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 <b>UNITED NATIONS</b>	<b>International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991</b>	<b>Case No.</b>	<b>IT-09-92-T</b>
		<b>Date:</b>	<b>22 November 2017</b>
		<b>Original:</b>	<b>English</b>

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**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Bakone Justice Moloto  
Judge Christoph Flügge

**Registrar:** Mr John Hocking

**Judgment of:** 22 November 2017

**PROSECUTOR**

**v.**

**RATKO MLADIĆ**

*PUBLIC WITH CONFIDENTIAL ANNEX*

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**JUDGMENT**

**VOLUME IV OF V**

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## Table of contents

General abbreviations	13
<b>1. Introduction</b>	<b>17</b>
<b>2. Administration of the Bosnian-Serb Republic</b>	<b>22</b>
2.1 Republic political structures	22
2.1.1 Bosnian-Serb Presidency and President	22
2.1.2 Bosnian-Serb Assembly	29
2.1.3 Bosnian-Serb Government	32
2.2 Regional and municipal political structures	38
2.2.1 Regional political structures	38
2.2.2 Municipal political structures	45
<b>3. Bosnian-Serb military and police structures</b>	<b>57</b>
3.1 VRS	57
3.1.1 Establishment and structure	57
3.1.2 VRS's corps	66
3.1.3 Main Staff	129
3.1.4 Position of Ratko Mladić	141
3.2 JNA/VJ	144
3.3 Territorial Defence	152
3.4 Ministry of Interior	160
3.5 Paramilitary formations	175
<b>4. Take-over of power and crimes in the municipalities</b>	<b>176</b>
4.1 Banja Luka Municipality	176
4.1.1 Murder	176
4.1.2 Unlawful detention and cruel or inhumane treatment in detention facilities	194
4.1.3 Destruction of private and public property, including cultural monuments and sacred sites	241
4.1.4 Appropriation or plunder of property	244
4.1.5 Forced labour and human shields	244
4.1.6 Imposition and maintenance of restrictive and discriminatory measures	248
4.1.7 Forcible transfer and deportation	251
4.2 Bijeljina Municipality	262
4.2.1 Murder	262

4.2.2 Unlawful detention and cruel or inhumane treatment in detention facilities	270
4.2.3 Destruction of private and public property, including cultural monuments and sacred sites	296
4.2.4 Appropriation or plunder of property	299
4.2.5 Forced labour and human shields	301
4.2.6 Imposition and maintenance of restrictive and discriminatory measures	304
4.2.7 Forcible transfer and deportation	304
4.3 Foča Municipality	312
4.3.1 Murder	312
4.3.2 Unlawful detention and cruel or inhumane treatment in detention facilities	326
4.3.3 Destruction of private and public property, including cultural monuments and sacred sites	356
4.3.4 Appropriation or plunder of property	361
4.3.5 Forced labour and human shields	361
4.3.6 Imposition and maintenance of restrictive and discriminatory measures	363
4.3.7 Forcible transfer and deportation	364
4.4 Ilidža Municipality	372
4.4.1 Murder	372
4.4.2 Unlawful detention and cruel or inhumane treatment in detention facilities	372
4.4.3 Destruction of private and public property, including cultural monuments and sacred sites	377
4.4.4 Appropriation or plunder of property	377
4.4.5 Forced labour and human shields	377
4.4.6 Imposition and maintenance of restrictive and discriminatory measures	380
4.4.7 Forcible transfer and deportation	380
4.5 Kalinovik Municipality	384
4.5.1 Murder	384
4.5.2 Unlawful detention and cruel or inhumane treatment in detention facilities	388
4.5.3 Destruction of private and public property, including cultural monuments and sacred sites	399
4.5.4 Appropriation or plunder of property	401
4.5.5 Forced labour and human shields	402
4.5.6 Imposition and maintenance of restrictive and discriminatory measures	404
4.5.7 Forcible transfer and deportation	404
4.6 Ključ Municipality	406
4.6.1 Murder	406

4.6.2 Unlawful detention and cruel or inhumane treatment in detention facilities	427
4.6.3 Destruction of private and public property, including cultural monuments and sacred sites	430
4.6.4 Appropriation or plunder of property	439
4.6.5 Forced labour and human shields	442
4.6.6 Imposition and maintenance of restrictive and discriminatory measures	442
4.6.7 Forcible transfer and deportation	446
4.7 Kotor Varoš Municipality	457
4.7.1 Murder	457
4.7.2 Unlawful detention and cruel or inhumane treatment in detention facilities	463
4.7.3 Destruction of private and public property, including cultural monuments and sacred sites	471
4.7.4 Appropriation or plunder of property	476
4.7.5 Forced labour and human shields	477
4.7.6 Imposition and maintenance of restrictive and discriminatory measures	478
4.7.7 Forcible transfer and deportation	481
4.8 Novi Grad Municipality	491
4.8.1 Murder	491
4.8.2 Unlawful detention and cruel or inhumane treatment in detention facilities	500
4.8.3 Destruction of private and public property, including cultural monuments and sacred sites	500
4.8.4 Appropriation or plunder of property	503
4.8.5 Forced labour and human shields	503
4.8.6 Imposition and maintenance of restrictive and discriminatory measures	503
4.8.7 Forcible transfer and deportation	503
4.9 Pale Municipality	508
4.9.1 Murder	508
4.9.2 Unlawful detention and cruel or inhumane treatment in detention facilities	508
4.9.3 Destruction of private and public property, including cultural monuments and sacred sites	508
4.9.4 Appropriation or plunder of property	510
4.9.5 Forced labour and human shields	512
4.9.6 Imposition and maintenance of restrictive and discriminatory measures	512
4.9.7 Forcible transfer and deportation	512
4.10 Prijedor Municipality	533
4.10.1 Murder	533

4.10.2 Unlawful detention and cruel or inhumane treatment in detention facilities	617
4.10.3 Destruction of private and public property, including cultural monuments and sacred sites	700
4.10.4 Appropriation or plunder of property	724
4.10.5 Forced labour and human shields	733
4.10.6 Imposition and maintenance of restrictive and discriminatory measures	736
4.10.7 Forcible transfer and deportation	741
4.11 Rogatica Municipality	753
4.11.1 Murder	753
4.11.2 Unlawful detention and cruel or inhumane treatment in detention facilities	765
4.11.3 Destruction of private and public property, including cultural monuments and sacred sites	786
4.11.4 Appropriation or plunder of property	791
4.11.5 Forced labour and human shields	793
4.11.6 Imposition and maintenance of restrictive and discriminatory measures	798
4.11.7 Forcible transfer and deportation	799
4.12 Sanski Most Municipality	817
4.12.1 Murder	817
4.12.2 Unlawful detention and cruel or inhumane treatment in detention facilities	842
4.12.3 Destruction of private and public property, including cultural monuments and sacred sites	842
4.12.4 Appropriation or plunder of property	861
4.12.5 Forced labour and human shields	863
4.12.6 Imposition and maintenance of restrictive and discriminatory measures	864
4.12.7 Forcible transfer and deportation	868
4.13 Sokolac Municipality	891
4.13.1 Murder	891
4.13.2 Unlawful detention and cruel or inhumane treatment in detention facilities	893
4.13.3 Destruction of private and public property, including cultural monuments and sacred sites	893
4.13.4 Appropriation or plunder of property	895
4.13.5 Forced labour and human shields	895
4.13.6 Imposition and maintenance of restrictive and discriminatory measures	895
4.13.7 Forcible transfer and deportation	896
4.14 Vlasenica Municipality	900
4.14.1 Murder	900

4.14.2 Unlawful detention and cruel or inhumane treatment in detention facilities	910
4.14.3 Destruction of private and public property, including cultural monuments and sacred sites	928
4.14.4 Appropriation or plunder of property	930
4.14.5 Forced labour and human shields	931
4.14.6 Imposition and maintenance of restrictive and discriminatory measures	933
4.14.7 Forcible transfer and deportation	936
<b>5. Sarajevo</b>	<b>949</b>
5.1 Introduction	949
5.1.1 Conditions in Sarajevo	949
5.1.2 Modified air bombs	973
5.2 Sniping incidents	985
5.2.1 Schedule F.1	985
5.2.2 Schedule F.3	989
5.2.3 Schedule F.4	991
5.2.4 Schedule F.5	994
5.2.5 Schedule F.9	997
5.2.6 Schedule F.11	1000
5.2.7 Schedule F.12	1005
5.2.8 Schedule F.13	1008
5.2.9 Schedule F.15	1011
5.2.10 Schedule F.16	1014
5.2.11 Other sniping incidents	1016
5.3 Shelling incidents	1035
5.3.1 Schedule G.1	1035
5.3.2 Schedule G.2	1041
5.3.3 Schedule G.4	1047
5.3.4 Schedule G.6	1052
5.3.5 Schedule G.7	1058
5.3.6 Schedule G.8	1062
5.3.7 Schedule G.10	1086
5.3.8 Schedule G.13	1091
5.3.9 Schedule G.15	1095
5.3.10 Schedule G.18	1097
5.3.11 Other shelling incidents	1114

<b>6. Taking of hostages</b>	<b>1150</b>
6.1 Introduction	1150
6.2 Detention of UNMOs stationed in Pale and in the Sarajevo area	1156
6.3 Detention of Ukrainian UNPROFOR soldiers in Banja Luka	1176
6.4 Detention of UNPROFOR soldiers in Sarajevo	1179
6.5 Detention of UNPROFOR soldiers in Goražde	1191
6.6 Release of UN hostages	1196
6.7 The Trial Chamber's findings	1207
<b>7. Srebrenica</b>	<b>1210</b>
7.1 The take-over of the Srebrenica enclave	1210
7.1.1 1992 - July 1995	1210
7.1.2 Directives no. 7 and no. 7/1	1233
7.1.3 The fall of Srebrenica and the gathering of people in Potočari	1243
7.1.4 The Hotel Fontana meetings	1277
7.1.5 Transportation from Potočari	1288
7.1.6 The column	1334
7.2 Jadar River (Schedule E.1.1)	1383
7.3 Cerska Valley (Schedule E.2.1)	1392
7.4 Kravica Warehouse (Schedule E.3.1)	1397
7.5 Sandići Meadow (Schedule E.4.1)	1414
7.6 Luke School near Tišća (Schedule E.5.1)	1424
7.7 School in Orahovac and nearby field (Schedule E.6.1 and E.6.2)	1429
7.8 Petkovci (Schedule E.7)	1457
7.8.1 School in Petkovci (Schedule E.7.1)	1457
7.8.2 Dam near Petkovci (Schedule E.7.2)	1463
7.9 Ročević School and Kozluk (Schedule E.8.1 and E.8.2)	1473
7.10 Kula School (Schedule E.9.1), Branjevo Military Farm (Schedule E.9.2), and Pilica Cultural Centre (Schedule E.10.1)	1496
7.11 Bišina (Schedule E.12.1)	1518
7.12 Trnovo (Schedule E.13.1)	1526
7.13 Potočari (Schedule E.14)	1530
7.13.1 Near the UN Compound (Schedule E.14.1)	1530
7.13.2 Near the 'White House' (Schedule E.14.2)	1532
7.14 Bratunac Town (Schedule E.15)	1536
7.14.1 In and around the Vuk Karadžić elementary school (Schedule E.15.1)	1536

7.14.2 In front of the Vuk Karadžić elementary school (Schedule E.15.3)	1549
7.15 Other incidents of killings	1551
7.16 Incidents of ill-treatment	1558
7.17 Forcible transfer and deportation	1567
7.18 Burial operations	1574
<b>8. Legal findings on crimes</b>	<b>1584</b>
8.1 Violations of the laws or customs of war: general elements and jurisdictional requirements	1584
8.1.1 Applicable law	1584
8.1.2 Findings on armed conflict	1587
8.2 Crimes against humanity: general elements and jurisdictional requirement	1589
8.2.1 Applicable law	1589
8.2.2 Legal findings	1591
8.3 Murder	1601
8.3.1 Applicable law	1601
8.3.2 Legal findings	1601
8.4 Extermination	1617
8.4.1 Applicable law	1617
8.4.2 Legal findings	1618
8.5 Deportation and forcible transfer	1632
8.5.1 Applicable law	1632
8.5.2 Legal findings	1633
8.6 Acts of violence the primary purpose of which is to spread terror among the civilian population	1663
8.6.1 Applicable law	1663
8.6.2 Legal findings	1664
8.7 Unlawful attacks on civilians	1674
8.7.1 Applicable law	1674
8.7.2 Legal findings	1674
8.8 Taking of hostages	1676
8.8.1 Applicable law	1676
8.8.2 Legal findings	1677
8.9 Persecution	1679
8.9.1 Applicable law	1679
8.9.2 Legal findings	1690
8.10 Genocide	1755

8.10.1 Applicable law	1755
8.10.2 Legal findings	1757
<b>9. The liability of the Accused</b>	<b>1821</b>
9.1 Applicable law	1821
9.1.1 Joint criminal enterprise	1821
9.1.2 Planning, instigating, ordering, and aiding and abetting	1825
9.1.3 Superior responsibility	1827
9.2 First (overarching) joint criminal enterprise	1830
9.2.1 Overview of the charges	1830
9.2.2 Political developments and the role of the SDS in the lead-up to the conflict in 1991 and 1992	1831
9.2.3 The Variant A/B Instructions	1869
9.2.4 The Six Strategic Objectives	1877
9.2.5 Speeches, statements, and utterances by members of the Bosnian-Serb political leadership	1884
9.2.6 The role of the VJ	1895
9.2.7 The role of the MUP	1915
9.2.8 The role of paramilitary formations	1934
9.2.9 The role of the regional and municipal leadership	1969
9.2.10 Attempts to cover up crimes	1992
9.2.11 Tomašica	2028
9.2.12 Investigation and prosecution of crimes	2039
9.2.13 Revenge and related arguments	2075
9.2.14 Conclusion	2083
9.3 Ratko Mladić's alleged contribution to the first (overarching) joint criminal enterprise	2092
9.3.1 Introduction	2092
9.3.2 Participating in the establishment, organization and/or maintenance of the VRS	2092
9.3.3 Commanding and controlling the VRS	2107
9.3.4 Commanding and controlling elements of the Serb Forces integrated into, or subordinated to, the VRS	2137
9.3.5 Directing, monitoring and/or authorizing the VRS's cooperation and coordination with other elements of Serb Forces and with Bosnian-Serb Political and Governmental Organs	2142
9.3.6 Participating in procuring material and military assistance from the VJ	2147
9.3.7 Participating in the development of Bosnian-Serb governmental policies	2161

9.3.8 Disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise	2173
9.3.9 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes	2183
9.3.10 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes	2187
9.3.11 Directing, implementing and/or authorizing the restriction of humanitarian aid to Bosnian-Muslim and/or Bosnian-Croat enclaves located in territory controlled by the VRS, the TO, the MUP, and Bosnian-Serb paramilitary forces and volunteer units and/or Bosnian-Serb Political and Governmental Organs in an effort to create unbearable living conditions for these inhabitants	2202
9.3.12 Legal findings	2228
9.3.13 Mens rea	2230
9.4 Second joint criminal enterprise (Sarajevo)	2257
9.4.1 Overview of the charges	2257
9.4.2 Existence of and membership in the joint criminal enterprise	2258
9.4.3 The Trial Chamber's findings	2276
9.5 Ratko Mladić's alleged contribution to the second joint criminal enterprise (Sarajevo)	2281
9.5.1 Introduction	2281
9.5.2 Participating in the establishment, organization and/or maintenance of the VRS	2281
9.5.3 Commanding and controlling the VRS	2282
9.5.4 Participating in procuring material and military assistance from the VJ	2304
9.5.5 Participating in the development of Bosnian-Serb governmental policies	2309
9.5.6 Disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise	2314
9.5.7 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes	2315

9.5.8 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes	2317
9.5.9 Directing, implementing and/or authorizing the restriction of humanitarian aid to Bosnian-Muslim and/or Bosnian-Croat enclaves located in territory controlled by the VRS, the TO, the MUP, and Bosnian-Serb paramilitary forces and volunteer units and/or Bosnian-Serb Political and Governmental Organs in an effort to create unbearable living conditions for these inhabitants	2320
9.5.10 Legal findings	2345
9.5.11 Mens rea	2346
9.6 Third joint criminal enterprise (Srebrenica)	2359
9.6.1 Overview of the charges	2359
9.6.2 Contemporaneous statements and meetings	2360
9.6.3 Attempts to cover up and the non-investigation of crimes	2374
9.6.4 Conclusion	2379
9.7 Ratko Mladić's alleged contribution to the third joint criminal enterprise (Srebrenica)	2386
9.7.1 Introduction	2386
9.7.2 Commanding and controlling the VRS	2386
9.7.3 Commanding and controlling elements of the Serb Forces integrated into, or subordinated to, the VRS	2412
9.7.4 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes	2418
9.7.5 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes	2424
9.7.6 Legal findings	2428
9.7.7 Mens rea	2429
9.8 Fourth joint criminal enterprise (Hostages)	2443
9.8.1 Overview of the charges	2443
9.8.2 Common objective	2444
9.8.3 Conclusion	2446

9.9 Ratko Mladić's alleged contribution to the fourth joint criminal enterprise (Hostages)	2448
9.9.1 Overview of charges	2448
9.9.2 The Accused's alleged contribution	2449
9.9.3 Mens rea	2451
9.10 Other modes of liability	2454
<b>10. Cumulative convictions</b>	<b>2456</b>
<b>11. Sentencing</b>	<b>2461</b>
11.1 Law on sentencing	2461
11.2 Purpose of sentencing	2462
11.3 Sentencing factors	2463
11.3.1 Gravity of the offences and the totality of the culpable conduct	2463
11.3.2 Individual circumstances of Ratko Mladić	2466
11.3.3 General practice regarding the prison sentences in the courts of the former Yugoslavia	2470
11.3.4 Comparison with other cases	2472
11.3.5 Credit for the time served in custody	2472
11.4 Determination of sentences	2473
<b>12. Disposition</b>	<b>2474</b>
<b>13. Partially dissenting opinion by Judge Alphons Orié</b>	<b>2476</b>
<b>Appendices</b>	
A. Procedural history	2478
B. Sources and use of evidence	2491
C. Table of cases with abbreviations	2521
D. Confidential Annex	2527

## 9. The liability of the Accused

### 9.1 Applicable law

#### 9.1.1 Joint criminal enterprise

3556. The Indictment charges the Accused as a participant in a JCE, pursuant to Article 7 (1) of the Statute, for all the crimes charged. According to the Indictment, the Accused committed each of the charged crimes in concert with others through his participation in several related JCEs. First, the Accused was a key member of an overarching JCE, which lasted from at least October 1991 until 30 November 1995, the object of which was the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through the crimes charged.<sup>13418</sup> Secondly, the Accused participated in a JCE to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling between 12 May 1992 and November 1995.<sup>13419</sup> Thirdly, he participated in a JCE to eliminate the Bosnian Muslims in Srebrenica between ‘the days immediately preceding’ 11 July 1995 and 1 November 1995.<sup>13420</sup> Fourthly, the Accused participated in a JCE to take UN personnel as hostages during May and June 1995.<sup>13421</sup> Further details about the charges will be set out in chapters 9.2, 9.4, 9.6, and 9.8 below.

3557. The Defence claimed that the third form of JCE liability is without legal basis, and should not be considered part of customary international law as it has been rejected in multiple domestic jurisdictions and by other international courts and tribunals.<sup>13422</sup> The Defence further asserted that the Overarching JCE, as presented by the Prosecution, is too expansive, and that *Tadić* and subsequent case-law is limited to smaller-scale cases.<sup>13423</sup> The Trial Chamber notes that it is not bound by the decisions of other courts, either domestic or international,<sup>13424</sup> and affirms (as set out below) that the third form of JCE liability is firmly established in the jurisprudence of the Appeals Chamber. Moreover, the Trial Chamber notes that the Appeals Chamber acknowledged that the application of JCE liability is not limited to small-scale fact scenarios or geographical

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<sup>13418</sup> Indictment, para. 5.

<sup>13419</sup> Indictment, paras 7, 14.

<sup>13420</sup> Indictment, paras 7, 19.

<sup>13421</sup> Indictment, paras 7, 24.

<sup>13422</sup> Defence Final Brief, paras 196-203, 217-227.

<sup>13423</sup> Defence Final Brief, paras 190, 214-215.

<sup>13424</sup> See *Dorđević* Appeal Judgment, paras 50, 52.

regions, and thus rejects the Defence's arguments concerning the scope of the Overarching JCE.<sup>13425</sup>

3558. In the context of the Tribunal's jurisprudence, the JCE doctrine received its first detailed treatment in the *Tadić* Appeal Judgment.<sup>13426</sup> The *Tadić* Appeals Chamber found in broad terms that a person who in execution of a common criminal purpose contributes to the commission of crimes by a group of persons may be held criminally liable subject to certain conditions.<sup>13427</sup> The Appeals Chamber's analysis of customary international law resulted in the identification and definition of three forms of JCE liability. In the first JCE form:

all co-defendants, acting pursuant to a common design, possess the same criminal intention; for instance, the formulation of a plan among the co-perpetrators to kill, where, in effecting this common design (and even if each co-perpetrator carries out a different role within it), they [...] all possess the intent to kill.

The objective and subjective prerequisites for imputing criminal responsibility to a participant who did not, or cannot be proven to have effected the killing are as follows:

- (i) the accused must voluntarily participate in one aspect of the common design (for instance, by inflicting non-fatal violence upon the victim, or by providing material assistance to or facilitating the activities of his co-perpetrators); and
- (ii) the accused, even if not personally effecting the killing, must nevertheless intend this result.<sup>13428</sup>

3559. The second form of JCE, which is described as a type of the first form, was found to have served cases where the offences charged were alleged to have been committed by members of military or administrative units, such as those running concentration camps and comparable 'systems'.<sup>13429</sup>

3560. The third form of JCE is characterized by a common criminal design to pursue a course of conduct where one or more of the co-perpetrators commit an act which, while outside the common design, is a natural and foreseeable consequence of the

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<sup>13425</sup> *Tadić* Appeal Judgment, para. 204; *Brđanin* Appeal Judgment, paras 422, 425.

<sup>13426</sup> *Tadić* Appeal Judgment, paras 172-185.

<sup>13427</sup> *Tadić* Appeal Judgment, para. 190.

<sup>13428</sup> *Tadić* Appeal Judgment, para. 196.

<sup>13429</sup> *Tadić* Appeal Judgment, paras 202-203. For the notion of 'system', see *Krnjelac* Appeal Judgment, para. 89; *Vasiljević* Appeal Judgment, para. 105.

implementation of that design.<sup>13430</sup> There are two additional requirements for this form, one objective, the other subjective.<sup>13431</sup> The objective element does not depend upon the accused's state of mind. This is the requirement that the resulting crime was a natural and foreseeable consequence of the JCE's execution. It is to be distinguished from the subjective state of mind, namely that the accused was aware that the resulting crime was a possible consequence of the execution of the JCE, and participated with that awareness.<sup>13432</sup>

3561. To summarize the elements of the first and third forms of JCE:

(i) *Plurality of persons.* A JCE exists when a plurality of persons participates in the realization of a common criminal objective.<sup>13433</sup> The persons participating in the criminal enterprise need not be organized in a military, political, or administrative structure.<sup>13434</sup> They must be identified with specificity, for instance by name or by categories or groups of persons.<sup>13435</sup>

(ii) *A common objective which amounts to or involves the commission of a crime provided for in the Statute.* The first form of the JCE exists where the common objective amounts to, or involves the commission of a crime provided for in the Statute. The *mens rea* required for the first form is that the JCE participants, including the accused, had a common state of mind, namely the state of mind of intent in relation to the statutory crime(s) through which the common objective was to be achieved.<sup>13436</sup>

The third form of the JCE depends on whether it is natural and foreseeable that the execution of the JCE in its first form will lead to the commission of one or more other statutory crimes. In addition to the intent of the first form, the third form requires proof that the accused person took the risk that another statutory crime, not forming part of the

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<sup>13430</sup> *Tadić* Appeal Judgment, para. 204; *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR72.4, Decision on Prosecution's Motion Appealing Trial Chamber's Decision on JCE III Foreseeability, 25 June 2009, para. 18.

<sup>13431</sup> *Prosecutor v. Radoslav Brđanin and Momir Talić*, Case No. IT-99-36-PT, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001, paras 28-30; *Haradinaj et al.* Trial Judgment, para. 137.

<sup>13432</sup> *Blaškić* Appeal Judgment, para. 33; *Haradinaj et al.* Trial Judgment, para. 137.

<sup>13433</sup> *Kvočka et al.* Trial Judgment, para. 307; *Haradinaj et al.* Trial Judgment, para. 138.

<sup>13434</sup> *Tadić* Appeal Judgment, para. 227.

<sup>13435</sup> *Brđanin* Appeal Judgment, para. 430; *Krajišnik* Appeal Judgment, paras 156-157.

<sup>13436</sup> *Tadić* Appeal Judgment, paras 227-228; *Krajišnik* Appeal Judgment, paras 200, 707.

common criminal objective, but nevertheless being a natural and foreseeable consequence of the JCE, would be committed.<sup>13437</sup>

According to the Appeals Chamber, the common objective need not have been previously arranged or formulated.<sup>13438</sup> This means that the second JCE element does not presume preparatory planning or explicit agreement among JCE participants, or between JCE participants and third persons.<sup>13439</sup>

Moreover, a JCE may exist even if none or only some of the principal perpetrators of the crimes are members of the JCE. For example, a JCE may exist where none of the principal perpetrators are aware of the JCE or its objective, yet are procured by one or more members of the JCE to commit crimes which further that objective. Thus, ‘to hold a member of a JCE responsible for crimes committed by non-members of the enterprise, it has to be shown that the crime can be imputed to one member of the JCE, and that this member – when using a principal perpetrator – acted in accordance with the common plan’.<sup>13440</sup>

(iii) *Participation of the accused in the objective’s implementation.* This is achieved by the accused’s commission of a crime forming part of the common objective (and provided for in the Statute). Alternatively, instead of committing the intended crime as a principal perpetrator, the accused’s conduct may satisfy this element if it involved procuring or giving assistance to the execution of a crime forming part of the common objective.<sup>13441</sup> A contribution of an accused person to the JCE need not be, as a matter of law, necessary or substantial, but it should at least be a significant contribution to the crimes for which the accused is found responsible.<sup>13442</sup>

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<sup>13437</sup> *Tadić* Appeal Judgment, paras 227-228; *Blaškić* Appeal Judgment, para. 33; *Martić* Appeal Judgment, para. 83; *Prosecutor v. Radoslav Brđanin and Momir Talić*, Case No. IT-99-36-PT, Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001, para. 31; *Krstić* Trial Judgment, para. 613; *Haradinaj et al.* Trial Judgment, para. 138. It follows from that and the above that the first form of the JCE requires intent in the sense of *dolus directus* and that recklessness or *dolus eventualis* does not suffice.

<sup>13438</sup> *Tadić* Appeal Judgment, para. 227.

<sup>13439</sup> *Kvočka et al.* Appeal Judgment, paras 115-119; *Brđanin* Appeal Judgment, para. 418, *Haradinaj et al.* Trial Judgment, para. 138.

<sup>13440</sup> *Brđanin* Appeal Judgment, para. 413; *Martić* Appeal Judgment, para. 168; *Krajišnik* Appeal Judgment, paras 225-226, 235.

<sup>13441</sup> *Tadić* Appeal Judgment, para. 227; *Prosecutor v. Milorad Krnojelac*, Case No. IT-97-25-PT, Decision on Form of Second Amended Indictment, 11 May 2000, para. 15; *Krajišnik* Appeal Judgment, paras 215, 218, 695.

<sup>13442</sup> *Kvočka et al.* Appeal Judgment, paras 97-98; *Brđanin* Appeal Judgment, para. 430; *Krajišnik* Appeal Judgment, paras 215, 662, 675, 695-696.

In relation to the first two elements of JCE liability, it is the common objective that begins to transform a plurality of persons into a group, or enterprise, because what this plurality then has in common is the particular objective. It is evident, however, that a common objective alone is not always sufficient to determine a group, because different and independent groups may happen to share identical objectives. It is thus the interaction or cooperation among persons – their joint action – in addition to their common objective that forges a group out of a mere plurality.<sup>13443</sup> In other words, the persons in a criminal enterprise must be shown to act together, or in concert with each other, in the implementation of a common objective, if they are to share responsibility for crimes committed through the JCE.<sup>13444</sup>

### 9.1.2 Planning, instigating, ordering, and aiding and abetting

3562. Each Count of the Indictment charges the Accused, in addition to his participation in the JCEs, with individual criminal responsibility under Article 7 (1) of the Statute pursuant to the modes of liability of planning, instigating, ordering, and/or aiding and abetting the crimes charged.

3563. Article 7 (1) also reflects the principle that criminal responsibility for a crime in Articles 2 to 5 of the Statute does not attach solely to individuals who commit crimes, but may also extend to individuals who plan, instigate, order, and/or aid and abet the crimes. For an accused to be found liable for a crime pursuant to one of these modes of responsibility, the crime in question must actually have been committed.<sup>13445</sup> Furthermore, his or her actions must have contributed substantially to the commission of the crime.<sup>13446</sup> Liability may also attach to omissions, where there is a duty to act.<sup>13447</sup>

<sup>13443</sup> *Krajišnik* Trial Judgment, para. 884; *Haradinaj et al.* Trial Judgment, para. 139.

<sup>13444</sup> *Brđanin* Appeal Judgment, paras 410, 430; *Haradinaj et al.* Trial Judgment, para. 139.

<sup>13445</sup> For planning, see *Kordić and Čerkez* Appeal Judgment, para. 26. For instigating, see *Kordić and Čerkez* Appeal Judgment, para. 27. For ordering, see *Kamuhanda* Appeal Judgment, para. 75. For aiding and abetting, see *Simić et al.* Appeal Judgment, para. 85.

<sup>13446</sup> For planning, see *Kordić and Čerkez* Appeal Judgment, para. 26; *Nahimana et al.* Appeal Judgment, para. 479; *Dragomir Milošević* Appeal Judgment, para. 268. For instigating, see *Kordić and Čerkez* Appeal Judgment, para. 27; *Nahimana et al.* Appeal Judgment, paras 480, 660. For ordering, see *Kayishema and Ruzindana* Appeal Judgment, para. 186; *Kamuhanda* Appeal Judgment, para. 75. For aiding and abetting, see *Tadić* Appeal Judgment, para. 229; *Čelebići* Appeal Judgment, para. 352; *Vasiljević* Appeal Judgment, para. 102; *Blaškić* Appeal Judgment, paras 45-46, 48; *Kvočka et al.* Appeal Judgment, para. 89; *Simić et al.* Appeal Judgment, para. 85; *Blagojević and Jokić* Appeal Judgment, para. 127; *Nahimana et al.* Appeal Judgment, para. 482; *Orić* Appeal Judgment, para. 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 81, 156; *Kalimanzira* Appeal Judgment, paras 74, 86.

3564. *Planning*. Liability may be incurred by planning a crime that is later committed by the principal perpetrator.<sup>13448</sup> The planner must intend that the crime be committed, or intend that the plan be executed in the awareness of the substantial likelihood that it would lead to the commission of the crime.<sup>13449</sup>

3565. *Instigating*. Liability may be incurred by instigating the principal perpetrator to commit a crime.<sup>13450</sup> The instigator must intend that the crime be committed or be aware of the substantial likelihood that the crime would be committed as a consequence of his or her conduct.<sup>13451</sup>

3566. *Ordering*. Liability may be incurred by ordering the principal perpetrator to commit a crime or to engage in conduct that results in the commission of a crime.<sup>13452</sup> The person giving the order must, at the time it is given, be in a position of formal or informal authority over the person who commits the crime.<sup>13453</sup> The person giving the order must intend that the crime be committed or be aware of the substantial likelihood that the crime would be committed in the execution of the order.<sup>13454</sup>

3567. *Aiding and abetting*. Liability may be incurred by assisting, encouraging, or lending moral support to the commission of a crime where this support has a substantial effect on the perpetration of the crime.<sup>13455</sup> Aiding and abetting by omission requires that the accused had the means to fulfil his or her duty to act.<sup>13456</sup> Aiding and abetting

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<sup>13447</sup> *Blaškić* Appeal Judgment, para. 663; *Galić* Appeal Judgment, para. 175; *Brđanin* Appeal Judgment, para. 274; *Orić* Appeal Judgment, paras 41, 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 134, 156, 200.

<sup>13448</sup> *Kordić and Čerkez* Appeal Judgment, para. 26; *Nahimana et al.* Appeal Judgment, para. 479; *Dragomir Milošević* Appeal Judgment, para. 268.

<sup>13449</sup> *Kordić and Čerkez* Appeal Judgment, paras 29, 31; *Nahimana et al.* Appeal Judgment, para. 479; *Dragomir Milošević* Appeal Judgment, para. 268.

<sup>13450</sup> *Kordić and Čerkez* Appeal Judgment, para. 27; *Nahimana et al.* Appeal Judgment, para. 480.

<sup>13451</sup> *Kordić and Čerkez* Appeal Judgment, paras 29, 32; *Nahimana et al.* Appeal Judgment, para. 480; *Nchamihigo* Appeal Judgment, para. 61.

<sup>13452</sup> *Kordić and Čerkez* Appeal Judgment, para. 28; *Galić* Appeal Judgment, para. 176; *Nahimana et al.* Appeal Judgment, para. 481.

<sup>13453</sup> *Kordić and Čerkez* Appeal Judgment, para. 28; *Semanza* Appeal Judgment, para. 361; *Galić* Appeal Judgment, para. 176; *Nahimana et al.* Appeal Judgment, para. 481; *Dragomir Milošević* Appeal Judgment, para. 290; *Boškoski and Tarčulovski* Appeal Judgment, paras 160, 164; *Kalimanzira* Appeal Judgment, para. 213.

<sup>13454</sup> *Blaškić* Appeal Judgment, para. 42; *Kordić and Čerkez* Appeal Judgment, paras 29-30; *Nahimana et al.* Appeal Judgment, para. 481.

<sup>13455</sup> *Tadić* Appeal Judgment, para. 229; *Čelebići* Appeal Judgment, para. 352; *Vasiljević* Appeal Judgment, para. 102; *Blaškić* Appeal Judgment, paras 45-46, 48; *Kvočka et al.* Appeal Judgment, para. 89; *Simić et al.* Appeal Judgment, para. 85; *Blagojević and Jokić* Appeal Judgment, para. 127; *Nahimana et al.* Appeal Judgment, para. 482; *Orić* Appeal Judgment, para. 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 81, 146, 159; *Kalimanzira* Appeal Judgment, paras 74, 86.

<sup>13456</sup> *Brđanin* Appeal Judgment, para. 274; *Orić* Appeal Judgment, para. 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 82, 154.

may occur before, during, or after the commission of the principal crime.<sup>13457</sup> The assessment of whether an act or omission had a substantial effect on the commission of a crime is a fact-based inquiry.<sup>13458</sup> When making this assessment, the Trial Chamber does not have to find that the acts carried out by the aider and abettor are specifically directed to assist, encourage, or lend moral support to the perpetration of that crime.<sup>13459</sup> As regards the *mens rea* element, the aider and abettor must have knowledge that his or her acts or omissions assist in the commission of the crime of the principal perpetrator.<sup>13460</sup> The aider and abettor must also be aware of the principal perpetrator's criminal acts, although not their legal characterization, and his or her criminal state of mind.<sup>13461</sup> This includes the specific intent of the principal perpetrator, if the crime requires such intent.<sup>13462</sup> The aider and abettor does not, however, need to know either the precise crime that was intended or the one that was actually committed; it is sufficient that he or she be aware that one of a number of crimes will probably be committed, if one of those crimes is in fact committed.<sup>13463</sup>

### 9.1.3 Superior responsibility

3568. Each Count of the Indictment charges the Accused with superior responsibility under Article 7 (3) of the Statute. For a superior to incur criminal liability under Article

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<sup>13457</sup> *Blaškić* Appeal Judgment, para. 48; *Simić et al.* Appeal Judgment, para. 85; *Blagojević and Jokić* Appeal Judgment, para. 127; *Nahimana et al.* Appeal Judgment, para. 482; *Mrkšić and Šljivančanin* Appeal Judgment, para. 81.

<sup>13458</sup> *Blagojević and Jokić* Appeal Judgment, para. 134; *Mrkšić and Šljivančanin* Appeal Judgment, para. 200; *Lukić and Lukić* Appeal Judgment, para. 438; *Popović et al.* Appeal Judgment, para. 1741.

<sup>13459</sup> *Šainović et al.* Appeal Judgment, paras 1649-1650; *Popović et al.* Appeal Judgment, para. 1758; *Stanišić and Simatović* Appeal Judgment, paras 104-106. Following the *Perišić* Appeal Judgment and prior to the *Šainović et al.* Appeal Judgment, the applicable law binding on Trial Chambers was that 'specific direction' is an additional requirement of aiding and abetting liability (see *Perišić* Appeal Judgment, paras 36-40, 72-73).

<sup>13460</sup> *Vasiljević* Appeal Judgment, para. 102; *Blaškić* Appeal Judgment, paras 45-46; *Simić et al.* Appeal Judgment, para. 86; *Brđanin* Appeal Judgment, paras 484, 488; *Blagojević and Jokić* Appeal Judgment, para. 127; *Nahimana et al.* Appeal Judgment, para. 482; *Orić* Appeal Judgment, para. 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 146, 159; *Haradinaj et al.* Appeal Judgment, paras 57-58; *Kalimanzira* Appeal Judgment, para. 86.

<sup>13461</sup> *Aleksovski* Appeal Judgment, para. 162; *Simić et al.* Appeal Judgment, para. 86; *Brđanin* Appeal Judgment, paras 484, 487-488; *Nahimana et al.* Appeal Judgment, para. 482; *Orić* Appeal Judgment, para. 43; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 146, 159; *Haradinaj et al.* Appeal Judgment, paras 57-58; *Šainović et al.* Appeal Judgment, para. 1772.

<sup>13462</sup> *Krnojelac* Appeal Judgment, para. 52; *Krstić* Appeal Judgment, para. 140; *Simić et al.* Appeal Judgment, para. 86; *Blagojević and Jokić* Appeal Judgment, para. 127; *Kalimanzira* Appeal Judgment, para. 86.

<sup>13463</sup> *Blaškić* Appeal Judgment, para. 50; *Simić et al.* Appeal Judgment, para. 86; *Nahimana et al.* Appeal Judgment, para. 482; *Mrkšić and Šljivančanin* Appeal Judgment, paras 49, 159; *Haradinaj et al.* Appeal Judgment, paras 57-58; *Šainović et al.* Appeal Judgment, para. 1772.

7 (3) with regard to a crime that is within the jurisdiction of the Tribunal and that was perpetrated by his or her subordinate, the following elements must be established:

- (a) the existence of a superior-subordinate relationship;
- (b) the superior knew or had reason to know that his or her subordinate was about to commit a crime or had done so; and
- (c) the superior failed to take the necessary and reasonable measures to prevent his or her subordinate's criminal conduct or punish his or her subordinate for that conduct.<sup>13464</sup>

3569. *Superior-subordinate relationship.* A superior may be held liable only if he or she has the material ability to prevent and punish crimes perpetrated by the subordinate ('effective control').<sup>13465</sup> The relationship of subordination can be direct or indirect,<sup>13466</sup> within a hierarchy that is formal or informal,<sup>13467</sup> *de jure* or *de facto*,<sup>13468</sup> and civilian or military.<sup>13469</sup>

3570. *Superior's knowledge.* A superior may be held liable only if general or specific information was available to him or her that was sufficiently alarming to put him or her on notice of offences committed or about to be committed by his or her subordinates and justify further inquiry by the superior.<sup>13470</sup> A deliberate failure to conduct or conclude such an inquiry, despite having the means to do so, satisfies this standard.<sup>13471</sup> The subordinate may be liable under any of the modes of liability set out in Article 7 (1)

<sup>13464</sup> Statute, Art. 7 (3); *Aleksovski* Appeal Judgment, para. 72; *Blaškić* Appeal Judgment, para. 484; *Kordić and Čerkez* Appeal Judgment, paras 827, 839; *Gacumbitsi* Appeal Judgment, para. 143; *Halilović* Appeal Judgment, para. 59; *Nahimana et al.* Appeal Judgment, para. 484; *Boškoski and Tarčulovski* Appeal Judgment, para. 230.

<sup>13465</sup> *Aleksovski* Appeal Judgment, para. 76; *Čelebići* Appeal Judgment, paras 191-192, 196-198, 256, 266, 303; *Kayishema and Ruzindana* Appeal Judgment, para. 294; *Bagilishema* Appeal Judgment, paras 50, 52, 55, 61; *Blaškić* Appeal Judgment, paras 375, 484; *Kajelijeli* Appeal Judgment, paras 86-87; *Halilović* Appeal Judgment, paras 59, 85, 210; *Nahimana et al.* Appeal Judgment, paras 484, 605, 625; *Hadžihasanović and Kubura* Appeal Judgment, paras 20-21; *Orić* Appeal Judgment, paras 20, 91-92.

<sup>13466</sup> *Čelebići* Appeal Judgment, paras 252, 303; *Halilović* Appeal Judgment, para. 59; *Orić* Appeal Judgment, para. 20.

<sup>13467</sup> *Čelebići* Appeal Judgment, para. 197; *Kayishema and Ruzindana* Appeal Judgment, para. 294; *Halilović* Appeal Judgment, paras 59, 210.

<sup>13468</sup> *Čelebići* Appeal Judgment, paras 192-193, 195; *Kayishema and Ruzindana* Appeal Judgment, para. 294; *Bagilishema* Appeal Judgment, paras 50, 56, 61; *Kajelijeli* Appeal Judgment, para. 85; *Gacumbitsi* Appeal Judgment, para. 143; *Nahimana et al.* Appeal Judgment, paras 484, 605; *Hadžihasanović and Kubura* Appeal Judgment, para. 20.

<sup>13469</sup> *Aleksovski* Appeal Judgment, para. 76; *Čelebići* Appeal Judgment, paras 195-196; *Bagilishema* Appeal Judgment, paras 50-51; *Kajelijeli* Appeal Judgment, paras 85-86; *Nahimana et al.* Appeal Judgment, para. 605.

<sup>13470</sup> *Čelebići* Appeal Judgment, paras 238-239, 241; *Bagilishema* Appeal Judgment, paras 28, 42; *Krnjelac* Appeal Judgment, paras 59, 155; *Blaškić* Appeal Judgment, paras 62, 64; *Nahimana et al.* Appeal Judgment, para. 791; *Hadžihasanović and Kubura* Appeal Judgment, paras 27-31; *Strugar* Appeal Judgment, paras 297-301, 304; *Bagosora and Nsengiyumva* Appeal Judgment, para. 384.

of the Statute.<sup>13472</sup> The superior need not know the identities of the subordinates who perpetrate the crimes.<sup>13473</sup>

3571. *Failure to take the necessary and reasonable measures to prevent or punish.* Necessary measures are those measures appropriate for the superior to fulfil his or her obligation to genuinely try to prevent or punish, and reasonable measures are those which reasonably fall within the material powers of the superior.<sup>13474</sup> The duty to prevent and the duty to punish are distinct legal obligations, and a superior may be held liable for violating either duty.<sup>13475</sup> The duty to prevent attaches to a superior from the moment he or she knows or has reason to know that a crime is about to be committed, while the duty to punish only arises after the commission of a crime.<sup>13476</sup> The duty to punish includes, at a minimum, the obligation to investigate possible crimes or have the matter investigated, and if the superior has no power to sanction, to report them to the competent authorities.<sup>13477</sup>

3572. The Trial Chamber has also considered the body of evidence on the crimes committed during the Indictment period. This evidence has been reviewed in chapters 4-7 above and the Trial Chamber here considered what, if anything, could be inferred from this evidence with regard to the alleged objective of the JCE.

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<sup>13471</sup> *Čelebići* Appeal Judgment, paras 226, 232; *Blaškić* Appeal Judgment, para. 406; *Hadžihasanović and Kubura* Appeal Judgment, para. 28; *Strugar* Appeal Judgment, para. 298.

<sup>13472</sup> *Blagojević and Jokić* Appeal Judgment, paras 280-282; *Nahimana et al.* Appeal Judgment, paras 485-486; *Orić* Appeal Judgment, para. 21.

<sup>13473</sup> *Blagojević and Jokić* Appeal Judgment, para. 287.

<sup>13474</sup> *Halilović* Appeal Judgment, para. 63; *Orić* Appeal Judgment, para. 177.

<sup>13475</sup> *Hadžihasanović and Kubura* Appeal Judgment, para. 259.

<sup>13476</sup> *Blaškić* Appeal Judgment, para. 83; *Hadžihasanović and Kubura* Appeal Judgment, para. 260.

<sup>13477</sup> *Halilović* Appeal Judgment, para. 182; *Hadžihasanović and Kubura* Appeal Judgment, para. 154; *Boškoski and Tarčulovski* Appeal Judgment, paras 230-234; *Bagosora and Nsengiyumva* Appeal Judgment, para. 510.

## 9.2 First (overarching) joint criminal enterprise

### *9.2.1 Overview of the charges*

3573. According to the Indictment, as of 12 May 1992, the Accused was a key member of an Overarching JCE, which lasted from at least October 1991 until 30 November 1995.<sup>13478</sup> The objective of this JCE was the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian-Serb-claimed territory in Bosnia-Herzegovina through the following crimes charged in the Indictment: genocide (Count 1), persecution, extermination, murder, deportation, and inhumane acts (forcible transfer).<sup>13479</sup> The Accused shared the intent for the commission of each of these crimes with other members of the JCE.<sup>13480</sup>

3574. Alternatively, the shared objective included at least the crimes of deportation and inhumane acts (forcible transfer). It was foreseeable that the crimes of genocide, persecution, extermination, and murder might be perpetrated by one or more members of the JCE or by persons used by any member of the JCE in order to carry out the *actus reus* of the crimes forming part of the shared objective. With the awareness that such crimes were a possible consequence of the implementation of the objective, the Accused willingly took that risk.<sup>13481</sup>

3575. According to the Indictment, members of the JCE included, in addition to the Accused, Radovan Karadžić, Momčilo Krajišnik, Slobodan Milošević, Biljana Plavšić, Nikola Koljević, Mićo Stanišić, Momčilo Mandić, Jovica Stanišić, Franko Simatović, Željko Ražnatović (a.k.a. 'Arkan'), and Vojislav Šešelj.<sup>13482</sup> Other members included: members of the Bosnian-Serb leadership; members of the SDS and Bosnian-Serb government bodies at the republic, regional, municipal, and local levels, including Crisis Staffs, War Presidencies, and War Commissions; commanders, assistant commanders, senior officers, and chiefs of units of the Serbian MUP, the JNA, the VJ, the VRS, the Bosnian-Serb MUP and the Bosnian-Serb TO at the republic, regional, municipal, and local level; and leaders of Serbian and Bosnian-Serb paramilitary forces and volunteer units.<sup>13483</sup> Alternatively, some or all of the unnamed individuals were not

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<sup>13478</sup> Indictment, paras 5, 8.

<sup>13479</sup> Indictment, para. 5.

<sup>13480</sup> Indictment, para. 8.

<sup>13481</sup> Indictment, para. 9.

<sup>13482</sup> Indictment, para. 10.

<sup>13483</sup> Indictment, para. 11.

members but were used by members of the JCE to carry out crimes committed in furtherance of its objective.<sup>13484</sup>

3576. Members of the JCE implemented their objective by personally committing crimes and/or through and by using others to carry out crimes committed in furtherance of the objective.<sup>13485</sup> Those who were used to carry out the crimes were members of the Bosnian-Serb Political and Governmental Organs (as defined in the Indictment) and members of the Bosnian-Serb MUP ('MUP'), VRS, JNA, VJ, TO, the Serbian MUP, Serbian and Bosnian-Serb paramilitary forces and volunteer units, and local Bosnian Serbs.<sup>13486</sup>

3577. In chapters 9.2.2-9.2.5, the Trial Chamber will address the political developments and the creation of the Bosnian-Serb Republic in 1991 and 1992, with particular focus on the Variant A/B instructions and the Six Strategic Objectives, as well as statements and speeches made by Bosnian-Serb political leaders throughout the Indictment period. The Trial Chamber will then, in chapters 9.2.6-9.2.9, turn to the role of the Bosnian-Serb regional and municipal organs, the MUP, and the VJ, as well as paramilitary formations operating in the territory of the Bosnian-Serb Republic during the Indictment period. In chapters 9.2.10-9.2.12, the Trial Chamber will consider the Prosecution's allegations regarding the systematic cover-up (including the cover-up of murder of people buried at Tomašica) and the failure to investigate and prosecute crimes. In chapter 9.2.13, the Trial Chamber will address the Defence's submissions concerning revenge and related arguments. In its conclusion in chapter 9.2.14, the Trial Chamber will determine whether a JCE as alleged by the Prosecution existed and, if so, what crimes it included and who its members were. In this respect, the Trial Chamber will further consider the body of evidence on the crimes committed during the Indictment period. This evidence has been reviewed in chapters 4-7, above.

*9.2.2 Political developments and the role of the SDS in the lead-up to the conflict in 1991 and 1992*

3578. In this chapter, the Trial Chamber will review the evidence and make findings on the political developments in the lead up to the conflict, in particular the role of the SDS

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<sup>13484</sup> Indictment, para. 11.

<sup>13485</sup> Indictment, para. 12.

<sup>13486</sup> Indictment, paras 11-12.

and the political platform espoused by its leadership. The Prosecution argued that in the months leading up to 12 May 1992, members of the alleged JCE had already established a policy of forcible ethnic separation and were determined to establish an ethnically separate and homogenous Bosnian-Serb entity within the territory of Bosnia-Herzegovina, including in areas inhabited by vast numbers of Bosnian Muslims.<sup>13487</sup> In 1991 and 1992, the Bosnian-Serb leadership, through the SDS, established ethnically separate parallel structures and took several steps in preparation for ethnic separation, including organising military training, mobilising Serb TO and paramilitary units, and distributing weapons together with the JNA.<sup>13488</sup> As a hierarchical organisation, the republic-level SDS bodies set policy and directed local SDS organs, who implemented said policy and reported back regarding events in their municipalities.<sup>13489</sup>

3579. The Defence argued that beginning in 1991, Bosnian Serbs felt increasingly threatened in politics and society.<sup>13490</sup> While the SDS pursued peaceful and collaborative efforts to remain part of the FRY, it was repeatedly outvoted and ignored by the SDA and the HDZ.<sup>13491</sup> Meanwhile, the SDA pursued a path of political dominance and, despite the known objections of the Bosnian Serbs, continued to work towards Bosnia-Herzegovina's independence.<sup>13492</sup> Given the historical context and the illegal nature of the memorandum of sovereignty proposed by the SDA and the HDZ, the establishment of the Bosnian-Serb Assembly on 21 October 1991 was the only possible route to protect the rights of the Serb minority and a direct response to the actions of Bosnian Muslims and Bosnian Croats.<sup>13493</sup> According to the Defence, the Bosnian Serbs did not foresee war as a possible outcome and were not preparing for it, as shown by the fact that the SDS had to make reactive decisions following the aggressive political actions of the Bosnian Muslims and Bosnian Croats, who had begun to prepare themselves for war.<sup>13494</sup>

3580. With regard to the role of the SDS and the political developments that took place in the lead-up to the conflict, the Trial Chamber took judicial notice of a number of

<sup>13487</sup> Prosecution Final Brief, paras 155, 157-158.

<sup>13488</sup> Prosecution Final Brief, para. 559.

<sup>13489</sup> Prosecution Final Brief, para. 561.

<sup>13490</sup> Defence Final Brief, para. 329.

<sup>13491</sup> Defence Final Brief, paras 292-295, 298.

<sup>13492</sup> Defence Final Brief, paras 291, 293-294, 296.

<sup>13493</sup> Defence Final Brief, para. 326.

<sup>13494</sup> Defence Final Brief, paras 308, 312.

Adjudicated Facts.<sup>13495</sup> Further, it received evidence from **Patrick Treanor**, an intelligence analyst;<sup>13496</sup> **Dorothea Hanson**, a research officer for the Prosecution Leadership Research Team;<sup>13497</sup> **Witness RM-513**, a Bosnian Serb from Bijeljina;<sup>13498</sup> **Witness RM-015**, a Bosnian Serb from Sanski Most;<sup>13499</sup> **Witness RM-066**, a Serb from Vlasenica;<sup>13500</sup> and **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992,<sup>13501</sup> as well as documentary evidence, and finds that this evidence is consistent with the Adjudicated Facts.<sup>13502</sup> The Trial Chamber also received evidence from **Milan Babić**, the former President of the RSK,<sup>13503</sup> **Milenko Stanić**, President of the Municipal Assembly of Vlasenica from the beginning of 1991 to the beginning of 1993 and, for a certain period, also President of the Executive Council of the Birač SAO;<sup>13504</sup> **Tarik Kupusović**, a member of the Sarajevo Town Assembly from 1990 to 1994, and the Mayor of Sarajevo from 1994 to 1996;<sup>13505</sup> **Zijo Hadžić**, a Bosnian Muslim police officer of the Kalinovik police from 1987 until 20 April 1992;<sup>13506</sup> **Sulejman Crnčalo**, a Bosnian Muslim from Radačići in Pale Municipality;<sup>13507</sup> **Witness RM-081**, a Bosnian Muslim from Rogatica

<sup>13495</sup> These are set out below, but also include Adjudicated Facts I nos 56-57, which are reviewed in chapter 2.2.1.

<sup>13496</sup> P3001 (Patrick Treanor, *curriculum vitae*), p. 3.

<sup>13497</sup> P378 (Dorothea Hanson, *curriculum vitae*), p. 1; Dorothea Hanson, T. 4141. The evidence of Dorothea Hanson is also reviewed in chapters 2.2.2, 3.1.1, and 3.3.

<sup>13498</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6.

<sup>13499</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111.

<sup>13500</sup> P182 (Witness RM-066, witness statement, 7 April 2010), p. 1.

<sup>13501</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>13502</sup> **Patrick Treanor**: P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 56, 83, 87-90, 94-95, 98, 137, 170-172, 174, 176-178, 181. **Dorothea Hanson**: P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), paras 16-17, 19. **Miroslav Deronjić**: P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 43. **Witness RM-513**: P1054 (Witness RM-513, witness statement, 25 June 2011), para. 13. **Witness RM-015**: P2362 (Witness RM-015, witness statement, 13 March 2002), para. 75. **Witness RM-066**: P182 (Witness RM-066, witness statement, 7 April 2010), para. 18. **Documentary evidence**: P3006 (Declaration on the proclamation of the Bosnian-Serb Republic, 9 January 1992); P3037 (Minutes of the 1st meeting of the Ministerial Council of the Bosnian-Serb Assembly held on 11 January 1992, 13 January 1992), pp. 1, 3; P3049 (Conclusions and Recommendations of the Bosnian-Serb Assembly, 21 November 1991 and 11 December 1991); P6901 (Decision on territories considered part of the Federal State of Yugoslavia, 21 November 1991); P7040 (Letter from SDS Executive Committee to SDS Regional and Municipal Boards, 19 February 1992), pp. 1-2; P7077 (Excerpts from the 2nd Session of the Bosnian-Serb Assembly, 21 November 1991), pp. 5-7; P7722 (Minutes of Bosnian-Serb Assembly's Ministerial Council meeting, 22 January 1992), pp. 4-5.

<sup>13503</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3325-3326.

<sup>13504</sup> D884 (Milenko Stanić, witness statement, 16 February 2013), paras 1-2; Milenko Stanić, T. 30837, 30850, 30874, 30884.

<sup>13505</sup> P2468 (Tarik Kupusović, *Galić* transcript, 3-4 December 2001), pp. 607, 609, 612.

<sup>13506</sup> P2800 (Zijo Hadžić, witness statements), witness statement of 30 January 1999, pp. 1-2, 5, witness statement of 19 February 2003, p. 1.

<sup>13507</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), p. 1, para. 3; Sulejman Crnčalo, T. 3229.

municipality;<sup>13508</sup> **Alija Isaković**, a Bosnian Muslim from Rogatica;<sup>13509</sup> **Ahmet Zulić**, a Bosnian Muslim from the village of Pobrježje near Sanski Most;<sup>13510</sup> and **Herbert Okun**, special advisor and deputy to the Special Envoy of the UNSG from 1991 through 1997 and co-chairman of the International Conference on the former Yugoslavia.<sup>13511</sup>

3581. From 1945 until 1990, Yugoslavia was composed of six Republics: Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia.<sup>13512</sup> Certain Republics were populated predominantly by one ethnic group: for example, Serbs in Serbia and Croats in Croatia.<sup>13513</sup> The Second World War was a time of particularly bitter strife in the former Yugoslavia, with accusations of atrocities emanating from all quarters. Maršal Tito's post-war government discouraged ethnic division and nationalism with a focus on the unity of the communist state. Thus, the period from 1945 until 1990 was marked by relative calm and peaceful inter-ethnic relations, although the various groups remained conscious of their separate identities.<sup>13514</sup> In the late 1980s, economic woes and the end of communist rule set the stage for rising nationalism and ethnic friction.<sup>13515</sup> On 25 June 1991, Croatia and Slovenia declared their independence from the SFRY.<sup>13516</sup> The JNA's attempts to seize control of strategic assets in Slovenia were thwarted by the local TO, and the conflict in Slovenia effectively ended on 18 July.<sup>13517</sup> Macedonia broke off successfully in September 1991.<sup>13518</sup> Bosnia-Herzegovina, more than any other republic of the former Yugoslavia, was multi-ethnic for centuries, with Serbs, Muslims, and Croats as the predominant nationalities.<sup>13519</sup>

3582. In November 1990, the first free, multi-party elections were held in Bosnia-Herzegovina, for both municipal assemblies and for the Republican Legislature.<sup>13520</sup>

<sup>13508</sup> P309 (Witness RM-081, witness statement, 17 September 2011), p. 1, paras 1-2; Witness RM-081, T. 3686-3687; P308 (Pseudonym sheet for Witness RM-081).

<sup>13509</sup> P1637 (Alija Isaković, witness statement, 22 January 1999), p. 1; P1638 (Alija Isaković, statement before the Bosnia-Herzegovina MUP), p. 1.

<sup>13510</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), p. 1, paras 1-3.

<sup>13511</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4137.

<sup>13512</sup> Adjudicated Facts I, no. 1.

<sup>13513</sup> Adjudicated Facts I, no. 1.

<sup>13514</sup> Adjudicated Facts I, no. 2.

<sup>13515</sup> Adjudicated Facts I, no. 3.

<sup>13516</sup> Adjudicated Facts I, no. 48.

<sup>13517</sup> Adjudicated Facts I, no. 49.

<sup>13518</sup> Adjudicated Facts I, no. 5.

<sup>13519</sup> Adjudicated Facts I, no. 6.

<sup>13520</sup> Adjudicated Facts I, nos 8, 17.

The most prominent newly-formed political parties in Bosnia-Herzegovina were the SDA, the SDS, and the HDZ.<sup>13521</sup> For the Republican Assembly, the SDA party gained a narrow margin over the SDS.<sup>13522</sup> The outcome of the election was a reflection of an ethnic census of the population with each ethnic group voting for its own nationalist party.<sup>13523</sup> A census in April 1991 recorded that 43.7 per cent of the residents of Bosnia-Herzegovina were ethnic Muslims, 32.4 per cent were Serbs, and 17.3 per cent were Croats.<sup>13524</sup>

3583. Following the November 1990 elections, the SDA, SDS, and HDZ reached an agreement among themselves on a formula for the distribution of power.<sup>13525</sup> A coalition government was thus formed headed by a seven-member State Presidency, with the leader of the SDA, Alija Izetbegović, as the first President.<sup>13526</sup> The SDA, SDS, and HDZ agreed that, at the most senior level, the Prime Minister would be from the HDZ, the President of the Assembly from the SDS, and the President of the Presidency from the SDA (the persons appointed were Jure Pelivan, Momčilo Krajišnik, and Alija Izetbegović, respectively).<sup>13527</sup> Positions in all Government organs and public institutions with government appointees were distributed in accordance with party quotas.<sup>13528</sup> This arrangement stamped out opposition by smaller parties and sowed the seeds for the establishment of parallel ethnic structures.<sup>13529</sup> The SDS, for example, received a vice-presidential position, two Ministers without portfolio, and five out of thirteen departmental portfolios in the Government, as well as eight out of thirty chairmanships of Assembly committees and commissions.<sup>13530</sup> At the local level, a similar division of posts was made, reflecting the percentages gained by each party in the elections.<sup>13531</sup> These percentages corresponded to the ethnic composition of each municipality.<sup>13532</sup> After the quotas were distributed, the three parties shared control over appointments made at every level of administration.<sup>13533</sup>

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<sup>13521</sup> Adjudicated Facts I, no. 9.

<sup>13522</sup> Adjudicated Facts I, no. 10.

<sup>13523</sup> Adjudicated Facts I, no. 11.

<sup>13524</sup> Adjudicated Facts I, no. 12.

<sup>13525</sup> Adjudicated Facts I, no. 17.

<sup>13526</sup> Adjudicated Facts I, no. 18.

<sup>13527</sup> Adjudicated Facts I, no. 19.

<sup>13528</sup> Adjudicated Facts I, no. 20.

<sup>13529</sup> Adjudicated Facts I, no. 21.

<sup>13530</sup> Adjudicated Facts I, no. 21.

<sup>13531</sup> Adjudicated Facts I, no. 26.

<sup>13532</sup> Adjudicated Facts I, no. 26.

<sup>13533</sup> Adjudicated Facts I, no. 27.

3584. In the Bosnia-Herzegovina Republican Assembly, co-operation between the Muslim and Serbian political parties proved increasingly difficult as time went by.<sup>13534</sup> What was initially a coalition government of the Republic broke down in October 1991 and failed completely in January 1992.<sup>13535</sup> The disintegration of multi-ethnic federal Yugoslavia was thus swiftly followed by the disintegration of multi-ethnic Bosnia-Herzegovina, and the prospect of war in Bosnia-Herzegovina increased.<sup>13536</sup>

3585. In 1990 and 1991, the SDS was funded by voluntary contributions and enjoyed the support of the overwhelming majority of Bosnian Serbs.<sup>13537</sup> Its main organs included the party Assembly, formally the supreme body; the SDS Main Board, the highest party organ at times when the Assembly was not in session; the SDS Executive Board, the executive arm of the Main Board; the president of the party, who was also the president of the Main Board; and several advisory bodies, such as the SDS Political and Economic Councils and the Commission for Personnel and Organization.<sup>13538</sup> The party was a hierarchical structure, organized into municipal assemblies and boards resembling the republican organs.<sup>13539</sup>

3586. **Patrick Treanor** testified that from its inception, the SDS, particularly the top Bosnian-Serb leadership, regarded itself as the legitimate representative of the 'Serbian people' in Bosnia-Herzegovina.<sup>13540</sup> In November 1990, SDS candidates Biljana Plavšić and Nikola Koljević were elected members of the Bosnia-Herzegovina Presidency.<sup>13541</sup> In this capacity, Plavšić received regular reports from the security services of Bosnia-Herzegovina and was able to provide the SDS leadership with detailed information about the political and security situation in the country.<sup>13542</sup> According to Treanor, Plavšić was one of the most senior SDS leaders by virtue of her position and power, as well as her relationships with Radovan Karadžić, from whom she took advice, instructions, and orders, and with other senior leaders, frequently acting as a representative of the SDS.<sup>13543</sup>

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<sup>13534</sup> Adjudicated Facts I, no. 34.

<sup>13535</sup> Adjudicated Facts I, no. 34.

<sup>13536</sup> Adjudicated Facts I, no. 35.

<sup>13537</sup> Adjudicated Facts I, no. 14.

<sup>13538</sup> Adjudicated Facts I, no. 15.

<sup>13539</sup> Adjudicated Facts I, no. 16.

<sup>13540</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 12.

<sup>13541</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 16.

<sup>13542</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 16.

<sup>13543</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 17.

3587. The SDS President – *i.e.* Karadžić – was the most important and powerful party institution.<sup>13544</sup> While the Main and the Executive Boards were important operational institutions, SDS-affiliated groups, including parliamentary representatives, office holders in the central government, and administration of Bosnia-Herzegovina, as well as municipal SDS leaders and other leadership bodies, including the Deputies Club, played an important part in decision-making and policy-setting.<sup>13545</sup> According to Treanor, numerous telephone conversations indicate that small, informal, changing groups of powerful individuals within the SDS constituted an operational decision-making centre within the SDS.<sup>13546</sup>

3588. Treanor testified that in addition to sessions of the Main Board, the Executive Board, and the Deputies Club, the Bosnian-Serb leadership also used expanded gatherings of middle and lower level party officials to communicate instructions and information to the grassroots level directly.<sup>13547</sup> According to Treanor, in mid-October 1991, in response to the Assembly of Bosnia-Herzegovina voting in favour of independence on 14 and 15 October 1991, the Bosnian-Serb leadership initiated the establishment of parallel organs of power.<sup>13548</sup> On 15 October 1991, during a meeting between the collective Presidency of Bosnia-Herzegovina and the JNA, Koljević and Plavšić used their formal powers to advance SDS policy.<sup>13549</sup>

3589. From the moment of its creation, the SDS political platform included an emphasis on the protection of the Serb nation, which was said to be disadvantaged by the purported lower birth rate of Serbs and by the way Bosnia-Herzegovina had been divided into municipalities, effectively making Serbs an ethnic minority in areas where they might otherwise have dominated.<sup>13550</sup> **Milan Babić** stated that the SDS was founded with the object of covering the whole area of the SFRY.<sup>13551</sup> The SDS splintered into independent autonomous parties in the Krajina, Bosnia-Herzegovina,

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<sup>13544</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 41.

<sup>13545</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 40, 43.

<sup>13546</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 73.

<sup>13547</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 49.

<sup>13548</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 56.

<sup>13549</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 56.

<sup>13550</sup> Adjudicated Facts I, no. 13.

<sup>13551</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), p. 12896.

Serbia, and Montenegro after the autumn of 1990.<sup>13552</sup> The SDS of Bosnia-Herzegovina was founded in July 1990 with Karadžić as president.<sup>13553</sup>

3590. According to Babić, Karadžić, Krajišnik, Koljević, and Plavšić were the main leaders of the SDS and the governmental structures of the Bosnian-Serb Republic.<sup>13554</sup> Slobodan Milošević and Karadžić were very close collaborators.<sup>13555</sup> Babić stated that the discussion on the future of Yugoslavia was rather intense in 1990 and that there were two approaches. The first, a political approach by Serbia, was that Yugoslavia would be set up as a strong federation; the second, adopted by Croatia and Slovenia, was that they should be independent states set up as a confederation. According to Babić, the Serbs opted for the approach taken in Belgrade, that of ‘Yugoslavia as a firm federation’.<sup>13556</sup> He stated that in as early as January 1991, Milošević began to advocate, including in public speeches, that in case of a full disintegration of Yugoslavia, Serbs had a right to live and remain in one state.<sup>13557</sup> According to Milošević, Serbs could not live in a confederation of four independent states.<sup>13558</sup> The Bosnian-Serb leadership shared Milošević’s position regarding ‘all Serbs in one state’.<sup>13559</sup> The Bosnian-Serb leadership considered that ‘the Serbian people’ had a historical right to territory in which Serbs constituted a majority of the population, as well as territory in Bosnia-Herzegovina in which Serbs constituted a majority before World War II.<sup>13560</sup> Many Bosnian-Serb leaders referred to Muslims as ‘Turks’, an expression that went beyond a simple derogatory meaning, also expressing historic hostility.<sup>13561</sup>

3591. A confidential SDS document, dated 23 February 1991, considered specific actions to be taken should Bosnia-Herzegovina move towards independence.<sup>13562</sup> In such a case municipal authorities were to ensure that only Yugoslav (federal) law would apply, suspending the implementation of republican regulations and thus creating ‘a

<sup>13552</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 12896-12898.

<sup>13553</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), p. 12896.

<sup>13554</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3396-3397.

<sup>13555</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3396-3397.

<sup>13556</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), p. 13011.

<sup>13557</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13011-13018.

<sup>13558</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13011-13012.

<sup>13559</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3397-3399; P4178 (Letter from Momčilo Krajišnik, 19 December 1991).

<sup>13560</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3399-3400; P4178 (Letter from Momčilo Krajišnik, 19 December 1991).

<sup>13561</sup> P4164 (Milan Babić, witness statement, 29 March 2004), para. 11.

legal foundation for direct communication (assistance, cooperation, and the like) between these municipalities and the Federation and its organs (such as the SFRY Assembly, Presidency, federal Executive Council ...) and through them, this would provide particularly for the need to engage the Yugoslav People's Army, and the Federal Secretariat for National Defence'.<sup>13563</sup> This policy was adopted by the SDS Deputies' Club, the parliamentary caucus of the party, and was made public in a document dated 10 June 1991.<sup>13564</sup>

3592. In April 1991, SDS delegates in the Municipal Assembly of Pale, which was the Sarajevo municipality with the highest percentage of Bosnian-Serb inhabitants and SDS municipal assembly delegates, announced their intention to secede from 'the city of Sarajevo'.<sup>13565</sup> At the end of 1991 and the beginning of 1992, Bosnian-Serb nationalists in the area of Sarajevo created separate, parallel Bosnian-Serb institutions at the city and municipal levels.<sup>13566</sup> On 24 December 1991, the SDS formed a Crisis Staff for Sarajevo.<sup>13567</sup>

3593. **Miroslav Deronjić** stated that during a meeting with members of the SDS and party officials, the deputies and the presidents of the SDS municipal boards, held in Sarajevo in April 1991, Karadžić said that 'if a Federative Yugoslavia no longer exists, and there is every indication that it no longer exists, the only option for the Serbs in Bosnia and Serbs in general is a Greater Serbia'.<sup>13568</sup> Karadžić also mentioned that if Bosnia were to secede from Yugoslavia, it would be divided.<sup>13569</sup> After the meeting, Deronjić joined a small group of people, including Karadžić, Goran Zekić, Velibor Ostojić, and Slobodanka Hrvaćanin in a restaurant, where Karadžić announced that 'it had been agreed that Bosnia would be divided'.<sup>13570</sup>

3594. **Babić** stated that in May 1991, he attended a meeting in Karadžić's flat with Jovica Stanišić, Franko Simatović, Milan Martić, and Velibor Ostojić.<sup>13571</sup> At that time, Ostojić was the Minister of Information of the government of Bosnia-Herzegovina, a

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<sup>13562</sup> Adjudicated Facts I, no. 44.

<sup>13563</sup> Adjudicated Facts I, no. 45.

<sup>13564</sup> Adjudicated Facts I, no. 46.

<sup>13565</sup> Adjudicated Facts III, no. 1682.

<sup>13566</sup> Adjudicated Facts III, no. 1687.

<sup>13567</sup> Adjudicated Facts III, no. 1688.

<sup>13568</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), paras 38-39.

<sup>13569</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 40.

<sup>13570</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 41.

<sup>13571</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3406-3408; P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13082.

member of the Executive Board of the SDS for Bosnia-Herzegovina and a close associate of Karadžić.<sup>13572</sup> Ostojić, Stanisić, and Karadžić led the meeting in which they discussed maps of where the Serbs were in control and areas where the SDS should establish control.<sup>13573</sup> An agreement on cooperation between the SAO Krajina in Croatia and the Community of Municipalities of Bosnian Krajina where Serbs were the majority of the population, dated 24 June 1991, set out the concept and manner of integration between the two regions.<sup>13574</sup>

3595. During a July 1991 meeting with Babić and Milošević, Karadžić said that he would chase the Muslims in Bosnia-Herzegovina into the river valleys in order to link up all Serb territories there into one.<sup>13575</sup> During this meeting, Karadžić claimed that he had Izetbegović in his pocket, and could settle accounts with him at any time, but that it would be better to wait for Izetbegović to make the first wrong political move and that would be the time when the Muslims would be expelled.<sup>13576</sup> Karadžić talked about the leadership's plans for Serbs to take over control of territories in Bosnia-Herzegovina, including those in which Serbs were a majority at the time, as well as those in which they were not.<sup>13577</sup> During the meeting, Milošević asked Karadžić where the JNA should be deployed.<sup>13578</sup> Karadžić replied that the JNA should be deployed on the border with Croatia and the witness said, '[i]n Krajina to protect Krajina,' to which Milošević said 'fine'.<sup>13579</sup> After this meeting, Milošević agreed that Karadžić and Babić should go to Celinac, where Karadžić had called a meeting of activists from the SDS from the autonomous area of Bosanska Krajina, to tell them that actions to unite the two Krajinas should not be taken at that time.<sup>13580</sup> Karadžić also stated that he did not know whether

<sup>13572</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3406-3408; P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13082.

<sup>13573</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3407-3408; P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13082.

<sup>13574</sup> P4168 (Milan Babić, *Martić* transcript, 15-20 February 2006), pp. 1480-1481; P4174 (Agreement on cooperation, 24 June 1991).

<sup>13575</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3401-3402, 3404; P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13054-13055.

<sup>13576</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3402, 3404; P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), p. 13055.

<sup>13577</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3401-3402.

<sup>13578</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13056, 13058.

<sup>13579</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13056, 13058.

<sup>13580</sup> P4167 (Milan Babić, *Slobodan Milošević* transcript, 18 November-9 December 2002), pp. 13058-13059, 13062.

he should take Zenica from the Muslims.<sup>13581</sup> Milošević then told the witness that he should not bother or get in Karadžić's way.<sup>13582</sup>

3596. Later that day, Karadžić and the witness attended the meeting in Celinac organized by Radoslav Brđanin, the President of the SDS ARK regional board, and attended by 10 to 15 leaders from the region of Banja Luka.<sup>13583</sup> At this meeting, Karadžić repeated what he had said at the earlier meeting with Milošević, that by expelling Muslims, he would create a unified Serb territory in Bosnia-Herzegovina, to which the Krajina would be joined.<sup>13584</sup>

3597. The conflict between Serbia and Croatia, following the declaration of independence by Croatia in June 1991, exacerbated the tension between Bosnia-Herzegovina's three ethnic groups.<sup>13585</sup> In connection with the conflict in Croatia, sporadic clashes occurred in Bosnia-Herzegovina when federal authorities attempted to mobilize part of the non-Serb population.<sup>13586</sup> The armed conflicts in Slovenia and Croatia increased animosity between the SDS, on the one hand, and the SDA and HDZ, on the other.<sup>13587</sup> In September 1991, as part of a wider JNA operation in Croatia, the JNA 5th Corps, based in Bosnia-Herzegovina during peacetime, was mobilized and deployed in Croatia.<sup>13588</sup>

3598. In early 1991, the SDS embarked on a programme of regionalization.<sup>13589</sup> By June 1991, the SDS leadership ordered SDS organs in the municipalities to prepare maps of the municipalities showing as precisely as possible, in colour, the ethnic composition of each territory.<sup>13590</sup> In late August 1991, the SDS leadership began to consider the creation of a separate Serb territory in Bosnia-Herzegovina with a view to enabling Serbs to remain in Yugoslavia should the other national communities proceed with the creation of an independent republic.<sup>13591</sup> This plan envisaged the institution of

<sup>13581</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), p. 3404.

<sup>13582</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), p. 3404.

<sup>13583</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3404-3405.

<sup>13584</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3405-3406, 3613-3614.

<sup>13585</sup> Adjudicated Facts I, no. 36.

<sup>13586</sup> Adjudicated Facts I, no. 51.

<sup>13587</sup> Adjudicated Facts I, no. 52.

<sup>13588</sup> Adjudicated Facts I, no. 50.

<sup>13589</sup> Adjudicated Facts I, nos 37-38.

<sup>13590</sup> Adjudicated Facts I, no. 47.

<sup>13591</sup> Adjudicated Facts I, no. 53.

separate Serb political, police, and military structures in order to institute, at a later stage, separate governmental functions uniting the Serbs in Bosnia-Herzegovina.<sup>13592</sup>

3599. In September 1991, the SDS implemented the policy of ‘regionalization’, which consisted in the creation of ‘regions’ in which Serbs were the relative majority.<sup>13593</sup> The SDS established Bosnian-Serb controlled areas by linking Bosnian-Serb populated municipalities together and by establishing parallel government bodies, with a view to removing that territory from the effective control of the authorities of the Socialist Republic of Bosnia-Herzegovina.<sup>13594</sup> SDS party leaders justified the associations of municipalities in terms of economic necessity.<sup>13595</sup> However, among the functions the SDS assigned to the Bosnian Krajina community of municipalities was the organization of its defence in times of war or imminent threat of war.<sup>13596</sup> The SDS party leadership, in agreement with the political establishment in Serbia, began considering options for a break-up of Bosnia-Herzegovina along ethnic lines and a realignment of component parts with neighbouring states.<sup>13597</sup> In September 1991, it was announced that several SAOs in Bosnia-Herzegovina had been proclaimed, including Krajina, Romanija and Stara Herzegovina.<sup>13598</sup> On 16 September, the SDS Executive Board approved the appointment of a regionalization staff.<sup>13599</sup>

3600. On 7 September 1991, a decision was taken during the Pale Symposium of municipal, regional, and republic SDS organs on appointing staff for regional organisations.<sup>13600</sup> They were tasked with observing the implementation of (i) the promulgation of autonomous regions as unquestionable parts of the federal state of Yugoslavia and as constituent parts of the federal unit of Bosnia and Herzegovina and (ii) the separation of settlements of one municipality and their integration into another municipality.<sup>13601</sup> According to **Treanor**, this consultation of SDS officials launched the next stage of regionalization.<sup>13602</sup>

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<sup>13592</sup> Adjudicated Facts I, no. 53.

<sup>13593</sup> Adjudicated Facts I, nos 54-55.

<sup>13594</sup> Adjudicated Facts I, no. 37.

<sup>13595</sup> Adjudicated Facts I, no. 39.

<sup>13596</sup> Adjudicated Facts I, no. 40.

<sup>13597</sup> Adjudicated Facts I, no. 41.

<sup>13598</sup> Adjudicated Facts I, no. 42.

<sup>13599</sup> Adjudicated Facts I, no. 56.

<sup>13600</sup> P6995 (SDS Decision on appointment of the staff for regional organisation, 25 September 1991).

<sup>13601</sup> P6995 (SDS Decision on appointment of the staff for regional organisation, 25 September 1991).

<sup>13602</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 135. *See also* P6995 (SDS Decision on appointment of the staff for regional organisation, 25 September 1991).

3601. On 13 September 1991, Rajko Đukić, the President of the Executive Board of the SDS of Bosnia-Herzegovina, requested all municipalities and city boards of the SDS to undertake the activities related to the regionalization, such as the monitoring of the decision on the proclamation of SAOs, through the regionalization staff appointed pursuant to a decision of the SDS President, Karadžić, on 9 September 1991.<sup>13603</sup>

3602. **Herbert Okun** stated that from October 1991 onwards, the Bosnian-Serb leadership, including Krajišnik and Koljević, consistently and repeatedly argued that Bosnian Serbs had a historical claim to 65 per cent of the land, even though they represented only 35 per cent of the population in Bosnia-Herzegovina.<sup>13604</sup>

3603. According to an intercepted conversation with a certain Gojko Đogo in Belgrade, on 12 October 1991, Karadžić stated that there were 20,000 ‘armed Serbs’ around Sarajevo, and that should the Bosnian Muslims ‘rise up against the Serbs’ and attempt to secede: they would ‘disappear’; Sarajevo would be a ‘black cauldron where 300,000 Muslims will die’: and ‘the Muslim people would be exterminated’.<sup>13605</sup> He further said it was clear that the Bosnian Muslims did not have any way to secede without bloodshed.<sup>13606</sup>

3604. **Treanor** testified that starting in mid-October 1991, the goal of the Bosnian-Serb leadership was to assert *de facto* authority in territories regarded as Serb and the territorial division along ethnic lines, regardless of whether Bosnia-Herzegovina remained part of the FRY.<sup>13607</sup> Treanor testified that based on a conversation with Milošević in October 1991, Karadžić appeared more radical; he stressed that without any moderate Muslims to appeal to, there would be action and no more compromise.<sup>13608</sup> This action meant the ethnic take-over of the majority (60 to 65 per cent) of Bosnia-Herzegovina’s territory, a Serb Bosnia-Herzegovina, and the

<sup>13603</sup> P7078 (Referral of a decision on the appointment of regionalization staff from the President of the SDS to the municipal and city boards of the SDS, 13 September 1991).

<sup>13604</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4165-4169, 4207-4208; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1526-1527; P3113 (Video of a press conference given by Karadžić in Geneva, 18 September 1992), p. 6; P3115 (Index to diary entries by Herbert Okun, entries dated 13 October 1991, 4 March 1992, and 23 November 1992), pp. 1, 3; P3116 (Herbert Okun, Table of Concordance), p. 1.

<sup>13605</sup> P4109 (Intercepted conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991), pp. 7-8, 18, 21-22.

<sup>13606</sup> P4109 (Intercepted conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991), pp. 9, 16, 23.

<sup>13607</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 83. *See also* P2005 (Speech by Radovan Karadžić at the “Plebiscite of the Serb People”, Sarajevo, November 1991); P4109 (Intercepted conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991).

establishment of relations with the Muslims and Croats based on the confederate principle.<sup>13609</sup> With Serbs forming 35 per cent of the population in Bosnia-Herzegovina and controlling a large part of its territory, Karadžić stated that the Muslims would suffer enormous casualties, repeatedly emphasizing their physical ‘disappearance’ or ‘extinction’ in case of conflict and that they would stand no chance of surviving.<sup>13610</sup> According to Treanor, based on a telex Brđanin sent to presidents of municipal assemblies in October 1991, concerning Karadžić’s ‘Sarajevo SDS orders’, SDS channels of communication functioned seamlessly.<sup>13611</sup> The Bosnian-Serb leadership consistently transmitted its orders to subordinate levels, and its messages were heard loud and clear.<sup>13612</sup>

3605. Treanor testified that the overall Bosnian-Serb strategy included the arming of Serbs, military support from the JNA, and the intention of staying in Yugoslavia.<sup>13613</sup>

**Tarik Kupusović** stated that when the JNA withdrew from Croatia and Slovenia, a large quantity of weapons arrived in Bosnia-Herzegovina, particularly in Sarajevo.<sup>13614</sup>

**Witness RM-015** testified that the arming of the Serb population began immediately after the multi-party elections in 1990.<sup>13615</sup> SDS representatives were responsible for arming Serbs in their respective areas, which included distributing JNA arms.<sup>13616</sup>

**Zijo Hadžić** stated that a distribution of weapon took place in 1991 and into 1992.<sup>13617</sup> All the weapons received by local Serbs in Kalinovik came from the JNA and that he personally observed trucks delivering weapons to Serb households at night.<sup>13618</sup>

According to **Alija Isaković** and **Witness RM-081**, weapons provided by the JNA were secretly distributed exclusively to Serbs in Rogatica and the surrounding villages by

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<sup>13608</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 85.

<sup>13609</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 85. *See also* P7720 (Minutes of the 5th meeting of the SDS Executive Board, 7 November 1991), p. 5.

<sup>13610</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 84. *See also* P4109 (Intercepted conversation between Radovan Karadžić and Gojko Đogo, 12 October 1991) and P2654 (Intercepted conversation between Radovan Karadžić and Miodrag Davidović, 15 October 1991).

<sup>13611</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 86.

<sup>13612</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 92.

<sup>13613</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 83, 92.

<sup>13614</sup> P2468 (Tarik Kupusović, *Galić* transcript, 3-4 December 2001), pp. 617, 619.

<sup>13615</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 75.

<sup>13616</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 75.

<sup>13617</sup> P2800 (Zijo Hadžić, witness statements), witness statement of 30 January 1999, p. 3.

<sup>13618</sup> P2800 (Zijo Hadžić, witness statements), witness statement of 30 January 1999, p. 3.

night.<sup>13619</sup> **Isaković** stated that before the war had started, all the Serbs were already armed.<sup>13620</sup> The witness himself saw Serbs carrying automatic weapons around.<sup>13621</sup>

3606. **Deronjić** stated that in 1991, he and Goran Zekić drove to Belgrade to meet Mihalj Kertes in the building of the Presidency of Serbia.<sup>13622</sup> Kertes told them that he was in charge of the overall arming operation from the political side, with the main goal that ‘everything would be Serbian, pure Serbian, in an area of 50 kilometres from the Drina River’.<sup>13623</sup> **Witness RM-066** testified that in autumn 1991, both Serbs and Muslims were arming themselves.<sup>13624</sup> Weapons were distributed door-to-door among the Serb population in Vlasenica by SDS workers, including Goran Višković.<sup>13625</sup>

3607. By autumn 1991, two political options for the settlement of the ‘Bosnian question’ openly competed in the Assembly of Bosnia-Herzegovina.<sup>13626</sup> One option, espoused by the SDA and the HDZ as well as the majority of opposition parties, envisaged sovereign and internationally recognized statehood for Bosnia-Herzegovina.<sup>13627</sup> The other option, preferred by the SDS and some of the smaller parties, was that Bosnia-Herzegovina should remain within Yugoslavia.<sup>13628</sup> Each side opposed the other’s option.<sup>13629</sup> By October 1991, the three-party coalition was crumbling.<sup>13630</sup> The SDA and HDZ pressed the Bosnia-Herzegovina Assembly to discuss a declaration of sovereignty of Bosnia-Herzegovina, which would pave the way for the republic to assert its independence from Yugoslavia.<sup>13631</sup> The SDS protested that such a declaration would be unconstitutional as it would infringe on the rights of one nationality recognized by the Bosnia-Herzegovina constitution, namely the Serbs, and it had not been vetted by the Council for Ethnic Equality.<sup>13632</sup>

<sup>13619</sup> P1637 (Alija Isaković, witness statement, 22 January 1999), p. 2; P1638 (Alija Isaković, statement before the Bosnia-Herzegovina MUP), p. 2; P309 (Witness RM-081, witness statement, 17 September 2011), paras 12, 18-22.

<sup>13620</sup> P1637 (Alija Isaković, witness statement, 22 January 1999), p. 2; P1638 (Alija Isaković, statement before the Bosnia-Herzegovina MUP), p. 2.

<sup>13621</sup> P1637 (Alija Isaković, witness statement, 22 January 1999), p. 2; P1638 (Alija Isaković, statement before the Bosnia-Herzegovina MUP), p. 2.

<sup>13622</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), paras 5-6, 11-13.

<sup>13623</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), paras 14-15, 17.

<sup>13624</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 18.

<sup>13625</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 18.

<sup>13626</sup> Adjudicated Facts I, no. 64.

<sup>13627</sup> Adjudicated Facts I, no. 65.

<sup>13628</sup> Adjudicated Facts I, no. 66.

<sup>13629</sup> Adjudicated Facts I, no. 67.

<sup>13630</sup> Adjudicated Facts I, no. 68.

<sup>13631</sup> Adjudicated Facts I, no. 68.

<sup>13632</sup> Adjudicated Facts I, no. 69.

3608. In the course of the debate on whether to vote on such a declaration of sovereignty, during the night of 14 and 15 October 1991 when the SDA and the HDZ decided to proceed with the vote, Momčilo Krajišnik, as President of the Assembly, adjourned the session to the next morning.<sup>13633</sup> The SDS deputies, as well as most Serb deputies not in the SDS, left the hall.<sup>13634</sup> However, the vice-president of the Assembly then reconvened the session and the declaration was adopted.<sup>13635</sup> In Bosnia-Herzegovina, the Parliament declared the sovereignty of the Republic on 15 October 1991.<sup>13636</sup>

3609. During the 8th Joint Session of the Assembly of the Socialist Republic of Bosnia-Herzegovina, held on 14 and 15 October 1991, Karadžić spoke about whether Bosnia-Herzegovina should remain part of Yugoslavia, emphasizing that this was the wish of the Serbs.<sup>13637</sup> Directing himself to the SDA, he stated 'We will prevent you before national and international public to perform violence over the Serbian people, the constitutional violence, because after constitutional violence, all other kinds of violence would follow'.<sup>13638</sup> He added:

We do not decide about the situation if we get into the situation in which Slovenia and Croatia are. Especially Croatia, but taking into consideration that this hell in Bosnia and Herzegovina would be thousand times more difficult and there would be no way to stop it. And, I have to send a message to all Members of Parliament. Gentlemen, I assure you first, even if you adopted certain decisions tonight, and there is no way that you will, because we have a constitutional way to prevent you from voting, but even if you adopted a certain decision tonight, that would be a scandal for Mr. IZETBEGOVIĆ in The Hague because we have ways to prevent this /from happening/ in The Hague. That would be scandal for this Parliament in Europe and for all those people in Yugoslavia and Europe. It would especially be your scandal, Croats and Muslims, who are loyal to this idea, and the proof that you don't respect sovereignty and equality of Serbian people in Bosnia and Herzegovina.

I ask you once again, I am not threatening, but asking you to seriously understand the interpretation of the political will of Serbian people who are represented here by the

<sup>13633</sup> Adjudicated Facts I, no. 70.

<sup>13634</sup> Adjudicated Facts I, no. 71.

<sup>13635</sup> Adjudicated Facts I, no. 71.

<sup>13636</sup> Adjudicated Facts I, no. 72.

<sup>13637</sup> P108 (Excerpt from transcript of the 8th Joint Session of the Assembly of the Socialist Republic of Bosnia-Herzegovina, 14-15 October 1991), pp. 4-5.

<sup>13638</sup> P108 (Excerpt from transcript of the 8th Joint Session of the Assembly of the Socialist Republic of Bosnia-Herzegovina, 14-15 October 1991), p. 5.

Serbian Democratic Party and the Serbian Renewal Movement. According to me, I ask Serbs from other parties to seriously understand that what you are doing is not good. This is the road you choose for Bosnia and Herzegovina. This road is the same highway of hell and suffering which Slovenia and Croatia took. Do not think that you will not take Bosnia and Herzegovina to hell, and maybe the disappearance of the Muslim people, because Muslim people cannot defend themselves if the war breaks out here.<sup>13639</sup>

3610. On 15 October 1991, Karadžić told his brother, Luka Karadžić, that a Muslim attempt to create an independent Bosnia-Herzegovina ‘would mean war until their extinction’, as Serbs ‘would never forgive them such a thing’ and ‘it would destroy them completely’.<sup>13640</sup> He further stated that all of the Bosnian-Muslim leaders would be killed in three to four hours and had no chance of surviving whatsoever.<sup>13641</sup>

3611. On 15 October 1991, the SDS Political Council met to assess the situation.<sup>13642</sup> During this and other meetings, the idea emerged that the SDS should form its own institutions, which would function in parallel to those of Bosnia-Herzegovina.<sup>13643</sup> On 16 October 1991, the SDS’s ‘Announcement to the Serbian people’ stated that the SDA and HDZ had breached the constitutional order.<sup>13644</sup> It reiterated the SDS’s support for federal institutions, including the JNA.<sup>13645</sup> **Dorothea Hanson** testified that on 18 October 1991, Karadžić ordered a state of emergency in the SDS.<sup>13646</sup>

3612. During the session of the Bosnian-Serb Assembly on 24 October 1991, Bosnian-Serb deputies passed a resolution that ‘the Serbian people of Bosnia-Herzegovina shall stay in the joint state of Yugoslavia together with Serbia, Montenegro, SAO Krajina, SAO Slavonija, Baranja, Western Sirmium [Zapadni Srem], and others who may declare that they wished to stay,’ subject to confirmation by a plebiscite.<sup>13647</sup> The Bosnian-Serb deputies of the Bosnia-Herzegovina parliament proclaimed a separate Assembly of the Serb Nation on that day.<sup>13648</sup> Twenty-three sessions of the Bosnian-

<sup>13639</sup> P108 (Excerpt from transcript of the 8th Joint Session of the Assembly of the Socialist Republic of Bosnia-Herzegovina, 14-15 October 1991), pp. 5-6. *See also* P2004 (Speech by Radovan Karadžić before the Bosnia-Herzegovina Assembly, 15 October 1991), pp. 2-4. *See also* P309 (Witness RM-081, witness statement, 17 September 2011), para. 96.

<sup>13640</sup> P2654 (Intercept of Karadžić, Davidović, and Luka Karadžić, 15 October 1991), p. 6.

<sup>13641</sup> P2654 (Intercept of Karadžić, Davidović, and Luka Karadžić, 15 October 1991), p. 6.

<sup>13642</sup> Adjudicated Facts I, no. 73.

<sup>13643</sup> Adjudicated Facts I, no. 74.

<sup>13644</sup> Adjudicated Facts I, no. 75.

<sup>13645</sup> Adjudicated Facts I, no. 75.

<sup>13646</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 17.

<sup>13647</sup> Adjudicated Facts I, no. 76.

<sup>13648</sup> Adjudicated Facts I, no. 77.

Serb Assembly were held between October 1991 and December 1992.<sup>13649</sup> In this respect, the Trial Chamber refers to its review of the establishment and structure of the Bosnian-Serb Assembly in chapter 2.1.2.

3613. At the constituting session of the Bosnian-Serb Assembly on 24 October 1991, Karadžić stated: ‘The Serbian people is [...] assembling its spiritual, cultural, political and state fragments and reassembling them in order to survive. [...] This is a historic step by the Serbian people to shatter the last illusions, to discern between its friends and enemies, and to round out our entity in such a way that [...] it will never again find itself endangered from within.’<sup>13650</sup>

3614. On 26 October 1991, all SDS presidents of the municipalities in the ARK as well as ARK government met with Radovan Karadžić.<sup>13651</sup> During this meeting an order was presented and ‘fully accepted’ by those present.<sup>13652</sup> The order consisted of fourteen points and called for, among other things, a ‘town command’ amounting to a military administration; intensified mobilization of the TO; formation of military units; subordination of the TO to the JNA; disbanding of paramilitary units and their reassignment to the TO; take-over of public enterprises, the post office, banks, judiciary, media, and the SDK (Social Accounting Service); coordination with local directors and with the SDS in Sarajevo to ensure supplies for the population; and imposition of war taxes.<sup>13653</sup> On 29 October 1991, the order was sent by telex to presidents of all municipalities in the ARK by Radoslav Brđanin.<sup>13654</sup> The ARK, in particular, distinguished itself for independent action since its inception, when its authorities started taking over television and radio installations, and broadcasting ‘Serb’ programs that intimidated persons of other nationalities.<sup>13655</sup>

3615. **Sulejman Crnčalo** testified that during November 1991, he heard from his co-workers at the Famos factory that the ‘Serb army’ was providing weapons to the Serb population of Pale Municipality.<sup>13656</sup> The witness was told that a relative of the Chief of Police was in charge of distributing weapons to the local communities.<sup>13657</sup>

<sup>13649</sup> Adjudicated Facts I, no. 78.

<sup>13650</sup> P3005 (Transcript of the 1st Session of the Bosnian-Serb Assembly, 24 October 1991), pp. 1, 24-25.

<sup>13651</sup> Adjudicated Facts I, no. 58.

<sup>13652</sup> Adjudicated Facts I, no. 58.

<sup>13653</sup> Adjudicated Facts I, no. 60.

<sup>13654</sup> Adjudicated Facts I, no. 61.

<sup>13655</sup> Adjudicated Facts I, no. 62.

<sup>13656</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), paras 19-20.

<sup>13657</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), para. 19.

3616. **Hanson** testified that the process of regionalization, specifically the formation of new Serbian regional entities in the latter half of 1991, was reproduced at the municipal level.<sup>13658</sup>

3617. At the 5th meeting of the SDS Executive Board on 7 November 1991, a report on regionalisation was considered. It was concluded that the former Commission should prepare a blueprint for the organisation of the regions and submit it to the Executive Board, Council and other SDS organs to provide a more thorough overview of the organisation of the regions and the manner of functioning of their respective local authorities. It was said that conditions should be created in the region, which would allow the observance of the principle that every region should include and incorporate the national and territorial treasures.<sup>13659</sup> The aim was to create a ‘Serbian Bosnia-Herzegovina’ within Yugoslavia and to establish relations with the Muslims and the Croats based on the confederate principle.<sup>13660</sup>

3618. On 9 and 10 November 1991, the SDS held a plebiscite, asking voters whether they wished to remain in the SFRY.<sup>13661</sup> The outcome of the plebiscite was cited by the SDS as justification for establishing a separate Serb state within Bosnia-Herzegovina.<sup>13662</sup> During the plebiscite organised by the SDS, which had an almost exclusively Serb turnout, Serbs and non-Serbs were given different ballots.<sup>13663</sup> According to **Treanor**, the ‘plebiscite of the Serbian People’ would enable Bosnian Serbs to ‘ratify’ the SDS’s policy of remaining in Yugoslavia along with ‘other Serbian communities’, which at the time was being realised through an SDS-orchestrated process of establishing separate institutions.<sup>13664</sup> He testified that the outcome of the Bosnian-Serb plebiscite, unsurprisingly, favoured the Republic remaining within Yugoslavia.<sup>13665</sup>

3619. According to **Treanor**, the Bosnian-Serb Assembly was ‘not only the creation but also the creature of the SDS’; this was illustrated by the manner in which the idea of

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<sup>13658</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 19.

<sup>13659</sup> P7720 (Minutes of the 5th meeting of the SDS Executive Board, 7 November 1991), p. 5.

<sup>13660</sup> P7720 (Minutes of the 5th meeting of the SDS Executive Board, 7 November 1991), p. 5.

<sup>13661</sup> Adjudicated Facts III, no. 1683.

<sup>13662</sup> Adjudicated Facts III, no. 1685.

<sup>13663</sup> P6661 (Blue coloured ballot for the ‘plebiscite of the Serbian people’ – for Serbs); P6662 (Yellow coloured ballot for the ‘plebiscite of the Serbian people’ – for non-Serbs). *See also* Trifko Komad, T. 28125-28126; Robert Donia, T. 15630, 15639; Nenad Kecmanović, T. 23980-23981, 23984-23985.

<sup>13664</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 87, 171.

<sup>13665</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 87.

a plebiscite among the Serbs in Bosnia-Herzegovina was introduced and implemented.<sup>13666</sup> Treanor testified that the SDS intended to create legitimacy for its claims that the Serbs in Bosnia-Herzegovina did not wish to secede from Yugoslavia, and simultaneously create credibility for its claims that the SDS and the Bosnian-Serb Assembly were the only legitimate representative of the Serbs in Bosnia-Herzegovina and would act on behalf of all Serbs in any negotiations.<sup>13667</sup> Following the plebiscite, the Bosnian-Serb Assembly began negotiating terms with Bosnian Muslims and Bosnian Croats in Bosnia-Herzegovina.<sup>13668</sup>

3620. In a November 1991 speech addressing the presidents of the municipalities at the Plebiscite of the Serb People, held in Sarajevo, Karadžić described Muslims as ‘merciless’, noted that in Stari Grad Municipality the Muslims had deprived the Serbs of ‘all rights’, and stated: ‘[E]verything will be done according to the principle of reciprocity. We will behave towards them the way they behave towards us. We alone are not going to move out [...] and have them stay in our areas to settle and build their colonies. In no way are we going to behave like gentlemen wearing white gloves. If you are thrown into the sheepfold, you can play the lamb and nothing will happen to you. But if you are thrown among the wolves, no more talking [...] You can’t be the lamb. You have to be equal to your task and to your adversary.’<sup>13669</sup> He further stated that the Bosnian Serbs must ‘mark our territory as dogs do’.<sup>13670</sup> He further stated:

There is a chance that we will fight. In that case, let the chips fall where they may. They know we are not trying to run away from it. Although one should run /from fighting/, Serbs should still solve /problems/, reach their goals without victims, without a single victim! So long as it is possible. And I think that most Muslims are for it too; they know we are better armed. Serbs are many. In B-H alone, almost half a million soldiers could be mobilised and armed with light and heavy weapons. No one could oppose that. I am telling those foreigners that that war would be bloody and rough. Whether it would be long, I don’t know. But it would be bloody and rough for sure and many things would be decided and solved by it.

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<sup>13666</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 170-171. The Trial Chamber understands Treanor’s reference to the Bosnian-Serb Assembly as a ‘creature of the SDS’ to mean that the SDS leadership used this particular institution as a tool to enforce the party’s policies.

<sup>13667</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 171.

<sup>13668</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 173.

<sup>13669</sup> P2005 (Speech by Radovan Karadžić at the Plebiscite of the Serb People, November 1991), pp. 1, 7.

<sup>13670</sup> P2005 (Speech by Radovan Karadžić at the Plebiscite of the Serb People, November 1991), p. 9.

[...] I am telling you, whatever Bosnia we have one day, no Muslim foundation shall ever be laid in Serb areas and Serb villages whether or not you import Turks because we will instruct Serbs not to sell land to Muslims (applause and ovation). The first foundations that are laid will be blown up, and all foundations that are laid will be blown up.

The legal side /of the matter/ is in our hands, and so is the factual situation. And the factual situation will be the impossibility of Izetbegović to establish his authority in 70% of the territory. That in no Serb village can he establish his authority, that in no single Serb municipality can he have power, that milicija will have to obey you at the crucial moment, to obey you and to establish law and order in accordance with the Constitution of the SFRY, and not the Constitution of Bosnia-Herzegovina on which they have been working relentlessly.<sup>13671</sup>

3621. On 21 November 1991, the Bosnian-Serb Assembly proclaimed as part of the territory of federal Yugoslavia all those municipalities, communes, and settlements where a majority of registered citizens of Serb nationality had voted in favour of remaining in Yugoslavia.<sup>13672</sup> If the majority in one municipality had voted to remain within Yugoslavia, the whole of that municipality would remain.<sup>13673</sup> Municipalities where the majority of people had not participated in the plebiscite, the SDS proposed to look at single communes or settlements: if local communities had voted to remain, then only that community would be considered part of Yugoslavia, while the rest of the territory of the municipality would be allowed to join an independent Bosnia-Herzegovina.<sup>13674</sup> Also on 21 November 1991, the Bosnian-Serb Assembly adopted a resolution declaring full support for the JNA in defence of the common state of Yugoslavia and in conducting mobilization of the Serb people in Bosnia-Herzegovina, in order to reinforce military units.<sup>13675</sup> The resolution added: 'Serbian people and other people who wish to preserve Yugoslavia are called upon to respond to military call-ups'.<sup>13676</sup> The third act of the Assembly on 21 November 1991 was to certify the proclamation of the SAOs in Bosnia-Herzegovina.<sup>13677</sup>

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<sup>13671</sup> P2005 (Speech by Radovan Karadžić at the 'Plebiscite of the Serb People', Sarajevo, November 1991), pp. 2, 6, 10-11. With regard to the italicised portions of text in the English translation of exhibit P2005, the Trial Chamber notes that no such emphasis appears in the original. The Trial Chamber has therefore refrained from adopting any italics in the quotation referenced here.

