

BRIDGING THE GAP
BETWEEN THE ICTY
AND COMMUNITIES
IN BOSNIA AND HERZEGOVINA

BRČKO BRČKO BRČKO BRČKO BRČKO

FOČA FOČA FOČA FOČA FOČA FOČA

KONJIC KONJIC KONJIC KONJIC KONJIC

SREBRENICA SREBRENICA SREBRENICA

PRIJEDOR PRIJEDOR PRIJEDOR PRIJEDOR

CONFERENCE PROCEEDINGS

KONJIC

20 NOVEMBER 2004



United Nations
Nations Unies



International Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

BRIDGING THE GAP
BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA

CONFERENCE SERIES

KONJIC

20 NOVEMBER 2004

BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA

The Bridging the Gap conference in Konjic would not have been possible without the hard work and dedication of many people and agencies. Our thanks to all those that made this remarkable series possible.

Appreciation is expressed to the Helsinki Committee in Republika Srpska, Bosnia and Herzegovina. Their commitment to truth-seeking and upholding basic human values, often in the face of hostility, is acknowledged.

The event was generously supported by the Neighbourhood Programme of the Danish Ministry of Foreign Affairs.

Heartfelt appreciation is extended to those people most affected by the crimes addressed at the conference. Without their bravery, nothing could be accomplished.

Bridging the Gap
between the ICTY and communities in Bosnia and Herzegovina
CONFERENCE SERIES
KONJIC
20 NOVEMBER 2004

A publication of the Communications Service, Registry, ICTY
Contents Editor: Liam McDowall
Graphics Editor: Leslie Hondebrink-Hermer
Contributors: Rebecca Cuthill, Klara Dokmanović, Andrew Powell, Natalie O'Brien

Printed by Albani drukkers, The Hague, Netherlands
2009

Table of contents

Mapsiv

Foreword.....v

List of participantsvi

Welcome and Introductory Remarks 1

Session One
Investigations4

Images 11

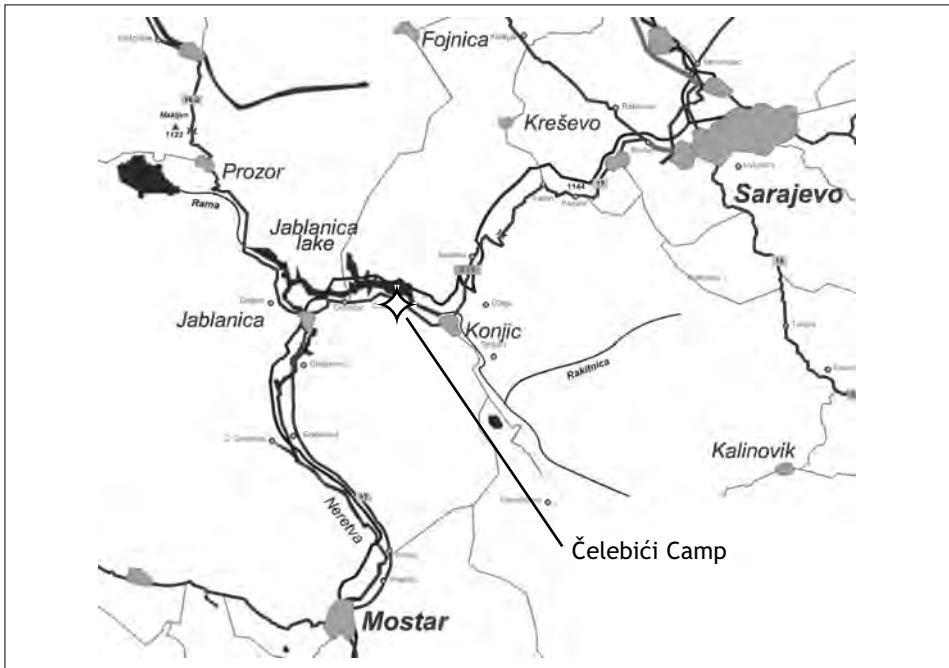
Session Two
The Trial Process27

Session Three
The Judgement and Factual Findings29

Session Four
The Appeal and Sentencing58

Questions and Answers Session64

Maps



Foreword

During 2004 and 2005, the Tribunal's Outreach programme conducted a series of landmark conferences entitled "Bridging the Gap between the ICTY and Communities in Bosnia and Herzegovina". Senior ICTY staff travelled to Bosnia and Herzegovina to explain some of the cases completed at the Tribunal to the local population in places where some of the most notorious crimes under the Tribunal's jurisdiction were committed. These conferences took place in Brčko, Foča, Konjic, Srebrenica and Prijedor.

The event in Konjic enabled the Tribunal to provide key audiences - victims' associations, municipal authorities, judicial officials and law enforcement agencies, as well as local politicians and civil society representatives - with a detailed and comprehensive picture of the Tribunal's activities in relation to allegations of serious violations of international humanitarian law occurring in the area during the 1992-1995 armed conflict.

Making extensive use of the enormous volume of evidence presented in the cases, representatives from the Tribunal were able to give an insight into the meticulous and painstaking investigations conducted by the Tribunal and explain how allegations of killings, torture, rape, inhumane conditions and unlawful confinement of civilians were proven before the court. In the Čelebići case, three defendants - Zdravko Mucić, Hazim Delić and Esad Landžo - were found guilty of grave breaches of the 1949 Geneva Conventions and sentenced to nine, 18 and 15 years imprisonment, respectively. Zejnil Delalić was acquitted of all charges.

Reactions of the audience highlighted the need to persist with efforts to bring to justice perpetrators of all crimes, regardless of the nationality of the victims or the perpetrators. ICTY representatives reiterated the Tribunal's preparedness to continue to do all it can to assist domestic authorities in bringing further prosecutions.

This book contains a summary of proceedings using the transcripts from the day, including opening remarks, presentations from Tribunal staff, photographs used as evidence in the cases and questions from the audience.

Listed below are the speakers who participated in the conference:

Emir Bubalo

Mayor of Konjic Municipality

Branko Todorović

Chairman, Helsinki Committee for Human Rights in Republika Srpska

Norman Farrell

Senior Appeals Counsel, Office of the Prosecutor, ICTY

Matias Hellman

Outreach Coordinator and Registry Liaison Officer for Bosnia and Herzegovina,
Registry, ICTY

John Hocking

Deputy Registrar, ICTY

Refik Hodžić

Former Outreach Coordinator for Bosnia and Herzegovina

Magda Karangiannakis

Legal Officer, Office of the Prosecutor, ICTY

Bob Reid

Deputy Chief, Investigations, Office of the Prosecutor, ICTY

Welcome and Introductory Remarks

Refik Hodžić, former Outreach Coordinator for Bosnia and Herzegovina:

The conference today in Konjic is part of the ICTY's project "Bridging the Gap Between the ICTY and communities in Bosnia and Herzegovina." This is the third such conference organised in Bosnia and Herzegovina this year jointly by the Tribunal and the Helsinki Committee for Human Rights. The previous two were held in Brčko and Foča.

Several staff members from the Tribunal who participated in cases dealing with war crimes committed in the Konjic area will speak to you today. They will speak about various aspects of the investigation and trial process: How the indictment was issued, how the trial commenced before the Tribunal in The Hague, and what facts the Tribunal established. In this way, the Tribunal hopes to convey what it has done to hold accountable people who committed crimes in this community.

I will now give the floor to Emir Bubalo, Mayor of Konjic Municipality, Branko Todorović, President of Helsinki Committee for Human Rights in Republika Srpska and Matias Hellman, the ICTY Registry representative here in Bosnia and Herzegovina.

Emir Bubalo, Mayor of Konjic Municipality:

I would like to thank everyone for coming, and especially our guests from the Tribunal. The aim of this conference is for the Tribunal to present its work and to allow the general public to become familiar with it, so that we can avoid any speculation about what it is that the Tribunal is doing. I hope that the conference will provide you with the information you are interested in and that it will contribute to the transparency of the Tribunal's work.

Branko Todorović, Chairman, Helsinki Committee for Human Rights in Republika Srpska:

I would also like to thank everyone for coming. I am very happy to see here today people from Višegrad and Bratunac, representatives of victims and their families who used to live in this area. I would also like to thank the local authorities in Konjic for their cooperation in preparing this conference. Finally, I would like to thank our guests from The Hague for preparing presentations on the work of the investigators, prosecutors and judges, all of whom worked in order to try crimes that took place in the territory of the Konjic municipality.

I believe that many of you have a different perception of the Tribunal's work. There has been very strong propaganda misrepresenting the Tribunal's work, not only in Bosnia and Herzegovina but also in neighbouring countries. Such propaganda was aimed at discrediting the Tribunal's indictments against the most serious perpetrators, who were accused of crimes committed not only here in Bosnia and Herzegovina, but elsewhere in the territory of the former Yugoslavia.

Another issue that we will deal with today is whether we are prepared to face the truth. Are we prepared to face terrible crimes and brutal violence? Are we prepared to face the fact that innocent civilians were killed, that women have been raped, and that children were made to suffer? Are we prepared to face the fact that we kept quiet about these crimes, that we sometimes failed to take any action, and that we even supported them. War criminals needed no courage to perpetrate crimes. They needed a criminal nature. And they needed to callously manipulate people to hate everything that was different, and everyone who belongs to a different ethnic or religious group. That was the origin of this terrible violence.

In order to have peace, we in Bosnia and Herzegovina today need to muster the courage to overcome all the terrible things that have happened, to once again look with respect at our neighbours, and to try to find love and not hatred in our hearts. This conference will ask us whether we are ready for that.

Primarily for the sake of victims, for all those innocent people who perished, it is necessary that the judicial system in Bosnia and Herzegovina should abide by the law, and punish the criminals responsible for the victims' suffering. If the criminals are not punished, we will not be able to reconcile with our neighbours, forgive and begin living together again. This conference could open up the issue of whether there are today some among us, living in our communities, who committed crimes but were not held responsible for them. The primary responsibility for holding perpetrators accountable rests with law enforcement agencies, prosecutors' offices and the judiciary. However, it also has bearing on society as a whole.

I sincerely hope that this conference will contribute to reconciliation, not just in Konjic but elsewhere. I hope that this conference will represent a cornerstone in the triumph of good over evil.

Matias Hellman, Outreach Coordinator and Registry Liaison Officer for Bosnia and Herzegovina, Registry, ICTY:

As has been said, the purpose of this conference is to present the Tribunal's work in connection with the crimes that were committed in the area of Konjic. The focus will be on the so-called Čelebići case and the Tribunal's leading experts will explain the entire criminal process in that case.

The bulk of today's conference will be devoted to listening to the live witness testimonies and other evidence given in court. This will be done with the help of video footage and photographs. What we really wish to achieve today is to make the voice of the victims heard and show you in a very concrete manner the facts that were proven before the Tribunal about these crimes.

I would also like to make clear what we cannot do here today. We are not here to discuss every aspect of the Tribunal's work, but rather to concentrate on the Čelebići case and the specific crimes it addresses. We will not be able to discuss every single crime committed in the Konjic municipality. The Tribunal was never expected to try each and every person suspected of having committed war crimes in the former Yugoslavia. That would have been an impossible task for any single court. Indeed, the Tribunal was established to complement the work of national courts and most emphatically not to replace them.

Indeed, the Tribunal was established to complement the work of national courts and most emphatically not to replace them.

In accordance with instructions from the UN Security Council, the body that created the Tribunal, the Tribunal is now dealing only with the highest ranking perpetrators. The Chief Prosecutor will conclude all investigations by the end of this year. The Tribunal will continue holding trials for a finite number of years. However, this does not mean that the significant impact of the Tribunal's work is about to come to an end, far from that. Through various training programmes, as well as transfer of evidence, the Tribunal will try to help national prosecutors and courts

build their capacity to try war crimes cases. This kind of cooperation between the Tribunal and national authorities is reflected in the ongoing initiative to set up a specialised War Crimes Chamber within the State Court of Bosnia and Herzegovina.

However, the establishment of the State Court for war crimes in Sarajevo does not mark the beginning of war crimes prosecutions in Bosnia and Herzegovina. For more than eight years, the Tribunal has been receiving files from various organs within Bosnia and Herzegovina containing information about war crimes. We would very much like to see those cases taken to trial, and hopefully today's conference will serve as an encouragement to do so.

Finally, let me express our gratitude to the Helsinki Committee for organising this conference and to the Neighbourhood Programme of the Danish Ministry of Foreign Affairs for their financial support.

Session One Investigations

Bob Reid, Deputy Chief of Investigations, ICTY Office of the Prosecutor:

I am going to go through the investigations conducted by the Office of the Prosecutor (OTP) into crimes committed in the Konjic Municipality, and in particular, the facts the investigation established that were later confirmed in the trial and subsequently on appeal.

According to the 1991 census, there were 43,878 people who lived in the Konjic Municipality: 54.3% were Muslim, 26.2% were Croat, 15% were Serb, 3% classified themselves as Yugoslav and 1.3% as other (image 1).

After the conflict, according to statistics made in September of 1996, 88% of the population was Bosniak, 4% described themselves as Croat, 2% as Serb and 6% as other. So we can see that there was quite a large change in the ethnic composition of the population between 1991 and 1996.

The Konjic Municipal Assembly had 60 members: 28 of them were from the Party of Democratic Action (SDA), 14 from the Croatian Democratic Party (HDZ), nine from the Serbian Democratic Party (SDS) and nine other members made up a coalition of smaller parties. The President of the Municipal Assembly was from the SDA party and the President of the Executive Council was from the HDZ.

4

Just prior to the conflict commencing, there was a breakdown in relations in the Municipal Assembly, and its Serb members left. On 8 April 1992, as a result of a “Decision on the Proclamation of an Immediate Threat of War,” which was distributed from Sarajevo, a War Presidency was put in place. The only members of that War Presidency who were not present were the Bosnian Serb members who, as already mentioned, had left. Around 8 April of 1992, War Presidencies or Crisis Staffs were being set up all over the territory of Bosnia and Herzegovina. The major players within the War Presidency in Konjic comprised: the President of the Municipal Assembly, the President of the Executive Council, the Head of the Municipal Department of the Ministry of Defence, the Head of the Public Security Station of the Ministry of Internal Affairs, the Commander of the Civil Defence Staff, and the various heads of the political parties who made up the Municipal Assembly. Again, the Serbian representatives did not take part.

The responsibility of a Crisis Staff or a War Presidency was to govern in the absence of an effective Municipal Assembly. In other words, they basically ran the municipality on a day-to-day basis and dealt with all problems that arose in the municipality.

The Tribunal’s investigations established that the first military attacks in Konjic commenced around 20 April 1992. This was later confirmed during trial and on appeal. The Konjic Defence Forces at that time consisted of the following components: the Territorial Defence (TO), the local Croatian Army (HVO), and the Police under the control of the Ministry of the Interior (MUP).

Around April 1992, the Defence Forces in the Konjic municipality were able to take control of the Igman military plant without the use of any force. They entered into an agreement with the Yugoslav National Army (JNA), to allow it to withdraw from the Čelebići barracks and warehouse. The TO and MUP forces subsequently took over that facility.

In early May, the TO was able to capture the Ljuta barracks, and the facilities at Zlatar and the so-called ARK.

By the end of May, the Konjic Defence Forces had taken over most of the major facilities in the Konjic municipality. However, from about mid-April, the actual town of Konjic was effectively surrounded by Serb forces and cut off from Mostar and Sarajevo (image 2). Bosnian Muslim and Bosnian Croat refugees, having fled from the surrounding villages were flooding into Konjic town.

All this was established during the investigation from eye-witness testimony and from a small amount of documentation that the investigators were able to obtain.

The Tribunal's first Chief Prosecutor, Justice Richard Goldstone from South Africa, opened the investigation into crimes committed in the Konjic Municipality in around late October or November of 1994. At that point, the Tribunal's investigations department had only existed for a few months, since about June 1994. Myself and about two or three other investigators who had arrived in June were hit with a substantial amount of evidence, intelligence, information, gossip and rumour in relation to crimes committed in the territory of the former Yugoslavia. We went through and examined the various allegations about crimes that we had and tried to establish in which cases we would be able to get the best evidence possible. We chose crimes committed in Čelebići, mainly because we had access to a fairly good base of witnesses.

Once we had opened the investigation we put together a strategy to gather evidence. In any investigation, the types of evidence that you look for include the following: Expert evidence, eyewitness testimony, crime scene evidence, documentary evidence, and insider evidence. Insider evidence refers to witness testimony from people who are able to give direct evidence of the actions of the accused. We also often attempt to interview the suspect or the accused himself.

In relation to the Čelebići case, an example of the expert evidence we submitted is that of Dr James Gow, a military and political scientist from London. Before he testified, we interviewed him and put his expert evidence into a statement. What Dr Gow was able to do is put the conflict in the former Yugoslavia into some sort of context for the Trial Chamber. In addition to testifying in the Čelebići case, Dr Gow also testified in other trials.

