

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

**PRIJEDOR**

25 JUNE 2005



United Nations  
Narodna Ujedinjena



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

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

CONFERENCE SERIES

**PRIJEDOR**

25 JUNE 2005

# BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA

The Bridging the Gap conference in Prijedor 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  
PRIJEDOR  
25 JUNE 2005

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

Printed by Albani drukkers, The Hague, Netherlands  
2009

**Table of contents**

**Map** .....iv

**Foreword**.....v

**List of participants** .....vi

**Welcome and Introductory Remarks** .....1

**Session One**  
**Proceedings before the Tribunal** .....6

**Session Two**  
**Investigations** .....9

**Images** .....19

**Session Three**  
**Indictments and Plea Agreements** .....35

**Session Four**  
**Trials and Judgements** .....49

**Questions and Answers Session** .....66

**Closing Remarks** .....75

**Map**



## Foreword

The Tribunal's Outreach programme conducted a series of landmark conferences in 2004 and 2005 entitled "Bridging the Gap between the ICTY and Communities in Bosnia and Herzegovina". Senior ICTY staff went to Bosnia to explain some of the completed Tribunal cases to communities where some of the worst crimes were committed. The conferences took place in Brčko, Foča, Konjic, Srebrenica and Prijedor.

The event in Prijedor helped the Tribunal provide important audiences - victims, local authorities, judicial officials and law enforcement agencies, as well as civil society representatives - with a detailed picture of the Tribunal's activities relating to allegations of serious violations of international humanitarian law occurring in the area, including the camps of Omarska, Keraterm and Trnopolje during the 1992-1995 war.

Making use of the enormous volume of evidence presented in the cases, representatives from the Tribunal were able to provide an insight into the meticulous investigations conducted by the Prosecution and explain how allegations of murder, torture and other crimes were proven before the court. The conference focused on six cases in which final judgements had been rendered.

The event looked at judgements handed down against 12 suspects. Duško Tadić, a local Serb politician, found guilty of the forced transfer of civilians to detention camps and of murder, was sentenced to 20 years imprisonment. Duško Sikirica, Damir Došen and Dragan Kolundžija, officials at Keraterm camp, pleaded guilty. Sikirica, a camp commander, was sentenced to 15 years imprisonment. Došen and Kolundžija were sentenced to five and three years respectively.

Zoran Žigić, Mlado Radić, Miroslav Kvočka, Milojica Kos and Dragoljub Prcać were all found guilty of crimes committed in the Omarska camp. They were sentenced to 25, 20, seven, six and five years respectively.

Biljana Plavšić pleaded guilty to persecution on political, racial and religious grounds, a crime against humanity and was sentenced to 11 years imprisonment.

Darko Mrđa also entered a guilty plea to one case of murder and another of attempted murder in connection with the killing of more than 200 non-Serb men from Prijedor on 21 August 1992 in Koričanske Stijene. He was sentenced to 17 years imprisonment. Finally, Predrag Banović, a guard at Keraterm camp, entered a guilty plea and acknowledged his responsibility for participating in five murders and the beatings of 27 other victims. For these crimes he was sentenced to eight years imprisonment.

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:

**Marko Pavić**  
Mayor of Prijedor

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

**Refik Hodžić**  
Former ICTY Outreach Coordinator for Bosnia and Herzegovina

**Hans Holthuis**  
Registrar, ICTY

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

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

**Ann Sutherland**  
Trial Attorney, Office of the Prosecutor, ICTY

**Katherine Gallagher**  
Legal Officer, Office of the Prosecutor, ICTY

## Welcome and Introductory Remarks

**Refik Hodžić, former ICTY Outreach Coordinator for Bosnia and Herzegovina:**

Good afternoon and welcome to the conference “Bridging the Gap between the International Criminal Tribunal for the former Yugoslavia (ICTY) and the communities of Bosnia and Herzegovina.”

The conference is part of a series that aim to provide local communities with details concerning facts established in ICTY cases about the war crimes committed in those communities. So far similar conferences have taken place in Brčko, Foča, Konjic and Srebrenica. Those are areas where the relevant trials have been completed and where facts have been established beyond a reasonable doubt. This is also the situation with regard to Prijedor, although some cases are still under way.

What is the idea behind these conferences and this particular conference today? As you know, the Tribunal has, through its investigations and trials, for the past twelve years collected facts about the war crimes that took place during the war in Bosnia and Herzegovina and the region. There is certainly no greater authority in the world that is more competent to speak about those facts.

There are two main objectives of the conference. The first one is to provide the communities with concrete details of what has happened in the Tribunal’s courtrooms. Not only details in relation to the accused, such as the indictment, arrest and verdict, but also the very heart of the trials, where evidence is presented in the form of documents and witness testimonies, some of which you will be able to see today.

The second objective is to give the local communities an opportunity to face their own past, without manipulation, denial or any attempt to minimise what happened. Hopefully, this will be the case in Prijedor as well.

**Hans Holthuis, Registrar, ICTY:**

It is a great honour for me to be here today, among the citizens of Prijedor. I would like to greet all of you on behalf of the ICTY. In particular I wish to express my sympathies and my respect to all victims who are in the audience today.

Prijedor has a special significance for the ICTY. In many respects, this is where the Tribunal’s origins lie. In the summer of 1992, images from the detention camps near here were spread throughout the world, causing shock and disbelief. The reaction of the world public was a significant element in the process that ultimately led the UN Security Council to establish an international criminal tribunal to prosecute and try war crimes committed in the former Yugoslavia.

There was controversy surrounding the pictures that were taken in August 1992, and some persons and agencies claimed that they were faked and, indeed, that the crimes that occurred in and outside the camps never happened.

The Tribunal has over the course of the last 10 years demonstrated and proven beyond any reasonable doubt that terrible crimes - persecutions, murder, torture and rape - *did* indeed take place in the camps and elsewhere in Prijedor, on a shockingly vast scale.

A great part of the first indictments before the Tribunal concerned crimes committed in the Prijedor municipality. The first trial held in The Hague was that against Duško



Tadić, who was sentenced to 20 years imprisonment for crimes against humanity and war crimes. The latest case to have been brought to a conclusion by the ICTY Appeals Chamber is the case of Kvočka and others, in which five perpetrators were convicted for crimes committed in the Omarska and Keraterm camps. Crimes in Prijedor are also part of many other cases.

Our purpose today is to explain the proceedings before the Tribunal, from investigations to indictments, and through trials to final judgements. We wish to demystify the process of justice that takes place in The Hague, and to recall the central facts that were established in the trials held so far.

We feel this is our duty, to come to your country and your municipality, and to share our experience with you, the people who were most affected by these crimes.

On the panel today we have experts who have spent years with the investigations, prosecutions and trials concerning the atrocities that took place in Prijedor. They come from the Office of the Prosecutor (OTP) as well as the Chambers of the ICTY.

I am head of the ICTY's Registry, the neutral organ of the Tribunal that provides assistance to the Judges as well as the Prosecutors, and also ensures that all accused are adequately represented before the court. Fair trials are a cornerstone of justice, and the ICTY carefully respects the rights of the accused.

I would also like to explain what we can not do today. We will not be able to discuss every war crime that took place in this area, nor can we discuss every aspect of the Tribunal's work. We are here today to talk about the crimes committed against non-Serbs in the Prijedor area. These were the gravest crimes committed in this area, and that is why our Tribunal has dealt with them extensively.

Nobody is claiming that there were not a great many victims of Serb ethnicity in the conflict in Bosnia and Herzegovina. Every crime requires justice, and every victim deserves equal respect. But today we have gathered to discuss specific crimes: other crimes have been discussed and will continue to be discussed on other occasions.

Furthermore, no one should think for one moment that the Serbs as a nation are being accused. Entire nations are never responsible for crimes. Just as each victim has a name, so does each perpetrator. The task of the Prosecutors and Judges is precisely to

---

*Entire nations are never responsible for crimes. Just as each victim has a name, so does each perpetrator.*

---

establish who the perpetrators were, and to punish them accordingly. By so doing, courts can hopefully provide some sense of justice to the victims, and also allow the rest of the society to move on -- to acknowledge that terrible crimes were committed, and to prevent such tragedies from ever happening again.

There is no doubt in my mind that by establishing the ICTY the Security Council made a wise decision, a decision that has had enormous significance for the fight for justice. The ICTY's work has dismantled the tradition of impunity for war crimes and other serious violations of international law, and the question no longer is *whether* perpetrators should be held accountable, but rather *how* can they be called to account.

As you probably know, the ICTY will not issue any new indictments for war crimes. The

remaining years of our mandate will be spent on finishing cases that have already been initiated. These include numerous important trials, and we will do our best to fulfil the expectations of victims and the entire society in your country.

At the same time, we are working hard to support national prosecutors and judges in their efforts to continue the work that was initiated in The Hague. We are greatly encouraged by the establishment of the War Crimes Chamber in the State Court of Bosnia and Herzegovina, and the Section for War Crimes in the Prosecutor's Office. We place great confidence in these institutions, which gather together professionals of different nationalities with a common goal - to punish those who committed war crimes. I would like to emphasise today that they deserve and need your support.

Once more, let me say that I am honoured to be here today. I would like to thank the Mayor of Prijedor for personally welcoming us, and all of you for attending today's conference.

I wish to conclude by thanking the Neighbourhood Programme of the Ministry of Foreign Affairs of Denmark for providing financial support for this event, and to express my appreciation to the Helsinki Committee for Human Rights in Republika Srpska for organising it together with us. Thank you very much.

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

Ladies and gentlemen, distinguished guests. The Helsinki Committee for Human Rights in Republika Srpska has organised four conferences last year and this year in Brčko, Foča, Konjic and Srebrenica with the aim of acquainting local communities in Bosnia and Herzegovina with the work of the ICTY in investigating, prosecuting and trying individuals responsible for war crimes and serious violations of humanitarian law. Apart from presenting the work and the facts that have been established before the Tribunal, we also wish to help the local communities in facing the truth which is often very painful and shocking and which we sometimes consciously or subconsciously wish to suppress. Indeed, we wonder; do the citizens of Bosnia and Herzegovina have the right to know the truth?

Today, we are here, more than 10 years after the tragic events and brutal crimes that happened in Prijedor, where many thousands of women, children and men were killed only because of their ethnic or religious affiliation, and tens of thousands were expelled. With this conference we also wish to raise the issue of justice. Justice entails introducing the rule of law, and there is a great challenge for the justice systems of Republika Srpska and Bosnia and Herzegovina to investigate and try war crimes which for obvious reasons were not processed before the ICTY.

Can we understand and accept the values of others and recognise responsibility for our own actions in the past, present and in the future? Are we able to express our individual and collective solidarity with victims and their families? The past, unfortunately, cannot be changed, but our common future in our respective communities and the whole of Bosnia and Herzegovina and the region will depend on the attitude we take towards the past and the lessons we are prepared to learn. What has to be done to prevent evil from recurring? How are we to create a better common future?

Can we build a society in which mutual respect and brotherly love will vanquish hatred, fear and mutual distrust? This is why, today here in Prijedor, speaking about the darkest pages in our history, we should try to find our way towards a brighter future, with the lesson that what happened here, should never happen anywhere again.

In conclusion, I would like to ask you to pay our respects, with a minute of silence, to all those innocent victims of the brutal crimes that were committed here. May they rest in peace.

**Marko Pavić, Mayor of Prijedor:**

Ladies and gentlemen. On behalf of the Municipality of Prijedor and in my own name, I would like to welcome the Tribunal representatives who are here in Prijedor today, headed by the Tribunal Registrar. I hope that they will see for themselves what has been done in Prijedor and how Prijedor is living today and how it wishes to live in the future. I would also like to welcome everyone who has come to this conference today.

It is my personal conviction that Prijedor today is a place where mutual trust is beginning to return and where people again wish to peacefully coexist. It is a town where we no longer wish to be divided into returnees, refugees, displaced persons and alike, but where there will only be citizens of Prijedor who want to ensure a better future for themselves and the future generations.

This is also the town as I personally wish it to be today. I wish Prijedor in future to become a community of working people, a place of greater wealth and prosperity. That, I hope, is the common aim of all of us who are here in this hall, as well as of those outside.

Today, at this conference, we will hear about Prijedor's past. I must honestly say that when the representatives of the Helsinki Committee came to see me to announce this conference, I had certain reservations, and it is possible that I still have some. But why? I truly wish for coexistence and true reconciliation in Prijedor. My only dilemma was whether this conference would contribute to that or not. If it does, then I sincerely support it.

I was told that this was the case in other places where similar conferences took place and I had every reason to believe that. That is why I expect this conference today to contribute to building a better life for all the citizens of Prijedor. We have only justice to expect from the Tribunal, nothing else. The people of Prijedor should expect both justice and the truth, and we have to face them as they are. Those who committed injustices have to be called to account, both before the ICTY and before other courts, and face their criminal, moral and every other responsibility.

I am against holding towns, nations, municipalities and alike responsible in their entirety. I believe that everybody should be held to account individually and answer for their actions, and that is what the Tribunal is doing. As a Serb, I also have to say that many times I felt as if the Tribunal was working against the Serbs more - and I emphasise "more" - than against non-Serb individuals who may have committed similar crimes. Every time the Tribunal convinces me otherwise I am happy, because I wish the truth to prevail, no matter at whose expense it is in terms of ethnic, religious or any other affiliation. That is why I appeal to you accept the truth the way it is. All those who violated the law and fundamental human norms should be brought to account.

I would never want to see Prijedor convicted as a city, to have its all citizens bear the consequences. Let the responsible individuals answer for their deeds. I would also like to use this opportunity to express my grief for all the victims that are no longer with us and my sympathies to those victims who are today here or elsewhere in Prijedor.

It should not be a matter of indifference to anyone, if a person, a group or a community has been the victim of a crime. Such evil should be condemned and we need to

express our regret and our sympathy, for the sake of a better life in the future, so that we can overcome everything that is negative and cherish and foster what is positive.

I would also like to say that no one from Prijedor was convicted of genocide. In all the misfortune that befell our citizens, maybe it is good that there was a limit to it all and we did not go as far as others did. Nevertheless, each crime, regardless of its intensity, remains a crime. But we have to be aware that genocide is the greatest crime of all.

I hope that this conference today will show part of the truth about Prijedor and the participants of the unfortunate events that took place here. We should all leave this hall with one simple message: that those who are responsible should be brought to account, and the rest of us should be able to build a better life. The truth should help us prevent all the wrong things from happening ever again. Thank you.

---

*We should all leave this hall with one simple message: that those who are responsible should be brought to account...*

---

**Refik Hodžić:**

The agenda for today's conference will follow the order of the ICTY's proceedings, which Matias Hellman, the ICTY Registry's Liaison Officer in Bosnia and Herzegovina, will explain. We will then hear about the investigations that the Tribunal's Office of the Prosecutor (OTP) conducted into crimes committed in Prijedor. We will hear how indictments are issued, and how the accused were arrested and transferred. This will be followed by a description of trials that have so far been completed. After that we will hear about the Tribunal's judgements in cases relating to Prijedor, sentences against those convicted, and proceedings that are underway.

## Session One Proceedings before the Tribunal

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

The Tribunal has three independent bodies: the Chambers, that is the Judges; the Office of the Prosecutor; and the Registry. The OTP has two main branches, the Investigations Division which performs the functions normally discharged by the police in most states, and the Prosecutions Division which does the job of the prosecutors in national systems.

Proceedings before the Tribunal begin when the Prosecutor begins an investigation, which she can do *ex officio*, pursuing information from whatever source. She is completely independent in that. Bob Reid, the Deputy Chief of Investigations at the ICTY, will tell you more about investigations.

The Tribunal has tried to concentrate its investigations on the gravest crimes and the highest-ranking persons responsible for them. The Tribunal is now done with bringing new indictments and that is why no new investigations will be started.

When the Prosecutor decides that there is a *prima facie* case against somebody (that is, when she is satisfied that there is enough evidence to suggest that the suspect perpetrated the crimes), she may draw up an indictment and she is then required to submit it to one of the Tribunal's Judges for confirmation. The Judge has nothing to do with the investigation. He or she will review the indictment and the supporting evidence and then either reject or confirm the indictment. The Judge may confirm the indictment only if he or she is satisfied that there is a *prima facie* case. That means that the OTP cannot indict people arbitrarily. And Katherine Gallagher, who worked as a legal officer with the Chambers on cases relating to Prijedor, will tell you more about the confirmation of indictments process shortly.

Before a trial can begin, the accused has to voluntarily surrender or be arrested. He is then transferred to the ICTY's detention unit in The Hague. Shortly afterward, he is brought to court for his first appearance, where he has the opportunity to plead either "guilty" or "not guilty".

If the accused pleads "guilty", then there is no trial, there is just a hearing to render a sentence. Such a plea can also result from a plea agreement, which Ann Sutherland, a trial attorney in the OTP, and Ms Gallagher will tell you more about.

If the accused pleads "not guilty", a trial follows. The trial is held in English or in French and is always accompanied by interpretation into the language of the accused, whether Bosnian, Serbian, Croatian, Albanian or Macedonian.

The main protagonists in the courtroom are the three Judges who form the Trial Chamber, the Prosecutors, and the Defence Counsel. Unlike the system that existed previously in the entire former Yugoslavia, the roles played by these parties in the Tribunal are like those of their counterparts in the United States or the United Kingdom, and today also in Bosnia and Herzegovina. The Prosecution and the Defence present their case and call witnesses. The Judges hear the witnesses and review the evidence, after which they make a judgement.

The trial begins with the Prosecution presenting its case, in which it tries to show that

the crimes did indeed happen and that the accused is criminally responsible for them. The Prosecution must show that the accused is responsible for the crimes beyond any reasonable doubt.

After that the Defence have their turn. It is important to note that the Defence does not have to prove anything as that burden lies on the Prosecutor. The Defence is given an opportunity to refute or cast doubt on the Prosecution's case. The Defence can call witnesses and present evidence to this end.

Every witness is first examined by the party that called him, the Prosecution or the Defence, and is then cross-examined by the other party. During cross-examination, the cross-examining party tries to cast doubt on the evidence given by the witness. The Judges can also ask questions.

The trials are open to the public, and the media can use the video and audio material available from the trial. However, the Judges can order protective measures for certain witnesses, as long as they do not prejudice the rights of the accused.

In some cases witnesses have good reason to fear that they will suffer negative consequences by giving testimony. Those consequences may vary depending on the situation and the evidence given by the witness. For instance, in the case of a rape victim it is to be expected that the woman does not wish to speak about her suffering before the media. Or if it is the case of somebody who witnessed crimes committed by members of his own military unit, he may be afraid of retaliation and revenge by his former comrades. Reasons may vary but the principle is the same. If there is good reason, the Trial Chamber will approve protective measures.

Protective measures may include use of a pseudonym, image distortion and/or voice distortion. Testimony may be given in a completely closed session as well. The purpose of these measures is to prevent the public from identifying the witness. Such measures may be recommended by a special service that exists at the Tribunal, the Victims and Witnesses Section, which takes care of all the practical arrangements of bringing witnesses to the Tribunal and catering to their needs, which can include psychological support if necessary.

It is important to remember that all these measures apply only to the public -- all those in the court room know the identity of the witness, including the accused. The accused has the right to know all the details of the allegations and charges laid against him.

I would also like to say a few words about the rights of accused before the Tribunal. The Tribunal's Statute, which is the most important document governing its functioning, contains one article devoted solely to the rights of the accused. The Tribunal guarantees the rights of the accused in keeping with the highest international standards.

Perhaps the most important of these is the presumption of innocence. The burden of proof is on the Prosecution and it must prove the accused's guilt beyond a reasonable doubt. Other important elements include the right to a public trial, the right to a trial without undue delay, the right of the accused to examine the witnesses who incriminate him, and the right to an appeal. The accused also has the right to remain silent, that is, the right not to incriminate himself.

The accused is also entitled to use his own language during the entire proceedings,

which is why the ICTY has a well-developed language service. The accused receive documents in their own language while they are in the courtroom and they receive simultaneous interpretation into Bosnian, Croatian or Serbian, English, French, and as required also in Albanian and Macedonian.