<sup>13672</sup> Adjudicated Facts I, no. 79.

<sup>13673</sup> Adjudicated Facts I, no. 80.

<sup>13674</sup> Adjudicated Facts I, no. 80.

<sup>13675</sup> Adjudicated Facts I, no. 81.

<sup>13676</sup> Adjudicated Facts I, no. 82.

<sup>13677</sup> Adjudicated Facts I, no. 83.

3622. **Okun** stated that on 2 December 1991, during a meeting between Cyrus Vance, Karadžić, and himself in Belgrade, organized pursuant to Milošević's request, Karadžić argued that it was necessary to preserve Yugoslavia as a federal state.<sup>13678</sup> During this meeting and on subsequent occasions, Karadžić said that the Muslims in Bosnia-Herzegovina wanted to control all of Bosnia-Herzegovina and that they expected to achieve this through their 'high birth rate'.<sup>13679</sup> In April 1992, Karadžić also stated to Okun that unless the Bosnian-Serb municipalities were to be legally linked to Yugoslavia and the demands of the Bosnian Serbs were not met peacefully, war would result.<sup>13680</sup>

3623. At the 3rd Session of the Bosnian-Serb Assembly, held on 11 December 1991, a recommendation was passed that separate (Serb) municipal assemblies should be formed in areas where Serbs were in the minority.<sup>13681</sup> Nonetheless, the Bosnian-Serb Assembly emphasized that the deputies should continue to work in their (Bosnia-Herzegovina) municipal assemblies and organs 'unless such work is inconsistent with the need for preserving the equality and interests of the Serbian people'.<sup>13682</sup> According to **Treanor**, this was a step representing the creation of a parallel Serbian structure on the municipal level, mirroring what had already been implemented at the national level through the founding of the Bosnian-Serb Assembly.<sup>13683</sup> On the same day, the Assembly passed a resolution demanding that the JNA defend with 'all means at its disposal' the territories of Bosnia-Herzegovina featured in the aforementioned decision.<sup>13684</sup>

3624. The Variant A/B instructions issued by Karadžić on 19 December 1991, which are alleged to have formed an important part of the policy of the Bosnian-Serb leadership, will be addressed separately in chapter 9.2.3.

3625. Around 20 December 1991, SDS members Nikola Koljević and Biljana Plavšić voiced their opposition to the Bosnia-Herzegovina Presidency's decision to apply to the Badinter Commission – established by the EC to issue advisory opinions on legal

<sup>13678</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4151, 4162-4163, 4171; P3115 (Index to diary entries by Herbert Okun, entry dated 2 December 1991), p. 3.

<sup>13679</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4163-4164, 4168-4169; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1487-1488.

<sup>13680</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4172-4173, 4177-4178; P3115 (Index to diary entries by Herbert Okun, entry dated 2 December 1991), p. 3

<sup>13681</sup> Adjudicated Facts I, no. 85.

<sup>13682</sup> Adjudicated Facts I, no. 85.

<sup>13683</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 174.

matters relating to the Yugoslav crisis – for recognition as an independent state.<sup>13685</sup> On 21 December 1991, the Bosnian-Serb Assembly adopted a statement pointing out that the decisions of the Bosnia-Herzegovina Presidency in favour of independence were taken unconstitutionally and contrary to the equality of the three ethnicities.<sup>13686</sup> It also decided ‘to commence preparations for the establishment of the Republic of Serbian Bosnia-Herzegovina as a federal unit within Yugoslavia’.<sup>13687</sup>

3626. On 31 December 1991, the *Oslobodjenje* newspaper published an interview with Alija Izetbegović, in which he called for the establishment of a sovereign and independent Bosnia-Herzegovina.<sup>13688</sup> In a conversation the following day, Karadžić and Krajišnik reacted to this development. Karadžić said that ‘We will release our tigers and let them do their job ... we shouldn’t hold them back’. Krajišnik replied ‘We have to, but they’ll do it anyway, whether you want them to or not’. They both agreed that following Izetbegović’s proclamation they would no longer be able to calm the Serb people, as they had managed to do until that moment. Karadžić said that ‘he [Izetbegović] wants war. He’s playing with fire thinking Serbs wouldn’t ...’; Krajišnik interjected, saying ‘We have to use the first opportunity to tell him that he’s playing with fire.’<sup>13689</sup> On the one hand, the SDS leadership participated in negotiations with the other parties to find acceptable arrangements for the three nationalities in Bosnia-Herzegovina.<sup>13690</sup> On the other hand, they actively prepared for unilateral separation of what they considered Serb territories from Bosnia-Herzegovina in case the negotiations failed to achieve results.<sup>13691</sup> Karadžić warned that international recognition of Bosnia-Herzegovina without the necessary transformation would lead to armed conflict.<sup>13692</sup>

3627. According to **Treanor**, from the end of 1991 to at least the end of 1992, Karadžić, Krajišnik, Plavšić, and Koljević formed the inner core or ‘apex’ of the Bosnian-Serb leadership by virtue of their election to the highest executive, legislative, and party positions within the SDS, as well as the *de facto* powers derived from these

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<sup>13684</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 173.

<sup>13685</sup> Adjudicated Facts I, no. 97.

<sup>13686</sup> Adjudicated Facts I, no. 98.

<sup>13687</sup> Adjudicated Facts I, no. 99.

<sup>13688</sup> Adjudicated Facts I, no. 105.

<sup>13689</sup> Adjudicated Facts I, no. 106.

<sup>13690</sup> Adjudicated Facts I, no. 108.

<sup>13691</sup> Adjudicated Facts I, no. 108.

<sup>13692</sup> Adjudicated Facts I, no. 109.

positions.<sup>13693</sup> They acted in close and constant collaboration with one another.<sup>13694</sup> Karadžić, Krajišnik, Plavšić, and Koljević constituted the *de facto* leadership body at the centre of the broader SDS leadership during the period when the Bosnian-Serb state institutions were being progressively formalised, but were not yet fully operational; a constant within the SDS leadership that was otherwise informal and collective, with flexible and fluctuating membership.<sup>13695</sup> They represented a *de facto* ‘SDS Presidency’ or ‘Supreme SDS Crisis Staff’.<sup>13696</sup> According to Treanor, Karadžić and his closest associates were the only ones who could direct, plan, and execute party politics, whereby the activities of SDS and SDS-affiliated bodies with their formal, statutory prerogatives, procedures, and processes, while important, came second.<sup>13697</sup> In this regard, and in close cooperation with Krajišnik, Plavšić, and Koljević, as well as other chosen SDS leaders, Karadžić exercised almost un-circumscribed powers through more informal ‘small group’ meetings.<sup>13698</sup>

3628. In a 1 January 1992 telephone conversation with Krajišnik, Karadžić stated that Izetbegović was ‘talking openly of a sovereign and independent Bosnia’ and said: ‘[F]uck him. We will release our tigers and let them do their job.’<sup>13699</sup>

3629. In an 8 January 1992 meeting with Tuđman and Franjo Boras, Nikola Koljević proposed the formation of three sovereign Bosnian states – one Serb, one Muslim, and one Croat – and stated that he had information from the UN that geographic mixture of peoples in Bosnia ‘would be solved on the basis of some form of movement which would be civilised and organised and which is already spontaneously evolving now’.<sup>13700</sup> Koljević stated that the aim of this ‘reorganisation’ would be the ‘homogeneity of certain areas’ and that ‘we should see what can be done with the transfer, what can be accomplished by agreement, and we should institute fair exchanges and create an agency for the civilised transfer of property and population

<sup>13693</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 18, 51, 66, 68, 70-71, 74-75.

<sup>13694</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 70-71. *See also* P3005 (Transcript of the 1st Session of the Bosnian-Serb Assembly, 24 October 1991).

<sup>13695</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 74-75.

<sup>13696</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 75.

<sup>13697</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 75.

<sup>13698</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 41.

<sup>13699</sup> P2676 (Intercepted conversation between Radovan Karadžić and Momčilo Krajišnić, 1 January 1992), pp. 4-5.

<sup>13700</sup> P6727 (Transcript of meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 1, 8-9.

which will be in the interest of the people'.<sup>13701</sup> He noted that the term 'homogeneity' had been vilified in the SFRY and asked: 'Why should it be something terrible for people to live with people who are closest to them?'<sup>13702</sup>

3630. On 9 January 1992, the Bosnian-Serb Assembly unanimously proclaimed the Serbian Republic of Bosnia-Herzegovina.<sup>13703</sup> The Serbian Republic of Bosnia-Herzegovina was renamed *Republika Srpska* on 12 August 1992.<sup>13704</sup> The implementation of the proclamation was conditional upon the recognition of independence of Bosnia-Herzegovina by the international community.<sup>13705</sup> Nevertheless, the SDS backed the arming of the Serb population during this period.<sup>13706</sup> **Treanor** testified that the Bosnian-Serb Assembly also called for territorial delimitation with the political communities of the other people in Bosnia-Herzegovina.<sup>13707</sup> The declaration of the proclamation of the Republic of the Serbian People of Bosnia and Herzegovina was the final step in the gradual build-up of a separate entity within Bosnia-Herzegovina.<sup>13708</sup>

3631. **Ahmet Zulić** stated that in 1992, just before Bajram, he learned from a colleague that the Serb army started distributing weapons to local Serbs.<sup>13709</sup>

3632. On 11 January 1992, Karadžić and Krajišnik attended the first meeting of the Bosnian-Serb Ministerial Council, where they participated in a discussion on 'execution of tasks resulting from the Declaration ... of the Republic of the Serbian People of Bosnia-Herzegovina' which had been adopted two days earlier.<sup>13710</sup> Other participants included Branko Đerić, Mićo Stanišić, Miloš Savić, and Rajko Đukić.<sup>13711</sup> The Council was declared the executive organ of the Assembly.<sup>13712</sup> The list of priorities identified at the meeting included definition of Bosnian-Serb ethnic territory and the establishment

<sup>13701</sup> P6727 (Transcript of meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), pp. 13, 31-32.

<sup>13702</sup> P6727 (Transcript of meeting between Nikola Koljević, Franjo Tuđman, and Franjo Boras, 8 January 1992), p. 32.

<sup>13703</sup> Adjudicated Facts I, no. 110.

<sup>13704</sup> Adjudicated Facts I, no. 110.

<sup>13705</sup> Adjudicated Facts I, no. 102.

<sup>13706</sup> Adjudicated Facts I, no. 103.

<sup>13707</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 94, 177. *See also* P3006 (Declaration on the proclamation of the Bosnian-Serb Republic, 9 January 1992).

<sup>13708</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 177.

<sup>13709</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 7.

<sup>13710</sup> Adjudicated Facts I, no. 111.

<sup>13711</sup> P3037 (Minutes of the 1st meeting of the Ministerial Council of the Bosnian-Serb Assembly held on 11 January 1992, 13 January 1992), p. 1.

of government organs in that territory.<sup>13713</sup> Another priority was the economic disempowerment of the ‘current authorities’ in Bosnia-Herzegovina.<sup>13714</sup> At this meeting, SAO presidents were made ex officio members of the Ministerial Council.<sup>13715</sup>

3633. Following the 11 January 1992 meeting, Bosnian-Serb authorities moved ahead with the organization of a separate Serb MUP.<sup>13716</sup> On 17 January 1992, at a session of the Ministerial Council a draft programme of work for the Council was presented.<sup>13717</sup> It called for the adoption of the Constitution and for the organization of the territory in such a way so as to ‘enlarge the territory of the regions and encompass a larger number of inhabitants wherever possible in order to consolidate the regions both ethnically and economically’.<sup>13718</sup> It placed ‘particular stress ... on the need for political and territorial organization of the regions by the formation of new municipalities in border areas of these regions.’<sup>13719</sup> At this session, it was decided that the Commission on the Constitution and the Ministerial Council would be tasked with preparation, by 15 February 1992, of draft legislation to enable the Bosnian-Serb Republic to start functioning.<sup>13720</sup>

3634. According to **Treanor**, the appointment of a Ministerial Council marked another step towards the founding of a separate state.<sup>13721</sup> In early 1992, the SDS began to defer to organs of the nascent ‘state’, most notably the Bosnian-Serb Assembly, in further preparing an ‘ethnic take-over’.<sup>13722</sup> Tensions at the lower levels mounted in February and March 1992, and the first clashes began to occur in various parts of the country; the Bosnian-Serb leadership’s first priority remained the take-over of actual control in the localities.<sup>13723</sup>

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<sup>13712</sup> P3037 (Minutes of the 1st meeting of the Ministerial Council of the Bosnian-Serb Assembly held on 11 January 1992, 13 January 1992), p. 3.

<sup>13713</sup> Adjudicated Facts I, no. 112.

<sup>13714</sup> P3037 (Minutes of the 1st meeting of the Ministerial Council of the Bosnian-Serb Assembly held on 11 January 1992, 13 January 1992), p. 2.

<sup>13715</sup> Adjudicated Facts I, no. 114.

<sup>13716</sup> Adjudicated Facts I, no. 113. The Trial Chamber understands this to be a reference to the Bosnian-Serb MUP and refers to its review of the evidence in relation thereto in chapter 3.4.

<sup>13717</sup> Adjudicated Facts I, no. 115.

<sup>13718</sup> Adjudicated Facts I, no. 116.

<sup>13719</sup> Adjudicated Facts I, no. 117.

<sup>13720</sup> Adjudicated Facts I, no. 118.

<sup>13721</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 176.

<sup>13722</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 91. *See also* P3861

(Decision of SDS Executive Board, 24 February 1992) reviewed in chapter 2.2.1.

<sup>13723</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 95.

3635. During a 22 January 1992 telephone conversation, Karadžić informed Jovica Stanišić that he had told a man close to Tudman that if the Serbs and Croats did not resolve their ‘contentious issues’ within a month or two, the Croats would be ‘in for thirty years of torture’ with ‘all sorts of things’.<sup>13724</sup> Stanišić asked if by ‘all sorts of things’ Karadžić meant killings and Karadžić confirmed that he did.<sup>13725</sup> Stanišić responded: ‘We’ll have to push them to Belgrade, you know! There’s nothing else left for us to do. Or we’ll exterminate them completely so let’s see where we’ll end up.’<sup>13726</sup> Karadžić responded affirmatively.<sup>13727</sup>

3636. According to the minutes of an SDS meeting on 5 February 1992, Serbia’s objective was to maintain the continuity of Yugoslavia as well as to ensure that the Serbs would live in a single state regardless of whether it would be called Yugoslavia, the United Serbian States or otherwise.<sup>13728</sup>

3637. Following the formation of the Bosnian-Serb Assembly and of the Ministerial Council, the need for a regionalization staff ceased to exist.<sup>13729</sup> On 6 February 1992, the Executive Committee of the SDS of Bosnia-Herzegovina recommended to the SDS Main Committee that a few people be charged with the accomplishment of regionalization on the ground: Rajko Đukić for the SAO Birač and Semberija; Jovo Šarac and Milovan Žugić for the SAO Romanija; Slobodan Babić and Simo Mihić for the region of Doboj; Vojo Krunić and Radomir Nešković for the SAO Bosanska Krajina; and Jovo Jovanović and Milivoje Prijjić for Sarajevo.<sup>13730</sup> **Milenko Stanić** testified that Rajko Đukić was consequently appointed coordinator for the SAO Birač and Semberija on 24 February 1992.<sup>13731</sup>

3638. On or about 12 February 1992, a meeting of representatives of three SAOs was held in Doboj, which Karadžić, Krajišnik, and Maksimović attended.<sup>13732</sup> During the

<sup>13724</sup> P4114 (Intercepted conversation between Karadžić and Jovica Stanišić, 22 January 1992), p. 6.

<sup>13725</sup> P4114 (Intercepted conversation between Karadžić and Jovica Stanišić, 22 January 1992), pp. 1, 6.

<sup>13726</sup> P4114 (Intercepted conversation between Karadžić and Jovica Stanišić, 22 January 1992), p. 7.

<sup>13727</sup> P4114 (Intercepted conversation between Karadžić and Jovica Stanišić, 22 January 1992), p. 7.

<sup>13728</sup> P7038 (Notes of SDS meetings including events in Ključ area, February-July 1992), p. 3.

<sup>13729</sup> P7081 (Minutes from the eighth session of the Executive Committee of the SDS of Bosnia-Herzegovina, 6 February 1992), p. 3.

<sup>13730</sup> P7081 (Minutes from the eighth session of the Executive Committee of the SDS of Bosnia-Herzegovina, 6 February 1992), p. 3.

<sup>13731</sup> Milenko Stanić, T. 30868-30869; P7082 (Decision on the appointment of Rajko Đukić as member-coordinator for the SAO Birač and Semberija signed by the President of the Executive Committee of the SDS of Bosnia-Herzegovina, 24 February 1992). *See also* P4030 (Decision of the SDS Executive Board on the appointment of Rajko Đukić as coordinator of the SAO Birač and Semberija, 24 February 1992).

<sup>13732</sup> Adjudicated Facts I, no. 119.

meeting, an exchange of population was discussed to achieve territorial continuity between Croatian and Bosnian Krajina, on the one side, and Semberija and Serbia proper, on the other.<sup>13733</sup>

3639. On 14 February 1992, during a meeting of the SDS Executive and Main Board which was also attended by the presidents of SDS Municipal Boards, presidents and members of regional boards, presidents of assemblies, executive committees of municipalities and other government officials and party organs, Karadžić, stated that '[w]e must be wise, unified, dedicated in order to take the last drop of the power in our hands.'<sup>13734</sup> Karadžić mentioned that this should be done in a humane and 'just' way towards both Croats and Muslims and underlined that it was important that there should be no fleeing from 'our' areas.<sup>13735</sup> Karadžić also referred to the reconstruction of Bosnia-Herzegovina, envisioned not as a confederation but as a state with three sovereign and independent peoples, namely Serbs, Croats, and Muslims and their cantons.<sup>13736</sup> He stated that the Serbs had the right to reorganise Bosnia-Herzegovina on democratic principles.<sup>13737</sup> Lastly, Karadžić discussed how Muslims and Serbs could not live in the same political and judicial system and advocated for reconciliation with the Croats emphasizing that 'in order to create as little "friction" as possible' Croats and Serbs should live one next to the other but not together.<sup>13738</sup>

3640. On 15 February 1992, the Bosnian-Serb Assembly discussed a draft Constitution, according to which the Bosnian-Serb Republic would become part of federal Yugoslavia.<sup>13739</sup> The Assembly also discussed the adoption of a Law on the Implementation of the Constitution.<sup>13740</sup> A few days after a 14 February 1992 meeting at which Slobodan Milošević briefed Radovan Karadžić, Biljana Plavšić, and Momčilo Krajišnik on the stance of each of the Presidents of the Yugoslav republics with respect to maintaining a federal Yugoslavia, Karadžić gave an interview in which he stated that,

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<sup>13733</sup> Adjudicated Facts I, no. 120.

<sup>13734</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), p. 1, 5.

<sup>13735</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), p. 5.

<sup>13736</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), pp. 3-4, 21.

<sup>13737</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), p. 13.

<sup>13738</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), pp. 19-20.

<sup>13739</sup> Adjudicated Facts I, no. 122.

<sup>13740</sup> Adjudicated Facts I, no. 123.

should Croatia and Slovenia secede, the ‘core Yugoslavia’ that remained would have to adjust its borders by applying ‘the ethnic principle’: to the extent possible, Serb villages would remain in Yugoslavia, and Croatian villages would become part of the new Croatian state.<sup>13741</sup>

3641. According to a 19 February 1992 letter from the SDS Executive Committee’s Chairman, Rajko Đukić, to the SDS municipal and regional boards, SDS regional and municipal boards were obliged to draw up a ‘plan of action so that any kind of campaign to organize a referendum should be made impossible’.<sup>13742</sup>

3642. By 23 February 1992, representatives of the SDS (among them Karadžić and Krajišnik) and of the other two national groups had agreed on a statement of principles for a new constitutional arrangement for Bosnia-Herzegovina.<sup>13743</sup> According to this statement, the territory of Bosnia-Herzegovina would keep its external borders.<sup>13744</sup> It would become an independent state made up of three constituent units which would group municipalities according to the nationality principle based on the last three censuses (1971, 1981, and 1991).<sup>13745</sup> Freedom of movement would be allowed only within each unit, while resettlement from one unit to another would be subject to a ‘special permit’.<sup>13746</sup>

3643. On 28 February 1992, the Bosnian-Serb Assembly unanimously adopted the Constitution of the Bosnian-Serb Republic, along with a Government Act, a Law on Defence, and a Law on Internal Affairs.<sup>13747</sup> The Constitution defined the Bosnian-Serb Republic as part of federal Yugoslavia, and not of Bosnia-Herzegovina.<sup>13748</sup> It stated: ‘Citizens of the Republic have equal rights in their freedom, rights and obligations. They are equal before the law and enjoy the same legal protection regardless of race, sex, language, ethnic origin, social background, birth, education, financial situation, political and other beliefs, social position or other personal attributes’.<sup>13749</sup>

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<sup>13741</sup> Adjudicated Facts I, no. 43.

<sup>13742</sup> P7040 (Letter from SDS Executive Committee to SDS Regional and Municipal Boards, 19 February 1992), pp. 1-2.

<sup>13743</sup> Adjudicated Facts I, no. 124.

<sup>13744</sup> Adjudicated Facts I, no. 125.

<sup>13745</sup> Adjudicated Facts I, no. 126.

<sup>13746</sup> Adjudicated Facts I, no. 127.

<sup>13747</sup> Adjudicated Facts I, no. 128.

<sup>13748</sup> Adjudicated Facts I, no. 131.

<sup>13749</sup> Adjudicated Facts I, no. 132.

3644. At a 28 February 1992 SDS Deputies' Club session held in Sarajevo, Karadžić stated: 'Muslims cannot live with others. We must be clear on that. [...] There can be no discussion here. Yet they set up the Bosnian Krajina and in two years' time you have problems again, to separate each and every village there, because they will overwhelm you with their birth rate and their tricks. We cannot allow that to happen.'<sup>13750</sup> At the same meeting, Karadžić stated: '[I]t is clear to every Serb that Croats and Serbs cannot live in a single state.'<sup>13751</sup>

3645. **Treanor** testified that the Bosnian-Serb leadership advanced a policy of reorganization and ordered a Serb boycott of the Bosnia-Herzegovina-wide referendum on independence to be held on 29 February and 1 March 1992.<sup>13752</sup> The resultant vote in favour of independence shifted the SDS's efforts towards a Serbian Bosnia-Herzegovina, with its own sovereign rights and army.<sup>13753</sup> Karadžić subsequently emphasized that the SDS was advocating a three-way partition of Bosnia-Herzegovina along ethnic lines in its international negotiations.<sup>13754</sup>

3646. In early 1992, the SDA exercised pressure to secure the independence of the Socialist Republic of Bosnia-Herzegovina.<sup>13755</sup> On 29 February and 1 March 1992, a referendum on the question of independence was held, which was largely boycotted by the Bosnian Serbs and yielded an overwhelming majority of votes in favour of independence.<sup>13756</sup> In March and early April 1992, the Council for the Protection of Constitutional Order, a body constituted of representatives of the three constituent peoples from the Bosnia-Herzegovina Government and the Assembly, issued recommendations to the parties and the organs of public administration, but they were not followed up.<sup>13757</sup> In the same period, armed clashes among ethnic groups occurred throughout Bosnia-Herzegovina: checkpoints and barricades were erected in and around

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<sup>13750</sup> P3900 (Notes of speeches given during the SDS Serbian Deputies' Club Meeting in Sarajevo, 28 February 1992), pp. 1, 33, 36.

<sup>13751</sup> P2001 (Report by Dr Robert Donia titled 'Highlights of Deliberations in the Bosnian-Serb Assembly Relevant to the Indictment of Ratko Mladić, 1991-96'), p. 26.

<sup>13752</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 89-90. *See also* P3049 (Conclusions and Recommendations of the Bosnian-Serb Assembly, 21 November 1991 and 11 December 1991); P7040 (Letter from SDS Executive Committee to SDS Regional and Municipal Boards, 19 February 1992), pp. 1-2.

<sup>13753</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 95.

<sup>13754</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 97.

<sup>13755</sup> Adjudicated Facts I, no. 134.

<sup>13756</sup> Adjudicated Facts I, no. 134.

<sup>13757</sup> Adjudicated Facts I, no. 135.

Sarajevo by people associated with the three national parties.<sup>13758</sup> After the republican referendum, and due to the fact that the Yugoslav leadership had by then clearly expressed its position to SDS leaders that a Bosnian-Serb entity would not be allowed to be part of the new Yugoslavia in the near future, negotiations persisted, but mainly turned on the nature of what an independent Bosnia-Herzegovina would be like (unitary or federal) and what the division of power among the entities would be.<sup>13759</sup>

3647. At the 2 March 1992 enlarged session of the SFRY Presidency, Karadžić stated: '[W]e demand the right to exercise our right, our sovereign right to organise our lives as we please, pointing at the difficulties, such as impossibility to live together, to live within the same political and legal framework together with two other religions and nations, citing similar cases throughout the world, which all ended in complete separation and departure, so typical of oil and water.'<sup>13760</sup>

3648. On 11 March 1992, the Bosnian-Serb Assembly decided to continue international negotiations on a confederative arrangement for the three national groups.<sup>13761</sup> In response to an invitation from Jose Cutileiro, international mediator, to continue the multi-party negotiations, the Bosnian-Serb Assembly unanimously rejected a draft of constitutional arrangements in Bosnia-Herzegovina.<sup>13762</sup> On 18 March 1992, the negotiators reported to the Bosnian-Serb Assembly.<sup>13763</sup> The new draft proposal, they explained to the deputies, aimed at a division of Bosnia-Herzegovina into three constituent units based not only on nationality, but also on economic and geographic considerations.<sup>13764</sup> Each component nation would moreover be allowed special ties with other states.<sup>13765</sup> The proposal was marked as 'basis for further negotiations.'<sup>13766</sup>

3649. In an interview with the newspaper *Naša Borba* published on 16 March 1992, Karadžić described the 'enemies' of the Bosnian Serbs as 'the segment of the militant fundamentalist core that wants Bosnia for itself and would like to subjugate the Serbs and Croats'.<sup>13767</sup>

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<sup>13758</sup> Adjudicated Facts I, no. 136.

<sup>13759</sup> Adjudicated Facts I, no. 137.

<sup>13760</sup> P4931 (Shorthand records of the Enlarged Session of the Presidency of the SFRY, 2 March 1992), pp. 1, 12, 14.

<sup>13761</sup> Adjudicated Facts I, no. 138.

<sup>13762</sup> Adjudicated Facts I, no. 139.

<sup>13763</sup> Adjudicated Facts I, no. 140.

<sup>13764</sup> Adjudicated Facts I, no. 141.

<sup>13765</sup> Adjudicated Facts I, no. 142.

<sup>13766</sup> Adjudicated Facts I, no. 142.

<sup>13767</sup> P3776 (Interview of Radovan Karadžić with *Naša Borba*, 16 March 1992), pp. 1-2.

3650. On 24 March 1992, the Bosnian-Serb Assembly instructed the new Government to prepare, by 27 March, ‘an operational plan for assuming power, that is, for establishing power in the Serbian Republic of Bosnia-Herzegovina, and in particular in the field of internal affairs, national defence and money transactions... in all municipalities where we already have Serbian authorities, and in those municipalities where we have only recently established Serbian municipalities.’<sup>13768</sup> On that day, the Bosnian-Serb Assembly also issued a decision verifying the proclamation of various Serb municipalities.<sup>13769</sup>

3651. **Hanson** testified that on 24 March 1992, Karadžić told the Assembly deputies that they, as members of the supreme organ of authority, *i.e.* the Assembly, were to act as the link between central policy and the municipal government in the takeover of power.<sup>13770</sup> He stated that they would soon be able to form whatever they wanted and ordered them to stay close to the municipality presidents.<sup>13771</sup> On 27 March 1992, Karadžić instructed the Assembly deputies to establish crisis staffs as soon as they arrived in their municipalities; the crisis staffs were to exclusively serve for defence purposes and to cooperate with the JNA when possible.<sup>13772</sup> The Assembly deputies were to report to Karadžić on the compliance of the municipal presidents, who had the authority on the ground.<sup>13773</sup> If the deputies’ proposals were rejected, however, the municipal presidents were to be coerced into executing the Bosnian Serb leadership’s plans.<sup>13774</sup> According to Hanson, these instructions signalled the shift in the role of the crisis staffs from a secret organ to a public party authority.<sup>13775</sup>

3652. In March 1992, the Assembly of Serbian People of Bosnia-Herzegovina promulgated the Constitution of the Serb Republic of Bosnia-Herzegovina and

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<sup>13768</sup> Adjudicated Facts I, no. 144.

<sup>13769</sup> Adjudicated Facts I, no. 145.

<sup>13770</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 33.

<sup>13771</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 33.

<sup>13772</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 34.

<sup>13773</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 35.

<sup>13774</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 35.

<sup>13775</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 36.

proclaimed itself a distinct republic.<sup>13776</sup> **Treanor** testified that from April 1992 onwards, there were no longer Bosnian-Serb bodies of authority working in parallel to those of multi-ethnic Bosnia-Herzegovina, but separate and distinct authorities founded by the SDS and answering to the Bosnian-Serb leadership and institutions; they functioned as autonomous parts of the nascent Bosnian-Serb 'state'.<sup>13777</sup> Immediately preceding the outbreak of conflict in April 1992, the SDS leadership's command and control capacity was repeatedly demonstrated and SDS party bodies acted in concert with fledging Serbian institutions.<sup>13778</sup>

3653. On 27 March 1992, at the 14th Session of the Bosnian-Serb Assembly, Karadžić stated that it was obvious that the Bosnian Serbs and their adversaries 'cannot live together without hindering one another's development'.<sup>13779</sup> He further stated: 'In the plant world there are plants which cannot grow side by side. They have to be separated to flourish.'<sup>13780</sup>

3654. **Witness RM-513** testified that when the war in Bijeljina started in April 1992, the crisis staffs of the villages distributed weapons to Serb SDS supporters.<sup>13781</sup> The municipal crisis staff formed a Unit for Intervention made up of villagers they had armed.<sup>13782</sup> According to the witness, both the SDS and the SDA armed people illegally.<sup>13783</sup>

3655. On 4 April 1992, the SNB issued a public announcement, signed by Karadžić, in response to instructions given by the 'rump Presidency of Bosnia-Herzegovina' concerning the raising of TOs, people's self-organisation, the civilian protection and reserve police.<sup>13784</sup> The SNB urged the people to disregard these instructions and do everything to avoid civil war and the suffering of the people.<sup>13785</sup> It ordered that, should any TO, civilian protection or reserve police units in any area respond to the instructions, crisis staffs in those areas were to be activated and the Serb TO, civilian

<sup>13776</sup> Adjudicated Facts I, no. 130. The Trial Chamber understands this to refer to the Bosnian-Serb Assembly and the Bosnian-Serb Republic, respectively.

<sup>13777</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 99.

<sup>13778</sup> P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 86.

<sup>13779</sup> P6922 (Excerpts from the transcript of 14th Session of the Bosnian-Serb Assembly, 27 March 1992), pp. 1, 10, 12.

<sup>13780</sup> P6922 (Excerpts from the transcript of 14th Session of the Bosnian-Serb Assembly, 27 March 1992), p. 12.

<sup>13781</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), para. 13.

<sup>13782</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 13-14, 17.

<sup>13783</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), para. 43.

<sup>13784</sup> P3899 (Announcement by National Security Council, 4 April 1992), p. 1.

<sup>13785</sup> P3899 (Announcement by National Security Council, 4 April 1992), p. 2.

protection and reserve police raised, primarily for maintaining order, peace and safety of civilians for all nationalities.<sup>13786</sup> The SNB also stated that the Serb people were under threat of extermination in Neretva river valley, Bosanski Brod and Kupres.<sup>13787</sup>

3656. On 7 April 1992, the Bosnian-Serb Assembly, chaired by Milovan Milanović, declared the independence of the Bosnian-Serb Republic, and Plavšić and Koljević resigned from their positions in the Presidency of Bosnia-Herzegovina.<sup>13788</sup> In April 1992 the EC and the USA recognised the independence of the Republic of Bosnia-Herzegovina.<sup>13789</sup> However, international recognition of Bosnia-Herzegovina in April 1992 did not end the matter and a struggle for territorial control ensued among the three major groups in Bosnia: Muslim, Serb, and Croat.<sup>13790</sup>

3657. On 15 April 1992, after reviewing the security situation in Bosnia-Herzegovina, the SNB and the Bosnian-Serb Government decided to propose to the Bosnian-Serb Presidency to declare a 'state of imminent threat of war'.<sup>13791</sup> The Minister of Defence was tasked with organising and supervising the TO until the appointment of an acting commander.<sup>13792</sup>

3658. Also on 15 April 1992, the Bosnian-Serb Presidency declared an imminent threat of war and ordered the mobilisation of the TO on the entire territory of 'Serbian Bosnia and Herzegovina'. All men of military age in that area were to be at the municipal TO staffs' disposal. On 12 May 1992, the Bosnian-Serb Assembly confirmed this decision.<sup>13793</sup>

3659. According to a Decision of the SDS on 17 April 1992, all employees of Serb ethnicity who had been appointed and introduced in service in the organs and organisations of Bosnia-Herzegovina and those of Sarajevo upon proposal from the SDS were to be withdrawn from their positions and reappointed in the organs and organisations of the Bosnian-Serb Republic.<sup>13794</sup>

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<sup>13786</sup> P3899 (Announcement by National Security Council, 4 April 1992), p. 2.

<sup>13787</sup> P3899 (Announcement by National Security Council, 4 April 1992), p. 1.

<sup>13788</sup> Adjudicated Facts I, no. 146.

<sup>13789</sup> Adjudicated Facts I, no. 147.

<sup>13790</sup> Adjudicated Facts II, no. 1270.

<sup>13791</sup> P3035 (Minutes of the joint meeting of the SNB and the Bosnian-Serb Government, 15 April 1992), p. 1.

<sup>13792</sup> P3035 (Minutes of the joint meeting of the SNB and the Bosnian-Serb Government, 15 April 1992), p. 2.

<sup>13793</sup> D446 (Decision by the Bosnian-Serb Presidency, 15 April 1992).

<sup>13794</sup> P3778 (Decision of the SDS, 17 April 1992), paras 1-2.

3660. On 22 April 1992, the SNB and the Bosnian-Serb Government agreed that the Bosnian-Serb Republic had to be defended, especially the positions taken in Sarajevo. They decided to undertake special efforts to present the situation to the EC by inviting its observers to the Serb positions, where they could establish that it was the Serbs who were being attacked. The SNB and the Government decided to insist on 'a peace-time option and an intensive political offensive' in order to resolve the crisis in Bosnia-Herzegovina.<sup>13795</sup> Karadžić also established a platform for the immediate resolution of the crisis in Bosnia-Herzegovina under the auspices of the EC.<sup>13796</sup> Furthermore, the SNB and the Bosnian-Serb Government decided that the SNB would coordinate the command of the TO forces and the TO Staff would appoint staff commanders in regions, municipalities, and towns.<sup>13797</sup> On 27 April 1992, the SNB and the Bosnian-Serb Government decided to conduct full-scale mobilization.<sup>13798</sup>

3661. Also on 27 April 1992, the SFRY was re-organised so that it consisted of only the republics of Serbia and Montenegro, along with Kosovo and Vojvodina, and a new constitution was adopted.<sup>13799</sup> On 22 May 1992, Bosnia-Herzegovina was admitted as a State member of the UN, following decisions adopted by the UNSC and the General Assembly.<sup>13800</sup> After the disintegration of the former Yugoslavia began, the theme of the Serb-dominated media was that 'if for any one reason Serbs would become a minority population ... their whole existence could be very perilous and endangered ... [and therefore] they had no choice but a full-scale war against everyone else, or to be subjected to the old type concentration camp, the symbol being Jasenovac.'<sup>13801</sup>

3662. On 6 May 1992, Mladić recorded that he had held talks with Karadžić, Krajišnik, Adžić, and a group of generals from Bosnia-Herzegovina.<sup>13802</sup> Karadžić acknowledged that the Bosnian Serbs were controlling and expanding the 'Serbian' settlements in Pale, as they were on the threshold of achieving their centuries-old dream of creating a state

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<sup>13795</sup> P3036 (Minutes of the joint meeting of the SNB and the Bosnian-Serb Government, 22 April 1992), p. 1.

<sup>13796</sup> P3036 (Minutes of the joint meeting of the SNB and the Bosnian-Serb Government, 22 April 1992), p. 2.

<sup>13797</sup> P3036 (Minutes of the joint meeting of the SNB and the Bosnian-Serb Government, 22 April 1992), pp. 1-2.

<sup>13798</sup> P7088 (Minutes of the session of the National Security Council of the Bosnian-Serb Government signed by Radovan Karadžić, 27 April 1992), p. 1.

<sup>13799</sup> Adjudicated Facts III, no. 1708.

<sup>13800</sup> Adjudicated Facts I, no. 148.

<sup>13801</sup> Adjudicated Facts I, no. 150.

<sup>13802</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 255-256.

‘without many internal enemies’, and that they were thinking about forming their own armed forces ‘[t]o crush the green /Muslim/ transversal’.<sup>13803</sup>

3663. **Deronjić** stated that on 10 or 11 May 1992, a meeting was held in Pale during which he had to report on the events in Bratunac Municipality. Mladić, Karadžić, Ostojić, and the presidents of the crisis staffs were present. A map depicting the ethnic structure of Bosnia-Herzegovina was hanging in the conference room; it was divided into two parts in different colours, the Serb areas being blue. When the witness reported about the events in Glogova, that it had been partially destroyed, most of it was ablaze, and that the Bosnian Muslims had been evacuated by force, all present in the room greeted his report with applause and Ostojić said ‘We can now also colour Bratunac blue’.<sup>13804</sup>

3664. **Treanor** testified that as more powerful organs were created and vested with certain powers, they gradually took over important functions and the Bosnian-Serb Assembly became less and less significant.<sup>13805</sup>

3665. The Trial Chamber recalls its findings in chapters 2.1.1-2.1.3 and 3.4 on the establishment and structure of Bosnian-Serb republic level institutions, including the Bosnian-Serb Presidency and President, the Bosnian-Serb Assembly, the Bosnian-Serb Government, and the MUP. The Trial Chamber further recalls its findings on the structure and establishment of regional and municipal political structures in chapters 2.2.1 and 2.2.2, including, *inter alia*, the formation of SAOs in the Bosnian-Serb Republic, as well as regional and municipal crisis staffs.

#### *The Trial Chamber’s findings*

3666. Based on the foregoing, the Trial Chamber finds that fundamental disagreement on how to resolve the question of whether Bosnia-Herzegovina should either declare its independence from Yugoslavia or remain part thereof was determinative of the political developments in the lead up to the conflict. While the SDA, HDZ, and the majority of other opposition parties envisaged sovereign and internationally recognised statehood for Bosnia-Herzegovina, the SDS and some of the smaller parties wanted to remain part of Yugoslavia. The Trial Chamber finds that from the moment of its creation in July

<sup>13803</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 257-259.

<sup>13804</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 106.

1990, the SDS's political platform emphasised the protection of the 'Serb nation', which had been disadvantaged by, *inter alia*, the way Bosnia-Herzegovina had been divided into municipalities, making Bosnian Serbs an ethnic minority in areas where they may otherwise have dominated.

3667. With regard to the Defence's arguments that the SDS pursued peaceful and collaborative efforts to remain part of the FRY and the Bosnian Serbs' willingness to negotiate a settlement, the Trial Chamber finds that this willingness was conditional on the Bosnian Serbs' obtaining control over territories within Bosnia-Herzegovina, including those where Bosnian Serbs were a minority, and to which they claimed to have a 'historical right'.

3668. From as early as January 1991, Slobodan Milošević began to publicly advocate for the right of all Serbs to live in one state. In early 1991, the SDS embarked on a programme of regionalization, through the creation of territories in which the Bosnian Serbs comprised a relative majority. The SDS sought to establish Bosnian-Serb controlled areas by linking together Serb-majority municipalities and forming parallel government bodies, with a view to removing this territory from the effective control of the authorities of Bosnia-Herzegovina. As such, the Trial Chamber finds that the SDS promoted territorial division along ethnic lines and the establishment of separate, parallel Bosnian-Serb political, police and military institutions. From as early as May 1991 until at least 10 or 11 May 1992, members of the SDS leadership openly discussed the ethnic composition of municipalities and by June 1991, SDS municipal organs were asked to prepare maps of their municipalities showing as precisely as possible, in colour, the ethnic composition of each territory.

3669. In April 1991, Karadžić expressed the Bosnian-Serb leadership's plans to divide Bosnia-Herzegovina and for Serbs to take over control of territory therein. The Trial Chamber finds that in subsequent conversations, meetings, and speeches that took place from at least July 1991 to May 1992, members of the Bosnian-Serb political leadership, in particular Radovan Karadžić, threatened violence and extinction should Bosnian Muslims attempt to create a sovereign state, described Muslims and Croats as enemies with whom the Bosnian Serbs could not coexist and threatening violence against those groups, and advocated the transfers of populations. In doing so, Karadžić repeatedly

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<sup>13805</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 184, 186.

referred to, *inter alia*, the ‘expulsion’, ‘disappearance’, and ‘extinction’ of the Bosnian Muslims within this territory.

3670. Specifically, and with respect to the attempts by Bosnian Muslims to create a sovereign state, on 12 October 1991, Karadžić stated in a telephone conversation that an attempt would result in bloodshed. He also said that if Bosnian Muslims ‘rise up against the Serbs’, they would ‘disappear’ and ‘be exterminated’. On 15 October 1991, he described the Bosnian Muslims’ pursuit of an independent state as a ‘highway of hell and suffering’ and elaborated that the Serbs would ‘destroy them completely’ in a ‘war until their extinction’. On 1 January 1992, in response to talk of a sovereign Bosnia-Herzegovina, he stated that the Bosnian Serbs would release their ‘tigers’ and ‘let them do their job’.

3671. With respect to the Bosnian Serbs’ inability to coexist with Muslims and Croats, Karadžić made a number of statements. On 24 October 1991 and 6 May 1992, he spoke of creating a Bosnian-Serb state free of internal enemies. In a speech delivered during the plebiscite in November 1991, addressing the presidents of the municipalities, Karadžić said that ‘whatever Bosnia we have one day, no Muslim foundation shall ever be laid in Serb areas and Serb villages’. He also described Muslims as ‘merciless’ and stated that the Bosnian Serbs would not ‘behave like gentlemen wearing white gloves’ because ‘if you are thrown among the wolves [...], [y]ou can’t be the lamb’ but must ‘be equal to your task and to your adversary’. On 22 January 1992, he said that should issues between the Serbs and Croats not be resolved, the Croats would be ‘in for thirty years of torture’. On 14 February 1992, he stated that Bosnian Serbs and Muslims ‘could not live in the same political and judicial system’. On 28 February 1992, he repeated that ‘Muslims cannot live with others’ and added that it was ‘clear to every Serb that Croats and Serbs cannot live in a single state’. On 2 March 1992, he noted the ‘impossibility to live together, to live within the same political and legal framework together with two other religions and nations’. On 16 March 1992, he characterized the enemies of the Bosnian Serbs as ‘militant fundamentalist[s]’ who wanted ‘to subjugate the Serbs and Croats’.

3672. With respect to population transfers, in July 1991, during a meeting with Babić and Milošević, Karadžić said that he would chase the Muslims in Bosnia-Herzegovina into the river valleys in order to link up all Serb territories there into one. On 8 January 1992, Koljević stated that Bosnia-Herzegovina would be divided into three sovereign

states on the basis of ‘homogeneity’, which would be achieved in part via population transfers.

3673. The Trial Chamber further finds that in the period leading up to the conflict, the SDS was heavily involved in the arming of the Bosnian-Serb population.

3674. The Trial Chamber finds that following its creation, the SDS leadership used the Bosnian-Serb Assembly as a tool to further its political agenda and enforce party policies. On 9 January 1992, the Bosnian-Serb Assembly proclaimed the Bosnian-Serb Republic. On 7 April 1992, the Bosnian-Serb Assembly declared the independence of the Bosnian-Serb Republic. The Trial Chamber finds that from April 1992 onwards, previously established Bosnian-Serb institutions were no longer working in parallel to those of multi-ethnic Bosnia-Herzegovina, but constituted separate and distinct authorities founded by the SDS. As such, they constituted *de facto* state institutions, functioned autonomously, and answered to the Bosnian-Serb leadership and institutions.

3675. The Trial Chamber further finds that in the period leading up to the conflict, Karadžić and other key SDS members who formed part of the collective Bosnian-Serb leadership, including Krajišnik, Plavšić, and Koljević, played an essential role in directing, planning and executing the party’s policies. Between at least July 1991 and February 1992, Karadžić met with and spoke to Slobodan Milošević on numerous occasions. During these meetings, the unification of Serb territories and the division of territory along ethnic lines were discussed. As SDS president, Karadžić also met regularly with SDS members at the republic, regional, and municipal level to discuss plans of regionalization from as early as April 1991 and through to May 1992. During several of these meetings, Milan Babić was also present.

3676. The Trial Chamber will further consider these findings in chapter 9.2.14.

### *9.2.3 The Variant A/B Instructions*

3677. The Prosecution argued that in late December 1991, Karadžić issued concrete instructions, known as the Variant A/B instructions, to prepare to assert Serb control at the municipal level by military means, if necessary.<sup>13806</sup> These instructions, which were to be implemented in two stages, constituted a ‘planned, centralised means of

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<sup>13806</sup> Prosecution Final Brief, para. 181; T. 44340-44341.

establishing and preparing the Serb municipal organs that would be used to implement the common criminal purpose’ of the alleged overarching JCE.<sup>13807</sup> It further argued that Karadžić supervised the implementation of the Variant A/B instructions and later activated the second stage of the instructions by a ‘secret’ order.<sup>13808</sup> The Defence argued that the Variant A/B instructions could not have been the basis of planned actions of the crisis staffs or alleged JCE members, as they were not uniformly implemented and there is no evidence of anyone at the Bosnian-Serb Republic level enforcing the instructions.<sup>13809</sup> It further argued that ‘the document referring to “Variant A/B” municipalities’ was a contingency plan, discussed only during one assembly session, which took place prior to the establishment of the VRS and Mladić’s relocation to Bosnia-Herzegovina under the JNA.<sup>13810</sup> It also argued that the Variant A/B instructions were solely relevant to municipalities and not to the military, as they were considered separately from Mladić and were not relayed to the VRS.<sup>13811</sup> The Prosecution responded that immediately after the Variant A/B instructions were issued, Karadžić assigned Čizmović to ‘visit all our municipalities’ in order to implement the instructions that had been issued.<sup>13812</sup>

3678. With regard to the Variant A/B instructions, the Trial Chamber took judicial notice of a number of Adjudicated Facts. The Trial Chamber also received evidence from **Patrick Treanor**, an intelligence analyst;<sup>13813</sup> and **Dorothea Hanson**, a research officer for the Prosecution Leadership Research Team,<sup>13814</sup> as well as documentary evidence,<sup>13815</sup> and finds that this evidence is consistent with the Adjudicated Facts.<sup>13816</sup> The Trial Chamber also received evidence from **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992.<sup>13817</sup>

<sup>13807</sup> Prosecution Final Brief, para. 181; T. 44345-44346.

<sup>13808</sup> Prosecution Final Brief, para. 181; T. 44345-44346.

<sup>13809</sup> Defence Final Brief, paras 461-462.

<sup>13810</sup> Defence Final Brief, paras 357, 440.

<sup>13811</sup> Defence Final Brief, paras 358-359.

<sup>13812</sup> T. 44345-44346. The Trial Chamber understands the reference to ‘Čizmović’ in the Prosecution’s closing arguments to refer to Jovan Čizmović.

<sup>13813</sup> P3001 (Patrick Treanor, *curriculum vitae*), p. 3.

<sup>13814</sup> P378 (Dorothea Hanson, *curriculum vitae*), p. 1; Dorothea Hanson, T. 4141.

<sup>13815</sup> P4583 (Transcript from 50th Session of the Bosnian-Serb Assembly, 16 April 1995), p. 323.

<sup>13816</sup> **Patrick Treanor**: P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 1-2, 6, 10; P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 61. **Dorothea Hanson**: P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), paras 20-21.

<sup>13817</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

3679. On 19 or 20 December 1991, a document entitled ‘Instructions for the Organisation and Activity of the Organs of the Serbian People in Bosnia-Herzegovina in Extraordinary Circumstances’, dated ‘Sarajevo, 19 December 1991’, was introduced to the participants of a meeting of high-level SDS representatives.<sup>13818</sup> The SDS Main Board directed SDS municipal boards throughout Bosnia-Herzegovina to establish Bosnian-Serb institutions, including a ‘Crisis Staff of the Serb People’ and an ‘Assembly of the Serb People’ or a ‘Serb Municipality’.<sup>13819</sup> Karadžić, in addressing the meeting, said that SDS municipal boards would become responsible, pursuant to these instructions, for creating a network that would cover all Serbs living in the municipalities.<sup>13820</sup>

3680. The ‘strictly confidential’ document laid out measures and tasks to be taken with a view to establishing control in municipalities where the Bosnian Serbs constituted a majority (Variant A), and in those municipalities where the Bosnian Serbs did not constitute a majority (Variant B).<sup>13821</sup> Two levels of activities for each variant were described, which were to be implemented exclusively on Karadžić’s orders and in accordance with a ‘specifically defined secret procedure’.<sup>13822</sup> The purpose of the tasks, measures, and other activities as set forth in the document was to enhance mobility and readiness to protect the interests of the ‘Serbian people’.<sup>13823</sup> They were to be implemented over the entire territory of Bosnia-Herzegovina, in their entirety in Variant

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<sup>13818</sup> Adjudicated Facts I, no. 86. The Trial Chamber understands these instructions to be the Variant A/B instructions. The Trial Chamber notes that while the Adjudicated Facts refer to a document entitled ‘Instructions for the Organisation and Activity of the Organs of the Serbian People in Bosnia-Herzegovina in Extraordinary Circumstances’, documents in evidence bear slightly different titles, such as, ‘Instructions for the Organization and Operation of Organs of the Serbian People in Bosnia and Herzegovina in Emergency Conditions’. The Trial Chamber determines these documents also refer to the Variant A/B instructions.

<sup>13819</sup> Adjudicated Facts III, no. 1686.

<sup>13820</sup> Adjudicated Facts I, no. 87.

<sup>13821</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 1-2, 6, 10. *See also* D78 (Instructions for the organisation and activities of the organs of the Serbian people in Bosnia-Herzegovina in an Emergency, 19 December 1991); D985 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991); D986 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991); P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 61; P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 20; P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 45.

<sup>13822</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 2, 5-6, 9-10. *See also* P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 61; P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 20.

<sup>13823</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 2.

A municipalities and partially in Variant B municipalities.<sup>13824</sup> In order to carry out the tasks, the municipal crisis staffs were asked to undertake a comprehensive assessment of the situation in the municipalities and to ‘ensure and respect declarations of loyalty (preferably in writing) to the constitution and the legal system of the federal state of Yugoslavia by citizens of other ethnic backgrounds’.<sup>13825</sup>

3681. For both variants, the ‘first level’ included daily meetings of the SDS municipal board to allow constant monitoring of the situation.<sup>13826</sup> The SDS municipal board was tasked with immediately establishing a ‘Crisis Staff of the Serbian People’ in each municipality, which was to be composed of all members of the SDS municipal board secretariat, SDS candidates in municipal state organs, such as the SJB Chief or Police Station Commander, deputies of the Bosnian-Serb Assembly, and members of the Bosnia-Herzegovina SDS Main Board from the municipality.<sup>13827</sup> The plan included the proclamation of an ‘assembly of the Serbian people’ in each municipality, preparations for the establishment of municipal state or government organs, including, *inter alia*, the executive committee, administration organs, and SJB.<sup>13828</sup> It further included the preparation of the takeover of the staff and some equipment of ‘security services centres’, the intensifying of propaganda, and the assessment of the number of necessary active and reserve policemen, TO units, and civilian protection units, which were to be activated on the order of the crisis staff.<sup>13829</sup> The ‘second level’ included plans to convene a session of the Serb municipal assembly, to establish a municipal executive committee and municipal state or government organs, to mobilise all Serb police forces

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<sup>13824</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 2.

<sup>13825</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 3, 6, 10. *See also* P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 23.

<sup>13826</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 3, 6-7.

<sup>13827</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 3, 6-7. *See also* P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 88, 90.

<sup>13828</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 3-4, 6-7. The Trial Chamber notes that while the term ‘state organs’ is used on pp. 3, 5, the term ‘government organs’ is used on pp. 6-7, 9. The Trial Chamber understands both terms to refer to the establishment and functioning of the same municipal organs.

<sup>13829</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 4, 7-8. *See also* P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 88, 90.

and ‘gradually re-subordinate them in coordination with JNA commands and staffs’, and to ensure the implementation of the order for mobilisation of the JNA reserve and TO units.<sup>13830</sup>

3682. In Variant A municipalities, the ‘assembly of the Serbian people’ was to be composed of representatives of the Serb people in the municipal assembly.<sup>13831</sup> Control over existing commodity reserves was to be established and material resources were to be protected.<sup>13832</sup> On the ‘second level’ of Variant A, the staff, buildings, and equipment taken over from the ‘security services centres’ were to be placed at the disposal of the ‘newly established organs of the interior’ at the seat of the centre.<sup>13833</sup> In implementing these measures, it was to be ensured that the rights of members of all nations were respected and that they would later be engaged in government organs established by the ‘assembly of the Serbian people’ in the municipality.<sup>13834</sup>

3683. In Variant B municipalities it had to be ensured that ‘members of other nations and nationalities’ who expressed their loyalty to the federal state of Yugoslavia were proportionately represented in government organs.<sup>13835</sup> The staff and equipment taken over from CSBs were to be integrated with the SJB in the municipality or in the place where an SJB was established.<sup>13836</sup> In settlements with a predominant Serb population, observation and a reporting system to report all threats to the Serb population was to be organised.<sup>13837</sup> The crisis staffs were responsible for ‘special forms of organisation of defence’.<sup>13838</sup>

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<sup>13830</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), pp. 5, 9. *See also* P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 88, 90.

<sup>13831</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 3.

<sup>13832</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 4.

<sup>13833</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 6.

<sup>13834</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 6. *See also* P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 23.

<sup>13835</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 7.

<sup>13836</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 7.

<sup>13837</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 9.

<sup>13838</sup> P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991), p. 9.

3684. The document reflected SDS policy and they found their way to local SDS leaders between 20 December 1991 and the early months of 1992.<sup>13839</sup> The instructions were received and implemented, fully or partially, in several municipalities in Bosnia-Herzegovina.<sup>13840</sup> The SDS in several municipalities relied on these instructions for actions, in particular when proclaiming the municipality as being Serb.<sup>13841</sup>

3685. **Patrick Treanor** testified that the instructions issued confidentially by the SDS Crisis Staff link the Bosnian-Serb leadership to a carefully planned and realised, top-down policy of dismemberment of Bosnia-Herzegovina along ethnic lines, whereby either existing Serb- or SDS-dominated municipalities would simply stop abiding by the laws of Bosnia-Herzegovina, thereby ignoring other legitimate party representatives and following the orders of parallel Serb authorities.<sup>13842</sup> Alternatively, in Serb-minority areas, exclusively Serb municipal institutions would be established in part of the territory, inevitably setting the stage for conflict.<sup>13843</sup> In a mid-February 1992 interview, Karadžić stated that the Serbs had developed a comprehensive programme for control of territory where they were an ethnic majority.<sup>13844</sup>

3686. **Dorothea Hanson** testified that the purpose of the Variant A/B instructions issued by the SDS Main Board was to ‘implement the plebiscite decision’ and ‘increase the mobility and readiness for defence of the interests of the Serbian people’.<sup>13845</sup> According to Hanson, the last page, type-signed ‘SDS BiH Crisis Staff’, was an early indication of a republic-level crisis staff.<sup>13846</sup> The Variant A/B instructions tied the crisis staffs and Serb municipalities to the SDS party centre through the Bosnian-Serb Assembly and the SDS Main Board.<sup>13847</sup> In order to create a shadow government, crisis

<sup>13839</sup> Adjudicated Facts I, no. 95. The Trial Chamber understands ‘they’ to refer to the Variant A/B instructions contained in the document entitled ‘Instructions for the Organisation and Activity of the Organs of the Serbian People in Bosnia-Herzegovina in Extraordinary Circumstances’ or to copies thereof.

<sup>13840</sup> Adjudicated Facts I, no. 96.

<sup>13841</sup> Adjudicated Facts I, no. 96.

<sup>13842</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), paras 61-63. *See also* P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), paras 20-21.

<sup>13843</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 63. *See also* P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 21.

<sup>13844</sup> P3003 (Patrick Treanor, *The Bosnian-Serb Leadership 1990-1992*), para. 66.

<sup>13845</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), paras 20-21.

<sup>13846</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 20.

<sup>13847</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 24.

staffs were instructed to include SDS members who already held leading positions in the existing municipal government; they were also told to cooperate with JNA command posts and headquarters.<sup>13848</sup> Jovan Čizmović, coordinator of the ARK and SAO governments, was tasked with facilitating the implementation of the Variant A/B instructions in the municipalities.<sup>13849</sup> As part of the discussion on the establishment of a Serb state within Bosnia-Herzegovina during the 6th Session of the Bosnian-Serb Assembly on 26 January 1992, Čizmović urged that the tasks set out in these instructions be carried out.<sup>13850</sup>

3687. On 14 February 1992, during a meeting attended by the SDS leadership, as well as regional and municipal officials, Karadžić ordered the activation of the ‘second stage’ of the instructions, specifically the division of Bosnia-Herzegovina along ethnic lines.<sup>13851</sup> Karadžić advised those present that the implementation of the second stage should be done slowly, to have absolute control on who was travelling along their roads.<sup>13852</sup> This served as the signal for the realization of Serb municipal authorities, the purpose of which was to ‘intensify the functioning of the government at any cost and on every single millimetre of our territory’.<sup>13853</sup> In April 1995, during the 50th Session of the Bosnian-Serb Assembly, Karadžić stated that ‘at the moment the war began, in the municipalities where we were in the majority, we had municipal power, held it firmly, controlled everything. In the municipalities where we were the minority, we set up secret government, municipal boards, municipal assemblies, presidents of executive

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<sup>13848</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 25.

<sup>13849</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 28. *See also* P3770 (Appointment of co-ordinator between ARK and Serb autonomous regions, 21 December 1991); P4115 (Intercepted conversation between Jovan Čizmović and Radovan Karadžić, 16 January 1992); P2672 (Intercepted conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991).

<sup>13850</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 28.

<sup>13851</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 29. *See also* P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 64. *See also* P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), p. 6.

<sup>13852</sup> P3774 (Speech of Radovan Karadžić in meeting of the SDS Main and Executive Board, 14 February 1992), p. 6. *See also* P3038 (Instructions for the organization and operation of organs of the Serbian people in Bosnia-Herzegovina in emergency conditions, 19 December 1991).

<sup>13853</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 29. *See also* P3003 (Patrick Treanor, The Bosnian-Serb Leadership 1990-1992), para. 64.

boards.’<sup>13854</sup> According to Hanson, the municipal organs played a crucial role in the Bosnian-Serb Assembly’s efforts to making the Bosnian-Serb Republic a reality on the ground.<sup>13855</sup>

3688. On 17 February 1992, the Prijedor SDS municipal board noted that ‘it is necessary to activate the second stage of the position stated by the SDS BH Main Board. It is absolutely necessary to cover the territory and population (Serbs) by activists and representatives. Each should secure his own area.’<sup>13856</sup> **Miroslav Deronjić** stated that Bratunac was a ‘Variant B’ municipality for which the instructions envisaged the establishment of a crisis staff and a Serb assembly.<sup>13857</sup> He and his municipal board implemented these instructions upon his return to Bratunac Municipality.<sup>13858</sup>

3689. Based on the foregoing, the Trial Chamber finds that on 19 December 1991, at a meeting of high-level SDS representatives chaired by Karadžić, the SDS Main Board issued strictly confidential instructions, also referred to as the Variant A/B instructions, detailing measures to be carried out at the municipal level throughout the territory of Bosnia-Herzegovina for the purpose of enhancing mobility and readiness to ‘protect’ the Bosnian-Serb population. They included instructions for Variant A municipalities, where Serbs constituted a majority, and Variant B municipalities, where Serbs constituted a minority. Local SDS leaders received the Variant A/B instructions between 20 December 1991 and the early months of 1992.

3690. The Variant A/B instructions, which were to be implemented in two phases, set out practical preparations for the takeover of *de facto* power in the municipalities and the division of Bosnia-Herzegovina along ethnic lines. The first phase of the instructions called for preparatory steps to be taken in the municipalities. These included, *inter alia*, the establishment of Serb municipal crisis staffs (*see* the Trial Chamber’s findings on the structure of crisis staffs in chapter 2.2.2) and of Serb municipal assemblies, as well as preparations for the establishment of municipal state organs, including SJBs, executive committees, and administrative organs. According to the instructions, non-Serbs were to be engaged with and represented in government

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<sup>13854</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 27. *See also* P4583 (Transcript from 50th Session of the Bosnian-Serb Republic Assembly, 16 April 1995), p. 323.

<sup>13855</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 32.

<sup>13856</sup> Adjudicated Facts I, no. 121.

<sup>13857</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 46.

organs at a later stage. In Variant B municipalities, such participation was dependent on an expressed loyalty to the federal state of Yugoslavia. The Variant A/B instructions also included an assessment of the number of necessary active and reserve policemen, TO units, and civilian protection units, which were to be activated on the order of the crisis staff, as well as preparations for the takeover of the staff and some equipment of security services centres and intensification of propaganda. The second phase of the Variant A/B instructions, which Karadžić activated on 14 February 1992 at a meeting attended by the SDS leadership, as well as Bosnian-Serb regional and municipal officials, called for the establishment of municipal state or government organs and the convening of Serb municipal assembly sessions, as well as the mobilization of the JNA reserve, TO units, and all Serb police forces, who would gradually be re-subordinated in coordination with JNA commands. Implementation of the Variant A/B instructions would mean that in Variant A municipalities, where Serbs constituted a majority, the orders of newly established Bosnian-Serb municipal authorities would prevail, other legitimate party representatives would be ignored, and the laws of Bosnia-Herzegovina would no longer be respected. In Variant B municipalities, where Serbs constituted a minority, exclusively Serb municipal institutions would be established in parts of the territory.

3691. The Trial Chamber will further consider these findings in chapter 9.2.14 when determining whether an overarching JCE existed. In chapter 9.2.14, the Trial Chamber will also consider to what extent the implementation of the Variant A/B instructions further clarifies the policy of the Bosnian-Serb political leadership.

#### *9.2.4 The Six Strategic Objectives*

3692. The Prosecution argued that while the six strategic objectives were not criminal on their face, it was clear that they meant to express an intention to pursue Serb control over territories inhabited by other ethnicities through force.<sup>13859</sup> The Defence argued that the objectives refer to separation of territory, not people.<sup>13860</sup> The Prosecution responded that Karadžić, when presenting the objectives at the 16th Assembly Session and after mentioning the separation of states, immediately clarified that the separation

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<sup>13858</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 46.

<sup>13859</sup> Prosecution Final Brief, para. 215.

<sup>13860</sup> Defence Final Brief, paras 408-415; T. 44722.

was about people.<sup>13861</sup> It also pointed out that various comments at the session, such as ‘resettling’ or ‘moving’, clearly referred to people.<sup>13862</sup> Further, the Prosecution argued that Mladić’s comments need to be read in context and that he meant to convey that the real plan needed to be kept secret.<sup>13863</sup> The Trial Chamber received evidence from **Herbert Okun**, special advisor and deputy to the Special Envoy of the UNSG from 1991 through 1997 and co-chairman of the International Conference on the former Yugoslavia,<sup>13864</sup> as well as documentary evidence in relation to the six strategic objectives, as set out below.<sup>13865</sup>

3693. On 7 May 1992, Mladić recorded that he had a meeting with Krajišnik, Vučurević, and Karadžić.<sup>13866</sup> Krajišnik mentioned the following ‘strategic goals’:

- (1) to separate from the Croats and the Muslims forever;
- (2) make a corridor from Krajina to Serbia;
- (3) establish a link with Serbia on the Drina, and cut off the Muslim’s link (Sandžak);
- (4) Neretva, a natural border with the Croats;
- (5) ‘[a] part of Sarajevo is to be ours. - The Muslims can have their part of the city and a link with their territory’;
- (6) to have a passage to the sea.<sup>13867</sup>

The record continues by noting ‘\* We do not want to live alone’ and then ‘7. \* In the near future, we must establish links with the Republic of Serbian Krajina’.<sup>13868</sup>

3694. On 12 May 1992, at the 16th Session of the Bosnian-Serb Assembly, Karadžić noted that the political conditions in Bosnia-Herzegovina had been very complex since the founding of the HDZ with its ‘militant and dangerous gatherings, with insignia of the *Ustaša* regime which committed genocide against us, and the setting up of the SDA [...] with its militant Islamic fundamentalism’.<sup>13869</sup> According to Karadžić, the Serbs had set up their own national movement, the SDS, in response to the actions taken by the HDZ and the Muslim national community. While the Serbs had been trying to

<sup>13861</sup> T. 44377.

<sup>13862</sup> T. 44377-44378.

<sup>13863</sup> T. 44375-44376.

<sup>13864</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4137.

<sup>13865</sup> P6723 is set out in chapter 9.2.5.

<sup>13866</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 262-263.

<sup>13867</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 262.

<sup>13868</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 262-263.

<sup>13869</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 3-4.

abstain from taking any steps that could have been detrimental to the peace in Bosnia-Herzegovina, the actions which had led them to the setting up of their own state had been provoked. According to Karadžić, after the deputies from Muslim and Croatian national communities had ‘denied any meaning of the [Bosnia-Herzegovina] Assembly’ and decided to enclose the Serbs in a state whose signs and symbols were well-known to them from the time of Croatian and Turkish occupation, the Serbs were forced to exercise their right to self-determination and set up their own state.<sup>13870</sup>

3695. According to Karadžić, the EC recognised that the ‘Serbian people’ would not accept the ‘unitarist Bosnia of Alija Izetbegović’.<sup>13871</sup> At the Conference on Bosnia-Herzegovina, under European auspices, the EC had given its approval for a three-part Bosnia-Herzegovina, consisting of three nation states.<sup>13872</sup> This approval by the EC was seen by Karadžić as recognition of the legitimacy of the Serbs’ wish to have their own state unit within Bosnia-Herzegovina. The Serbs had ‘opted for a political, peaceful solution, and accepted the political arbitration of the EC, which does not favour the Serbs at this moment, but [they] accepted the loss of a thing or two in order to avoid war’. On 4 April 1992, when the Bosnia-Herzegovina MUP had already been split, Alija Izetbegović mobilized the Croat and the Muslim national communities, so as to take control of the fate of the peoples in Bosnia-Herzegovina and speed up the process of recognition of the independence of Bosnia-Herzegovina. Already before Bosnia-Herzegovina was recognized by the EC, the Bosnian-Serb Assembly proclaimed the independence of the Bosnian-Serb Republic. This proclamation took place sometime on 6 or 7 April 1992. The EC had thus recognized a Bosnia-Herzegovina that did not exist and within whose territory there was already another state, the Bosnian-Serb Republic. Immediately after the international recognition, the Muslim representatives started sabotaging the Conference. The events which then followed resulted in war, through ‘terrorising the Serbian people in Sarajevo’ and through open attacks on Serbs in other areas, including Zvornik and Bijeljina.<sup>13873</sup>

3696. Karadžić announced that the Bosnian-Serb Presidency, the Bosnian-Serb Government, and the SNB had formulated the strategic goals for the ‘Serbian

<sup>13870</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 4.

<sup>13871</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 4-5.

<sup>13872</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 4-5.

<sup>13873</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 5.

people'.<sup>13874</sup> According to Karadžić, the achievement of the six strategic goals would 'finally finish the job of the freedom struggle of the Serbian people'.<sup>13875</sup> Furthermore, Karadžić warned that an end had to be put to the 'Serbian megalomania' of trying to include 'as many of [their] enemies in [their] areas as possible, especially as much territory as possible'; this had to be brought to a 'reasonable measure' in order for the Serbs to be 'solid and compact'.<sup>13876</sup> According to Karadžić, by doing otherwise, the Serbs could be put in danger by the inclusion in their state of 'too many of [their] enemies, who [would] again work against that state'.<sup>13877</sup>

3697. The first strategic goal was the 'separation from the other two national communities - separation of states'.<sup>13878</sup> Karadžić characterised the other two national communities as enemies of the Serbs, who had used every opportunity to attack them and would continue to do so if they were to remain in the same state.<sup>13879</sup> Krajišnik added that the first goal was the most important one, and the others were sub-items of the first.<sup>13880</sup> According to Karadžić, the first strategic objective was 'that we want to be rid of enemies in the house, those being the Croats and Muslims, so that we are no longer together in the same state'.<sup>13881</sup>

3698. The second strategic goal was the establishment of a corridor between Semberija and Krajina, so as to connect the RSK, Bosnian-Serb Republic, and Serbia.<sup>13882</sup> According to Karadžić, this was a very important goal as there could be 'no Krajina, Bosnian Krajina, Serbian Krajina or alliance of Serbian states' without the establishment of such a corridor.<sup>13883</sup> In this respect, another speaker, 'Dr Beli', noted that the establishment of a corridor between Semberija and the Bosnian Krajina had been completed to a certain degree.<sup>13884</sup> However, Brčko still remained a 'fierce stronghold [...] of Muslim forces' and in dealing with such a priority task, it was necessary to act together instead of letting the burden fall on one area only.<sup>13885</sup> For a definite 'clearing of the area' it was necessary to have more forces there, especially

<sup>13874</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13875</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 10.

<sup>13876</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 10-11.

<sup>13877</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 11.

<sup>13878</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13879</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13880</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 45.

<sup>13881</sup> P4582 (Karadžić speech), p. 1.

<sup>13882</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13883</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13884</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 12.

well-qualified police staff.<sup>13886</sup> Beli also noted the necessity to conduct a general mobilization of the ‘Serbian people’ and suggested the issuance of directives so that the definition of general mobilization would not depend on individual municipalities.<sup>13887</sup>

3699. The third strategic goal was the establishment of a corridor in the Drina Valley, so as to eliminate the Drina ‘as a border between two worlds’. Karadžić noted that while it was possible for some Muslim enclaves to be set up along the river, the belt along the Drina had to belong to the Bosnian-Serb Republic. The establishment of this corridor would be both strategically useful for the Serbs – as they populated both sides of the Drina River – and would damage the interests of their enemy by preventing them from establishing a corridor connecting them to the ‘Muslim International’, which would render the area ‘permanently unstable’.<sup>13888</sup>

3700. The fourth strategic goal was the establishment of a border on the Una and Neretva rivers.<sup>13889</sup> In this respect, Miroslav Vještica, another speaker, noted that there were no more Muslims in the enclaves that used to exist on the right bank of the Una River, in the ‘Serbian’ Bosanska Krupa Municipality.<sup>13890</sup> According to Vještica, it was ‘unlikely’ for the Muslims who had been evacuated from these enclaves to have a place to return to, after the President had announced the ‘happy news’ that the right bank of the Una was to be the border.<sup>13891</sup>

3701. The fifth strategic goal was the division of Sarajevo into a ‘Serbian’ and a Muslim part and the implementation of an effective state government in each of the two parts.<sup>13892</sup> Karadžić emphasized that the battle for Sarajevo was of decisive importance, because as long as the Serbs held a part of Sarajevo, Alija could not establish ‘even the illusion of a state’.<sup>13893</sup> According to Karadžić, the most important thing for Alija was to create an illusion that there was a Bosnian state and that the Serbs were terrorists. Furthermore, the fighting in Sarajevo was keeping the fighting away from other areas such as the Krajina and the Drina, where the Serbs could also have conflicts with the Muslims. Therefore, according to Karadžić, the fighting in Sarajevo would decide the

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<sup>13885</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 12.

<sup>13886</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 12-13.

<sup>13887</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 13.

<sup>13888</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13889</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 9.

<sup>13890</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 20.

<sup>13891</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 20.

<sup>13892</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 9-10.

destiny of Bosnia-Herzegovina and, if there was going to be a war, '[the war] would start in Sarajevo and end in Sarajevo'.<sup>13894</sup>

3702. The sixth strategic goal was the establishment of access of the Bosnian-Serb Republic to the sea, by disputing a part of the territory by the sea and not recognizing the area as a part of the Croatian state.<sup>13895</sup>

3703. During the same session of the Bosnian-Serb Assembly, Dragan Kalinić noted that the most important issue that the Bosnian-Serb Assembly had to decide on was whether to choose the option of war or the option of negotiating.<sup>13896</sup> In this respect, he considered that, 'knowing who our enemy is, how perfidious they are, how they cannot be trusted until they are physically, militarily destroyed and crushed, which, of course, implies eliminating and liquidating their key people', the fate of the Serbs in Bosnia-Herzegovina could only be solved through war.<sup>13897</sup> Vojo Kuprešanin stated that the Muslims 'must be forced to capitulate' and their attempts to turn the Serbs into a minority had to be broken.<sup>13898</sup> Velibor Ostojić noted that 'peace with Alija can only be achieved by war'.<sup>13899</sup> According to Kozić, 'the enemy – *Ustašas* and *mujahedin* – must be defeated by whatever means are necessary, and only after that can we negotiate'. Captain Garić noted that the Serbs did not want to go to war. He proposed that '[t]he Serb who refuses to come under the Serbian flag and under a *šajkača*, we will show that Serb the way to Istanbul, Teheran, just as we did to the *mujahedin*'.<sup>13900</sup> Krajišnik emphasized that the Serbs were all fighting for 'self-contained territories of a piece with the corridor, so that all of us will be in a single area that is linked with Serbia and Montenegro'.<sup>13901</sup>

3704. **Herbert Okun** stated that the six strategic objectives of 12 May 1992 primarily dealt with the issue of land.<sup>13902</sup> The Trial Chamber also reviewed Mladić's speech at the 16th Assembly Session, which is set out in chapters 9.3.7 and 9.5.5. Mladić *inter alia* noted that the 'thing' that they were doing 'need[ed] to be guarded as [their]

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<sup>13893</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 10. The Trial Chamber understands the reference to 'Alija' in this exhibit as a reference to Alija Izetbegović.

<sup>13894</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 10.

<sup>13895</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 10.

<sup>13896</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 17.

<sup>13897</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 17.

<sup>13898</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 24.

<sup>13899</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 27.

<sup>13900</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 28.

<sup>13901</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 46.

<sup>13902</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4194.

deepest secret'.<sup>13903</sup> Serb representatives in the media and at political talks and negotiations would have to present the goals in a way that would sound appealing to those who they wanted to win over and the 'Serbian people' would need to know how to read between the lines.<sup>13904</sup> He said that

it is better to have here this Hasotić who was here among us, than to have him take the place of Vehbija Karić or to have him in the trenches fighting against us. If Hasotić had been there instead of Vehbija, things would be more difficult for me now. He was with me, after all, and knows better how to neutralise me and to what extent and for how long and with what. And the other does not. There we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay, or that the Serbs would fall through and the rest leave. Well that is, that will not, I do not know how Mr Krajišnik and Mr Karadžić would explain this to the world. People, that would be genocide. We have to call upon any man who has bowed his forehead to the ground to embrace these areas and the territory of the state we plan to make. He to [sic] has his place with us and next to us.<sup>13905</sup>

3705. Mladić further said: 'Fear, might, prays to no God, and God cares not for might. But that does not mean that Muslims have to be expelled or drowned [...] both Serbs and Muslims, all must take care of one another [...] [b]ut there are ways in which we can neutralise them'.<sup>13906</sup>

3706. The six strategic objectives were adopted unanimously at the 16th Assembly Session.<sup>13907</sup> They were published in the official gazette of the Bosnian-Serb Republic on 26 November 1993 as follows:

1. Demarcation of the state as separate from the other two national communities.
2. A corridor between Semberija and Krajina.
3. Establishment of a corridor in the Drina river valley, and the eradication of the Drina river as a border between the Serbian states.
4. Establishment of borders along the Una and Neretva rivers.
5. Partition of the city of Sarajevo into Serbian and Muslim sections and the establishment of an effective state authority in each section.
6. Access to the sea for Republika Srpska.<sup>13908</sup>

3707. In a 8 November 1992 meeting with *inter alios* Karadžić, Krajišnik, and corps commanders, Mladić noted Krajišnik as having stated that '[w]e have a disproportionate

<sup>13903</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 34.

<sup>13904</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 34.

<sup>13905</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 35.

<sup>13906</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 35.

<sup>13907</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 47. *See also* P3050 (Decision on the strategic objectives of the Serbian people in Bosnia-Herzegovina, 12 May 1992).

<sup>13908</sup> P2003 (Decision on strategic objectives for the Serbian People in Bosnia-Herzegovina of 12 May 1992, published on 26 November 1993 in the official gazette of the Bosnian-Serb Republic), p. 1.

engagement of the army in relation to the strategic objectives. We have not achieved: The Neretva, the sea, and the Podrinje area. We have achieved: The corridor and separation with the Muslims'.<sup>13909</sup>

3708. Based on the foregoing, the Trial Chamber finds that on 12 May 1992, after Karadžić presented six strategic objectives to the Bosnian-Serb Assembly, the assembly adopted the objectives, which most prominently included the demarcation of a Serb state, territorially separate from any Croat and Muslim state. This demarcation involved the separation of people along ethnic lines. Furthermore, at the assembly session, Mladić and others clarified their understanding of the objectives. It was emphasized that the objectives should be achieved by 'whatever means', should be made to sound appealing when referenced in public, and that the Bosnian Serbs' approach should be guarded as their deepest secret and that Bosnian Serbs need to know how to read between lines. The Trial Chamber further finds that prior to the session, on 7 May 1992, Mladić and Krajišnik had a meeting regarding the strategic objectives. The Trial Chamber will further consider these findings in chapter 9.2.14 when determining whether the Overarching JCE existed.

*9.2.5 Speeches, statements, and utterances by members of the Bosnian-Serb political leadership*

3709. The Prosecution argued that statements made by members of the alleged overarching JCE demonstrate that they shared the common objective of the overarching JCE.<sup>13910</sup> These included speeches, statements, and utterances threatening mass violence against non-Serbs; preparing for imposing a forcible solution; expecting that extreme levels of violence would be deployed and that violent crimes would be necessary to establish ethnically-homogenous territories; and asserting Bosnian Serbs' entitlement to lands in Bosnia-Herzegovina.<sup>13911</sup> The Prosecution further argued that members of the alleged overarching JCE prepared their followers logistically and psychologically for the use of force.<sup>13912</sup>

<sup>13909</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 141, 146-147.

<sup>13910</sup> Prosecution Final Brief, paras 158, 162, 164, 167-174.

<sup>13911</sup> Prosecution Final Brief, paras 158, 162, 164, 167.

<sup>13912</sup> Prosecution Final Brief, para. 167.

3710. The Trial Chamber took judicial notice of Adjudicated Fact 728 with regard to the speeches and statements of members of the Bosnian-Serb political leadership relating to the common objective of the alleged overarching JCE. Further, it received evidence from **Herbert Okun**, special advisor and deputy to the Special Envoy of the UNSG from 1991 through 1997 and co-chairman of the International Conference on the former Yugoslavia;<sup>13913</sup> **Sulejman Crnčalo**, a Bosnian Muslim from Radačići in Pale Municipality;<sup>13914</sup> **Witness RM-066**, a Serb from Vlasenica;<sup>13915</sup> **David Harland**, an UNPROFOR Civil Affairs Officer assigned to Sarajevo as of May 1993;<sup>13916</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and subsequently the Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>13917</sup> and **Husein Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>13918</sup> as well as documentary evidence.<sup>13919</sup> The Trial Chambers also refers to its review of statements of a similar nature made in the period leading up to the conflict in chapter 9.2.2. The Trial Chamber will review these statements and speeches, primarily by Radovan Karadžić from May 1992 through 1995, in chronological order below.

3711. According to a *Tanjug* article dated 17 May 1992, Mladić, Karadžić, and Krajišnik attended a meeting with representatives of the local authorities in Sokolac on 17 May 1992, during which Krajišnik called for an ethnic demarcation.<sup>13920</sup> Karadžić is reported to have said ‘we want our state in Bosnia-Herzegovina and if they want to take Bosnia-Herzegovina out of Yugoslavia, we want to take our state out of Bosnia-Herzegovina’.<sup>13921</sup>

<sup>13913</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4137.

<sup>13914</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), p. 1, para. 3; Sulejman Crnčalo, T. 3229.

<sup>13915</sup> P182 (Witness RM-066, witness statement, 7 April 2010), p. 1.

<sup>13916</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>13917</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>13918</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Abdel-Razek, T. 3578.

<sup>13919</sup> The relevant evidence of exhibits P2004 and P3774 is discussed in chapter 9.2.2.

<sup>13920</sup> P3176 (Article published in *Tanjug*, 17 May 1992), paras 1, 5. *See also* P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15397-15398.

<sup>13921</sup> P3176 (Article published in *Tanjug*, 17 May 1992), para. 3.

3712. **Sulejman Crnčalo** testified that in June 1992, he saw Karadžić giving a speech at an open meeting in Pale.<sup>13922</sup> Crnčalo heard Karadžić say that the best way for Serbs to defend their houses was by attacking Muslim houses.<sup>13923</sup>

3713. On 13 June 1992, Karadžić issued an order stating that in an armed conflict, the VRS and the MUP should apply and respect the rules of international law of war, and the VRS should be regularly instructed on such rules.<sup>13924</sup> Commanders of all units, as well as each member of the VRS or other armed formation who took part in combat activities, were responsible for the application of the rules of international law of war.<sup>13925</sup>

3714. In an announcement on 11 July 1992, the Bosnian-Serb Presidency confirmed the will of the Serb people ‘to peacefully demarcate from Croats and Muslims in Bosnia and Herzegovina and solve the crisis in Bosnia and Herzegovina in a peaceful and democratic manner’.<sup>13926</sup> Noting that the Geneva Conventions mandate that emigration must be voluntary, the Presidency stated that all ‘refugees’ from the Bosnian-Serb Republic would be allowed to return and that Bosnian-Serb authorities were not forcing citizens to emigrate or forcibly detaining citizens in war zones.<sup>13927</sup>

3715. On 11 July 1992, Karadžić issued a congratulatory St Peter’s Day message to SDS members and officials. Therein, Karadžić called for particular attention to be paid to ‘the fair treatment of the civilian population of our Republic that is of a different ethnic background’. He also stated that defeated enemy soldiers should be given the protection of the Geneva Conventions.<sup>13928</sup>

3716. During the 17th Session of the Bosnian-Serb Assembly of 24 and 26 July 1992, Karadžić stated: ‘We know very well what the fundamentalism is and that we cannot live together, there’s no tolerance, they quadruple through the birth-rate, and we Serbs are not up to that.’<sup>13929</sup>

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<sup>13922</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), para. 78; Sulejman Crnčalo, T. 3236-3237.

<sup>13923</sup> P260 (Sulejman Crnčalo, witness statement, 1 November 2009), para. 78; Sulejman Crnčalo, T. 3236-3237.

<sup>13924</sup> D2045 (Order by Karadžić on the application of the rules of international law of war, 13 June 1992).

<sup>13925</sup> D2045 (Order by Karadžić on the application of the rules of international law of war, 13 June 1992).

<sup>13926</sup> D870 (Bosnian-Serb Presidency announcement, 11 July 1992).

<sup>13927</sup> D870 (Bosnian-Serb Presidency announcement, 11 July 1992).

<sup>13928</sup> D2022 (St Peter’s Day message from Karadžić, 11 July 1992).

<sup>13929</sup> P4581 (Transcript from the 17th session of the Bosnian-Serb Assembly, 24 and 26 July 1992), pp. 85-86.

3717. **Herbert Okun** stated that in September 1992, he and Cyrus Vance, both representatives of UNSG, repeatedly discussed the issue of widespread ‘ethnic cleansing’ in Bosnia-Herzegovina with the Bosnian-Serb leadership.<sup>13930</sup> When the issue of ‘ethnic cleansing’ was raised, the Bosnian-Serb leadership, such as Karadžić, Koljević, Krajišnik, and Čosić, did not deny that it was taking place.<sup>13931</sup> Rather, they stated that Muslims and Croats had also committed crimes against Serbs in World War II.<sup>13932</sup> The Bosnian-Serb leadership indicated to the witness and to Cyrus Vance during their negotiations that the use of force would stop as soon as the Bosnian Serbs got what they wanted.<sup>13933</sup>

3718. Between September 1992 and May 1993, the Bosnian-Serb leadership advocated six political goals: (i) the establishment of a Bosnian-Serb state as a separate legal entity; (ii) the establishment of a continuous Serb territory contiguous with Serbia; (iii) the establishment of an ethnically pure or overwhelmingly Bosnian-Serb state; (iv) the maintenance of a special relationship with the FRY; (v) the division of Sarajevo into Muslim and Bosnian-Serb sections; and (vi) to obtain a veto power against any residual powers which might be held by the central government of Bosnia-Herzegovina.<sup>13934</sup> Okun stated these political goals were not to be confused with the six strategic objectives of 12 May 1992.<sup>13935</sup>

3719. On 8 September 1992, Karadžić sent a telegram to the presidents of all municipalities in the Bosnian-Serb Republic reminding them that they were bound by the Geneva Conventions.<sup>13936</sup>

3720. **Okun** stated that Koljević, during a meeting Okun held on 18 September 1992 with the Bosnian-Serb leadership, said that the Serbs would not accept internal borders

<sup>13930</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4139, 4190-4191; P3115 (Index to diary entries by Herbert Okun, entries dated 10 and 24 September 1992), pp. 5-6.

<sup>13931</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4191-4192, 4203; 4369; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1505-1507.

<sup>13932</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4191-4192, 4369; P3113 (Video of a press conference given by Karadžić in Geneva, 18 September 1992), p. 6.

<sup>13933</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4192.

<sup>13934</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4157-4158, 4169, 4173-4174, 4204, 4214-4216, 4218-4220, 4243-4244, 4249-4253, 4265-4266, 4275, 4302-4307, 4349-4360; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1474-1475, 1528-1529; P3115 (Index to diary entries by Herbert Okun, entry dated 27 January 1993), p. 10; P5283 (Video depicting statement of Momčilo Krajišnik, 1992).

<sup>13935</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4194.

<sup>13936</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

in Bosnia-Herzegovina ‘without some form of cantonisation’.<sup>13937</sup> Koljević explained the Serbs were, however, prepared to accept such internal borders ‘to accommodate ethnic realities’, by which Okun understood Koljević to mean ‘to make the [Bosnian-Serb Republic] pure, or as pure as the Serbian army could make it’ and based on a map drawn on the situation following ethnic cleansing had taken place.<sup>13938</sup> During a meeting of 24 September 1992, in Geneva, Okun stated that Cyrus Vance, Lord Owen, and he himself discussed the situation of ‘ethnic cleansing’ in Banja Luka with FRY Ambassador Pavićević, who acknowledged that ethnic cleansing was indeed ongoing in Banja Luka.<sup>13939</sup> Pavićević said that the ethnic cleansing ‘must be stopped’ and volunteered to call Dobrica Ćosić, President of the FRY, and Slobodan Milošević in Belgrade to put an end to the situation.<sup>13940</sup> Later that day, Okun met with Nikola Koljević, who acknowledged that ‘ethnic cleansing’ was indeed taking place in both Banja Luka and Prijedor.<sup>13941</sup> Koljević then called the regional police commander in Banja Luka; Okun reported that following the phone call, Koljević told those in the meeting a ‘fairy tale’ that the crimes in Banja Luka were committed by Muslims who had stolen VRS uniforms and were masquerading as Serbs while committing crimes.<sup>13942</sup>

3721. **Witness RM-066** testified that on 30 September 1992, a funeral of 28 or 29 Serb soldiers who had been mutilated and killed by ABiH forces on the frontlines at Rogošija some days prior took place.<sup>13943</sup> The funeral was attended by over a thousand people, including Karadžić, Ostojić, Koljević, and Andrić.<sup>13944</sup> Manojlo Milovanović was also present, as were members of the SDS and the Crisis Staff (Savo Čeliković), and members of the police (Goran Višković).<sup>13945</sup> The witness testified that the atmosphere

<sup>13937</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4215.

<sup>13938</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4215-4216; P3115 (Index to diary entries by Herbert Okun, entry dated 24 September 1992), p. 6.

<sup>13939</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4221-4222; P3115 (Index to diary entries by Herbert Okun, entry dated 24 September 1992), p. 6.

<sup>13940</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4221-4222.

<sup>13941</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4221-4222.

<sup>13942</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4222-4224.

<sup>13943</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 121; Witness RM-066, T. 2528, 2531.

<sup>13944</sup> P182 (Witness RM-066, witness statement, 7 April 2010), paras 121, 125; Witness RM-066, T. 2424; P184 (Video footage and transcript of a funeral in Vlasenica).

<sup>13945</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 125; P184 (Video footage and transcript of a funeral in Vlasenica).

during the funeral was so tense that he was afraid of retaliatory actions of certain Serbs coming to Sušica camp to liquidate the detainees.<sup>13946</sup> In his speech, Karadžić stated:

[...] victims who will not have died in vain, whom we will not and must never forget. Nor must we forget their executioners and attackers. I do not know if I am allowed to say that we must not forgive either. Who knows how many times this century our brothers, who are no brothers at all, have been at our throats. They assault our good men. But the Lord sees that and has given us strength to resist.<sup>13947</sup>

3722. The witness testified that during a conversation concerns regarding the safety of the remaining detainees at Sušica camp were raised, and Đurić promised to assist in transferring those detainees (*see* the Trial Chamber's findings on the killing of detainees at Sušica camp in chapter 4.14.1 *Schedule B.16.2*).<sup>13948</sup> Ostojić heard the conversation.<sup>13949</sup> Also nearby were Vojislav Nikolić, Milanko Šargić, Mićo Kraljević, Milenko Stanić, Veljko Bašić, Radovan Karadžić, Nikola Koljević, and Risto Vidović.<sup>13950</sup> According to the witness, Ostojić had visited Sušica camp before, in August or early September 1992.<sup>13951</sup>

3723. During the 21st Session of the Bosnian-Serb Assembly, on 30 October and 1 November 1992, Karadžić noted that the Serbs, together with their 'centuries-old foes', had been forcefully held in an 'artificial creation' that was Bosnia and Herzegovina.<sup>13952</sup> He further referred to the state as an experiment in which a dog and a cat were held together in a box against their will, noting that the two could remain in the box only if they lost their 'natural characteristics' and that 'we could not be Serbs and live in such a box'.<sup>13953</sup>

3724. According to a recording of the 22nd session of the Bosnian-Serb Assembly on 23 and 24 November 1992, Aleksa Milojević stated that according to Article 1 of the Constitution, the Bosnian-Serb Republic was 'the state of the Serbian people' but that

<sup>13946</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 122; Witness RM-066, T. 2428-2429.

<sup>13947</sup> P184 (Video footage and transcript of a funeral in Vlasenica).

<sup>13948</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 126.

<sup>13949</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 126.

<sup>13950</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 126.

<sup>13951</sup> P182 (Witness RM-066, witness statement, 7 April 2010), paras 126, 154, 156.

<sup>13952</sup> P6923 (Excerpt from video footage of Karadžić's speech during 21st session of the Bosnian-Serb Assembly, 30 October & 1 November 1992).

<sup>13953</sup> P6923 (Excerpt from video footage of Karadžić's speech during 21st session of the Bosnian-Serb Assembly, 30 October & 1 November 1992).

non-Serbs would enjoy civil rights.<sup>13954</sup> Miljanović proposed that an article should include: ‘Citizens of [the Bosnian-Serb Republic] shall be all Serbs born in the territory of former Bosnia and Herzegovina, and the National Assembly of [the Bosnian-Serb Republic] shall decide whether to grant Serbian citizenship to members of other nations, nationalities and other ethnic minorities.’<sup>13955</sup> The Assembly assigned Milojević and Radović to provide the MUP with assistance revising the citizenship bill as quickly as possible to reflect the goal that the Bosnian-Serb Republic, ‘a state of Serbian people’, naturally guarantees civil rights to all its citizens.<sup>13956</sup>

3725. During a Christmas celebration in Pale on 7 January 1993 that **Husein Aly Abdel-Razek** attended, Karadžić said that the Muslims would be transferred out of Serb territory as the Serbs and Muslims could not live together anymore. Mladić, General Gvero, Krajišnik, and Plavšić all agreed. According to the witness, Krajišnik said that ethnic cleansing was necessary.<sup>13957</sup>

3726. On 21 January 1993, at an enlarged session of the Council for Coordination of State Policy, attended by, *inter alios*, Karadžić and Krajišnik, Serbia’s foreign minister Vladislav Jovanović warned that ‘ethnic cleansing carried out by force and violence’ was negatively affecting the Bosnian-Serb cause internationally.<sup>13958</sup> Jovanović suggested that the removal of the non-Serb population from areas claimed by Bosnian Serbs should instead be carried out by making life for the non-Serb population impossible so that they would ‘rush off to their original provinces’<sup>13959</sup> Karadžić responded that an ‘ethnically clean’ territory had already been achieved in some areas and gave the example of Zvornik, where 50 per cent of the population was Muslim prior to the war and where, by January 1993, the population was 100 per cent Serb.<sup>13960</sup>

3727. On 11 March 1993, Karadžić issued a directive to the VRS headquarters wherein he set out several instructions, including that the VRS had to abide by the Geneva

<sup>13954</sup> Miloš Šolaja, T. 32793-32795; P7196 (Excerpts from transcript from the 22nd session of the Bosnian-Serb Republic, 23-24 November 1992), pp. 8-10.

<sup>13955</sup> P7196 (Excerpts from transcript from the 22nd session of the Bosnian-Serb Republic, 23-24 November 1992), pp. 9-10.

<sup>13956</sup> P7196 (Excerpts from transcript from the 22nd session of the Bosnian-Serb Republic, 23-24 November 1992), p. 11.

<sup>13957</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 33.

<sup>13958</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4279-4280, 4283-4285.

<sup>13959</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4283-4286; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1824-1825.

<sup>13960</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4285-4286; P3104 (Herbert Okun, *Karadžić* transcript, 22, 23, and 28 April 2010), pp. 1823-1824.

Conventions and both additional protocols, as well as the Hague Convention of 1907 and other provisions of international law of war.<sup>13961</sup>

3728. At a meeting on 24 April 1993, attended by Karadžić, Mladić, and Krajišnik, Karadžić said – in the context of discussions on the Vance-Owen plan – that the Bosnian Serbs would not live with Muslims, and that they would have a problem in any area where Muslims were numerous.<sup>13962</sup> Karadžić further asked to find land for the Bosnian Serbs or they would ‘fight until the end’.<sup>13963</sup>

3729. **David Harland** testified that during his negotiations with the Bosnian-Serb leadership, its representatives were quite open that the purpose of the conflict and the purpose of the pressure they were applying was to extract from the Bosnian government an acceptance of the redistribution of the populations.<sup>13964</sup> When asked about what was actually happening on the ground, Karadžić said that ‘some old people will probably want to remain’, envisaging the majority of the population remaining in Serb territory to be Serb and in the Muslim territory to be Muslim.<sup>13965</sup>

3730. During the 34th Session of the Bosnian-Serb Assembly, held on various dates between 27 August and 1 October 1993, Karadžić indicated that in the context of the Geneva Conference on the SFRY and according to the recommendations of the international community, a map of Bosnia-Herzegovina was drawn up, suggesting that: (i) the Muslim territory should cover 30 per cent of Bosnia-Herzegovina, (ii) the Croatian territory 16 to 17 per cent, (iii) and the Serb territory 52 to 53 per cent.<sup>13966</sup> He highlighted that the six strategic goals adopted by the Assembly (*see* chapter 9.2.4) had been or would be achieved.<sup>13967</sup> At the same session, Krajišnik stated that the Serbs ‘must have’ Banja Luka Municipality ‘clean’.<sup>13968</sup>

3731. At the 10 January 1994 session of the Bosnian-Serb Assembly, Krajišnik stated that ‘the biggest tragedy would be if the Muslims agreed to live together with us’,

<sup>13961</sup> D2039 (Karadžić order regarding VRS actions during ceasefire, 11 March 1993).

<sup>13962</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4266-4268; P3115 (Index to diary entries by Herbert Okun, 1993), p. 12.

<sup>13963</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4266-4268.

<sup>13964</sup> P1 (David Harland, witness statement, 4 September 2009), para. 270; David Harland, T. 679-680.

<sup>13965</sup> P1 (David Harland, witness statement, 4 September 2009), para. 272.

<sup>13966</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 11.

<sup>13967</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), pp. 14-15.

<sup>13968</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 48.

adding that he would be willing to accept a smaller percentage of land provided it was separated from the Muslims.<sup>13969</sup>

3732. At a press conference following an 8 September 1994 meeting, Karadžić claimed that expulsions from Bijeljina were not the policy of the Bosnian-Serb Republic and were in fact against its interests.<sup>13970</sup> Nevertheless, Krajišnik was reported to have met with Serb ‘refugees’ on 6 September 1994, stating that there were now enough abandoned properties in Bijeljina and elsewhere to provide adequate housing for them.<sup>13971</sup>

3733. In the autumn of 1994, Momčilo Krajišnik addressed a gathering of people in Foča town, thanking them for creating a ‘true Serbian town’ and for preventing it from becoming ‘another Mecca’.<sup>13972</sup>

3734. According to a transcript of an 8 January 1995 Serbian radio-television news broadcast, Karadžić stated during a meeting with Krajišnik, Ostojić, and Prstojević in Ilidža Municipality:

If our neighbours do not show enough understanding, we will decide for ourselves how big Srpsko Sarajevo will be and what will be in Srpsko Sarajevo and then we/ unintelligible/ Sarajevo is a city and the city in [the Bosnian-Serb Republic] because all the land Sarajevo is situated on is Serbian and all the surroundings are Serbian and if they do not want to come to a quick solution, the whole Sarajevo will be Serbian in the end. We think that a more favourable variant for us is if they do not agree, and a more favourable variant for them is to agree, because in the long run, their part of the city, which has no/ favourable/ outer border, has no any prospects. Their Zenica and Tuzla will probably develop because they have got a natural outer border, however, the entire outer border in Sarajevo, all the surroundings around Sarajevo are Serbian and it is much more realistic that Sarajevo becomes Serbian than to be transformed into two cities and it is out of question that it becomes Muslim entirely.<sup>13973</sup>

<sup>13969</sup> P3076 (Minutes of Bosnian-Serb Assembly, 10 January 1994), p. 33; P2001 (Report by Dr Robert Donia titled ‘Highlights of Deliberations in the Assembly of Republika Srpska Relevant to the Indictment of Ratko Mladić, 1991-96’), p. 21. See also P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4293-4298.

<sup>13970</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 62; P885 (Political assessment of Bosnia-Herzegovina for 4-10 September 1994, 11 September 1994), para. 6.

<sup>13971</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), paras 62-63; P885 (Political assessment of Bosnia-Herzegovina for 4-10 September 1994, 11 September 1994), para. 7.

<sup>13972</sup> Adjudicated Facts I, no. 728.

<sup>13973</sup> P6947 (Extract from video of Nedeljko Prstojević speaking on current situation in Ilidža; other speakers were Radovan Karadžić, Momčilo Krajišnik, and Velibor Ostojić), p. 5. See also Slavko Mijanović, T. 28844.

3735. During the 14th Session of the VRS Supreme Command, held on 31 March 1995 in Pale, Karadžić stated: ‘It is the standpoint of our policy, there has been a separation of peoples, of cultures, of worlds.’<sup>13974</sup> He also stated: ‘Muslims remaining there in any way is disastrous for us.’<sup>13975</sup>

3736. On 28 August 1995, during the 53rd Session of the Bosnian-Serb Assembly, Karadžić stated:

That’s our intention, to say, all right, everyone has the right to return to his home after the war, if that is an overall process. [...] That means that the Muslims from Kozluk can return to Kozluk, if the Serbs from Kozluk return to Zenica. If they don’t want to return, then we need, and if they cannot return, then we need a new war to exchange that, and that’s why I think we should always insist on this. So an overall process, either overall or none at all. [...] We can act the Serbian, Cyrillic way and tell it all to their face, or we can be a bit cunning, we do have to be a bit cunning.<sup>13976</sup>

3737. After Karadžić attended a conference in London in September 1995, **Abdel-Razek** met him, Plavšić, and Krajišnik in Pale, where Karadžić discussed his border plan that entailed removing Muslims from Serb territories and Serbs from Muslim territories.<sup>13977</sup> At this meeting, the witness asked Karadžić to put the heavy weapons under the control of the UN, but Karadžić refused and stated that he could not do that, as the Muslims were everywhere and the Serbs would need their heavy weapons if the Muslims attacked.<sup>13978</sup>

3738. Based on the foregoing and the evidence reviewed in chapter 9.2.4, the Trial Chamber finds that from at least 12 May 1992, members of the Bosnian-Serb political leadership, in particular Radovan Karadžić, gave speeches and statements (i) describing Muslims and Croats as enemies with whom the Bosnian Serbs could not coexist and threatening violence against those groups and (ii) advocating the transfer of populations.

3739. With respect to the Bosnian Serbs’ inability to coexist with Muslims and Croats, Karadžić made a number of statements, including threats of violence against these

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<sup>13974</sup> P6723 (Excerpt from Minutes from the 14th Session of Supreme Command, 5 April 1995), pp. 64-65.

<sup>13975</sup> P6723 (Excerpt from Minutes from the 14th Session of Supreme Command, 5 April 1995), pp. 64-65.

