, three women, two Muslim and one of mixed ethnicity, were raped during house searches by an armed man named Batko. Biljana Plavšić stated that she was informed by people living in Grbavica that Batko and an armed group associated with him were committing crimes against non-Serbs. When she returned to Pale she had a meeting with Radovan Karadžić, the Accused, Nikola Koljević, Mićo Stanišić, and Momčilo Mandić regarding what she had heard. In September 1992 the intelligence service of the Eastern Bosnia Corps Command reported to the VRS Main Staff that as of 30 April 1992, Brčko had been flooded by “patriotic elements” which were responsible for robberies, rapes, and murders, including murders at Luka camp, and that some of the bodies of those killed had been buried in pits and covered with material from demolished mosques.

1106. In August 1992, the Vogošća war commission sought approval from the Ministry of Justice to engage detainees at Planjo's house in Semizovac in construction and other works. Minister of Justice Mandić, approved the request. A man introducing himself as the Minister of Justice visited detainees at Planjo's house. He knew that they had been transferred there to perform labour assignments. They were in fact forced by Serb forces to perform labour at front lines.

1107. Inhumane living conditions and cruel or inhumane treatment at detention centres were issues that the Bosnian-Serb leadership actively tried to cover up. In August 1992 Karadžić said in a television interview that "We have excellent conditions in all prisons, or in almost all prisons ... the fact is that we do not have camps for civilians".

1108. If murder of civilians during attacks on towns and villages had not been intended from the outset by the members of the JCE, it was soon incorporated as an intended crime. Biljana Plavšić knew that civilians had been killed during the attack on Bijeljina in early April 1992. Her reaction was to say that Arkan had done a good job in saving the Serb population from the Muslim threat. The Bosnian-Serb leadership very soon came not only to accept killings in connection with attacks as part of the JCE, but also to encourage them. The indiscriminate bombardment of Sarajevo is a case in point. In June 1992, the Bosnian-Serb leadership, in a meeting with Mladić, did not oppose Mladić's decision to attack Sarajevo with artillery. The attack was massive and indiscriminate.

1109. Extermination of Muslims, such as the incident at Korićanske Stijene in August 1992, was also reported to the Bosnian-Serb leadership. Its reaction to this particular event was to try to cover it up.

1110. The Serb attacks on Muslim and Croat enclaves were associated with cruel or inhumane treatment, and this was known to the Bosnian-Serb leadership. In April 1992, Witness 583 reported to Karadžić about the terror inflicted on the Muslim population of Zvornik. Karadžić answered that such crimes, committed by paramilitary units, were inevitable. In May 1992 Momčilo Mandić said in a telephone conversation that "we are holding Turks under siege [in Sarajevo]. We'll starve them a bit." Physical and psychological abuse of the citizens of Sarajevo through indiscriminate bombardment of the city was a prominent aspect of the Bosnian-Serb aggression.

1111. As to plunder and appropriation of property, the Chamber mentioned Davidović's evidence that Mićo Stanišić spoke of an agreement that Arkan's forces could do as they

wished with any property in the “liberated” territories. During Davidović’s visits to Bijeljina in the course of 1992 he observed widespread looting in the municipality. The abandoned and looted homes of Muslims were sold to Serb refugees. In July 1992, the Doboj CSB reported to the MUP Minister that Serbs were committing crimes, mainly looting of property, in areas of the municipality recently “liberated” by the army; the systematic looting was committed by soldiers and reserve police officers. Mandić testified that he often met with Stanišić to discuss the problem of theft and destruction of property. It was also discussed at Government sessions.

1112. When Witness 583 reported “ethnic cleansing” to the Bosnian-Serb leadership in July 1992, Karadžić, Koljević, and Plavšić responded that it was a cruel war in which everybody was committing crimes. They insisted that the Muslims did not wish to remain in the territories, citing as proof that the Muslims had signed voluntary departure declarations and had exchanged their properties. A letter sent by Radovan Karadžić in July 1992 to several municipalities requested an inventory of “all housing facilities ... that are vacant following the voluntary departure of Muslims”. The housing stock was to be used to accommodate Serbs leaving the Muslim part of Sarajevo.

1113. Appropriation of property, as a crime, if not intended originally, had become a means of forcible ethnic recomposition.

1114. The same is true of destruction of cultural monuments and sacred sites, which was systematic and was reported to the Bosnian-Serb leadership; they, in any case, could see the results of the destruction for themselves when they traveled through the Bosnian-Serb territories. Krstić reported to the VRS Main Staff, and therefore to Mladić, in September 1992 that “During the day the village of Novoseoci was cleansed”. Krstić’s unit blew up all the mosques in Sokolac municipality, including the mosque in Novoseoci.

1115. At the Assembly session of 25 July 1992, the Accused asserted that the take-over of territories to date had been insufficient. Despite all that he knew by that time about the range of crimes being committed in pursuit of the common objective, he wanted the programme of expulsion to continue unabated. Moreover, he never expressed regret about the crimes committed by the Bosnian-Serb authorities in 1992. At no time did he desist. At the Geneva peace negotiations from 1992 to 1994, the Accused and Karadžić insisted throughout on having an ethnically pure Serb area in Bosnia-Herzegovina, as a precondition for a peaceful settlement.

1116. In January 1993, unrepentant, the Accused questioned the very existence of a Muslim identity: “the Muslims are a communist creation and that they are a religious group of Turkish orientation”, he said. In August 1994 he publicly announced that “We simply want to separate because we cannot live together”. This echoed Karadžić statement of July 1994, that the Bosnian Serbs had to “get rid of the enemy in our house, meaning the Croats and Muslims”. In November 1994, the Accused called for the ethnic cleansing of Sarajevo: “The Muslims will have to look for a capital outside of Sarajevo, somewhere else. That is the natural course of things. This town will belong to the Republika Srpska in its totality.” This implies that he would have had the same range of crimes, which he knew to be associated with ethnic cleansing, repeated against Muslim and Croat citizens of Sarajevo.

1117. In summary, in the months following March 1992, reports about crimes detailed in parts 4 and 5 of this judgement reached the Bosnian-Serb political leadership, including the Accused. The leadership did not discontinue its discriminatory forced displacement programme in light of the increasing number and range of crimes being reported, but rather persisted with its territorial conquests and demographic recompositions.

1118. The Chamber finds that, whereas in the early stages of the Bosnian-Serb campaign the common objective of the JCE was discriminatory deportation and forced transfer, soon thereafter it became clear to the members of the JCE, including the Accused, that the implementation of the common objective involved, as a matter of fact, the commission of an expanded set of crimes. These crimes came to redefine the criminal means of the JCE's common objective during the course of the indictment period. In accordance with the reasoning set out earlier in this section, acceptance of this greater range of criminal means, coupled with persistence in implementation, signalled an intention to pursue the common objective through those new means. As this is an evidentiary matter, the Chamber's conclusion does not exclude the possibility that the “original” crimes of the common objective were not limited to deportation and forced transfer. To speak of an increase in criminal means is only to say that the evidence confirms that at the given point in time indicated by the evidence the accepted means were what they were.

1119. The Accused held a central position in the JCE. He not only participated in the implementation of the common objective but was one of the driving forces behind it. The Accused knew about, and intended, the mass detention and expulsion of civilians, he had the power to intervene, and his evasiveness in the witness box confirmed to the Chamber

that he was not interested and did not care about the predicament of detained and expelled persons. He wanted the Muslims and Croats moved out of the Bosnian-Serb territories in large numbers, and if suffering, death, and destruction were necessary to achieve Serb domination and a viable statehood, he accepted that many Muslims and Croats of all ages would pay a heavy price. He therefore had the mens rea required for the commission of the crimes which the Chamber, in part 5 of this judgement, has found were committed.

### *6.17.3 Contribution*

1120. Paragraph 8 of the indictment alleges the Accused's contributions to the JCE: "Momčilo Krajišnik ... acting individually, and through the associations, positions and memberships enumerated in paragraphs 12 and 13 below, and in concert with other members of the joint criminal enterprise, participated in the joint criminal enterprise in the following ways: ...", following which eleven paragraphs particularize the alleged contributions. In the Chamber's view, the Accused's overall contribution to the JCE was to help establish and perpetuate the SDS party and state structures that were instrumental to the commission of the crimes. He also deployed his political skills both locally and internationally to facilitate the implementation of the JCE's common objective through the crimes envisaged by that objective.

1121. The Chamber will now state its findings on each of the alleged contributions on the basis of evidence discussed above. For the sake of clarity, evidence is used to illustrate the findings where necessary.

- (a) Formulating, initiating, promoting, participating in, and/or encouraging the development and implementation of SDS and Bosnian Serb governmental policies intended to advance the objective of the joint criminal enterprise;

The above allegation has been proven.

- (b) Participating in the establishment, support or maintenance of SDS and Bosnian Serb government bodies at the Republic, regional, municipal, and local levels, including Crisis Staffs, War Presidencies, War Commissions ("Bosnian Serb Political and Governmental Organs") and the VRS, TO, and the MUP ("Bosnian Serb Forces") through which [he] could implement the objective of the joint criminal enterprise;

The above allegation has been proven, except in relation to the establishment of the SDS party and the establishment of the TO.

(c) Supporting, encouraging, facilitating or participating in the dissemination of information to Bosnian Serbs that they were in jeopardy of oppression at the hands of Bosnian Muslims and Bosnian Croats, that territories on which Bosnian Muslims and Bosnian Croats resided were Bosnian Serb land, or that was otherwise intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise;

The above allegation has been proven.

(d) Directing, instigating, encouraging and authorizing the Bosnian Serb Political and Governmental Organs and the Bosnian Serb Forces to carry out acts in order to further the objective of the joint criminal enterprise;

The above allegation has been proven. In his speech before the Bosnian-Serb Assembly on 18 March 1992 the Accused called for the “ethnic division on the ground”, thus instigating, encouraging, and authorizing the implementation of the common objective. Some other examples may be considered. On 24 March 1992, the Accused instructed the new Government to prepare a plan for “assuming power and rendering operational the authorities” in the territory of the Bosnian-Serb Republic. It was under the Accused’s direction that the Assembly, on 27 March 1992, set up the Bosnian-Serb MUP, and then proceeded to approve the proclamations of “Newly Established Serbian Municipalities”. On 21 April 1992, the Accused made three telephone calls to Vraca to inquire about a front line situation involving Šešelj’s men. During one of those conversations he spoke to Milenko Karišik, commander of a MUP special unit, and explained to him that the JNA could not get involved “because then we would have real problems”. The Accused then instructed Karišik to make contact with the JNA so that leadership would know “how they’re doing”. In his capacity as an SNB member, the Accused supported the conclusions of a joint session of the SNB and the Government on 22 April 1992 that the Bosnian-Serb Republic should “maintain the positions that had been taken, especially in Sarajevo”, referring, of course, to military gains achieved by the armed forces in the area. At the 12 May 1992 Assembly session which saw the establishment of the VRS, the Accused openly advocated violence against Muslims and Croats, saying “it will be possible to solve this thing with Muslims and Croats only by war.” On 17 May 1992, the Accused, together with

Karadžić and Mladić, attended a meeting in Sokolac with representatives of Romanija SAO and the municipalities of Olovo and Rogatica. There the Accused said that the time had come for ethnically separate areas because a common state was no longer possible. At the Assembly session of 25 July 1992, the Accused asserted that the take-over of territories to date had been insufficient and then proceeded to sketch the desired borders, establishing parameters for further military action. Around 10 June 1992, the Accused attended a meeting with the other members of the Presidency in which General Mladić announced his intention to shell Sarajevo. The Accused expressed no opposition to this proposal, which was implemented shortly thereafter.

(e) Exercising effective control over the Bosnian Serb Political and Governmental Organs and Bosnian Serb Forces which participated in or facilitated the commission of crimes identified in this indictment;

In relation to (e), “effective control” is a technical term which must be proven in connection with certain modes of liability. It is not a required element of JCE liability. For effective control, proof is required of a material ability on the part of a “superior” to directly or indirectly prevent, punish, or take measures resulting in disciplinary or criminal proceedings against the principal perpetrators of the crimes.<sup>2224</sup> While evidence in the present case demonstrates that the Accused had power and influence over those bodies which the indictment refers to as the Bosnian-Serb political and governmental organs and Bosnian-Serb forces, it does not demonstrate that he himself had effective control over those bodies. The above allegation therefore has not been proven.

(f) Encouraging, assisting or participating in the acquisition of arms or in the distribution of them to Bosnian Serbs to further the objective of the joint criminal enterprise;

In relation to (f), the Accused knew about and accepted the fact that the Bosnian-Serb population was being armed through the SDS, among other methods. But the evidence does not prove that he encouraged, assisted, or participated in the acquisition and distribution of arms. Therefore the allegation has not been proven.

(g) Requesting the assistance of or facilitating or co-ordinating the participation of JNA/VJ forces and/or Serbian paramilitary units and Bosnian Serb paramilitary and volunteer units to further the objective of the joint criminal enterprise;

<sup>2224</sup> *Čelebići* Appeal Judgement, paras 192; 252, 255-6; *Blaškić* Appeal Judgement, para. 69.

The above allegation has not been proven.

(h) Directing or encouraging [his] subordinates in the Bosnian Serb Political and Governmental Organs and in the Bosnian Serb Forces to direct, assist or request assistance from JNA/VJ forces, Serbian paramilitary units and Bosnian Serb paramilitary and volunteer units in the commission of acts to further the objective of the joint criminal enterprise;

The above allegation has not been proven, as the evidence does not establish that there was a "superior-subordinate" relationship between the Accused himself and the Bosnian-Serb political and governmental organs and Bosnian-Serb forces. The proven relationship between the Accused and those organs and forces is dealt with under paragraph (d), above.

(i) Directing, supporting or encouraging the incorporation into the Bosnian Serb Forces [of] members of paramilitary forces and volunteer forces known to have participated or suspected of having participated in crimes;

The above allegation has not been proven, insofar as it is limited to the "incorporation" of paramilitary forces. The Accused's association with, and support for, paramilitary activity is another matter, which has been discussed above.

(j) Aiding or abetting or instigating the commission of further crimes by failing to investigate, to follow up on investigations, and to punish subordinates in the Bosnian Serb Forces for crimes committed against Bosnian Muslims, Bosnian Croats or other non-Serbs throughout the period described in this indictment; or

The above allegation has been proven in relation to failure to investigate and failure to follow up on investigations. It has not been proven in relation to failure to punish subordinates, since it has not been shown that the Accused personally had such a power.

(k) Engaging in, supporting or facilitating efforts directed at representatives of the international community, non-governmental organizations and the public denying or providing misleading information about crimes against Bosnian Muslims, Bosnian Croats or other non-Serbs of Bosnia and Herzegovina and about the role that Bosnian Serb Forces had played in those crimes.

The above allegation has been proven.

#### *6.17.4 Activation of the criminal enterprise*

1122. Having found that there existed a JCE which included the Accused, it remains to determine the starting point of the crimes committed through the JCE.

1123. The Prosecution was asked to specify the first crime which the Accused committed as part of the JCE alleged in the indictment:

The first charged crime committed pursuant to the JCE is scheduled incident 1.1 in schedule A, which is the killing of at least 48 Bosnian Muslim and/or Bosnian Croat men, women and children in the town of Bijeljina on the 1st or 2nd of April. ... As pleaded in our indictment, the objective of the joint criminal enterprise was the permanent removal by force or other means of Bosnian Muslim, Bosnian Croat, or other non-Serb inhabitants from large areas of Bosnia and Herzegovina through the commission of crimes punishable under the Statute of the Tribunal. It was a vast criminal enterprise, and, like any vast criminal enterprise, its membership was not static. The members of the JCE participated in different ways, in different geographical areas, with the shared intent to secure the objective of forcibly removing non-Serbs from the targeted territory across great parts of Bosnia and Herzegovina. At the end of March 1992, and at the time of the first crimes charged in the indictment, the joint criminal enterprise already included a great number of individuals, including Krajišnik, Karadžić, Koljević, Plavšić, Arkan, Milošević, Mauzer, Mićo Stanišić, Mandić, Brđanin, and Kukanjac. It also included those Serb Crisis Staffs which had been established, members of the RS MUP, the Serb TO, and paramilitary groups and JNA personnel. Your Honours may ask why Mladić is not in that list. Mladić and other VRS staff became part of the joint criminal enterprise on the 12th of May, 1992, on the establishment of the VRS.<sup>2225</sup>

1124. The Chamber accepts this analysis and finds that the Accused's criminal responsibility arises with the attack and crimes committed in Bijeljina municipality in the beginning of April 1992.

<sup>2225</sup> T. 27460, 27462.

### 6.18 Findings on the charges

1125. The Chamber finds Momčilo Krajišnik **NOT GUILTY** of the following charges in the indictment:

Count 1: genocide;

Count 2: complicity in genocide;

Count 6: murder as a violation of the laws or customs of war.