Trials in absentia are not practiced in the ICTY, which means that the trial will begin only if and when the accused is brought to court. Regrettably we see this principle at work in the case of Radovan Karadžić and Ratko Mladić. Both were indicted ten years ago, but because they have not been arrested yet, their trials cannot begin.

One of the rights of the accused is also the right to be represented by Defence Counsel, and to have the costs of his defence paid by the Tribunal if he is unable to pay them himself. If an accused requests financial aid for his defence, the Tribunal first of all establishes his financial status before making payments to his Defence Counsel. The Tribunal has so far covered most of the costs of the Defence for the majority of the accused. It is clear that this system of legal assistance is very expensive, as it currently accounts for about 8% of the Tribunal's budget. Defence Counsel play a very important role in the ICTY and they are sometimes referred to as the Tribunal's fourth branch; the other three being the Prosecution, the Registry and the Chambers.

Every Defence Counsel must meet certain requirements. They must all be members of their national bar association, have enough experience in criminal and international law and must also speak one of the Tribunal's official languages, that is, English or French. However, the Registrar can in certain cases waive this language requirement with respect to certain members of the Defence team. Quite frequently today we see situations where the lead counsel is a foreigner who does not speak Bosnian, Croatian, or Serbian but speaks one of the official languages of the Tribunal and the co-counsel, who in some cases does not speak English or French, are from the former Yugoslavia.

Every defence team includes at least two lawyers, and they can engage their own investigators and assistants. The Defence team does not actually have to prove anything, all they need to do is present enough evidence to place doubt in the Judges' minds about the accused's guilt.

The accused can also represent himself, as is the case with Slobodan Milošević.

After the trial, the Judges have to make a judgement. They will only convict an accused if they are satisfied that his culpability has been proven beyond a reasonable doubt. If the Trial Chamber is not satisfied of this, the accused will be acquitted and released. Quite often an accused is convicted of some counts but acquitted of others.

The Judges then give the accused a prison sentence, which can be up to life imprisonment. The Tribunal does not have the death penalty.

Both the Prosecution and the Defence can appeal either the judgement or the sentence or both. It is usually the case that at least one party appeals. In that case the Judgement does not take effect until the Appeals Chamber of the Tribunal has reviewed the appeal and made its own judgement.

## Session Two Investigations

### **Bob Reid, Deputy Chief of Investigations, OTP, ICTY:**

It's a pleasure to be back in Prijedor again, I've been here on a number of occasions and it's nice to come back.

I am the Deputy Chief of Investigations in the Tribunal's Office of the Prosecutor, and have been with the Tribunal since June 1994. I have worked on nearly all of the cases that the OTP has investigated, whether the perpetrators are Bosnian Muslim, Bosnian Croat, Croat, Bosnian Serb, Serb, Macedonian or Kosovo Albanian.

I would like to open by saying that I agree with Mayor Pavić, we must not label nations or ethnicities as being war criminals. It is true that individuals with a first and last name, and not ethnic groups or organizations, committed crimes in Prijedor. However, some of those individuals committed those crimes as functionaries of the state, for example as police officers, military officers or as members of the territorial defence. This was not only the case here in Prijedor, it was also the case in all the conflicts in the former Yugoslavia, from the first case that we investigated in Slovenia right up to the last case one in Macedonia.

---

*... we must not label nations or ethnicities as being war criminals.*

---

The mandate of the OTP is to investigate and prosecute those persons most responsible for committing serious crimes of international humanitarian law in the former Yugoslavia from 1991, and that mandate is still in existence today. The last time we invoked the mandate was with the conflict in Macedonia in 2000-2001. Hopefully we will not have to invoke it ever again.

The OTP is divided into three distinct divisions or sections. They are the Prosecutions Division, the Investigations Division and the Information and Evidence Section, which is where we store all our material: evidence, documents, photographs, videos, etc.

Although the Tribunal was established in 1993, investigations into the crimes that were being committed in the former Yugoslavia really did not start in the OTP until about July or August of 1994. I commenced there in June 1994, and I think that at that particular time there were about eight of us in the OTP. We were led by the Deputy Prosecutor, Mr Blewitt.

The OTP picked crimes committed in the Prijedor municipality as one of its first investigations. There are a number of reasons for this. First, we had obtained information about crimes committed in camps in the Prijedor municipality from a British television crew, ITN, which visited Prijedor in August 1992. The crew had sought and obtained permission from the then President of the Republika Srpska, Dr Radovan Karadžić, to travel to Prijedor to investigate allegations that human rights abuses were being committed in a number of camps in and around the Prijedor municipality.

The second major factor was that the Tribunal had information from investigations conducted by a United Nations body that had been working before the Tribunal was



established. The United Nations established the Commission of Experts to report to the Security Council and the General Assembly on whether grave breaches of international humanitarian law were being committed in the former Yugoslavia. The Commission produced a final report which included a description of its investigation into crimes committed in the camps of Omarska, Keraterm and Trnopolje. This investigation was carried out by Hanne Sophie Greve, a Norwegian human rights lawyer and an eminent human rights judge who is now working at the European Court of Human Rights in Strasbourg. Judge Greve carried out many interviews with people who had been held at camps in Omarska, Keraterm and Trnopolje and with people who had suffered in the ethnic cleansing of the villages and towns in and around the municipality.

Based on the work that had already been done by ITN and by the UN Commission of Experts, the senior management of the OTP took a decision that it would investigate crimes that occurred in the Prijedor municipality. Of course, the Prijedor investigation is not the only one the OTP conducted at that time: we also had investigations going on into crimes committed in the municipality of Konjic in the Čelebići camp, and crimes committed in Foča.

I was appointed to lead the investigation into crimes committed in Prijedor. In August 1994, once we had formed a small team that included investigators, lawyers, criminal and military analysts, interpreters and office support staff, we began the investigation by reviewing all the material that the United Nations Commission of Experts Report and the ITN television crew had gathered. We identified who the survivors of the camp were and who witnessed the crimes that had been committed. Although some survivors were in Travnik, Zenica and Sarajevo, most were no longer in Bosnia and Herzegovina. We went virtually all around the world to interview survivors - to Germany, Malaysia, the Netherlands, France, Switzerland, Sweden, Norway, Denmark, United Kingdom, United States of America and Canada.

At the same time as this was being done, we were also trying to gain access to Prijedor, to be able to carry out crime scene examinations of the various locations where we were alleging that the crimes were committed.

As a result of all the interviews that we carried out, by the end of February 1995 we were able to issue three major indictments in relation to the crimes that occurred in the Omarska, Keraterm and Trnopolje camps and the surrounding towns and villages where ethnic cleansing occurred.

The first of the indictments we issued was against 19 individuals who worked in the Omarska camp. The second indictment was against 13 individuals in the Keraterm camp. The accused in both indictments ranged from the camp commander down to guards and visitors who used to come to the camp and carry out beatings and killings.

In addition, we indicted Duško Tadić for crimes committed in the Omarska and Keraterm camps, and others committed outside the camps in Kozarac, the hamlets of Jaskići and Sivci, and a number of other smaller areas.

We also indicted a person by the name of Goran Borovnica for crimes that had occurred outside of the camps, mainly in Kozarac. We recently withdrew that indictment because we believe that Borovnica is deceased.

In April 1995 we had our first major breakthrough. The German government had arrested Duško Tadić in February 1994 and conducted an investigation against him. In April

1995, the German government handed Tadić over to the Tribunal as a result of a request that we had submitted to it. Tadić came to the Tribunal and stood trial for crimes that he committed in Omarska, Keraterm and in and around the towns and villages of Prijedor.

After the transfer, we had to go out and interview further witnesses. We did not need anymore eyewitness or survivor testimony because we had quite a lot of that, and that was how we were able to secure our first indictment. But what we had to do was show that the conflict in Prijedor was part of a wide-spread and systematic campaign throughout Bosnia and Herzegovina. Therefore, we had to interview other survivors from other municipalities, for example Bosanski Šamac, Foča, Vlasenica, and Brčko.

We also had to interview political experts, constitutional law experts, and others in order to set the political, legal and military context in which the crimes that Duško Tadić perpetrated occurred.

As we were busily preparing for trial, which started in May 1996, we also continued our efforts to get access to the crime scenes. With the signing of the Dayton Peace Agreement in November 1995, we saw a window of opportunity to get into Prijedor. After submitting a number of requests, in February 1996 we finally got a breakthrough and the first Tribunal team went to Republika Srpska to do our investigations at the camps and in the towns and villages. Bear in mind that we first gained access to the crime scenes in February 1996, nearly four years after the crimes were committed. The camps were established in May 1992, and that was also when the ethnic cleansing of Kozarac, and the area of Brdo, Hambarine, Rakovčani and Rizvanovići occurred.

When we arrived in the Prijedor municipality we were greatly disturbed by the destruction of the areas I just described. There was nothing left in Brdo, every single house had been totally destroyed. The remaining Bosnian Serbs who lived in Kozarac were still there, in addition to refugees from Velika Kladuša, who came to the area as a result of the war and were living in the school house in Kozarac and Trnopolje.

---

*There was nothing left in Brdo, every single house had been totally destroyed.*

---

Although it was very tempting to go immediately to Omarska, Keraterm and Trnopolje, we made a decision that we would systematically go through the towns and villages first, and document all the destruction that had occurred in Kozarac, Kozaruša, Hambarine, and others.

The following video clip shows the amount of destruction that we found in Kozarac. The clip was taken with a video camera from a vehicle as we travelled up the main street of Kozarac.

(Shows video footage)

On the video you will also see a big block of apartments and the café bar and house that Duško Tadić owned on the right-hand side. His family was still living in that particular home.

You will also notice in some of the clips that there is a circle and a cross on nearly all of the buildings. Our investigation revealed that this was the sign for destruction, that the building was a Muslim home. The mosque also had the circle with the cross through it. If

the sign was not there, then that was usually a Serb home. The Orthodox church, although surrounded by buildings that were totally destroyed, does not have a single mark on it.

The destruction in Kozarac started around 23, 24, and 25 May 1992, and continued for some period after that. Everywhere we went throughout Prijedor during the 16 days that we spent on our first investigation there, where Muslims or Bosnian Croats had resided we found exactly the same type of destruction.

The destruction in Kozarac is well illustrated in images 1 and 2. Those photos were taken before and after May 1992.

After we had gone through the towns and the villages in the Prijedor area and documented the destruction, we then went to conduct a crime scene investigation of the camps.

### **The Omarska camp**

The Omarska camp was formerly an iron ore mine. It was established as a camp primarily for non-Serb detainees. Although there were some Serb persons held within the camp, they were in the minority. It was established in late May 1992 and was closed for good at the end of August 1992. The majority of the prisoners were held in the camp until about 6 August. Word then came through that the ITN TV crew were coming to the camps. The authorities within the camp, on instructions, basically closed it down but left a number of people to be paraded before the ITN camera crew. They were kept “for show” to demonstrate to the international community that there were only a small number of people in the camp, and that they were terrorists, or people who had committed crimes during the war, and were being held for the security of the nation. The remaining detainees in the camp, were transferred either to the Manjača camp, a military camp outside of the municipality, or to the Trnopolje camp.

I would like to show you clips from the ITN footage.

(Shows footage)

The ITN TV crew interviewed the detainees and asked them whether crimes were being committed, whether they had been injured or beaten, whether people had been murdered, and other similar questions. One man kept repeating “Look, I’m sorry, I can’t talk to you”.

The video shows clearly the fear in the eyes of some of the prisoners who the film crew are speaking to. Also evident is the fact that the condition of the detainees was very poor -- they had suffered huge weight loss.

We interviewed many of the people seen in the ITN video. They stated that the meal that they had on that day was the best that they had been given in the three months that they had been at the camp. That meal consisted of a few beans, and some dish water. Some of them said that they were sick for days afterward because they had not been used to eating such “good food” in that period of time. Also the video shows that they gorged the meal down quickly. After speaking to the survivors, they told us that they ate quickly because they had a time limit. They had to run in, sit down, eat the meal, and leave. Often they did not get any bread.

Also, bear in mind that the detainees were kept in conditions of extreme heat. In Omarska and Keraterm they were housed in the hangar buildings. The hangar buildings

are made of iron, which doubles the temperature. The detainees had very little water, no sanitary conditions, barely any food, no exercise, and on top of that they were beaten, and in some instances they were beaten to death.

Image 3 is a photo taken at the Omarska camp, with the hangar at the left, where the majority of the prisoners were held. There were rooms all throughout this building and then there were the huge work areas on the ground floor. Image 4 shows you a model of the Omarska camp used in the courtroom.

The cement courtyard area between the buildings was known to the detainees as the Pista. For hour after hour the prisoners were forced to lay there. On some occasions they were forced to do exercises or to lie in a particular position with their legs up in the air, for 20 minutes or so, or to lie with their shoulders and legs off the ground. The guards would walk around kicking and beating them. If they dropped their legs or shoulders onto the ground they would be forced to do it for longer and they would be kicked again as usual.

As a result of our investigation and the subsequent trials that have been held at the Tribunal, we were able to establish that the Omarska camp was one of the most brutal and cruel camps that had been established during the wars in the former Yugoslavia. On a daily basis detainees were taken from the many rooms in the hangar or from the so called White House and were interrogated by police inspectors who had come from the police station in Prijedor. The interrogations took place in the administration building, image 5 shows the entrance to the administration building, and image 6 depicts a hallway with rooms that were used by the camp commander, his deputies, and the interrogators.

---

*... we were able to establish that the Omarska camp was one of the most brutal and cruel camps that had been established during the wars in the former Yugoslavia.*

---

During these interrogations the detainees were asked nonsensical questions such as the following: “Why were you planning to overthrow the administration here in Prijedor?” or: “Why are you trying to take over Bosnia and Herzegovina?” When the prisoners did not give the desired answers they were beaten. In some instances the prisoners passed out during the interrogations and had to be assisted back to their rooms by fellow detainees.

The interrogations were held during the day and during the night this was the area where the approximately 36 women who were held in the camp slept. However, before they could sleep there, they had to clean the rooms of the blood, vomit and excreta that had been left in them as a result of the interrogations by the police inspectors from Prijedor. During the night many of the women were raped and sexually assaulted by the guards and visitors to the camp.

Detainees were also viciously beaten and tortured in the rooms where they were kept in the hangar building. Image 7 is a photograph of a hook and a pulley that was used to take the engines or the tyres off the trucks for the iron ore mine. This was the workshop for the main machinery that was used for the working of the iron ore mine.

As a little bit of “fun”, the guards would hang the prisoners up by their legs and beat them with pieces of rope, metal cables and in some instances with a baseball bat. The prisoners would swing from there for hour after hour and they were kicked and beaten.

This was one of the devices that was used as a form of torture, but there were many, many others. For example, prisoners were put into oil canals, some of which were still full of oil, and they were tortured there. During our investigation into Omarska, witness after witness described horror, beatings, and murders.

The White House, visible in image 8, was an area that was used to detain special prisoners, in effect political prisoners. Every morning there were piles of dead bodies stacked up in front of the White House. Trucks would come the bodies would be loaded onto them and taken away to an unknown destination. There was one Bosnian Croat woman who was kept in the White House. We have no idea of her whereabouts today. The political prisoners included Bosnian Muslim members of the police and other influential persons throughout the municipality. They were beaten day after day and night after night. Visitors to the camp and camp guards would go into this building and commit the utmost horrors. The female prisoners told us of the horrifying screams that would come from this building overnight. We know that Bećir Medunjanin was killed in this building, and he died in the arms of his son.

As I have said, it is not only guards in the camp who committed crimes. Visitors were permitted to come to the camp and were allowed to do whatever they wanted during the night and in some instances during the day. The visitors were police and military officers and civilians.

### **The Keraterm camp**

The Keraterm camp, shown in image 9, was a former ceramics factory situated just on the outskirts of Prijedor. It is so close to the main road that one can stand there and talk to the prisoners, and stand at the fence and see everything that is going on inside. The military barracks was across the road from the camp, so the military must have known what was going on.

The Keraterm camp, like Omarska, was set up at the end of May 1992. We believe it was closed down in about the first week of August with the imminent arrival of the ITN film crew. Like in Omarska, the detainees were transferred to the Manjača military camp or to the Trnopolje camp.

The Keraterm camp comprised four rooms which could be seen from the main road, which were called simply Room One, Room Two, Room Three and Room Four. The prisoners were kept there for the entire summer. For most of the time during the day, and definitely during the night, the detainees were kept locked in the rooms.

The Keraterm camp was no less violent than Omarska. Our investigations and subsequent trials clearly indicate that the camp housed mainly non-Serb male detainees who were continually exposed to violent beatings and violent sexual assault such as being forced to commit sexual acts upon each other, or to insert broken bottles into their anus. There was also male sexual assault in Omarska, but in Keraterm it was particularly prevalent.

Like in Omarska, in Keraterm there were interrogations on a daily basis, and the prisoners were asked the same sort of nonsensical questions and were beaten if they did not give the desired answer. Some of the prisoners passed out during the interrogation and had to be returned to their rooms with the assistance of their fellow prisoners. Again like in Omarska, bodies were piled up at the end of Room Four every morning, and a truck would come in each day and take away the bodies of those who had perished during the night.

There were hundreds and hundreds of crimes committed in the Keraterm camp. I will describe one particularly brutal killing that occurred there, we believe on the night of 24 July 1992 in Room Three. Hundreds of men had been brought to the Keraterm camp from the Brdo area. They were brought to Room Three and locked into it. We know that there had been a plan to bring them to that room since the prisoners told us that it had been previously emptied.

The prisoners from the Brdo area were given a little bit of water and a couple of barrels to allow them to carry out their bodily functions. That was all. It is unclear what exactly occurred after that, but the survivors of Room Three and the other prisoners provide a common picture that what happened there was a massacre, what we call the Room Three Massacre. Some form of gas or something else was put into the room causing the prisoners to go hysterical, panic and try to escape. A machine gun nest had been set up in front of Room Three. When the detainees broke out of the room and tried to escape, they were gunned down. Hundreds of men lost their lives in that massacre on that particular night.

---

*When the detainees broke out of the room and tried to escape, they were gunned down. Hundreds of men lost their lives in that massacre on that particular night.*

---

Given the location of the camp and the duration of the firing, which started between 22:30 and 23:00 and lasted a couple of hours, it is impossible that somebody would not have heard it and wondered what is going on. Although there was a war going on, there was not much fighting at that time in the Prijedor municipality.

### **The Trnopolje camp**

The last of the three main camps that we investigated is the Trnopolje camp, shown in image 10. Like Omarska and Keraterm, the Trnopolje camp was also established around the end of May 1992 and we believe that it remained open until about November/December 1992. The camp had been labelled as a deportation camp. In other words, people went there just to be deported to the free territories of Zenica or Travnik. However, this is a dreadful misnomer. The Trnopolje camp was as bad as Omarska and Keraterm. We interviewed witnesses who were brutally beaten in Trnopolje. There were also many, many sexual assaults against women and particularly the young girls who were held in the camp.

Like in Omarska and Keraterm, the conditions in the camp were disgraceful. When we went there in 1996, the camp housed refugees from Velika Kladuša. The conditions of the camp were still disgraceful. There were children still playing in raw sewage and that was what was being described to us by the survivors of the Trnopolje camp.

We obtained photographs of a number of the victims who had been beaten in the Trnopolje camp. One of the doctors working in the camp's clinic had taken photographs of a number of the victims who had been beaten. He smuggled them to Penny Marshall of the ITN TV crew. She brought them out and broadcast them, thereby exposing the fact that brutal crimes were being committed in the war in Bosnia to the international community for the first time. Image 11 is a photograph which was taken at Trnopolje, as well as image 12, which shows a man who is in particularly poor shape - you can see his spine and his ribs.

The majority of the detainees in the Trnopolje camp up until August 1992 were women, children and the elderly. In the first week of August many of the men from

Omarska and Keraterm were transferred to the Trnopolje camp, while others went to Manjača.

The ITN video footage from the Trnopolje camp shows emaciated bodies behind a fence, including one a young man whose image became famous throughout the world. It also shows a fight about to break out between the prisoners over a piece of bread.

