

**UNITED NATIONS**

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

Case No. **IT-98-32/1-PT**  
Date: **14 March 2008**

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**IN THE TRIAL CHAMBER**

**Before:** **Judge Patrick Robinson, Presiding**  
**Judge Krister Thelin**  
**Judge Frank Höpfel**

**Registrar:** **Mr. Hans Holthuis**

**THE PROSECUTOR**

**v.**

**MILAN LUKIĆ &  
SREDOJE LUKIĆ**

***PUBLIC WITH CONFIDENTIAL ANNEX C***

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**PROSECUTION'S PRE-TRIAL BRIEF**

**PURSUANT TO RULE 65 TER (E) (I)**

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**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**CASE No. IT-98-32/1-PT**

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v.  
MILAN LUKIĆ &  
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**PROSECUTION'S PRE-TRIAL BRIEF**

**PURSUANT TO RULE 65 TER (E) (I)**

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1. Pursuant to Rule 65ter of the Rules of Procedure and Evidence, the Prosecution submits this Pre-Trial Brief with Annexes A and B, and confidential Annex C.

2. The Accused, Milan LUKIĆ and Sredoje LUKIĆ, are charged with crimes they committed in connection with the Bosnian conflict beginning in the spring of 1992 in violation of Articles 3 and 5 of the Statute. The charges against the Accused Milan LUKIĆ are based on evidence that he committed, individually or in concert with others, the following criminal acts: (1) the persecution of Bosnian Muslims and other non-Serb civilians by the acts of cruel and inhumane treatment, unlawful detention and confinement, harassment, humiliation, terrorisation and psychological abuse and by the theft of personal property and destruction of houses of Bosnian Muslim and other non-Serb civilians; (2) the murder of 5 Bosnian Muslim civilians on the bank of the Drina River on 7 June 1992; (3) the murder of 7 Bosnian Muslim civilians at the bank of the river near the Varda Factory on 10 June 1992; (4) the burning to death of approximately 70 Bosnian Muslim civilians on 14 June 1992 by barricading them in a house on Pionirska Street and setting it on fire; (5) the burning to death of approximately 70 Bosnian Muslim civilians on 27 June 1992 by

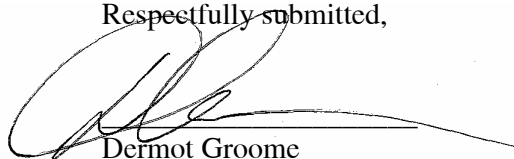
barricading them in a house in Bikavac and setting it on fire; (6) the murder of Hajira Korić, a Bosnian Muslim women sometime in June 1992; (7) cruel and inhumane treatment of Bosnian Muslim civilians at the Uzamnica barracks detention camp.

3. Of these incidents, the co-Accused Sredoje LUKIĆ is charged with *Persecutions*, the *Pionirska Street Fire* and *Bikavac Fire*, and the cruel and inhumane treatment of Bosnian Muslim civilians at the *Uzamnica Detention Camp*.

4. Appended to this Pre-Trial Brief are Annexes A (a photograph of Višegrad), Annex B (a map of the Višegrad municipality), and a confidential Annex C (a conversion chart of exhibits and transcripts from the Vasiljević case as they correlate to the Prosecution's 65<sup>th</sup> exhibit list in the LUKIĆ case).

Word count: 14,099

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dermot Groome', written over a horizontal line.

Dermot Groome  
Senior Trial Attorney

Dated this 14<sup>th</sup> day of March 2008  
At The Hague, The Netherlands

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## BACKGROUND

5. Višegrad is a small town in a municipality of the same name in south-east Bosnia and Herzegovina (hereinafter “Bosnia”) on the Drina River close to the Serbian border.<sup>1</sup> Since the 1995 Dayton Peace Accords, Višegrad has formed part of the *Republika Srpska*.<sup>2</sup> Višegrad was strategically important in the Serb conquest to create an autonomous Serbian region in Bosnia. Just south of Višegrad was an important hydro-electric dam. This dam provided essential electricity and regulated the water level of the Drina River. Višegrad also lay on an important transportation route between Sarajevo and Belgrade making it a vital link.

6. During the course of the conflict nearly the entire Muslim population of Višegrad was either killed, disappeared, or forcibly expelled. The number of missing from Višegrad was greater than in any of the other municipalities in south-eastern Bosnia in 1992.<sup>3</sup> The disappearances from Višegrad coincided with the disappearance of Muslims from adjacent Bosnian municipalities in a widespread campaign to permanently and forcibly remove the non-Serb population of areas under the control of the Bosnian Serb Army, including Višegrad.<sup>4</sup>

### *The Take-Over of Višegrad Municipality*

7. On 31 March 1992, the Deputy Minister of the Interior of the “Serb Republic” of Bosnia unilaterally dissolved the Public Security Stations. On 4 April 1992, shortly the Muslim holiday of Bajram which concludes Ramadan, Serbs proposed to divide the police along ethnic lines.

8. Hostilities began with an infantry attack on Muslim workers of a stone quarry in Dobrun, on Bajram of 4 April 1992.<sup>5</sup> Based on the discovery of identification

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<sup>1</sup> See Exh P 149- Map of Višegrad/Drina River with highlighted points of interest. Please note that throughout this Pre-Trial Brief, where the Prosecution uses the term “Exh”, or where transcript references appear, they are in reference to the Exhibits and transcript of *Prosecutor v. Mitar Vasiljević*, Case No. IT-98-32-I. These transcripts and exhibits are the subject of pending 92ter and 92bis motions. Note also that a chart which converts the Vasiljević exhibits and transcripts to 65ter numbers for the LUKIĆ case is attached as confidential Annex C.

<sup>2</sup> Ewa Tabeau T769.

<sup>3</sup> Exh. P41.1, Exh. P41.2, *ibid* p19.

<sup>4</sup> Exh. P54.1 p21.

<sup>5</sup> Delayed disclosure witness. Please note that witnesses who have previously been granted protective measures in other trials are presumed to retain these measures and are referred to by pseudonym only; for some of these witnesses, the Prosecution will soon be applying for a variance of protective measures. Other witnesses for whom protective measures or delayed disclosure has been granted by the Pre-Trial Chamber have also been referred to by pseudonym in this brief, or by the words “Delayed Disclosure Witness.” In addition to these two categories, some witnesses have been referred to by a

cards, it was apparent that the White Eagles, a para-military group, were responsible for the initial attack.<sup>6</sup> Shelling and small arms fire on Muslim areas close to Višegrad began and continued.<sup>7</sup>

9. People who fled from Višegrad heard via TV and radio an announcement that it was safe for civilians to return to Višegrad and that the JNA would guarantee their safety and security.<sup>8</sup> On 14 April 1992, the Užice Corps established their headquarters in the Hotel Višegrad in the Centre of the town of Višegrad and positioned artillery on the hills surrounding the town.<sup>9</sup>

10. At the same time the JNA forcibly gathered approximately 4000 Muslim inhabitants into armed convoys and detained them in the football stadium in Višegrad, including all the remaining Muslims from the surrounding villages.<sup>10</sup> A thorough search of everybody, including children, was conducted. The civilians were then told which villages they were permitted to return to.<sup>11</sup> Some villagers who had fled returned to their villages, but continued to live in fear, targeted by discriminatory harassment and threats.<sup>12</sup>

11. While the Užice Corps was in charge of the town, Muslim houses were systematically searched for weapons.<sup>13</sup> Some JNA soldiers threatened the local Muslim villagers with death.<sup>14</sup> Many Muslims were required to report to the local police (SUP) and were interrogated and beaten and many disappeared altogether during that time period.<sup>15</sup> Lists of Muslims were kept at checkpoints those who the Serb police were interested in.<sup>16</sup>

### ***Withdrawal of the Užice Corps***

12. Beginning on 19 May 1992, the Užice Corps began its formal withdrawal from Bosnia, including Višegrad. They left the paramilitary units comprised of local Serbs

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proposed pseudonym as an expression of the Prosecution's intention to seek delayed disclosure and other protective measures for these witnesses as well. Related motions will follow this brief.

<sup>6</sup> VG-011, T351; See also Exh. P143, pp4-5; VG-005, *92bis* statement, p4.

<sup>7</sup> Delayed disclosure witness; VG-032, T210-211; Exh. P143, p6; VG-051, *92bis* statement, pp4 -5.

<sup>8</sup> VG-032, T211; See Exh. P143, p8.

<sup>9</sup> Exh P143, p7.

<sup>10</sup> Delayed disclosure witness.

<sup>11</sup> Delayed disclosure witness; Delayed disclosure witness.

<sup>12</sup> Delayed disclosure witness; VG-084, T1652; VG-038, T1342-1343; VG-032, T212; See Exh. P143, p2; Simeun Vasić, *92bis* statement, p2.

<sup>13</sup> Delayed disclosure witness; VG-079, T315; VG-011, T356.

<sup>14</sup> Delayed disclosure witness.

<sup>15</sup> VG-032, T213, 219 and 221; VG-079, T313-315.

<sup>16</sup> VG-079, T315.

and Serbs from the Republic of Serbia itself, with whom they had co-operated over the course of the take-over, in a position to exact terrible abuses upon the Muslim population of Višegrad. As time went on it became increasingly unsafe for Muslims, especially men, to report for work at their jobs.<sup>17</sup> Many of these people went into hiding in the woods or some select Muslim settlements to escape the growing danger.<sup>18</sup>

13. Milan LUKIĆ became the leader of the most notorious and feared of these paramilitary groups, the “White Eagles,” sometimes known as the “Avengers.” This paramilitary group was comprised of the non-Višegradian Serbs LUKIĆ brought with him from Serbia, and local ethnic Serb extremists.<sup>19</sup> Sredoje LUKIĆ, Milan’s cousin, was a member of this group and was observed on numerous occasions with Milan LUKIĆ.

14. During this reign of terror there were other trademarks in addition to the black flags. Most notable was a cherry red Volkswagen Passat that belonged to a grocery owner, named Behija ZUKIĆ. As will emerge from the evidence in this case, Milan LUKIĆ is alleged to have stolen this red Passat after killing Behija ZUKIĆ.<sup>20</sup> Throughout the evidence which will be adduced in this case, the Accused Milan LUKIĆ will be described driving the notorious red Passat in the context of the commission of the crimes alleged in the Revised Second Indictment.

15. When the Užice Corps entered Višegrad a number of checkpoints were set up on the roads in and out of the town. These checkpoints were taken over by paramilitaries and Serb policemen once the Užice Corps left, who checked the identity of Muslims against lists they had with them.<sup>21</sup> During this time, Bosnian Muslim civilian men were taken away from their homes, incarcerated and in some cases summarily executed.<sup>22</sup>

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<sup>17</sup> VG-079, T317-318.

<sup>18</sup> VG-087, T1086.

<sup>19</sup> VG-059, T656; VG-014, T420-421; VG-080, T725.

<sup>20</sup> VG-081, T1224; VG-115, T1012; See Exh. P143, p3; VG-032, T224-226. With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to call VG-032. Related disclosure to follow. The decision to add this witness -- and all other witnesses marked in this Brief as having been selected in the context of the preparation of this Pre-Trial Brief -- was taken after the original court imposed deadline of 15 October 2007 for disclosure pursuant to Rule 66(A)(ii).

<sup>21</sup> VG-014, T421.

<sup>22</sup> VG-080, T727-728.

### ***The crimes that were committed***

16. In the spring of 1992 attacks on Bosnian Muslim villages throughout Bosnia followed a strikingly similar pattern. The JNA was in many cases the initiating force when it moved into the villages, searching houses and confiscating all weapons, even hunting rifles for which the owners had valid permits. Villagers were instructed that they now had to obey newly formed Bosnian-Serb authorities. While Muslims were being disarmed many Serbs received automatic weapons in the widespread distribution of weapons.<sup>23</sup>

17. In Višegrad, as elsewhere, paramilitary forces comprised of local Bosnian Serb and Serbian men attacked these Bosnian Muslim villages with automatic rifles, grenades and hand held rocket launchers. They most often looted the houses, setting them on fire. Many Muslim civilian males 15 years and older were captured and taken away.<sup>24</sup> Other civilians, including children, were taken away and executed in these attacks; many of these along the Drina River.<sup>25</sup> As word spread about these attacks on Muslim communities many men began to hide in the dense forests surrounding the villages in order to avoid capture. In many places it became equally dangerous for women to remain in the villages and they too spent their nights in the woods only coming out during the day to tend the livestock and gather food.<sup>26</sup> Some villages such as JELACIĆ and HAMZICIĆ became places where displaced Muslims from Višegrad sought refuge. These villages were subjected to continuous shelling.<sup>27</sup> Even convoys transporting civilians came under constant attack and resulted in many casualties.<sup>28</sup>

18. The severity of the attack perpetrated upon the Muslim population of Višegrad is exemplified by the significant number of bodies recovered from exhumation sites in the area. The Drina was one of the predominant ways in which the perpetrators of the crimes disposed of their victim's bodies. The water level of the river would be purposefully manipulated from the dam upstream to allow people to be executed or dumped along the river's edge and then "flushed" away with a surge of water released from the dam.