<sup>13976</sup> P4584 (Excerpts from transcript from the 53rd Session of the Bosnian-Serb Assembly, 28 August 1995), pp. 1, 23, 29.

<sup>13977</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 27; Husein Aly Abdel-Razek, T. 3600-3601, 3655-3657.

groups. In June 1992, he stated that the best way for Serbs to defend their houses was by attacking Muslim houses. On 24 or 26 July 1992, he asserted that ‘this conflict was roused to eliminate the Muslims’. Also on 24 or 26 July 1992, he stated that Bosnian Serbs could not live with ‘fundamentalism’. On 24 September 1992, FRY Ambassador Pavićević, and later that day, Koljević, acknowledged that ‘ethnic cleansing’ was taking place in Banja Luka, which Koljević reported was being committed by Muslims who were masquerading as Serbs. On 30 October or 1 November 1992, Karadžić said that Bosnian Serbs were held against their will with their ‘centuries-old foe’. On 24 April 1993, he further asserted that Bosnian Serbs would not live with Muslims. On 31 March 1995, he announced that the policy of the Bosnian-Serb Republic was ‘a separation of peoples’ and that Muslims remaining in Serb-controlled areas would be ‘disastrous’.

3740. The Trial Chamber further finds that Krajišnik also made a number of statements regarding the inability to coexist with Muslims and Croats, including threats of violence against these groups. On 17 May 1992, during a meeting attended by Mladić and Karadžić, he called for an ethnic demarcation. On 7 January 1993, during a meeting with Karadžić, Mladić, Gvero, and Plavšić, Krajišnik stated that ‘ethnic cleansing’ was necessary. During the 34th Session of the Bosnian-Serb Assembly held between 27 August and 1 October 1993, he announced that the Serbs ‘must have’ Banja Luka Municipality ‘clean’. On 10 January 1994, he stated that Muslims living with Bosnian Serbs would be a tragedy. In autumn 1994, Krajišnik thanked people in Foča town for creating a ‘true Serbian town’ and for preventing it from becoming ‘another Mecca’.

3741. With respect to population transfers, on 7 January 1993, Karadžić stated that Muslims would be transferred out of Serb territory because the two groups could not live together. On 21 January 1993, Jovanović suggested that removal of non-Serb populations should be conducted by making life for them impossible so that they would ‘rush off to their original provinces.’

3742. The Trial Chamber further finds that the Bosnian-Serb political leadership made statements affirming respect for international law. In particular, on 13 June 1992, Karadžić ordered the VRS and the MUP to respect international law. On 11 July 1992, 8 September 1992, and 11 March 1993, he stressed the importance of abiding by the

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<sup>13978</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 27; Husein Aly Abdel-Razek, T. 3600.

Geneva Conventions. On 8 September 1994, he stated that expulsions were not the policy of the Bosnian-Serb Republic.

3743. The Trial Chamber will further consider these findings in chapter 9.2.14 when determining whether the alleged overarching JCE existed.

#### 9.2.6 *The role of VJ*

3744. According to the Prosecution, Mladić, Slobodan Milošević, and other JCE members used the JNA and later the VJ to facilitate the implementation of the common objective of the overarching JCE.<sup>13979</sup> Specifically, it argued that the VJ provided the VRS with logistical support, personnel assistance (including salaries, benefits, and other financial compensation), weapons, ammunition, and other materiel which was indispensable to the VRS's efforts in Bosnia-Herzegovina.<sup>13980</sup> The Defence submitted that the only form of cooperation between the VJ and the VRS was done for pragmatic purposes and that cooperation was even more limited when the FRY Government imposed sanctions on the Bosnian-Serb Republic.<sup>13981</sup> It further submitted that, while there were examples of material assistance and cooperation between the VRS and the VJ, this assistance did not imply a merged chain of command or the VJ participation's in a JCE.<sup>13982</sup> Finally, the Defence argued that VJ assistance to the VRS was intended for non-combat related activities only and that it was a legitimate form of support.<sup>13983</sup>

3745. The Trial Chamber received evidence from **Ewan Brown**, a military analyst;<sup>13984</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>13985</sup> **Slavko Gengo**, the Commander of the 7th Infantry Battalion of the VRS 1st Romanija Infantry Brigade from the end of January 1994 until May 1995;<sup>13986</sup> **Manojlo Milovanović**, the Chief of

<sup>13979</sup> Indictment, paras 8-12; Prosecution Final Brief, paras 542, 554. *See also* Prosecution Final Brief, paras 15, 26-28, 86-89, 241, 401, 404, 517-520, 523, 543-547, 548-554, 574, 655, 656, 754, 757, 758, 956.

<sup>13980</sup> Prosecution Final Brief, paras 542, 554. *See also* Prosecution Final Brief paras 15, 26-28, 86-89, 241, 401, 404, 517-520, 523, 543-547, 548-554, 574, 655, 656, 754, 757, 758, 956.

<sup>13981</sup> Defence Final Brief, paras 739-740.

<sup>13982</sup> Defence Final Brief, paras 737, 739, 741. *See also* Defence Final Brief paras 629-632.

<sup>13983</sup> Defence Final Brief, para. 741.

<sup>13984</sup> P2863 (Ewan Brown, witness statement, 27 and 28 July 2009), p. 2; P2858 (Ewan Brown, *curriculum vitae*), p. 1.

<sup>13985</sup> Reynaud Theunens, T. 20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4. Reynaud Theunens's evidence is also reviewed in chapter 9.5.4.

<sup>13986</sup> D473 (Slavko Gengo, witness statement, 10 May 2014), paras 3, 30; Slavko Gengo, T. 21613. Slavko Gengo's evidence is also reviewed in chapter 9.5.4.

Staff and deputy commander of the VRS Main Staff from 1992 to 1996;<sup>13987</sup> **Dorđe Đukić**, the Assistant Commander for Logistics of the VRS Main Staff,<sup>13988</sup> **Ekrem Suljević**, a mechanical engineer employed in the Bosnian MUP as of November 1993,<sup>13989</sup> and **Boško Kelečević**, Chief of Staff of the 1KK from 12 May 1992 until the end of the war;<sup>13990</sup> as well as documentary evidence.<sup>13991</sup>

### *Formation of the VJ and the VRS*

3746. The Trial Chamber recalls its findings in chapter 3.2 that on 15 May 1992, the UNSC demanded that all interference from outside Bosnia-Herzegovina by units of the JNA cease immediately and that those units either be withdrawn, be subject to the authority of the Bosnia-Herzegovina Government, or be disbanded and disarmed. The formal withdrawal of the JNA from Bosnia-Herzegovina took place on 19 May 1992 and the FRY established the VJ as the successor to the JNA. Slobodan Milošević was

<sup>13987</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *Curriculum Vitae* of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995). The evidence of Manojlo Milovanović is reviewed in chapter 9.5.4.

<sup>13988</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7. The evidence of Đorđe Đukić is reviewed in chapters 9.3.6 and 9.5.4.

<sup>13989</sup> P889 (Ekrem Suljević, witness statement, 9 February 2010), p. 1, paras 2-3, 11; Ekrem Suljević, T. 8407-8408, 8410.

<sup>13990</sup> D1110 (Boško Kelečević, witness statement, 26 June 2014), p. 1, paras 1, 9; Boško Kelečević, T. 37131.

<sup>13991</sup> The following exhibits considered by the Chamber are reviewed in chapters 9.3.6, 9.5.3, and 9.5.4: P345 (Mladić notebook, 27 January - 5 September 1995); P353 (Mladić notebook, 27 May - 31 July 1992); P355 (Mladić notebook, 10-30 September 1992); P358 (Mladić notebook, 2 April - 24 October 1993); P892 (Order issued by SRK Commander, 29 July 1995); P893 (SRK request addressed to VRS Main Staff, 10 July 1995); P1781 (Order by Mladić on obtaining material assistance from the FRY, 19 July 1995); P2221 (VRS Main Staff request for an expert assistance team addressed to the VJ General Staff, 31 May 1995); P3073 (Correspondence regarding VJ materiel, VRS materiel and materiel from *Pretis*, 23 January 1994 and 19 February 1994); P4282 (VRS Main Staff decision, 3 August 1995); P4397 (Mladić order regarding material requests from the VJ, 24 October 1993); P4550 (Request from Mladić concerning the distribution of rockets addressed to the VJ General Staff, 2 September 1993); P4552 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 14 June 1995); P4557 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 27 March 1995); P4562 (VRS Main Staff request for weapons and addressed to the VJ General Staff, 3 September 1995); P4563 (VRS Main Staff request regarding aerial bombs addressed to the VJ General Staff, 2 September 1995); P4583 (Transcript from 50th Session of the Bosnian-Serb Republic Assembly, 16 April 1995); P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993); P5086 (Order on material support from the FRY, signed by Ratko Mladić, 6 March 1993); and P5096 (Question for coordination with the VJ General Staff, signed by Ratko Mladić, 17 May 1994); P4567 (VJ General Staff order to supply rocket engines signed by Siniša Borović, 28 June 1995). Furthermore, exhibit P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993) is reviewed in chapter 9.5.3. Lastly, exhibits P359 (Mladić notebook, 28 October 1993 - 15 January 1994) and P362 (Mladić notebook, 4 September 1994 - 28 January 1995) are reviewed in chapter 5.1.2. A number of exhibits referenced in this chapter are also reviewed in chapter 9.5.4: P3029 (Expert Report of Reynaud Theunens, September 2012); P4347 (Request from *Pretis* Holding to Mladić, 10 May 1994); and P4551 (VRS Main Staff request for motors addressed to the VJ General Staff, 27 June 1995).

the Supreme Commander of the VJ and President of the Supreme Defence Council. As such, Milošević commanded the VJ, in compliance with decisions of the Supreme Defence Council – a body he also chaired. The Commander of the VJ General Staff Života Panić – from May 1992 until August 1993 when he was replaced by Momčilo Perišić – determined the basic organisation and use of the VJ and implemented decisions issued by the FRY President.

3747. The Trial Chamber further recalls its finding in chapters 3.1.1 and 3.2 that the formation of the VRS in Bosnia-Herzegovina in May 1992 was a product of the dissolution of the JNA. In this respect, the Trial Chamber also recalls its findings in chapter 3.2 on the preparations in April and May 1992 by the FRY Presidency enabling the formation of the VRS. Specifically, on 6 May 1992, two days after it announced the JNA's withdrawal from Bosnia-Herzegovina, the FRY Presidency ordered that all JNA members who were citizens of Bosnia-Herzegovina were to be kept in their current posts in units and institutions of Bosnia-Herzegovina. These JNA members – a group of approximately 90,000 soldiers of mostly Serb ethnicity – were informed that they would retain all their rights associated with their military status as JNA members while serving in Bosnia-Herzegovina. When the VRS was established, many of the commands and units of the JNA simply renamed themselves as units of the VRS and remained organized as they had been under the JNA (on the establishment and structure of the VRS, *see* chapter 3.1.1). Finally, the Trial Chamber recalls its findings in chapters 3.1.1 and 3.2 that withdrawing from Bosnia-Herzegovina on 19 May 1992, the JNA left the VRS with substantial amounts of materiel<sup>13992</sup>, including tanks, APCs, heavy artillery, and large quantities of ammunition.

*Role of the VJ in procuring materiel to the VRS*

3748. The Trial Chamber notes that a substantial amount of evidence regarding Mladić's role throughout the war in procuring materiel from the VJ (reviewed in chapters 3.2, 9.3.6, and 9.5.4 ) is relevant to the Trial Chamber's determination regarding the role of the VJ in facilitating the implementation of the common objective of the alleged overarching JCE. As a result, a number of references to the evidence reviewed in these chapters have been included below.

3749. **Ewan Brown** testified that in the late summer of 1992, the VRS Main Staff and the VJ General Staff agreed on a plan of supply code-named 'Izvor', to deliver large quantities of ammunition and fuel from the FRY to the VRS, despite the arms embargo imposed by the UNSC in September 1991. According to Brown, on 12 September 1992, the VRS Main Staff sent a letter to the 1KK noting that pursuant to an agreement between the VJ General Staff and the VRS, the 14th Logistics Base had received 225 tonnes of ammunition, and that a further 220 tonnes were to follow. The first delivery was, however, carried out through Operations Group Doboj; between 5 August 1992 and 14 September 1992, the FRY provided the Operations Group with large quantities of materiel, including small arms, artillery, tanks, and rocket ammunition.<sup>13993</sup> There were difficulties in obtaining combat and non-combat materials when the corridor between Belgrade and Banja Luka was blocked between May and August 1992, but 'almost immediately' after the opening of the corridor, materiel was again transferred between the two towns.<sup>13994</sup> On 1 January 1993, Colonel Vaso Tepšić, Assistant Commander for Logistics of the 1KK, reported to the VRS Main Staff that as part of the 'Izvor 3' plan, 29 trailer trucks had been sent to transport materiel from the FRY.<sup>13995</sup>

3750. On 8 April 1993, VRS logistics organs concluded at a meeting in Bijeljina that they had to count on the materiel and humanitarian support from the FRY, the VJ, and other sources outside the VJ in the coming period.<sup>13996</sup> It was also concluded that, with the exception of fuel, specific types of ammunition, mines, and explosives, the supply, however, had to mainly come from sources in the territory of the Bosnian-Serb Republic.<sup>13997</sup> VRS Main Staff requests for aid to the VJ General Staff were to be selective, realistic, and allow the requisition to be done with the authorization of the VRS Main Staff.<sup>13998</sup> The main role in forwarding the aid should be played by the logistics base which should ensure close cooperation with the units' organs, the VRS

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<sup>13992</sup> In using the word 'materiel' in this chapter, the Trial Chamber refers to its meaning in the military sense, i.e. military materials and equipment.

<sup>13993</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.255.

<sup>13994</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.256.

<sup>13995</sup> P5084 (1KK Daily Logistics Report to the VRS Main Staff, signed by Vaso Tepšić, 1 January 1993), pp. 1-3.

<sup>13996</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Djordje Djukić, 11 April 1993), p. 1.

<sup>13997</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Đorđe Đukić, 11 April 1993), p. 1.

<sup>13998</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Đorđe Đukić, 11 April 1993), pp. 1-2.

Main Staff Logistic Sector, as well as military and civilian institutions in the FRY.<sup>13999</sup> The participants in the meeting concluded that, in general, all acquisition, forwarding and distribution was to be planned, organised, and carried out by the VRS Main Staff Logistic Sector.<sup>14000</sup> Following the Logistic Sector's collection of requests for materiel from subordinate units, a joint request would be forwarded to the VRS Main Staff Head of Legal Administration Affairs, who in turn would submit it to the VJ General Staff for authorisation.<sup>14001</sup>

3751. The Trial Chamber refers to the evidence reviewed in chapter 9.5.4 that Mladić issued instructions to organs of the VRS in March 1993, October 1993, and July 1995 according to which all requests for materiel from the VJ were to be authorized by himself and were to be coordinated through the VRS Main Staff Logistic Sector. In this respect, the Trial Chamber also refers to the evidence reviewed in chapters 9.3.6 and 9.5.4 regarding the manner in which the VJ provided materiel to the VRS and the type of materiel that it provided.

3752. On 10 December 1993, Đorđe Đukić ordered that any acquisition of material supply from the VJ was to be regulated by the VRS Main Staff and approved by the MoD.<sup>14002</sup> On 27 December 1993 Momčilo Perišić issued an order to the VJ General Staff Operations Administration that all requests from the VRS and the SVK to the VJ were to be sent through the VJ General Staff, which would in turn direct these requests to the relevant VJ specialist organs and representatives.<sup>14003</sup> Only requests signed by the respective SVK or VRS Main Staff Commander and which had been proposed to Perišić by his Assistants would be personally approved by Perišić; other requests would not be considered.<sup>14004</sup> The order was issued to further the cooperation and coordination in implementing joint tasks of providing prompt assistance to the SVK and the VRS and was forwarded on 27 December 1993 to all relevant VJ Army Commands and VJ

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<sup>13999</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Đorđe Đukić, 11 April 1993), p. 2.

<sup>14000</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Đorđe Đukić, 11 April 1993), p. 3.

<sup>14001</sup> P5085 (Conclusions from a meeting of the VRS logistics organs, signed by Đorđe Đukić, 11 April 1993), p. 3.

<sup>14002</sup> P4392 (VRS Main Staff order, 10 December 1993), p. 2.

<sup>14003</sup> P4578 (VJ General Staff order on implementation of requests and coordination between VJ, VRS, and SVK Main Staffs, 27 December 1993), pp. 1-2.

<sup>14004</sup> P4578 (VJ General Staff order on implementation of requests and coordination between VJ, VRS, and SVK Main Staffs, 27 December 1993), pp. 1-2.

General Staff administrations, including the VJ General Staff Logistic Sector.<sup>14005</sup>

Perišić also ordered that every month, ‘a work plan by the VJ General Staff would regulate the issues and time of coordination with the Main Staffs of the SVK and VRS’.<sup>14006</sup> On 28 December 1993, Perišić issued a decision stating that the VJ would

cede a certain amount of ammunition, weapons and military equipment to the VRS.<sup>14007</sup>

3753. **Reynaud Theunens** testified that, from August 1993 until December 1995, the VJ’s logistics assistance to the VRS included delivery of weapon systems, including *Grad* rocket engines.<sup>14008</sup> In 1994 and 1995, the VRS used these engines for the propulsion of the modified air bombs, which were deployed by the SRK in the wider Sarajevo area.<sup>14009</sup>

3754. Between 1993 and 1995, the supply of armament and ammunition from the VJ to the VRS was arranged by and through several companies, including Krušik based in Valjevo (Serbia) and Pretis based in Vogošća (Bosnia), and included modified air bombs, silencers and bullets for sniper rifles (for the SRK), mortar charges and shells, rockets, detonators, and hand-held rocket launchers.<sup>14010</sup> Once VJ approval was received, the VRS Main Staff would inform the MoD that a purchase from or through these companies could be made.<sup>14011</sup> The prices of the weapons and ammunition that were the subject of the sale contract between Pretis-Vogošća and Krušik-Valjevo were established by the responsible administration of the FRY MoD that dealt with the

<sup>14005</sup> P4578 (VJ General Staff order on implementation of requests and coordination between VJ, VRS, and SVK Main Staffs, 27 December 1993), pp. 1, 3-4. *See also* P4572 (VRS and VJ consent regarding handover of weapons and military equipment, 15 May 1995), p. 1; P4575 (VJ General Staff telegram, 7 October 1995), p. 1.

<sup>14006</sup> P4578 (VJ General Staff order on implementation of requests and coordination between VJ, VRS, and SVK Main Staffs, 27 December 1993), p. 1.

<sup>14007</sup> P4576 (Momčilo Perišić order, 28 December 1993), pp. 1-2.

<sup>14008</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 222. *See also* P4347 (Request from Pretis Holding to Mladić, 10 May 1994); P4551 (VRS Main Staff request for motors addressed to the VJ General Staff, 27 June 1995); P4567 (VJ General Staff order to supply rocket engines signed by Siniša Borović, 28 June 1995).

<sup>14009</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 222.

<sup>14010</sup> P4486 (Report of the MoD of the Bosnian-Serb Republic concerning information about the possibility of securing ammunition, 10 February 1994) pp. 1-3; P4489 (Letter of the MoD of the Bosnian-Serb Republic to the VRS Main Staff concerning ammunition procurement contracts, 12 August 1993), pp. 1-2; P4490 (Survey concerning the supply of various types of weapons and ammunition between 1992 and 1995, 1995), pp. 2-14; P4491 (Letter from the MoD of the Bosnian-Serb Republic communication addressed to the SRK Command, 29 April 1992); P4492 (Compensation contract between the MoD of the Bosnian-Serb Republic and Krušik Holding Corporation, 2 May 1993), pp. 1-2; P4493 (Letter of the MoD of the Bosnian-Serb Republic addressed to the Logistics Sector of the VRS Main Staff, 7 September 1993); P4494 (Contract between Krušik-Valjevo and Pretis-Vogošća, 8 August 1994) pp. 1-2, 4.

<sup>14011</sup> P4493 (Letter of the MoD of the Bosnian-Serb Republic addressed to the Logistics Sector of the VRS Main Staff, 7 September 1993).

VJ.<sup>14012</sup> Quality clearance would be given on the basis of the valid documentation of Krušik and the SSNO.<sup>14013</sup>

3755. **Ekrem Suljević** testified that the shells recovered during the shelling incidents in 1995 with marking 'KB' in Cyrillic on them, standing for 'KV', were manufactured in Serbia, at Krušik-Valjevo factory, between 1993 and 1995.<sup>14014</sup> According to a 1971 JNA instruction manual, shells produced by Krušik-Valjevo were to include a marking 'KB' as well as the year of production.<sup>14015</sup>

3756. The Trial Chamber received evidence on reporting by VRS organs in 1994 regarding equipment received from the VJ. In June and December 1994, the VRS Main Staff required the SRK and various VRS units to submit reports on the receipt of materiel and technical equipment from the VJ ground forces, pursuant to VRS Main Staff requirements.<sup>14016</sup>

3757. Specifically concerning the SRK, on 15 January 1995, Čedo Sladoje, Deputy Commander of the corps, asked the VRS Main Staff to approach the VJ and request that the VJ replenish ammunition to units in the southern part of the Sarajevo front.<sup>14017</sup> **Slavko Gengo** testified that from March 1995 until the end of the war, he was often involved in collecting weapons for the VRS from the VJ in his capacity as SRK Commander of the 7th Infantry Battalion.<sup>14018</sup> Requests for weapons and ammunition by the SRK would be presented to SRK Commander Dragomir Milošević for his approval and signature; approved requests would then be sent to the VRS Main Staff.<sup>14019</sup> All such requests for munitions were either directed to Mladić or to one of his subordinates in the Main Staff Logistic Sector for urgent approval.<sup>14020</sup> Once an SRK request had been approved by the VRS Main Staff, Gengo was tasked with personally delivering the approved request to the VJ logistics base in Belgrade.<sup>14021</sup> On 18 April 1995, Dragomir Milošević addressed the VRS Main Staff with a request for the delivery of weapons and

<sup>14012</sup> P4494 (Contract between Krušik-Valjevo and Pretis-Vogošća, 8 August 1994), p. 3.

<sup>14013</sup> P4494 (Contract between Krušik-Valjevo and Pretis-Vogošća, 8 August 1994), pp. 4-5.

<sup>14014</sup> Ekrem Suljević, T.8401-8402.

<sup>14015</sup> P935 (JNA Instructions on marking of ammunition and explosive ordnance, 1971), pp. 4-6, 10.

<sup>14016</sup> P4399 (Krsmanović material status report request to SRK, 26 June 1994), p. 1; P4400 (Marjanović material status report request, 9 December 1994), p. 1.

<sup>14017</sup> P4407 (Letter to VRS Main Staff asking it to request ammunition from VJ), p. 1.

<sup>14018</sup> Slavko Gengo, T. 21678-21679.

<sup>14019</sup> Slavko Gengo, T. 21679-21680.

<sup>14020</sup> Slavko Gengo, T. 21680-21681.

<sup>14021</sup> Slavko Gengo, T. 21680-21681.

ammunition of various calibres from the VJ General Staff.<sup>14022</sup> On 15 July 1995, in agreement with the VRS Main Staff, he requested the VJ General Staff Logistics Base to approve the sending of 200 air bombs from VJ reserves, detailing logistics and how the finances would be settled.<sup>14023</sup> The SRK would provide for the return the approved assets through Krušik-Valjevo,<sup>14024</sup> This company had the potential to supply air bombs to the SRK.<sup>14025</sup>

3758. On 7 October 1995, Siniša Borović, Office Chief of the Commander of the VJ General Staff, approved the transfer of 12 'Dvina' rockets to the Command of the VRS Air Force.<sup>14026</sup>

3759. The Trial Chamber further refers to its review of the evidence in chapters 5.1.2, 9.3.2, 9.3.6, and 9.5.4 regarding the cooperation throughout the war between factories Pretis-Vogošća (Bosnia-Herzegovina) and Krušik-Valjevo (Serbia) on the production of weapons and ammunition for the VRS as well as the assembly of modified air bombs between 1993 and 1995 which were used by the SRK in Sarajevo. The Trial Chamber also refers to the evidence reviewed in chapter 9.3.6 that the VJ supplied materials to Pretis which were necessary for the production of various weapons and ammunition. The Trial Chamber also refers to its review of the evidence in chapter 5.1.2 and 9.5.4 regarding the role of the VJ in the development of modified air bombs for the VRS. Lastly, the Trial Chamber refers to its review of the evidence in chapter 9.5.4 regarding discussions between members of the FRY leadership, the VJ General Staff, and members of the VRS Main Staff concerning the covert transport of VJ materiel to the VRS and the logistics involved in getting the materiel from the FRY to Pretis in Bosnia-Herzegovina during the Indictment period.

*Role of the VJ in procuring VRS personnel*

3760. **Ewan Brown** testified that in 1992, some military personnel from the JNA volunteered to serve in the VRS and bridge the shortfall in manpower, particularly in

<sup>14022</sup> P896 (SRK request addressed to VRS Main Staff, 18 April 1995), pp. 1-2.

<sup>14023</sup> P900 (Request for VJ General Staff approval to send air bombs to SRK units, 15 July 1995).

<sup>14024</sup> P900 (Request for VJ General Staff approval to send air bombs to SRK units, 15 July 1995).

<sup>14025</sup> P900 (Request for VJ General Staff approval to send air bombs to SRK units, 15 July 1995).

<sup>14026</sup> P4575 (VJ General Staff telegram, 7 October 1995), p. 1.

some ranks.<sup>14027</sup> The numbers were however never large enough to cover the shortfall.<sup>14028</sup> The Trial Chamber refers to the evidence reviewed in chapter 9.3.6 regarding a meeting of Mladić and Commander of the JNA General Staff Adžić on 30 April 1992 regarding the payment of officers of (what would become) the VRS from the FRY budget. According to **Brown**, a February 1993 1KK document stated that the VJ should not send men to the VRS who, for various reasons, leave the VRS after two or three months of training.<sup>14029</sup> Professional JNA officers, non-commissioned officers, soldiers under contract and workers in the VRS who were previously members of the JNA continued to be financed by the FRY, but had problems with accessing accounts from around April 1992.<sup>14030</sup>

3761. On 10 February 1993, the FRY Supreme Defence Council held its 7th session at which problems related to the financing of the assistance offered to the RSK and the Bosnian-Serb Republic were discussed.<sup>14031</sup> Života Panić stated that ‘huge amounts of material means’ had been sent to the Bosnian-Serb Republic and to the RSK.<sup>14032</sup> The VJ had sent 2,500 commanding officers to the VRS and 700 to the SVK, and had also prepared and armed 3,000 volunteers who were sent to the RSK.<sup>14033</sup> Panić informed the Council that he received requests for ammunition and weapons on a daily basis.<sup>14034</sup> By 10 February 1993, the VJ had sent 68,000 combat rations to the SVK and provided them with equipment to form one complete corps.<sup>14035</sup> Since the VJ did not have funds for the purpose of helping the Bosnian-Serb Republic, such assistance would have to be provided through the fund for special purposes.<sup>14036</sup> Slobodan Milošević noted that

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<sup>14027</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.261.

<sup>14028</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.261.

<sup>14029</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.262.

<sup>14030</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.260.

<sup>14031</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), pp. 1-9.

<sup>14032</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 3.

<sup>14033</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 3.

<sup>14034</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 4.

<sup>14035</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 4.

<sup>14036</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 6.

'they' did not ask for money, but only for ammunition, means, food, and clothing.<sup>14037</sup> Dragojević noted that the expenditures of the VJ were by far the largest in the FRY budget.<sup>14038</sup>

3762. On 11 October 1993, the FRY Supreme Defence Council held its 14th session at which one item on the agenda was 'personnel issues' which concerned regulating the status of officers in the VRS and SVK whose status had not been regulated under the new law of the FRY.<sup>14039</sup> Perišić explained that the way had been paved for the Bosnian-Serb President, in his capacity as Supreme Commander, to issue an order regulating the status of these officers.<sup>14040</sup> In order to avoid criticism, a temporary formation had been set up within the VJ in Serbia to which these officers would be appointed, whereas in reality these officers would carry out their duties elsewhere.<sup>14041</sup> Perišić expressed his concern that the VRS and SVK were asking for specific VJ officers and that, if these officers refused, the VJ would be forced to view them as deserters.<sup>14042</sup> He explained that the VJ would not have a basis to do so and risked that these VJ officers could expose the FRY's military assistance to the Bosnian-Serb Republic and say '[t]hey're claiming that they're not helping, but in fact they are'.<sup>14043</sup> Bulatović also expressed concerns on forcing a group of 7,000 VJ soldiers from Serbia and Montenegro who were born in Bosnia-Herzegovina to fight there, while half of them refused; Bulatović highlighted the risks involved if information of them being forced to fight in Bosnia-Herzegovina were to become public.<sup>14044</sup> Perišić stated that his proposal was only shared with Milošević as the VJ's Supreme Commander and with the Supreme Defence Council, to which Milošević responded that 'only a single copy' of the proposal should stay with Perišić.<sup>14045</sup> Bulatović expressed similar concerns to maintain the proposal's secrecy.<sup>14046</sup> The Council members concluded that Perišić's proposals on these issues were to be reviewed at the next session of the Supreme

<sup>14037</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 8.

<sup>14038</sup> P5088 (Extracts from the notes of the 7th session of the Supreme Defence Council, 10 February 1993), p. 5.

<sup>14039</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 1, 24.

<sup>14040</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 24.

<sup>14041</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 24.

<sup>14042</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 24-25.

<sup>14043</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 25.

<sup>14044</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 25-27.

<sup>14045</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 24.

<sup>14046</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 27.

Defence Council.<sup>14047</sup> Next, Perišić discussed a proposal – put to him by the VRS and the Bosnian-Serb Government – for the Council to ‘verify’ promotions of VJ officers serving in the VRS to the ranks of Lieutenant General and Major General.<sup>14048</sup> Perišić stated that these officers serving in Bosnia-Herzegovina had been promoted to this rank and that the process of Council’s verification of their ranks meant that they – as well as their families who stayed in the FRY – would enjoy all the rights associated to this rank in the FRY.<sup>14049</sup> Milošević suggested that Perišić first consult with Mladić on the reason for each promotion, and then submit his own opinion about these proposed promotions at the next session of the Supreme Defence Council.<sup>14050</sup> The Trial Chamber also refers to its review of the evidence in chapter 9.3.6 regarding a conversation between Mladić, Perišić, and VRS Main Staff officers on 19 October 1993, in which Perišić stated that the VJ would send all officers and military conscripts born in Bosnia-Herzegovina to the Bosnian-Serb Republic, and that whoever would refuse would be discharged from the VJ.

3763. On 10 November 1993, the FRY Supreme Defence Council held its 15th Session and one of the agenda items of this meeting was the regulation of entitlement issues to members of the VRS and the SVK who were from the VJ and the former JNA.<sup>14051</sup> Momčilo Perišić explained that part of an earlier order issued by the Supreme Defence Council presented difficulties for him in promoting officers; it dictated that failure to obey orders by VJ superior officers to be deployed abroad resulted in punishment and the officer in question could no longer be promoted. Slobodan Milošević agreed and stated that the ability to promote someone was within Perišić’s general competence; no special authorization by the Supreme Defence Council to do so should be required; the Council members agreed and struck out the relevant clause. Regarding the Council’s decisions on deployment by VJ officers to the VRS and SRK, Momir Bulatović remarked that ‘it should remain confidential because this really is a very sensitive issue’, to which Milošević replied ‘[t]here is only one copy and General [Perišić] has

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<sup>14047</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 27-28, 30.

<sup>14048</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), p. 28.

<sup>14049</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 28-29.

*See also* P7462, (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993) pp. 10-11.

<sup>14050</sup> P5090 (Record of the 14th session of the Supreme Defence Council, 11 October 1993), pp. 29-30.

<sup>14051</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), p. 3.

it'.<sup>14052</sup> Perišić assured Bulatović that VJ officers would only receive an order stating they were deployed to the 40th Personnel Centre and no mention would be made of the Bosnian-Serb Republic or the RSK.<sup>14053</sup> Perišić then stated that the Council should pass a decree 'verifying' the promotions of VJ officers serving in the VRS and the SVK who, while serving in those armies, had received a promotion to the rank of lieutenant general and major general. Milošević asked Perišić whether Mladić had reported to Perišić on this issue, which Perišić confirmed Mladić had done. At this point, Zoran Lilić asked '[i]s the clause "who are in the army of Republika Srpska and the Republic of Serbian Krajina" really necessary? They are, after all, on our payroll', to which Momčilo Perišić responded '[t]he decree will not contain that clause; this will not be in writing anywhere. That'll be in the explanation, but they will not be given a copy of the explanation'.<sup>14054</sup> Milošević, who was worried officers would 'boast' about the Council's decision ratifying their promotion in the newspaper, asked whether decrees verifying VRS and SVK promotions would be sent to the officers in question, to which Perišić replied that this would not be the case.<sup>14055</sup> Milošević proposed that the Supreme Defence Council accept Perišić's proposals for the promotion of these officers.<sup>14056</sup> **Boško Kelečević** testified that promotions in the VRS and the subsequent promotion in the VJ indeed followed the procedure discussed in the Supreme Defence Council.<sup>14057</sup> Following the witness's promotion in the VRS, the Supreme Defence Council verified his promotion after which he received his new rank in the VJ.<sup>14058</sup>

3764. Also on 10 November 1993, FRY President Zoran Lilić ordered the VJ General Staff to organise and maintain a special record of personnel from the former JNA who remained in the territory of Bosnian-Serb Republic and RSK.<sup>14059</sup> On 15 November 1993, pursuant to the presidential order of 10 November 1993, the Commander of the

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<sup>14052</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), p. 9.

<sup>14053</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), pp. 9-10.

<sup>14054</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), p. 10.

<sup>14055</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), p. 11.

<sup>14056</sup> P7462 (Excerpts from the record of the 15th session of the Supreme Defence Council, 10 November 1993), p. 11.

<sup>14057</sup> Boško Kelečević, T.37163, 37167-37168.

<sup>14058</sup> Boško Kelečević, T.37163, 37167-37168. *See also* P7458 (Excerpts of VJ personnel file of Boško Kelečević, undated).

<sup>14059</sup> P5094 (FRY Presidential order on the formation of personnel centres, signed by Zoran Lilić, 10 November 1993), p. 1.

General Staff of the VJ, Perišić, ordered the formation of the 30th and 40th Personnel Centres; assigning the VJ General Staff's Chief of the Organisation, Mobilisation and Recruitment Administration to determine their organisational and establishment composition, and the Chief of the Personnel Administration to determine any other elements of the basic mobilisation plan.<sup>14060</sup>

3765. The Trial Chamber refers to its review of the evidence in chapter 9.5.4 that on 27 December 1993, Perišić informed Mladić that the FRY Supreme Defence Council adopted a decision for 'everyone' to go back to the Bosnian-Serb Republic and the RSK, as well as that the offensive on Sarajevo should be kept 'universal'. Approximately 19,000 conscripts and 3,500 recruits would be transferred to Han Pijesak and should be deployed from there to war units. On 27 December 1993, Mladić recorded a meeting in Belgrade with the Commander of the VJ General Staff Perišić, in which the latter informed Mladić that the Supreme Defence Council adopted a decision for 'everyone' to go back to the Bosnian-Serb Republic and the RSK, as well as that the offensive on Sarajevo should be kept 'universal'.<sup>14061</sup> Approximately 19,000 conscripts and 3,500 recruits would be transferred to Han Pijesak and should be deployed from there to war units.<sup>14062</sup> Perišić was told that he and Mladić should make an assessment of Sarajevo, as the politicians would come to a decision on this regard.<sup>14063</sup> The Trial Chamber also refers to its review of the evidence in chapter 9.3.6 on coordination meetings held between 1993 and 1995 between the VJ General Staff and Mladić on staff promotions and the VJ's authority – which it used – to deny, approve, extend, or verify VRS promotions.

3766. The Trial Chamber also considered the evidence in exhibit P5093, which has been placed in the confidential annex in Appendix D. At the FRY Supreme Defence Council's 21st session on 7 June 1994 Perišić raised the question of military service of national minorities, and stated that the VJ had around 19,000 'šiptar'<sup>14064</sup> recruits eligible for the compulsory military service annually.<sup>14065</sup> Perišić argued that it would be

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<sup>14060</sup> P5095 (Order on changes to the organisation and establishment in the VJ, signed by Momčilo Perišić, 15 November 1993), pp. 1-2.

<sup>14061</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>14062</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>14063</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>14064</sup> The Trial Chamber understands the term 'šiptars' to be a derogatory term for Albanians, *see* translator's note at P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 39.

<sup>14065</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 39.

'detrimental' to the security situation in the FRY if the VJ were to draft them, but that it would also be damaging to the VJ that they did not respond to the call-up for military service; Perišić proposed that these Albanians should in some way make amends for not serving in the VJ.<sup>14066</sup> The Council members agreed a three to five percent quota for Albanians, and applying the same principle to Muslims and Hungarians, could be drafted into the VJ, as long as there were internal rules that these soldiers could not carry weapons or ammunition, and they could not be assigned to guard duty.<sup>14067</sup> This way, Perišić explained, no one could say these minorities were not in the VJ.<sup>14068</sup> Perišić stated that Muslims who had completed military training in the FRY could not be sent to the Bosnian-Serb Republic: '[...] this is very important. If we send Muslims there, they'll kill them'.<sup>14069</sup> He also said that the RSK and the Bosnian-Serb Republic could no longer wage war without the help of the VJ.<sup>14070</sup> Perišić further set out that the Bosnian-Serb Republic and the RSK had maintained superiority because they could rely on technical and materiel advantages provided by the VJ; if the VJ would stop helping these Republics in the area of education, financing of educated personnel and material assistance for combat operations, they would start losing territories. Perišić proposed that:

Perhaps the best solution would be to force their political leaderships and governments to form a budget and say how much they have earmarked for the army and how much they need in aid. So far, believe it or not, they didn't earmark any funds for the army, they did this only superficially. They have no laws or a defined budget for the army and so on. They rely solely on us and come to us with demands. However, when something has to be thought up, which could have decisive consequences, they often take counter-productive decisions.<sup>14071</sup>

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<sup>14066</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 40.

<sup>14067</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 41-42.

<sup>14068</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 41.

<sup>14069</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 46.

<sup>14070</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 42-43, 47.

<sup>14071</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 42-43.

Perišić then raised problems caused by the Bosnian-Serb Republic and RSK on which he could not decide without the approval of the Supreme Defence Council.<sup>14072</sup> He explained that one of the problems of the republics was the relinquishment of spare parts for weapons and military equipment, to which Milošević responded '[t]heir principle is – what's ours is ours and theirs, but what's theirs is only theirs. We can use every trick in the book but they won't give us anything. They have spare parts for which they have no use.'<sup>14073</sup> Perišić raised the problem that the VRS and the SVK had promoted hundreds of commissioned and non-commissioned officers, but the VJ had no means to pay for the difference in salary.<sup>14074</sup> Later during the meeting, Perišić informed the Council 'You should know, and this is not contained in the report, that in Republika Srpska we support and pay for 4,173 persons, or 7,42% from the VJ, and in the Republic of Serbian Krajina 1,474 persons or 2.62% from the VJ'; that's a total of 5,647 persons. We allot around 14 million for them each year and we need the same amount for next year, and that's just for their salaries. That's a great help to them'.<sup>14075</sup>

3767. According to the transcript of the 50th session of the Bosnian-Serb Assembly, held on 15 and 16 April 1995, VRS Main Staff Chief of Staff Milovanović stated that he had warned the president and the prime minister that the effects of economic sanctions by Serbia against the Bosnian-Serb Republic would be catastrophic for the families of officers and presented a picture of them without salaries for six months.<sup>14076</sup> Milovanović stressed that these salaries were the result of an agreement between the Bosnian-Serb Presidency and the Presidency of Yugoslavia and that 3,000 families living in Serbia were dependent on them.<sup>14077</sup>

3768. On 13 June 1995, the Supreme Defence Council verified the promotions of a number of professional soldiers from the 30th Personnel Centre, namely Major General Đorđe Đukić and Major General Milan Gvero to the ranks of Lieutenant General; and of Colonel Radivoje Miletić, Colonel Zdravko Tolimir, Colonel Jovan Marić, and Colonel

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<sup>14072</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), p. 43.

<sup>14073</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 42, 44.

<sup>14074</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 45-46.

<sup>14075</sup> P5091 (Stenographic record of the 21st Session of the Supreme Defence Council held on June 1994), pp. 51-52.

<sup>14076</sup> P4583 (Transcript from 50th Session of the Bosnian-Serb Assembly, 16 April 1995), pp. 1, 184, 191.

<sup>14077</sup> P4583 (Transcript from 50th Session of the Bosnian-Serb Assembly, 16 April 1995), p. 191-192.

Božo Novak to the ranks of Major General.<sup>14078</sup> It also adopted a decision to terminate the professional military service of Major General Dušan Kovačević and Major General Bogdan Subotić, both serving with the Bosnian-Serb MoD.<sup>14079</sup>

*Role of the VJ in VRS combat operations*

3769. **Brown** testified that the VJ assisted the VRS on matters of communications and radio-technical reconnaissance by making a number of its connecting pathways and communication channels at FRY stationary communication hubs available to the VRS for the transit of a number of VRS radio-relay channels.<sup>14080</sup> According to Brown, Talić recommended that a logistics base for the VRS be established on the territory of the FRY with the ‘objective of coordinating procurement and the execution of logistics support tasks on the territory of the FRY for the needs of the VRS’.<sup>14081</sup> As of late 1992, the linking of interception and monitoring of electronic emitting systems, a.k.a. RTI, started in the territory of the Bosnian-Serb Republic so as to enable the collection of data on enemy radar stations, surveillance, navigation, and guidance systems.<sup>14082</sup> The VRS also received support from the FRY in terms of foodstuffs, medical assistance and supplies, the treatment of soldiers in FRY hospitals, and the passing of military and civilian mail between the VJ, the VRS Main Staff, and subordinate units.<sup>14083</sup>

3770. On 6 February 1993, Lieutenant General Zoran Stojković, Assistant Commander of the VJ General Staff, requested that the VRS and the SVK provide timely and more complete information for the purpose of assessing and monitoring the situation in the territories of the Bosnian-Serb Republic and the RSK.<sup>14084</sup> The VJ sought information on the enemy and own forces, in relation to their composition, deployment, and troop

<sup>14078</sup> P5092 (Minutes of the 37th Session of the Supreme Defence Council, 30 June 1995), pp. 1, 5.

<sup>14079</sup> P5092 (Minutes of the 37th Session of the Supreme Defence Council, 30 June 1995), p. 5.

<sup>14080</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.263.

<sup>14081</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.258.

<sup>14082</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.263.

<sup>14083</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.257.

<sup>14084</sup> P5089 (Request for information from VRS and SVK from the VJ General Staff, signed by Zoran Stojković, 6 February 1993), p. 1.

strength, the tasks of their own units, as well as on probable intentions, manner, and axes of enemy activity.<sup>14085</sup>

3771. According to a VJ General Staff report, dated 26 October 1993, Momčilo Perišić assigned certain tasks at a meeting of the Supreme Command Staff on 27 September 1993.<sup>14086</sup> Among these tasks was an instruction to the Sector for Operations Affairs of the VJ General Staff, to improve coordination and cooperation with the SVK and with the VRS.<sup>14087</sup> Perišić also ordered the Intelligence Administration to ensure the inflow of as much verified intelligence as possible on the situation in the RSK and Bosnian-Serb Republic, in cooperation with intelligence organs of the Main Staff of the SVK and with the VRS Main Staff.<sup>14088</sup>

3772. On 11 April 1994, Mladić reported to the Chief of Staff of the VJ General Staff about combat operations that took place that day between 9:45 a.m. and 2:45 p.m.: the launch of two ABiH attacks and the destruction of an unidentified helicopter by VRS troops in the area of the Nišići Plateau, and the NATO offensive against the VRS troops in the region of Goražde.<sup>14089</sup>

3773. The Trial Chamber refers to its findings in chapter 9.5.4 regarding the involvement of the VJ Guards Motorised Brigade in VRS operations in Sarajevo in November and December 1993, as well as Mladić's involvement therein. Evidence related to this operation which was not directly related to the Accused's acts and conduct is reviewed below.

3774. On 13 January 1994, Lieutenant Colonel Ljubiša Stojimirović, Commander of the VJ Guards Motorised Brigade reported that elements of this brigade's units reinforced the 72nd Special Brigade thus entering the formation of the SRK on 17 December 1993.<sup>14090</sup> On 31 December 1993, upon the arrival of the VJ Guards Motorised Brigade in Vogošća, the reinforcement units left the formation of the 72nd Brigade and re-entered the formation of the VJ Guards Motorised Brigade. Stojimirović reported that the current numerical strength of the brigade was 210 men. Pursuant to an order of the SRK Commander, the VJ Guards Motorised Brigade entered the reserve

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<sup>14085</sup> P5089 (Request for information from VRS and SVK from the VJ General Staff, signed by Zoran Stojković, 6 February 1993), p. 1.

<sup>14086</sup> P4568 (VJ General Staff Report, 26 October 1993), p. 1.

<sup>14087</sup> P4568 (VJ General Staff Report, 26 October 1993), p. 3.

<sup>14088</sup> P4568 (VJ General Staff Report, 26 October 1993), p. 4.

<sup>14089</sup> P781 (Mladić report to the VJ Chief of Staff, 11 April 1994).

<sup>14090</sup> P5209 (Guards Motorised Brigade Command briefing report, 13 January 1994), pp. 1-2.

formation of the SRK on 2 January 1994. Since that date, all units of the brigade, with the exception of the military police platoon, were engaged in the areas of responsibility of the Vogošća, Mrkonjić, and Koševo brigades. The engagement of the military police detachment for special purposes also included the area of operations of the Rajlovac Brigade. The VJ Guards Motorised Brigade had at its disposal three 82 millimetre recoilless guns and four 120 millimetre mortars.<sup>14091</sup>

3775. On 30 December 1993, the VJ Guards Motorised Brigade noted in its war diary that several of its units were to march from Belgrade through Zvornik to Han Pijesak.<sup>14092</sup> On 31 December 1993, the brigade arrived at its destination in Vogošća.<sup>14093</sup> On 5 January 1994 on the approval of the VJ Commander of the General Staff, the 72nd Special Brigade was to leave the SRK zone of responsibility on 6 January 1994 and that a part of the zone of responsibility which was held by this brigade was to be taken over by the Guards Motorised Brigade.<sup>14094</sup> On 28 January 1994, a column of nine vehicles, two Praga and one 20/3 20 millimetre triple-barreled self-propelled anti aircraft gun set off for Belgrade.<sup>14095</sup> On 30 January 1994, the commands of the Special Units Corps and of the Guards Motorised Brigade, along with the Military Police Battalion and the Engineers Company set off for Belgrade.<sup>14096</sup>

#### *The Trial Chamber's findings*

3776. The Trial Chamber recalls its findings that, when confronted with resolutions by the UNSC to cease its military involvement in Bosnia-Herzegovina in 1991 and 1992, the FRY Presidency ordered all JNA soldiers stationed there to withdraw from Bosnia-Herzegovina in May 1992. At the same time, the JNA was transformed into VJ, the new army of the FRY; as such, soldiers of the former JNA became soldiers of the VJ.

3777. The Trial Chamber finds that the FRY did not cease its military involvement in Bosnia-Herzegovina in May 1992. In carrying out the instructions of the FRY Supreme Defence Council, the VJ General Staff set up a covert personnel centre called the '30th Personnel Centre' through which VJ soldiers were paid in order to fight in Bosnia-

<sup>14091</sup> P5209 (Guards Motorised Brigade Command briefing report, 13 January 1994), p. 1.

<sup>14092</sup> P5210 (Guards Motorised Brigade war diary, 30 December 1993 to 30 January 1994), p. 1.

<sup>14093</sup> P5210 (Guards Motorised Brigade war diary, 30 December 1993 to 30 January 1994), p. 2.

<sup>14094</sup> P5210 (Guards Motorised Brigade war diary, 30 December 1993 to 30 January 1994), pp. 1, 5-7.

<sup>14095</sup> P5210 (Guards Motorised Brigade war diary, 30 December 1993 to 30 January 1994), p. 21.

<sup>14096</sup> P5210 (Guards Motorised Brigade war diary, 30 December 1993 to 30 January 1994), p. 21.

Herzegovina as part of the VRS. These soldiers were employed and paid by the VJ 30th Personnel Centre (and received all associated benefits, such as pension) and were formally listed as working in the FRY. However, they were carrying out their military duties within the VRS. Up until at least October 1993, all Bosnian-Serb JNA soldiers born in Bosnia-Herzegovina were ordered by the VJ to go there; and those who were already stationed there, were ordered to stay in Bosnia-Herzegovina. The Trial Chamber recalls its finding in chapter 3.2 that upon the JNA's declared withdrawal in May 1992, approximately 90,000 former JNA soldiers who were Bosnian-Serb were ordered to remain in Bosnia-Herzegovina so that the Bosnian-Serb leadership could take command of them. The Trial Chamber finds that most of these soldiers, through assistance of the VJ, were incorporated into the VRS and the SVK. In this context, the Trial Chamber refers to its review of evidence in chapter 9.5.4 that in December 1993, VJ General Staff Commander Perišić informed the Accused of a decision by the FRY Supreme Defence Council that 'everyone' in the FRY had to go back to the Bosnian-Serb Republic and the RSK; approximately 19,000 VJ conscripts and 3,500 VJ recruits would be transferred to Han Pijesak (the location of the command of the VRS Main Staff), from where they would be deployed to the relevant VRS units. The Trial Chamber concludes in this respect that VJ soldiers born in Bosnia-Herzegovina who refused to serve in the VRS when requested either by the VJ or by the VRS, risked immediate expulsion from the VJ and could, in any event, no longer be considered for any kind of future promotion. If a VJ soldier was promoted in the VRS, approval of that same promotion by the VJ was required so that rights and benefits associated to that new rank could be enjoyed upon return to the FRY. For promotions to the highest army ranks in the VRS, the FRY Supreme Defence Council's approval ('verification') was required.

3778. The Trial Chamber further finds that arms and ammunition factories in Serbia, including Krušik-Valjevo, produced material for the VJ, which in turn was provided to units of the VRS. Among others, Krušik-Valjevo produced aerial bombs and 120-millimetre mortar shells which were supplied to the SRK through organs of the VJ. Approval by the VJ General Staff was required for material to be provided from Krušik-Valjevo to the VRS. The Trial Chamber also finds that Pretis- Vogošća in the Bosnian-Serb Republic produced weapons and ammunition for the VRS and the SRK and assembled modified air bombs for the SRK. The VJ supplied Pretis with the material necessary for their production.

3779. The Trial Chamber recalls its findings in chapter 9.5.4 that as of March 1993, both the VRS and the VJ issued orders to keep tight control over the materiel provided by the VJ to the VRS. In order to ensure full control over the materiel coming from the VJ to the VRS, Mladić ordered that all requests for materiel were to be authorized by himself and were to be coordinated through the VRS Main Staff Logistics sector. In December 1993, Perišić issued a similar order to all related VJ organs, in which he added that only VRS requests which had been approved by Mladić would be considered by the VJ General Staff Logistics organ.<sup>14097</sup>

3780. The Trial Chamber notes that until at least June 1994 the Bosnian-Serb Republic did not have an army budget and finds that all members of the FRY Supreme Defence Council – including Slobodan Milošević and Momčilo Perišić – were in agreement that the VRS relied solely on the VJ to sustain the army's needs. In this respect, the Trial Chamber refers to its findings in chapter 9.3.6 that Mladić acknowledged that almost 90 per cent of the ammunition used by the VRS between May 1992 and April 1995 had been provided by the VJ and its predecessor, the JNA.

3781. The Trial Chamber recalls its factual finding in chapter 9.5.4 that in order to prevent the breaking of blockade of Sarajevo, at least one VJ unit, the Guards Motorised Brigade, was re-subordinated to the SRK around the area of Vogošća.

3782. In conclusion, the Trial Chamber finds that the VJ provided the VRS with weapons, ammunition, and thousands of soldiers throughout the war; these soldiers received their salaries and benefits from the VJ while they were incorporated into the VRS. In this respect, the Trial Chamber notes that it received no evidence to suggest that the VJ issued instructions (or was able to issue instructions) to these soldiers once they were incorporated into the VRS.

3783. The Trial Chamber will further consider the above findings in chapter 9.2.14 below.

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<sup>14097</sup> The Trial Chamber understands the measures taken by the VJ General Staff to tighten its control over VJ resources were implemented against a background of an enormous strain caused by the VJ on the overall budget of the FRY and the persistent refusal of the VRS to pay for materiel and other costs covered by the VJ.

### 9.2.7 *The role of MUP*

3784. According to the Indictment, from 12 May 1992 until 30 November 1995, members of the MUP at a republic, regional, municipal, and local level were members of an overarching JCE together with the Accused and a number of others, including Radovan Karadžić, with the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through the crimes charged.<sup>14098</sup> The Prosecution argued that JCE members heightened their focus on the need for an ethnically-separate MUP as the tactic to keep all Serbs in one state shifted to the establishment of an ethnically-separate Serb entity in Bosnia-Herzegovina.<sup>14099</sup> The MUP played a key role in the implementation of the common criminal objective and immediately after its formation, participated in the wave of take-overs and operations to consolidate or expand Bosnian-Serb territory.<sup>14100</sup> According to the Prosecution, during combat operations in which units of both the VRS and the MUP participated, MUP forces were often re-subordinated to the VRS to ensure singleness and unity of command.<sup>14101</sup> The Prosecution further argued that the MUP also participated in the implementation of the common criminal objective by committing crimes independently of the VRS during a number of ‘cleansing operations’.<sup>14102</sup> The Defence, in addition to submitting that the MUP was created out of necessity, argued that the chain of command of the MUP was exclusively within the MUP and that there was only very limited *de facto* re-subordination of the MUP to the VRS.<sup>14103</sup> If there was coordination, it was *ad hoc* and each organization maintained its own chain of command.<sup>14104</sup>

3785. The Trial Chamber took judicial notice of a number of adjudicated facts in relation to the role of the MUP. It also received evidence from **Vinko Nikolić**, a member of the SOS from November 1991 to mid-May 1992 and a member of the Sanski Most Crisis Staff from its creation on 14 April 1992, where he held the position

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<sup>14098</sup> Indictment, paras 8-11. According to the Indictment, some or all of these individuals were, alternatively, not members of the JCE but were used by members of the JCE to carry out crimes committed in furtherance of its objective. *See* Indictment, para. 11.

<sup>14099</sup> Prosecution Final Brief, para. 531.

<sup>14100</sup> Prosecution Final Brief, paras 534-539.

<sup>14101</sup> Prosecution Final Brief, para. 122.

<sup>14102</sup> Prosecution Final Brief, para. 536, fn. 2286.

<sup>14103</sup> Defence Final Brief, paras 528-536.

<sup>14104</sup> Defence Final Brief, paras 536-543.

of transport commissioner since 19 June 1992;<sup>14105</sup> as well as documentary evidence, and finds that this evidence is consistent with the Adjudicated Facts.<sup>14106</sup> The Trial Chamber further received evidence from **Ratko Adžić**, President of the Crisis Staff of Ilijaš Municipality and Minister of Interior in the Bosnian-Serb Government from 20 January to 12 July 1993;<sup>14107</sup> **Milenko Karišik**, a Bosnian-Serb MUP official throughout the Indictment period;<sup>14108</sup> **Tomislav Puhac**, an employee of the Bosnia-Herzegovina SDB from 1977 to 2005;<sup>14109</sup> **Witness RM-065**, a Bosnian Muslim from Prijedor;<sup>14110</sup> **Velimir Kevac**, a Bosnian Serb who from the end of May 1992 until 7 October 1993 served as Assistant Chief of Staff at the Command of the VRS 30th Division in Mrkonjić Grad;<sup>14111</sup> **Đorđe Đukić**, the Assistant Commander for Logistics of the VRS Main Staff;<sup>14112</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>14113</sup> **Petar Škrbić**, the Assistant Commander for Organisation, Mobilisation, and Personnel affairs of the VRS Main Staff in July 1995;<sup>14114</sup> **Mane Đurić**, Head of the Vlasenica SJB as of 20 May 1992;<sup>14115</sup> **Mirzet Karabeg**, a Bosnian Muslim who served as the SDA President of the Executive Board of the Sanski Most Municipal Assembly from 1 January 1991 until 17 April 1992 and as the President of the Sanski Most War Presidency first located in Zenica, then in Travnik, from 30 March 1993 until 15 March 1996;<sup>14116</sup> **Milosav Gagović**, Assistant for Logistics in the JNA 4th Corps in Sarajevo from 1988 to May 1992;<sup>14117</sup> **Witness RM-**

<sup>14105</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), paras 5, 28; Vinko Nikolić, T. 31248-31249; P7111 (Crisis Staff decision on the appointment of Vinko Nikolić as transport commissioner, 19 June 1992).

<sup>14106</sup> **Vinko Nikolić**: D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 9. **Documentary evidence**: P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 1, 4.

<sup>14107</sup> D597 (Ratko Adžić, witness statement, 27 May 2014), p.1, para. 25; Ratko Adžić, T. 24771, 24787, 24804-24806; P6700 (Decision concerning the resignation of Ratko Adžić, signed by Radovan Karadžić, 17 September 1993), p. 1.

<sup>14108</sup> D935 (Milenko Karišik, witness statement, 23 June 2013), paras 1, 20, 23, 33; Milenko Karišik, T. 33121, 33152, 33158, 33184, 33188, 33223; D933 (Karišik's appointment as Assistant Minister/Head of the Public Security Department, 9 or 11 November 1994).

<sup>14109</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), paras 2-3.

<sup>14110</sup> P3271 (Witness RM-065, witness statements), witness statement of 22 March, pp. 1-2, witness statement of 28 August 2000, p. 2; P3274 (Pseudonym sheet for Witness RM-065). *See also* P3279 (Table of Concordance).

<sup>14111</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), p. 1, paras 1, 4, 21.

<sup>14112</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7.

<sup>14113</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401.

<sup>14114</sup> Petar Škrbić, T. 13981.

<sup>14115</sup> Mane Đurić, T. 27630.

<sup>14116</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 1-2; P3249 (Mirzet Karabeg, witness statement, 23 May 2002), pp. 1-2.

<sup>14117</sup> D622 (Milosav Gagović, witness statement, 7 March 2014), para. 2; Milosav Gagović, T. 25326, 25340.

**015**, a Bosnian Serb from Sanski Most;<sup>14118</sup> and **Witness RM-076**, a Bosnian Muslim from Sanski Most.<sup>14119</sup>

*The creation of the ethnically-separate MUP*

3786. **Tomislav Puhac** testified that the newly formed coalition of the SDA and HDZ at the helm of the MUP did everything possible to appoint Serb employees to lower-ranking positions, thereby preventing their influence in decision-making.<sup>14120</sup> In the course of 1991, following an order by Alija Delimustafić, the reserve police forces were mobilized. According to the witness, they did not mobilize the old reserve police forces who had gone through a verification process and training, but new forces who were loyal to the SDA. The witness received information from colleagues at the SJB Administration that Serbs from the police were abandoning or changing their jobs, and that consequently the police stations had only one ethnic group, *i.e.* Bosnian Muslims.<sup>14121</sup> According to the witness, SDA extremists and criminals were being provided with weapons under the guise of mobilization of the reserve police forces.<sup>14122</sup> The only police station in the territory of Sarajevo which remained mixed, *i.e.* comprised both Bosnian Serbs and Bosnian Muslims, was the Ilidža police station.<sup>14123</sup> The reason for this, in the opinion of the witness, was that the majority of the population was Serbian in this part of Ilidža.<sup>14124</sup> Around 20 April 1992, the Green Berets, Patriotic League, and the reserve police carried out a heavy attack on the part of Ilidža where Serbs were the majority.<sup>14125</sup> Following this event, the Muslim police officers left the Ilidža police station.<sup>14126</sup> As a result, the personnel of this station also were of one ethnicity, namely Serbian.<sup>14127</sup>

3787. In a speech, Tomislav Kovač, Minister and Acting Minister of Interior during the war (*see* chapter 3.4), stated that in a meeting held at the Holiday Inn Hotel in Sarajevo, the members of the MUP, together with the political structures from the ranks of the

<sup>14118</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111. The evidence of Witness RM-015 is also reviewed in chapter 4.12.3.

<sup>14119</sup> P3603 (Witness RM-076, witness statement, 20 July 2000), pp.1-2.

<sup>14120</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 4.

<sup>14121</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 8.

<sup>14122</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 11.

<sup>14123</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 14.

<sup>14124</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 14.

<sup>14125</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 14.

<sup>14126</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 14.

Serbian people, received instructions for the creation of a Serbian state in the territory of the former Bosnia-Herzegovina. According to Kovač, the MUP was the first state organ of the Bosnian-Serb Republic, comprising former Bosnian MUP personnel of Serb ethnicity. Kovač further stated that the MUP combat units, together with the TO units created by the SDS throughout the territory of the Bosnian-Serb Republic, ‘existed as the backbone of the Serbian movement in the fight for the protection [of] the people, and the creation of the Serbian state’.<sup>14128</sup> **Milenko Karišik** testified that Kovač’s speech would have referred to the period between 5 April and mid-May 1992, before the establishment of the VRS.<sup>14129</sup>

3788. On 17 April 1992, Stojan Župljanin, head of the CSB Banja Luka, ordered the division of the police along ethnic lines. Police officers were ordered to demonstrate their loyalty to the Serb municipality by wearing the insignia of the Bosnian-Serb Republic and signing a declaration that they would respect its laws and regulations. Only persons of Serb ethnicity signed the declaration.<sup>14130</sup> Part of the preparation for separation included the arming of Serb police officers and Serb police stations.<sup>14131</sup> The CSBs and SJBs reassigned stockpiled weapons belonging to the reserve police force to the new Serb MUP.<sup>14132</sup> Employees of the Bosnia-Herzegovina MUP and the abolished CSBs and SJBs were to be given the opportunity to be taken over by the Bosnian-Serb MUP, if they were willing to take an oath of allegiance prior to their engagement.<sup>14133</sup> In the spring of 1992, all employees in local SJBs and other public services were required to sign an oath of loyalty to the Bosnian-Serb authorities. Bosnian Muslims and Bosnian Croats who refused to sign the declaration of loyalty were dismissed. Those who accepted to sign could remain within the service.<sup>14134</sup>

3789. With regard to Sanski Most Municipality, **Mirzet Karabeg** stated that around mid-April 1992, the Serbs changed the insignia of the police into the Bosnian-Serb Republic insignia and put up a Serb flag on the police building.<sup>14135</sup> Already on 11 April 1992, Vlado Vrkeš, the Municipal President of the Sanski Most SDS, gave a 48-hour

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<sup>14127</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), para. 14.

<sup>14128</sup> P7213 (Video of a speech from Tomislav Kovač).

<sup>14129</sup> Milenko Karišik, T. 33171-33174.

<sup>14130</sup> Adjudicated Facts I, no. 1153.

<sup>14131</sup> Adjudicated Facts I, no. 284.

<sup>14132</sup> Adjudicated Facts I, no. 285.

<sup>14133</sup> P3009 (Dispatch from the Bosnia-Herzegovina Deputy Minister of the Interior to the Minister of the Interior *et al.*, 31 March 1992), pp. 1-2.

<sup>14134</sup> Adjudicated Facts I, no. 353.

<sup>14135</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 3.

ultimatum to the non-Serb members of the police to sign a loyalty oath and wear the Serb insignia.<sup>14136</sup> After the ultimatum, the Serbs took over the MUP.<sup>14137</sup> **Vinko Nikolić** provided further details, testifying that the Bosnian-Serb political leadership and the leadership of the Sanski Most SJB offered all Muslim and Croat policemen a chance to stay in the newly formed Bosnian-Serb police forces.<sup>14138</sup> Only one Croat policeman remained.<sup>14139</sup> The other policemen went to the Sanski Most Municipal Assembly building, armed with weapons from the Sanski Most police station, and tried to set up a purely Muslim police station.<sup>14140</sup> The Bosnian-Serb political leadership issued an ultimatum for these policemen to surrender their weapons and leave the Municipal Assembly building.<sup>14141</sup> As it was not respected, the Sanski Most TO and the Serb police force were ordered to disarm the Muslim policemen and to liberate the Municipal Assembly.<sup>14142</sup> The Muslim policemen left the building by a side entrance and set off to the villages of Šehovci and Trova, which both had a Muslim majority.<sup>14143</sup> According to the witness, the municipal building was not surrounded and the Muslim forces were given space to get out, in order to avoid conflict.<sup>14144</sup>

3790. With regard to Prijedor Municipality, **Witness RM-065** stated that sometime before 30 April 1992, the SDS discussed the division of Prijedor Municipality and the police department into Serb and Muslim parts.<sup>14145</sup> In early April 1992, a meeting was held in the Municipal Assembly building in Prijedor attended by, *inter alios*, Stojan Župljanin, Chief of the CSB Banja Luka, Župljanin's deputy, and Milimir Stakić. Župljanin stated that the purpose of his visit was to discuss the separation of the police force into Serb and Muslim parts. The witness saw the participants of the meeting walk into the meeting room; Župljanin and his bodyguard were both wearing camouflage uniforms and the latter carried a 'Scorpio gun'.<sup>14146</sup> Although the witness was unsure if

<sup>14136</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 2-4.

<sup>14137</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 4, 8.

<sup>14138</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 9. From the context, the Trial Chamber understands that when Nikolić refers to the 'Serbian' political leadership, this means the 'Bosnian-Serb political leadership'.

<sup>14139</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 9.

<sup>14140</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 9.

<sup>14141</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), paras 9, 29.

<sup>14142</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 9.

<sup>14143</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), paras 9, 29.

<sup>14144</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 29; D893 (Table of concordance as to Adjudicated Facts).

<sup>14145</sup> P3271 (Witness RM-065, witness statements), witness statement of 22 March 1995, p. 11.

<sup>14146</sup> P3271 (Witness RM-065, witness statements), witness statement of 22 March 1995, pp. 11-12; P3272 (Witness RM-065, *Tadić* transcript, 23 May 1996), p. 1243.

Župljanin had the authority to resolve the issue of separating the police force, he assumed this was the case based on how everyone treated him.<sup>14147</sup>

*MUP involvement in disarming non-Serbs*

3791. The Trial Chamber will now address the involvement of members of the MUP in the disarming of non-Serbs in the Municipalities. On 18 May 1992, the ARK Crisis Staff demanded the disarmament of non-Serbs in the ARK through public announcements, orders and decisions.<sup>14148</sup> Calls for disarmament usually involved the issuance of an ultimatum to hand in illegally owned weapons.<sup>14149</sup> The ARK decisions on disarmament were implemented by the municipal civilian authorities, the CSB and the SJBs, and also by the army.<sup>14150</sup> The military and civilian police were responsible for the implementation of the decision on disarmament. In accordance with this decision, Stojan Župljanin ordered all SJBs to report back to the CSB on the disarmament operations. The order contained detailed instructions on the expected contents of the report.<sup>14151</sup> The municipal SJBs, as ordered, reported back to the CSB on the operations implemented in their respective areas of control.<sup>14152</sup> Although the calls for disarmament in the ARK were directed to all ‘paramilitary units and individuals who illegally possess weapons’, they were selectively enforced against non-Serbs.<sup>14153</sup> The disarmament of Bosnian Muslims and Bosnian Croats throughout the ARK created an imbalance of arms and weapons favouring the Bosnian Serbs in the Bosnian Krajina, a situation amplified by the fact that the Bosnian-Serb population was arming itself on a massive scale at the same time.<sup>14154</sup> The disarmament of the non-Serbs guaranteed Bosnian-Serb control over the population of villages, towns and cities throughout the ARK.<sup>14155</sup>

3792. With regard to Sanski Most Municipality, **Karabeg** stated that at the end of April 1992, non-Serbs in Sanski Most Municipality were being disarmed.<sup>14156</sup> **Witness RM-**

<sup>14147</sup> P3272 (Witness RM-065, *Tadić* transcript, 23 May 1996), pp. 1243-1244.

<sup>14148</sup> Adjudicated Facts I, nos 427, 429.

<sup>14149</sup> Adjudicated Facts I, no. 427.

<sup>14150</sup> Adjudicated Facts I, no. 428.

<sup>14151</sup> Adjudicated Facts I, no. 429.

<sup>14152</sup> Adjudicated Facts I, no. 429.

<sup>14153</sup> Adjudicated Facts I, no. 430.

<sup>14154</sup> Adjudicated Facts I, no. 431.

<sup>14155</sup> Adjudicated Facts I, no. 432.

<sup>14156</sup> P3250 (Mirzet Karabeg, *Brđanin* transcript, 27-28 May 2002), p. 6134.

076 stated that between 20 April and 22 May 1992, he attended meetings with Mirko Vrućinić regarding the surrender of weapons.<sup>14157</sup> On 22 May 1992, he also met with Basara at the Sanski Most SJB to discuss the issue of disarmament.<sup>14158</sup> Later, while detained in the Sanski Most police station, the witness learned from Serb police officers that in May 1992 about 2,000 weapons had been turned in.<sup>14159</sup> The meeting on 22 May 1992 marked the end of all negotiations and meetings between Serbs and non-Serbs in Sanski Most.<sup>14160</sup>

*MUP involvement during the take-over of Municipalities and coordination with the VRS* 3793. The MUP cooperated closely with the VRS.<sup>14161</sup> On 15 May 1992, Mićo Stanišić ordered that all employees of the MUP organize into 'war units'.<sup>14162</sup> The units included squads, platoons, companies, and battalions and this organization was for the purposes of defending the territory of the Bosnian-Serb Republic.<sup>14163</sup> Stanišić also authorized CSB chiefs and the commander of the police detachment of the Sarajevo CSB to appoint officers with appropriate qualifications to command posts of established war units, and to ensure that the principle of subordination and superiority in the command system was upheld.<sup>14164</sup> The Minister of Interior, the commander of the police detachment of the Sarajevo CSB, and the chiefs of the CSB could order the use of MUP units in coordinated action with the VRS.<sup>14165</sup> The commander of the police detachment and CSB Chiefs were to inform Ministry staff of such use.<sup>14166</sup> While participating in combat operations, MUP units were to be subordinated to the command of the armed forces, but they would still be under the direct command of certain Ministry officials.<sup>14167</sup> In order to command and control the MUP forces, Stanišić ordered that a

<sup>14157</sup> P3603 (Witness RM-076, witness statement, 20 July 2000), p. 10.

<sup>14158</sup> P3604 (Witness RM-076, *Brdanin* transcript, 27 June, 1-3 July 2002), pp. 7716, 7718.

<sup>14159</sup> P3603 (Witness RM-076, witness statement, 20 July 2000), p. 10.

<sup>14160</sup> P3603 (Witness RM-076, witness statement, 20 July 2000), p. 10.

<sup>14161</sup> Adjudicated Facts I, no. 363.

<sup>14162</sup> Adjudicated Facts I, no. 363.

<sup>14163</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 1, 4.

<sup>14164</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 1-2.

<sup>14165</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 2-3.

<sup>14166</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 2-3.

<sup>14167</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), p. 3.

staff be established, comprised of a commander, who would be the Minister of Interior, and numerous members, including, *inter alios*, the commander and deputy commander of the police detachment and CSB chiefs.<sup>14168</sup> The order formalized the cooperation by explaining how MUP units should cooperate with the VRS.<sup>14169</sup> Stanišić authorized the CSB heads to implement these arrangements.<sup>14170</sup> MUP's first annual report, covering the period April to December 1992, stated that participation in combat activities stood at '1,451 police officers, on average, every day'.<sup>14171</sup> The Ministry had put 6,167 police officers at the disposal of the VRS, most of them from the reserve.<sup>14172</sup>

3794. In accordance with the law in effect in the Bosnian-Serb Republic, MUP units could be re-subordinated to the VRS for various purposes, including to reinforce the VRS during combat activities.<sup>14173</sup> When re-subordinated, the MUP forces followed orders issued by the VRS.<sup>14174</sup> The commander of the VRS unit to which the MUP unit was re-subordinated and the commander of the MUP unit coordinated their work in carrying out the tasks assigned by the VRS.<sup>14175</sup> MUP forces were engaged in combat operations for a specific time to carry out a precisely described task.<sup>14176</sup> During their re-subordination, MUP forces retained their formation and could not be disintegrated or separated.<sup>14177</sup>

3795. In a video interview, Mićo Stanišić stated that members of the MUP, including those taking part in the defence of the Bosnian-Serb Republic and those involved in regular police tasks, and the VRS were 'a single organism, a single cell, or rather, many cells in a single organism, with their roles in the organism'.<sup>14178</sup> He continued that they were an indivisible force that together made the armed forces of the Bosnian-Serb Republic.<sup>14179</sup> According to **Karišik**, Stanišić's remarks pertained to combat operations only.<sup>14180</sup> He added that from early May 1992 onwards, the VRS and the units of the MUP together comprised the armed forces of the Bosnian-Serb Republic in a

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<sup>14168</sup> P3855 (Order from Mićo Stanišić concerning war time organisation of police units, 15 May 1992), pp. 3-4.

<sup>14169</sup> Adjudicated Facts I, no. 364.

<sup>14170</sup> Adjudicated Facts I, no. 364.

<sup>14171</sup> Adjudicated Facts I, no. 365.

<sup>14172</sup> Adjudicated Facts I, no. 366.

<sup>14173</sup> Adjudicated Facts II, no. 1354.

<sup>14174</sup> Adjudicated Facts II, no. 1355.

<sup>14175</sup> Adjudicated Facts II, no. 1355.

<sup>14176</sup> Adjudicated Facts II, no. 1356.

<sup>14177</sup> Adjudicated Facts II, no. 1356.

<sup>14178</sup> P7214 (Video interview of Mićo Stanišić), pp. 1-2.

<sup>14179</sup> P7214 (Video interview of Mićo Stanišić), p. 2.

constitutional and legal manner.<sup>14181</sup> **Milosav Gagović** testified that around 16 May 1992, the period when the SRK was being formed, the MUP forces were subordinated to the armed forces, but not to the JNA 4th Corps.<sup>14182</sup>

3796. **Velimir Kevac** testified that police units acted together with VRS units in certain areas.<sup>14183</sup> 'Acting together' involved co-ordination between police units and the VRS, not re-subordination; coordination meaning where units have different assignments but assist each other to execute those assignments, and re-subordination meaning where one is continually placed under the command of another.<sup>14184</sup> The representatives of the police commanded the police and the army officers commanded the army.<sup>14185</sup> The order for the joint involvement of the VRS and the police came from the corps and the VRS Main Staff, who defined who carried out each task.<sup>14186</sup> At a tactical level, it was not possible for a commander, who would be an officer at the level of division commander or lower, to re-subordinate police units to VRS command.<sup>14187</sup> At an operative level, either the MoD or the MUP decided which activities police and army units would undertake.<sup>14188</sup> According to the witness, the Minister of Interior would have had the authority to re-subordinate the police to the VRS.<sup>14189</sup>

3797. On 22 June 1992, the commander of the 30th Krajina Division, Stanislav Galić, issued an order to the commands of the Operation Group-30, 1st Infantry Brigade, and the 19th Partisan Brigade of the 30th Krajina Division on the use of police in armed combat. The order was issued since police forces had been used in different ways in armed combat in the area of responsibility of the 30th Krajina Division and in order to overcome related problems. Only in exceptional cases, police forces could be used where there was an urgent need for them to participate in direct combat activities. In other cases, the use of the police required permission from the chief of the CSB.<sup>14190</sup>

3798. **Đorđe Đukić** stated that special MUP brigades existed in the battalions. Whenever the VRS Main Staff planned an operation in the field, it would request

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<sup>14180</sup> Milenko Karišik, T. 33176-33177.

<sup>14181</sup> Milenko Karišik, T. 33176-33177.

<sup>14182</sup> Milosav Gagović, T. 25380-25381.

<sup>14183</sup> Velimir Kevac, T. 30496.

<sup>14184</sup> Velimir Kevac, T. 30496-30497, 30510, 30544-30545.

<sup>14185</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 12; Velimir Kevac, T. 30496.

<sup>14186</sup> Velimir Kevac, T. 30497-30498.

<sup>14187</sup> Velimir Kevac, T. 30498.

<sup>14188</sup> Velimir Kevac, T. 30499.

<sup>14189</sup> Velimir Kevac, T. 30497-30499.

<sup>14190</sup> P7051 (30th Krajina Division order on use of police forces, type-signed Galić, 22 June 1992).

Karadžić, the Supreme Commander of the VRS, to use police units or, if an operation was planned on the Corps level, the Corps commander would address the MUP organ in the relevant area to request the engagement of their units. Throughout the war, the civilian police participated in battles and was mainly autonomous in action and under its own command, even though it operated as part of a unit. According to the witness, for a brief period in 1992 the civilian police was re-subordinated to army commands.<sup>14191</sup>

3799. On 11 July 1992, the Minister of Interior called a meeting that was attended by, *inter alios*, various chiefs of SJBs, SNBs and CSBs.<sup>14192</sup> The Minister recalled that as early as mid-May, the MUP issued a special order on organizing police and other MUP forces into war-time units for the defence of the territory of the 'Serbian Republic'.<sup>14193</sup> Thus, cooperation was immediately achieved with other parts of the Serb defence forces, *i.e.* the Army.<sup>14194</sup> The Minister, in his introductory address, stated that a large number of members of the MUP, nearly all of them, were involved in war operations. The chiefs of the centres noted that the discharge of regular duties and tasks of MUP members was greatly affected by the fact that the police were still on the first combat lines, which was justified in the beginning. The VRS kept civilian police within its ranks after their agreed engagement in combat activities as part of military police units, which greatly affected the discharge of regular duties and tasks of MUP members.<sup>14195</sup> The Minister pointed out that Serbs accounted for only one-third of the total population of the former Bosnia-Herzegovina and that they were at war with a Muslim-Croat coalition, comprising the remaining two-third, which meant that the balance of power was in the enemy's favour.<sup>14196</sup> Consequently, it had been necessary for the MUP to replenish front-line units where the VRS units were, which could be the case in the future as well.<sup>14197</sup> At the meeting, the request by the VRS, crisis staffs, and the war presidencies to the army to round up or capture as many Muslim civilians as possible and to leave 'undefined camps' to internal affairs organs was also discussed.<sup>14198</sup> In addition, conditions in some of these camps were described as poor, with no food, and

<sup>14191</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 10.

<sup>14192</sup> P3801 (MUP report, 17 July 1992), pp. 1-2.

<sup>14193</sup> P3801 (MUP report, 17 July 1992), p. 4.

<sup>14194</sup> P3801 (MUP report, 17 July 1992), p. 4.

<sup>14195</sup> P3801 (MUP report, 17 July 1992), p. 2.

<sup>14196</sup> P3801 (MUP report, 17 July 1992), p. 3.

<sup>14197</sup> P3801 (MUP report, 17 July 1992), p. 4.

<sup>14198</sup> P3801 (MUP report, 17 July 1992), p. 2.

some individuals in the camps were disregarding international norms.<sup>14199</sup> It was decided that a joint meeting between the MUP and the VRS had to be organized in order to ensure more effective cooperation and coordinated action, with special emphasis to be placed on the problem of engaging police in combat activities when this was not necessary.<sup>14200</sup> It was also discussed that looting mostly occurred during ‘mopping-up’ operations and was conducted by paramilitary formations, military formations, and the police.<sup>14201</sup> If a convoy transporting the looted property was stopped at checkpoints or confronted by authorised personnel, weapons were sometimes drawn, hindering law-enforcement organs from preventing the looting.<sup>14202</sup>

3800. On 27 July 1992 Mladić recorded that he had a meeting with the Bosnian-Serb Republic Deputy Prime Minister Trbojević and the Minister of Interior Mićo Stanišić.<sup>14203</sup> Mladić noted that Trbojević had stated that a schedule had to be made of what was placed at the disposal of the SJB and Military Police.<sup>14204</sup> Mladić recorded that Stanišić stated that they were now in a position to choose policemen and that according to the structure, 80 per cent was now in the army.<sup>14205</sup> It was therefore necessary to clarify the responsibilities of the MUP and the VRS.<sup>14206</sup> Stanišić noted that cooperation was insufficient and suggested to link up and cooperate more.<sup>14207</sup> Stanišić also stated that he had sent an order that morning that a whole section of the MUP forces had to be placed within the competence of the VRS.<sup>14208</sup>

3801. **Ratko Adžić**, the Minister of Interior from 20 January until 12 July 1993 (*see* chapter 3.4), testified that the CSB and local police stations performed most operative businesses within the jurisdiction of the MUP.<sup>14209</sup> Police forces in every police station were prepared to work alongside the VRS, if required by the military situation.<sup>14210</sup> According to the Law on the MUP and its organisation, the Minister of Interior determined the use of MUP forces and of the Special Police Brigade. Due to poor communications between the MUP and the CSB, as well as the territorial disjointedness

<sup>14199</sup> P3801 (MUP report, 17 July 1992), pp. 1-2.

<sup>14200</sup> P3801 (MUP report, 17 July 1992), p. 6.

<sup>14201</sup> P3801 (MUP report, 17 July 1992), p. 3.

<sup>14202</sup> P3801 (MUP report, 17 July 1992), p. 3.

<sup>14203</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 373.

<sup>14204</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 373.

<sup>14205</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 373-374.

<sup>14206</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 374.

<sup>14207</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 374.

<sup>14208</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 373-374.

<sup>14209</sup> D597 (Ratko Adžić, witness statement, 27 May 2014), para. 26.

of the Bosnian-Serb Republic, the witness transferred the responsibility for the use of police units in joint cooperation with the army to the chiefs of CSBs. Adžić testified that in the field, the VRS corps commanders and the CSB chiefs decided together on the use of these police units in combat operations. However, during combat assignments in the context of joint operations, each commander retained command over their own units.<sup>14211</sup>

3802. On 5 June 1993, Mladić requested the Prime Minister and the Minister of the Interior to provide a battalion-strong unit (500 to 600 men) of MUP forces for the independent execution of tasks relating to operation *Mač* in coordinated action with VRS units.<sup>14212</sup> This unit was to be re-subordinated to the 1st Romanija Infantry Brigade Commander, Colonel Lizdek.<sup>14213</sup> A MUP representative had to go to the IKM of the 1st Romanija Infantry Brigade in the course of combat operations and was to report necessary information on the engaged unit to Colonel Lizdek on 7 June 1993.<sup>14214</sup> Mladić requested to be informed, at least by 6 June 1993, about the possibility of the engagement of the requested MUP unit.<sup>14215</sup>

3803. On 17 January 1994, Karadžić approved Mladić's request to engage members of the CSB in combat operations in the zone of responsibility of the Doboj OG and the IBK.<sup>14216</sup> Minister of Interior Stanišić also received a copy of Karadžić's decision.<sup>14217</sup>

3804. According to an SRK combat report of 20 January 1994, Karadžić ordered the Ilidža MUP to assign a certain number of MUP members from the area of Ilidža for holding VRS positions in Nedžarići.<sup>14218</sup>

3805. On 8 February 1995, Mladić recorded a meeting he had with Karadžić and representatives of MUP, including Milenko Karišik and Special Police Brigade Commander Goran Sarić, as well as Kapetina.<sup>14219</sup> During this meeting, Karišik explained the manpower used by the MUP, including at the front lines in the area of Bihać; he explained that some 5,700 MUP members were engaged in combat operations

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<sup>14210</sup> D597 (Ratko Adžić, witness statement, 27 May 2014), para. 26.

<sup>14211</sup> D597 (Ratko Adžić, witness statement, 27 May 2014), para. 27.

<sup>14212</sup> P5122 (VRS request for involvement of MUP units in Operation *Mač*, 5 June 1993), pp. 1-2.

<sup>14213</sup> P5122 (VRS request for involvement of MUP units in Operation *Mač*, 5 June 1993), p. 1.

<sup>14214</sup> P5122 (VRS request for involvement of MUP units in Operation *Mač*, 5 June 1993), p. 2.

<sup>14215</sup> P5122 (VRS request for involvement of MUP units in Operation *Mač*, 5 June 1993), p. 2.

<sup>14216</sup> P5125 (Approval by Karadžić, to engage CSB members in combat operations, 27 August 1993).

<sup>14217</sup> P5125 (Approval by Karadžić, to engage CSB members in combat operations, 27 August 1993).

<sup>14218</sup> P873 (SRK combat report, 20 January 1994), pp. 1-2.

<sup>14219</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 27.

of which 1,620 were fighting at ‘the front’.<sup>14220</sup> Karišik raised several problems the MUP was running into, such as with re-subordination in the zones due to splitting into platoons.<sup>14221</sup> He also complained that the MUP was receiving imprecise combat instructions from the VRS.<sup>14222</sup> Mladić recorded Karišik to have stated that the MUP comprised 3 per cent of the VRS’.<sup>14223</sup> Karišik requested that precise instructions be given to MUP units, logistical support to MUP units be improved, and that the medical status of injured MUP members be taken care of.<sup>14224</sup> According to the entry in his notebook, during the meeting, Mladić talked about a ‘systematic solution of logistics issues both with MUP and VRS members’. He also stated that ‘4500 policemen trained during the war’. Kapetina stated that from a total of 219,268 military conscripts, 209,409 were VRS members and 9,859 were MUP members. He concluded that 4.7 per cent of the total number of military conscripts were members of the MUP. Kapetina reported that the MoD had no undeployed military conscripts and that some members were fictitiously registered in both the MUP and the VRS.<sup>14225</sup> Mladić summarized Karadžić to have stated that ‘military conscripts not registered anywhere – that’s a big reserve –’.<sup>14226</sup>

3806. On 10 March 1995, Mladić sent an order to the Commands of the 1KK and 2KK, the IBK, and IKM-1 and 2 of the VRS Main Staff, concerning a series of combat unit transfers.<sup>14227</sup> Mladić ordered the 2KK Command to pull MUP forces out of combat operations and replace them with their own forces in the Corps’ zone of responsibility by 12 March 1995.<sup>14228</sup> After two days, the MUP forces were to be sent to the zone of responsibility of Operations Group *Pauk*, pursuant to orders of Karadžić and the MUP.<sup>14229</sup> Corps commanders were personally accountable to Mladić for the execution of these tasks.<sup>14230</sup>

<sup>14220</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 27-28.

<sup>14221</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 28.

<sup>14222</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 28-29.

<sup>14223</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 29.

<sup>14224</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 29.

<sup>14225</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 30.

<sup>14226</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 31.

<sup>14227</sup> P5201 (Order from Ratko Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>14228</sup> P5201 (Order from Ratko Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>14229</sup> P5201 (Order from Ratko Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>14230</sup> P5201 (Order from Ratko Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

3807. On 7 April 1995, Karadžić ordered the VRS Main Staff and the MoD to transfer 56 military conscripts from VRS units to the MUP in order to form a detachment of special police forces in Srbinje.<sup>14231</sup> Fifty conscripts were members of the Srbinje 11th Herzegovina Light Infantry Battalion and six were members of the DK.<sup>14232</sup> In an interview in November 1994, Malko Koroman, the Head of Police Administration in Pale Municipality, stated that the police participated in and organized all armed action in Pale until the VRS was formed.<sup>14233</sup> Furthermore, according to Koroman, the only way to fill the MUP ranks was to make an agreement with the Supreme Commander, VRS Main Staff, and MoD that the MUP would get at least five per cent of the VRS recruits.<sup>14234</sup> He stated that he would make efforts to cooperate closely with the VRS Main Staff on all military issues and combat actions.<sup>14235</sup>

3808. On 6 June 1995, Mladić contacted the President, Prime Minister, and Minister of Defence of the Bosnian-Serb Republic, as well as the commands of the the SRK, HK, IBK, and DK in order to stop the incursions of Muslim forces in the zones of responsibility of the SRK and the HK.<sup>14236</sup> He requested full mobilisation of all available able-bodied men in the zone of responsibility of the SRK and the HK and to place them at the disposal of those Corps'.<sup>14237</sup> He also suggested that civilians be prohibited from moving out of the Sarajevo municipalities, Kalinovik, Trnovo, Rudo, and Čajniče Municipalities, and other border municipalities without approval and to engage the MUP and members of the Military Police to bring in conscripts who did not respond to the call up.<sup>14238</sup> In addition, units of the MUP in the zone of responsibility of the SRK, the HK, and the IBK were to be placed at the disposal of the SRK and the HK to end the enemy offensive and to secure the Sarajevo-Trnovo-Dobro Polje-Miljevina road.<sup>14239</sup>

3809. On 1 July 1995, Mladić sent a telegram to the SRK, the 1st IKM of the HK, the 3rd IKM of the VRS Main Staff, and the MUP in Pale that the VRS Main Staff had to be informed through the proper channels if anyone was seriously wounded in the

<sup>14231</sup> P6843 (Order by Karadžić re transfer of 56 soldiers from VRS to MUP, 7 April 1995).

<sup>14232</sup> P6843 (Order by Karadžić re transfer of 56 soldiers from VRS to MUP, 7 April 1995), p. 3.

<sup>14233</sup> P3794 (MUP interview with Malko Koroman, November 1994), p. 2.

<sup>14234</sup> P3794 (MUP interview with Malko Koroman, November 1994), p. 3.

<sup>14235</sup> P3794 (MUP interview with Malko Koroman, November 1994), p. 4.

<sup>14236</sup> P5131 (Request by Mladić on mobilisation of forces in the SRK and the HK, 6 June 1995), pp. 1-2.

<sup>14237</sup> P5131 (Request by Mladić on mobilisation of forces in the SRK and the HK, 6 June 1995), p. 2.

<sup>14238</sup> P5131 (Request by Mladić on mobilisation of forces in the SRK and the HK, 6 June 1995), p. 2.

<sup>14239</sup> P5131 (Request by Mladić on mobilisation of forces in the SRK and the HK, 6 June 1995), p. 2.

Trnovo sector.<sup>14240</sup> Helicopters based in Pale and Kalinovik were to be used for evacuations, but only with approval of the VRS Main Staff.<sup>14241</sup> The MUP in Pale was to notify representatives of the Serbian MUP and Colonel Golić.<sup>14242</sup>

3810. On 26 September 1995, Tomislav Kovač, Deputy Minister of the MUP, proposed to the VRS Main Staff, in particular Mladić, and the Banja Luka IKM to schedule a meeting between Dragan Filipović, the coordinator of the MUP forces, Mladić, and Kovač himself to resolve problems with regard to the command of troops currently part of the MUP.<sup>14243</sup>

3811. The Trial Chamber received evidence about the specific situation in various municipalities. With regard to Vlasenica Municipality, **Mane Đurić** testified that as of the spring of 1992, the SJB Vlasenica carried out some of its activities in coordination with the JNA, and later the VRS.<sup>14244</sup> According to the witness, after 19 May 1992 when the VRS was already established, the VRS requested police forces from the SJBs. Đurić explained that as head of the SJB, it was his task to then ask the chief of the CSB for approval. The witness would then send the policemen to the VRS where they would be placed under the command of the VRS unit in charge. Đurić confirmed that this meant that the police forces would be re-subordinated to the VRS.<sup>14245</sup>

3812. With regard to Kotor Varoš Municipality, on 6 July 1992, the 1KK Command reported to the VRS Main Staff that the Banja Luka MUP, together with the 22nd Brigade and the Čelinac Light Brigade, was taking part in the mopping-up of the area of Kotor Varoš, Šiprage and Maslovare in Kotor Varoš Municipality.<sup>14246</sup>

3813. With regard to Sarajevo, on 3 August 1992, Radomir Bjelanović, the Chief of the Milići SJB, reported to Zoran Cvijetić, the Chief of the Sarajevo SJB, that the Milići SJB was engaged in combat activities or operations at various times during May and June 1992, and had policemen 'at positions' between 26 July 1992 and 3 August 1992.<sup>14247</sup> Bjelanović also reported that '[t]here were no problems with regards the co-

<sup>14240</sup> P7589 (Telegram by Mladić on wounded in the Trnovo sector, 1 July 1995), pp. 1-2.

<sup>14241</sup> P7589 (Telegram by Mladić on wounded in the Trnovo sector, 1 July 1995), p. 1.

<sup>14242</sup> P7589 (Telegram by Mladić on wounded in the Trnovo sector, 1 July 1995), p. 2.

<sup>14243</sup> P5133 (Proposal concerning command of MUP troops by Kovač to Mladić and the Banja Luka IKM, 26 September 1995).

<sup>14244</sup> Mane Đurić, T. 27667-27668; P6878 (Report from the Head of the SJB Vlasenica addressed to the CSB Sarajevo and the MUP of the Bosnian-Serb Republic, 6 August 1992), pp. 1-2.

<sup>14245</sup> Mane Đurić, T. 27698.

<sup>14246</sup> P3695 (Combat report by 1KK Command, 6 July 1992), p. 1.

<sup>14247</sup> P6792 (Letter from Radomir Bjelanović to Zoran Cvijetić, 3 August 1992), pp. 1, 3-4.

operation and command'.<sup>14248</sup> On 19 April 1995, SRK Commander Dragomir Milošević ordered all SRK units to assume a state of full combat readiness to thwart suspected impending enemy activities against the forces of the corps.<sup>14249</sup> He also ordered that all MUP forces, border police, and customs officers, be put in a state of readiness.<sup>14250</sup>

3814. Concerning Rogatica Municipality, a Rogatica SJB report to the Romanija Birač CSB dated 14 August 1992, sets out that members of the SJB Rogatica participated in all combat activities that took place in Višegrad and Rogatica Municipalities from April to July 1992.<sup>14251</sup>

3815. With regard to Prijedor and Sanski Most Municipalities, a report from Momir Talić stated that by 14 June 1992, volunteers and police, together with the Prijedor Operations and Tactical Group, had secured the Bosanski Novi – Prijedor – Banja Luka, the Prijedor – Sanski Most – Sanica, and the Sanski Most – Bosanska Krupa routes, and had dealt with the remaining enemy troops in the areas of Kozarac village, Prijedor Municipality, Prijedor and Sanski Most.<sup>14252</sup> The report also states that volunteers and police were positioned together with the 1st and 2nd Infantry Brigades, who were part of the Dobojski Operations Group, south of Donji Vakuf on the axis north of Koščani village – north of Kopčić village – Brežičani village and in the Vrbas river valley south of Jajce.<sup>14253</sup>

3816. On 5 August 1992, Sanski Most SJB Chief Mirko Vrućinić reported to the Banja Luka SJB that members of the Sanski Most SJB had neither been deployed nor participated in combat operations conducted by the armed forces.<sup>14254</sup> Vrućinić also reported that in combat operations or 'so-called clearing operations', the army picked up the population, lately only those fit for military service, and simply handed them over to the civilian organs and authorities. After that, the police were obliged to provide security for these camps and were responsible for, *inter alia*, food, health care, and hygiene. Additionally, SJB investigation organs and national security services were obliged to take over the entire job of the operative processing of prisoners, including interviewing and triage. As of 5 August 1992, approximately 1,600 prisoners had been

<sup>14248</sup> P6792 (Letter from Radomir Bjelanović to Zoran Cvijetić, 3 August 1992), p. 3.

<sup>14249</sup> P923 (Order issued by SRK Commander, 19 April 1995), p. 1.

<sup>14250</sup> P923 (Order issued by SRK Commander, 19 April 1995), pp. 1-2.

<sup>14251</sup> P3020 (Report by the Rogatica SJB to the Romanija Birač CSB regarding events in Rogatica Municipality, signed by Mladen Vasiljević, Head of the Rogatica SJB, 14 August 1992), p. 1.

<sup>14252</sup> P3697 (Combat report by 1KK Command, signed by Momir Talić, 14 June 1992), pp. 2-3.

<sup>14253</sup> P3697 (Combat report by 1KK Command, signed by Momir Talić, 14 June 1992), pp. 2-3.

processed. Vrućinić raised numerous questions with regard to the status of these camps and those responsible for them, as well as to the status of those held in the camps. Additionally, Vrućinić reported that the exchange of information between the armed forces and the SJB was not at the required level, primarily because permanent collaboration had not been established between them.<sup>14255</sup>

3817. **Branko Basara** testified that the 6th Krajina Brigade did not co-operate with the municipal authorities and the MUP, except for exchange of information and the 'manning of units'.<sup>14256</sup> According to the witness, the brigade did not cooperate with the SJB and TO in terms of carrying out disarming operations in Sanski Most.<sup>14257</sup> According to a report on a consultation meeting with, *inter alios*, the brigade commanders, a senior officer of the 1KK, the presidents of municipal assemblies, and chiefs of MUP on 13 September 1992, Mladić tasked brigade commanders to extend maximum support to the civilian authorities and the MUP.<sup>14258</sup> Basara stressed that assistance was only provided if those authorities asked for it.<sup>14259</sup>

3818. On 15 September 1992, the Prijedor SJB Chief, Simo Drljača, informed the CSB Banja Luka that it was unable to meet the request of the 1st Krajna Corps to put 100 policemen of the Prijedor SJB at the disposal of the VRS by 16 September 1992.<sup>14260</sup> Drljača recalled that earlier that month, they 'gave' 417 policemen to the VRS in order to go to the Han Pijesak area and that there were currently five policemen in Kotor Varoš and one policeman was in Jajce as a combat vehicle driver.<sup>14261</sup> In an interview of 9 April 1993, Simo Drljača commented that cooperation between the Prijedor police and the VRS and its officers was 'exceptional'.<sup>14262</sup> Drljača commented that the cooperation occurred in 'joint cleansing of renegades on the terrain', joint work at the

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<sup>14254</sup> D1965 (Report by Sanski Most SJB Chief to the Banja Luka CSB, 5 August 1992), p. 1.

<sup>14255</sup> D1965 (Report by Sanski Most SJB Chief to the Banja Luka CSB, 5 August 1992), p. 2.

<sup>14256</sup> Branko Basara, T. 34389-34390, 34399-34400, 34466-34470. The Trial Chamber understands the term 'manning' in this instance to refer to the recruitment of individuals to staff VRS units.

<sup>14257</sup> Branko Basara, T. 34469-34473.

<sup>14258</sup> P7324 (Report by Branko Basara on consultation on the state of the VRS under the leadership of Ratko Mladić, 16 September 1992), pp. 1-2.

<sup>14259</sup> Branko Basara, T. 34537-34538;

<sup>14260</sup> P2444 (Letter from the Chief of the Prijedor SJB, Simo Drljača, addressed to the Banja Luka CSB, dated 15 September 1992).

<sup>14261</sup> P2444 (Letter from the Chief of the Prijedor SJB, Simo Drljača, addressed to the Banja Luka CSB, dated 15 September 1992).

<sup>14262</sup> P7211 (Interview with Simo Drljača of 9 April 1993), p. 3.

check-points, joint intervention group for maintaining public peace and order, as well as in the combat against terrorist groups.<sup>14263</sup>

*Crimes perpetrated by the MUP*

3819. In chapters 4.1-4.7, 4.9-4.12, and 4.14, the Trial Chamber found that members of the MUP were involved in a large number of crimes, including murder, unlawful detention, and cruel or inhumane treatment, committed in the following municipalities: Banja Luka, Bijeljina, Foča, Ilidža, Kalinovik, Ključ, Kotor Varoš, Pale, Prijedor, Rogatica, Sanski Most, and Vlasenica. In most of these municipalities the MUP members committed the crimes in cooperation or coordination with the members of the VRS.

*The Trial Chamber's findings*

3820. The Trial Chamber finds that the Defence's submission that the MUP was created out of necessity is not relevant to determining the role of the MUP with regard to the implementation of the common objective of the alleged overarching JCE. The Trial Chamber therefore dismisses this argument.

3821. The Trial Chamber recalls its findings in chapter 3.4 on the structure of the MUP. There, the Trial Chamber found that: the MUP was established on 28 March 1992; from at least 18 April 1992 onwards there was a functioning reporting system within the MUP and information collected by the MUP-SNB was also provided to the SJB administration; from April 1992 onwards, the MUP started establishing special police units. The Trial Chamber further recalls its finding in chapter 9.2.2 that as early as 1991, the SDS promoted territorial division along ethnic lines and the establishment of separate, parallel Bosnian-Serb political, police and military institutions. From April 1992, previously established Bosnian-Serb institutions were no longer working in parallel to those of multi-ethnic Bosnia-Herzegovina, but constituted separate and distinct authorities founded by the SDS, and that as such, they constituted *de facto* state institutions, functioned autonomously, and answered to the Bosnian-Serb leadership and institutions.

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<sup>14263</sup> P7211 (Interview with Simo Drljača of 9 April 1993), p. 3.

3822. Based on the evidence reviewed above, the Trial Chamber finds that in the spring of 1992, all employees in local SJBs and other public services were required to sign an oath of loyalty to the Bosnian-Serb authorities; Bosnian Muslims and Bosnian Croats who refused to do so were dismissed. In preparation for the establishment of a separate Bosnian-Serb MUP, Serb police officers and police stations were armed.

3823. The Trial Chamber further finds that organs of the MUP, including the CSBs and SJBs, implemented the ARK Crisis Staff's order to disarm non-Serbs in April and May 1992 and seized a large number of weapons from non-Serbs in municipalities of the ARK, including Banja Luka, Ključ, Sanski Most, and Prijedor.

3824. The Trial Chamber further finds that the MUP cooperated closely with the VRS. On 15 May 1992, this cooperation was formalized when Minister of Interior Stanišić ordered the organization of all MUP employees into war units for the purpose of defending the territory of the Bosnian-Serb Republic. Stanišić authorized CSB chiefs and the commander of the police detachment of the Sarajevo CSB to appoint officers to command posts of established war units. These CSB chiefs and the commander were also ordered to ensure that the principle of subordination and superiority in the command system of the MUP was upheld. In accordance with the laws of the Bosnian-Serb Republic, MUP units could be re-subordinated to the VRS for various purposes, including reinforcement of the VRS during combat activities.