(Shows footage)

The film crew again asked the prisoners what was happening in the camp. They asked the prisoners how long they had been there, where they came from, whether they had been beaten and other questions. Some of the prisoners answered the questions and told the ITN crew exactly how long they had been there and where they came from. Others said: “Thank you for trying to help us but don’t make our position worse than it already is.” The footage also shows the clinic area, where the doctor is visibly petrified. He admits that there had been beatings there, but asks the crew to please go away and leave them alone.

There were unbelievably brave people in all of the camps. There was a doctor in Omarska who worked tirelessly to assist his fellow detainees. He helped them as much as he possibly could and then, just before the camp was closed, he disappeared. That

---

*There were unbelievably brave people  
in all of the camps.*

---

doctor on that clip from Trnopolje was an unbelievably brave man, who risked his life to speak to that film crew and virtually assured his death if it was found out that he had smuggled those photographs out. Incredibly brave people.

By November 1992 the majority of the detainees of the Trnopolje camp had been forcibly deported from the municipality of Prijedor to either Croatia, which is where most of the people from Manjača went, or to the “free” territories of Travnik and Zenica.

In essence the non-Serb population of Prijedor disappeared from the municipality. The population figures from 1991 and that from 1995 clearly show this, as you can see in image 13. Very few Muslims and Croats were left in the Prijedor municipality in 1995.

In addition to our investigations in the camps and the destruction in the towns and villages of the municipality, we also investigated what occurred when people were being arrested in their towns and villages. We established that there was heavy ethnic cleansing in the towns and villages that housed Bosnian Muslim and Bosnian Croat inhabitants. These places include Hambarine, Rizvanovići, Rakovčani, Čarakovo, Kozarac, Kozaruša, Brđani, Jaskići, Sivci, Kamičani, Trnopolje, Donja Ravska, Gornja Ravska, Briševo, Šurkovac and Ljubija. The inhabitants of those villages and many others that we looked at, were forcibly rounded up and sent to one of the three camps. As mentioned, after the camps closed they were then forcibly removed from the territory of Prijedor and taken to Croatia or Zenica and Travnik. In many instances, however, if inhabitants showed any sign of resistance, they were executed on the spot and their bodies were left in the street. This happened in Kozarac in particular around 23, 24, 25 May 1992, as well as in Hambarine and many other villages.

As mentioned earlier, we were able to issue indictments on the basis of witness interviews. In addition to the crime scene investigation that we subsequently carried out, we also applied to the Tribunal Judges for a search warrant to seize documentation from a variety of locations in the municipality. The Judges granted our request and they

issued a search warrant. We conducted a search and seizure mission in December 1997. We went to the Prijedor police station, the Municipal Assembly, the Serbian Democratic Party headquarters, the radio station, and the local newspaper Kozarski Vjesnik.

We obtained somewhere in the vicinity of 49,000 pages of documentation which we believed could be used as evidence for our cases. Indeed, we used many of the documents that we seized during that search and seizure mission in several trials at the Tribunal. We also carried out a number of other smaller search and seizure missions, for instance in the Omarska police station where we looked for specific documentation. We got the documents that we required, and those have been used at trial as well.

We also used a lot of the evidence obtained from exhumations. During our initial investigation we were unable to find out what happened to the bodies of those killed in Omarska, Keraterm, Trnopolje and the towns and villages in the municipality. We are working closely with the commissions that are investigating missing persons and we are now getting information about where the bodies were buried. This is particularly important for the families of the victims.

I would like to mention some of the difficulties that we ran into during the investigation. Four years had passed from the time the crimes were committed and the moment we were able to go into Prijedor and examine the crime scenes.

Additionally, when interviewing witnesses, we found that in the Prijedor municipality, and in a number of others, witnesses had already been interviewed on numerous occasions by NGOs, governments (in relation to their refugee status), the UN Commission of Experts, or by national bodies, for instance the German police in the investigation of Duško Tadić. Normally, it is best to take a statement from a witness as soon as possible after the crime is committed. With war crimes, this is often not the case. Fortunately, with this investigation it did not prove to be a problem. We also encountered a problem in securing the arrest of accused. The Tribunal does not have a law enforcement body of its own - we are able to investigate, but we can not go out and make arrests. In Bosnia and Herzegovina we rely on the international armed forces, and the Republika Srpska and the Federation police.

I am pleased to say that we have a very good working relationship with Minister Matijašević and his subordinates, the Chief of Police and Deputy Chief of Police in Banja Luka. We are working very closely and it is no coincidence that the hard work that they have done over the last six years has resulted in the arrival of some 23 accused. However, this was not always the case, and the sporadic arrival of accused presented us with the problem that we would be repeating the same trial multiple times because we could not get all accused on one indictment in at the same time. This resulted in the Prosecutor submitting a motion in 1998 to withdraw indictments against lower level accused for crimes committed in Prijedor in order to focus on the higher level ones.

When I came to Prijedor in 1996, I paid a visit to the Chief of Police, Simo Drljača (who was indicted himself the following year). I went to see him for two reasons. Because he was the Chief of Police, as a courtesy, I went to inform him that we were working in his area and that we would not be deterred from our task. The Dayton Peace Agreement assured us freedom of movement, and we intended to work in the municipality for 16 days and carry out our investigation. The second and equally important reason that I met with Drljača was to serve him the indictments and arrest warrants for all the accused because they were still living in this municipality at the time. I informed him that as the Chief of Police it was his international obligation to arrest the people



who we had indicted. He tore the indictments up and threw them in the garbage bin, and hence we had no arrests.

The Tribunal encourages accused to voluntarily surrender, so that in this way no one is put in harms way, either the arresting authorities, the accused, or any other person who happens to be in the area when an arrest occurs. It also assists the Tribunal in working towards completing its mandate.

One of the major results of the investigation, in my view, is that we found that there was very little threat to the Bosnian Serb population from the non-Serb population of the municipality at that particular time. In the course of our investigation we also uncovered some crimes that were committed by non-Serbs. However, they could not be prosecuted by the Tribunal. It is also true that there was some resistance against Serb forces, and even some minor fighting in the municipality, but that was not a preemptive strike. I do not believe the non-Serb population was ever going to launch a preemptive strike.

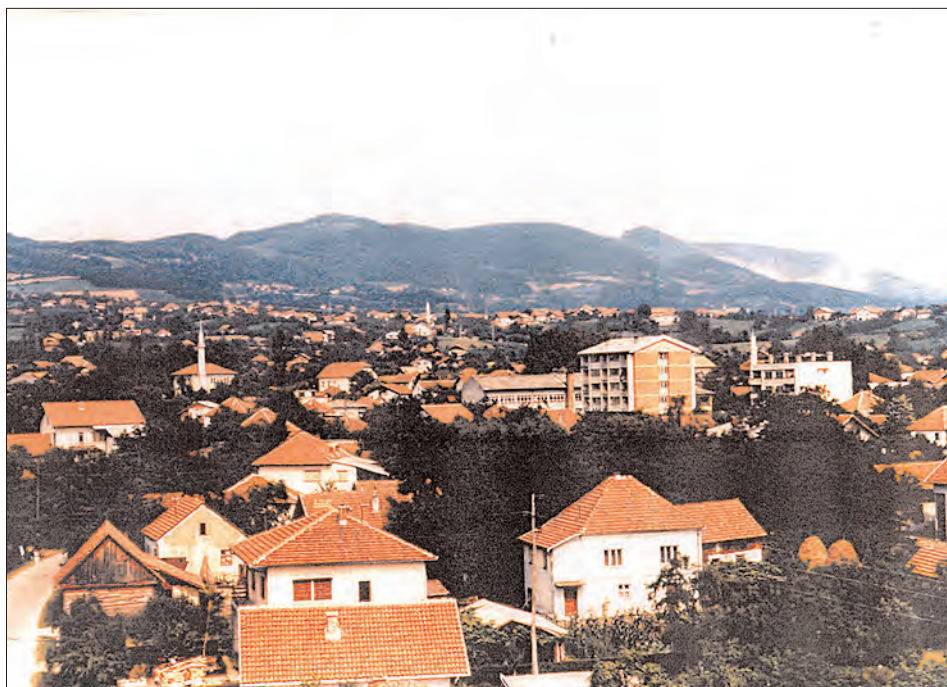
In the Prijedor municipality the police, military and some citizens were involved in a widespread and systematic pattern of persecution against the non-Serb community. They acted as individuals within these structures. In other words, I would like it to be clear that I am not branding every single person in the Prijedor municipality as a war criminal. Some Serbs assisted their neighbors to escape. However, it is clear that there was massive persecution of non-Serbs in this municipality. Non-Serbs were unlawfully incarcerated in the camps in conditions that can only be described as deplorable. Non-Serbs were beaten and murdered in these camps and in the towns and villages in the municipality if they refused to leave. The non-Serb population was also deported from the municipality. Our investigation showed that such a campaign of persecution occurred, the Tribunal Judges confirmed our finding, and some accused admitted to it as well.

Our investigation has led to indictments against the former top leadership of the Republika Srpska. The Tribunal has indicted Radovan Karadžić, Momčilo Krajišnik, and Biljana Plavšić, for involvement in crimes committed in the Prijedor municipality, among others.

The Tribunal's investigation into crimes that occurred in Prijedor was multi-faceted: it involved witness interviews, crime scene investigation, seizing and analysing documents and conducting exhumations. Although the investigation and subsequent trials have not told every single story, I believe they have told the world what occurred in this municipality. Unfortunately it is not a pretty story. It is a story where neighbour turned on neighbour and nationalism came to the fore. Sadly it is a story that was to be repeated all over the region of Bosnia and Herzegovina between 1992 and 1995, where all sides to the conflict suffered immeasurably. I hope that our investigation will send a message to future perpetrators that regardless of their level, rank or job, they will be investigated, and if the evidence is available, they will be prosecuted for war crimes.

The new International Criminal Court (ICC) will continue investigating war crimes in future conflicts. The Court of Bosnia and Herzegovina is now a reality and we are working closely with it to ensure its success. I do not believe that anybody who perpetrated war crimes can or should sleep easily now that the Tribunal has issued its last indictments. The baton has now been passed to the State Court of Bosnia and Herzegovina and to other courts in the region, with which we are also working closely. They will continue investigating war crimes and issuing indictments. I believe that there will be more indictments issued for crimes that occurred in this municipality.

## Images



*Image 1*  
The town of Kozarac before May 1992.

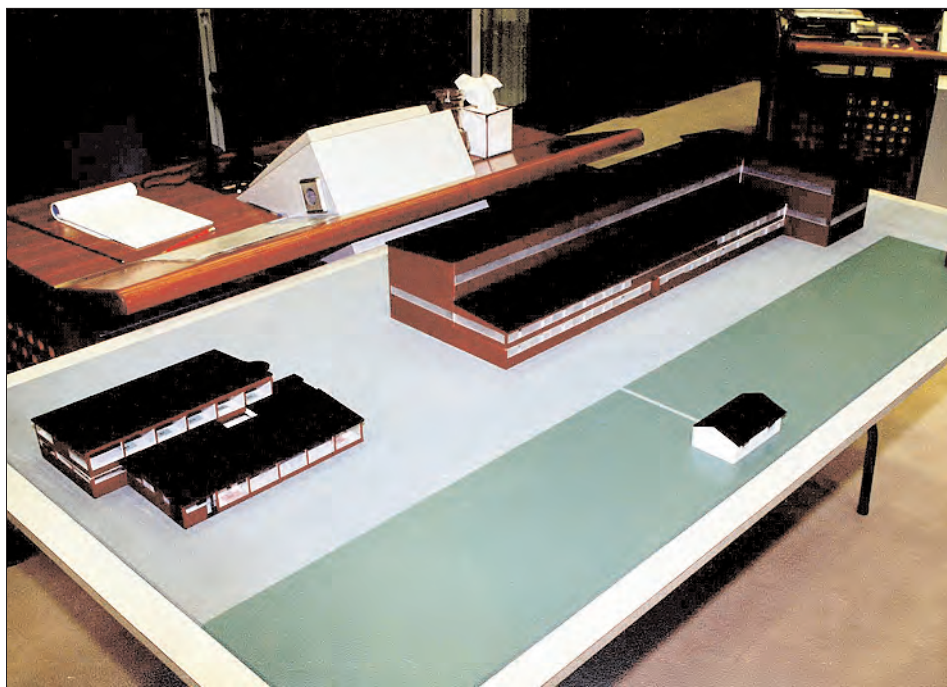


*Image 2*  
The town of Kozarac after May 1992.



*Image 3*

The Omarska iron ore mine, 1992. The hangar on the left is where the majority of prisoners were held.



*Image 4*  
Model of the Omarska camp used during trial.



*Image 5*  
The Omarska camp, entrance to the administration building.





*Image 6*  
The Omarska camp, the hallway where interrogations took place.





*Image 7*

The Omarska camp, the hangar building where detainees were beaten and tortured.



*Image 8*

The White House at the Omarska camp, which was used to detain so-called political prisoners.



*Image 9*  
The Keraterm camp, a former ceramics factory.

# BRIDGING THE GAP

BETWEEN THE ICTY AND COMMUNITIES IN BOSNIA AND HERZEGOVINA



*Image 10*  
Aerial view of the Trnopolje camp.



*Image 11*

A detainee at the Trnopolje camp. Image taken by one of the doctors working in the camp clinic and smuggled out by an ITN TV crew.





*Image 12*

A detainee at the Trnopolje camp. The photograph was taken by one of the doctors working in the camp clinic and smuggled out by an ITN TV crew.

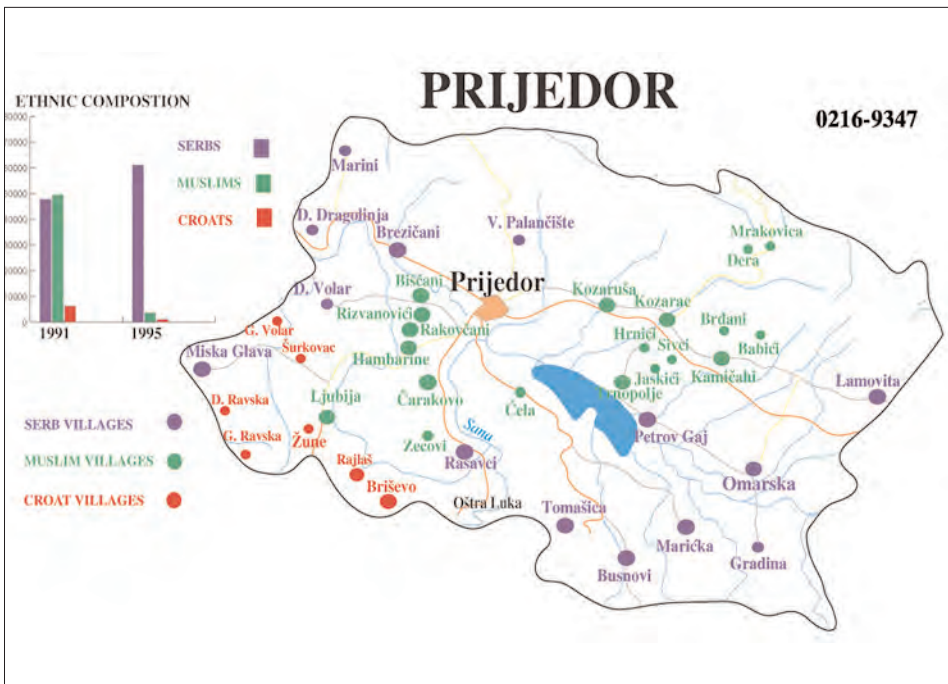


Image 13  
 The ethnic composition of Prijedor, 1992 and 1995.

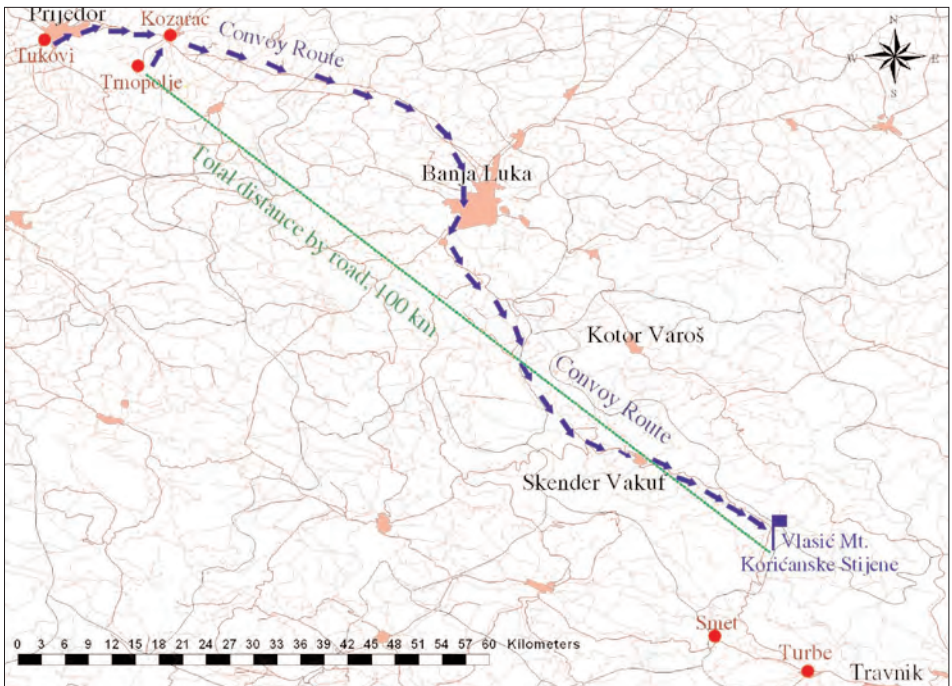


Image 14  
The convoy route from Trnopolje camp to Korićanske Stijene, where more than 200 men were murdered.





*Image 15*  
Korićanske Stijene, site of the cliff-side massacre where more than 200 men were murdered.

## Session Three Indictments and Plea Agreements

**Ann Sutherland, Trial Attorney, OTP, ICTY:**

Good afternoon, it's a privilege to be in Prijedor talking to you about these events this afternoon.

In 1995 the OTP's investigation strategy focused on investigating lower level persons directly involved in carrying out the crimes in order to build an effective crime base against the military and civilian leaders who were party to their overall planning and organisation. The Tribunal's first indictments, therefore, focused on lower-level perpetrators. Despite this, in 1995, the Tribunal issued an indictment for crimes committed in Prijedor (among others) against Radovan Karadžić and Ratko Mladić, who were the highest-level Bosnian Serb leaders. Since then, the Tribunal has issued a number of other indictments related to crimes committed in Prijedor, principally against high-level accused. I will briefly describe the ICTY indictments that relate to Prijedor.

### ***Duško Tadić and Goran Borovnica - indictment issued 13 February 1995***

Duško Tadić was charged with crimes against humanity and violations of the laws and customs of war, including persecutions, murder, torture and cruel treatment committed in Kozarac, the villages of Jaskići, Sivci, and the Omarska, Keraterm and Trnopolje camps. Goran Borovnica was only charged with killings of Bosnian Muslims in Kozarac. The OTP recently withdrew the indictment against Borovnica having obtained information that he is deceased.

### ***Omarska Camp Case - indictment issued 13 February 1995***

At the same time we filed an indictment against nineteen people accused for murder, rape, torture, and cruel treatment committed in the Omarska camp between 25 May and 30 August 1992. The indictment charged the camp commander, his deputies, shift leaders and guards, as well as outsiders who came into the camp and committed crimes. Željko Mejakić, who was indicted as the camp commander, was first charged with genocide, but that charge was later dropped due to a policy decision, following the jurisprudence of the Tribunal.

### ***Keraterm Camp Case - indictment issued 21 July 1995***

In relation to the Keraterm camp, an indictment was raised against thirteen persons, and again they included the camp commander, the shift commanders as well guards and people that came into the camp from the outside who had been involved in the most serious incidents. The charges included murder, beatings, torture, sexual abuse and detention in inhumane conditions.