1126. The Chamber finds Momčilo Krajišnik **GUILTY** of the following charges in the indictment pursuant to Article 7(1) of the Statute:

Count 3: persecution as a crime against humanity;

Count 4: extermination as a crime against humanity;

Count 5: murder as a crime against humanity;

Count 7: deportation as a crime against humanity;

Count 8: inhumane acts (forced transfer) as a crime against humanity.

### 6.19 Restrictions on cumulative convictions

1127. The Accused has been found criminally responsible pursuant to Article 7(1) of the Statute for the offences charged under count 3: persecution on political, racial and religious grounds, a crime against humanity; count 4: extermination, a crime against humanity; count 5: murder, a crime against humanity; count 7: deportation, a crime against humanity; and count 8: inhumane acts (forced transfer), a crime against humanity.

1128. Cumulative convictions entered under different statutory provisions but based on the same conduct are permissible only if each statutory provision in question has a materially distinct element not contained in the others. An element is materially distinct from another if it requires proof of a fact not required by the other. When this test is not met, the Chamber must enter a conviction on the more specific provision only.<sup>2226</sup>

1129. The Chamber has found Momčilo Krajišnik responsible for persecution, extermination, murder, deportation, and other inhumane acts (forced transfer) as crimes

<sup>2226</sup> *Kordić and Čerkez* Appeal Judgement, para. 1032; *Čelibići* Appeal Judgement, paras. 412-13; *Stakić* Appeal Judgement, para. 355.

against humanity. The acts underlying the findings of persecution as a crime against humanity include the acts underlying the findings of murder, extermination, deportation, and other inhumane acts (forced transfer).

1130. Persecution as a crime against humanity has a materially distinct element from murder as a crime against humanity in that persecution requires proof that an act or omission discriminates in fact, and proof that the act or omission was committed with specific intent to discriminate. Conversely, murder as a crime against humanity requires proof that the accused caused the victim's death, which is not an element required for proof of persecution. As a result, a cumulative conviction for persecution and murder under Article 5 of the Statute is permissible. The same reasoning applies to extermination, deportation, and forced transfer as an inhumane act.

1131. The Accused has been found responsible for both deportation and other inhumane acts (forced transfer). There is no cumulation in this case, because the underlying acts are different. Where it was not known to the Chamber that the forced displacement of persons met all the elements of the crime of deportation, the Chamber has made a finding of forced transfer. The findings are thus supplementary and do not overlap.

## **7. Sentencing law and facts**

### **7.1 Applicable law**

1132. The provisions of the Tribunal's Statute and Rules which relate to sentencing are set forth below:

#### Article 24 of the Statute

##### Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.
2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.
3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

#### Rule 101

##### Penalties

(A) A convicted person may be sentenced to imprisonment for a term up to and including the remainder of the convicted person's life.

(B) In determining the sentence, the Trial Chamber shall take into account the factors mentioned in Article 24, paragraph 2, of the Statute, as well as such factors as:

- (i) any aggravating circumstances;
- (ii) any mitigating circumstances including the substantial cooperation with the Prosecutor by the convicted person before or after conviction;
- (iii) the general practice regarding prison sentences in the courts of the former Yugoslavia;
- (iv) 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, paragraph 3, of the Statute.

(C) Credit shall be given to the convicted person for the period, if any, during which the convicted person was detained in custody pending surrender to the Tribunal or pending trial or appeal.

1133. When imposing a sentence, the Appeals Chamber has stated that the following factors must be considered: (i) the gravity of the offences or the totality of the conduct; (ii) individual circumstances of the convicted person, including aggravating and mitigating circumstances; (iii) the general practice regarding prison sentences in the courts of the former Yugoslavia; (iv) the credit to be given for time spent in detention pending the Chamber's judgement; and (v) 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.<sup>2227</sup> The last item is not applicable in this case.

## 7.2 Purposes of sentencing

1134. The case law of the Tribunal indicates three primary purposes of sentencing, namely retribution, deterrence, and rehabilitation.<sup>2228</sup>

1135. As a form of retribution, punishment expresses society's condemnation of the criminal act and of the person who committed it.<sup>2229</sup> To fulfil the objective of retribution, the Chamber must therefore impose a punishment which properly reflects the personal culpability of the wrongdoer.

1136. Both special and general deterrence are important purposes of sentencing in criminal law. The rationale of special deterrence is to dissuade the wrongdoer of recidivism in the future, whereas general deterrence aims at discouraging others from committing similar kinds of crime.<sup>2230</sup> The chance that Momčilo Krajišnik will commit similar kinds of crime in the future is very low, which considerably reduces the relevance of special deterrence. Therefore, the Chamber does not expect punishment in this case to have an important special deterrent effect.

1137. As far as general deterrence is concerned, persons who believe themselves to be beyond the reach of international criminal law must be warned that they have to abide by

<sup>2227</sup> *Blaškić* Appeal Judgement, para. 679.

<sup>2228</sup> *Čelebići* Appeal Judgement, para. 806.

<sup>2229</sup> *Aleksovski* Appeal Judgement, para. 185.

<sup>2230</sup> *Babić* Sentencing Judgement, para. 45.

the fundamental norms of substantive criminal law or face prosecution and sanctions.<sup>2231</sup> Nonetheless, it would be unfair, and would ultimately weaken respect for the legal order as a whole, to increase the punishment imposed on one person merely for the purpose of deterring others.<sup>2232</sup> The Chamber is confident that an appropriate sentence for the Accused in his case will have general deterrent effect.

1138. Rehabilitation is also considered to be a relevant, though less important, factor in the determination of the appropriate sentence.<sup>2233</sup>

### 7.3 Sentencing factors

#### *7.3.1 Introduction*

1139. The starting point for consideration of an appropriate sentence is the gravity of the crimes committed by the convicted person.<sup>2234</sup> Whereas Article 24(2) of the Statute obliges the Chamber, when imposing a sentence, to take into account the gravity of the offence and the individual circumstances of the convicted person, Rule 101 of the Rules specifically mentions aggravating and mitigating circumstances. However, since Article 24 of the Statute does not set minimum or maximum terms of imprisonment for the crimes falling under the Tribunal's jurisdiction, aggravating and mitigating circumstances do not play the role they usually play in domestic legal systems, which is to allow a court to go above or below the range set by the law as the "standard" sentence for a specific crime. Seeking to analyse the gravity of the crimes and any aggravating circumstances separately would be an artificial exercise.<sup>2235</sup>

1140. For the above reasons, the Chamber will examine the crimes of which Momčilo Krajišnik has been convicted to assess their inherent gravity, together with any factors which may increase or decrease the relative seriousness of his conduct. By taking this approach, the Chamber also avoids the risk of double-counting any specific factor.<sup>2236</sup> Parts 4, 5, and 6 of this judgement, which dealt in turn with the events in the indictment municipalities, with the elements of the crimes committed, and with Momčilo Krajišnik's responsibility, will serve as a reference. Only factors which have been proven beyond

<sup>2231</sup> *Kordić and Čerkez* Appeal Judgement, para. 1078.

<sup>2232</sup> *Tadić* Appeal Sentencing Judgement, para. 48.

<sup>2233</sup> *Čelebići* Appeal Judgement, para. 806.

<sup>2234</sup> *Aleksovski* Appeal Judgement, para. 182.

<sup>2235</sup> *Bralo* Sentencing Judgement, para. 27.

reasonable doubt may be used to increase the seriousness of a crime and the penalty imposed.<sup>2237</sup> The Chamber will assess the seriousness of Momčilo Krajišnik's overall criminal conduct in part 7.3.2.

1141. The Chamber will also make findings, on the balance of probabilities,<sup>2238</sup> on factors that might mitigate the sentence to be imposed on Momčilo Krajišnik. The weight to be given to mitigating factors lies within the discretion of the Chamber.<sup>2239</sup> These factors include those not directly related to the offence.<sup>2240</sup> They do not detract from the seriousness of the crime nor diminish responsibility.<sup>2241</sup> The Chamber will assess factors to be considered in mitigation in part 7.3.3.

### 7.3.2 Gravity of overall criminal conduct

1142. *Seriousness of the crimes committed.* The Chamber has found that the Bosnian-Serb leadership, including Momčilo Krajišnik, wanted to ethnically recompose the territories under its control by expelling and thereby drastically reducing the proportion of Bosnian Muslims and Bosnian Croats living there. The Chamber also found that this objective was pursued through the commission of crimes, all of which were very serious.

1143. Momčilo Krajišnik has been found responsible of the killing, through murder or extermination, of approximately 3,000 Bosnian Muslims and Bosnian Croats. Murder and extermination are very serious crimes as they entail the taking of other persons' lives.

1144. With respect to deportation and forced transfer, Momčilo Krajišnik has been found responsible of participating in the forcible removal of more than one hundred thousand Bosnian Muslims and Croats from a large area of Bosnia-Herzegovina. These crimes are serious in view of the fact that people are illegally moved against their will or without a genuine choice from the area in which they are lawfully present. Forcible removal in this case was part of the campaign of persecution, which began, at least in certain municipalities, with non-Serbs being fired from their jobs and being, in general, discriminated against. This process culminated in many tens of thousands of people being excluded from the economic and social life of their communities.

<sup>2236</sup> *Deronjić* Appeal Sentencing Judgement, para. 106.

<sup>2237</sup> *Čelebići* Appeal Judgement, para. 763.

<sup>2238</sup> *Blaškić* Appeal Judgement, para. 697.

<sup>2239</sup> *Ibid.*, para. 696.

<sup>2240</sup> *Stakić* Trial Judgement, paras 911, 920.

1145. Persecution on political, racial, and religious grounds consists of a deliberate intention to discriminate against a particular group of people in the context of a widespread and systematic attack on a civilian population. The acts underlying persecution in this case include: killings; cruel and inhumane treatment, physical or psychological abuse, and sexual violence; unlawful detention; forced transfer and deportation; forced labour; intentional or wanton destruction of property; and plunder. The Chamber finds that these acts, considered in combination, and examined in their context as described in part 4 of this judgement, are of extreme seriousness.

1146. There is no need to retell here the countless stories of brutality, violence, and depravation that were brought to the Chamber's attention. But hidden amidst the cold statistics on the number of people killed and forced away from their homes, lies a multitude of individual stories of suffering and ordeal – psychological violence, mutilation, outrages upon personal dignity, rape, suffering for loved ones, despair, death. A sentence, however harsh, will never be able to rectify the wrongs, and will be able to soothe only to a limited extent the suffering of the victims, their feelings of deprivation, anguish, and hopelessness.

1147. *Victims*. The Prosecution submitted that consideration for the victims of the crimes plays a major role in determining the sentence. The Prosecution emphasized that, in assessing the impact on victims in a case such as this one, each victim should be considered. According to the Prosecution, the victims in this case were vulnerable, the vast majority were non-Serb civilians, of all ages, violently uprooted from their homes and settlements, abused, put in camps, or cast out into the unknown with little or no means of survival at their disposal.<sup>2242</sup> The Defence did not add anything to these submissions.<sup>2243</sup>

1148. When determining the relative seriousness of the crimes, the Chamber must consider the number of people killed, the physical and mental trauma suffered and still felt by those who survived, and the consequences of the crimes for those close to the victims.<sup>2244</sup> The Chamber may also consider the economic and social consequences suffered by the targeted groups, including the consequences of destruction of the property of its members and their cultural and religious monuments.<sup>2245</sup>

<sup>2241</sup> *Brđanin* Trial Judgement, para. 1117.

<sup>2242</sup> Closing arguments, T. 27357-9

<sup>2243</sup> Closing arguments, T. 27442-3.

<sup>2244</sup> *Krnojelac* Appeal Judgement, para. 260; *Stakić* Trial Judgement, para. 910.

<sup>2245</sup> *Deronjić* Sentencing Judgement, para. 219; *Strugar* Trial Judgement, paras 460-1.

1149. The Chamber may also take into account the special vulnerability of some victims, such as children, the elderly, the disabled or wounded, and those held in confinement.<sup>2246</sup>

1150. The Chamber finds that the number of victims, their vulnerability, and the social and economic consequences for the region stemming from the crimes, assist in the overall assessment of the gravity of Momčilo Krajišnik's conduct. The Chamber adds that not only the targeted groups, but also others who did not participate in achieving the JCE objectives, including Serbs, suffered because of the crimes committed. Killings detailed in part 4 of this judgement were often overly brutal, showing unjustified hatred or appalling lack of concern. In detention centres, women and men, young and elderly, were held in cramped and poor hygienic conditions, at the mercy of their captors. While being held in inhumane living conditions, victims were beaten, raped, and subjected to psychological and physical abuse. More than one hundred thousand Bosnian Muslims and Bosnian Croats were forced to leave their homes. Many of them were forced to relinquish their property to Bosnian-Serb authorities, and were separated from their families. Their houses and places of worship were destroyed on a massive scale, their property abandoned to plunder.

1151. Immense suffering was inflicted upon the victims in this case, and the consequences that the crimes have had on the entire Muslim and Croat community in Bosnia-Herzegovina have been profound. The consequences of the crimes of which Momčilo Krajišnik has been found guilty as a co-perpetrator in a JCE will persist in Bosnia-Herzegovina for decades, affecting hundreds of thousands of people. The Chamber finds these aspects to be of utmost importance when considering an appropriate sentence.

1152. *Scope of the criminal conduct.* The Prosecution submitted that the long period of time over which the crimes were committed, from the end of March 1992 until December 1992, should be considered in aggravation of the sentence.<sup>2247</sup> The Defence did not add anything to this submission.<sup>2248</sup>

1153. In determining the relative seriousness of the crimes, the Chamber is entitled to take into consideration the geographical scope and the length of time over which the crimes

<sup>2246</sup> *Momir Nikolić* Appeal Sentencing Judgement, para. 66; *Furundžija* Trial Judgement, para. 283; *Aleksovski* Trial Judgement, para. 227; *Čelebići* Trial Judgement, para. 1268; *Češić* Sentencing Judgement, para. 49; *Mrđa* Sentencing Judgement, para. 48; *Brđanin* Trial Judgement, para. 1106; *Blagojević and Jokić* Trial Judgement, para. 844.

<sup>2247</sup> Closing arguments, T. 27359.

<sup>2248</sup> Closing arguments, T. 27442-3.

continued.<sup>2249</sup> In this case, the criminal campaign spanned a long period of time. Crimes were committed in all of the 35 indictment municipalities. On the evidence, detention centres where Muslim and Croat civilians were unlawfully held existed in 33 of them. More than 350 detention centres run by the Bosnian Serbs were operational in 1992. The periods of unlawful detention ranged from a few days to many months. In numerous detention centres the Bosnian-Muslim and Bosnian-Croat detainees were treated with extreme cruelty over a considerable period of time. The Chamber finds that the scope of the criminal campaign waged by the JCE, and the range of crimes of which Momčilo Krajišnik has been found guilty, increase the relative seriousness of the criminal conduct.

1154. *Momčilo Krajišnik's role in the commission of the crimes.* The Prosecution submitted that Momčilo Krajišnik, as an intelligent and educated man, used his positions of power to implement a massive campaign of persecution and destruction against the Muslim and Croat populations, instead of protecting Muslims and Croats from the perils they were exposed to. According to the Prosecution, Momčilo Krajišnik abused his position of authority and the trust of the civilian population, and this should affect the sentence.<sup>2250</sup> The Defence did not add anything to these submissions.<sup>2251</sup>

1155. When determining the relative seriousness of the crimes, the Chamber must consider the level of intent and the level of participation of the convicted person in the commission of the crime.<sup>2252</sup>

1156. The position of leadership held by a person criminally responsible under Article 7(1) of the Statute increases the relative seriousness of the crime, if this person abuses or wrongfully exercises the power stemming from the person's position.<sup>2253</sup> The degree to which a leadership position may increase the relative seriousness of crimes depends upon the actual level of authority.<sup>2254</sup> A person who has authority over a large group of people has the ability to inflict more damage by means of this group than he or she would be able to inflict alone.<sup>2255</sup> Moreover, he or she may serve as an example for others to act in a

<sup>2249</sup> *Kunarac et al.* Appeal Judgement, para. 356; *Krnjelac* Trial Judgement, paras 517; *Ntakirutimana and Ntakirutimana* Trial Judgement, para. 912.

<sup>2250</sup> Closing arguments, T. 27358.

<sup>2251</sup> Closing arguments, T. 27442-3.

<sup>2252</sup> *Kupreškić et al.* Trial Judgement para. 852; *Aleksovski* Appeal Judgement, para. 182; *Češić* Sentencing Judgement, para. 34.

<sup>2253</sup> *Aleksovski* Appeal Judgement, para. 183; *Krstić* Trial Judgement, para. 708-9; *Stakić* Appeal Judgement, para. 411.