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<sup>23</sup> Exh. P143, p7.

<sup>24</sup> Exh. P143, p4; VG-051, 92bis statement, p7.

<sup>25</sup> Exh. P143, p4; VG-051, 92bis statement, p7.

<sup>26</sup> VG-077, T690.

<sup>27</sup> VG-079, T327-328.

<sup>28</sup> Exh. P143, VG-051, 92bis statement, p8.



19. Between April and December 1992, dozens of bodies were carried down the Drina from Višegrad, many of these were pulled out of the Drina by Muslims hiding along the riverbank downstream.<sup>29</sup> Many of the bodies were severely mutilated, some were missing limbs and other body parts. In one case, a couple was nailed to a door, on one side a man and on the other side a woman.<sup>30</sup> Dr. Clark will confirm that the injuries on many of the bodies indicated that they had been killed with knives and blunt instruments.<sup>31</sup> Some of the recovered bodies showed evidence of severe beatings. In some cases, the victim's genitals had been mutilated.<sup>32</sup> The bodies of two young women were retrieved wrapped in brown blankets similar to those used at the Vilina Vlas hotel.<sup>33</sup>

20. The Commission for Tracing Missing Persons in co-operation with forensic teams from the ICTY Office of the Prosecutor have conducted exhumations in the municipality of Višegrad and the surrounding areas of Žepa, Barimo, Kurtalići, and Kalimanići (Paklenik).<sup>34</sup> These exhumations confirm and corroborate the accounts told by the eyewitnesses who survived the widespread attack on Višegrad's Bosnian Muslim civilian population.<sup>35</sup>

21. The infamous spa in Višegradaska Banja, called Vilina Vlas Hotel, was used by Milan LUKIĆ and his paramilitaries to detain and interrogate Bosnian Muslim civilian men as well as to rape and sexually enslave young Muslim women and girls.<sup>36</sup> In addition to the Hotel Vilina Vlas, the White Eagles also used the Fire Brigade Building and the Uzamnica military barracks to detain and mistreat Bosnian Muslim civilians.<sup>37</sup>

22. Witnesses will testify that Milan LUKIĆ and Sredoje LUKIĆ, acting in concert with other members of their paramilitary group, detained, mistreated, tortured and killed Bosnian Muslim civilians on persecutory grounds at these and other locations in Višegrad. Milan LUKIĆ and his paramilitaries, as part of their persecutory campaign carried out with the intent to permanently and forcibly remove

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<sup>29</sup> VG-021, T909-919.

<sup>30</sup> Ibid.

<sup>31</sup> VG-021, T923; Dr. John Clark, T1544; Exh P60 (Dr John Clark's report) p12.

<sup>32</sup> Mevsud POLJO, T621.

<sup>33</sup> VG-59, T663-664; Mevsud POLJO, T624-625 and 643-644.

<sup>34</sup> Amor MASOVIĆ, T937 and 951; Exh P140.1.

<sup>35</sup> MASOVIĆ, T937, 938 and 368; Exh P143, pp1-2.

<sup>36</sup> Exh. P143, pp3-4; Vasić, 92bis statement, p3; VG-051, 92bis statement, p8.

<sup>37</sup> VG-105, T1121-1122, VG-032, T227.

the non-Serb population of Višegrad, regularly searched and looted Muslim houses,<sup>38</sup> destroyed religious and cultural objects, and carried out other persecutory acts described in this Pre-Trial Brief.<sup>39</sup>

## APPLICABLE LAW

### *Modes of Criminal Responsibility*

23. For each Count in the Second Amended Indictment with which the Accused are charged, Milan LUKIĆ and Sredoje LUKIĆ are alleged, pursuant to Article 7(1) of the Statute, to have committed or otherwise aided and abetted in the commission of crimes set forth in Articles 3 and 5 of the Statute. By “committed”, the Prosecution means that Milan LUKIĆ and Sredoje LUKIĆ acted individually, and in concert with others, in carrying out the acts as alleged in the Second Amended Indictment.

### *Criminal Responsibility under Article 7(1) of the Statute*

24. Article 7(1) of the Statute states:

A person who ... committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for that crime.

25. The Trial Chamber may find an Accused guilty if it determines that he or she participated in a crime in any of the forms encompassed by Article 7(1), even if it differs from the theory under which the Prosecution frames its case.<sup>40</sup>

26. An Accused may be held responsible for his participation through commission or through aiding and abetting under Article 7(1) of the Statute. Article 7(1) attributes equal responsibility to anyone who knowingly and materially participates in the commission of a criminal act and there is no distinction in terms of legal culpability as between the direct perpetrator of the *actus reus* of a crime and a person who engaged in any of the various other modes of participation enumerated in Article 7(1).

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<sup>38</sup> VG-059, T661.

<sup>39</sup> VG-032, T255; Exh. P13; Exh. P143 Vasić, 92bis statement, p3.

<sup>40</sup> *Blaškić* judgment, para. 265.

27. In order for individual criminal responsibility to ensue, conduct must be coupled with intent. The Trial Chamber, in its judgment in *Prosecutor v Tadić*, concluded that a person could be found culpable for a criminal act if he or she “intentionally commits such a crime.”<sup>41</sup> An Accused is also culpable if he participates in an act with knowledge that it will contribute to the criminal act of the other participants.<sup>42</sup> The Prosecution submits that under Article 7(1), this knowledge requirement is satisfied where the Accused’s conduct is performed in the awareness of the substantial likelihood that a criminal result will occur as a consequence of his or her conduct.<sup>43</sup> In relation to each of the crimes charged, and in respect of all forms of criminal responsibility, the *mens rea* of the Accused need not be explicit, but may be properly inferred from all the circumstances.<sup>44</sup>

### ***Committing***

28. Article 7(1) of the Statute encompasses the principle that all those who contribute to the commission of a crime should be held individually liable. “Committing” covers physically perpetrating a crime or engendering a culpable omission in violation of criminal law,” whether alone and/or jointly with co-perpetrators.<sup>45</sup> Several perpetrators may “commit” the same crime if each individual fulfils the requisite elements of the substantive offence.<sup>46</sup> The principles enshrined in Article 7(1) thus reflect the basic understanding that individual criminal responsibility for the offences under the Statute is not limited to persons who directly commit the crimes in question.<sup>47</sup>

29. The Second Amended Indictment alleges, *inter alia*, that Milan LUKIĆ and Sredoje LUKIĆ are criminally responsible under Article 7(1) of the Statute for committing, either alone and/or in concert with others, the crimes charged.

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<sup>41</sup> *Prosecutor v. Tadić*, Judgment, 7 May 1997, Case No. IT-94-1-T (hereinafter “*Tadić* judgment”), at para. 688.

<sup>42</sup> *Prosecutor v. Delalić and Others*, Judgment, Case No. IT-96-21-T, 16 Nov.1998, para. 328 (hereinafter *Čelebići* Judgment); *Tadić* Judgment, paras. 675-676.

<sup>43</sup> *Prosecutor v. Tadić*, Judgment, IT-94-1-A, 15 July 1999 (hereinafter “*Tadić* Appeals Judgment”), para. 220.

<sup>44</sup> *Čelebići* Judgment, para. 328.

<sup>45</sup> *Krstić* TJ, para. 601; *Prosecutor v. Dragoljub Kunarac et al*, Judgment, Case Nos. IT-96-23-T & IT-96-23/1-T, 22 February 2001.

<sup>46</sup> *Kunarac* TJ, para. 390.

<sup>47</sup> *Čelebići* Judgment, para. 328; *Blaškić* Judgment, para. 286.

### ***Aiding and Abetting***

30. Aiding and abetting consists of practical assistance, encouragement, or moral support which has a substantial effect on the perpetration of the crime by another person. The forms of such support or encouragement are not limited, and the *actus reus* of aiding and abetting may include acts or omissions that are physically or temporally removed from the commission of the crime itself.<sup>48</sup> The standard of “substantial effect” does not require a showing that the crime would not have taken place but for the acts of the accused, and may even be satisfied, in appropriate circumstances, by the provision of moral support, as when a person in authority fails to intervene despite knowing that crimes are being committed.<sup>49</sup> Whether the effect is substantial depends on the totality of circumstances, and the *actus reus* of aiding and abetting may be evaluated according to actions taken before, during or after the principal crime has been committed.<sup>50</sup>

31. In terms of the *mens rea* requirement, the accused need not share the perpetrator’s intent, but must know, or be aware of the substantial likelihood that his acts assist or encourage the commission of the crime.<sup>51</sup> Furthermore, knowledge of the precise crime to be committed is not required; all that is necessary is that the aider and abettor give support or encouragement knowing, or being aware of the substantial likelihood, that one of a number of crimes will be committed by the principal or principals.<sup>52</sup>

32. The Second Amended Indictment alleges, *inter alia*, that Milan LUKIĆ and Sredoje LUKIĆ are criminally responsible under Article 7(1) of the Statute for aiding and abetting in the commission of crimes with which they are charged in Counts 1-21. Milan LUKIĆ and Sredoje LUKIĆ aided and abetted the perpetrators of those crimes by providing substantial assistance to them. Each of the Accused provided such support knowing or being aware of the substantial likelihood that the crimes would be committed by members of the local paramilitaries.

<sup>48</sup> *Blaskić* AJ, paras. 47-48; *Limaj* TJ, para. 510.

<sup>49</sup> *Blaskić* AJ, paras. 47-48; *Aleksovski* AJ, para. 162; *Limaj* TJ, para. 517.

<sup>50</sup> *Blaskić* AJ, para. 48; *Limaj* TJ, para. 517, *Blagojević & Jokic* TJ, para. 726.

<sup>51</sup> *Blaskić* AJ, para. 49; *Vasiljević* AJ, para. 102; *Aleksovski* AJ, para. 162.

<sup>52</sup> *Blaskić* AJ, para. 50; *Limaj* TJ, para. 518. Where, however, the crime requires specific intent, then the aider and abettor must have knowledge of the perpetrator’s specific intent. *Krstić* AJ, para. 140.

### ***Violations Of The Laws Or Customs Of War Under Article 3 Of The Statute***

33. Milan LUKIĆ and Sredoje LUKIĆ are charged in Counts 3, 5, 7 and 19 (Milan LUKIĆ only) and 10, 12, 15, 17 and 21 (both Accused), with violations of the laws or customs of war, punishable under Article 3 of the Statute as recognised by common Article 3 of the Four Geneva Conventions of 1949. In order to come within the purview of Article 3, a violation of the laws or customs of war must meet the requirements set forth in the *Tadić* Jurisdiction Decision.<sup>53</sup> The general requirements for violations of Article 3 are: (i) that there was an armed conflict; and (ii) there was nexus between the conduct and the armed conflict. There is an additional general requirement under common Article 3 that the victims were persons taking no part in hostilities.<sup>54</sup>

### **The Enumerated Offences under Article 3 of the Statute**

#### ***Murder under Article 3***

34. The *actus reus* requirements of the crime of murder are: (1) the victim is dead; and (2) the death of the victim resulted from an act or omission<sup>55</sup> of the accused (or of an individual for whose acts and omissions the accused bears criminal responsibility) and (3) this act or omission was committed with intent to kill or to inflict grievous bodily harm or serious injury, in the knowledge and with the acceptance that such act or omission was more likely than not to cause death.<sup>56</sup>

#### ***Cruel treatment under Article 3 (Counts 5 (Milan LUKIĆ only), 12, 17 and 21 (both Accused))***

35. Trial Chambers of the Tribunal have consistently recognised that the crimes of cruel treatment under Article 3 of the Statute, “inhumane treatment” under Article 2

<sup>53</sup> *Tadić* Jurisdiction Decision, paras. 94, 143.

<sup>54</sup> Article 3(1) common to the 1949 Geneva Conventions; *Tadić* Jurisdiction Decision, para. 69, *Kordić* AJ, para. 37; *Strugar* TJ, para.236; *Stakić* TJ, para. 581.

<sup>55</sup> Omissions as well as concrete acts can satisfy the *actus reus* element of murder. *Čelebići* TJ, para. 424. The *ICRC Commentary to the Fourth Geneva Convention* states that “wilful killing would appear to cover cases where death occurs through a fault of omission” p597. *Orić* TJ para 383; *Hadžihasanović* TJ para. 31.