### ***Radovan Karadžić and Ratko Mladić - indictment issued 24 July 1995***

Whilst the OTP was busy working on the lower level cases, it was also considered necessary to charge Karadžić and Mladić with the crimes that had occurred. The Supreme Commander and the commander of the Army of Republika Srpska (VRS) were charged with a host of crimes across Bosnia and Herzegovina, ranging from unlawful confinement, murder, rape, sexual assault, torture and inhumane treatment to the unlawful deportation and transfer of civilians. The legal qualification of these crimes as genocide was included in the indictment.

With regard to Prijedor, the indictment comprised crimes in the Omarska, Keraterm

and Trnopolje camps, destruction of property and religious buildings, and the deportation of the non-Serbs from the Prijedor municipality.

In relation to all these early indictments, the supporting material submitted to the Judges consisted only of witness statements and a statement by an expert of political history to explain the background of the conflict.

***Simo Drljača, Milan Kovačević and Milomir Stakić - indictment issued 13 March 1997***

This indictment charged municipal level officials with crimes committed in Prijedor - Dr Milomir Stakić as President, and Dr Milan Kovačević and Simo Drljača as members and of the municipality of Prijedor Crisis Staff. According to the indictment, Drljača was Chief of the Public Security Station of Prijedor, and that Kovačević was President of the Executive Board of Prijedor municipality.

The indictment initially charged Drljača, Kovačević and Stakić with complicity in genocide. Subsequently it was amended to charge genocide, crimes against humanity, grave breaches, and violations of laws and customs of war, the underlying crimes being persecutions, extermination, murder, torture, cruel treatment, deportation and destruction of property.

Drljača was killed while resisting arrest and Kovačević died in custody only several weeks into the start of his trial in 1998.

The fourth amended indictment against Stakić specified killings in relation to Kozarac, Jaskići, the Brdo area and Ljubija. The detention facilities that were listed in the indictment included the Prijedor barracks, the SUP building, Omarska, Keraterm and Trnopolje and Miska Glava. In the indictment we specified eleven killings that occurred in camps or detention facilities, or subsequent to prisoners being removed from them:

- (1) The killing of a number of people at military barracks at Benkovac in late May 1992;
- (2) The killing by machine gun fire of between 100 and 150 men from the Brdo region detained in Room Three of the Keraterm camp on or about 24 July 1992;
- (3) On or about a day after the Room Three killing, the killing of approximately 20 men at Keraterm camp;
- (4) The killing of approximately 100 prisoners in late July 1992 at Omarska camp following cleansing of the Brdo area;
- (5) The killing of approximately 50 men and women taken on a bus from Omarska camp in late July 1992, at least some of whose remains were exhumed from Jama Lisac (Bosanska Krupa municipality);
- (6) The killing of approximately 120 men taken on two buses from the Keraterm and Omarska camps on or about 5 August 1992, at least some of whose remains were exhumed from Hrastova Glavica pit (Sanski Most municipality);
- (7) The killing of a number of men immediately outside Manjača camp after their transport from Omarska camp on or about 6 August 1992;
- (8) The killing, near the Korićanske Stijene in the Vlašić Mountain area, of approximately 200 men travelling on a convoy which originated, in part, from Trnopolje camp on or about 21 August 1992;
- (9) The killing of a number of people at Omarska camp between approximately 27 May and when the camp closed on 21 August 1992;
- (10) The killing of a number of people at Keraterm camp between 24 May and 5 August 1992;
- (11) The killing of a number of people in Trnopolje camp between approximately 25 May and approximately 30 September 1992.

The names of known victims of these killings are listed in an annex to the indictment. Stakić was also charged with the destruction of property and religious buildings, which were detailed in the indictment.

***Radoslav Brđanin and Momir Talić - indictment issued 14 March 1999***

***Stojan Župljanin - amended indictment issued 17 December 1999***

The next indictments in relation to Prijedor were issued in 1999. Again we worked our way up one more level and indicted Radoslav Brđanin, Stojan Župljanin and Momir Talić at the regional level of the Republika Srpska - the Autonomous Region Krajina (ARK), which included the Prijedor municipality.

Brđanin was President of the ARK Crisis Staff. Talić was the Commander of the first Krajina Corps who was responsible for the 43rd Brigade commanded by Colonel Vladimir Arsić and Major Radmilo Zeljaja, and the Fifth Kozara brigade commanded by Pero Čolić, who were all involved in the shelling and the attacks in the Prijedor municipality. Župljanin was the Chief of the Regional Security Services Centre (CSB) in Banja Luka, responsible for all the Public Security Stations (SJB's) within the ARK.

These three men were originally charged with persecutions, but we amended the indictment to include genocide, as well as crimes against humanity, consisting of persecution, murder, extermination, torture, inhumane acts, deportation and forcible transfer and violations against the laws and customs of war, cruel treatment and causing great suffering.

In relation to Prijedor, the evidence that we relied on was similar to that in relation to Dr Stakić. The supporting material in relation to this indictment, however, was more than just witness statements, because by this stage we had the witness testimony from the Tadić trial and from the Kovačević trial which had lasted until his death approximately three weeks after the trial began. We also had documentary evidence which had been seized from Prijedor in December 1997 and Banja Luka in February 1998 in the search and seizure missions that Mr Reid told you about earlier.

Momir Talić died before his trial could be completed.

***Momčilo Krajišnik - indictment issued 21 March 2000***

***Biljana Plavšić - indictment issued 7 April 2000***

The next indictments relating to Prijedor were issued in 2000, this time at the republic level, against Biljana Plavšić, member of the Republika Srpska (RS) Presidency and its Supreme Command, and Momčilo Krajišnik, President of the RS Assembly and also a member of the War Presidency.

The indictment charges them with participating in a joint criminal enterprise to permanently remove the Bosnian Muslim, Bosnian Croat and other non-Serb populations, by force or other means, from large areas of Bosnia and Herzegovina through the commission of crimes, including crimes in Prijedor. The legal qualifications include genocide as well as persecutions, murder, exterminations, torture, deportations and forcible transfer as crimes against humanity. The substance of the part of the indictment related to Prijedor was the same as for Stakić. The supporting material consisted of witness statements, testimony, and documentary evidence from various document collections, including documents received from Pale.

***Slobodan Milošević - indictment issued 22 November 2001 for crimes committed in Bosnia and Herzegovina***

Like Radovan Karadžić, Ratko Mladić, Biljana Plavšić and Momčilo Krajišnik, Slobodan Milošević was also charged with participating in a joint criminal enterprise to permanently remove the non-Serb population from large areas of Bosnia-Herzegovina, including Prijedor. Again, the charges against him for crimes in Prijedor are the same as those against Milomir Stakić.

***Darko Mrđa - indictment issued 16 April 2002.***

In 2002 we indicted Darko Mrđa, a member of a special police unit, known as the “Intervention Squad,” serving under the Bosnian Serb authorities in Prijedor. He was charged with the murder of over two hundred men that occurred at Korićanske Stijene on 21 of August 1992, which was one of the killings contained in the indictments against persons at higher levels. We will look at the charges against him in more detail later, when we discuss guilty pleas.

***Mičo Stanišić - indictment issued 25 February 2005***

The last indictment issued with regard to Prijedor was raised against Mičo Stanišić. According to the indictment, he was Minister of Internal Affairs of Republika Srpska. He was also charged with participation in the criminal enterprise which aimed at permanently removing the Bosnian Muslim, Bosnian Croat and other non-Serb populations, by force or other means, from large areas of Bosnia and Herzegovina, including in Prijedor, through the commission of crimes.

For many of these accused, we could have charged them with a lot more crimes than we did. However, we wanted to try and keep the indictments as short as we could, and focus on the more serious crimes for which we had evidence.

In relation to the crimes committed in the Omarska and Keraterm camps, the OTP withdrew a number of indictments in May 1998. This was not done due to lack of evidence. Rather, the surge in arrests and surrenders of accused at that time combined with the likelihood that they would continue compelled the Prosecutor to reevaluate all of the outstanding indictments, in particular in light of the OTP’s overall investigative and prosecutorial strategies.

With the likelihood that accused would be coming in piecemeal we would have had too many additional trials resulting from the same indictment. We wanted to avoid lower level accused appearing alone for trial without the higher level accused, whose culpability is arguably greater because of their leadership role. The OTP also wanted to assure that adequate attention could be devoted to investigations and prosecutions against higher level perpetrators.

Some lower-level perpetrators, however, remained on the indictments, because they were known as particularly notorious offenders. This is why the charges against Zoran Žigić, Dušan Knežević and Predrag Banović were not withdrawn.

Let me stress that the Prosecutor’s request to withdraw the charges against these accused should not be taken to mean that the offences do not warrant a trial. In her motion to withdraw the charges, the Prosecutor indicated her willingness to assist the national courts to undertake the prosecutions.

**Katherine Gallagher, Legal Officer OTP, ICTY:**

I would first like to say that I’m very happy to be here in Prijedor. The Judges and their

legal staff do not travel much to the region. When we are hearing a trial we rely on the Prosecution, the Defence, the witnesses, and video evidence to give us a sense of the area where the crimes took place. I feel very lucky to be here in person today.

I am currently a Legal Officer with the OTP. However, I worked for the Chambers at the time of the case against Milomir Stakić.

I would like to talk briefly about the confirmation process. It is the job of the Prosecution to investigate crimes and to determine whether they think a case exists against a particular person. Once the Prosecutors believe that they have sufficient evidence, they will prepare the indictment and supporting materials, and send a request to the President of the Tribunal to assign a Judge to review them. This is the first point that a Judge gets involved in the process. Also, there is no set Judge assigned to review all the indictments.

The Judge reviews the indictment and a large pile of supporting materials, in some cases up to 8000 pages. The supporting materials can comprise witness statements, documents, former testimony of the accused and other evidence. The Judge determines whether a case exists. He or she does not test the evidence or assess its reliability. The Judge takes the evidence at face value. He or she asks whether the evidence accompanying the indictment sufficiently supports the likelihood that the accused would be convicted by a reasonable trier of fact.

---

*The Judge reviews the indictment and... determines whether a case exists. He or she does not test the evidence or assess its reliability.*

---

The Judge can ask the Prosecution to clarify a particular allegation or point of law, and can ask for further evidence or more supporting material for a particular count. What the Judge generally cannot do is make recommendations for further investigations or qualifications of the count. So a Judge would not recommend to the Prosecution, for example, that he or she feels that a genocide count could be added. The Judge is also not so concerned with the form of the indictment. That is more of a technical question which can be addressed once the accused is in custody.

It is important to note that the confirmation process is only between the Judge and the Prosecution. A suspect does not necessarily even know that an indictment has been prepared against him. It is not until the indictment is confirmed and the arrest warrant is issued that the accused finally sees the indictment against him.

The Judge can confirm the indictment in whole or in part. In other words, he can find that there is enough evidence for certain allegations, but not for others, and request more information, or suggest that certain charges should be dropped because the evidence is insufficient for a reasonable trier of fact to convict.

The Judges are always very mindful that to indict a person, let alone convict him, is a huge process. Once someone is indicted for war crimes, regardless of the outcome of his case, he has a label that will stay with him, so the Judges take this process extremely seriously. Sometimes confirmation of an indictment can go on for weeks or months on end until the Judge is sure that the indictment reaches the necessary standard to go forward.

As mentioned, the accused is not a part of the confirmation process. The time that he gets to contest the allegations is once he is in custody and the trial process begins.

Indictments can either be issued publicly immediately, or they can be sealed, that is, they can be kept confidential from the public for a certain amount of time. The Prosecution can submit a request to the Judges to seal an indictment. This is often so that the existence of the indictment can be kept from the accused himself, in order to facilitate his arrest and transfer.

Finally, it should be noted that once an indictment is out in the public domain it can still be amended and charges can be added or dropped and indeed it can be withdrawn, as was the case in relation to several indictments for crimes committed in Prijedor. However, whenever the Prosecution would like to add a new charge to an indictment that a Judge has already confirmed, they have to provide new evidence to support the additional charge.

**Ann Sutherland:**

A plea agreement is a relatively unknown concept in civil law systems, such as that in the former Yugoslavia. In a civil law system, if the accused confesses to the crime, that confession is entered into evidence, however, the Prosecution is not absolved of the duty to present its case.

In the common law system, a plea agreement is reached at the conclusion of negotiations between the Prosecution and the Defence. Normally, an accused agrees to plead guilty to a lesser offence in exchange for more lenient sentencing recommendations, a specific sentence or dismissal of some charges. An accused obviously can enter a guilty plea without a prior agreement with the Prosecution.

It is common sense and pragmatic judicial policy to encourage the accused to plead guilty if indeed he is guilty. There are several reasons why either side may wish to make a

---

*A plea agreement avoids the uncertainty of trial and minimizes the risk of undesirable results for either side.*

---

plea agreement. A plea agreement avoids the uncertainty of trial and minimizes the risk of undesirable results for either side. The accused has to choose between accepting sentencing for a lesser charge or the uncertain outcome of a trial in which he may be found not guilty, but may also be found guilty of all charges. Conversely, the same factors apply for the Prosecution.

An accused may be culpable in one criminal matter but have information that could help the Prosecution in a broader or more significant matter. In such a case, the Prosecution may agree to reduce the charge or recommend a lighter sentence to the Judges in exchange for the accused's full and truthful cooperation, i.e. his testimony against higher-level accused in prosecuting the larger matter. Complex cases such as those the ICTY deals with closely resemble domestic organized crime cases. Plea agreements are frequently used to get junior members of the criminal organization to testify against more serious offenders, since getting evidence against the latter is very difficult. This is particularly the case in the former Yugoslavia where ethnic loyalties are reinforced by threats of ostracism and physical violence.

In other cases the Prosecutors may be certain of the accused's guilt on some charges but may be uncertain about the admissibility or availability of evidence on other charges. For example, if a key witness refuses to testify for whatever reason, Prosecutors may not have full confidence that the remaining evidence would be sufficient to persuade the Judges that the accused is guilty of that charge beyond a reasonable doubt.

In sum, it is of benefit to both the Prosecutor and the accused to arrange a plea agreement. This avoids the chance that the accused could be found not guilty which is unfavorable to the Prosecutor, or found guilty of more serious charges, which is unfavorable to the accused.

The Tribunal is mindful that the use of plea agreements affects the victims. The Tribunal is aware that some victims want to be able to tell their story, and may be disappointed if they are not given that opportunity. For others, the experience of testifying is extremely painful and plea agreements spare them the ordeal of having to do so.

Plea agreements also affect the Tribunal's objective to create elements of a historical record. Plea agreements can advance the historical record by providing the perpetrator's first-hand account of what happened, thereby preventing denial and revisionism.

It is important to note as well that plea agreements assist the Tribunal to complete its mandate. Plea agreements are able to provide accountability and at the same time spare resources for prosecutions of high-level leaders, such as Momčilo Krajišnik, which require an extremely large investment of manpower to try.

It should be noted that the Judges must be satisfied that the accused's guilty plea is voluntary, informed, unequivocal, and supported by facts. They are also not required to accept the Prosecution or the Defence's recommendations for sentencing.

Plea agreements have been accepted in the Tribunal's hybrid common-civil law system since the first one was entered in 1998, even though at that time, the Tribunal's rules did not provide for a specific plea agreement procedure. In November 2001, the Tribunal's Rules of Procedure and Evidence were amended to specifically provide for a plea agreement procedure.

The Prosecution takes all of these factors into account before it enters into a plea agreement with an accused.

**Katherine Gallagher:**

One of the fundamental rights of the accused is the presumption of innocence. While the OTP and people from the region may think that they know the facts of a case, every accused deserves the presumption of innocence. When an accused pleads guilty he is giving up a fundamental right to have the Prosecution bear the burden of establishing a case against him beyond a reasonable doubt.

In recent years we have seen an increase in the number of guilty pleas entered at the Tribunal. Thus far, there have been 17 guilty pleas in total, including six that relate to crimes committed in Prijedor.

The Tribunal has received criticism from both the international community and the communities of the former Yugoslavia, in particular the victims, for the use of guilty pleas. One question that the Trial Chambers have increasingly addressed is whether plea bargaining is actually appropriate in cases of serious violations of international humanitarian law. It is one thing in national jurisdictions, such as the United States, where plea bargaining is quite common for petty or lower level crimes, but are generally not used in the biggest cases.

Another criticism leveled at the Tribunal is that the sentences handed down to those accused who enter into a plea agreement are perceived as relatively lenient.



Hopefully by explaining the process and by giving the advantages and the disadvantages of plea bargaining we will show why Trial Chambers have accepted them and indeed why the Prosecution has pursued them.

The procedure for entering into a plea agreement was added to the Tribunal's Rules of Procedure and Evidence in order to give guidance to all parties who often come from systems where plea agreements are not used or are not common. Under these rules, when an accused pleads guilty the Trial Chamber must satisfy itself that certain elements have been met. The Trial Chamber must be satisfied that the guilty plea is voluntary, and that the accused understands the offence to which he is pleading guilty. The Trial Chamber will make sure that the plea is not equivocal and it will satisfy itself that a sufficient factual basis for the crime and the accused's participation in it exist. The Trial Chamber will make this determination either on the basis of independent evidence or, more commonly, through a statement in which the accused accepts his guilt and describes the facts of what he has done.

Once the Prosecution and the Defence conclude a plea agreement, they will put it to the Trial Chamber. The Trial Chamber will then have a special hearing to ensure that the four requirements mentioned above have been met. The Trial Chamber may ask why the guilty plea has come now, how the guilty plea was arranged, and it may even ask who initiated the guilty plea. The Trial Chamber may ask about the accused's understanding of the elements of the crimes or ask him specific questions about the factual allegations to which he has pleaded guilty. To ensure that the plea is not equivocal the Trial Chamber might ask the Defence if it has any arguments that it wants to raise such as duress, or any others that might negate the accused's admission of guilt. For example, if the accused says he is guilty, but adds that he was not there when the crime was committed, then the Trial Chamber cannot be satisfied that the accused fully accepts the facts.

Finally the Trial Chamber might seek to ensure that the totality of the accused's criminal conduct is reflected and that an accurate historical record exists. This is both to ensure that the factual allegations are not being traded away as well as to ensure that the accused is not pleading guilty to more than what he is guilty of.

In the extract that follows Judge Alphons Orie, a judge from the Netherlands, is confirming with Darko Mrđa the facts contained in his guilty plea.

*(court transcript)*

---

Case name and number:	Mrđa (IT-02-59)
Accused	Darko Mrđa
Date:	24 July 2003

---

**Judge Orie:** Then the next issue I'd like to raise with you briefly, Mr Mrđa, is the factual basis of the plea agreement which corresponds with the charges that have been brought against you by the Prosecution. The factual basis of the plea agreement consists, and I summarise, of the following: That an armed conflict took place in August 1992 in Bosnia and Herzegovina, that it involved the widespread and systematic attack upon non-Serb civilian population in Prijedor, and that you acknowledge that the crimes to which you intend to plead guilty were part of this widespread and systematic attack.

Furthermore, that on the 21st of August, 1992 you were a member of the Prijedor police intervention squad and that on that day, in your official capacity as a

police officer, you participated in the escorting of an organised convoy of Muslim or non-Serb civilians from Tukovi and the Trnopolje camp in Prijedor towards the municipality of Travnik, that these civilians were in buses and on trucks. And that at a location along the Ilomska River, between Skender Vakuf and Mount Vlasic that the convoy stopped, at this location you and other members of the intervention squad implemented orders, actively implemented orders to separate military-aged men from the rest of the convoy, including a personal selection of men by yourself, being aware and expecting that these men would be murdered. A large number of these men, the estimate is in excess of 200, were then loaded into buses. These men were taken in two buses to Korićanske Stijene. Finally, they were ordered to leave those buses and either in larger groups or in smaller groups, they were ordered to kneel at - close to a deep ravine and were shot and killed. The factual basis is also that you, together with the others, personally and directly participated in the unloading, the guarding, escorting, shooting, and killing of the unarmed men at Korićanske Stijene.

From the context of paragraph 9 in the plea agreement, I do understand that where it says that these men that left the buses and were ordered to kneel, were shot and killed, that not all of them were killed and that a small number, 12 men, survived this massacre, but that all the others were killed. This is the factual basis on which you agreed with the Prosecution, according to this plea agreement.

Mr Mrđa, I went through the plea agreement on the main lines. Is there anything that is not clear to you in respect of this agreement? Is there anything you would like to say adding to this agreement between you and the Office of the Prosecution?

