

THIRD AMENDED INDICTMENT

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CASE NO: IT-01-47-PT

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

**ENVER HADZIHASANOVIC
AMIR KUBURA**

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (hereafter: Statute of the Tribunal), charges:

ENVER HADZIHASANOVIC

and **AMIR KUBURA**

with **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**, as set forth below:

THE ACCUSED:

1. **Enver HADZIHASANOVIC**, son of Besim and Refija (née SARAJLIC), was born on 7 July 1950 in Zvornik, municipality of Zvornik, Republic of Bosnia and Herzegovina (hereafter: Bosnia and Herzegovina).
2. **Enver HADZIHASANOVIC** is a former professional military officer of the Yugoslav People's Army (hereafter: JNA). He graduated from the Belgrade Land Forces Military Academy in 1973 and was thereafter assigned to JNA posts in Tuzla and Sarajevo. With the rank of Captain First Class he attended the Staff Officer's College in Belgrade. After completion, he was promoted to the rank of Major and was assigned as the Commander of a Military Police battalion within the Military Police of the 7th Army. In 1988, **Enver HADZIHASANOVIC** was transferred to the post of Chief of Staff of the 49th Motorised Brigade. Subsequently, this brigade was transformed into a mechanised brigade and in late 1989, he was appointed as its commander. Whilst in this position, **Enver HADZIHASANOVIC** achieved the rank of Lieutenant Colonel.
3. In early April 1992, the JNA placed **Enver HADZIHASANOVIC** under house arrest in Sarajevo. On 8 April 1992, he managed to escape and subsequently deserted from the JNA. Immediately after leaving the JNA, **Enver HADZIHASANOVIC** joined the Territorial Defence (hereafter: TO) of Bosnia and Herzegovina. On 14 November 1992, **Enver HADZIHASANOVIC** was made the Commander of the 3rd Corps of the Army of Bosnia and Herzegovina (hereafter: ABiH). He retained this position until 1 November 1993, when he was promoted to Chief of the Supreme Command Staff of the ABiH. In December 1993,

Enver HADZIHASANOVIC was further promoted to the rank of Brigadier General. As such, he became a member of the Joint Command of the Army of the Federation of Bosnia and Herzegovina. In May 1997, **Enver HADZIHASANOVIC** achieved the rank of Division General. He was subsequently promoted to the rank of Major General. **Enver HADZIHASANOVIC** retired in April 2000.

4. **Amir KUBURA**, son of Nazif, was born on 4 March 1964 in Kakanj, municipality of Kakanj, Bosnia and Herzegovina.
5. **Amir KUBURA** is a former professional military officer of the JNA. After completion of training at the Academy for Ground Forces, he served for five years as an active military officer of the JNA in Dakovica. In 1992, **Amir KUBURA** left the JNA with the rank of Captain.
6. In 1992, **Amir KUBURA** joined the ABiH whilst it was being formed as the Deputy Commander of a detachment in Kakanj. Later on, he was assigned as the commander of an ABiH Mountain Battalion in the same area. On 11 December 1992, **Amir KUBURA** was posted as Assistant Chief of Staff for Operations and Instruction Matters of the ABiH 3rd Corps 7th Muslim Mountain Brigade. He became the ABiH 3rd Corps 7th Muslim Mountain Brigade Chief of Staff on 1 January 1993. From 1 April 1993 to 20 July 1993, **Amir KUBURA** acted as the substitute for Asim KORICIC, the then assigned ABiH 3rd Corps 7th Muslim Mountain Brigade Commander who was absent during this period. On 21 July 1993, he was appointed Commander of the ABiH 3rd Corps 7th Muslim Mountain Brigade. On 16 March 1994, holding the rank of Colonel, **Amir KUBURA** was made ABiH 1st Corps 1st Muslim Mountain Brigade Commander. He was named as the ABiH 4th Corps 443rd Brigade Commander on 16 December 1995. In June 1999, **Amir KUBURA** served in the Command of the ABiH 1st Corps.

GENERAL ALLEGATIONS:

7. All acts and omissions alleged in this indictment occurred between January 1993 and 16 March 1994 in the territory of Bosnia and Herzegovina.
8. At all times relevant to this indictment, an armed conflict existed in the territory of Bosnia and Herzegovina.
9. At all times relevant to this indictment, **Enver HADZIHASANOVIC** and **Amir KUBURA** were required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and the Additional Protocols thereto. Furthermore, **Enver HADZIHASANOVIC** and **Amir KUBURA** were responsible for ensuring that military units under their command and effective control respected and applied these rules of international law. Moreover, **Enver HADZIHASANOVIC** and **Amir KUBURA** were obliged by superior order to initiate proceedings for legal sanctions against individuals under their command and effective control who had violated the international law of war.
10. **Enver HADZIHASANOVIC** and **Amir KUBURA**, while holding the positions set out in the preceding paragraphs, are criminally responsible for the acts of their subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. A superior is responsible for the acts of his subordinate(s) if he knew or had reason to know that his subordinate(s) were about to

commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

BACKGROUND:

11. On 23 August 1992, the Presidency of Bosnia and Herzegovina issued an order on the adoption of the "Rules of the International Laws of War by the Armed Forces of Bosnia and Herzegovina". This order came into force on 5 September 1992. The order stipulated the following:
 - a. All unit commanders and individual members of the Armed Forces were responsible for putting the rules into practice;
 - b. Senior officers were to take steps prescribed in the rules against anyone who breached the laws;
 - c. All members of the Armed Forces were to undergo training in order to familiarise themselves with the rules;
 - d. The planning and preparation of military actions by the Armed Forces were to comply with the rules and laws.
12. On 1 August 1992, a law on service in the ABiH was introduced via Presidential Decree. Under the law, non-Bosnian citizens were allowed to join the ABiH and be promoted during times of war. On 14 April 1993, again by Presidential Decree, amendments were made to the law on Service in the ABiH allowing non-Bosnian citizens to be promoted to Superior Officer ranks during times of war.
13. On 18 August 1992, the President of the Presidency of Bosnia and Herzegovina made a "Decision on the Establishment of the ABiH Corps". The document outlines the division of Bosnia and Herzegovina into five military areas of responsibility known as Corps and defines the municipalities, which fall within each Corps. Based on this decision, the ABiH 3rd Corps with its Headquarters was established in Banja Luka - however Zenica was listed and used as temporary ABiH 3rd Corps Headquarters.
14. The following municipalities were listed under the ABiH 3rd Corps area of responsibility: Banja Luka, Bosanska Dubica, Bosanska Gradiska, Bugojno, Busovaca, Celinac, Donji Vakuf, Gornji Vakuf, Jajce, Kakanj, Kotor Varos, Kupres, Laktasi, Mrkonjic Grad, Novi Travnik, Prnjavor, Skender Vakuf, Srbac, Sipovo, Travnik, Vitez, Zavidovici, Zenica, and Zepce.
15. On 9 November 1992, the ABiH Chief of the General Staff issued an order for the creation of specific types of units within ABiH 3rd Corps allowing for the various TO units and headquarters to merge.
16. On 19 November 1992, the 7th Muslim Mountain Brigade was formed with its Brigade Headquarters located in Zenica. The 7th Muslim Mountain Brigade was created and used as an infantry manoeuvre unit, consisting of three battalions which were located in Travnik (1st Battalion), Zenica (2nd Battalion) and Kakanj (3rd Battalion).

17. The ABiH 3rd Corps 7th Muslim Mountain Brigade was an all-Muslim unit. Soldiers within this unit were required to strictly adhere to Islamic beliefs. Recruits had to swear an oath, which included that they would follow the example of a proper Muslim soldier as set out in the booklet titled "Instructions to the Muslim Fighter". The "Instructions to the Muslim Fighter" was initially published in 1993 and subsequently 20,000 copies were distributed within the ABiH 3rd Corps' area of responsibility. Further publications of the booklet were made in 1994. The booklet contains the following headings and commentary:
 - a. Subordination: "A Muslim fighter primarily takes orders from the supreme commander and only then from his superior officer".
 - b. War Booty: "... it is clear that a fifth of war booty shall fall to the State treasury and the other four-fifths belong to the soldiers. However, in situations where the soldiers receive pay and in which the State has assumed the obligation to care for the soldiers and their families ... all war booty shall be placed at the disposal of the State ... Because of this the most proper way for the State to dispose of war booty is through its army officers".
 - c. Prisoners of war: "... the killing of women, children and priests who do not participate at all in the war and who do not directly or indirectly assist the enemy, is forbidden ... Islam likewise forbids the torture and brutalisation of prisoners of war and the mutilation of enemy wounded and dead ... These are general rules which are binding for our soldiers. However, if the commanding officer assesses that the situation and the general interest demand a different course of action, then the soldiers are duty-bound to obey their commanding officer. For instance, if their officer or a higher commander assesses that in the interests of defence, the protection of his own people or higher goals it is best to set fire to certain buildings, crops or woods, then this is permitted ... It is also left to the military command's discretion to decide whether it is more useful or in the general interest to free, exchange or liquidate enemy prisoners of war".
18. Foreign Muslim fighters, who referred to themselves as "Mujahedin" or "Holy Warriors", began arriving in Bosnia and Herzegovina sometime during the middle of 1992. The "Mujahedin", who were principally from Islamic countries, were prepared to conduct a "Jihad" or "Holy War" in Bosnia and Herzegovina against the enemies of the Bosnian Muslims.
19. After its formation on 19 November 1992, the 7th Muslim Mountain Brigade incorporated and subordinated "Mujahedin" within its structure.
20. The "Mujahedin" were heavily involved in the 7th Muslim Mountain Brigade's combat activities and frequently spearheaded its operations.
21. On 13 August 1993, the Commander of the ABiH Supreme Command Staff ordered the establishment within the ABiH 3rd Corps area of responsibility of the "El Mujahed" unit comprised of foreign volunteers, with immediate effect, but not later than 31 August 1993. This unit was subordinated to **Enver HADZIHASANOVIC**, who ordered its subordination to units under his command for specific combat operations.