Eye witness testimony is probably the most important evidence to submit to the Trial Chamber in cases such as this, which deal with perpetrators who are alleged to have personally committed crimes. Eyewitness testimony is also imperative in cases like this one where there is very little documentary evidence that implicates the actual perpetrators on the ground for the crimes they are accused of committing.

Therefore, in the Čelebići case, testimony from eyewitnesses, in other words from the victims and the people who were in the camp at the time, was crucially important.

... in the Čelebići case, testimony from eyewitnesses, in other words from the victims and the people who were in the camp at the time, was crucially important.

During an investigation it is necessary to always think about how to corroborate the evidence of eyewitnesses and make it easier for them to deliver it in court. In the Čelebići case, as in others, one way to do this was to conduct on-site investigations.

We were able to get access to the Čelebići camp. We went together with a forensic team from the Dutch police, which included a camera crew. They filmed and photographed the whole camp, including the crime scenes (images 9-14). In this way, we were able to show the Trial Chamber where a witness was located at the time a particular crime occurred. We were also able to build a scale model of the Čelebići camp, which assisted witnesses to show the Trial Chamber where they were located when they saw a crime occur. The scale model made it easier for the witness to give their testimony and for the Trial Chamber to understand it (images 1-8).

As I have mentioned, there was not much in the way of documentary evidence that we submitted in the Čelebići case. However, I would like to mention one particular document we submitted to the Trial Chamber, which I thought was very telling. The document was issued by the Military Investigation Commission. In it, the members of the commission resign en masse because of the crimes and atrocities that were being committed in the camp, and because of the behavior of the guards and the soldiers in it. They write that as a result they could no longer do their work in an ethical and a professional fashion. They described the crimes as brutal and horrific and stated that something should be done about it. I believe this document had a large impact on the Trial Chamber.

The document was issued by the Military Investigation Commission. In it, the members of the commission resign en masse because of the crimes and atrocities that were being committed in the camp...

As with documentary evidence, we did not have much insider evidence in the Čelebići case either. However, we did call one of the members of the Military

Investigation Commission whose document I just referred to. He was granted witness protection measures and testified with the use of a pseudonym. He described to the Trial Chamber the injuries sustained by prisoners from the camp who came before him, and the terror that they were under. He testified that this led him and fellow members of the Commission to resign en masse and refuse to go back to the camp again.

The last area of evidence that I would like to discuss is the interview or interrogation of the accused. In the Čelebići case, the Trial Chamber put very little credence in one of the accused's interviews with the OTP. If an accused lies during his interview, then it is up to the investigator to prove it. In the Čelebići case, we were able to do this in a number of instances, which undermined the credibility of his testimony in court.

During the investigation we encountered a number of difficulties. As I have said we received a lot of information from the reports of non-governmental organizations, which included accounts from victims and witnesses to crimes. Although it may seem strange with the benefit of hindsight, one of our first difficulties was trying to locate our very first witness. Since they had given their accounts to non-governmental organizations, victims from the Čelebići camp had moved to different places. We knew that one person related to a prisoner from the Čelebići camp was living in Chicago. We basically just went to directory assistance and found one person with that name living in Chicago. Once you find your first witness, he or she gives you the names of other witnesses, who also lead you to more witnesses. That is how the investigation in the Čelebići case, like in many others, got started. The majority of witnesses who we identified in the first phase were interviewed in the United States of America and a couple in Canada. As a result of these interviews, we felt fairly confident that we would be able to issue an indictment against certain individuals.

Our second major hurdle was the failure of the Republika Srpska and the Federal Republic of Yugoslavia (FRY) to cooperate with us. From late 1994 until the first part of 1996, we had no access to the Republika Srpska and huge problems getting into the FRY. Witnesses had gone to both of these places, and we needed to be able to enter in order to interview them. Every time we tried to ask the governments of the Republika Srpska or the FRY for assistance, we were told: “No you don’t exist, you’re not interviewing witnesses.” We said, “but these are your people, they are victims of crimes, they are Serbs, why aren’t you helping them?” The Government refused to assist and said “no, you’re not coming in.”

I am pleased to report that since then, our relations have changed and we are now cooperating with each other. It is still not perfect, but it is better than what it was between 1994 and 1996.

... we were told: “No you don’t exist, you’re not interviewing witnesses.” We said, “but these are your people, they are victims of crimes, they are Serbs, why aren’t you helping them?”

We overcame the obstacle of getting access to witnesses with the assistance of a couple of non-governmental organisations. With their help, we were able to get witnesses out of Republika Srpska and the FRY in order to interview them in neighbouring countries.

As a result of the investigation, after interviewing witnesses and experts and investigating the scene of the crimes, we issued indictments against Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo (images 15-18).

I would now like to briefly describe the charges that the OTP issued against these four accused. The Prosecution alleged that Mr Delalić, Mr Mucić, and Mr Delić were in positions of superior authority and that they failed to take the necessary and reasonable measures within their authority to prevent or to punish the perpetrators of the following crimes:

- the murder of at least 14 camp detainees;
- at least seven acts of torture, including two rapes;
- at least five cases of causing great suffering or serious injury to individuals;
- at least three cases of inhumane acts, including forcing male persons to commit fellatio with each other;
- and the unlawful confinement of the detainees in inhumane conditions.

Mr Mucić was also indicted for his responsibility as a direct perpetrator in the plundering of property belonging to the detainees. In other words, he was indicted for stealing money, watches, and other valuable property that the detainees had when they came into the camp.

Hazim Delić was indicted for his direct participation in the following crimes:

- four murders;
- five acts of torture, including two rapes;
- one case of causing great suffering or serious injury;
- the use of a device emitting electrical current to inflict pain upon the prisoners.

Esad Landžo was indicted for his direct participation in the following crimes:

- five murders;
- four acts of torture;
- one case of causing great suffering and serious injury;
- and submitting the detainees in the camp to inhumane living conditions.

The OTP submitted the indictment for confirmation to a Tribunal Judge on 19 March 1996. Judge Claude Jorda confirmed the indictment on 21 March 1996 and issued arrest warrants for Hazim Delić and Esad Landžo to the authorities of Bosnia and Herzegovina. Before submitting the indictment for confirmation, we learned that Zejnil Delalić was in Munich, Germany and that Zdravko Mucić was in Vienna, Austria. The OTP submitted a request to Germany and Austria (pursuant to Rule 40 of our Rules of Procedure and Evidence) respectively, requesting the urgent arrest of a suspect, pending the issuing of an indictment. On 18 March 1996, both accused were arrested. On 9 April 1996 Austrian authorities transferred Zdravko Mucić to the Tribunal and on 8 May 1996 German authorities transferred Zejnil Delalić.

On 13 June 1996, Bosnian authorities transferred Hazim Delić and Esad Landžo to the Tribunal, having been earlier arrested. With all four accused in the Tribunal's custody, pre-trial proceedings began.

Having covered the history of the investigation, I would like to go through the evidence the OTP presented during trial, and that the Trial and Appeals Chambers later confirmed.

8

As I stated earlier, Bosnian Serb forces surrounded the town of Konjic in April 1992. In the course of military operations within the municipality, many members of the Serb population were arrested and a facility was required where they would be housed. As I also said earlier, under an agreement with the JNA the Čelebići barracks and the warehouse had been taken peacefully and as of the end of April 1992, it was under the control of the TO and the MUP. It is important to note that the Čelebići barracks and warehouse were not only used as a detention centre. Unlike some of the other detention centers that were set up throughout Bosnia and Herzegovina, the Čelebići camp also housed contingents or units of the MUP and the HVO. The part of the compound that was used to hold prisoners was separate. Also, security for the detention facilities was separate from that of the barracks.

The Čelebići camp was located on the outskirts of the village of Čelebići and covered an area of approximately 50,000 square metres with a railway line running through the middle.

The OTP proved that prisoners were taken to the camp in the latter part of April 1992, and that the majority of the prisoners were detained there between April and December 1992.

Nearly all of the eyewitnesses detained in the camp testified that upon their arrival they were lined up against a wall near the entrance, searched and made to hand over their valuables. Some also testified that when they arrived they were severely beaten by the soldiers and guards.

Our investigation showed that there were a number of areas within the camp where crimes occurred on a daily basis. Prisoners were beaten, tortured, and murdered

predominantly in the following areas of the camp: Hangar Number Six, Tunnel Number Nine, Building A (images 5-6) and Building B (images 7-8), and in a number of manholes around the camp. Prisoners were put into these manholes, the manholes were filled with water up to the prisoner's neck and they were held there overnight.

The women in the camp were predominantly housed in Building A and Building B.

Hangar Number Six had the capacity to hold a large number of prisoners and at one time it held over 240 people. The prisoners were assigned places on the floor where they had to remain seated. Very occasionally, they were allowed to leave the room to use what could loosely be described as a "toilet". The majority of the crimes committed in the camp occurred between April and August 1992, in other words during the height of summer. As the hangar was made entirely of metal, it became extremely hot during the day. The prisoners were allowed no relief: they were not allowed to leave the hangar, there was very little water supplied, and the hygienic conditions in the hangar were revolting.

The prisoners were allowed no relief: they were not allowed to leave the hangar, there was very little water supplied, and the hygienic conditions in the hangar were revolting.

Tunnel Number Nine was narrow and not very long, and was used to hold at least 80 prisoners, some only for a short time, but others for longer. There was very little, if any, ventilation. The prisoners were not given any blankets, they basically slept as they were lined up on the concrete floor. The tunnel sloped down towards a steel door before the machine room. It was in this area that the prisoners used to urinate and defecate because on many occasions they were not allowed to leave the tunnel for that purpose.

Many of the witnesses who testified stated that they were interrogated while they were in the camp. Some stated that during their interrogation they suffered physical violence.

The Military Investigation Commission that conducted some of these interrogations took their job seriously. They established categories for the prisoners; for prisoners who were wrongly arrested, who were not members of the military, and who should be released.

The Military Investigation Commission only worked for one month. As I mentioned before, they were so horrified by what they saw at the camp - the conditions the detainees were living in, the injuries they suffered and the state of terror they were in when they came before them - that they resigned en masse.

From about May until December of 1992, some people and groups of prisoners were released from the camp: some went to the Musala camp, some went for exchange, and others into the protection of the International Committee of the Red Cross. The last prisoners left the camp on 9 December 1992, and were taken to the Musala camp.

One of the charges against the Accused was the unlawful confinement of detainees in inhumane conditions. The Trial Chamber found, "... that an atmosphere of fear and intimidation prevailed at the prison camp, inspired by the beatings meted out indiscriminately to the prisoners."

BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA

inately upon the prisoners' arrest, transfer to the camp and their arrival at the camp.” In other words, the prosecution proved beyond a reasonable doubt that very serious crimes occurred in this camp.

Images

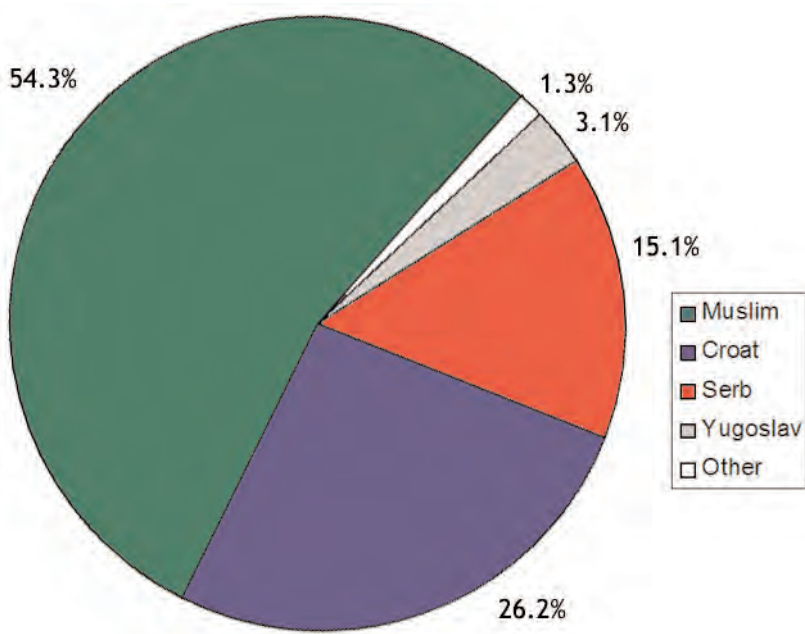


Image 1
Ethnic composition of Konjic municipality, 1991.

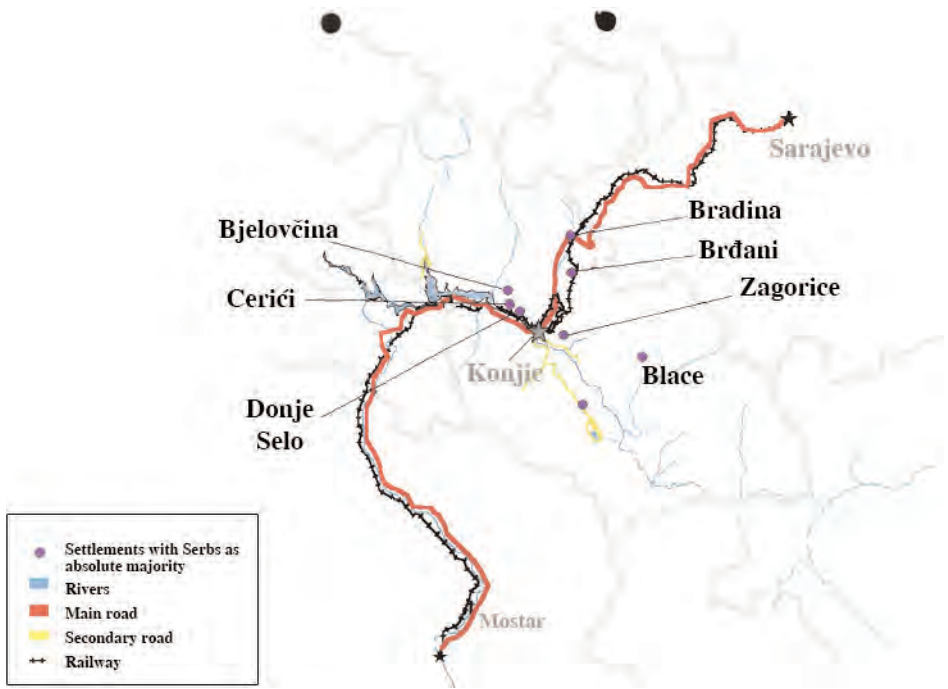


Image 2
Map of the Konjic area, from 1991, showing settlements with Serbs as the majority.

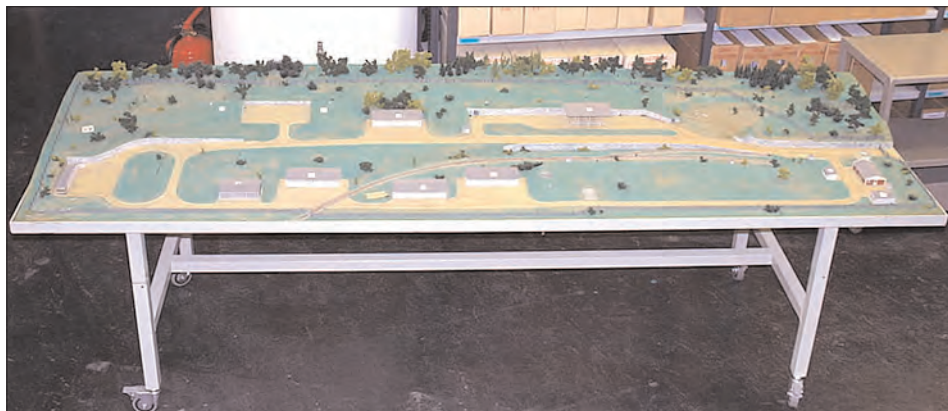


Image 3
Scale model of Čelebići Camp used during trial.



Image 4
Scale model of Čelebići Camp used during trial.

BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA



Image 5
Scale model of Čelebići Camp used during trial.

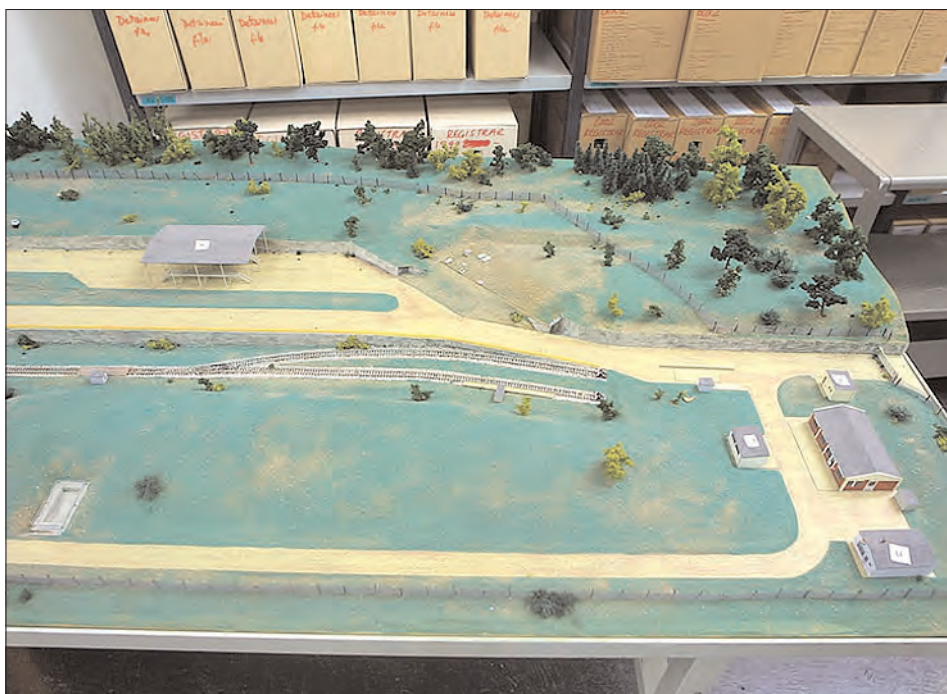


Image 6
Scale model of Čelebići Camp used during trial.