<sup>2254</sup> *Krstić* Trial Judgement, para. 708; *Plavšić* Sentencing Judgement, para. 57.

<sup>2255</sup> *Tadić* Appeal Sentencing Judgement, paras 55-6.

similar way and, therefore, his or her criminal behaviour is likely to entail more serious effects.<sup>2256</sup>

1157. Closely related to the issue of a leadership position is the question of whether the convicted person held a public position, or a position of public duty. If a person in such a position exploits it in order to commit or facilitate a crime, the relative seriousness of the crime is increased by the breach of duty and the legitimate expectations attaching to this position.<sup>2257</sup> The education and professional background of a convicted person have also been considered factors increasing the seriousness of crimes.<sup>2258</sup>

1158. The Chamber finds that a sentence must reflect the degree and the form of Momčilo Krajišnik's involvement in the commission of the crimes. As described in part 6 of this judgement, the evidence in this case shows that his role was crucial. As President of the Bosnian-Serb Assembly, member of the SDS Main Board, member of the SNB, and member of the Presidency, Momčilo Krajišnik played a vital role in implementing the objective to permanently remove Muslims and Croats from parts of Bosnia-Herzegovina. His positions gave him the possibility to propagate his views, as well as the authority to enable local authorities, military, police, and paramilitary groups to implement the objective of the JCE. The fact that Momčilo Krajišnik was not a principal perpetrator of the crimes does not make him any less responsible.

1159. As a political leader, holding several important public positions, Momčilo Krajišnik had a duty to tend to the well-being of the entire population.<sup>2259</sup> The Chamber finds that Momčilo Krajišnik used his powers to implement a campaign of persecution against the Muslim and Croat populations, instead of protecting them. This factor increases the relative seriousness of the crimes committed. The Chamber further finds that Momčilo Krajišnik's influence was very extensive, and that he was a well-respected leader. The Chamber finds it appropriate to consider Momčilo Krajišnik's public positions when imposing a sentence.

<sup>2256</sup> *Naletilić and Martinović* Trial Judgement, para. 758; *Naletilić and Martinović* Appeal Judgement, paras 608-13.

<sup>2257</sup> *Todorović* Sentencing Judgement, paras 61, 66; *Galić* Trial Judgement, para. 765; *Mrđa* Sentencing Judgement, paras 51-4; *Musema* Trial Judgement, paras 1002-4; *Ntakirutimana and Ntakirutimana* Trial Judgement, paras 900, 910; *Ndindabahizi* Trial Judgement, para. 508; *Semanza* Trial Judgement, para. 573.

<sup>2258</sup> *Kvočka et al.* Appeal Judgement, para. 678; *Simić et al.* Trial Judgement, paras 1084, 1095, 1108; *Brđanin* Trial Judgement, para. 1114.

<sup>2259</sup> *Simić et al.* Trial Judgement, para. 1082.

1160. Moreover, Momčilo Krajišnik was one of the top leaders in the Bosnian-Serb leadership. He is an intelligent and educated man. In all positions he held, he had a public duty to uphold law and order, and persons residing in the relevant territories were entitled to expect that a person of his authority would work to prevent or punish crimes committed against the population, rather than taking part in their commission. The Chamber finds that these facts further increase the gravity of his conduct.

### 7.3.3 Individual circumstances of Momčilo Krajišnik

1161. The Prosecution identified as mitigating factors the fact that Momčilo Krajišnik has no prior convictions and that he behaved well while in detention. According to the Prosecution, given the magnitude and the scale of the crimes in this case, little weight should be given to these factors.<sup>2260</sup> The Defence added that Momčilo Krajišnik is 61 years old and that a high sentence would in practice amount to a life sentence.<sup>2261</sup>

1162. The convicted person's lack of prior criminal record,<sup>2262</sup> good conduct in detention,<sup>2263</sup> age and family situation,<sup>2264</sup> character,<sup>2265</sup> and good conduct contemporaneous to the crimes,<sup>2266</sup> may be given consideration in mitigation. The rationale for mitigation based on age rests on the fact that physical deterioration associated with advanced years makes serving the same sentence harder for an older person. Moreover, an older person may have few years left to be lived in freedom, upon release.<sup>2267</sup> Good conduct contemporaneous to the crimes may serve as a mitigating factor when the convicted person had taken steps to save lives or alleviate the suffering of the victims.<sup>2268</sup> The Chamber may mitigate a sentence where the convicted person provided selective assistance to the victims or persons of the same ethnicity as the victims, even though his or her actions had little practical effect.<sup>2269</sup> The mitigating effect is less, however, where the convicted person is shown to have been in a position to take steps to control or prevent all

<sup>2260</sup> Closing arguments, T. 27359-60.

<sup>2261</sup> Closing arguments, T. 27443

<sup>2262</sup> *Kordić and Čerkez* Appeal Judgement, para. 1090; *Simić et al.* Trial Judgement, paras 1089, 1100, 1113.

<sup>2263</sup> *Jokić* Appeal Sentencing Judgement, para. 49; *Češić* Sentencing Judgement, para. 86.

<sup>2264</sup> *Kunarac et al.* Appeal Judgement, para. 362; *Krnojelac* Appeal Judgement, para. 251; *Plavšić* Sentencing Judgement, para. 106; *Strugar* Trial Judgement, para. 469.

<sup>2265</sup> *Kupreškić et al.* Appeal Judgement, para. 459; *Češić* Sentencing Judgement, para. 85.

<sup>2266</sup> *Krnojelac* Appeal Judgement, para. 255; *Simić et al.* Trial Judgement, para. 1109.

<sup>2267</sup> *Plavšić* Sentencing Judgement, para. 105.

<sup>2268</sup> *Ibid.*, para. 107; *Blagojević and Jokić* Trial Judgement, para. 854.

<sup>2269</sup> *Krnojelac* Trial Judgement, para. 518; *Sikirica et al.* Sentencing Judgement, para. 242.

acts of violence. In such case, sporadic benevolent acts or ineffective assistance may be disregarded.<sup>2270</sup>

1163. Momčilo Krajišnik made some efforts during the indictment period to provide help to non-Serb individuals. On some occasions, he assisted in releasing non-Serb individuals from detention, either personally or through other persons within the Bosnian-Serb leadership.<sup>2271</sup> He also brought medications to Muslim individuals he knew, or had humanitarian aid distributed evenly among the different ethnicities.<sup>2272</sup> While these acts did show some benevolence in respect of Muslims and Croats, they did not impede the achievement of the common objective of the JCE. Keeping in mind the magnitude of the crimes of which Momčilo Krajišnik is found responsible, the assistance provided by him was sporadic. By occupying a central position within the leadership of Bosnia-Herzegovina, Momčilo Krajišnik had the power to provide assistance to the victimized population on a larger scale, had he wished to do so.

1164. Momčilo Krajišnik has no prior convictions and the Chamber has no reason to doubt his good conduct during detention at the United Nations Detention Unit. The Chamber also finds that his age should be considered when imposing a sentence. The Chamber further observes that he has three grown-up children and that he lost his wife in August 1992. The Chamber notes the impact that a prison sentence of substantial length might have on Momčilo Krajišnik's life and on the lives of his relatives.

1165. The Chamber is aware that the indictment against Momčilo Krajišnik was sealed until the day of his arrest on 3 April 2000. However, Momčilo Krajišnik was most likely aware that charges might be brought against him. He nevertheless did not attempt to abscond. This element has a very limited impact in his favour when imposing a sentence.

1166. Momčilo Krajišnik spent a long period in detention, between his arrest on 3 April 2000 and 3 February 2004, when his trial started.

1167. The evidence the Chamber received on the history of the conflict and on the growing inter-ethnic tensions preceding it, as well as the awareness that violence was not used exclusively by Bosnian Serbs, has led the Chamber to an understanding of the conflict

<sup>2270</sup> *Čelebići* Appeal Judgement, para. 776; *Češić* Sentencing Judgement, para. 79.

<sup>2271</sup> Witness 623, T. 5666-7, 5888-9; P280 (Witness 623 statement), paras 25, 53; Krajišnik, T. 26009-10, 27510, 27531; P292, tab 18 (Telephone conversation between Momčilo Krajišnik and Momčilo Mandić, 25 June 1992), pp. 2-5 and P292, tab 19 (Telephone conversation between Momčilo Krajišnik and Momčilo Mandić, 26 June 1992), pp. 2-4.

in which Momčilo Krajišnik committed the crimes. The totality of the conduct which the Chamber has considered comprises these circumstances, although they are not in the foreground.

1168. While each of the above-mentioned factors, by itself, does not constitute a mitigating circumstance, taken together these factors amount to personal circumstances of a kind which may be accorded some, although very limited, weight in mitigation.

1169. The Chamber received conflicting evidence on the personality of the Accused. Despite the fact that some witnesses described him as being moderate in his public attitudes,<sup>2273</sup> other witnesses described him as cynical and radical, and as a person who often emphasized the impossibility of Serbs and Muslims living together.<sup>2274</sup> The discriminatory attitude displayed by Momčilo Krajišnik during the indictment period was analysed in part 6 of this judgement. Additional character evidence was considered by the Chamber, but, on the balance, the Chamber has not found it of assistance in determining a sentence.

#### 7.3.4 General practice regarding prison sentences in the courts of the former Yugoslavia

1170. The Chamber is required to consider “the general practice regarding prison sentences in the courts of the former Yugoslavia” in determining the appropriate penalty. This does not mean that the Chamber is obliged to conform to that practice.<sup>2275</sup> The Tribunal may impose a sentence in excess of that which would be applicable under the relevant law in the former Yugoslavia,<sup>2276</sup> and the Appeals Chamber has held that this sentencing practice does not violate the principle of *nulla poena sine lege* because a defendant would have been aware that the crimes for which he or she is indicted constitute

<sup>2272</sup> Divčić, T. 17823-5, Krajišnik, T. 26009-10.

<sup>2273</sup> Mandić, T. 9288, 9306; Deronjić, T. 1126-8, 1210-12; Antić, T. 18210; Milinčić, T. 18410-2; Kasagić, T. 18545, 18547-8; Čenić, T. 22199, 22203; Kecmanović, T. 22320-1; C3 (Subotić statement), para. 20; Ostojić, T. 26757; Hrvačanin, T. 19256-7; Witness D9, T. 19026-7; P369.B (Telephone conversation between Momčilo Krajišnik and Ljubiša Vladušić, 8 June 1992), p. 4; D263 (Letter by René Daniel Boudin, 12 February 2004); D264 (Letter by Judita Albahari-Krivokuća, 23 August 2005).

<sup>2274</sup> Bjelobrk, T. 8288-91; P392 (Bjelobrk statement), paras 32, 54; P280 (Witness 623 statement), para. 64; Alajbegović, T. 11055-6; Witness 680, T. 15021, 15024-30, 15197-9; Okun, T. 4156, 4249-53; P210 (Okun’s diary, entry for 26 January 1993); P210 (Okun’s diary, entry for 27 January 1993); P210 (Okun’s diary, entry for 29 January 1993); P154 (Babić statement), para. 12; Tupajić, T. 15370, 15447; Trbojević, T. 12201-2.

<sup>2275</sup> *Tadić* Appeal Sentencing Judgement, para. 21; *Kunarac et al.* Appeal Judgement, para. 377; *Dragan Nikolić* Appeal Sentencing Judgement, para. 69; *Serushago* Appeal Sentencing Judgement, para. 30.

<sup>2276</sup> *Momir Nikolić* Sentencing Judgement, paras 97-100; *Dragan Nikolić* Sentencing Judgement, paras 157-65.

serious violations of international humanitarian law, punishable by the most severe of penalties.<sup>2277</sup> Moreover, the Chamber may diverge from the sentencing practice of the former Yugoslavia if this practice is inadequate in light of international law.<sup>2278</sup>

1171. Article 24(1) of the Statute and Rule 101(B)(iii) of the Rules refer to actual practice in courts of the former Yugoslavia. It is however settled practice within the Tribunal that the sources to be consulted pursuant to these provisions are not limited to case law from the former Yugoslavia, but also include statutory provisions<sup>2279</sup> in force in the former Yugoslavia at the time of the commission of the crimes in question.<sup>2280</sup>

1172. In 1991 and 1992, the sentencing law in Bosnia-Herzegovina was regulated by the Criminal Code of the SFRY, adopted by the Federal Assembly on 28 September 1976, and in force since 1 July 1977 (SFRY Criminal Code), and by the Criminal Code of the Socialist Republic of Bosnia-Herzegovina of 10 June 1977 (Bosnia-Herzegovina Criminal Code). The SFRY Criminal Code regulated the general aspects of criminal law and a few specific offences, such as crimes against the security of the SFRY, genocide, and war crimes, while the Bosnia-Herzegovina Criminal Code primarily regulated the specific offences, and some general matters not addressed in the SFRY Criminal Code. Both criminal codes remained in force after Bosnia-Herzegovina declared independence in 1992.

1173. Momčilo Krajišnik has been found guilty of persecution, extermination, murder, deportation, and the inhumane act of forced transfer, all crimes against humanity. Chapter 16 of the SFRY Criminal Code is entitled “Criminal acts against humanity and international law” and covers crimes committed during armed conflict. It does not, however, codify crimes against humanity, with their specific actus reus and mens rea requirements. The punishment provided for specific crimes which do not require proof of these distinguishing elements does not reflect the seriousness of crimes against humanity. It is thus not an adequate basis for determining the punishment to be imposed for this category of crimes.<sup>2281</sup>

<sup>2277</sup> *Čelebići* Appeal Judgement, paras 816-17.

<sup>2278</sup> *Kunarac et al.* Appeal Judgement, para. 377.

<sup>2279</sup> *Čelebići* Appeal Judgement, para. 715; *Dragan Nikolić* Sentencing Judgement, para. 148; *Jokić* Appeal Sentencing Judgement, paras 36-8; *Stakić* Appeal Judgement, paras 888-90.

<sup>2280</sup> *Dragan Nikolić* Appeal Sentencing Judgement, para. 85.

<sup>2281</sup> *Erdemović* Sentencing Judgement, para. 32.

1174. The general provisions of the SFRY Criminal Code regarding punishment provide that the maximum term of imprisonment is 15 years,<sup>2282</sup> but that for the most serious crimes the death penalty may be imposed,<sup>2283</sup> or, instead of the death penalty, a prison sentence of 20 years.<sup>2284</sup> The Appeals Chamber has upheld sentences of more than twenty years of imprisonment by Trial Chambers of this Tribunal as not infringing the principle of *nulla poena sine lege*.<sup>2285</sup>

1175. The present Chamber takes all of these factors relating to sentencing practices in the former Yugoslavia into consideration in making its determination of this case.

#### 7.4 Determination of sentence

1176. The Appeals Chamber has emphasized that sentencing is a discretionary decision and that it is inappropriate to set down a definitive list of sentencing guidelines.<sup>2286</sup> The sentence must always be decided according to the facts of each particular case and the individual guilt of the convicted person.<sup>2287</sup>

1177. The Chamber has also ensured that Momčilo Krajišnik is not being punished twice for the same offence, nor that any adverse element is considered more than once in determining an appropriate sentence.

1178. The Chamber has reviewed the sentencing practice in this Tribunal and has considered the range of sentences imposed on persons at all levels of seniority in political or military structures, as well as in loose or undefined structures, found responsible for crimes committed in the former Yugoslavia.

1179. Considering the above, the Chamber finds the appropriate sentence in the present case to be a single sentence of twenty-seven (27) years of imprisonment.

<sup>2282</sup> Article 38 (1) of the SFRY Criminal Code.

<sup>2283</sup> Article 37 of the SFRY Criminal Code.

<sup>2284</sup> Article 38 (2) of the SFRY Criminal Code.

<sup>2285</sup> *Stakić* Appeal Judgement, para. 398.

<sup>2286</sup> *Krstić* Appeal Judgement, para. 242.

<sup>2287</sup> *Jelisić* Appeal Judgement, para. 101.

1180. Momčilo Krajišnik has been detained since his arrest on 3 April 2000. Pursuant to Rule 101 (C) of the Rules, he is entitled to credit for the time spent in detention, which as of the date of this judgement amounts to 2,369 days.

## **8. Disposition**

1181. The Chamber finds Momčilo Krajišnik **NOT GUILTY** of the following charges in the indictment:

Count 1: genocide;

Count 2: complicity in genocide;

Count 6: murder as a violation of the laws or customs of war.

1182. The Chamber finds Momčilo Krajišnik **GUILTY** of the following charges in the indictment pursuant to Article 7(1) of the Statute:

Count 3: persecution as a crime against humanity;

Count 4: extermination as a crime against humanity;

Count 5: murder as a crime against humanity;

Count 7: deportation as a crime against humanity;

Count 8: inhumane acts (forced transfer) as a crime against humanity.