**Accused:** Your Honour, everything is clear to me.

**The Registrar:** Count 2, murder, a violation of the laws or customs of war, as recognised by Article 3(1)(a) of the Geneva Convention of 1949, punishable under Articles 3 and 7(1) of the Statute of the Tribunal.

**Judge Orić:** How do you plead to count 2, Mr Mrđa?

**Accused:** Guilty, Your Honour.

**Judge Orić:** Madam Registrar, would you please read count 3 of the indictment.

**The Registrar:** Count 3: Inhumane acts, (attempted murder), a crime against humanity, punishable under Articles 5(i) and 7(1) of the Statute of the Tribunal.

**Judge Orić:** How do you plead to count 3, Mr Mrđa?

**Accused:** Guilty, Your Honour.

**Judge Orić:** Thank you. Please be seated.

**Accused:** Thank you, Your Honour.

---

**Katherine Gallagher:**

What should be noted is that often if the Prosecution drops charges, while it may change

the legal qualification of the crimes, it will not affect their factual basis. In other words, the facts of what happened when the crimes were committed are not traded away during the plea agreement.

Plea agreements generally include a recommended sentence that either the Prosecution or the Defence proposes separately or jointly. What is important to know is that the Trial Chamber is not bound by that recommended sentence, although it will certainly take it into consideration.

By entering a guilty plea the accused voluntarily waives some rights. These include the right to plead not guilty and require the Prosecution to prove the charges, the right to prepare and put forward a Defence to the charges at a public trial, the right to examine at trial or have examined the witnesses against him, and the right to call his own witnesses. He also waives the right not to be compelled to testify against himself or to confess guilt and in some cases he may waive the right to appeal a finding of guilt or the sentence he was given.

**Ann Sutherland:**

I will highlight a few points from the factual basis for each of the plea agreements in relation to the Prijedor cases.

The following accused pleaded guilty to crimes committed in Prijedor:

- Biljana Plavšić (2003);
- Dušan Sikirica, Damir Došen, and Dragan Kolundžija (2001);
- Predrag Banović (2003);
- Darko Mrđa (2004).

Biljana Plavšić pleaded guilty in 2003. Plavšić admitted to participating in a crime of the utmost gravity - a campaign to separate ethnic groups that resulted in the death and expulsion of thousands of victims, most in circumstances of great brutality. In relation to crimes committed in Prijedor, Biljana Plavšić's statement of facts acknowledges that killings and beatings occurred at Omarska and that its detainees were treated inhumanely.

At her sentencing hearing, Biljana Plavšić stated that she now accepts the fact that many thousands of innocent people were the victims of an organized and systematic effort to remove Muslims and Croats from the territory claimed by Serbs. She added that at the time she convinced herself that it was a matter of survival and self-defence. However, she stated that the Bosnian Serb leadership, of which she was an integral part, led an effort that victimized countless, innocent people. She continued by saying that in their fear, especially for those for whom the Second World War was more than a memory, the Bosnian Serb leadership violated the basic duty to restrain itself and respect the human dignity of others. She said, "the knowledge that I am responsible for such human suffering and for soiling the character of my people will always be with me."

Plavšić's expression of remorse at the sentencing hearing, particularly given that it came from someone who formerly held a leadership position, merited judicial consideration. The Prosecution acknowledged the mitigating factors, in particular, her acknowledgment of the crimes, her acceptance or responsibility and her expression of remorse, and submitted that the appropriate sentence in that case was a term of imprisonment between 15 and 25 years. The Trial Chamber sentenced Biljana Plavšić to 11 years in prison.

In relation to crimes committed in Keraterm, all three accused - Dušan Sikirica, Damir Došen and Dragan Kolundžija - pleaded “not guilty” at their initial appearances. Their trial commenced on 19 March and went until 30 July 2001, for 47 days. In total 71 witnesses were called, 40 by the Prosecution and 31 by the Defence. After the Prosecution completed its case, the Defence submitted a motion to the Trial Chamber asking it to dismiss all charges. The Trial Chamber gave an oral ruling acquitting Sikirica of genocide, but not acquitting him or the other accused of any other charges. Sikirica and Došen then put on their Defence case. When the accused received the Trial Chamber’s written reasons why it would not dismiss the charges, all three accused pleaded guilty to one count of crimes against humanity for persecuting the non-Serb population. Each completed a plea agreement with the Prosecution based on the understanding that it would withdraw all other charges.

While an accused who pleads guilty to a charge against him prior to the commencement of his trial will usually receive full credit for that plea, one who enters a plea any time thereafter will still stand to receive some benefit or credit, but not as much as he would have had the plea been made prior to the commencement of trial.

Each of the plea agreements conceded that there was ample evidence to show that the Bosnian Muslims, Bosnian Croats and other non Serbs were subjected to inhumane conditions during their confinement in the Keraterm camp. From about 24 May to 5 August these included insufficient food and water, inadequate medical care and treatment, overcrowding and lack of fresh air, exercise and proper hygiene. Each of the plea agreements reflected the understanding that the count of persecution to which each of the accused had pleaded guilty encompassed detailed evidence.

The criminal conduct underlying each of the accused’s convictions for persecution was contained in the factual basis set out in each of the pleas. In his guilty plea, Dragan Kolundžija accepts the Prosecution’s evidence that non-Serb prisoners of the Keraterm camp were held in inhumane conditions. At trial, the Prosecution had no evidence that Kolundžija personally mistreated detainees, or condoned their mistreatment by others. Kolundžija accepted that the mistreatment occurred regularly at the camp during the period that he was the shift leader and accepted responsibility for continuing as shift leader despite being aware of the inhumane camp conditions. However, at trial there was also testimony that he did try to alleviate the appalling conditions in the camp. Kolundžija said that he had no power to discipline or punish the guards that misbehaved on his shift and he only had the power to report them. All of these factors contributed to the Prosecution agreeing to enter into the plea agreement with him. The agreement stated that the Prosecution and Defence agreed on his sentence being no less than three years and no more than five.

---

*In his guilty plea, Dragan Kolundžija accepts the Prosecution’s evidence that non-Serb prisoners of the Keraterm camp were held in inhumane conditions.*

---

The Prosecution sought a sentence of five years imprisonment. Kolundžija expressed remorse at the sentencing hearing and was subsequently sentenced to three years.

In Damir Došen’s guilty plea, he accepts the Prosecution’s evidence that non-Serbs at the Keraterm camp were tortured, harassed, humiliated and psychologically abused, as well as being confined in inhumane conditions. Došen admitted to being aware of beatings on his shift. However, during the Trial, the Prosecution presented no evidence that he was personally involved in beatings which occurred on his shift, although he had

known of them. There was some evidence led in the trial that Došen intervened to prevent mistreatment of detainees. He also admitted that beatings caused both serious physical and mental harm to the victims and mental harm to those who had to watch. He admitted that non-Serbs were subjected to inhumane conditions during their confinement but there was also evidence that he provided assistance to some of the detainees. Taking into account that there was no evidence of his direct personal involvement in any of the underlying acts, the Prosecution agreed with the Defence that the sentence should be no less than five years and no more than seven. The Prosecution sought a sentence of seven years. The Trial Chamber sentenced him to five.

Like Damir Došen, Duško Sikirica also accepted the Prosecution's evidence that non-Serbs at the Keraterm camp were murdered, tortured, sexually assaulted, harassed, humiliated and psychologically abused, as well as confined in inhumane conditions. Sikirica's plea agreement states that he shot and killed one detainee. He also acknowledged that there was an atmosphere of terror that caused serious physical and mental harm to those who witnessed crimes.

Sikirica accepted that he had some command responsibility: he said that he had no power to punish those who perpetrated crimes in the camp, but that he could report them, and did on one occasion. He sent this report to the Prijedor police station, of which Živko Knežević was in charge. It said the following:

*Zoran Žigić, an armed uniformed person, I do not know which unit he belongs to, came to the Keraterm reception centre several times at night together with Duško Knežević, Zoran Vokić and Željko Timarac. Despite our warnings not to enter the reception centre compound they entered saying that they were going to talk to one of the prisoners. According to the guards they beat prisoners to exhaustion after which they left. Those beaten would die a few days after they left. I hereby ask the responsible bodies to suggest to the military command that conscripts should be prevented from committing these arbitrary acts, any intervention on our part would result in an armed conflict that is not in anyone's interest at this moment.*

However, the plea agreement also states that Sikirica was not responsible for ensuring that detainees had adequate food, clothing, water, medical assistance and accommodation, although he did have some discretionary powers in this regard. The agreement stated that Sikirica did not know of the incidents of rape that occurred at the camp.

The Prosecution agreed to enter into an agreement with Duško Sikirica and that his sentence should be not less than ten years and not more than 17. The Trial Chamber sentenced Sikirica to 15 years imprisonment.

Predrag Banović admitted to being responsible for participating in five murders, for beating 25 detainees and shooting two others at the Keraterm camp. He admitted that he knew of the system of ill-treatment at the camp and participated in mistreating, beating and killing detainees in order to further it.

Banović cooperated with the OTP in agreeing to be interviewed and committed himself to cooperating with the Prosecution in the future. The Trial Chamber found that this cooperation was significant. The Trial Chamber sentenced him to eight years in prison.

Survivors of the Keraterm camp and the relatives of victims are furious that Banović was sentenced to less than a year and a half for each murder. The Judges, Prosecution and Defence agreed at the sentencing hearing that there was one voice missing - that

of the victims. No survivor was asked to speak. We have taken these concerns on board; we have to find the right balance between the right of the accused, the exigencies of trial and completing our work, and the obligations that are due to victims. It remains a sensitive task.

Darko Mrđa pleaded guilty to personally and directly participating in the unloading, guarding, escorting, shooting and killing of the unarmed men at Korićanske Stijene. In his official capacity as a police officer, he participated in escorting of an organized convoy of buses and trucks loaded with Muslim or non-Serb civilians from Tukovi and the Trnopolje camp in Prijedor towards the municipality of Travnik. The route of the convoy is visible in image 14. At Mount Vlašić, the convoy stopped. Mrđa admitted to participating in the separation of military-aged men from the others and escorting them to the side of the road above a deep ravine, where they were ordered to kneel. Mrđa then participated in shooting and killing the victims. You can see the crime location at Korićanske Stijene in image 15. Except for 12 men who survived the massacre, all of the men from the two buses, estimated to be more than 200, were murdered.

During the sentencing hearing the OTP called one survivor to give evidence

*(court transcript)*

---

Case name and number:	Mrđa (IT-02-59)
Witness:	Midhet Mujkanović
Date:	22 October 2003

---

**Prosecutor Resch:** On the 21st of August, 1992, Darko Mrđa and other members of a special unit of the Prijedor Police, known as the “Intervention Squad” participated in the murder of approximately 200 non-Serb civilians at a location called Korićanske Stijene or the Korićani Cliffs on Mount Vlašić. These predominantly Muslim men and a few boys had been passengers on a convoy of non-Serbs out of Prijedor in the direction of Travnik. As Your Honours will hear from our witnesses today, miraculously 12 men managed to survive the massacre.

(...)

**Witness:** When we were brought to that site, they lined us up. So they took us first to the front of the bus, then back behind the bus, and then at one point they ordered us to turn, and then they brought us to the very edge, the very edge shown there, next to the abyss, facing the abyss. Then people started screaming, yelling. I knew right away that something bad was going to happen. And I can't remember to this day whether somebody pushed me or instinctively I jumped myself. I just know that I leapt into the abyss. And then I heard people who started crying automatically, and they were shooting, even throwing hand grenades. When I became conscious, I realised that through some incredible luck I was not injured. I still couldn't believe the situation I was in. Then I saw something in front of me. There was a rock. And it immediately occurred to me that I could use that rock as a shelter. I was a bit away from that rock. In front of me I saw dead people. And that was my only chance, my only chance. I had to do that. So I took a body of a man and I covered myself with that human body. I sheltered myself with it. And then I tried to crawl to the rock. And at that moment I heard somebody yell from above, “Somebody's moving down there.” And then they started shooting. So the dead man, whose name I don't know to this day, saved my life. The entire time they shot at anybody who cried for help. They had no mercy. I remained there for perhaps an hour throughout that time,

while that was taking place. As I lay there, I tried to see where I was. I saw dead people around me, wounded people around me, but I remember that moment that there was a guard there who couldn't have been older than 20 years, and he said, "You Turks got what you deserved." He was not more than 20. He laughed at the agony that we were experiencing. So that after those two hours, I heard as the buses came back from the Travnik direction - I don't know how far they went - and then I heard somebody say, "Everything is over. Everything is over. There are no more living there." They started their buses and headed back to Prijedor. It was already dusk at the time. It could have been 7.30. I got up and started running. I even believed that I had been surrendered. I was experiencing this great fear, and I even tried to kill myself. I jumped off the rock. I was completely desolate. However, I managed to get some control over myself, and I headed for the forest. I spent the first night in the forest, not far from the site, perhaps 600 metres away. There was a large forest there, and I slept on a tree the first night. The second evening, the second day, I also wandered around. I hallucinated a lot. That's all I can say about that event.

---

**Ann Sutherland:**

The Prosecution also called Seida Karabašić, president of Izvor, an organization of victims from Prijedor, to give evidence on the impact the crimes had on the victims. After the hearing she expressed clearly the victims' concerns and said that she hopes these plea bargains will not come at the expense of the families of the victims. She stated that for the victims, it is important to find the bodies of their loved ones so that they can give them a named grave. Edin Ramulić, a representative of the families of victims from Prijedor, said that such sentences where the accused receive thirty days in prison for each victim does not deserve applause from the families of the killed.

---

*... what is important about Darko Mrđa's guilty plea is that it proves that the Prijedor police were involved in the crime.*

---

However, what is important about Darko Mrđa's guilty plea is that it proves that the Prijedor police were involved in the crime. Why former neighbours destroyed communities that had lived in harmony for decades can only be answered fully by those who committed the crimes or were present when objectives were determined and orders given.

The Prosecution is certainly aware of the concerns about guilty pleas that communities in Bosnia and Herzegovina have raised. This is one of the reasons why we are here today to try to narrow the gulf between the Tribunal and the victims. As in domestic jurisdictions, a public prosecutor must weigh the concerns of the victims in one particular case, with those in others which constitute her caseload.

## Session Four Trials and Judgements

### **Ann Sutherland:**

Approximately 450 days have been dedicated to hearing Prijedor-related evidence in the trials that have been held before the Tribunal. Approximately 490 witnesses have been involved in these proceedings, about 450 of them testifying in The Hague, while others testified via video link, or did not testify but had their written statements passed into evidence. Put another way, the Tribunal has listened to evidence relating to the Prijedor municipality alone every day for one and a quarter years. Evidence relating to crimes committed in Prijedor will also be heard in the cases against Radovan Karadžić, Ratko Mladić, and Mićo Stanišić.

Victims play a crucial role in proceedings before the Tribunal. By talking to the Tribunal's investigators and by giving evidence in court, victims contribute to the process of establishing the truth. This requires considerable courage on the part of the witnesses. However, the Prosecution in these cases was not able to call every witness it wanted to. Victims and witnesses gave statements in some cases many years before the trials commenced, and when they did, many of them, who had crucial evidence to give, did not want to testify - they wanted to get on with their lives. This is very understandable, but it also means that the Prosecution was left without sufficient evidence for certain charges.

### **Completed Trials**

In relation to Prijedor there are six cases that have been fully completed. These are the following:

- Duško Tadić, was the first person to stand trial before the Tribunal. The Trial Chamber convicted him and sentenced him to 20 years in prison;
- The Omarska Camp Case - Miroslav Kvočka, Dragoljub Prcać, Mlađo Radić, Milojica Kos and Zoran Žigić. The Trial Chamber convicted all the accused. Žigić was sentenced to 25 years in prison, Radić to 20, Kvočka to seven, Kos to six, and Prcać to five;
- The Keraterm camp case - Duško Sikirica, Dragan Kolundžija and Damir Došen pleaded guilty at the conclusion of the trial and were sentenced to 15, five, and three years in prison, respectively;
- Predrag Banović, Biljana Plavšić and Darko Mrđa all pleaded guilty before their trials commenced. Banović was sentenced to eight years in prison, Plavšić to 11, while Mrđa was sentenced to 17.

### **Cases Not Completed**

There are two trials which the Tribunal was unable to conclude due to the death of the accused. Both Momir Talić and Milan Kovačević died before their trials could be completed.

### **Cases on Appeal**

The Tribunal has also completed trials against Radoslav Brđanin, who was sentenced to 32 years imprisonment, and Milomir Stakić, who received the Tribunal's first life sentence. Their cases are currently under appeal.

### **On-going Cases**

Slobodan Milošević and Momčilo Krajišnik are currently on trial. Mićo Stanišić is currently in the pre-trial phase of proceedings.



### Cases Transferred to Local Courts

The Tribunal charged Željko Mejačić, Momčilo Gruban, Dušan Fuštar and Duško Knežević with crimes committed in the Omarska and Keraterm camps. Pursuant to the United Nations Security Council's request to complete the Tribunal's work and to refer cases against middle and lower level perpetrators to local courts, the OTP submitted a request to the Judges, under rule 11bis of our Rules of Procedure and Evidence, to transfer this case to the State Court in Bosnia and Herzegovina. A final decision has not yet been taken

### At Large

Radovan Karadžić, Ratko Mladić, and Stojan Župljanin are still at large.

As we have spoken about those who pleaded guilty, I will now turn to highlight a few aspects of the three completed cases that have gone through the trial process: the trial of Duško Tadić, and the Keraterm and Omarska cases.

### The Duško Tadić Trial

The first case that went to trial for crimes committed in Prijedor was that against Duško Tadić. That trial lasted for 87 court days, or approximately six months. There were 122 witnesses called - 82 prosecution witnesses, and 40 defence witnesses. The Prosecution submitted 370 exhibits. Because this was the first case before the Tribunal, we called a

---

*We called a number of witnesses to testify to the fact that the crimes committed in Prijedor were part of a widespread systematic attack on its non-Serb population.*

---

political and military expert who testified about the history leading up to the conflict in order to set the scene. We called a number of witnesses to testify to the fact that the crimes committed in Prijedor were part of a widespread systematic attack on its non-Serb population. We also called a number of witnesses to prove that there was an armed conflict in the Prijedor area, and elements of various crimes that the Tribunal charged Tadić with. We called a number of

witnesses to testify to the inhumane conditions in the Omarska camp, among them Ed Vulliamy, a journalist for the British newspaper The Guardian, who testified that the detainees were in appalling physical condition. For the acts of murder, torture and inhumane treatment, we relied on eye witness evidence to prove Tadić's liability. Of the 53 fact witnesses who testified, 48 knew Tadić from before the war.

During the trial, Tadić presented an alibi as a defence. He said that he was living in Banja Luka and that he went there shortly before the shelling of Kozarac. He said he then worked at the Orlovci checkpoint. In order to challenge his alibi, we used records of two interviews, one that he had given to the German authorities and the other to the ICTY. We also had documentary evidence that was seized from him when he was arrested in Germany. One of them was a lengthy document entitled "My Work Report 1990-1993". Tadić's wife also testified as to his whereabouts.

The Trial Chamber found Tadić's account of where he was at the time of the alleged offences to be untruthful. One inconsistency in his story related to his whereabouts at the time of an incident which occurred on the floor of the hangar building, in which four men died as a result of severe assaults. This is infamously called the "Castration Incident", and is supposed to have occurred between 15 and 20 June 1992. Tadić wrote to his wife Mira after he was arrested by the German authorities. Amongst the things he

said to her was: “remember that we spent every night together from the 15th until the 20th June 1992.” The Prosecution argued that this was a way of telling her what to say and therefore manufacturing an alibi. Furthermore, this was contrary to the evidence that was in the “Work Report”, and that was given in court.

In the following transcript, the father of one of the victims in the “Castration Incident”, also an Omarska detainee, talks about how he had to call his son out and take him to the ground floor of the hangar building. Meho Alić states how he knew that he was taking his son to his death. Only days later he lost one of his other sons, who was killed by Serb forces at the Benkovac Barracks.