22. By order of **Enver HADZIHASANOVIC** on 8 March 1993, the following four OGs were created within ABiH 3rd Corps: OG "Lasva" with its Headquarters in Kakanj; OG "Zapad" with its Headquarters in Bugojno; OG "Bosna" with its Headquarters in Zavidovici and OG "Bosanska Krajina" with its Headquarters in Travnik.
23. With its formation, Mehmed ALAGIC was appointed as the commander of the OG "Bosanska Krajina".
24. On 8 March 1993, the 7th Muslim Mountain Brigade, the 17th Krajina Mountain Brigade, the 305th Mountain Brigade Jajce, the 27th Motorised Brigade and the Municipal Defence Headquarter Jajce with its units were placed under the command of the OG "Bosanska Krajina". On or around 16 April 1993, the 306th Mountain Brigade, the 308th Mountain Brigade, and the 312th Mountain Brigade were also attached to the OG "Bosanska Krajina". On or about 12 July 1993, the 7th Muslim Mountain Brigade was re-subordinated under immediate command of the ABiH 3rd Corps as it was prior to 8 March 1993.
25. At all times relevant to this indictment, the 301st Mountain Brigade Zenica, the 303rd Brigade Zenica, the 314th Mountain Brigade Zenica, the Municipal Defence Headquarters Zenica with its units and all staff units of the Corps were under the direct subordination of the ABiH 3rd Corps.

CHARGES:

26. In 1993 (and until 18 March 1994), the ABiH participated in an armed conflict with the Croatian Defence Council (hereafter: HVO) and the Army of the Republic of Croatia (hereafter: HV). In particular, in April 1993 and in early summer 1993, ABiH 3rd Corps units launched a series of heavy attacks against the HVO including, but not limited to, the municipalities of Bugojno, Busovaca, Kakanj, Maglaj, Novi Travnik, Travnik, Vares, Vitez, Zavidovici, Zenica and Zepce. The ABiH operations culminated in a massive attack between 7 and 13 June 1993 within, *inter alia*, the municipalities of Kakanj, Travnik and Zenica.
27. Within the municipalities listed in paragraph 26) ABiH 3rd Corps units attacked towns and villages mainly inhabited by Bosnian Croats. Predominately Bosnian Croat but also Bosnian Serb civilians, including women, children, the elderly, and the infirm, were subjected to wilful killings and serious injury. In the course of, or after the attacks, at least 200 Bosnian Croat and Bosnian Serb civilians were killed and many more were wounded or harmed while attempting to hide or escape. In several instances, ABiH forces killed HVO troops after their surrender.
28. Mainly Bosnian Croats, but also Bosnian Serbs, were unlawfully imprisoned and otherwise detained in ABiH detention facilities. Imprisoned and otherwise detained Bosnian Croats and Bosnian Serbs were killed and beaten, subjected to physical and/or psychological abuse, intimidation and inhuman treatment, including being confined in overcrowded and unsanitary conditions, and suffered inhumane deprivations of basic necessities, such as adequate food, water and clothing. They were provided little or no medical attention.
29. ABiH forces plundered and destroyed Bosnian Croat and Bosnian Serb property with no military justification. Mainly Bosnian Croat, but also Bosnian Serb dwellings and buildings, as well as civilian personal property and livestock, were destroyed or severely damaged. In

addition, Bosnian Croat buildings, sites and institutions dedicated to religion were targeted for destruction or otherwise damaged or violated.

30. The allegations contained in paragraphs 1) through 10) as well as the allegations in paragraphs 26) through 29) are re-alleged and incorporated in each charge.