3825. The Law on Internal Affairs set out that the Minister of Interior determined the use of the MUP forces, including the Special Police Brigade. However, in practice, the Minister of Interior delegated the authority to make such a decision to the chiefs of CSBs. If the VRS Main Staff planned a combat operation and it required the involvement of the MUP, it requested Karadžić to authorize the use of police units, who then informed the Minister of Interior. At times, the Commander of the VRS Main Staff also requested the Bosnian-Serb Prime Minister and the Minister of Interior for the assistance of MUP forces. If an operation was planned at the corps level, the corps commander would address the Chief of the CSB of the respective area to request the engagement of their units. VRS corps commanders and the CSB chiefs then decided together on the use of the MUP units in combat operations. Problems that arose with regard to the engagement of members of the MUP in combat operations were discussed with members of the VRS Main Staff and the MUP.

3826. The Trial Chamber finds that MUP units were engaged in combat operations for a specific time to carry out a precisely described task. When MUP units were participating in combat operations, they were re-subordinated to the command of the VRS, while still being under the direct command of MUP officials. This meant that tasks were assigned by the VRS and that MUP units followed orders issued by the VRS in that respect. From at least 12 May 1992 until at least 26 September 1995, MUP units participated in combat operations with the VRS. From April until at least December 1992, the MUP placed 6,167 police men at the disposal of the VRS. In February 1995, approximately 5,700 MUP members were engaged in combat operations. SJBs in several municipalities, including Ilidža, Kotor Varoš, Prijedor, Rogatica, and Vlasenica, carried out combat activities in cooperation with the VRS or responded to requests to provide police men to participate in operations. Accordingly, the Trial Chamber rejects the Defence's argument that there was only limited *de facto* re-subordination of the MUP to the VRS and that the chain of command of the MUP was exclusively within the MUP.

3827. The Trial Chamber will further consider the involvement and participation of the MUP in the take-over of the Municipalities and the commission of the crimes, as set out above, in the context of the existence of the alleged overarching JCE in chapter 9.2.14 below.

3828. The Trial Chamber will address the evidence pertaining to the Accused's role with regard to the MUP in chapter 9.3.3 and 9.3.4.

#### *9.2.8 The role of paramilitary formations*

3829. The Trial Chamber will first consider evidence with regard to the general role of paramilitary units in relation to the alleged overarching JCE. The Trial Chamber will then turn to evidence specific only to those individual paramilitary units that it has found to have committed crimes within the temporal and geographic scope of the Indictment. Evidence pertaining to the Accused's connection to any such paramilitary unit will be considered in chapter 9.3.4.

*Overview*

3830. According to the Indictment, members of the alleged overarching JCE included leaders of Serbian and Bosnian-Serb paramilitary forces and volunteer units, or alternatively, these leaders were used by members of the alleged JCE to carry out crimes in furtherance of its objectives.<sup>14264</sup> The Trial Chamber will address the Defence arguments with regard to paramilitaries in relation to the specific units discussed below. The Trial Chamber took judicial notice of Adjudicated Facts with regard to the general role of the paramilitary units in relation to the alleged overarching JCE. Further, it received evidence from **Witness RM-802**, a VRS officer;<sup>14265</sup> **Božidar Krnojelac**, a Serb member of the ‘village guards’ in Foča who was present at the KP Dom facility daily from mid-April to mid-May 1992;<sup>14266</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>14267</sup> **Duško Čorokalo**, a reserve second lieutenant in the command of the 6th Krajina Brigade;<sup>14268</sup> **Trivko Pljevaljčić**, a Bosnian Serb from Foča Municipality who was commander of the 3rd Company of the 5th Battalion of the Foča Tactical Group and who worked in KP Dom Foča in 1995;<sup>14269</sup> **Radoslav Daničić**, a driver for Branko Basara who was stationed in Sanski Most;<sup>14270</sup> **Vinko Nikolić**, a member of the SOS from November 1991 to mid-May 1992 and a member of the Sanski Most Crisis Staff from its creation on 14 April 1992, where he held the position of transport commissioner since 19 June 1992;<sup>14271</sup> **Dragomir Andan**, a Bosnian Serb who served as a MUP senior inspector in Bijeljina, Zvornik and Brčko from 1 June 1992 and then as an intelligence officer in the VRS Main Staff from September 1992;<sup>14272</sup> **Ratomir Maksimović**, who served in the SRK Command from 1 April 1993 to 1 September 1994 and from 30 April 1995 to 31 March

<sup>14264</sup> Indictment, paras 8-12.

<sup>14265</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet).

<sup>14266</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), p. 1, paras 1, 9; Božidar Krnojelac, T. 25972.

<sup>14267</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401.

<sup>14268</sup> D785 (Duško Čorokalo, witness statement, 6 February 2014), para. 3.

<sup>14269</sup> D706 (Trivko Pljevaljčić, witness statement, 10 July 2014), p. 1, paras 1, 4; Trivko Pljevaljčić, T. 27200, 27205, 27215-27216.

<sup>14270</sup> D1321 (Radoslav Daničić, witness statement, 19 June 2014), paras 1, 5.

<sup>14271</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), paras 5, 28; Vinko Nikolić, T. 31248-31249; P7111 (Crisis Staff decision on the appointment of Vinko Nikolić as transport commissioner, 19 June 1992)

<sup>14272</sup> D512 (Dragomir Andan, witness statement, 6 June 2014), paras 5-7; Dragomir Andan, T. 22386-22388, 22396, 22437.

1996;<sup>14273</sup> and **Savo Sokanović**, head of the section for morale and religious affairs of the Main Staff of the VRS as of December 1992;<sup>14274</sup> as well as documentary evidence.

3831. **Duško Čorokalo** testified that the VRS's position from the beginning of the war was that paramilitaries should be either integrated or disarmed.<sup>14275</sup> **Ratomir Maksimović** testified that the VRS was energetic about eliminating paramilitary formations and that, once the VRS was formed, all volunteer formations 'were more or less either neutralised or included in the VRS'.<sup>14276</sup> **Savo Sokanović** testified that it was the position of the VRS Main Staff that paramilitary units should formally and practically be subordinated to VRS units.<sup>14277</sup> Despite requests and demands of the political and military leadership, some paramilitary formations however, still acted on their own, and were hard to control and command.<sup>14278</sup>

3832. A decision by the Bosnian-Serb Presidency of 13 June 1992 banned the formation and operation of all self-organized armed groups on the territory of the Bosnian-Serb Republic.<sup>14279</sup> The decision also ordered existing self-organized armed groups and individuals to put themselves under the command of either the VRS or the MUP.<sup>14280</sup> Any armed groups that continued to operate independently would be disavowed by the Bosnian-Serb Presidency and severely sanctioned.<sup>14281</sup> Also on 13 June 1992, Karadžić informed the UNSG of the decision disowning all paramilitary groups to demonstrate the attempt to stop the tragedy of ethnic conflict in Bosnia-Herzegovina at different relevant levels.<sup>14282</sup>

3833. Following this decision, there were numerous military and MUP reports about the activities of paramilitary formations throughout the Bosnian-Serb Republic. On 22 June 1992, Dragan Masal, Commander of the Artillery Brigade, reported to the IBK Command that certain members of the government demonstrated 'signs of passionate

<sup>14273</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 4-5; Ratomir Maksimović, T. 26800.

<sup>14274</sup> Savo Sokanović, T.35678-35681.

<sup>14275</sup> Duško Čorokalo, T. 28489.

<sup>14276</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 56-57.

<sup>14277</sup> Savo Sokanović, T. 35714.

<sup>14278</sup> Savo Sokanović, T. 35714.

<sup>14279</sup> P2930 (Decision on the prohibition of formation and activity of armed groups and individuals, 13 June 1992). *See also* P3693 (Minutes of the meeting of the Bosnian-Serb Presidency, 13 June 1992).

<sup>14280</sup> P2930 (Decision on the prohibition of formation and activity of armed groups and individuals, 13 June 1992).

<sup>14281</sup> P2930 (Decision on the prohibition of formation and activity of armed groups and individuals, 13 June 1992).

<sup>14282</sup> D2006 (Orders, decisions and other documents by Karadžić, 1992-1993), p. 13.

support' for paramilitary formations.<sup>14283</sup> He further reported that all military formations were put under unified control of the organs of the Bosnian-Serb Republic pursuant to an order by the Bijeljina Presidency on 11 June 1992 but several paramilitary organisations failed to respect several orders by the unified command.<sup>14284</sup>

3834. According to a report from the 1KK Command to the VRS Main Staff dated 10 July 1992, a power struggle existed throughout the entire corps' zone of responsibility, because of strong self-proclaimed groups and organisations which were, *inter alia*, looting in the area, especially in Banja Luka.<sup>14285</sup>

3835. During a MUP meeting on 11 July 1992, attended by, *inter alios*, the Minister of Interior and various chiefs of SJBs, SNBs, and CSBs, it was noted that many paramilitary formations lacked a unified command and engaged in looting.<sup>14286</sup>

3836. On 24 July 1992, the SRK Command issued a directive noting that paramilitary formations had been unmasked and eliminated.<sup>14287</sup> The directive also noted that commands and units had a special duty to break up, expel, and destroy various paramilitary formations.<sup>14288</sup>

3837. According to a MUP Trebinje CSB report on the activities of paramilitary formations on the territory of the SAO Herzegovina dated 30 July 1992, at the beginning of the war, different armed military formations, both small and big groups, performed tasks in the zone of the war operations mostly in co-operation with the VRS.<sup>14289</sup> However, later, especially during July 1992, the activities of some armed groups or parts of the larger formations complicated the security situation significantly, particularly in the municipalities of Nevesinje and Stolac.<sup>14290</sup> Attempts to establish checkpoints and maintain law and order in the area of Bileća and Trebinje were prevented by the SJB.<sup>14291</sup> In order to prevent illegal activities by these armed groups, SJBs made agreements with authorised VRS commands that members of certain groups be sent to the frontline under the command of VRS units. According to the report, there was a lack of active and consistent engagement of the authorised military organs,

<sup>14283</sup> D2002 (Report on the behaviour of the Serb National Guards, 22 June 1992), pp. 1, 3.

<sup>14284</sup> D2002 (Report on the behaviour of the Serb National Guards, 22 June 1992), p. 1.

<sup>14285</sup> P3815 (1KK Command regular combat report to Main Staff, 10 July 1992), pp. 1-3.

<sup>14286</sup> P3801 (MUP report, 17 July 1992), p. 2.

<sup>14287</sup> P5203 (SRK Command Directive, 24 July 1992), p. 1.

<sup>14288</sup> P5203 (SRK Command Directive, 24 July 1992), p. 4.

<sup>14289</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), pp. 1, 3.

<sup>14290</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 3.

<sup>14291</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 7.

particularly of the military police, who claimed that the problem should be solved by the MUP because the armed groups did not belong to the VRS. The report recommended eliminating the leaders and sending local persons to join these groups within the VRS in order to dismantle the armed groups.<sup>14292</sup>

3838. **Dragomir Andan** testified that in July 1992, he and his colleague, Mićo Davidović, requested the assistance of the VRS Main Staff because they lacked the resources to oppose the Yellow Wasps, who, at that time, were a well-armed paramilitary unit consisting of 120 men.<sup>14293</sup> At a Main Staff meeting in Han Pijesak attended by Salapura and Tolimir, and partially attended by Mladić, the witness and Davidović put forward a proposal for disarming, arresting and eliminating the paramilitaries.<sup>14294</sup> The operation commenced on 29 July 1992 with the cooperation of the VRS Main Staff.<sup>14295</sup> Sixty-five people were detained, of whom 47 were Yellow Wasps.<sup>14296</sup> A large quantity of stolen cars, weapons and ammunition, gold, and other goods was confiscated, and the Zvornik police were ordered to return the seized property to its Muslim owners.<sup>14297</sup> It was not possible to obtain evidence against 54 of the 65 arrested paramilitary members.<sup>14298</sup> Those of them who were Serbian citizens were deported back to the FRY and those who were Bosnian Serbs were turned over to the VRS because ‘they were military conscripts’.<sup>14299</sup> However, eleven members of the Yellow Wasps could be identified as organisers of criminal activities, and the witness filed charges against them in the prosecutor’s office in Bijeljina on 28 August 1992.<sup>14300</sup> The charges were filed at the civilian and not the military prosecutor’s office because the paramilitaries did not belong to the VRS and were considered civilians.<sup>14301</sup> They

<sup>14292</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 9.

<sup>14293</sup> Dragomir Andan, T. 22374-22375.

<sup>14294</sup> Dragomir Andan, T. 22372-22375.

<sup>14295</sup> D512 (Dragomir Andan, witness statement, 6 June 2014), para. 6; Dragomir Andan, T. 22421; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 1.

<sup>14296</sup> Dragomir Andan, T. 22421; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 1.

<sup>14297</sup> Dragomir Andan, T. 22404, 22424; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 2.

<sup>14298</sup> Dragomir Andan, T. 22424-22425, 22428; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), pp. 1-2.

<sup>14299</sup> Dragomir Andan, T. 22424-22425, 22428; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 2.

<sup>14300</sup> Dragomir Andan, T. 22422, 22424-22425, 22428; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 2; P6583 (Crime report against Vojin Vučković, 8 August 1992), p. 3.

<sup>14301</sup> Dragomir Andan, T. 22459-22460; P6583 (Crime report against Vojin Vučković, 8 August 1992), p. 1.

were charged with aggravated robbery, which could lead up to 20 years in prison.<sup>14302</sup> The prosecutor who took over the case was called Biljana, and the witness heard from his colleague Davidović that she released all of them without a trial.<sup>14303</sup> After the Yellow Wasps were released, Vojin Vučković went to Pale and met Plavšić and Malko Koroman, chief of the police station in Pale.<sup>14304</sup> His brother Dušan Vučković, however, was handed over to the military police in August 1992 in order to verify if he had committed crimes against Muslim civilians.<sup>14305</sup> He was tried in Serbia and sentenced to prison on 8 July 1996.<sup>14306</sup>

3839. On 28 July 1992, Tolimir, the Head of the Department for Intelligence and Security Affairs, reported to among others the VRS Main Staff Commander, the President and the Prime-Minister of the Bosnian-Serb Republic, and the departments of intelligence and security of all corps commands, that paramilitary formations and groups were an important feature of the war in the former Yugoslavia. These groups included Arkan's men, Šešelj's men, Captain Dragan's Commandos, Captain Oliver's Commandos, Čarli's men, Jović's men, the White Eagles, the Wolves, and the Smoked Ribs. These groups displayed iconography ranging from Orthodox ornaments and symbols to Chetnik and Vietnamese war symbols.<sup>14307</sup> According to the report, the precondition for the presence and activity of paramilitary formations was the breakdown of civilian and military authorities.<sup>14308</sup> Paramilitary units were mostly composed of persons of low moral quality, including those who had previously been convicted for murder, robbery, larceny and the like. Often such units included pathological criminals whom the conditions of war and general lawlessness brought to the fore. The report also details that many paramilitary formations displayed hatred of non-Serbs and 'one can conclude without reservations that [they] are the genocidal element among the Serbian people'. The majority of such groups were motivated by war profiteering and looting and none expressed political affiliation to the ruling SDS, instead maintaining ties with opposition parties from Serbia, including the Serbian Renewal Movement, the Serbian

<sup>14302</sup> Dragomir Andan, T.22459; P6583 (Crime report against Vojin Vučković, 8 August 1992), pp. 1, 3.

<sup>14303</sup> Dragomir Andan, T. 22426-22427, 22430.

<sup>14304</sup> Dragomir Andan, T. 22435.

<sup>14305</sup> Dragomir Andan, T. 22425, 22434; P6582 (MUP Administration for Elimination of Crime report, 4 August 1992), p. 3.

<sup>14306</sup> Dragomir Andan, T. 22425, 22434, 22460-22462.

<sup>14307</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), p. 1.

<sup>14308</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), pp. 1-2, 6.

People's Renewal, and the SRS.<sup>14309</sup> Paramilitary formations did not take part in direct fighting with the enemy, but instead operated behind the lines of regular VRS units, looting and burning property and killing the innocent population.<sup>14310</sup> There were about 60 paramilitary groups in the Bosnian-Serb Republic totalling between four and five thousand men.<sup>14311</sup> Tolimir stated that every armed Serb in the VRS had to be placed under the exclusive command of the VRS, or else be disarmed and legal measures were to be taken.<sup>14312</sup>

3840. On the same day, Mladić ordered the disarmament of all paramilitary formations, groups, and individuals in the territory of the Bosnian-Serb Republic by 15 August 1992 in order to put all armed formations and individuals under the unified command of the VRS.<sup>14313</sup> All paramilitary formations were instructed to join the regular units of the VRS. The order stated that those who carried out misdeeds and crimes, including robberies, were to be disarmed, arrested, and prosecuted before the courts of the VRS, regardless of their citizenship. Paramilitary formations, groups, and individuals from within their structure who refused to be placed under the unified command of the VRS in cooperation with the MUP were to be disarmed, arrested, and charged with crimes.<sup>14314</sup> Mladić issued this order after finding that paramilitary formations were present in the zones of responsibility of all VRS corps.<sup>14315</sup> They presented themselves as Special Activity Units, 'Četniks', or Guards Units and acted under the symbols of opposition parties, such as the Serbian Renewal Movement, the SNO, and the SRS.<sup>14316</sup> Corps commanders and the Chief of Administration for Intelligence-Security Affairs of the Main Staff were responsible for implementing and executing this order.<sup>14317</sup>

3841. The VRS Main Staff Intelligence report of 28 July 1992, while aimed at bringing law back to areas now under Bosnian-Serb control, also shows that the VRS was more concerned with looting and the breakdown of order than with the widespread crimes committed by the paramilitaries.<sup>14318</sup> The report also does not account for the fact that incorporation of paramilitaries had been the rule already before July 1992 and that

<sup>14309</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), p. 1.

<sup>14310</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), p. 2.

<sup>14311</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), p. 3.

<sup>14312</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), p. 6.

<sup>14313</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), pp. 2-4.

<sup>14314</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), p. 3.

<sup>14315</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), p. 2.

<sup>14316</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), p. 2.

<sup>14317</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), p. 3.

<sup>14318</sup> Adjudicated Facts I, no. 316.

crimes were committed, and were continuing to be committed, by the paramilitaries under the auspices of the Bosnian-Serb armed forces.<sup>14319</sup> For example, the Prijedor paramilitary units named in the report took part in the attacks on Kozarac, Hambarine, and other areas in Prijedor as part of the VRS in May 1992.<sup>14320</sup>

3842. **Witness RM-802** referred to the decision to subordinate the paramilitaries in mid-July to mid-August 1992 and, according to him, the absorbing of the paramilitaries into the VRS legitimised and enabled their continued criminal activities.<sup>14321</sup> They were involved in looting and profiteering and neither the brigades nor the corps did anything to disband them.<sup>14322</sup> General Talić at first did nothing to remove such extremist personnel from the ranks because the climate at the time allowed extremists to operate and prevented officers from punishing any Serb who was 'at the fronts and [...] doing something against the Muslims and Croats.'<sup>14323</sup> According to Witness RM-802, this climate and attitude resulted from enormous political pressure exerted on military commanders by the SDS leadership including the municipal presidents, presidents of municipal boards, and the relatives of extremist SDS members.<sup>14324</sup> This climate existed at all levels within the VRS.<sup>14325</sup> Later, around mid-August 1992, Talić stated at a meeting attended by several VRS officers that he wanted the paramilitaries to be controlled and subordinated to the VRS, either by integrating them into the army or police, or disbanding them.<sup>14326</sup> When these paramilitaries were finally subordinated, many of them became units of the MUP.<sup>14327</sup>

3843. On 30 July 1992, the HK Command forwarded Mladić's order to all subordinate commands and instructed them to carry out the order by 14 August 1992.<sup>14328</sup> The same day, 1KK Commander Momir Talić issued a similar order to the 1KK Command and set the deadline for disarmament at 15 August 1992.<sup>14329</sup> Commanders of independent battalions, regiments, brigades, and divisions in their zones of responsibility, and the

<sup>14319</sup> Adjudicated Facts I, no. 317.

<sup>14320</sup> Adjudicated Facts I, no. 318.

<sup>14321</sup> P439 (Witness RM-802, witness statement, 25 April 2012), paras 38, 40.

<sup>14322</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 19.

<sup>14323</sup> P439 (Witness RM-802, witness statement, 25 April 2012), paras 16-18.

<sup>14324</sup> P439 (Witness RM-802, witness statement, 25 April 2012), paras 16-18.

<sup>14325</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 18.

<sup>14326</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 36.

<sup>14327</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 36.

<sup>14328</sup> P5112 (Order by Mladić to disarm all paramilitary formations, 28 July 1992), p. 1.

<sup>14329</sup> P5113 (1KK order, 30 July 1992), pp. 1-2.

1KK Chief of Intelligence and Security were responsible for implementing this order.<sup>14330</sup>

3844. On 3 August 1992, the MUP Administration for the Police Duties and Affairs of Sarajevo reported to the Minister of the Interior regarding the problem of the presence of paramilitary formations and individuals in certain areas that 'made war as they pleased'. These groups responded to and assisted VRS units and the police, but seemed to have special motives for war and did not operate under VRS command. In some areas, including Ilidža and Pale, they stayed in separate buildings and moved in different areas. They ignored their SJBs or threatened to attack their policemen at checkpoints.<sup>14331</sup>

3845. On 5 August 1992, during a meeting with the Bosnian-Serb Presidency, the Prime minister noted that individual military units located in the territory of Banja Luka that were not under military command, should be placed under the central military command and withdrawn from Banja Luka.<sup>14332</sup> According to an announcement by the Bosnian-Serb Presidency of 6 August 1992, its order for all groups and individuals to be put under a single command of the VRS or the MUP had 'for the most part' been implemented, with the exception of several groups in Podrinje and Ključ.<sup>14333</sup> Further, the MUP had arrested groups and individuals who had taken to looting and arson.<sup>14334</sup> The arrests did not involve 'politically organised units or units with other names that have subordinated themselves to a single command and are bravely fighting for the freedom of their Serbian Bosnia and Herzegovina'.<sup>14335</sup>

3846. According to a 9 August 1992 report from the VRS Main Staff, the objectives of the Serb people in the conflict in Bosnia-Herzegovina were considerably hampered by outside forces, including paramilitary groups and criminals.<sup>14336</sup> The people and troops were beginning to express doubt that official institutions and responsible individuals could address the issue.<sup>14337</sup> According to the report, organised measures were required to address this matter, and the military prosecutor and courts, security organs, and the

<sup>14330</sup> P5113 (1KK order, 30 July 1992), p. 2.

<sup>14331</sup> P5114 (MUP Administration for Police tasks report, 3 August 1992), p. 2.

<sup>14332</sup> D444 (Minutes of the 23rd meeting of the Bosnian-Serb Presidency, 5 August 1992), p. 1.

<sup>14333</sup> P2931 (Bosnian-Serb Presidency announcement, 6 August 1992).

<sup>14334</sup> P2931 (Bosnian-Serb Presidency announcement, 6 August 1992).

<sup>14335</sup> P2931 (Bosnian-Serb Presidency announcement, 6 August 1992).

<sup>14336</sup> D1998 (Report by the VRS Main Staff, 9 August 1992), p. 1.

<sup>14337</sup> D1998 (Report by the VRS Main Staff, 9 August 1992), pp. 1-2.

military police, as well as other military organs and individual officers, had to show full initiative and commitment.<sup>14338</sup>

3847. On 17 August 1992, Mladić instructed the commands of the 1KK, SRK, IBK, and HK to submit reports on the disarmament of paramilitary formations in their zones of responsibility to the VRS Main Staff by 20 August 1992, as they had failed to do so by the deadline of 15 August 1992.<sup>14339</sup> On 18 August 1992, SRK Commander Tomislav Šipčić sent a report to the SRK Command stating that paramilitary formations that were not yet disarmed were causing big problems and that disarming them would not be possible without armed clashes, especially because they were supported and established by organs in the local authorities and police.<sup>14340</sup>

3848. On 16 October 1992, the Minister of Defence of the Bosnian-Serb Republic stated in a letter to the Zvornik Municipality Executive Board that, in a state of war, the VRS could recruit volunteers, even from outside the Bosnian-Serb Republic.<sup>14341</sup> Individual volunteers or volunteer units had the same rights and obligations as members of the VRS.<sup>14342</sup> These obligations included wearing the VRS uniform and insignia, and involvement in the formational and organizational structure of the Army and the commanding units.<sup>14343</sup> Any volunteers who did not accept these conditions were banned from engagement.<sup>14344</sup>

3849. On 1 January 1993, Manojlo Milovanović sent a report to Karadžić, the Prime Minister of the Bosnian-Serb Republic, and the DK stating that in the Zvornik Brigade, an attempt at creating private and party armies, and village ‘*vojvodas*’ was breaking the unity of the units.<sup>14345</sup> This report also noted that the Command of the DK had written to the municipal assembly, the MUP, and all enterprises in Zvornik, making several requests including to rein in self-proclaimed *vojvodas* (commanders), and to file

<sup>14338</sup> D1998 (Report by the VRS Main Staff, 9 August 1992), pp. 1-2.

<sup>14339</sup> P5116 (Order by Mladić on reports of disarmament of paramilitary formations, 17 August 1992), p. 1.

<sup>14340</sup> D1743 (Report from Tomislav Šipčić, 18 August 1992), pp. 1-2.

<sup>14341</sup> P5117 (Letter from the MoD of the Bosnian-Serb Republic to the Executive Board of Zvornik Municipality regarding the recruitment of volunteers by the VRS, 16 October 1992), p. 1.

<sup>14342</sup> P5117 (Letter from the MoD of the Bosnian-Serb Republic to the Executive Board of Zvornik Municipality regarding the recruitment of volunteers by the VRS, 16 October 1992), p. 1.

<sup>14343</sup> P5117 (Letter from the MoD of the Bosnian-Serb Republic to the Executive Board of Zvornik Municipality regarding the recruitment of volunteers by the VRS, 16 October 1992), p. 2.

<sup>14344</sup> P5117 (Letter from the MoD of the Bosnian-Serb Republic to the Executive Board of Zvornik Municipality regarding the recruitment of volunteers by the VRS, 16 October 1992), p. 2.

<sup>14345</sup> D1973 (Main Staff report, 1 January 1993), pp. 1-4.

criminal reports against those who had already demonstrated their negative influence as well as war profiteers.<sup>14346</sup>

3850. On 19 February 1993, Zdravko Tolimir ordered the departments for Intelligence Affairs of the 1KK and 2KK, the SRK, the IBK, the HK, and the DK to send information on paramilitary units in their area of responsibility to the Administration for Intelligence and Security Affairs before 28 February.<sup>14347</sup> This information was to include the type of units concerned, their composition, available weaponry, tasks, participation in combat operations, and alleged participation in crimes.<sup>14348</sup>

3851. On 5 March 1993, Stanislav Galić instructed the SRK Command to take immediate measures, with a deadline of 20 March 1993, to neutralise the perpetrators of crimes and violent behaviour by members of paramilitary formations and provide legal protection to the people and soldiers.<sup>14349</sup>

3852. In an order of 22 May 1993, Mladić strictly prohibited the organization or activity along 'para-army', 'para-militia', or 'para-political lines', warning that all such groups would be arrested and eliminated, or physically liquidated in case of resistance.<sup>14350</sup>

3853. On 20 October 1995, Mladić provided Karadžić with a report on the conduct of members of the Tigrovi Serbian Volunteer Guard, a.k.a Arkan's Tigers, and its commander Željko Ražnatović, a.k.a Arkan, in September and October 1995 in Banja Luka, Sanski Most, and near Novi Grad.<sup>14351</sup> Mladić expected the President to prohibit the continued presence of such members, also informing him of the orders he issued to VRS commands to remove all paramilitary formations, groups, and individuals who refuse to accept unity of command.<sup>14352</sup> Mladić stated that the Tigrovi Serbian Volunteer Guard which was acting without any authorisation from the VRS Main Staff detained and mistreated officers and privates, seized military equipment, confiscated the

<sup>14346</sup> D1973 (Main Staff report, 1 January 1993), p. 3.

<sup>14347</sup> P5119 (VRS Main Staff Order from Zdravko Tolimir addressed to the departments for intelligence affairs of various VRS Corps, 19 February 1993), p. 1.

<sup>14348</sup> P5119 (VRS Main Staff Order from Zdravko Tolimir addressed to the departments for intelligence affairs of various VRS Corps, 19 February 1993), pp. 1-2.

<sup>14349</sup> P7410 (SRK Command tasks, Major General Stanislav Galić, 5 March 1993), p. 7.

<sup>14350</sup> D1499 (Order from Mladić to the VRS Corps Commands Regarding Discipline, 22 May 1993), pp. 1-3.

<sup>14351</sup> D1503 (VRS Main Staff information report from Mladić to the Bosnian-Serb President, 20 October 1995), pp. 1-2. *See also* Savo Sokanović, T. 35714-35715; Draško Vujić, T. 34971.

<sup>14352</sup> D1503 (VRS Main Staff information report from Mladić to the Bosnian-Serb President, 20 October 1995). *See also* Savo Sokanović, T. 35714-35715.

personal papers and medical records of those in detention, illegally seized cars, looted abandoned properties, wantonly destroyed property, murdered one member of the VRS near Novi Grad, and murdered eleven non-Serbs in Sanski Most.<sup>14353</sup> Mladić also said that he expected Karadžić to draft a document prohibiting the continued presence of members of this group.<sup>14354</sup> **Savo Sokanović** testified that Arkan's unit was eventually removed from the territory.<sup>14355</sup>

3854. In an interview with the German news magazine *Der Spiegel* in 1995, Karadžić distanced himself from the paramilitary formations which were active in Bosnia-Herzegovina, referring to them as extremists and strongly condemning their acts of revenge.<sup>14356</sup> He stated that it was however impossible for him to keep all embittered Serbian 'refugees' under control.<sup>14357</sup>

3855. Based on the foregoing, the Trial Chamber finds that as of July 1992, there were approximately 60 paramilitary groups in the territory of the Bosnian-Serb Republic totalling between four and five thousand men. These groups were known by the VRS leadership as being composed of criminal elements who displayed a hatred of non-Serbs and comprised a 'genocidal element among the Serbian people'. The majority of such groups were reported as being motivated by profiteering and looting, and maintained ties with opposition parties from Serbia. Paramilitary forces were known by the VRS leadership to be an important feature of the war. On 13 June 1992, Karadžić ordered that all self-organized armed groups place themselves under the command of either the VRS or the MUP. On 28 July 1992, Mladić ordered the disarmament of all paramilitary formations, groups, and individuals in the territory of the Bosnian-Serb Republic by 15 August 1992 in order to put all armed formations and individuals under the unified command of the VRS. Despite efforts by the Bosnian-Serb political leadership and the VRS in this respect, some paramilitary formations continued to exist and to operate outside the command of the VRS throughout the conflict. The exact nature of the relationship between these paramilitary formations, on the one hand, and the VRS and the MUP, on the other, differed from formation to formation. Below, the Trial Chamber

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<sup>14353</sup> D1503 (VRS Main Staff information report from Mladić to the Bosnian-Serb President, 20 October 1995).

<sup>14354</sup> D1503 (VRS Main Staff information report from Mladić to the Bosnian-Serb President, 20 October 1995), p. 2.

<sup>14355</sup> Savo Sokanović, T. 35714-35715.

<sup>14356</sup> P3991 (Interview of Radovan Karadžić with the German news magazine *Der Spiegel*, 1995), pp. 1-2.

<sup>14357</sup> P3991 (Interview of Radovan Karadžić with the German news magazine *Der Spiegel*, 1995), p. 2.

will review this relationship for the paramilitary formations that it has found committed crimes within the scope of the Indictment, in chapters 4 and 8.

*The White Eagles*

3856. The Trial Chamber recalls its findings in chapters 4.4.7 and 8.5.2 that, on 24 May 1992, a member of a group referred to as ‘the White Eagles’ in Ilidža Municipality displaced a Bosnian-Muslim family by threatening their lives should they refuse to leave the municipality or not take up arms and become loyal to Serb authorities. The Trial Chamber further recalls its findings in chapters 4.12.6 and 8.9.2 that, from March to the end of May 1992, a group referred to as ‘the White Eagles’ in Sanski Most Municipality imposed and maintained restrictive and discriminatory measures by erecting and manning checkpoints, restricting the movement of Bosnian Muslims in the municipality.

3857. The Trial Chamber further received evidence from **Witness RM-081**, a Bosnian Muslim from Rogatica Municipality.<sup>14358</sup> He testified that 300 White Eagles members were stationed in Borike.<sup>14359</sup> Rajko Kušić, commander of the Rogatica Brigade (*see* chapter 3.1.2), told him that the White Eagles in Borike were essentially under his command.<sup>14360</sup> The paramilitary unit members spoke the Ekavian dialect of the Serbo-Croat language, and worked with regular Serb police and soldiers.<sup>14361</sup>

3858. As set out in chapters 4.3.2 Schedule C.6.1, 4.6.1 *Schedule A.3.3*, 4.6.3, 4.6.7, 4.8.7, 4.11.3, 4.13.7, and 4.15.2, the Trial Chamber received further evidence that groups referred to as ‘the White Eagles’ were present in Foča, Ključ, Novi Grad, Rogatica, Sokolac, and Vlasenica Municipalities. The Trial Chamber has not received evidence – such as information pertaining to unit structure, leadership, or membership – that would allow it to determine whether the various groups referred to as ‘the White Eagles’ were one and the same. It is consequently unable to conclude that there was only one group referred to as ‘the White Eagles’ throughout Bosnia-Herzegovina and has reviewed the evidence of the groups referred to as ‘the White Eagles’ as such.

<sup>14358</sup> P309 (Witness RM-081, witness statement, 17 September 2011), p. 1, paras 1-2; Witness RM-081, T. 3686-3687; P308 (Pseudonym sheet for Witness RM-081).

<sup>14359</sup> P309 (Witness RM-081, witness statement, 17 September 2011), paras 44-45.

<sup>14360</sup> P309 (Witness RM-081, witness statement, 17 September 2011), paras 7, 45, 54, 56.

<sup>14361</sup> P309 (Witness RM-081, witness statement, 17 September 2011), para. 56. The Trial Chamber understands that the Ekavian dialect is primarily spoken in Serbia. *See, e.g.*, Mirsada Malagić, T. 11237.

3859. Based on the foregoing, the Trial Chamber finds that a group referred to as ‘the White Eagles’ was present in Ilidža Municipality at least on 24 May 1992 and that a group referred to as ‘the White Eagles’ was present in Sanski Most Municipality at least from March to the end of May 1992. With respect to the White Eagles in Sanski Most Municipality, the Trial Chamber recalls its finding in chapter 4.12.6 that this group operated in cooperation with soldiers of the 6th Krajina Brigade, Serb policemen, local Serbs from Lukavica, Martić’s paramilitary unit, and Šešelj’s paramilitary unit.

### *The Skorpions*

3860. The Trial Chamber recalls its finding in chapters 7.12 *Schedule E.13.1* and 8.3.2 that members of the Skorpions murdered six Muslim men near Trnovo some time between mid-July and mid-August 1995.

3861. The Trial Chamber further received evidence from **Witness RM-280**, a Serb from Croatia,<sup>14362</sup> as well as documentary evidence.

3862. **Witness RM-280** testified that after the JNA took over the Tovarnik area, he heard that a JNA Major called Antonić gave permission to Slobodan Medić, a.k.a. Boca, to establish a unit called the Skorpions to guard the oilfields in Đeletovci.<sup>14363</sup> According to the witness, the Skorpions were first under the command of the JNA, but as of late 1992 or early 1993, the Serbian SDB assumed control over the Skorpions.<sup>14364</sup> Milan Milanović, a.k.a. Mrgud, was the intermediary between Medić and the leadership of the Serbian SDB in Belgrade.<sup>14365</sup> Apart from meetings with Mrgud and Ulemek, Medić bragged about meetings with Arkan, Radovan Stojičić a.k.a. Badža, Franko Simatović, and Jovica Stanišić.<sup>14366</sup> The unit was organized in two companies and six platoons, one reconnaissance platoon, and one working platoon.<sup>14367</sup> They had jeeps, trucks, and a refrigerator truck, with civilian, police, and military licence plates.<sup>14368</sup>

<sup>14362</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 1-2, 6; Witness RM-280, T. 18687; P2576 (Pseudonym sheet for Witness RM-280).

<sup>14363</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 3-7; Witness RM-280, T. 18708, 18711.

<sup>14364</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 6-7; Witness RM-280, T. 18708, 18718.

<sup>14365</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7; Witness RM-280, T. 18718.

<sup>14366</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), pp. 6-7; Witness RM-280, T. 18710-18711.

<sup>14367</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 8.

<sup>14368</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7; P2580 (Witness RM-280, *Tolimir* transcript, 20 June 2011), pp. 15672-15673.

They wore red berets and green camouflage uniforms, as well as a badge with a sword and an inscription below the sword saying ‘Skorpions’.<sup>14369</sup> According to the witness, the sword was the insignia of the Serbian SDB.<sup>14370</sup> Before every operation Mrgud told Medić where he could pick up weapons and the rest of the necessary equipment.<sup>14371</sup> After the Skorpions were disbanded, some members, who were recommended by Medić, received a document stating that they were part of the reserve force of the Special Unit of the Serbian SDB, known as the ‘JSO’.<sup>14372</sup> A former member of the Skorpions showed this document to the witness.<sup>14373</sup> The Trial Chamber has also received official military and police documentation, in which the Skorpions are referred to as a unit of MUP of Serbia.<sup>14374</sup>

3863. Based on the foregoing, the Trial Chamber finds that Slobodan Medić, a.k.a. ‘Boca’, established the Skorpions with the permission of JNA Major Antonić. The Skorpions were initially under the command of the JNA, but by late 1992 or early 1993, the Serbian SDB assumed control over the Skorpions. There were approximately 150 members of the Skorpions, including Slobodan Davidović, Aleksander Medić, Branislav Medić, Braco Meleusić, Đuro Meleusić, Milorad Momić, Pero Petrašević, Slobodan Stojković, a.k.a. Bugar, a man called Saša, a.k.a. Vuk, and a man called Šiptar. The Trial Chamber recalls its finding in chapter 7.12 *Schedule E.13.1* that the Skorpions were commanded by Slobodan Medić and that, at the time of the aforementioned murder of six Muslim men, *i.e.* some time between mid-July and mid-August 1995, the Skorpions worked in coordination with VRS units in an area under the responsibility of the SRK.

### *The Spare Ribs*

3864. The Trial Chamber recalls its finding in chapters 4.10.3 and 8.9.2 that on 30 May 1992, the Spare Ribs destroyed the old mosque in Stari Grad, the Zagrad mosque, the

<sup>14369</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7.

<sup>14370</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7.

<sup>14371</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7; Witness RM-280, T. 18711.

<sup>14372</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7.

<sup>14373</sup> P2577 (Witness RM-280, witness statement, 17 February 2005), p. 7.

<sup>14374</sup> P2102 (Letter from Trnovo Special Police Brigade to MUP, Bijeljina Deputy Minister, Pale Police Staff, Vogošća Police Forces Staff, and Janja Special Police Brigade, signed by Ljubiša Borovčanin, 1 July 1995); P2603 (Report from Trnovo Detached Command Post, 24 July 1995); P3096 (Milošević SRK combat report, 23 July 1995), p. 1; P7588 (Letter from Trnovo Forward Command Post, 22 July 1995).

archive and library of the Medžlis of the Islamic Community, and Muslim homes, all located in Prijedor Municipality.

3865. The Trial Chamber further received evidence from **Draško Vujić**, a VRS battalion commander from Prijedor.<sup>14375</sup> He testified that various ‘Serbian’ paramilitary groups roamed around Prijedor Municipality, causing problems for both the Muslim and Serb population.<sup>14376</sup> One example was the Smoked Ribs unit,<sup>14377</sup> which appeared in Vujić’s recruitment zone following combat operations in Prijedor on 30 May 1992.<sup>14378</sup> The group said they came to help but were told by Vujić that their help was not needed, after which they left.<sup>14379</sup>

3866. Based on the foregoing, the Trial Chamber finds that the Spare Ribs were a Serb paramilitary unit that participated in the 30 May 1992 attack on Prijedor Town and then left the area. With respect to that combat operation, the Trial Chamber recalls its finding in 4.10.3 that the Spare Ribs operated in cooperation with the 5th Kozarac Brigade, the 43rd Motorised Brigade, some members of the 6th Krajina Brigade, the Prijedor police, and members of Milan Andžić’s paramilitary unit.

#### *Šešelj’s unit*

3867. The Trial Chamber recalls its finding in chapters 4.12.6 and 8.9.2 that from March to the end of May 1992, individuals referred to as ‘Šešelj’s Chetniks’ imposed and maintained restrictive and discriminatory measures in Sanski Most Municipality by erecting and manning checkpoints, restricting the movement of Bosnian Muslims in the municipality.

3868. The Trial Chamber took judicial notice of a number of Adjudicated Facts with regard to the individuals referred to as ‘Šešelj’s Chetniks’.<sup>14380</sup> It further received evidence from **Mile Ujić**, the President of the Executive Committee of the Rogatica Municipality from 1990 until March 1992 and the Chief and acting Chief of Staff of the

<sup>14375</sup> D1041 (Draško Vujić, witness statement, 24 January 2014), paras 1, 7.

<sup>14376</sup> D1041 (Draško Vujić, witness statement, 24 January 2014), para. 14.

<sup>14377</sup> The Trial Chamber understands this reference to be to the group otherwise known as the ‘Spare Ribs’.

<sup>14378</sup> D1041 (Draško Vujić, witness statement, 24 January 2014), para. 14.

<sup>14379</sup> D1041 (Draško Vujić, witness statement, 24 January 2014), para. 14.

<sup>14380</sup> Adjudicated Facts I, no. 833 is reviewed in chapter 4.7.7. Adjudicated Facts I, nos 1184-1186 are reviewed in chapter 4.12.1 *Schedule A.7.5*.

Rogatica Brigade from the beginning of May 1992 until the end of 1992;<sup>14381</sup> and **Witness RM-145**, a Bosnian Muslim from Ahatovići,<sup>14382</sup> as well as documentary evidence.

3869. According to a radio interview with Vojislav Šešelj in September 1992, volunteers from Serbia and Montenegro, from the Serbian Radical Party, or from the Serbian Chetnik Movement came to Bosnia-Herzegovina to fight for the liberty of ‘the Serbian people’.<sup>14383</sup> They did not act independently, as the Bosnian-Serb Republic quickly established the VRS and the entire manpower of the Serbian Radical Party was immediately put under its exclusive command.<sup>14384</sup> Šešelj praised the morale of ‘Serbian soldiers’ who were ‘full of élan, full of strength and ready to finish off this battle for Sarajevo’.<sup>14385</sup> In his view, the war helped the Serbs to gain territories and the Muslims would ‘end up with nothing’; no territories should be handed over to them.<sup>14386</sup>

3870. On 13 May 1993, Šešelj commended 16 Serbian ‘Chetnik’ commanders for their participation in the military efforts by granting them the title of *Vojvoda*.<sup>14387</sup> He commended them for their exceptional courage and skill in areas including Sarajevo, Bijeljina, and Srebrenica.<sup>14388</sup> On 20 March 1994, Šešelj again awarded various members of the Serbian Chetnik Movement the title of ‘*Vojvoda*’ to reward their services in war operations on battlefields in, *inter alia*, Sarajevo-IIijaš and Herzegovina between 1991 and 1992.<sup>14389</sup> On 20 April 1994, he deprived four persons of this title for, *inter alia*, disrespecting the code of the Chetnik *Vojvodas*, betraying or damaging the reputation of the SRS, the Serbian Chetnik Movement and the Serb people, or for being recruited into the Serb MUP.<sup>14390</sup> On 28 April 1994, Šešelj announced that the Serbian Chetnik Movement would no longer be a special section of the SRS, but that the two would be integrated; all soldiers fighting for the freedom of Serb people were

<sup>14381</sup> D691 (Mile Ujić, witness statement, 2 August 2014), para. 4; Mile Ujić, T. 26856-26857, 26863, 26925-26926, 27027-27029; P6824 (Police interview of Mile Ujić of 6 June 2004), pp. 2, 4; P6833 (Order by the Rogatica Commander Rajko Kušić, 15 December 1992), p. 1.

<sup>14382</sup> P255 (Witness RM-145, witness statement, 14 February 2011), p 1, paras 4, 19-21, 31, 49-50; Witness RM-145, T. 3049-3050. The relevant evidence of Witness RM-145 is reviewed in chapter 4.8.7.

<sup>14383</sup> P4013 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), pp. 4, 22.

<sup>14384</sup> P4013 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), pp. 5-6. The Trial Chamber understands Šešelj’s reference to ‘the Serbian Army’ as a reference to the VRS.

<sup>14385</sup> P4013 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), pp. 8-9.

<sup>14386</sup> P4013 (Interview with Vojislav Šešelj and Nikola Poplašen, September 1992), pp. 14-17.

<sup>14387</sup> P5121 (Excerpt of a book by Vojislav Šešelj, 13 May 1993), pp.1-6.

<sup>14388</sup> P5121 (Excerpt of a book by Vojislav Šešelj, 13 May 1993), pp.1-6.

<sup>14389</sup> P5127 (Orders and a public announcement from Šešelj concerning the Serbian Chetnik Movement, March –April 1994), pp. 1-4.

called Serb Chetniks, regardless of their membership in the SRS.<sup>14391</sup> He further emphasised that Chetnik volunteers acted exclusively under the command of the Serb Army, despite the enemy's attempts to 'abuse the formal organisation of the Serbian Chetnik Movement' as proof of paramilitary organisations being active in the Serb states.<sup>14392</sup>

3871. According to a MUP Trebinje CSB report on the activities of paramilitary formations on the territory of the SAO Herzegovina dated 30 July 1992, the group referred to as 'šešeljevci' (Šešelj's men) and other self-proclaimed groups under different names complicated the security situation significantly.<sup>14393</sup> According to the report, these groups did not belong to any regular unit of the VRS and undertook their actions arbitrarily and on their own initiative out of the zone of war operations.<sup>14394</sup> An attempt of a group of about 20 members of 'šešeljevci' to be integrated into the activities of the police station in Berkovići and to operate the police station under their command was foiled in consultation with the responsible VRS command.<sup>14395</sup> **Mile Ujić** testified that since 22 May 1992, the Rogatica Brigade received orders from the SRK command who, at the end of 1992, also commanded the brigade's activities.<sup>14396</sup> According to him, the brigade also incorporated Serb volunteers such as Arkan's, Jović's, and Šešelj's men.<sup>14397</sup>

3872. With regard to Vojislav Šešelj's radio interview of September 1992, in evidence as exhibit P4013, in which he claimed that all volunteers of the SRS and the Serbian Chetnik Movement who came to Bosnia-Herzegovina were put under the exclusive command of the VRS, the Trial Chamber notes that given the nature of the evidence, and the absence of an opportunity to cross-examine the witness about its veracity in court, it is unable to establish whether the assertions therein are based on opinions from facts. Moreover, it notes that the claims of subordination are general and not linked to any specific persons, places or dates. In light of these considerations, the Trial Chamber

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<sup>14390</sup> P5127 (Orders and a public announcement from Šešelj concerning the Serbian Chetnik Movement, March – April 1994), pp. 4-5.

<sup>14391</sup> P5127 (Orders and a public announcement from Šešelj concerning the Serbian Chetnik Movement, March – April 1994), pp. 5-7.

<sup>14392</sup> P5127 (Orders and a public announcement from Šešelj concerning the Serbian Chetnik Movement, March – April 1994), p. 6.

<sup>14393</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 3.

<sup>14394</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 3.

<sup>14395</sup> D2005 (MUP report on paramilitary formations, 30 July 1992), p. 5.

<sup>14396</sup> Mile Ujić, T. 26947, 26980-26981; P6827 (Order by the SRK-command, 22 May 1992), pp. 1-2; P6829 (Letter of the SRK Commander Stanislav Galić to the Rogatica Brigade, 26 December 1992).

finds that, in the absence of further corroboration, it cannot rely solely on exhibit P4013 to establish that all volunteer units from Serbia and Montenegro who came to Bosnia-Herzegovina were put under the exclusive command of the VRS. Accordingly, the Trial Chamber will not rely on P4013 in this respect.

3873. Based on the foregoing, the Trial Chamber finds that a paramilitary unit referred to as 'Šešelj's men' was present in Sanski Most Municipality from at least March to the end of May 1992 and in Kotor Varoš Municipality in July and August 1992. The Trial Chamber recalls its finding in chapter 4.12.6 that, in connection with erecting and manning checkpoints in and around the town of Sanski Most and around non-Serb villages from March to end of May 1992, this unit worked in cooperation with soldiers of the 6th Krajina Brigade, Serb policemen, local Serbs from Lukavica, Martić's paramilitary unit, and the White Eagles.

*Savić's unit, a.k.a. 'Mauzer's men', a.k.a. the Panthers*

3874. The Trial Chamber recalls its finding in chapters 4.2.4 and 8.9.2 that from 1992 onwards, Mauzer's men (a group headed by Ljubiša Savić, a.k.a. Mauzer) aided Vojkan Đurković of the Bijeljina SDS in plundering property and valuables from Bosnian Muslims before they were forced out of Bijeljina Municipality. The Trial Chamber further recalls its finding in chapters 4.2.7 that in the summer of 1992, Mauzer's men aided Đurković in forcibly transferring many Muslims from Bijeljina Municipality.

3875. The Trial Chamber took judicial notice of a number of Adjudicated Facts with regard to Savić's unit.<sup>14398</sup> It further received evidence from **Witness RM-513**, a Bosnian Serb from Bijeljina;<sup>14399</sup> **Dragomir Andan**, a Bosnian Serb who served as a MUP senior inspector in Bijeljina, Zvornik and Brčko from 1 June 1992 and then as an intelligence officer in the VRS Main Staff from September 1992,<sup>14400</sup> as well as documentary evidence.

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<sup>14397</sup> Mile Ujčić, T. 26980; P6824 (Police interview of Mile Ujčić of 6 June 2004), p. 5.

<sup>14398</sup> Adjudicated Facts I, nos 314-315 are reviewed in chapter 3.5. Adjudicated Facts I, nos 501-503 are reviewed in chapter 9.2.9.

<sup>14399</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6. The further relevant evidence of Witness RM-513 is reviewed in chapters 3.1.2 and 9.2.8.

<sup>14400</sup> D512 (Dragomir Andan, witness statement, 6 June 2014), paras 5-7; Dragomir Andan, T. 22386-22388, 22396, 22437.

3876. In 1992, Ljubiša (Mauzer) Savić was a leading SDS figure in Bijeljina and commander of the Serb (National) Guard paramilitary unit.<sup>14401</sup> On 15 June 1992, Mauzer stated that the presidency of SAO Semberija-Majevica had decided to replace Muslims in managerial positions in Bijeljina, and should ‘the genocide against the Serbian people’ in Bosnia-Herzegovina continue, all Muslims would be fired from their jobs and expelled from the territory.<sup>14402</sup> Mauzer also stated that the 2,500 Muslims aged between 18 and 35 who had fled Bijeljina in the aftermath of the Serb take-over would lose their jobs, and their apartments would be seized and sealed, and he advised them not to return.<sup>14403</sup>

3877. In a 31 May 1992 meeting of the Bosnian-Serb leadership attended by Mladić, Karadžić reported that, in the absence of functioning authorities in many of the municipalities, there were thieves, warlords, and ‘various military’.<sup>14404</sup> In particular, he noted that ‘Mauzer (in Bijeljina) has grown arrogant and he cannot work in the way that he wants’.<sup>14405</sup> In an 11 June 1992 meeting attended by Mladić, Colonel Zarić discussed Ljubiša Savić, a.k.a Mauzer, a ‘self-proclaimed major’ who ‘got some of Arkan’s decorations or others’ and who controlled over half of the municipal presidency in Bijeljina and had been chosen by the municipality to act as its ‘security organ’.<sup>14406</sup> He noted that Savić had surrounded himself with 100 criminals who were ‘carrying out searches’, and he described Predrag Ješarić as the ‘brain behind the whole team’.<sup>14407</sup> He further noted that Mauzer’s unit was in the barracks in Bijeljina and that Mauzer ‘made Denčić appoint him to the duty of commander for counter-intelligence affairs’ (see the Trial Chamber’s findings on Nikola Denčić’s role as IBK commander in chapter 3.1.2).<sup>14408</sup>

3878. **Dragomir Andan** testified that in summer 1992, he brought Ljubiša Savić, a.k.a. Mauzer, leader of the Panthers, into custody for constant attacks, denying the authority of the MUP, and not carrying out legal regulations in Bijeljina.<sup>14409</sup> Shortly after that, Mauzer was arrested a second time in July 1992 for bringing looted goods from the

<sup>14401</sup> Adjudicated Facts I, no. 501.

<sup>14402</sup> Adjudicated Facts I, no. 502.

<sup>14403</sup> Adjudicated Facts I, no. 503.

<sup>14404</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 36, 38-39.

<sup>14405</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 41.

<sup>14406</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 146, 150-151.

<sup>14407</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 146, 150-151.

<sup>14408</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 151.

<sup>14409</sup> Dragomir Andan, T. 22407, 22413.

front and detaining Muslims in a cooling plant that the paramilitaries used as a warehouse.<sup>14410</sup> After the second arrest, the Panthers surrounded the police station with weapons and demanded that the witness and his colleague Davidović be removed from their posts in the security services of Bijeljina.<sup>14411</sup> Mauzer was released and was never tried, but the witness sent a criminal report to the prosecutor.<sup>14412</sup> The stolen property recovered from the cooling plant was handed over to the military police.<sup>14413</sup> Towards the end of 1992, 'perhaps' in September or October, Mauzer's unit was subordinated to the IBK and from then onwards, the VRS had control over him.<sup>14414</sup> It was one of the better organised and better equipped units in the VRS and there was no record of them participating in any crime when engaged as a VRS unit.<sup>14415</sup>

3879. Based on the foregoing, the Trial Chamber finds that Ljubiša Savić, a.k.a. Mauzer, was a leading SDS figure in Bijeljina Municipality who in 1992 commanded a paramilitary unit known as the Panthers. The Trial Chamber recalls its finding in chapter 3.1.2 that on 3 June 1992, Mauzer's unit joined the IBK and was put under the unified command of the VRS. The Trial Chamber further recalls its finding in chapter 4.2.4 and 4.2.7 that, in connection with plunder in Bijeljina Municipality from 1992 onwards and in connection with forcible transfer in Bijeljina Municipality in the summer of 1992, Mauzer's unit worked in cooperation with Vojkan Đurković of the Bijeljina SDS.

#### *Praštaló's unit*

3880. The Trial Chamber recalls its finding in chapters 4.12.3 and 8.9.2 that, on 27 May 1992, a paramilitary unit commanded by Mićo 'Kudra' Praštalo destroyed the Catholic church in Kljevci, Sanski Most Municipality. The Trial Chamber further recalls its findings in chapters 4.12.1 *Schedules A.7.2 and A.7.4* and 8.3.2 that on 31 May 1992, soldiers of the VRS's 6th Krajina Brigade or a paramilitary formation, all under the command of Colonel Basara, commander of the VRS's 6th Krajina Brigade, murdered around 31 people in Jelečevići, a Bosnian-Muslim hamlet in the area of

<sup>14410</sup> Dragomir Andan, T. 22407-22408.

<sup>14411</sup> Dragomir Andan, T. 22407-22408.

<sup>14412</sup> Dragomir Andan, T. 22409.

<sup>14413</sup> Dragomir Andan, T. 22409.

<sup>14414</sup> Dragomir Andan, T. 22410.

<sup>14415</sup> Dragomir Andan, T. 22463.

Hrustovo. Further, on 1 August 1992, a group of approximately 200 Serb soldiers led by Praštalo murdered 14 Bosnian-Muslim men in Budim, Sanski Most Municipality.

3881. The Trial Chamber received evidence with regard to Praštalo's unit from **Witness RM-015**, a Bosnian Serb from Sanski Most,<sup>14416</sup> who testified that on 27 May 1992, Praštalo's paramilitary unit attacked Kljevci in cooperation with battalions of the 6th Krajina Brigade, and that in May or early June 1992, Colonel Aničić ordered Praštalo to ambush and kill Muslim resistance fighters travelling on buses.<sup>14417</sup>

3882. Based on the foregoing, the Trial Chamber finds that Mićo 'Kudra' Praštalo headed a paramilitary unit of at least 200 Serb soldiers from Lušci Palanka in Sanski Most Municipality. This unit was present in Sanski Most Municipality at least from late May to early August 1992, and its members wore olive-coloured uniforms with a red stripe pinned to their epaulettes. The Trial Chamber recalls its finding in chapter 4.12.1 *Schedule A.7.2* that on 31 May 1992, this unit was under the command of Colonel Basara of the VRS 6th Krajina Brigade. It further recalls its finding in chapter 4.12.3 that, with respect to the 27 May 1992 attack on Kljevci, this unit operated in cooperation with battalions of the 6th Krajina Brigade.

#### *Martić's unit*

3883. The Trial Chamber recalls its finding in chapters 4.12.6 and 8.9.2 that, from March to the end of May 1992, a group referred to as 'Martić's men' in Sanski Most Municipality imposed and maintained restrictive and discriminatory measures by erecting and manning checkpoints, restricting the movement of Bosnian Muslims in the municipality.

3884. The Trial Chamber received evidence with regard to Martić's unit from **Mevludin Sejmenović**, the Vice President of the SDA in Prijedor from 1990 to 1992,<sup>14418</sup> who testified that individuals wearing 'Martić's militia' uniforms were among those who took men and boys to Trnopolje camp after the shelling of the village.<sup>14419</sup>

<sup>14416</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111.

<sup>14417</sup> The relevant evidence of Witness RM-015 is reviewed in chapter 4.12.3.

<sup>14418</sup> P283 (Mevludin Sejmenović, witness statement, 13 August 2012), para. 4.

<sup>14419</sup> The relevant evidence of Sejmenović is reviewed in chapter 4.10.2 *Schedule C.15.4*.

3885. Based on the foregoing, the Trial Chamber finds that a paramilitary unit referred to as ‘Martić’s men’ was present in Prijedor Municipality and participated in the capture and transport of men and boys to Trnopolje camp following the shelling of Trnopolje Village. It was also present in Sanski Most Municipality at least from March to the end of May 1992. The Trial Chamber recalls its finding in chapter 4.12.6 that, with respect to the erection and manning of checkpoints in and around the town of Sanski Most during this time, Martić’s men operated in cooperation with soldiers of the 6th Krajina Brigade, Serb policemen, local Serbs from Lukavica, the White Eagles, and ‘Šešelj’s Chetniks’.

*Kunarac’s unit*

3886. The Trial Chamber recalls its finding in chapters 4.3.2 *Schedule C.6.4* and 8.9.2 that in July and August 1992, Dragoljub Kunarac, a.k.a. Žaga, and Montenegrin soldiers under his command raped Bosnian-Muslim women and girls detained at Partizan Hall. The Trial Chamber further recalls its finding in chapters 4.5.4 and 8.9.2 that in July or August 1992, Kunarac’s men plundered valuables from Bosnian-Muslim detainees at the Kalinovik elementary school.

3887. The Trial Chamber received evidence relating to Kunarac’s unit from **Božidar Krnojelac**, a Serb member of the ‘village guards’ in Foča who was present at the KP Dom facility daily from mid-April to mid-May 1992;<sup>14420</sup> **Veselinko Simović**, a marksman in the 5th Battalion from 15 April 1992 and later a member of the Dragan Nikolić Intervention Unit, both TO formations in Foča which later became part of the VRS;<sup>14421</sup> **Witness RM-070**, a Muslim woman from Foča municipality;<sup>14422</sup> **Witness RM-048**, a Bosnian Muslim from Bosnia-Herzegovina;<sup>14423</sup> **Zoran Nikolić**, a Serb from Foča;<sup>14424</sup> and **Witness RM-032**, a Bosnian-Muslim woman,<sup>14425</sup> as well as documentary evidence.

<sup>14420</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), p. 1, paras 1, 9; Božidar Krnojelac, T. 25972.

<sup>14421</sup> D583 (Veselinko Simović, witness statement, 8 June 2014), p. 1, paras 1, 7; Veselinko Simović, T. 24372. The relevant evidence of Veselinko Simović is also reviewed in chapter 3.1.2.

<sup>14422</sup> P2422 (Witness RM-070, witness statement, 18 November 1995), p. 1, para. 1; P2421 (Pseudonym sheet for Witness RM-070).

<sup>14423</sup> P979 (Witness RM-048, witness statement, 8 June 1999), p. 1, para. 1; Witness RM-048, T. 8815. The relevant evidence of Witness RM-048 is reviewed in chapter 4.3.2 *Schedule C.6.4*.

<sup>14424</sup> D581 (Zoran Nikolić, witness statement, 8 March 2014), para. 1 The relevant evidence of Zoran Nikolić is reviewed in chapter 3.1.2.

3888. **Božidar Krnojelac** testified that until 22 June 1992 neither the VRS nor any battalions were in Foča Municipality.<sup>14426</sup> ‘Serbian forces’ units including the ones in which the witness was engaged, i.e. Vujičić’s unit and Nikolić’s detachment, acted independently and without a single command.<sup>14427</sup> Several groups of self-proclaimed intervention platoons under the command of Žaga, Gojko, Pero, and Ćosa as well as of the police, existed independently of the VRS in Foča town.<sup>14428</sup> Only after 22 June 1992, a brigade and tactical group was formed and effectively assumed operational control over Foča.<sup>14429</sup> On 7 July 1992, Colonel Marko Kovač, Commander of the Foča Tactical Group, ordered the ‘Independent Zaga Detachment’ to take part in ‘cleansing or mopping-up’ areas in connection with the VRS 5th Battalion’s attack on Goražde.<sup>14430</sup>

3889. Based on the foregoing, the Trial Chamber finds that Dragoljub Kunarac, a.k.a. Žaga, headed a paramilitary unit of Montenegrin soldiers, some of whom wore camouflage uniforms with an insignia of an eagle and the letter ‘S’. This unit was present in Kalinovik Municipality in July or August 1992. This was a paramilitary unit that was incorporated into the VRS by at least July 1992. The Trial Chamber recalls its finding in 3.1.2 that the Independent ‘Žaga’ Detachment commanded by Dragomir or ‘Dragoljub’ Kunarac was subordinated to Marko Kovač, Commander of the Foča Tactical Group. The Trial Chamber further recalls its findings in chapters 4.3.2 *Schedules C.6.2* and *C.6.4* and 4.3.3 that Kunarac’s unit was present in Foča Municipality in July and August 1992 and that, with respect to the ill-treatment of detainees at Partizan Hall at that time, this unit operated in cooperation with Dragan Gagović, a.k.a. ‘Gaga’, the head of Foča police, and Janko Janjić, a.k.a. ‘Tuta’. The Trial Chamber also recalls its finding in chapter 4.5.4 that, with respect to the plundering the property of detainees at Kalinovik elementary school in July or August 1992, this unit operated in cooperation with Ćosa’s unit and Pero Elez’s unit.

<sup>14425</sup> P180 (Witness RM-032, witness statement, 20 October 1998), p. 1, para. 1. The relevant evidence of Witness RM-032 is reviewed in chapter 4.5.2 *Schedule C.9.1*.

<sup>14426</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), para. 12; Božidar Krnojelac, T. 25981, 25994-25996, 26001.

<sup>14427</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), paras 10-11.

<sup>14428</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), para. 16.

<sup>14429</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), para. 12.

<sup>14430</sup> P2823 (Order from Col. Marko Kovač, Commander of the Foča Tactical Group, 7 July 1992), pp. 1, 3, 5.

*Pero Elez's unit*

3890. The Trial Chamber recalls its finding in chapters 4.5.1 *Schedule B.7.1*, 8.3.2 and 8.9.2 that on 5 August 1992, Serb soldiers commanded by Pero Elez murdered 23 Bosnian-Muslim detainees taken from the ammunition warehouse in Jalašačko Polje in Kalinovik Municipality. The Trial Chamber further recalls its finding in chapters 4.5.4 and 8.9.2 that in July or August 1992, Elez's men plundered valuables from Bosnian-Muslim detainees at the Kalinovik elementary school. The Trial Chamber also recalls its finding in chapters 4.3.2 *Schedule C.6.2* and 8.9.2 that from early August 1992, Radovan Stanković, who was affiliated with Elez, unlawfully detained several groups of Bosnian-Muslim women and girls in 'Karaman's house' in Foča Municipality, and that Elez and his men raped those women and girls there. Lastly, the Trial Chamber recalls its finding in chapters 4.3.1 *Schedule AB.5.1*, 8.3.2 and 8.9.2 that in the second half of 1992, Elez and Predrag Trivun, a.k.a. Pedolino or Pedo, murdered some of the hundreds of predominantly Bosnian-Muslim detainees who were killed at KP Dom Foča.

3891. The Defence submitted that Pero Elez headed a paramilitary unit that was not under the effective control of the VRS.<sup>14431</sup> The Trial Chamber took judicial notice of Adjudicated Facts 706 and 745.<sup>14432</sup> It further received evidence from **Svetozar Petković**, a Montenegrin Serb and SDS member who lived in Foča during the war;<sup>14433</sup> **Witness RM-019**, a member of the 11th Herzegovina Light Infantry Brigade;<sup>14434</sup> **Fejzija Hadžić**, a Bosnian Muslim from Kalinovik;<sup>14435</sup> **Witness RM-048**, a Bosnian Muslim from Bosnia-Herzegovina;<sup>14436</sup> **Witness RM-032**, a Bosnian-Muslim woman;<sup>14437</sup> **Božidar Krnojelac**, a Serb member of the 'village guards' in Foča who was present at the KP Dom facility daily from mid-April to mid-May 1992;<sup>14438</sup> and

<sup>14431</sup> Defence Final Brief, paras 1588, 1593.

<sup>14432</sup> Adjudicated Facts I, no. 706 is reviewed in chapter 4.3.1 *Schedule B.5.1*. Adjudicated Facts I, no. 745 is reviewed in chapter 4.5.1 *Schedule B.7.1*.

<sup>14433</sup> D681 (Svetozar Petković, witness statement, 8 June 2014), p. 1, para. 1; Svetozar Petković, T. 26576.

<sup>14434</sup> P572 (Witness RM-019, witness statement, 3 September 2003), p. 1, paras 4, 6-8; Witness RM-019, T. 5701-5706. The relevant evidence of Witness RM-019 is reviewed in chapters 4.3.1 *Schedule B.5.1*, 9.3.4.

<sup>14435</sup> P138 (Fejzija Hadžić, witness statement, 31 January 1999), p. 1; P139 (Statement of Fejzija Hadžić, 20 October 1992), p. 1; Fejzija Hadžić, T. 1830. The relevant evidence of Hadžić is reviewed in chapter 4.5.1 *Schedule B.7.1*.

<sup>14436</sup> P979 (Witness RM-048, witness statement, 8 June 1999), p. 1, para. 1; Witness RM-048, T. 8815.

The relevant evidence of Witness RM-048 is reviewed in chapter 4.5.2 *Schedule C.9.1*.

<sup>14437</sup> P180 (Witness RM-032, witness statement, 20 October 1998), p. 1, para. 1. The relevant evidence of Witness RM-032 is reviewed in chapter 4.5.2 *Schedule C.9.1*.

<sup>14438</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), p. 1, paras 1, 9; Božidar Krnojelac, T. 25972. The relevant evidence of Krnojelac is reviewed in chapter 9.2.8.

**Veselinko Simović**, a marksman in the 5th Battalion from 15 April 1992 and later a member of the Dragan Nikolić Intervention Unit, both TO formations in Foča which later became part of the VRS,<sup>14439</sup> as well as documentary evidence.<sup>14440</sup>

3892. According to 'VINS' newspaper, a publication of the VRS Srbinje Garrison Command, 'Serbian' soldiers took over all the institutions in Bistrica on 6 April 1992 in a well-organised and professionally conducted operation. After the take-over, Pero Elez, and a group of fellow Serb co-fighters, referred to as 'the Serbian volunteer guard' were joined by many 'Serbian' men and they became the 7th Battalion. He was unanimously chosen as commander of the Battalion by the 'Serbian people's army', and they were to 'win glory for the Serbian Army in the whole area'.<sup>14441</sup> Elez and Dragan Nikolić, amongst other soldiers, fought in the battle for Foča against 'a much stronger enemy', and ultimately 'liberated Foča'.<sup>14442</sup> According to the article, after Foča was 'liberated', Muslims in Kratine, Kozja Luka, and Poljice burned 'Serbian' houses and killed 'Serbian' children.<sup>14443</sup> Following this, the 7th Battalion set out with the goal of liberating the area around Miljevina and Foča.<sup>14444</sup>

3893. **Svetozar Petković** testified that Pero Elez joined the VRS when a brigade was established in Preljuća on approximately 28 June 1992.<sup>14445</sup> Elez's record of VRS service dates from 6 April to 10 December 1992.<sup>14446</sup> According to the witness, military records were often inaccurately dated from the beginning of the war as a 'matter of convenience'.<sup>14447</sup> On 24 July 1992, Mladić recorded a meeting with Elez, who said that before the war, he had been dealing 'with weapons at the macroeconomic level' and had been 'a go-between between the Army and the Serbs' and that, at the time, he was told by Colonel Gaković that he would be working with a man called Lugonja.<sup>14448</sup> On 31 July 1992 Mladić recorded a meeting he had with the Command of Podrinje Operations Group and parts of the HK, including Captain Antelj and Pero Elez, Commander of the

<sup>14439</sup> D583 (Veselinko Simović, witness statement, 8 June 2014), p. 1, paras 1, 7; Veselinko Simović, T. 24372. The relevant evidence of Simović is reviewed in chapter 9.2.8.

<sup>14440</sup> The relevant portion of P2857 (Excerpt from VINS newspaper publication) is reviewed in chapter 4.3.7. P2823 is also reviewed in chapter 3.1.2.

<sup>14441</sup> P2857 (Excerpt from VINS newspaper publication), p. 6.

<sup>14442</sup> P2857 (Excerpt from VINS newspaper publication), pp. 6-7.

<sup>14443</sup> P2857 (Excerpt from VINS newspaper publication), p. 7.

<sup>14444</sup> P2857 (Excerpt from VINS newspaper publication), p. 7. The Trial Chamber understands the reference to the Miljevina Battalion to refer to the 7th Battalion.

<sup>14445</sup> D681 (Svetozar Petković, witness statement, 8 June 2014), para. 7; Svetozar Petković, T. 26567, 26574-26575.

<sup>14446</sup> P6812 (Pero Elez's record of VRS service, 6 November 2008), p. 1.

<sup>14447</sup> Svetozar Petković, T. 26575-26576.

Miljevina Independent Battalion, at the time.<sup>14449</sup> Elez requested, among others, ammunition, weapons and vehicles.<sup>14450</sup>

3894. Based on the foregoing, the Trial Chamber finds that Pero Elez commanded the 7th Battalion, a.k.a. the Miljevina Battalion, which included both Radovan Stanković and Predrag Trivun, a.k.a. Pedolino or Pedo. This was a paramilitary unit that was incorporated into the VRS by at least late June 1992. The Trial Chamber recalls its finding in chapter 3.1.2 that the Miljevina Battalion commanded by Pero Elez was subordinated to Marko Kovač, Commander of the Foča Tactical Group. The Trial Chamber further recalls its finding in chapter 4.5.4 that, with regard to the plunder of valuables from Bosnian-Muslim detainees at Kalinovik elementary school, this unit operated in cooperation with Ćosa's unit and Dragan Kunarac's unit.

#### *Ćosa's unit*

3895. The Trial Chamber recalls its finding in chapters 4.5.4 and 8.9.2 that, in July or August 1992, Ćosa's men plundered valuables from Bosnian-Muslim detainees at the Kalinovik elementary school.

3896. The Trial Chamber further received evidence from **Witness RM-032**, a Bosnian-Muslim woman;<sup>14451</sup> **Veselinko Simović**, a marksman in the 5th Battalion from 15 April 1992 and later a member of the Dragan Nikolić Intervention Unit, both TO formations in Foča which later became part of the VRS;<sup>14452</sup> **Trivko Pljevaljčić**, a Bosnian Serb from Foča Municipality who was commander of the 3rd Company of the 5th Battalion of the Foča Tactical Group and who worked in KP Dom Foča in 1995;<sup>14453</sup> **Božidar Krnojelac**, a Serb member of the 'village guards' in Foča who was present at the KP Dom facility daily from mid-April to mid-May 1992,<sup>14454</sup> as well as documentary evidence.<sup>14455</sup>

<sup>14448</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 364-365.

<sup>14449</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 389, 394-396.

<sup>14450</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 394.

<sup>14451</sup> P180 (Witness RM-032, witness statement, 20 October 1998), p. 1, para. 1. The relevant evidence of Witness RM-032 is reviewed in chapter 4.5.4.

<sup>14452</sup> D583 (Veselinko Simović, witness statement, 8 June 2014), p. 1, paras 1, 7; Veselinko Simović, T. 24372. The relevant evidence of Veselinko Simović is reviewed in chapter 3.1.2.

<sup>14453</sup> D706 (Trivko Pljevaljčić, witness statement, 10 July 2014), p. 1, paras 1, 4; Trivko Pljevaljčić, T. 27200, 27205, 27215-27216. The relevant evidence of Trivko Pljevaljčić is reviewed in chapter 3.1.2.

<sup>14454</sup> D650 (Božidar Krnojelac, witness statement, 8 March 2014), p. 1, paras 1, 9; Božidar Krnojelac, T. 25972. The relevant evidence of Krnojelac is reviewed in chapter 9.2.8.

<sup>14455</sup> P2823 is also reviewed in chapter 3.1.2.

3897. The Trial Chamber recalls its finding in chapter 3.1.2 that the ‘Dragan Nikolić’ Intervention Unit commanded by Brane Ćosović, a.k.a. Ćosa, was subordinated to Marko Kovač, Commander of the Foča Tactical Group. Based on the foregoing, the Trial Chamber finds that this unit was incorporated into the VRS by at least July 1992. The Trial Chamber also recalls its finding in chapter 3.1.2 that Brane Ćosović headed other sub-units, including a unit led by Janko Janjić a.k.a. Tuta. The Trial Chamber finds that Ćosa’s men were present in Kalinovik Municipality in July or August 1992. The Trial Chamber further recalls its finding in chapter 4.5.4 that, with respect to the plunder of valuables from Bosnian-Muslim detainees at the Kalinovik elementary school, this unit operated in cooperation with Pero Elez’s unit, Zoran and Nedžo Samardžić, and Dragan Kunarac’s unit.

*Units commanded by Basara*

3898. The Trial Chamber recalls its finding in chapters 4.12.3 and 8.9.2 that, with regard to the destruction of houses and four Muslim sacred sites in the Muslim villages of Hrustovo and Vrhpolje at the end of May 1992, paramilitary units subordinated to Colonel Branko Basara, commander of the VRS 6th Krajina Brigade, operated in cooperation with the 6th Krajina Brigade and the SOS in Sanski Most Municipality. The Trial Chamber further recalls its finding in chapters 4.12.1 Schedule A.7.2, 8.3.2, and 8.9.2 that, on 31 May 1992, forces under the command of Basara – either paramilitary formations or the VRS 6th Krajina Brigade – murdered approximately 31 Bosnian Muslims in Sanski Most Municipality.

3899. The Trial Chamber further received evidence from **Witness RM-015**, a Bosnian Serb from Sanski Most.<sup>14456</sup> He testified that on 1 June 1992, Colonel Basara issued an order prohibiting ‘[a]ll self-declared soldiers from other units or irregular formations’ from entering combat operation zones ‘because in most cases they enter ... to commit genocide and loot property’ and establishing a military court ‘to sentence war criminals and war profiteers from our own brigade’.<sup>14457</sup> Given the timing of this order, Witness RM-015 saw it as a response to killings in Hrustovo and Vrhpolje, and believed that the

<sup>14456</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111. Further relevant evidence of Witness RM-015 is reviewed in chapters 3.1.2 and 4.12.1 *Schedule A.7.2*.

<sup>14457</sup> Witness RM-015, T. 17287-17288; P2366 (Order of the commander of the 6th Krajina Brigade, 1 June 1992).

order was issued by Colonel Basara to protect himself.<sup>14458</sup> According to the witness, the military court referred to in the order was never formed and no one was ever punished for these offences.<sup>14459</sup>

3900. Based on the foregoing, the Trial Chamber finds that paramilitary units in Sanski Most Municipality were subordinated to the VRS 6th Krajina Brigade, at least in late May 1992. This included paramilitary units located in Lušci Palanka, Dabar, Klejevci, Tomina, Kozica, Podlug, and Tramošinja. These units participated in the 30 and 31 May 1992 attacks on Hrustovo and Vrhpolje villages.

*Andžić's unit*

3901. The Trial Chamber recalls its finding in chapters 4.10.1 *Schedule A.6.1*, 8.3.2 and 8.9.2 that, between 24 and 26 May 1992, Milan Andžić's paramilitaries murdered over 800 people in Kozarac, Prijedor Municipality, in a shelling attack along with other units, and further murdered at least 80 Bosnian-Muslim civilians and 10 to 14 surrendered Bosnian-Muslim policemen in that town. The Trial Chamber further recalls its finding in chapters 4.10.3 and 8.9.2 that, on 30 May 1992, members of Andžić's paramilitary unit destroyed the Čaršijka mosque in Prijedor Municipality.

3902. Based on the foregoing, the Trial Chamber finds that Milan Andžić headed a paramilitary unit that was present in Prijedor Municipality in late May 1992. The Trial Chamber recalls its finding in chapter 4.10.1 *Schedule A.6.1* that Andžić's unit was subordinated to the VRS in May 1992 for the purpose of the 24 to 26 May 1992 attack on Kozarac. In this attack, Andžić's unit operated in cooperation with VRS units of the Banja Luka Corps, Duško Tadić, the 5th Kozara Brigade, the 6th Krajina Brigade commanded by Basara, and the Serb police from Prijedor. The Trial Chamber further recalls its finding in chapter 4.10.3 that with respect to the 30 May 1992 attack on Prijedor Town, this unit operated in cooperation with the 5th Kozara Brigade, the 43rd Motorized Brigade, some members of the 6th Krajina Brigade, the Prijedor police, and the Spare Ribs.

<sup>14458</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 133, 139; Witness RM-015, T. 17287-17288; P2366 (Order of the commander of the 6th Krajina Brigade, 1 June 1992).

<sup>14459</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 133; Witness RM-015, T. 17288-17289.

## SOS

3903. The Trial Chamber recalls its finding in chapters 4.12.3 and 8.9.2 that members of the SOS (i) at the end of May 1992, destroyed houses and four Muslim sacred sites in the Muslim villages of Vrhpolje and Hrustovo, (ii) destroyed one Muslim sacred site in the Muslim neighbourhood of Mahala, in cooperation with the TO, and (iii) destroyed three Muslim sacred sites and one Muslim cultural monument in the Muslim villages of Lukavice, Okreč, and Čirkići. The Trial Chamber further recalls its finding in chapters 4.12.3 and 8.9.2 that members of the SOS destroyed properties and businesses owned by non-Serbs, including Bosnian Muslims, in Sanski Most Town from the spring of 1992 until late May 1992. The Trial Chamber further recalls its finding in chapters 4.12.4 and 8.9.2 that in May and June 1992, the Sanski Most SOS plundered property belonging to the Bosnian-Muslim inhabitants of the Mahala neighbourhood.

3904. The Trial Chamber took judicial notice of a number of Adjudicated Facts related to the SOS.<sup>14460</sup> It also received evidence from **Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>14461</sup> as well as documentary evidence, and finds that this evidence is consistent with the Adjudicated Facts.<sup>14462</sup> It further received evidence from **Witness RM-015**, a Bosnian Serb from Sanski Most;<sup>14463</sup> **Witness RM-802**, a VRS officer;<sup>14464</sup> and **Ahmet Zulić**, a Bosnian Muslim from the village of Pobrježje near Sanski Most;<sup>14465</sup> **Branko Basara**, commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>14466</sup> **Mirzet Karabeg**, a Bosnian Muslim who served as the SDA President of the Executive Board of the Sanski Most Municipal Assembly from 1 January 1991 until 17 April 1992 and as the President of the Sanski Most War Presidency from 30 March 1993 until 15 March 1996;<sup>14467</sup> **Vinko Nikolić**, a member of the SOS from November 1991 to mid-May 1992 and a member of the Sanski Most

<sup>14460</sup> Adjudicated Facts I, no. 420 is reviewed in chapter 2.2.1. Adjudicated Facts I, nos 453-455 are reviewed in chapter 4.1.6. Adjudicated Facts I, no. 1151 is reviewed in chapter 4.12.6. Adjudicated Facts I, no. 1151 is reviewed in chapter 4.12.6.

<sup>14461</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398. The evidence of Witness RM-016 is reviewed in chapter 4.12.3.

<sup>14462</sup> **Witness RM-016**: Witness RM-016, T. 17413; **Documentary evidence**: P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), pp. 4-5.

<sup>14463</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111. Further relevant evidence of Witness RM-015 is reviewed in chapters 4.12.6.

<sup>14464</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet).

<sup>14465</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), p. 1, paras 1-3. The relevant evidence of Zulić is reviewed in chapter 4.12.3.

<sup>14466</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401.

Crisis Staff from its inception on 14 April 1992, where he held the position of transport commissioner since 19 June 1992;<sup>14468</sup> **Branko Davidović**, Assistant Commander for Morale, Legal Affairs, and Information of the 6th Krajina Brigade since June 1992;<sup>14469</sup> **Radoslav Daničić**, a driver for Branko Basara who was stationed in Sanski Most;<sup>14470</sup> **Nenad Davidović**, the Chief of Medical Service in the 6th Krajina Brigade from June 1992 until the end of the war;<sup>14471</sup> and **Bekir Delić**, a Bosnian Muslim from Sanski Most;<sup>14472</sup> as well as documentary evidence.

### *SOS in Sanski Most*

3905. **Mirzet Karabeg** stated that the SOS, a group of locals funded by the SDS, was used by the SDS so that ‘it would not be obvious that the SDS was doing these bad things’.<sup>14473</sup> SOS members wore camouflage uniforms with an ‘SOS’ emblem on their arms.<sup>14474</sup> The leaders of the SOS were Duško Saović a.k.a. Njunja, a person called Mudrinić a.k.a. Medeni, and Daniluško Kajtez, a.k.a. Dane Kajtez.<sup>14475</sup> **Vinko Nikolić** testified that the SOS was established in October or November 1991 and armed in April 1992, and that in mid-May 1992, all members of the SOS were placed under the command of the 6th Krajina Brigade as a sabotage or intervention platoon.<sup>14476</sup> The SOS was present in Sanski Most Municipality, in particular in September 1992.<sup>14477</sup> The SOS was comprised of SDS members and implemented instructions from the SDS at both the

<sup>14467</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 1-2; P3249 (Mirzet Karabeg, witness statement, 23 May 2002), pp. 1-2..

<sup>14468</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), paras 5, 28; Vinko Nikolić, T. 31248-31249; P7111 (Crisis Staff decision on the appointment of Vinko Nikolić as transport commissioner, 19 June 1992).

<sup>14469</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 1, 14-16; Branko Davidović, T. 26504.

<sup>14470</sup> D1321 (Radoslav Daničić, witness statement, 19 June 2014), paras 1, 5.

<sup>14471</sup> D897 (Nenad Davidović, witness statement, 4 March 2014), para. 3. The relevant evidence of Davidović is reviewed in 2.2.2.

<sup>14472</sup> P3432 (Bekir Delić, witness statement, 13 September 2001), pp. 1-2. The relevant evidence of Delić is reviewed in chapter 4.12.3.

<sup>14473</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 8.

<sup>14474</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 9.

<sup>14475</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 8-9. The Trial Chamber understands this Kajtez to be Daniluško Kajtez.

<sup>14476</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 28; P7112 (Report on the activities and participation in combat of the SOS according to the plan of the 6th Krajina Brigade, 4 September 1992), p. 1; P7114 (Report on the work and activities of the SOS between 1 May 1991 and 16 September 1992, 16 September 1992), p. 1.

<sup>14477</sup> D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 28; Vinko Nikolić, T. 31253; P7112 (Report on the activities and participation in combat of the SOS according to the plan of the 6th

republic and ARK level, and in doing so worked closely with the Crisis Staff.<sup>14478</sup> In April and May 1992, the SOS and the Serbian police, on the orders of the Crisis Staff, arrested 'extremists', armed Muslims, and SDA and HDZ leaders.<sup>14479</sup>

3906. **Witness RM-015** testified that the weapons storage department at the Sanski Most TO was also the logistics base of the SOS, which was formed at the end of 1991. The weapons storage department issued some materials to the SOS, such as blankets, rations, and military support equipment, but not weapons, and SOS members were sent to Dabarska Pečina and Kruhari for training by local Serb military instructors. The uniforms issued to the SOS were camouflage unlike the JNA camouflage uniforms, and SOS members wore different headpieces such as red berets, fur hats, and black bandanas. Some wore the Kokarda insignia and others wore the tri-colour star.<sup>14480</sup> According to the witness, the SOS was a group of undisciplined criminals whose objective was to commit robbery, and the only authority they respected was that of their commander, Duško Šaović, a.k.a. Njunja.<sup>14481</sup> Šaović's deputy was Duško Mudrinić, a.k.a. Medeni.<sup>14482</sup> There were approximately 33 members of the SOS, some of whom had previously been with the 6th Krajina Brigade but deserted when it returned from Korenice.<sup>14483</sup> These former brigade members were not disciplined by the military for desertion like their Muslim counterparts; these soldiers simply joined the SOS.<sup>14484</sup>

3907. During the first three months of 1992, the SOS was responsible for regular nightly explosions in Sanski Most which often resulted in the destruction of non-Serb businesses.<sup>14485</sup> Sometimes Serb businesses were even targeted by the SOS as a form of propaganda; the SOS wanted the Serb population to believe that Serb businesses were being targeted by Muslims.<sup>14486</sup> After the war, Witness RM-015 learned that in 1992,

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Krajina Brigade, 4 September 1992), p. 1; P7113 (Conclusions by the Crisis Staff of Sanski Most, 18 June 1992), para. 3.

<sup>14478</sup> Vinko Nikolić, T. 31255-31256; P7114 (Report on the work and activities of the SOS between 1 May 1991 and 16 September 1992, 16 September 1992), p. 3.

<sup>14479</sup> Vinko Nikolić, T. 31257-31259; P7114 (Report on the work and activities of the SOS between 1 May 1991 and 16 September 1992, 16 September 1992), pp. 2, 4.

<sup>14480</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 89.

<sup>14481</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 89-91.

<sup>14482</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 89. *See also* D892 (Vinko Nikolić, witness statement, 13 January 2014), para. 28; Vinko Nikolić, T. 31253; P7112 (Report on the activities and participation in combat of the SOS according to the plan of the 6th Krajina Brigade, 4 September 1992), p. 1; P7113 (Conclusions by the Crisis Staff of Sanski Most, 18 June 1992), para. 3.

<sup>14483</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 97; P2417 (List of 33 Sanski Most SOS members, 16 December 1995).

<sup>14484</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 97.

<sup>14485</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 100.

<sup>14486</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 100.

Mirko Delić threw a small explosive into the premises of Serb Dragan Lazić's business for this purpose.<sup>14487</sup> In approximately October 1992, Šaović reported to Vlado Vrkeš that he had done as ordered in Jajce and that Jajce had fallen.<sup>14488</sup> This convinced Witness RM-015 that the SOS was directly under the ultimate authority of the SDS.<sup>14489</sup>

3908. **Branko Basara** testified that there were extremist and paramilitary organisations under the command of the Serb part of the municipal leadership in the territory of Sanski Most, which advocated retaliation against Muslims for the events of 1941.<sup>14490</sup> According to the witness, it was difficult to find perpetrators of 'incidents' because at night, paramilitaries would come in and put on their balaclavas.<sup>14491</sup> One paramilitary group was the SOS, which was considered an illegal formation.<sup>14492</sup> According to the witness, this unit was not under the command of the VRS although the witness unsuccessfully tried to place them under his command so that 'they' could control their activities.<sup>14493</sup> The witness acknowledged that sometimes the SOS accepted the command of the brigade, however they also sometimes withdrew and Njunja never reported to the witness.<sup>14494</sup>

3909. **Branko Davidović** testified that the SDS set up the SOS, a paramilitary unit, within the TO.<sup>14495</sup> The witness believed that the SOS unit was part of the Sanski Most TO, of which Colonel Aničić was the commander.<sup>14496</sup> Aničić received orders from the Sanski Most Crisis Staff.<sup>14497</sup> There were no paramilitary formations in the 6th Krajina Brigade and paramilitary formations were not close to the brigade's command.<sup>14498</sup> The 6th Krajina Brigade and the SOS functioned independently of each other and had their own chain of command and subordination rules.<sup>14499</sup> When the SOS was disbanded in 1992, part of its personnel became members of the 6th Krajina Brigade.<sup>14500</sup> **Radoslav**

<sup>14487</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 100.

<sup>14488</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 91.

<sup>14489</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 91.

<sup>14490</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 8.

<sup>14491</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 25.

<sup>14492</sup> D1031 (Branko Basara, witness statement, 21 July 2014), paras 11, 26; Branko Basara, T. 34566.

<sup>14493</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 26; Branko Basara, T. 34566.

<sup>14494</sup> Branko Basara, T. 34566.

<sup>14495</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 28, 34.

<sup>14496</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 28, 34-35.

<sup>14497</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 35.

<sup>14498</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 38.

<sup>14499</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 35.

<sup>14500</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 28.

**Daničić** stated that in Sanski Most, Basara managed a conflict between the VRS and the SOS by integrating members of the SOS into the 6th Krajina Brigade.<sup>14501</sup>

3910. On 30 May 1992, the Sanski Most SOS issued a proclamation to the attention of the Sanski Most Crisis Staff, stating all of their actions had been undertaken to protect citizens and in agreement with ‘the legal authorities’, ‘the official bodies’, and the 6th Krajina Brigade Command.<sup>14502</sup> They stated that, due to hostile propaganda regarding the behaviour of the Sanski Most SOS that had been spread by ‘individual members of the present official authorities’, the Sanski Most SOS would leave Sanski Most and continue their fight for ‘the Serbian cause’ elsewhere.<sup>14503</sup>

3911. **Ahmet Zulić** stated that in April 1992, a War Presidency was set up in the municipality.<sup>14504</sup> Its members were Rašula, Milorad Krunić, a local police commander, or his brother Milan Krunić, a.k.a. ‘Buco’, and Boro Tadić.<sup>14505</sup> Tadić was in charge of the SOS within the War Presidency.<sup>14506</sup> **Mirzet Karabeg** stated that after April 1992, Basara called a series of meetings in surrounding villages and the town and presented himself as a neutral peacemaker who wanted to deal with the SDS and the SOS extremists.<sup>14507</sup>

#### *SOS in Banja Luka*

3912. The SOS paramilitary group under Nenad Stevandić, a member of the ARK Crisis Staff, was operative in Banja Luka in spring and summer 1992. It included convicted criminals and had links to SJB and CSB officials. Members of the SOS even acted as escorts for SDS leaders such as Radoslav Brđanin.<sup>14508</sup> **Witness RM-802** testified that Nenad Stevandić was in charge of the Sokol Society in Banja Luka, which formed armed paramilitary formations, and he was politically connected to the highest levels of the SDS including Karadžić and Brđanin.<sup>14509</sup> The SOS was part of the SDS ‘Party Army’.<sup>14510</sup> According to a 28 July 1992 report from Tolimir to be distributed to

<sup>14501</sup> D1321 (Radoslav Daničić, witness statement, 19 June 2014), paras 12-13.

<sup>14502</sup> P3845 (Sanski Most SOS, Proclamation, 30 May 1992).

<sup>14503</sup> P3845 (Sanski Most SOS, Proclamation, 30 May 1992).

<sup>14504</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 16.

<sup>14505</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 17.

<sup>14506</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 17.

<sup>14507</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 9.

<sup>14508</sup> Adjudicated Facts I, no. 308.

<sup>14509</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 34.

<sup>14510</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 35.

Karadžić, Mladić, Đeric, and the VRS Corps Commands' Departments of Intelligence and Security Affairs, the SOS from Banja Luka consisted of many infamous Banja Luka criminals, whilst the Banja Luka CSB exerted considerable influence over the group.<sup>14511</sup> Part of the SOS formations joined the Banja Luka CSB special police detachment, but they were not really under the control of the detachment's command or the CSB.<sup>14512</sup>

*The Trial Chamber's findings on the SOS*

3913. Based on the foregoing, the Trial Chamber finds that the SOS was a paramilitary unit established in late 1991. The SOS included local SDS members, some of whom had deserted from the 6th Krajina Brigade and some of whom were convicted criminals. They were heavily armed with automatic weapons and wore camouflage uniforms distinct from JNA uniforms. The Trial Chamber recalls its finding in chapter 4.12.3 that the SOS in Sanski Most Municipality was led by Dušan Saović, a.k.a. Njunja. The SOS in Banja Luka was led by Nenad Stevandić, a member of the ARK Crisis Staff. Saović's deputy was Duško Mudrinić, a.k.a. Medeni, and Daniluško Kajtez was also a leader.<sup>14513</sup>

3914. The SOS arrived in Sanski Most Municipality by early 1992 and was present there at least between April and September 1992. The SOS was supported by the SDS, had links to SDS leaders and to SJB and CSB officials, received material support from the Sanski Most TO and the Crisis Staff, and implemented instructions from the SDS and the Crisis Staff. The SOS was present in Banja Luka Municipality by 29 February 1992 and was operational in the municipality through the summer of 1992. As late as July 1992, the Banja Luka CSB exerted considerable influence over the SOS, and SOS units joined the Banja Luka CSB special police detachment. In mid-May 1992, the SOS was placed under the command of the 6th Krajina Brigade as a sabotage or intervention platoon, but SOS members did not always accept the command of the brigade. The SOS had severed ties with the brigade by approximately June 1992.

3915. The Trial Chamber recalls its finding in chapters 4.12.3 and 4.12.6 that in Sanski Most Municipality from the spring of 1992 until June 1992, the SOS operated in

<sup>14511</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), pp. 1, 4-6.

<sup>14512</sup> P3802 (Report on paramilitary formations by Tolimir, 28 July 1992), pp. 4-5.

cooperation with the 6th Krajina Brigade, paramilitary units subordinated to Branko Basara, the TO, and the local police; and that they were politically connected to Karadžić and Brđanin.

*Unnamed paramilitary units*

3916. The Trial Chamber recalls its findings in chapters 4.3.3, 4.3.7, 4.10.3, 4.11.2 *Schedule C.16.1*, 4.13.7, 7.12 *Schedule E.15.1*, 8.3.2, and 8.9.2 that unnamed paramilitary units perpetrated crimes covered by the Indictment. In the absence of any specificity as to the identity of these paramilitary units, the Trial Chamber will not further consider these incidents insofar as the unnamed paramilitary units are concerned.

*9.2.9 The role of the regional and municipal leadership*

3917. According to the Indictment, members of Bosnian-Serb government bodies at the republic, regional, municipal, and local levels, including crisis staffs, war presidencies, and war commissions, were members of an overarching JCE, which lasted from at least October 1991 until 30 November 1995, with the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through the crimes charged.<sup>14514</sup> In this chapter, the Trial Chamber will consider the alleged involvement of the crisis staffs, war presidencies, and war commissions, which comprised the regional and municipal leadership.

3918. The Defence argued that crisis staffs responded to local events and local interests; they were not coordinated in accordance with any common plan.<sup>14515</sup> Crisis staffs had ‘a tremendous amount of autonomy’, were governed by local personalities with local influence, and pursued their own agenda in defiance of state-level authorities.<sup>14516</sup> As for any relationship between the crisis staffs and the VRS, the Defence submitted that the crisis staffs’ formal chain of command was separate to the

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<sup>14513</sup> The Trial Chamber notes that it found Kajtez to have perpetrated killings in Sanski Most Municipality on 2 November 1995 (*see* chapter 4.12.1 *Schedule A.7.5*). The Trial Chamber found that, at the time, Kajtez was a soldier in the VRS 6th Krajina Brigade.

<sup>14514</sup> Indictment, paras 8, 11. According to the Indictment, some or all of these individuals were, alternatively, not members of the JCE but were used by members of the JCE to carry out crimes committed in furtherance of its objective. *See* Indictment, para. 11.

<sup>14515</sup> Defence Final Brief, paras 464, 467-475.

<sup>14516</sup> Defence Final Brief, paras 464-465.

VRS chain of command and the crisis staffs only commanded the TO.<sup>14517</sup> VRS personnel were not members of any crisis staff and were not involved in any crisis staff decision-making.<sup>14518</sup> The presence of any VRS personnel at crisis staff meetings was limited to matters such as updates on the combat situation and the provision of supplies to the VRS.<sup>14519</sup> Finally, the Defence pointed to fundamental disagreements between the VRS and the crisis staffs, including criticism from the VRS on the way in which municipal leaders struggled for power over military matters and tolerated inter-ethnic crimes.<sup>14520</sup>

3919. The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to the alleged involvement of the regional and municipal leadership in the alleged overarching JCE.<sup>14521</sup> It also received documentary evidence, and finds that this evidence is consistent with the Adjudicated Facts.<sup>14522</sup> The Trial Chamber further received evidence from **Dorothea Hanson**, a research officer for the Prosecution Leadership Research Team;<sup>14523</sup> **Nikola Erceg**, President of the ARK Executive Committee as of March 1992, a member of the ARK Crisis Staff as of May 1992, and a member of the Banja Luka War Presidency as of July 1995;<sup>14524</sup> **Predrag Radić**, President of the Banja Luka Municipal Assembly as of January 1991, a member of the SDS Main Board as of July 1991, a member of the ARK Crisis Staff as of 1992, and a member of the Banja Luka Crisis Staff;<sup>14525</sup> **Milorad Sokolović**, President of the Rogatica Crisis Staff from April 1992 until 25 June 1992 and President of the Executive Board of the Rogatica Municipality from May 1992 until October 1993;<sup>14526</sup> **Sveto Veselinović**, member of the SDS and the Rogatica Crisis Staff;<sup>14527</sup> **Milan Tupajić**,

<sup>14517</sup> Defence Final Brief, paras 478-491.

<sup>14518</sup> Defence Final Brief, paras 493-495, 497-498.

<sup>14519</sup> Defence Final Brief, paras 495-501.

<sup>14520</sup> Defence Final Brief, paras 502-508.

<sup>14521</sup> Adjudicated Fact I nos 419 and 420 are reviewed in chapter 2.2.1.

<sup>14522</sup> P7087 (Certificate of Dragan Đokanović's appointment as State Commissioner by Karadžić, 10 June 1992).

<sup>14523</sup> P378 (Dorothea Hanson, *curriculum vitae*), p. 1; Dorothea Hanson, T. 4141..

<sup>14524</sup> D982 (Nikola Erceg, witness statement, 21 November 2013), paras 1-2.

<sup>14525</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), pp. 7364, 7378-7379; P4337 (Official Gazette, Decision on the formation of the ARK Crisis Staff, 5 May 1992), p. 1.

<sup>14526</sup> D652 (Milorad Sokolović, witness statement, 6 June 2014), paras 7, 15-16; Milorad Sokolović, T. 26014, 26029, 26054, 26057; P6776 (Bosnian-Serb MUP official note, 17 June 2004), p. 1.

<sup>14527</sup> D770 (Sveto Veselinović, witness statement, 15 February 2013), paras 1, 3, 13, 15, 22; Sveto Veselinović, T. 28226, 28248-28250, 28258; P6906 (*Politika* article, 5 July 1991), p. 1; P6908 (Decision on the appointment of Sveto Veselinović as member of the Crisis Staff of the Serb Municipality of Rogatica, 24 May 1992); D774 (Decision of the Rogatica Municipal Executive Committee on the appointment of Sveto Veselinović as Secretary of the Secretariat in the Municipal Public Revenue Administration, 18 February 1991).

President of the Sokolac Municipal Assembly from 1991 and President of the Sokolac Crisis Staff from April 1992 until 1996;<sup>14528</sup> **Slavko Mijanović**, President of the Commission for the Allocation of Flats for Temporary Use in Ilidža during the war;<sup>14529</sup> **Mevludin Sejmenović**, the Vice-President of the SDA in Prijedor from 1990 to 1992;<sup>14530</sup> **Mirzet Karabeg**, a Bosnian Muslim who served as the SDA President of the Executive Board of the Sanski Most Municipal Assembly from 1 January 1991 until 17 April 1992 and as the President of the Sanski Most War Presidency from 30 March 1993 until 15 March 1996;<sup>14531</sup> **Mane Đurić**, Head of the SJB Vlasenica as of 20 May 1992;<sup>14532</sup> **Vladimir Radojčić**, the Commander of the VRS Ilidža Brigade between January 1993 and the end of the war;<sup>14533</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>14534</sup> **Nenad Davidović**, the Chief of Medical Service in the 6th Krajina Brigade from June 1992 until the end of the war;<sup>14535</sup> **Branko Davidović**, Assistant Commander for Morale, Legal Affairs, and Information of the 6th Krajina Brigade since June 1992;<sup>14536</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of the war;<sup>14537</sup> **Rade Javorić**, Commander of the Prijedor TO staff since 16 September 1991;<sup>14538</sup> **Grujo Borić**, Commander of the 2KK from July 1992 to December 1994;<sup>14539</sup> **Witness RM-709**, a Bosnian Muslim who deserted from the JNA in February 1992 and joined a Muslim TO;<sup>14540</sup> **Muhamed Filipović**, a Bosnian-Muslim resident of Ključ;<sup>14541</sup> **Ahmet**

<sup>14528</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15321, 15469, 15471; P3182 (Letter of resignation by Milan Tupajić, 9 October 1992).

<sup>14529</sup> D799 (Slavko Mijanović witness statement, 19 January 2013), paras 1, 6; Slavko Mijanović, T. 28816.

<sup>14530</sup> P283 (Mevludin Sejmenović, witness statement, 13 August 2012), para. 4.

<sup>14531</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), pp. 1-2; P3249 (Mirzet Karabeg, witness statement, 23 May 2002), pp. 1-2.

<sup>14532</sup> Mane Đurić, T. 27630.

<sup>14533</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 1.

<sup>14534</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401. The evidence of Branko Basara is also reviewed in chapter 9.2.7.

<sup>14535</sup> D897 (Nenad Davidović, witness statement, 4 March 2014), para. 3.

<sup>14536</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 14-16; Branko Davidović, T. 26504.