*(court transcript)*

---

Case name and number:	Tadić (IT-94-1)
Witness:	Mehmed Alić
Date:	23 July 1996

---

**Prosecutor Tieger:** Mr Alić, may I ask you how you would describe the general conditions in Omarska during the time you were held there?

**Witness:** Why, the conditions that they were, I can hardly describe them, what I have seen during my 73 years, in '42 I was in a camp, in 1945 I was in a camp, but this camp, it is unimaginable. It is death of a camp, not a camp. One thing is a camp, another is a death of a camp and I cannot, I cannot imagine.

**Prosecutor:** Were prisoners regularly called out of rooms?

**Witness:** Yes, all the time.

**Prosecutor:** As far as you could tell, what happened to those prisoners?

**Witness:** As for us, as I know, there were people who were taken out and then were beaten and beaten, and bring them in and he is dead. They just bring him in and throw him into the room. There were people who never even came back, who were called out and never returned and we -- to this day we do not know what happened.

(...)

**Prosecutor:** By the time you arrived in Omarska, Mr Alić, had you learned what had happened to your sons, Ekrem and Enver, or where they were?

**Witness:** I heard about Ekrem while I was in Trnopolje, that Ekrem had been killed in Kozara, and it was the Omladinsko Naselje on Kozara, Benkovac, once upon a time it was called Srpski Benkovac and then the Omladinsko Naselje, a youth brigade settlement that my son and my nephew had been killed there and so...

(...)

**Prosecutor:** Mr Alić, do you remember hearing them call out the name of your son, Enver?

**Witness:** Yes, I remember they called out my son, but they called out me, for me to go and take my son out, to go and find him. He came to the door, “Alić,

please, Alić Mehmed called Meho, go and find your son” and I came out.

**Prosecutor:** Mr Alić, when you were first called out and an announcement was first made, did you respond immediately?

**Witness:** I know -- I tried to dodge it, not to respond. So he shouted, “Alić” once, he shouted “Alić” twice and the third time when he said, “Come out for your mother, he is the oldest in the room, I will recognise him, I will kill 20 men for him”, but people told me, “Meho, come on, don’t be crazy. You have to go”. So I went out.

(...)

**Prosecutor:** Did the man who was escorting you, direct you toward Enver’s room?

**Witness:** Yes, I went along towards the door where my son, Enver, was.

**Prosecutor:** When you got to the room where the stairway upstairs is, were you told to go upstairs and get your son?

**Witness:** When I came near that door the guard opened and said, “Go upstairs”, and the one who was following, who was escorting me, stayed there. So I went up the stairs. How I walked, I do not know. I was, sorry, I was lost. I knew where I was going, why I was going, what is happening, what was happening, and I found my son and he was like me, also shivering, “Son, they say you have to come out”. Then he says to me, “Father, I am not here, and maybe I am”. I said. “No, I was told if we call you out once again, then you will be no more”. Eno, my Eno, put on, somebody gave him a vest or something, a leather jacket, if they beat him so that it hurts him less. He got ready. We started. When we came downstairs they shouted, “Faster, faster”. I was walking first and Eno was following me. When we came down to the hangar, this one was waiting for me, another one was waiting for him, saying, “Why aren’t you coming out for your mother?” So we made a few more steps, and he said, “Lie down”, and he went down on his stomach and with a right foot here, he kicked him on the left side once, twice, and he cried out in pain. You know that, how it is. I mean, he was a strong man, but -- I came back to my senses. I started wailing, screaming. I wanted to defend him somehow, to shield him, to ask them, but they told me, “Get lost. Get him. We shall cut his throat too”. Those two grabbed him and he said to me, “Father, take care of my children, look after my children”.

(...)

**Prosecutor:** Mr Alić, did you ever see your son Enver alive after that day?

**Witness:** Never again from that day, never again.

---

**Ann Sutherland:**

Sadly, Meho Alić died two weeks before the Trial Chamber issued its judgement.

Four of the five men who were involved in the beating that Meho Alić was talking about did not survive. During this incident, one man had to emasculate another man and they were forced to drink motor oil. The Trial Chamber found beyond a reasonable

doubt that Tadić was one of the group that beat three of the victims and found that he was present when the other two were being beaten. Witnesses had testified that the body of one man had been sliced as if one were slicing chops. According to another witness, one of the men showed no signs of life. Although we had no bodies as proof of death, the Trial Chamber stated that since these times during which the crimes occurred were not normal, it is not appropriate to apply the rules of some national systems that require the production of the body as proof of death.

However, although we proved that Tadić participated in beating these men, we were not able to prove beyond a reasonable doubt that the men died as a result of injuries sustained during this particular beating. We had one witness who could have provided evidence to prove this, a man who allegedly took the bodies from the ground floor. However, he was of very ill health and could not, or did not want, to testify. The Trial Chamber found Tadić guilty of the beatings but not the killing of these men.

Duško Tadić was also charged with the killing of five men in the village of Jaskići on or about 14 June 1992. There were women who actually saw Tadić beating the men, but the Trial Chamber found that they could not be sure beyond a reasonable doubt that it was Tadić's group of men who had actually shot and killed them that day in June. The Trial Chamber found Tadić guilty of participating in the beatings but not guilty of killing the men.

We appealed that finding, arguing that the only inference that could be drawn from the evidence was that Tadić's group came in, beat and killed these men. The women saw Tadić and the others there, no other group had entered the village before the women came out of the houses and saw the men dead on the road. We won this point on appeal.

We also had to withdraw the rape charge against Tadić because a witness did not want to testify, which again underlines the importance of witness testimony.

### The Keraterm Case Trial

One of the major allegations against the accused in the Keraterm case - Duško Sikirica, Dragan Kolundžija and Damir Došen - was the massacre of men in Room Three in July 1992. Below is the transcript of testimony from Witness F. Witness F was not in Room Three when the massacre occurred, but was able to describe it.

(court transcript)

---

Case name and number:	Sikirica <i>et al.</i> (IT-95-8)
Witness:	Witness F
Date:	29 March 2001

---

**Prosecutor:** Can you describe, please, what happened?

**Witness:** Well, it was a day like any other, that is, beatings, battery, and the night fell. And then some -- I don't know, two army trucks arrived, and those soldiers began to take their positions and there was noise among them. The commander that night was Kole. And we heard him shout that he would not allow that. We didn't know what it was all about. And when it was all over and when it went quiet again after midnight, after midnight they started rounds of fire and we heard Kole shout not to fire at number one. And as they were taking positions before that fire, they had a machine-gun nest which they did not use which was there, but there was -- it wasn't manned ever. So they moved it to in front of

Room Three where that massacre happened.

**Prosecutor:** Did you see the massacre or did you just hear what was going on?

**Witness:** We could not see anything. We only heard it.

**Prosecutor:** The following day, did you see a number of bodies?

**Witness:** Yes.

**Prosecutor:** Where did you see those bodies, and what happened to those bodies?

**Witness:** The next day -- well, those bodies were in front of the dormitories. The next day, a truck came belonging to AutoTransport company, a trailer, and they ordered those who were fitter to come out, stronger individuals to come out, and load those bodies. And when they were loaded, the truck left, and all the wounded who were helpless were also put on those trucks and they were taken away together.

(...)

**Prosecutor:** Witness F, do you know how many bodies were loaded on that truck?

**Witness:** That truck was full, and it is assumed, that is, those who were there said it was 200 or 300, I don't know, but the truck was full.

**Prosecutor:** The occupants of Room Three, where had they come from?

**Witness:** They came from neighbouring villages around Prijedor; Zecovi, Čarakovo, from somewhere there, from those villages around Prijedor.

**Prosecutor:** Prior to the massacre, how were they treated in the camp?

**Witness:** They were locked in that room for two or three days. They got no food or water.

**Prosecutor:** The following date, did something occur on the following night?

**Witness:** The following night a similar thing happened.

**Prosecutor:** Did you see what happened?

**Witness:** Well, they were killing again like the previous night.

**Prosecutor:** Did you see them killing or did you hear it or how did you know that -- what had happened?

**Witness:** One could hear the gunfire and how people cried for help.

**Prosecutor:** Were you in your dormitory at that time?

**Witness:** Yes.

**Prosecutor:** And did you see any bodies following that incident?

**Witness:** Yes, the next day.

**Prosecutor:** What happened to those bodies?

**Witness:** They were loaded onto an army truck and taken away.

---

**Ann Sutherland:**

We do not know the whereabouts of the bodies from the Room Three massacre. We did tender forensic evidence from mass graves which had been exhumed and which were believed to contain the bodies of people last seen in the Keraterm camp. Of the 225 bodies that have been recovered from three sites -- the Kevljani site in 1999, the Pašinač cemetery in 2000 and Hrastova Glavica in 1998 -- we linked 38 to the Keraterm camp through witness testimony.

**The Omarska Case Trial**

The following accused stood trial for crimes committed in Omarska: Miroslav Kvočka, Dragoljub Prcać, Mlado Radić, Milojica Kos and Zoran Žigić. Kvočka and Radić were the first to be arrested in 1998, and Prcać was the last, on 5 April 2002. The trial had already been going on for a number of weeks when Prcać was arrested. There was then a brief adjournment so the Defence Counsel could get up to speed with the material and then the trial carried on. That trial lasted for 113 days and a total of 139 witnesses were called, 50 for the Prosecution and 89 for the Defence.

The Defence generally did not challenge the legal characterization of the facts presented by the Prosecution. What it contested was the role of the accused in the commission of the crimes. The Defence argued that the accused held no position of authority in the camp and that all of them had subordinate positions or professions unrelated to their posts at the time of the crimes occurred. Miroslav Kvočka said that he was not the deputy commander and claimed that he had no leadership authority. His and Dragoljub Prcać's Defence said that they spent very little time in the camp. Prcać also complained that he was forced to be there. Mlado Radić said that he did not rape anyone or see people being beaten or injured. Zoran Žigić claimed that he only spent eight hours at the Keraterm camp over the course of ten days or so. Žigić admitted that although he might have committed a few excesses, in particular due to his bad temper and impulsive nature, he could not have committed many of the murders and assaults ascribed to him because he had a wound at the time.

In order to reduce the amount of evidence led at trial, the Prosecution filed a motion for the Trial Chamber to accept certain facts established in other trials -- the Tadić trial and appeal and also the appeal in the Čelebići case -- as proven. The Trial Chamber took notice of 444 facts, among them the fact that the crimes were committed as part of a widespread and systematic attack on the non-Serb population, and that there was an armed conflict. The Prosecution called 50 witnesses to prove the underlying crimes of murder, torture and rape. We submitted documentary evidence seized from Prijedor and Banja Luka to show the set up of the camp, that interrogations occurred there and that prisoners were transferred between Keraterm and Omarska. We submitted reports from a commission that was set up to look into the camps in Prijedor, Sanski Most and Bosanski Novi, and reports from Simo Drljača reports to his superior Stojan Župljanin that showed that 3,334 detainees passed through the camp in three months.

We used the ITN TV crew's footage to show the conditions of the detainees. We established that all the detainees had been interrogated, many had been beaten and many did not leave the camp alive. Mental and physical violence was repeatedly inflicted upon the detainees. We also led evidence that the female detainees were subjected to various forms of sexual violence in the Omarska camp. The conditions confronting the detainees in the hangar building were particularly vile. Hundreds of detainees were held on the Pista for days or weeks on end with only intermittent shelter in the middle of the summer. We also showed that

---

*We established that all the detainees had been interrogated, many had been beaten and many did not leave the camp alive.*

---

the two smaller buildings, known as the White House and the Red House, were reserved for particularly savage treatment of detainees, where they were frequently beaten and murdered.

We also established that the detainees received little or no food, and the food they did receive was rotten or inedible. We further established that the quality of the water supplied to the detainees, the hygienic conditions and the medical care available in Omarska were grossly inadequate.

The following transcript shows an excerpt from the testimony of Defence witness Mirko Ješić, in which he talks about the document that the Prosecution submitted in relation to the 3,334 detainees who passed through Omarska.

---

(court transcript)

---

Case name and number: Kvočka *et al.* (IT-98-30/1)  
Witness: Mirko Ješić  
Date: 14 May 2001

---

**Prosecutor Somers:** I would just ask you if you would be able to comment on some of the numbers rather than leafing through, because it is a big document. Again: "According to available documents and files kept in Omarska from 27 May to 16 August, 1992, total number of 3,334 persons were brought to the investigative centre, of which there were 3,197 Muslims, 125 Croats, 11 Serbs." And then there are other breakdowns by age, but 3,297 males and 37 women of the total amount. Do you agree with generally the number of Muslims, 3,197? Would this sound more or less, plus or minus, something that you would agree with, having been there regularly?

**Witness:** Yes.

**Prosecutor:** Do you think the number of Croats is approximately 125?

**Witness:** Yes.

**Prosecutor:** The number of Serbs as 11?

**Witness:** Yes.

**Prosecutor:** The 37 number for women, is that, plus or minus, accurate in your mind?

**Witness:** Yes.

**Prosecutor:** You had been asked earlier about a list - it was shown to you, I think it was originally Prosecution's 3/204 - which had the names of certain Category One persons on that list. The question was, are you aware of connections between the fate of persons on that list and whether or not they survived Omarska camp?

**Witness:** I cannot speak in general terms about all missing persons, but personally I am aware of one case, and I will describe it here as my observation. In the first half of July when I came to the Omarska Investigation Centre, soon after arrival I heard that that night there had been some very grave incidents, and I immediately went to see our leader or commander, Željko Mejakić. I asked him, "What happened last night?" And he said that several Muslims or, rather, detainees had been killed in the Omarska camp. I said to him that though I do not have the authority to give him orders, that for these things somebody will have to answer. After that, he told me that it had been done upon the request of an inspector. I insisted that he tell me the name of that inspector because I assumed that it could have been perhaps one of my colleagues. He didn't give me the name, but he said that he was an inspector who was sitting in the corridor for the first two or three days because we didn't have enough office space. I inferred that it must have been Inspector Rade Knežević. I asked him what Rade had done, and he said that he had given a guard a list of names which, in his judgement and according to his demand, valuables should be taken, and after that, they should be liquidated. After that, I spoke to a guard who brought this list to the commander, and the guard confirmed that Rade Knežević had given him this list of names. At first he asked, "What am I to do with this list, and why are you giving it to me?" Upon which this one answered, "Take their money and liquidate them because they are extremists." I immediately informed Ranko Mijić about this, and upon my return to Prijedor or, rather, the next day in the morning, we had a meeting with Mr Simo Drljača. At that meeting I informed Simo of the event that had taken place in Omarska and said resolutely that I refused to abide by such conduct on the part of this inspector or any other who might resort to such acts because these were inhuman, illegal actions in the extreme. Simo responded at the time, "We'll see and check it out," and that was how our conversation ended. About 18 persons were on that list.

**Prosecutor:** Do you know what happened to the women who were left behind in Omarska, as you indicated you were present the day the list was drawn up indicating which women could leave? What happened to the others who remained?

**Witness:** I really don't know, and I can't tell you the real truth about that. I don't know.

---

**Ann Sutherland:**

We also tendered into evidence records of interviews by the accused. Below is an excerpt from Drago Prcać's interview.

*Towards the end of July in 1992, I do not recall the date but it was between 21:00 and 22:00 hours, in the Omarska investigation centre, a driver arrived in a vehicle with Simo Drljača, Radovan Vokić. And an empty bus also arrived, driven by a driver who was wearing a camouflage uniform. I did not know him, a well-built man. In*



*addition to the driver there were several other police officers in the bus. They came to a stop between the entrance of the administration building and hangar by the Pista, on the south side. At that time I was in the duty room by the radio transmitter. Radovan Vokić, Simo Drljača's driver stepped out of the passenger vehicle, found guards around and told them to bring to the bus detainees from Keraterm. They had been brought there the previous day from Prijedor to the Omaska investigation center and for whom I had no knowledge of them being there at all, that they were there in the investigation center. At that time this driver, Vokić, came to me, came up to the duty room, and told me "Drago, here's the list of detainees from Keraterm and the order by Chief Simo Drljača. These people are going to be exchanged." I took the list. I went out with him and came out to the bus where the detainees were lined up. Probably these people from Keraterm. When I arrived I told them that they would be exchanged, as I was given to know both in writing and orally and there was the order by Simo Drljača, the chief... And all those whose name I read out should get on the bus. I read out and one by one they got on the bus. There were 125 persons on that list. 125. One of those was Dr Eso Sadiković. He was in one of the rooms by the garage and not on the bus. And so when I read out his name ... he wasn't there. I told the guard to go and get him... and Eso was approaching the bus. He stopped by me, he was several metres from the bus and he said "May I know where I am going?" I told him, I answered that he was going to be exchanged. He said nothing to me after that and he got on the bus. Then Vokić started out in his vehicle first and was followed by the bus.*

In fact we established that the event Prcać is talking about happened on 5 August. We also know that those 125 people were not exchanged at all. Their bodies were later exhumed, although, sadly, Dr Sadiković's body was not among them. Dragoljub Prcać's interview and Mirko Ješić's testimony are just two accounts from people who talk about the large number of people who went missing.

In the Omarska case, we also heard testimony about the exhumations that have been carried out at certain locations, among them the Lisac mass grave, where the bodies of Sadeta Madunjanin and Edna Dautović were found. They were taken away on a bus with about 50 other people one night from Omarska. At the Kevljani site a body was exhumed that DNA tests identified as that of Miroslav Šolaja, a businessman who was detained in Omarska. In his trouser pocket, he had a letter to his wife.

Below is testimony from Minka Čehajić, who testified in the trial against Milimir Stakić about the letter that her husband Muhamed Čehajić, the former legal president of the Prijedor municipality, sent to her shortly after he was taken from his home and arrested.

*(court transcript)*

---

Case name and number:	Stakić (IT-97-24)
Witness:	Minka Čehajić
Date:	15 May 2002

---

**Prosecutor Sutherland:** At some point, did you receive a letter that was written by your husband?

**Witness:** I received one letter dated the 9th of June. It was not through the prison authorities that my husband sent this letter. I assume that he had written it in Banja Luka but that he brought it with him in Omarska, that he had this letter in Omarska. And I think that it was there that he met a young man from

Prijedor who had approached him and told him that he had seen me in Prijedor going to visit him, that is, my brother. And he said that I was fine. So after a while, perhaps later on that day or some other day, my husband gave him the letter that I still have. And he said: "Please, I know that you will leave this place one day. Please, give this letter to my wife, because I don't think I will ever leave this place." The letter bore my telephone number and the address, and this young man unknown to me, who was also probably frightened because he had been detained in the camp and did not want to be seen in the vicinity of my apartment, he came to see me one day. He knocked on my door, and he simply said: "Here is a letter for you. It was given to me." And this is all he said, and he disappeared. I never saw him again.

**Prosecutor:** You said that you assume that your husband had written it in Banja Luka but that he brought it with him in Omarska, that he had this letter in Omarska. You're referring to the Omarska camp?

**Witness:** Yes, yes, I am.

**Prosecutor:** Could Dr Čehajić please be given the letter dated the 9th of June? This will become a new exhibit. Is that the letter that you have just referred to?

**Witness:** Yes, it is. This is my husband's handwriting. It was a very special handwriting. You can compare the handwriting in this letter with the handwriting which can be found in the school books and school registers. It's difficult for me from time to time to recognise my own handwriting, but I can definitely always recognise his. He spent so many years as a teacher.

**Prosecutor:** Do you have the original of this letter?

**Witness:** My son has it. He took the letter, and he wanted me to give it to him. He said that it was the only memory that he had of his father. Although the letter was addressed to me, the original is with my son because, as I said, this is the only memory that he has of his father.

(...)