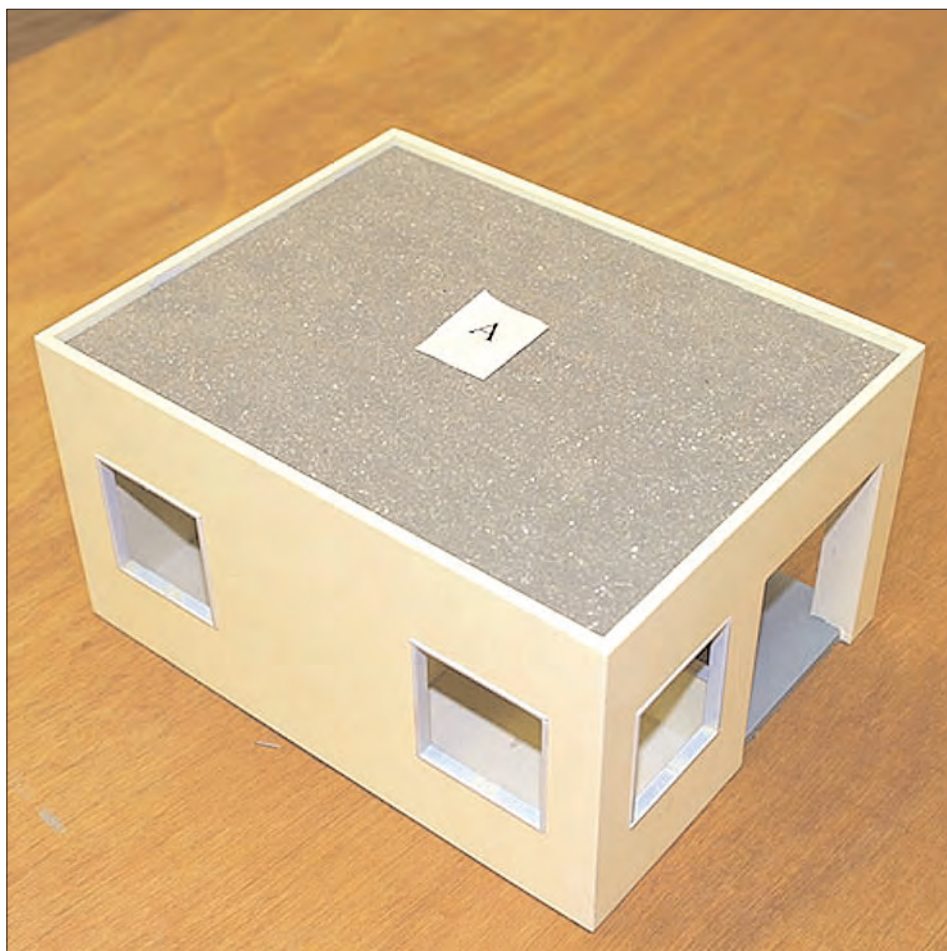
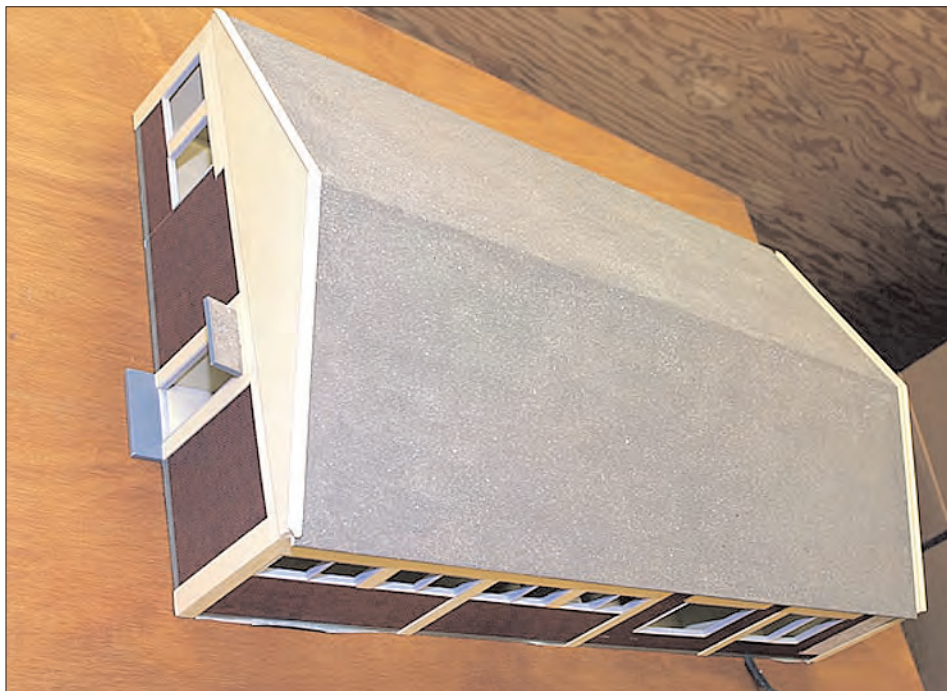


Image 7
Scale model of "Building A" in Čelebići Camp used during trial.



Image 8
Scale model of the interior of "Building A" in Čelebići Camp used during trial.



18

Image 9
Scale model of "Building B" in Čelebići Camp used during trial.

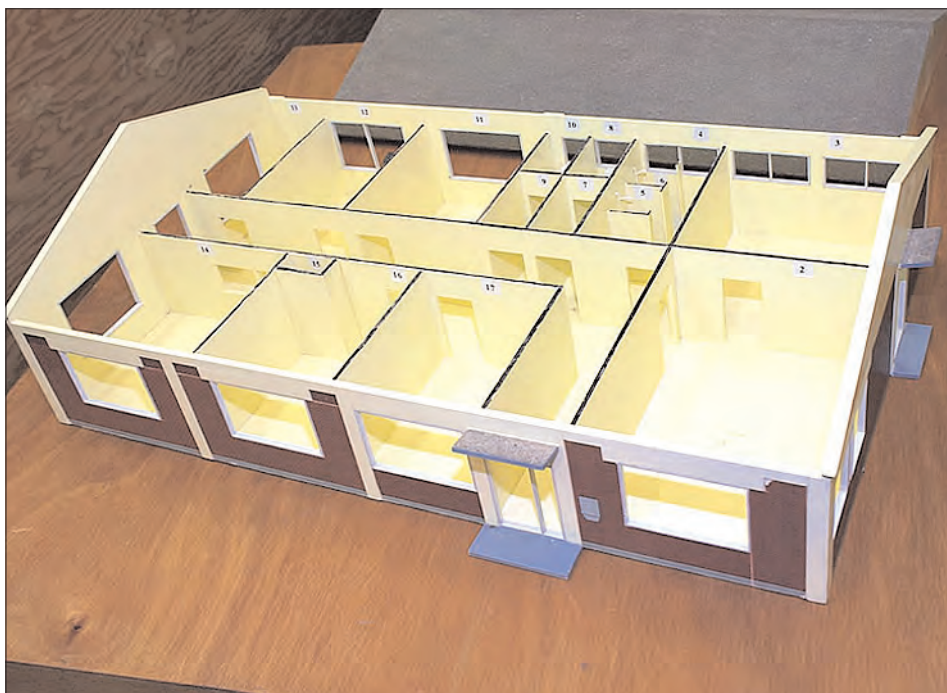


Image 10
Scale model of the interior of "Building B" in Čelebići Camp used during trial.



Image 11
Perimeter of Čelebići Camp. Photograph taken by ICTY investigators, 1995.

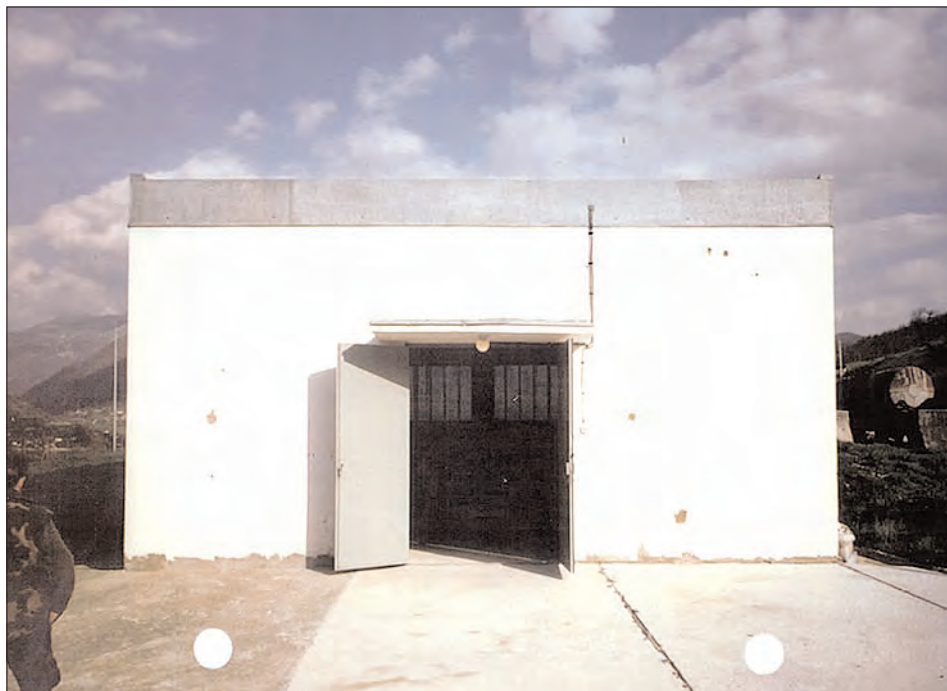


Image 12
“Building A” at Čelebići Camp. Photograph taken by ICTY investigators, 1995.



Image 13
Main entrance to "Building B", Čelebići Camp. Photograph taken by ICTY investigators, 1995.



Image 14
Entrance to Čelebići Camp, with guard house to the left. Photograph taken by ICTY investigators, 1995.



Image 15

A weapons store room at Čelebići Camp. Photograph taken by ICTY investigators, 1995.



Image 16
Gate house at Čelebići Camp. Photograph taken by ICTY investigators, 1995.



Zdravko Mucić



Hazim Delić



Esad Landžo



**Zejnil Delalić
(acquitted)**

Images 17-20

Indictments were issued against Zdravko Mucić, Hazim Delić, Esad Landžo and Zejnil Delalić.



Image 21

Grozdana Ćećez who testified about her rape by Hazim Delić while being held in Čelebići Camp.

BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA



26

Image 22

Illustration depicting the position of detainees in Hangar Number Six - Defence exhibit.



Image 23

Detainees in Hangar Number Six. They were required to sleep in their assigned positions on bare concrete floor.

Session Two The Trial Process

Magda Karangianakis, Legal Officer, Office of the Prosecutor, ICTY:

Before we start our discussions on the trial, I am going to outline for you the basic aspects of the trial judgement and appeal process at the ICTY.

The legal system of the former Yugoslavia follows the civil law tradition, where the trial process is led by the Judge who has an important role in selecting and examining witnesses.

The Tribunal follows more of a common law system, which means that the parties - being the Prosecution and the Defence - take the lead in selecting and examining witnesses.

Trials in the Tribunal proceed in the following manner:

First, the Prosecution presents its opening statement and all the evidence that incriminates the accused. This is called the Prosecution case.

Second, the Defence is called upon to bring forward such evidence that undermines the Prosecution case or exonerates the accused. This is called the Defence case.

Then, the Prosecution may be allowed to respond to such defence evidence that was presented entirely unexpectedly, called the rejoinder.

Should the Prosecution in this rejoinder address new issues, the Defence may then also be allowed to respond to this additional Prosecution evidence in what is called the rebuttal.

During all stages of the trial, the Judges control the proceedings and may ask witnesses questions or address themselves to either the Prosecution or the Defence.

After all the evidence is gathered and the respective cases and witnesses of the Prosecution and the Defence have been presented, the deliberation process begins.

Deliberations involve a systematic analysis and assessment of the evidence in the case in light of the charges against the accused and the applicable law.

One of the first steps in the deliberation process is the evaluation of the evidence. The Trial Chambers apply the principle of the presumption of innocence to all accused. Thus, the Prosecution bears the onus of establishing the accused's guilt beyond any reasonable doubt.

... the Prosecution bears the onus of establishing the accused's guilt beyond any reasonable doubt.

Deliberations are conducted by the Judges. They are assisted by legal officers who have been following the trial and working under the Judges' direction in order to facilitate their analysis of the evidence and the applicable law.

The deliberations result in a detailed written judgement which sets out reasoned

explanations on the facts and the law which led the Trial Chamber to decide as it did. The next step in the proceedings is the Appeals process.

After a Judgement is handed down, any accused person who has been convicted can appeal either the Judgement, that is, the factual findings, or the sentence he has received, or both.

The Appeals process at the Tribunal is not meant to be a re-hearing of the case. The accused or the Prosecution can only appeal the Judgement based on alleged errors of fact or law.

Convicted persons remain in custody until their proceedings are resolved by an Appeals Chamber Judgement and, depending on the result, are either released or sent to prison to serve out their sentences.

Session Three The Judgement and Factual Findings

John Hocking, Deputy Registrar, ICTY:

My first day at the Tribunal, back in March 1997, was the first day of the Čelebići Trial. I spent the duration of the trial sitting in front of the Judges, as the Senior Legal Officer to the Judges.

I would like to set out the Trial Chamber’s factual findings by looking at the evidence that was presented during the trial, and that the Judges believed to be sufficiently credible and reliable that they could be relied upon to find three accused guilty and one innocent. Many of the persons who testified at the Čelebići trial were victims or were persons who were also detained at the camp.

Highlights of the Judgement

John Hocking:

The Čelebići trial commenced on 10 March 1997 and continued for some 19 months. The Trial Chamber heard testimony from 122 witnesses, there were 691 exhibits presented and the transcript of the proceedings ran to nearly 20,000 pages. The three Judges of the trial were from Nigeria, Costa Rica and Pakistan. We had defence counsel from Bosnia and Herzegovina and from the United States, and the Prosecution team was from Italy, the United States and Australia.

The Trial Chamber heard testimony from 122 witnesses, there were 691 exhibits presented and the transcript of the proceedings ran to nearly 20,000 pages.

29

The Čelebići trial was the second Trial Judgement to be delivered by the ICTY and it was the first trial that involved multiple accused, that is, we had the four accused persons all being tried at the same time. It also resulted in the Tribunal’s first acquittal, that of Zejnil Delalić.

The Trial Judgement gave rise to some important legal concepts, for example it was the first pronouncement on the concept of command responsibility in an international criminal trial since the Nuremburg and Tokyo trials which followed the Second World War. And what was important in the Čelebići trial in relation to command responsibility was that the Judges said that not only military commanders can be held responsible for crimes, but also civilians who are in a position of authority.

The Trial Judgement also gave the Tribunal the first conviction of an accused for rape as torture. As stated in the Trial Chamber Judgement: “... there can be no question that acts of rape may constitute torture under customary law”.

I would now like to discuss the Trial Chamber’s analysis of the facts of the case and the evidence that was presented to it during those 19 months of trial back in 1997 and 1998. The Judgement was ultimately appealed but very little of the factual findings were in fact changed on appeal.

Factual and Legal Findings relating to each of the specific events charged
in the indictment

Killing of Šćepo Gotovac (counts 1 and 2)

John Hocking:

In the indictment, Hazim Delić and Esad Landžo were charged with the murder of Šćepo Gotovac. He was an elderly Bosnian-Serb detainee, aged between 60 and 70 years, in the Čelebići prison camp. The indictment alleges that in June 1992, Hazim Delić, Esad Landžo and others chose Mr Gotovac, took him outside, beat him for an extended period of time and finally nailed an SDS badge to his forehead. Mr Gotovac died soon after from the injuries.

The following testimony is from a protected witness. It begins with the Prosecutor Ms Teresa McHenry putting questions to the witness. In the testimony there is reference to “Zenga”, which was a name for Esad Landžo.

(court transcript)

Case name and number:	Mucić <i>et al.</i> (IT-96-21) “Čelebići”
Witness:	Witness B
Date:	15 July 1997

Prosecutor McHenry: Thank you, your Honour. Sir, was there a detainee named Mr Šćepo Gotovac in Čelebići?