1183. The Chamber hereby sentences Momčilo Krajišnik to a single sentence of twenty-seven (27) years of imprisonment.

1184. Momčilo Krajišnik has been detained since his arrest on 3 April 2000. Pursuant to Rule 101(C) of the Rules, he is entitled to credit for the time spent in detention, which as of the date of this judgement amounts to 2,369 days.

Done in English and French, the English text being authoritative.

Dated this 27th day of September 2006  
At The Hague,  
The Netherlands

**Joaquín Martín Canivell**  
**Judge**

**Alphons Orié**  
**Presiding Judge**

**Claude Hanoteau**  
**Judge**

## Appendices

### A. Sources and uses of evidence

1185. The sources of evidence in the present case include the testimony of witnesses appearing before the Chamber (“viva voce” witnesses) and called by the Prosecution, the Defence, or the Chamber; transcripts of the testimony of witnesses who were heard by other Trial Chambers of this Tribunal, admitted pursuant to Rule 92 bis (C) and (D) of the Rules; written witness statements admitted pursuant to Rules 92 bis (A) or 89 (F); documents produced as exhibits in connection with witness (or expert) testimony, or admitted in “dossiers” pursuant to Rule 89 (C), such as expert reports, orders, transcripts of intercepted communications, exhumation reports, photographs, maps, news agency reports,<sup>2288</sup> and audio tapes; admissions of fact by the Defence;<sup>2289</sup> and factual findings from other proceedings (adjudicated facts) admitted pursuant to Rule 94 (B). In the paragraphs below, the Chamber outlines its approach on several evidentiary and procedural matters.

1186. *Applicable rules of evidence.* The Chamber has assessed the aforementioned evidence in accordance with the Statute, the Rules, and the jurisprudence of the Tribunal, and where no guidance was found in these sources the Chamber decided matters of evidence in such a way as would best favour a fair determination of the case in consonance with the spirit of the Statute and the general principles of law.<sup>2290</sup>

1187. *Admissibility of evidence.* According to Rule 89 (C), a party introducing evidence must show that it is relevant and has probative value. Generally, the reliability of evidence is a factor going to weight rather than admissibility, although where the evidence is so patently unreliable as to have no probative value whatsoever the Chamber has the discretion not to admit it.

1188. *Citation of exhibits.* Documents were generally admitted in both English and Serbo-Croatian. The exhibit number for the translated version is marked by the Registry with the annex “.1”. In this judgement, citations always refer to the English version of the document, even when the “.1” does not appear.

1189. *Use of “illegally” obtained intercepts.* According to Rule 95, evidence shall not be admitted if it was obtained by methods which cast substantial doubt on its reliability, or if its admission would be antithetical to – and would seriously damage – the integrity of the proceedings. It was argued in this case that certain intercepted communications from the period 1991/92 are not admissible because they were illegally obtained. The Chamber’s position is that the intercepts were not inadmissible per se, even if, for argument’s sake, they were not obtained strictly in compliance with state legislation applicable at the time.<sup>2291</sup> There is no indication that the methods by which the intercepts were obtained amounted to a violation of human rights, such that the proceedings would be tainted through association with those methods.<sup>2292</sup>

<sup>2288</sup> Statement on exhibit admission and translation, T. 21728.

<sup>2289</sup> List of matters admitted by the Accused, 31 August 2001. This List is a copy of the indictment, filed on 31 August 2001, highlighting portions agreed upon by the Accused.

<sup>2290</sup> Rule 89(B) of the Rules.

<sup>2291</sup> See also Appendix B for more details.

<sup>2292</sup> *Prosecutor v. Radoslav Brđanin*, Decision on the Defence “Objection to Intercept Evidence,” 3 October 2003, para. 61; Decision on Defence Motion to Exclude Certain Intercepted Communications, 29 January 2004, para. 9.

1190. *Hearsay*. Evidence of events occurring outside the testifying witness's own direct experience constitutes hearsay. The jurisprudence of the Tribunal is that hearsay evidence is not inadmissible per se. A variety of documents – for example, witness statements admitted pursuant to Rule 92 bis – have been admitted on the footing that their content is generally accurate. The Chamber has carefully examined whether the proffered hearsay evidence is relevant, reliable, and has probative value.<sup>2293</sup> For example, in those cases where a witness did not specify the source of the hearsay, the Chamber has generally not relied on the hearsay.

1191. *Corroboration*. The testimony of a single witness on a material fact does not, as a matter of law, require corroboration.<sup>2294</sup> Sometimes, however, the lack of corroboration allows the Chamber not to consider the evidence.

1192. *Inconsistencies/discrepancies*. The time elapsed between the events of 1991/92 and the dates on which witnesses in this case gave statements or testimony naturally has led to an erosion of memory, which in turn is the cause of occasional discrepancies between viva voce testimonies and prior written statements.<sup>2295</sup> The Chamber is aware that other causes might also explain such discrepancies. Where discrepancies were minor, the Chamber generally did not treat them as diminishing a witness's credibility or reliability.<sup>2296</sup> The Chamber took into account the effects of the passage of time also when faced with minor imprecisions in the testimony of witnesses. In the course of questioning, a witness would sometimes recall details previously forgotten, or provide reasonable explanations of what had appeared to be a discrepancy or inconsistency in his or her evidence.<sup>2297</sup> But some discrepancies were serious enough to necessitate caution, or to discredit a witness's testimony, at least in part.

1193. *Expert versus fact witnesses*. Expert witnesses are distinguished from witnesses of fact. The testimony of a witness of fact is generally limited to matters about which the witness had personal knowledge, although this does not always exclude certain opinions and conclusions, especially if they could be developed on the basis of experience. An expert is a person who, by virtue of specialized knowledge or skill, can assist the Chamber to understand or determine an issue in dispute.<sup>2298</sup> Expert witnesses are afforded leeway to give opinions and draw conclusions within their field of expertise. According to the Chamber's practice, the central item of evidence, is the expert's report. On 17 May 2005, the Chamber instructed the party calling an expert witness to limit its examination to matters of central importance to the case which are likely to be controversial and which require further explanation, clarification, or illustration in terms of how the opinion was arrived at by the expert.<sup>2299</sup> Documentation utilized in this process may be admitted into evidence, but not all documentation underlying the expert report will be admitted into

<sup>2293</sup> *Prosecutor v. Duško Tadić*, Decision on Defence Motion on Hearsay, 5 August 1996, paras 15-19; *Brđanin* Trial Judgement, para. 28.

<sup>2294</sup> *Aleksovski* Appeal Judgement, para. 62; *Ntakirutimana and Ntakirutimana* Appeal Judgement, para. 132.

<sup>2295</sup> *Kunarac et al.* Trial Judgement, para. 564; *Krnjelac* Trial Judgement, para. 69; *Naletilić and Martinović* Trial Judgement, para. 10; *Simić et al.* Trial Judgement, paras 22, 24.

<sup>2296</sup> *Čelebići* Appeal Judgement, paras 496-8; *Furundžija* Trial Judgement, para. 113; *Kunarac et al.* Trial Judgement, para. 564; *Kupreškić et al.* Appeal Judgement, para. 31; *Simić et al.* Trial Judgement, para. 24.

<sup>2297</sup> *Furundžija* Appeal Judgement, paras 105-8; *Brđanin* Trial Judgement para. 22.

<sup>2298</sup> *Prosecutor v. Stanislav Galić*, Decision Concerning the Expert Witness Ewa Tabeau and Richard Philipps, 3 July 2002, p. 2; *Prosecutor v. Blagojević et al.*, Decision on Prosecution's Motions for Admission of Expert Statements, 7 November 2003, para. 19.

<sup>2299</sup> Guidance on exhibits for expert witnesses, T. 13085-6.

evidence.<sup>2300</sup> The Prosecution called seven expert witnesses, while the Defence did not call any expert witnesses.<sup>2301</sup>

1194. The Chamber heard evidence from Melika Malešević, the former secretary of an NGO whose main aim was to gather information about detention centres in Bosnia-Herzegovina between 1992 and 1995,<sup>2302</sup> including the number of detainees in each detention centre and the conditions of detention, regardless of ethnicity.<sup>2303</sup> The data compiled by the NGO was based on declarations made by victims, which had to be corroborated by at least two other persons with direct experience of the centre or by the ICRC.<sup>2304</sup> Malešević and her associates would often go into the field to inspect places alleged to have been detention centres.<sup>2305</sup> The Chamber finds Malešević's evidence reliable with respect to the existence of all the detention centres mentioned in her testimony and that mainly Muslim and Croats civilians were detained in those centres in 1992. With regard to many of those detention centres, the Chamber has also heard specific and credible evidence from witnesses who had been detained there.

1195. Another report was presented by Mirsad Tokača, which contained evidence on Muslim civilians<sup>2306</sup> who were killed or went missing in 1992. He pointed out that information was still being collected, therefore the total numbers were merely indicative.<sup>2307</sup> The figures presented by the witness distinguished civilians from "soldiers" killed or missing, based on information obtained by the witness from official and unofficial sources.<sup>2308</sup> The persons reported on were categorized by municipality, based on their residency in that municipality.<sup>2309</sup> According to Tokača, for civilians, the place of residence and the place of death was usually the same in the cases which he had analyzed, although considerable work on this question remained to be done.<sup>2310</sup> The Chamber considered this expert report as supporting or corroborating evidence only.

1196. *Standard for making inferences.* In making its findings, the Chamber relied to some extent on inferences from circumstantial evidence. A finding must be more than a reasonable inference from the circumstances; it must be the *only* reasonable inference.<sup>2311</sup> On occasion, the evidence of witnesses lacked specificity as to the identity of the alleged perpetrators. The Chamber inferred their identity, where it was possible to do so beyond reasonable doubt, from the context of a witness's testimony, as well as from evidence received by the Chamber through other witnesses or sources.

1197. *Adjudicated facts.* The Chamber took judicial notice of a number of adjudicated facts pursuant to Rule 94 (B).<sup>2312</sup> Adjudicated facts admitted into evidence are presumed to be accurate and do not need to be proven again at trial. However, the opposing party may

<sup>2300</sup> Guidance on exhibits for expert witnesses, T. 13085-6.

<sup>2301</sup> Response to Accused's remarks of 17 March 2006, T. 22228-35.

<sup>2302</sup> Malešević, T. 16107, 16115-16.

<sup>2303</sup> Malešević, T. 16107-8, 1610-11.

<sup>2304</sup> Malešević, T. 16112-14.

<sup>2305</sup> Malešević, T. 16115.

<sup>2306</sup> Tokača, T. 15646.

<sup>2307</sup> Tokača, T. 15641, 15660, 15681.

<sup>2308</sup> Tokača, T. 15648-49, 15655-57.

<sup>2309</sup> Tokača, T. 15652-53.

<sup>2310</sup> Tokača, T. 15653, 15662-63, 15679-81, 15684-86.

<sup>2311</sup> *Simić et al.* Trial Judgement, para. 27; *Krnojelac* Trial Judgement, para. 67; *Čelebići* Appeal Judgement, para. 458; *Krstić* Appeal Judgement, para. 76.

<sup>2312</sup> See also Appendix B for more details.

bring evidence to disprove them.<sup>2313</sup> Thus, the Chamber has carefully evaluated adjudicated facts in this case in light of all the evidence received.

1198. *Use of witness statements and trial transcripts.* As noted above, the Chamber has admitted pursuant to Rule 92 bis the evidence of several witnesses in the form of written statements or in the form of transcripts of evidence given in other Tribunal cases. At several points during the trial, summaries of the evidence of these Rule 92 bis witnesses were read into the record, for the benefit of the public audience.

1199. *Rule 89 (F) procedure.* This procedure was implemented for the purpose of reducing the amount of time spent in examination of witnesses, by focusing on the most important points of their expected testimony. Witness statements were admitted under this procedure where the witness who made the statement was present in court, was available for cross-examination and questioning by the judges, and attested that the statement accurately reflected what he or she had said at the time the statement was given – and what he or she would say if examined on it.<sup>2314</sup> The procedure was used only in relation to evidence in written form which did not concern significant acts or conduct of the Accused, did not relate to issues pivotal to the Prosecution's case, and did not concern persons or events significantly proximate to the Accused.<sup>2315</sup> Rule 89 (F) witnesses were examined on the most significant points of their statement, prior to commencement of cross-examination.

1200. *Closed/private sessions.* Pursuant to Article 22 of the Statute, the Chamber ordered various measures to protect victims and witnesses, including in-camera proceedings. The Chamber was mindful of the Accused's right to a fair and public hearing, and of the public's interest in following the proceedings, and for that reason granted protective measures only where necessary, and then only measures of the least restrictive kind. Thus, a certain amount of material cited in the footnotes of this judgement remains under seal. In many cases a pseudonym is used to refer to a witness, and information which might identify that witness has been withheld. The test used by the Chamber for a grant of protective measures was the demonstration of an objectively grounded risk to the security or welfare of the witness or the witness's family.

1201. *Presumption of innocence.* Pursuant to Article 21 (3) of the Statute, the Accused is entitled to a presumption of innocence. Pursuant to Rule 87 (A), the standard of proof required is guilt beyond reasonable doubt. Accordingly, each and every element of the offences charged against the Accused on which no concessions have been made must be proven beyond reasonable doubt. This burden remains on the Prosecution throughout the trial,<sup>2316</sup> but can also be proven through Chamber's evidence. An Accused must be acquitted if there is any reasonable explanation of the evidence accepted by the Chamber other than the guilt of the accused.<sup>2317</sup>

1202. *Testimony of the Accused.* Rule 85 (C) provides that the Accused may appear as a witness in his own defence if he so wishes. In the present case the Accused chose to testify. In doing so he did not accept any onus to prove his innocence.<sup>2318</sup> The Accused testified

<sup>2313</sup> Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses pursuant to Rule 92 bis, 28 February 2003, para. 16.

<sup>2314</sup> *Prosecutor v. Slobodan Milošević*, Decision on Interlocutory Appeal on the Admissibility of Evidence-in-Chief in the Form of Written Statements, 30 September 2003, p. 11.

<sup>2315</sup> Oral ruling on procedure for Rule 89 (F) examinations, 1 March 2005, T. 9606-9.

<sup>2316</sup> *Brđanin* Trial Judgement, para. 22.

<sup>2317</sup> *Čelebići* Appeal Judgement, para. 458; *Brđanin* Trial Judgement, para. 23.

<sup>2318</sup> *Kunarac et al.* Trial Judgement, para. 560; *Vasiljević* Trial Judgement, para. 13.

for 40 days commencing on 25 April 2006 and concluding on 22 June 2006. Twenty-three days were spent on examination-in-chief, 13 days on cross-examination, 1 day on re-examination, and 3 days on the Judges' questions. The Accused was the last witness in the Defence case.

1203. *Testimony of other accused or convicted persons.* Some of the witnesses in this case had pleaded guilty and were awaiting sentencing at the time of their testimony. The Chamber is aware of the problems associated with such testimonies – notably the witness's incentive to testify untruthfully for the purpose of improving his or her chances at the sentencing stage. The Chamber has used the testimonies of such witnesses with great caution.<sup>2319</sup> It is settled jurisprudence of the Tribunal that a Trial Chamber may find some parts of a witness's testimony credible, and rely on them, while rejecting other parts as not credible.<sup>2320</sup>

1204. *Chamber witnesses.* On 30 March 2006 the Chamber decided to obtain additional evidence by calling Chamber witnesses pursuant to Rule 98 of the Rules.<sup>2321</sup> The Chamber decided to hear persons who, on the basis of earlier evidence, had close contact with the Accused during the relevant period.<sup>2322</sup> The Chamber's use of Chamber witnesses is further described in Appendix B.

<sup>2319</sup> *Simić et al.* Trial Judgement, para. 21.

<sup>2320</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgement, para. 184.

<sup>2321</sup> T. 22233.

<sup>2322</sup> T. 22233.