<sup>14537</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4. The evidence of Miloš Šolaja is reviewed in chapter 3.1.1.

<sup>14538</sup> D895 (Rade Javorić, witness statement, 26 June 2014), paras 2, 6; Rade Javorić, T. 31424.

<sup>14539</sup> Grujo Borić, T. 34580-34581, 34586, 34599-34600, 34608.

<sup>14540</sup> P3437 (Witness RM-709, witness statement, 6 June 2000), pp. 1-4; P3438 (Witness RM-709, witness statement, 16 February 2002), pp. 1-2; P3439 (Witness RM-709, witness statement, 26 October 2002), pp. 1-2.

<sup>14541</sup> P3133 (Muhamed Filipović, witness statements), witness statement of 24 May 1997, pp. 1-2, witness statement, of 13 March 2001, p. 1.

**Zulić**, a Bosnian Muslim from the village of Pobježje near Sanski Most;<sup>14542</sup> **Bekir Delić**, a Bosnian Muslim from Sanski Most;<sup>14543</sup> **Adil Draganović**, a Muslim Judge, President of the Sanski Most Municipal Court, who was detained in Manjača camp from 17 June 1992 to 14 December 1992;<sup>14544</sup> **Witness GRM-014**, a Serb from Ključ Municipality;<sup>14545</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka;<sup>14546</sup> and **Witness RM-513**, a Bosnian Serb from Bijeljina.<sup>14547</sup>

3920. This evidence is in addition to the evidence reviewed, and the subsequent findings made, in chapters 2.2.1 and 2.2.2 on the establishment and structure of regional and municipal crisis staffs, war presidencies, and war commissions. It is also in addition to the evidence on crimes committed in the Municipalities, reviewed in chapter 4.

*The role of the VRS personnel on crisis staffs*

3921. The Trial Chamber will now focus on the alleged membership of VRS personnel in regional and municipal crisis staffs, war presidencies, and war commissions. Most of the evidence received by the Trial Chamber concerned the ARK Crisis Staff and municipal political structures in Sanski Most Municipality.

3922. **Rade Javorić** testified that he was not a member of the crisis staff, nor was anybody from the military.<sup>14548</sup> **Witness GRM-014** testified that by 21 May 1992, VRS officer Colonel Milenko Milojević was attending Ključ Crisis Staff meetings, but did not vote and was not one of its members.<sup>14549</sup> **Vladimir Radojčić** testified that at one point he was a member of the Ilidža War Presidency so that he could provide information about the army's logistical needs.<sup>14550</sup> **Milorad Sokolović** testified that the role of the Rogatica Crisis Staff was to prevent conflict, supply the army, provide

<sup>14542</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), p. 1, paras 1-3.

<sup>14543</sup> P3432 (Bekir Delić, witness statement, 13 September 2001), pp. 1-2. The evidence of Bekir Delić is reviewed in chapter 9.2.8.

<sup>14544</sup> P3293 (Adil Draganović, witness statements), witness statement of 30 October 1999, pp. 1-2, 7, 10, 12, witness statement of 6 October 2000, p. 1, witness statement of 7 July 2000, pp. 1, 3.

<sup>14545</sup> D869 (Witness GRM-014, witness statement, 17 June 2014), p. 1, paras 1-2; Witness GRM-014, T. 30331; D868 (Pseudonym sheet for Witness GRM-014).

<sup>14546</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398.

<sup>14547</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6.

<sup>14548</sup> Rade Javorić, T. 31488.

<sup>14549</sup> Witness GRM-014, T. 30364, 30405; P7038 (Notes of SDS meetings including events in Ključ area, February-July 1992), pp. 18-19.

<sup>14550</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 66.

necessities for refugees and displaced people, and establish authority.<sup>14551</sup> It did not deal with, and was not informed of, operational military and police tasks.<sup>14552</sup>

3923. **Nikola Erceg** testified that the ARK Crisis Staff's expanded meetings were attended by ARK Crisis Staff members, members of municipal crisis staffs, and representatives of municipal departments, such as health care or education, and that at times there would be 40-50 people present.<sup>14553</sup>

3924. Adjudicated Facts numbers 419 and 420, which formed the basis of the Trial Chamber's findings on the non-VRS members of the ARK Crisis Staff, were also discussed in chapter 2.2.1. However, among the core members of the ARK Crisis Staff, such as the Head of the Banja Luka CSB Stojan Župljanin, Nenad Stevandić, who was the head of the SOS, and Slobodan Dubočanin, who was connected with the SOS and the Special Intervention Squad, there were VRS members: the Commander of the First Krajina Corps of the VRS General Momir Talić and VRS Air Force officer Major Zoran Jokić.<sup>14554</sup>

3925. According to an excerpt from a Prosecution interview with **Grujo Borić**, Borić stated that crisis staffs would comprise, *inter alios*, the Chief of the local MUP and a representative of the army, usually the commander or his deputy.<sup>14555</sup>

3926. With regard to Sanski Most Municipality specifically, **Witness RM-016** testified that the Sanski Most Crisis Staff, later renamed the war presidency, was the highest authority in the municipality in 1992 and had absolute powers.<sup>14556</sup> The crisis staff was composed of Neđeljko Rašula, president of the crisis staff, Vlado Vrkeš, president of the SDS, Mirko Vručinić, chief of police, Colonel Aničić, liaison between the military and civilian authorities in Sanski Most, and Branko Basara, Commander of the 6th Krajina Brigade.<sup>14557</sup> **Ahmet Zulić** stated that the members of the Sanski Most War Presidency were Rašula, Milorad Krunić, a local police commander, or his brother Milan Krunić, a.k.a. Buco, and Boro Tadić. Boro Tadić was in charge of the SOS within the Sanski

<sup>14551</sup> D652 (Milorad Sokolović, witness statement, 6 June 2014), para. 8; P6773 (Report by the Rogatica Executive Board on the current situation in the area of the Rogatica Municipality, 26 June 1992), p. 3; P6776 (Bosnian-Serb MUP official note, 17 June 2004), p. 1.

<sup>14552</sup> Milorad Sokolović, T. 26064-26065, 26068; P6776 (MUP official note, 17 June 2004), p. 1.

<sup>14553</sup> D982 (Nikola Erceg, witness statement, 21 November 2013), paras 74-75; Nikola Erceg, T. 34000.

<sup>14554</sup> Adjudicated Facts I, nos 419-420.

<sup>14555</sup> P7331 (Excerpts from transcript of Prosecution interview of Grujo Borić, 21-23 April 2004), pp. 11-12, 17-18.

<sup>14556</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 53, 56.

Most War Presidency.<sup>14558</sup> **Mirzet Karabeg** stated that the Sanski Most Crisis Staff was composed of Branko Basara; SDS representatives; the Serb chief of police, Drago Majkić; and the commanders of the TO.<sup>14559</sup> **Adil Draganović** stated that a Serb Crisis Staff, presided over by Neđeljko Rašula, was set up on 14 April 1992.<sup>14560</sup> On 16 April 1992, the Serb Assembly of Sanski Most adopted its statute and appointed Milan Ivanić as acting Chief of the SJB and Neđeljko Aničić as acting commander of the Serb TO.<sup>14561</sup>

3927. **Karabeg** stated that in March 1992, Basara, Commander of the 6th Krajina Brigade, began attending Municipal Assembly meetings and explaining that his role, as a military representative, was to protect non-Serbs from what he called the 'extremist wing of the SDS', meaning Vrkeš, Rašula, and Savanović.<sup>14562</sup> On or around 20 April 1992, the witness was given a message from Rašula that 'the doors of the Municipal Building would remain closed' to him. Following this, Mladen Lukić was appointed President of the Executive Board of 'Serbian Sanski Most', taking over the position from the witness. Neđeljko Aničić, a Serb, took over the position as head of the TO from Nijaz Hadžić, a Muslim, and Mirko Vručinić became the Chief of the Police. After April 1992, Basara called a series of meetings in surrounding villages and the town and presented himself as a neutral peacemaker who wanted to deal with the SDS and the SOS extremists.<sup>14563</sup>

3928. According to the conclusions of the Sanski Most Crisis Staff on 30 May 1992, on 30 May 1992, the Sanski Most Crisis Staff consisted of, *inter alios*, Branko Basara, 6th Krajina Brigade Commander, Mirko Vručinić, SJB Chief, and Neđo Aničić, TO Commander.<sup>14564</sup>

3929. On 18 June 1992, the Sanski Most Crisis Staff adopted conclusions that set out that the seven permanent members of the Crisis Staff were Mladen Lukić, Neđeljko Rašula, Vlado Vrkeš, Mirko Vručinić, Neđo Aničić, Boro Savanović, and Branko

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<sup>14557</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 53, 60; P2376 (Clarifications to statement of Witness RM-016).

<sup>14558</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), paras 3, 17.

<sup>14559</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 3.

<sup>14560</sup> P3293 (Adil Draganović, witness statements), witness statement of 30 October 1999, p. 4, witness statement of 6 October 2000, p. 4; P3294 (Diary of Neđeljko Rašula, entries from 28 December 1991-14 April 1992), p. 20.

<sup>14561</sup> P3294 (Diary of Neđeljko Rašula, entries from 28 December 1991-14 April 1992), pp. 21-22.

<sup>14562</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 3.

<sup>14563</sup> P3248 (Mirzet Karabeg, witness statement, 25 July 1999), p. 9.

<sup>14564</sup> P404 (Conclusions of the Sanki Most Crisis Staff, 30 May 1992), p. 1.

Basara. Five persons were appointed as commissioners: Nenad Davidović as Commissioner for Health and Chief of the 6th Krajina Brigade Medical Corps; Nemanja Tripković as Commissioner for Primary and Secondary Education; Vinko Nikolić as Commissioner for Transport; Milenko Stojinović as Commissioner for Civilian Protection Affairs; and Boro Tadić as Commissioner for National Defence.<sup>14565</sup>

3930. **Branko Basara** testified that he attended certain meetings of the Crisis Staff and tried to influence the decision making process, but he was not a member of this body and did not take part in the actual decision-making.<sup>14566</sup>

3931. **Branko Davidović** testified that officers of the 6th Krajina Brigade, including the witness, were army representatives who sometimes attended Sanski Most Crisis Staff meetings. They did not have the right to vote, did not participate in the decision-making process, and were not members of the Sanski Most Crisis Staff.<sup>14567</sup> According to the witness, brigade commander Basara attended some meetings even though he was not a member of the Sanski Most Crisis Staff or an SDS member.<sup>14568</sup>

*The relationship between the regional and municipal leadership and military and police structures*

3932. The Trial Chamber received the following evidence on the nature of the alleged relationship between the regional and municipal leadership and military structures. **Dorothea Hanson** testified that the coordination and cooperation between the crisis staffs and the VRS differed from municipality to municipality.<sup>14569</sup> While some municipalities did not in any way limit the military authority of crisis staffs, others explicitly distanced themselves from any direct military command.<sup>14570</sup> For example, on 26 June 1992, the Kotor Varoš Crisis Staff publicized that while it required the police and the army to secure safe conditions in the municipality, it did not have the right to interfere in their professional work, nor did it wish to do so.<sup>14571</sup> Some crisis staffs

<sup>14565</sup> P4161 (Conclusions on composition Sanski Most Crisis Staff, 19 June 1992), p. 1.

<sup>14566</sup> Branko Basara, T. 34464, 34559.

<sup>14567</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 40.

<sup>14568</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 40; Branko Davidović, T. 26550-26551.

<sup>14569</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 76, 78-79, 81, 84.

<sup>14570</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 78-79.

<sup>14571</sup> P3698 (Bulletin of the Kotor Varoš Crisis Staff, 26 June 1992), pp. 1-3.

interpreted the government and party instructions in a manner that gave them command authority, set tasks for the military, issued orders, and claimed authority over military units in their municipality.<sup>14572</sup> In some cases, crisis staff leaders styled themselves commanders and took control over local forces to the point of assuming direct command of local units.<sup>14573</sup> Despite local differences, the cooperation and coordination offered by the crisis staffs were essential to the VRS and its operations; they provided the recruits, supplies, material, and moral support without which the military units could not have operated.<sup>14574</sup>

3933. On 26 April 1992, Branko Đerić, head of the Bosnian-Serb Government, issued instructions for the work of the crisis staffs.<sup>14575</sup> One of the instructions was that the crisis staffs shall consist of members, each of whom has an individual responsibility. These members included the commander of the TO, chief of the MUP, as well as members responsible for war crimes and damage. The instructions further stipulated that command of the TO and police forces were exclusively within the competence of professional personnel and any interference should be prevented.<sup>14576</sup>

3934. In the introduction to an order issued by Mladić on 4 June 1992, Mladić stated that local leadership loved power and self-advertisement, which resulted in casualties, massacres, and looting that seriously damaged the struggle.<sup>14577</sup> On 9 June 1992, General Talić informed the VRS Main Staff that the unwillingness of authorities in Prijedor, Sanski Most, and Ključ to deal with the refugee problem, the slow process of disarmament, and economic inertia unfavourably affected the morale of the First Krajina Corps.<sup>14578</sup>

3935. The Trial Chamber received evidence from **Hanson** on the dissolution of the crisis staffs in July 1992. She testified that by July 1992, the VRS structures were

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<sup>14572</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 81. *See also* P3779 (Minutes of the Prijedor SDS Municipal Board, 23 April 1992); P3982 (Decision of the SAO Birač Crisis Staff on the proclamation of the state of war, 29 April 1992).

<sup>14573</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), paras 69, 81.

<sup>14574</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 85.

<sup>14575</sup> P408 (Bosnian-Serb Government Instructions for the Work of Crisis Staffs of the Serbian People in Municipalities, 26 April 1992).

<sup>14576</sup> P408 (Bosnian-Serb Government Instructions for the Work of Crisis Staffs of the Serbian People in Municipalities, 26 April 1992), p. 1.

<sup>14577</sup> P4381 (VRS Main Staff order, 4 June 1992), p. 2.

<sup>14578</sup> P3902 (First Krajina Corps Command report, 9 June 1992), p. 2.

sufficiently robust that the Minister of Defence also called for the abolition of the crisis staffs; noting that there was no legal basis for their creation and that the lack of regulation of the relationship with the military hindered military operations.<sup>14579</sup> **Miloš Šolaja** provided similar evidence, reviewed in chapter 3.1.1. In a research article on the abolition of the crisis staff on 7 July 1992, he outlined that the jurisdiction of the crisis staffs and military organs were not always clearly delineated, so minor misunderstandings occurred.<sup>14580</sup>

3936. According to a report to the 1KK Command, on 3 February 1993, problems caused by insufficient coordination and cooperation between the authorities and the army command on the one hand, and the military police and the civilian police on the other hand, were identified.<sup>14581</sup>

3937. The Trial Chamber also received evidence about the situation in specific municipalities.

3938. **Milan Tupajić** stated that in execution of a Sokolac Crisis Staff order dated 21 April 1992, the Municipal Secretariat for National Defence of Sokolac Municipality took legal measures against Serbs who did not respond to the call for mobilization, such as filing reports and having the military police bring people in.<sup>14582</sup>

3939. On 29 April 1992, the Trnovo SDS Crisis Staff Municipal Committee held a meeting, at which Radivoje Drašković, Danilo Golijanin, Gliša Simanić, Rade Ivanović, Nedo Vlaški, Anđelko Milić, Savo Vlačić, Dragan Klepić, and Radmilo Golijanin were present.<sup>14583</sup> Radivoje Drašković stated that they agreed with the JNA representatives, who were to get involved in the ‘cleaning up’ of the municipality, and that they had to make the ground ready for APCs and tanks, as the APCs and tanks were good for ‘psychological effect’. He also stated that they had to work on psychological and propaganda activities.<sup>14584</sup>

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<sup>14579</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 84. *See also* D924 (Miloš Šolaja, witness statement, 11 June 2014), paras 27-28; D925 (Glas Press Article, 7 July 1992), p. 1.

<sup>14580</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 28; D925 (Glas Press Article, 7 July 1992), p. 1.

<sup>14581</sup> P3769 (Report of the Assistant Commander for Civilian Affairs to the First Krajina Corps Command, 16 February 1993), p. 1.

<sup>14582</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15340-15343; P3173 (Order by the Sokolac Municipality Crisis Staff concerning TO and JNA deserters, 21 April 1992).

<sup>14583</sup> P4943 (Minutes of SDS Trnovo Crisis Staff Municipal Committee meeting, 29 April 1992), p. 1.

<sup>14584</sup> P4943 (Minutes of SDS Trnovo Crisis Staff Municipal Committee meeting, 29 April 1992), p. 2.

3940. **Mevludin Sejmenović** testified that when the VRS was created, the relationship between the Prijedor Crisis Staff and the military became more direct than it had been under the JNA. The Prijedor Crisis Staff could decide to militarily intervene in a particular village, as it did in Hambarine.<sup>14585</sup>

3941. On 8 May 1992, General Talić informed the President of the ARK Assembly that he was dissatisfied with the cooperation provided by the municipal organs in Ključ Municipality to the JNA units in the area. He was concerned about extremism in the municipality, such as self-proclaimed 'Vojvodas' and 'Chetnik' units, the killing of two Muslims for unknown reasons, and attempts by the President of the Ključ Municipal Assembly to exercise command over the JNA units in the area.<sup>14586</sup>

3942. According to the minutes of the Ključ Crisis Staff meeting on 16 June 1992, following the conclusions of the ARK Crisis Staff, the Ključ Crisis Staff would remain the highest authority and it would cooperate fully with the military command and the Ključ SJB.<sup>14587</sup>

3943. On 11 May 1992, the SDS Vogošća Crisis Staff, following the announcement on the mobilization of the Serb TO Vogošća, requested all conscripts from the territory of Vogošća aged 16 to 60 to report immediately to the TO Command for mobilization and deployment.<sup>14588</sup>

3944. **Nenad Davidović** testified that Neđeljko Rašula commanded the SOS and TO units as well as the police.<sup>14589</sup> The Sanki Most Crisis Staff was superior to the TO and its units.<sup>14590</sup> According to minutes of the meeting of the Executive Committee of the Municipal Assembly dated 27 July 1992, Vlado Vrkeš advised that the 'soldiers' and the people of Sanski Most Municipality 'required' the crisis staff to make Sanski Most a Serb town.<sup>14591</sup>

<sup>14585</sup> P283 (Mevludin Sejmenović, witness statement, 13 August 2012), para. 23.

<sup>14586</sup> D1138 (Note from General Talić of the Banja Luka 5th Corps Command to the President of the ARK Assembly, 8 May 1992).

<sup>14587</sup> P3758 (Compilation of minutes from the sessions of the Ključ Municipal Assembly Crisis Staff, 27-30 May, 1-6 June, 9 June, 16-18 June, 24 June, 30 June, 10 July), pp. 16, 18.

<sup>14588</sup> P4948 (Call for mobilization by Jovan Tintor, President of the SDS Vogošća Crisis Staff, 11 May 1992), p. 1.

<sup>14589</sup> D897 (Nenad Davidović, witness statement, 4 March 2014), paras 15-16.

<sup>14590</sup> D897 (Nenad Davidović, witness statement, 4 March 2014), para. 15.

<sup>14591</sup> P7116 (Minutes of the Executive Committee of the Sanski Most Municipal Assembly, 27 July 1992), pp. 3-4.

3945. The Trial Chamber received evidence from **Branko Davidović**, reviewed in chapter 3.1.2, that the brigade command was under the sole and exclusive command of the corps commander from Banja Luka.<sup>14592</sup> According to the witness, there were attempts by SDS leaders to exert influence over the military but that never materialised and the Sanski Most Crisis Staff could not issue orders to an officer belonging to the First Krajina Corps.<sup>14593</sup>

3946. The Trial Chamber recalls the evidence of Basara, reviewed in chapter 9.2.7, on the limited involvement of the 6th Krajina Brigade with the municipal authorities and attempts by the municipal authorities to interfere in the work of the brigade.

3947. According to a report from the 2nd Military District Reserve Command on 6 April 1992, the unit had maintained ‘constant contact and coordination of operations’ with the Pale Crisis Staff.<sup>14594</sup> According to a letter from the Executive Committee of the Rogatica Municipality dated 30 November 1992, the First Podrinje Light Infantry Brigade was invited to discuss with the civilian authorities any existing problems concerning, among others, mobilization and the provision of supplies to the army by these authorities.<sup>14595</sup> However, according to **Milorad Sokolović** the Executive Committee never received any professional assignments from the MUP or the military, except in terms of requests for logistical support.<sup>14596</sup>

3948. **Witness RM-513** testified that when the Bijeljina Crisis Staff evolved into the Bijeljina War Presidency, it took command of the defence and military forces, cooperating with the JNA.<sup>14597</sup>

3949. **Radojčić** testified that civilian authorities were not expected to interfere in command and military matters, and the President of Ilidža Municipality did not exercise any command and control or have any jurisdiction over the Ilidža Brigade.<sup>14598</sup>

3950. **Slavko Mijanović** testified that on 5 July 1992, the Ilidža War Commission adopted regulations on allocating flats for temporary use and, pursuant to the regulations, the Commission for the Allocation of Flats for Temporary Use was

<sup>14592</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 34.

<sup>14593</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 34; Branko Davidović, T. 26516, 26548.

<sup>14594</sup> P3795 (Report from the 2nd Military District Reserve Command signed by Branko Filipović, 6 April 1992).

<sup>14595</sup> P6775 (Rogatica Executive Board letter, 30 November 1992), pp. 1-2.

<sup>14596</sup> Milorad Sokolović, T. 26067.

<sup>14597</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 14-16.

founded, with the witness as president.<sup>14599</sup> Further in accordance with the regulations, flats were allocated to homeless families of VRS soldiers and members of the MUP in Ilidža Municipality who had been killed or wounded; families of VRS soldiers and members of the MUP in Ilidža Municipality from places under Muslim control; and families of VRS soldiers and members of the MUP in Ilidža Municipality whose houses had been demolished and were not fit for habitation.<sup>14600</sup>

3951. In respect of the nature of the alleged relationship between the regional and municipal leadership and police structures, **Hanson** testified on the closer and clearer ties between the police and the crisis staffs than between the military and the crisis staffs.<sup>14601</sup> In this respect, Hanson testified that by July 1992, the higher levels of the MUP began to express the need for clearer delineation of authority between local political leaders and the police, complaining of an ‘interference in local politics’ and ‘interventions and tampering’ by local governments.<sup>14602</sup> According to Hanson, the police were also crucial to the establishment and maintenance of Serb power on the ground.<sup>14603</sup> As the police were based in and materially supported by the municipalities, their ties with the crisis staff were closer and clearer than those of the military.<sup>14604</sup> Bosnian-Serb legislation stipulated that municipal police stations were to be tasked by, and report to, the MUP and the municipal assembly.<sup>14605</sup> The police were under the control of the civilian authority.<sup>14606</sup> Crisis staffs were further instructed to recruit active and reserve police forces, order their activation, and name new staff to run the Serb police stations.<sup>14607</sup> The crisis staffs enabled the creation of Serb police forces in the

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<sup>14598</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 66.

<sup>14599</sup> D799 (Slavko Mijanović witness statement, 19 January 2013), para. 6; Slavko Mijanović, T. 28817; P6942 (War Commission of Ilidža Serb Municipality, Regulations on allocating flats for temporary use, 5 July 1992).

<sup>14600</sup> D799 (Slavko Mijanović witness statement, 19 January 2013), para. 7; Slavko Mijanović, T. 28821-28822; P6942 (War Commission of Ilidža Serb Municipality, Regulations on allocating flats for temporary use, 5 July 1992), Arts 6-7.

<sup>14601</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 87-89, 91-92.

<sup>14602</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 93.

<sup>14603</sup> P379 (Dorothea Hanson, Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 87.

<sup>14604</sup> P379 (Dorothea Hanson, Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 87.

<sup>14605</sup> P379 (Dorothea Hanson, Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 89.

<sup>14606</sup> P379 (Dorothea Hanson, Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), paras 89, 92.

<sup>14607</sup> P379 (Dorothea Hanson, Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 88.

municipalities, including the firing of non-Serbs.<sup>14608</sup> CSBs regularly reported information to municipal and regional government organs.<sup>14609</sup> By July 1992, however, the higher levels of the MUP began to express the need for clearer delineation of authority between local political leaders and the police, complaining of an ‘interference in local politics’ and ‘interventions and tampering’ by local governments.<sup>14610</sup> While the police’s task was to ensure the functioning of the crisis staffs, the crisis staffs’ task was to ensure local security and safety.<sup>14611</sup> While the crisis staffs could issue orders to the police, the commander of the police was a member of the crisis staff.<sup>14612</sup> As well as overlap at the municipal level, the crisis staff and police were responsible to the same organs at the republican level, the government and the Presidency.<sup>14613</sup> According to Hanson, the common purpose of all was to establish and maintain Serb power in the municipalities.<sup>14614</sup>

3952. **Mane Đurić** testified that the Vlasenica Crisis Staff, which was established in early April 1992, included the SJB Chief.<sup>14615</sup> According to **Hanson**, once a ‘purely Serb’ police force was established, the crisis staffs issued orders to, and received reports from, their municipal police force, including on the disarming of the non-Serb population.<sup>14616</sup> On 20 April 1992, the Sokolac Crisis Staff ordered the Sokolac SJB, together with JNA security organs, to identify those involved in the theft of military equipment from Faletići.<sup>14617</sup>

<sup>14608</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 91.

<sup>14609</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 92.

<sup>14610</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 93.

<sup>14611</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 94.

<sup>14612</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 94.

<sup>14613</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 94.

<sup>14614</sup> P379 (Dorothea Hanson, *Bosnian Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 94.

<sup>14615</sup> D732 (Mane Đurić, witness statement, 30 July 2014), paras 8-9.

<sup>14616</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 91.

<sup>14617</sup> P3174 (Order by the Sokolac Crisis Staff, 20 April 1992).

*The relationship between the regional and municipal leadership and the Bosnian-Serb leadership*

3953. **Hanson** testified that the SDS used the crisis staffs as party organs, and the crisis staffs claimed the authority of a collective municipal presidency.<sup>14618</sup> The SDS trusted the crisis staffs to operate based on their own initiative, in accordance with SDS policies, until the full functioning of the municipal organs of the new Bosnian-Serb state could be ensured.<sup>14619</sup> The crisis staffs cited the regional crisis staffs, the Bosnian-Serb Assembly, the Bosnian-Serb Presidency, and government orders and decisions as justification for their actions, including moving non-Serbs out of the municipalities.<sup>14620</sup>

3954. A list of commissioners was drawn up on 10 June 1992 and included Dragan Đokanović, Nikola Poplašen, Milimir Mučibabić, Miroslav Radovanović, Jovan Tintor, and Danilo Veselinović. Soon thereafter, Dragan Đokanović was appointed state commissioner for Zvornik, Vlasenica, Skelani, Bratunac, Šekovići, and Novo Sarajevo.<sup>14621</sup> Karadžić appointed a state commissioner for Ildiža Municipality on 21 August 1992.<sup>14622</sup> The appointed municipal war commissions were to act in accordance with the decision on the formation of war commissions in municipalities during a state of an imminent threat of war or war, dated 10 June 1992.<sup>14623</sup>

3955. On 17 June 1992, Karadžić confirmed members of the Vlasenica War Commission and the Bratunac War Commission.<sup>14624</sup> On 23 and 25 June 1992, Karadžić confirmed members of the Sokolac War Commission and the Pale War Commission, which included Biljana Plavšić.<sup>14625</sup> On 20 July 1992, Karadžić confirmed members of

<sup>14618</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 13.

<sup>14619</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 15.

<sup>14620</sup> P379 (Dorothea Hanson, *Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995*, July 2012), para. 62.

<sup>14621</sup> Adjudicated Facts I, no. 400.

<sup>14622</sup> P3804 (Certificate appointing a state commissioner for Ildiža, signed by Radovan Karadžić, 21 August 1992).

<sup>14623</sup> P3041 (Decision on appointment of the Pale war commission, 25 June 1992); P3045 (Decision on appointment of the municipal war commission, 17 September 1992); P3046 (Decision on appointment of the Vlasenica war commission, 17 June 1992); P3047 (Decision on appointment of the Rogatica war commission, 20 July 1992); P7087 (Certificate of Dragan Đokanović's appointment as State Commissioner by Karadžić, 10 June 1992).

<sup>14624</sup> P3046 (Decision on appointment of the Vlasenica war commission, 17 June 1992); P3935 (Appointment of the War Commission of Bratunac, 17 June 1992).

<sup>14625</sup> P3859 (Decision establishing the War Commission of Sokolac, 23 June 1992); P3041 (Decision on appointment of the Pale war commission, 25 June 1992).

the Rogatica War Commission, including the appointed republican commissioner.<sup>14626</sup>

On 1 September 1992, Karadžić issued a decision that the organs of civilian and military authorities in the Bosnian-Serb Republic were required to cooperate with Mirko Mijatović, Commissioner of the Bosnian-Serb Presidency for Foča, Čajniče, Rudo, and Višegrad Municipalities, in the performance of the commissioner's tasks, and to provide him with accommodation, food, fuel, and personal security in their municipalities.<sup>14627</sup>

On 17 September 1992, Karadžić confirmed members of the Višegrad War Commission as well as another municipal war commission.<sup>14628</sup>

3956. **Predrag Radić** testified that he asked the JNA to help him establish communication lines with Pale about five times during the blockade, which lasted for about two months, from April until 26 June 1992.<sup>14629</sup>

3957. **Witness RM-016** testified that the ARK Crisis Staff in Banja Luka was in absolute control of the decisions and events occurring in the ARK region and Neđeljko Rašula, President of the Sanski Most Crisis Staff, communicated directly with the ARK Crisis Staff.<sup>14630</sup> From May to August 1992, the ARK Crisis Staff was the organ of authority in Banja Luka.<sup>14631</sup> The SDS controlled powerful positions in organs of authority, the police, the army, and civilian structures.<sup>14632</sup> **Nenad Davidović** testified that Rašula was also the main liaison between the Sanski Most Crisis Staff and the ARK Crisis Staff.<sup>14633</sup>

3958. The Trial Chamber also received the following evidence on the alleged specific links between municipal leaders and the Bosnian-Serb leadership.

3959. In relation to Foča Municipality, according to a letter from the Foča SDS Municipal Board to the SDS Crisis Staff dated 2 March 1992, the Foča SDS Municipal Board stated that it was capable of providing security to the Serb people and their property in the area and that it was ready to carry out any orders that would be issued.

<sup>14626</sup> P3047 (Decision on appointment of the Rogatica war commission, 20 July 1992).

<sup>14627</sup> P3039 (Decision issued by the Bosnian-Serb Presidency appointing Mirko Mijatović as a Commissioner of the Presidency for the municipalities Foča, Čajniče, Rudo, and Višegrad, 1 September 1992).

<sup>14628</sup> P3045 (Decision on appointment of the municipal war commission, 17 September 1992); P3717 (Decision establishing the War Commission of Višegrad, 17 September 1992).

<sup>14629</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), pp. 7533-7534; Predrag Radić, T. 7532-7534.

<sup>14630</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 53, 56.

<sup>14631</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 25, 32.

<sup>14632</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 30.

<sup>14633</sup> Nenad Davidović, T. 31547.

The Foča SDS Municipal Board also expressed its unconditional support for the SDS Crisis Staff in Bosnia-Herzegovina.<sup>14634</sup>

3960. In relation to Rogatica Municipality, **Sveto Veselinović** testified that the main task of the Rogatica Crisis Staff was negotiations on the delineation of the municipality's territory and the division of power with the Muslims. The Rogatica Crisis Staff was later expanded from three to about 15 people, without any influence from the SDS Main Board or the party's highest officials.<sup>14635</sup>

3961. In relation to Sokolac Municipality, **Tupajić** stated that in 1991 and early 1992, the Sokolac SDS received orders, directives, and guidelines from the SDS Main Board.<sup>14636</sup> Important decisions were received in writing and, at times, orally.<sup>14637</sup> In June 1992, a war commission, consisting of the witness, Marko Simić, and two others was established in Sokolac and the war commissioners, who were also members of the Bosnian-Serb Assembly, kept the President of the Assembly informed of the situation on the ground.<sup>14638</sup> Marko Simić was a deputy for Sokolac to the Bosnian-Serb Assembly and Milovan Bjelica was President of the SDS Municipal Board; according to the witness, they had the most contact with the SDS and the Bosnian-Serb Republic leadership.<sup>14639</sup> On 15 May 1992, the Sokolac Crisis Staff provided three trucks with tarpaulins, in execution of Branko Đerić's order to transport 500 to 600 Muslims, originally detained in Bratunac, from Pale to Visoko *via* Ilijaš.<sup>14640</sup>

3962. In relation to Zvornik Municipality, according to a report on the work of the Zvornik War Presidency, on 18 October 1995, the war presidency sent a telegram of support to Karadžić in connection with the measures taken to overcome and improve the situation at the time and the functioning of the authorities.<sup>14641</sup> The war presidency also noted its commitment to keeping the MoD regularly informed of its activities, the measures and tasks it would take and perform in accordance with the guidelines on the

<sup>14634</sup> P3957 (Letter from SDS Municipal Board of Foča to the SDS Crisis Staff, 2 March 1992).

<sup>14635</sup> D770 (Sveto Veselinović, witness statement, 15 February 2013), paras 1, 14.

<sup>14636</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15348, 15490-15491.

<sup>14637</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), p. 15349.

<sup>14638</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15402-15403, 15494-15495.

<sup>14639</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15345, 15349-15350, 15361-15362, 15402, 15472-15477, 15482-15483, 15488.

<sup>14640</sup> P3170 (Milan Tupajić, *Krajišnik* transcript, 28-29 June 2005), pp. 15389, 15393, 15395-15396; P3177 (Order from Branko Đerić pertaining to logistical support in relation to the transport of detainees, 15 May 1992).

<sup>14641</sup> P3950 (Report on the work of the Zvornik Municipality War Presidency, 21 October 1995), p. 8.

tasks of municipal war presidencies during a state of war, and the application of wartime laws and other wartime regulations.<sup>14642</sup>

*Crimes perpetrated by the regional and municipal political leadership*

3963. The Trial Chamber recalls its findings in chapters 4 and 8 that members of the following political structures, *i.e.* crisis staffs, war presidencies, war commissions, and municipal assemblies, committed underlying acts of persecution as a crime against humanity.

3964. Starting with the regional political structures, as further set out in chapters 4.10.4 and 8.9.2 when Bosnian-Muslim and Bosnian-Croat villagers left Prijedor Municipality, the Crisis Staff plundered their property. In Banja Luka and Sanski Most municipalities, from 12 May 1992 and throughout the remainder of that year, the ARK Crisis Staff imposed and maintained restrictive and discriminatory measures against Bosnian Muslims and Bosnian Croats by issuing decisions that were implemented by other perpetrators, discussed in chapters 4.1.6, 4.12.6, and 8.9.2. In Banja Luka and Ključ municipalities, between May 1992 and May 1993 and 27 May 1992 and May 1993 respectively, the ARK Crisis Staff also displaced Bosnian Muslims and Bosnian Croats, as discussed in chapters 4.1.7, 4.6.7, and 8.5.2.

3965. Turning to the municipal political structures, as further set out in chapters 4.2.4 and 8.9.2 from 1992 onwards, including after the Bosnian Muslims were forced out of Bijeljina Municipality, Vojkan Đurković of the Bijeljina SDS, aided by Mauzer's men plundered property from Bosnian Muslims in Bijeljina Municipality. They also displaced Bosnian Muslims from Bijeljina Municipality from the summer of 1992 until 1995, as described in chapters 4.2.7 and 8.5.2.

3966. As further set out in chapters 4.3.2 *Schedule C.6.5* and 8.9.2, policemen subjected Bosnian Muslims to unlawful detention and cruel and/or inhumane treatment at Foča High School in June and July 1992. Mitar Sipčić, member of the Serb Crisis Staff in Foča, was in charge of these policemen in June 1992. As discussed in chapters 4.3.7 and 8.5.2, the Foča War Commission displaced Muslims from Foča Municipality from July until 13 August 1992.

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<sup>14642</sup> P3950 (Report on the work of the Zvornik Municipality War Presidency, 21 October 1995), p. 9.

3967. The SDS crisis staff in Kalinovik Municipality imposed and maintained restrictive and discriminatory measures against Bosnian Muslims from 12 May or later in May 1992, as further set out in chapters 4.5.6 and 8.9.2.

3968. As established in chapters 4.6.7 and 8.5.2, the Ključ Crisis Staff and members of the Civilian Protection Department in the Ključ Municipal Assembly displaced Bosnian Muslims and Bosnian Croats from Ključ Municipality between 27 May 1992 and May 1993. Some displacements were perpetrated with members of the police and members of the VRS. From 12 May or later in May 1992, the Ključ Crisis Staff with members of the Ključ SJB imposed and maintained restrictive and discriminatory measures, as further set out in chapters 4.6.6 and 8.9.2.

3969. As discussed in chapters 4.7.6 and 8.9.2, the Kotor Varoš Crisis Staff, alongside members of the Kotor Varoš MUP and members of the VRS, imposed and maintained restrictive and discriminatory measures against Bosnian Muslims and Bosnian Croats from 12 May 1992 onwards. Furthermore, the Kotor Varoš Crisis Staff displaced Bosnian Muslims and Bosnian Croats between June and November 1992, as established in chapters 4.7.7 and 8.5.2.

3970. As discussed in chapters 4.10.6 and 8.9.2, the Prijedor Crisis Staff, from 12 May 1992 onwards, imposed and maintained restrictive and discriminatory measures against Bosnian Muslims and Bosnian Croats in Prijedor Municipality. They, alongside members of the VRS, including the Military Police of the Banja Luka Corps/1KK, the Omarska TO, and the Prijedor SJB, *inter alia*, subjected Bosnian Muslims and Bosnian Croats to unlawful detention and cruel and/or inhumane treatment at Omarska camp between 27 May and 16 August 1992, and at Keraterm camp between 25 May and at least 5 August 1992, as established in chapters 4.10.2 *Schedules C.15.2* and *C.15.3* and 8.9.2. A member of the Prijedor Crisis Staff also destroyed Bosnian-Muslim houses, as further set out in chapters 4.10.3 and 8.5.2.

3971. Members of the municipal crisis staff in Sanski Most Municipality destroyed a Muslim sacred site in mid-1992, as described in chapters 4.12.3 and 8.9.2. The Sanski Most Crisis Staff, on 15 May 1992 and pursuant to ARK Crisis Staff decisions, imposed and maintained restrictive and discriminatory measures against Muslims, as further set out in chapters 4.12.6 and 8.9.2. Between 27 May 1992 and 13 October 1995, the Sanski Most Crisis Staff and members of the SDS, alongside members of VRS units,

TO, MUP, and paramilitary groups displaced Bosnian Muslims and Bosnian Croats, as discussed in chapters 4.12.7 and 8.5.2.

3972. As further set out in chapters 4.13.7 and 8.5.2, from 12 May 1992 onwards members of the crisis staff displaced Muslims from Sokolac Municipality.

3973. The Vlasenica Crisis Staff, alongside members of the VRS and members of the MUP, as well as Dragan Nikolić and camp guards, including Goran Tešić, a.k.a. Goce, a member of the MUP, other police officers, and Goran a.k.a. Vjetar and Đuro subjected Bosnian Muslims to unlawful detention and cruel and/or inhumane treatment at Sušica camp between 31 May 1992 and September 1992, as established in chapters 4.14.2 *Schedule C.19.3* and 8.9.2. From 19 May 1992, the Vlasenica Crisis Staff imposed and maintained restrictive and discriminatory measures against Bosnian Muslims, as discussed in chapters 4.14.6 and 8.9.2. Furthermore, the Vlasenica Crisis Staff displaced Bosnian Muslims throughout May and June 1992, as further set out in chapters 4.14.7 and 8.5.2. Kraljević, under the command of the Vlasenica Crisis Staff, led his unit, supported by a VRS unit, also displaced Bosnian Muslims during this time.

*Knowledge of and response to crimes*

3974. At a press conference on 11 November 1991, Radoslav Brđanin proposed that all directors and managers who did not participate in the plebiscite be urgently fired from their positions in the ARK and in Bosnia-Herzegovina. Brđanin stated that those who did not participate in the plebiscite should immediately tender their resignations, as their identities would soon be discovered from the lists of voters.<sup>14643</sup> On 22 June 1992, the ARK Crisis Staff issued a decision, signed by Radoslav Brđanin, President of the ARK Crisis Staff, providing that only personnel of Serb ethnicity may hold posts important to the functioning of the economic entities, including posts in socially owned enterprises, state institutions, public enterprises, shareholding societies, the VRS, and the MUP.<sup>14644</sup> The decision further stated that these posts could not be held by personnel of Serb ethnicity who ‘have not confirmed it in the plebiscite’ or have not accepted that the only representative of the Serb people is the SDS. This decision was to be submitted

<sup>14643</sup> P4335 (*Oslobođenje* article ‘After the plebiscite: you should better give yourselves up’, 12 November 1991).

<sup>14644</sup> P4339 (ARK Crisis Staff decision limiting executive posts to personnel of Serb ethnicity only, 22 June 1992), pp. 1-2.

immediately to the municipality Crisis Staff Presidents and implemented by 26 June 1992, and the presidents of the municipal crisis staffs were to report on its implementation to the ARK Crisis Staff.<sup>14645</sup>

3975. On 25 June 1992, the Petrovac Municipal Assembly Crisis Staff informed the ARK Crisis Staff of the steps taken to implement the ARK Crisis Staff decision of 22 June 1992.<sup>14646</sup> The steps in item one, paragraph one of the decision had been implemented in all public enterprises, institutions of public interest, and other labour associations, as well as public places. Further, all members of the police of Muslim 'nationality', both active and reserve, at the SJB had been fired.<sup>14647</sup> Muslims employed at the Municipal Assembly Administrative Organs had been fired, with the exception of one employee who was to be fired after completing his tasks.<sup>14648</sup> Employees of Serb 'nationality', who were considered disloyal, had already been fired from executive posts in public enterprises and institutions.<sup>14649</sup>

3976. The Trial Chamber recalls the evidence of Bekir Delić, reviewed in chapter 9.2.10, that political leaders of the ARK in Banja Luka, including Vojo Kuprešanin, visited Manjača camp together with Popović. **Zulić** stated that on 13 August 1992, Anđelko Grahovac and Kuprešanin visited Manjača camp and promised the detainees more food.<sup>14650</sup> **Muhamed Filipović** stated that Kuprešanin told the detainees he had heard complaints of mistreatment. He was accompanied by Popović and Serb journalists.<sup>14651</sup> According to **Witness RM-709**, Kuprešanin also told the detainees that this situation had been imposed on the ARK, it was only temporary, and that the corps commander would improve the conditions in the camp.<sup>14652</sup>

<sup>14645</sup> P4339 (ARK Crisis Staff decision limiting executive posts to personnel of Serb ethnicity only, 22 June 1992), p. 1.

<sup>14646</sup> P4340 (Petrovac Municipal Assembly Crisis Staff, implementation of ARK Crisis Staff decision, 25 June 1995), p. 1; *See also* P4339 (ARK Crisis Staff decision limiting executive posts to personnel of Serb ethnicity only, 22 June 1992), pp. 1-2.

<sup>14647</sup> P4340 (Petrovac Municipal Assembly Crisis Staff, implementation of ARK Crisis Staff decision, 25 June 1995), p. 1.

<sup>14648</sup> P4340 (Petrovac Municipal Assembly Crisis Staff, implementation of ARK Crisis Staff decision, 25 June 1995), p. 1. *See also* P4339 (ARK Crisis Staff decision limiting executive posts to personnel of Serbian ethnicity only, 22 June 1992), pp. 1-2.

<sup>14649</sup> P4340 (Petrovac Municipal Assembly Crisis Staff, implementation of ARK Crisis Staff decision, 25 June 1995), p. 1. *See also* P4339 (ARK Crisis Staff decision limiting executive posts to personnel of Serb ethnicity only, 22 June 1992), pp. 1-2.

<sup>14650</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 128; P3613 (Diary of Ahmet Zulić, third book), p. 4. *See also* P3403 (Asim Egrić, *Brđanin* transcript, 10 October 2002), pp. 10610-10611.

<sup>14651</sup> P3133 (Muhamed Filipović, witness statements), witness statement, of 13 March 2001, p. 3.

<sup>14652</sup> P3437 (Witness RM-709, witness statement, 6 June 2000), p. 10.

3977. **Radić** testified that in 1992 mosques were being destroyed across the Krajina for the purpose of wiping out all traces of Muslims.<sup>14653</sup> People in the highest authority complained to him about the fact that mosques in Banja Luka were still standing.<sup>14654</sup> Velibor Ostojic, Minister of Information in the Bosnia-Herzegovina government, complained to Radić often on behalf of someone higher up.<sup>14655</sup> According to Radić, the mosques in Banja Luka, which were finally destroyed in 1993, were the last mosques to be destroyed in the Bosnian-Serb Republic.<sup>14656</sup> Immediately after the destruction of two mosques in Banja Luka in 1993, Radić held a press conference.<sup>14657</sup>

3978. According to a report on the implementation of the conclusions of the Prijedor Municipal Crisis Staff dated 13 July 1992, the SJB was responsible for the implementation of a number of conclusions such as the ban on releasing detainees, which was being fully respected, and the issuing of permits to persons who were moving out of the municipality.<sup>14658</sup> The report also stated that the Prijedor SJB formed a unified intervention platoon which was actively engaged with members of the military police in the prevention and suppression of crimes, and the first results were visible with the ‘cracking down’ on looting, robbery, and the confiscation of illegally obtained property.<sup>14659</sup> The decision about the legalization of passes allowing citizens freedom of movement was being carried out and, according to this decision, passes were not distributed in crisis areas or to individuals wanted for crimes.<sup>14660</sup> The 22 June 1992 ARK Crisis Staff decision regarding the filling of vacant positions important for the functioning of the economy was implemented in the SJB.<sup>14661</sup>

<sup>14653</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), pp. 7468-7470.

<sup>14654</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), pp. 7470-7474; P4334 (Video of plebiscite rally for all Serbs to live in one state held in Banja Luka), p. 1.

<sup>14655</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), pp. 7474-7475. For Ostojic’s position, see P4334 (Video of plebiscite rally for all Serbs to live in one state held in Banja Luka), p. 1.

<sup>14656</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), p. 7470.

<sup>14657</sup> P4333 (Predrag Radić, *Krajišnik* transcript, 26-28 October 2004), p. 7470.

<sup>14658</sup> P4341 (Report on the implementation of the conclusions of the Prijedor Municipal Crisis Staff, 13 July 1992), p. 1.

<sup>14659</sup> P4341 (Report on the implementation of the conclusions of the Prijedor Municipal Crisis Staff, 13 July 1992), pp. 1-2.

<sup>14660</sup> P4341 (Report on the implementation of the conclusions of the Prijedor Municipal Crisis Staff, 13 July 1992), p. 1.

<sup>14661</sup> P4341 (Report on the implementation of the conclusions of the Prijedor Municipal Crisis, 13 July 1992), p. 2.

*The Trial Chamber's findings*

3979. The Trial Chamber recalls its findings on the structure and establishment of regional and municipal political structures in the Bosnian-Serb Republic, including that crisis staffs and war presidencies publicly operated in the municipalities in 1992, as further set out in chapters 2.2.1 and 2.2.2.

3980. Based on the foregoing, the Trial Chamber finds that depending on the municipality, VRS personnel, usually the commander or his deputy, were members of crisis staffs and war presidencies in 1992. In some circumstances, such as in Prijedor Municipality, VRS personnel were not members of the crisis staff, war presidency, or war commission. Members of the ARK Crisis Staff, on the other hand, included the Commander of the VRS First Krajina Corps, General Momir Talić, and VRS Air Force officer, Major Zoran Jokić. The Commander of the VRS Ilidža Brigade, Vladimir Radojčić, was a member of the Ilidža War Presidency. Members of the Sanski Most Crisis Staff included Branko Basara, 6th Krajina Brigade Commander, and Colonel Neđeljko Aničić, who was the liaison between the military and civilian authorities in Sanski Most Municipality and acting commander of the Serb TO. Therefore, in light of the evidence before the Trial Chamber, the Trial Chamber rejects the Defence's argument that VRS personnel were not members of any crisis staff.

3981. To the extent that VRS personnel were members of crisis staffs and war presidencies or attended their meetings without being members, their role at least included coordinating logistics, such as arranging recruits and supplies, and updating the regional and municipal political leaders on the combat situation. Depending on the municipality, there were tensions between the VRS and the regional and municipal political leadership, such that Talić informed the VRS Main Staff in June 1992 that the unwillingness of the authorities in Prijedor, Sanski Most, and Ključ municipalities to address refugee problems, slow disarmament, and economic inertia unfavourably affected the morale of the First Krajina Corps. Nevertheless, that same month, the Ključ Crisis Staff agreed to cooperate fully with the military command. Some crisis staffs claimed authority over and issued orders to military units in their municipality. These attempts failed in Sanski Most Municipality, but not in Bijeljina Municipality. Although Basara did not make any decisions on the Sanski Most Crisis Staff, he tried to influence the decision-making process. By July 1992, the VRS was sufficiently robust so that the Minister of Defence called for the abolition of the crisis staffs.

3982. Contrary to the Defence's argument that VRS involvement was limited to logistical support, and despite the above-mentioned tensions, the Trial Chamber reiterates its findings on crimes in the municipalities, recalled above: the Ključ Crisis Staff, the Kotor Varoš Crisis Staff, the Prijedor Crisis Staff, the Sanski Most Crisis Staff, and the Vlasenica Crisis Staff worked with members of the VRS, including the First Krajina Corps, to carry out underlying acts of persecution as a crime against humanity. Furthermore, the Trial Chamber finds that ARK political leaders, including Vojo Kuprešanić, visited Manjača camp and knew of the poor conditions and mistreatment of detainees. In this respect, the Trial Chamber recalls its findings in chapters 4.1.2 *Schedule C.1.2* and 8.9.2 that members of the VRS, including the VRS First Krajina Corps, subjected detainees in Manjača camp to unlawful detention and cruel and/or inhumane treatment.

3983. Turning to the relationship between the MUP and the regional and municipal political leadership, the SJB Sanski Most Chief, Drago Majkić, and the SJB Chief, Mirko Vručinić, were members of the Sanski Most Crisis Staff. The Vlasenica SJB Chief was also a member of the Vlasenica Crisis Staff. The head of the Banja Luka CSB, Stojan Župljanin, was a member of the ARK Crisis Staff. The Trial Chamber recalls its finding in chapter 3.4 that the CSBs and SJBs were to implement certain municipal assembly regulations. Further to this, crisis staffs and war presidencies issued orders to and received reports from the MUP. Although by July 1992, the higher levels of the MUP sought a clearer delineation of authority between the police and crisis staffs, this does not detract from the Trial Chamber's findings, recalled above, that Mitar Sipčić, a member of the Foča Crisis Staff, worked with policemen in Foča Municipality in June 1992, the Ključ Crisis Staff worked with Serb police, the Kotor Varoš Crisis Staff worked with the Kotor Varoš MUP, the Prijedor Crisis Staff worked with the Prijedor SJB, the Sanski Most Crisis Staff worked with the MUP, and the Vlasenica Crisis Staff worked with the MUP, including the Vlasenica SJB special police platoon, each in order to carry out underlying acts of persecution as a crime against humanity.

3984. Regarding the Bosnian-Serb leadership, the Trial Chamber recalls its findings set out in chapters 2.1.1, 2.2.1, and 2.2.2. Further to this, the Trial Chamber finds that from April to June 1992, the regional and municipal leadership in Banja Luka Municipality needed to communicate with the Bosnian-Serb leadership in Pale, to the extent that Predrag Radić, a member of the Banja Luka and ARK Crisis Staffs, asked about five

times for the JNA to help him establish communication. In May 1992, the Sokolac Crisis Staff followed orders from the Bosnian-Serb Republic. In June 1992 in Sokolac Municipality, republic commissioners informed the President of the Bosnian-Serb Assembly of the situation on the ground. On 1 September 1992, Karadžić directed civilian authorities to cooperate with republic commissioners.

3985. The Trial Chamber will further consider these findings in relation to the alleged overarching JCE in chapter 9.2.14.

#### *9.2.10 Attempts to cover up crimes*

3986. The Prosecution argued that JCE members, including members of the VRS, attempted to conceal the conditions in the camps in which thousands of Bosnian Muslims and Bosnian Croats were detained in inhumane conditions and covered up many of the crimes committed during the alleged ethnic cleansing campaign.<sup>14662</sup> The Trial Chamber received evidence in relation to attempts to conceal the commission of some of the crimes charged in the Indictment committed in Banja Luka, Bijeljina, Foča, Kotor Varoš, Prijedor, and Vlasenica municipalities and will consider this evidence in this chapter. Much of the evidence has been reviewed in chapter 4. The Trial Chamber will address the specific submissions of the Defence below.

#### *Banja Luka Municipality – Murder of Manjača camp detainees*

3987. With respect to the alleged cover-up of the murder of six Manjača camp detainees sometime between 3 June and 18 December 1992, as set out in chapter 4.1.1 *Schedule B.1.4* and 8.3.2, the Trial Chamber has taken judicial notice of Adjudicated Fact 488.<sup>14663</sup> It further received evidence from **Witness RM-051**, a VRS security officer;<sup>14664</sup> and **Charles McLeod**, a member of the ECMM in north-west Bosnia since July 1992.<sup>14665</sup>

<sup>14662</sup> See, e.g., Prosecution Final Brief, paras 333-335, 340, 492-493, 495-497; Annex A, Banja Luka Summary (paras 25, 27, 29), Bijeljina Summary (paras 16, 20, 23), Foča Summary (para. 24), Kotor Varoš Summary (paras 18-19, 38-40, 43), Prijedor Summary (paras 33, 43), Vlasenica Summary (paras 31-32).

<sup>14663</sup> Adjudicated Fact I, no. 488 is reviewed in chapter 4.1.1 *Schedule B.1.4*.

<sup>14664</sup> P214 (Witness RM-051, *Stanišić and Župljanin* transcript, 21-22 January 2010), p. 5255; Witness RM-051, T. 2883-2884. The evidence of Witness RM-051 is reviewed in chapter 4.1.1 *Schedule B.1.4*.

<sup>14665</sup> P3258 (Charles McLeod, *Brđanin* transcript 21-24 June 2002), p. 7281. The evidence of Charles McLeod is reviewed in chapter 4.1.1 *Schedule B.1.4*.

3988. Based on the foregoing, the Trial Chamber finds that Božidar Popović, the Manjača camp commander, ordered that death certificates giving a false account of the cause of death of detainees who were killed by being beaten inside Manjača camp be issued. Furthermore, on 30 August 1992, Popović falsely informed the ECMM that there had been six deaths in the camp up to that date but that they had all been due to natural causes. The Trial Chamber thus finds that Popović made efforts to conceal the murder of Manjača camp detainees from members of an international organization. The Trial Chamber further finds that on 8 July 1992, the Manjača Camp Operative Group concealed the murder of one Manjača camp detainee who had been shot and killed from the 1KK Command by falsely reporting to the command that the detainee had died of natural causes.

*Banja Luka Municipality – conditions at Manjača camp*

3989. With respect to the alleged cover-up of the unlawful detention and the cruel and inhumane treatment of primarily Bosnian Muslims and some Bosnian Croats at Manjača camp between 3 June and 18 December 1992, as set out in chapter 4.10.2 *Schedule C.1.2* and 8.9.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts. It further received evidence from **Ewan Brown**, a military analyst;<sup>14666</sup> **Radimir Radinković**, a VRS 1KK intelligence and security officer at Manjača camp as of May 1992;<sup>14667</sup> **Boško Amidžić**, Chief of Quartermaster Service in the 1KK from May 1992 and Assistant Commander for logistics in the 1KK from 14 February 1993;<sup>14668</sup> **Adil Medić**, a Muslim from Ključ and leader of the ‘Muslim Corps’ commission in charge of camp- and prisoner-related problems;<sup>14669</sup> **Sakib Muhić**, a Bosnian Muslim from Mahala in Sanski Most Town;<sup>14670</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of the war;<sup>14671</sup> **Bekir Delić**, a Bosnian-Muslim from Sanski Most;<sup>14672</sup> **Enis Šabanović**, a Bosnian Muslim from Trnova in Sanski Most Municipality who was detained at Manjača camp from about 6 June to 24 November

<sup>14666</sup> P2863 (Ewan Brown, witness statement, 27 and 28 July 2009), p. 2; P2858 (Ewan Brown, curriculum vitae), p. 1. The evidence of Ewan Brown is also reviewed in chapters 4.1.2 *Schedule C.1.2* and 4.1.7.

<sup>14667</sup> D900 (Radimir Radinković, witness statement, 8 December 2013), pp. 1, 6.

<sup>14668</sup> D847 (Boško Amidžić, witness statement, 25 June 2014), para. 2; Boško Amidžić, T. 29502.

<sup>14669</sup> P154 (Adil Medić, witness statement, 31 January 1996), p. 1, para. 4; Adil Medić, T. 2033.

<sup>14670</sup> P3426 (Sakib Muhić, witness statement, 11 April 2000), pp. 1-2.

<sup>14671</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4.

<sup>14672</sup> P3432 (Bekir Delić, witness statement, 13 September 2001), pp. 1-2.

1992;<sup>14673</sup> **Atif Džafić**, the Bosnian-Muslim police commander of the Ključ SJB from 1991 to 21 or 22 May 1992;<sup>14674</sup> **Muhamed Filipović**, a Bosnian Muslim from Ključ Municipality;<sup>14675</sup> **Charles McLeod**, a member of the ECMM in north-west Bosnia since July 1992;<sup>14676</sup> **Ahmet Zulić**, a Bosnian Muslim from the village of Pobrjeđe near Sanski Most;<sup>14677</sup> **Witness RM-051**, a VRS security officer;<sup>14678</sup> **Herbert Okun**, special advisor and deputy to the Special Envoy of the UNSG from 1991 through 1997 and co-chairman of the International Conference on the former Yugoslavia;<sup>14679</sup> **Witness RM-093**, a member of the Banja Luka district TO,<sup>14680</sup> as well as documentary evidence. This evidence relates primarily to a number of visits to the camp made by ICRC and others during the course of many months in 1992.

3990. **Ewan Brown** testified that an ‘Operational Team’ at Manjača camp produced daily information reports, which were sent to the 1KK Intelligence and Security Department and regularly forwarded to the VRS Main Staff.<sup>14681</sup> The 1KK Department of Morale, Legal and Religious Affairs also had a clear connection with activities at the camp, particularly in relation to visits by external figures, including the ICRC.<sup>14682</sup>

3991. **Radimir Radinković** testified that the ICRC was regularly granted approval to visit Manjača camp, and journalists from various media and countries were occasionally granted such approval; Karadžić usually granted such approval.<sup>14683</sup> According to **Boško Amidžić**, the camp was regularly monitored by the ICRC, Merhamet, and

<sup>14673</sup> P3124 (Enis Šabanović, witness statement, 19 February 2001), pp. 1-2. The evidence of Enis Šabanović is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>14674</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), p. 1, paras 1, 4, 6; P3395 (Atif Džafić, *Karadžić* transcript, 30 September 2011), p. 19657. The evidence of Atif Džafić is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>14675</sup> P3133 (Muhamed Filipović, witness statements), witness statement of 24 May 1997, pp. 1-2, witness statement, of 13 March 2001, p. 1. The evidence of Muhamed Filipović is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>14676</sup> P3258 (Charles McLeod, *Brđanin* transcript 21-24 June 2002), p. 7281. The evidence of Charles McLeod is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>14677</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), p. 1, paras 1-3. The evidence of Ahmet Zulić is also reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>14678</sup> P214 (Witness RM-051, *Stanišić and Župljanin* transcript, 21-22 January 2010), p. 5255; Witness RM-051, T. 2883-2884. The evidence of Witness RM-051 is also reviewed in chapters 4.1.2 *Schedule C.1.2*.

<sup>14679</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4137. The evidence of Herbert Okun is reviewed elsewhere in chapter 9.2.10.

<sup>14680</sup> P3144 (Witness RM-093, witness statement, 12 October 2002), p. 1-2; P3145 (Witness RM-093, *Brđanin* transcript, 6-7, 10-13 March 2003), p. 15273.

<sup>14681</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013), paras 2.56-2.57, 2.60.

<sup>14682</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013), para. 2.59.

<sup>14683</sup> D900 (Radimir Radinković, witness statement, 8 December 2013), p. 8.

Caritas upon request from these organizations.<sup>14684</sup> The ICRC collected lists of detainees and the humanitarian organizations brought supplies, including eating utensils, dishes, dishwashing detergent, food, hygiene articles, and medicine.<sup>14685</sup> On several occasions, the witness personally accompanied the humanitarian workers during their visits to the camp.<sup>14686</sup>

3992. The Muslim lawyer Amir Džonlić visited Manjača camp with members of a local human rights organization in late May or early June 1992. Predrag Radić; General Momir Talić, Commander of the VRS 1KK; and Lieutenant Colonel Božidar Popović, head of Manjača camp, explained to Džonlić that the camp was under the control of the VRS 1KK, and that almost all of the detainees were POWs. Popović admitted that food at the camp was insufficient.<sup>14687</sup>

3993. **Atif Džafić** stated that at the end of June 1992, a delegation from Banja Luka visited the camp and questioned some of the detainees about the circumstances of their detention. Delegation representatives included members of the Banja Luka SDS, the Serb military and police, the ‘Serbian’ Red Cross, and ‘the Muslim Red Cross called Merhamet’; the latter included Adil Medić. Among the detainees selected to speak to the delegation, Omer Filipović spoke up and told the delegation about the living conditions in the camp. Following his story, the reporting ended and no one else was allowed to speak.<sup>14688</sup> **Adil Medić** confirmed that on 18 June 1992, he visited Manjača camp for the first time at the invitation of General Talić.<sup>14689</sup> During this visit, the witness was accompanied by Colonel Tepšić; Colonel Dikić, assistant to General Talić; and Popović.<sup>14690</sup> Based on conversations with detainees at the camp, the witness estimated that 1,200 detainees were kept in three stables.<sup>14691</sup> The witness met with two wounded detainees - Muhamed Filipović and Asim Egrić, both from Ključ – who, from his observations, had sustained injuries from beatings and bullets.<sup>14692</sup> Filipović complained about regular beatings, lack of food, shortage of clothing, and inadequate medical supplies in the camp.<sup>14693</sup> **Amidžić** testified that he, Tepšić, Lieutenant-Colonel

<sup>14684</sup> D847 (Boško Amidžić, witness statement, 25 June 2014), paras 34-35; Boško Amidžić, T. 29475.

<sup>14685</sup> D847 (Boško Amidžić, witness statement, 25 June 2014), para. 37; Boško Amidžić, T. 29475-29476.

<sup>14686</sup> D847 (Boško Amidžić, witness statement, 25 June 2014), para. 38.

<sup>14687</sup> Adjudicated Facts I, no. 480.

<sup>14688</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 112.

<sup>14689</sup> P154 (Adil Medić, witness statement, 31 January 1996), paras 5-6.

<sup>14690</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 6.

<sup>14691</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 8.

<sup>14692</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 9; Adil Medić, T. 2056.

<sup>14693</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 10; Adil Medić, T. 2048.

Andrić, and Captain Lukaić were present when representatives from Merhamet visited Manjača camp on 18 June 1992.<sup>14694</sup> According to a daily report from the Manjača Camp Operative Group to the 1KK of that day, the detainees told Merhamet representatives about the poor quality of the food, leaks in the living quarters, and about not being able to contact their families.<sup>14695</sup> However, the report stated that, in the assessment of the Manjača Camp Operative Group, the Merhamet representatives and the representatives of the detainees were ‘basically happy’ with the conditions prevailing at the camp.<sup>14696</sup>

3994. **Medić** testified that he later learned that Omer Filipović and another detainee named Esad Bender had been beaten to death on or around 28 or 29 July 1992.<sup>14697</sup> The witness claimed to know this based on the death certificates and pathological reports he obtained, and from subsequent discussions with other detainees.<sup>14698</sup> On 1 August 1992, Colonel Vukelić informed him that of the 2,000 detainees in the camp, less than 200 had anything to do with the armed conflict.<sup>14699</sup> The witness never saw a detainee dressed in uniform in the camp.<sup>14700</sup> While at the camp, he was also informed that of the persons detained at Manjača camp, 85 per cent were Muslim and 15 per cent were Croat.<sup>14701</sup>

3995. **Ewan Brown** testified that on 24 June 1992, two Merhamet representatives visited the camp and delivered food, some medication, clothing, footwear, and some personal hygiene items.<sup>14702</sup> They asked for a list of detainees, which they did not receive, and were informed that they were to apply to the corps command for such details. They were also not allowed to have contact with the detainees.<sup>14703</sup>

<sup>14694</sup> Boško Amidžić T. 29532-29535; P6993 (Manjača Camp daily report to the 1KK, 18 June 1992), pp. 1-2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.143.

<sup>14695</sup> P6993 (Manjača camp daily report to the 1KK, 18 June 1992), p. 2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.143.

<sup>14696</sup> Boško Amidžić, T. 29552-29553; P6993 (Manjača Camp daily report to the 1KK, 18 June 1992), p. 2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.143.

<sup>14697</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 10; P155 (Adil Medić, supplemental witness statement, 9 November 2001), p. 2; Adil Medić, T. 2036, 2059.

<sup>14698</sup> P154 (Adil Medić, witness statement, 30-31 January 1996), para. 11; Adil Medić, T. 2059-2064.

<sup>14699</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 21.

<sup>14700</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 21; Adil Medić, T. 2042-2043.

<sup>14701</sup> Adil Medić, T. 2043.

<sup>14702</sup> P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.144.

<sup>14703</sup> P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.144.

3996. From 14 to 16 July 1992, the ICRC visited Manjača camp and interviewed detainees without witnesses.<sup>14704</sup> The authorities refused to notify the ICRC of the identity of the detainees at the camp.<sup>14705</sup> **Bekir Delić** confirmed that the ICRC visited the camp between 7 and 14 July 1992.<sup>14706</sup> **Džafić** stated that for the visit of the ICRC on or about 14 July 1992, the detainees – whose clothes were tattered and falling apart – were given old JNA uniforms.<sup>14707</sup> The witness believed this was done to make them look like POWs.<sup>14708</sup> Following the visit of the ICRC around 14 July 1992, political leaders of the ARK in Banja Luka, including Vojo Kuprešanin, visited Manjača camp together with Popović, but in **Delić**'s view this visit did not improve the conditions at Manjača camp.<sup>14709</sup>

3997. On 25 July 1992, the ICRC sent a report on the situation at Manjača camp to Karadžić, Biljana Plavšić, and Dragan Kalinić, Health Minister of the Bosnian-Serb Republic.<sup>14710</sup> In the report, the ICRC delegates noted that general living conditions, including hygiene and clothing, were 'absolutely insufficient'.<sup>14711</sup> The stables provided inadequate sanitary conditions and protection from the elements. Water supply was inconsistent and taps were provided inadequately; detainees only had the opportunity to shower twice a month, and facilities for washing clothes were non-existent.<sup>14712</sup> The delegates observed signs of anaemia in the detainees.<sup>14713</sup> The visit was also terminated prematurely when the ICRC delegates observed two detainees being subjected to ill-

<sup>14704</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), pp. 4-5.

<sup>14705</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 5.

<sup>14706</sup> P3432 (Bekir Delić, witness statement, 13 September 2001), p. 8.

<sup>14707</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 113.

<sup>14708</sup> P3394 (Atif Džafić, witness statement, 28 September 2011), para. 112.

<sup>14709</sup> P3432 (Bekir Delić, witness statement, 13 September 2001), p. 9.

<sup>14710</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 4. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.160-2.161.

<sup>14711</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 5. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.160-2.161.

<sup>14712</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 6. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.160-2.161.

treatment.<sup>14714</sup> The delegates concluded that the camp should be closed, with civilian detainees released and military detainees transferred to adequate facilities.<sup>14715</sup> The delegates had submitted a list of 19 detainees who were either physically or mentally handicapped, wounded or who suffered from serious chronic or acute illness, such as tuberculosis; the delegates recommended these detainees be released immediately, stressing that there were many more and that this list was only the beginning.<sup>14716</sup>

3998. On 7 August 1992, Karadžić sent copies of the ICRC report on the situation in Manjača and Bileća to Prime Minister Branko Đerić, stating that he expected the Government to take prompt action to improve the living conditions in ‘the prisons on our territories that are being held by civil authorities’.<sup>14717</sup> Karadžić stated that in relation to the report, he had also sent a letter to Mladić.<sup>14718</sup> Karadžić also sent a letter to the president of the ICRC, condemning the local incidents provoked by ‘individuals and groups out of [his] control’.<sup>14719</sup> He accepted the recommendations of the ICRC concerning Manjača and Bileća – specifically the suggestion to release all persons older than 60 years of age from all the prisons – and stated that he had requested ‘from the commander of our Army Staff and from our Government’ to take action in accordance with the ICRC’s suggestions and to report back as soon as possible.<sup>14720</sup> Karadžić also stated the Serb government was ready to speed up the exchange of detainees through a system of decentralized exchange commissions. He suggested that the ICRC provide

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<sup>14713</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 6.

<sup>14714</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 5.

<sup>14715</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 6.

<sup>14716</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 7.

<sup>14717</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), pp. 1-2.

<sup>14718</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 1.

<sup>14719</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 2.

<sup>14720</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), pp. 2-3.

support in food and hygiene products to the prisons since this was in the interest of all the detained persons regardless of their ethnicity.<sup>14721</sup>

3999. On 29 July 1992 'The Guardian' reported that about 106 underage boys and men over 60 were released from a male camp in Manjača, to which the Red Cross had been given access.<sup>14722</sup>

4000. **Sakib Muhić** stated that after the ICRC was granted access to Manjača camp, the detainees were permitted to spend short periods of time outside. Around this time, there were many journalists visiting the camp and when they came, the guards allowed the detainees to spend some time outdoors in order to demonstrate to the journalists that they had freedom of movement within the camp.<sup>14723</sup>

4001. On 3 August 1992, pursuant to the agreement of the political leadership of the three Bosnia-Herzegovina peoples and relating to the preparation of POW camps for visits of foreign journalists and members of the ICRC, Mladić ordered that measures be immediately taken through the MUP and 'authorities' to arrange the POW camps in the various zones of responsibility in preparation for the visits. Visits were planned to take place at the Omarska, Trnopolje, and Manjača camps in the zone of the 1KK, and Lukavica prison in the SRK zone.<sup>14724</sup> Mladić ordered that all other camps in the zones of responsibility also be prepared.<sup>14725</sup> The recipient of the order, along with the MUP, was to provide accommodation for the journalists and escort them during their trip in the zone of responsibility and ensure their safety.<sup>14726</sup> Mladić also ordered the preparation of evidence of crimes committed by the 'enemy' to be presented to the teams, including video tapes, photographs, and other objects.<sup>14727</sup>

4002. Also on 3 August 1992, Krajina Corps Commander Momir Talić wrote to the Command of the 43rd Motorized Brigade, the Manjača camp command, the Prijedor

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<sup>14721</sup> P2880 (Letters from Karadžić to Bosnian-Serb Prime Minister Đerić and to the ICRC President, 7 August 1992; Letter from the ICRC Head of Mission to Karadžić, 25 July 1992; and ICRC report on Manjača camp, 22 July 1992), p. 3.

<sup>14722</sup> P4320 (Press report from The Guardian, 29 July 1992), p. 4.

<sup>14723</sup> P3426 (Sakib Muhić, witness statement, 11 April 2000), p. 9.

<sup>14724</sup> P2879 (Order by Mladić, 3 August 1992), p. 1. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.169.

<sup>14725</sup> P2879 (Order by Mladić, 3 August 1992), p. 1.

<sup>14726</sup> P2879 (Order by Mladić, 3 August 1992), p. 2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.169.

<sup>14727</sup> P2879 (Order by Mladić, 3 August 1992), p. 2.

CSB, and the Security Organ of the 1KK Rear Command Post.<sup>14728</sup> Talić informed these commands that the VRS Main Staff Commander had provided his verbal approval for an ICRC team and reporters to visit the detention camps in Manjača, Trnopolje, Omarska, and Prijedor in the next two days. Talić instructed that all measures be taken to make conditions in these camps satisfactory, through ensuring, *inter alia*, functional medical care for detainees and records of deaths and findings on the cause of deaths.<sup>14729</sup> He further instructed that ‘representatives of the detainees for contact with the camp authorities’ be selected.<sup>14730</sup>

4003. On 13 August 1992, Dana Lukajić reported to the 1KK Command that the ICRC team had visited the Manjača camp on the same day and contacted the detainees of its choice without military organs being present.<sup>14731</sup> Due to its work, the team had probably obtained the information that two prisoners, Omer and Bender Filipović, had been physically maltreated, following which they had died.<sup>14732</sup> The ICRC also brought messages for detainees, and one of them indicated that detainees could be ‘bought’ for hard currency in Omarska.<sup>14733</sup>

4004. According to a report by the 1KK Command to the VRS Main Staff dated 13 August 1992, the ICRC had visited the camp that day.<sup>14734</sup> **Brown** testified that the ICRC returned to Manjača camp on 14 August 1992, with a delegation from the French Ministry of Health, headed by Minister Kouchner, and a number of foreign journalists.<sup>14735</sup> The ICRC also visited Manjača camp on 18, 24, and 26 August 1992 and delivered humanitarian aid, including food, water, and medical supplies to the camp.<sup>14736</sup>

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<sup>14728</sup> P201 (Letter regarding visits to detention camps, Major General Momir Talić, 3 August 1992). *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.169.

<sup>14729</sup> P201 (Letter regarding visits to detention camps, Major General Momir Talić, 3 August 1992). *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.169.

<sup>14730</sup> P201 (Letter regarding visits to detention camps, Major General Momir Talić, 3 August 1992).

<sup>14731</sup> P3879 (Report to 1KK Command, 13 August 1992), pp. 1-2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.140, 2.171.

<sup>14732</sup> P3879 (Report to 1KK Command, 13 August 1992), p. 2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.140, 2.171.

<sup>14733</sup> P3879 (Report to 1KK Command, 13 August 1992), p. 2.

<sup>14734</sup> P3818 (1KK regular combat report to Main Staff, 13 August 1992), pp. 1-2. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.172.

<sup>14735</sup> P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.173.

<sup>14736</sup> P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.174-2.175. *See also* P2899 (Daily report by Manjača Camp Operative Group to 1KK

4005. The UN Special Rapporteur of the Commission on Human Rights, Tadeusz Mazowiecki, together with other UN representatives, visited Bosnia-Herzegovina from 21 to 26 August 1992.<sup>14737</sup> During this period, he tried to visit Manjača camp, reportedly the largest detention camp on Bosnian territory under the control of Serbs.<sup>14738</sup> Upon arrival at the camp, Mazowiecki requested permission to visit the detainees from the officer in charge. This request was denied because, according to the officer in charge, the detainees were 'tired of being visited by international missions' and it was too late in the day, even though it was more than an hour before sunset. Finally, the officer in charge indicated that the members of the mission were not allowed to visit the detainees because the mission had not requested permission from the central authorities to enter the Bosnian-Serb Republic. Mazowiecki reported that the treatment he received from the officer in charge gave him a vivid impression of the state of terror under which the detainees were presumably living. The officer in charge informed the members of the mission that there were 3,000 POWs who were held at the camp at that moment.<sup>14739</sup> According to Mazowiecki, well-informed sources estimated that the number of detainees was in all probability considerably higher than the official figures indicated. Even though it was unable to visit the camp, the mission did receive information, including photographs, from persons who had visited the camp a few weeks before and many detainees were in a poor state of health, with signs of malnutrition and, in some cases, torture. Mazowiecki also reported being informed that a detainee from the camp had recently been taken to the hospital and weighed only 34 kilograms.<sup>14740</sup>

4006. On 23 August 1992, Colonel Milutin Vukelić, the Assistant Commander of the 1KK, reported to the Bosnian-Serb Government, the VRS Main Staff, and the 1KK Command IKM that in accordance with a confidential order, the UN representative Tadeusz Mazowiecki had been prevented from visiting Manjača camp by the 1KK

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Command, 18-20 August 1992), p. 2; P2909 (Daily report by Manjača Camp Operative Group to 1KK Command, 23-24 August 1992).

<sup>14737</sup> P299 (UN Commission on Human Rights report on the situation of human rights the former Yugoslavia, 28 August 1992), p. 1, paras 2-3.

<sup>14738</sup> P299 (UN Commission on Human Rights report on the situation of human rights the former Yugoslavia, 28 August 1992), paras 2, 35.

<sup>14739</sup> P299 (UN Commission on Human Rights report on the situation of human rights the former Yugoslavia, 28 August 1992), para. 35.

<sup>14740</sup> P299 (UN Commission on Human Rights report on the situation of human rights the former Yugoslavia, 28 August 1992), para. 36.

Command on the pretext that he did not have permission from the Bosnian-Serb Government.<sup>14741</sup>

4007. **Witness RM-093** stated that it was government and army policy, promulgated by, amongst others, General Talić and Stojan Župljanin, not to allow journalists access to combat areas unless they had government clearance.<sup>14742</sup> The witness confirmed that a report of 23 August 1992 by 1KK Colonel Vukelić regarding a visit of a UN representative to Manjača camp represented this policy regarding journalists; it reads: ‘we had to act in accordance with your strictly confidential order number 02/5/-115 of 23 August, 1992.’<sup>14743</sup> We prevented them from going to the camp on the pretext that they did not have permission from the Serbian Republic government’.<sup>14744</sup> The witness further stated that interviews with army officers were not held without the presence of a government representative.<sup>14745</sup>

4008. In a 24 August 1992 briefing by the organs of the VRS Main Staff attended by Mladić, the organ for reserve supplies reported that Mazowiecki ‘should have been allowed a visit’.<sup>14746</sup>

4009. According to **Brown**, a 1KK report dated 25 August 1992 noted that:

[...] in the territory and in the zone of combat operations visits by foreign journalists and delegations directed by the Banja Luka Press Centre are becoming increasingly frequent. Regarding the problems that arose in connection with the visit of UN envoy Tadeusz MAZOWIECKI [*sic*], a report was made, strictly confidential number 600, dated 23 August 1992, and General MLADIC’s remarks were conveyed to Corps Command organs. The commander of the prison camp, Lieutenant Colonel POPOVIC, has been informed of these views and he claims that during the latest visit by a Red Cross delegation there were no problems regarding the reception of aid, but he was unable to engage his physicians and quartermasters because they were on an official trip to Banja Luka.<sup>14747</sup>

<sup>14741</sup> P3805 (Report by 1KK on a visit of a UN representative, 23 August 1992), p. 2. *See also* P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.156.

<sup>14742</sup> P3145 (Witness RM-093, *Brđanin* transcript, 6, 7, 10-13 March 2003), pp. 15519-15520, 15530, 15532.

<sup>14743</sup> P3145 (Witness RM-093, *Brđanin* transcript, 6, 7, 10-13 March 2003), p. 15530.

<sup>14744</sup> P3145 (Witness RM-093, *Brđanin* transcript, 6, 7, 10-13 March 2003), p. 15530.

<sup>14745</sup> P3145 (Witness RM-093, *Brđanin* transcript, 6, 7, 10-13 March 2003), p. 15532.

<sup>14746</sup> P354 (Mladić notebook, 16 July - 9 September 1992), p. 87. *See also* P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.157.

<sup>14747</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.158.

4010. **Ahmet Zulić** stated that on 26 August 1992, Bernard Kouchner, a French minister, visited Manjača camp. Together with Božidar Popović, he entered the stable in which the witness was staying and wanted to talk to the detainees in German, French, or Italian, but none of the detainees dared to speak to him during the approximately ten-minute-long visit. Popović pointed to a group of men from Ključ who had arrived at the camp a few days prior, saying how nice the men looked and how they were not malnourished. Before Kouchner's visit, the detainees had to 'clean and straighten everything out'.<sup>14748</sup>

4011. On 1 November 1992, the Manjača Camp Operative Group reported to the 1KK Command that the ICRC visited the camp that day and provided 1,800 kilograms of bread and delivered messages to the detainees. The operative group was engaged in checking the incoming messages from the ICRC.<sup>14749</sup> The guard policeman Radenko Kaurin slapped two detainees in the presence of the ICRC because they took bread to eat while they were carrying bread baskets.<sup>14750</sup>

4012. On 9 November 1992, Intelligence Affairs Operations team leader Dane Lukajić reported to the First Krajina Corps Command that around 12-15 detainees, prior to arriving at Manjača camp, had been physically abused and visibly injured in prison in Banja Luka.<sup>14751</sup> He stated that this was a problem because ICRC had access to such cases, and advised that measures should be taken to prevent maltreatment of the prisoners in Banja Luka in cases where the maltreatment would result in visible injuries, such as bone breakage, bruises, or scars.<sup>14752</sup>

4013. With regard to visits to the camp by journalists, **Miloš Šolaja** testified that the Press Centre received all foreign journalists in the 1KK's zone of responsibility.<sup>14753</sup> Roy Gutman, Peter Maass of the Washington Post, and Chuck Sudetić of the New York Times also visited detainees at Manjača camp.<sup>14754</sup> Journalists of the Turkish Anadolu

<sup>14748</sup> P3611 (Ahmet Zulić, witness statement, 22 February 2010), para. 131.

<sup>14749</sup> P3885 (Daily report by Manjača Camp Operative Group to the 1KK, 1 November 1992), p. 1. *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) paras 2.176-2.177.

<sup>14750</sup> P3885 (Daily report by Manjača Camp Operative Group to the 1KK, 1 November 1992). *See also* P2862 (Ewan Brown, The VRS and Manjača Detention Camp 1991-1993: A background study, March 2013) para. 2.177.

<sup>14751</sup> P3696 (Report to 1KK Command, 9 November 1992), p. 1.

<sup>14752</sup> P3696 (Report to 1KK Command, 9 November 1992), p. 1.

<sup>14753</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), paras 4, 7-8.

<sup>14754</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 8.

Agency were also granted access to Manjača camp and visited.<sup>14755</sup> **Brown** testified that Roy Gutman, a US journalist working for *Newsday*, and a photographer also gained access to Manjača camp on 16 July 1992.<sup>14756</sup> Gutman interviewed a number of former detainees from Omarska, Trnopolje, and Manjača camps and published a number of articles in July and early August 1992, exposing the conditions at the three camps.<sup>14757</sup>

4014. On 8 August 1992, the Manjača Camp Operative Group reported to the 1KK Command that Manjača Camp had been visited that day by two teams of journalists, who were allowed to enter one of the cell blocks in order to inspect the state of the accommodation and to interview some detainees, including a member of the Croatian army and a Muslim priest.<sup>14758</sup> The visit was ‘directed, that is, scripted’ by 1KK Press Centre Head Major Milutinović, whereas Camp Commander Lieutenant Colonel Božidar Popović and the 1KK security organ was with the groups of journalists at all times during their visit.<sup>14759</sup>

4015. On 8 August 1992, the 1KK reported to the VRS Main Staff that two groups of foreign correspondents visited Manjača camp that day.<sup>14760</sup> It further reported that the correspondents were satisfied that Manjača was not a concentration camp and that they did not have any serious objections to the conditions in the camp.<sup>14761</sup>

4016. On 10 August 1992, the 1KK reported that a group of journalists from the US, UK, and France visited Manjača camp for one hour. On 12 August 1992, a group of seven journalists visited the camp and the camp’s daily report noted that they had ‘tried, as during all previous visits, to photograph and see only the bad side of the camp and the undernourished prisoners’.<sup>14762</sup>

<sup>14755</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 10.

<sup>14756</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.168.

<sup>14757</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.168. *See also* P2891 (Article in ‘*Newsday*’ by Roy Gutman, ‘Prisoners of Serbia’s war’, 19 July 1992).

<sup>14758</sup> P2908 (Daily report by Manjača Camp Operative Group to 1KK Command, 8 August 1992), pp. 1-2. *See also* P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.150.

<sup>14759</sup> P2908 (Daily report by Manjača Camp Operative Group to 1KK Command, 8 August 1992), pp. 1-2. *See also* P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.150.

<sup>14760</sup> P3877 (Regular Combat Report to the VRS Main Staff, addressed to the 1KK, 8 August 1992), p. 1, para. 5.

<sup>14761</sup> P3877 (Regular Combat Report to the VRS Main Staff, addressed to the 1KK, 8 August 1992), para. 5.

<sup>14762</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.155.

4017. On 12 December 1992, three journalists visited Manjača camp and were interested in the accommodation, treatment, and reasons for the arrest of the detainees they spoke to.<sup>14763</sup>

4018. Based on the foregoing, the Trial Chamber finds that sometime in early June 1992, Predrag Radić; General Momir Talić, Commander of the VRS 1KK; and Božidar Popović, the Manjača camp commander told a Muslim lawyer who visited Manjača camp together with members of a local human rights organization that almost all Manjača camp detainees were POWs. The Trial Chamber recalls that the detainees at Manjača camp were predominantly civilians and that the VRS 1KK was responsible for detention at the camp (see chapter 4.1.2 *Schedule C.I.2*). The Trial Chamber thus considers that Talić, as well as camp commander Popović, knew that the majority of detainees were not POWs and that the information they provided was therefore purposefully misleading. Also, on 24 June 1992, the Manjača Camp Operative Group denied members of Merhamet contact with the detainees and did not provide them with a list of detainees which they had requested. The members of the operative group told Merhamet that such information was to be requested from the 1KK Command. Furthermore, during a visit of the ICRC which took place around mid-July 1992, the Manjača Camp Operative Group gave the detainees old JNA uniforms and refused to inform the ICRC of the identity of the detainees at the camp. Also, on 8 August 1992, the Manjača Camp Operative Group did not allow the visiting journalists to see a group of detainees who had recently been transferred from Omarska camp, while between 18 and 26 August 1992, it denied the ICRC access to the camp.<sup>14764</sup> On 23 August 1992, the 1KK Command, acting pursuant to instructions from the Bosnian-Serb Government and the VRS Main Staff, prevented the UN Special Rapporteur of the Commission on Human Rights, Tadeusz Mazowiecki, from visiting Manjača camp. However, the Trial Chamber further finds that the 1KK permitted the ICRC and members of other local and international organizations, including Merhamet and the ECMM, to visit Manjača camp on several occasions between June and December 1992 and that on a number of these occasions, the ICRC registered detainees and interviewed them with respect to their treatment and the conditions of detention. International journalists also visited Manjača

<sup>14763</sup> P2862 (Ewan Brown, *The VRS and Manjača Detention Camp 1991-1993: A background study*, March 2013) para. 2.159.

<sup>14764</sup> The Trial Chamber notes that while exhibit P2909 indicates that on 24 August 1992, the ICRC delivered humanitarian aid to Manjača camp, it does not state that the ICRC members also visited the camp that day.

camp on a number of occasions between July and December 1992 and interviewed detainees at the camp. The visits usually occurred with Karadžić's approval and the members of the ICRC and other organizations, as well as the journalists were sometimes accompanied by members of the 1KK during their visits. In light of the foregoing, the Trial Chamber finds that, in some instances, the 1KK, the VRS Main Staff, and the Bosnian-Serb Government made efforts to conceal the unlawful detention and the cruel and inhumane treatment at Manjača camp from journalists and representatives of international and local human rights organizations. It further finds that they also sometimes permitted such persons to visit Manjača camp and interview detainees at the camp.

4019. Mladić's alleged involvement in the concealment of the unlawful detention and the cruel and inhumane treatment of Bosnian Muslims and Bosnian Croats at Manjača camp will be further addressed in chapter 9.3.10.

*Bijeljina Municipality – Batković camp*

4020. With respect to the alleged cover-up of the unlawful detention and the cruel and inhumane treatment of predominantly Bosnian-Muslim and Bosnian-Croat detainees at Batković camp between 27 June 1992 and the end of November 1995, as set out in chapter 4.2.2 *Schedule C.2.1* and 8.9.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts.<sup>14765</sup> With respect to this alleged cover-up and to the murder of one Bosnian-Croat detainee and two Bosnian-Muslim Batković camp detainees during this time period, as set out in chapter 4.2.1 *Schedule B.2.1* and 8.3.2, it further received evidence from **Milenko Todorović**, Assistant Commander of the Intelligence and Security Organ of the IBK as of 16 November 1993;<sup>14766</sup> **Đorđo Krstić**, a Serb deputy warden at Batković camp from 11 January 1993 to 6 June 1994;<sup>14767</sup> **Tahir Ferhatbegović**, a Bosnian Muslim from Šekovići Municipality;<sup>14768</sup> **Mirsad Kuralić**, a Bosnian-Muslim member of the ABiH;<sup>14769</sup> **Witness RM-513**, a Bosnian Serb from Bijeljina;<sup>14770</sup> **Elvir Pašić**, a Bosnian Muslim from Rogatica

<sup>14765</sup> Adjudicated Facts 513-514 are reviewed in chapter 4.2.2 *Schedule C.2.1*.

<sup>14766</sup> Milenko Todorović, T. 19835, 19837.

<sup>14767</sup> D664 (Đorđo Krstić, witness statement, 29 September 2014), para. 3; Đorđo Krstić, T. 26345.

<sup>14768</sup> P2526 (Tahir Ferhatbegović, witness statements), witness statement of 13 October 1994, pp. 1-2.

<sup>14769</sup> P2521 (Mirsad Kuralić, witness statement, 28 June 1996), pp. 1-3; P2524 (Medical record of Mirsad Kuralić, 21 June 1993), p. 6.

<sup>14770</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6.

Municipality;<sup>14771</sup> **Witness RM-088**, a Bosnian Muslim from Šekovići Municipality,<sup>14772</sup> as well as documentary evidence.<sup>14773</sup>

4021. The Special Rapporteur of the Commission on Human Rights visited Batković camp in October 1992 and reported that the approximately 1,000 Muslim prisoners there generally appeared to be in good health and did not complain of ill-treatment, although they complained that they did not know the reasons for their detention and slept on straw bedding on the floor of an unheated stable, where living conditions were intolerable in the cold.<sup>14774</sup>

4022. Based on the foregoing, the Trial Chamber finds that in October 1992, the Special Rapporteur of the Commission on Human Rights visited Batković camp. The ICRC also visited Batković camp on a number of occasions from late August or September 1992 onwards, and in some instances could speak to the detainees without the presence of camp guards. However, not all Batković camp detainees were registered with the ICRC.<sup>14775</sup> The Trial Chamber also recalls its finding in chapter 4.2.2 *Schedule C.2.1* that a Serb doctor, accompanied by two nurses, only arrived at the camp on days the ICRC visited the camp. In addition, when representatives of the ICRC visited the camp, the camp guards temporarily removed from the camp the detainees who were younger than 18 and over 60 years of age, as well as those detainees who had been most severely beaten.<sup>14776</sup> Camp guards, as well as Serb policemen and Vlado Stević, a

<sup>14771</sup> P434 (Elvir Pašić, witness statement, 21 October 1994), p. 1, para. 1

<sup>14772</sup> P524 (Witness RM-088, witness statement, 17 October 1994), p. 1, para. 1.

<sup>14773</sup> The evidence of Milenko Todorović, Tahir Ferhatbegović, Mirsad Kuralić, Witness RM-513, Elvir Pašić, and Đorđo Krstić, and exhibits P527, P2132, P4163, and P6795 are reviewed in chapter 4.2.2 *Schedule C.2.1*. The evidence of Witness RM-088 is reviewed in chapters 4.10.1 *Schedule B.2.1* and 4.2.2 *Schedule C.2.1*.

<sup>14774</sup> P2813 (Special Rapporteur of the Commission on Human Rights report on the human rights situation in the territory of former Yugoslavia, 27 October 1992), paras 2, 15.

<sup>14775</sup> While the Trial Chamber received evidence from Milenko Todorović that all detainees were registered upon their arrival at Batković camp and the President of the POW commission, Ljubomir Mitrović, would then immediately notify the ICRC in Bijeljina, the Trial Chamber notes that Todorović was chief of the intelligence and security organ of the IBK only as of 16 November 1993. His evidence therefore does not contradict the evidence of Witness RM-088 that, in September 1992, a group of elderly, children, and former Muslim JNA soldiers, the presence of whom had not been reported to the ICRC when they arrived at the camp in August, were released and that he did not type a report about a former JNA soldier who died as a consequence of a beating in August 1992, as the former JNA soldier had never been registered with the ICRC. Under these circumstances, the Trial Chamber also rejects the Defence's submission that all detainees were registered by the ICRC upon arrival at Batković camp (*see* Defence Final Brief, para. 1630).

<sup>14776</sup> The Trial Chamber received evidence from Đorđo Krstić that no special preparations were made before the ICRC or foreign journalists visited Batković camp. However, the Trial Chamber notes that Krstić was the deputy warden of Batković camp from 11 January 1993 to 6 June 1994, so not throughout the whole period of existence of the camp. His evidence therefore does not contradict Adjudicated Fact 513.

military policeman from the Bijeljina barracks, disguised themselves as detainees so as to stand in for those detainees who had been temporarily removed or killed. Detainees were also hidden when journalists visited Batković camp.<sup>14777</sup> Considering that on 4 August 1992, Colonel Dragutin Ilić, Commander of the IBK, had ordered that Batković camp be prepared for a visit by foreign journalists and the ICRC,<sup>14778</sup> the Trial Chamber finds that these measures were taken pursuant to Ilić's order.

4023. The camp guards also instructed the detainees to report to the ICRC that the conditions at the camp were good and beat the detainees who did not comply and, on one occasion when an American news crew visited Batković camp in September 1992, Velibor Stojanović and Deputy Commander Mladen Tukodi told the detainees that they were not allowed to tell the reporters about the detainees who were dead or who had been beaten.

4024. Furthermore, the Batković camp command, including Tukodi, ordered detainees to include false information in reports sent to the ICRC. Detainees who had died because they were denied access to medical care were reported to have died of natural causes and if a detainee was killed, the report would state that he had been exchanged. In particular, when the ICRC enquired about the whereabouts of a murdered Bosnian-Croat detainee, as found in chapters 4.2.1 *Schedule B.2.1* and 8.3.2, Tukodi ordered another detainee to add the murdered detainee's name to a list of people who had already been released. Furthermore, after the murder of two Bosnian-Muslim Batković camp detainees, as found in chapters 4.2.1 *Schedule B.2.1*, the camp command ordered a detainee to type a report for the ICRC stating that the two detainees had been exchanged; it was only after details about the incident came to the attention of the ICRC that the camp command confirmed that the two detainees had been killed.

4025. In light of the foregoing, the Trial Chamber finds that Dragutin Ilić, the Batković camp guards, and the camp command, including Deputy Commander Tukodi, made

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<sup>14777</sup> With respect to the Defence's argument that the alleged hiding of detainees is not supported by the evidence, due to the 'almost constant presence' of the ICRC (*see* Defence Final Brief, para. 1637), the Trial Chamber rejects the argument as unmeritorious. The Trial Chamber's findings that detainees were hidden both when the ICRC and when journalists visited the camp is based on the unrebutted Adjudicated Fact 513 and the evidence of Tahir Ferhatbegović, Witness RM-088, and Mirsad Kuralić, which provides further details in this respect.

<sup>14778</sup> In light of the VRS Main Staff order to the IBK Command that a POW camp be set up for POWs in the village of Batković dated 12 June 1992, in evidence as exhibit P189, the Trial Chamber understands the 4 August 1992 order from Colonel Dragutin Ilić, Commander of the IBK, to the commander of an unspecified POW camp, in evidence as exhibit P6795, to have been addressed to the commander of Batković camp.

efforts to conceal the unlawful detention and the cruel and inhumane treatment at Batković camp and the murder of a Bosnian-Croat Batković camp detainee from the ICRC and international journalists. The camp command also attempted to conceal the murder of two Bosnian-Muslim Batković camp detainees from the ICRC.

*Foča Municipality – KP Dom Foča*

4026. With respect to the alleged cover-up of the unlawful detention and the cruel and inhumane treatment of non-Serb civilian men, mostly of Bosnian-Muslim ethnicity, at KP Dom Foča between 12 May 1992 and October 1994, as set out in chapters 4.3.2 *Schedule C.6.1* and 8.9.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts.<sup>14779</sup> It further received evidence from **Witness RM-046**, **Witness RM-086**, and **Witness RM-013**, all Bosnian Muslims from Foča.<sup>14780</sup>

4027. **Witness RM-046** testified that on 23 June 1993, the ICRC came to KP Dom to register the detainees, but a group of 12 detainees, mostly professionals and intellectuals, were hidden in the cellar of the bakery outside KP Dom because, according to the guards, they were meant for ‘retaliation’.<sup>14781</sup>

4028. Based on the foregoing, the Trial Chamber finds that the ICRC visited KP Dom Foča on a number of occasions between 1992 and 1993. During these visits, the ICRC was able to talk to some of the detainees, in the presence of camp guards, including the head of guards and his deputy. However, during these visits, the camp guards hid a group of 25 detainees who were kept hidden until 1993, when they were finally registered by the ICRC. During an ICRC visit which took place on 23 June 1993, the camp guards hid a group of 12 detainees. The Trial Chamber further finds that only when British journalists announced that they would be visiting KP Dom did the camp guards tell the detainees to clean their rooms, give them haircuts, and allow them to shave and wash themselves. In light of the foregoing, the Trial Chamber finds that the authorities in charge of KP Dom Foča, MoJ employees and other camp guards, made

<sup>14779</sup> Adjudicated Facts 628 and 652 are reviewed in chapter 4.3.2 *Schedule C.6.1*.

<sup>14780</sup> **Witness RM-046**: P738 (Witness RM-046, witness statement, 20 April 1996), p. 9. **Witness RM-086**: P2933 (Witness RM-086, witness statements), witness statement of 22 October 1995, pp. 1-2. **Witness RM-013**: P982 (Witness RM-013, witness statement, 22 October 1995), p. 1, para. 1; P983 (Witness RM-013, witness statement, 20 May 1996), p. 1. The evidence of Witness RM-086 and Witness RM-013 is reviewed in chapter 4.3.2 *Schedule C.6.1*.

<sup>14781</sup> P738 (Witness RM-046, witness statement, 20 April 1996), p. 9.

efforts to conceal the unlawful detention and the cruel and inhumane treatment of some of the KP Dom Foča detainees from the ICRC and international journalists.

*Foča Municipality – Foča high school*

4029. With respect to the alleged cover-up of the cruel and inhumane treatment of Bosnian-Muslim civilian detainees at Foča high school in June and July 1992, as set out in chapters 4.3.2 *Schedule C.6.5* and 8.9.2, the Trial Chamber received evidence from **Witness RM-070**, a Muslim woman from Foča Municipality.<sup>14782</sup>

4030. Based on the evidence of Witness RM-070, the Trial Chamber finds that before Serbian TV reporters came to Foča high school to interview the detainees about their living conditions, Mitar Sipčić from the Serb Crisis Staff in Foča, who was in charge of the policemen guarding the school in June 1992, told the detainees to tell the journalists that they were treated well. As a consequence, nobody dared to tell the journalists about the rapes that had occurred at the school. The Trial Chamber thus finds that Sipčić made efforts to conceal the cruel and inhumane treatment at the school from journalists.

*Kotor Varoš Municipality – Murder at Grabovica School*

4031. In relation to the alleged cover-up of the murder of approximately 150 unarmed Bosnian-Muslim men in the sports hall of Grabovica School, at a field in Duboka, and in Maljava on 4 November 1992, as set out in chapter 4.7.1 *Schedule A.4.4* and 8.3.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts. It further received evidence from **Witness RM-009**, a Bosnian Serb from Kotor Varoš;<sup>14783</sup> and **Witness RM-802**, a VRS officer,<sup>14784</sup> as well as documentary evidence.

4032. **Witness RM-009** testified that sometime after October 1992, Duško Kerezović gave a verbal order for Serb-only members of the Sanitation Unit to take some vehicles to Grabovica because a large killing had occurred, and to tell Slavko Kuprešak to take

<sup>14782</sup> P2422 (Witness RM-070, witness statement, 18 November 1995), p. 1, para. 1; P2421 (Pseudonym sheet for Witness RM-070). The evidence of Witness RM-070 is reviewed in chapter 4.3.2 *Schedule C.6.5*.

<sup>14783</sup> P843 (Witness RM-009, witness statement, 23 January 2003), paras 39-40; Witness RM-009, T. 7957-7958; P846 (Certificate dated 5 February 1993, signed by Duško Kerezović).

<sup>14784</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet). The evidence of Witness RM-802 is reviewed in chapter 4.7.1 *Schedule A.4.4*.

his fire brigade truck there in order to wash the road.<sup>14785</sup> Kerezović also ordered Velibor Tepić to re-paint the walls of the school's sports hall.<sup>14786</sup> In all other instances, the Sanitation Unit had received written orders from Kerezović, but this time Kerezović's order was verbal and related specifically to an all-Serb work detail, which was understood to mean that Kerezović wanted to conceal the operation from the international community.<sup>14787</sup> According to the witness, a terrible crime had happened at Grabovica in which 160 to 163 unarmed civilians were killed.<sup>14788</sup> Members of the Sanitation Unit including Želimir Brkić, Mile Brborović, Velibor Katana, and Boško Filipović, arrived in Grabovica that morning around 9 a.m.<sup>14789</sup> There were bodies lying along the road as far as 100 metres away from the school.<sup>14790</sup> Members of the Sanitation Unit reported to Milivoje Kljajić, Commander of the Grabovica Platoon, in front of the school.<sup>14791</sup> Kljajić told them that bodies were located at the school, as well as in Duboka and Maljava, but that no list of the dead would be provided.<sup>14792</sup> Nedeljko Đekanović went to Grabovica School on 5 November 1992 to monitor the 'clearing up of the terrain and cleaning of the school'.<sup>14793</sup> According to the minutes of the 118th meeting of the War Presidency of Kotor Varoš on 6 November 1992, attended also by Slobodan Župljanin, Zdravko Pejić, and Čedo Đukić, the Kotor Varoš War Presidency was informed that Đekanović, the President of the War Presidency, monitored the clearing up of the terrain and the cleaning of the school in Grabovica.<sup>14794</sup>

4033. **Witness RM-009** testified that because the Serb inhabitants of Grabovica Village did not want Muslims buried there, Kljajić and Kerezović decided that the bodies would be buried at least ten kilometres away.<sup>14795</sup> Shortly after, two military trucks and an excavator driven by Filipović arrived in Duboka, where the bodies were loaded into the vehicles with the help of soldiers.<sup>14796</sup>

<sup>14785</sup> P843 (Witness RM-009, witness statement, 23 January 2003), paras 154, 158.