**Judge Schomburg:** If you could be so kind and read out this letter, though we know it's difficult for you.

**Witness:** The title says: "Minka Čehajić. Džemal Bijedić 16" that is the street, "or Prijedor hospital", and "telephone number 21771 or 23722", which is my sister's telephone, so he probably thought one or the other. "Banja Luka, the 9th of June, 1992." This is a copy which is not easily legible, but I'll try and do my best. "My dear Minka: I am writing you this letter, though I'm not all certain that you will get it, but I still feel the irresistible need to talk with you in this way. Since my departure, since that 23rd of May when they came to our house to get me, I have been living in another world. It seems to me that everything that is happening to me is just an ugly dream, just a nightmare. And I simply cannot understand how something like this is possible. My dear Minka, Amira, and my son: You know how much I love you. You know how much I love you all. And because of this love, I have never done anything, nor would I ever do anything, that would cause you any pain. I know that you know that what they are trying to put on me has nothing to do with me whatsoever. I just keep wondering whom and how much

I have offended so that I have to go through all this. But I still believe in justice, and I believe in truth, and I believe that this will all be cleared up.

Otherwise, I keep thinking of you constantly, and your faces are always before my eyes. But I have to admit that it is Amir's image that emerges most often before my eyes, and then an occasional tear flows. I know how hard this will be for him, because I know how much he loves me. I especially ask you, Minka, if you talk to him, please, try to comfort him. Time is passing with dismal slowness, and I can hardly wait for the day when I will be with you again. And you will be sufficient for me for the whole of another world. I would be happiest of all if we could go together far away, where there's no one else.

Dear Minka, I'm terribly worried about Sejdo, about Nasa, Biha, and others. I have heard some terrible things, so please let me know, if you can, what's happened to them. Safeta's Mustafa brought me cigarettes, some underwear, and the essentials, and I thank him for that forever. If it hadn't been for that, I would have thought I was completely alone in this world. I keep wondering, where have all the good friends gone? But so be it. And how's my Benjo doing? Does he ever ask about his grandfather? I miss him so much. Today's the 18th day since I was deprived of my freedom. But to me, it seems like a whole eternity. I don't even know how many times I have been interrogated, and now the investigation is conducted by Judge, Živko Dragosavljević. I also asked the lawyer Bereta to attend the interrogations. And I beg you also to engage Sefik Trožić or Emir Kulenović, whoever wants to. I don't know how much longer they're going to keep me here.

If you can, please try and get me some cigarettes somewhere, some soap, toothpaste, two or three pairs of underpants, and an undershirt, a track suit, a shaving set, and some shaving cream. Don't bother to send me any food, because I cannot eat anyway. But if you can, please send me some ground coffee. As for Amir, tell him to stay with Orhan. And if, God providing, all this settles down one day, then you should go to him. Tell him to just keep studying. And for the hundredth time, tell him that daddy loves him much, much more than he loves himself. I don't even think about myself any more. But he must be an honest and an honourable man.

It is inconceivable for me all this that is happening to us. Is it to be that life is so unpredictable and so brutal? I remember how this time last year we were

---

*It is inconceivable for me all this that is happening to us. Is it to be that life is so unpredictable and so brutal?*

---

rejoicing so much over building a house, and now see where we are. I feel so empty. I feel as if I had never been alive. I'm trying to fight it. I'm trying to resist it by remembering everything that was beautiful with you and the children and all those that I love. That's all for this time because I don't have any strength any more. Give my love to all who ask about me. And to you and the children, I love you very, very much."

---

**Ann Sutherland:**

As we know, Dr Čehajić never left the Omarska camp.

**Katherine Gallagher:**

The task of the Trial Chambers is to go through the powerful evidence and images that the Prosecution and the Defence give us and assess their credibility. Before making their final determination, the Trial Chambers examine the evidence in order to answer three questions. First, the Trial Chambers need to examine whether or not the Prosecution established the factual allegations beyond a reasonable doubt. Second, because the Tribunal's trials are about individuals and their purpose is to establish individual criminal responsibility, the Trial Chambers must establish whether there is a link between those allegations and the accused. Third, based on the factual findings related to the allegations and to the accused, the Trial Chambers make their legal finding.

Below are transcripts showing two different levels of factual findings. The first one is from the Kvočka et.al. trial. In it Judge Almiro Rodrigues from Portugal reads out a summary of the findings in that case.

*(court transcript)*

---

Case name and number: Kvočka *et al.* (IT-98-30/1)  
Trial Chamber Judgement Judge Rodrigues  
Date: 2 November 2001

---

**Judge Rodrigues:** On the 30th of April 1992, Serb forces took control of Prijedor. The takeover of Prijedor was followed shortly afterwards by the removal of the non-Serbs, Muslims, and Bosnian Croats from positions of responsibility. Many lost their employment, their children were prevented from going to school, and the radio broadcast anti-Muslim and anti-Croat propaganda. The Croats and Muslims did not accept the situation and considered reacting. Whenever they put up any significant resistance, the Serbs launched attacks like those against the villages of Hambarine and Kozarac. On the 30th of May, the Muslim attempt to regain control of Prijedor failed. To avert any desire for resistance by the Croats, and especially the Muslims, the Serbs decided to interrogate any non-Serbs who might present a threat and arrested in particular any persons exerting an authority, moral or otherwise, or representing some kind of power, in particular, economic. At the same time, the men were separated from the women, children, and elderly. Men in particular were interrogated. The Serbs thus found reason to assemble in centres the non-Serbs who had not left the region. That is how the camps of Omarska, Keraterm, and Trnopolje were established.

The evidence presented to the Chamber makes it necessary to speak not of investigation centres or assembly points but of camps. Trnopolje was in fact a rather disparate collection of buildings in a village of the same name. Omarska camp was located in the premises of a former iron ore mine, and Keraterm in a ceramics factory. In view of the charges brought respectively against the accused and the Chamber's final findings, we will focus on Omarska camp. Like Trnopolje and Keraterm, Omarska camp was officially established on the 30th of May, 1992, by Simo Drljača. We note that Drljača was indicted by the Tribunal but died during an attempt to apprehend him. Planned initially to function for a fortnight, it in fact remained in operation until about the 20th of August, 1992. During this period of almost three months, more than 3,334 detainees at least passed through the camp. Thirty or so women must be added to this list, several of whom occupied high positions locally. All those detained were interrogated. Almost all were beaten. Many would not leave the camp alive. The living conditions in Omarska camp were appalling.

Some of you perhaps remember the images filmed by a television team showing emaciated men with haggard faces and often a look of resignation or complete dejection. These were the images which would make the international community react and are, perhaps, one of the reasons the Tribunal was established. Let us picture the Omarska camp. An administrative building, with a dining room and kitchens on the ground floor, and offices used mainly for interrogations upstairs. From the dining hall and the stairs leading to the offices, we see the area separating the administrative building from the hangars, called the Pista. A little further on is a grassy area with a small, light-coloured building called the White House. Further on again, which we cannot see, a very small building, the Red House. The mistreatment in the camp was constant and widespread and began with the arrival of the detainees. As soon as they arrived, in fact, the prisoners were usually beaten, or in any case mistreated, as if to demonstrate to them straight away that they were not to be considered human beings. They were beaten as they were led out of the bus which brought them to the camp; they were lined up against the wall and an identity document or money often stolen from them; they were made to sing Serb songs; they were made to sit on the ground or even to lie face down on the burning asphalt for hours without being allowed to move or find something to drink. Then they were interrogated. They were punched, kicked with boots, beaten with rifle butts, and all kinds of objects. There were no cells in the hangars, only large rooms where detainees were held in unbearably crowded conditions, sometimes with scarcely room to move, forced to sleep, insofar as they could, on the ground or on pallets.

The prisoners were fed little, the food was usually rotten, and they had almost no water. There were no real toilets and they had to use buckets or the corner of the room to relieve themselves, or else soil themselves. The sick or wounded detainees received little or no treatment. In general, the men were wasted, weakened, and exhausted from the fact of living in a climate of violence and fear. They did not know when their name would be called out. They knew, however, that when their name was called, it was not so much for interrogation as for beating. They were beaten during interrogation, as we have said. They were beaten when they were going to eat and as they were forced to run to the dining hall. They had only a few minutes in which to swallow a pitiful meal. They were beaten when they wanted to go to the toilets, so that most of them chose not to. They were also beaten for no other apparent reason than a guard or visitor being overcome by the desire for violence.

The Chamber received much evidence to demonstrate that people often came from outside the camp and committed different acts of violence on the prisoners. Mr Žigić was one of these visitors. Some women were molested; others, or even the same, were raped. In other words, there was no area of the camp where a detainee could feel safe or, quite simply, hope not to be beaten or subjected to some form of violence. There were offices in the administrative building, in particular those of the camp commander and the one used for communications. There were also those for the interrogations. Men screamed; none of the accused heard their cries. Men were beaten violently; when the women had to clean, they found traces of blood and human spatter. The accused saw nothing. It is there that the women detainees slept; it is there that they were taken out from at night. They were mistreated and raped. Some remained prostrate, not speaking a word during the day. None of the accused noticed anything at all. The detainees spent hours on the Pista. It was June, July, August; it was often hot, very hot. They did not have anything to drink but were violently

hosed down with fire hoses. The men were dirty. Their wounds became infected. Some had dysentery, attacks of diarrhea. According to many witnesses, the odour was absolutely nauseating. Did the accused smell anything? The detainees taken to the White House were almost always beaten, usually ferociously. The men were tortured in front of each other. Sometimes they were made to beat one another. A father was beaten to death in front of his son. The men shrieked with pain. There was blood on the walls and on the ground. The men who came out of there alive had open wounds, could not stand, or were unconscious. The corpses removed from there had open wounds to the skull, severed joints, slit throats. Some of the victims were ultimately executed with a bullet.

The accused heard nothing, saw nothing, did nothing. Detainees sometimes died as a result of beatings. Their bodies were left on the ground between the White House and the Pista, sometimes for several days. They would be loaded into small trucks by detainees. Did the accused still see nothing? Some of the bodies were found much later, including those of two women in mass graves. The 12th of July is St. Peter's Day, Petrovdan, an important Orthodox celebration when large bonfires are

---

*The accused heard nothing,  
saw nothing, did nothing.*

---

lit. On the 12th of July, 1992, a large bonfire was lit using tyres. Shots were fired at one of the rooms containing detainees. Some were called out of the hangar. Screams were heard. The air smelt of burnt tyres and grilled flesh. Did none of the accused smell anything or see anything? We could only give you a broad idea here of the horrifying living conditions in the camps, especially Omarska. Clearly these facts cannot be described as anything but crimes.

(...)

For the camps to operate, there had to be a commander, a deputy or acting deputy commander, administrators to keep lists of prisoners, and shift commanders so that the guards could work in rotation. None of you can reasonably claim that the sole purpose of the camps was to make it easier to carry out investigations and so identify potential criminals, which in and of itself might have been conceived. Anyone entering one of the camps could immediately see what was going on there, that is, in the confinement cells where violence was unceasing, deliberate and inflicted by both the people supposed to guard the prisoners and persons from outside; violence inflicted on malnourished and unwashed detainees suffering from dysentery and given little or no treatment; violence which ended with murder. Corpses were left out in the open, in the full view and knowledge of everyone. Under these circumstances, how can you legitimately claim that you did not know? You knew this full well, Mr Kvočka, because you wanted to get your brothers-in-law out of Omarska camp. As a policeman, you were perfectly aware of the difference between a beating and an interrogation. You knew full well, Mr Radić, that considerable violence was being used during the interrogations, because, as you yourself said, you spent a great deal of time in the offices. You too, Mr Prcać, who were quick to emphasise that your tasks were strictly administrative, as if the whiteness of the paper could conceal the colour of the blood on the walls or the all-pervading stench. You knew this full well, Mr Kos, you who put forward your position as a waiter to emphasise that you were not even a policeman and that you were not therefore in command of anything or anyone. But we know that the guards worked in three shifts of

eight hours. We, therefore, know that you were there at least eight hours a day, and that is why the victims were able to identify you as a shift commander, and it is of little importance that you were not a policeman beforehand. We must even believe that you liked it because you remained at the camp for the whole time while it operated, and you later took a police training course.

And you, Mr Žigić, we know very well that you liked to turn up unexpectedly at Omarska, Keraterm, and Trnopolje camps. We know this because you were so excessive that even the other guards complained about you, and because reports

---

*You participated in this hellish orgy of persecution.*

---

were prepared so that measures would be taken to prevent you from returning. The Chamber wishes you to understand fully: The Chamber is not stating that you foresaw or that you wished for events to unfold as they did. The Chamber states that you were perfectly aware of the system of persecution set in place in Omarska, Keraterm, and Trnopolje camps and that you participated in it, each in your own way, fully aware of what you were doing. You participated in this hellish orgy of persecution.

---

**Katherine Gallagher:**

Essentially, the Trial Chamber was satisfied that the Prosecution proved the factual allegations beyond a reasonable doubt, and that the accused were individually responsible for them.

The second transcript is from the Tadić sentencing judgement where Judge Gabrielle Kirk McDonald from the United States talks specifically about Duško Tadić's individual criminal responsibility.

*(court transcript)*

---

Case name and number: Tadić (IT-94-1)

Trial Chamber Judgement: Judge McDonald

Date: 14 July 1997

---

... the Chamber found that on ten separate occasions you beat, stabbed and kicked Muslim men in Kozarac, the Prijedor Barracks and the Omarska and Keraterm camps, and you aided and abetted in the beating of one Muslim prisoner and the sexual mutilation of another at the Omarska camp. Further, the Trial Chamber found that you killed two Muslim men in Kozarac by slitting their throats. You played an active part in the attack on Kozarac, its violent ethnic cleansing and the forced expulsion of villagers from Sivci and Jaskići. You participated in the seizure, selection and transfer of non-Serbs to the Omarska, Keraterm and Trnopolje camps, with the awareness that most of the surviving prisoners would be deported from Bosnia and Herzegovina.

You committed these offences intentionally and with sadistic brutality, using knives, whips, iron bars, the butt of a pistol, sticks and by kicking the victims and tightening a noose around the neck of one of them until he became unconscious. Why? The testimony of one witness explained your pattern of cruel and brutal conduct against your former friends and neighbours. The witness testified that you threatened that the area "... would be a Greater Serbia; it would be theirs and that we Muslims will not be there, that there will be no place for

them.” This came to pass, for before the conflict Prijedor municipality contained approximately 50,000 Muslims and 6,000 Croats, whereas only 6,000 Muslims and 3,000 Croats remained after the ethnic cleansing. Thus you embraced the extreme principles of Serb nationalism and you played an increasingly major role in the SDS.

The Trial Chamber recognises that these crimes were committed during an armed conflict and it acknowledges the virulent propaganda that recalled real and imagined abuses by one religious group against the other. Those who sought territorial and political gains initiated a campaign to realise these goals by force of arms with limitless cruelty and viciousness. You responded to this campaign, however, and you must bear responsibility for your criminal conduct. To condone your actions, even when committed in this context, is to give effect to a base view of morality and invite anarchy.

---



## Questions and Answers Session

**Refik Hodžić:**

Before we proceed with the questions, let me just read out a piece of information that was given to me by the Association of Prijedor women, Izvor: “Last week, DNA findings arrived for Enver Alić, the son of witness Alić whose testimony we heard today. His body was exhumed from the Kevljani mass grave, together with a number of other bodies of victims whose names are specified in the indictment. Jasmin Hrnčić has also been identified.”

One question that best incorporates sentiments expressed in a number of others is as follows: “Through your investigations the extent of the crimes committed in Prijedor has been established: about 4,000 killed civilians, including a large number of women and children, commission of crimes of the gravest kind such as torture, mistreatment, rape and other abuse, killing and persecution of religious officials, intellectuals, as well as destruction of private houses, business and religious premises and plunder of property. The sentences imposed against the perpetrators are not proportionate to the gravity of the crimes committed. Will the Bosnian judiciary redress this injustice in the next 100 years or will our children learn that they are surrounded by criminals, murderers and looters.”

**Katherine Gallagher:**

Many people ask how judges arrive at their sentences. The first critical thing that the Judge looks at is the criminal conduct of the accused. The highest sentences tend to be for persons who individually and personally committed crimes. For example, Zoran Žigić received a 25-year sentence, Duško Sikirica received a 15-year sentence, Darko Mrđa received a 17-year sentence after pleading guilty and Duško Tadić received a 20-year sentence. Before rendering a sentence, judges take into consideration mitigating factors such as, for example, whether the accused did anything to assist victims or alleviate their suffering. Judges have also reduced some, but not all, sentences for accused who pleaded guilty.

All of the crimes that come before the ICTY are labelled “serious violations of international humanitarian law”. The Tribunal could issue the highest sentence of life imprisonment to all accused, given that the crimes they have committed are such serious ones. To date only one accused, Milomir Stakić, has received a life sentence, which is at present under appeal. Knowing that all the crimes that come before them are among the gravest, I believe that the Judges are trying to establish some kind of system so that those who are the most responsible for committing widespread or systematic crimes across a region, municipality, or a camp, receive the highest sentences.

**Refik Hodžić:**

Next question: “How does the Tribunal explain sentencing an accused to 45 years in prison and then releasing him after a couple of years as an innocent man. How is such a mistake in the Tribunal possible?”

**Hans Holthuis:**

When the Tribunal’s Judges convict and sentence an accused, he is transferred to serve his sentence in a third country with which the Tribunal has concluded an agreement. The accused serves his sentence according to the law of that particular country. Virtually all national legal systems, including that in Bosnia and Herzegovina, have a system that permits an accused to be released under certain circumstances after having

served two thirds of his sentence. This does not mean that the accused is being acquitted. Rather, the national authorities where the convict is serving his sentence are applying their law. It should be noted that before they release an ICTY convict, they must consult the Tribunal.

**Matias Hellman:**

I believe that the question may be referring to the case of Tihomir Blaškić. Blaškić was sentenced to 45 years in prison, and his sentence was drastically reduced to nine years on appeal, after the Appeals Chamber overturned convictions against him on several counts. He served eight of the nine years to which he was sentenced, and was, therefore, released. However, this does not change the fact that he is a convicted war criminal. Great turnabouts can sometimes take place during appeal proceedings, since it is the role of the Appeals Chamber to take into account new evidence which was not available during the Trial, as was the case with Tihomir Blaškić. Sometimes new evidence becomes available as a result of the fact that States, which had previously not cooperated with the ICTY had a change of heart.

**Refik Hodžić:**

There are a couple of questions that deal with persons who were also involved in crimes and who have not been indicted and tried. One such question is as follows: "In 1992, my entire family was executed: my wife, two children, mother and other members of my immediate family, thirty-three in all, including seventeen children from one and a half to 13 years old, and sixteen women from 27 to 75. I acquainted all the relevant institutions with this fact and although I know the perpetrators by name, they have not been brought to justice, nor have the bodies of my family members been found, although we know who buried them. What can one do to have the perpetrators brought to justice for their crimes? How it is possible to get these persons to show me where the graves are so that the bodies can be exhumed?"

A second question relating to individuals suspected of crimes who have not been indicted is as follows: "Three members of the Crisis Staff and National Defence Council of the Prijedor municipality were charged by the Tribunal. What about other members of the Crisis Staff, such as army officers, Vladimir Arsić and Radmilo Zeljaja, as well as Simo Mišković, Ranko Travar, Slavko Budimir and Mile Mutić. Why have they not been tried by the Tribunal? Who will prosecute them and when?"

A third question: "Why was Simo Drljača's driver, Vokić, not indicted when we know that he was at the head of the column of 125 men who were taken away and are still missing today?"

Next question: "From the presentation given by Mr Reid - and we know this also from detainees - interrogations in Prijedor camps were conducted by inspectors employed in the military and state and public security services. They often gave orders to treat detainees cruelly and to torture them. None of them, so far, have been held liable before the Tribunal. Will the Tribunal transfer the material it has on these interrogators to the State Court of Bosnia and Herzegovina?"

Final question from this group: "Darko Mrđa is the only person charged with the crime committed at Korićanske Stijene. To whom and when will the Tribunal forward the evidence on other members of the Intervention squad of the Prijedor police? When will they be tried? Darko Mrđa confesses to his crimes, but after that the bodies of majority of victims have not been found. What is then the point of his confession?"