<sup>56</sup> *Kvočka* AJ, para 261; *Čelebići* AJ, paras 422-423; *Brdanin* TJ, para. 381; *Orić* TJ para 346.

(b) of the Statute and “inhumane acts” under Article 5 (i) of the Statute share the same elements.<sup>57</sup>

36. The definition of cruel or inhumane acts or treatment is an “intentional act or omission [...] which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.”<sup>58</sup> The act or omission must be committed with the direct intent to commit cruel or inhumane acts or treatment, or the awareness that cruel treatment was the likely consequence of that act or omission (indirect intent).<sup>59</sup> Article 3, as discussed above, further requires that the victim be a person taking no active part in the hostilities.<sup>60</sup>

### ***Article 5 of the Statute***

37. Milan LUKIĆ and Sredoje LUKIĆ have been charged with Crimes Against Humanity pursuant to Article 5 in Counts 2, 4, 6, 18 (Milan LUKIĆ only) and counts 1, 8, 9, 11, 13, 14, 16, and 20 (both Accused) of the Second Amended Indictment. For the acts of an accused to amount to a Crime Against Humanity, the following elements must be present:

- a. there must be an attack;
- b. the acts of the perpetrator must be part of that attack;
- c. the attack must be directed against any civilian population;
- d. the attack must be widespread or systematic; and
- e. the perpetrator must know that his acts constitute part of a pattern of widespread or systematic crimes directed against a civilian population and know that his acts fit into such a pattern.<sup>61</sup>

38. To be considered a crime against humanity, the attack may be widespread or systematic. The term “widespread” refers to the large-scale nature of the attack and the number of targeted persons, while the term “systematic” refers to the organised nature of the acts of violence and the improbability of their random occurrence.<sup>62</sup>

<sup>57</sup> *Šimić* TJ para. 74; *Krnojelac* TJ para. 130; *Orić* TJ para 350.

<sup>58</sup> *Čelebići* AJ, para.424.

<sup>59</sup> *Limaj* TJ, para.231; *Strugar* TJ, para.261; *Orić* TJ, para.353.

<sup>60</sup> *Čelebići* AJ, para.424.

<sup>61</sup> *Kunarac* AJ, para. 85.

<sup>62</sup> *Blaškić* AJ, para 101.

Patterns of crimes, in the sense of the non-accidental repetition of similar criminal conduct on a regular basis, are a common expression of such systematic occurrence.<sup>63</sup>

## Elements of Specific Crimes under Article 5

### *Persecutions Under Article 5 (Count 1)*

39. In Count 1 of the Second Amended Indictment, Milan LUKIĆ and Sredoje LUKIĆ are charged with Persecutions as a Crime Against Humanity pursuant to Article 5(h) of the Statute.

40. The crime of Persecutions consists of an act or omission which:

Discriminates in fact and denies or infringes upon a fundamental human right laid down in international law (*actus reus*); and is carried out deliberately with the intention to discriminate on one of the listed grounds, specifically race, religion or politics (*mens rea*)

41. The *actus reus* of persecutory acts is broad and able to assume several different forms.<sup>64</sup> The *Tadić* Trial Chamber has held that the term “persecutory act” can include acts enumerated elsewhere in the Statute as well as acts not specifically enumerated therein.<sup>65</sup>

42. It is not required that each separate act or omissions should amount to a violation of international law. Acts which could constitute persecution have been found to include non-physical acts of an economic or judicial nature (such as promulgating discriminatory laws, restricting family life and rights of citizenship, creation of ghettos, plunder and imposition of a collective fine),<sup>66</sup> as well as physical acts (such as extermination, killings, beatings, torture, enslavement, imprisonment, and deportation).<sup>67</sup> The Appeals Chamber in *Krnjelac* held that, “discriminatory intent may be inferred from such a context as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent.”<sup>68</sup>

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<sup>63</sup> *Ibid.*

<sup>64</sup> *Blaškić* judgment, para. 218.

<sup>65</sup> *Tadić* judgment, para 715.

<sup>66</sup> *Tadić* judgment, paras. 704-710; *Kupreskić* judgment, paras. 610-613.

<sup>67</sup> *Kupreskić* judgment, para. 594, 601.

<sup>68</sup> *Krnjelac* AJ, para. 184.

***Murder Under Article 5: Counts 2, 6 and 18 (Milan LUKIĆ only) and Counts 9 and 14 (both Accused)***

43. The Prosecution submits that murder is a crime set forth both under Article 5(a), Article 2(a) and Article 3 of the Statute. The core elements of murder pursuant to Articles 3 (as a violation of the laws or customs of war) and Article 5 (as a crime against humanity) are the same, and have been set out above in the section on Article 3 violations.<sup>69</sup>

***Inhumane Acts under Article 5: Counts 4 (Milan LUKIĆ Only) and Counts 11, 16, 20 (both Accused)***

44. Trial Chambers of the Tribunal have consistently recognised that the crimes of cruel treatment under Article 3 of the Statute, “inhumane treatment” under Article 2 (b) of the Statute and “inhumane acts” under Article 5 (i) of the Statute share the same elements.<sup>70</sup> Those elements have been outlined above in the section on Cruel treatment as a violation of Article 3 of the Statute.

***Extermination Under Article 5: (Counts 8 and 13)***

45. The Accused are charged with the crime against humanity of extermination. The crime of extermination is killing on a mass scale,<sup>71</sup> and the elements of the crime are essentially based on the elements of murder. The *actus reus* is mass killing. The *Akayesu* Chamber stated that extermination is “a crime which by its very nature is directed against a group of individuals. Extermination differs from murder in that it requires an element of mass destruction not required for murder.”<sup>72</sup>

**THE DRINA RIVER KILLINGS ON 7 JUNE 1992 (Counts 1, 2 – 5, Milan LUKIĆ only)<sup>73</sup>**

<sup>69</sup> *Kordić* TJ, para. 236; *Čelebići* TJ, para. 422; *Krnojelac* TJ, para. 323; *Strugar* TJ, para. 236.

<sup>70</sup> *Simić* TJ para. 74; *Krnojelac* TJ para. 130; *Orić* TJ para 350.

<sup>71</sup> *Ntakirutimana* AJ, para. 516; *Ntakirutimana* TJ, para. 813; *Vasiljević* TJ, para. 232; *Krajišnik* TJ, para. 720-21.

<sup>72</sup> *Akayesu* Judgment, para. 591.

<sup>73</sup> The Prosecution notes here that it has not included in this Pre-Trial Brief any evidence whatsoever to counter the purported alibi defence of the Accused, in particular due to the fact that it is the Prosecution’s submission that the requirements of Rule 67 with regard to notice have not been fully met by the Accused. Motions are pending in this regard. The Prosecution will submit an addendum to this Pre-Trial brief responding to any alibi defence once it has been effectively pleaded by the Accused.



46. On the afternoon of 7 June 1992<sup>74</sup>, Milan LUKIĆ carrying a sniper rifle with a silencer along with two other individuals each carrying an automatic rifle forcibly detained seven Bosnian Muslim civilians and transported them to the eastern bank of the Drina River where the Accused and the three others shot all seven men, with the intent to kill them. The shooting resulted in the deaths of Meho DZAFIĆ, Ekrem Džafić, Hasan KUSTURA, Hasan MUTAPČIĆ and Amir KURTALIĆ<sup>75</sup> Two of the seven, pretending to be dead, escaped without injury<sup>76</sup> by falling into the water when fire was opened on them.<sup>77</sup> The Prosecution will prove through the evidence of the two survivors that the seven men were taken by Milan LUKIĆ and his accomplices to a house near the Bikavac Hotel in Višegrad.<sup>78</sup>

47. On 7 June 1992 one Bosnian Muslim civilian was hiding in Bikavac.<sup>79</sup> On this date, several armed men dressed in camouflage uniforms, including Milan LUKIĆ, detained him,<sup>80</sup> confiscated his identification papers and tore up a permit he had been given by the Serb police who had taken over the police command, authorising him to leave Višegrad.<sup>81</sup>

48. The two men were forcibly brought to a dead-end street on which the Bikavac hotel was located and detained in a house close to the hotel.<sup>82</sup> Milan LUKIĆ left for a time.<sup>83</sup> During this time Milan LUKIĆ went to one of the neighbouring streets in Bikavac and to the apartment of VG-014. VG-014 was captured when Milan LUKIĆ, accompanied by a man referred to as “Montenegro,” forced their way into his apartment, searched it and arrested him and another Bosnian Muslim civilian named Amir KURTALIĆ. The captured men were transported by Milan LUKIĆ in a red Volkswagen Passat (belonging to Behija ZUKIĆ<sup>84</sup>) back to where VG-032 and the other men were being held.<sup>85</sup> Amir KURTALIĆ remained in the red Passat as Milan LUKIĆ entered the house where the captives had remained guarded by his accomplices.

<sup>74</sup> VG-032 (T233); (T423); VG-079 (T321-322); Vasiljević (T2047, 2087), Vasiljevic TJ, para. 99.

<sup>75</sup> VG-032 (T279-284, 287); (T443), Vasiljevic TJ, para. 98.

<sup>76</sup> VG-032 (T282); (T441, 448). Vasiljevic TJ, para. 98; ERN 0058-4529-0058-4538, pp7 & 8, OTP Statement of VG-032, ERN 0064-1851-0064-1859, p5.

<sup>77</sup> VG-032 (T279-280, 283); (T440); Vasiljevic TJ, para. 98

<sup>78</sup> VG-032 (T230, 237-240, 242-245, 247-249); (T423-428) ; ERN 0058- 4529-0058-4538, pp5 & 6; VG-032, ERN 0064-1851-0064-1859, p4.

<sup>79</sup> VG-032 (T231).

<sup>80</sup> VG-032 (T237-238).

<sup>81</sup> VG-032 (T240).

<sup>82</sup> VG-032 (T242-243).

<sup>83</sup> VG-032 (T246).

<sup>84</sup> VG-014 (T428)

<sup>85</sup> T423-425 and 427-428.

49. Among the detainees were: Hasan MUTAPČIĆ and his 12-13 year old son, Ekrem DZAFIĆ and his father Meho DZAFIĆ, Hasan KUSTURA, Amir KURTALIĆ, and other men VG-32 did not know. In total more than ten men were detained in the house.<sup>86</sup> All of the men inside were gathered and made to stand in a circle on the ground floor. Milan LUKIĆ ordered the captives to remove their socks and demanded that they place all their personal documents, money and valuables in the middle of the room. He threatened to kill any one of them who tried to hide something from him. The detainees, terrified, complied. Milan LUKIĆ collected their money and placed it in his pocket and then kicked the identification documents behind the door with his foot. He then took Meho DZAFIĆ to his house close-by to get the keys to his son's car – an olive-green Yugo car.<sup>87</sup>

50. After returning, Milan LUKIĆ ordered seven of the men to go with him. The men were placed into the olive green Yugo and the red Volkswagen Passat.<sup>88</sup> Amir KURTALIĆ was already in the rear of the red Passat. Milan LUKIĆ directed Ekrem DZAFIĆ to drive the Yugo straight to “Banja”<sup>89</sup> and he himself drove the red Passat.<sup>90</sup> As they drove, the paramilitary in the rear seat of the Yugo held an automatic rifle to Ekrem DZAFIĆ's back. VG-032 recognised the gun from his military service. It was an automatic rifle that could be set to fire either single or multiple (“burst”) shots – it was set on “burst.”<sup>91</sup> The seven detainees were driven to the Vilina Vlas Hotel.<sup>92</sup> Vilina Vlas Hotel was the headquarters of Milan LUKIĆ's paramilitary group,<sup>93</sup> and was also used to detain Muslim civilians.<sup>94</sup>

51. Upon arrival, the seven men were taken into the reception area, where a member of Milan LUKIĆ's group was already present standing near the hotel counter.<sup>95</sup> Also in the hotel were Momir SAVIĆ who was wearing a military

<sup>86</sup> VG-032 T243, 246-247.

<sup>87</sup> VG-032 (T250-252)

<sup>88</sup> VG-032 (T253-254)

<sup>89</sup> “Višegradaska Banja” in abbreviation “Banja” is another name commonly used in Višegrad to refer to the Vilina Vlas Hotel. It is north-east of the town. One would get to it by travelling northerly on the road along the eastern or right bank of the Drina River and making a right turn at the Sase intersection. See VG-032 (T255) and *Mitar Vasiljević* (T2091)

<sup>90</sup> VG-032 (T254); OTP Statement of VG-032, ERN 0064-1851-0064-1859, p4.

<sup>91</sup> VG-032 (T256)

<sup>92</sup> VG-032 (T254-258, 268, 274, 286-287); (T429, 433, 436); VG-032, ERN 0064-1851-0064-1859, p4; ERN 0058-4529-0058-4538, p6; Exhibit P18.