<sup>14786</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 158.

<sup>14787</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 158; Witness RM-009, T. 7961-7962, 7981, 7988-7989, 8029.

<sup>14788</sup> Witness RM-009, T. 7972-7973.

<sup>14789</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 159.

<sup>14790</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 160.

<sup>14791</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 160; P851 (List of 46th Kotor Varoš Brigade Members), p. 9.

<sup>14792</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 160.

<sup>14793</sup> Adjudicated Facts I, no. 808. P3705 is consistent with Adjudicated Fact 808.

<sup>14794</sup> P3705 (Extract from the Minutes of the 118th Meeting of the War Presidency of Kotor Varoš Municipality, 6 November 1992).

<sup>14795</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 163.

<sup>14796</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 164.

4034. At Grabovica School, soldiers had loaded around 25 bodies from inside the school into a trailer.<sup>14797</sup> At this point, all of the bodies had been removed from the school's sports hall.

4035. After gathering corpses from Duboka, the members of the Sanitation Unit returned to the school, where they heard one of the Muslim victims from Večići, who was thought to be dead, calling out from under the bodies for water.<sup>14798</sup> Pero Zarić arrived and, when a member of the Sanitation Unit ordered that the wounded man be taken to the hospital, Zarić said, '[w]ell, here's water and here's the hospital for him,' and then shot the Muslim man dead at close range.<sup>14799</sup>

4036. Once the vehicles, which included three military trucks and two tractors with trailers, were fully loaded with approximately 165 bodies, a convoy was formed which included the excavator, which left Grabovica in the direction of Vrbanjci, passing women who spat on the vehicles, saying that they were very pleased with the killings.<sup>14800</sup> Kerezović ordered the convoy to bury the bodies at a location in Plitska, and members of the Sanitation Unit, with the help of 20 soldiers from the Grabovica and Vrbanjci units who were drinking alcohol the entire time, buried the bodies in a mass grave.<sup>14801</sup> The burial was done in a hurry and at night so that the international community and the ICRC would not hear of it.<sup>14802</sup>

4037. The following day, pursuant to verbal orders of Kerezović, members of the Sanitation Unit added additional bodies to the mass grave and put more soil on the grave because dogs had started digging up some of the bodies.<sup>14803</sup> A few days later, Kerezović ordered members of the Sanitation Unit to pick up the remaining bodies in Maljava.<sup>14804</sup> The bodies were taken by members of the Sanitation Unit to Plitska where, in the presence of five or six soldiers from the Grabovica and Vrbanjci units,

<sup>14797</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 165.

<sup>14798</sup> Witness RM-009, T. 7973.

<sup>14799</sup> Witness RM-009, T. 7973.

<sup>14800</sup> P843 (Witness RM-009, witness statement, 23 January 2003), paras 171-172; P844 (Chart of clarifications to Witness RM-009 witness statement), p. 1.

<sup>14801</sup> P843 (Witness RM-009, witness statement, 23 January 2003), paras 173-175; Witness RM-009, T. 7974, 8022-8023; P844 (Chart of clarifications to Witness RM-009 witness statement), p. 1; P853 (Photographs of exhumation at Gorna Plitska), p. 2.

<sup>14802</sup> Witness RM-009, T. 7974-7975, 7981.

<sup>14803</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 176.

<sup>14804</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 178; Witness RM-009, T. 8023.

they were buried in a mass grave. The Sanitation Unit then reported to Kerezović that the work had been completed.<sup>14805</sup>

4038. According to a report of the 1KK Command of 4 November, ‘a brutal massacre of the captured members of the Green Berets started because of the wounding of four and the killing of one soldier of the Kotor Varoš Light Infantry Brigade and the burning of wounded soldiers on Gola Planina (Jajce)’.<sup>14806</sup> The 4 November 1992 report from the 1KK to the VRS Main Staff specified that those killed were part of a group of 200 members of the Green Berets who had been captured that day following a clash with Muslim forces in the area of Kotor Varoš, which had occurred because of a refusal to negotiate on moving out of the Večići area, and in which 40 Green Berets had been killed.<sup>14807</sup> The report goes on to state that ‘[m]easures to prevent further massacre were taken through the 22nd Light Infantry Brigade’.<sup>14808</sup> The report also states that the situation was calm in other areas under the control of the 1KK, ‘[w]ith the exception of Kotor Varoš, where we have taken serious intentions to prevent a genocide of Muslims. Women and children from the area have been allowed to pass through to Travnik’.<sup>14809</sup>

**Witness RM-802** testified that this report did not accurately reflect what had actually happened in Grabovica and that the part about taking measures to prevent further massacres was likely meaningless and only included as a formality.<sup>14810</sup> According to another 1KK Command report dated 4 November 1992, sent by Colonel Milutin Vukelić to the VRS Main Staff, Green Berets pulling out from Večići fell into an ambush of the 1KK. Forty of them were killed during the clash, 150 members, mostly women and children, surrendered, and another 20 members of the ABiH were captured.<sup>14811</sup> On 5 November 1992, the 1KK submitted yet another report to the VRS Main Staff which stated that ‘following the death of one soldier and the wounding of several others, more than 150 extremists died in combat’.<sup>14812</sup> **Witness RM-802** testified that this report was inaccurate with respect to the combat in which 150

<sup>14805</sup> P843 (Witness RM-009, witness statement, 23 January 2003), para. 180.

<sup>14806</sup> Adjudicated Facts I, no. 807. The Trial Chamber notes that P441 is consistent with Adjudicated Fact 807.

<sup>14807</sup> P441 (Report from 1KK Command to VRS, 4 November 1992), p. 1.

<sup>14808</sup> P441 (Report from 1KK Command to VRS, 4 November 1992), p. 1.

<sup>14809</sup> P441 (Report from 1KK Command to VRS, 4 November 1992), p. 1.

<sup>14810</sup> Witness RM-802, T. 4639-4640.

<sup>14811</sup> P3745 (1KK regular combat report, 4 November 1992), p. 1.

<sup>14812</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 73; P442 (Report from 1KK Command to VRS, 5 November 1992), p. 1.

'extremists' died, and neither was there any fighting at that time nor had so many fighters been killed.<sup>14813</sup>

4039. The Trial Chamber also considered additional evidence of Witness RM-009, which has been placed in the confidential annex in Appendix D.

4040. Based on the foregoing, the Trial Chamber finds that around 5 November 1992, pursuant to a verbal order from Duško Kerezović, members of the Sanitation Unit, with the help of 20 soldiers from the Grabovica and Vrbanjci units, buried the bodies of some of the approximately 150 unarmed Bosnian-Muslim men in two mass graves at Plitska. The men had been murdered the previous day in and around Grabovica School. The burial was carried out hurriedly and at night. Pursuant to Kerezović's order, only Serb members of the Sanitation Unit were to participate in the operation. Based on the circumstances in which the order was given, and the manner in which it was carried out, the Trial Chamber rejects the Defence's argument that the order that the terrain be cleared at Grabovica was not an attempt to conceal what had occurred.<sup>14814</sup> The Commander of the Grabovica Platoon Milivoje Kljajić and military police member Zoran Kovačević were present at Grabovica School when the members of the Sanitation Unit arrived to pick up the bodies. Kljajić indicated that no list of the dead was to be provided. The operation was monitored by Nedeljko Đekanović, the President of the Kotor Varoš War Presidency. The Trial Chamber finds that Kerezović had also ordered Slavko Kuprešak to wash the road in Grabovica with his fire brigade truck and Velibor Tepić to re-paint the walls of the sports hall of Grabovica School. In light of the foregoing, the Trial Chamber finds that Kerezović, members of the Sanitation Unit, 20 soldiers from the Grabovica and Vrbanjci units, and Đekanović made efforts to conceal the murder at Grabovica School from the international community. The Trial Chamber further finds that on 4 November 1992, the 1KK made efforts to conceal the murder from the VRS Main Staff by falsely reporting that captured members of the Green Berets had been killed that day following the wounding of four and the killing of one soldier of the Kotor Varoš Light Infantry Brigade and the burning of wounded soldiers on Gola Planina, while the following day, the 1KK falsely reported to the VRS Main Staff that the same victims had died as a result of combat operations.

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<sup>14813</sup> Witness RM-802, T. 4639-4642.

<sup>14814</sup> See Defence Final Brief, para. 1140.

*Kotor Varoš Municipality – Murder in Vrbanjci*

4041. In relation to the alleged cover-up of the murder of at least 30 Bosnian Muslims, including 15 Bosnian Muslims who were detained in Alagić café, on 2 July 1992, during the attack on Vrbanjci in retaliation for an ambush of VRS forces by armed Bosnian Muslims, as set out in chapter 4.7.1 *Unscheduled murder incidents*, the Trial Chamber received evidence from **Witness RM-009**, a Bosnian Serb from Kotor Varoš.<sup>14815</sup>

4042. Based on the foregoing, the Trial Chamber finds that on 3 July 1992, members of the Sanitation Unit buried the bodies of some of the Bosnian Muslims who had been murdered the previous day during the attack on Vrbanjci. The burial was carried out pursuant to an order from Duško Kerezović, who had received specific orders in this respect from Sretko Majstorović, the Minister of War for Kotor Varoš. Given the fact that the order specified that only Serb members of the Sanitation Unit were to participate in the operation, the Trial Chamber finds that Kerezović, acting pursuant to Majstorović's order, and the members of the Sanitation Unit made efforts to conceal the murder from the public.

*Prijedor Municipality – Murder of Keraterm camp detainees*

4043. In relation to the alleged cover-up of the murder of between 190 and 220 Keraterm camp detainees on or around 25 July 1992, as set out in chapters 4.10.1 *Schedule B.13.1* and 8.3.2, the Trial Chamber received evidence from **Safet Tači**, a Bosnian-Muslim civilian from Kozarac in Prijedor Municipality;<sup>14816</sup> and **Witness RM-008**, a Bosnian Muslim from Prijedor Municipality,<sup>14817</sup> as well as documentary evidence.<sup>14818</sup>

4044. Based on the foregoing, the Trial Chamber finds that the 1KK made efforts to conceal the murder of between 190 and 220 Keraterm camp detainees from the VRS

<sup>14815</sup> P843 (Witness RM-009, witness statement, 23 January 2003), paras 39-40; Witness RM-009, T. 7957-7958; P846 (Certificate dated 5 February 1993, signed by Duško Kerezović). The evidence of Witness RM-009 is reviewed in chapter 4.7.1 *Unscheduled murder incidents*.

<sup>14816</sup> P158 (Safet Tači, proffer of testimony, 4 May 1998), para. 1; P159 (Safet Tači, witness statement, 20 September 2000), p. 1; Safet Tači, T. 2092.

<sup>14817</sup> P3224 (Witness RM-008, witness statement, 16 May 2013), p. 1, para. 3.

<sup>14818</sup> The evidence of Witness RM-008 and Safet Tači and exhibits P161 and P248 are reviewed in chapter 4.10.1 *Schedule B.13.1*.

Main Staff by falsely reporting that 50 detainees had been killed while attempting to escape *en masse* from the camp.

*Prijedor Municipality – Omarska camp*

4045. In relation to the alleged cover-up of the unlawful detention and the cruel and inhumane treatment of approximately 3,300 Bosnian Muslims and Bosnian Croats at Omarska camp between 27 May and 16 August 1992, as set out in chapters 4.10.2 *Schedule C.15.2* and 8.9.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts.<sup>14819</sup> It further received evidence from **Edward Vulliamy**, a journalist for *The Guardian* who covered events in Bosnia-Herzegovina between 1992 and 1995;<sup>14820</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>14821</sup> **Witness RM-065** and **Witness RM-026**, both Bosnian Muslims from Prijedor Municipality;<sup>14822</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of the war,<sup>14823</sup> as well as documentary evidence.<sup>14824</sup>

4046. According to a *Newsday* article dated 19 July 1992, military authorities and the local Red Cross had acknowledged the existence of a camp at Omarska but had rejected requests to visit it. An SDA official was reported to have said that the military had rejected all requests for visits on grounds that Omarska was in a ‘high-risk zone’.<sup>14825</sup>

4047. **Edward Vulliamy** arrived in Belgrade on either 28 or 29 July 1992 together with two ITN journalists.<sup>14826</sup> This visit was triggered by reports published by *The*

<sup>14819</sup> Adjudicated Facts 967 and 1005 are reviewed in chapter 4.10.2 *Schedule C.15.2*.

<sup>14820</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7899-7904, 7989-7990, 8035.

<sup>14821</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>14822</sup> **Witness RM-065**: P3271 (Witness RM-065, witness statements), witness statement of 22 March, pp. 1-2, witness statement of 28 August 2000, p. 2; P3274 (Pseudonym sheet for Witness RM-065). *See also* P3279 (Table of Concordance). **Witness RM-026**: P2585 (Witness RM-026, witness statements), statement of 23 September 1994, pp. 1-2. ). The evidence of Witness RM-065 and Witness RM-026 is reviewed in chapter 4.10.2 *Schedule C.15.2* .

<sup>14823</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4. The evidence of Miloš Šolaja is reviewed in chapter 4.10.2 *Schedule C.15.2* .

<sup>14824</sup> . Exhibits P3878 and P3928, are reviewed in chapter 4.10.2 *Schedule C.15.2* . Exhibits P201 and P2879 are reviewed elsewhere in chapter 9.2.10.

<sup>14825</sup> P2890 (*Newsday* article, 19 July 1992), p. 2.

<sup>14826</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7905.

*Guardian* on the conditions at Omarska camp, Karadžić's denial of the fact that civilians were being held there, and his public invitation to journalists to verify for themselves that the reports were fabrications.<sup>14827</sup> Having arrived in Belgrade, the journalists received accreditation from the Bosnian-Serb press agency and from the federal authorities to visit Omarska camp.<sup>14828</sup> They then met officials from the Serbian and Bosnian-Serb authorities, including Nikola Koljević, the Vice-Bosnian-Serb President.<sup>14829</sup>

4048. Koljević and the authorities from the Bosnian-Serb Republic arranged for the journalists to see other camps first, before Omarska.<sup>14830</sup> On 3 August 1992, the witness and other journalists were flown by a military helicopter, accompanied by men in military fatigues, to Pale.<sup>14831</sup> In Pale, the witness, the two ITN reporters, and two television crews – that of ITN and a Bosnian-Serb television crew, some or all of whom were wearing military fatigues – were greeted by Karadžić.<sup>14832</sup> Karadžić promised them access to Omarska and Trnopolje, but first wanted them to see some other facilities where Muslims were held in the Pale area.<sup>14833</sup> Koljević was also present in Pale when the journalists arrived.<sup>14834</sup> Vulliamy further testified that he recalled Mladić walking past them in Pale while they were having lunch.<sup>14835</sup> With regard to the reports and television coverage of allegations concerning Omarska camp, the witness recalled Mladić saying that the photographs from the camps were forgeries and montages, or were photographs showing 'Serbian' detainees in Muslim camps.<sup>14836</sup>

4049. On 4 August 1992, the witness and the two ITN journalists were driven by camouflage military truck from Pale to Banja Luka, under military escort.<sup>14837</sup> When

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<sup>14827</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7904-7905, 8080, 8095-8096; Edward Vulliamy, T. 2584; P204 (Article authored by the witness published in the *Guardian* on 7 August 1992), p. 2.

<sup>14828</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 8080-8081.

<sup>14829</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7905.

<sup>14830</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7907.

<sup>14831</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7908; Edward Vulliamy, T. 2584, 2600.

<sup>14832</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7908-7909; Edward Vulliamy, T. 2586, 2600, 2633.

<sup>14833</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7909; Edward Vulliamy, T. 2586-2587.

<sup>14834</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7910.

<sup>14835</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 8113.

<sup>14836</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 8114-8115.

<sup>14837</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7910-7911; Edward Vulliamy, T. 2587.

they stopped in Bijeljina for lunch, Koljević joined them.<sup>14838</sup> The witness also saw Koljević in Banja Luka that evening.<sup>14839</sup> On the morning of 5 August 1992, the witness and the two ITN journalists met with the representative of the VRS in Banja Luka, whom the witness referred to as Major Milutinović, and who was assigned as their military escort from that point on.<sup>14840</sup> From Banja Luka, they drove with Major Milutinović towards Prijedor.<sup>14841</sup>

4050. Upon arrival in Prijedor Town, the witness, who by that point had formed the impression that their visit to Omarska was being intentionally delayed, told Major Milutinović that he wanted to meet the people who were going to give them authority to visit Omarska.<sup>14842</sup> Milutinović took the witness and the other journalists to the Prijedor Town civic centre, and introduced them to the Chief of Police, Simo Drljača, who in turn introduced them to a group of men who, according to the witness, they were told comprised the 'crisis committee' or 'crisis staff'.<sup>14843</sup> In addition to Drljača, the members of this committee included the mayor Milomir Stakić, the mayor's deputy Milan Kovacević, Colonel Vladimir Arsić, and Nada Balaban.<sup>14844</sup> Colonel Arsić recommended that the journalists visit Manjača first, which was under his military authority.<sup>14845</sup> The witness knew that Manjača had already been visited by the ICRC and was not interested in visiting it.<sup>14846</sup> Arsić told the witness that if he wanted access to Omarska, he would have to seek it from the civilian authorities that controlled the camp and gestured towards Stakić, Kovacević, and Drljača, implying that he needed their permission.<sup>14847</sup> It was pointed out at the meeting that Omarska and Trnopolje camps were operated by the civil authorities.<sup>14848</sup> The witness insisted that they be taken to see

<sup>14838</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7910.

<sup>14839</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7910-7911.

<sup>14840</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7910; Edward Vulliamy, T. 2588, 2602, 2638-2639.

<sup>14841</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7911.

<sup>14842</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7912.

<sup>14843</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7912-7913, 8081-8083, 8111-8112, 8146; Edward Vulliamy, T. 2589, 2602. The Trial Chamber understands the witness's evidence to refer to the crisis staff.

<sup>14844</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7913, 8111.

<sup>14845</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7916-7917, 8084-8085; Edward Vulliamy, T. 2692-2693.

<sup>14846</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7917, 8150; Edward Vulliamy, T. 2693.

<sup>14847</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 8084-8086, 8156-8157.

<sup>14848</sup> Edward Vulliamy, T. 2664-2665, 2678; P204 (Article authored by the witness published in the *Guardian* on 7 August 1992), p. 3.

Omarska; one of the two ITN journalists also expressed the wish to visit Trnopolje.<sup>14849</sup> Stakić told him that Manjača held Muslim militia who had been arrested or captured, while Omarska and Trnopolje held civilians who wanted to leave the area.<sup>14850</sup> At the same meeting, Kovacević told the journalists that the camps they would be visiting were transit camps.<sup>14851</sup>

4051. Following what the witness described as a heated discussion by members of the meeting concerning the journalists' insistence on visiting Omarska camp, Drljača told them they would proceed to Omarska following which Drljača, Major Milutinović, and some uniformed men escorted the witness and the two ITN journalists to the camp.<sup>14852</sup> A blue police APC with a machine gun mounted on it headed the escort to Omarska.<sup>14853</sup>

4052. On an unpaved road heading towards Omarska camp, a burst of gunfire went over their heads from the direction of the woods, and some of the uniformed men, wearing what the witness described as blue paramilitary uniforms, got out of the blue APC and returned fire from a ditch.<sup>14854</sup> The journalists were told that they were being attacked by 'Muslim extremists', but the witness, who had been exposed to fire in other conflicts, concluded on the basis of the fact that the fire only came from one direction and went straight over their heads and that the return fire was fairly high, that the incident was staged to intimidate the journalists.<sup>14855</sup>

4053. According to a press release from the Bosnian-Serb Republic dated 7 August 1992, the competent organs had evidence that the people imprisoned in Omarska camp had fought against the VRS.<sup>14856</sup> While the rooms in Omarska camp were not equipped to accommodate a large number of people and there was insufficient sanitary or other equipment, they were forced to use them; one reason being that 'the other side' was not interested in exchanging detainees.<sup>14857</sup> Furthermore, according to the press release, the MUP issued an order to immediately release all people over 60 years old, heavily

<sup>14849</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7917, 7923, 7936, 8085.

<sup>14850</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7923.

<sup>14851</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), p. 7931.

<sup>14852</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7935-7937, 8094; Edward Vulliamy, T. 2589, 2602, 2637-2638.

<sup>14853</sup> Edward Vulliamy, T. 2623-2624.

<sup>14854</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7937-7938, 8028-8029.

<sup>14855</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7938-7939; Edward Vulliamy, T. 2624-2626, 2631, 2736-2737.

<sup>14856</sup> P7194 (Public announcement by Branko Đerić, 7 August 1992), p. 4.

<sup>14857</sup> Miloš Šolaja, T. 32765; P7194 (Public announcement by Branko Đerić, 7 August 1992), p. 4.

wounded or sick from Omarska camp, unless there were criminal proceedings against them. Cameramen were not allowed to film everything in the camp. The ICRC was invited to provide assistance to those in Omarska camp.<sup>14858</sup>

4054. **Milovan Milutinović** testified that around 9 August 1992, he met with a group of journalists in Banja Luka.<sup>14859</sup> They insisted on visiting Omarska and Trnopolje in Prijedor Municipality but he refused to take them there because the centres were not under the jurisdiction of the VRS, but under the jurisdiction of the state and the civil municipal authorities. However, after conferring with Karadžić, Generals Talić and Kelečević ordered the witness to take the journalists there.<sup>14860</sup> At Omarska, they were met by Simo Drljača, the Chief of the Prijedor SJB, with whom they visited the premises and talked to the detainees.<sup>14861</sup>

4055. On 5 August, a number of journalists visited Omarska and Trnopolje camps. At Omarska camp, the reporters were shown only several hundred of the 2,500 detainees, all Muslim men. The reporters were told by camp authorities that the detainees were interrogated and those who were found guilty of fighting the Serbs were sent to POW camps, while those found innocent were sent to refugee camps.<sup>14862</sup> An unidentified woman stated that Omarska and Trnopolje were transit centres, not camps.<sup>14863</sup> Detainees from Omarska and other detention camps were transferred to Trnopolje, after days or months of interrogation.<sup>14864</sup> According to a reporter, after the journalists' visit, the Serbs quickly closed down Omarska and the majority of surviving detainees were secretly moved to Manjača camp.

4056. According to two ITN news reports, Omarska camp was situated at an old mining complex outside Banja Luka and was guarded by the Serbs. ITN reporters were shown several hundred of the 2,500 detainees, all Muslim men. The reporters were told that the detainees were interrogated as possible Muslim fighters; those who were found guilty of fighting the Serbs were sent to POW camps, while those found innocent were sent to refugee camps. The reporters were also told by soldiers that the army did not control Omarska; rather, the detainees were the responsibility of the civil authorities and

<sup>14858</sup> P7194 (Public announcement by Branko Đerić, 7 August 1992), p. 4.

<sup>14859</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 37, 39.

<sup>14860</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 38.

<sup>14861</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 39, 46.

<sup>14862</sup> P4136 (Dispatches video excerpt), p. 10.

<sup>14863</sup> P4136 (Dispatches video excerpt), p. 11.

<sup>14864</sup> P4136 (Dispatches video excerpt), p. 11.

the local militia. A camp commander and the spokeswoman for the local Serbian authorities stated that Omarska and Trnopolje were transit centres, not camps.<sup>14865</sup> Detainees from Omarska and other detention camps were transferred to Trnopolje, after days or months of interrogation.<sup>14866</sup> The detainees at Omarska camp received one meal per day.<sup>14867</sup> The UN and the ICRC had been denied access to the camp.<sup>14868</sup> Despite Karadžić's promise of openness to the press, reporters were only permitted to observe the camp's canteen.<sup>14869</sup>

4057. On 22 August 1992, the Command of the 1KK reported from its IKM to the Prijedor Operative Group Command that a lack of discipline had brought the Prijedor Municipality to the verge of anarchy, and that the Military Police Company there suffered from a lack of unity.<sup>14870</sup> After foreign journalists visited the Omarska and Trnopolje camps, Company members attempted to distance themselves from incidents in camps and reception centres, and passed the responsibility for issuing orders for mass executions onto someone else.<sup>14871</sup> The report refers to the appearance of forged, backdated documents concerning such incidents and concludes that as a result of such killings, Muslims who had been driven out of, or who had fled from, Prijedor Municipality were taking up arms against the Bosnian-Serb Republic.<sup>14872</sup>

4058. Based on the foregoing, the Trial Chamber finds that until the beginning of August 1992, Karadžić and the authorities in charge of Omarska camp denied the ICRC and international journalists access to Omarska camp.<sup>14873</sup> Sometime in the beginning of August 1992, a group of international journalists were granted access to Omarska camp.<sup>14874</sup> Their visit was approved by Karadžić and, pursuant to an order from General Talić and General Kelečević, they were escorted in Omarska camp by, *inter alios*, Simo Drljača, who was the Chief of the Prijedor SJB, Milovan Milutinović, and Miloš Šolaja. The journalists also met with the members of the Prijedor Crisis Staff, including

<sup>14865</sup> P4155 (ITN footage transcript), pp. 1, 4.

<sup>14866</sup> P4155 (ITN footage transcript), pp. 2, 4.

<sup>14867</sup> P4155 (ITN footage transcript), p. 4.

<sup>14868</sup> P4155 (ITN footage transcript), pp. 1, 4.

<sup>14869</sup> P4155 (ITN footage transcript), pp. 1-2, 4.

<sup>14870</sup> P3820 (Report on Prijedor Municipality, 22 August 1992), pp. 1-2.

<sup>14871</sup> P3820 (Report on Prijedor Municipality, 22 August 1992), p. 2.

<sup>14872</sup> P3820 (Report on Prijedor Municipality, 22 August 1992), p. 2.

<sup>14873</sup> The Trial Chamber notes that while it received evidence that up until the beginning of August 1992, the ICRC was denied access to Omarska camp, it has not received any evidence with respect to whether the ICRC actually visited the camp after this date.

Milomir Stakić, Milan Kovačević, Colonel Vladimir Arsić, and Nada Balaban.<sup>14875</sup> Arsić told the journalists that the civilian authorities were in charge of Omarska camp while Stakić told them that Omarska held civilians who wanted to leave the area.

4059. The Trial Chamber further finds that, around the time when groups of journalists started visiting Omarska camp, the authorities in charge of the camp transferred the large majority of Omarska camp detainees to Manjača camp; only between 170 and several hundred detainees, all male, remained at the camp following the transfer. The camp authorities then distributed blankets to the remaining detainees and placed beds in the camp. They told the remaining detainees to tell the visiting journalists that they had only been held for 15 days and warned them not to complain about the conditions of detention. The journalists were only permitted to see the camp canteen but were permitted to talk to the detainees. The Trial Chamber further finds that these measures were taken pursuant to an order from Mladić dated 3 August 1992 stating that, *inter alia*, Omarska camp was to be prepared for visits by foreign journalists. In light of the foregoing, the Trial Chamber finds that Karadžić and the authorities in charge of Omarska camp made efforts to conceal the unlawful detention and the cruel and inhumane treatment at Omarska camp from the ICRC and from international journalists.

4060. Mladić's alleged involvement in the concealment of the unlawful detention and the cruel and inhumane treatment of Bosnian Muslims and Bosnian Croats at Omarska camp will be further addressed in chapter 9.3.10.

#### *Prijedor Municipality – Trnopolje camp*

4061. In relation to the alleged cover-up of the unlawful detention and the cruel and inhumane treatment of approximately 8,000 Bosnian Muslims and Bosnian Croats at Trnopolje camp between at least 26 May 1992 and the end of September 1992, as set out in chapter 4.10.2 *Schedule C.15.4* and 8.9.2, the Trial Chamber received evidence from **Herbert Okun**, special advisor and deputy to the Special Envoy of the UNSG

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<sup>14874</sup> The Trial Chamber notes that it has received inconsistent evidence with respect to the exact date when the group of journalists visited Omarska camp, however, all the evidence places the visit sometime between 5 and 7 August 1992.

<sup>14875</sup> The Trial Chamber notes that while Adjudicated Fact 967 states that the journalists met Drljača, Stakić, Kovačević, Arsić, and Balaban *at* Omarska camp, according to Edward Vulliamy, the journalists met these officials *before* being escorted to Omarska camp. The Trial Chamber considers that this slight discrepancy between the evidence and the Adjudicated Fact does not affect its overall finding that the journalists met with these officials in relation to their visit to Omarska camp.

from 1991 through 1997 and co-chairman of the International Conference on the former Yugoslavia;<sup>14876</sup> **Witness RM-060**, a Bosnian Muslim from Bišćani, Prijedor Municipality;<sup>14877</sup> and **Idriz Merdžanić**, a Bosnian-Muslim doctor from Kreševo, Sarejevo Municipality.<sup>14878</sup> It also received evidence from **Edward Vulliamy**, a journalist for *The Guardian* who covered events in Bosnia-Herzegovina between 1992 and 1995;<sup>14879</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>14880</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of the war;<sup>14881</sup> **Nusret Sivac**, a journalist for TV Sarajevo who covered events in Prijedor and surrounding municipalities;<sup>14882</sup> **Charles McLeod**, a member of the ECMM in north-west Bosnia since July 1992;<sup>14883</sup> **Slavko Puhalić**, a Serb soldier from Prijedor who served under Slobodan Kuruzović in Trnopolje camp until August 1992,<sup>14884</sup> as well as documentary evidence.<sup>14885</sup>

4062. **Herbert Okun** stated that on 26 August 1992, in an address at the London Conference on the former SFRY, the President of the ICRC highlighted the precarious position of thousands of detainees detained at the Trnopolje and Manjača camps to which the ICRC had been denied access since 18 August 1992. Following numerous ICRC demarches at the local and the highest political level, ICRC delegates were

<sup>14876</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), p. 4137.

<sup>14877</sup> P2596 (Witness RM-060, *Stakić* transcript, 26-27 August 2002), pp. 6850-6851, 6853; P2597 (Witness RM-060, pseudonym sheet from *Prosecutor v. Stakić*, Case No. IT-97-24-T); P2599 (Witness RM-060, table of concordance to *Stakić* transcript, 7 March 2013), p. 1. The evidence of Witness RM-060 is reviewed in chapter 4.10.2 *Schedule C.15.2*.

<sup>14878</sup> P269 (Idriz Merdžanić, witness statement, 28 August 2000), p. 1, paras 1-3; Idriz Merdžanić, T. 3321.

<sup>14879</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7899-7904, 7989-7990, 8035.

<sup>14880</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>14881</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4.

<sup>14882</sup> P480 (Nusret Sivac, transcripts from prior cases), *Stakić* transcript, 29-30 July 2002, pp. 6561-6562.

<sup>14883</sup> P3258 (Charles McLeod, *Brđanin* transcript 21-24 June 2002), p. 7281.

<sup>14884</sup> D898 (Slavko Puhalić, witness statement, 26 June 2014), p. 1, paras 2-5; Slavko Puhalić, T. 31659, 31664.

<sup>14885</sup> The evidence of Witness RM-060, Idriz Merdžanić, Edward Vulliamy, Miloš Šolaja, Nusret Sivac, Charles McLeod, and Slavko Puhalić is reviewed in chapter 4.10.2 *Schedule C.15.2*. The evidence of Milovan Milutinović is reviewed in chapters 4.10.2 *Schedule C.15.2* and elsewhere in 9.2.10. Exhibits P201, P2813, and P2879 are reviewed elsewhere in chapter 9.2.10.

authorized to access the camps on 26 August 1992.<sup>14886</sup> Following this speech, none of the persons in the Bosnian-Serb leadership, including Karadžić, denied the ongoing occurrence of these events in Bosnia, although Karadžić claimed in September 1992 that the camp was open and that detainees were free to leave.<sup>14887</sup>

4063. On 29 July 1992 'The Guardian' reported on the conditions in and around the Trnopolje concentration camp, located three miles away from Kozarac and which was functioning as a prison for Muslims and Croats.<sup>14888</sup> Five thousand women and children had been detained there since 27 April.<sup>14889</sup> The ICRC was not allowed inside.<sup>14890</sup> According to 'The Guardian', Trnopolje was the 'best' of the four concentration camps in the northern Serbian Republic of Bosnia, where at least 14,000 Muslims were being held.<sup>14891</sup> Prisoners were fed every day and the villagers were allowed to bring them supplies.<sup>14892</sup>

4064. According to an ITN news report, 2,000 'refugees' were living at Trnopolje camp.<sup>14893</sup> An ITN reporter relayed that conditions at Trnopolje were appalling.<sup>14894</sup> In 100-degree heat, hundreds of men were forced to eat and sleep outside in the field behind barbed wire, and their rations consisted of a small hunk of bread and a bowl of soup per day.<sup>14895</sup> In the makeshift medical centre there were cases of scabies, malnutrition, and diarrhoea, and local doctors said that they were chronically short of medicine.<sup>14896</sup> ITN reporters did not observe evidence of beatings, but a Muslim camp doctor at Trnopolje agreed that there had been cases of beatings and that he had also received cases of people who had been beaten at other camps.<sup>14897</sup> The detainees that the reporters spoke to did not know why they were there and whether they were prisoners or refugees.<sup>14898</sup> Several detainees reported that retaliatory killings took place at Trnopolje,

<sup>14886</sup> P3104 (Herbert Okun, *Karadžić* transcript, 22-23, 28 April 2010), pp. 1502-1504; P3111 (Address by ICRC President Sommaruga on 26 August 1992 at the London Conference), pp. 3; P3116 (Herbert Okun, Table of Concordance), p. 1.

<sup>14887</sup> P3103 (Herbert Okun, *Krajišnik* transcript, 22-25 June 2004), pp. 4198, 4200; P3104 (Herbert Okun, *Karadžić* transcript, 22-23, 28 April 2010), pp. 1504-1505; P3115 (Index to diary entries by Ambassador Herbert Okun, entry dated 10 September 1992), p. 5.

<sup>14888</sup> P4320 (Press report from The Guardian, 29 July 1992), pp. 1-2.

<sup>14889</sup> P4320 (Press report from The Guardian, 29 July 1992), p. 2.

<sup>14890</sup> P4320 (Press report from The Guardian, 29 July 1992), p. 2.

<sup>14891</sup> P4320 (Press report from The Guardian, 29 July 1992), pp. 2-3.

<sup>14892</sup> P4320 (Press report from The Guardian, 29 July 1992), p. 2.

<sup>14893</sup> P4155 (ITN footage transcript), pp. 2, 6.

<sup>14894</sup> P4155 (ITN footage transcript), p. 4.

<sup>14895</sup> P4155 (ITN footage transcript), p. 4.

<sup>14896</sup> P4155 (ITN footage transcript), p. 6.

<sup>14897</sup> P4155 (ITN footage transcript), pp. 2, 6.

<sup>14898</sup> P4155 (ITN footage transcript), p. 3.

noting that, on one occasion, 150 detainees had been killed following the death of ten Serb soldiers in a Muslim village.<sup>14899</sup> Reporters were also told that prisoners were beaten to death.<sup>14900</sup> A male detainee gave ITN reporters a roll of film which portrayed severe injuries, apparently as a result of beatings.<sup>14901</sup> The detainee feared that he would be killed if caught speaking to the reporters.<sup>14902</sup>

4065. Based on the foregoing, the Trial Chamber finds that prior to international journalists visiting Trnopolje camp sometime in the beginning of August 1992,<sup>14903</sup> camp commander Slobodan Kuruzović, a member of the 43rd Motorised Brigade as found in chapter 3.1.2, told many detainees that they could leave the camp and return to their homes and the camp guards organized a convoy by which nearly all the women and elderly men left the camp.<sup>14904</sup> The journalists' visit was approved by Mladić and Karadžić and, pursuant to an order from General Talić and General Kelečević, they were escorted to Omarska camp by, *inter alios*, Simo Drljača, who was the Chief of the Prijedor SJB, Milovan Milutinović, Miloš Šolaja, and members of the civilian police. During the visit, some of the detainees were hesitant to speak about the conditions and their treatment at the camp in the presence of camp guards and of medical technician Mića Kobas,<sup>14905</sup> while others told the journalists about beatings and killings which had occurred at the camp and the lack of food and water; one detainee managed to find himself alone with one of the journalists and gave her a camera and a film with which he had been taking pictures at the camp. As of mid-August 1992, several international delegations, including representatives of the ICRC, visited Trnopolje camp and before these visits, the conditions at the camp improved; the camp guards ordered the detainees to remove the fences surrounding the camp and the camp authorities brought food,

<sup>14899</sup> P4155 (ITN footage transcript), p. 5.

<sup>14900</sup> P4155 (ITN footage transcript), p. 5.

<sup>14901</sup> P4155 (ITN footage transcript), pp. 2, 5.

<sup>14902</sup> P4155 (ITN footage transcript), pp. 2, 5.

<sup>14903</sup> The Trial Chamber notes that it received inconsistent evidence with respect to the exact date when the group of journalists visited Omarska camp, however, all the evidence places the visit sometime between 4 and 7 August 1992.

<sup>14904</sup> The Trial Chamber received evidence from Slavko Puhalić that no preparations were made for the journalists' arrival at Trnopolje camp. However, the Trial Chamber notes that Puhalić did not specify when the journalists' visit which he was referring to took place. Furthermore, the witness testified that he was present at the camp only the day prior to, and the day after the journalists' arrival. The Trial Chamber therefore considers it credible that other witnesses, including Idriz Merdžanić and Witness RM-060, who were both detained at Trnopolje camp, observed either measures, including the removal of detainees from the camp and/or the improvement of the conditions of detention, which were taken before a different visit of journalists to Trnopolje camp than the one that Puhalić testified about or measures which were taken without Puhalić's knowledge.

clothing, and medicine to the camp and allowed the detainees to receive visits from their families. The camp guards also put up a sign which stated that the camp was a collection centre and threatened the detainees not to give statements to the ICRC representatives. The Trial Chamber finds that the aforementioned measures were taken pursuant to an order from Mladić dated 3 August 1992 stating that, *inter alia*, Trnopolje camp was to be prepared for visits by the ICRC and foreign journalists. The Trial Chamber also finds that Mladić and Karadžić denied the ICRC access to Trnopolje camp between 18 and 26 August 1992. The Trial Chamber rejects the Defence's submission that Trnopolje camp was under the constant supervision of the ICRC<sup>14906</sup> as unsubstantiated, as the Defence did not refer to any evidence in support of its argument and as the argument is contradicted by the evidence.

4066. The Trial Chamber further finds that on 31 August 1992, the ECMM visited Trnopolje camp. On this occasion, Stakić told the ECMM that the Bosnian Muslims and Bosnian Croats who were at Trnopolje camp had not been accused of any crimes but that the majority wished to remain in the camp and that the VRS and the police had captured several thousand people and brought them to Trnopolje camp in order to protect them from the fighting. The camp guards told the ECMM that the machine guns pointed at the camp were there for the protection of the people inside the camp. The Trial Chamber rejects the Defence's submission that Trnopolje camp was visited by Doctors without Borders and Pharmacists without Borders<sup>14907</sup> as unsubstantiated, as the Defence did not refer to any evidence in support of its argument and the Trial Chamber did not receive any evidence in this respect.

4067. In light of the foregoing, the Trial Chamber finds that, on occasion, Karadžić and the authorities in charge of Trnopolje camp, including camp commander Kuruzović, a member of the 43rd Motorised Brigade as found in chapter 3.1.2, and the camp guards made efforts to conceal the unlawful detention and the cruel and inhumane treatment of Bosnian Muslims and Bosnian Croats at Trnopolje camp from international organizations, including the ICRC, as well as from international journalists.

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<sup>14905</sup> The Trial Chamber understands Merdžanić's evidence referring to 'Mico' Kobas to refer to the Trnopolje camp medical technician, Mića Kobas.

<sup>14906</sup> See Defence Final Brief, para. 993.

<sup>14907</sup> See Defence Final Brief, para. 993.

4068. Mladić's alleged involvement in the concealment of the unlawful detention and the cruel and inhumane treatment of Bosnian Muslims and Bosnian Croats at Trnopolje camp will be further addressed in chapter 9.3.10.

*Vlasenica Municipality – Sušica camp*

4069. In relation to the alleged cover up of the unlawful detention and the cruel and inhumane treatment of between 2,000 and 2,500 Bosnian Muslims of both sexes and all ages, including civilians, at Sušica camp between 31 May and September 1992 by the Vlasenica Crisis Staff and guards, who were members of the VRS and the MUP, as set out in chapter 4.14.2 *Schedule C.19.3* and 8.9.2, as well as the murder of 140 to 150 Bosnian-Muslim Sušica camp detainees by Serb MUP officers from the SJB Vlasenica on 30 September 1992, as set out in chapter 4.14.1 *Schedule B.16.2* and 8.3.2, the Trial Chamber took judicial notice of a number of Adjudicated Facts.<sup>14908</sup> It further received evidence from **Witness RM-006**, a Serb from Vlasenica,<sup>14909</sup> as well as documentary evidence.<sup>14910</sup>

4070. Based on the foregoing, the Trial Chamber finds that on two occasions between mid-June and 30 September 1992 when members of international organizations visited Sušica camp, Dragan Nikolić, the Sušica camp commander as of mid-June 1992, managed to conceal many detainees and the conditions of detention. The Trial Chamber further finds that following the murder of the last 140 to 150 Bosnian Muslim Sušica camp detainees on 30 September 1992, the Vlasenica Crisis Staff members ordered the dismantling of the camp and the concealment of its traces, including the destruction of documents and of any items left behind by the detainees. The Trial Chamber thus finds that the Vlasenica Crisis Staff and Nikolić made efforts to conceal the unlawful detention and the cruel and inhumane treatment at Sušica camp, as well as the murder of 140 to 150 Bosnian Muslim Sušica camp detainees on 30 September 1992 from members of international organizations.<sup>14911</sup>

<sup>14908</sup> Adjudicated Fact I, no. 1264 is reviewed in chapter 4.13.2 *Schedule C.19.3*. Adjudicated Facts I, nos 1267 and 1268 are reviewed in chapter 4.14.1 *Schedule B.16.2*.

<sup>14909</sup> P182 (Witness RM-066, witness statement, 7 April 2010), p. 1. The evidence of Witness RM-066 is reviewed in chapter 4.14.1 *Schedule B.16.2*.

<sup>14910</sup> Exhibit P6937 is reviewed in chapter 4.13.2 *Schedule C.19.3*.

<sup>14911</sup> The Trial Chamber notes that, although it received no evidence that further visits from members of international organizations to Sušica camp were scheduled to take place after 30 September 1992, the Trial Chamber considers that, given the nature of the acts, they were meant to conceal the murder of Sušica camp detainees and the existence of the camp from members of international organizations.

### 9.2.11 Tomašica

4071. The Prosecution argued that the VRS and other authorities attempted to conceal crimes committed during the alleged ethnic cleansing campaign carried out in Prijedor by burying the victims in the Tomašica mass grave and reburying some of them in the Jakarina Kosa mass grave.<sup>14912</sup> The Defence argued that VRS personnel were not involved in the Tomašica burials and that the presence of people in military-style uniforms cannot establish VRS involvement as people mobilized into work obligations were mandated to wear uniforms but were not subordinated to the VRS.<sup>14913</sup>

4072. With respect to the alleged murder of Bosnian Muslims and Bosnian Croats in Prijedor Municipality, as set out in chapters 4.10.1 *Schedules A.6.1, A.6.4, A.6.5, A.6.6, A.6.8, B.13.1, B.13.2*, and 8.3.2, and the alleged attempt to conceal these crimes, the Trial Chamber took judicial notice of a number of Adjudicated Facts.<sup>14914</sup> It further received evidence from **Ostoja Marjanović**, the general director of the Ljubija Mines Company in Prijedor Municipality from February 1991 until the end of 1996 and a member of the SDS Commission for Information and Propaganda;<sup>14915</sup> **Witness RM-387**, a Bosnian-Serb employee at the Ljubija Mines Company in Prijedor as of the spring of 1992;<sup>14916</sup> **Witness RM-382**, a Bosnian-Serb employee at the Ljubija Mines Company based at the Tomašica mine in Prijedor in 1992 and 1993;<sup>14917</sup> **Radovan Zdjelar**, an excavator operator working in the Tomasiča mine in 1992;<sup>14918</sup> **Dragan Gajić**, Commander of the Engineer Battalion of the JNA 343rd Motorized Brigade and subsequently the VRS 43rd Motorized Brigade between 16 September 1991 and 18 November 1996;<sup>14919</sup> **Dragan Vujčić**, a Serb from Prijedor Municipality who was Dragan Gajić's deputy and number three of the 43rd Motorised Brigade of the VRS;<sup>14920</sup> **Witness RM-383**, a Serb truck driver who lived in Prijedor;<sup>14921</sup> **Witness RM-384**, a

<sup>14912</sup> Prosecution Final Brief, Annex A, Prijedor Summary, paras 48-52, 55, 57.

<sup>14913</sup> Defence Final Brief, paras 1060-1081.

<sup>14914</sup> Adjudicated Fact 904 is reviewed in chapter 4.10.1 *Schedule A.6.5*. Adjudicated Facts 1053 and 1054 are reviewed in chapter 4.10.1 *Schedule B.13.1*.

<sup>14915</sup> Ostoja Marjanović, T. 40963-40964, 40966, 40989-40990, 40992-40993, 41053; P7622 (List of SDS Municipal Board Commissions, undated).

<sup>14916</sup> P7316 (Witness RM-387, witness statement, 4 July 2014), p. 1, para. 1.

<sup>14917</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), p. 1, paras 1-2.

<sup>14918</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), paras 1-2.

<sup>14919</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), p. 1, paras 1, 3, 5, 16..

<sup>14920</sup> D1359 (Dragan Vujčić, witness statement, 20 July 2015), p. 1, para. 2; Dragan Vujčić, T. 41497-41498.

<sup>14921</sup> P7416 (Witness RM-383, witness statement, 28 January 2014), p. 1, paras 1-2.

driver mobilised into the JNA on 5 May 1992;<sup>14922</sup> **Witness RM-038**, a Bosnian Muslim from Prijedor Municipality;<sup>14923</sup> **Witness RM-097**, a Serb from Prijedor;<sup>14924</sup> **Witness RM-704**, a man from the Muslim hamlet of Ćemernica, Jugovci Village, Prijedor Municipality;<sup>14925</sup> **Jusuf Arifagić**, a Bosnian Muslim from Kozarac in Prijedor Municipality;<sup>14926</sup> **Witness RM-385** a Serb from Prijedor;<sup>14927</sup> **Ewa Tabeau**, a demographer and statistician;<sup>14928</sup> **Thomas Parsons**, director of forensic science at the ICMP;<sup>14929</sup> and **Ian Hanson**, deputy director of forensic science at the ICMP;<sup>14930</sup> as well as documentary evidence.

4073. **Ostoja Marjanović** testified that the Ljubija mines consisted of, *inter alia*, the Eastern mines, also known as Tomašica and located 18 kilometres to the east of Prijedor with pits in the villages of Busnovi and Marićthe.<sup>14931</sup> The Ljubija Mines Company administered the mines, which were state-owned.<sup>14932</sup> After March 1992, the mines stopped operating.<sup>14933</sup> There was a gate at the main entrance to the Tomašica mine, so civilians could not enter.<sup>14934</sup> Around 100 metres away from this entrance there was another gate which led to the compound of the *Ferox* company.<sup>14935</sup> In 1992, the Ljubija Mines Company owned various types of heavy mining and construction machinery, including hydraulic excavators, electric bulldozers, graders, dump trucks, small buses, and several rock drills.<sup>14936</sup> From 1991 onwards, the JNA – and later the VRS – regularly requisitioned the mine’s equipment.<sup>14937</sup> In May 1992, the Ljubija Mines

<sup>14922</sup> P7313 (Witness RM-384, witness statement, 30 January 2014), p.1, para. 2. The evidence of Witness RM-384 is reviewed in chapter 4.10.1 *Schedule A.6.5*.

<sup>14923</sup> P2946 (Witness RM-038, *Stakić* transcript, 15-16 July 2002), pp. 5874, 5878-5879.

<sup>14924</sup> P2432 (Witness RM-097, *Brđanin* testimony, 17 and 20 October 2003), pp. 21047-21048, 21066-21070, 21091; Witness RM-097, T. 17828; P2439 (Plea agreement of Witness RM-097, 24 July 2003), para. 7.

<sup>14925</sup> P2602 (Witness RM-704, witness statement, 12 October 2001), pp. 1-2. The evidence of Witness RM-704 is reviewed in chapter 4.10.1 *Schedule A.6.5*.

<sup>14926</sup> P3388 (Jusuf Arifagić, witness statement, 22 October 1994), pp. 1-2. The evidence of Jusuf Arifagić is reviewed in chapters 4.10.1 *Schedule B.13.1* and *Schedule C and unsheduledmurder incidents*.

<sup>14927</sup> P7314 (Witness RM-385, witness statement, 5 April 2014), p. 1, paras 2, 4, 8-10.

<sup>14928</sup> Ewa Tabeau, T. 19307-19308; P2789 (*Curriculum vitae* of Ewa Tabeau, 5 November 2013).

<sup>14929</sup> Thomas Parsons, T. 36415; P1715 (*Curriculum vitae* of Thomas Parsons).

<sup>14930</sup> Ian Hanson, T. 36240; P7430 (*Curriculum vitae* of Ian Hanson).

<sup>14931</sup> Ostoja Marjanović, T. 40965-40966, 40968-40969.

<sup>14932</sup> Ostoja Marjanović, T. 40989.

<sup>14933</sup> Ostoja Marjanović, T. 40966-40967.

<sup>14934</sup> Ostoja Marjanović, T. 40977.

<sup>14935</sup> Ostoja Marjanović, T. 40977, 40979-40980; D1347 (Aerial photograph of the Tomasića mine, marked by Ostoja Marjanović).

<sup>14936</sup> Ostoja Marjanović, T. 40968, 40983, 41051-41052; P7635 (Photograph of a drilled hole in a rock at the Jakarina Kosa mass grave-site, 13 September 2001).

<sup>14937</sup> Ostoja Marjanović, T. 40970-40971.

Company handed over all of its mining explosives to the VRS.<sup>14938</sup> The company also maintained certain machinery that belonged to the military at its central workshop in Prijedor.<sup>14939</sup> Sometime in late 1991 or the beginning of 1992, upon request of Vladimir Arsić, the Ljubija Mines Company provided the JNA with maps that reflected the activity and works in the mines, including sites where no mining was going on.<sup>14940</sup> According to a list of territorial maintenance resources signed by Mladić, the Ljubija Mines Company provided resources to the 14th Logistics Base and 1KK, namely four management personnel, 62 workers, 22 tracked vehicles, and 30 wheeled vehicles.<sup>14941</sup> **Marjanović** confirmed that throughout the war, the Ljubija Mines Company provided services and resources to the VRS, which included maintaining the army's machinery.<sup>14942</sup>

4074. **Witness RM-387** stated that in April or May 1992, the Prijedor Crisis Staff and the VRS, acting in a coordinated manner, took control of the facilities of the Ljubija Mines Company, including the Tomašica mine.<sup>14943</sup> Access was controlled by the VRS together with the mine's guards.<sup>14944</sup> **Witness RM-382** testified that in May 1992, 'the military' took control of the entrance to the mine site at the Tomašica mine.<sup>14945</sup> A guard at the Tomašica mine told **Witness RM-387** after the war that during the summer of 1992, the guards were 'just put aside' and could not influence the events.<sup>14946</sup> According to the witness, all material and human resources engaged at the mine's facilities were mobilized for mandatory military work.<sup>14947</sup>

4075. **Witness RM-382** testified that around May 1992, he was tasked to take fuel to an area of the Tomašica mine called 'Kipa', where waste soil from mining operations was deposited.<sup>14948</sup> There, he handed over the fuel to Dragan Mlinarević who told the witness that he was going to level the ground in that area with one of the Ljubija Mines

<sup>14938</sup> Ostoja Marjanović, T. 41020.

<sup>14939</sup> Ostoja Marjanović, T. 41023.

<sup>14940</sup> Ostoja Marjanović, T. 41018, 41020, 41024, 41036.

<sup>14941</sup> P7630 (List of territorial maintenance resources signed by Mladić, undated).

<sup>14942</sup> Ostoja Marjanović, T. 41021-41025.

<sup>14943</sup> P7316 (Witness RM-387, witness statement, 4 July 2014), paras 2, 5.

<sup>14944</sup> P7316 (Witness RM-387, witness statement, 4 July 2014), para. 2.

<sup>14945</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 13; Witness RM-382, T. 36215.

<sup>14946</sup> P7316 (Witness RM-387, witness statement, 4 July 2014), para. 6.

<sup>14947</sup> P7316 (Witness RM-387, witness statement, 4 July 2014), paras 7-10; P7318 (List of employees of the General Services Unit of the Ljubija Mines Company, 7 July 1992); P7319 (List of 36 machines and vehicles from the Ljubija Mines Company engaged at military units, undated).

<sup>14948</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 4.

Company's bulldozers so that it could be used by a rocket unit of the military.<sup>14949</sup> A record of fuel held and used by the Tomašica mine indicates that on 14 July 1992, fuel was extracted from one of the Ljubija Mines Company's vehicles 'for the army'; on 20 July 1992, a land grader levelled the road towards the Luke area; and on 26 July 1992, a bulldozer was under the army's responsibility.<sup>14950</sup> According to excerpts of the Ljubija Mines Company's July 1992 log book, on 21 July 1992, a land grader was used to level a road in the Luke area and 'soldiers' broke down both locks on the gate.<sup>14951</sup> On 23, 24, and 27 July 1992, a bulldozer was used in this area for the needs of the army.<sup>14952</sup> An overview of fuel quantities used by machinery engaged for VRS needs also indicates that a bulldozer worked at the Luke site during June and July 1992, including on 23 and 24 July 1992.<sup>14953</sup> According to a list compiled by a manager of the Ljubija Mines Company on 11 April 1994, four cars and machines belonging to the company, including a land grader, had been engaged for the needs of the VRS during the period of September 1991 to September 1993.<sup>14954</sup>

4076. During the summer of 1992, **Witness RM-382** saw two trucks loaded with dead bodies arrive at the main gate of the Tomašica mine.<sup>14955</sup> He could see blood dripping from the trucks.<sup>14956</sup> One man sitting in the cabin of the truck was holding an automatic rifle; as the guard manning the gate did not want to open it, another man wearing SMB trousers or an SMB top and sitting on the bonnet of one of the vehicles shot at the padlock of the gate to open it.<sup>14957</sup> The witness concluded that the men accompanying the trucks were 'civilians' because they were not wearing a complete uniform.<sup>14958</sup> He also saw that the Autoservis logo on the door of the trucks had been covered.<sup>14959</sup>

<sup>14949</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 4; Witness RM-382, T. 36201-36202.

<sup>14950</sup> P7426 (Records of fuel held and used by Tomašica Eastern Mine of the Ljubija Mines Company, 4 June, 4, 16, 20 and 26 July 1992), pp. 3, 5-6.

<sup>14951</sup> Witness RM-382, T. 36186-36187, 36220; P7422 (Excerpt of 21 July entry of the Ljubija Mines Company log book for July 1992), p. 2.

<sup>14952</sup> Witness RM-382, T. 36189-36191; P7423 (Excerpt of 20, 23-24 and 27 July entries of the Ljubija Mines Company log book for July 1992), pp. 4, 6, 8.

<sup>14953</sup> Witness RM-382, T. 36192-36193; P7424 (Overview of allocated and used quantities of oil and other fuels for VRS needs, from 1 January 1992-31 May 1993), p. 1.

<sup>14954</sup> Witness RM-382, T. 36224-36226; D1082 (List of 4 vehicles and machines belonging to the Ljubija Mines Company used by the VRS, 11 April 1994), p. 1.

<sup>14955</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 5; Witness RM-382, T. 36180, 36202.

<sup>14956</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 5.

<sup>14957</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 5; Witness RM-382, T. 36203.

<sup>14958</sup> Witness RM-382, T. 36203-36204.

<sup>14959</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 5.

Autoservis was part of the Ljubija Mines Company and owned these trucks.<sup>14960</sup> Once the gate was open, the witness saw both trucks drive towards the Kipa area.<sup>14961</sup> About two hours later, the witness drove to that same area and saw a man working in an excavator digging a grave that was approximately 20 to 30 metres long, four to five metres wide, and two to three metres deep.<sup>14962</sup> He then watched the two trucks unload a large number of bodies into this grave.<sup>14963</sup> There were bodies lying on the side of the grave that had not already fallen into the grave from the trucks, and a bulldozer pushed them into the grave.<sup>14964</sup> Among those bodies, the witness recognized two people he had known: a butcher from Prijedor named Husein, a.k.a. Huso, and a man nicknamed 'Babin', who was from either the village of Volar or Bišćani.<sup>14965</sup> Those present at the grave site included the two truck drivers, two soldiers who appeared to be drunk, five 'civilians', and Radiša Ljesnjak, a supervisor at the Tomašica mine who was in charge of the drainage system.<sup>14966</sup> According to a document issued by the SJB Prijedor, Ljesnjak was a member of the police force between 4 April 1992 and 28 February 1993.<sup>14967</sup> A few days later, around midnight, Ljesnjak went to Witness RM-382's house, which is approximately 1,200 metres from the main gate of the Tomašica mine, and told him that the lights of an excavator were not working and that there were bodies that needed to be buried at the Tomašica mine grave site before the morning.<sup>14968</sup> Ljesnjak asked the witness to use the lights of his truck to illuminate a grave.<sup>14969</sup> Out of fear, the witness felt obliged to complete this task, and he observed more than 100 bodies being buried in the mass grave by a 'civilian' who was operating the excavator.<sup>14970</sup>

4077. **Radovan Zdjelar** stated that one or two days after the conflict in Prijedor started, he received a telephone call at 2 or 3 a.m. from someone claiming to be from the

<sup>14960</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 5.

<sup>14961</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 6.

<sup>14962</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 6.

<sup>14963</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 7.

<sup>14964</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 7.

<sup>14965</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 8.

<sup>14966</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 7.

<sup>14967</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 7; D1081 (Certificate issued by SJB Prijedor confirming that Radiša Ljesnjak was a member of the police between 4 April 1992 and 28 February 1993, 23 February 1993), p. 1.

<sup>14968</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 9.

<sup>14969</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 9.

<sup>14970</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 10; Witness RM-382, T. 36211-36212.

crisis staff and advising him that he would be picked up soon.<sup>14971</sup> Ljesnjak and his driver arrived at the witness's house in a vehicle and took him to a workshop at the Tomašica mine to get his excavator.<sup>14972</sup> Ljesnjak asked the witness to take this machine to the Kipa area.<sup>14973</sup> Ljesnjak instructed him to dig a pit three to four metres deep and four to five metres wide, which Ljesnjak said was for the purpose of burying the bodies of people killed during fighting in Prijedor.<sup>14974</sup> Around noon that day, soldiers arrived at the site in a military vehicle and unloaded ten to twelve bodies.<sup>14975</sup> After the bodies had been put in the pit, Ljesnjak asked the witness to cover them.<sup>14976</sup> The witness was then taken home and told that he would return to the pit. The following day, he was picked up again and taken back to the pit. This sequence of events repeated itself over the next three to four days. During these days, two to three 'civilian vehicles' brought in a total of approximately 15 bodies.<sup>14977</sup> Ljesnjak was present on all occasions, and on one occasion, people in old JNA uniforms and Simo Drljača were also present. Ljesnjak told the witness that the man was Drljača. Both Drljača and Ljesnjak wore camouflage uniforms.<sup>14978</sup>

4078. **Witness RM-382** testified that the guards at the main gate told him that on approximately two more occasions, bodies were brought through the main gate for burial at the same location.<sup>14979</sup> After these occasions, the grave site was accessed by the unmanned back gate, which provided a shortcut to the grave site.<sup>14980</sup> Throughout 1992 and 1993, the witness saw trucks close to the grave site on multiple occasions.<sup>14981</sup> He could see bodies in the trucks and blood traces on the road, and he could smell decomposing bodies.<sup>14982</sup>

4079. In the summer of 1992, two or three days after the witness had first observed bodies being brought to the Tomašica mine, people from Busnovi went to Prijedor Town in order to complain to Simo Drljača, the Chief of the Prijedor SJB, about bodies

<sup>14971</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 2.

<sup>14972</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), paras 2-3.

<sup>14973</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 3.

<sup>14974</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 3.

<sup>14975</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 5.

<sup>14976</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 6.

<sup>14977</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 7.

<sup>14978</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 8.

<sup>14979</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 11; Witness RM-382, T. 36212.

<sup>14980</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 11; Witness RM-382, T. 36212.

<sup>14981</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 11.

<sup>14982</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 11.

being brought to the Tomašica mine.<sup>14983</sup> Drljača threatened a man called Slavko Savić, telling him that he was ‘worse than the enemy’ and should be killed.<sup>14984</sup>

4080. Sometime in 1992 or 1993, the witness noticed that the Tomašica grave site could no longer be accessed, as it was controlled by men in military uniforms; this continued until the end of the war.<sup>14985</sup> These men were clothed in the olive-drab uniforms of the army reserve force.<sup>14986</sup> The witness was not aware of any further burials at the site during this time.<sup>14987</sup> After the war, the area was left unguarded and the back gate remained unlocked.<sup>14988</sup> In August 1992 or the beginning of 1993, UNPROFOR members visited the Tomašica mine after receiving information that bodies had been dumped into the drying kiln.<sup>14989</sup> After visiting the site, the UNPROFOR members established that this had not occurred, as the kilns had not been used for over a year.<sup>14990</sup>

4081. **Witness RM-097** testified that one evening after the Čarakovo operation (*see* chapters 4.10.1 *Schedule A.6.5* and 4.10.7), between 6:30 and 7:30 p.m., he saw between eight and ten military trucks in a hamlet near Čarakovo, and concluded from the smell that they were transporting dead bodies.<sup>14991</sup> Each truck could have contained approximately 50 to 70 bodies.<sup>14992</sup>

4082. **Radovan Zdjelar** stated that he returned to the Tomašica mine several times during the war.<sup>14993</sup> During one visit in 1995, he noticed a high presence of soldiers in the area and he saw bodies being removed from the pit he had dug and loaded onto civilian trucks with trailers.<sup>14994</sup> **Witness RM-382** testified that sometime at the end of 1995, after the 14 December signing of the Dayton Accords, he saw an excavator operating at the Tomašica grave site for one week.<sup>14995</sup> He was told that a soldier was

<sup>14983</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 15; Witness RM-382, T. 36216-36217.

<sup>14984</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 15; Witness RM-382, T. 36217.

<sup>14985</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 12; Witness RM-382, T. 36212-36214.

<sup>14986</sup> Witness RM-382, T. 36212-36213.

<sup>14987</sup> Witness RM-382, T. 36214.

<sup>14988</sup> Witness RM-382, T. 36214.

<sup>14989</sup> Witness RM-382, T. 36205.

<sup>14990</sup> Witness RM-382, T. 36205.

<sup>14991</sup> P2432 (Witness RM-097, *Brđanin* testimony, 17 and 20 October 2003), pp. 21087-21088.

<sup>14992</sup> P2432 (Witness RM-097, *Brđanin* testimony, 17 and 20 October 2003), p. 21088.

<sup>14993</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), para. 10.

<sup>14994</sup> P7311 (Radovan Zdjelar, witness statement, 18 July 2014), paras 11-12.

<sup>14995</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 16; Witness RM-382, T. 36177.

preventing access to the Kipa area.<sup>14996</sup> The witness could again smell decomposing bodies.<sup>14997</sup>

4083. **Dragan Vujčić** testified that the VRS 43rd Motorized Brigade was mobilised to the Gradačac front after the ‘corridor of life’ had been opened, and stayed there until 1995.<sup>14998</sup> According to the witness, this mobilisation took place sometime in May or June 1992.<sup>14999</sup> According to Vujčić, his unit neither received any orders regarding the Tomašica mine nor knew what was happening there.<sup>15000</sup> The construction machines of his brigade were not used for the burial of bodies as they were used in the Gradačac front, and none of the brigade’s personnel were involved in the burying of bodies in Tomašica.<sup>15001</sup> The witness was not present in Prijedor and did not know whether any machines were mobilized from the Ljubija Mines Company for the burial of bodies in Tomašica.<sup>15002</sup> The witness first heard of Tomašica from the media when the exhumation of the bodies began.<sup>15003</sup>

4084. **Dragan Gajić** stated that the Engineer Battalion of the 43rd Motorized Brigade did not take part in ‘the clearing up of the terrain’ in and around Prijedor and that the battalion’s equipment was not used for this purpose.<sup>15004</sup> The battalion did not participate in the burial, relocation, or transportation of bodies in Tomašica, and the witness never received an order from the commander in this respect.<sup>15005</sup> The witness was at the Gradačac front with all of his machines ‘[a]t the time the events in Tomašica took place’ and did not hear about Tomašica until the war ended.<sup>15006</sup> Sometime in March or April 1992, the 43rd Motorised Brigade was deployed at the Gradačac front in Skugrić Village and only the logistic part of the battalion remained in Prijedor.<sup>15007</sup> Sometime in September or October 1995, the 43rd Motorized Brigade returned to

<sup>14996</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 16; Witness RM-382, T. 36177, 36218-36219.

<sup>14997</sup> P7420 (Witness RM-382, witness statement, 1 July 2014), para. 16.

<sup>14998</sup> Dragan Vujčić, T. 41500-41501, 41516-41517.

<sup>14999</sup> Dragan Vujčić, T. 41500-41501, 41516-41517.

<sup>15000</sup> D1359 (Dragan Vujčić, witness statement, 20 July 2015), para. 10; Dragan Vujčić, T. 41507, 41510.

<sup>15001</sup> D1359 (Dragan Vujčić, witness statement, 20 July 2015), para. 10.

<sup>15002</sup> Dragan Vujčić, T. 41507, 41512.

<sup>15003</sup> D1359 (Dragan Vujčić, witness statement, 20 July 2015), para. 10.

<sup>15004</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), para. 12.

<sup>15005</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), para. 13.

<sup>15006</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), paras 13-14.

<sup>15007</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), para. 9.

Prijedor and was engaged in the defence of Prijedor Town.<sup>15008</sup> All the construction machines were in Prijedor and the pioneer company was in Ljubija.<sup>15009</sup>

4085. According to a 15 March 1993 MUP certificate signed by Drljača, the Prijedor SJB gifted a 9-millimetre pistol to Milorad Šipka, director of the Tomašica mine, in gratitude for his ‘cooperation and assistance’.<sup>15010</sup> According to a 30 March 1993 MUP certificate signed by Drljača, the Prijedor SJB also gifted a 9-millimetre pistol to Marjanović, in gratitude for his ‘cooperation and assistance’.<sup>15011</sup> **Marjanović** testified that the pistol was actually given to him by the Minister of Economy of Serbia, who sent it through Mr. Lovro, head of the SJB, and that Drljača signed the certificate so that he could get a licence.<sup>15012</sup>

4086. In a 27 May 1993 meeting with the officers of the First Krajina Corps and the Air Force and Anti-Aircraft Defence of the VRS in Banja Luka, Colonel Bogojević, the head of command and control group and the security department of the 1KK, reported to Mladić.<sup>15013</sup> He stated that four or five days earlier, Drljača had arrived and had been sent by the Minister of the Interior, to discuss the Tomašica mine, where earlier they had buried around 5,000 Bosnian Muslims.<sup>15014</sup> Drljača, who had been in charge ‘while this was being done’, wanted to leave this issue with Bogojević and others and wanted to get rid of the bodies ‘by burning, grinding or some other way’.<sup>15015</sup> Also present at the meeting with Drljača were: General Subotić, the Minister of Defence; Colonel Vladimir Arsić, the Commander of the 43rd Motorized Brigade; and Mile Matijević, the Chief of police at the Banja Luka CSB.<sup>15016</sup> Mladić’s advice to Bogojević was that ‘they killed them, so they should get rid of them’.<sup>15017</sup> Mladić also told Bogojević that an investigation had to be launched in connection with the case, and that the information was to be retained well to prevent it getting into the hands of unauthorized people.<sup>15018</sup>

<sup>15008</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), para. 10.

<sup>15009</sup> D1439 (Dragan Gajić, witness statement, 14 July 2015), para. 10.

<sup>15010</sup> Ostoja Marjanović, T. 41012-41013; P7628 (MUP certificate signed by Simo Drljača, 15 March 1993).

<sup>15011</sup> P7627 (MUP certificate signed by Simo Drljača, 30 March 1993).

<sup>15012</sup> Ostoja Marjanović, T. 41011-41012.

<sup>15013</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), pp. 151, 154-155.

<sup>15014</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), pp. 154-155.

<sup>15015</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), p. 155.

<sup>15016</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), p. 155.

<sup>15017</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), p. 155.

<sup>15018</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), p. 155.

4087. According to **Ewa Tabeau**, the remains exhumed from the Tomašica mass grave included victims of Scheduled Incidents A.6.1, A.6.4, A.6.5, A.6.6, A.6.8, B.13.1, and B.13.2.<sup>15019</sup> Forensic evidence demonstrates that some of the remains first buried in the Tomašica mass grave were later moved to a secondary grave site at Jakarina Kosa.<sup>15020</sup>

4088. In the confidential annex *in* Appendix D, the Trial Chamber addresses the Defence argument denying the involvement of VRS personnel in the Tomašica burials and considers that the evidence of Gajić and Vujčić that the engineer battalion of the VRS 43rd Motorised Brigade was mobilized at Gradačac at the time of the Tomašica burial operation does not preclude the possibility that other battalions and members of the VRS 43rd Motorised Brigade were involved in the burials.

4089. With respect to the Defence argument that the presence of people in military-style uniforms cannot establish VRS involvement as people mobilized into work obligations were mandated to wear uniforms but were not subordinated to the VRS, the Trial Chamber notes that its finding with respect to VRS involvement is not based on identifications of VRS members on the basis of their clothing. Rather, the Trial Chamber's finding is based on the evidence that the VRS controlled the Tomašica mine, that officers from the VRS 43rd Motorised Brigade's Žarko Zgonjanin barracks ordered

<sup>15019</sup> Ewa Tabeau, T. 36715, 36769-36770; P7449 (Ewa Tabeau, proof of death expert report for victims from the Tomašica mine, 20 August 2014) pp. 43-45, 47; P7451 (Ewa Tabeau, annexes to proof of death expert report for victims from the Tomašica mine, 20 August 2014), Annexes 1, 2 and 4. Tabeau's report reference evidence linking individual remains exhumed from the Tomašica mine to specific Scheduled Incidents, among them the remains of Menković (Jasim) Ilijaz, linked to Scheduled Incident A.6.1 (*see* P5546 (Identification report pertaining to the remains of Menković Ilijaz), P5517 (Court ruling on the deaths of Menković Jasim and brothers Ilijaz, Selim and Vahid)); the remains of Nureski (Iso) Alija, linked to Scheduled Incident A.6.4 (*see* P5588 (ICMP notice of DNA reports submitted from November 2001 to September 2007), part 1, row 8235); the remains of Kahteran (Hase) Kemal, linked to Scheduled Incident A.6.5 (*see* P5588 (ICMP notice of DNA reports submitted from November 2001 to September 2007), part 1, row 5638); the remains of Džolić (Ahmet) Besim, linked to Scheduled Incident A.6.6 (*see* P5767 (Court ruling on the death of Džolić Besim), P5768 (Death certificate for Džolić Besim, 20 September 1998)); the remains of Nasić (Mehmed) Irfan, linked to Scheduled Incident A.6.8 (*see* P5588 (ICMP notice of DNA reports submitted from November 2001 to September 2007), part 1, row 2710); the remains of Duratović (Hilmija) Emin, linked to Scheduled Incident B.13.1 (*see* P6109 (Collection of death certificates linked to victims of Scheduled Incident B.13.1), pp. 35-36, P5588 (ICMP notice of DNA reports submitted from November 2001 to September 2007), part 1, row 2710); and the remains of Hodžić (Saban) Ismet, linked to Scheduled Incident B.13.2 (*see* P6333 (Court ruling on the death of Hodžić Ismet), P6297 (Collection of death certificates linked to victims of Scheduled Incident B.13.2), pp. 13-14, P5588 (ICMP notice of DNA reports submitted from November 2001 to September 2007), part 1, row 4306).

<sup>15020</sup> Ewa Tabeau, T. 36729-36731, 36875; P7449 (Ewa Tabeau, proof of death expert report for victims from the Tomašica mine, 20 August 2014), pp. 12-13. *See also* P7431 (Ian Hanson, excavation at the Tomašica mines complex from 4 September to 20 December 2013, 6 May 2014), pp. 9-10, 53; Thomas Parsons, T. 36416-36418; P7436 (Thomas Parsons, explanatory note to the DNA match list of samples from Tomašica and linked cases from Jakarina Kosa, 6 May 2014); P7437 (Thomas Parsons, updated spreadsheet of DNA identification, 9 June 2014).

drivers who were mobilized in the VRS 43rd Motorised Brigade to take part in the burial operation, and that fuel and heavy machinery equipment belonging to the Ljubija Mines Company was used for the needs of the VRS at the Tomašica site at the time of the burial operation.

4090. Based on the foregoing, the Trial Chamber finds that in May 1992, the Prijedor Crisis Staff and the VRS controlled the Tomašica mine. Sometime in early May 1992, Radiša Ljesnjak, a member of the Prijedor SJB and of the Prijedor Crisis Staff, ordered the digging of a pit in a waste dump site in Tomašica. Between May and the end of July 1992, members of the VRS, including members of the 43rd Motorized Brigade Logistics Battalion, the Prijedor SJB and its Chief Simo Drljača, and the Prijedor Crisis Staff worked together to bury bodies – including victims of Scheduled Incidents A.6.1, A.6.4, A.6.5, A.6.6, A.6.8, B.13.1, and B.13.2 – at Tomašica. From 1992 or 1993 until the end of the war, the VRS blocked access to the Tomašica site.

4091. The Trial Chamber further finds that on 27 May 1993, Colonel Bogojević reported to Mladić that the Bosnian-Serb Minister of Interior sent Drljača to discuss Tomašica with Subotić, Arsić, Matijević and himself. At this meeting, Drljača said that he wanted to get rid of the bodies buried at Tomašica by burning or grinding them. Mladić told Bogojević that those responsible for the killings should get rid of the bodies. Mladić further noted that an investigation had to be launched in connection with the case and that the information was to be retained well to prevent it getting into the hands of unauthorized people.

4092. The Trial Chamber also finds that at the end of 1995, the VRS, the Prijedor SJB, including Drljača, and the Prijedor Crisis Staff reburied some of the bodies from Tomašica in the Jakarina Kosa mass grave.

4093. In light of the findings set out above, the Trial Chamber finds that the VRS, the SJB Prijedor, including Drljača, and the Prijedor Crisis Staff attempted to conceal the murder of a large number of Bosnian Muslims and Bosnian Croats in Prijedor Municipality by removing evidence of the crimes and thereby impeding potential future investigations.

*9.2.12 Investigation and prosecution of crimes*

4094. In this chapter, the Trial Chamber will review the evidence and make findings concerning the response of the Bosnian-Serb military and civilian justice system to crimes committed by members of the VRS and other Serb forces. The Prosecution argued that the relevant authorities within this system failed to take adequate steps to investigate such crimes and to arrest and/or punish the perpetrators thereof.<sup>15021</sup> It further argued that the VRS military justice system functioned effectively and ensured impunity for VRS crimes.<sup>15022</sup> The Defence argued that the military justice system made efforts to initiate investigations and criminal proceedings, but that this was not possible in many cases due to difficult wartime circumstances.<sup>15023</sup> The Trial Chamber will first consider evidence with regard to the structure and function of the military and civilian justice system. It will then turn to evidence of responses to crimes which the Trial Chamber has found to have been committed within the geographic and temporal scope of the Indictment.

*Structure and function of the military and civilian justice system*

4095. The Trial Chamber took judicial notice of Adjudicated Facts with regard to the structure and function of the military and civilian justice system. It further received evidence from **Osman Selak**, a Bosnian-Muslim Colonel in the JNA, and later the VRS, who retired in July 1992;<sup>15024</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka;<sup>15025</sup> **Predrag Drinić**, a VRS chief military prosecutor from 1992 to 2000;<sup>15026</sup> **Slobodan Radulj**, the municipal public attorney in Prijedor from 20 May 1992 and Deputy Prosecutor at the Military Prosecutor's Office in Banja Luka between 20 October 1993 and August 1997;<sup>15027</sup> **Witness RM-513**, a Bosnian Serb from

<sup>15021</sup> Prosecution Final Brief, paras 110-120. *See also* Prosecution Final Brief, Annex A, paras 30-31 (Banja Luka), 23-24 (Bijeljina), 30-32 (Ključ), 43 (Kotor Varoš), 36, 40 (Prijedor), 34-37 (Sanski Most), 36-37 (Vlasenica).

<sup>15022</sup> Prosecution Final Brief, para. 120.

<sup>15023</sup> Defence Final Brief, paras 731-733.

<sup>15024</sup> P244 (Osman Selak, witness statement, 13 July 2000), p. 1; Osman Selak, T. 2965-2966, 3182.

<sup>15025</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398. Further relevant evidence of Witness RM-016 is reviewed in chapter 3.1.1.

<sup>15026</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10843-10844.

<sup>15027</sup> Slobodan Radulj, T. 35481, 35509, 35533.

Bijeljina;<sup>15028</sup> and **Vladimir Lukić**, Prime Minister of the Bosnian-Serb Republic from December 1992 to August 1994,<sup>15029</sup> as well as documentary evidence.

4096. The Bosnian-Serb Constitution vested the Constitutional Court and lower courts of the Bosnian-Serb Republic with judicial authority.<sup>15030</sup> The judicial system of the Bosnian-Serb Republic, with the Constitutional Court at the top of the hierarchy, was to be autonomous and independent and was entrusted with protection of human rights and freedoms.<sup>15031</sup> Members of the judiciary, including judges and public prosecutors, were to be elected by the Bosnian-Serb Assembly.<sup>15032</sup> The Assembly discussed and voted on appointment and dismissal of judges and prosecutors at its 19th and 22nd sessions on 12 August 1992 and 23-24 November 1992, respectively.<sup>15033</sup>

4097. The lower courts were to ensure that all coercive actions on behalf of the state authorities were conducted in accordance with the rule of law.<sup>15034</sup> No state official could enter a dwelling against the tenant's will without a court warrant.<sup>15035</sup> No one could be deprived of his or her freedom without a valid court decision.<sup>15036</sup> In addition, pre-trial detention could not exceed two months, unless extended by the Constitutional Court for up to another two months.<sup>15037</sup> The Constitution set forth the principle of a fair trial in criminal proceedings.<sup>15038</sup> An accused person had the right to be informed of the nature of the allegation against him or her in the shortest time provided by the law, and guilt could not be established except by pronouncement of a valid court verdict.<sup>15039</sup> According to a decision by the Bosnian-Serb Presidency on 20 May 1992, lower courts were to have subject-matter jurisdiction to conduct legal proceedings in the first instance for all criminal offences.<sup>15040</sup>

4098. The Bosnian-Serb Law on Internal Affairs of 28 February 1992 extended the maximum period of allowable detention on the premises of CSBs and SJBs to three

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<sup>15028</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6. Witness RM-513's evidence is reviewed in chapter 4.2.1 *Schedule B.2.1*.

<sup>15029</sup> D626 (Vladimir Lukić, witness statement, 18 May 2013), paras 4, 6; Vladimir Lukić, T. 25423-25424; D631 (Minutes of the 61st session of the Bosnian-Serb Government, 21 December 1992), p. 2.

<sup>15030</sup> Adjudicated Facts I, no. 202.

<sup>15031</sup> Adjudicated Facts I, no. 203.

<sup>15032</sup> Adjudicated Facts I, no. 204.

<sup>15033</sup> Adjudicated Facts I, no. 205.

<sup>15034</sup> Adjudicated Facts I, no. 206.

<sup>15035</sup> Adjudicated Facts I, no. 207.

<sup>15036</sup> Adjudicated Facts I, no. 208.

<sup>15037</sup> Adjudicated Facts I, no. 208.

<sup>15038</sup> Adjudicated Facts I, no. 209.

<sup>15039</sup> Adjudicated Facts I, no. 210.

days (from the maximum of 24 hours permitted by the Bosnia-Herzegovina Law on Internal Affairs).<sup>15041</sup> Persons of unknown identity suspected of serious criminal offences could be detained indefinitely under the 1992 law.<sup>15042</sup>

4099. At the 16th Session of the Bosnian-Serb Assembly, on 12 May 1992, a decision was taken to establish a system of military prosecutors and independent military courts.<sup>15043</sup> The Assembly decided that the military prosecutors, as well as the presidents, judges, and assistant judges of the military courts, would be appointed by the Bosnian-Serb President, who would also have the authority to promote them or to relieve them of duty.<sup>15044</sup>

4100. **Osman Selak** testified that for serious breaches of discipline, an officer could be tried in a military court.<sup>15045</sup> If a serious criminal offence occurred in a brigade, it was the responsibility of that brigade to report the incident to the corps without delay and to initiate an investigation.<sup>15046</sup> The military police usually investigated the military, but could request civilian police assistance.<sup>15047</sup> The civilian police did not have the authority to arrest JNA or VRS officers, but could detain an officer provided that they immediately informed the military.<sup>15048</sup>

4101. **Witness RM-016** testified that military courts had absolute jurisdiction over the crime of armed rebellion, crimes against the state, crimes against humanity, and violations of the Geneva Conventions. The jurisdiction of the courts also extended to crimes committed by police officers and paramilitaries subordinated to military units, and crimes committed by military personnel before the courts were staffed and functional in the late summer or early autumn of 1992.<sup>15049</sup>

4102. Witness RM-016 further testified that after being arrested by the military police, a suspect could be held in pre-trial detention for up to six months pending the completion of an investigation.<sup>15050</sup> After this, the Military Prosecutor could issue an

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<sup>15040</sup> P473 (Decisions on courts and return of people, 20 May 1992 and 2 June 1992), p. 1.

<sup>15041</sup> Adjudicated Facts I, nos 320-321, 331.

<sup>15042</sup> Adjudicated Facts I, no. 332.

<sup>15043</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 53.

<sup>15044</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 53.

<sup>15045</sup> P244 (Osman Selak, witness statement, 13 July 2000), para. 32.

<sup>15046</sup> P244 (Osman Selak, witness statement, 13 July 2000), para. 33.

<sup>15047</sup> P244 (Osman Selak, witness statement, 13 July 2000), para. 36.

<sup>15048</sup> P244 (Osman Selak, witness statement, 13 July 2000), para. 36.

<sup>15049</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 15,17, 20, 87, 90, 92, 94, 96-97, 101, 112-116; Witness RM-016, T. 17400-17407, 17366, 17372-17373, 17475-17476, 17480-17481.

<sup>15050</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 98; Witness RM-015, T. 17444.

indictment and extend the detention, or drop the case.<sup>15051</sup> Pre-trial detention was mandatory for crimes carrying a minimum sentence of ten years imprisonment.<sup>15052</sup> Suspects would be detained until the final judgment was issued if they were charged with murder, robbery, or crimes against the state and the army.<sup>15053</sup>

4103. **Predrag Drinić** stated that from 1992 to 1994, four first-instance military courts existed in the Bosnian-Serb Republic.<sup>15054</sup> These were located in Banja Luka, Sarajevo, Bijeljina, and Bileća.<sup>15055</sup> The military court in Bijeljina had jurisdiction over the territory of the IBK, while the military court in Sarajevo initially dealt with matters related to the DK.<sup>15056</sup> **Witness RM-016** testified that the Banja Luka Military Court had jurisdiction over crimes allegedly committed by soldiers belonging to the 1KK and 2KK.<sup>15057</sup> The military court in Bileća had jurisdiction over the HK.<sup>15058</sup> Witness RM-016's testified that the Supreme Military Court was located in Zvornik.<sup>15059</sup>

4104. **Drinić** stated that the military prosecutor could initiate a first-instance investigation after an individual reported directly to the prosecutor or after the military police and the security organ of the respective unit filed a criminal report.<sup>15060</sup> During this investigation, the prosecutor would seek additional information from the level of the alleged perpetrator's unit and one level above, with the highest level being the commander of the Main Staff.<sup>15061</sup> If the prosecutor considered that there was sufficient ground to suspect that a crime had been committed by a particular individual, he would submit a request to the investigating judge to initiate a full criminal investigation.<sup>15062</sup> When an individual submitted a complaint, the prosecutor knew the identity of that individual and could not keep it secret.<sup>15063</sup> An anonymous tip-off was always viewed as 'incomplete'.<sup>15064</sup> The atmosphere in 1995 was such that although it was possible for an individual to file a criminal complaint against high-ranking VRS officers, it was not

<sup>15051</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 98.

<sup>15052</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 99.

<sup>15053</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 99.

<sup>15054</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10843-1044, 10846-10847. *See also* P338 (Analysis of the Combat Readiness and Activities of the VRS in 1992), p. 53.

<sup>15055</sup> D437 (Report on the Work of the VRS Military Prosecutor's Office in 1992, 10 February 1993), p. 4.

<sup>15056</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10846-10847.

<sup>15057</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 89; Witness RM-016, T. 17406-17407.

<sup>15058</sup> P338 (Analysis of the Combat Readiness and Activities of the VRS in 1992), p. 53.

<sup>15059</sup> Witness RM-016, T. 17431.

<sup>15060</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), p. 10845.

<sup>15061</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10846, 10853-10854.

<sup>15062</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), p. 10846.

<sup>15063</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10848-10850.

realistic as anyone who did so would have risked the safety and lives of his or her family.<sup>15065</sup> Alternatively, it was possible for a prosecutor to initiate an investigation against the security organ of the Main Staff, but no prosecutor would have done so for the same reason.<sup>15066</sup>

4105. Between September 1992 and April 1994, there were up to 1,000 criminal court proceedings before the Banja Luka Military Court.<sup>15067</sup> There were six prosecutions of war crimes during this time period; four alleged perpetrators were Bosnian Muslims, and two were Bosnian Croats.<sup>15068</sup> Between October 1992 and October 1993, individuals were being convicted or acquitted of committing a variety of crimes including absconding and deserting from the armed forces, assault, theft, espionage, fomenting armed rebellion, serving in the enemy army, manslaughter and murder.<sup>15069</sup> One individual was indicted for war crimes during this period; he was also indicted for serving in the enemy army, and was given an eight-year sentence for the latter crime.<sup>15070</sup>

4106. **Vladimir Lukić** testified that in early 1993 there were many problems with the judiciary caused by a shortage of staff and materials, and also due to people's awareness that crimes committed against Serbs were not being prosecuted on the Muslim side.<sup>15071</sup> **Slobodan Radulj** testified that Bosnian Serbs were charged for crimes committed against non-Serbs during the war, but could not provide any concrete examples of this occurring.<sup>15072</sup> According to the records available to the witness, no VRS soldier was prosecuted for killing non-Serbs in Sanski Most, where the 6th Krajina Brigade was based.<sup>15073</sup> According to the witness, at the Banja Luka Military Court, the prosecution of crimes committed by Serb soldiers against Serbs during the war was quite efficient, while cases concerning non-Serb victims were delayed due the circumstances of the cases, including the difficulty in securing evidence due to the fact that both the victims

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<sup>15064</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10856-10857.

<sup>15065</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), p. 10856.

<sup>15066</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10861-10862.

<sup>15067</sup> P3563 (Banja Luka Military Court Register from 10 September 1992 to 6 April 1994).

<sup>15068</sup> P3563 (Banja Luka Military Court Register from 10 September 1992 to 6 April 1994).

<sup>15069</sup> P3537 (Review of sentencing issued by Banja Luka Military Court document during the period from 1 August 1992 to 30 October 1993, 11 November 1993).

<sup>15070</sup> P3537 (Review of sentencing issued by Banja Luka Military Court document during the period from 1 August 1992 to 30 October 1993, 11 November 1993), p. 20.

<sup>15071</sup> D626 (Vladimir Lukić, witness statement, 18 May 2013), para. 26.

<sup>15072</sup> Slobodan Radulj, T. 35520-35521.

<sup>15073</sup> Slobodan Radulj, T. 35543-35545.

and their relatives would have left.<sup>15074</sup> Priority, however, was given to cases concerning the evasion of military service by Serbs, in order to boost military discipline.<sup>15075</sup> On 9 September 1992, Milan Gvero, Assistant Commander of the VRS Main Staff, asked various military prosecutor's offices to assess the appropriateness of prosecuting individuals for the crime of failure to respond to the call-up and for the crime of departure without authorisation and desertion from the armed forces.<sup>15076</sup> The Banja Luka Military Prosecutor told the witness that he had received instructions not to bring charges under Article 142 of the SFRY Criminal Code, i.e. war crimes, for crimes committed by VRS soldiers against non-Serbs.<sup>15077</sup>

4107. **Witness RM-513** testified that after the Bijeljina Military Court began functioning in August 1992, the justice system, including the court, prosecutors, and police, was not prosecuting Serbs for committing crimes against non-Serbs, with the exception of a few cases, even though it was common knowledge that Serbs were killing non-Serbs in 1992.<sup>15078</sup> Even if Bosnian-Serb soldiers were sentenced for such crimes, these sentences were not carried out. In contrast, in cases where the victims were Bosnian Serbs, perpetrators were punished according to the law. Pressure from families influenced the courts, and Bosnian-Serb families were able to exercise pressure whereas Bosnian-Muslim families could not.<sup>15079</sup> In the court, cases of failure to respond to mobilization and desertion from the military were given priority.<sup>15080</sup> In the civilian courts of Bijeljina between 1992 and 1995, there were around 12 cases involving crimes committed by Serbs against non-Serbs, which the witness did not consider to be a substantial percentage of the crimes against non-Serbs happening in Bijeljina at that time.<sup>15081</sup> The witness knew of no prosecutions by the military court of VRS soldiers for crimes against non-Serbs under Article 142 of the SFRY Criminal Code, pursuant to which crimes against the civilian population would have been prosecuted.<sup>15082</sup>

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<sup>15074</sup> Slobodan Radulj, T. 35542.

<sup>15075</sup> Slobodan Radulj, T. 35548-35549, 35553-35554, 35575, 35578-35579.

<sup>15076</sup> P7386 (Dispatch on the institution of criminal proceedings against deserters from Milan Gvero addressed to the Military Prosecutor's Office, 9 September 1992), p. 5.

<sup>15077</sup> Slobodan Radulj, T. 35539-35540.

<sup>15078</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 51-54; Witness RM-513, T. 9319-9320, 9329, 9397-9398.

<sup>15079</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), para. 54.

<sup>15080</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), para. 51.

<sup>15081</sup> Witness RM-513, T. 9389-9392; P1063 (Bijeljina District Prosecutor report, 24 August 2000).

<sup>15082</sup> Witness RM-513, T. 9259-9261.

4108. **Lukić** testified that according to the minutes of the 63rd meeting of the Bosnian-Serb Government of 5 February 1993, procedure in the judicial organs was unjustifiably slow despite the fact that criminal reports were filed promptly.<sup>15083</sup> According to the minutes, the Republican Prosecutor's Office would be asked to inform the Bosnian-Serb Government of the reasons for such delays, and the MoJ was tasked with taking steps to accelerate judicial proceedings once criminal reports were filed.<sup>15084</sup>

4109. A report on the work of the Military Prosecutor's Office during 1995 reflects that the lower military prosecutor's offices in Sarajevo, Banja Luka, Bijeljina, and Bileća received a total of 253 criminal reports, exclusively against civilians, concerning crimes against humanity and breaches of international law, a decrease from the 611 complaints these offices had received in 1994.<sup>15085</sup> Only two civilians were indicted for war crimes against the civilian population in 1995.<sup>15086</sup> The lower military prosecutor's offices received 172 criminal reports concerning crimes against life and limb; 164 of the alleged perpetrators were soldiers, two were non-commissioned officers, five were officers, and one was unidentified.<sup>15087</sup> The largest number of criminal reports related to the crime of murder.<sup>15088</sup> In 1995, 82 soldiers and one officer were indicted.<sup>15089</sup>

4110. A report on the work of the military courts during 1995 reflects that military courts almost exclusively prioritized and heard cases involving crimes committed against the VRS or against property, as well as violent crimes.<sup>15090</sup> The report states that '[c]riminal proceedings were primarily initiated and completed with the aim of assisting the armed struggle and thus contributing to the creation of the new Serbian state. This is why most of the criminal cases /relate to crimes/ against the Republika Srpska Army'.<sup>15091</sup> In these cases, due to intensified war operations and the loss of Bosnian-Serb territory, the non-appearance of witnesses and the impossibility of bringing

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<sup>15083</sup> Vladimir Lukić, T. 25451; D633 (Minutes of the 63rd session of the Bosnian-Serb Government, 5 February 1993), p. 6.

<sup>15084</sup> Vladimir Lukić, T. 25451; D633 (Minutes of the 63rd session of the Bosnian-Serb Government, 5 February 1993), p. 6.

<sup>15085</sup> P3561 (Report on the Military Prosecutor's Office during 1995, 20 February 1996), pp. 1-2, 9-10, 26, 41.

<sup>15086</sup> P3561 (Report on the Military Prosecutor's Office during 1995, 20 February 1996), pp. 10, 29, 43.

<sup>15087</sup> P3561 (Report on the Military Prosecutor's Office during 1995, 20 February 1996), pp. 10, 26.

<sup>15088</sup> P3561 (Report on the Military Prosecutor's Office during 1995, 20 February 1996), p. 11.

<sup>15089</sup> P3561 (Report on the Military Prosecutor's Office during 1995, 20 February 1996), pp. 10, 29.

<sup>15090</sup> P3560 (Report on the work of the Military Courts during 1995, 29 February 1996), pp. 4, 12-14, 17.

<sup>15091</sup> P3560 (Report on the work of the Military Courts during 1995, 29 February 1996), p. 3.

accused individuals to court became a bigger problem; thus, many trials were postponed and many interrogations were cancelled.<sup>15092</sup>

4111. Based on the foregoing, the Trial Chamber finds that on 12 May 1992, during the 16th Session of the Bosnian-Serb Assembly, a decision was passed to establish military courts and military prosecutors. The Supreme Military Court was subsequently established in Zvornik, and first-instance military courts were established in Bijeljina, Banja Luka, Sarajevo, and Bileća. The Trial Chamber finds that presidents, judges, and assistant judges in the military courts, and military prosecutors were appointed by the Bosnian-Serb President, who also had the authority to promote them or relieve them of duty. The Trial Chamber further finds that the military courts were fully operational by the early autumn of 1992, and had jurisdiction over the crime of armed rebellion, crimes against the state, crimes against humanity, and violations of the Geneva Conventions. Their jurisdiction also extended to crimes committed by police officers and paramilitaries subordinated to military units, and crimes committed by military personnel before the courts became functional.

4112. The Trial Chamber finds that detailed procedures were put in place for reporting crimes, initiating investigations, and detaining suspected perpetrators. If a serious criminal offence was committed in a brigade, the brigade was obligated to report the incident to the corps command and to file a criminal report. Criminal reports could also be submitted by individuals, but it was not possible in practice to do this anonymously.

4113. The Trial Chamber further finds that pre-trial detention was mandatory for crimes carrying a minimum sentence of ten years, and that suspects would be detained until a final judgment was issued if they were charged with murder, robbery, or crimes against the state and the army.

4114. The Trial Chamber finds that proceedings before the military courts continued throughout the war. Despite the fact that courts reported problems such as shortages of staff and materials and difficulties locating suspects and witnesses, investigations were initiated for a variety of crimes between the autumn of 1992 and the end of 1995. The military courts focused on crimes committed against the VRS, including absconding and deserting from the armed forces, failing to respond to mobilization, and serving in the

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<sup>15092</sup> P3560 (Report on the work of the Military Courts during 1995, 29 February 1996), p. 4.

enemy army. The Trial Chamber did not receive evidence of any Bosnian Serbs being prosecuted for war crimes against non-Serbs during this period.

4115. The Trial Chamber will, against the background of these findings, review the function of the military and civilian justice system with respect to the punishment or non-punishment of specific crimes which it found to have been committed within the scope of the Indictment in chapter 4.

### ***Banja Luka Municipality***

#### *Schedule B.1.4*

4116. The Trial Chamber recalls its findings in chapters 4.10.1 *Schedule B.1.4* and 8.3.2 that guards at Manjača camp murdered two Bosnian-Muslim detainees by beating them to death between 3 June and 18 December 1992. The Trial Chamber further recalls its finding in chapter 9.2.10 that, following an order from the Manjača camp commander Božidar Popović, death certificates listing false causes of death were issued for the detainees who had been killed by beatings. Popović also informed the ECMM that the victims had died of natural causes.

4117. The Prosecution argued that the IKK and the military court failed to properly address the murders of these detainees – Omer Filipović and Esad Bender – despite the fact that the perpetrators' identities were readily available.<sup>15093</sup> The Defence argued that the VRS launched an on-site investigation, suspended those responsible for the crimes, and filed a criminal report.<sup>15094</sup> The Defence further submitted that judicial proceedings took place after the war and the perpetrators received long custodial sentences.<sup>15095</sup> The Trial Chamber received evidence from **Witness RM-016**, a Bosnian Serb from Banja Luka;<sup>15096</sup> **Witness RM-051**, a VRS security officer;<sup>15097</sup> **Adil Draganović**, a Muslim Judge, President of the Sanski Most Municipal Court, who was detained in Manjača camp from 17 June 1992 to 14 December 1992;<sup>15098</sup> and **Radomir Radinković**, a VRS

<sup>15093</sup> Prosecution Final Brief, Annex A, Banja Luka Summary, para. 31.

<sup>15094</sup> Defence Final Brief, para. 867.

<sup>15095</sup> Defence Final Brief, para. 867.

<sup>15096</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398.

<sup>15097</sup> P214 (Witness RM-051, *Stanišić and Župljanin* transcript, 21-22 January 2010), p. 5255; Witness RM-051, T. 2883-2884. Witness RM-051's evidence is reviewed in chapter 4.1.1 *Schedule B.1.4*.

<sup>15098</sup> P3293 (Adil Draganović, witness statements), witness statement of 30 October 1999, pp. 1-2, 7, 10, 12, witness statement of 6 October 2000, p. 1, witness statement of 7 July 2000, pp. 1, 3.

1KK intelligence and security officer at Manjača Camp as of May 1992,<sup>15099</sup> as well as documentary evidence.<sup>15100</sup>

4118. **Witness RM-016** testified that Manjača camp was within the jurisdiction of the Banja Luka military court.<sup>15101</sup> The camp commander and the military police would have been responsible for filing incident reports for any killings which occurred.<sup>15102</sup> However, as far as the witness was aware, the military prosecutor did not receive any incident reports in relation to Manjača camp, or conduct any judicial investigations in relation to crimes committed against the detainees.<sup>15103</sup>

4119. The Trial Chamber recalls its review of a Manjača camp operational team report dated 29 July 1992, admitted into evidence as P222, along with its review of **Witness RM-051**'s evidence in chapter 4.1.1 *Schedule B.1.4*, and recalls that the perpetrators of this crime were identified and were rotated out of the camp on the same day, but were not prosecuted until 2007.

4120. The Trial Chamber recalls the evidence of Radomir Radinković, reviewed in 4.1.1 *Schedule B.1.4*, that the perpetrators were suspended by the 'crime fighting service' of the military police battalion, that a criminal report was filed against them, and that they were convicted by the Banja Luka District Court after the war.

4121. **Adil Draganović** stated that Serb military officials conducted an investigation at the camp and replaced some of the Serb guards.<sup>15104</sup> Following this investigation, the detainees were not beaten as often.<sup>15105</sup>

4122. On 17 November 1998, the Ključ Municipal Court recorded that an on-site investigation into the killings of Filipović and Bender was conducted by an investigating judge, MUP representatives, and forensic experts.<sup>15106</sup> The team of investigators performed autopsies on two corpses that had been exhumed from the Banja Luka cemetery.<sup>15107</sup> The identity of the two victims had been established earlier

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<sup>15099</sup> D900 (Radomir Radinković, witness statement, 8 December 2013), pp. 1, 6. Radinković's evidence is reviewed in chapter 4.1.1 *Schedule B.1.4*.

<sup>15100</sup> P222 is reviewed in chapter 4.1.1 *Schedule B.1.4*.

<sup>15101</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 43.

<sup>15102</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 43-44.

<sup>15103</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 43-44, 95; Witness RM-016, T. 17396.

<sup>15104</sup> P3293 (Adil Draganović, witness statements), witness statement of 30 October 1999, p. 15.

<sup>15105</sup> P3293 (Adil Draganović, witness statements), witness statement of 30 October 1999, p. 15.

<sup>15106</sup> P5992 (Court record of Exhumation of Bender and Filipović, 17 November 1998), p. 1.

<sup>15107</sup> P5992 (Court record of Exhumation of Bender and Filipović, 17 November 1998), pp. 1-7.

by Ključ MUP officials as those of Filipović and Bender.<sup>15108</sup> According to the forensic medical expert, the victims' broken bones showed that injuries had been inflicted on them.<sup>15109</sup> Muhamed Filipović stated that he had witnessed the violent murder of the victims at Manjača camp on the evening of 28 July and the morning of 29 July 1992.<sup>15110</sup>

4123. Based on the foregoing, the Trial Chamber finds that on 29 July 1992, following the deaths of Filipović and Bender, an investigating judge of the Basic Court in Banja Luka carried out an on-site investigation and produced a report identifying the military policemen who were responsible for killing the detainees. The Trial Chamber further finds that the perpetrators were rotated out of the camp on the following day, but were not otherwise punished. Though a criminal report may have been filed, nobody was prosecuted for the murders until after the war.<sup>15111</sup>

#### *Schedule C.1.2*

4124. The Trial Chamber recalls its findings in chapters 4.1.2 *Schedule C.1.2* and 8.9.2 that between 3 June and 18 December 1992, guards under the control of the 1KK mistreated detainees at Manjača camp by subjecting them to regular beatings which sometimes resulted in serious injuries. The Trial Chamber further recalls its finding in chapter 9.2.10 that the 1KK, the VRS Main Staff, and the Bosnian-Serb Government generally permitted journalists and representatives of international and local human rights organisations to visit Manjača camp, but on some occasions made efforts to conceal the unlawful detention and the cruel and inhumane treatment of detainees which took place in the camp.