Witness: Yes.

Prosecutor: Can you please tell me what, if anything, you yourself observed or you yourself heard at the time concerning what happened to Mr Gotovac?

Witness: Šćepo Gotovac was brought a few days after my arrival at the camp. One day they threw him through the door. This old man was thrown into the prison. I saw Hazim Delić and Zenga then. He was thrown there next to me to sit next to me and Hazim Delić said that during the Second World War he had killed two Muslims and buried them on the location of the camp, and he said that he should not hope to leave alive. He tried to defend himself, claiming that he’d never killed anyone. Even he told the rest of us prisoners. After the door had been closed he was saying that.

That evening Šćepo Gotovac was beaten up twice. First, he was taken out that same evening and beaten for quite a long time. We could hear the cries, the moans. He was not killed then. He was brought back. Then I think it was the next evening he was lying there all beaten up. He was called out again outside, at night fall. I remember Zenga, Esad Landžo. He came in. He came into the hangar. I think that Delić was near the door, outside. He didn’t want to go out. He was - and then two other prisoners were ordered to help him get up and push him out, outside the door. This was right next to me in the hangar. They started beating him and by the number of blows, the movements and everything we could hear, there must have been a large group of people, several people. This went on forever. At least that’s the impression I had. They seemed to have tired of it eventually and at one point I think Zenga said: “Let me have him”. Then we heard blows inflicted by only one person, heavy blows, with some kind of a stick on the body, and after a very short time those of us who were sitting nearby could only hear the blows on the body. There seemed to be no resistance, no

moans, no cries, nothing. After some time somebody came in and called out the prisoners sitting next to the door and ordered them to come out and carry Šćepo's body back in, which, of course, they had to do. They brought him in. Esad Landžo came in and said: "If anyone takes this badge off his forehead", and he had pierced his forehead with a badge of the Serbian Democratic Party, and he said: "If anyone removes this badge from his forehead, I will kill him myself", and the body of Šćepo Gotovac lay there for maybe two or three days - I don't know exactly - right next to me in that camp. Nobody, of course, dared touch him or remove the badge. I don't know who it was that gave permission for the body to be taken out and removed from the hangar. So it was almost always the same team of men sitting next to the door who carried out the body and took it away somewhere.

Esad Landžo [...] had pierced his forehead with a badge of the Serbian Democratic Party, and he said: "If anyone removes this badge from his forehead, I will kill him myself", and the body of Šćepo Gotovac lay there for maybe two or three days...

Prosecutor: Sir, when you said that the body remained there for two days, was Mr Gotovac dead or alive then and how did you conclude that he was either dead or alive?

Witness: I'm not a doctor to be able to say that somebody is dead, but if somebody doesn't move for two days and stays in the same position at night and daytime and if somebody doesn't breathe, I suppose he's dead.

31

John Hocking:

The Trial Chamber found some variations in the statements of witnesses to these events, but the basic features were the same. The Judges took into account that the witnesses were speaking about an incident which had taken place some five years earlier and that they had been confined in a place where physical violence was not an uncommon event. The Judges believed that Šćepo Gotovac had been beaten outside Hangar Number Six, and that witnesses were seated inside it and hence could not see the persons who were doing the beating. However, in view of what the witnesses saw and what they heard from the inside, the Judges were satisfied beyond reasonable doubt that they knew what happened outside.

Below is an excerpt from Esad Landžo's testimony on this event. He was the only one of the four accused who testified before the Trial Judges. In his testimony he admitted that he participated in the beating which caused Šćepo Gotovac's death, but in his defence he claimed that he had been asked by Zdravko Mucić and Hazim Delić to kill him. Esad Landžo is being questioned by his Defence Counsel Cynthia Sinatra.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Accused: Esad Landžo
Date: 27 July 1998

Accused: And Delić then told me, tomorrow I want to see this individual with his feet forward at the gate to the camp and I don't care how you're going to do it. That was during the day. That was the order to me. During the night, I, together

with some three, four other guards, I called out this individual to go out of the hangar because I was given an order. I was expected to submit a report subsequently whether I have executed the order or not. So I took this person out of the hangar, the five of us, I think. We would beat this person. We would kick them. Somebody kick him with a rifle butt, well, you know, it was dark, it was difficult to see. And this area was not lit, so, sometimes, we guards would kick each other. After about half an hour, I brought this person back. I know that he was alive when I took him back. I went back to Mr Delić. I told him that the order has been executed. In the morning I was told that the man was dead.

No. Well, let me tell you this. We, when we were given the order to do something, to beat somebody up or anything else, the order was clear that, in any event, whether we should beat them to death or just beat them, that they should not be kicked at their head, so that there would be no bruises on their head. So there was no possibility for anyone to hurt the head. No way. So all the injuries were afflicted on the body. I don't know why this was the order we were given, but we were given this order and we would obey it.

Defence Counsel: Did you place an SDS badge on Mr Gotovac's head or did you see anybody else place one on there?

Accused: I personally didn't. But everything is possible. It's dark, you have five, six people who are beating up him. Maybe somebody did it, I don't know, I cannot tell you this. But I know that I personally didn't do it. Whether somebody else did it, I don't know. It's possible. There is a possibility, everything is possible. I don't really know it. I just know that I didn't do it.

John Hocking:

The Trial Judges were not convinced by Mr Landžo's testimony. During a previous interview with Prosecution investigators, he denied having taken any part in the beating of Mr Gotovac. The Trial Judges thus considered Mr Landžo to be an unreliable witness and rejected his allegations that he had beaten and killed Mr Gotovac at the insistence of Zdravko Mucić and Hazim Delić.

On the basis of these facts, the Trial Judges found that Hazim Delić and Esad Landžo murdered Mr Gotovac. The Trial Judges found that Mr Delić and Mr Landžo had twice beaten Mr Gotovac during a period of four to five hours, so mercilessly that on the first occasion he was left moaning in the hangar, and on the second occasion he could not make his way back inside by himself. He died a few hours later as a result of the injuries he had sustained.

During his trial Esad Landžo claimed the defence of diminished responsibility and he said that he was a mere instrument of his superiors. The Trial Judges did not accept this claim, as is evident from the following excerpt from the Presiding Judge, Judge Karibi-Whyte as he delivers the Judgement in the Čelebići Trial and explains Mr Landžo's sentence.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”

Trial Chamber Judgement Judge Karibi-Whyte

Date: 16 November 1998

Judge : The Trial Chamber has carefully considered all of the evidence concerning your state of mind at the time of the commission of your offences. While we have dismissed your defence of diminished responsibility, we have noted your young age at the relevant time and your impressionability and immaturity, as well as your particular personality traits and the effect that the armed conflict in your home town had upon you. It is these factors which have led us to impose a less severe sentence than the seriousness and cruelty of your crimes would ordinarily require. The Trial Chamber does not, however, accept that you were the mere instrument of your superiors, lacking the ability to exercise independent will. The nature of your crimes is suggestive of significant imagination and a perverse pleasure in the infliction of pain and suffering. It is most disturbing to see such propensity for violence and disregard for human life and dignity in one so young.

It is most disturbing to see such propensity for violence and disregard for human life and dignity in one so young.

John Hocking:

The Appeals Chamber upheld Esad Landžo’s conviction of guilt for this murder. However, the Appeals Chamber decided that the Trial Chamber finding that Hazim Delić had participated in the beatings was not reasonable and acquitted Mr Delić for this specific incident. Senior Appeals Counsel Mr Norman Farrell explains the Appeals Chamber’s findings below.

Norman Farrell, Senior Trial Attorney, Office of the Prosecutor, ICTY:

I was one of the Prosecutors on both Appeals. I was not a Prosecutor in the Trial. The Appeals Chamber reviewed the evidence in relation to Mr Gotovac’s murder. What the Appeals Chamber was concerned about was that there were a number of witnesses, aside from witness B and Esad Landžo (whose testimonies are excerpted above), who testified about Mr Gotovac’s killing. None of them identified Mr Delić as being involved in the second beating, which resulted in Mr Gotovac’s death. The five Judges on the Appeals bench specifically asked the Prosecutors to identify all the evidence that showed that Mr Delić was involved with Mr Landžo in the beating. The Court was concerned that there were no specific eyewitnesses who showed that Mr Delić was involved in the second beating.

The Appeals Chamber reviewed a lot of the evidence in the Judgement. It reviewed the testimony of witness F, who claimed that he did not know who it was that called out Mr Gotovac on the second occasion when he was killed. The Appeals Chamber also refers to the testimony of Mr Stefan Gligorević, who stated that Mr Gotovac had been beaten twice, but only identified Mr Landžo as being involved. It referred to the testimony of witness N, who described the beating of Mr Gotovac, but once again only identified Mr Landžo as being involved. It referred to Mr Dragan Kuljanin’s testimony, who said that he did not know exactly the names of the guards who took out and beat Mr Gotovac. The Judges cited Mirko Đorđić’s testimony, who said it was Landžo who took Mr Gotovac

out of the hangar the second time. They referred to the testimony of Branko Sudar, who also gave evidence that it was Landžo who took Gotovac out the second time and that he died as a result.

The important issue for the Appeals Chamber was that the evidence was not strong in specifically identifying Mr Delić in the second beating that resulted in Mr Gotovac's death. This is despite the fact that they found that Mr Delić was involved in the first beating of Mr Gotovac and that he had threatened him.

Although we the Prosecution tried to argue that there was sufficient evidence of Mr Delić's involvement in Mr Gotovac's death, the Appeals Chamber concluded that it was not satisfied beyond a reasonable doubt that he was responsible. The Appeals Chamber held that Mr Landžo was responsible, but that Mr Delić was not. It found that Mr Delić was responsible for many other acts, including the first beating against Mr Gotovac, but acquitted him of the second beating, which caused his death.

The Killing of Željko Milošević (counts 3 and 4)

Magda Karangiannakis:

Hazim Delić was charged with the killing of Željko Milošević. It was alleged that sometime around the middle of July 1992 and over a period of several days, guards in the camp repeatedly and severely beat Zeljko Milošević. It was further alleged that sometime around 20 July 1992, Hazim Delić selected Mr Milošević, and brought him outside where Delić and others severely beat him. By the next morning Željko Milošević had died from his injuries.

In support of these allegations, the Prosecution relied mainly upon the evidence of Novica Đorđić and Milenko Kuljanin, as excerpted below.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Witness: Novica Đorđić
Date: 16 June 1997

Prosecutor McHenry: Sir, would you please continue with what you observed concerning the treatment of Željko Milošević?

Witness: As I was saying, Željko Milošević was taken out in front of Tunnel Number Nine. That means just in front of the door of Tunnel Number Nine, so you can hear very well and see what's happening outside, if we were allowed to look. When there were no guards inside we could. He was asked to confess that he was a sniper, that he had killed Muslims, that he had fired at their positions. He rejected all this and, of course, as soon as he said that he hadn't done something, he would be beaten. In his case I remember a piece of cable was used, electrical cable, which was about 2 cm thick and it had a steel wire inside this cable, and every time he was taken out, he was beaten very severely, and later led back in. Then he told us that a long time ago a Muslim had courted his mother. I think his mother was a widow or something like that. Apparently he had hit that Muslim and this was before the war. He said that that had been the reason that they were accusing him of having been a sniper. Otherwise there was no other reason. This was repeated maybe for seven or eight days.

The doors would open. Hazim Delić would be at the door and he would call out Željko Milošević. He goes out and then the interrogation begins, actually beatings. On one occasion a TV station came. They were black people, probably from one of the Arab countries. They took Milošević out; Rajko Đorđić, Desimir Mrkajić as well. They placed them before the cameras, before the TV cameras and they asked that they confess that they had been snipers, that they had killed Muslims. Landžo and Delić were beating - would beat them when the cameras were off and then the people from the TV team would join in the beatings as well.

Let me tell you I could see him, because all that was happening in front of Tunnel Number Nine - let me make it clearer. It's, for instance, the distance between me and the interpreters over there. So you can imagine that the door was over there where the glass is.

Prosecutor: During the actual beatings that you have referred to, was the door always closed or was it always open, or sometimes it was open and sometimes closed?

Witness: The door was mostly open, unless they banged it shut, and it was sort of half closed, but it was mostly open, except that night when Željko Milošević did not return to Tunnel Number Nine.

And indeed, as Hazim had said, that night - I don't know what time it was - his voice could be heard outside Tunnel Number Nine and he called out Željko Milošević. Željko went out. The door was closed behind him. We heard talk, but this time it was a bit further away from the entrance, so we couldn't understand as well as the previous days when it was just outside the door, but we heard the discussion, later beatings and finally a bullet. That night Željko Milošević did not return to Tunnel Number Nine. In the morning - I think it was very early - we were taken out in groups of five or six to the toilet or rather the hole, and when I went out right next to the hole on the northern side of the hole was Željko Milošević's corpse covered with some kind of a rag or tee-shirt over his forehead with a large blood stain. I can't exactly say what it was but it must have been a head injury.

... we heard the discussion, later beatings and finally a bullet. That night Željko Milošević did not return to Tunnel Number Nine.

Prosecutor: When you say it was a corpse, how was it that you were able to determine that it was a corpse? Was Mr Milošević moving? How long did you observe his body for? Can you just please tell us how it was that you concluded that Mr Milošević - that this was a corpse rather than a live body?

Witness: You see, he didn't return that night. If he had returned, we would have known that he was alive. But he was lying there. We were going out in groups of five or six and there were 30 or so of us inside. All the people that went out, they saw the same scene. He was lying there immobile, with a large blood stain, which means that he was dead.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”
Witness: Milenko Kuljanin
Date: 4 August 1997

Prosecutor: Did you eyewitness any other incident concerning any other prisoner who died?

Witness: I would like to mention the murder, the killing of Željko Milošević. I should also like in that connection to mention some journalists and the camera crew which came to the prison. I cannot remember exactly what country they had come from, but they came to film the prisoners, that is, us. Delić called Rajko Đorđić and Željko Milošević to be filmed by the camera and to tell the journalist and the TV crew and that took place in front of Tunnel Number Nine, to tell them how they had tortured Muslim women and raped Muslim women and tortured and killed children, but Željko Milošević would not admit anything of the kind and would not make any such statement on that score and Rajko Đorđić also could not confess to doing something that he had not done. Delić returned them to Tunnel Number Nine, from which they had come, and when the journalists had left, he entered the tunnel again and said that they would remember him well. Željko, however, remained for another couple of days in the tunnel. Delić then came and told him to get ready around 1pm. Then Delić came and called Milošević. I cannot say exactly when he came. It was night. It was perhaps midnight or 2 am. It was pitch dark. He took Željko out personally. He called him to come out and took him out. After they had gone out, we heard Željko screaming and moaning and crying out. In the morning when they took us out to go to the toilet, Željko Milošević was behind the door lying there dead. We saw him as we passed on our way to the toilet. But let me mention in this connection, before they kill him Željko Milošević had been shut down in a manhole filled with water with Rajko Đorđić, where he had spent the whole night. When he returned from the manhole, he was soaking wet. I had a track suit, and as his clothes were wet, I gave him my track suit as a change of clothes so that he could put something dry on.

Now to connect this to the murder, when I saw him he was wearing my track suit, and another, some sort of a parka, was also draped over his head. I recognised him and I could tell that it was Željko Milošević by the fact that he was wearing that suit.

Magda Karangiannakis:

The Trial Chamber relied on those two witnesses for their findings. In his defence Delić's Counsel submitted that only two witnesses had testified about their personal knowledge of Željko Milošević's killing and that their accounts differed. The Defence contended that in Milenko Kuljanin's testimony, Željko Milošević was asked to confess to the rape and torture of Muslim women and the torture and killing of children, whereas in Novica Đorđić's testimony he was being asked to confess to being a sniper and shooting Muslims.

The Trial Judges considered that “... although there were some variations between the testimonies provided by the witnesses to these events, the fundamental features of this testimony, as it relates to Željko Milošević's last evening of life, are consistent and credible.”

The Trial Chamber believed Novica Đorđić and Milenko Kuljanin’s testimonies, as excerpted above, and found Hazim Delić guilty of Željko Milošević’s murder. The five Judges of the Appeals Chamber confirmed this verdict.

The Killing of Simo Jovanović (counts 5 and 6)

John Hocking:

Hazim Delić and Esad Landžo were charged with the murder of another of the detainees in the Čelebići prison camp, that of Simo Jovanović. The Prosecution claimed that sometime in July 1992 in front of a detention facility, a group of men including Hazim Delić and Esad Landžo severely beat Simo Jovanović for an extended period of time. The Prosecution further claimed that Esad Landžo and another guard brought Simo Jovanović back to the detention facility, that he was denied medical treatment and that he subsequently died from his injuries.

The Prosecution had interviewed Hazim Delić in July 1996, and he conceded that Simo Jovanović had been killed whilst he was in the Čelebići prison camp. However, he denied having played any role in his death.