INDIVIDUAL CRIMINAL RESPONSIBILITY:

Enver HADZIHASANOVIC:

31. At the time **Enver HADZIHASANOVIC** took over the command of the ABiH 3rd Corps, he was experienced in exercising command and effective control over military units. Furthermore, **Enver HADZIHASANOVIC** was specifically trained in military disciplinary procedures.
32. In following the common practice of the ABiH to use a variety of regulations and instructions of the former JNA, **Enver HADZIHASANOVIC** by virtue of his authority and duties as a commander, was, *inter alia*, responsible for the preparation of the corps for armed combat in the field, including the planning of the operations and other forms of combat actions, transmitting the decision to subordinated commands and controlling its implementation.
33. At all times relevant to the charges in this indictment, **Enver HADZIHASANOVIC**, by virtue of his position and authority as Corps commander, directly or through his Chief of Staff, his assistants, heads of branches, and other officers, commanded all units of the ABiH 3rd Corps and units that were operating within his command and effective control. These units include the units described in paragraphs 15) to 25). **Enver HADZIHASANOVIC** demonstrated or exercised both formal *de iure* and *de facto* power by his command and effective control in military matters in a manner consistent with the exercise of superior authority in a variety of ways, such as: issuing orders, instructions and directives to the units subordinated to ABiH 3rd Corps, ensuring the implementation of these orders, instructions and directives and bearing full responsibility for their completion, deploying troops, artillery and other units under his command and effective control and planning the preparation and implementation of military operations performed by these units. Furthermore, **Enver HADZIHASANOVIC** ensured that he had permanent and current information on all matters that happened on the ground, including minor incidents, communicating with the ABiH Supreme Command Staff on an almost daily basis. He was responsible for implementing the orders of the ABiH Supreme Command with respect to the organisational structures of the ABiH 3rd Corps. This included the formation of OGs, the subordination of units under OGs and the appointment and relief of military commanders. He exercised command and effective control over all military units subordinated to the ABiH 3rd Corps, including those operating detention facilities.
34. **Enver HADZIHASANOVIC** also exercised his power as a Corps commander by negotiating the exchange of prisoners of war and cease-fire agreements with the HVO, appointing ABiH 3rd Corps officers for the ABiH / HVO Joint Command and negotiating with UNPROFOR and ECMM officials.
35. At all times relevant to this indictment, **Enver HADZIHASANOVIC** exercised effective control over all his subordinates alleged to have committed crimes.

Amir KUBURA:

36. In following the common practice of the ABiH to use a variety of regulations and instructions of the former JNA, **Amir KUBURA**, by virtue of his authority and duties as a commander was, *inter alia*, responsible for the preparation of the units subordinated to his command for armed combat in the field, including the planning of the operations and other forms of combat actions, transmitting decisions to subordinated commands and controlling their implementation.
37. At all times relevant to the charges in this indictment, **Amir KUBURA**, by virtue of his position and authority described above, commanded all units of the ABiH 3rd Corps 7th Muslim Mountain Brigade. **Amir KUBURA** demonstrated and exercised both formal *de iure* and *de facto* power, by his control in military matters in a manner consistent with the exercise of superior authority in a variety of ways, including: issuing orders, instructions and directives to units subordinated to the ABiH 3rd Corps 7th Muslim Mountain Brigade; deploying troops under his command; planning the preparation and implementation of military operations performed by units under his command and effective control. He exercised command and effective control over all military units subordinated to the ABiH 3rd Corps 7th Muslim Mountain Brigade, including those operating detention facilities.
38. At all times relevant to this indictment, **Amir KUBURA** exercised effective control over all his subordinates alleged to have committed crimes.

COUNTS 1-2 (MURDER, CRUEL TREATMENT)

39. Several times during the course of their combat activities with the HVO and the HV in central Bosnia in 1993, ABiH 3rd Corps forces killed and seriously wounded surrendered HVO soldiers and/or Bosnian Croat and Bosnian Serb civilians. These killings by ABiH 3rd Corps forces after attacks on towns and villages include but are not limited to executions and massacres in the following villages:

- a. Dusina:

- (aa) The execution on 26 January 1993 of the Bosnian Serb civilian Vojislav STANISIC and the following five surrendered HVO soldiers after troops of the 7th Muslim Mountain Brigade, the 303rd Mountain Brigade, and the 17th Krajina Mountain Brigade had launched the attack on Dusina – Zenica Municipality: Niko KEGELJ, Stipo KEGELJ, Vinko KEGELJ, Pero LJUBICIC, and Augustin RADOS;

- (ab) The killing of the surrendered HVO soldier Zvonko RAJIC by Serif PATKOVIC, the then commander of the 2nd Battalion of the 7th Muslim Mountain Brigade, after the attack on Dusina – Zenica Municipality;

- b. Miletici:

The killing on 24 April 1993 of the following four surrendered HVO soldiers after

troops of both the 7th Muslim Mountain Brigade and the 306th Mountain Brigade had launched the attack on Miletici – Travnik Municipality: Franjo PAVLOVIC, Tihomir PAVLOVIC, Vlado PAVLOVIC, and Anto PETROVIC;

c. Maline / Bikosi:

The massacre on 8 June 1993 in Bikosi – Travnik Municipality of around 30 Bosnian Croat civilians and surrendered HVO soldiers after troops of both the 7th Muslim Mountain Brigade and the 306th Mountain Brigade had launched the attack on Maline – Travnik Municipality. Among the killed were the following persons: Anto BALTA, Ivo BALTA, Jozo BALTA, Luka BALTA, Nikica BALTA, Bojan BARAC, Davor BARAC, Goran BOBAS, Niko BOBAS, Slavko BOBAS, Sreco BOBAS, Pero BOBAS-PUPIC, Dalibor JANKOVIC, Stipo JANKOVIC, Slavko KRAMAR, Anto MATIC, Tihomir PESA, Ana PRANJES, Ljubomir PUSELJA, Predrag PUSELJA, Jakov TAVIC, Mijo TAVIC, Stipo TAVIC, and Ivo VOLIC. Seriously wounded were Berislav MARJANOVIC, Zdravko PRANJES, Darko PUSELJA, and Zeljko PUSELJA.

40. **Enver HADZIHASANOVIC** from about January 1993 to 31 October 1993 and **Amir KUBURA** from 1 April 1993 to March 1994 knew or had reason to know that ABiH forces under their command and effective control were about to commit such acts or had done so in the following villages on or about the dates indicated and they failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof:

Enver HADZIHASANOVIC:

Dusina (Zenica Municipality) 26 January 1993

Miletici (Travnik Municipality) 24 April 1993

Maline / Bikosi (Travnik Municipality) 8 June 1993

Amir KUBURA:

Miletici (Travnik Municipality) 24 April 1993

Maline / Bikosi (Travnik Municipality) 8 June 1993

By these omissions **Enver HADZIHASANOVIC** and **Amir KUBURA** committed:

Count 1: MURDER, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

Count 2: CRUEL TREATMENT, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

COUNTS 3-4
(MURDER, CRUEL TREATMENT)

41. **Enver HADZIHASANOVIC** from about January 1993 to 31 October 1993 and **Amir KUBURA** from 1 April 1993 to March 1994 knew or had reason to know that the following ABiH forces under their command and effective control were about to plan, prepare or execute the imprisonment, killing and cruel treatment of Bosnian Croats and Bosnian Serbs at the following locations, in the territory of Bosnia and Herzegovina, or had done so, and they failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof:

Enver HADZIHASANOVIC:

a. Zenica Municipality:

Zenica Music School, in the town of Zenica, staffed and operated by the ABiH 3rd Corps 7th Muslim Mountain Brigade, from about 26 January 1993 to 31 October 1993;

b. Travnik Municipality:

(ba) Town of Travnik:

Former JNA barracks, staffed and operated by the ABiH 3rd Corps OG "Bosanska Krajina" 17th Krajina Mountain Brigade, from about May 1993 to 31 October 1993;

(bb) Village of Mehurici:

- Mehurici Elementary School, staffed and operated by the ABiH 3rd Corps OG "Bosanska Krajina" 306th Mountain Brigade, from about 6 June 1993 to at least 24 June 1993;

- Blacksmith Shop, staffed and operated by the ABiH 3rd Corps OG "Bosanska Krajina" 306th Mountain Brigade, from about 6 June 1993 to at least 13 July 1993;

(bc) Village of Orasac:

Orasac Camp, staffed and operated by "Mujahedin" within the ABiH 3rd Corps OG "Bosanska Krajina", from about 15 October 1993 to 31 October 1993;

c. Kakanj Municipality:

Motel Sretno, staffed and operated by the ABiH 3rd Corps 7th Muslim Mountain Brigade 3rd Battalion, from about 15 May 1993 to at least 21 June 1993;

d. Bugojno Municipality:

(da) Gimnazija School Building from about 18 July 1993 to at least 13 October 1993;

(db) Convent Building from about 24 July 1993 to at least the beginning of August 1993;

(dc) Slavonija Furniture Salon from about 24 July 1993 to at least 18 August 1993;

(dd) FC Iskra Stadium from about 30 July 1993 to 31 October 1993;

(de) Vojin Paleksic Elementary School from about 31 July 1993 to at least September 1993;

(df) Bank of Bosnia and Herzegovina Building from about September 1993 to 31 October 1993.

The ABiH 3rd Corps camps and detention facilities in Bugojno were all staffed and operated by the ABiH 3rd Corps OG "Zapad" Military Police and soldiers of the ABiH 3rd Corps OG "Zapad" 307th Brigade.