4125. The Prosecution argued that the Banja Luka Military Court did not carry out any investigations into crimes committed at Manjača camp.<sup>15112</sup> The Trial Chamber received evidence from **Witness RM-016**, a Bosnian Serb from Banja Luka;<sup>15113</sup> **Radomir Radinković**, a VRS 1KK intelligence and security officer at Manjača Camp as of May

<sup>15108</sup> P5992 (Court record of Exhumation of Bender and Filipović, 17 November 1998), p. 2.

<sup>15109</sup> P5992 (Court record of Exhumation of Bender and Filipović, 17 November 1998), p. 5.

<sup>15110</sup> P5992 (Court record of Exhumation of Bender and Filipović, 17 November 1998), p. 5.

<sup>15111</sup> The military policemen who committed this crime were convicted by the Banja Luka District Court in 2007.

<sup>15112</sup> Prosecution Final Brief, Annex A, Banja Luka Summary, para. 26.

<sup>15113</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398 Witness RM-016's evidence is also reviewed in chapter 4.1.2 *Schedule C.1.2*.

1992;<sup>15114</sup> **Witness RM-051**, a VRS security officer;<sup>15115</sup> and **Adil Medić**, a Muslim from Ključ and leader of the ‘Muslim Corps’ commission in charge of camp- and prisoner-related problems.<sup>15116</sup>

4126. **Witness RM-016** testified that no judicial investigations were conducted in relation to alleged crimes committed against detainees at Manjača camp, which fell under the jurisdiction of the Banja Luka Military Court.<sup>15117</sup> The Trial Chamber recalls its finding in chapter 4.1.2 *Schedule C.1.2* that Popović was aware of the beatings inflicted upon the detainees at the camp. The Trial Chamber further recalls the evidence of **Witness RM-016** and **Witness RM-051**, reviewed in chapter 4.1.2 *Schedule C.1.2*, that Popović reported to the 1KK Commander, Talić, and that the Manjača camp operational team sent regular reports to the Corps Command.

4127. **Adil Medić** testified that an official meeting was held on 22 June 1992 in the offices of the 1KK Command.<sup>15118</sup> This meeting was attended by General Talić, Colonel Vukelić, Colonel Osman Selak, Mufti Halilović, Sead Hadžagić (President of the SDA), Nijaz Karaselimović (President of Merhamet in Banja Luka), Sedat Širbegović, and the witness himself.<sup>15119</sup> General Talić promised to address the situation when informed by the witness of the poor conditions in Manjača camp and made a verbal agreement to allow aid to be sent by the Muslim Corps to the detainees, which was honoured.<sup>15120</sup> Despite the assurances of General Talić, the witness noted that Lieutenant Colonel Popović continued to ignore the beatings and killings that continued to occur and seemed proud about how the camp was run.<sup>15121</sup>

4128. Based on the foregoing, the Trial Chamber finds that although VRS officials, including General Talić, was regularly informed that detainees at Manjača camp were being ill-treated, and despite the fact that they provided assurances that the situation would be addressed, the ill-treatment continued. No judicial investigations or

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<sup>15114</sup> D900 (Radomir Radinković, witness statement, 8 December 2013), pp. 1, 6. Radinković’s evidence is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>15115</sup> P214 (Witness RM-051, *Stanišić and Župljanin* transcript, 21-22 January 2010), p. 5255; Witness RM-051, T. 2883-2884. Witness RM-051’s evidence is reviewed in chapter 4.1.2 *Schedule C.1.2*.

<sup>15116</sup> P154 (Adil Medić, witness statement, 31 January 1996), p. 1, para. 4; Adil Medić, T. 2033.

<sup>15117</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), paras 43-44, 95; Witness RM-016, T. 17396.

<sup>15118</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 15.

<sup>15119</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 15.

<sup>15120</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 16; Adil Medić, T. 2067-2068.

<sup>15121</sup> P154 (Adil Medić, witness statement, 31 January 1996), para. 18.

prosecutions were conducted by the Banja Luka Military Court in this regard, and the perpetrators of the crimes were not punished.

### ***Bijeljina Municipality***

#### *Schedule B.2.1*

4129. The Trial Chamber recalls its findings in chapters 4.2.1 *Schedule B.2.1* and 8.3.2 that soldiers from the 2KK murdered two Bosnian-Muslim detainees from Batković camp working at the Žitopromet company in Bijeljina by cutting their throats. The Trial Chamber recalls its finding in chapter 9.2.10 that after the murder of the two detainees, Batković camp command initially attempted to conceal the crime by falsely reporting to the ICRC that the detainees had been exchanged, and only confirmed that the detainees had been killed after the ICRC became aware of details of the incident.

4130. The Prosecution argued that no VRS soldiers were investigated or prosecuted in the Bijeljina Military Court for crimes committed at Batković camp during the war, despite the fact that the military court was aware of the murder of detainees on work detail.<sup>15122</sup> The Defence argued that the cover-up and non-prosecution of Serb perpetrators in the Bijeljina military court was connected to the abuse of position of a single individual, namely military prosecutor Predrag Drinić, who obstructed the work of the military court.<sup>15123</sup> The Trial Chamber received evidence from **Savo Bojanović**, a Serb judge at the military court of Bijeljina from mid-July 1992 until late 1993;<sup>15124</sup> **Witness RM-513**, a Bosnian Serb from Bijeljina;<sup>15125</sup> and **Witness RM-088**, a Bosnian Muslim from Šekovići Municipality.<sup>15126</sup>

4131. **Savo Bojanović** testified that in February 1993, he was contacted by the military police to conduct an on-site investigation into the killing of two men at Vanek's Mill in Bijeljina, a factory which belonged to the Žitopromet company and was located across

<sup>15122</sup> Prosecution Final Brief, Annex A, Bijeljina Summary, para. 23; Prosecution Closing Arguments, T. 44432.

<sup>15123</sup> Defence Final Brief, para. 1620

<sup>15124</sup> D747 (Savo Bojanović, witness statement, 28 July 2014), p. 1, paras 4, 14. Savo Bojanović's evidence is also reviewed in chapter 4.2.1 *Schedule B.2.1*.

<sup>15125</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6. Witness RM-513's evidence is reviewed in chapter 4.2.1 *Schedule B.2.1*.

<sup>15126</sup> P524 (Witness RM-088, witness statement, 17 October 1994), p. 1, para. 1. Witness RM-088's evidence is reviewed in chapter 4.2.1 *Schedule B.2.1*.

from the entrance of the VRS Vojvoda Stepa Stepanović barracks.<sup>15127</sup> The crime scene investigation team established that soldiers from a unit of the 2KK killed two detainees from Batković camp who were working at the mill.<sup>15128</sup> The witness stated that he formed a crime scene investigation team and carried out a preliminary on-site investigation on the same evening.<sup>15129</sup> He issued a ‘wanted’ circular for an unidentified perpetrator.<sup>15130</sup> Bojanović testified that the office of the prosecutor was in charge of starting an investigation and that he did not know whether anyone was punished for these murders.<sup>15131</sup> The ICRC was also informed about the on-site investigation report.<sup>15132</sup> The Trial Chamber recalls the evidence of **Witness RM-513**, reviewed in chapter 4.2.1 *Schedule B.2.I* that the Military Prosecutor’s Office took no action after it received the report of the murders from Bojanović.

4132. **Witness RM-513** stated that military prosecutor Predrag Drinić obstructed the work of the Bijeljina military court and put pressure on his subordinates to drop cases involving Bosnian-Serb perpetrators and Bosnian-Muslim victims.<sup>15133</sup> In one case, after proceedings were brought against men who had allegedly murdered a Bosnian Muslim, Drinić terminated the case after meeting with Dušan Tanacković, the IBK Chief of Security.<sup>15134</sup>

4133. Regarding the Defence’s argument that the non-prosecution of Serb perpetrators was limited to Drinić’s abuse of his position, the Trial Chamber has not received any evidence that Drinić interfered in the investigation into the killings at Vanek’s Mill. Furthermore, the Trial Chamber notes that according to the evidence on which the Defence relied, Drinić conferred with at least one other person, namely the IBK Chief of Security Tanacković, which makes the evidence inconclusive as to the role Drinić may have played. The Trial Chamber therefore rejects the Defence’s argument in this regard.

4134. Based on the foregoing, the Trial Chamber finds that in February 1993, Savo Bojanović, a Serb judge at the Bijeljina military court, conducted an on-site investigation at the request of the military police into the murders of two detainees on work detail at the Žitopromet company. The Trial Chamber further finds that although

<sup>15127</sup> D747 (Savo Bojanović, witness statement, 28 July 2014), para. 18; Savo Bojanović, T. 27977-27978.

<sup>15128</sup> D747 (Savo Bojanović, witness statement, 28 July 2014), para. 18; Savo Bojanović, T. 27976.

<sup>15129</sup> D747 (Savo Bojanović, witness statement, 28 July 2014), para. 18.

<sup>15130</sup> D747 (Savo Bojanović, witness statement, 28 July 2014), para. 18; Savo Bojanović, T. 27984.

<sup>15131</sup> Savo Bojanović, T. 27977-27978.

<sup>15132</sup> Savo Bojanović, T. 27981.

<sup>15133</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 58, 62.

the investigation team established that the perpetrators were members of the 2KK, and the Bijeljina Military Prosecutor's Office was aware of the killings, no further investigations or prosecutions were carried out and the perpetrators were not punished.

### ***Ključ Municipality***

#### *Schedule B.8.1*

4135. The Trial Chamber recalls its findings in chapters 4.6.1 *Schedule B.8.1* and 8.3.2 that on 1 June 1992, members of the VRS murdered at least 77 Bosnian-Muslim men by shooting them at Velagići school.

4136. The Prosecution argued that although several perpetrators were identified and arrested, they were released after asking Talić to send them back to their units.<sup>15135</sup> The Prosecution further argued that when two of the perpetrators were remanded, the Banja Luka military court released them after consultations with the legal affairs section of the VRS.<sup>15136</sup> The Defence argued that an investigation was launched and 12 individuals were investigated for murder as a war crime, two of whom were subsequently arrested.<sup>15137</sup> The Defence further argued that the decision to release these two perpetrators was made due to wartime circumstances and pressure which was exerted on the court by the perpetrators' colleagues.<sup>15138</sup> Furthermore, the Defence asserted that the VRS Main Staff did not approve this decision, and that Witness RM-016's evidence in this regard is not reliable as it is based on hearsay.<sup>15139</sup> The Trial Chamber received evidence from **Rajko Kalabić**, a member of the Ključ Crisis Staff;<sup>15140</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka;<sup>15141</sup> and **Slobodan Radulj**, a Serb, who acted as municipal public attorney in Prijedor from 20 May 1992 and Deputy Prosecutor at the Military Prosecutor's Office in Banja Luka between 20 October 1993 and August 1997,<sup>15142</sup> as well as documentary evidence.<sup>15143</sup>

<sup>15134</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 56-57.

<sup>15135</sup> Prosecution Final Brief, Annex A, Ključ Summary, para. 30.

<sup>15136</sup> Prosecution Final Brief, Annex A, Ključ Summary, para. 30.

<sup>15137</sup> Defence Final Brief, para. 1276.

<sup>15138</sup> Defence Final Brief, para. 1277.

<sup>15139</sup> Defence Final Brief, para. 1277.

<sup>15140</sup> Rajko Kalabić, T. 30198, 30208. Kalabić's evidence is reviewed in chapter 4.6.1 *Schedule B.8.1*.

<sup>15141</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398. Witness RM-016's evidence is reviewed in chapter 4.6.1 *Schedule B.8.1*.

<sup>15142</sup> Slobodan Radulj, T. 35481, 35509, 35533.

<sup>15143</sup> P3544 is reviewed in chapter 4.6.1 *Schedule B.8.1*. P3528 is reviewed in chapter 4.6.1 *Schedule B.8.1*.

4137. The Trial Chamber recalls the evidence of Rajko Kalabić, reviewed in chapter 4.6.1 *Schedule B.8.1*, that Lieutenant Amidžić and 11 others were charged with war crimes and were held in custody for a short time before being released to their units after sending a complaint to General Talić.

4138. According to the Banja Luka military court file against Goran Amidžić and others, on 1 June 1992, authorised officials of the military police and investigating judge Jovo Dimitrić of the Ključ Municipal Court conducted an on-site investigation in Velagići village.<sup>15144</sup> On 5 June 1992 a criminal report was filed before the Banja Luka Military Prosecutor's Office against Amidžić and 11 other members of the military police platoon and of the intervention platoon with the engineering unit based in Lanište.<sup>15145</sup> On that same day, each of the 11 other members provided written statements regarding the incident after being brought into the rooms of the military police on 5 June 1992.<sup>15146</sup> On 12 June 1992, the same 11 members signed a letter addressed to General Talić complaining about their 'illegal detention' and requesting their release.<sup>15147</sup>

4139. The Trial Chamber recalls the evidence of Witness RM-016, reviewed in chapter 4.6.1 *Schedule B.5.1*, that the military prosecutor reopened proceedings against the 12 suspects on 8 March 1993, two of whom were subsequently placed in custody on 20 July 1993. These men were released on 29 July 1993 pursuant to a proposal from the Banja Luka Military Prosecutor to the Investigating Judge of the Military Court. The Trial Chamber recalls that Witness RM-016 testified that the suspects were released with the consent of the VRS Main Staff following a blackmail operation by members of the Ključ Brigade.

4140. **Slobodan Radulj** testified that in mid-June or mid-July 1992, while still in Prijedor, he heard about a massacre in a school in the village of Velagići, in Ključ Municipality.<sup>15148</sup> When he joined the prosecutor's office in 1993, he heard people

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<sup>15144</sup> P3528 (Banja Luka military court file against Goran Amidžić and others, 3 June 1992-20 December 1996), pp. 4, 5-7.

<sup>15145</sup> P3528 (Banja Luka military court file against Goran Amidžić and others, 3 June 1992-20 December 1996), pp. 7-16.

<sup>15146</sup> P3528 (Banja Luka military court file against Goran Amidžić and others, 3 June 1992-20 December 1996), pp. 7-16.

<sup>15147</sup> P3528 (Banja Luka military court file against Goran Amidžić and others, 3 June 1992-20 December 1996), pp. 38-39

<sup>15148</sup> Slobodan Radulj, T. 35338-35539.

talking about a 'grave crime' committed near Ključ.<sup>15149</sup> He further heard that two out of at least ten suspects had been brought into custody and that either the entire brigade had threatened to leave their positions, or that a number of soldiers had otherwise exerted pressure on the military court in order to have the suspects released.<sup>15150</sup> The witness was assigned to the case in 1996 or 1997.<sup>15151</sup>

4141. The Trial Chamber has received evidence presenting various different reasons for the release of Bajić and Miljević on 8 June 1992, and notes that although Witness RM-016 and Slobodan Radulj mentioned pressure being exerted by the Ključ Brigade, this was not mentioned in the military prosecutor's statement of reasons for release. However, the Trial Chamber considers that the military prosecutor's statement of reasons is not necessarily a complete record of the facts. Furthermore, the reasons provided therein are not incompatible with Witness RM-016's evidence that the decision to release the perpetrators was made with the approval of the VRS Main Staff, or with the evidence of Witness RM-016 and Slobodan Radulj that the Ključ Brigade exercised pressure on the court. The Trial Chamber therefore finds that there is no contradiction between the evidence of the two witnesses and the military prosecutor's statement of reasons for release.

4142. The Defence argued that Witness RM-016's evidence that the VRS Main Staff approved the decision to release the perpetrators is unreliable, as it is based on conversations of which the witness had no personal knowledge.<sup>15152</sup> While the Trial Chamber treats hearsay evidence with caution, it notes that Witness RM-016's testimony concerning the VRS Main Staff's approval of the decision was specific, detailed, and internally consistent. Furthermore, the witness was extensively cross-examined on this issue. In light of these considerations, and given the position held by the witness's source of knowledge, the Trial Chamber finds Witness RM-016's evidence regarding the approval of the VRS Main Staff reliable, and therefore rejects the Defence's argument in this regard.

4143. Based on the foregoing, the Trial Chamber finds that on 1 June 1992, the Banja Luka military police conducted an on-site investigation into the killings at Velagići, as a result of which twelve perpetrators were taken into custody and questioned. On 12 June

<sup>15149</sup> Slobodan Radulj, T. 35531, 35535-35536.

<sup>15150</sup> Slobodan Radulj, T. 35531-35532, 35534-35536.

<sup>15151</sup> Slobodan Radulj, T. 35523, 35527, 35334.

<sup>15152</sup> Defence Final Brief, para. 1277.

1992, eleven of the twelve perpetrators wrote a letter to General Talić requesting their release from detention, following which all of the men were sent back to their units. The Trial Chamber further finds that on 8 March 1993, the military prosecutor re-opened proceedings against the perpetrators and remanded Željko Bajić and Marinko Miljević in custody. On 29 July 1992, following a blackmail operation by members of the Ključ Brigade, the investigating judge of the Banja Luka Military Court ordered the release of Bajić and Miljević with the consent of the President of the Supreme Military Court and officers of the VRS Main Staff. No further steps were taken to investigate, prosecute, or punish the perpetrators until 1996.

### ***Kotor Varoš Municipality***

#### *Schedule A.4.4*

4144. The Trial Chamber recalls its findings in chapters 4.7.1 *Schedule A.4.4* and 8.3.2 that on 4 November 1992, members of the 1st Kotor Varoš Light Infantry Brigade murdered approximately 150 unarmed Bosnian-Muslim men detained at Grabovica School. The Trial Chamber recalls its finding in chapter 9.2.10 that on 4 November 1992, the 1KK made efforts to conceal the murders at Grabovica from the VRS Main Staff, by falsely reporting that they had captured and killed members of the Green Berets as retaliation for casualties suffered by the Kotor Varoš Light Infantry Brigade on the front lines and at Gola Planina. On the following day, the 1KK falsely reported to the VRS Main Staff that the victims of the massacre had died as a result of combat operations.

4145. The Prosecution argued that neither the physical perpetrators nor any other individuals were punished for the massacre at Grabovica.<sup>15153</sup> The Prosecution further argued that there was no will to investigate the massacre at any level within the VRS, despite the fact that the VRS Main Staff and the Banja Luka Military Court were aware of the crime.<sup>15154</sup> The Defence argued that the perpetrators of this incident had been killed during a robbery, and were therefore not investigated or punished.<sup>15155</sup> The Trial

<sup>15153</sup> Prosecution Final Brief, Annex A, Kotor Varoš Summary, para. 43.

<sup>15154</sup> Prosecution Final Brief, Annex A, Kotor Varoš Summary, para. 43.

<sup>15155</sup> Defence Final Trial Brief, paras 1140..

Chamber received evidence from **Witness RM-802**, a VRS officer;<sup>15156</sup> and **Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>15157</sup> as well as documentary evidence.

4146. **Witness RM-802** testified that Talić said that it would be impossible to catch the soldiers who had opened fire on the detainees because they had escaped to the FRY, but that the municipal structures would conduct an investigation.<sup>15158</sup> A search for the three or four soldiers who had opened fire on the Muslim detainees was ordered.<sup>15159</sup> Some time after this, the witness heard that the perpetrators had fled to the FRY and had been killed in a robbery.<sup>15160</sup> He never checked whether this was true, as he did not have any means of doing so.<sup>15161</sup> No investigation was conducted, and no legal or disciplinary actions were ever taken against anyone for the killings at Grabovica, nor did there appear to be the will to take such action at any level.<sup>15162</sup> The Trial Chamber also considered additional evidence of Witness RM-802 which has been placed in the confidential annex in Appendix D. **Witness RM-016** testified that no investigation was launched in relation to the killing and capture of members of the Green Berets in Kotor Varoš.<sup>15163</sup>

4147. With respect to the Defence's argument that no investigation was carried out because the perpetrators of this crime were killed during a robbery, the Trial Chamber notes that Witness RM-802 was not clear about the circumstances or location of this event, and stated that his knowledge was based on hearsay which he took no steps to verify. The Trial Chamber therefore considers that this evidence was insufficient to justify a decision not to investigate the crime, and dismisses the Defence's argument in this regard.

4148. Based on the foregoing, the Trial Chamber finds that the killings at Grabovica were reported to General Talić on 4 November 1992, and that a search for the perpetrators was ordered but no further investigations were conducted. The Trial

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<sup>15156</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet).

<sup>15157</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398.

<sup>15158</sup> Witness RM-802, T. 4536, 4642, 4644.

<sup>15159</sup> Witness RM-802, T. 4536.

<sup>15160</sup> Witness RM-802, T. 4536, 4642-4643.

<sup>15161</sup> Witness RM-802, T. 4642.

<sup>15162</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 72; Witness RM-802, T. 4536-4537, 4642, 4655-4656.

<sup>15163</sup> Witness RM-016, T. 17370.

Chamber finds that no legal or disciplinary action was taken against the perpetrators of the killings at Grabovica.

*Unscheduled murder incident and appropriation or plunder of property*

4149. The Trial Chamber recalls its finding in chapters 4.7.1 *Unscheduled murder incidents* and 4.7.4 that (i) on 2 July 1992, members of the Banja Luka CSB Special Police Detachment, or military forces under the command of Slobodan Župljanin, the 2nd Infantry Battalion Commander of the VRS 22nd Brigade, and Saša Petrović, killed at least 30 Bosnian Muslims during the attack on Vrbanjci, including 15 who were detained in Alagić café, and (ii) in June and July 1992, a special unit from the Banja Luka CSB, which was led by VRS Captain Slobodan Dubočanin, took furniture, televisions, videocassette recorders, and gold from the houses of Bosnian Muslims and Bosnian Croats in towns and villages in Kotor Varoš Municipality.

4150. In relation to the non-punishment of the abovementioned crimes committed by the CSB Banja Luka Special Police Detachment in Kotor Varoš Municipality in June and July 1992, the Trial Chamber received evidence from **Predrag Radulović**, head of an intelligence team known as the Miloš group in the CSB Banja Luka from mid-1991 to 1994.<sup>15164</sup>

4151. **Predrag Radulović** testified that Stojan Župljanin, the chief of the Banja Luka CSB, sent the Banja Luka CSB Special Police Detachment to Kotor Varoš.<sup>15165</sup> The detachment remained in the municipality for about three months, where its members looted, killed, raped, and committed other crimes against non-Serbs to the knowledge of Župljanin.<sup>15166</sup> The witness saw Župljanin in Kotor Varoš during and after operations conducted by the detachment in the municipality.<sup>15167</sup> The Miloš group informed Mićo Stanišić, the Bosnian-Serb MUP SNB, and the Serbian MUP about the detachment's crimes against non-Serbs in Kotor Varoš Municipality.<sup>15168</sup> The Miloš group also requested the assistance of Milan Stevilović, the Chief of Security of the 1KK, and Stevan Marković, the Banja Luka CSB Commander for the Uniform Police, to prevent

<sup>15164</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), p. 1, paras 4-5.

<sup>15165</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 67.

<sup>15166</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 57-58, 67-69, 75, 87, 164.

<sup>15167</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 72.

<sup>15168</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 59, 69.

the commission of such crimes, but both were killed in an ambush during a visit to the municipality.<sup>15169</sup> None of the detachment's members were investigated.<sup>15170</sup>

4152. Based on the foregoing, the Trial Chamber finds that in June and July 1992, the Miloš group informed various authorities, including the SNB of the MUP; the MUP of Serbia; Milan Stevilović, the Chief of Security of the 1KK; and Stevan Marković, the Banja Luka CSB Commander for the Uniform Police about the commission of crimes by the CSB Banja Luka Special Police Detachment in Kotor Varoš Municipality, including lootings, killings, and rapes. The Trial Chamber finds that none of the detachment's members were investigated for any of these crimes.

### ***Prijedor Municipality***

#### *Schedule A.6.9*

4153. The Trial Chamber recalls its findings in chapters 4.10.1 *Schedule A.6.9* and 8.3.2 that on 24 and 25 July 1992, VRS forces comprising the 5th Kozarac Brigade and members of the 6th Krajina Brigade under the command of Colonel Branko Basara killed at least 68 people in Briševo village, Prijedor Municipality, first through shelling and then by shooting inhabitants upon entering the village.

4154. The Prosecution argued that high-ranking VRS officers, as well as Karadžić and Kuprešanin, were informed about the massacre, but that nobody was punished.<sup>15171</sup> The Defence argued that the VRS tried to investigate what happened in Briševo and formed a commission consisting of Vojo Kuprešanin and two officers from the 1KK.<sup>15172</sup> The Trial Chamber received evidence from **Vojo Kuprešanin**, President of the ARK Assembly as of mid-1991,<sup>15173</sup> and **Ivo Atlija**, a Bosnian Croat from the predominantly Croat village of Briševo in Prijedor Municipality.<sup>15174</sup>

<sup>15169</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 70.

<sup>15170</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 59, 75.

<sup>15171</sup> Prosecution Final Brief, Annex A, para. 53 (Prijedor).

<sup>15172</sup> Defence Final Brief, para. 957.

<sup>15173</sup> D852 (Vojo Kuprešanin, witness statement, 18 June 2014), para. 1; D1139 (Decision on election of the President of the Assembly of the Community of Bosnian Krajina municipalities, 26 April 1991). Kuprešanin's evidence is also reviewed in chapter 4.10.1 *Schedule A.6.9*.

<sup>15174</sup> P168 (Ivo Atlija, witness statement, 20 October 2000), p. 1, para. 9; P169 (Statement by Ivo Atlija to Croatian authorities, 30 January 1993), para. 44; Ivo Atlija, T. 2301; P174 (Map of Prijedor municipality) Atlija's evidence is reviewed in chapter 4.10.1 *Schedule A.6.9*.

4155. The Trial Chamber recalls Vojo Kuprešanin's evidence, reviewed in chapter 4.10.1 *Schedule A.6.9*, that after the massacre was committed, Kuprešanin went to Briševo with Bishop Komarica and two officers from the 1KK and met with the wives of those who had been killed. Kuprešanin further testified that Bishop Komarica informed Karadžić of the crimes in Briševo.<sup>15175</sup>

4156. The Trial Chamber also recalls the evidence of Ivo Atlija, reviewed in 4.10.1 *Schedule A.6.9*, that on several occasions after the attack on Briševo, Kuprešanin met with Atlija about the crimes.

4157. Based on the foregoing, the Trial Chamber finds that after the massacre at Briševo, a delegation including Vojo Kuprešanin, Bishop Komarica, and VRS officers from the 1st Kraijna Corps met with people from the village and questioned them about the incident. The Trial Chamber finds that Karadžić was also aware of the massacre. However, the Trial Chamber has not received evidence which allows it to conclude that no investigations or prosecutions took place. The Trial Chamber will therefore not consider this incident further in this regard.

#### *Killings at Keraterm and Omarska*

4158. The Trial Chamber recalls its findings in chapters 4.10.1 *Schedule B.13.1* and 8.3.2 that (i) on or around 25 July 1992, camp guards and VRS soldiers murdered between 190 and 220 detainees held in Room 3 at Keraterm camp (*see* chapter 4.10.1 *Schedule B.13.1*); (ii) between 29 May and August 1992, camp guards murdered approximately 18 detainees held at Omarska camp (*see* chapter 4.10.1 *Schedule B.13.2*); (iii) on 5 August 1992, unidentified Bosnian Serbs murdered at least 126 detainees from Omarska and Keraterm camps; (iv) in the second half of July 1992, camp guards murdered between 100 and 180 detainees from Omarska camp; and (v) during the night of 2 to 3 July 1992, a camp guard killed a detainee at Keraterm camp.

4159. With regard to crimes committed in detention facilities in Prijedor Municipality, the Prosecution argued that there were few criminal reports generated and no prosecutions.<sup>15176</sup> With respect to killings in Keraterm camp, the Prosecution argued that despite the camp's close proximity to the military police, and despite the Banja

<sup>15175</sup> Vojo Kuprešanin, T. 29821.

<sup>15176</sup> Prosecution Final Brief, Annex A, Prijedor Summary, para. 40.

Luka court's knowledge of the crimes, the VRS did not investigate the murders of Room 3 detainees, which were reported more than once to the VRS Main Staff.<sup>15177</sup> With regard to crimes committed in Omarska camp, the Defence argued that the VRS was not present and had no contact with individuals inside the facility.<sup>15178</sup> Furthermore, the Defence argued that members of the VRS, including Colonel Miroslav Majstorović of the 1KK, requested information on Omarska on several occasions, but that no official information was provided by the Prijedor police or by the Security Service in Banja Luka.<sup>15179</sup> The Trial Chamber received evidence from **Predrag Radulović**, head of an intelligence team known as the Miloš group in the CSB Banja Luka from mid-1991 to 1994;<sup>15180</sup> **Boško Kelečević**, Chief of Staff of the 1KK from 12 May 1992 until the end of the war,<sup>15181</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>15182</sup> **Mišo Rodić**, an officer in the intelligence organ of the VRS 43rd Motorized Brigade in Prijedor from May 1992 to mid-January 1993,<sup>15183</sup> and documentary evidence.

4160. **Predrag Radulović** testified about a report from Beara's team addressed to Nedeljko Kesić, the head of the SDB at the Banja Luka CSB, and Stojan Župljanin, the chief of the Banja Luka CSB. According to this report, non-Serbs were detained at Keraterm and Omarska without checks. They were harassed and killed, and paramilitary units were able to enter both facilities freely.<sup>15184</sup> When the Miloš group reported crimes committed against non-Serbs at Omarska, Keraterm, and Trnopolje camps in July 1992, Kesić told them it was not his job.<sup>15185</sup> Radulović also reported these crimes to Jovica Stanišić.<sup>15186</sup> Under the reporting procedures, Radulović's reports should also have been provided to Mićo Stanišić.<sup>15187</sup> According to the witness, Župljanin refused to meet with the intelligence officers and only agreed to meet with them after the intervention of Marko Lazović, assistant to Jovica Stanišić.<sup>15188</sup> In the summer of 1992, Radulović met with Župljanin, Kesić, and Đuro Bulić to inform them about the detention and

<sup>15177</sup> Prosecution Final Brief, Annex A, Prijedor Summary, para. 36.

<sup>15178</sup> Defence Final Brief, para. 966.

<sup>15179</sup> Defence Final Brief, para. 966.

<sup>15180</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), p. 1, paras 4-5.

<sup>15181</sup> D1110 (Boško Kelečević, witness statement, 26 June 2014), p. 1, paras 1, 9; Boško Kelečević, T. 37131.

<sup>15182</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398. Witness RM-016's evidence is reviewed in chapter 4.10.1 Schedule B.13.1.

<sup>15183</sup> D930 (statement of Mišo Rodić, 26 June 2014), paras 1-2, 5.

<sup>15184</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 148.

<sup>15185</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 23, 138, 141.

<sup>15186</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 141, 148.

<sup>15187</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 141.

<sup>15188</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 23.

interrogation of non-Serbs and the killings taking place at Omarska and Keraterm camps.<sup>15189</sup> A few days later, Župljanin requested further information about these killings from the witness.<sup>15190</sup> Župljanin formed and sent a delegation, composed of himself, Kesić, Predrag Radić, Mayor of Banja Luka, Radislav Vukić, and three or four other men, to Omarska.<sup>15191</sup>

4161. Radulović informed Župljanin about a publication describing crimes committed against non-Serb detainees at Omarska, which mentioned Župljanin, along with the Prijedor SJB Chief, Simo Drljača, as perpetrators of crimes. Župljanin and Radulović discussed the consequences for the Serb people if information about the crimes committed in Prijedor became known to the international community, and the *Miloš* group suggested arresting Drljača and putting him on trial. However, Župljanin refused to take any action, citing Drljača's influence in the municipality. Radulović stated that he was unaware of any measures taken by Župljanin to prevent crimes against non-Serb detainees at Omarska, or to arrest and charge the perpetrators of such crimes, or to punish members of the public and national security services who allowed these crimes to be committed.<sup>15192</sup>

4162. **Boško Kelečević** testified that military police did not interrogate anyone inside Keraterm camp regarding alleged killings, nor did any other military body.<sup>15193</sup> **Witness RM-016** testified that no proposal was made in the Banja Luka Military Court to investigate alleged crimes committed at Omarska and Keraterm camps, despite the fact that an official in the military court was aware that 'lots of people' were killed in the camp.<sup>15194</sup>

4163. **Mišo Rodić** testified that he heard from members of his unit, the 43rd Motorised Brigade, that on the night of 24 and 25 July 1992, 150 detainees at the Keraterm Complex were gathered in a single room and killed.<sup>15195</sup> Even though the building of the Command of the 43rd Brigade – which also housed the brigade's intelligence organ –

<sup>15189</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), paras 142, 144, 152.

<sup>15190</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 145.

<sup>15191</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 145.

<sup>15192</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 149.

<sup>15193</sup> Boško Kelečević, T. 37283.

<sup>15194</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 77.

<sup>15195</sup> D930 (statement of Mišo Rodić, 26 June 2014), para. 27; Mišo Rodić, T. 33098-33101, 33111.

was located across the street from the Keraterm Complex, the intelligence organ never verified or investigated information relating to the killings.<sup>15196</sup>

4164. With regard to the Defence's argument that Colonel Miroslav Majstorović of the VRS was denied information about Omarska camp on several occasions, the Trial Chamber notes that Majstorović worked as part of the 1KK and interrogated prisoners at Omarska camp until 30 June 1992, after which he ceased to conduct interrogations but continued to visit the camp.<sup>15197</sup> According to Rodić, Majstorović sought data about the detainees at Omarska camp, or information obtained from them, but his requests were denied by the MUP.<sup>15198</sup> The Trial Chamber considers that, in light of this evidence, Majstorović's requests for information on the detainees at Omarska camp were unrelated to any attempt on behalf of the VRS to investigate alleged crimes at the camp, and therefore dismisses this argument in relation to this finding.

4165. Based on the foregoing, the Trial Chamber finds that in July 1992, the Miloš group reported to Nedeljko Kesić, the head of the SDB at the Banja Luka CSB; Jovica Stanišić, the head of the Serbian SDB; and Stojan Župljanin, the chief of the Banja Luka CSB, that killings had occurred in Omarska and Keraterm camps. Župljanin was also informed of the alleged involvement of the Prijedor SJB Chief, Simo Drljača, in these murders, but refused to take any action. The Trial Chamber also finds that Župljanin went to Omarska, accompanied by a delegation, but failed to take further steps to investigate or punish the perpetrators of the crimes. The Trial Chamber further finds that despite the fact that an official within the military court was aware of alleged killings in Omarska and Keraterm camps, no investigations were ordered into these killings nor were any prosecutions initiated.

*Appropriation or plunder of property and Schedule C.15.3*

4166. The Trial Chamber recalls its findings in chapters 4.10.2 *Schedule C.15.3*, 4.10.4, and 8.9.2 that (i) from 25 May until at least 5 August 1992, Zoran Žigić and other guards at Keraterm camp beat detainees and (ii) Serb soldiers including Žigić

<sup>15196</sup> D930 (statement of Mišo Rodić, 26 June 2014), para. 27; Mišo Rodić, T. 33098-33101, 33111.

<sup>15197</sup> D930 (Statement of Mišo Rodić, 26 June 2014), para. 29; Mišo Rodić, T. 33056, 33095-33099; P7209 (Report on the conduct of Banja Luka CSB special unit members, signed on 13 June 1992 by Simo Drljača), p. 1.

<sup>15198</sup> D930 (Statement of Mišo Rodić, 26 June 2014), para. 29.

looted houses in Brđani village after the attack on Kozarac town at the end of May 1992.

4167. The Prosecution argued that although Žigić was in custody on 4 July 1992, he was released because he was a ‘capable’ and ‘diligent fighter’ who was needed by his VRS unit.<sup>15199</sup> The Prosecution further argued that after being arrested for robbery, Žigić was again released by the military court in early October 1992.<sup>15200</sup> In relation to Scheduled Incident C.15.3, the Defence argued that the VRS was not in charge of Keraterm, but nonetheless reported any suspected crimes at camps to the appropriate authorities. The Defence further argued that cases were opened against many individuals, including Žigić.<sup>15201</sup> The Trial Chamber received evidence from **Mišo Rodić**, an officer in the intelligence organ of the VRS 43rd Motorized Brigade in Prijedor from May 1992 to mid-January 1993,<sup>15202</sup> as well as documentary evidence.<sup>15203</sup>

4168. **Mišo Rodić** commented on documents of an investigation that was carried out by the Public Prosecutor’s office in Prijedor against Zoran Žigić.<sup>15204</sup> In July 1992, while Žigić was in custody for unlawfully abandoning the front line, his commander in the reconnaissance unit of the 43rd Brigade, Duško Knežević, sent a letter requesting that Žigić be released from detention as he was a ‘very capable, obedient and a diligent fighter – soldier, and one of the best experts on explosive [sic]’ and that he was needed for combat operations.<sup>15205</sup> Knežević provided a personal guarantee to make Žigić available for an eventual trial ‘when the time comes for that’.<sup>15206</sup> The next day, the Prijedor Lower court decided on the immediate release of Zoran Žigić – citing from the letter sent by Knežević and remarking that Žigić had fully admitted to the crime of which he was accused.<sup>15207</sup>

4169. Rodić testified that he later participated in the arrest of Zoran Žigić and two other soldiers for robbery and looting of Bosnian-Muslim houses in the hamlet of Ganići.<sup>15208</sup>

<sup>15199</sup> Prosecution Final Brief, Annex A, Knowledge and Approval, para. 55.

<sup>15200</sup> Prosecution Final Brief, Annex A, Knowledge and Approval, para. 55.

<sup>15201</sup> Defence Final Brief, para. 980.

<sup>15202</sup> D930 (statement of Mišo Rodić, 26 June 2014), paras. 1-2, 5.

<sup>15203</sup> Exhibits P7204, P7205, and P7207 have been reviewed in chapter 4.10.2 *Schedule C.15.3*.

<sup>15204</sup> Mišo Rodić, T. 33073-33078.

<sup>15205</sup> P7204 (Letter by sergeant Duško Knežević to Prijedor Public Prosecutor’s office, 8 July 1992), p. 1.

<sup>15206</sup> P7204 (Letter by sergeant Duško Knežević to Prijedor Public Prosecutor’s office, 8 July 1992), p. 1.

<sup>15207</sup> P7205 (Decision by Prijedor Lower Court concerning Zoran Žigić, 9 July 1992), pp. 1-2; Mišo Rodić, T. 33075-33077.

<sup>15208</sup> Mišo Rodić, T. 33073-33074, 33078-33079, 33083.

Žigić confessed to the crime, was remanded in custody on 22 August 1992, and was then released on 8 October 1992.<sup>15209</sup> One of the other soldiers arrested and sentenced for this crime was Mladen Došen.<sup>15210</sup> Mladen Došen was first sentenced to two months of detention, but this ruling was overturned on appeal, factoring in ‘the need to deploy him to the same unit on the battlefield that he came from’.<sup>15211</sup>

4170. The Trial Chamber notes that both the Prosecution and the Defence referred to Žigić’s detention in July 1992 in the context of their arguments relating to the punishment or non-punishment of crimes committed at Keraterm camp. The Trial Chamber notes that Žigić was in custody in July 1992 for unlawfully abandoning the front line, and that it has not received any evidence that he was being investigated or charged with any other crimes at this time. The Trial Chamber further recalls its finding above, that no investigations or prosecutions were initiated for crimes committed at Keraterm camp, and finds that Žoran Žigić was not investigated, prosecuted, or punished for beating detainees at Keraterm from 25 May until at least 5 August 1992.

4171. The Trial Chamber further notes that according to Rodić’s evidence, Žigić was charged for a robbery allegedly committed in Ganići, a Muslim hamlet in the settlement of Gojmenica.<sup>15212</sup> The Trial Chamber’s findings relate to Žigić’s involvement in the looting of Brđani, which is approximately 20 kilometres from Gojmenica. As the Trial Chamber has received evidence, tendered by the Defence, of Žigić’s involvement in multiple crimes of looting in Prijedor Municipality, the Trial Chamber will consider the evidence of Žigić’s arrest and detention in relation to its findings on his involvement in crimes in 4.10.4.

4172. Based on the foregoing, the Trial Chamber finds that on 8 July 1992 Zoran Žigić was in detention under the authority of the Prijedor Public Prosecutor’s office. On the 9 July 1992, the Investigating Judge of the Prijedor Local Court released Žigić after receiving a letter from his unit, stating that Žigić was needed in combat operations and requesting he be returned to the front line. The Trial Chamber further finds that on 22 August 1992 Žigić was again arrested by the military police in Prijedor for carrying out a robbery in the Muslim hamlet of Ganići, and was remanded in custody. The Trial

<sup>15209</sup> P7206 (Military Court in Banja Luka, decision on release of Zoran Žigić, 8 October 1992), pp. 1-2.

<sup>15210</sup> Mišo Rodić, T. 33083.

<sup>15211</sup> P7207 (Military Court in Banja Luka, decision on release of Mladen Došen, 29 August 1992), pp. 1-2.

<sup>15212</sup> Mišo Rodić, T. 33079.

Chamber finds that on 8 October 1992, Žigić was released by the military court in Banja Luka, and sent back to his unit. However, the Trial Chamber has not received any evidence which allows it to conclude that Žigić was not investigated, prosecuted, or punished at a later date, and will therefore not consider this incident further in this regard.

### *Sanski Most Municipality*

#### *Schedules A.7.1 and A.7.2*

4173. The Trial Chamber recalls its findings in chapters 4.12.1 *Schedules A.7.1* and *A.7.2*, and 8.3.2 that (i) on 31 May 1992, Nenad Kaurin and Jadranko Palija, a member of the reserve police and a member of the VRS 6th Krajina Brigade respectively, murdered at least 28 Bosnian Muslims between Begiči and Vrhpolje bridge and at the bridge, and (ii) on 31 May 1992, soldiers under the command of Branko Basara killed around 31 people in Jelečevići, a Bosnian-Muslim hamlet in the area of Hrustovo.

4174. With regard to the first incident, the Prosecution argued that Basara arrived during the Vrhpolje Bridge massacre but did not request an investigation by the office of the military prosecutor or report the members of the 6th Krajina Brigade whom he knew to have been present during the murders.<sup>15213</sup> Regarding the second incident, the Prosecution argued that Basara admitted during cross-examination that he had heard about the murder of women and children in a garage in Hrustovo on 31 May 1992, but did not order an investigation into the crime.<sup>15214</sup> The Trial Chamber received evidence from **Witness RM-015**, a Bosnian Serb from Sanski Most,<sup>15215</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>15216</sup> and **Branko Predojević**, a Serb from Sanski Most who was the commander of the 2nd Infantry Battalion of the 6th Krajina Brigade from 22 June 1992 until he assumed the role of Deputy Commander of the assault detachment of the 6th Krajina Brigade on 11 October 1995,<sup>15217</sup> as well as documentary evidence.<sup>15218</sup>

<sup>15213</sup> Prosecution Final Brief, Annex A, Sanski Most Summary, para. 35.

<sup>15214</sup> Prosecution Final Brief, Annex A, Sanski Most Summary, para. 35.

<sup>15215</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 2, 6, 9, 111.

<sup>15216</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398.

<sup>15217</sup> D881 (Branko Predojević, witness statement, 7 July 2014), pp. 1-2; Branko Predojević, T. 30788-30833. Predojević's evidence is reviewed in chapter 4.12.1 *Schedule A.7.1*.

<sup>15218</sup> Exhibits P7072 and P7073 have been reviewed in chapter 4.12.1 *Schedule A.7.1*.

4175. **Witness RM-015** testified that on 1 June 1992, Colonel Basara issued an order criticizing the conduct of the 6th Krajina Brigade and forbidding further acts of ‘genocide’ against members of the opposing side who were unable to fight, including women, children under the age of 18, the sick, and people over the age of 60.<sup>15219</sup> Given the timing of this order, Witness RM-015 saw it as a response to the events at Hrustovo and Vrhpolje, and believed that the order was issued by Colonel Basara to protect himself.<sup>15220</sup> The order called for a military court to be set up and for ‘war criminals’ and ‘war profiteers’ to be questioned and sentenced, but the military court referred to in this order was never formed and no one was ever punished for the Hrustovo and Vrhpolje massacres.<sup>15221</sup> In a record of the 6th Krajina Brigade, Colonel Basara wrote that ‘the villages of Hrustovo and Vrhpolje put up resistance’ but were ‘successfully cleared’ by the 6th Krajina Brigade.<sup>15222</sup>

4176. The Trial Chamber recalls the evidence of Branko Predojević, reviewed in chapter 4.12.1 *Schedule A.7.1*, that Jadranko Palija was a member of the 6th Krajina Brigade between 13 November 1991 and 13 July 1993, and that no criminal proceedings had been conducted against him as of 24 June 1994.

4177. **Witness RM-016** was not aware of any soldiers from the 6th Krajina Brigade being discharged from the brigade or charged with any criminal offence in relation to the Vrhpolje bridge incident.<sup>15223</sup> As far as he knew, there were never any proceedings relating to this incident.<sup>15224</sup> The witness was aware that Jadranko Palija had been convicted in a court in Bosnia-Herzegovina at a later date, but did not know with certainty that this was for his involvement in the killings at Vrhpolje bridge.<sup>15225</sup>

4178. Based on the foregoing, the Trial Chamber finds that on 1 June 1992, following the killings at Vrhpolje and Hrustovo, Colonel Basara issued an order criticizing the conduct of the 6th Krajina Brigade, forbidding acts of ‘genocide’ against the civilian population, and calling for a military court to be established where disciplinary and

<sup>15219</sup> Witness RM-015, T. 17287-17288; P2366 (Order of the commander of the 6th Krajina Brigade, 1 June 1992).

<sup>15220</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), paras 133, 139; Witness RM-015, T. 17287-17288; P2366 (Order of the commander of the 6th Krajina Brigade, 1 June 1992).

<sup>15221</sup> P2362 (Witness RM-015, witness statement, 13 March 2002), para. 133; Witness RM-015, T. 17288-17289; P2366 (Order of the commander of the 6th Krajina Brigade, 1 June 1992).

<sup>15222</sup> P2365 (History of the 6th Krajina Brigade signed by Colonel Basara, estimated date end of 1992), para. 6.

<sup>15223</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 84.

<sup>15224</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), para. 84.

<sup>15225</sup> Witness RM-016, T. 17425.

legal actions would be taken against perpetrators of war crimes. The Trial Chamber finds that no such military court was set up, and further finds that no members of the 6th Krajina Brigade were investigated or prosecuted for their role in the killings at Vrhpolje and Hrustovo during the war, even after Basara had issued his order on 1 June 1992. The Trial Chamber further finds that Jadranko Palija was not tried or convicted for his role in the killings at Vrhpolje until he was prosecuted before the State Court of Bosnia-Herzegovina in 2008.

*Schedule A.7.3*

4179. The Trial Chamber recalls its findings in chapters 4.12.1 *Schedule A.7.3* and 8.3.2 that on or about 27 June 1992, Milorad Mijatović and his men from Kljevci, who were subordinated to the 6th Krajina Brigade, murdered 18 Bosnian-Muslim men from Kenjari. According to the Prosecution, the 6th Krajina Brigade reported that this was a ‘successfully implemented operation’.<sup>15226</sup> The Trial Chamber received evidence from **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992.<sup>15227</sup>

4180. The Trial Chamber recalls Branko Basara’s evidence, reviewed in chapter 4.12.1 *Schedule A.7.3*, that when the Commander of the 1st Battalion of the 6th Krajina Brigade, Lieutenant Ranko Brajić, found out about this crime, four soldiers were arrested and handed over for further proceedings. The Trial Chamber further recalls that Basara testified that he was not aware of what happened after these men were arrested.

4181. An undated excerpt from a document refers to ‘mopping up actions’ in a number of areas of Sanski Most and Ključ as a ‘successfully implemented operation’.<sup>15228</sup> The Trial Chamber considers that this general statement, referring to a variety of separate operations, does not provide evidence that the perpetrators of the crime near Kenjari were not prosecuted. As the Trial Chamber did not receive any evidence which allows it to conclude that the four soldiers were not investigated or prosecuted following their arrest, it will not consider this incident further with regard to the punishment or non-punishment of perpetrators.

<sup>15226</sup> Prosecution Final Brief, Annex A, para. 22 (Sanski Most).

<sup>15227</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401. Basara’s evidence is reviewed in chapter 4.12.1 *Schedule A.7.3*.

<sup>15228</sup> P3851 (Military report of 6th Krajina Brigade, 8 October 1991 to 28 August 1992), p. 7..

*Schedule A.7.5*

4182. The Trial Chamber recalls its findings in chapters 4.12.1 *Schedule A.7.5* and 8.3.2 that on 2 November 1992, Daniluško Kajtez and Miloš Maksimović, both members of the 6th Krajina Brigade, and two minors, Todo Vokić and Goran Vukojević, murdered nine Bosnian Croats near Škrļjevita in Sanski Most Municipality.

4183. The Prosecution argued that after the perpetrators were taken into custody, both the VRS and the SDS intervened on Kajtez's behalf, and that the Banja Luka Military Court subsequently released the perpetrators to return to their units.<sup>15229</sup> The Prosecution further argued that the perpetrators were not tried for the murders until after the war.<sup>15230</sup> The Defence submitted that an investigation was carried out the day after the killings, pursuant to which the command of the 6th Krajina Brigade's Military Police Company 'apprehended and processed' the perpetrators.<sup>15231</sup> It further argued that this was a robust and contemporaneous procedure demonstrating that necessary and reasonable measures were taken by the VRS to punish the individuals responsible.<sup>15232</sup> The Trial Chamber received evidence from **Branko Basara**, commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992,<sup>15233</sup> **Witness RM-016**, a Bosnian Serb from Banja Luka,<sup>15234</sup> and **Grgo Stojić**, a Croat from Škrļjevita in Sanski Most municipality,<sup>15235</sup> as well as documentary evidence.<sup>15236</sup>

4184. Following the killing of nine men near the village of Škrļjevita on 2 November 1992, an on-site investigation was conducted by the Basic Court in Sanski Most on 3 November 1992.<sup>15237</sup> On 7 December 1992, a criminal report pertaining to Kajtez, Maksimović, Vukojević, and Vokić was submitted to the Office of the Military

<sup>15229</sup> Prosecution Final Brief, Annex A, Sanski Most Summary, para. 36

<sup>15230</sup> Prosecution Final Brief, Annex A, Sanski Most Summary, para. 36

<sup>15231</sup> Defence Final Brief, para. 1220.

<sup>15232</sup> Defence Final Brief, para. 1220.

<sup>15233</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401. Basara's evidence is reviewed in chapter 4.12.1 *Schedule A.7.5*.

<sup>15234</sup> P2375 (Witness RM-016, witness statement, 5 August 2013), p. 1, paras 4, 11, 16; Witness RM-016, T. 17398. RM-016's evidence is reviewed in chapter 4.12.1 *Schedule A.7.5*.

<sup>15235</sup> P365 (Grgo Stojić, *Brdanin* transcript, 6-7 June 2002), p. 6763. Stojić's evidence is reviewed in chapter 4.12.1 *Schedule A.7.5*.

<sup>15236</sup> P366, P369, P372, P373, P2377, P2428, P7017, and D76 are reviewed in chapter 4.12.1 *Schedule A.7.5*.

<sup>15237</sup> D1956 (Letters from the Command of the 6th Krajina Brigade's Military Police Company in Sanski Most to the Military Court Banja Luka, 6 and 17 February 1993), p. 2.

Prosecutor in Banja Luka on the grounds of suspicion of murder.<sup>15238</sup> According to a report by the Military Police Company of the 6th Krajina Brigade Command, Kajtez, Maksimović, Vukojević, and Bokić were responsible for the mass murder of Croatian villagers in Škrlejevita on 2 November 1992.<sup>15239</sup> An investigation by the Sanski Most SJB determined that the cartridge case found at the scene of the incident matched the machine gun taken from 'Dane' Kajtez.<sup>15240</sup> The accused individuals were arrested, processed, and were due to be taken to the Military Remand Prison in Banja Luka.<sup>15241</sup> The Trial Chamber recalls documentary evidence, reviewed in chapter 4.12.1 *Schedule A.7.5*, according to which an Investigating Judge of the Banja Luka Military Court ordered that Kajtez and Maksimović be detained as they had confessed to the crime. The Trial Chamber further recalls the evidence reviewed in chapter 4.12.1 *Schedule A.7.5*, that the Banja Luka Military Court released Kajtez from pre-trial detention after pressure was exerted upon it by the President of the Sanski Most Crisis Staff, Vlado Vrkeš, along with units of the 6th Krajina Brigade.

4185. A ruling of the Banja Luka Military Court, dated 2 January 1993, signed and stamped by an investigating judge, stated that Kajtez and Maksimović, of the 6th Krajina Brigade, were to be released from detention in the case against them for murder.<sup>15242</sup> The ruling stated that the accused were remanded in custody for one month following a ruling of the court on 7 December 1992.<sup>15243</sup> The ruling further stated that the investigating judge questioned the accused on the 2 January 1993 and that they expressed their willingness to return to their unit and proposed that their detention be suspended.<sup>15244</sup>

4186. According to a report on the work of the Military Prosecutor's Office in Han Pijesak in 1992, sent from the Prosecutor to the Main Staff of the VRS on 10 February 1993, an investigation had been initiated as there were reasonable grounds to believe that Kajtez and Maksimović went to Glamočica village on 1 November 1992, where they ambushed and killed ten Croats on the road.<sup>15245</sup>

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<sup>15238</sup> D1951 (List of criminal reports by the Command of the 6th Krajina Brigade's Military Police Company, 19 February 1993), p. 1.

<sup>15239</sup> D1995 (Report from Command of the 6th Krajina Brigade, 7 December 1992).

<sup>15240</sup> D1995 (Report from Command of the 6th Krajina Brigade, 7 December 1992).

<sup>15241</sup> D1995 (Report from Command of the 6th Krajina Brigade, 7 December 1992).

<sup>15242</sup> P2420 (Ruling of Banja Luka military court, 3 January 1993)

<sup>15243</sup> P2420 (Ruling of Banja Luka military court, 3 January 1993)

<sup>15244</sup> P2420 (Ruling of Banja Luka military court, 3 January 1993)

<sup>15245</sup> D437 (Report on the Work of the VRS Military Prosecutor's Office in 1992, 10 February 1993), pp. 1, 16-17.

4187. According to a letter dated 6 February 1993 from the Command of the 6th Krajina Brigade to the Military Court in Banja Luka, charges had been filed against Kajtez and Maksimović.<sup>15246</sup> In a letter to the Military Court in Banja Luka, dated 17 February 1993, the Military Police Company stated that the crime of murder of nine persons from the village of Škrljevita had been committed by conscript Kajtez and three other minors and that proceedings against them were conducted by the Military Court in Banja Luka.<sup>15247</sup> On 2 June 1993, Vukojević was questioned before an investigating judge at the court in Sanski Most in the criminal proceedings against Tode Vokić and others.<sup>15248</sup> On 7 June 1993, an indictment against Kajtez and Maksimović was sent from the Military Prosecutor's Office to the Banja Luka Military Court proposing that a hearing be scheduled and that the accused be questioned at the main hearing and declared guilty.<sup>15249</sup> On 9 July 1993, the Banja Luka Military Court issued a decision to remand Kajtez and Maksimović in custody.<sup>15250</sup> On 29 December 1993, the Lower Court in Sanski Most received the complete case file for the accused Kajtez and Maksimović from the Military Court in Banja Luka.<sup>15251</sup> On 13 January 1994, the Lower Court informed the Command of the 6th Krajina Brigade that criminal proceedings for the crime of homicide against Maksimović were in progress at the Lower Court in Sanski Most and asked for further information regarding his status in the brigade at the time of the crime.<sup>15252</sup>

4188. According to a ruling by the Banja Luka District Court on 7 December 2000, Daniluško Kajtez and Miloš Maksimović had been accused of murder and criminal proceedings were pending at the Banja Luka Military Court.<sup>15253</sup> However, their file shows that their detention was suspended on 14 March 1995, after which they were

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<sup>15246</sup> D1956 (Letters from the Command of the 6th Krajina Brigade's Military Police Company in Sanski Most to the Military Court Banja Luka, 6 and 17 February 1993), p. 2.

<sup>15247</sup> D1955 (Stamped receipt of case file by Sanski Most Lower Court, 29 December 1993), p. 1; D1956 (Letters from the Command of the 6th Krajina Brigade's Military Police Company in Sanski Most to the Military Court Banja Luka, 6 and 17 February 1993), p. 1; D1957 (Letter from the Lower Court in Sanski Most to the Command of the 6th Krajina Brigade, 13 January 1994); D1958 (Correspondence between the Lower Court in Sanski Most and Dragana Sekulić, 26 and 31 January 1994), p. 1; D1959 (Record of questioning of Goran Vukojević, 2 June 1993), p. 1.

<sup>15248</sup> D1959 (Record of questioning of Goran Vukojević, 2 June 1993), p. 1.

<sup>15249</sup> P369 (File of the Banja Luka Military Court: Indictment against Daniluško Kajtez et al).

<sup>15250</sup> P373 (Ruling of Military Court in Banja Luka, 9 July 1993).

<sup>15251</sup> D1955 (Stamped receipt of case file by Sanski Most Lower Court, 29 December 1993).

<sup>15252</sup> D1957 (Letter from the Lower Court in Sanski Most to the Command of the 6th Krajina Brigade, 13 January 1994).

<sup>15253</sup> P3556 (Banja Luka District Court Ruling to remand in custody Daniluško Kajtez and Miloš Maksimović, 7 December 2000), p. 1.

released. Their whereabouts were thereafter unknown.<sup>15254</sup> The presiding judge therefore decided to remand them in custody.<sup>15255</sup>

4189. Based on the foregoing, the Trial Chamber finds that following the killing of nine men near the village of Škrļjevita on 2 November 1992, the Basic Court in Sanski Most conducted an on-site investigation on 3 November 1992. On 7 December 1992, after Daniluško Kajtez and Miloš Maksimović, both members of the 6th Krajina Brigade, confessed to committing the crime, an investigating judge of the Banja Luka Military Court ordered that the two men be detained for a period of one month. On 2 January 1993, Kajtez and Maksimović were released from pre-trial detention and sent back to their unit. The Trial Chamber further finds that on 9 July 1993, Kajtez and Maksimović were remanded for the purposes of criminal proceedings held in the Lower Court in Sanski Most. Whilst the perpetrators were in custody, Vrkeš and units of the 6th Krajina Brigade exercised pressure on the Banja Luka Military Court to release Kajtez. On 14 March 1995, the Banja Luka Military Court suspended the pre-trial detention of both Kajtez and Maksimović and released them. The Trial Chamber further finds that Kajtez and Maksimović were not prosecuted until long after the war, when they were tried before the Banja Luka District Court in 2007.

### ***Vlasenica Municipality***

#### *Schedules A.9.1, B.16.1, and B.16.2*

4190. The Trial Chamber recalls its findings in chapters 4.14.1 *Schedules A.9.1* and *B.16.1*, and 8.3.2 that VRS members, or members of Kraljević's unit under TO command, murdered at least 20 Bosnian-Muslim men in the village of Drum on 2 June 1992, and that Dragan Nikolić, Goran Tešić, and two local policemen murdered nine detainees at Sušica camp in June and July 1992. The Trial Chamber further recalls its findings in chapters 4.14.1 *Schedule B.16.2* and 8.3.2 that Serb MUP officers from the Vlasenica SJB murdered between 140 and 150 detainees in Sušica camp on 30 September 1992.

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<sup>15254</sup> P3556 (Banja Luka District Court Ruling to remand in custody Daniluško Kajtez and Miloš Maksimović, 7 December 2000), p. 1; P372 (Ruling Suspending detention of Daniluško Kajtez and Miloš Maksimović, 14 March 1995).

<sup>15255</sup> P3556 (Banja Luka District Court Ruling to remand in custody Daniluško Kajtez and Miloš Maksimović, 7 December 2000), p. 2.

4191. The Trial Chamber also recalls its findings in 4.14.1 *Schedule B.16.1* and 4.14.7 that on 2 June 1992, Kraljević's unit was operationally under the command of the Vlasenica SJB. The unit was working from the Vlasenica SJB building from at least mid-May 1992 until later in June when it was formally attached to the SJB. The Trial Chamber further recalls its finding in 9.2.10 that Dragan Nikolić and the Vlasenica Crisis Staff made efforts to conceal the murder of 140 to 150 Bosnian-Muslim Sušica camp detainees on 30 September 1992.

4192. In relation to these crimes, the Prosecution argued that no soldier was prosecuted before the military court in Bijeljina, which had jurisdiction over VRS soldiers in Vlasenica. The Prosecution further argued that some MUP perpetrators of crimes were reassigned to the VRS. Finally, the Prosecution argued that the massacre of the remaining Sušica camp detainees in late September 1992, though known to have been carried out by the Vlasenica Battalion Command and the Crisis Staff, was not investigated.<sup>15256</sup> The Trial Chamber took judicial notice of Adjudicated Fact 1268 (reviewed in chapter 4.14.1 *Schedule B.16.2*). The Trial Chamber further received evidence from **Witness RM-066**, a Serb from Vlasenica,<sup>15257</sup> and **Mane Đurić**, Head of the Vlasenica SJB as of 20 May 1992.<sup>15258</sup>

4193. **Mane Đurić** testified that following the reassignment of Kraljević's unit to the SJB in mid-June 1992, the SJB received reports of mistreatment of Muslims by members of the platoon.<sup>15259</sup> In execution of an order of the MUP on 10 August 1992, the platoon was dismissed from the SJB.<sup>15260</sup> Its members, including Nikolić, were reassigned to the VRS.<sup>15261</sup> Đurić testified that policemen who committed crimes were handed over to the VRS and the VRS would go on to engage them in their units.<sup>15262</sup> **Witness RM-066** testified that he was not aware of any disciplinary measures being

<sup>15256</sup> Prosecution Final Brief, Annex A, Vlasenica Summary, para. 36.

<sup>15257</sup> P182 (Witness RM-066, witness statement, 7 April 2010), p. 1.

<sup>15258</sup> Mane Đurić, T. 27630.

<sup>15259</sup> D732 (Mane Đurić, witness statement, 30 July 2014), para. 30.

<sup>15260</sup> D732 (Mane Đurić, witness statement, 30 July 2014), paras 33-34; P6876 (Letter from the Head of the Vlasenica SJB to the Sarajevo CSB concerning the disbanding of the special purpose platoon, 10 August 1992); D733 (Order from the Head of the CSB Sarajevo addressed to SJBs' Chiefs, 28 July 1992).

<sup>15261</sup> D732 (Mane Đurić, witness statement, 30 July 2014), paras 33-34; Mane Đurić, T. 27652-27653; P6876 (Letter from the Head of the Vlasenica SJB to the Sarajevo CSB concerning the disbanding of the special purpose platoon, 10 August 1992); P6879 (Order from the Minister of the Interior of the Bosnian-Serb Republic addressed *inter alia* to CSBs, 23 July 1992); D733 (Order from the Head of the CSB Sarajevo addressed to SJBs' Chiefs, 28 July 1992).

<sup>15262</sup> Mane Đurić, T. 27653.

imposed against members of the active, reserve, or special police of the Vlasenica SJB for any of the crimes committed against the non-Serb population in Vlasenica.<sup>15263</sup>

4194. Based on the foregoing, the Trial Chamber finds that on 10 August 1992, subsequent to the killings at Drum and Sušica in June and August 1992, Kraljević's unit was dismissed from the SJB, and its members, including those who had committed crimes, were reassigned to the VRS. The Trial Chamber further finds that no disciplinary measures were taken against members of the Vlasenica SJB for the killings at Drum and Sušica. Furthermore, no individuals were prosecuted for crimes committed at Sušica by the Banja Luka Military Court.

*The Trial Chamber's findings on the non-punishment of crimes*

4195. Based on all of the foregoing, the Trial Chamber finds that between 12 May 1992 and 30 November 1995, the Bosnian-Serb military and civilian justice system failed on many occasions to investigate crimes committed by members of the VRS and other Serb forces in the municipalities of Banja Luka, Bijeljina, Ključ, Kotor Varoš, Prijedor, Sanski Most, and Vlasenica, as detailed in the specific incidents above. The military and civilian justice system failed to arrest and/or punish the perpetrators of these crimes. On multiple occasions in which crimes had been committed against non-Serbs by VRS members or members of other Serb forces, criminal reports were not filed, investigations were not initiated by military prosecutors or investigating judges, suspects were not arrested or detained, and perpetrators were unlawfully released from detention to return to their units.

4196. In this regard, the Trial Chamber recalls its finding in 9.2.12 that pre-trial detention was mandatory for crimes carrying a minimum sentence of ten years, and that suspects charged with murder, robbery, or crimes against the state and the army would be detained until a final judgment was issued. The Trial Chamber finds that, in many instances, decisions to release suspects were made after VRS officers, including General Talić and members of the 6th Krajina Brigade, exerted pressure on the military courts to drop cases or release perpetrators of crimes. The Trial Chamber also finds that, after being released from pre-trial detention, members of the VRS or other Serb forces who

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<sup>15263</sup> P182 (Witness RM-066, witness statement, 7 April 2010), para. 167.

committed crimes which furthered the objective of the JCE were rarely remanded in custody.

4197. The Trial Chamber will further consider evidence pertaining to the Accused's role in this respect in chapter 9.3.10.

### 9.2.13 Revenge and related arguments

4198. In response to the Prosecution's attribution of crimes to the VRS, the Defence submitted that such crimes were committed by individuals with revenge-related 'motives'.<sup>15264</sup> Such revenge-related motives, according to the Defence, included: responses to attacks, in which the Serb side reacted to prior attacks by the ABiH, Bosnian Muslims, and/or Bosnian Croats;<sup>15265</sup> acts in which individuals or small groups from the Serb side committed crimes for personal revenge for the killings of family members or fellow soldiers;<sup>15266</sup> and spontaneous or opportunistic attacks, sometimes committed in tense or chaotic situations, by Serb groups or individuals, both military and civilian.<sup>15267</sup> The Trial Chamber observes that the Defence's revenge-related arguments generally relate to: (a) legitimate military responses by the VRS or Bosnian Serb forces to attacks and/or crimes by the Bosnian-Muslim or Bosnian-Croat forces that resulted in unforeseen casualties; (b) spontaneous crimes on the part of physical perpetrators that fall outside of any common plan, therefore, breaking the link with the Accused and/or any alleged JCE members; and (c) crimes that were committed by Bosnian-Muslim or Bosnian-Croat forces against Bosnian-Serbs. The Trial Chamber emphasises that in relation to (a), where evidence related to a specific allegation or incident in the Indictment, the Trial Chamber considered that evidence in the relevant factual findings and as potential defences in the relevant legal findings. In this chapter, the Trial Chamber will assess evidence falling within the scope of (b) and (c), where it related to specific allegations or incidents in the Indictment. The Trial Chamber recalls from Appeals Chamber jurisprudence that *tu quoque* arguments do not ordinarily constitute a defence under international humanitarian law.<sup>15268</sup> The Trial Chamber,

<sup>15264</sup> Defence Final Brief, paras 59, 123, 940, 1132, 1196, 1264, 1370, 1590, 2971.

<sup>15265</sup> Defence Final Brief, paras 378, 425, 549, 569, 693-694, 907, 934, 937, 939, 1135, 1265, 1370, 1346, 1505, 1575, 1590, 1671-1672, 2468, 2572, 2856, 2863-2867, 2882, 3112.

<sup>15266</sup> Defence Final Brief, paras 59, 1130, 1264, 1303-1306, 1670, 1672, 2511, 2572, 3070, 3077-3078.

<sup>15267</sup> Defence Final Brief, paras 123, 939, 1197-1201, 1264, 1672.

<sup>15268</sup> *Prosecutor v. Zoran Kupreškić et al.*, Case No. IT-95-16-T, Decision on Evidence of the Good Character of the Accused and the Defence of Tu Quoque, 17 February 1999, pp. 3-4; *Prosecutor v. Mićo*

therefore, emphasises that revenge-related arguments that have no specific link, particularly in terms of time and place, to the alleged crimes in the Indictment, or to the alleged responsibility of the Accused for these crimes, are irrelevant.

4199. The Trial Chamber received evidence from **Mile Dmičić**, Deputy Secretary General of the Presidency of Bosnia-Herzegovina between 1984 and 1992;<sup>15269</sup> **Miloš Škrba**, the Commander of the 2nd Infantry Company of the 2nd Infantry Battalion in the 1st Sarajevo Mechanised Brigade of the SRK;<sup>15270</sup> **Dragan Malinović**, a Bosnian Serb from Zenica who served as a driver in the Nedžarići Battalion of the Ilidža Brigade from January until May 1993;<sup>15271</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of the war;<sup>15272</sup> **Branko Davidović**, Assistant Commander for Morale, Legal Affairs, and Information of the 6th Krajina Brigade since June 1992;<sup>15273</sup> **Zlatan Čelanović**, who in 1995 was a member of the 1st Bratunac Light Infantry Brigade;<sup>15274</sup> **Borislav Vasiljević**, a Bosnian-Serb police officer from Staza Village, Kotor Varoš Municipality;<sup>15275</sup> **Milenko Đurić**, a Bosnian-Serb member of the Rastik TO, which was part of the Kneževo Brigade, as of 10 May 1992;<sup>15276</sup> **Trivko Pljevaljčić**, a Bosnian-Serb from Foča Municipality who was commander of the 3rd Company of the 5th Battalion of the Foča Tactical Group and who worked in KP Dom Foča in 1995;<sup>15277</sup> **Branko Berić**, an assistant for medical and veterinary services at the logistics base in Čirkin Polje, which was part of the Prijedor TO;<sup>15278</sup> **Zdravka Karlica**, a Serb from Prijedor;<sup>15279</sup> **Zoran Durmić**, a member of the Vlasenica SJB reserve as of 22 September 1991;<sup>15280</sup> **Stojan Malčić**, a member of the Personnel Section of the VRS

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*Stanišić and Stojan Župljanin*, Case No. IT-08-91-T, Order Further Amending Guidelines on the Admission and Presentation of Evidence, 19 August 2011, para. 21; *Prlić et al.* Trial Judgment, paras 279-281; *Kupreškić et al.* Appeal Judgment, para. 25; *Martić* Appeal Judgment, para. 111; *Dragomir Milošević* Appeal Judgment, para. 250.

<sup>15269</sup> Mile Dmičić, T. 41406.

<sup>15270</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), paras 1, 6, 15; Miloš Škrba, T. 22797-22798, 22803-22804, 22822, 22902, 22887.

<sup>15271</sup> D1235 (Dragan Malinović, witness statement, 28 May 2014), p. 1, paras 1-2, 7-8.

<sup>15272</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4.

<sup>15273</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 14-16; Branko Davidović, T. 26504. Branko Davidović's evidence has also been reviewed in chapter 4.12.3.

<sup>15274</sup> P1451 (Zlatan Čelanović, *Popović et al.* transcript, 31 January 2007), p. 6626.

<sup>15275</sup> D1030 (Borislav Vasiljević, witness statement, 15 July 2014), p. 1, para. 1.

<sup>15276</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), p. 1, paras 1, 3.

<sup>15277</sup> D706 (Trivko Pljevaljčić, witness statement, 10 July 2014), p. 1, paras 1, 4; Trivko Pljevaljčić, T. 27200, 27205, 27215-27216.

<sup>15278</sup> D928 (Branko Berić, witness statement, 26 June 2014), paras 11-12; Branko Berić, T. 32852-32853.

<sup>15279</sup> D863 (Zdravka Karlica, witness statement, 17 March 2014), p. 1, para. 1.

<sup>15280</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), paras 1-3, 5-6, 29; Zoran Durmić, T. 26314; D663 (Bosnia-Herzegovina MUP Certificate re Zoran Durmić's reserve police force membership), pp. 1-2.

Main Staff in Han Pijesak from late May 1992 until 31 August 1997;<sup>15281</sup> **Tomislav Puhalac**, a member of the Bosnia-Herzegovina SDB from 1977 to 2005;<sup>15282</sup> **Dražen Višnjić**, a Bosnian Serb from Zenica, who lived as a teenager in Foča in 1992;<sup>15283</sup> **Velimir Kevac**, a Bosnian Serb who from the end of May 1992 until 7 October 1993 served as Assistant Chief of Staff at the Command of the VRS 30th Division in Mrkonjić Grad;<sup>15284</sup> as well as documentary evidence.<sup>15285</sup>

4200. The Trial Chamber, in this section will deal with evidence of (a) the circumstances in which alleged crimes occurred, and (b) attacks and crimes perpetrated by Bosnian Muslims or Bosnian Croats against Bosnian Serbs in various municipalities.

*Circumstances in which alleged crimes occurred*

4201. **Miloš Škrba** testified that Serbs organised themselves out of fear because the Muslims started arming and organizing themselves in the Patriotic League and the Green Berets in 1990 and 1991.<sup>15286</sup> **Mile Dmičić** testified that Alija Izetbegović made a ‘well-known’ statement about sacrificing peace for the sake of creating an independent Bosnia-Herzegovina.<sup>15287</sup>

4202. **Miloš Šolaja** testified that there were several murders in Banja Luka, but that these were perpetrated by individuals motivated by criminal gain who took advantage of ethnic tensions and the state of war.<sup>15288</sup> He also testified that there was no order for the deployment of soldiers in Prijedor but that they organised themselves out of fear for their families and in response to an attempt by Muslim forces to take over power in Prijedor by armed force.<sup>15289</sup> In May 1992 almost all of the soldiers in the Vlašić Rocket Brigade moved from Banja Luka to Prijedor, without permission or an official order to do so, because their families were there.<sup>15290</sup>

<sup>15281</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), paras 2, 16-17, 30; Stojan Malčić, T. 26214-26216, 26249.

<sup>15282</sup> D758 (Tomislav Puhalac, witness statement, 8 March 2013), paras 2-3.

<sup>15283</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), p. 1, paras 1, 4.

<sup>15284</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), p. 1, paras 1, 4, 21. Velimir Kevac’s evidence has also been reviewed in chapter 4.6.7.

<sup>15285</sup> D368 (Code cable ‘Attitude of the Bosnian Government to UNPROFOR’ from Akashi to Annan, 1 March 1995) reviewed in chapter 7.1.1.

<sup>15286</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), para. 2.

<sup>15287</sup> Mile Dmičić, T. 41406-41407, 41414.

<sup>15288</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), paras 30-31; Miloš Šolaja, T. 32790-32792.

<sup>15289</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 46.

<sup>15290</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 46; Miloš Šolaja, T. 32759-32760.

4203. **Branko Davidović** testified that he received a report of a seditious nature from the public and national security services regarding war crimes perpetrated by Muslims during the Second World War, and that he forwarded these up the chain of command of the 6th Krajina Brigade.<sup>15291</sup> According to the witness, officers of the 6th Krajina Brigade would convey the information contained in such reports when talking to the troops, but they would do their best to convince them to forget what happened in the past.<sup>15292</sup> The information in Colonel Milutin Vukelić's report dated 21 May 1992, regarding the genocide of Serbs and the transformation of Serbs into a national minority, was conveyed to the troops, with an additional explanation as to what this would mean for them.<sup>15293</sup>

4204. According to Davidović, between 1992 and 1995, 472 members of the 6th Krajina Brigade were killed and over 2,000 were injured in combat activities against the Bosnian-Muslim and Bosnian-Croat forces.<sup>15294</sup> The witness heard that approximately 200 Muslims were killed in Sanski Most.<sup>15295</sup> According to the witness, the Muslims and Croats had formed terrorist and paramilitary formations and were directly confronting the 6th Krajina Brigade in Sanski Most.<sup>15296</sup>

4205. **Zlatan Čelanović** testified that there were about 20 or 30 Serb villages in Bratunac Municipality and that during the war, all of them except Polom and Slapašnica were attacked by Muslim forces from Srebrenica.<sup>15297</sup> Čelanović testified that in 1995, before the attack on Srebrenica, there was a raid in a Bosnian-Serb village in either Vlasenica or Šekovići Municipality. The raid on the village, which was in a protected zone, included the massacre of civilians, looting, and the torching of houses.<sup>15298</sup> Čelanović heard that this was what prompted the Serbs' attack of Srebrenica despite its status as a protected zone.<sup>15299</sup> He testified that people expressed hatred towards the crimes that had resulted in the death of their relatives, but that he did not notice an increased desire for vengeance among the Muslims or Serbs with whom he had

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<sup>15291</sup> P3851 (Extract of a military report on the 6th Krajina Brigade from 8 October 1991 to 28 August 1992); Branko Davidović, T. 26507-26509.

<sup>15292</sup> Branko Davidović, T. 26508, 26513.

<sup>15293</sup> Branko Davidović, T. 26513. *See also*, P2874 (Document from the IKK regarding the formation of the VRS, signed by Milutin Vukelić, dated 21 May 1992)

<sup>15294</sup> D675 (Branko Davidović, witness statement, 30 June 2014), para. 41; Branko Davidović, T. 26554.

<sup>15295</sup> Branko Davidović, T. 26555.

<sup>15296</sup> D675 (Branko Davidović, witness statement, 30 June 2014), paras 19, 22.

<sup>15297</sup> Zlatan Čelanović, T. 11087-11088.

<sup>15298</sup> Zlatan Čelanović, T. 11100.

<sup>15299</sup> Zlatan Čelanović, T. 11100.

contact.<sup>15300</sup> Čelanović never heard of the existence of a plan to expel the entire population of Srebrenica but did hear that the purpose of the attack was to disarm Srebrenica.<sup>15301</sup>

*Attacks and crimes perpetrated by Bosnian Muslims or Bosnian Croats against Bosnian Serbs*

4206. In relation to Foča Municipality, **Trivko Pljevaljčić** testified that Muslim forces were the first to set fire to houses in Foča, targeting homes belonging to Serbs, and committed rapes.<sup>15302</sup> **Dražen Višnjić** stated that on 19 December 1992, the Muslim army attacked the village of Jošanica, where he was visiting his uncle.<sup>15303</sup> The attack began around 6:30 on the morning of ‘slava’, a patron saint’s day celebration for Serbs.<sup>15304</sup> Višnjić later found out that the Muslims killed everyone they came across.<sup>15305</sup> VRS forces eventually arrived and forced the Muslim forces to withdraw around 3 p.m.<sup>15306</sup> When walking through the village, the witness saw that half of the village had been burnt.<sup>15307</sup> Sixty Serb civilians were killed, including small children.<sup>15308</sup> **Pljevaljčić** testified that he had heard that on that day, Muslim forces from Goražde killed more than 60 Serb civilians in the village.<sup>15309</sup>

4207. In relation to Kotor Varoš Municipality, **Borislav Vasiljević** testified that he was detained in a garage along with Miladinka Narić and Kasim Smajlović and tortured by Muslim soldiers after he returned from Slovenia to the village of Večići on 13 July 1992.<sup>15310</sup> According to the witness, there were other Serbs in Večići who were detained in other facilities.<sup>15311</sup> **Milenko Đurić** testified that the Serb village of Rastik in Kotor Varoš Municipality was attacked from the neighbouring Muslim village of Večići on

<sup>15300</sup> Zlatan Čelanović, T. 11087-11088.

<sup>15301</sup> Zlatan Čelanović, T. 11100.

<sup>15302</sup> D706 (Trivko Pljevaljčić, witness statement, 10 July 2014), paras 10-11.

<sup>15303</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), paras 5-9, 13.

<sup>15304</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), paras 5, 9, 13.

<sup>15305</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), para. 9.

<sup>15306</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), paras 21, 23-24.

<sup>15307</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), paras 26, 28.

<sup>15308</sup> D1296 (Dražen Višnjić, witness statement, 19 June 2014), paras 26, 28.

<sup>15309</sup> D706 (Trivko Pljevaljčić, witness statement, 10 July 2014), para. 6; Trivko Pljevaljčić, T. 27205-27206.

<sup>15310</sup> D1030 (Borislav Vasiljević, witness statement, 15 July 2014), paras 6-16, 20, 22, 24-25; Borislav Vasiljević, T. 34372-34373.

<sup>15311</sup> D1030 (Borislav Vasiljević, witness statement, 15 July 2014), para. 22.

several occasions and people were forced to move out.<sup>15312</sup> On 24 July 1992, Đurić was captured by Muslim-Croat soldiers.<sup>15313</sup> He and other detainees were physically and psychologically abused by several men, including Borislav Piličić, Mehmed Bilić a.k.a. Meša, Sulejman Berbić, and Ćamil Bilić.<sup>15314</sup> They were also forced to sing ‘*Ustaša*’ songs.<sup>15315</sup> Some detainees died as a result of the abuse.<sup>15316</sup>

4208. In relation to Ključ Municipality, **Velimir Kevac** testified that from mid-May 1992 the 30th Division of the 1KK’s zone of responsibility was marked by frequent incidents resulting in Serbs being expelled by Croat-Muslim armed forces and referred to an incident in the Turbe settlement, as well as an incident in Čipuljići village near Bugojno.<sup>15317</sup> According to the witness, Croat-Muslim paramilitaries were well-armed.<sup>15318</sup> The incidents originating from the town of Jajce were especially intense.<sup>15319</sup> He also testified that he was at the command post in the Kula Barracks near Mrkonjić Grad when there was an ambush on 27 May 1992 by well-armed and ‘extremist’ Muslim forces against mainly Serb JNA soldiers after their withdrawal from Croatia.<sup>15320</sup> The ambush took place between the villages of Velagići and Egrlići on the regional Petrovac-Ključ-Jajce road.<sup>15321</sup> The JNA soldiers were travelling on civilian buses, did not have any military equipment, and were not in a combat formation.<sup>15322</sup> According to the witness, many were killed and dozens wounded.<sup>15323</sup>

4209. In relation to Prijedor Municipality, **Branko Berić** testified that before the war, he saw Muslim groups training for combat against the Serbs in Čarakovo and heard of other groups doing the same at the Saw Mill in Kozarac.<sup>15324</sup> He also testified that large storages of medicine were found at the Health Centre in Korazac and at a summerhouse in Rajkovići village.<sup>15325</sup> He further heard that the Muslims had a mortar in Čarakovo,

<sup>15312</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), paras 2, 4.

<sup>15313</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), para. 6.

<sup>15314</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), paras 6-11, 13-14.

<sup>15315</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), para. 10.

<sup>15316</sup> D927 (Milenko Đurić, witness statement, 3 August 2014), paras 11-12.

<sup>15317</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 4-7.

<sup>15318</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 7.

<sup>15319</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 7.

<sup>15320</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), paras 11-14, 18-20; Velimir Kevac, T. 30447, 30461.

<sup>15321</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 13; Velimir Kevac, T. 30461.

<sup>15322</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 13; Velimir Kevac, T. 30461.

<sup>15323</sup> D871 (Velimir Kevac, witness statement, 31 July 2014), para. 20; Velimir Kevac, T. 30530.

<sup>15324</sup> D928 (Branko Berić, witness statement, 26 June 2014), para. 3.

<sup>15325</sup> D928 (Branko Berić, witness statement, 26 June 2014), para. 4.

which exploded due to improper use.<sup>15326</sup> In February or March 1992, Muslims started to voluntarily move their women and children from Prijedor.<sup>15327</sup> According to the witness, ‘it was clear that the Muslims were arming with the aim of killing the Serbs’ and that after the murder of a man named ‘Đapo’, and the subsequent murder of soldiers at the checkpoint in Hambarine, there was enormous inter-ethnic tensions.<sup>15328</sup> **Zdravka Karlica** testified that on 2 May 1992, policeman Radenko Đapa, a Serb from Gornji Jelovac, was killed by Muslim extremists.<sup>15329</sup> The murder was then avenged by Đapa’s uncle, who killed two and seriously wounded three Muslims.<sup>15330</sup>

4210. In relation to Vlasenica Municipality, **Zoran Durmić** testified that on 6 April 1992, armed Muslim soldiers confiscated guns, automatic rifles and a police car from him and two of his colleagues.<sup>15331</sup> On 21 May 1992, ‘the Muslims’ ambushed a truck in Žutica transporting mining workers and killed eight of them.<sup>15332</sup> On 27 May 1992, ‘the Muslims’ ambushed trucks transporting ore to Zvornik, killing five.<sup>15333</sup> Daily attacks against Serb villages in Milići Municipality began thereafter.<sup>15334</sup> Nearly all of the Serb villages in the municipality were burned to the ground; their populations were expelled, killed, or wounded, and property was looted.<sup>15335</sup>

4211. In relation to Sarajevo, **Stojan Malčić** testified that on 6 May 1992, he was arrested and mistreated by the Muslim reserve police when he went out of the barracks to Sarajevo in civilian clothes.<sup>15336</sup> Later, when he was handed over to the Green Berets, he was subjected to physical and psychological torture.<sup>15337</sup> Together with three other senior officers, he was exchanged on 13 May 1992.<sup>15338</sup> **Tomislav Puhalc** testified that Serbs in the SDB had their employment discontinued in early April 1992 and were

<sup>15326</sup> D928 (Branko Berić, witness statement, 26 June 2014), para. 5.

<sup>15327</sup> D928 (Branko Berić, witness statement, 26 June 2014), para. 6.

<sup>15328</sup> D928 (Branko Berić, witness statement, 26 June 2014), para. 9.

<sup>15329</sup> D863 (Zdravka Karlica, witness statement, 17 March 2014), para. 6. The Trial Chamber understands that Radenko Đapa refers to the man named ‘Đapo’ mentioned by Branko Berić in the preceding sentence.

<sup>15330</sup> D863 (Zdravka Karlica, witness statement, 17 March 2014), para. 6; Zdravka Karlica, T. 30143-30144; D866 (Regular combat report of the 5th Corps Command, 3 May 1992), p. 1.

<sup>15331</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), paras 11-13, 17.

<sup>15332</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 25.

<sup>15333</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 26.

<sup>15334</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 27.

<sup>15335</sup> D659 (Zoran Durmić, witness statement, 12 February 2013), para. 27; Zoran Durmić, T. 26299, 26303.

<sup>15336</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), paras 5-7.

<sup>15337</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), paras 8-9.

<sup>15338</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), para. 11.

expelled from Sarajevo.<sup>15339</sup> Their apartments were broken into and plundered and given to ‘the newly employed Muslim extremists’.<sup>15340</sup> Serbs who stayed in Sarajevo were targeted to be tortured or killed.<sup>15341</sup> **Dragan Malinović** stated that the Muslim forces fired on ambulances transporting wounded soldiers on several occasions.<sup>15342</sup> On one occasion, in March 1993, the witness was driving an APC belonging to the Nedžarići Battalion of the Ilidža Brigade. An ambulance carrying his wife, which was immediately in front of the APC, came under fire from the Muslim side.<sup>15343</sup>

*The Trial Chamber’s findings*

4212. Based on the foregoing, the Trial Chamber finds that the evidence presented above is vague and general. In addition, it is almost exclusively concerned with crimes committed by Bosnian Muslims or Bosnian Croats that does not, in any way, relate to the allegations or incidents in the Indictment. The Defence’s arguments, therefore, made in respect of this evidence resorts to *tu quoque* and, therefore, does not constitute a valid defence. The Trial Chamber further finds that certain Defence arguments relating to Scheduled Incidents A.3.3, A.4.4, A.6.5, A.7.1, B.16.1, B.16.2, B.7.1, B.10.1, E.3.1, E.4.1, E.5.1, E.6.1, E.6.2, E.7.1, and E.7.2 were unsubstantiated, ambiguous, misleading, and/or sometimes resorted to *tu quoque*.<sup>15344</sup> Accordingly, the Trial Chamber will not consider the above evidence and arguments further.

<sup>15339</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), paras 2, 16-17.

<sup>15340</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), paras 16-18.

<sup>15341</sup> D758 (Tomislav Puhac, witness statement, 8 March 2013), paras 12, 17.

<sup>15342</sup> D1235 (Dragan Malinović, witness statement, 28 May 2014), paras 3, 5.

<sup>15343</sup> D1235 (Dragan Malinović, witness statement, 28 May 2014), paras 3, 5.

<sup>15344</sup> **Scheduled Incident A.3.3:** Defence Final Brief, paras 59, 1264, 1265 – the assertion that the killings were spontaneous acts of revenge by soldiers is unsupported by any evidence, nor are details provided what spurred these acts of supposed spontaneous revenge. **Scheduled Incident A.4.4:** Defence Final Brief, paras 1126, 1130-1135 – the assertion that revenge was rife among civilians and that a woman in black held a knife to a witness’s throat is unconnected with the incident. The assertion that civilians carried out the killings is unsubstantiated. The Trial Chamber found that the VRS 1st Kotor Varoš Light Infantry Brigade were perpetrators of this incident. **Scheduled Incident A.6.5:** Defence Final Brief, paras 933-934, 937, 939-941 – the assertion that perpetrators carried out killings in response to attacks is unsubstantiated; there is evidence that an attack against Serbs occurred, but no evidence indicating that those attacks were connected to the killings. **Scheduled Incident A.7.1:** Defence Final Brief, paras 1197-1199, 1201 – there was no evidence presented to suggest that the killings were spontaneous. The evidence apparently demonstrating the disparate nature of the perpetrators was considered and dismissed in the factual finding. **Scheduled Incidents B.16.1 and B.16.2:** Defence Final Brief, paras 1670-1672 – the assertion that the incidents were carried out for personal reasons and were retaliatory are unsubstantiated; no evidence is presented to indicate why these victims were targeted or why perpetrators were motivated by ‘personal’ reasons. **Scheduled Incident B.7.1:** Defence Final Brief, para. 1590 – the assertion that executions were reprisals for deaths of ‘some Serbs somewhere else’ is vague, speculative, and unsubstantiated. **Scheduled Incident B.10.1:** Defence Final Brief, para. 1370 – the assertion that ‘people’

4213. The Trial Chamber recalls that in Scheduled Incidents A.7.1, and E.5.1 the Trial Chamber found that certain named physical perpetrators carried out crimes out of revenge-related motivations.<sup>15345</sup>

4214. In relation to Scheduled Incident A.7.1, the Trial Chamber recalls its finding in chapter 4.12.1 *Schedule A.7.1* that one of the physical perpetrators, Nenad Kaurin, a member of the reserve police, stated that they had to kill 70 Muslims on that day because seven Serb soldiers had been killed in that area. The Trial Chamber also recalls that Jadranko Palija, a member of the military police of the VRS 6th Krajina Brigade, was the commander of the perpetrators of this incident. In relation to Scheduled Incident E.5.1, the Trial Chamber recalls its finding in chapter 7.6 *Schedule E.5.1* that members of the VRS shot and killed approximately 21 Bosnian-Muslim men after a man referred to as the ‘commander’ stated that it was time to ‘make up’ for what happened to him while he was detained by the ABiH. The Trial Chamber also recalls that this incident took place in the context of broader operations. In relation to the incidents above, the Trial Chamber finds that the motive of the perpetrators for the killing of the Bosnian-Muslims does not negate the fact that the killings were part of wider VRS operations.

4215. The Trial Chamber will further consider these findings in chapter 9.2.14.

#### *9.2.14 Conclusion*

4216. The Prosecution argued that by September 1991 JCE members had determined to establish a separate and ethnically-homogenous Bosnian-Serb entity on Bosnian

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acted out of revenge for mistreatment of ‘people’ who fled Central Bosnia is vague and unsubstantiated and seems, in any case, to relate to beatings rather than killings. **Scheduled Incident E.3.1:** Defence Final Brief, para. 2572 – the argument that these killings were committed by brigade members exacting personal revenge is unfounded – the witness cited provides no basis of knowledge for his testimony to this effect. **Scheduled Incident E.4.1:** Defence Final Brief, para. 3070 – the assertion that generally the killings were motivated by revenge, as one ‘volunteer’ killed because his family was wiped out, is not persuasive or substantiated by any evidence. **Scheduled Incident E.5.1:** Defence Final Brief, para. 3077 – the argument that ‘Chetniks’ questioned, provoked, and identified detainees is irrelevant as the Trial Chamber found in its factual findings that those provoking the detainees were not the perpetrators in this incident. **Scheduled Incidents E.6.1 and E.6.2:** Defence Final Brief, paras 3081, 3086 – the argument that the situation was ‘uncontrolled’ and that hostile locals may have committed the killings out of revenge is speculative and unsubstantiated by the evidence. **Scheduled Incidents E.7.1 and E.7.2:** Defence Final Brief paras 3109-3110, 3112 – assertions that Serb soldiers asked detainees who had participated in the takeover of Kravica or called out detainees from certain villages are irrelevant, as there is no evidence that the detainees were targeted out of revenge, and the argument that revenge could not be excluded as a motive is speculative and unsupported by any evidence.

<sup>15345</sup> See further, **Scheduled Incident A.7.1:** Defence Final Brief, paras 1197-2001. **Scheduled Incident E.5.1:** Defence Final Brief, para. 3079.

territory to be achieved through the commission of crimes alleged in the Indictment.<sup>15346</sup> The Overarching JCE constituted a massive ethnic cleansing campaign with the goal of permanently removing the Bosnian-Muslim and Bosnian-Croat population.<sup>15347</sup> From 12 May 1992, the campaign escalated by using military force to consolidate Serb control over most of Bosnia-Herzegovina through the crimes alleged in the Indictment.<sup>15348</sup> The Prosecution argued that members of the Overarching JCE were, among others, Ratko Mladić, Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Mićo Stanišić, Momčilo Mandić, Slobodan Milošević, Jovica Stanišić, Franko Simatović, Željko Ražnatović, a.k.a. Arkan, and Vojislav Šešelj.<sup>15349</sup>

4217. The Defence argued that the migration of people during the war was not due to the existence of a JCE aimed at ethnic cleansing.<sup>15350</sup> It also argued that large numbers of Bosnian Muslims and Bosnian Croats remained in Bosnian-Serb-claimed territories and that ‘refugees’ were allowed to return home.<sup>15351</sup> Accordingly, the Defence submitted that the Prosecution’s case is not the only reasonable inference available on the evidence.<sup>15352</sup>

4218. The Trial Chamber recalls its findings in relation to the crimes relevant to the alleged Overarching JCE (chapters 4-8); and the various developments and statements, acts, and meetings of Serb individuals and groups from 1991 until the end of the conflict (chapters 9.2.2-9.2.12; see also chapters 2-3), and sets out a summary of the findings from these chapters below.

4219. In relation to precursors to the alleged Overarching JCE, from the moment of the SDS’s creation in July 1990, the party’s political platform emphasised the protection of the ‘Serb nation’. In early 1991, the SDS promoted territorial division along ethnic lines and the establishment of separate, parallel Bosnian-Serb political, police, and military institutions. In April 1991, Karadžić expressed the Bosnian-Serb leadership’s plans to divide Bosnia-Herzegovina and for Serbs to take over control of territory therein. In July 1991, during a meeting with Milan Babić and Milošević, Karadžić said that he

<sup>15346</sup> Prosecution Final Brief, paras 157-158, 175, 499.

<sup>15347</sup> Prosecution Final Brief, paras 153, 158, 499.

<sup>15348</sup> Prosecution Final Brief, paras 155, 158, 195, 499.

<sup>15349</sup> Prosecution Final Brief, paras 499-528.

<sup>15350</sup> Defence Final Brief, paras 767-769, 780-784.

<sup>15351</sup> Defence Final Brief, paras 769-777.

<sup>15352</sup> Defence Final Brief, paras 769.

would 'chase the Muslims in Bosnia-Herzegovina into the river valleys in order to link up all Serb territories there into one'.

4220. In subsequent conversations, meetings, and speeches from at least July 1991 to May 1992, members of the Bosnian-Serb political leadership, in particular Karadžić, threatened violence and extinction should Bosnian Muslims attempt to create a sovereign state, described Muslims and Croats as enemies with whom the Bosnian Serbs could not coexist, and advocated the transfer of populations. In doing so, Karadžić repeatedly referred to, *inter alia*, the 'expulsion', 'disappearance', and 'extinction' of the Bosnian Muslims within Bosnian-Serb territory.

4221. On 19 December 1991, at a meeting of high-level SDS representatives chaired by Karadžić, the SDS Main Board issued strictly confidential instructions, also referred to as the Variant A/B instructions, detailing measures to be carried out at the municipal level throughout the territory of Bosnia-Herzegovina for the purpose of enhancing mobility and readiness to 'protect' the Bosnian-Serb population. They included instructions for Variant A municipalities, where Serbs constituted a majority, and Variant B municipalities, where Serbs constituted a minority. The Variant A/B instructions, which were to be implemented in two phases, set out practical preparations for the takeover of *de facto* power in the municipalities and the division of Bosnia-Herzegovina along ethnic lines. Implementation of the Variant A/B instructions would mean that in Variant A municipalities, the orders of newly established Bosnian-Serb municipal authorities would prevail, other legitimate party representatives would be ignored, and the laws of Bosnia-Herzegovina would no longer be respected. In Variant B municipalities, exclusively Serb municipal institutions would be established in parts of the territory. On 8 January 1992, Koljević stated that Bosnia-Herzegovina would be divided into three sovereign states on the basis of 'homogeneity', which would be achieved, in part, by population transfers.

4222. On 12 May 1992, after Karadžić presented six strategic objectives to the Bosnian-Serb Assembly, the assembly adopted the objectives, which most prominently included the demarcation of a Serb state, territorially separate from any Croat and Muslim state. This demarcation involved the separation of people along ethnic lines. Furthermore, at the assembly session, Mladić and others clarified their understanding of the objectives. It was emphasized that the objectives should be achieved by 'whatever means', should be made to sound appealing when referenced in public, and that the

Bosnian Serbs' approach should be guarded as their deepest secret and that Bosnian Serbs need to know how to read between lines.

4223. From at least 12 May 1992, members of the Bosnian-Serb political leadership, in particular Karadžić and Krajišnik, gave speeches and statements describing Muslims and Croats as enemies with whom the Bosnian Serbs could not coexist, threatening violence against those groups, and advocating the transfer of populations.

4224. Between 12 May 1992 and 30 November 1995, members of the VRS, MUP, and other forces and organs as specified below committed the crimes of persecution, murder, extermination, inhumane acts (forcible transfer), and deportation in the Municipalities. In addition, during this time, members of the perpetrating forces, as well as Karadžić, made efforts to conceal crimes from members of international organizations and the general public. On occasion, crimes were also concealed from individuals in the chain-of-command, including the VRS Main Staff and the 1KK Command. During this time, the Bosnian-Serb military and civilian justice system also failed, on many occasions, to investigate crimes committed against Bosnian Muslims and Bosnian Croats by members of the VRS and other Serb forces in the municipalities of Banja Luka, Bijeljina, Ključ, Kotor Varoš, Prijedor, Sanski Most, and Vlasenica. On multiple occasions in which crimes had been committed against Bosnian Muslims and Bosnian Croats by VRS members or members of other Serb forces, criminal reports were not filed, investigations were not initiated by military prosecutors or investigating judges, suspects were not arrested or detained, and when arrested perpetrators were unlawfully released from detention to return to their units.

4225. With regard to the VRS, the VRS Main Staff was the highest operative body directing the conduct of the VRS's military operations. The VRS Main Staff operated under the direction of the Supreme Command of the Bosnian-Serb Republic and in concert with both the MoD and MUP. The VRS was comprised of the following corps: 1KK, 2KK, IBK, SRK, HK, and, from 1 November 1992, the DK. Throughout the Indictment period, VRS units committed the crimes of murder, extermination, persecution, deportation, and inhumane acts (forcible transfer) in the municipalities of Banja Luka, Bijeljina, Foča, Kalinovik, Ključ, Kotor Varoš, Novi Grad, Prijedor, Rogatica, Sanski Most, Sokolac, and Vlasenica.

4226. Concerning the role of the VJ and the Serbian MUP, arms and ammunition factories in Serbia produced material for the VJ, which in turn was provided to units of

the VRS. The President of the FRY, Slobodan Milošević, commanded the VJ, in compliance with decisions of the Supreme Defence Council, which was a body he also chaired. The Commander of the VJ General Staff determined the basic organisation and use of the VJ and implemented decisions issued by the FRY President. Jovica Stanišić was the head of the Serbian SDB. The VJ General Staff set up a covert personnel centre called the '30th Personnel Centre' through which VJ soldiers were paid in order to fight in Bosnia-Herzegovina as part of the VRS. The evidence does not show that the VJ issued instructions (or was able to issue instructions) to these soldiers once they were incorporated into the VRS. The Trial Chamber also notes that it did not find that VJ soldiers not incorporated into the VRS committed any crimes relevant to the Indictment. Similarly, the Trial Chamber did not find that members of the Serbian MUP committed crimes relevant to the Indictment.

4227. With regard to the role of the MUP, the Trial Chamber found that the MUP cooperated closely with the VRS. On 15 May 1992, this cooperation was formalized when Mićo Stanišić, Minister of Interior, ordered the organization of all MUP employees into war units for the purpose of defending the territory of the Bosnian-Serb Republic. From at least 12 May 1992 until at least 26 September 1995, MUP units participated in combat operations with the VRS. When MUP units were participating in combat operations, they were re-subordinated to the command of the VRS. Members of the MUP were involved in a large number of crimes, including murder and persecution, committed in the municipalities of Banja Luka, Bijeljina, Foča, Ilidža, Kalinovik, Ključ, Kotor Varoš, Pale, Prijedor, Rogatica, Sanski Most, and Vlasenica.

4228. As to the role of paramilitary formations, despite efforts by the Bosnian-Serb political leadership and the VRS to put all armed formations and individuals under the unified command of the VRS, some paramilitary formations continued to exist and operate outside the command of the VRS throughout the conflict. The exact nature of the relationship between these paramilitary formations, on the one hand, and the VRS and the MUP, on the other, differed from formation to formation, some being subordinated, others merely cooperating. The units which were subordinated at the time they were committing crimes were: 'Mauzer's men', Pero Elez's unit, Čosa's unit, the SOS, Kunarac's unit, Andžić's unit, Praštalo's unit, and units commanded by Branko Basara. Those who merely cooperated were: Šešelj's unit, the White Eagles, the Spare Ribs, and Martić's unit.