In his testimony before the Trial Judges, Esad Landžo, on the other hand, admitted that he had taken Simo Jovanović from Hangar Number Six. However, he said he had done so at the insistence of some of the guards who had told him that they had obtained permission from the authorities to do this. Landžo denied that he had taken part in the beating of Mr Jovanović. He said that there were no witnesses who had actually seen the beating which led to Mr Jovanović’s death. Esad Landžo’s testimony in relation to Simo Jovanović’s murder is excerpted below:

<i>(court transcript)</i>	
Case name and number:	Mucić <i>et al.</i> (IT-96-21) “Čelebići”
Accused:	Esad Landžo (second clip)
Date:	27 July 1998

Accused: I was on guard one night and a group of guards came, who came from the village of Idbar, and Simo also originally came from there. He had a family home there with a big farm. These guards came. And before coming to the hangar, I was on that small mount and told me that I should call out Simo Jovanović because they wanted to talk to him. There were two guard positions. The guard on the mount would communicate with the detainees and the other guard always had to be present at the machine gun if more detainees try to exit by force. I asked them why they wanted to see the man. They said they had an order to talk to him. I called the man. I couldn’t check at that point whether they were ordered to do so or not. There was a telephone, but it was out of order, so I did call him out. They took him and they took him to the hangar workshop, workshop for the repair of weapons. I then went back to my guard position, but I could hear the beating and I could hear the shouts. Some twenty minutes later, one of these came and he said, we finished this Chetnik and we wrote the will. And this was a big man. He was maybe a metre 90. A hefty man. And we really had a lot of trouble to bring him to that hangar. And the next day I heard about it. I don’t really know why he was killed. But I did hear later on that his property was divided among the inhabitants. I know that he was beaten that night and that also he died from that beating later that night.

Defence Counsel: You say he was taken to the workshop. Could you point on that model where the workshop is? So it would be the hangar next to Hangar Number Six?

Accused : Yes.

Defence Counsel: And did you participate at all in the beating of Mr Jovanović?

Accused : No. I was not ordered to do so. I was on guard duty. I only called him out and accompanied him there. That was my duty.

Defence Counsel: And the position that you always held at the dugout over Hangar Number Six, is that the position that had along with it the responsibility of communicating with the detainees?

Accused : Yes, yes. That guard from that guard position was to communicate with the detainees because the other guard was always in close proximity of the machine gun, looking directly at the hangar door.

John Hocking:

The Trial Judges were not convinced by Esad Landžo's version of the events. They considered that Mr Landžo could not absolve himself of responsibility for Simo Jovanović's death. He was clearly at the very least in a position to facilitate the preparation of this offence. The Trial Chamber found that due to Esad Landžo's participation in this beating, at the very least he aided, abetted and knowingly facilitated the beating that others inflicted. The Trial Chamber found Esad Landžo guilty of Simo Jovanović's murder.

In relation to Hazim Delić's involvement in this murder, the Trial Judges found that there was not sufficient evidence to connect him to it. There was a Prosecution witness, Branko Sudar, who testified that he had heard Hazim Delić's voice coming from outside the hangar, and that Delić had given orders on a couple of occasions, saying "enough, enough stop the beatings".

Sudar testified with face distortion as a protective measure. It should be noted that although the public cannot see the face of witnesses who testify with face distortion, everyone in the court room can, including the accused and their Defence Counsel. Relevant parts of his testimony are excerpted below. He is being questioned by Prosecutor Grant Niemann.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"

Witness: Branko Sudar

Date: 7 August 1997

Prosecutor Niemann: The last time that Mr Jovanović was taken out and beaten, can you recall approximately how long this beating lasted?

Witness: They would take him out for 20 minutes at a time or 15 minutes, I cannot exactly recall how many minutes they would keep him outside, but they would keep beating him until he fainted and then they would just throw him inside in that condition.

Prosecutor: On the last occasion he was taken out, did you see who it was that returned him to the hangar?

Witness: I cannot recall exactly and I cannot say if I cannot recall exactly. I think he was only actually pushed inside through the door and I could hear the voices outside. I could not see exactly. Then you were not allowed to look towards the door when it opened because you would also get hit if you looked at the door. If you could just furtively glance at the door you could see who it was, but you could not always.

Prosecutor: You said you could only hear what was going on outside. Did you recognise any of the voices on this last occasion that Mr Jovanović was beaten, of the guards that were outside?

Witness: I heard Zenga's voice and I could hear Delić was giving the orders and I could hear his voice out there. Sometimes he would say "enough, stop".

Prosecutor: When you say sometimes he would say "enough, stop", who was saying that?

Witness: I heard Delić say it twice or three times, "enough, stop, enough. No more".

Prosecutor: On the last occasion when he was brought into the hangar and left somewhere near the door, can you recall what condition he was in this time?

Witness: He was totally beaten up and he was crying out for his mother and moaning in pain, and then his voice left him and he just huddled, crumpling in a corner. I do not know how to describe it.

Prosecutor: How long did he stay at that place in that condition?

Witness: I cannot recall exactly, I believe that in the morning when he died, he was taken out. I cannot recall all the details.

Prosecutor: How do you know that he died in the morning?

Witness: I cannot say that he died in the morning, but I do know that he was dead. I cannot exactly remember, they were mostly - they would mostly die in the night. I cannot recall all the details.

John Hocking:

The Trial Judges felt that they could not simply rely on the testimony of one person claiming that he recognised Hazim Delić's voice when there was no other witness to confirm Delić's involvement. The Trial Chamber was not satisfied beyond reasonable doubt that Hazim Delić was responsible for the murder of Simo Jovanović.

The Killing of Boško Samouković (counts 7 and 8)

Magda Karangiannakis:

The Prosecution charged that sometime in July 1992, Esad Landžo beat Boško Samouković, a detainee who was approximately 60 years old from Bradina. The

Prosecution alleged that Landžo beat him with a wooden plank. After Boško Samouković lost consciousness from the blows, he was taken out of the detention facility and died soon after from his injuries.

In his testimony before the Trial Chamber, Esad Landžo admitted that he had beaten Boško Samouković, but denied that he had ever intended to kill him. In justification for this mistreatment, Mr Landžo referred to an incident that occurred on 12 July 1992, when armed Serbs allegedly ambushed a patrol containing members of the local military police near Bradina, killing the entire party. Esad Landžo testified that he had felt extremely upset by the mutilation and killing of these persons, some of whom were close to him. That was the reason he gave for beating Mr Samouković.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”
Accused: Esad Landžo (third clip)
Date: 27 July 1998

Defence Counsel: And then what happened next?

Accused: After that, a few minutes later I went to Hangar Number Six, because, you see, I knew of these people, some of my best friends were killed in Bradina. We were told that the Serbs did this from Bradina. I came to that hangar and I told to all the detainees from Bradina to stand up, and when you enter the hangar on the right side I beat, I started beating two, two of them, two of the detainees in order to - you see, it was to get the anger out, but it wasn't to injure them, and the third or the fourth person I hit, that person fell, fell on the floor.

Defence Counsel: Well, I have to ask you, when you keep saying beating, do you mean you hit them once, twice, for an extended period of time, or was it moving from one to the next?

Accused: Well, I went from one to another of those who were standing up, and I think the first I hit them once, twice, maybe three times each. It's not that I was concentrating on one. I was angry against the people from Bradina. I was told that the Serbs from Bradina killed these policemen. And after hitting them once or twice, each one of them, one of them fell. And I saw as if that person was losing his breath, couldn't breathe. Then I called one of the detainees who earlier worked in Konjic in the hospital, he helped. I know that he was doing something to that man, and he stopped shaking. Then I asked the other two or three detainees and took the man to the infirmary. I wanted really to kill them all, but I didn't have the intention to do anything to that man. Later on I also met his son, and that son told me that this man had earlier cardiac problems, and I hit him once or twice, and that was what then caused these problems. He later on died in the infirmary in the camp.

Defence Counsel: Did you take him to the infirmary yourself?

Accused: No, no, two or three other detainees helped him to the infirmary. They were carrying him in their arms. Maybe, maybe he could have walked, I don't know. So, we took him, carried him. And the doctors tried to do something, tried to help him, but regrettably he died on that day. I don't know exactly what day, but on that day, he died.

Defence Counsel: Did you go to the infirmary to check on him?

Accused: Yes, I was standing at the entrance door of the infirmary while the doctors were assisting him.

Defence Counsel: And did you tell the doctors anything?

Accused: I believe I said that they should try to help him, to save him. I can't remember exactly the words, but in that I spoke in that sense.

Defence Counsel: Were you acting under orders at this time?

Accused: No.

Magda Karangiannakis:

As you can see from his testimony Esad Landžo's position was that he had beaten Samouković but that he did not intend to kill him, as evidenced by the fact that he allegedly sought medical attention for him afterwards.

The Trial Chamber considered that, "even should it be conceded that Landžo's request to the Doctor is evidence of some remorse for his actions, rather than a mere expression of his fear of recriminations from Delić, this can hardly detract from the gross nature of his conduct in mercilessly beating an elderly person with a heavy implement". The Trial Chamber found Esad Landžo guilty of the murder of Boško Samouković.

The Trial Chamber considered that, "even should it be conceded that Landžo's request to the Doctor is evidence of some remorse for his actions, rather than a mere expression of his fear of recriminations from Delić, this can hardly detract from the gross nature of his conduct in mercilessly beating an elderly person with a heavy implement".

The Killing of Slavko Sušić (counts 11 and 12)

John Hocking:

I would just like to point out that the witness testimonies we are discussing today represent only a very small percentage of the evidentiary material that came before the Trial Judges. We have selected testimonies which we felt represented some of the more important aspects of the trial. However, when the Judges were deciding on the guilt or innocence of these accused, they had before them testimonies from many witnesses over 18 months of trial. I believe it is also important for those of us who were not in the Čelebići camp to try to imagine what it was like for the prisoners, some of whose testimony we have heard today. There were 500 prisoners locked up there, who saw people being murdered, beaten, and raped on a daily basis. It must have been absolutely horrific for them to have had to survive from day-to-day, never knowing whether they would be the next victim of some horrific treatment. I believe the Trial Chamber saw this over those 18 months.

In addition to the murders discussed above, the Prosecution alleged that Hazim Delić and Esad Landžo murdered Slavko Sušić, a teacher from Čelebići. Mr Sušić, was confined in Tunnel Number Nine of the Čelebići camp. Delić and Landžo claimed that Sušić had been using a radio transmitter to guide Serb gun-fire onto his village. In order to find

out where that radio transmitter was located, Delić and Landžo tortured Sušić. Ultimately he died as a consequence of that torture.

The Prosecution brought a witness called Milenko Kuljanin, whose testimony the Trial Chamber found to be very compelling.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”
Witness: Milenko Kuljanin (second clip)
Date: 4 August 1997

Prosecutor: Going back to this morning when Delić and Sušić came back from the house of Susic, with what did Delić beat Sušić inside the tunnel on this occasion?

Witness: He beat him with some sort of a rubber stick.

Prosecutor: For how long did he beat him on this occasion?

Witness: He beat him in the tunnel, starting from the door and then halfway inside the tunnel until he fell. Then he left.

Prosecutor: You said that later on Zenga came; can you say at approximately what time of this day did Zenga come?

Witness: Well, as we had a very poor sense of orientation in terms of time of day and dates, I really cannot remember exactly the time and the exact hour when this took place. I cannot remember.

Prosecutor: All right. You said something about Zenga using pliers with the tongue of Mr Sušić; what did Zenga do with the tongue of Mr Sušić as far as you could see?

Witness: He pulled out the tongue, his tongue, with pliers and twisted it. Then he used later a slow burning fuse to torture him with, as I have already described. I do not know whether I need repeat that. Of course, I can do that.

He pulled out the tongue, his tongue, with pliers and twisted it. Then he used later a slow burning fuse to torture him with...

Prosecutor: I just have some specific questions: you were talking about fuse around the leg and around the waist?

Witness: Yes.

Prosecutor: Can you describe exactly what did Zenga do with this fuse or fuses? How many fuses were there - one or two different fuses?

Witness: There were two fuses which were the same. He put one around his leg and one around his belly under the shirt. Then he ignited them. Of course it started burning the man’s skin and he started screaming and begging him to take them off. However, the fuse burned and did the damage it did, burning the man’s skin.

Prosecutor: How did Mr Landžo fix the fuses to the body? Did he fix them in some way or simply wrap them?

Witness: On the leg he fastened them with some cello tape, I believe, and as regards the one around the belly, he just wrapped it under his shirt.

Prosecutor: So the fuses were wrapped around the skin, not over the clothes; is that correct?

Witness: Yes, around the skin.

Prosecutor: How did Zenga light the two fuses, with what?

Witness: He had a match box and he used a match to ignite the fuses. They normally started burning, and affecting the body.

Prosecutor: Did the fuses around Sušić's leg and waist burn entirely or were they put off?

Witness: Yes, they burnt entirely.

Prosecutor: What did Zenga do in the meantime?

Witness: In the meantime, while the fuse was burning, he hit the man.

Prosecutor: With what?

Witness: He kicked him and he also hit him with the rifle butt.

Prosecutor: Did Mr Landžo say anything while beating him during this treatment?

Witness: He asked him about the radio transmitter and kept insisting that he say where it was, but he obviously could not; and then he failed as he did.

Prosecutor: Approximately how long did this treatment last?

Witness: Certainly over 45 minutes, the burnings, the torture and the pulling out of the tongue, in my assessment, perhaps a bit longer.

Prosecutor: Could Mr Sušić move by himself after this treatment?

Witness: After Zenga's treatment, Landžo's treatment, that is, Sušić crawled on all-fours towards the place where he had been sitting before in the rear of the tunnel, and he crawled back to that place on all-fours.

Prosecutor: How long did Mr Sušić remain at his place after this treatment?

Witness: Mr Sušić, I am not quite sure of the time, but he stayed there until Delić came, and when he came, he started beating and maltreating him again about the radio transmitter. The man could not even speak. He could not scream because he was on the verge of death, as it were. Then he stopped after. They stopped beating him. He died after a couple of hours. The prisoners, when they saw that he was showing no signs of life, took him to the front end of the tunnel and there placed him in a position befitting a dead man.

John Hocking:

The reason that the Prosecution asked those questions about the radio transmitter is very important. In order to establish the crime of torture, the Prosecution must prove that the person who was inflicting the pain was trying to get information.

In order to establish the crime of torture, the Prosecution must prove that the person who was inflicting the pain was trying to get information.

The Prosecution brought another witness about this murder, who was a protected witness, called Witness J. Witness J testified more or less along the lines of Milenko Kuljanin, in particular about the use of some sort of pliers on Mr Sušić's tongue. However, Witness J did not mention the use of fuses to torture Mr Sušić. The Judges were satisfied that Landžo and Delić had

tortured Sušić. However, because of this small contradiction in the testimony of these two witnesses, they were not satisfied that Landžo and Delić had caused his death. In conclusion, the Trial Chambers found Delić and Landžo guilty of willfully causing great suffering and serious injury, but they did not find them guilty of Mr Sušić's murder.

The Torture and cruel treatment of Witness M (counts 15, 16 and 17)

Magda Karangiannakis:

The Prosecution also charged Esad Landžo and Hazim Delić for the torture and cruel treatment of Witness M. The primary source of evidence that the Prosecutor relied on was the testimony of the victim himself.

Witness M was a Bosnian Serb from Bradina who had taken part in the resistance mounted by local Bosnian Serbs before he surrendered to the Bosnian Government forces. After he surrendered, he was taken to the Čelebići prison camp.

In the excerpt from his testimony below, Witness M states that he was beaten almost every day while he was in the camp, from 25 May until the beginning of September 1992. In other words, he claimed that he was beaten almost every day for more than three months.

(court transcript)

Case name and number:	Mucić <i>et al.</i> (IT-96-21) "Čelebići"
Witness:	Witness M (two segments)
Date:	14 July 1997

Witness: On Zenga's order I had to kneel down, put my hands behind my back - behind my head, the back of my head, and allow him to hit me with karate chops and kick me in the chest area. This went on for a while. He would kick me until I would fall and then he would raise me again and on and on. This went on until I lost consciousness. After that they poured water on me. I came to. He put several pieces of newspaper, made fire, took out a knife.

Prosecutor: Who is "he"? When you say "he took out a newspaper and made a fire", who are you referring to?

Witness: I'm referring to Zenga. He heated a knife on this flame and he forced me to take this knife with my bare palm. I took it gingerly and I tried to simu-

late. However, he took my palms and took them in his own hands so that I could feel my own burnt flesh. He carved a cross into my palm.

Prosecutor: What do you mean when you say: “He carved a cross”? Do you mean from the burning knife a cross was made on your hand? I’m trying to ask whether or not -

Witness: Yes. Two strokes.

Prosecutor: I’m just trying to - the cross was made from the burns rather than from you being cut with the knife; is that correct?

Witness: Yes. No. No. No. Yes. The cross was burnt in.

Magda Karangiannakis:

The same witness testified that, on another occasion, Delić and Landžo had put a gas mask on his head so that he could hardly breathe, burned him with corrosive powder, and beat him.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”

Witness: Witness M (two segments)

Date: 14 July 1997

Prosecutor: Was there any other time, sir, other than what you’ve already told us, about where you were mistreated in the camp?