<sup>93</sup> Final Report of UN Commission of Experts (SC Resolution 780 (1992), Annex III.A (27 May 1994), para. 540-556

<sup>94</sup> VG-59 (T663-666); VG-032 (T260); OTP Statement of VG-59, ERN 0095-5936-0095-5952, p5 & 6; UN Final Report (27 May 1994), paras 540-546

<sup>95</sup> VG-032 (T260); (T431, 445). VG-032 (T260-264, 266, 268); (T432).

camouflage uniform with a military hat and a certain ŠUŠNJAR wearing a SMB uniform.<sup>96</sup>

52. The seven Muslim civilian men stood in a semi-circle inside the lobby of the hotel,<sup>97</sup> guarded by one of Milan LUKIĆ's men at gunpoint.<sup>98</sup> Milan LUKIĆ tried unsuccessfully to search the area behind the reception desk for keys to a particular room.<sup>99</sup> Having failed, Milan LUKIĆ ordered the detainees back to the cars. The seven Muslim detainees, Milan LUKIĆ, and three other members of Milan LUKIĆ's group entered the two cars and drove away.<sup>100</sup>

53. A member of Milan LUKIĆ's group sat in the red Passat with Milan Lukić. In that car Milan LUKIĆ held the detainees Hasan MUPTAČIĆ, Amir KURTALIĆ and VG-014. The remaining detainees, Meho DZAFIĆ, Ekrem DZAFIĆ, Hasan KUSTURA, VG-032 and the other two accomplices of Milan LUKIĆ were transported in the green Yugo.<sup>101</sup> While in the car, the Muslim detainees travelling in the green Yugo were told by one of the paramilitaries, as they had been told before, that they would be taken to be exchanged.<sup>102</sup>

54. When they reached Sase, they did not continue towards Višegrad. Instead the cars carrying the seven Muslim detainees turned right towards Višegradska Župa and stopped approximately one kilometre<sup>103</sup> after the Sase intersection.<sup>104</sup>

55. The seven Muslim men were then forced to get out of the cars and ordered by the Accused Milan LUKIĆ to walk through a field in the direction of the bank of the Drina River, which was about 100 metres away<sup>105</sup> and threaten to be killed if they tried to escape.<sup>106</sup> On their way toward the river the seven detainees were guarded on both sides by Milan LUKIĆ, and the three other men.<sup>107</sup> When they reached the bank of the river, the seven Muslim men were lined up facing the river,<sup>108</sup> and Milan LUKIĆ and two of the other men lined up approximately five to six metres

<sup>96</sup> OTP Statement of VG-032, ERN 0064-1851-0064-1859, p4; OTP Statement of , ERN 0058-4529-0058-4538

<sup>97</sup> VG-032 (T268-270).

<sup>98</sup> VG-032 (T268-270); (T431).

<sup>99</sup> VG-014 (T431).

<sup>100</sup> VG-032 (T270-271); (T435).

<sup>101</sup> VG-014VG-014 (T435).

<sup>102</sup> VG-032 (T271-272).

<sup>103</sup> VG-032 (T273); (T436)

<sup>104</sup> Exh P19.1 (map of Drina River and area).

<sup>105</sup> Exh P19.1 and P133.

<sup>106</sup> VG-032 (T275, 277); (T436).

<sup>107</sup> VG-032 (T275); VG-014 (T436-437) ; *Vasiljević* (T1998-1999); VG-014VG-014 (T443-445); Exh P18.

<sup>108</sup> VG-032 (T277-278); (T437-439); VG-079 (T338).

behind the detainees.<sup>109</sup> They began to verbally abuse the men and cursed their “balija”<sup>110</sup> mothers. Milan LUKIĆ mockingly asked the men which of them could swim to which VG-032 responded that he could, and edged closer to the water.<sup>111</sup>

56. Milan LUKIĆ and the other armed men opened fire shooting at the seven Muslims.<sup>112</sup>

57. Meho DZAFIĆ was shot in the back of the head by Milan LUKIĆ’s gun. VG-032 who was only one person away from Meho DZAFIĆ intentionally dropped into the already blood-marked water at the edge of its bank also splattered with blood. As he fell he could hear gunshots and screams all around him.<sup>113</sup> At the same time VG-014 also dropped into the water, still alive. He said later, “It’s as if God Himself had saved me, as if someone had pushed me into that river, and it so happened that I survived.”<sup>114</sup>

58. VG-032 pretended to be dead and turned around to place his head above the water on a small shelf of sand at the river’s edge.<sup>115</sup> As he lay there he saw Hasan MUPTAČIĆ and his brother-in-law fatally wounded struggling to stay alive; MUPTAČIĆ tried desperately to climb back up the river’s bank.<sup>116</sup> VG-032 felt the weight of one of the victims as he fell on to VG-032’s back.<sup>117</sup> VG-014 also lay at the water’s edge pretending to be dead.<sup>118</sup>

59. Milan LUKIĆ and the other co-perpetrators walked closer to inspect their victims. VG-032 heard as one of them say “Here’s one who is alive,” after which they fired at the Muslim men lying in the water.<sup>119</sup> After hearing two gunshots, two blunt blows and a final shot, he heard the footsteps of the perpetrators as they walked away from the river.<sup>120</sup>

60. After some time VG-032 opened his eyes. Further down the bank he could see the bodies of the other victims, including his brother-in-law.<sup>121</sup> VG-032 and the other survivor VG-014 each realised that they had both escaped injury.<sup>122</sup> As they discussed

<sup>109</sup> (T437-439); VG-032 (T275, 293-295); VG-079 (T334).

<sup>110</sup> “Balija”: see footnote 26 above

<sup>111</sup> VG-032 (T277).

<sup>112</sup> VG-032 (T279-281); (T440-441); VG-079 (T325-326).

<sup>113</sup> VG-032 (T279 -280).

<sup>114</sup> VG-032 (T440).

<sup>115</sup> VG-032 (T280).

<sup>116</sup> VG-032 (T281).

<sup>117</sup> Ibid.

<sup>118</sup> (T440).

<sup>119</sup> VG-032 (T280 – 281); (T441); VG-079 (T326).

<sup>120</sup> VG-032 (T281).

<sup>121</sup> VG-032 (T282).

<sup>122</sup> VG-032 (T282); VG-014 (T443).

what they should do, VG-032 rolled to get out from under the victim who had fallen on his back. It was the body of Hasan MUPTAČIĆ, whose body had such a huge wound that the front right part of his body was totally destroyed.<sup>123</sup>

61. VG-032 and the other survivor VG-014 walked down the river bank, waited for night-fall and crossed the Drina River on a poplar log heading in the direction of the village where had been born.<sup>124</sup> The two eventually reached the village.<sup>125</sup> For the next seven days VG-032 remained in that village and each day he went to a rock on the bank of the river and with a pair of binoculars looked at the corpses of the five men who were killed on 7 June 1992.<sup>126</sup>

## **THE VARDA FACTORY KILLINGS (Counts 1, 6 and 7, Milan LUKIĆ only)**

### **Introduction**

62. Varda was a furniture producing factory in Višegrad before and during the time period of the Second Amended Indictment. It was located about 30-40 metres across from the Drina river, separated by a road. Approximately 200 employees worked in this factory during that time.<sup>127</sup>

63. The Prosecution will establish that between May and June 1992, on multiple occasions including the incident of 10 June 1992, Milan LUKIĆ and other members of his group entered the Varda furniture factory, forced several Bosnian Muslim men to follow him to an unknown destination, and killed them.<sup>128</sup>

64. The Prosecution will seek to introduce evidence of incidents at the Varda Factory involving the Accused Milan LUKIĆ which occurred in the time period leading up to the charged killings in Counts 6 and 7, for the purpose of proving the existence of a consistent pattern of conduct pursuant to Rule 93 of the rules, the

<sup>123</sup> VG-032 (T283) See also VG-014 (T443).

<sup>124</sup> VG-032 (T284-285; VG-079 (T326).

<sup>125</sup> VG-032 (T286).

<sup>126</sup> VG-032 (T287).

<sup>127</sup> VG-024, 11 February 1998, OTP Statement, ERN 0058-5010-0058-5016, p2. With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to call VG-024. Related disclosure to follow.

<sup>128</sup> VG-024, 11 February 1998, OTP Statement, ERN 0058-5010-0058-5016, p4-5; VG-037, 15 October 1998, OTP Statement, 0064-5513-0064-5517, p3; VG-017, 14 February 1998, OTP Statement ERN 0058-4547-0058-4551, p3; VG-026, 15 March 1998, OTP Statement, ERN 0059-3882-0059-3887, p4 -5. VG-031, 16 March 1998, OTP Statement, ERN 0059-3934-0059-3938, p3. With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to call VG-026 and VG-031. Related disclosure to follow.

widespread and systematic nature of the attack on the Bosnian Muslim civilian population of Višegrad, the persecution charge, the common criminal plan, and the intent requirements of the charges.<sup>129</sup>

### **Killings of seven Bosnian Muslim men on 10 June 1992**

65. On or about 10 June 1992 at about 11.45AM, Milan LUKIĆ and another individual arrived at the factory. The man with Milan LUKIĆ had blond hair in a pony tail and was dressed in a camouflage uniform and armed with an automatic rifle.<sup>130</sup> Milan LUKIĆ walked towards the furniture department of the Varda Factory while the blond man walked in the direction of the saw-mill.<sup>131</sup> The blond man entered the saw-mill and ordered Musan ČANČAR to come out.<sup>132</sup> Milan LUKIĆ approached two Bosnian Muslim workers, Sabahudin VELAGIĆ and Lutvo TRVTKOVIĆ, and told three Serb workers to guard them.<sup>133</sup>

66. Milan LUKIĆ proceeded to another selection of Muslim workers in another department and took two men: Nusret ALJOŠEVIĆ and Hamed OSMANAGIĆ, and then returned to the previous department to take Sabahudin and Lutvo.<sup>134</sup> On the way, he picked up Ibrism MEMISEVIĆ, and brought them to a saw-mill in a separate building, situated approximately fifteen meters from the main hall of the Varda Factory.<sup>135</sup> Milan LUKIĆ ordered Nedžad BEKTAŠ who was driving a forklift, to turn it off and go with him.<sup>136</sup> Milan LUKIĆ and the seven men walked towards the administration building of the factory, where the blond man and Musan ČANČAR were standing.<sup>137</sup>

67. Milan LUKIĆ and the blond man ordered the group of Bosnian Muslim men to leave the compound of the factory and took the Muslim detainees in two groups towards the Drina River, under their guard.<sup>138</sup> When they arrived at the bank of the

<sup>129</sup> This evidence will be adduced through the evidence of, *inter alia*, VG-024, 11 February 1998, OTP Statement, ERN 0058-5010-0058-5016, p3, 4; VG-037, 15 October 1998 OTP Statement, ERN 0064-5513-0064-5517, p3.

<sup>130</sup> VG-006, 28 October 1997, OTP Statement, ERN 0054-7049-0054-7058, p4.

<sup>131</sup> *Ibid.*

<sup>132</sup> VG-006, 28 October 1997, OTP Statement, ERN 0054-7049-0054-7058, p4.

<sup>133</sup> VG-024, 11 February 1998, OTP Statement, ERN 0058-501-0058-5010, p5.

<sup>134</sup> *Ibid.*

<sup>135</sup> VG-024, 11 February 1998, OTP Statement, ERN 0058-5010-0058-5010, p5.

<sup>136</sup> VG-026, 15 March 1998, OTP Statement, ERN 0059-3882-0059-3887, p4; VG-006, OTP Statement 28 October 1997, ERN 0054-7049-0054-7058, p4.

<sup>137</sup> VG-006, 28 October 1997, OTP Statement, ERN 0054-7049-0054-7058, p5.