## B. Procedural history

1205. *Indictment.* An indictment against Momčilo Krajišnik was confirmed on 25 February 2000 by Judge Wald. On the same day, the judge issued an arrest warrant for the Accused.<sup>2323</sup> This initial indictment charged the Accused with nine counts under Articles 2, 3, 4, and 5 of the Statute.<sup>2324</sup>

1206. *Arrest, transfer, and initial appearance.* The Accused was arrested by SFOR in Sarajevo on 3 April 2000 on the basis of a sealed indictment<sup>2325</sup> and transferred to the United Nations Detention Unit in The Hague on the same day.<sup>2326</sup> The case was assigned to Trial Chamber III the next day.<sup>2327</sup> At his initial appearance before Judge Richard May, on 7 April 2000, the Accused, represented by Mr Igor Pantelić, pleaded not guilty to all counts. Trial Chamber III ordered his detention on remand.<sup>2328</sup> On 3 May 2000 the Registrar assigned Mr Goran Nešković as temporary counsel.<sup>2329</sup>

1207. *Preliminary motions.* On 8 June 2000, counsel for the Accused filed a preliminary motion on defects in the form of the indictment, alleging that the indictment's supporting material did not relate to the charges. Counsel also sought more detailed information on the Accused's alleged functions and positions, as well as on his alleged responsibility under Articles 7(1) and 7(3) of the Statute. The motion was rejected by Trial Chamber III on 1 August 2000.<sup>2330</sup>

1208. On 8 June 2000 the Accused filed a preliminary motion on jurisdiction, challenging the lawfulness of the Tribunal.<sup>2331</sup> This motion was denied by the Trial Chamber on 4 August 2000.<sup>2332</sup> The appeal was dismissed on 25 May 2001.<sup>2333</sup>

1209. *Joinder of cases.* On 23 January 2001 the Prosecution filed a motion for joinder of two cases, *Prosecutor v. Momčilo Krajišnik* and *Prosecutor v. Biljana Plavšić*. The joinder was granted on 23 February 2001. A consolidated indictment was filed by the Prosecution on 9 March 2001.<sup>2334</sup>

<sup>2323</sup> Indictment, 21 February 2000; Motion for Presentation of an Indictment for Review and Application for Warrant of Arrest and for Related Orders and a Decision Concerning an Order for Non-Disclosure, 21 February 2000; Decision on Review of Indictment Pursuant to Article 19 of the Statute and Order for Non-Disclosure, 25 February 2000; Warrant of Arrest – Order for Surrender, 25 February 2000.

<sup>2324</sup> Indictment, 21 February 2000.

<sup>2325</sup> Motion for Presentation of an Indictment for Review and Application for Warrant of Arrest and for Related Orders and a Decision Concerning an Order for Non-Disclosure, 21 February 2000; Decision on Review of Indictment Pursuant to Article 19 of the Statute and Order for Non-Disclosure, 25 February 2000; Indictment, 21 February 2000.

<sup>2326</sup> Order on Detention on Remand, 7 April 2000; Krajišnik, T. 23002.

<sup>2327</sup> Order of the President Assigning a Case to a Trial Chamber, 4 April 2000.

<sup>2328</sup> Order for Detention on Remand, 7 April 2000.

<sup>2329</sup> Decision by the Registrar Regarding Assignment of Counsel, 3 May 2000; Decision on Defendant's Application Concerning Representation, 14 July 2000; Decision by the Registrar to Reassign Mr Nešković as Counsel of the Accused, 25 July 2000; Decision by the Registrar Regarding Assignment of Mr Nešković as Counsel to the Accused, 11 October 2000.

<sup>2330</sup> Defendant's Preliminary Motion Based on Defects in the Form of the Indictment, 8 June 2000; Decision Concerning Preliminary Motion on the Form of the Indictment, 1 August 2000.

<sup>2331</sup> Defendant's Preliminary Motion as Regards the Jurisdiction of the ICTY, 8 June 2000.

<sup>2332</sup> Decision on Motion Challenging Jurisdiction, 4 August 2000; Decision on Motion Challenging Jurisdiction – With Reasons, 22 September 2000.

<sup>2333</sup> Decision on Interlocutory Motion Challenging Jurisdiction, 25 May 2001.

<sup>2334</sup> Decision on Motion for Joinder, 23 February 2001; Consolidated Indictment, 9 March 2001.

1210. On 1 August 2001, Trial Chamber III issued another decision on the form of the indictment, denying a motion filed by the Defence on 17 July 2001 aiming at striking the words “ordering” and “committing” from the consolidated indictment.<sup>2335</sup>

1211. *Assignment of counsel.* At the request of the Accused, on 10 April 2001 the Registry withdrew Mr Nešković as counsel and assigned in his place Mr Deyan Ranko Brashich.<sup>2336</sup>

1212. *Provisional release motions.* On 8 August 2001 the Accused filed a motion for provisional release.<sup>2337</sup> On 8 October 2001, Trial Chamber III denied the motion on the ground that the Accused’s assurances, as well as those of the Governments of Republika Srpska and the Federal Republic of Yugoslavia, did not meet the required criteria.<sup>2338</sup> Application for leave to appeal was denied on 14 December 2001 by a bench of the Appeals Chamber.<sup>2339</sup>

1213. A renewed motion for provisional release, filed on 29 December 2001, was based on an alleged change in circumstances (the substitution of one of the pre-trial judges) and on a new date for the beginning of the trial.<sup>2340</sup> This motion was rejected by the Trial Chamber on 24 January 2002.<sup>2341</sup>

1214. *Agreement on facts and judicial notice.* On 31 August 2001 the Prosecution filed a copy of the consolidated indictment with highlighted portions, indicating matters about which there was no disagreement with the Accused (“List of Matters Admitted by Krajišnik”). A list of adjudicated facts from previous judgements of the Tribunal was agreed upon by the Defence in a letter to the Prosecution dated 30 October 2002 and in a filing of 29 January 2003. The Chamber took judicial notice of these as well as of other facts, which were consolidated into a final list on 24 March 2005.<sup>2342</sup>

1215. *Amendment of consolidated indictment.* On 31 January 2002 the Prosecution proceeded to amend the consolidated indictment in order to provide, among other things, “greater detail regarding the nature of the criminal responsibility of the accused”.<sup>2343</sup> In particular, the Prosecution proposed to set forth more clearly the forms of responsibility charged, clarifying that “committing” should be understood in the sense of the Accused’s being a co-perpetrator in a JCE and asked for the alleged violation of Article 2, contained in count 6, to be struck. The Prosecution also sought to attach four schedules to the consolidated indictment. Schedules A and B referred to alleged killings in detention facilities and elsewhere; Schedule C listed the alleged detention facilities; and Schedule D

<sup>2335</sup> Decision on Momčilo Krajišnik’s Notice of Motion to Strike, 1 August 2001.

<sup>2336</sup> Decision Assigning Mr. Brashich as Counsel to the Accused Krajišnik, 10 April 2001.

<sup>2337</sup> Notice of Motion for Provisional Release, 8 August 2001; Addendum to Motion for Provisional Release, 9 August 2001; Undertakings and Representations of Accused Krajišnik as Addendum to two (2) Motions for Provisional Release, 23 August 2001; Addendum to the Motion for Provisional Release Dated August 8, 2001, 19 September 2001; Second Addendum to the Motion for Provisional Release Dated August 8, 2001, 19 September 2001.

<sup>2338</sup> Decision on Momčilo Krajišnik’s Notice for Provisional Release, 8 October 2001, Judge Robinson dissenting.

<sup>2339</sup> Decision on Application for Leave to Appeal, 14 December 2001.

<sup>2340</sup> Renewed Motion for Provisional Release, 29 December 2001.

<sup>2341</sup> Decision on Motion for Provisional Release, 24 January 2002.

<sup>2342</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92 bis, 28 February 2003; Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts, 24 March 2005 (and accompanying Consolidated List of Adjudicated Facts).

<sup>2343</sup> Prosecution’s Motion for Leave to Amend the Consolidated Indictment, 31 January 2002.

particularized the alleged destruction of cultural monuments and places of worship.<sup>2344</sup> On 14 February 2002 the Defence filed a response opposing the motion. On 4 March 2002 the Prosecution's motion was granted. The Prosecution filed the "amended consolidated indictment" (referred to in this judgement simply as the indictment) on 7 March 2002.<sup>2345</sup>

1216. *Third motion for provisional release.* On 4 June 2002 the Defence filed another motion for provisional release, suggesting that a new standard for provisional release had been set by the Appeals Chamber and that factual circumstances had changed with the passage of new legislation in the Republika Srpska.<sup>2346</sup> A hearing was held on 10 July 2002, attended by a representative of the Government of Republika Srpska.<sup>2347</sup> Trial Chamber III denied the motion on 18 October 2002, on the grounds that it was not satisfied that the Accused would appear for trial.<sup>2348</sup>

1217. *Motions relating to intercepted communications.* On 11 June 2002 the Defence filed a motion for an order to the Federation of Bosnia-Herzegovina to disclose documents relating to the electronic surveillance of telephone calls made by the Accused during the indictment period.<sup>2349</sup> A hearing on the matter was held on 10 July 2002, attended by a representative of the Government of Bosnia-Herzegovina.<sup>2350</sup> On 24 July 2002 Trial Chamber III issued an order to Bosnia-Herzegovina to disclose to the Defence all notices received by the Bosnia-Herzegovina Presidency relating to electronic surveillance of telephone conversations involving Momčilo Krajišnik, Biljana Plavšić, Radovan Karadžić, Nikola Koljević, Vojislav Maksimović, or Branko Đerić.<sup>2351</sup> A notice of compliance by Bosnia-Herzegovina, filed on 13 September 2002, states that no notice or authorization relating to wiretap surveillance could be found in the archive of the Bosnia-Herzegovina Presidency.<sup>2352</sup>

1218. On 13 September 2002 the Defence filed a motion seeking to suppress what it referred to as illegally intercepted communications on the grounds of a violation of the right to privacy.<sup>2353</sup> The Prosecution replied on 27 September 2002, arguing for the legality of the intercepts.<sup>2354</sup> Pursuant to a confidential order by Trial Chamber I, on 17 April 2003, seeking additional information on the intercepted communications, the Prosecution, on 24 April 2003, supplied that information, including the names of the people who had carried out the wiretapping and the recording of the intercepts.<sup>2355</sup> On 29 January 2004 the Chamber issued a decision rejecting the Defence's motion, noting however that it was open

<sup>2344</sup> Filing of the Amended Consolidated Indictment, 7 March 2002.

<sup>2345</sup> Decision on Prosecution's Motion for Leave to Amend the Consolidated Indictment, 4 March 2002. The Defence's Application for Leave to Appeal was rejected by a bench of the Appeals Chamber on 6 May 2002.

<sup>2346</sup> Renewed Motion for Provisional Release, 4 June 2002.

<sup>2347</sup> T. 296-308.

<sup>2348</sup> Decision on Momčilo Krajišnik's Motion for Provisional Release and Evidentiary Hearing, 18 October 2002.

<sup>2349</sup> Ex Parte and Sealed Notice of Request for Cooperation under Article 29 of the Statute, 16 May 2002; Notice of Motion for Order Directed to the Federation of Bosnia and Herzegovina Pursuant to Rule 54 bis, 11 June 2002.

<sup>2350</sup> T. 309-14.

<sup>2351</sup> Order Addressed to Federation of Bosnia and Herzegovina, 24 July 2002.

<sup>2352</sup> The Krajišnik Defence Notice of Compliance by a State of a Binding Order & Request for Filing and Docketing of Response, 13 September 2002.

<sup>2353</sup> The Krajišnik Defence Motion for an Order Suppressing Illegally Intercepted Communications, 13 September 2002.

<sup>2354</sup> Partly Confidential Prosecution's Response to Krajišnik's Motion to Exclude Intercepted Communications, 27 September 2002.

<sup>2355</sup> Order to Seek Additional Information on Certain Intercepted Communications, 17 April 2003; Prosecution's Response to Order for Further Information Concerning Intercepts, 24 April 2003.

to the Defence in the course of the trial to object to the admission of intercepts on other grounds.<sup>2356</sup>

1219. *First set of motions on legal aid.* On 17 June 2002 the Defence filed a motion before Trial Chamber III arguing that the resources it was granted by the Registry were insufficient to accomplish the tasks of the Defence. The Chamber invited the Registrar's comments,<sup>2357</sup> which were to the effect that the resources given to the Defence were adequate.<sup>2358</sup> On 5 July 2002 the Accused himself filed a request with Trial Chamber III, stating that his contacts with the Registry had failed to solve certain problems affecting the quality of his defence, and in particular the composition of the Defence team.<sup>2359</sup> On 12 July 2002 the Registrar was again invited to comment.<sup>2360</sup> On 18 October 2002 the Chamber issued a decision dismissing the motion of 17 June 2002, on the grounds that the Defence had not been able to demonstrate a need for additional resources.<sup>2361</sup>

1220. *Pre-trial briefs.* On 31 August 2001 the Prosecution filed its "provisional" pre-trial brief.<sup>2362</sup> This was followed on 2 May 2002 by the Prosecution's pre-trial brief, together with a list of 406 witnesses.<sup>2363</sup> On 14 October 2002 the Defence filed its own pre-trial brief.<sup>2364</sup>

1221. *Severance of cases.* On 25 November 2002, in consequence of Dr Biljana Plavšić's guilty plea, Trial Chamber III ordered the severance of the two cases in the joined indictment. Despite the severance, the wording of the indictment was not changed.

1222. *Witness lists and assignment of case to Trial Chamber I.* By the same decision which decided the severance, Trial Chamber III allowed the Prosecution to call a maximum of 119 viva voce witnesses in the present case and a maximum of 178 witnesses by way of Rule 92 bis. The decision gave 10 January 2003 as the deadline for the Prosecution's final witness list.<sup>2365</sup>

1223. On 28 November 2002 the President of the Tribunal assigned the present case to Trial Chamber I.<sup>2366</sup> On 28 February 2003 this Chamber issued a decision reducing the number of witnesses to be called by the Prosecution to 101 viva voce witnesses and 168 Rule 92 bis witnesses.<sup>2367</sup>

1224. On 11 March 2003 Judge Orić was designated as pre-trial judge in the case.<sup>2368</sup> A revised list of witnesses was submitted by the Prosecution on 21 March 2003.<sup>2369</sup> On 8

<sup>2356</sup> Decision on Defence Motion to Exclude Certain Intercepted Communications, 29 January 2004.

<sup>2357</sup> Motion to Dismiss or for Alternative Relief, 17 June 2002; Invitation to Registry to Comment on Defence Motion to Dismiss or for Alternative Relief, 18 June 2002.

<sup>2358</sup> Registry Comments on Trial Chamber's Invitation to Comment on Defence Motion to Dismiss or for Alternative Relief, 1 July 2002.

<sup>2359</sup> Request, 1 July 2002; see also the Accused's Letter of 12 July 2002.

<sup>2360</sup> Invitation to Registry to Comment on Submission from the Accused, Momčilo Krajišnik, in Relation to Defence Resources, 12 July 2002; Registry Comments on Trial Chamber's Invitation to Comment on Request of Accused Krajišnik Regarding his Defence Conditions, 18 July 2002.

<sup>2361</sup> Decision on Momčilo Krajišnik's Motion to Dismiss or for Alternative Relief, 18 October 2002.

<sup>2362</sup> Prosecution's Provisional Pre-trial Brief, 31 August 2001.

<sup>2363</sup> Sealed Prosecution's Pre-trial Brief, 2 May 2002; Prosecution's List of Witnesses, 2 May 2002.

<sup>2364</sup> The Krajišnik Defence Rule 65 ter (F) Pre-trial Brief, 14 October 2002.

<sup>2365</sup> Plea Agreement, dated 14 September 2002 and filed on 30 September 2002; Scheduling Order, 25 November 2002.

<sup>2366</sup> Order of the President Assigning a Case to a Trial Chamber, 28 November 2002.

<sup>2367</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92 bis, 28 February 2003.

<sup>2368</sup> Decision to Designate a Pre-trial Judge, 11 March 2003.

May 2003 the President of the Tribunal assigned Judge Canivell (ad litem judge) to the case, replacing Judge Liu.<sup>2370</sup>

1225. On 4 December 2003 the Prosecution submitted a second revised list of witnesses. This contained 93 viva voce witnesses and 168 Rule 92 bis witnesses; the Prosecution stated that it would name the remaining eight viva voce witnesses at a later date.<sup>2371</sup>

1226. *Motion for recusal.* On 14 January 2003 the Defence filed an application for the withdrawal of Judge Orić from Trial Chamber I, pursuant to Rule 15(B) of the Rules.<sup>2372</sup> The reasons given were that he had been involved in the *Tadić* case, as co-counsel, and that Duško Tadić would probably be a witness in the present case.<sup>2373</sup> On 22 January 2003 Judge Liu denied the application, finding that “there is no ground for challenging the fact that Judge Orić is fully capable of applying his mind to the merits of this case in a completely unprejudiced and impartial manner.”<sup>2374</sup>

1227. *Reconstitution of Defence team.* On 2 May 2003 the Registrar issued a decision withdrawing Mr Brashich as lead counsel for the Accused, reassigning him as legal consultant for a period of three months.<sup>2375</sup> The decision was in response to a US court order, dated 1 April 2003, suspending Mr Brashich from the practice of law for a period of one year, effective 1 May 2003. The commencement of the trial, which had been scheduled for 12 May 2003,<sup>2376</sup> was as a result delayed.