Witness: Yes. The next beating occurred I can’t remember exactly how many days later, but I was taken out at night. I was taken out. Before me Lazar Savić had been taken out and beaten up. Then it was my turn. I was taken out. Zenga and Delić were waiting for me outside with three other men, who were not from Čelebići, who were from Tarčin, called Repa, Gumeni and Paja. I had to lean up against the wall. Somebody put a mask on my head from behind, a gas mask. The mask was tightly screwed on. I couldn’t breathe. I was ordered to lie down on the concrete. They took off my trousers as far as the knees. Then I felt that they put some powder over me. I couldn’t feel pain. I could just feel something dropping on me. I was taken by hands and legs and placed under the manhole. Then I was showered with water. Then I felt terrible pain and terrible burns. After that came the beating, all over my back from my back to my legs. I felt the worst pain in the lower part of my back, the pelvic bone. At first the worst thing was the lack of air. I was choking. I tried to remove the mask and I couldn’t. Maybe after some time - I don’t know how long it was - but I know that I lost consciousness several times. The last time I came to I felt air that I could breathe. The mask had been removed. Only then did I feel the terrible pain in my back and in the area of the pelvic bone. They forced me to go into the hangar. I tried to move as soon as possible fearing fresh blows.

Prosecutor: Sir, going back, for this incident that you just described, do you remember exactly who it was who called you out for this beating?

Witness: For this last incident?

Prosecutor: Yes, sir.

Witness: Yes, Delić, Delić.

Magda Karangiannakis:

As stated above, the OTP had interviewed Hazim Delić before the trial began. Unlike Landžo, Delić did not give evidence during the Trial. However, in that interview, Delić had said that he did not even know Witness M, although he might be able to recognize him if he saw him. In other words, he denied that he had done this. On the other hand, in his testimony before the Trial Chamber, Esad Landžo admitted that he had burnt Witness M's hand. However, he had stated that he had done this at the instigation of an unidentified "Muslim" from another village and under Hazim Delić's orders.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"

Accused: Esad Landžo

Date: 28 July 1998

Defence Counsel McMurrey: The allegation is that he was beaten, kicked unconscious, a cross burned on his hand, hit with shovels, suffocated and had an unknown corrosive powder applied to his body. Does that refresh your memory about this person at all?

Accused: Yes, yes. It's true, I burned him. I think with a knife or some metal implement on his hand. But as far as this powder or beating with a shovel, I know nothing about it. I didn't do that to him, maybe somebody else did.

(...)

At the time in Čelebići, a unit was located in the other Čelebići and a person from the village, from Homolje, a Muslim from Village Homolje, Delić at the time came. He was inspecting the camp and that person talked to him and asked him that this person be beaten up because they still had some unsettled accounts from prior to the war. I was at my guard post at the time. Delić called me and he ordered me to teach the Chetnik a lesson and to burn his hands a bit so that he wouldn't be touching in connection with some women. That he wouldn't touch things he shouldn't be touching any more. So, I was just executing the order of my superior and I did it while the Muslim who asked was observing all this which was going on.

Magda Karangiannakis:

The Trial Chamber also heard the evidence of several other detainees who had seen Witness M's burnt hand, who supported what the victim had said. The Trial Chamber found Mr Landžo guilty of torture and mistreatment for burning the victim's hand. The Trial Judges did not believe Esad Landžo when he said that somebody else had instigated or ordered him to do it. So they believed his admission that he had done it, but they did not believe his reason for doing it.

John Hocking:

What was really important about Landžo's testimony was that he said under oath that some of these murders and rapes had actually taken place. This is very important for the Prosecution, which has to prove beyond a reasonable doubt that the crimes

occurred and that the accused was responsible for them. The Trial Judges did not believe Landžo's stories in relation to why he did it, but they did believe that these events had taken place.

Bob Reid:

I think Esad Landžo's interview with the Prosecution and later testimony in court is a good example of how an accused's behaviour changes after he is confronted with evidence of his involvement in crimes. When the Prosecution interviewed him after he was arrested, he denied everything. He said he was not there, that he was not a guard, that he did not do anything, that he was a good person during the war, and that was it. After the trial started and he was being confronted with all these witnesses who said he was responsible for crimes, he was backed into a corner. He then changed his story to claim that he was not responsible for his actions. Later he changed his story again and admitted that he had punched or kicked people, but claimed that he did not really hurt them, and did not kill them. The Trial Chamber did not accept any of these defences.

The Trial Judges did not believe Landžo's stories in relation to why he did it, but they did believe that these events had taken place.

Torture and rape of Grozdana Čećez (counts 18, 19 and 20)

John Hocking:

Having sat through the trial for 18 months and heard numerous, horrific tales and very brave witnesses who told their stories, I think the next two crimes really stand out as some of the most difficult. They relate to the sexual assaults, rape, and torture of two women in the Čelebići Camp, although there were other sexual assaults, that took place there. (For example, Esad Landžo was found guilty of forcing two brothers to commit oral sex upon each other). The first crime is the torture and rape of Grozdana Čećez (image 19). The Prosecution charged Hazim Delić and others of subjecting Grozdana Čećez to repeated incidents of forced sexual intercourse. On one occasion, she was raped in front of other persons, on another she was raped by different persons in the camp. This took place over a number of months.

(court transcript)

Case name and number:	Mucić <i>et al.</i> (IT-96-21) "Čelebići"
Witness:	Grozdana Čećez
Date:	17 March 1997

Prosecutor: When you then went in the second room with the five beds, can you tell us who went into that second room with you?

Witness: This man with the crutch. At that time I didn't know who he was, that little man Džajić, the driver, and then another one. I think it's - it was Džajić. He was - I later found out that he was in the military police, and the four of us entered the room, and the one with the crutch told me to take my clothes off. I didn't understand what he wanted. I thought he was going to beat me since he had a stick with him. He had a uniform on him. Then he asked me to take off my clothes and then he started taking off clothes from me. It was the trousers, the skirt, the panties, and then he put me on my chest and he started raping me. I

didn't realise that this would be happening to me, this at the end of the 20th century, that someone would allow themselves to do.

Prosecutor: Mrs Ćećez, can I just ask that you slow down when you are telling us too? If you need a break just tell us and I believe the Judges will give you a break. Otherwise please continue but go slowly.

Witness: Then he turned me on my back and then took off everything, everything that was on me, the pants and the boots and I kept the top clothes on me and he raped me. Then -

Prosecutor: Mrs Ćećez, when you say he raped you, can you please tell us exactly what you mean?

Witness: Well, he took off my clothes and he took his penis and he put it in my vagina. He had an erection. As I was lying down he told me to sort of move and he stayed about ten minutes there and Džajić was lying on a bed next to the window and the little one, Ćosić - I think it is Ćosić; he is from Ibar - and he told him to stand at the door, and he remained there until he was done and then -

Prosecutor: When you say -

Witness: He trampled on my pride.

Prosecutor: Mrs Ćećez, who was it who raped you?

Witness: The one with the crutch. At that time I still did not know who he was but later I found out. Soon after that I found out who and what he was. Unfortunately he trampled on my pride and I will never be able to be the woman that I was. Then after all there was further misery.

Prosecutor: Mrs Ćećez, let me just stop you for a moment. When you later on learned who this person was who raped you, who did you learn this was?

Witness: Hazim Delić, son of Ibro. He was born in 1962 from Orahovica and I found out everything. He had a wife and a son and he came once and I saw him then.

Prosecutor: Mrs Ćećez, during the ten minutes that you were being raped, what were you doing during that time?

Witness: I could not do anything. I was lying there and he was raping me. There was - I had no way of defending myself. I couldn't understand what was going on, what was happening to me.

Prosecutor: Were you crying, Mrs Ćećez?

Witness: Yes, yes, I was, of course. I was crying. I said: "My God, what have I come to live through?" He said: "It is all because of Lazar. You wouldn't be here if he were around", but I was completely beside myself. To trample a woman's pride like that. I come from a good family. It was a large clan. That is the fate. Then they left and I got up.

John Hocking:

One can only admire the courage and strength of character of a witness such as Mrs Grozdana Čećez, to come to court and tell her story in public.

The questions relating to the crutch are important because she did not know the name of the person who raped her at the time, but knew that he had a crutch. This was significant because the Prosecution brought evidence that showed that just before these events took place Hazim Delić had had an injury to his leg and was using a crutch at this time. The Judges found Mrs Čećez's evidence to be completely convincing and they found Delić guilty of raping and torturing her.

The Judges found Mrs Čećez's evidence to be completely convincing and they found Delić guilty of raping and torturing her.

Norman Farrell:

After the trial Mr Delić's Defence appealed the verdict on the basis that the victim, Mrs Čećez, could not be believed. They argued that her statement and her testimony were full of inconsistencies and that she confused a number of details in her story. The Appeals Chamber listened to the arguments of the Defence and those of the Prosecution on the reliability of the witness. The Appeals Chamber concluded that someone who goes through such extremely traumatic events may have some difficulty trying to explain them in a very logical or coherent manner. They also recognized that when you are testifying about events like this, years later, you are bound to have certain difficulties in recollecting or remembering the small details of something that took place. The Appeals Chamber recognised that a witness may sometimes forget small details or may even mix some of them up. But they found that her evidence was reliable and credible. The Appeals Chamber concluded that Mr Delić raped Mrs Čećez.

Torture and rape of Witness A (counts 21, 22 and 23)

Magda Karangiannakis:

The Prosecution also charged Hazim Delić with raping Ms Milojka Antić. She was known as Witness A until the hearing. The Prosecution alleged that on her first night in the Čelebići camp, Hazim Delić interrogated her twice. She testified that he raped her during the second interrogation.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Witness: Milojka Antić
Date: 3 April 1997

Witness: Yes. Then Mašić returned and I stayed there. Delić started to interrogate me. He questioned me again about my first name, my last name, where I was from, why I was brought there. I did not know what to answer. He started to curse. He said that the Chetniks were guilty for everything that was going on. He started to curse my Chetnik mother. He told me that unless I did whatever he asked from me that he would send me to Grude, where a Croatian camp was, or else I will be shot. I started to cry. He ordered me to take my clothes off. I was constantly imploring and crying and asking him not to touch me, as I was a sick woman. To no avail. He started to threaten me with his rifle, saying that he would kill me. He pointed the rifle at me. I got scared. I was afraid he would kill

me. So I had to do what he asked from me. I had to take my clothes off as he pointed the rifle on me, on the upper part of my body.

Prosecutor: Mrs Antić, was the light on in the room?

Witness: Yes.

Prosecutor: Did Delić wear a uniform in that occasion?

Witness: Yes, he did.

Prosecutor: Please go ahead in your account. What happened right after that?

Witness: He asked me then why did I not dress more nicely, as I came all torn and dirty from my garden. He asked me why I wasn't dressed nicely. I did not know what to answer. I said: "I was not allowed to go into my house". Then he threatened me. He ordered me to go into the bed and to lie down. Then he raped me. He ordered me to take my tracksuit off. I had a jumper, which I also had to take off. Then I had to go on the bed.

Prosecutor: Sorry to ask you that, but could you please give us some more details about the rape. Did he - can you give us some more details on the very event of the rape, if you don't mind?

Witness: I then had to climb in the bed. Then he took his belt off. On his belt he had a pistol. So he took some of his clothes off and climbed into the bed and then he started to rape me.

Prosecutor: Mrs Antić, did he penetrate your vagina?

Witness: Yes.

Prosecutor: Did he ejaculate?

Witness: Yes.

Prosecutor: Did he do that inside your body?

Witness: No. On the lower part of my stomach.

Prosecutor: Can you say approximately how long did all this last?

Witness: I do not know for how long. It seemed very long to me. I don't know. When I was returned back to our room we did not have any watch. We were not allowed to put any lights on. I don't know how long it lasted but too long for me.

Magda Karangiannakis:

When both victims testified in the Trial they did so openly and they did so in front of the man who had abused and degraded them in the prison camp. One can only imagine how hard that must have been for them. However, they testified in a very compelling and powerful manner and the Judges believed their testimony.

Ms Antić, testified that Hazim Delić raped her two more times while she was at the Čelebići camp. She testified that the second rape included anal rape, which had been very painful and caused her to bleed.

Hazim Delić denied raping anyone at the Čelebići camp. The Defence argued that the only direct evidence was the victim herself and that there were contradictions between the two rape victims, and in that way they tried to discredit Ms Antić's evidence.

Hazim Delić's Defence Counsel cross-examined Ms Antic. He submitted that the evidence she gave in court was inconsistent with her statement that she had previously given Prosecution investigators in 1996:

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Witness: Milojka Antić
Date: 14 April 1997

Defence Counsel Moran: She alleged in her statement to the Prosecutor that she was raped on multiple occasions. She has testified here twice that it only occurred three times. I am just asking her why she exaggerated and why she told the untruth to the investigator for the Prosecutor.

Judge Odio Benito: Can I ask how many times are for you multiple occasions?

Defence Counsel: When they are - the statement said this happened -

Judge: Talking about rapes, multiple occasions.

Defence Counsel: More than once.

Judge: Thank you.

Magda Karangiannakis:

There was a difference between the number of rapes recounted by Ms Antić at trial and the number that had been included in her previous statement. Mr Moran, Delić's Counsel, tried to make her appear to be an unreliable or untruthful witness. Judge Odio Benito corrected him, saying that in fact she testified that she had been raped on multiple occasions. This was entirely consistent with what she had said to the Prosecution investigators. The Judges take great care in controlling the proceedings so that a fair account of what happened is presented in the courtroom, without unduly harassing the witness.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Witness: Milojka Antić
Date: 14 April 1997

Defence Counsel: You made those statements either not knowing they were false or not caring; is that not right?

Witness: Of course I cared, because, as I said, maybe I did say something that I didn't know exactly what I was saying, because I was being reminded of all those

moments, the worst moments which I lived through in 1992. Maybe I did say some things, but I didn't know that I was saying them.

Defence Counsel: So the statement that you gave was - you just did not know what you were saying when you gave that statement; is that correct?

Witness: Well, I say that I was in a state of shock, that I did not even know what I was saying.

Defence Counsel: So you did not know what you were saying when you made this statement on February 20th, 1996; is that correct?

Witness: Yes.

Defence Counsel: But you do know what you are saying now, though?

Witness: When I started talking at the time, I felt less pain. Until then I had never told anyone what had happened to me. I had not uttered a word. Then I spoke and I was in a state of shock, and perhaps it was not clear. Later on when I told the whole story about the terrible experience I had gone through, then probably my statement was better.

Defence Counsel: So, ma'am, when you told the investigator for the OTP, for instance, that you had been raped every two or three days, once a day, for the first six or seven weeks that you were in custody, that was just something that came out of your mind and never happened; is that right?

Witness: If I said that then, I said it without knowing, without thinking properly how it would turn out, what would come of it.

Defence Counsel: So you did not think that this statement meant anything; is that right? It was just words on paper? Ma'am, can I have an answer to my question?

Witness: I keep repeating the same thing. I don't know what I can answer - what more I can say. The shock I went through, I had never thought that I would reach a state when I would be able to tell somebody I could trust. I was in a state of shock at the time, and maybe I wasn't fully aware of what I was saying.

Defence Counsel: So, ma'am, you were looking for someone you could trust that you could tell the truth -

Judge Karibi-Whyte: I think counsel has done enough on that question.

Defence Counsel: Okay.

Judge: It is amounting to harassment.

Magda Karangiannakis:

The victim gave a very good explanation of the terrible shock that sexual assault causes and the effects that this shock can have on the statement that she subsequently made. But there was no doubt in the minds of the Judges that Hazim Delić had raped her on multiple occasions. They ensured that Hazim Delić's Defence Counsel had an adequate

opportunity to question her but stopped it when it started to border on harassment. This is a very difficult and fine line that judges must walk in a trial such as this. In the end, as I said the Trial Chamber found that her testimony in the courtroom was compelling and truthful, particularly in light of her detailed recollection of the circumstances of each of the rapes, and her demeanor in the court room, especially while under cross-examination: She was composed and clear in her answers.

The Trial Chamber found that Hazim Delić had raped her three times. The Judges said that the purpose of these rapes had been to intimidate, coerce and punish Ms Antić, and in the first rape, to gain information from her as part of the interrogation. The Judges found that this had caused her mental and physical pain and had amounted to torture.

The Judges said that the purpose of these rapes had been to intimidate, coerce and punish Ms Antić...

In relation to rape as torture, as a result of the compelling testimony provided by both of the rape victims in the trial, the Trial Chamber wrote in the Judgement that it considers the rape of any person to be a “despicable act, which strikes the very core of human dignity and physical integrity. The condemnation and punishment of rape becomes all the more urgent when it is committed by, or at the instigation of, a public official or with the consent or acquiescence of such an official”.

It must be recalled that when Hazim Delić committed these crimes he was an official in the Čelebići Camp, which exacerbated his criminal responsibility.