<sup>138</sup> *Ibid.*; VG-017, 14 February 1998, OTP Statement ERN 0058-4547-0058-4551, p3; VG-017 saw a first group of three Muslim men he knew and worked with (MEMISEVIĆ Ibrism, Aljusevic Nusret and Bektaš Nedžad) walking towards the bank of Drina River ahead Milan LUKIĆ; VG-017 saw a

Drina River, Milan LUKIĆ shot this first group of three Muslim men, killing all of them.<sup>139</sup>

68. Milan LUKIĆ then returned from the river and ordered the other four men to walk ahead toward the river. He took them to the same spot as the previous three men, shot and killed them. Then he went back to his car and drove off towards town.<sup>140</sup>

69. VG-017 could hear the sound of shots from an automatic gun, a round of gunfire.<sup>141</sup> One hour after the shooting was heard from the Drina River bank, MEMISEVIĆ Ibrim's mother (Smaila) went down to the river and found the jackets of the dead Bosnian Muslim men, as well as their identity cards. She later found Ibrim's body which had washed up onto the bank of the river. Some women retrieved his body because it was not safe for the men to do it. VG-017 saw the body of MEMISEVIĆ and VG-006 saw that MEMISEVIĆ's body was riddled with bullet wounds. MEMISEVIĆ's body was buried next to his house in Dusce.<sup>142</sup>

70. The bodies of Nusret ALJOŠEVIĆ and Nedžad BEKTAŠ were also found lodged in the brush on the banks of the Drina River, lying in prone position along with body of Ibrim MEMISEVIĆ. The bodies were about three to five meters from each other.<sup>143</sup>

## **THE PIONIRSKA STREET MASSACRE (Counts 1, and 8-12)**

### **Prior incidents**

71. The Prosecution will seek to introduce evidence of events and incidents which preceded the massacre at Pionirska street, and which involved the Accused Milan LUKIĆ and Sredoje LUKIĆ, for the purpose of providing context and proving the existence of a consistent pattern of conduct pursuant to Rule 93 of the rules, the

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second group of four Muslim men (TRVTKOVIĆ Lutvo, OSMANAGIĆ Hamed, VELAGIĆ Sabahudin and ČANČAR Mušan taken by Milan LUKIĆ to direction of the bank of Drina River (OTP statement of VG-17, p3).

<sup>139</sup> VG-006, 28 October 1997, OTP Statement, ERN 0054-7049-0054-7058; VG-017, 14 February 1998, OTP Statement ERN 0058-4547-0058-4551, p3.

<sup>140</sup> VG-017, 14 February 1998, OTP Statement, 0058-4547-0058-4551.

<sup>141</sup> VG-017, 14 February 1998, OTP Statement, ERN 0058-4547-0058-4551, p3. With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to adduce evidence of VG-017. Related disclosure to follow. VG-006, 28 October 1997, OTP Statement, ERN 0054-7049-0054-7058, p5.

<sup>142</sup> VG-017, 14 February 1998, OTP Statement ERN 0058-4547-0058-4551, p3.

<sup>143</sup> VG-026 15 March 1998, OTP Statement, ERN 0059-3882-0059-3887, p5; VG-031, 16 March 1998, OTP Statement, ERN 0059-3934-0059-3938 p3.

widespread and systematic nature of the attack on the Bosnian Muslim civilian population of Višegrad, the persecution charge, the common criminal plan, and the intent requirements of the charges.<sup>144</sup>

72. On Sunday 14 June 1992 the group of Muslim civilians (hereinafter “Koritnik group”) left<sup>145</sup> the village of Koritnik.<sup>146</sup> The group, mostly comprised of women, children and elderly,<sup>147</sup> was joined by about five other civilians from the area of Sase.<sup>148</sup> The group travelled on foot to the town of Višegrad in search of a convoy which would take them to Bosnian Muslim-held territory.<sup>149</sup> While searching for an International Committee of the Red Cross (“ICRC”) convoy, the group inquired at the Višegrad police station and was directed towards the Višegrad Hotel where the Red Cross was alleged to have been situated.<sup>150</sup> Once the group reached the Višegrad Hotel at around 1.00 P.M. on 14 June 1992,<sup>151</sup> they were told that the buses had already left for that day but that there would be another convoy the following day.<sup>152</sup>

73. The group departed from the hotel Višegrad to Pionirska Street in the Mahala neighbourhood. The Accused Milan LUKIĆ and Sredoje LUKIĆ and other armed individuals including and Milan ŠUŠNJAR (also known as “Laco”)<sup>153</sup> intercepted the group and directed them to the house of Jusuf Memić. There, the group successively settled in two houses belonging to the Memić family, which were situated next to

<sup>144</sup> This evidence will be adduced through, *inter alia*, VG-013 ( T1421-1422); VG-084, T1653; VG-018, T1555-6; VG-038, T1339-1340, 1348; VG-101, (T1144); VG-084, (T1655-6); VG-038, (T1345-1346); VG-077, (T692-694); VG-078, (T1278-1279); VG-013, T1422-3; VG-117, (T4507) ; VG-018 (T1605).

<sup>145</sup> VG-078 (T1279-80); VG-013 (T1424); VG-018 (T1559); VG-084 (T1655); VG-101 (T1146); VG-038, T1398; Exh. P145, p1.

<sup>146</sup> Koritnik is a small village located approximately seven kilometres north of the town of Višegrad (VG-084, T1653; VG-018, T1555).

<sup>147</sup> Exh P 145, T892; VG-061 (T788); VG-087 (T1093); VG-038 (T1353); VG-018 (T1566); VG-013 (T1426).

<sup>148</sup> Exh P 145 (T894); VG-101 (T1151); VG-013 (T1426); VG-018 (T1568-1569); VG-078 (T1280); VG-084 (T1657). VG-038 gave evidence that between 10 to 13 people joined them (T1354).

<sup>149</sup> Exh P 145 (T891); VG-101 (T1144); VG-078 (T1278); VG-038 (T1345); VG-013 (T1423); VG-018 (T1557, 1567, 1605); VG-084 (T1656).

<sup>150</sup> VG-101 (T1152); VG-018 (T1569); VG-084 (T1657); Exh P 145 (T893); VG-013 (T1427).

<sup>151</sup> VG-078 (T1280); VG-084 (T1657); VG-038 (T1357). Other witnesses testified that the group reached the centre of Višegrad and the new hotel between 3.00 and 4.00 PM.; Exh P 145 (T893); VG-013 (T1427).

<sup>152</sup> VG-018 (T1571); VG-038 (T1364); VG-078 (T1280); VG-084 (T1658); VG-011 (T367).

<sup>153</sup> In relation to the issue of the persons involved in this and further criminal acts, *see* VG-013 and VG-038 who gave evidence in the VASILJEVIĆ trial that both Accused Milan and Sredoje LUKIĆ and another member of their group were present. VG-018, VG-013, VG-084 and VG-038 gave evidence that Milan Sušnjar was also present. VG-018, VG-084 and VG-038 testified that Sredoje Lukić was also present. VG-101, VG-078, VG-038, VG-018, VG-084 and VG-013 gave evidence that Milan LUKIĆ was present (VG-101, T1164; VG-078, T1287; VG-038, T1365,1369-1370; VG-013, T1429, 1431,1438; VG-018, T1582-1583; VG-084, T1666). VG-061 gave evidence that Milan LUKIĆ, Sredoje LUKIĆ and another member of their group were involved in the looting (VG-061, T791).



each other.<sup>154</sup> Later they moved into a single house, the house belonging to Jusuf MEMIĆ.<sup>155</sup>

74. Milan LUKIĆ, Sredoje LUKIĆ, and Milan ŠUŠNJAR entered the house whilst other armed men accompanying them were standing outside the house talking loudly.<sup>156</sup> Inside the house, the armed men ordered the people in the group to hand over their money and valuables, and subjected them to a strip search.<sup>157</sup> The search and collection of money and valuables took between one hour and two and a half hours.<sup>158</sup>

75. Milan LUKIĆ and Sredoje LUKIĆ then left the house at around 7.00 to 7.30 pm,<sup>159</sup> instructing the Koritnik group to remain in the house for the night.<sup>160</sup>

76. Later on that night, Milan LUKIĆ and Sredoje LUKIĆ with the same armed men returned to the MEMIĆ's house and ordered the group to move to another house belonging to Adem OMERAGIĆ.<sup>161</sup> It was already dark when the Accused returned and when the Koritnik group arrived at the OMERAGIĆ's house.<sup>162</sup>

77. The house of Adem OMERAGIĆ<sup>163</sup> was situated about 20 to 50 metres away from the MEMIĆ's house and next to a creek.<sup>164</sup> While the group was being transferred, Milan LUKIĆ, Sredoje LUKIĆ and other armed men, carrying flashlights, moved between the two houses guarding the group.<sup>165</sup> During the transfer, two members of the group, VG-078 and VG-101, managed to hide behind a shed; they later escaped.<sup>166</sup>

78. Milan LUKIĆ, Sredoje LUKIĆ and other armed men packed the Koritnik group into a single room on the ground floor of the OMERAGIĆ's house, where a number of other people were already detained.<sup>167</sup> The group was then locked inside

<sup>154</sup> VG-013, T1431; VG-038 (T1366); Exh P 145 (T894); VG-078 (T1285-1287).

<sup>155</sup> VG-078, T1287; VG-018, (T1580); VG-084, (T1661); VG-101, (T1160-1161).

<sup>156</sup> VG-018 (T1582, 1586); VG-084 (T1666); VG-038 (T1374).

<sup>157</sup> Exh P 145 (Exh P 146) (T895); VG-013 (T1438-1440); VG-038 (T1373-1374); VG-018; (T1583-1585); VG-084 (T1667-1668); VG-101 (T1165); VG-078 (T1288).

<sup>158</sup> VG-038 (T1373, 1376); VG-018 (T1585); (Exh P 145) (T896); VG-084 (T1669). VG-013 (T1440).

<sup>159</sup> VG-038 (T1373, 1376). VG-101 said it was dusk and VG-084 and VG-018 said it was not dark yet (VG-101, T1167; VG-084, T1669; VG-018, T1623).

<sup>160</sup> Exh P 145 (T895); VG-018 (T1621).

<sup>161</sup> VG-101 (T4168); VG-018 (T1590); VG-084 (T1670).

<sup>162</sup> The Prosecution submits that there is a high probability that the time was from 8:30 or 9:00 PM onwards; *See* evidence of VG-013, VG-018 and VG-038 (VG-013, T1443; VG-018, T1590; VG-038, T1376). VG-038 was still wearing his watch (VG-038, T1376).

<sup>163</sup> Exh P 145 (T896); VG-101 (T1171); VG-078 (T1290, 1294); VG-013 (T1443-4).

<sup>164</sup> VG-018 (T1593); VG-101 (T1169). VG-038 gave evidence that it was 150 metres away from the Memić house (VG-038, T1379).

<sup>165</sup> VG-078 (T1290); VG-038 (T1378); VG-013 (T1443); VG-018 (T1592-1593); VG-084 (T1674); VG-101 (T1169).

<sup>166</sup> VG-078 (T1295); VG-101 (T1172).

<sup>167</sup> VG-018 (T1594-1595); VG-013 (T1446); VG-087 (T1101).

the house.<sup>168</sup> Sometime later,<sup>169</sup> Milan LUKIĆ opened the door of the room and introduced an incendiary or explosive device into the overcrowded room.<sup>170</sup> This device ignited a fire near the door and set the house on fire.<sup>171</sup>

79. The Prosecution will adduce evidence that the house had been prepared in advance for the fire. The carpet in the room was wet and smelt like glue,<sup>172</sup> and the smoke from the fire was of unusual thickness.<sup>173</sup> The fire was high and it spread quickly in the house, demonstrating that a flammable substance had been used.<sup>174</sup> The entrance door and two windows to the side of the room facing the creek provided the only escape routes.<sup>175</sup>

80. As the flames spread, Milan LUKIĆ, Sredoje LUKIĆ and the other armed men threw more explosives into the house.<sup>176</sup> Some of the people in the house attempted to escape by breaking the glass of the window and jumping out, but Milan LUKIĆ, Sredoje LUKIĆ and the other armed men were standing outside underneath the windows to shoot at those who were attempting to flee. With the aid of flashlights they shot at those who were jumping out of the window or who had already done so.<sup>177</sup>

81. Between sixty six (66) and seventy (70) people died as a result of the fire. A number of the victims managed to escape the fire and survived, some with serious physical injuries.<sup>178</sup> VG-061's father ran through the flames and escaped through the front door when the explosion which caused the fire blasted the door open.<sup>179</sup> VG-018 managed to secure an opening in the reinforced glass of the window and was pushed outside by VG-084, who jumped out after her.<sup>180</sup> VG-038 followed suit.<sup>181</sup> VG-013 also jumped out of the window. As she attempted to flee, she was shot at and injured in the arm.<sup>182</sup> Edhem KURSPAHIĆ also managed to escape.

<sup>168</sup> Exh P 145 (T896); VG-018 (T1597); VG-084 (T1675).

<sup>169</sup> VG-013 (T1449); VG-038 (T1383); VG-018 (T1597).

<sup>170</sup> VG-013 (T1449-1450).

<sup>171</sup> VG-018 (T1597); VG-013 (T1453-1454); VG-084 (T1754); VG-038 (T1382, 1384).

<sup>172</sup> VG-013 (T1446). VG-038 remarked that the smoke smelled of dye or paint (VG-038, T1384).

<sup>173</sup> VG-084 (T1754); VG-038 (T1383).

<sup>174</sup> VG-018 (T1597); VG-084 (T1754); VG-013 (T1453).

<sup>175</sup> VG-038 (T1379-1380); VG-013 (T1448).