Amir KUBURA:

a. Zenica Municipality:

Zenica Music School, in the town of Zenica, staffed and operated by the ABiH 3rd Corps 7th Muslim Mountain Brigade, from 1 April 1993 to at least January 1994;

b. Kakanj Municipality:

Motel Sretno, staffed and operated by the ABiH 3rd Corps 7th Muslim Mountain Brigade 3rd Battalion, from about 15 May 1993 to at least 21 June 1993.

42. Imprisoned and otherwise detained Bosnian Croats and Bosnian Serbs were subjected to regular physical and/or psychological abuse. The physical abuse included beatings inflicted by a wide variety of weaponry such as rifle butts, metal hooks, wooden sticks and handles, batons, truncheons, knuckle-dusters, wooden staves, boots and telephone cables, resulting in a wide variety of bodily injuries. Several detainees got their ribs, noses and limbs broken. In some instances, prisoners were beaten to death. Detainees were subjected to inhuman treatment, including being confined in overcrowded and unsanitary conditions and suffered from inhumane deprivations of basic necessities such as adequate food, water and clothing. They were provided little or no medical attention. The psychological abuse included threats of bodily injury and death, such as prisoners being forced to dig their "own graves" and the threat of amputation of limbs while detained:

a. In the Zenica Music School, soldiers of the ABiH 3rd Corps 7th Muslim Mountain Brigade, who were predominately both members of the Military Police and "Mujahedin" subordinated to the ABiH 3rd Corps 7th Muslim Mountain Brigade, abused prisoners by beating them with a wide variety of weaponry, such as rifle

butts, wooden sticks and handles, truncheons, knuckle-dusters, staves, boots and telephone cables, resulting in a wide variety of bodily injury. Members of the ABiH 3rd Corps 7th Muslim Mountain Brigade Military Police and "Mujahedin" subordinated to the ABiH 3rd Corps 7th Muslim Mountain Brigade forced prisoners to dig their "own graves". In general, food, hygiene and living conditions were poor.

- b. In the former JNA barracks in Travnik soldiers of the ABiH 3rd Corps OG "Bosanska Krajina" 17th Krajina Brigade beat detainees on a regular basis.
 - c. In the Mehurici Elementary School, members of the ABiH 3rd Corps 306th Mountain Brigade kicked prisoners while detained. During interrogation prisoners were beaten and threatened by members of the ABiH 3rd Corps 306th Mountain Brigade. The general food, hygiene and living conditions were poor.
 - d. In the Blacksmith Shop Mehurici soldiers of the ABiH 3rd Corps 306th Mountain Brigade crammed prisoners in a small room, around 3x3 metres in size. They took prisoners out for interrogation, threatened, kicked and beat them. The food, hygiene and living conditions were poor.
 - e. In the Orasac Camp, "Mujahedin" subordinated to the ABiH 3rd Corps OG "Bosanska Krajina" severely beat detainees with rifle butts. The "Mujahedin" broke the nose of one of the detainees, and several ribs of another. They regularly subjected detainees to threats of bodily injury and death.
 - f. In the Motel Sretno, ABiH 3rd Corps 7th Muslim Mountain Brigade 3rd Battalion soldiers physically abused detainees by beating them with batons, sticks, rifle butts, metal hooks, wooden staves and boots. They also forced them to beat each other. In addition, detainees were ordered to bang their heads against walls. Furthermore, ABiH 3rd Corps 7th Muslim Mountain Brigade 3rd Battalion soldiers threatened detainees with the amputation of their legs whilst detained at the facility.
 - g. In the detention facilities in Bugojno, members of the ABiH 3rd Corps OG "Zapad" Military Police and soldiers of the ABiH 3rd Corps OG "Zapad" 307th Brigade abused prisoners by beating them with a variety of weapons, namely truncheons, police batons, rifle butts, billiard sticks, wooden staves, plastic cables, and boots. They forced detainees to hit their heads against metal bars. The physical assaults resulted in prisoners losing consciousness and receiving broken legs. In a few instances, detainees got their teeth knocked out. On several occasions, detainees were forced to give blood. On a regular basis, ABiH 3rd Corps OG "Zapad" Military Police threatened to kill detainees. In addition, they subjected prisoners to overcrowded cells and highly unsanitary living conditions. The food conditions were very poor.
43. The killings of imprisoned and otherwise detained Bosnian Croats and Bosnian Serbs include, but are not limited to:
- a. The killing by beating to death of a Bosnian Croat detainee by Military Police Officers from the ABiH 3rd Corps OG "Bosanska Krajina" 17th Krajina Brigade in May 1993 in the former JNA barracks in Travnik – Travnik Municipality;