1228. On 30 July 2003 the Registrar issued a decision assigning Mr Nicholas Stewart as lead counsel for the Accused.<sup>2377</sup> Pursuant to a request filed by Mr Stewart on 15 August 2003, the Registrar assigned Ms Chrissa Loukas as co-counsel for the Accused on 16 September 2003.<sup>2378</sup>

1229. *Second set of motions on legal aid.* On 12 June 2003 the Registrar issued a decision regarding the financial status of the Accused and the level of legal aid he was entitled to for the duration of the trial. The decision was based on an investigation of the Accused’s means. In his declaration of means, the Accused gave his status as “indigent”, claiming entitlement to full legal aid. The Registrar concluded that the Accused was only partially indigent. He was held liable for partial remuneration of defence costs, amounting to \$12,970 per month over the 48-month period over which the trial was then expected to last.<sup>2379</sup>

1230. On 8 July 2003 the Accused himself filed a motion before the Chamber requesting review of the Registrar’s decision, on the ground that the underlying investigation report

<sup>2369</sup> Prosecution’s Motion to Request an Extension of Time for Submitting a Reduced Witness List, 12 March 2003; Decision to Extend Time for Submission of a Reduced Witness List, 17 March 2003; Submission of the Prosecution’s Revised List of Witnesses, 21 March 2003.

<sup>2370</sup> Order Assigning Ad Litem Judge to a Case Before a Trial Chamber, 8 May 2003.

<sup>2371</sup> Submission of Prosecution’s Second Revised List of Witnesses, 4 December 2003.

<sup>2372</sup> Application to the Presiding Judge Pursuant to Rule 15(B) for the Withdrawal of a Judge, 14 January 2003.

<sup>2373</sup> Application to the Presiding Judge Pursuant to Rule 15(B) for the Withdrawal of a Judge, 14 January 2003.

<sup>2374</sup> Decision on the Defence Application for Withdrawal of a Judge from the Trial, 22 January 2003.

<sup>2375</sup> Decision of the Registrar, 2 May 2003.

<sup>2376</sup> T. 89.

<sup>2377</sup> Decision of the Registrar, 30 July 2003.

<sup>2378</sup> Decision of the Registrar to Assign Ms Chrissa Loukas as Co-counsel to the Accused, 18 September 2003.

<sup>2379</sup> Decision of the Registrar Pursuant to Article 18 (A) (ii) of the Directive on the Assignment of Defence Counsel, 12 June 2003.

into his means was inaccurate.<sup>2380</sup> On 15 July 2003 an English translation of a long and detailed document was filed to supplement the motion of 8 July.<sup>2381</sup> On 19 September 2003 the Registry responded by making six concessions on the value of the Accused's assets and monthly household income. The concessions had the effect of lowering the Accused's assessed contribution to the costs of his defence to \$10,912 per month.<sup>2382</sup>

1231. On 4 November 2003 the Chamber received the Accused's reply to the Registrar's response.<sup>2383</sup> The Registrar and the Accused, who by then was assisted by Mr Stewart, made oral submissions on the matter on 19 November 2003. On 10 December 2003 the Chamber received the Accused's additional explanatory memorandum.<sup>2384</sup>

1232. On 20 January 2004 the Chamber issued a decision finding that several of the Registrar's calculations were erroneous or were based on unreasonable assumptions. The Chamber quashed the Registrar's decision and requested the Registrar to reconsider his decision in the light of the Chamber's findings, including the fact that the cost of family visits was not taken into account when assessing the Accused's available means.<sup>2385</sup>

1233. On 3 February 2004 the Registrar issued a new decision conforming to the findings of the Chamber in all respects except for the Chamber's suggestion regarding the cost of family visits. According to the Registrar's decision, the Accused's assessed liability was \$9,589 per month, for a period of 30 months (the revised expected duration of the trial).<sup>2386</sup>

1234. On 19 February 2004 the Defence again requested the Chamber to review the Registrar's decision, this time on the issue of the cost of family visits.<sup>2387</sup> On 14 May 2004 the Chamber directed the Registrar to reconsider the impugned decision in the light of the Chamber's recommendation of 20 January 2004.<sup>2388</sup> On 30 July 2004 the Deputy Registrar confirmed his decision of 3 February 2004, mainly on the basis that the cost of family visits was not incurred by the Accused himself but financed from contributions by third parties. On 3 August 2004 the Defence requested review of the Deputy Registrar's decision, on the principal ground that the Deputy Registrar did not correctly assess the Accused's access to sources of revenue to cover the cost of family visits.<sup>2389</sup> On 1 September 2004, the Chamber denied the motion, stating that the Defence had not shown

<sup>2380</sup> Motion for an Order Setting Aside a Certain Decision of the Registrar Dated June Pursuant to the Provisions of Articles 13 and 18 of the Directive for the Assignment of Counsel, 8 July 2003.

<sup>2381</sup> Appeal Against the Registrar's Decision Pursuant to Article 18(II) of the Directive on Assignment of Counsel, 15 July 2003.

<sup>2382</sup> Confidential Response of the Registry to the Accused's Appeal Against the Registrar's Decision Pursuant to Article 18(II) of the Directive on the Assignment of Counsel, 19 September 2003.

<sup>2383</sup> The Accused's Letter Dated 26 October 2003.

<sup>2384</sup> Supplement [by the Accused] to the Objection of 19 September 2003, 10 December 2003.

<sup>2385</sup> Decision on the Defence's Motion for an Order Setting Aside the Registrar's Decision Declaring Momčilo Krajišnik Partially Indigent for Legal Aid Purposes, 20 January 2004.

<sup>2386</sup> Partly Confidential Decision of the Deputy Registrar, that the Accused shall contribute a certain amount in US\$ per month to the cost of his Defence for a period of 30 months, 4 February 2004.

<sup>2387</sup> Defence Appeal to the Deputy Registrar's Decision Dated 3 February 2004 Relating to the Contribution of the Accused to the Cost of his Defence, 19 February 2004; Confidential Registry Response to the Defence Appeal to the Deputy Registrar's Decision Dated 3 February 2004 Relating to the Contribution of the Accused to the Cost of his Defence, 5 March 2004; Defence Motion for Extension of Time, 19 March 2004; Confidential Defence Reply to the Registry Response to the Defence Appeal to the Deputy Registrar's Decision Dated 3 February 2004 Relating to the Contribution of the Accused to the Costs of His Defence, 23 March 2004.

<sup>2388</sup> Decision on the Defence's Request for an Order Setting Aside, in Part, the Deputy Registrar's Decision of 3 February 2004, 14 May 2004.

<sup>2389</sup> Defence Motion for Review of the Registry's Decision of 30 July 2004, 3 August 2004.

that the Deputy Registrar, in exercising his discretion, acted unreasonably, or had based his decision on irrelevant material, or had failed to take account of relevant material.<sup>2390</sup>

1235. *Commencement of trial.* The state of readiness of the new Defence team necessitated the postponement of the commencement of the trial to 2 February 2004. The schedule also allowed 30 days of recess between 2 February and 12 April 2004, during which period the court sat only 18 days.

1236. *Inquiry into agreement on facts.* In April 2004 the parties, encouraged by the Chamber, began to explore the possibility of expanding their agreement on facts and other matters relevant to the indictment. The Chamber ordered an adjournment for this purpose lasting four weeks (from late April to late May). On the basis of positive reports from both parties, the Chamber granted another adjournment, from late June onwards; this lasted until the Defence, on 12 July 2004, informed the Chamber that it had decided to discontinue the talks. It also announced that no facts had been finally agreed upon during the negotiation process.

1237. *Defence motion for adjournment.* On 14 July 2004 the Defence filed a motion seeking an adjournment until 4 October 2004 to give the Defence more time to prepare.<sup>2391</sup> The Chamber denied the motion orally on 16 July 2004,<sup>2392</sup> with written reasons given on 21 September 2004.<sup>2393</sup>

1238. *Reduction in number of Rule 92 bis witnesses.* On 19 July 2004 the Chamber issued an order to the Prosecution limiting the number of prospective Rule 92 bis crime-base witnesses to 61. At the time of the order, 33 such witnesses had already been admitted into evidence. The order thus created an upper limit of 94 crime-base Prosecution witnesses under Rule 92 bis (reducing by about 54 the overall number of such witnesses). The Chamber explained that the reduction was necessary because of the time consumed in processing the admission of Rule 92 bis material, which was having the effect of unreasonably prolonging the trial.

1239. *Motion by Accused to conduct supplementary cross-examination.* On 20 September 2004 the Accused made an oral application to the Chamber to be permitted to supplement the cross-examination of his counsel by asking further questions of a witness, after cross-examination by counsel had concluded.<sup>2394</sup> On 21 September 2004, in denying the application, the Chamber stated that one of the consequences of the choice to be assisted by counsel, and not to conduct one's own defence, is that counsel must be allowed to conduct the defence at trial. A division of labour risked confusing the presentation of the defence case. The Chamber also took into account the Accused's inexperience with trial procedure. However, the Chamber allowed that, in exceptional circumstances, it would consider a submission from the Accused showing good cause to deviate from the above rule.<sup>2395</sup>

1240. *Withdrawal of Judge El Mahdi and assignment of Judge Hanoteau.* At a hearing held on 10 December 2004, Judge El Mahdi announced his decision to withdraw from the case as of 14 January 2005, citing the fact that his mandate as a judge elected by the UN

<sup>2390</sup> Decision on the Defence's Motion for Review of the Deputy Registrar's Decision of 30 July 2004, 1 September 2004.

<sup>2391</sup> Defence Motion for Adjournment, 14 July 2004.

<sup>2392</sup> T. 4515.

<sup>2393</sup> Decision on Defence Motion for Adjournment (Written Reasons), 21 September 2004.

<sup>2394</sup> T. 5621-2.

<sup>2395</sup> T. 5745-6.

General Assembly was to expire prior to the expected conclusion of the case. In accordance with Rule 15 bis (C) of the Rules, the Presiding Judge invited the Accused to declare whether he consented to the continuation of the proceedings with a substitute judge.<sup>2396</sup> On 14 December 2004 the Accused, through his counsel, stated his position that he wished to have a rehearing. The next day Judges Orić and Martin Canivell heard the parties' submissions on the matter. On 16 December 2004 the two judges issued a decision, under Rule 15 bis (D), to continue the proceedings with a substitute judge.<sup>2397</sup>

1241. On 25 January 2005 the President recomposed the Trial Chamber, replacing Judge El Mahdi with Judge Claude Hanoteau. On 25 February 2005 Judge Hanoteau certified that he had familiarized himself with the record of the proceedings, as required by Rule 15 bis (D) of the Rules. The trial resumed on the same day.<sup>2398</sup>

1242. *Second Defence motion for adjournment.* The Defence filed a second adjournment motion on 22 February 2005. The Defence requested a six-month suspension of proceedings to permit it more time in preparation. In dismissing the motion, the Chamber held that the applicable test was that in determining whether a fair trial had been achieved, the entirety of the proceedings were to be considered, meaning not only the time and facilities afforded to an accused's most recently appointed defence team, but also, normally, the time and facilities afforded to the accused himself or herself since the beginning of the case.<sup>2399</sup> The Chamber found that, from this perspective, the Accused had been afforded adequate time and facilities. Constant monitoring by the Chamber would ensure that the pace of proceedings did not undermine the fairness of the trial. An appeal by the Defence was denied by the Appeals Chamber on 25 April 2005.<sup>2400</sup>

1243. *General scheduling order.* On 26 April 2005 the Chamber issued a scheduling order for the remainder of the proceedings, up to and including the delivery of the judgement.<sup>2401</sup> The order provided, among other things, for the Prosecution case to close on 22 July 2005, for the Defence case to close on 10 March 2006, and for the judgement to be delivered on or before 28 April 2006. The Prosecution case closed on the date scheduled, but it subsequently became necessary to change some other dates in the schedule, for reasons explained below.

1244. *Decision on self-representation.* On 24 May 2005 the Accused announced that he wished to represent himself in all proceedings before the Tribunal. On 22 July 2005 the Chamber gave an oral decision denying the Accused's application for self-representation.<sup>2402</sup> On 18 August 2005 the Chamber gave written reasons for the decision, stating that the Accused's request had been persistently equivocal.<sup>2403</sup> The Chamber added that even if the request for self-representation had not been equivocal, it would have been denied as a matter of principle. The reason was that while an accused has, in the jurisprudence of this Tribunal, a presumptive right to self-representation prior to the commencement of the trial, the effect to be given to that right when it is asserted after the commencement of trial is subject to the public interest in the efficient administration of

<sup>2396</sup> T. 9481-6.

<sup>2397</sup> Decision pursuant to Rule 15bis (D), 16 December 2004.

<sup>2398</sup> Certification by Judge Hanoteau of his familiarity with the Record of proceedings, 25 February 2005.

<sup>2399</sup> Decision on (Second) Defence Motion for Adjournment, 4 March 2005.

<sup>2400</sup> Decision on Interlocutory Appeal of Decision on Second Defence Motion for Adjournment, 25 April 2005.

<sup>2401</sup> Scheduling Order (Period April 2005 to Delivery of Judgement), 26 April 2005.

<sup>2402</sup> T. 17048.

<sup>2403</sup> Reasons for Oral Decision Denying Mr. Krajišnik's Request to Proceed Unrepresented by Counsel, 18 August 2005.

justice. The Chamber has broad discretion to deny an accused's request to continue unrepresented when the request is made at mid trial and has the potential to heavily disrupt trial proceedings.

1245. *Involvement of Accused in examination of witnesses.* Following the Accused's request to represent himself, on 24 May 2005, the Chamber issued a provisional decision, on 26 May 2005, to the effect that the Accused was to be represented by counsel without interruption, until the issue of legal representation was finally resolved. In accordance with the provisional decision, the Accused was allowed, as an exception to the usual regime, to supplement his counsel's cross-examination with his own questions to witnesses.<sup>2404</sup>

1246. The Chamber's final decision on legal representation, delivered on 18 August 2005, did not further discuss the Accused's role in examination of witnesses. The Chamber returned to the subject on 28 September 2005, when giving guidance on the conduct of the Defence case.<sup>2405</sup> The Chamber extended the practice it had initiated with its provisional decision of 26 May 2005, thereby allowing the Accused a limited role in complementing his counsel's examination-in-chief, subject to the Chamber's supervision.

1247. *Guidance on Rule 98 bis procedure.* On 27 April 2005 the Defence expressed concern that the date for the Defence's possible Rule 98 bis submissions, as established by the 26 April 2005 scheduling order, fell too close to the tail end of the summer recess, leaving little time for summer vacations for members of the Defence team. On 17 May 2005, in its oral guidance on the Rule 98 bis procedure,<sup>2406</sup> the Chamber explained that the procedure had been amended in 2004 so as not to be the work-intensive exercise it once was. The Chamber said that it would not accept written submissions on the Rule 98 bis motion; the Defence was to make its arguments orally. The Chamber advised the Defence to aim to finalize any Rule 98 bis submissions it intended to make by the time of the last Prosecution witness.

1248. *Rule 98 bis decision.* On 16 August 2005 the Defence applied for acquittal under Rule 98 bis.<sup>2407</sup> The Defence made a general submission that the Accused had no case to answer whatsoever,<sup>2408</sup> and a specific submission that there was insufficient evidence to support the allegation that there had been a genocide against Bosnian Croats.<sup>2409</sup> Moreover, the Defence argued that the amendment to Rule 98 bis on 8 December 2004, which had changed the rule to an oral procedure, was prejudicial to the rights of the Accused because it no longer allowed for a comprehensive review of all matters contained in the indictment.<sup>2410</sup> On 19 August 2005 the Chamber gave an oral decision dismissing the Defence motion in all respects.<sup>2411</sup> Since the Defence had made no preliminary request concerning the level of detail of its Rule 98 bis submissions, the assertion that a comprehensive review had been ruled out by the rule-change was merely an assumption.<sup>2412</sup> Thus, the Defence had not demonstrated the existence of any actual prejudice. As for the substance of the motion, the Chamber held that the Accused had a case to answer on all eight counts of the indictment and, more specifically, that there was

<sup>2404</sup> T. 13415-17, 13439-40.

<sup>2405</sup> T. 17205.

<sup>2406</sup> T. 13087.

<sup>2407</sup> T. 17063-17080.

<sup>2408</sup> T. 17063.

<sup>2409</sup> T. 17069.

<sup>2410</sup> T. 17063, 17066-7.

<sup>2411</sup> T. 17112-32.