Norman Farrell:

Hazim Delić’s Defence appealed the verdict in relation to this crime as well, arguing that the witness, Ms Antić, could not be believed. He raised a number of the same arguments with Ms Antić’s testimony as with Mrs Čečez’s. Delić’s Defence argued that there were different versions of Ms Antić’s story between her first statement when she spoke with the Prosecution and then her final testimony in the courtroom. The Prosecution’s position was that these were minor discrepancies, and that considered as a whole, her testimony was clearly believable.

The Appeals Chambers accepted that Ms Antić’s testimony was on the whole compelling and truthful. It upheld Hazim Delić’s conviction and sentence.

Torture and cruel treatment of Mirko Đorđić (counts 30, 31 and 32)

John Hocking:

The Prosecution claimed that Esad Landžo tortured and mistreated Mirko Đorđić, beating him with a baseball bat, forcing him to do push ups, and placing hot metal pincers on his tongue and ear.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”
Witness: Mirko Đorđić (one segment)
Date: 10 July 1997

Witness: My next - how shall I put it - duel with Landžo was some time in mid-July. He came to the spot where I was. He had me get up and said to other pris-

oners: "You'll see what's going to be left of him". I thought that he was going to kill me, but he brought me to the door. We did not go out. He just brought me to the corner there, and he ordered me to kneel down. I knelt down. He poured gasoline. I saw there was a bottle for the lighter. He had pincers and he started heating these pincers. He asked me: "Where's Mićo?" I didn't know at that time what Mićo he was referring to. Only later I understood who it was and I told him that I didn't know. When he heated these pincers enough, he started - he

... he ordered me to open my mouth, to stick out my tongue, and then he started squeezing it on my tongue...

ordered me to open my mouth, to stick out my tongue, and then he started squeezing it on my tongue (indicating). He started burning my tongue. It was like being grilled. Then on the nose, and then at one point he went into the ear. He stuck the pincers and I felt a great pain and I screamed. I realised - and something started rumbling in my head, and all this

was observed by one of the guards. I think it was Salko, and he said: "Here comes Pavo". He ordered me to go back to my place immediately and he ran out.

John Hocking:

"Pavo" was Zdravko Mucić's nickname. The Judges found Mr Đorđić's testimony convincing and they found Esad Landžo guilty of having tortured Mirko Đorđić.

Willfully causing great suffering or serious injury to, and cruel treatment of Nedeljko Draganić (counts 36 and 37)

Magda Karangiannakis:

The Prosecution also charged Esad Landžo with causing great suffering or serious injury to, and cruel treatment of, Nedeljko Draganić. Again, this charge was based on the victim's own evidence. He testified that sometime beginning around June and continuing until August 1992, Landžo and three other guards tied his hands to a beam on the ceiling in the camp and started hitting him whilst asking him to disclose where a rifle had been hidden. He further testified that Landžo had poured gasoline on his trousers and set them on fire and burned his legs.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) "Čelebići"
Witness: Nedeljko Draganić (two segments)
Date: 2 April 1997

Witness: He mistreated me on several occasions. In one of those occasions he took me out and told me to sit down in front of Hangar Number Seven. I had to sit down against the wall with my legs close together, and this is the way in which I raised my arms. The knees went upwards. It was here. Then he spilt petrol or something like that over me, or maybe it was alcohol. Then he spilt it over me and he tried to put fire, but his lighter did not work and at the end he used a match, and he burnt both my legs, and he did not allow me to put the fire out until it was put out by itself, and my trousers were completely burnt out and both my legs had burnt and even today I have a scar on my left leg and it can't really be seen on my right leg.

Prosecutor: In addition to now the three incidents you have described, are there any other specific incidents that you remember where you were mistreated by Landžo?

Witness: He would beat me almost every day, but the very severe beatings, that also happened on many occasions. One of the - one of his types of behaviour towards all of us detainees at Čelebići, he would take us out to piss and when people would go out to piss, he ordered the others to drink it, and I was one of those who had to drink that. He would force us to do so.

Magda Karangiannakis:

Esad Landžo claimed not to remember any of these incidents. The Judges believed the victim's testimony and convicted Landžo for wilfully causing great suffering and the cruel treatment of Nedeljko Draganić. The Trial Judges also found that the beatings Landžo inflicted and the fact that he made detainees drink urine, were forms of mistreatment that Landžo favoured towards certain detainees.

Inhumane acts involving the use of electrical device (counts 42 and 43)

John Hocking:

What the Trial Chamber saw in all the crimes we have discussed so far was a consistency in the treatment that prisoners in the Čelebići camp suffered.

The Prosecution alleged that Hazim Delić used some sort of an electrical device to inflict pain on the camp's prisoners. It was something like a cattle prod, and among the detainees who he used it against were Milenko Kuljanin and Novica Đorđić. In his testimony before the Tribunal, excerpted below, Prosecution witness Novica Đorđić speaks about what Hazim Delić did with this electrical device:

(court transcript)

Case name and number:	Mucić <i>et al.</i> (IT-96-21) "Čelebići"
Witness:	Novica Đorđić
Date:	16 June 1997

Witness: I don't know whether I described already in my testimony that Hazim Delić also used a device for horses. I don't know exactly what it's used for, but it produces strong electrical shocks. This was more of a toy for him, but when used on a prisoner it inflicts a small burn on the spot where it touches the body like the burn from a cigarette, but the electricity charge is very high. It is not lethal, it cannot kill, but it produces a strong shock, and people who don't know become very frightened. They feel that they will not be able to survive. It is about 10,000 volts, I think, the charge.

Prosecutor: Sir, was this electrical device ever used against you?

Witness: Yes, on one occasion when Hazim took us out for a walk in front of the scales, the kind of island on the road, I was selected from the group and he put me on a stone block on this island.

John Hocking:

The Judges found Mr Đorđić's testimony persuasive and convicted Hazim Delić of this

crime. In fact, the Judges said that Delić had derived a sadistic pleasure from the suffering and the humiliation that he caused his victims.

That concludes the testimony of the individual incidents that took place in the Čelebići camp. It sets the atmosphere and describes the conditions that the persons detained in the camp were forced to live under. It should be recalled that during war when people are detained in a camp, they must be held in conditions that enable them to survive. Therefore, in addition to the individual crimes that witnesses testified to, as described above, the Prosecution also brought charges against the accused for the general conditions in the camp.

Inhumane conditions (counts 46 and 47)

Magda Karangiannakis:

There are a number of elements that constitute the crime of holding people in inhumane conditions. The first is maintaining an atmosphere of terror. What creates an atmosphere of terror is what you heard about today: The murders, the rapes, the beatings, the tortures and the fear that at any given moment any detainee at the camp could be subjected to these types of horrific treatments. It is important to note that maintaining an atmosphere of terror is characterised as an individual separate element of the offence of creating or maintaining inhumane conditions.

Another inhumane condition at the camp was the inadequacy of food. The Trial Chamber found that on at least one occasion no food at all had been provided to the detainees for a number of days. The Trial Chamber found that the detainees did not have adequate access to water. This was not because potable water was not available, but rather because strict limits had been placed on the amount of water the detainees were permitted to have access to. The Judges found that prison camp authorities had a deliberate policy of restricting water supply to the detainees. They found this to be another element of the very cruel and inhumane conditions in the camp.

Inadequate medical care is another inhumane condition. The Trial Chamber heard testimony from a number of doctors, who said that they could not provide adequate care in the camp.

Inadequate toilet and sleeping facilities are also considered to be inhumane conditions. For example in Hangar Number Six, the detainees were required to sleep in their assigned positions on a bare concrete floor (images 20 and 21).

The Trial Judges concluded that, whilst incarcerated in this prison camp, the detainees were deprived of even the most basic of human needs.

Esad Landžo, Hazim Delić and Zdravko Mucić, were found guilty of contributing to the creation and maintenance of inhumane conditions in the Čelebići camp from May to October 1992.

John Hocking:

It should be added that one of the defences the accused put forward to this count, was that there was a war going on, and it was very difficult to get food, water and medical supplies to the persons in the camp. The Trial Judges' answer to this defence was very simple: if you could not provide the prisoners with adequate facilities, then you had to let them go; but if you kept them in detention, then you had a responsibility to make sure that they were provided with suitable living conditions.

Unlawful confinement of civilians (count 48)

John Hocking:

The last charge the Prosecution leveled against Zdravko Mucić and Hazim Delić was unlawful confinement of civilians. It is not illegal per se to detain persons during war. However, once they are detained, prison authorities must have a review process in order to determine whether or not there is a legitimate reason to keep them in detention, for example, if the prisoners pose some sort of security risk to the forces detaining them. Once that assessment of the prisoners is made, civilians and children must be released. If this does not occur, then it may constitute the crime of unlawful confinement of civilians, a war crime under international law.

As discussed above, there was a Military Investigation Commission set up very briefly in the middle of 1992. One of the commission members testified during the Čelebići trial as a protected witness. He stated that, in his view, the Commission was simply a façade that had been established to give some sort of semblance of legality to the Čelebići camp.

It is not illegal per se to detain persons during war. However, once they are detained, prison authorities must have a review process in order to determine whether or not there is a legitimate reason to keep them in detention, for example, if the prisoners pose some sort of security risk to the forces detaining them.

The Trial Chamber found Zdravko Mucić guilty of unlawful confinement of civilians. It found that he was the Čelebići camp's commander, and hence had the responsibility to determine whether or not the prisoners were legitimately detained or not. Because he did not go through that exercise, and yet still kept the prisoners in detention, the Trial Chamber found him guilty. The Trial Chamber acquitted Hazim Delić of this particular count on the basis that he was not in fact the person in command of the camp.

Session Four The Appeal and Sentencing

Norman Farrell:

One of the important issues on appeal was the responsibility of Zdravko Mucić and Zejnil Delalić, because the Prosecution alleged that both of them were the camp's commanders. Described above is a great deal about the responsibility of Esad Landžo and Hazim Delić for crimes that they personally committed. However, the other important question that the Judges addressed during the trial and on appeal is the following:

What is the responsibility of those persons who are superior to them, who are the commanders of the camp, and who had authority over their actions?

What is the responsibility of those persons who are superior to them, who are the commanders of the camp, and who had authority over their actions?

The Prosecution alleged that Zdravko Mucić was the commander in the camp, and that Zejnil Delalić had responsibility over the camp as a military commander. The Trial Chamber found that Zdravko Mucić

was the camp commander. Therefore, they found him responsible for the acts of the guards, Esad Landžo and Hazim Delić.

The Prosecution alleged that Zejnil Delalić was the highest ranking superior with control over the camp and over the people in it. However, the Trial Chamber acquitted him.

On appeal Zdravko Mucić claimed that he was not the commander at all. He claimed that he had no formal authority and that there was no piece of paper that said that he was the commander. The Appeals Chamber noted that Mr Mucić tried to argue that the Prosecution had not brought any document to show that he was the commander of the camp. However, the Appeals Chamber nevertheless found evidence that he was the camp's commander.

First, Mucić acknowledges in a statement that he did have authority over the camp in some respects from 27 July 1992. Also, Mucić actually claimed that he used his authority to try to prevent some crimes in the camp. The Appeals Chamber found that if he could prevent crimes from happening in the camp, on the few occasions that he said that he did, he could have prevented all the crimes.

The Appeals Chamber found that when Mucić was in the camp, the guards and soldiers felt that they had to be careful around him because they could be disciplined. In other words, the guards and the soldiers in the camp themselves felt that he was the commander. Also, there was evidence that Hazim Delić said on numerous occasions to the inmates that when Mucić came in to the camp Delić would say to the prisoners, "here comes the commander." They found that Mr Mucić did have control over the guards.

The Appeals Chamber also found that he had the authority to release prisoners. They found evidence that Mucić arranged for the transfer of detainees from the Čelebići camp to another camp. It found that Mucić was the one who actually decided how the prisoners would be classified and where they would stay within the camp.

The Defence argued that Zdravko Mucić did things that were good for some of the detainees. One of the witnesses, Miro Golubović had testified that after he was beaten, Mr Mucić had him transferred from the tunnel where he was, to a building that was the camp hospital. The witness said that Mucić brought him food, gave him cigarettes and even advised him never to go near the camp fence, because if he did he would be shot and the guards would claim that he was trying to escape. The witness testified that Mucić finally released him from the camp on 17 July 1992 together with his father.

However, the Appeals Chamber pointed out that if Mucić could have taken actions to assist and release one prisoner, he could have certainly taken steps for many, many more. They relied on his acts as demonstrations that he actually did have authority in the camp, but that he did not exercise it to benefit all the detainees. The Appeals Chamber upheld his conviction. It found that Mr Mucić was the camp commander and, therefore, was responsible for the inhumane conditions, the mistreatment of the detainees, and other criminal acts.

Regarding Zejnil Delalić, the Trial Chamber found that he was not responsible for the Čelebići prison camp, acquitted him of any crimes committed there, and set him free. The Prosecution appealed this acquittal. We argued that there was evidence that Mr Delalić had allowed some prisoners to be released. He had a meeting with the Military Investigation Commission, and passed on orders from the Supreme Command in Sarajevo regarding the interrogation of some of the detainees. This evidence was put before the Trial Chamber, but it concluded that over the many months that the prison was in operation, these represented only three or four occasions on which Mr Delalić had anything to do with the prison. The Trial Chamber acknowledged that this evidence demonstrated that he had some involvement with the prison, but it could not be satisfied beyond a reasonable doubt that Delalić was the person responsible for the camp.

The Appeals Chamber found that the Trial Chamber was correct. They pointed out that the standard for convicting someone for these sorts of crimes is very high, and that there was not enough evidence to demonstrate that Mr Delalić was the supreme military commander over the camp during the time period that it operated.

The Appeals Chamber accepted that Mr Delalić was a somewhat influential man in Konjic, that he was working with the military and the War Presidency. Mr Delalić had been living in Germany in March 1992 when he returned to Konjic and was there until November 1992, most of the time the Čelebići prison camp was in operation. The court noted that Mr Delalić was a man of considerable wealth and that he had management experience from his business in western European countries. It found that he used his money and experience to assist in Konjic's defence, eventually becoming what was called the "coordinator of defence forces in Konjic." He obtained supplies, weaponry, and uniforms, and provided other logistical support for the War Presidency and the Joint Command. In May 1992 Delalić was given the responsibility to enter into contracts on behalf of the War Presidency in Konjic, that is, to buy materials and supplies for the municipality. However, the Appeals Chamber did not find that this constituted sufficient evidence that he had responsibility for the Čelebići prison camp.

There were a number of witnesses who came and testified that Mr Delalić did not have authority over the camp. One of them was the Assistant Commander for Logistics of the Municipal Staff, Major Šefkija Kevrić. Major Kevrić testified that as a member of the Territorial Defence staff there was no authority given to Mr Delalić. The excerpt of his testimony below begins with a question by the Defence Counsel Ms Edina Rešidović.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”
Witness: Šefkija Kevrić
Date: 15 April 1998

Defence Counsel Rešidović: Because of these numerous requests and very limited possibilities, did the need arise for coordinating views and coming to an agreement that would then be addressed to the War Presidency?

Witness: There was a need for coordination, especially when planning combat operations so as to convey to the War Presidency the real needs, because, under those conditions, the War Presidency had to be very economical and in order to avoid members of the army contacting the War Presidency directly, the coordinator would occasionally attend when such logistic problems were discussed and would inform the War Presidency.

Defence Counsel: Mr Kevrić, did Mr Zejnil Delalić, as a coordinator - was Mr Zejnil Delalić at any point in time a person of superior authority in relation to you, or the TO staff, or the War Presidency?

Witness: No, Mr Zejnil Delalić was never a superior for me - I had my own staff commander and the joint command. I received orders only from them.

Defence Counsel: In those agreements regarding your logistic needs and the coordination of those needs, do you know, or did you ever see the coordinator signing any such document?

Witness: Yes, I did see it, mostly documents when the meeting was attended by the coordinator in connection with those logistic needs. In the interests of expediency while the army was being set up and in order to provide logistic support as quickly as possible, Mr Zejnil Delalić would attend as a witness so as to be able to convey the information to the War Presidency.

Norman Farrell:

As described earlier, there was a Military Investigation Commission, which resigned after a period of time because of the fact that it became aware of the treatment in the prison. There was some evidence that Zejnil Delalić worked with this commission. The Court was faced with two questions: First, did Delalić's involvement with the Military Investigation Commission put him on notice of the crimes? And second, did Delalić have any authority or control over the commission and, therefore, was he able to do something to stop the crimes?

The Trial Chamber found that Mr Delalić was involved with the Military Investigation Commission; specifically, that he attended one of its meetings. However, they did not find that this gave him any authority over it. In fact, they found that he was not a member of the Commission. Therefore, the court found that there was not sufficient evidence to show that he had any authority over the prison guards, simply because he attended a meeting with the Military Investigation Commission.

Lastly, the Prosecution tried to argue both at the trial and on appeal that when Zejnil Delalić became the head of Tactical Group 1, he was given responsibility for the institutions in Konjic, which included the prison camp. Mr Delalić became the head of a mili-

tary formation called Tactical Group 1, and this authorisation came from the Supreme Command in Sarajevo.