<sup>176</sup> Exh P 145 (T896); VG-038 (T1383); VG-018 (T1598); VG-084 (T1754).

<sup>177</sup> VG-018 (T1598, 1601); VG-084 (T1755-1756, 1764); VG-013 (T1454); VG-038 (T1386).

<sup>178</sup> Second Amended Indictment, par 10 and Annex A.

<sup>179</sup> Exh P 145 (T897).

<sup>180</sup> VG-018 (T1598); VG-013 (T1454).

<sup>181</sup> VG-038 (T1358); VG-013 (T1454).

<sup>182</sup> VG-013 (T1455-1456).

82. In total seven people survived that fire in Pionirska Street. Each of them has identified Milan LUKIĆ and Sredoje LUKIĆ as two of the men responsible for the horrific events that took place that night.

## **THE BIKAVAC MASSACRE (Count 1, and Counts 13 – 17)**

### **Introduction**

83. The Prosecution will present credible and reliable eyewitness testimony to establish beyond reasonable doubt that on or about 27 June 1992 approximately 70 civilians of Bosnian Muslim ethnicity, mostly women and children, were forcibly detained in a house at Bikavac in Višegrad and were there intentionally incinerated to death by Milan LUKIĆ and Sredoje LUKIĆ in concert with other members of the White Eagles paramilitary group.

84. In furtherance of their intention to rid Višegrad of its Muslim inhabitants, Milan LUKIĆ, Sredoje LUKIĆ and other paramilitaries entered areas of Višegrad during June 1992, particularly targeting those areas inhabited by Bosnian Muslims, including the area of Bikavac. Often travelling in the notorious red VW Passat,<sup>183</sup> Milan LUKIĆ, Sredoje LUKIĆ, and other paramilitaries detained and abducted Muslim civilian inhabitants on a number of occasions.<sup>184</sup>

85. The common criminal plan of Milan and Sredoje LUKIĆ and their associates reached its peak as far as Bikavac was concerned on Friday 27<sup>th</sup> June 1992.

86. Milan LUKIĆ and Sredoje LUKIĆ were seen in Bikavac a number of times on 27 June 1992.<sup>185</sup> On one occasion they robbed local residents of money and jewellery.<sup>186</sup>

87. At about 9 pm that same evening,<sup>187</sup> approximately seven White Eagles including Milan and Sredoje LUKIĆ<sup>188</sup> arrived again in Bikavac in two vehicles.

<sup>183</sup> VG-019, OTP Statement, 13 February 1998, ERN 0058-4564-0058-4571, p2, 4; VG-030, OTP Statement, 16 March 1998, ERN 0059-3928-0059-3933, p3; VG-032, OTP Statement, 30 September, 1 October 1998, ERN 0064-1851-0064-1859 p2, 4; VG-035, OTP Statement, 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4; VG-058, OTP Statement, 14 and 15 May 2000, ERN 0099-4294-0099-4303, p4, 7.

<sup>184</sup> VG-019, OTP Statement, 13 February 1998, ERN 0058-4564-0058-4571, p2; VG-058, OTP Statement, 14 and 15 May 2000, ERN 0099-4294-0099-4303, p3, 4; VG-058, Statement to BiH Ministry of Interior, 25 July 1992, ERN 0056-7339-0056-7342, p3; VG-063, OTP Statement, 12 and 13 June 2000, ERN 0100-1319-0100-0331, p7.

<sup>185</sup> VG-094 (Delayed disclosure), VG-085 (Delayed disclosure). With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to adduce evidence of VG-094 and VG-085. Related disclosure to follow.

<sup>186</sup> VG-035, OTP Statement, 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4

Milan LUKIĆ was driving the red VW Passat.<sup>189</sup> Residents could hear loud music consisting of Chetnik songs coming from the car radios.<sup>190</sup> Other paramilitaries could also be seen about on the streets at this time.<sup>191</sup>

88. The White Eagles went from house to house in Bikavac calling out to the Bosnian Muslim occupants and searching homes in the area,<sup>192</sup> paying particular attention to internally displaced persons from Župa who had found temporary shelter in Bikavac.<sup>193</sup>

89. Milan LUKIĆ ordered one of the residents of the area to assist his group in gathering together as many women and children as possible. This woman was forced to assist with rounding up about 40 women and children.<sup>194</sup>

90. In total Milan LUKIĆ and his group gathered up approximately 75 of the Muslim occupants of the area.<sup>195</sup> Four or five young girls were taken aside by Milan LUKIĆ and placed in a van,<sup>196</sup> while the remaining 70 or so Muslim civilians of all ages, mostly women and children,<sup>197</sup> were herded some 150 metres down the road to the home of Meho ALJIĆ.<sup>198</sup> Meho ALJIĆ himself was expelled from his house and sent away from the area.

91. All of the group of 70 or so persons, men, women, children and even babies, were forced into one room in the house. Some of them were searched and robbed of their money at the time.<sup>199</sup> Some tried to escape, but those who did were beaten and pushed back inside the house.<sup>200</sup> Milan LUKIĆ took part in searching the victims for valuables and watched as his men forced the people inside the house. Sredoje LUKIĆ also took part with the others of the group in forcing the people into the house.<sup>201</sup>

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<sup>187</sup> VG-035, OTP Statement, 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4; VG-119 (Delayed disclosure), VG-094 (Delayed disclosure). With the filing of this Pre-Trial Brief, the Prosecution has taken the decision to adduce evidence of VG-119. Related disclosure to follow.

<sup>188</sup> VG-115, OTP Statement 6, 7 and 10 September 2000, ERN 0205-0593-0205-0612, p12.

<sup>189</sup> VG-030, OTP Statement, 16 March 1998, ERN 0059-3928-0059-3933, p3

<sup>190</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p 4.

<sup>191</sup> Delayed disclosure witness.

<sup>192</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3.

<sup>193</sup> VG-019, OTP Statement 13 February 1998, ERN 0058-4564-0058-4571, p4, 5; VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5; VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4.

<sup>194</sup> VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid.

<sup>197</sup> Delayed disclosure witness.

<sup>198</sup> VG-106, OTP Statement 18 March 2001, ERN 0202-2648-0202-2655, p4; VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>199</sup> Delayed disclosure witness.

<sup>200</sup> VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>201</sup> VG-115, OTP Statement 6, 7 and 10 September 2000, ERN 0205-0593-0205-0612, p12.

92. With everyone inside the house, Milan and Sredoje LUKIĆ, acting alone and in concert with others of their group, boarded up all the exits<sup>202</sup> including the door through which the civilians had just entered. They placed a heavy garage door<sup>203</sup> against the entranceway for this purpose. Neighbours could hear hammering<sup>204</sup> and other sounds of the house being sealed up.<sup>205</sup> Milan and Sredoje LUKIĆ and their group then poured petrol about the house.<sup>206</sup>

93. Milan and Sredoje LUKIĆ and their group then launched an attack on the house. First they threw stones at the house and windows. Milan LUKIĆ and others then fired shots at the doors and windows of the house.<sup>207</sup> Loud music could still be heard being played outside the house. Then two or three hand-grenades were thrown inside, explosions followed,<sup>208</sup> and shrapnel detonated throughout the interior of the house. This was followed by a type of powdered gas being thrown inside causing choking fumes. A huge fire then immediately raged through the house.<sup>209</sup>

94. Screams, cries and wailing could then be heard from the trapped occupants as they were burned to death.<sup>210</sup> Approximately 70 persons perished during the Bikavac fire and the bones and burned remains of victims could be seen in the burned-out house the next morning after the fire.<sup>211</sup>

95. Only one person managed to escape from the inferno that claimed the lives of the approximately 70 others who were locked inside the house that evening.

96. Milan LUKIĆ, Sredoje LUKIĆ and others of the White Eagles were still present and were seen in the area immediately after the massacre. It was noticed that they were covered in dirt and sweat.<sup>212</sup>

97. Some time after the fire Milan LUKIĆ offered a reward of DM 1,000 for information as to the whereabouts of the survivor of the Bikavac Fire.<sup>213</sup>

<sup>202</sup> VG-019, OTP Statement 13 February 1998, ERN 0058-4564-0058-4571, p5.

<sup>203</sup> Delayed disclosure witness.

<sup>204</sup> VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>205</sup> VG-019, OTP Statement 13 February 1998, ERN 0058-4564-0058-4571, p5.

<sup>206</sup> VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>207</sup> VG-019, OTP Statement 13 February 1998, ERN 0058-4564-0058-4571, p5; VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>208</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4.

<sup>209</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3; VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p4.

<sup>210</sup> VG-019, OTP Statement 13 February 1998, ERN 0058-4564-0058-4571, p5; VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3; VG-058, OTP Statement 14 and 15 May 2000, ERN 0099-4294-0099-4303, p5.

<sup>211</sup> VG-019, OTP Statement 3 February 1998, ERN 0058-4564-0058-4571, p6; VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3.

<sup>212</sup> Delayed disclosure witness, Delayed disclosure witness, Delayed disclosure witness.

<sup>213</sup> VG-063, Statement to BiH Min of Interior, 11 January 1994, ERN: 0051-4685-0051-4686, p2.

## **THE MURDER OF HAJRA KORIC (Count 1, and Counts 18 and 19, Milan Lukić only)**

98. Eyewitnesses will testify to Milan LUKIĆ's personal participation in brutal murders on the streets on Višegrad in full view of the residents.<sup>214</sup> On a date between 28 June and 5 July 1992 after the Bikavac Fire massacre,<sup>215</sup> a group of about 15 terrorised Muslim women and children were hiding in a house in the Potok area of Višegrad. Among the group of women was Hajra KORIC.<sup>216</sup>

99. The group of women and children were staying in a house in Potok which was close to the bus station in Višegrad, fearfully awaiting the chance to flee in a convoy which they had heard would leave the following day.<sup>217</sup>

100. Late that afternoon Milan LUKIĆ arrived in Potok leading a group of approximately eight Chetniks. They were all armed and dressed in camouflage uniforms, and wearing gloves without fingers.<sup>218</sup> Milan LUKIĆ carried an automatic rifle without a silencer. The Chetniks, who were under the obvious orders of Milan LUKIĆ, searched houses in the neighbourhood and entered the house where Hajra KORIC and the other women and children were hiding.<sup>219</sup>

101. The group of men searched through the house, insulting the women as they did so. Fearing the worst, Hajra KORIC had tried to hide under a table but was soon discovered.<sup>220</sup> The women were told by the men "We could easily have killed you now" and were then forced outside.

102. Milan LUKIĆ then ordered the women and children to line up in front of the house.<sup>221</sup> With the evident objective of finding and killing Hajra KORIC, Milan LUKIĆ went from woman to woman in the line. Hajra KORIC was last in line and he took her aside.<sup>222</sup>

<sup>214</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p10, 13, 14; VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303-0099-4303, p4 and 7.

<sup>215</sup> 27 June 1992.

<sup>216</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p5; VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p4.

<sup>217</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p 5.

<sup>218</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p4.

<sup>219</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p 5.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid, p6.

<sup>222</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p6; VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p4.

103. Milan LUKIĆ then said to Hajra KORIC “You Hajra, I told you that I would find you and kill you!” He then questioned her about the whereabouts of her husband and son.<sup>223</sup>

104. Milan LUKIĆ then opened fire and shot Hajra KORIC in the chest with his automatic weapon and she fell to the ground. As she lay there he pushed her over with his foot and fired another short burst into her. He then pushed her body with his foot again to confirm she was in fact dead. Then he laughed and said “What was the matter with her”?<sup>224</sup>

105. The other women and children were then forced back into the house and told to remain there until 11 pm. Milan LUKIĆ threatened the group with a hand-grenade, swore “at their Balija mothers” and said he would be coming back to check on them. Fearing for their lives however, they fled after Milan LUKIĆ and his men had gone.<sup>225</sup>

## **UZAMNICA (Count 1, and Counts 20 and 21)**

### **Introduction**

106. On multiple occasions between August 1992 and 10 October 1994, Milan LUKIĆ and Sredoje LUKIĆ, acting individually or in concert with others, committed or aided and abetted in the commission of the systematic cruel and inhumane treatment of Bosnian Muslim civilian detainees at the detention camp at the Uzamnica military barracks in Višegrad.

107. Milan LUKIĆ, Sredoje LUKIĆ and other members of Milan LUKIĆ’S group of paramilitaries on numerous occasions entered the camp and repeatedly and severely mistreated the detainees, striking them with their fists, rifle butts and wooden sticks and kicking them with their boots. As a result of these acts of cruel and inhumane treatment, many of the victims suffered serious and permanent injury.

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<sup>223</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p 6.

<sup>224</sup> Ibid.

<sup>225</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p6; VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p4.