<sup>2412</sup> T. 17114.

sufficient evidence for the purposes of Rule 98 bis to find that genocide had been committed against both Bosnian Muslims and Bosnian Croats.<sup>2413</sup>

1249. *Rule 65 ter conference and order on variation of trial schedule.* On 23 August 2005 a Rule 65 ter conference was held for the purpose of determining a deadline for the Defence to discharge its obligations under Rule 65 (G). In informal submissions Defence counsel stated that the Defence was not in a position to start its case on 12 September 2005, as foreseen by the scheduling order of 26 April 2005. On 26 August 2005 the Chamber ordered a variation of the trial schedule, postponing the beginning of the Defence case to 3 October 2006, and noting that this discretionary relief was not based on a showing of good cause.<sup>2414</sup> The same order required the Defence to meet its Rule 65 ter (G) obligations by filing the required information no later than 26 September 2005. On 26 September 2005 the Defence filed a motion for extension of time for filing the Rule 65 (G) material.<sup>2415</sup> The Chamber denied the motion on 28 September.<sup>2416</sup> The decision provided for the Rule 73 ter pre-defence conference to be held on 6 October 2005 and for the Defence case to commence on 10 October 2005.

1250. *Commencement of Defence case.* On 4 October 2005 the Defence filed a list of witnesses pursuant to Rule 65 (G). The Rule 73 ter pre-defence conference was held, as ordered, on 6 October 2005.<sup>2417</sup> The Defence case commenced on 10 October 2005.

1251. *Defence appeal against Rule 98 bis decision.* On 16 September 2005 the Defence purported to appeal the Chamber's Rule 98 bis decision directly to the Appeals Chamber.<sup>2418</sup> On 4 October 2005 the Appeals Chamber held that the Defence could not appeal the Rule 98 bis decision directly, but only upon certification by the Trial Chamber.<sup>2419</sup> On 6 October 2005, the Defence filed a motion for extension of time to apply for certification to appeal the Rule 98 bis decision, along with a motion for certification.<sup>2420</sup> On 12 October 2005 the Trial Chamber denied these motions.<sup>2421</sup>

1252. *Extension of time for completion of Defence case.* On 18 November 2005 the Chamber issued a second amendment to its scheduling order of 26 April 2005. The Chamber extended the closing date of the Defence case by seven weeks, from 10 March 2006 to 28 April 2006, citing difficulties of preparation and presentation faced by the Defence. The Chamber noted that the Defence's Rule 65 ter (G) filings were not detailed enough to enable the Chamber to plan the Defence phase of the case in the manner envisaged by Rule 73 ter (B) and (C). In view of this situation, the Defence was instead granted a fixed amount of time during which to call its most relevant witnesses, the time granted to be utilized largely at the discretion of Defence, under the supervision of the Chamber, and on the condition that two weeks' notice of the Defence's developing schedule was given. The Chamber stated that, unless exceptional circumstances prevailed, the seven-week extension was considered final. An application by the Defence for certification to appeal the Chamber's threshold of "exceptional circumstances" was denied.

<sup>2413</sup> T. 17131-2.

<sup>2414</sup> Order Pursuant to Rule 65ter (G) with Consequential Variation of Trial Schedule, 26 August 2005.

<sup>2415</sup> Defence Motion for Extension of Time, 26 September 2005.

<sup>2416</sup> Decision on Defence Motion to Further Delay the Commencement of the Defence Case, 28 September 2005.

<sup>2417</sup> T. 17218.

<sup>2418</sup> Appeal Against Judgment Pursuant to Rule 98bis, 16 September 2005.

<sup>2419</sup> Decision on Appeal of Rule 98bis Decision, 4 October 2005.

<sup>2420</sup> Defence Motion for Extension of Time Pursuant to Rule 127 to Apply for Certification Pursuant to Rule 73(B) to Appeal Against Rule 98bis Decision and Application for Certification, 6 October 2005.

<sup>2421</sup> T. 17586.

1253. On 27 February 2006 the Chamber granted the Defence 20 days for the examination-in-chief of its last witness, Momčilo Krajišnik. After several postponements, the Accused began his testimony on 25 April 2006. On 19 May 2006 the Chamber granted an additional day of examination-in-chief in order to compensate for the time spent on procedural matters.<sup>2422</sup> On 22 May 2006 the Defence requested three additional days for the examination-in-chief of the witness,<sup>2423</sup> which was denied by the Chamber on 23 May 2006.<sup>2424</sup>

1254. *Motion to disqualify Judge Canivell.* On 10 April 2006, the UN Security Council adopted Resolution 1668/2006, in which it decided that Judge Canivell could continue to sit on the bench until the completion of this case, despite the fact that his service at the Tribunal would exceed the three-year limit set by Article 13 ter (2) of the Statute.<sup>2425</sup> On 16 May 2006, the Defence filed a motion to challenge the validity of Resolution 1668 and its applicability by the Tribunal, alleging a breach of the right of the Accused to be prosecuted only in accordance with the provisions of the Statute.<sup>2426</sup> On 16 June 2006, the Chamber decided that the extension of the mandate of Judge Canivell did not encroach upon the independence, impartiality, or judicial function of the Tribunal. The Chamber qualified the Resolution as an administrative act allowing the Chamber to complete the case without undue delay and dismissed the motion.<sup>2427</sup> On 23 June 2006 the Chamber granted the Defence application for certification to appeal.<sup>2428</sup> On 18 September 2006 the Appeals Chamber dismissed the Appeal, ruling that Resolution 1668 was directed to administrative matters and did not interfere with the Tribunal's judicial function. It added that preventing Judge Canivell from sitting in this case until the end of the trial would in fact be detrimental to the rights of the Accused.<sup>2429</sup>

1255. *Procedure on calling and examining Chamber witnesses.* On 30 March 2006 the Chamber announced that it would call Chamber witnesses pursuant to Rule 98 of the Rules.<sup>2430</sup> The Chamber prepared a procedure for calling and examining Chamber witnesses.<sup>2431</sup> The parties were invited to propose changes to the draft. The procedure was finalized on 24 April 2006.<sup>2432</sup> According to this procedure, the Chamber was to make a final decision on whether to call persons to give evidence as Chamber witnesses at the close of the Defence case. The Chamber was supposed to establish contact with such

<sup>2422</sup> Email to the Parties, 19 May 2006, quoted in full in Defence application for orders dealing fairly with the timetable, preparation and presentation of Mr Krajišnik's evidence and allowing the opportunity of submission by the parties before the Trial Chamber makes judicial decisions, 22 May 2006.

<sup>2423</sup> Defence application, 22 May 2006.

<sup>2424</sup> T. 24599-604.

<sup>2425</sup> S/RES/1668 (2006), 10 April 2006; Journal of the United Nations, No. 2006/72 (14 April 2006), p. 9.

<sup>2426</sup> Defence Motion for a Ruling that His Honour Judge Canivell is Unable to Continue Sitting in This Case; Defence Motion for a Ruling that His Honour Judge Canivell is Unable to Continue Sitting in This Case, 16 May 2006.

<sup>2427</sup> Decision on Defence Motion for a Ruling that His Honour Judge Canivell is Unable to Continue Sitting in this Case, 16 June 2006.

<sup>2428</sup> Defence Application for Certification to Appeal the Chamber's Decision of 16 June 2006, 22 June 2006; Decision on Defence Application for Certification to Appeal the Chamber's Decision of 16 June 2006, 23 June 2006.

<sup>2429</sup> Appeal's Chamber Decision on Krajišnik's Appeal Against the Trial Chamber's Decision Dismissing the Defence Motion for a Ruling that Judge Canivell is Unable to Continue Sitting in this Case, 15 September 2006.

<sup>2430</sup> T. 22233.

<sup>2431</sup> Decision on Procedure on calling and examining Chamber witnesses, 7 April 2006.

<sup>2432</sup> Decision on the finalized procedure on calling and examining Chamber witnesses; decision and orders on several evidentiary and procedural matters, 24 April 2006.

witnesses through its legal officers, to conduct preliminary interviews, to compile witness statements based on the preliminary interview, and to provide the parties with the witness statements.<sup>2433</sup> On 11 April 2006 the Chamber announced the names of four potential Chamber witnesses: Bogdan Subotić, Velibor Ostojić, Biljana Plavšić, and Branko Đerić.<sup>2434</sup> The Chamber also called two crime-base witnesses, Amin Delić and Emir Purić.

1256. The Chamber made several unsuccessful attempts to contact Branko Đerić, and in the end had to issue a subpoena for him to appear as witness before the Chamber. When Đerić failed to comply with the subpoena, the Chamber issued an order in lieu of indictment for contempt, after which Đerić cooperated with the Tribunal.<sup>2435</sup> The Chamber withdrew the indictment.<sup>2436</sup>

1257. Velibor Ostojić and Biljana Plavšić refused to testify voluntarily, and were therefore subpoenaed.<sup>2437</sup>

1258. *Final briefs and closing arguments.* On 11 August 2006 the Chamber denied the Prosecution's request for leave to exceed the word limit for final briefs from 60,000 to 125,000 words.<sup>2438</sup> The case closed on 14 July 2006, and both parties filed their final briefs on 18 August 2006.<sup>2439</sup> On 29 August 2006, the Prosecution presented its closing arguments, followed on 30 August 2006 by the Defence. On 31 August 2006 the Chamber heard the Prosecution's rebuttal and the Defence's rejoinder. The Chamber granted the Accused's request to make a statement pursuant to Rule 84 bis of the Rules.<sup>2440</sup> The trial proceedings concluded with the conclusion of the Accused statement.

<sup>2433</sup> Procedure for Calling Witnesses, Annex.

<sup>2434</sup> T. 22938.

<sup>2435</sup> Letter to Đerić, 11 May 2006; State cooperation request, 17 May 2006; Letter to Đerić, 17 May 2006; Email from Matias Hellman, 2 June 2006; Subpoena ad testificandum, 8 June 2006; Request to the government of Bosnia and Herzegovina for service and execution of a subpoena, 8 June 2006; Order in lieu of indictment on contempt concerning Branko Đerić, 27 June 2006; Warrant of arrest and order for surrender of Branko Đerić, 27 June 2006.

<sup>2436</sup> Urgent order on suspension of execution of arrest warrant, 3 July 2006; Withdrawal of order in lieu of indictment and warrant of arrest concerning Branko Đerić, 13 July 2006.

<sup>2437</sup> Subpoena ad testificandum, 19 June 2006; Subpoena ad testificandum, 28 June 2006; Decision on Plavšić and Đerić, 14 August 2006.

<sup>2438</sup> Decision on 11 August via email to the parties and Reasons for Denying Prosecution's Request for Leave to Exceed Word Limit for Final Trial Brief, 16 August 2006.

<sup>2439</sup> Defence Final Brief Pursuant to Rule 86 (B), 18 August 2006; Prosecution's Final Brief, 18 August 2006.

<sup>2440</sup> Email to the parties on 23 August 2006; T. 27449.

C. List of documents with multiple exhibit numbers

<b>Documents</b>	<b>Exhibit numbers</b>
Brčko war presidency situation report, May 1992	P22; P529, tab 74
Minutes of Bratunac SDS, 25 October 1991	P39; P529, tab 431
Minutes of Bratunac SDS, 19 October 1991	P41; P529, tab 15
Variant A and B instructions, 19 December 1991	P43; D10.A
Minutes of meeting of Bratunac SDS, 23 December 1991	P44; P529, tab 36
Minutes of meeting of Bratunac SDS, 24 February 1992	P45; P529, tab 60
Report of 2nd military district, 20 March 1992	P51; P65, tab 110; P892, tab 4; D47
Bratunac crisis staff order, 1 May 1992	P56; P529, tab 182
Bratunac crisis staff order, 6 May 1992	P57; P529, tab 200
Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992	P64.A, tab 25; P65, tab 178; P892, tab 30
Record of 50th session of Bosnian-Serb Assembly, 15-16 April 1995	P64.A, tab 260; P65, tab 128; P529, tab 49
Minutes of Prjedor SDS meeting, 13 February 1992	P64.A, tab 264; P65, tab 89
Decision on formation of ARK crisis staff, 5 May 1992	P64.A, tab 488; P348; P763.C, tab 26
Minutes of 51st session of Bosnian-Serb Government, 21 September 1992	P64.A, tab 563; P583, tab 42
Law on Internal Affairs	P64.A, tab 598; P65, tab 103
Record of 12th session of Bosnian-Serb Assembly, 24 March 1992	P64.A, tab 611; P65, tab 113; P529, tab 389
Record of 13th session of Bosnian-Serb Assembly, 24 March 1992	P64.A, tab 609; P65, tab 114; P529, tab 443
Minutes of joint session of SNB and Bosnian-Serb Government, 10 May 1992	P64.A, tab 617; P65, tab 126; P583, tab 5
Minutes joint session of SNB and Bosnian-Serb Government, 15 April 1992	P64.A, tab 618; P64.A, tab 683; P65, tab 120
Minutes of joint session of SNB and Bosnian-Serb Government, 22 April 1992	P64.A, tab 656; P65, tab 122; P529, tab 75; P583, tab 1
Minutes of 1st session of Ministerial Council, 11 Jan 1992	P64.A, tab 660; P65, tab 78; P412
Minutes of 21st session of Bosnian-Serb Government, 5 June 1992	P64.A, tab 662; P65, tab 150; P583, tab 16
Minutes of 23rd session of Bosnian-Serb Government, 8 June 1992	P64.A, tab 663; P65, tab 153; P583, tab 18

Minutes of 24th session of Bosnian-Serb Government, 9 June 1992	P64.A, tab 664; P65, tab 154; P437; P583, tab 19
Minutes of 39th session of Bosnian-Serb Government, 14 July 1992	P64.A, tab 665; P65, tab 179; P529, tab 117; P583, tab 32
Minutes of 15th session of Bosnian-Serb Government, 29 May 1992	P64.A, tab 667; P65, tab 140; P583, tab 11
Minutes of 48th session of Bosnian-Serb Government, 28 July 1992	P64.A, tab 668; P65, tab 193; P583, tab 40
Minutes of 54th session of Bosnian-Serb Government, 2 October 1992	P64.A, tab 669; P583, tab 44
Minutes of 55th session of Bosnian-Serb Government, 12 October 1992	P64.A, tab 670; P65, tab 207; P583, tab 45
Minutes of 27th session of Bosnian-Serb Government, 13 June 1992	P64.A, tab 671; P65, tab 162; P583, tab 22
Minutes of 28th session of Bosnian-Serb Government, 15 June 1992	P64.A, tab 672; P583, tab 23
Minutes of 37th session of Bosnian-Serb Government, 8 July 1992	P64.A, tab 673; P65, tab 175; P529, tab 116; P583, tab 30
Minutes of 38th session of Bosnian-Serb Government, 11 July 1992	P64.A, tab 674; P65, tab 176; P583, tab 31
Minutes of 29th session of Bosnian-Serb Government, 16 June 1992	P64.A, tab 675; P65, tab 164; P583, tab 25
Meeting of the Bosnian-Serb Government, 1 June 1992	P64.A, tab 676; P65, tab 147
Minutes of 36th session of Bosnian-Serb Government, 4 July 1992	P64.A, tab 677; P65, tab 173; P449; P583, tab 29
Minutes of 25th session of Bosnian-Serb Government, 10 June 1992	P64.A, tab 678; P65, tab 156; P583, tab 20
Minutes of 32nd session of Bosnian-Serb Government, 24 June 1992	P64.A, tab 679; P65, tab 167; P583, tab 27
Minutes of 53rd session of Bosnian-Serb Government, 1 October 1992	P64.A, tab 680; P65, tab 202; P583, tab 43
Minutes of 41st session of Bosnian-Serb Government, 22 July 1992	P64.A, tab 681; P583, tab 34
Minutes of joint session of SNB and Bosnian-Serb Government, 24 April 1992	P64.A, tab 684; P433; P529, tab 163; P583, tab 2
Decision to establish VRS Supreme Command, 30 November 1992	P64.A, tab 690; P64.A, tab 729; P65, tab 215
Minutes of joint session of SNB and Bosnian-Serb Government, 27 April 1992	P64.A, tab 697; P529, tab 77; P583, tab 3
Minutes of joint session of SNB and Bosnian-Serb Government, 28 April 1992	P64.A, tab 698; P65, tab 124; P529, tab 193