**Bob Reid:**

Although the Tribunal has finished with its investigations and will not issue indictments against any other person, this does not mean that other persons cannot be indicted by other judicial bodies. Indeed, the Tribunal's OTP is working on transferring certain investigations to judicial authorities in the region. These are cases that the OTP thoroughly investigated, but for which we could not issue indictments because the suspects were not sufficiently high-level. We call these Category Two cases. Prijedor is one of the municipalities where the OTP conducted extensive investigations. We know who the interrogators were at the Omarska and Keraterm camps, who else was involved in the massacre on Mount Vlašić, and who were the members of the Crisis Staff in this municipality, as well as in others. The OTP will probably refer these cases to the State Court in Sarajevo at some stage.

The Tribunal also has what we call Category Three cases, which are those relating to anyone who has ever been named in a witness statement. These cases number thousands of people. As with Second World War, war crimes cases, which sixty years later are still being tried, we can expect war crimes cases in the former Yugoslavia to be tried for many years to come. The Tribunal is assisting prosecutorial bodies in the entire region to ensure that such cases succeed.

The Tribunal is an ad hoc international body, which was set up to investigate those who are most responsible for committing tragic crimes such as the murder of a man's entire family, and the Tribunal has a limited life. I understand that to this man, the biggest fish in the world is the person who killed his loved ones. Unfortunately, we cannot prosecute every single individual who committed a crime, as much as we who work for the OTP may want to. We do hope that crimes such as this will get investigated by judicial authorities at the local level. Also, a private citizen can make a complaint to the Prosecutors in Prijedor, or those at the State Court in Bosnia and Herzegovina.

**Refik Hodžić:**

I will add a comment in my capacity as an employee with the State Court of Bosnia and Herzegovina War Crimes Chamber. We should all try not to have overly high expectations of the State Court of Bosnia and Herzegovina, as we did of the Tribunal. When the Tribunal was established, all eyes turned towards it for justice. When it turned out that it would only be able to deal with a limited number of cases, people found their expectations disappointed. Like the Tribunal, the State Court of Bosnia and Herzegovina will also not be able to deal with all the war crimes cases that have yet to be investigated and tried. It is beyond the capacity of any single court to try all cases of war crimes when their number is as great as those committed in the wars in the former Yugoslavia. Other courts must also do their share of the work. The District Court in Banja Luka has territorial authority over Prijedor. The State Court of Bosnia and Herzegovina may refer some cases for trial to Banja Luka, which has the advantage that trials will take place close to where the crimes were committed. However, what is important to note is that the Court of BiH and the BiH OTP have capacities that are up to the standards of any judiciary in Europe or rest of the world. It is very important that such conditions and mechanisms are also made available to cantonal and district courts. Otherwise, there will be a great disproportion between the two.

The next two questions are mutually related. First: "Did you establish that Bosniaks attacked Prijedor, and that general chaos in the Prijedor municipality followed?" Second: "In your investigations did you establish that the crimes committed in the territory of Prijedor were triggered when Bosniaks murdered Serb civilians? These murderers are still at large. They have not been punished, nor has there been an investigation into this."

**Bob Reid:**

The evidence that we gathered does not support the claims of these two questions that the Muslims or the Croats started the conflict here in Prijedor. What our investigation showed was that the Serbian Democratic Party (SDS) had a definite plan to take control of all municipalities that were dominated by the Muslims, Croats or non-Serbs as early as September 1991. The SDS had two plans for how they would do this, known as Variant A and Variant B. The plans emanated from Pale and went to each of the SDS headquarters and their main boards. We know that a copy was received here in Prijedor because we found one in the Municipal Assembly in December 1997. We also know that prior to the Bosnian Serb takeover of Prijedor on the night of 29 May 1992, a parallel structure was put in place that included a Municipal Assembly with Milomir Stakić at its head. Also, buses appeared at certain times and places to round people up and take them to camps. This does not just happen overnight. All this indicates that the Bosnian Serb takeover of the Prijedor municipality was well planned.

---

*What our investigation showed was that the Serbian Democratic Party (SDS) had a definite plan to take control of all municipalities that were dominated by the Muslims, Croats or non-Serbs as early as September 1991.*

---

We have information in relation to a number of killings of Serbs in and around the municipality. The two main areas that we looked at were the Hambarine checkpoint and events on 30 May when a number of Bosnian Muslims and Bosnian Croats came into Prijedor town and attempted to take it back. After a number of hours and a short fire-fight, Prijedor again came under the control of the Bosnian Serbs.

In summary, there were killings of Serbs and some crimes committed against them. Evidence on these crimes should be taken to prosecutors at the State Court in Sarajevo or the District Prosecutor in Banja Luka.

**Ann Sutherland:**

The Tribunal also has documentary evidence that shows that from about 3 May 1992 the Bosnian Serb army (which at that point was not called the Army of Republika Srpska, it changed into that later in May) was sending tanks to the Prijedor area. The document reads that tanks are being “put into position.” On 3 May, Prijedor was a peaceful municipality, so one has to pose the question of why tanks were being put into position.

**Refik Hodžić:**

The next two questions deal with the roles of people who did not directly participate in committing crimes, but who were in some way a part of the system in which they were committed: First: “Journalists of daily newspaper Kozarski Vjesnik and TV Prijedor who incited the Serb public to conflict, and who launched accusations against some prominent Muslims and Croats who were later killed, were never brought to account. Why?” Second: “Why in the course of its investigation and trials did the Tribunal not consider the responsibility of certain Prijedor doctors who issued death certificates for persons killed in camps, in which they wrote that the victims died of natural causes? Why were the medical staff who visited the Omarska and Keraterm camps not brought to account?”

**Bob Reid:**

This question again touches on the Tribunal’s inability to prosecute all those who may

be responsible for the commission of war crimes in some way. We are aware that propaganda was used as a weapon in the conflict in Bosnia and Herzegovina, and some have been indicted for incitement. We have medical records issued by doctors, we have tapes seized at the Radio Prijedor in 1997, and such materials will be looked at when cases are referred to local authorities for their investigations. Again, as much as we may want to, we are unable to prosecute everyone who may have participated in war crimes; our mandate requires us to focus on those who are at the highest level. We also have a great many victims to try to satisfy, and for this reason we have a great number of investigations outside of the Prijedor municipality as well.

As I said earlier, we've told what occurred in this municipality, not every individual story, not even a national jurisdiction can do that. But we believe that we have tried or are about to try persons who bear the greatest responsibility for some of the crimes that occurred in this municipality.

**Refik Hodžić:**

Next question: "Several untruths have been told today, among others, the statement that there was a census in Prijedor in 1992 and 1995. This is not correct. The last census took place in 1991." The second question, which has not been elaborated, reads: "Why do you take assumptions as facts?"

**Ann Sutherland:**

The documentation in relation to the 1995 population figures was taken from documents that were seized from the Security Services Center in Banja Luka. The documents lists population statistics in 1991 and 1995. It is correct that the 1995 figures are not technically a census.

**Bob Reid:**

In relation to the first questions, the 1995 population figures are fairly accurate and were accepted by the Trial Chamber. I can reject the allegation in the second question that the OTP accepts assumptions as facts. When we conduct our investigations, we always try to corroborate the evidence and information that we receive. Whether the evidence is a witness testimony or a document, we generally do not rely on one piece of evidence alone to issue an indictment, but corroborate it with other witness testimonies, documents or crime scene analysis. For example, we were able to find the etching on the wall of the Omarska camp that one of the witnesses referred to.

**Ann Sutherland:**

During the cross-examination of one witness the Defence asked how he could know that a certain event had taken place on the 18 June, as he did not have a watch or a calendar on him. He said that on the 16 June he had been given a biscuit and he said that was two days after he had eaten the biscuit and that was how he remembered it was the 18th.

---

*... when it comes to a crucial fact concerning the individual criminal responsibility of the accused, then the Trial Chamber makes sure that it has solid corroboration.*

---

**Katherine Gallagher:**

The standard of proof at trial is a high one. A Trial Chamber needs to be sure that a fact has been established beyond a reasonable doubt. The Trial Chamber requires the OTP to corroborate the facts for most allegations. There are instances where the Trial Chamber has relied on the testimony of one witness. However, when it comes to a crucial fact concerning the individual crim-

inal responsibility of the accused, then the Trial Chamber makes sure that it has solid corroboration. Also, keep in mind that the Defence cross-examined all the witnesses that the Prosecution called. In some cases up to five Defence attorneys in a trial will cross-examine one witness. Therefore, before the Trial Chamber comes to its conclusion that a fact has been established beyond a reasonable doubt, it has weighed the conflicting evidence, it has looked at the general context, and it has looked for discrepancies. It also looks for reasons why someone might make up a story. Only then does it come to its factual finding.

**Refik Hodžić:**

“Why did the Tribunal wait for the deaths of a number of individuals, such as Franjo Tuđman, Gojko Šušak, Mate Boban and Alija Izetbegović and only then conclude that they should have been prosecuted?”

**Bob Reid:**

An investigation can proceed only on the basis of the evidence that is available to us. A major problem that we encountered in our investigations of the Bosnian Muslim and Croat leaderships was the refusal of Serb authorities in Banja Luka to assist us. We approached the Banja Luka authorities in order to get access to Serb victims, and were told, “No you can’t meet with them”. It is only in recent years since we have had some cooperation with the Republika Srpska that we have been able to go forward with indictments against some of the major military figures in the Bosnian Muslim army, such as Enver Hadžihasanović and Amir Kubura, who are accused of crimes against Bosnian Serb and other victims. In relation to the Croatian leadership we also had problems accessing evidence since again we were not getting any cooperation from the Croatian authorities. However, recently the Croatian archives have been opened up to us, and we have been able to learn a lot more about the responsibility of Croatian leadership figures. The Tribunal is committed to investigating and trying the highest-level leadership figures who are responsible for war crimes. However, we cannot stop the biological clock - if someone dies we cannot indict them.

**Refik Hodžić:**

Several questions relate to the issue of genocide, one of which is particularly detailed and touching. In the introduction, this gentleman refers to the statement Prijedor Mayor Pavić made this morning, in which he stated that since none of the ICTY accused was convicted of genocide for crimes committed in the Prijedor municipality, it means that genocide did not occur here. Then he states: “On behalf of the local Prijedor communities of Čarakovo and Zecovi, I have to protest that none of you have addressed the issue of whether genocide was committed in the Prijedor municipality. We know, and you also have a large amount of information, that on 23 July 1992, 411 Bosniaks and nine Croats were killed in the community of Čarakovo, as registered so far, the whole place was destroyed and the rest of the population was displaced. The community of Zecovi suffered the most, with 50% of its population killed. This is probably the community with the largest number of women and children killed in the Prijedor municipality. Why are things moving so slowly when it comes to proving genocide? Is it possible that in the end, if none of the accused from the Prijedor area is convicted of genocide, that one day the final conclusion will be that, despite all the evidence, no genocide occurred here? I would also like to add that in Čarakovo 137 people have been found, identified and buried, whilst the remaining 300 are still missing.”

**Katherine Gallagher:**

I would like to make a couple of comments on the issue of genocide. The first one is that all of these trials, and I cannot emphasise this enough, are trials against individ-

uals, and they are based on a particular set of evidence. The Trial Chamber strives to make sure it comes out with the best conclusion, and of course we have the appeal process to make sure that it has. The Trial Chamber is restricted to dealing only with those legal and factual questions that come before it. Therefore, what a Trial Chamber finds in a particular case is only a part of the historical record of what happened in that place and time, it is not the whole historical record.

The second point I would like to make concerns the underlying acts of genocide. It is very difficult in a court of law to establish that an accused had the specific intent to commit genocide, that is, that he intended to destroy a group in whole or in part. However, many of the underlying acts - killing members of the group, causing serious bodily or mental harm based on ethnic, religious, racial or national grounds, deliberately inflicting conditions of life to bring about the physical destruction of a group in whole or in part - constitute very serious crimes, and the Tribunal's judgements for cases relating to Prijedor include many findings that these crimes occurred here. The fact that genocide has not been found does not make these crimes any less important. The crime of persecution has many of the same elements as genocide. The only missing element, that is a difficult one to prove, is the specific intent. The sentence for the crime of persecutions can be highest the Tribunal can hand down: Milomir Stakić was convicted of persecutions and received a life sentence at trial. His case is currently under appeal.

**Refik Hodžić:**

Question: "Do you have any information to the effect that there have been high-ranking political or military leaders among Bosnian Serbs, Muslims/Bosniaks or Croats who refused to carry out orders issued by their superiors to kill or commit crimes?"

72

**Katherine Gallagher:**

I have heard of some very brave people, who even if they could not stop crimes, tried to mitigate them. We have, for example, heard of people who pulled a friend out of line to save him from execution, or gave a friend food or warning. Many of the incidents where people tried to assist detainees occurred because of a personal relationship.

**Bob Reid:**

I can think of a couple of examples offhand. A particular witness, who was at the Trnopolje camp and who gave evidence in the trial against Duško Tadić, said that he was about to get on a bus to go to Mount Vlasić and one of the police officers told him to get off the bus because bad things are going to happen. He got off the bus and is alive today because of that advice from the police officer. Also, in Kosovo there was a Serb Major who refused to shell a village because it had civilians in it.

**Matias Hellman:**

We also know of people who resigned and did not suffer any adverse consequences for that, which proves that these people were able to choose whether they wanted to be part of the machinery that was committing these crimes.

**Refik Hodžić:**

We have a few questions dealing with the mitigating circumstances that were taken into account during sentencing of those who plea bargained: "Damir Došen and Dragan Kolundžija admitted to crimes committed in Keraterm. The two of them are free men today, whilst the bodies of my father and brother, victims of their crimes, have not been found yet. What do I have from their admission of guilt?" Second question: "Why does the Trial Chamber take into account mitigating circumstances for war crimes indictees who confess to terrible crimes that have been proven earlier in the proceedings?" Third

question: “Is it just that the Tribunal finds it a mitigating circumstance that an accused has a sick child, when the accused himself confessed to have participated in the killing of 200 persons?”

**Katherine Gallagher:**

One of the reasons why the Tribunal’s Trial Chambers consider guilty pleas in mitigation of an accused’s sentence has to do with our mission as an international criminal tribunal. Our mandate is broader than that of a normal court. By establishing the facts of what happened, the Tribunal hopes to contribute to creating a historical record and bringing peace and reconciliation to the region. I believe that the Trial Chambers hope that if an accused confesses to a particular crime, others from his ethnic group in the society at large will be more likely to believe him.

---

*... the Trial Chambers hope that if an accused confesses to a particular crime, others from his ethnic group in the society at large will be more likely to believe him.*

---

In relation to the second question, most Trial Chambers do not accept an accused’s family circumstances as a mitigating factor but some do.

**Refik Hodžić:**

“What about the crimes against Roma who are missing or killed? Only one group was found in Volari, where the victims, who were civilians, had to dig their own grave before being killed. The same is true for Kozaruša, where another group was killed, but there is no evidence of where the bodies were buried. Where are the bodies of the Roma from Kozarac and Kozaruša, where a whole settlement was razed to the ground?”

**Bob Reid:**

I am sorry I can not answer that question. We do not know where the bodies are. Again, this is another case that should be handled by local judicial authorities. It bears mentioning that local investigators and prosecutors should not wait for the Tribunal to transfer them case files and evidence. They can begin their own investigations based on information such as was provided in this question.

**Refik Hodžić:**

The next two questions provide an opportunity to clarify the question of war and war crimes. First: “Does it take two sides to make a war?” Second: “Do you know that this was, unfortunately, a conflict among three peoples? Please deal with all three sides!”

**Bob Reid:**

To be able to try some of the crimes under the Tribunal’s Statute, as the Prosecution we have to show that there was an armed conflict. To have an armed conflict, there have to be two sides. The Tribunal is certainly aware that all parties to the conflicts in the former Yugoslavia committed crimes, albeit the scale of the crimes may be different. The Tribunal has investigated crimes that all three sides committed and has issued indictments against many of the highest-level leaders thought to be responsible for crimes on all sides.

**Refik Hodžić:**

“The Tribunal withdrew indictments against some of the guards from the Keraterm camp. We heard here today that there is evidence against them. When will the cases against these individuals be referred to the local judiciary and in what form?”



**Ann Sutherland:**

The OTP has a team that is charged with handing over information and evidence related to investigations that it decides to transfer to the local judiciary. The indictments that the OTP withdrew in relation to Omarska and Keraterm, together with the evidence that supports them, are among those that will be transferred in the near future.

**Refik Hodžić:**

“Is it fair that when someone analysing the Tribunal’s work 100 years from now compares it with Nuremberg, he may come to a conclusion that Serbs committed more serious crimes than Germans during the Second World War, who are responsible for the deaths of tens of millions of people? When you take into consideration the number of Serb indictees compared to the number of Croats and Bosniaks, is it not clear that the Tribunal is on a witch-hunt against the Serbs, and covering up for crimes committed by Muslims and Croats?”

**Bob Reid:**

The point that we are trying to make here today, in accordance with the Tribunal’s mandate, is that individuals are responsible for committing crimes, not nations, ethnic groups or organizations. At Nuremberg, organizations such as the Nazi party could be declared illegal and mere membership in them could confer liability for war crimes. Under the Tribunal’s Statute, this is not possible. Therefore, simply being a member of the Serbian Democratic Party (SDS), or the Party of Democratic Action (SDA) or the Croatian Democratic Union (HDZ) does not automatically make one liable for crimes. The Tribunal has never said that Serbs committed crimes. It has said that citizen A, who has a first and last name, committed a war crime. The fact that the person is Serb, Muslim, Croat, or Kosovo Albanian is an identifying characteristic like religion, age, and date of birth. The Tribunal is not labelling the entire Serb nation as war criminals.

**Ann Sutherland:**

I would like to make a brief plea before we close today’s conference. I think it’s now untenable for anyone to dispute the reality of the crimes that were committed in and around Prijedor. As other trials are completed, further facts will be established regarding Prijedor and other areas. We are an ad hoc tribunal and we have to finish our work in the next few years, but you have your domestic courts, and it is very important that victims and witnesses support the State Court in Sarajevo and other courts in Bosnia and Herzegovina.

The other thing I would ask is if that anybody in this room knows someone who has information about the whereabouts of mass graves, please make that information available, anonymously if necessary. Victims and the families of victims need closure. Some graves will never be found, but let us hope the majority can be found soon.

## Closing Remarks

**Refik Hodžić:**

Before I give the floor to the Registrar for some closing remarks, let me first thank our hosts from the municipality of Prijedor, and the Helsinki Committee of Republika Srpska for organizing this event and thank to all of you who have participated in our conference today.

**Hans Holthuis:**

Ladies and gentlemen, I would like to commend you for the courage and the stamina you have shown today, and for posing so many very thorough questions. We tried to answer your questions as best we could.

As you have seen, the Tribunal has spent a tremendous amount of time and effort investigating and trying crimes committed in the Prijedor municipality and is continuing to do so. That is what we tried to convey to you today. It was tremendously rewarding and satisfying to prepare this event and it was a pleasure to be here and to exchange views on these delicate matters. I would like to thank all that made this event possible today, both in Bosnia and Herzegovina and back home in The Hague.

However, as has been said, this is an ad hoc tribunal which has an end date. We can absolutely assure you that when the Tribunal finishes its work, its contribution to justice in the former Yugoslavia will not end. The Tribunal will see to it that its archives are accessible to those who are taking on war crimes cases in the former Yugoslavia. I believe that your country can take over that task with the help of dedicated investigators, prosecutors and judges.

---

*The Tribunal will see to it that its archives are accessible to those who are taking on war crimes cases in the former Yugoslavia. I believe that your country can take over that task with the help of dedicated investigators, prosecutors and judges.*

---

**Mayor Marko Pavić:**

Ladies and gentlemen, allow me to thank the representatives of the Tribunal in my own name and on your behalf for presenting these facts to us today. It doesn't cross my mind or anybody's mind here to comment on the Tribunal's judgements and decisions, and I don't think this should ever be done if we want the rule of law. I personally have slight criticism concerning the fact that names were mentioned which are not subject of any of the Tribunal's indictments. I don't think a conference is the right place for that.

I would like to send a message to all the citizens of Prijedor that we should not turn a blind eye to the truth. All those responsible should be held accountable. All of us have the obligation to build a better life in Prijedor with the help of the international community. This is an obligation imposed on us by the offices we took and by the things that have proven bad in the past. Let us cherish what is good and positive in our relations and struggle for a better Prijedor in the future.

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