- b. The killing by beating to death of the imprisoned HVO soldier Jozo MARACIC by soldiers of the ABiH 3rd Corps 7th Muslim Mountain Brigade on 18 June 1993 in the Zenica Music School – Zenica Municipality;
- c. The killing by beating to death of the imprisoned HVO soldier Mladen HAVRANEK by members of the ABiH 3rd Corps OG "Zapad" Military Police on 5 August 1993 in the Slavonija Furniture Salon – Bugojno Municipality;
- d. The killing by beating to death of the imprisoned HVO soldier Mario ZRNO by members of the ABiH 3rd Corps OG "Zapad" Military Police in the beginning of August 1993 whilst taken out for forced labour from the Convent Building in Bugojno – Bugojno Municipality;
- e. The killing by ritual beheading of the Bosnian Serb detainee Dragan POPOVIC, a civilian, by "Mujahedin" subordinated to the ABiH 3rd Corps OG "Bosanska Krajina" on 20 October 1993 in the Orasac Camp – Travnik Municipality.

By these omissions **Enver HADZIHASANOVIC** and **Amir KUBURA** committed:

Count 3: MURDER, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1) (a) of the Geneva Conventions.

Count 4: CRUEL TREATMENT, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

COUNTS 5-6
(WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, NOT
JUSTIFIED BY MILITARY NECESSITY, PLUNDER OF PUBLIC OR PRIVATE
PROPERTY)

44. In the course of their combat activities with the HVO and the HV in central Bosnia in 1993, ABiH 3rd Corps forces either plundered or plundered and unlawfully destroyed Bosnian Croat and Bosnian Serb dwellings, buildings and civilian personal property. These incidents of plunder and unlawful and wanton destruction not justified by military necessity were committed by the units as detailed below and include, but are not limited to the following towns and villages, on or about the dates indicated:

Dusina (Zenica Municipality) January 1993

- 7th Muslim Mountain Brigade
- 303rd Mountain Brigade
- 17th Krajina Mountain Brigade

Miletici (Travnik Municipality) April 1993

- 7th Muslim Mountain Brigade

- 306th Mountain Brigade

Guca Gora (Travnik Municipality) June 1993

- 7th Muslim Mountain Brigade
- 306th Mountain Brigade
- 17th Krajina Mountain Brigade

Maline (Travnik Municipality) June 1993

- 7th Muslim Mountain Brigade
- 306th Mountain Brigade

Cukle (Travnik Municipality) June 1993

- 7th Muslim Mountain Brigade
- 306th Mountain Brigade

Susanj / Ovnak / Brajkovici /

Grahovcici (Zenica Municipality) June 1993

- 7th Muslim Mountain Brigade
- 306th Mountain Brigade
- 314th Mountain Brigade

Vares (Vares Municipality) November 1993

- 7th Muslim Mountain Brigade

45. **Enver HADZIHASANOVIC** from about January 1993 to 31 October 1993 and **Amir KUBURA** from 1 April 1993 to March 1994 knew or had reason to know that ABiH forces under their command and effective control were about to commit such acts or had done so in the following villages, on or about the dates indicated, and they failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof:

Enver HADZIHASANOVIC:

Dusina (Zenica Municipality) January 1993
 Miletici (Travnik Municipality) April 1993
 Guca Gora (Travnik Municipality) June 1993
 Maline (Travnik Municipality) June 1993
 Cukle (Travnik Municipality) June 1993
 Susanj / Ovnak / Brajkovici /
 Grahovcici (Zenica Municipality) June 1993

Amir KUBURA:

Miletici (Travnik Municipality) April 1993
Maline (Travnik Municipality) June 1993
Susanj / Ovnak / Brajkovici /
Grahovcici (Zenica Municipality) June 1993
Vares (Vares Municipality) November 1993

By these omissions **Enver HADZIHASANOVIC** and **Amir KUBURA** committed:

Count 5: WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, NOT JUSTIFIED BY MILITARY NECESSITY, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(b) and 7(3) of the Statute of the Tribunal.

Count 6: PLUNDER OF PUBLIC OR PRIVATE PROPERTY, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(e) and 7(3) of the Statute of the Tribunal.

COUNT 7
(DESTRUCTION OR WILFUL DAMAGE OF INSTITUTIONS DEDICATED TO RELIGION)

46. **Enver HADZIHASANOVIC** from about June 1993 to 31 October 1993 knew or had reason to know that ABiH forces under his command and effective control, as detailed below, were about to plan, prepare or execute the destruction or wilful damage of Bosnian Croat institutions dedicated to religion in the following towns and villages, on or about the dates indicated, or had done so and failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof:

Guca Gora (Travnik Municipality) June 1993

- 7th Muslim Mountain Brigade
- 306th Mountain Brigade
- 17th Krajina Mountain Brigade

Travnik (Travnik Municipality) June 1993

- "Mujahedin" subordinated to
 - ABiH 3rd Corps and/or
 - 17th Krajina Mountain Brigade

By these omissions, **Enver HADZIHASANOVIC** committed:

Count 7: DESTRUCTION OR WILFUL DAMAGE DONE TO INSTITUTIONS DEDICATED TO RELIGION, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(d) and 7(3) of the Statute of the Tribunal.