Minutes of joint session of SNB and Bosnian-Serb Government, 1 May 1992	P64.A, tab 700; P583, tab 4
Minutes of 15th session of Bosnian-Serb Presidency, 6 July 1992	P64.A, tab 726; P65, tab 174; P529, tab 138
Minutes of joint session of SNB and Bosnian-Serb Government, 15 May 1992	P64.A, tab 784; P65, tab 136; P583, tab 7
Telegram by SDS President Karadžić to Zavidovići SDS, 18 October 1991	P65, tab 51; P529, tab 7
Fax by Novi Travnik SDS to SDS Main Board, 19 October 1991	P65, tab 52; P529, tab 9
Diary of Ljubo Grković	P65, tab 65; P529, tab 374
Record of 6th session of Bosnian-Serb Assembly, 26 January 1992	P65, tab 84; P529, tab 386
Minutes of 7th session of Bosnian-Serb Assembly, 15 February 1992	P65, tab 88; P892, tab 26
Minutes of 8th session of Bosnian-Serb Assembly, 25 February 1992	P65, tab 93; P529, tab 387
Record of 11th session of Bosnian-Serb Assembly, 18 March 1992	P65, tab 109; P65, tab 191; P529, tab 388
Record of 12th session of Bosnian-Serb Assembly, 24 March 1992	P65, tab 113; P529, tab 389
Record of 13th session of Bosnian-Serb Assembly, 24 March 1992	P65, tab 114; P529, tab 443
Record of 14th session of Bosnian-Serb Assembly, 27 March 1992	P65, tab 115; P529, tab 72
Letter to Bosnia-Herzegovina MUP, 31 March 1992	P65, tab 117; P420
Minutes of joint session of SNB and Bosnian-Serb Government, 28 April 1992	P65, tab 124; P529, tab 193
Minutes and record of 16th session of Bosnian-Serb Assembly, 12 May 1992	P65, tab 127, 129; P529, tab 465
Record of 50th session of Bosnian-Serb Assembly, 16 April 1995	P65, tab 128; P65, tab 224; P529, tab 49
Minutes of meeting of Bosnian-Serb Government, 18 May 1992	P65, tab 137; P529, tab 173
Minutes of meeting of Bosnian-Serb Government, 21 May 1992	P65, tab 138; P529, tab 174; P583, tab 118
Minutes of 17th session of Bosnian-Serb Government, 31 May 1992	P65, tab 141; P583, tab 13
Decision on formation of war presidencies, 31 May 1992	P65, tab 143; P529, tab 110
Law amending the Law for Implementing the Constitution, 2 June 1992	P65, tab 144; P529, tab 111

Minutes of 19th session of Bosnian-Serb Government, 2 June 1992	P65, tab 148; P583, tab 14
Minutes of 20th session of Bosnian-Serb Government, 3 June 1992	P65, tab 149; P583, tab 15
Minutes of 22nd session of Bosnian-Serb Government, 7 June 1992	P65, tab 151; P529, tab 191; P583, tab 16
Minutes of 3rd session of Bosnian-Serb Presidency, 8 June 1992	P65, tab 152; P892, tab 22
Minutes of 4th session of Bosnian-Serb Presidency, 9 June 1992 <sup>2441</sup>	P65, tab 155; P892, tab 23
Minutes of 5th session of Bosnian-Serb Presidency, 10 June 1992	P65, tab 157; P892, tab 24
Minutes of 6th session of Bosnian-Serb Presidency, 13 June 1992	P65, tab 161; P892, tab 25
Minutes of 7th session of Bosnian-Serb Presidency, 16 June 1992	P65, tab 163; P892, tab 26
Minutes of 8th session of Bosnian-Serb Presidency, 17 June 1992	P65, tab 165; P892, tab 27
Minutes of 30th session of Bosnian-Serb Government, 17 June 1992	P65, tab 166; P444; P583, tab 24
Minutes of 19th session of Bosnian-Serb Presidency, 13 July 1992	P65, tab 172; P892, tab 30
Minutes of 40th session of Bosnian-Serb Government, no date	P65, tab 180; P583, tab 33
Minutes of 21st session of Bosnian-Serb Presidency, 24 July 1992	P65, tab 181; P892, tab 31
Record of 17th session of Bosnian-Serb Assembly, 24-26 July 1992	P65, tab 182; P529, tab 392
Minutes of 44th session of Bosnian-Serb Government, 1 August 1992	P65, tab 183; P583, tab 36
Minutes of 21st session of Bosnian-Serb Presidency, 2 August 1992	P65, tab 184; P892, tab 32
Minutes of 24th session of Bosnian-Serb Presidency, 6 August 1992	P65, tab 187; P583, tab 83
Minutes of 46th session of Bosnian-Serb Government, 9 August 1992	P65, tab 189; P451; P583, tab 37
Minutes of 47th session of Bosnian-Serb Government, 19 August 1992	P65, tab 190; P583, tab 38
Minutes of 27th session of Bosnian-Serb Presidency, 31 August 1992	P65, tab 194; P583, tab 95; P892.35A
Minutes of 49th session of Bosnian-Serb Government, 7 September 1992	P65, tab 198; P583, tab 39

<sup>2441</sup> The title of the document is 4th session of the War Presidency.

Minutes of 20th session of Bosnian-Serb Assembly, 14-15 September 1992	P65, tab 200; P1136
Minutes of session of Bosnian-Serb Presidency, 9 October 1992	P65, tab 203; P583, tab 99
Certificate of appointment of state commissioner, 16 June 1992	P65, tab 204; P529, tab 394
Certificate of appointment of state commissioner, 21 August 1992	P65, tab 205; P529, tab 140
Certificate of appointment of state commissioner, 2 October 1992	P65, tab 206; P529, tab 139
Minutes of 57th session of Bosnian-Serb Government, 27 October 1992	P65, tab 212; P583, tab 46
Record of 22nd session of Bosnian-Serb Assembly, 24 November 1992	P65, tab 213; P529, tab 411; P583, tab 106
Telephone conversation between Momo Garić and Momčilo Krajišnik, 21 April 1992	P67, tab 29; P529, tab 407
Telephone conversation between Momčilo Krajišnik and Ratko Mladić, 27 May 1992)	P67, tab 32; P292, tab 15.A
Map with ethnic structure of population of Bosnia-Herzegovina in 1991	P68, tab 2; P293
Minutes of 41st meeting of Bosanski Petrovac crisis staff, 30 June 1992	P90, tab 33; P529, tab 302
Announcement by Bosanski Petrovac Commission for Emigration, 1 August 1992	P90, tab 38; P529, tab 344
Conclusions of Sanski Most crisis staff, 30 May 1992	P186; P200; P529, tab 141
1st Krajina Corps report, 1 June 1992	P188; P892, tab 88
Conclusions of Sanski Most crisis staff, 23 June 1992	P197; P529, tab 300
Sarajevo SDS order, 29 October 1991	P228; P529, tab 13
Diary	P233; P529, tab 433
Order by Pale crisis staff, 7 May 1992	P272; P529, tab 311
Telephone conversation between Momčilo Krajišnik and Mirko Krajišnik, 15 June 1992	P282; P292, tab 17; P369.C
Decision by Kalinovik war staff, 17 May 1992	P288; P529, tab 367
Telephone conversation between Momčilo Krajišnik and Radovan Karadžić, 1 January 1992	P292, tab 9; P403.A
Article in <i>Glas</i> newspaper, 8 December 1992	P298; P583, tab 117
Report on work of Bosanska Krupa municipal assembly and war presidency, April 1992	P307; P529, tab 221
Order from president of Central Commission for exchanged persons, 6 June 1992	P435; P583, tab 75

Minutes of 24th session of Bosnian-Serb Government, 9 June 1992	P437; P583, tab 19
Telephone conversation between Nedeljko Prstojević, Milenko and Novaković, 14 May 1992	P459; P529, tab 429.A
Minutes of Ključ crisis staff, 4 June 1992	P529, tab 87; P529, tab 88
Minutes of session of Bosnian-Serb Government, 23 May 1992	P529, tab 107; P583, tab 9
Record of meeting of presidents of municipalities, 14 May 1992	P529, tab 264; P892, tab 56
Order of 1st Krajina Corps command on general mobilization of VRS, 21 May 1992	P529, tab 271; P892, tab 9
Decision of Prnjavor crisis staff, 22 June 1992	P529, tab 428; D79
Minutes of 3rd session of Trnovo SDS, 12 February 1992	P529, tab 448; P531, tab 27
Report on paramilitary formations, 28 July 1992	P529, tab 463; P892, tab 54
Order of Birač Brigade command to Zvornik TO, 28 May 1992	P583, tab 120; P865
Interview with Momčilo Krajišnik in <i>Glas srpski</i> newspaper, 12 December 1992	P583, tab 121; P852
Directive of VRS Main Staff, 3 August 1992	P727, tab 15; P892, tab 11
Directive of VRS Main Staff, 19 November 1992	P727, tab 18; P892, tab 12
Report of Vogošća SJB to CSB Romanija-Birač, 12 November 1992	P746; P763.C, tab 73
Ilidža SJB, award commendations, 20 September 1993	P763.C, tab 4; P825, tab 5
Report of 1st Krajina Corps, 3 September 1992	P763.C, tab 51; P892, tab 97
Bijeljina CSB report, 20 July 1992	P778; P889, tab 4; P932

D. Table of cases\* with abbreviations

\* ICTY cases, unless otherwise indicated.

<i>Aleksovski</i>	Trial Judgement: <i>Prosecutor v. Zlatko Aleksovski</i> , Judgement, 25 June 1999  Appeal Judgement: <i>Prosecutor v. Zlatko Aleksovski</i> , Judgement (on appeal), 24 March 2000
<i>Babić</i>	Sentencing Judgement: <i>Prosecutor v. Milan Babić</i> , Judgement, 29 June 2004
<i>Blaškić</i>	Appeal Judgement: <i>Prosecutor v. Tihomir Blaškić</i> , Judgement (on appeal), 29 July 2004
<i>Blagojević and Jokić</i>	Trial Judgement: <i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Judgement, 17 January 2005
<i>Banović</i>	Sentencing Judgement: <i>Prosecutor v. Predrag Banović</i> , Judgement, 28 October 2003
<i>Bralo</i>	Sentencing Judgement: <i>Prosecutor v. Miroslav Bralo</i> , Judgement, 7 December 2005
<i>Brđanin</i>	Trial Judgement: <i>Prosecutor v. Radoslav Brđanin</i> , Judgement, 1 September 2004
<i>Čelebići</i>	Trial Judgement: <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo</i> , Judgement, 16 November 1998  Appeal Judgement: <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo</i> , Judgement (on appeal), 20 February 2001
<i>Češić</i>	Sentencing Judgement: <i>Prosecutor v. Ranko Češić</i> , Judgement, 11 March 2004
<i>Deronjić</i>	Sentencing Judgement: <i>Prosecutor v. Miroslav Deronjić</i> , Judgement, 30 March 2004  Appeal Sentencing Judgement: <i>Prosecutor v. Miroslav Deronjić</i> , Judgement (on appeal), 20 July 2005
<i>Erdemović</i>	Sentencing Judgement: <i>Prosecutor v. Dražen Erdemović</i> , Judgement, 29 November 1996
<i>Furundžija</i>	Trial Judgement: <i>Prosecutor v. Anto Furundžija</i> , Judgement, 10 December 1998  Appeal Judgement: <i>Prosecutor v. Anto Furundžija</i> , Judgement (on appeal), 21 July 2000
<i>Galić</i>	Trial Judgment: <i>Prosecutor v. Stanislav Galić</i> , Judgement, 5 December 2003
<i>Halilović</i>	Trial Judgement: <i>Prosecutor v. Sefer Halilović</i> , Judgement, 16 November 2005
<i>Jelisić</i>	Appeal Judgement: <i>Prosecutor v. Goran Jelisić</i> , Judgement, 5 July 2001
<i>Jokić</i>	Appeal Sentencing Judgement: <i>Prosecutor v. Miodrag Jokić</i> , Judgement, 30 August 2005

- Kayishema and Ruzindana* Appeal Judgement: *Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgement, 1 June 2001 (ICTR)
- Kordić and Čerkez* Trial Judgement: *Prosecutor v. Dario Kordić and Mario Čerkez*, Judgement, 26 February 2001
- Appeal Judgement: *Prosecutor v. Dario Kordić and Mario Čerkez*, Judgement (on appeal), 17 December 2004
- Krnojelac* Trial Judgement: *Prosecutor v. Milorad Krnojelac*, Judgement, 15 March 2002
- Appeal Judgement: *Prosecutor v. Milorad Krnojelac*, Judgement (on appeal), 17 September 2003
- Krstić* Trial Judgement: *Prosecutor v. Radislav Krstić*, Judgement, 2 August 2001
- Appeal Judgement: *Prosecutor v. Radislav Krstić*, Judgement (on appeal), 19 April 2004
- Kunarac et al.* Trial Judgement: *Prosecutor v. Dragoljub Kunarac, Radomir Kovač, and Zoran Vuković*, Judgement, 22 February 2001
- Appeal Judgement: *Prosecutor v. Dragoljub Kunarac, Radomir Kovač, Zoran Vuković*, Judgement (on appeal), 12 June 2002
- Kupreškić et al.* Trial Judgement: *Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, and Vladimir Šantić*, Judgement, 14 January 2000
- Appeal Judgement: *Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, and Vladimir Šantić*, Judgement (on appeal), 23 October 2001
- Kvočka et al.* Trial Judgement: *Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlađo Radić, Zoran Žigić, and Dragoljub Prcać*, Judgement, 2 November 2001
- Appeal Judgement: *Prosecutor v. Miroslav Kvočka, Mlađo Radić, Zoran Žigić, and Dragoljub Prcać*, Judgement (on appeal), 28 February 2005
- Mrđa* Sentencing Judgement: *Prosecutor v. Darko Mrđa*, Judgement, 31 March 2004
- Musema* Trial Judgement: *Prosecutor v. Alfred Musema*, Judgement, 27 January 2000 (ICTR)
- Nahimana et al.* Trial Judgement: *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Hassan Ngeze*, Judgement, 3 December 2003 (ICTR)
- Naletilić and Martinović* Trial Judgement: *Prosecutor v. Mladen Naletilić and Vinko Martinović*, Judgement, 31 March 2003
- Appeal Judgement: *Prosecutor v. Mladen Naletilić and Vinko Martinović*, Judgement, 3 May 2006
- Dragan Nikolić* Sentencing Judgement: *Prosecutor v. Dragan Nikolić*, Judgement, 18 December 2003
- Appeal Sentencing Judgement: *Prosecutor v. Dragan Nikolić*, Judgement, 4 February 2005

<i>Momir Nikolić</i>	Sentencing Judgement: <i>Prosecutor v. Momir Nikolić</i> , Judgement, 2 December 2003 Appeal Sentencing Judgement: <i>Prosecutor v. Momir Nikolić</i> , Judgement, 8 March 2006
<i>Ndhindabahizi</i>	Trial Judgement: <i>Prosecutor v. Emmanuel Ndhindabahizi</i> , Judgement, 15 July 2003 (ICTR)
<i>Niyitegeka</i>	Appeal Judgement: <i>Prosecutor v. Eliézer Niyitegeka</i> , Judgement (on appeal), 9 July 2004 (ICTR)
<i>Ntakirutimana and Ntakirutimana</i>	Trial Judgement: <i>Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana</i> , Judgement, 21 February 2003 (ICTR) Appeal Judgement: <i>Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana</i> , Judgement (on appeal), 13 December 2004 (ICTR)
<i>Plavšić</i>	Sentencing Judgement: <i>Prosecutor v. Biljana Plavšić</i> , Judgement, 27 February 2003
<i>Semanza</i>	Trial Judgement: <i>Prosecutor v. Laurent Semanza</i> , Judgement, 15 May 2003 (ICTR)
<i>Serushago</i>	Appeal Sentencing Judgement: <i>Prosecutor v. Omar Serushago</i> , Judgement, 6 April 2000 (ICTR)
<i>Sikirica et al.</i>	Sentencing Judgement: <i>Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundžija</i> , Judgement, 13 November 2001
<i>Simić et al.</i>	Trial Judgement: <i>Prosecutor v. Blagoje Simić, Miroslav Tadić, and Simo Zarić</i> , Judgement, 17 October 2003
<i>Stakić</i>	Trial Judgement: <i>Prosecutor v. Milomir Stakić</i> , Judgement, 31 July 2003 Appeal Judgement: <i>Prosecutor v. Milomir Stakić</i> , Judgement (on appeal), 22 March 2006
<i>Strugar</i>	Trial Judgement: <i>Prosecutor v. Pavle Strugar</i> , Judgement, 31 January 2005
<i>Tadić</i>	Trial Judgement: <i>Prosecutor v. Duško Tadić</i> , Judgement, 7 May 1997 Appeal Judgement: <i>Prosecutor v. Duško Tadić</i> , Judgement (on appeal), 15 July 1999 Appeal Sentencing Judgement: <i>Prosecutor v. Duško Tadić</i> , Judgement, 26 January 2000
<i>Todorović</i>	Sentencing Judgement: <i>Prosecutor v. Stevan Todorović</i> , Judgement, 31 July 2001
<i>Vasiljević</i>	Trial Judgement: <i>Prosecutor v. Mitar Vasiljević</i> , Judgement, 29 November 2002 Appeal Judgement: <i>Prosecutor v. Mitar Vasiljević</i> , Judgement (on appeal), 25 February 2004

## **Maps**

1. Indictment municipalities, excluding Sarajevo
2. Sarajevo municipalities