## The Camp

108. Uzamnica is on the right bank of the Drina River and is about one hour from Višegrad town by foot.<sup>226</sup> Bosnian Muslim civilian detainees<sup>227</sup> – including men, women and children, some elderly -- were held in the Uzamnica detention centre over the course of months and in some cases years, and were regularly and systematically grievously mistreated. Milan LUKIĆ, Sredoje LUKIĆ, acting alone and in concert with others including guards and other soldiers, committed or aided and abetted in systematic cruel and inhumane treatment of the detainees at the camp throughout the period between August 1992 and 10 October 1994.<sup>228</sup> The hangar where many of the detainees were held was guarded by a single armed guard working in two hour shifts.<sup>229</sup> There were no toilet facilities;<sup>230</sup> the detainees were given two buckets, one to wash with and the other to use as a toilet.<sup>231</sup>

## Detainees

109. One witness who was detained in the camp in mid August-1992 and held for 26 months, recalls seeing up to 50 detainees during the period of his detention.<sup>232</sup> Several witnesses report seeing, at different time periods during the time frame of the Second Amended Indictment, particular known individuals detained at the camp.<sup>233</sup>

## The Accused

110. On a regular basis, a group of soldiers, led by and including Milan LUKIĆ and including Sredoje LUKIĆ and others came to the hangars, usually at night, where the detainees were held.<sup>234</sup> Milan LUKIĆ, Sredoje LUKIĆ and their co-perpetrators beat the civilian detainees with their fists, rifle butts and wooden sticks, and kicked them with their boots.<sup>235</sup> In addition, Milan LUKIĆ carried a baton which had six additional

<sup>226</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p6.

<sup>227</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p6; Delayed disclosure witness.

<sup>228</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p7.

<sup>229</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p7.

<sup>230</sup> VG-008, 28 October 1997, ERN: 0054-7112 p6; VG-010, 2 November 1997, ERN: 0054-7097, p10; VG-016, 11 February 1992, ERN:0058-4654, ERN: 0058-4654, p5.

<sup>231</sup> VG-008, 28 October 1997, ERN: 0054-7112 p6; Delayed disclosure witness.

<sup>232</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p7.

<sup>233</sup> VG-016, 11 February 1998 (says 1992 on statement but contents indicate it was taken in 1998), ERN:0058-4654, ERN: 0058-4654 p3-4; VG-028, OTP Statement, 27 March 1998, ERN: 0059-3920, p5.

<sup>234</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p9; VG-016, 11 February 1992, ERN:0058-4654, p5.

<sup>235</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p9.



parts.<sup>236</sup> He used this to beat and administer electric shocks to the prisoners.<sup>237</sup> When the beatings were finished the floor would be covered in blood.<sup>238</sup> Detainees suffered dire injuries which never had an opportunity to heal due to the ongoing systematic torture inflicted upon them.

### **Specific Incidents of Cruel and Inhumane Treatment by Milan and/or Sredoje Lukić Against Civilian Detainees**

111. On the first occasion that he was beaten by the soldiers, VG-008 could not move for forty two days afterwards. He was beaten inside the hangar by Milan LUKIĆ, Sredoje LUKIĆ, Milos LUKIĆ, SEKARIĆ and other unknown perpetrators. Milan LUKIĆ used the roots of a tree to beat VG-008. His left arm was broken in three places and his right in two places. The soldiers continued to beat him after his arms were broken.

112. On a second occasion VG-008 was placed on a table and beat with a piece of wood.<sup>239</sup> All of the detainees were taken out one by one and subjected to the same cruel treatment.<sup>240</sup> When the soldiers returned they beat the detainees with rifle butts. VG-008 was put on the floor and beaten with rifles butts. After one such beating VG-008's skin turned completely black and peeled off and the new skin underneath was also black.<sup>241</sup> Another detainee was beaten until he fainted.<sup>242</sup>

113. On a number of occasions when VG-016 was beaten by Milan LUKIĆ, Sredoje LUKIĆ and MILOS LUKIĆ, the beating was so severe that his body looked like he was wearing a camouflage uniform.<sup>243</sup> Another time VG-016 and POLJO Šemso, who was about 70 years old, were both severely beaten by Milan LUKIĆ and Sredoje LUKIĆ.<sup>244</sup>

114. Sometime between June and September 1992, Milan LUKIĆ and Sredoje LUKIĆ again beat VG-016.<sup>245</sup> They put VG-016's arms around a post and kicked him on the back, the head and ribs. Milan LUKIĆ and Sredoje LUKIĆ then proceeded to beat VG-003. The following day, Milan LUKIĆ and Sredoje LUKIĆ returned with

<sup>236</sup> Ibid.

<sup>237</sup> Ibid.

<sup>238</sup> VG-016, 11 February 1992, ERN:0058-4654, ERN: 0058-4654, p5.

<sup>239</sup> VG-008, 28 October 1997, ERN: 0054-7112 p7.

<sup>240</sup> Delayed disclosure witness.

<sup>241</sup> VG-008, 28 October 1997, ERN: 0054-7112 p7.

<sup>242</sup> Delayed disclosure witness.

<sup>243</sup> VG-016, 11 February 1992, ERN:0058-4654, ERN: 0058-4654, p5.

<sup>244</sup> Ibid.

<sup>245</sup> VG-003, 6 November 1994 Statement to BiH Ministry of Interior, ERN: 0065-1333, 6 November 1994, p4.

another soldier, (first name unknown, hereinafter “FNU”) ŠEKARIĆ, and they beat the detainees for approximately 15 minutes on the head and body with a pole.<sup>246</sup>

115. In or around June 1993<sup>247</sup> detainee Mele MEZILOVIĆ was brought to an isolation cell at the camp. Two days later, Milan LUKIĆ, along with one of the regular guards at the camp, Mićo SPASOJEVIĆ, and Risto PERIŠIĆ, the then Chief of the SUP in Višegrad, came to the isolation cell and beat MEZILOVIĆ.<sup>248</sup>

116. On one occasion when he had been taken out to work with VG-003, VG-028 was beaten by Milan LUKIĆ with a type of police baton. Sredoje LUKIĆ was present at the time.<sup>249</sup> On another occasion when two detainees were taken out to work, Sredoje LUKIĆ continually put a knife to the throat of one of them while he was unloading a truck. Sredoje LUKIĆ, who appeared to be drunk, demanded that one detainee decide whether the other should die or not.<sup>250</sup> Later that day Sredoje LUKIĆ shot several times from a truck in the direction of VG-003 but missed him.

117. Before returning the detainees to the camp, Sredoje LUKIĆ took the detainees to a café. When Milan LUKIĆ discovered this he beat VG-028 with a pistol on the head. Sredoje LUKIĆ later returned the detainees to the camp. VG-028 states that Sredoje LUKIĆ told the guards not to touch the detainees and the guards complied.<sup>251</sup>

118. Several detainees died as a result of the cruel and inhumane treatment they suffered at the hands of the Accused, acting alone and/or in concert with others. The Prosecution will adduce evidence in relation to these deaths.<sup>252</sup>

119. Both male and female detainees were subjected, by Milan LUKIĆ and others, to forced labour during their detention.<sup>253</sup>

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<sup>246</sup> Ibid..

<sup>247</sup> VG-028, OTP Statement 27 March 1998, ERN: 0059-3920, p4 – Statement says 21<sup>st</sup> day of detention.

<sup>248</sup> Ibid.

<sup>249</sup> Ibid, p5.

<sup>250</sup> Ibid, p6.

<sup>251</sup> Ibid, p6.

<sup>252</sup> VG-008, 28 October 1997, ERN: 0054-7112 p7; VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p10; VG-010, 2 November 1997, ERN: 0054-7097, p13; VG-016, 11 February 1992, ERN:0058-4654, p6; VG-028, OTP Statement, 27 March 1998, ERN: 0059-3920, p7.

<sup>253</sup> VG-006, OTP Statement, 28 October 1997, p9; VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p10; VG-008, 28 October 1997, ERN: 0054-7112 p9; VG-016, 11 February 1992, ERN:0058-4654, p6; Delayed disclosure witness; VG-003, 6 November 1994 Statement to BiH Ministry of Interior, ERN: 0065-1333, 6 November 1994, p6; VG-008, 28 October 1997, ERN: 0054-7112 p9; VG-010, 2 November 1997, ERN: 0054-7097, p12-13.

### Disappeared/ Missing Detainees

120. Milan LUKIĆ was observed taking detainees out of the prisoner hangar.<sup>254</sup> On one occasion Milan LUKIĆ handcuffed KARIĆ Ramiz and (last name unknown, hereinafter “LNU”) Nermin and removed them from the hangar.<sup>255</sup> Milan LUKIĆ told these men that they would not need shoes where they were going and that they had everything they needed.<sup>256</sup> These men never returned from the hangar and their whereabouts remains unknown. Later on some detainees who were out for forced labour found NERMIN LNU’s leather jacket out by the Drina River.<sup>257</sup>

121. Witnesses will testify to the identities of detainees who were held at Uzamnica camp and who are now missing.

122. June and July 1992 were the months when most people were taken away from the camp. In July 1992 VG-017 and two other Muslim civilian men were taken from the camp.<sup>258</sup> Also in July 1992 DZAFEROVIC Enes and his brother Dzevad and OMEROVIĆ FNU were taken away. Milan LUKIĆ told them that he was going to take them for a holiday in Bajina Basta.<sup>259</sup> BAHTOVIĆ Mirsad was also taken by Milan LUKIĆ in July 1992.<sup>260</sup>

123. On one occasion in July 1992 Milan LUKIĆ and his soldiers took away more than twenty detainees from the camp.<sup>261</sup> On another occasion, MILAN LUKIĆ took away Juso and Rasim AVDIĆ after taking their money and jewellery.<sup>262</sup>

124. The ICRC came to Uzamnica camp around April, May or June 1993.<sup>263</sup> While some detainees were registered and given identity cards, others were taken out and hidden.<sup>264</sup>

<sup>254</sup> VG-008, 28 October 1997, ERN: 0054-7112 p9.

<sup>255</sup> VG-008, 28 October 1997, ERN: 0054-7112 p9; VG-003, 6 November 1994 Statement to BiH Ministry of Interior, ERN: 0065-1333, 6 November 1994, p5.

<sup>256</sup> VG-003, 24 October 1997, ERN 0054-7074-0054-7085 p10.

<sup>257</sup> VG-008, 28 October 1997, ERN: 0054-7112 p9.

<sup>258</sup> VG-016, 11 February 1992, ERN:0058-4654, p6.

<sup>259</sup> Ibid.

<sup>260</sup> Ibid.

<sup>261</sup> The Prosecution will present evidence of the identity of some of these approximately 20 detainees at trial, through witness VG-016, 11 February 1992, ERN:0058-4654, p7.

<sup>262</sup> VG-016, 11 February 1992, ERN:0058-4654, p7.

<sup>263</sup> VG-008, 28 October 1997, ERN: 0054-7112 ERN: 0054-7112, p8, VG-003, 6 November 1994 Statement to BiH Ministry of Interior, ERN: 0065-1333, 6 November 1994, p7; VG-010, 2 November 1997, ERN: 0054-7097, p12.

<sup>264</sup> VG-008, 28 October 1997, ERN: 0054-7112 ERN: 0054-7112, p8.

## APPLICATION OF THE LAW TO THE FACTS

### *Violations of the Laws or Customs of War*

125. In the present case, the evidence will show that at all times relevant to the charges against the Accused, an armed conflict existed between the Bosnian Serb Army (VRS) and forces of the Bosnian government. The evidence will further show that all of the acts alleged to have been committed by the Accused were committed in connection with the armed take-over of the Višegrad area and the armed expulsion and murder of those Bosnian Muslims that remained, and that the crimes of the Accused were committed in the context of and were linked directly to the ongoing armed conflict.

126. The Prosecution evidence will clearly establish that all of the victims were protected persons. With regard to all the incidents charged in the Revised Second Indictment, the Prosecution will show that all of the Bosnian Muslim men selected for execution and mistreatment by the Accused were civilians not actively participating in hostilities at the time of the commission of the crimes. Evidence will show that in fact many of the victims were elderly, infirm, women and young children, and that in most cases the victims of the crimes of the Accused were in detention when they were killed or tortured. In *Stakić*, the Trial Chamber found prisoners to be automatically considered *hors de combat* by virtue of their being held in detention.<sup>265</sup>

### *Crimes Against Humanity*

127. As required under Article 5 of the Statute, each of the crimes against humanity charged in the Second Amended Indictment part of a widespread or systematic attack directed against the Bosnian Muslim and other non-Serb civilian population in Bosnia, in particular to this case the Višegrad area. Murder, inhumane acts, widespread looting and burning of civilian property, discriminatory actions against Bosnian Muslims and other non-Serb civilians show that the attack was directed against the civilian population.<sup>266</sup>

128. In this case, the violence perpetrated against the civilian population by the Accused was part of a common criminal plan to permanently remove the non-Serb

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<sup>265</sup> *Stakić* TJ, para. 589.