Dated this 26th day of September 2003
At The Hague
The Netherlands

Carla Del Ponte
Prosecutor

THIRD AMENDED INDICTMENT

ANNEX

ADDITIONAL POLITICAL AND HISTORICAL FACTS

1. The events alleged in this indictment took place against the background of the break-up of the former Socialist Federal Republic of Yugoslavia (hereafter: SFRY).
2. The Republic of Croatia (hereafter: Croatia) declared its independence on 25 June 1991, the implementation of which was suspended until 8 October 1991. The European Community recognised Croatia on 15 January 1992, followed by its admittance to the United Nations as a member State on 22 May 1992.
3. Following the referendum on the issue of secession of 29 February 1992, Bosnia and Herzegovina sought international recognition. It was recognised by the European Community on 6 April 1992 and by Croatia on 7 April 1992. On 22 May 1992, the United Nations admitted Bosnia and Herzegovina as a member State.
4. With the disintegration of the SFRY, a cadre staff consisting of former JNA officers began to prepare for the defence of Bosnia and Herzegovina. On 8 April 1992, the Presidency of Bosnia and Herzegovina abolished the SFRY TO and established a new TO Staff of Bosnia and Herzegovina. On 15 April 1992, the new TO Staff ordered the creation of the Main TO Headquarters, which acquired full command over existing units and essentially became the Headquarters of the Army. On 20 May 1992, the Presidency of Bosnia and Herzegovina passed the Decree on the Armed Forces of Bosnia and Herzegovina, which formally established the ABiH.
5. The Croatian Community of Herzeg-Bosna (hereafter: HZ H-B) proclaimed its existence on 18 November 1991, and claimed to be a separate or distinct "political, cultural, economic and territorial whole" in the territory of Bosnia and Herzegovina. Its purposes included, *inter alia*, the establishment of closer ties with Croatia as evidenced by the HZ H-B's use of Croatian currency and the Croatian language. These aspirations were supported by Croatia, which granted Croatian citizenship to Bosnian Croats.
6. The Constitutional Court of Bosnia and Herzegovina declared the HZ H-B illegal on 14 September 1992. Neither the self-proclaimed HZ H-B, nor the later, on 28 August 1993, self-proclaimed Croatian Republic of Herzeg-Bosna (hereafter: HR H-B) were ever internationally recognised.

7. On 24 October 1991, a Bosnian Serb Assembly was founded as the highest representative and legislative organ of Serbs in Bosnia and Herzegovina. On 9 January 1992, the Bosnian Serb Assembly proclaimed the "Serbian Republic of Bosnia and Herzegovina". The territory of that republic was declared to include "the territories of the Serbian Autonomous Regions and Districts and of other Serbian entities in Bosnia and Herzegovina, including the regions in which the Serbian people remained in the minority due to the genocide conducted against it in World War Two" and it was declared to be part of the Yugoslav federal state.
8. From late March 1992, Bosnian Serb forces began to seize physical control of the municipalities that had been declared part of the Serbian State.
9. On 12 May 1992, the Bosnian Serb Assembly voted to create the Army of the Serbian Republic of Bosnia and Herzegovina (hereafter: VRS), effectively transforming the JNA units remaining in Bosnia and Herzegovina into commands of the new army. The JNA, which had been re-named the Yugoslav Army during the SFRY's reconstitution as the Federal Republic of Yugoslavia in April 1992, continued to have strong links with the VRS. It provided critical combat, financial and logistical support to military operations carried out by the VRS against the non-Serb population in Bosnia and Herzegovina.
10. In January 1993, after peace talks in Geneva on 2 January 1993 and from 23 to 30 January 1993, the so-called Vance-Owen Peace Plan was put forward. The Vance-Owen Peace Plan involved the establishment of 10 Cantons in Bosnia and Herzegovina, each containing a provincial government headed by the representatives of the ethnic majority in the Canton. Central Bosnia would form Canton 10 and would include the municipalities of Travnik, Novi Travnik, Vitez, Busovaca, Fojnica, Gornji Vakuf and part of Kiseljak. The Bosnian Croats would be in the majority in Canton 10.
11. On 18 March 1994, the Washington Agreement was signed by the President of the Presidency of Bosnia and Herzegovina and the President of Croatia, ending the armed conflict between the ABiH and the HVO and HV. The Muslim-Croat Federation of Bosnia and Herzegovina was founded.