The Trial Chamber accepted that Mr Delalić did become the military commander of Tactical Group 1. However, the Trial Chamber found that this was a military formation used for combat purposes, to try and lift the siege of Sarajevo. It was not a military formation that had responsibility over the prison camp. Though Delalić was a military commander in the region, his responsibility did not include the Čelebići prison camp. The Trial Chamber accepted the testimony of a number of defence witnesses who talked about his military role, and those witnesses said that he had no authority over the prison camp.

Below are excerpts from the testimony of two defence witnesses in relation to Zejnil Delalić's authority. The first is from Major Šefkija Kevrić. Although the Trial Chamber accepted his testimony in relation to Delalić's authority, it did not accept that everything he said was correct and truthful. For example, Mr Kevrić testified that the quantity of food given to the prisoners was satisfactory. The Trial Chamber did not accept this and concluded that the quantity and type of food provided to the prisoners was inhumane. However, in view of the fact that other defence witnesses corroborated his view that Delalić did not have authority over the camp, it accepted as truthful this part of his testimony.

The second defence witness whose testimony is excerpted below is that of another military officer, named Enver Tahirović. Mr Tahirović was a member of the Joint Command and was in Konjic in 1992. The Trial Chamber also accepted his testimony.

(court transcript)

Case name and number:	Mucić <i>et al.</i> (IT-96-21) "Čelebići"
Witness:	Šefkija Kevrić
Date:	6 April 1998

61

Defence Counsel Rešidović: In 1992, did you ever hear that any person died or was killed in the Čelebići prison?

Witness: Yes, I again cannot remember the date, but in Konjic I did hear that Keljo was killed attempting to escape. His name is Keljo and he went to the secondary economic school while I went to the high school, and I really do not know of any other cases.

Defence Counsel : Mr Kevrić, did you ever go to the barracks or to the warehouses with Mr Delalić?

Witness: No, I never entered the Čelebići barracks with Mr Zejnil Delalić. I never saw him in the Čelebići barracks, except on 16 August - I believe it was 16 August when there was a solemn oath ceremony. On that occasion, Mr Delalić congratulated all present on having taken the solemn oath.

Defence Counsel: Mr Kevrić, as a member of the staff, do you know whether Zejnil Delalić was a person of superior authority over the prison?

Witness: As a member of the staff, I did not know that Mr Zejnil Delalić was the superior person in the prison.

Defence Counsel: Did he have any authority over the prison?

Witness: Since I do not know whether he was a person of superior authority, I cannot say that he was not, but my understanding is, if a person is not a person in superior authority, then he does not have authority over the prison.

Defence Counsel: Can you please tell me whether you know that your staff ever gave any authority to Zejnil Delalić with respect to the prison?

Witness: As far as I know, as a member of the staff, the staff never gave such authority.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”

Witness: Enver Tahirović

Date: 17 April 1998

Defence Counsel: Mr Tahirović, let me go back to some issues that the Trial Chamber is paying particular attention to. You mentioned that you intervened on behalf of Miro Golubović - that was an unusual way, out of the ordinary way of effecting release of certain prisoners; is that right?

Witness: Yes.

Defence Counsel: During the period of time when Zejnil Delalić was a coordinator, before he became a commander of the TG, as a coordinator, do you know whether Zejnil Delalić had any position of superiority regarding the prison?

Witness: No, he could not have had one, as far as I know, so, no.

(court transcript)

Case name and number: Mucić *et al.* (IT-96-21) “Čelebići”

Witness: Enver Tahirović

Date: 18 May 1998

Prosecutor: Now, sir, you testified about your opinion that Mr Delalić did not, as far as you knew, have a position of superior authority regarding the prison. I presume then that you are in a position to know who did have superior authority and I would just ask that you tell us every person who was a superior with respect to the Čelebići prison from May to December of 1992.

Witness: I really can't tell you by name because I don't know. I told you that Mr Delalić, in view of the posts he held, he could not have been the commander or the superior for the Čelebići camp. I told you at the beginning of the war, an MUP unit was based there.

Norman Farrell:

In the end, the Trial Chamber, having considered the evidence that showed Zejnil Delalić's involvement in the Konjic area at the time, concluded that the Prosecution did not prove beyond a reasonable doubt that he had authority over the Čelebići camp. The Appeals Chamber agreed with this finding.

I must emphasize that the Prosecution did not argue that Zejnil Delalić was in the camp, and was personally involved in beating or torturing people. Rather, the Prosecution submitted evidence that he had authority and responsibility as a superior

commander and could have intervened to prevent the crimes that were committed there. As stated, the court found that Zdravko Mucić was the commander in the camp, and that Mr Delalić did not also have responsibility for it.

Zejnir Delalić was arrested in March 1996, and was detained at the Tribunal in the Hague for over two years during his trial. He was found not guilty in November 1998 and was acquitted of all charges. The Prosecution appealed the decision, and the Appeals Chamber decided in February 2001, that the Trial Chamber was correct and confirmed Mr Delalić's acquittal.

The other accused Zdravko Mucić, Esad Landžo and Hazim Delić were all found guilty at trial, and their convictions were upheld on appeal. They appealed their sentence a second time and the Appeals Chamber again upheld their sentences. Mr Mucić was sentenced to nine years, Mr Landžo was sentenced to 15 years and Mr Delić was sentenced to 18 years in prison.

As a result of the conclusions by the Trial Chamber and then by five Judges of the Appeals Chamber, there is no doubt that these terrible crimes took place.

What we have attempted to do today is address what happened in the Čelebići case at the Tribunal. We have tried to describe what happened to some of the victims who came forward and testified at the Tribunal, the conclusions that were reached both at the trial and on the appeal. It has not been possible to address all the issues that arose in a trial that lasted for over a year and a half. The appeals process lasted another three years after the trial was over, and the appeal on sentence for another year after that. We also cannot say that we dealt with all the crimes that were committed during the time that that the events took place in Čelebići. There may certainly be other allegations of crimes in the Konjic area or even in the Čelebići camp that we were not able to deal with. We also recognise that there were possibly endless matters that concern you, as victims, as members of the Konjic community, and as its leaders.

We hope that local authorities will continue efforts to hold perpetrators accountable for crimes committed in Konjic, in order to ensure that such crimes never happen again. There have been case files of war crimes that have been sent to the Tribunal as part of the "Rules of the Road" project¹. The Tribunal has returned many of them and prosecuting these cases is now the responsibility of the local authorities including the Cantonal Court in Mostar, or the State Court in Sarajevo. We leave it to those authorities to follow up on crimes that the Tribunal was not able to address.

We hope that local authorities will continue efforts to hold perpetrators accountable for crimes committed in Konjic, in order to ensure that such crimes never happen again.

¹ The Rules of the Road project was established in 1996 and required the ICTY to review case files on alleged perpetrators of war crimes investigated by the authorities in Bosnia and Herzegovina. Tribunal staff reviewed these case files and assessed whether there was sufficient evidence for an arrest warrant to be issued.

Questions and Answers Session

Refik Hodžić:

The first group of questions relates to crimes committed in the Konjic municipality which were not dealt with in the present indictment. The first of these is: "Why has no one been accused of crimes committed against Serbs in Bradina?" Another is the following: "Is the Tribunal going to accuse anybody for looting of all movable Serb property and destruction of Serb houses and other facilities?"

Bob Reid:

There have been so many crimes committed during the various conflicts in the former Yugoslavia that it is impossible for an *ad hoc* tribunal to investigate them all. We investigated crimes that occurred in Croatia in the conflict in 1991, in Bosnia and Herzegovina between 1992 and 1995, in Kosovo between 1998 and 1999 and the Former Yugoslav Republic of Macedonia between 2000 and 2001. In these conflicts there are thousands upon thousands of crimes. Whilst it would be my wish to bring to justice every single person who committed a crime, be it theft of a hunting rifle or motor vehicle right up to mass murder and rape, the reality is we cannot do it. Trying every crime is not what this Tribunal was established to do. The Security Council established the Tribunal to investigate the most serious crimes that occurred. What we have tried to do, particularly in the area of Konjic, is give an account of the suffering that occurred. We did try to gather together as much information as we could on crimes that occurred in the surrounding Serb villages - Bradina, Donje Selo, Cerići, Bjelovčina, Brđani, Vinište, Ljuta, Kralupi and Homolje.

The Prosecution's mandate to conduct investigations finishes on 31 December 2004. We still have a number of investigations underway, some of which the Cantonal Prosecutor in Mostar will undertake, and others will be handled by the State Prosecutor. It is our hope that the relevant authorities will conduct further investigations, and we will assist in any way we can, in particular by handing over information or evidence.

Question (Refik Hodžić):

"Why did the Tribunal convict only two guards and the commander of the Čelebići camp?" "Why has no one from the most responsible authorities in the Crisis Staff, the police, TO, and Konjic municipality been indicted, when everybody knows that camps like Musala, Bradina School, and Čelebići, where Serb children, women and men were detained, have been set up on their direct orders?" "I've been hearing all the time about the Čelebići camp, but nobody has been saying anything about Musala camp where Delić also used to come and beat up detainees."

Bob Reid:

At the time, we were not able to get the evidence we needed for various aspects of our investigations. From 1994 and even right up until 1998 we had a number of obstacles to deal with. We did not have access to relevant documentation, or to high-level witnesses. The situation has improved today. We will hand over to local authorities documentation that we have obtained in the interim. Pursuant to the Security Council's resolutions 1503 and 1534, the Prosecutor needs to focus her last indictments on those at the highest level. These resolutions call on domestic courts to prosecute those at mid or lower levels, such as those suggested as targets in the questions.

Norman Farrell:

I would like to make clear that if we had obtained further evidence which indicated others were involved in setting up criminal camps back in 1997, you can rest assured

that we would have proceeded on it. When I began work on the Čelebići case in 1999/2000 for the appeal, we were still reviewing new evidence that was coming in to see if there was anything else that could incriminate those involved. However, even up until 1999, we did not have adequate cooperation.

I also want to emphasize that the fact that the Prosecution did not issue other indictments for crimes that took place in the Konjic municipality, is in no way an indication that we condone the acts that took place in other camps or in other incidents.

Question (Refik Hodžić):

“I would like to briefly introduce you to the crimes committed by the Bosnian Army against Croats and other non-Bosniaks in the Konjic municipality. Out of the total of 20 camps, most important were: Musala, the school in Čelebići, the Museum in Jablanica, the camp in Buturović Polje, Parsović and others. Killings, violations of human rights, and starvation took place in these camps and detainees were taken from there to separation lines and used as human shields. Blood was forcefully taken from many detainees. The most serious crimes that took place were the capture and killing of civilians and soldiers in Trusina (22), Bušćak (3), Orlište (4), Vrci (4), Orahovica (4), Čelebići camp, and in the town and apartments. I must emphasise that the crime in Trusina took place the very same day as the one in Ahmići. The whole world knows about the crime in Ahmići which has already been processed, but nobody, unfortunately, knows about Trusina. It is a very telling fact that immediately after all these terrible crimes were committed, the highest Bosniak political leadership visited Konjic.”

“Although these things have been brought up on many occasions, as far as I know, no one has been processed either before the local or international authorities. So my question is what were the people from the Tribunal doing? At what point did the investigation stop? Where are the documents about the investigation? Mr Ton Kempenaars was investigating this from May to September 1995. Mr Regis Arbribat conducted investigations from September 1995 until the end of 1996. Nikolai Mikhailov and Carl Koenig investigated it in 1997. They were assisted in their investigation by the War Crimes Center in Mostar. When they finished their investigation, they said that they had collected enough evidence and that it would be possible to indict at least thirteen people on the basis of it. But all these years have passed and we still do not have any information about whether any indictments have been issued and whether anyone has been brought to justice for these crimes, despite the fact that investigation teams, numbering three to five investigators, visited us 22 times, and interviewed more than 150 victims, some of them on several occasions. I also wanted to say that they had collected all the documents related to that event, more than 750 documents. We have receipts for these documents. Of course, we definitely want all crimes to be processed regardless of the ethnicity of the perpetrators.”

Bob Reid:

We have worked fairly hard in and around this area for many years. We drafted an indictment against low-level perpetrators a number of years ago. However, Justice Louise Arbour, then the Chief Prosecutor, did not believe that the three persons who were under consideration for indictment were of sufficiently high-level for the Tribunal to process. That draft indictment will be referred to the State Prosecutor in Bosnia and Herzegovina in the near future. We did an investigation in relation to Trusina, Doljani, Grabovica and Uzdol. We were unable to convert the information that we received in relation to Trusina and Doljani into evidence. However, we were able to convert information in relation to Uzdol and Grabovica into evidence and issued an indictment against Bosnian General Sefer Halilović.

All the other material that we have in relation to crimes that were committed in and around the areas, that have been mentioned in that question, will be reviewed and transferred to the State Prosecutor's office.

Question (Refik Hodžić):

There are several questions on general topics relating to the Tribunal's completion strategy. The first question is: "Who will perform the function of the Rules of the Road in proceedings before national courts?" The second question is: "What witness protection measures are going to be put in place before national courts?" The third question is: "Can national courts prosecute war crimes suspects in the territory where the crimes were committed, despite the fact that perpetrators are nationals of another state?"

Matias Hellman:

In relation to the first question, the Rules of the Road project came under the jurisdiction of the Bosnian State Prosecutor. Therefore, it is not under the Tribunal's jurisdiction anymore. The second question had to do with protective measures. This is being discussed by the War Crimes Chamber within the State Court of Bosnia and Herzegovina. The Tribunal will do as much as it can to assist on this issue. In relation to the third question, about whether perpetrators can be prosecuted in the territory of the country where the crime was committed even though they come from another state; if they are available, and come into the custody of the state where the crime was committed, then they can be prosecuted. Whether this is going to be done or not depends on the national judiciary.

Bob Reid:

These are very important questions for the future of the countries of the former Yugoslavia. The Office of the Prosecutor is working very closely with Mr Jurčević, the Bosnian State Prosecutor, Mr Bajić the Croatian State Prosecutor, and Mr Vukčević the Serbian War Crimes Prosecutor.

... we firmly believe that there can be no reconciliation in this region unless perpetrators of war crimes are prosecuted.

The Tribunal is assisting with training, transferring knowledge and evidence and engaging in regular consultations with the appropriate authorities responsible for trying war crimes cases. We will do everything we can to support national authorities since we firmly believe that there can be no reconciliation in this region unless perpetrators of war crimes are prosecuted.

Question (Refik Hodžić):

"After having heard everything about Esad Landžo, is it possible that he was found to be a sane, healthy person?"

Bob Reid:

To the best of my knowledge, Esad Landžo did not raise the defence of insanity. He did try to argue that he had diminished responsibility in some respects, but insanity is a distinct defence that he did not use.

John Hocking:

The defence of insanity has strict legal requirements. Basically, it is necessary for the accused to establish that they did not have the mental capacity at the time that the events took place to know what they were doing, and therefore, cannot be held responsible for their actions.

Norman Farrell:

During the trial there were five psychiatrists who gave testimony about Esad Landžo's mental condition. Four of them testified that he suffered from what they classified as a personality disorder and claimed that his mental capacity was impaired or reduced. The Defence then tried to argue that as a result of this disorder, Mr Landžo's acts were not the product of his own free will. Essentially they argued that he did not realise or was not fully aware of the acts that he was committing. The Trial Chamber rejected the opinion of the four psychiatrists. It did not accept Landžo's story, which was the basis upon which the psychiatrists gave their medical opinion. The Trial Chamber concluded that he did act of his own free will and that he was responsible for his criminal conduct. On Appeal the Defence argued this point again. The Appeals Chamber rejected their argument and confirmed the Trial Chamber's conviction. In sum, based on the evidence before the court, Esad Landžo was not found to be insane.

Question (Refik Hodžić):

"As we have seen, Zejnil Delalić was acquitted for war crimes but due to this indictment and the time spent in detention, he suffered damages and will these damages ever be compensated?"

Matias Hellman:

The Tribunal does not have a fund to compensate an accused for damages suffered. Since the United Nations Security Council established the Tribunal and its mandate and duties, the Tribunal's Judges addressed it on this issue. We have not yet received a resolution, but we hope that the Security Council will provide one soon.

Bob Reid:

In national jurisdictions, it does not necessarily always follow that if you are acquitted of crimes that you have been charged with, that you will be given compensation or damages. For example, under Australian law, it is necessary to show that the prosecution or the police acted with some sort of malice if compensation for incarceration is to be granted.

Matias Hellman:

In some countries, a person who was detained and later released or acquitted has a right to compensation. However, this is not so in many countries and there is no international treaty guaranteeing this right. It is quite another matter if it has been proven that the Prosecution or the court were negligent in some way.

Refik Hodžić:

I would like to thank you for having spent the day with us. Thank you to everybody from the Konjic municipality who helped us organise this event. Let us not forget that many perpetrators who committed war crimes remain at large. Let us not forget that crimes did take place, and that the victims deserve justice.

BRIDGING THE GAP
BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA

*Texts from trial proceedings are to be used only for reference purposes.
For definitive texts please consult relevant ICTY documents.*