<sup>266</sup> *Kunarac* AJ, para. 91.

population from Višegrad and its environs. Credible evidence will show that similar violence was also being used in other parts of Bosnia at about the same time to achieve “ethnic cleansing.” Thus, in Višegrad and other municipalities, non-Serb houses were burned, personal belongings were stolen, and individuals were stripped of rights and privileges. Bosnian Muslims and other non-Serb civilians were murdered and subjected to cruel and inhumane treatment on a widespread and systematic basis. The pattern of action undertaken by Bosnian Serb forces in areas inhabited by non-Serbs indicates a policy and intention to rid those areas of non-Serbs through systematic terror or extermination. The Accused knowingly committed, alone and/or in concert with others, or aided and abetted the commission of these crimes as part of this large scale attack against Bosnia's non-Serb civilian population.

### ***Persecution***

129. Milan LUKIĆ and Sredoje LUKIĆ, acting alone and/or in concert with others, committed and/or aided and abetted persecutions of Bosnian Muslims and other non-Serb civilians in the Višegrad area between 7 June 1992 and 10 October 1994, through the commission of persecutory acts described in this pre-trial brief. During the period of the Revised Second Indictment, hundreds of civilians, persons taking no active part in hostilities, were subject to persecutions on political, racial and/or religious grounds by the acts or omissions of the Accused acting alone and/or in concert with others. The Accused and other perpetrators who acted in concert with the Accused each held the specific intent to discriminate on political, racial and/or religious grounds.<sup>267</sup>

130. The acts underlying Persecutions as a Crime Against Humanity in this case include: murder of Bosnian Muslims and other non-Serb civilians; cruel and inhumane treatment (severe beating of and sexual violence against of Bosnian Muslims and other non-Serb civilians over extended periods of time); unlawful detention and confinement of Bosnian Muslims and other non-Serb civilians under inhumane conditions; harassment, humiliation, terrorisation and psychological abuse of Bosnian Muslim and other non-Serb civilians; theft of personal property; and the destruction of houses of Bosnian Muslims and other non-Serb civilians. The

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<sup>267</sup> *Blaškić* AJ,para.131,165,*Krnojelac* AJ paras 184-185;*Vasiljević* AJ,para.113;*Stakić* AJ para 327;*Krajišnik* TJ,paras 734.

Prosecution submits that the above-mentioned means by which the Accused persecuted Bosnian Muslims and other non-Serb civilians constitute either crimes enumerated elsewhere in the Statute or acts which are not specifically enumerated therein but which nevertheless amount to gross or blatant denials, on discriminatory grounds, of a the victim's fundamental rights as guaranteed by international law.

### ***Murder***

131. The evidence shows that Milan LUKIĆ was the notorious leader of a Serb paramilitary unit referred to as the "White Eagles" and alternatively as the "Avengers" in Višegrad. His paramilitary unit was one of the most feared and brutal during the conflict. Milan LUKIĆ and Sredoje LUKIĆ were responsible for a large number of crimes, many gaining notoriety for their exceptionally excessive cruelty. Pattern evidence will reveal that in particular Milan LUKIĆ actively sought out opportunities to kill, torture, rob Bosnian Muslim civilians throughout the conflict. From April 1992 until October 1994, both Accused, acting individually and in concert with other members of this paramilitary group unit, committed or aided and abetted in the killings charged in this Indictment, and substantially contributed to creating and reinforcing the campaign of persecution which continued from 1992-1994. The Accused's intent in this regard is apparent from, *inter alia*, their ongoing participation in a widespread and systematic pattern of killings and other crimes over an extended period of time, both individually and in concert with other members of their paramilitary group.

132. Throughout the Indictment period Milan LUKIĆ and Sredoje LUKIĆ, acting alone and in concert with others, regularly abducted and detained Muslim civilian men,<sup>268</sup> summarily executing some of them,<sup>269</sup> and killing other Muslim civilian men and women in their homes.<sup>270</sup>

133. At that time it was known that acts of murder and violence against Muslims were a regular occurrence on the streets<sup>271</sup> and in the homes of Muslims in

<sup>268</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p7.

<sup>269</sup> VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303, p4, 5, 6 and 7; VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p13.

<sup>270</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p9; VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303, p4 and 7.

<sup>271</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p2 and 3.

Višegrad<sup>272</sup> and it was well known that Milan LUKIĆ in his red VW Passat,<sup>273</sup> Sredoje LUKIĆ and their group of White Eagles were a constant and serious threat to any Muslim who remained in Višegrad.<sup>274</sup> The Bosnian Muslim population of Višegrad, regularly harassed and threatened, was also terrorised through witnessing or learning of the many instances of mass murder,<sup>275</sup> individual killings,<sup>276</sup> disappearances, illegal detention, and torture or other mistreatment.<sup>277</sup> Executions and the dumping of bodies off the bridge into the Drina River were a regular occurrence<sup>278</sup> and many Muslim occupants fled if they could,<sup>279</sup> or went into hiding awaiting a possibility to flee.<sup>280</sup>

134. The Prosecutor submits that Milan LUKIĆ and Sredoje LUKIĆ committed, alone and/or in concert with others, and/or aided and abetted in the crime of murder under Article 3 of the Statute, as alleged in Counts 3, 7 19 (Milan LUKIĆ only) and 10, 15, (both Accused), and under Article 5 of the Statute, as alleged in Counts 2, 6, and 18 (Milan LUKIĆ only) and 9 and 14 (both Accused.) All of the killing incidents named in these Counts were intentional and wilful and the deaths were the result of an act or omission of the Accused or of one or more persons for whom the accused is criminally responsible. The evidence shows that the intent of Milan LUKIĆ and Sredoje LUKIĆ or of person(s) for whom they are criminally responsible was to kill the victim or to wilfully cause serious bodily harm which they should reasonably have known might lead to death.

### ***Cruel and Inhumane Treatment***

135. Milan LUKIĆ's and Sredoje LUKIĆ, acting alone and in concert with other members of their paramilitary unit, were present in the Uzamnica detention centre, where they illegally detained and committed inhumane acts and cruel treatment against Muslim civilian detainees. All of the victims were detainees and thus *hors de combat*. The Accused wilfully and knowingly participated individually and in concert

<sup>272</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p9; VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303, p4.

<sup>273</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3; VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303, p4.

<sup>274</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p3.

<sup>275</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p11 and 12.

<sup>276</sup> VG-058, OTP Statement 14, 15 May 2000, ERN 0099-4294-0099-4303, p4.

<sup>277</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p13.

<sup>278</sup> VG-030, OTP Statement 16 March 1998, ERN 0059-3928-0059-3933, p2 and 3.

<sup>279</sup> VG-115, OTP Statement 6, 7, 10 September 2000, ERN 0205-0593-0205-0612, p8.

<sup>280</sup> VG-035, OTP Statement 4 and 5 October 1998, ERN 0064-1839-0064-1847, p5.

with others in the cruel treatment of Bosnian Muslims and other non-Serb civilians. The intent to inflict serious bodily harm can also be inferred from the gravity of the beatings and other mistreatment. Their conduct with respect to the victims not only caused the “deprivation of life” for those who died but serious physical and mental suffering to those who survived.

136. In both the *Pionirska Street Incident* and the *Bikavac Incident* the Accused intentionally imprisoned up to 70 civilians and lit the house on fire. When some of the victims attempted to flee for their lives from the burning houses, the Accused, individually and acting in concert with others, fired shots at those escaping in an attempt to ensure that there would be no survivors. In spite of the attempts of the Accused, some persons survived the Pionirska massacre, and but one survived the Bikavac massacre. Those who survived the massacres (Counts 11-12 and 16-17), and those who survived the *Drina River Incident* (Counts 4-5, Milan LUKIĆ only), and the Uzamnica beatings (Counts 20-21, both Accused) suffered immense physical and psychological damage, as will be apparent through their evidence. The surviving victims will describe the serious and permanent injuries they suffered as a result of the Accused’s wilful conduct.

### ***Extermination***

137. The Prosecution submits that in the present case, Milan LUKIĆ’s and Sredoje LUKIĆ’s actions in the *Pionirska Street Incident* and the *Bikavac Incident* clearly establish their wilful participation in the mass killing of approximately 140 civilians, thus satisfying the elements of the crime of extermination under Article 5 of the Statute.



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SREDOJE LUKIĆ**

***PUBLIC***

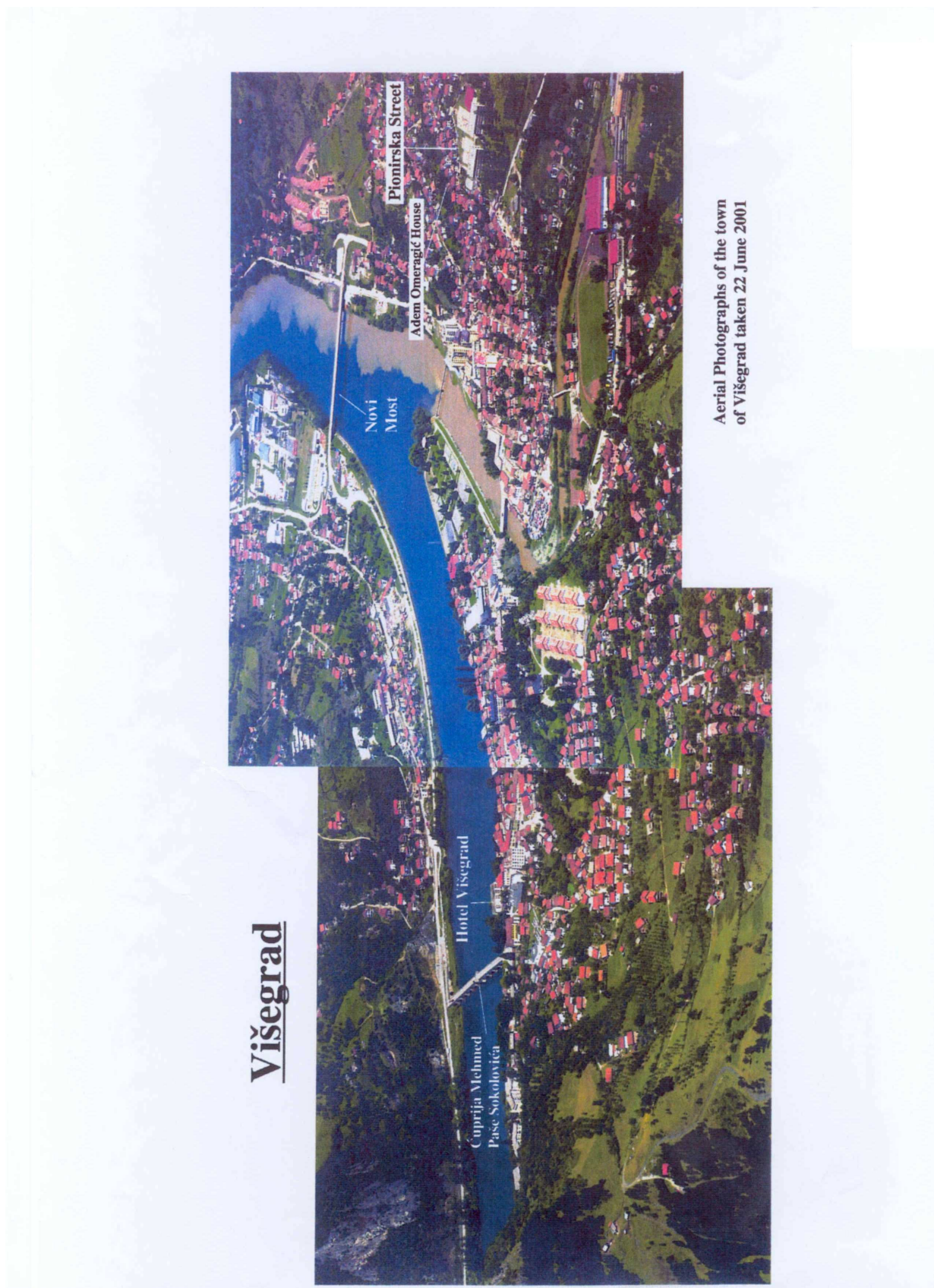
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**ANNEX A**

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**Aerial Photograph of Višegrad**

Annex A to Prosecution's Pre-Trial Brief



Aerial Photographs of the town of Višegrad taken 22 June 2001

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**ANNEX B**

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**Map of Višegrad Municipality**

0616-2005

Annex B to Prosecution's Pre-Trial Brief