4229. With regard to the role of regional and municipal authorities, VRS personnel were often members of crisis staffs and war presidencies in 1992, where they coordinated logistics, such as arranging recruits and supplies, and updated the regional and municipal political leaders on the combat situation. Regional and municipal authorities worked closely with VRS and MUP members in 1992. Members of crisis staffs, war presidencies, war commissions, and municipal assemblies, committed persecution in the municipalities of Banja Luka, Foča, Kalinovik, Ključ, Kotor Varoš, Prijedor, Sanski Most, Sokolac, and Vlasenica.

4230. As far as the TO was concerned, following the Bosnian-Serb Assembly's 12 May 1992 decision to establish the VRS, Serb TO units were incorporated into the VRS. This process of incorporation continued throughout 1992. Therefore TO units, under the supervision of the MoD, still operated in the Bosnian-Serb Republic after 12 May 1992. Bogdan Subotić was the Minister of Defence. TO units committed the crimes of murder, persecution, deportation, and inhumane acts (forcible transfer) in the municipalities of Prijedor, Rogatica, Sanski Most, and Vlasenica.

4231. In addition, the Trial Chamber found that employees of the MoJ committed persecution in the municipalities of Foča and Ilidža. Momčilo Mandić was Minister of Justice and Administration and therefore ultimately responsible for these employees.

4232. Based on all of these findings, the Trial Chamber concludes that there existed a JCE with the objective of permanently removing the Bosnian Muslims and Bosnian Croats from Bosnian-Serb-claimed territory in Bosnia-Herzegovina through persecution, extermination, murder, inhumane acts (forcible transfer), and deportation. This JCE existed from 1991 until 30 November 1995.

4233. With regard to whether the crime of genocide formed part of the JCE objective, the Prosecution argued that the specific intent of the perpetrators is revealed both by the concerted attack on the very foundation and fabric of the protected group to prevent it from continued existence in the Count 1 municipalities through the prohibited acts and other culpable acts, as well as by direct evidence of intent found in the statements of Mladić, Karadžić, and other members of the alleged Overarching JCE.<sup>15353</sup> It submitted that in the Count 1 municipalities, the number and nature of the crimes, considered together, reflected an intent to destroy the groups in part rather than an intent just to

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<sup>15353</sup> Prosecution Final Brief, paras 351, 352-353, 366-373.

‘ethnically cleanse’ Bosnian Muslims and Bosnian Croats.<sup>15354</sup> The Defence argued that while Count 1 alleges a discriminatory approach to killings, there is nothing to suggest the physical destruction of the ‘national group’ as opposed to its cultural or functional destruction.<sup>15355</sup>

4234. The Trial Chamber recalls its findings in chapter 8 that the physical perpetrators in the Count 1 municipalities did not have the intent to destroy a substantial part of the Bosnian-Muslim and Bosnian-Croat protected groups in Bosnian-Herzegovina when they committed the underlying prohibited acts. The Trial Chamber will consider whether the crime of genocide nevertheless formed part of the objective of the Overarching JCE.

4235. While the statements and speeches referred to above were inflammatory, caused fear, and incited ethnic hatred against their war-time enemy, the Trial Chamber must consider whether they demonstrated intent to destroy either of the protected groups. Considering the disparate dates, meetings, and purposes of the speeches and statements, the Trial Chamber is careful not to combine them to give a semblance of a collective intent to destroy where no such collective intent existed or to read individual statements and speeches in isolation and without context. The Trial Chamber notes in this regard that there were instances where Mladić, Koljević, and Karadžić intimated that conciliation and compromise were possible, such as on 8 January 1992 and 12 May 1992, when it came to the strategic goals of living in ethnically separate states. The Trial Chamber considers that the speeches and statements could have been directed to the military enemy and have been used as propaganda, rather than to demonstrate an expression of a genocidal intent. The commission of prohibited and other culpable acts clearly demonstrates that the physical perpetrators were prepared to use force and violence against Bosnian Muslims and Bosnian Croats in order to achieve their objectives and assert their historic territorial claims. In that regard frequent references to ‘ethnic cleansing’ and other similar expressions by Karadžić, Krajišnik, and others do not necessarily indicate intent to physically destroy the protected group. In this respect, the Trial Chamber notes for example that during the 16th Session of the Bosnian-Serb Assembly, Mladić used the word ‘eliminate’, but added ‘either temporarily or

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<sup>15354</sup> Prosecution Final Brief, para. 350.

<sup>15355</sup> Defence Final Brief, paras 45, 49-53.

permanently'. The rhetorical speeches and statements assisted in the task of ethnic separation and division rather than the physical destruction of the protected groups.

4236. While the majority, Judge Orić dissenting, found that certain physical perpetrators in some municipalities had the intent to destroy a part of the protected group of Bosnian Muslims, the same could not be said of the physical perpetrators of prohibited acts committed against Bosnian Croats in any municipality or against the Bosnian Muslims in Ključ Municipality. An inference that the Bosnian-Serb leadership sought to destroy the protected groups in the Count 1 municipalities through the use of a number of physical perpetrators as tools requires more. In the absence of other evidence which would unambiguously support a finding of genocidal intent, drawing an inference on the basis of prohibited acts of physical perpetrators alone is insufficient.

4237. In light of the above and having assessed the entire trial record, including the statements, speeches, and conduct of Mladić and the Bosnian-Serb leadership as well as the prohibited and other culpable acts committed by the physical perpetrators, the Trial Chamber is not satisfied that the only reasonable inference that can be drawn from the evidence is that the crime of genocide formed part of the objective of the Overarching JCE.<sup>15356</sup>

4238. The Trial Chamber finds that there was a plurality of persons including the following individuals: Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Bogdan Subotić, Momčilo Mandić, and Mićo Stanišić.<sup>15357</sup> The Trial Chamber will further determine whether Mladić was a member of the Overarching JCE in chapter 9.3.

4239. Many of the charged crimes were committed by members of the VRS, who were under the operational command of one of the corps, and ultimately of the VRS Main Staff. Many other crimes were committed by MUP members, either under the operational supervision of the VRS or under the supervision of the MUP. Some crimes were committed by TO members, under the supervision of the Bosnian-Serb MoD. Crimes were also committed by paramilitary groups subordinated to the VRS or MUP.

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<sup>15356</sup> The Trial Chamber notes that the Indictment in paragraph 9 also alleges in the alternative that it was foreseeable that the genocide in Srebrenica (Count 2) might be perpetrated, thus incurring responsibility under the third form of JCE. However, in light of its findings in relation to the Srebrenica JCE, the Trial Chamber refrains from further considering this alternative.

<sup>15357</sup> The evidence received by the Trial Chamber did not show that Slobodan Milošević, Jovica Stanišić, Franko Simatović, Željko Ražnatović, or Vojislav Šešelj participated in the realization of the common criminal objective

These groups were 'Mauzer's men', Pero Elez's unit, Janković's unit, Čosa's unit, the SOS, Kunarac's unit, Andžić's unit, Praštalo's unit, and units commanded by Branko Basara. Members of regional and municipal authorities also committed crimes. Such authorities often included VRS members. Also, they received orders, instructions, and requests from and reported to state organs, such as the Bosnian-Serb Government and the Bosnian-Serb Presidency. As such, members of the JCE used all of these units as tools to commit the crimes in the Municipalities in furtherance of the Overarching JCE.

4240. Some perpetrators were merely identified as 'Serb soldiers' (or similar terms) or by names in relation to which the Trial Chamber did not find the entity with which they were affiliated. Other perpetrators were members of paramilitary formations, which merely cooperated with the VRS or the MUP. With regard to these perpetrators, there is insufficient evidence to suggest that they were subordinated to JCE members, or that JCE members had other ways to use them as tools. Accordingly, the Trial Chamber will not further consider the crimes committed by these perpetrators as part of its discussion on Mladić's responsibility under the first JCE form.

9.3 Ratko Mladić's alleged contribution to the first (overarching) joint criminal enterprise

*9.3.1 Introduction*

4241. According to the Indictment, as of 12 May 1992 the Accused was a key member of an overarching JCE, which lasted from at least October 1991 until 30 November 1995, the objective of which was the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through crimes charged in the Indictment.<sup>15358</sup> The Accused is alleged to have significantly contributed to this JCE in one or more of the ways specified in paragraph 13 of the Indictment.<sup>15359</sup> The Trial Chamber will deal with the alleged contributions in turn, focusing on those on which it has received evidence and which the parties have addressed in their final briefs and closing arguments. In chapter 9.3.12, it will consider whether the Accused's alleged contribution was significant to the Overarching JCE. It will then turn to the *mens rea* of the Accused in chapter 9.3.13.

*9.3.2 Participating in the establishment, organization and/or maintenance of the VRS*

4242. With regard to this alleged contribution, the Defence submitted that Mladić could not exert influence over the selection of VRS corps commanders because their appointments were the exclusive right of the civilian leadership.<sup>15360</sup> The Defence argued that although Mladić could make recommendations, the legal authority to appoint, transfer, relieve or retire Army officers in positions of authority was exclusive to the Supreme Commander of the Armed Forces.<sup>15361</sup> The Trial Chamber received evidence from **Milivoje Simić**, Commander of the Doboj Garrison and Commander of Task Force Doboj until 1994;<sup>15362</sup> **Manojlo Milovanović**, the Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>15363</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December

<sup>15358</sup> Indictment, paras 5, 8.

<sup>15359</sup> Indictment, para. 13.

<sup>15360</sup> Defence Final Brief, para. 646.

<sup>15361</sup> Defence Final Brief, para. 646.

<sup>15362</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), paras 6, 20; Milivoje Simić, T. 32527. Milivoje Simić's evidence is reviewed in chapter 3.1.2.

<sup>15363</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *curriculum vitae* of Manojlo Milovanović), pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995). Manojlo Milovanović's evidence is reviewed in chapter 3.1.3.

1992;<sup>15364</sup> **Ewan Brown**, a military analyst;<sup>15365</sup> **Ratomir Maksimović**, who served in the SRK Command from 1 April 1993 to 1 September 1994 and from 30 April 1995 to 31 March 1996;<sup>15366</sup> **Witness RM-284**, a Bosnian Serb;<sup>15367</sup> **Petar Škrbić**, the Assistant Commander for Organisation, Mobilisation, and Personnel affairs of the VRS Main Staff in July 1995;<sup>15368</sup> **Dragiša Masal**, Commander of the Višegrad Tactical Group from 1993 and VRS Main Staff Chief of Artillery from August 1995 until the end of the war;<sup>15369</sup> **Richard Butler**, an intelligence research specialist;<sup>15370</sup> and **Stojan Malčić**, a member of the Personnel Section of the VRS Main Staff in Han Pijesak from late May 1992 until 31 August 1997;<sup>15371</sup> as well as documentary evidence.

### *May 1992*

4243. The Trial Chamber has reviewed the evidence of Manojlo Milovanović in chapter 3.1.3 that after the establishment of the VRS on 12 May 1992, Mladić assigned Milovanović a number of tasks necessary for the creation of the Main Staff. **Manojlo Milovanović** testified that during a meeting on 11 May 1992 in Crna Rijeka with Mladić, Đukić, Gvero, the witness and about seven to eight other persons, it had been decided that talks should be held with commanders, dukes, or bosses of paramilitary forces to have them placed under the command of the VRS.<sup>15372</sup> Those who refused had to leave the territory of the Bosnian-Serb Republic.<sup>15373</sup> According to a 2nd Military District Order on mobilisation by Mladić dated 11 May 1992, mobilised units, including armed Serb people, TO units, and volunteer units, were to be organised, consolidated, armed, and trained for combat actions.<sup>15374</sup>

<sup>15364</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401. Branko Basara's evidence is reviewed in chapter 9.3.3.

<sup>15365</sup> P2863 (Ewan Brown, witness statement, 27 and 28 July 2009), p. 2; P2858 (Ewan Brown, *curriculum vitae*), p. 1.

<sup>15366</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 4-5; Ratomir Maksimović, T. 26741, 26800.

<sup>15367</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

<sup>15368</sup> Petar Škrbić, T. 13981.

<sup>15369</sup> D942 (Dragiša Masal, witness statement, 20 July 2014), para. 2. Dragiša Masal, T. 33336.

<sup>15370</sup> Richard Butler, T. 16108; P2203 (Richard Butler, Military Narrative on Operation Krivaja 95 in Srebrenica, 1 November 2002), paras 7.28-7.30.

<sup>15371</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), paras 2, 16-17, 30; Stojan Malčić, T. 26214-26216, 26249.

<sup>15372</sup> Manojlo Milovanović, T. 16894-16896, 16899.

<sup>15373</sup> Manojlo Milovanović, T. 16899.

<sup>15374</sup> P3032 (2nd Military District mobilisation order in Bosnia-Herzegovina, 11 May 1992), paras 1, 5.

4244. The Trial Chamber recalls the evidence reviewed in chapter 3.1.1 that on 14 May 1992, Mladić noted that ‘we urgently need all Serbian officers who were born in BH territory to be put at our disposal’, and ‘officers belonging to other ethnic groups should not be sent to us for now because of secrecy protection and also for their own sakes’ On 15 May 1992, Mladić and Tolimir met with Dušan Smiljanić, the Chief of Security of the JNA’s 10th Corps, in Belgrade. Mladić asked for Smiljanić’s assessment and opinion of individual officers of the 10th Corps and the situation in Bihać. After this, Mladić decided upon the appointment of the Commander of the 2KK.<sup>15375</sup>

4245. Between 18 and 31 May 1992, pursuant to a FRY Presidency decision concerning the restructuring of the JNA, Mladić sent several requests to the SSNO Personnel Administration, asking for the reassignment of military personnel for urgent replenishment of units, as follows. On 18 May 1992, he requested the reassignment of 14 named individuals, including Artillery Captain 1st Class Mitar Kovač, to fill vacancies at the 2nd Military District Command.<sup>15376</sup> On 21 May 1992, Mladić requested the appointment of Colonel Ostoja Stjepić as Chief of the VRS Main Staff Traffic and Transport Administration; Lieutenant Colonel Rajko Krsmanović and Lieutenant Colonel Momčilo Prstojević, both as administrative officers at the VRS Main Staff Traffic and Transport Service; Captain Miloš Zekić to the VRS Main Staff Command; Major Uroš Ćirković and Captain 1st Class Mile Božić to the IBK; and 15 named individuals to the SRK.<sup>15377</sup> On 27 May 1992, he requested the SSNO to urgently send 423 named active duty military personnel to the IBK (Bijeljina), the 2KK (Drvar), and the 367th Communications Regiment.<sup>15378</sup> On the same day, Mladić requested the SSNO to send 454 named individuals to the VRS Main Staff, 1KK, HK, and SRK.<sup>15379</sup> He further requested the SSNO to send Lieutenant Colonel Rade Pecikoza to the VRS logistic base in Pale.<sup>15380</sup> On 29 May 1992, Mladić requested the urgent dispatch of 229 personnel to the VRS Main Staff, 1KK, 2KK, SRK, HK, and

<sup>15375</sup> P4022 (Dušan Smiljanić’s request to Mladić, 15 October 1994), p. 4.

<sup>15376</sup> P7668 (Request sent by Mladić to the SSNO Personnel Administration, 18 May 1992), p. 1.

<sup>15377</sup> P4959 (Request for VRS military personnel, 21 May 1992), pp. 1-2.

<sup>15378</sup> P4966 (VRS Main Staff request by Mladić regarding deployment of officers to the IBK, 27 May 1992); P4967 (VRS Main Staff request by Mladić regarding deployment of officers to the 2KK, 27 May 1992); P4968 (VRS Main Staff request by Mladić regarding deployment of officers to the 367th Communications Regiment, 27 May 1992).

<sup>15379</sup> P4962 (Request for VRS Main Staff military personnel, 27 May 1992); P4965 (Request for 1KK military personnel, 27 May 1992), pp. 1-5; P4964 (Request for HK military personnel, 27 May 1992), pp. 1-3; P4963 (Request for SRK military personnel, 27 May 1992), pp. 1-5.

<sup>15380</sup> P4961 (Request for VRS logistics base personnel, 27 May 1992).

IBK.<sup>15381</sup> On 31 May 1992, he requested the urgent dispatch of 53 personnel to the VRS Main Staff, SRK, 1KK, 2KK, IBK, HK, and 27th Logistic Base, all of whom were listed by names.<sup>15382</sup>

4246. The Trial Chamber has also considered the evidence of **Milivoje Simić** in chapter 3.1.2 that soon after 26 May 1992, Mladić and Karadžić ordered Talić to establish the Operational Group Doboj.

#### *June 1992*

4247. The Trial Chamber recalls the evidence reviewed in chapter 3.1.1 that on 4 June 1992, Mladić issued an order establishing the area of responsibility of the 1KK, 2KK, SRK, IBK, and HK. In the same order, Mladić instructed various VRS Corps commands to establish one or more units of brigade rank, and to train and equip them for operations.<sup>15383</sup>

4248. On 9 June 1992, the 1KK Command submitted a report to the VRS Main Staff and the Bosnian-Serb Presidency on a decision taken by the ARK Crisis Staff, according to which an ultimatum was issued requesting the removal of the 67 officers of Muslim or Croat ethnicity from the units of the 1KK, 14th Logistics Base, and the units of the Air force and Anti-aircraft Defence in Banja Luka by 15 June 1992.<sup>15384</sup> The 1KK Command considered this demand to 'be justified' and added that it should make a decision as to which staff members 'may still be temporarily kept and at what posts'.<sup>15385</sup> On 9 June 1992, Mladić referred to the above-mentioned report and through a telegram ordered the Commander of the 1KK, Colonel Ranković, to immediately send on leave the officers of Muslim or Croat ethnicity.<sup>15386</sup> On 16 July 1992, Mladić made reference to the aforementioned telegram and personally submitted an order to all commands, stating that those Muslim or Croat officers who are judged by the commands of the corps and independent units to have proven themselves in combat action and were willing to sign the oath and declare in writing that they accept the citizenship of the Bosnian-Serb Republic, may remain in active military service in the

<sup>15381</sup> P4969 (Request for VRS personnel, 29 May 1992).

<sup>15382</sup> P4970 (Request for VRS personnel, 31 May 1992).

<sup>15383</sup> P4381 (VRS Main Staff order, 4 June 1992), p. 1.

<sup>15384</sup> P3892 (1KK report on the removal of Muslim and Croat officers, 9 June 1992), p. 1.

<sup>15385</sup> P3892 (1KK report on the removal of Muslim and Croat officers, 9 June 1992), p. 1.

VRS.<sup>15387</sup> On 19 July 1992, the 1KK conveyed the above-mentioned order, dated 16 July 1992, to all subordinated units, adding that proposals had to be submitted by 25 July 1992.<sup>15388</sup> On 21 July 1992, pursuant to Mladić's order of 16 July 1992, the 1KK Command issued guidelines stating that the procedure for the regulation of the service status of Muslim and Croat officers would include an 'extremely thorough and selective evaluation' of the Muslim and Croat active-duty military personnel. Furthermore, those who, at their own request and on the basis of the command's evaluation, meet the conditions for resolving their status should be invited for an interview and informed that in order to stay in active duty in the VRS they must sign an oath and make a written statement accepting the citizenship of the Bosnian-Serb Republic. The signed statements and oaths were then to be verified by the unit commander, who should submit them to the Corps Command by 25 July 1992.<sup>15389</sup>

4249. On 10 June 1992, Mladić met in Belgrade with representatives of the Bosnian-Serb people and announced that the organization of the VRS had improved and that the authorities were functioning optimally concerning 'the needs of the front'.<sup>15390</sup> Karadžić and Krajišnik were also present at the meeting.<sup>15391</sup> Karadžić stated that 'we feel relieved now that we have formed our army'.<sup>15392</sup>

4250. On 18 June 1992, pursuant to the Law on the Army of the Bosnian-Serb Republic, Mladić ordered that Đorđe Đukić be promoted to the rank of Infantry Lieutenant Colonel, effective 17 June 1992.<sup>15393</sup> On 22 August 1992, pursuant to the same law, Mladić ordered that Boro Skrobić be promoted to Major of the Armoured Mechanised Units, effective 19 May 1992.<sup>15394</sup> On 26 June 1992, Mladić ordered that a ceremony for the state holiday and Patron Saint's Day of the VRS be held on

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<sup>15386</sup> P3893 (Order from Mladić to 1KK Command in relation to the removal of Muslim and Croat officers, 9 June 1992), p. 1.

<sup>15387</sup> P4036 (VRS Main Staff explanation of regulation of Muslim and Croat officers, 16 July 1992), p. 1.

<sup>15388</sup> P4012 (1KK Command report regarding VRS Main Staff explanation of regulation of Muslim and Croat officers, 19 July 1992), p. 1.

<sup>15389</sup> P4051 (1KK Command guidelines on the service of Muslim and Croat officers, 21 July 1992), p. 1.

<sup>15390</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 130, 132.

<sup>15391</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 132, 144.

<sup>15392</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 133.

<sup>15393</sup> P4261 (Order from Mladić regarding promotion of Đorđe Đukić, 18 June 1992).

<sup>15394</sup> P4262 (Order from Mladić regarding promotion of Boro Skrobić, 22 August 1992), pp. 1-2.

28 June 1992 in Han Pijesak.<sup>15395</sup> Radoslav Krstić was to be the master of ceremony.<sup>15396</sup> Mladić and Karadžić were both scheduled to give speeches.<sup>15397</sup>

4251. On 28 June 1992, Mladić ordered the Commands of the 1KK and 2KK, HK, SRK, IBK, and the Air Force and Anti-Aircraft Defence to complete the formation of Anti-Aircraft Defence Artillery Rocket Units in all units and issued detailed instructions on the training of soldiers.<sup>15398</sup>

4252. **Stojan Malčić** testified that in June 1992 after the withdrawal of the JNA from the territory of Bosnia-Herzegovina, Muslim, Croat, and other officers were not purged but had an opportunity to choose if they wanted to stay in the VRS.<sup>15399</sup> The 1KK Corps asked for the position of Mladić in regard to active-duty officers of Muslim and Croat ethnicity.<sup>15400</sup> Mladić answered that they should be sent on annual leave for 30 days and then measures should be undertaken for sending them to the 'Army of Yugoslavia'.<sup>15401</sup> After such leave, some stayed in the VRS and some decided to join the 'Army of Yugoslavia'.<sup>15402</sup>

#### *July-December 1992*

4253. On 14 July 1992, Mladić informed the Commanders of the HK and the SRK that during a meeting between the civilian and military leaderships of the municipalities of Foča, Čajniče, Rudo, Goražde, and Višegrad, held in Čajniče on 7 July 1992, it was agreed that all Bosnian-Serb military formations, armed individuals and combat assets in the upper Drina region should be organised into a single unit and placed under the sole command of the VRS.<sup>15403</sup> According to Mladić, a meeting between representatives of the VRS Main Staff and the commands of the HK and personnel in the Kalinovik

<sup>15395</sup> P3671 (Directive of the VRS Main Staff on Ceremony to celebrate the state holiday and Patron Saint's Day of the VRS), pp. 1, 3.

<sup>15396</sup> P3671 (Directive of the VRS Main Staff on Ceremony to celebrate the state holiday and Patron Saint's Day of the VRS), p. 1.

<sup>15397</sup> P3671 (Directive of the VRS Main Staff on Ceremony to celebrate the state holiday and Patron Saint's Day of the VRS), p. 3.

<sup>15398</sup> P4982 (VRS Main Staff order by Mladić, 28 June 1992), pp. 1-4.

<sup>15399</sup> D656 (Stojan Malčić, witness statement, 26 June 2014), paras 18-19, 23; Stojan Malčić, T. 26236.

<sup>15400</sup> Stojan Malčić, T. 26241.

<sup>15401</sup> Stojan Malčić, T. 26241.

<sup>15402</sup> Stojan Malčić, T. 26241, 26249, 26253-26254.

<sup>15403</sup> P3677 (Order of the VRS Main Staff on the creation of Podrinje Operations Group, 14 July 1992), p. 1.

Garrison, held on 11 July 1992, led to a similar decision.<sup>15404</sup> To effect such consolidation and subordination, Mladić ordered the HK Commander and the municipal authorities to establish the Podrinje Operations Group.<sup>15405</sup> He further defined the composition and organization of the Podrinje Operations Group.<sup>15406</sup>

4254. On 23 August 1992, Mladić ordered that the Commands of, among others, the 1KK and 2KK, HK, SRK, IBK, and the Air Force and Anti-Aircraft Defence send a list of active military personnel serving in their units.<sup>15407</sup> Mladić also ordered that they prepare two further lists: one listing those active military personnel who chose to stay in the service of the VRS; the other listing those active military personnel who had been assigned pursuant to Article 271 of the Law on Service in the Armed Forces and who wished to return to the Armed Forces of the FRY.<sup>15408</sup>

4255. **Ewan Brown** testified that upon the 1KK's successful completion of Operation Corridor, Mladić and the VRS Main Staff sent a congratulatory letter commending the Corps for its work mopping up the Posavina corridor.<sup>15409</sup> A number of 1KK officers were subsequently promoted.<sup>15410</sup>

4256. On 13 October 1992, Mladić appointed Lieutenant Colonel Mihaljo Petrić and Lieutenant Colonel Vinko Pandurević as the Commanders of the 4th and 5th Podrinje Light Infantry Brigades of the DK, respectively.<sup>15411</sup> Mladić also appointed Lieutenant Colonel Zoran Borovina as the Commander of the Ilidža Light Infantry Brigade of the SRK.<sup>15412</sup>

4257. The Trial Chamber further recalls the evidence tendered through **Branko Basara** reviewed in chapter 9.3.3 that on 16 September 1992, Mladić issued orders regarding the training and mobilization of VRS officers.

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<sup>15404</sup> P3677 (Order of the VRS Main Staff on the creation of Podrinje Operations Group, 14 July 1992), p. 1.

<sup>15405</sup> P3677 (Order of the VRS Main Staff on the creation of Podrinje Operations Group, 14 July 1992), pp. 1, 3.

<sup>15406</sup> P3677 (Order of the VRS Main Staff on the creation of Podrinje Operations Group, 14 July 1992), pp. 1-3.

<sup>15407</sup> P4983 (Request by Mladić concerning list of active military personnel, 23 August 1992), p. 1.

<sup>15408</sup> P4983 (VRS Main Staff request to Corps Commands, 23 August 1992), p. 1.

<sup>15409</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para. 2.192.

<sup>15410</sup> P2859 (Ewan Brown, Military Developments Bosanska Krajina 1992 – A Background Study, 27 November 2002), para 2.194.

<sup>15411</sup> P4985 (Order by Mladić appointing Petrić, Pandurević and Borovina as commanders, 13 October 1992), p. 1. The Trial Chamber notes that this order was received and processed on 30 November 1992.

<sup>15412</sup> P4985 (Order by Mladić appointing Petrić, Pandurević and Borovina as commanders, 13 October 1992), p. 1.

4258. On 20 October 1992, Mladić ordered the reorganisation of the VRS by forming the DK from parts of the IBK, the SRK and the HK.<sup>15413</sup> Mladić ordered the DK to carry out combat operations in specified zones.<sup>15414</sup> On 18 November 1992, Mladić gave orders to the commanders of the SRK and the DK regarding the reorganization of the 2nd Romanija Motorised Brigade.<sup>15415</sup>

4259. On 31 December 1992, on behalf of Mladić, it was confirmed that Major General Radovan Grubač took up the duty of Commander of the HK pursuant to a decree issued on 31 August 1992.<sup>15416</sup>

#### *1993-1994*

4260. The Trial Chamber received extensive documentary evidence detailing Mladić promoting and transferring VRS officers as well as forming and organizing VRS units during 1993 and 1994, and will review some of this evidence below.

4261. On 7 January 1993, Mladić promoted Vinko Pandurević, Commander of the Zvornik Light Infantry Brigade, to the rank of Infantry Major.<sup>15417</sup> On 31 January 1993, Mladić transferred Dragiša Masal from the position of Artillery Colonel to the position of Commander of the Višegrad Tactical Group.<sup>15418</sup> **Dragiša Masal** testified that after operation *Zvijezda-94*, in which he used modified air bombs, and after ordering the shelling of the market sector in Goražde, he was transferred to the VRS Main Staff in a higher command than he had previously been serving.<sup>15419</sup>

4262. On 11 May 1993, Mladić ordered the DK Command and the Command of the 2nd Zvornik Light Infantry Brigade to form subordinate units.<sup>15420</sup>

<sup>15413</sup> P3659 (Mladić's order to reorganise the VRS, 20 October 1992), p.1.

<sup>15414</sup> P3659 (Mladić's order to reorganise the VRS, 20 October 1992), p. 2.

<sup>15415</sup> P3669 (Ratko Mladić's order to reorganise the VRS, 18 November 1992), p. 1.

<sup>15416</sup> P4992 (Extract from personnel file of Radovan Grubač, 14 April 1993), p. 1.

<sup>15417</sup> P4994 (Order by Mladić promoting Vinko Pandurević to Infantry Major, 7 January 1993).

<sup>15418</sup> D942 (Dragiša Masal, witness statement, 20 July 2014), para. 3; P7224 (Mladić order appointing Masal, 31 January 1993) pp. 1-2. The Trial Chamber notes that the witness's statement says that he was appointed Commander in February 1993. However, the Trial Chamber will rely on the date of the order (exhibit P7224), which is 31 January 1993, as the official record of appointment.

<sup>15419</sup> D942 (Dragiša Masal, witness statement, 20 July 2014), paras 25-26; Dragiša Masal, T. 33368-33371, 33378-33382, 33434-33435, 33440-33441. *See also* P7244 (Communication from Dragiša Masal, 3 April 1994); P929 (Order from VRS Main Staff, 12 April 1994); P7245 (UNMO Goražde report on shelling, 20 April 1994); P7228 (Order from Dragiša Masal, 11 February 1993); P7229 (ABiH combat report, 12 February 1993), p. 2; P7230 (ABiH combat report, 13 February 1993), p. 1; P7231 (ABiH combat report, 14 February 1993), p. 1.

<sup>15420</sup> P4996 (Mladić's order on the establishment of units in the DK, 11 May 1993), pp. 1-2.

4263. On 5 June 1993, Mladić conferred an extraordinary promotion to Rajko Kušić, Reserve Captain 1st Class, and promoted him to the rank of Reserve Infantry Major.<sup>15421</sup>

4264. On 20 June 1993, Mladić dispatched Dragomir Milošević, who at the time was an infantry colonel within the DK Command, to the SRK as the Chief of Staff of the SRK Command.<sup>15422</sup> On 7 October 1993, Mladić promoted Reserve 2nd Lieutenant Ljubiša Savić to the rank of Reserve Lieutenant in the communications division.<sup>15423</sup> On 7 October 1993, Mladić temporarily promoted a number of reserve officers, including Pavle Golić, Stojan Perković, Tomislav Savkić, and several others.<sup>15424</sup> On 14 October 1993, Mladić outlined the reasons for the early promotion of Stanislav Galić.<sup>15425</sup> One of the reasons set out was that as the SRK Commander, Galić ‘fully contributed to the crushing of several Muslim offensives which were aimed at lifting the blockade of Sarajevo’, and his contribution to the preparations for offensive operations MAČ-93 and Lukavac-93.<sup>15426</sup>

4265. On 2 May 1994, Mladić issued an order regulating the admission of members of the VRS to positions in the intelligence and security organs.<sup>15427</sup> The admission depended on a set of conditions, including an approval from the Commander of the VRS Main Staff to appoint the person in question to duties in these organs.<sup>15428</sup> On 11 May 1994, the DK Command sent out a notice to all DK’s subordinate Commanders who had acted in contravention of Mladić’s order, requiring them to cancel any appointments which had been made, and submit proposals for the appointment of candidates through the proper channels.<sup>15429</sup>

4266. On 30 July 1994, Mladić ordered the commanders of all Corps, the Air Force and Anti-Aircraft Defence, and the Military School Centre to attend a meeting of the enlarged Command Staff on 3 August 1994 at the VRS Main Staff Command Post in

<sup>15421</sup> P3684 (VRS Main Staff decision, 5 June 1993), p. 1.

<sup>15422</sup> P4364 (VRS Main Staff Order from Mladić, 20 June 1993), pp. 1-2.

<sup>15423</sup> P3657 (Mladić’s promotions order, 7 October 1993), p. 2.

<sup>15424</sup> P5001 (Order by Mladić temporarily promoting reserve officers, 7 October 1993), pp. 1-3.

<sup>15425</sup> P5002 (Statement of reasons for early promotion of Stanislav Galić by Mladić, 14 October 1993), pp. 1-2.

<sup>15426</sup> P5002 (Statement of reasons for early promotion of Stanislav Galić by Mladić, 14 October 1993), pp. 1-2.

<sup>15427</sup> P5106 (Order regarding appointment of VRS members to intelligence or security positions, including Mladić’s order of 2 May 1994, 11 May 1994), p. 1.

<sup>15428</sup> P5106 (Order regarding appointment of VRS members to intelligence or security positions, including Mladić’s order of 2 May 1994, 11 May 1994), p. 1.

<sup>15429</sup> P5106 (Order regarding appointment of VRS members to intelligence or security positions, including Mladić’s order of 2 May 1994, 11 May 1994), pp. 1-2.

order to, *inter alia*, review the current combat readiness, address problems in the Corps' areas of responsibility, and to resolve issues concerning the organisation, establishment and personnel at the level of the VRS and immediately subordinated commands and units.<sup>15430</sup>

4267. Mladić approved a schedule, which was signed by Manojlo Milovanović, concerning a briefing on combat readiness of the VRS taking place on 4 August 1994.<sup>15431</sup> The briefing was to be attended by himself, Talić, the Prime Minister, the Minister of Defence, and the Minister of the Interior of the Bosnian-Serb Republic, as well as the commands of several units, including the SRK and the DK.<sup>15432</sup> Topics to be discussed included the state and problems of combat readiness of the units, problems of organisation, establishment, personnel, and mobilisation tasks in the VRS, problems of financing in the VRS, and 'joint activities aimed at finding common and stable materiel and financial support for the VRS'.<sup>15433</sup>

4268. On 28 October 1994, Mladić issued an instruction aimed at eliminating observed problems and omissions of the command organs, and at ensuring more efficient engagement of the security and intelligence organs in the implementation of their tasks.<sup>15434</sup> On 23 December 1994, Mladić issued an order to the commanders and chiefs of security and intelligence organs of a number of units noting that the previous instruction had not been properly disseminated and implemented.<sup>15435</sup> Mladić gave further instructions on how to resolve such issues, and noted that persons who had granted unauthorized access to documents containing secret military intelligence to persons outside of those organs should be removed from their duties and criminally prosecuted.<sup>15436</sup>

1995

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<sup>15430</sup> P5257 (Order by Mladić on meeting of enlarged Command Staff, 30 July 1994), pp. 1-3.

<sup>15431</sup> P5258 (Schedule on Briefing of Combat Readiness of the VRS, approved by Mladić, undated), pp. 1, 3.

<sup>15432</sup> P5258 (Schedule on Briefing of Combat Readiness of the VRS, approved by Mladić, undated), pp. 1-2.

<sup>15433</sup> P5258 (Schedule on Briefing of Combat Readiness of the VRS, approved by Mladić, undated), pp. 1-2.

<sup>15434</sup> P5108 (VRS order concerning command and control, 23 December 1994), p. 1.

<sup>15435</sup> P5108 (VRS order concerning command and control, 23 December 1994), pp. 1-2.

<sup>15436</sup> P5108 (VRS order concerning command and control, 23 December 1994), p. 2.

4269. On 13 January 1995, Mladić issued an order to a number of VRS units separating the intelligence and security departments and noting, *inter alia*, that the intelligence departments were to be subordinated to the Chief of Staff, while the security departments were to be subordinated to commanders and the security administration of the VRS Main Staff; that the chiefs of intelligence and security departments were to exchange information daily; that all VRS members coming into contact with UNPROFOR were to undergo preparations with the security organs and intelligence organs.<sup>15437</sup>

4270. Around late January 1995, Mladić approved a plan for a briefing on combat readiness in 1994, which was to take place on 29 and 30 January 1995.<sup>15438</sup> In addition to himself, the briefing was expected to be attended by the Bosnian-Serb President, government organs and MoD, as well as the commanders of all corps, the air force and anti-aircraft defence, and the Military School Centre.<sup>15439</sup> Topics to be discussed included general assessments of the level of combat readiness; assessment of the VRS morale; maintenance and ammunition production; equipping the VRS with modern weapons and military equipment; problems relating to the material and financial support of the VRS in the previous year and financing the VRS in 1995; defining of subsequent political and military aims and the strategy of waging the war; problems relating to the planning, development, and the financing of the VRS in 1994.<sup>15440</sup>

4271. On 28 January 1995, the DK Commander Milenko Živanović reported that in 1994, 54 reserve officers and 17 professional military staff were promoted by the Commander of the VRS Main Staff.<sup>15441</sup>

4272. On 26 February 1995, Mladić issued an order to all VRS Corps, the VJ Guards Motorized Brigade, and a number of VRS organs that any promotion which had not been proposed by VRS units and had not been discussed and approved by the VRS Main Staff would not be recognized.<sup>15442</sup>

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<sup>15437</sup> P5109 (Changes in the organization of the VRS intelligence and security support, 13 January 1995), pp. 1-4.

<sup>15438</sup> P5260 (Schedule on briefing concerning VRS combat readiness, approved by Mladić, undated), p. 1.

<sup>15439</sup> P5260 (Schedule on briefing concerning VRS combat readiness, approved by Mladić, undated), pp. 1-2, 4-5.

<sup>15440</sup> P5260 (Schedule on briefing concerning VRS combat readiness, approved by Mladić, undated), pp. 1-5, 7.

<sup>15441</sup> P5259 (Analysis of combat readiness of the DK for 1994, January 1995), pp. 1, 13-14.

<sup>15442</sup> P5014 (VRS Main Staff Order of 26 February 1995), p. 1. The Trial Chamber refers to its finding in chapter 9.2.6 that the Guards Motorized Brigade was a VJ unit.

4273. The Trial Chamber recalls the evidence reviewed in chapter 9.6.2 that on 31 March 1995, Mladić recorded a meeting he had in Pale with the Bosnian-Serb Republic political leadership, including Karadžić, Koljević, Finance Minister Pejić, Tomo Kovač, and Krajišnik regarding the needs of the VRS.

4274. On 9 April 1995, Mladić ‘exceptionally promoted’ a number of individuals, including Vujadin Popović, promoted to the rank of Lieutenant Colonel; Dragan Jokić, promoted to the rank of Major; and Radomir Furtula, promoted to the rank of Lieutenant Colonel.<sup>15443</sup>

4275. The Trial Chamber further recalls the evidence reviewed in chapter 9.6.2 that on 15 and 16 April 1995, Mladić recorded in his notebook that he held an exposé at the 50th Session of the Bosnian-Serb Assembly in Sanski Most. Mladić noted that many Assembly members expressed strong discontent with the army, the battles it had lost over the last six months, and the manner in which it was functioning; and requested his replacement.

4276. On 28 April 1995 Mladić ordered the commands of the IBK, DK and the logistics sector of the VRS Main Staff to establish IKM-1 and IKM-2 in Zvornik and Bijeljina, respectively.<sup>15444</sup> A Military Police squad was engaged for the security of the Main Staff IKM, and the former IKM of the DK in Zvornik was to be abolished.<sup>15445</sup> The Commands of the DK and IBK were personally responsible to Mladić for creating conditions for the unimpeded functioning of IKM-1 and IKM-2.<sup>15446</sup>

4277. **Witness RM-284** testified that on 13 July 1995 Mladić ordered everyone in the DK present in the Bratunac command post to attend an assembly, where he announced the retirement of Zivanović and that Radislav Krstić was the new commander of the DK.<sup>15447</sup>

4278. On 30 October 1995, Mladić graded the performance of Major General Dragomir Milošević, Major General Milan Gvero and Major General Radovan Grubač as

<sup>15443</sup> P5015 (VRS Main Staff Order regarding exceptional promotions, 9 April 1995).

<sup>15444</sup> P5266 (Order re establishment of IKM-1 and IKM-2, 28 April 1995), p. 1.

<sup>15445</sup> P5266 (Order re establishment of IKM-1 and IKM-2, 28 April 1995), pp. 1-2.

<sup>15446</sup> P5266 (Order re establishment of IKM-1 and IKM-2, 28 April 1995), p. 2.

<sup>15447</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14598-14600; Witness RM-284, T. 11135.

excellent, and detailed the reasons for it.<sup>15448</sup> Milošević was praised for, *inter alia*, 'smashing' many Muslim offences towards Sarajevo.<sup>15449</sup> **Ratomir Maksimović** testified that Milošević showed him positive official grades he had received from Mladić and told him that Mladić 'obviously respected everything that General Milošević was doing in his effort to preserve the Serbian territories in the Sarajevo sector'.<sup>15450</sup>

4279. According to an appraisal form for Radislav Krstić signed by Mladić and dated 6 November 1995, at the beginning of the war, Krstić 'put maximum effort in defence of the Serbian people'.<sup>15451</sup> Mladić also praised Krstić for his role in the establishment and development of the DK, and gave further details on the reasons for his appointment as DK Chief of Staff.<sup>15452</sup> Krstić was involved in the planning, organisation, and commanding of operations for the liberation of Srebrenica and Žepa with 'great success' despite NATO forces directly protecting Muslim formations.<sup>15453</sup> Under the command of Krstić, the DK 'broke down' the Muslim-NATO offensive in central Bosnia towards Podrinje.<sup>15454</sup>

4280. On 30 October 1995, Mladić signed an excerpt from the personnel file of General Momir Talić in the 30th Personnel Centre of the VJ General Staff, noting that Talić had successfully performed his duties and conducted the battles for the defence of Sarajevo and the liberation of Posavina and Podrinje.<sup>15455</sup> He received the grade of excellent.<sup>15456</sup>

4281. On 2 December 1995, in a speech in Vlasenica, Mladić stated that he decided to establish the DK 'in the most difficult moments for the people of Podrinje' and that he gave General Živanović the task of doing so.<sup>15457</sup> Mladić also invited Colonel Krstić to organize the 'people of Romanija' and to command the 2nd Romanija Brigade.<sup>15458</sup> Mladić further stated that General Milosević had made a great contribution to the

<sup>15448</sup> P5023 (Assessment of Dragomir Milošević by Mladić, 30 October 1995), p. 3; P5024 (Assessment of Milan Gvero by Mladić, 30 October 1995), p. 3; P5025 (Assessment of Radovan Grubač by Mladić, 30 October 1995), p. 3.

<sup>15449</sup> P5023 (Assessment of Dragomir Milošević by Mladić, 30 October 1995), pp. 1, 3.

<sup>15450</sup> Ratomir Maksimović, T. 26765.

<sup>15451</sup> P2631 (Appraisal signed by Mladić for Radislav Krstić, 6 November 1995), p. 2.

<sup>15452</sup> P2631 (Appraisal signed by Mladić for Radislav Krstić, 6 November 1995), p. 3.

<sup>15453</sup> P2631 (Appraisal signed by Mladić for Radislav Krstić, 6 November 1995), p. 3.

<sup>15454</sup> P2631 (Appraisal signed by Mladić for Radislav Krstić, 6 November 1995), pp. 2-3.

<sup>15455</sup> P2887 (Personnel file of Commander Momir Talić, 22 December 1992), pp. 1-3.

<sup>15456</sup> P2887 (Personnel file of Commander Momir Talić, 22 December 1992), p. 3.

<sup>15457</sup> P3689 (Excerpts from dictaphone cassette recordings, 2 December 1995), pp. 1, 6.

<sup>15458</sup> P3689 (Excerpts from dictaphone cassette recordings, 2 December 1995), p. 6.

fighting especially in Operation Cerska, Podrinje, and thanks in part to the results he achieved there, he was appointed Commander of the SRK and succeeded in defending Sarajevo.<sup>15459</sup>

4282. **Richard Butler** testified that the legal authority to appoint army officers in positions of authority was derived from the Law on the Army of the Bosnian-Serb Republic.<sup>15460</sup> According to the Law on the Army of the Bosnian-Serb Republic, the Bosnian-Serb President shall decide on the promotion of an officer to the rank of a Major General and higher, as well as appointments and transfers in ‘the service of the general’.<sup>15461</sup> The MoD and officers in certain units and institutions shall decide on the promotion of active and reserve commissioned and non-commissioned officers to the rank of colonel, as well as appointments and transfers of officers to the rank of Colonel.<sup>15462</sup>

4283. **Petar Škrbić** testified that he attended all collegium meetings where promotions, appointments, and deployment of officers were discussed.<sup>15463</sup> He would submit proposals for promotions to Mladić as Main Staff Commander.<sup>15464</sup> Once a promotion was approved by Mladić, he would implement the decision and prepare the necessary order on the promotion; additionally, in the case of a promotion to the rank of General, he would prepare a decree by the President.<sup>15465</sup> Promotions that required a Presidential decree would normally be proposed by the witness and discussed in the collegium of Commanders of the VRS Main Staff; in some instances – as was the case with the promotion of General Krstić – the proposal was not initiated by the witness, but came directly from Mladić.<sup>15466</sup>

*The Trial Chamber’s findings*

4284. The Trial Chamber recalls its finding in chapter 9.2.8 that on 28 July 1992, Mladić ordered the disarmament of all paramilitary formations, groups and individuals, in order to put them under the unified command of the VRS. The Trial Chamber further

<sup>15459</sup> P3689 (Excerpts from dictaphone cassette recordings, 2 December 1995), pp. 1, 8.

<sup>15460</sup> P2200 (Richard Butler, VRS Corps Command Responsibility Report, 5 April 2000), p. 18.

<sup>15461</sup> P3011 (Law on the Army of the Bosnian-Serb Republic), art. 369.

<sup>15462</sup> P3011 (Law on the Army of the Bosnian-Serb Republic), art. 370.

<sup>15463</sup> Petar Škrbić, T. 13981, 14019-14020.

<sup>15464</sup> Petar Škrbić, T. 13983.

<sup>15465</sup> Petar Škrbić, T. 13983.

<sup>15466</sup> Petar Škrbić, T. 13992.

recalls its finding in chapter 3.1.1 on the ethnic composition of the VRS, and further finds that on 9 June and 16 July 1992, Mladić ordered all the VRS Corps to immediately send Muslim and Croat officers on leave. He further instructed that only Muslim and Croat officers who had been judged by their superiors to have proven themselves in combat and who were willing to sign an oath and declare their acceptance of Bosnian-Serb Republic citizenship could remain in the VRS.

4285. Based on the evidence above, the Trial Chamber finds that between May 1992 and April 1995, Mladić issued orders regarding the establishment and organization of VRS organs, corps, and operations. In particular, on 11 May 1992, Mladić ordered that all mobilised units including armed Serbs, TO, and volunteer units organize, consolidate, arm, and train for combat actions. On the following day, Mladić assigned Milovanović the task of creating the VRS Main Staff. On 14 July 1992, Mladić stated that all Bosnian-Serb military formations, armed individuals, and combat assets in the Drina region should be organised into a single unit and placed under the command of the VRS. On 31 March 1995, Mladić had a meeting in Pale with the Bosnian-Serb Republic political leadership, including Karadžić and Krajišnik, to discuss the needs of the VRS. Mladić also ordered the establishment of several VRS units, as observed from his orders of 26 May and 20 October 1992, 11 May 1993, and 28 April 1995.

4286. On 4 June 1992, Mladić established the areas of responsibility of the 1KK and 2KK, SRK, IBK, and HK. On 26 June 1992, Mladić ordered that the ceremony for the state holiday and the saints day of the VRS to be held on 28 June 1992. On 28 June 1992, Mladić issued an order to all the VRS Corps and the Air Force and Anti-Aircraft Defence concerning the formation of the Anti-Aircraft Defence Artillery Rocket Units, and on 23 August 1992, he required from all the VRS Corps a list of the active personnel serving in their units.

4287. Mladić also issued specific instructions related to the training and mobilization of VRS officers, as demonstrated by his orders of 28 June 1992, 16 September 1992 and 28 October 1994. On 2 May 1994, Mladić regulated the admission of VRS members to positions in the intelligence and security organs, and on 13 January 1995, he detached these organs, noting that the intelligence departments be subordinated to the Chief of Staff, while the security organs be subordinated to the security administration of the VRS Main Staff.

4288. Mladić held briefings with Corps Commanders to discuss issues concerning the organization and mobilization of personnel, as shown by his order on 30 July 1994, and his approval of briefings to be held on 4 August 1994 and 29 to 30 January 1995.

4289. The Trial Chamber further finds that from 18 May until 31 May 1992, Mladić sent several requests to the SSNO Personnel Administration regarding the assignment of named officers to specific VRS corps and brigades, with the purpose of reinforcing units. Mladić also appointed high-ranking officers to the command of the 2KK, the 4th and 5th Podrinje Light Infantry Brigades of the DK, Ilidža Light Infantry Brigade of the SRK, 2nd Romanija Brigade, the HK, and the Višegrad Tactical Group.

4290. In addition, the Trial Chamber finds that from 18 June 1992 until at least October 1995, Mladić ordered and approved the promotion of several VRS officers, including Vujadin Popović, Dragan Jokić, Đorđe Đukić, Boro Skrobić, and Ljubiša Savić. Mladić also filled in a questionnaire for the promotion of Galić to the rank of Major General, and graded the performances of high-ranking VRS officers, including Dragomir Milošević, Gvero, Grubač, Krstić, and Talić. Mladić congratulated the 1KK for their work mopping up the Posavina corridor, and subsequently promoted a number of the Corps' officers.

4291. The Trial Chamber also finds that on 26 February 1995, Mladić issued an order to all VRS Corps, the VJ Guards Motorized Brigade, and a number of VRS organs that any promotion which had not been proposed by VRS units and had not been discussed and approved by the VRS Main Staff would not be recognized.

4292. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

### *9.3.3 Commanding and controlling the VRS*

4293. With regard to this alleged contribution, the Defence submitted that (i) Mladić did not exercise effective command and control over the entire VRS because there were two chains of command—the traditional chain of command through the formal VRS structure and a second 'professional chain of command', which included members of security forces and the military police, over which Mladić did not have *de facto* control; (ii) due to the VRS radio-relay and radio communications system, Mladić could only

communicate with the operational level of command directly below him and therefore could not react to developments on the ground in real time; (iii) Mladić had strategic but not operational command over VRS activities and Corps Commanders possessed ‘a degree of autonomy and self-initiative in making decisions’; (iv) Mladić was subordinated to the Supreme Command and its strategic decisions which limited his sphere of influence over the VRS forces; (v) as a ‘state of war’ was not declared, Mladić was unable to command or coordinate certain logistics of the VRS; (vi) Mladić lacked the technical abilities to exercise effective control over the events which occurred due to the ‘size of the theater of conflict’ and his physical absence; and (vii) there was lack of discipline within the VRS, and VRS soldiers were more influenced by personal agendas than by loyalty and obedience to the VRS.<sup>15467</sup>

4294. The Trial Chamber received evidence from **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>15468</sup> **Michael Rose**, UNPROFOR Commander from 5 January 1994 to 23 January 1995;<sup>15469</sup> **David Harland**, an UNPROFOR Civil Affairs Officer assigned to Sarajevo as of May 1993;<sup>15470</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>15471</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>15472</sup> **Rajko Banduka**, a Warrant Officer Second Class and Adjutant to Mladić from May 1992 until 1995;<sup>15473</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>15474</sup> **Fejzija Hadžić**, a Bosnian Muslim from Kalinovik Municipality;<sup>15475</sup> **Vojin Ubiparip**, a member of the VRS 22nd Brigade since 25 August 1992;<sup>15476</sup> **Grujo Borić**, commander of the 2KK from July

<sup>15467</sup> Defence Final Brief, paras 636-637, 639-641, 643, 645-646, 648-649, 651-652, 658, 662, 669, 675, 678; T. 44702-44705, 44713-44715.

<sup>15468</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Aly Abdel-Razek, T. 3578. The evidence of Husein Aly Abdel-Razek is reviewed in chapters 9.5.3.

<sup>15469</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

<sup>15470</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>15471</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>15472</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>15473</sup> D711 (Rajko Banduka, witness statement, dated 14 July 2014), para. 3; Rajko Banduka, T. 27313, 27327. The evidence of Rajko Banduka is reviewed in chapter 3.1.3.

<sup>15474</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401.

<sup>15475</sup> P138 (Fejzija Hadžić, witness statement, 31 January 1999), p. 1; P139 (Statement of Fejzija Hadžić, 20 October 1992), p. 1; Fejzija Hadžić, T. 1830.

<sup>15476</sup> D891 (Vojin Ubiparip, witness statement, 22 July 2014), paras 2-4; Vojin Ubiparip, T. 31182-31183.

1992 to December 1994;<sup>15477</sup> **Slavko Kralj**, Liaison Officer of the 1KK from 1992 until November 1994 and member of the Department for Relations with Foreign Military Envoys in the VRS Main Staff from 4 November 1994;<sup>15478</sup> **Manojlo Milovanović**, Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>15479</sup> **John Wilson**, UNMO Chief for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>15480</sup> **Aernout van Lynden**, a Sky News journalist covering the conflict in the former Yugoslavia from Sarajevo, Pale, and Central Bosnia from May 1992 until 1995;<sup>15481</sup> **Pyers Tucker**, a British Army officer, who served with UNPROFOR as military assistant to General Philippe Morillon from October 1992 to March 1993;<sup>15482</sup> **Witness RM-511**, a member of the SRK;<sup>15483</sup> **Witness RM-802**, a former VRS officer;<sup>15484</sup> **Witness RM-088**, a Bosnian Muslim from Šekovići Municipality;<sup>15485</sup> **Boško Kelečević**, Chief of Staff of the 1KK from 12 May 1992 until the end of the war;<sup>15486</sup> **Novica Simić**, member of the VRS since 12 May 1992 and commander of the IBK from 31 August 1992 until after the war;<sup>15487</sup> **Robert Donia**, an expert on the history of Bosnia-Herzegovina;<sup>15488</sup> **Martin Bell**, a foreign affairs war correspondent for the BBC who covered the events in Bosnia-Herzegovina from around March 1992 through to the signing and implementation of the Dayton Agreement;<sup>15489</sup> **Dorđe Đukić**, the Assistant Commander for Logistics of the VRS Main Staff;<sup>15490</sup> **Milivoje Simić**, Commander of the Doboj Garrison and Commander of Task Force Doboj until

<sup>15477</sup> Grujo Borić, T. 34580-34581, 34586, 34599-34600, 34608.

<sup>15478</sup> D712 (Slavko Kralj, witness statement, June 2013), paras 3, 12; Slavko Kralj, T. 27437.

<sup>15479</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *curriculum vitae* of Manojlo Milovanović), pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995) The evidence of Manojlo Milovanović is reviewed in chapter 3.1.3.

<sup>15480</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020. The evidence of John Wilson is reviewed in chapter 9.5.3.

<sup>15481</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 5, 10-11, 17, 27, 38, 40-43; Aernout van Lynden, T. 1343.

<sup>15482</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751.

<sup>15483</sup> Witness RM-511, T. 4983, 4993, 4996, 5056; P500 (Pseudonym sheet). The evidence of Witness RM-511 is reviewed in chapter 9.5.3.

<sup>15484</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet). The evidence of Witness RM-802 is reviewed in chapters 4.7.7 and 9.3.13.

<sup>15485</sup> P524 (Witness RM-088, witness statement, 17 October 1994), p. 1, para. 1. The evidence of Witness RM-088 is reviewed in chapters 4.2.1 *Schedule B.2.1* and 4.2.2 *Schedule C.2.1*.

<sup>15486</sup> D1110 (Boško Kelečević, witness statement, 26 June 2014), p. 1, paras 1, 9; Boško Kelečević, T. 37131.

<sup>15487</sup> P4325 (Novica Simić, *Popović et al* transcript, 19-21, 24 November 2008), pp. 28483-28485.

<sup>15488</sup> P1998 (Robert Donia, *curriculum vitae*, 22 August 2013); Robert Donia, T. 15492.

<sup>15489</sup> P832 (Martin Bell, witness statement, 8 March 2010), para. 3; Martin Bell, T. 7811-7812.

<sup>15490</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7.

1994;<sup>15491</sup> **Mihajlo Vujasin**, Company Commander and Chief of Engineers at the Rajlovac Airforce Base in Sarajevo;<sup>15492</sup> and **Ljubomir Obradović**, Deputy Chief of Operations and Training of the VRS Main Staff from September 1994 onwards;<sup>15493</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>15494</sup> as well as documentary evidence.

4295. In this respect, the Trial Chamber will now review an illustrative, non-exhaustive compilation of orders issued by Mladić, as well as other general evidence of Mladić's role in commanding and controlling the VRS.

*Regular briefings and daily reporting of subordinate units to Mladić*

4296. The Trial Chamber recalls the evidence of Rajko Banduka reviewed in chapter 3.1.3 that Mladić was stationed at the VRS Main Staff command post in a villa in Crna Rijeka from 9 May 1992 until 1995. **Banduka** testified that while stationed at Crna Rijeka, Mladić had direct connections to the VRS Corps Commanders and to the Commanders of the Air Force and Anti-Aircraft Defence, but would rarely use these connections, as he spent a lot of time on the front lines.<sup>15495</sup> Direct lines to the Corps Commanders could not be intercepted as they were encrypted, while contact over civilian lines could be intercepted.<sup>15496</sup> Mladić would usually briefly communicate with the corps commanders between 6 and 7 a.m. and again in the evening, if he returned to the office by midnight.<sup>15497</sup> Encrypted telegrams from and to Mladić were sent from and received at the communications centre and were brought to the VRS Main Staff operations centre in Crna Rijeka; alternatively, telegrams were given to his Chief of Staff who would then deliver them to Mladić.<sup>15498</sup>

4297. **Manojlo Milovanović** testified that command within the VRS was centralised, going from the Supreme Command across the Main Staff, to corps commands, brigade

<sup>15491</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), paras 6, 20; Milivoje Simić, T. 32527.

<sup>15492</sup> D641 (Mihajlo Vujasin, witness statement, 16 December 2012), para. 1.

<sup>15493</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11929, 11931-11932; P1784 (VRS Main Staff structure, July 1995).

<sup>15494</sup> Reynaud Theunens, T.20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4.

<sup>15495</sup> D711 (Rajko Banduka, witness statement, 14 July 2014), para. 5; Rajko Banduka, T. 27307-27309, 27312.

<sup>15496</sup> D711 (Rajko Banduka, witness statement, 14 July 2014), para. 5; Rajko Banduka, T. 27308-27309.

<sup>15497</sup> D711 (Rajko Banduka, witness statement, 14 July 2014), para. 5; Rajko Banduka, T. 27310.

<sup>15498</sup> Rajko Banduka, T. 27309, 27311.

commands, battalion commands, company commands and squads; it was also continuous and every activity finished with an analysis exercise.<sup>15499</sup> Radovan Karadžić, as the supreme commander, had the right to issue orders and military directives two levels down to a corps commander, but was duty-bound to inform Mladić at the earliest possible moment.<sup>15500</sup> Milovanović testified that he always sought Mladić's approval before proceeding.<sup>15501</sup> The Trial Chamber further refers to the evidence of Milovanović in chapter 3.1.3 that Mladić held regular daily meetings, and occasional evening meetings, with VRS Main Staff officers. According to Milovanović, the system of command and control within the VRS worked throughout the war. VRS Commanders had to submit daily reports to the Main Staff, and Mladić was kept abreast by Milovanović of all of the main issues reported to the Supreme Command and any developments.

4298. The Trial Chamber further considered the evidence of Witness RM-802 in chapter 9.3.13 that brigades sent daily reports to the corps which then sent daily reports to the Main Staff and that Mladić was a 'hands-on' commander who visited the front often.

4299. On 13 May 1992 Milovanović relayed a verbal order from Mladić to corps commanders and commanders of the 580th Mixed Artillery Brigade and 289th Rocket Artillery Brigade, ordering that beginning on 14 May 1992, the commanders were to telephone Mladić every day between 7 and 8 a.m., and between 7 and 8 p.m., using a secure line, to report on combat operations, losses of personnel, new developments concerning the activities and conduct of the enemy, training of commanders for future work, and other important issues in their units.<sup>15502</sup> In Mladić's absence, reports were to be submitted to Milovanović.<sup>15503</sup>

4300. In his notebooks, Mladić noted several briefings with high-ranking officers regarding daily reporting, inspections of VRS units, and other matters. On 7, 8, and 9 July 1992, he was briefed by, *inter alios*, Gvero, Grubor, Đukić, and Tolimir, and issued them tasks accordingly.<sup>15504</sup> On 16 August 1992, he was briefed by VRS Main Staff

<sup>15499</sup> Manojlo Milovanović, T. 16932, 16971-16972.

<sup>15500</sup> Manojlo Milovanović, T. 16923.

<sup>15501</sup> Manojlo Milovanović, T. 16973.

<sup>15502</sup> P3057 (Relayed oral order that all units are to report to Mladić daily, 13 May 1992), p. 1.

<sup>15503</sup> P3057 (Relayed oral order that all units are to report to Mladić daily, 13 May 1992), p. 1.

<sup>15504</sup> P353 (Mladić notebook, 27 May 1992 - 31 July 1992), pp. 299-308.

officers on general matters related to the intelligence and personnel organs.<sup>15505</sup> On 23 May 1993, 22 February 1994, and 21 August 1994 Mladić was briefed by VRS officers on inspections of VRS corps.<sup>15506</sup>

4301. On 25 September 1992, pursuant to a request from the Bosnian-Serb Presidency, Mladić issued an order to VRS subordinate units, including the 1KK and 2KK, to include in their regular combat reports detailed information about crimes committed against Serbs by the 'Croatian-Muslim coalition'. A commission was to be established to collect this information. According to the order, this was an important task because the 'enemy side' was recording Serb victims as their own and submitting this information to international humanitarian organizations and embassies.<sup>15507</sup>

4302. On 25 November 1992, Mladić ordered the commands of VRS subordinate units, including the 1KK and 2KK, IBK, and the SRK, to take all anti-sabotage security measures to secure important economic facilities and fire positions in artillery and mortar units.<sup>15508</sup> Mladić ordered that the commands provide information on the operations and the results in regular combat reports.<sup>15509</sup>

4303. In 1992, Mladić issued the VRS Main Staff Instructions on Duty Operations in the VRS in Wartime, which would come into effect on 1 January 1993.<sup>15510</sup> Operation centres were to collect information through the MUP and other regional institutions and to issue command, situation, and coordination reports, and reports on adjacent units.<sup>15511</sup> The VRS Main Staff Operation Centre was to prepare daily reports for the Supreme Command, based on, *inter alia*, all the daily reports received from the operation centres.<sup>15512</sup>

4304. On 15 April 1993, Mladić issued an order to VRS subordinate commands regarding the irregular submission of daily combat reports, wherein he emphasized the

<sup>15505</sup> P354 (Mladić notebook, 16 July 1992 - 9 September 1992), pp. 65-72.

<sup>15506</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), pp. 139-142; P360 (Mladić notebook, 9 January 1994 - 21 March 1994), pp. 116-125; P361 (Mladić notebook, 31 March 1994 - 3 September 1994), pp. 295-302.

<sup>15507</sup> P5053 (Order by Mladić dealing with victims on the 'Croatian-Muslim Coalition', 25 September 1992).

<sup>15508</sup> P2905 (Order from Main Staff of VRS concerning operations, signed by Mladić, dated 25 November 1992), p. 1.

<sup>15509</sup> P2905 (Order from Main Staff of VRS concerning operations, signed by Mladić, dated 25 November 1992), p. 2.

<sup>15510</sup> P5067 (VRS Main Staff Instructions on Duty Operations in Wartime, 1 January 1993), pp. 1-2, 4.

<sup>15511</sup> P5067 (VRS Main Staff Instructions on Duty Operations in Wartime, 1 January 1993), p. 8-9.

<sup>15512</sup> P5067 (VRS Main Staff Instructions on Duty Operations in Wartime, 1 January 1993), p. 9.

need for the timely submission of daily reports.<sup>15513</sup> The order moreover relieved all corps commands from monitoring NATO flights and the submission of information thereon as this was being conducted by the Anti-Aircraft defence.<sup>15514</sup> Corps commands were, however, still under a duty to submit reports on situations of special circumstances.<sup>15515</sup>

4305. On 17 November 1994, Mladić sent an order to the Commands of the HK, the DK, the SRK, and to the VJ Guards Motorized Brigade, the Logistics Sector of the VRS Main Staff, and the 30th Logistics Base, concerning the allocation and preparation of forces for the execution of an offensive operation on the Kalinovik-Bjelimić-Konjic axis.<sup>15516</sup> Corps commanders, as well as the commander of the VJ Guards Motorized Brigade, were to be personally responsible to Mladić for the proper equipping of units engaged in the operation, as well as for the consistent and responsible execution of tasks.<sup>15517</sup> Reports were to be submitted to Mladić on the re-subordination of units from the DK, SRK, and the VJ Guards Motorized Brigade, as part of the regular submission of combat reports once the operation commenced.<sup>15518</sup>

4306. **Novica Simić** testified that when present in the zone of a corps, every officer from the VRS Main Staff had at his disposal the entire communication system of that corps, namely radio, radio relay, teleprinter, military and civilian police lines, protected or secure lines, to communicate with the VRS Main Staff and VRS units.<sup>15519</sup> Moreover, there was daily phone communication between the Main Staff and the corps commanders.<sup>15520</sup> Simić testified that he spoke over the phone with Mladić or Main Staff officers every evening from approximately 8 p.m. to 9 p.m.<sup>15521</sup> They also had the right to call Mladić whenever an extraordinary situation arose or when there was a need to inform Mladić of something.<sup>15522</sup> Most of the time, Mladić would call from the room where they held regular meetings at the headquarters of the Main Staff, but when

<sup>15513</sup> P5070 (Order on timely submission of daily combat reports, 15 April 1993), para. 1.

<sup>15514</sup> P5070 (Order on timely submission of daily combat reports, 15 April 1993), para. 2.

<sup>15515</sup> P5070 (Order on timely submission of daily combat reports, 15 April 1993), para. 2.

<sup>15516</sup> P5197 (Order from Mladić addressed *inter alia* to various VRS corps concerning the preparation for offensive operation, 17 November 1994), p. 1.

<sup>15517</sup> P5197 (Order from Mladić addressed *inter alia* to various VRS corps concerning the preparation for offensive operation, 17 November 1994), pp. 1-2.

<sup>15518</sup> P5197 (Order from Mladić addressed *inter alia* to various VRS corps concerning the preparation for offensive operation, 17 November 1994), p. 2.

<sup>15519</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28530, 28532.

<sup>15520</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28492-28494.

<sup>15521</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28493-28494.

<sup>15522</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28493-28494

Mladić was not there, they would be in contact with him from wherever he was.<sup>15523</sup>

Simić also testified that the occasions in which they would not communicate daily with Mladić were very rare.<sup>15524</sup>

4307. From 29 to 31 January 1995, upon Mladić's request, a meeting of the Main Staff was held in Han Pijesak in the presence of Karadžić, the Prime Minister, the Minister of Defence, Mladić, Milovanović, and various corps commanders, including the witness himself, and commanders of units which had links with the Main Staff.<sup>15525</sup> During this meeting, unit commanders held briefings on the military situation and tasks executed in 1994.<sup>15526</sup> The level of combat readiness was assessed in order for the Main Staff and Supreme Command to define new strategic tasks.<sup>15527</sup>

4308. On 22 April 1995, Mladić ordered all unit commands to submit information about their ammunition and fuel usage in their daily combat reports as of 26 April 1995.<sup>15528</sup>

4309. According to an order dated 25 April 1995 signed by Major General Novica Simić, Commander of the IBK, and addressed to his subordinate units, it was obligatory for officers, TG commanders and chiefs of staff, their assistants, and battalion commanders to attend an upcoming briefing by Mladić on 26 April 1995.<sup>15529</sup>

4310. On 14 July 1995, Mladić informed, *inter alios*, the Supreme Commander, the VJ General Staff, the SVK Main Staff, and various VRS Corps, including the 1KK and IBK, that due to failure of power supply to the Veliki Žep Stationary Communications Centre, the VRS Main Staff communications centre would operate only from 8 p.m. until 8 a.m. the next day.<sup>15530</sup> Mladić instructed that any information the commands had

<sup>15523</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), p. 28494.

<sup>15524</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), p. 28494.

<sup>15525</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28498-28499; P4326 (Main Staff order regarding briefing on VRS combat readiness in 1994, signed Ratko Mladić, 23 January 1995), pp. 1-2.

<sup>15526</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28500-28501; P4326 (Main Staff order regarding briefing on VRS combat readiness in 1994, signed Ratko Mladić, 23 January 1995), pp. 1-2, 4-6.

<sup>15527</sup> P4325 (Novica Simić, *Popović et al.* transcript, 19-21, 24 November 2008), pp. 28500-28501; P4326 (Main Staff order regarding briefing on VRS combat readiness in 1994, signed Ratko Mladić, 23 January 1995), pp. 1-2, 4-6.

<sup>15528</sup> P5098 (Order by Mladić requiring information on daily consumption of ammunition, 22 April 1995), pp. 1-3.

<sup>15529</sup> P5265 (IBK Order re obligatory attendance at briefing by Mladić, 25 April 1995), pp. 1-3.

<sup>15530</sup> P2122 (Notification on limited operation hours of the VRS Main Staff communication centre, 14 July 1995), p. 1.

for the VRS Main Staff should be prepared and exchanged during those operating hours.<sup>15531</sup>

*Inspections and visits to VRS units by Mladić*

4311. **Dorđe Đukić** stated that Mladić would issue orders directly during his visits to the corps.<sup>15532</sup> According to Đukić, Mladić very often directly participated in and monitored the work of the commands, and he often also took direct command of some operations, such as in Goražde, Igman, Srebrenica, Žepa and Bihać.<sup>15533</sup>

4312. **Boško Kelečević** testified that his corps received orders and directives directly from the VRS Main Staff, which then were turned into operational directives by Talić and the corps command.<sup>15534</sup> Mladić and other VRS Main Staff officers would regularly visit the 1KK.<sup>15535</sup> During a 16 July 1992 tour of inspection of the 1KK in Duge Njive attended by Mladić, Commander Colonel Ilić stated that the Muslim population in Zvornik Municipality had radically decreased and that the Corps was using prisoners to pick peaches and to dig up soya.<sup>15536</sup> On 17 July 1992, VRS General Momir Talić informed all units of the 1KK that Mladić, accompanied by core members of the command, had visited the OG Doboje Command near Trebava Mountain, the town of Odžak, and the Command of TG 1 on 16 July 1992.<sup>15537</sup> Mladić left after congratulating and thanking the soldiers for the 'success achieved' in combat operations.

4313. On 2 March 1993, Mladić ordered a team from the VRS Main Staff to tour and inspect part of the DK units to gain insight into their combat readiness.<sup>15538</sup> On 5 March 1993, Mladić sent an assessment report of the DK units' state of combat readiness to the DK Command, recommending that it study the report, draw up a plan to eliminate the shortcomings, and incorporate the set assignments into its working plan.<sup>15539</sup> According

<sup>15531</sup> P2122 (Notification on limited operation hours of the VRS Main Staff communication centre, 14 July 1995), p. 1.

<sup>15532</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 14.

<sup>15533</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 14.

<sup>15534</sup> Boško Kelečević, T. 37148.

<sup>15535</sup> Boško Kelečević, T. 37148.

<sup>15536</sup> P354 (Mladić notebook, 16 July - 9 September 1992), pp. 8, 11, 13-14.

<sup>15537</sup> P3060 (1KK Command Report, 17 July 1992), p. 1.

<sup>15538</sup> P3062 (DK tour and inspection order from Mladić, 2 March 1993), pp. 1, 3.

<sup>15539</sup> P5241 (Mladić's order to the DK Command on their state of combat readiness, 5 March 1993), p. 1.

to a DK regular combat report of 11 March 1993, Mladić visited the Višegrad TG Command, where intense reconnaissance activities were underway.<sup>15540</sup>

4314. According to a VRS Main Staff order to the SRK Command, dated 1 March 1994 and signed by Mladić, pursuant to a VRS Main Staff order dated 24 February 1994, a team from the VRS Main Staff conducted an inspection and provided assistance with the regrouping of SRK artillery, the technical working order and readiness for action of artillery weapons and anti-aircraft defence equipment, and the state of combat readiness of the commands of the SRK units.<sup>15541</sup>

4315. On 22 May 1994, Mladić visited the Zvornik Brigade Command.<sup>15542</sup> At the time of this visit, 'enemy forces' were attacking positions of the Brnjica Company defended by the Zvornik Brigade 5th Infantry Battalion and NATO aircraft were provocatively flying near the Bosnian-Serb positions.<sup>15543</sup>

4316. On 13 June 1994 Mladić ordered the 1KK, 2KK, SRK, IBK, HK, Air Force and Anti-Aircraft Defence, Sarajevo Communications Centre of the VRS, 14th, 27th, 30th, and 35th Anti-Armour Battalion, VJ Guards Motorized Brigade, 65th Motorised Protection Regiment, 67th Infantry Platoon, 172nd Anti-Aircraft Defence Medium Self-Propelled Rocket Regiment, and the VRS Main Staff alternate command post, to carry out a team field inspection of VRS commands and units between 16 June 1994 and 2 July 1994.<sup>15544</sup> The purpose of the inspection was to obtain information on, *inter alia*, the situation in commands and units; the levels and readiness of VRS units; and the implementation of the tasks listed in Directives 1 to 6.<sup>15545</sup>

4317. According to a 4 May 1995 combat report sent by the Commander of the 1st Bratunac Light Infantry Brigade, Lieutenant Colonel Slavko Ognjenović, to the DK Command, Mladić visited the 1st Bratunac Light Infantry Brigade and 'inspected a parade of the Intervention Battalion'.<sup>15546</sup>

4318. On 12 May 1995, Mladić ordered the VRS Main Staff Chief of Staff, the Assistant for Moral Guidance and Psychological Propaganda, the Chief of

<sup>15540</sup> P4272 (DK regular combat report, 11 March 1993), p. 1.

<sup>15541</sup> P4344 (VRS Main Staff order, 1 March 1994), pp. 1, 5.

<sup>15542</sup> P4273 (Zvornik Brigade regular combat report, 23 May 1994), p. 1.

<sup>15543</sup> P4273 (Zvornik Brigade regular combat report, 23 May 1994), p. 1.

<sup>15544</sup> P3064 (Field Inspection order from Mladić, 13 June 1994), pp. 1, 4.

<sup>15545</sup> P3064 (Field Inspection order from Mladić, 13 June 1994), p. 2.

<sup>15546</sup> P5268 (Combat report concerning Mladić's visit to the 1st Bratunac Light Infantry Brigade, 4 May 1995).

Administration, the Chief of Anti-Aircraft Defence, and the DK to establish three teams of VRS Main Staff officers to assist in the operations named *Spreča-95* and *Plamen-95*.<sup>15547</sup> Milovanović, Colonel Savo Šokarović, Lieutenant General Milan Gvero and Colonel Ljubiša Beara, among others, composed the teams.<sup>15548</sup> They were ordered to, *inter alia*, inspect IKMs and assess the combat readiness of VRS units.<sup>15549</sup> The team leaders were to report to Mladić daily on their activities, and were responsible to him for the implementation of these orders.<sup>15550</sup>

4319. **Grujo Borić** testified that Mladić would visit the 2KK for a few days at least twice a month, and would tour the entire front line together with the witness; he was therefore aware of the situation on the frontline without the witness having to report to him.<sup>15551</sup> Furthermore, the combat operations of the 2KK were planned in response to larger directives from the VRS Main Staff.<sup>15552</sup> The witness and other corps commanders were briefed on the ‘strategic objectives for the Serbian people in Bosnia-Herzegovina’ by Mladić and Karadžić.<sup>15553</sup> Mladić then issued orders setting out the tasks of the corps under his command which were necessary for the realization of the Strategic Objectives and the witness would implement them by issuing orders to the brigades under his command.<sup>15554</sup> However, units of the 2KK were not deployed to the Podrinje area in order to assist the DK in implementing the tasks assigned to it in Directive no. 4.<sup>15555</sup>

4320. **Vojin Ubiparip** testified that Mladić often came to visit the 22nd Brigade, usually without announcing his visits because he wanted to see the actual situation in the units.<sup>15556</sup> During his visits he would inquire about the situation at the front.<sup>15557</sup>

4321. **Milivoje Simić** stated that Mladić came to Doboje for meetings on three or four occasions, including a visit to the command post in Duge Njive on 16 July 1992.<sup>15558</sup>

<sup>15547</sup> P5269 (Order from Mladić re the establishment of three teams for *Spreča-95* and *Plamen-95*, 12 May 1995), p. 1.

<sup>15548</sup> P5269 (Order from Mladić re the establishment of three teams for *Spreča-95* and *Plamen-95*, 12 May 1995), p. 1.

<sup>15549</sup> P5269 (Order from Mladić re the establishment of three teams for *Spreča-95* and *Plamen-95*, 12 May 1995), pp. 1-2.

<sup>15550</sup> P5269 (Order from Mladić re the establishment of three teams for *Spreča-95* and *Plamen-95*, 12 May 1995), p. 2.

<sup>15551</sup> Grujo Borić, T. 34596.

<sup>15552</sup> Grujo Borić, T. 34628.

<sup>15553</sup> Grujo Borić, T. 34660-34661.

<sup>15554</sup> Grujo Borić, T. 34660-34661.

<sup>15555</sup> Grujo Borić, T. 34662.

<sup>15556</sup> D891 (Vojin Ubiparip, witness statement, 22 July 2014), para. 23.

*Analysis of the combat readiness of VRS units by Mladić*

4322. Mladić approved an agenda for a briefing on the combat readiness of the VRS in 1992.<sup>15559</sup> According to a VRS Main Staff analysis dated 5 April 1993 and signed by Karadžić, into which the agenda was embedded, the VRS had been under a single command and control structure in 1992, despite being initially composed of a large number of different armies and paramilitary formations.<sup>15560</sup> Decisions on the engagement of VRS forces were taken at meetings headed by Mladić with organs of the Main Staff.<sup>15561</sup> The presence of Mladić, or of a representative of the Main Staff, in the units carrying out the mission of the liberation of Podrijne was ‘a specific way of giving weight to and steering combat operations towards a single goal’.<sup>15562</sup>

4323. Mladić approved another agenda for a briefing on combat readiness of the VRS for the period between 1 January and 1 June 1993.<sup>15563</sup> High-ranking officers, including Talić, Borić, Galić, Milovanović and Tolimir were to give presentations on their respective sectors of the VRS.<sup>15564</sup> Mladić was scheduled to give closing remarks and assign tasks to subordinate units.<sup>15565</sup>

4324. On 21 March 1993, Mladić ordered all officers at all levels of command in the VRS to report on the combat readiness of their respective units to their superior officer, his deputy, or any other person authorised to inspect the unit. These people, in turn, were obliged to report further to the VRS Commander, the VRS Main Staff Chief of Staff and the Bosnian-Serb President. Mladić instructed that reports could not be sent to civilian government organs or any other person.<sup>15566</sup>

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<sup>15557</sup> D891 (Vojin Ubiparip, witness statement, 22 July 2014), para. 23.

<sup>15558</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), para. 28; Milivoje Simić, T. 32528, 32553.

<sup>15559</sup> P338 (VRS Main Staff Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993), pp. 4-6.

<sup>15560</sup> P338 (VRS Main Staff Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993), pp. 4, 7, 153, 157.

<sup>15561</sup> P338 (VRS Main Staff Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993), p. 8.

<sup>15562</sup> P338 (VRS Main Staff Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993), p. 160.

<sup>15563</sup> P5240 (Plan on briefing on combat readiness for period from 1 January to 1 June 1993), p. 1.

<sup>15564</sup> P5240 (Plan on briefing on combat readiness for period from 1 January to 1 June 1993).

<sup>15565</sup> P5240 (Plan on briefing on combat readiness for period from 1 January to 1 June 1993), p. 2.

<sup>15566</sup> P5068 (Order on reporting lines within the VRS, 21 March 1993), p. 1.

*Orders related to ceasefire agreements*

4325. On 16 May 1993, Mladić ordered all Corps Commands and the Air Force and Anti-Aircraft Defence to ensure strict observance of the ceasefire agreement and cessation of all hostilities signed on 8 May 1993 by Mladić and ABiH Commander, General Sefer Halilović.<sup>15567</sup> Mladić ordered them to prevent any unauthorised firing and to respond to enemy fire only if absolutely necessary.<sup>15568</sup> On 19 May 1993, Chief of Staff of the DK, Milutin Skočajić, forwarded Mladić's order to subordinate units of the DK and instructed them to adhere to the order.<sup>15569</sup>

4326. On 16 May 1993, a meeting between HVO General Petković and Mladić, chaired by UNPROFOR Commander General Morillon, took place at the Sarajevo airport.<sup>15570</sup> During the meeting, a mutual ceasefire, set to commence on 18 May 1993 at noon, was agreed upon and signed by Petković and Mladić, with Morillon signing as witness.<sup>15571</sup> Both sides agreed to order troops to cease all hostilities, expedite the process of 'POW' exchanges, begin the exchange of dead bodies, and permit freedom of movement for the civilian population and humanitarian convoys.<sup>15572</sup>

4327. On 29 July 1993, pursuant to an order from Karadžić regarding the Geneva peace negotiations, Mladić ordered all Corps Commands and the Air Force and Anti-Aircraft Defence to adhere to a general cessation of fire in the whole territory of the Bosnian-Serb Republic as of 30 July 1993 at noon.<sup>15573</sup> Commanders were to answer personally to Mladić regarding the implementation of the order.<sup>15574</sup>

4328. On 22 April 1994, Slobodan Milošević, Karadžić, and Akashi, the UNSG Special Representative, met in Belgrade to discuss stabilisation of the situation in the Goražde area. Later that day, Mladić ordered the DK Command, the HK, and the Višegrad and Rina TGs to stop all combat activities immediately, and to go into defence on the front line towards Goražde. He further ordered them not to open any fire against

<sup>15567</sup> D1511 (Order by Mladić to observe ceasefire agreement and DK order, 16 and 17 May 1993), pp. 2-3.

<sup>15568</sup> D1511 (Order by Mladić to observe ceasefire agreement and DK order, 16 and 17 May 1993), p. 3.

<sup>15569</sup> D1511 (Order by Mladić to observe ceasefire agreement and DK order, 16 and 17 May 1993), pp. 1-2.

<sup>15570</sup> D1625 (Signed agreement and summary of ceasefire meeting between Mladić and General Petković, 16 May 1993), pp. 1-3.

<sup>15571</sup> D1625 (Signed agreement and summary of ceasefire meeting between Mladić and General Petković, 16 May 1993), pp. 2-3.

<sup>15572</sup> D1625 (Signed agreement and summary of ceasefire meeting between Mladić and General Petković, 16 May 1993), p. 3.

<sup>15573</sup> D1982 (Order on the implementation of a ceasefire, 29 July 1993).

the town of Goražde, and to refrain from firing at or provoking Muslim armed forces until the following day.<sup>15575</sup>

*Directives and general orders issued by Mladić to subordinate units*

4329. On 12 May 1992, at the 16th Session of Bosnian-Serb Assembly, Mladić referred to the need of discipline and ‘absolute obedience’ in the VRS.<sup>15576</sup>

4330. **Fejzija Hadžić** testified that in April or May 1992, Serb artillery guns were directed at the Muslim village of Golubići in Kalinovik Municipality.<sup>15577</sup> On Mladić’s command, the artillery guns were moved for a short while, but in August 1992 they were reinstated in the same position and used to bombard the village.<sup>15578</sup>

4331. On 22 May 1992, Mladić ordered Lieutenant Colonel Miličević, just after having occupied Brezova Kosa, to keep every inch of the territory and the barracks under control and to fight a possible encirclement.<sup>15579</sup> Miličević was not allowed to contact or negotiate with the villages around the barracks and, in case ‘they’ tried anything or came within the range of Miličević’s heaviest weapons, Mladić ordered him to burn down Pazarić, Tarčin, and ‘everything around’ and chase ‘them’ into the mountains.<sup>15580</sup> He further ordered Miličević to ‘fight’ because ‘this is war, not theatre’.<sup>15581</sup>

4332. On 23 June 1992, Mladić issued a directive to the commands of the IBK and the Birač and Zvornik Brigades, ordering that specified areas be cleansed of ‘*Ustašas*’.<sup>15582</sup> In order to carry out this operation, Mladić gave detailed instructions to subordinate VRS units on how to conduct their combat activities.<sup>15583</sup> The activities were to be

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<sup>15574</sup> D1982 (Order on the implementation of a ceasefire, 29 July 1993).

<sup>15575</sup> P5040 (Order from Mladić regarding a ceasefire in Goražde, 22 April 1994).

<sup>15576</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 42.

<sup>15577</sup> P138 (Fejzija Hadžić, witness statement, 31 January 1999), p. 3.

<sup>15578</sup> P138 (Fejzija Hadžić, witness statement, 31 January 1999), p. 3; Fejzija Hadžić, T. 1846.

<sup>15579</sup> P4149 (Intercepted telephone conversation between Mladić and Lieutenant Colonel Miličević, 22 May 1992), pp. 1-3.

<sup>15580</sup> P4149 (Intercepted telephone conversation between Mladić and Lieutenant Colonel Miličević, 22 May 1992), pp. 3-4.

<sup>15581</sup> P4149 (Intercepted telephone conversation between Mladić and Lieutenant Colonel Miličević, 22 May 1992), p. 3.

<sup>15582</sup> P3673 (VRS Main Staff Directive on the expansion of the corridor between Romanija and Semberija and liberation of the roads in the central watercourse of the Drina River, 23 June 1992), pp. 1, 3, 7.

<sup>15583</sup> P3673 (VRS Main Staff Directive on the expansion of the corridor between Romanija and Semberija and liberation of the roads in the central watercourse of the Drina River, 23 June 1992), pp. 4-5.

unified and coordinated by Colonel Milenko Živanović on behalf of the VRS Main Staff.<sup>15584</sup>

4333. On 26 June 1992, Mladić informed the Command of the 1KK of his approval of the latter's 'decision on offensive operations'. Mladić, however, pointed out that the large quantity of ammunition which the 1KK had requested could not be supplied because transportation by road was risky and the possibilities for delivery by helicopter were limited. Mladić then advised the Command of the 1KK to create a suitable landing area for helicopters and inform the Main Staff accordingly.<sup>15585</sup>

4334. On 28 June 1992, Mladić ordered VRS subordinate commands and the Air Force and Anti-Aircraft Defence to prevent the use of equipment and Anti-Aircraft Defence Artillery Rocket Units for any purpose other than as designated, and to pay due attention to fortifying and camouflaging, constructing decoy firing positions, and applying anti-aircraft protection measures.<sup>15586</sup>

4335. On 2 July 1992, Mladić issued an order to all VRS units to prevent any combat activities in their zones of responsibility by individuals or groups who were not members of the VRS or the MUP.<sup>15587</sup> All VRS members were obliged to wear uniform insignia in accordance with the Law of the Army. If any individuals or groups appeared within the units' zone of responsibility, these units were ordered to receive them, conduct a security check, place them under VRS command, give them the appropriate insignia, and report the incident to the Main Staff. Moreover, the Main Staff did not grant any verbal authorisations and only issued written orders.<sup>15588</sup>

4336. On 6 July 1992, Mladić defined as tasks of the VRS the lifting of the blockade of Goražde, the control of the Rogatica-Kukavice-Goražde road, the occupation of the elevations which dominated that road, and the evacuation from and provision of supplies to Goražde.<sup>15589</sup> Mladić ordered members of the participating units to wear

<sup>15584</sup> P3673 (VRS Main Staff Directive on the expansion of the corridor between Romanija and Semberija and liberation of the roads in the central watercourse of the Drina River, 23 June 1992), p. 6.

<sup>15585</sup> P3672 (VRS Main Staff Approval of the 1KK Decision, 26 June 1992), p. 1.

<sup>15586</sup> P4982 (VRS Main Staff order by Mladić, 28 June 1992), p. 2.

<sup>15587</sup> P5052 (Order by Mladić to prevent criminal activities and false impersonation, 2 July 1992), pp. 1-2.

<sup>15588</sup> P5052 (Order by Mladić to prevent criminal activities and false impersonation, 2 July 1992), p. 2.

<sup>15589</sup> P3680 (Order by the VRS Main Staff regarding the lifting of the blockade of Goražde, 6 July 1992), pp. 2-4.

prescribed insignia of the VRS in order to avoid being misidentified as other units who were hostile.<sup>15590</sup>

4337. Acting pursuant to an order issued by the Main Staff on 6 July 1992, the SRK, in coordination with the Foča TG, deployed elements from the 2nd Romanija Motorised Brigade and 'defence forces' from Rogatica and Goražde, to secure the Rogatica-Mesići-Goražde road and break the siege of Goražde.<sup>15591</sup> During this operation, the Serb side incurred losses in personnel and equipment.<sup>15592</sup> To prevent future losses in a similar manner, on 21 July 1992, Mladić instructed the Goražde forces to permanently monitor and man the Jabuka-Mesići axis.<sup>15593</sup> Mladić also placed all forces operating in the northern parts of Goražde area under the command of the 2nd Romanija Motorised Brigade and reminded all elements of the VRS that had participated in the previous attempt to break the siege of Goražde to respect the agreed truce.<sup>15594</sup>

4338. On 7 July 1992, Mladić ordered the SRK Command to dispatch two 100 millimetre artillery guns each to the Birač Brigade and the Sokolac Brigade, as part of preparations for combat operations in Eastern Bosnia.<sup>15595</sup>

4339. On 12 July 1992, Mladić ordered the IBK Command to deploy the Zvornik Brigade, or any other available force, within two or three days, in order to protect the right flank of the Birač Brigade and to secure the Sarajevo-Šekovići-Zvornik road.<sup>15596</sup>

4340. On 18 July 1992, Mladić informed his subordinates that the ceasefire agreement negotiated in London would come into force the following day and instructed them to use the intervening time to engage in fortification activities and improve their operative and tactical positions on the frontlines with a view to enhancing the negotiating position of the Bosnian-Serb leadership.<sup>15597</sup>

4341. The Trial Chamber recalls its review of Mladić's order of 28 July 1992 in chapter 9.2.8 wherein he ordered the disarmament of all paramilitary groups and individuals in the territory of the Bosnian-Serb Republic in order to put all armed formations under the unified command of the VRS.

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<sup>15590</sup> P3680 (Order by the VRS Main Staff regarding the lifting of the blockade of Goražde, 6 July 1992), p. 5.

<sup>15591</sup> P3681 (Order of the VRS Main Staff concerning Goražde, 21 July 1992), p. 1.

<sup>15592</sup> P3681 (Order of the VRS Main Staff concerning Goražde, 21 July 1992), pp. 1-2.

<sup>15593</sup> P3681 (Order of the VRS Main Staff concerning Goražde, 21 July 1992), pp. 1-2.

<sup>15594</sup> P3681 (Order of the VRS Main Staff concerning Goražde, 21 July 1992), p. 2.

<sup>15595</sup> P3679 (Order of the VRS Main Staff to SRK Command, 7 July 1992).

<sup>15596</sup> P3675 (Order of the VRS Main Staff to the IBK, 12 July 1992), pp. 1-2.

4342. On 3 August 1992, Mladić issued Directive No. 3, in which he set specific tasks for the 1KK, 2KK, IBK, SRK and HK, and ordered them to, *inter alia*, crush 'Ustaša' forces.<sup>15598</sup>

4343. On 5 August 1992, Mladić ordered the 1KK Command to liberate Gradačac town in coordination with the IBK, and Jajce town in coordination with the 2KK, and gave further instructions about the operation.<sup>15599</sup> Mladić emphasized that subordinate commanders should be prevented from directly approaching the Main Staff for replenishment of ammunition and mines and explosives, as it had to be done centrally through the Corps Command.<sup>15600</sup>

4344. On 15 August 1992, the 1KK Command informed General Talić and Colonel Galić that pursuant to a verbal order issued by Mladić that same day at 7:30 p.m., the Doboj TG 3 and the 30th Krajina Division were expected, irrespective of any difficulties, to carry out their respective assignments within two or three days.<sup>15601</sup>

4345. In a 16 August 1992 briefing by VRS Main Staff organs, attended by Mladić, the VRS Main Staff Chief of Staff reported that a 15 August 1992 deadline for paramilitaries to disarm had passed and a report had been received only from the 2KK.<sup>15602</sup>

4346. On 18 August 1992, in order to lift the Bosnian-Muslim blockade of Goražde and to secure the Rogatica-Mesići-Goražde road, Mladić ordered the 2nd Romanija Motorised Brigade to, *inter alia*, form a combat group to take charge of a food and ammunition convoy, and to converge with the forces of 1st Podrinje Light Infantry Brigade to take control of the Rogatica-Mesići-Jelah road.<sup>15603</sup>

4347. Also on 18 August 1992, the 1KK Command conveyed to commanders of its subordinate units a set of instructions which Mladić issued to prevent desertion and maintain the requisite levels of manpower and combat readiness in the VRS.<sup>15604</sup>

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<sup>15597</sup> P3676 (Order of the VRS Main Staff on London ceasefire agreement, 18 July 1992), pp. 1-2.

<sup>15598</sup> P1963 (VRS Main Staff Directive 3, type-signed by Ratko Mladić, 3 August 1992), pp. 4-5.

<sup>15599</sup> P4045 (Order by Mladić to the 1KK Command amending a decision on further operations, 5 August 1992).

<sup>15600</sup> P4045 (Order by Mladić to the 1KK Command amending a decision on further operations, 5 August 1992).

<sup>15601</sup> P3665 (1KK Command communication forwarding oral order from Ratko Mladić, 15 August 1992).

<sup>15602</sup> P354 (Mladić notebook, 16 July - 9 September 1992), pp. 65, 71-72.

<sup>15603</sup> P3667 (Order of the VRS Main Staff to lift the blockade of Goražde, 18 August 1992), pp. 1-2.

<sup>15604</sup> P3666 (Communication of the Command of the 1KK forwarding Mladić's order for the prevention of desertion, 18 August 1992), p. 1.

4348. On 23 August 1992, Mladić reported that a military operation conducted by the Višegrad Tactical Group and elements from the 2nd Romanija Motorised Brigade three days earlier, had proved unable to break the siege of Goražde.<sup>15605</sup> Mladić then issued detailed instructions to the commanders of various VRS units to prepare and carry out a joint military operation around Goražde on 25 August 1992.<sup>15606</sup> Mladić entrusted the VRS Main Staff with the task of directly commanding the envisaged military operation against Goražde. He also instructed the VRS Main Staff to formulate a plan for the creation of a system of communications for the operation in question. VRS forces engaged in this operation were instructed to wear regulation insignia of the VRS.<sup>15607</sup>

4349. According to **Branko Basara**, a consultation on the state of the VRS with all commanders of brigades, operations and TGs and senior officers of the 1KK Command was held under Mladić's leadership on 13 September 1992.<sup>15608</sup> All the presidents of municipal assemblies and MUP chiefs were in attendance.<sup>15609</sup> Mladić issued, *inter alia*, the following tasks: women should be first trained and then engaged in combat operations as well; there should be extended maximum support to the civilian authorities and the MUP; and behaviour towards UNPROFOR should be correct but not humble.<sup>15610</sup> Finally, Mladić stressed the aim of unity among the Serbs and said that anyone spreading rumours, slandering officers or organs of authority, should be considered an enemy of the 'Serbian' people and should be tried.<sup>15611</sup> According to the witness, this report was to be considered an order, and all tasks contained in it were to be carried out in full.<sup>15612</sup>

4350. On 19 September 1992, Mladić informed the commanders of the SRK, HK, 2nd Romanija Motorised Brigade, and Rogatica Brigade, as well as the Višegrad and Foča TGs that following activity by Bosnian-Muslim forces in the area of Goražde, the primary objective of the VRS was to defend the Višegrad hydroelectric power plant and

<sup>15605</sup> P3660 (VRS Main Staff Order on the lifting of the blockade of Goražde, 23 August 1992), pp. 1-2.

<sup>15606</sup> P3660 (VRS Main Staff Order on the lifting of the blockade of Goražde, 23 August 1992), pp. 1-3, 5.

<sup>15607</sup> P3660 (VRS Main Staff Order on the lifting of the blockade of Goražde, 23 August 1992), p. 4.

<sup>15608</sup> Branko Basara, T. 34536-34537; P7324 (Report by Branko Basara on consultation of the state of the VRS under the leadership of Mladić, 16 September 1992), p. 1.

<sup>15609</sup> P7324 (Report by Branko Basara on consultation on the state of the VRS under the leadership of Mladić, 16 September 1992), p. 1.

<sup>15610</sup> P7324 (Report by Branko Basara on consultation on the state of the VRS under the leadership of Mladić, 16 September 1992), pp. 2-3; Branko Basara, T. 34538.

<sup>15611</sup> P7324 (Report by Branko Basara on consultation on the state of the VRS under the leadership of Mladić, 16 September 1992), pp. 2-3.

<sup>15612</sup> P7324 (Report by Branko Basara on consultation on the state of the VRS under the leadership of Mladić, 16 September 1992), p. 3.

the town of Višegrad to create the necessary conditions for the return of combatants and residents of the Drina River valley in the area of Goražde.<sup>15613</sup> Mladić then ordered these units to be ready for combat and issued instructions accordingly.<sup>15614</sup> Colonel Pane Matić was put in charge of this operation and Rajko Kušić, the Commander of Rogatica Brigade, was assigned as his deputy.<sup>15615</sup>

4351. On 20 September 1992, after reporting that the Višegrad Brigade had obtained the resources and manpower to deal with the threat to the Višegrad hydroelectric power plant and the town of Višegrad on its own, Mladić amended the instructions he issued the previous day to the 2nd Romanija Motorised Brigade, the Rogatica Brigade, and the Višegrad and Foča Tactical Groups and ordered them to launch a closely coordinated attack along the Rogatica-Kukavica-Jabučko Sedlo-Goražde axis.<sup>15616</sup>

4352. On 2 October 1992, Mladić ordered corps commands and lower-level commands of the VRS not to negotiate or sign any agreements or treaties with international institutions either independently or on behalf of the republican leadership and the VRS Main Staff.<sup>15617</sup> Mladić stated that only the Presidency, the Government, and the VRS Main Staff may negotiate and sign such agreements.<sup>15618</sup>

4353. The Trial Chamber recalls the evidence of Witness RM-802 in chapter 4.7.7 that Mladić gave explicit orders to Colonel Bogojević in Kotor Varoš Municipality that no one was allowed to leave Večići until the unconditional surrender of weapons was completed.

4354. The Trial Chamber further recalls the evidence reviewed in chapter 7.1.1 on Directive No. 4, pursuant to which, on 19 November 1992, Mladić ordered, *inter alia*, that DK forces in the wider Podrinje region to exhaust the enemy.

4355. On 11 December 1992, Mladić issued an order to all VRS commanders to defend against any foreign and Bosnian-Croat military intervention in the Bosnian-Serb Republic, including a possible intervention from 'Western forces' in mid-December 1992.<sup>15619</sup> To alleviate any consequences of possible aggressor strikes, Mladić ordered

<sup>15613</sup> P3662 (VRS Main Staff Combat Order regarding Goražde, 19 September 1992), pp. 1-4.

<sup>15614</sup> P3662 (VRS Main Staff Combat Order regarding Goražde, 19 September 1992), pp. 3-8.

<sup>15615</sup> P3662 (VRS Main Staff Combat Order regarding Goražde, 19 September 1992), p. 5.

<sup>15616</sup> P3661 (VRS Main Staff Order regarding Goražde, 20 September 1992), p. 1.

<sup>15617</sup> P5214 (Mladić's order, 2 October 1992), p. 1.

<sup>15618</sup> P5214 (Mladić's order, 2 October 1992), p. 1.

<sup>15619</sup> P5030 (Order from Mladić to take measures against foreign military intervention, 11 December 1992), pp. 1-3.

the VRS to break-up Muslim forces on all fronts so that, in the event of an intervention, Western forces would not have support from these troops.<sup>15620</sup>

4356. On 7 December 1992, Mladić issued an order amending Directive No. 4, instructing that all war objectives of the VRS had to be achieved by 13 December 1992 at the latest.<sup>15621</sup> All formations that would fail to reach their targeted objectives by that date were to suspend all forms of active combat operations, so that the leadership of the Bosnian-Serb Republic could declare that the Bosnian-Serb Republic was unilaterally suspending active combat operations in the territory of the former Bosnia-Herzegovina.<sup>15622</sup>

4357. The Trial Chamber recalls the evidence of Witness RM-088 in chapter 4.2.2 *Schedule C.2.1* that a prisoner in Manjača camp was not allowed to be exchanged until Mladić gave his personal approval.

4358. According to an order for further combat operations issued by Mladić to the DK Command on 19 March 1993, the commanders of the Zvornik Brigade and the 1st Birač Infantry Brigade were to carry out all necessary organizational, materiel, and combat preparations for offensive operations on the axes leading to Teočak and Osmaci villages.<sup>15623</sup> The units were ordered to organize communications and to coordinate action with the IBK for an imminent attack on these.<sup>15624</sup>

4359. On the same day, Mladić ordered the commanders of the IBK and the DK to prepare an attack in the general area of Majevica, focused on the axis of Teočak village – Gornja Tuzla.<sup>15625</sup> Mladić further ordered that he be kept informed of the preparations and the attack itself through regular combat reports, but that he be notified of the readiness for attack separately.<sup>15626</sup>

4360. On 31 May 1993, due to the involvement of the VRS in large-scale activities in the Drina Valley, and the Goražde area in particular, Mladić ordered that the sabotage detachment of the 65th Motorised Protection Regiment should be prepared, provided with the necessary means, and deployed to the area of Borike village that same day at 8

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<sup>15620</sup> P5030 (Order from Mladić to take measures against foreign military intervention, 11 December 1992), p. 3.

<sup>15621</sup> P2189 (VRS Order, 7 December 1992), p. 1, para. 1.

<sup>15622</sup> P2189 (VRS Order, 7 December 1992), p. 1, para. 1.

<sup>15623</sup> P5032 (Mladić Combat Order, 19 March 1993), p. 1.

<sup>15624</sup> P5032 (Mladić Combat Order, 19 March 1993), pp. 1-2.

<sup>15625</sup> P3686 (Order by Mladić to IBK and DK, 19 March 1993), pp. 1-2.

<sup>15626</sup> P3686 (Order by Mladić to IBK and DK, 19 March 1993), p. 1.

p.m.<sup>15627</sup> Mladić also ordered that the unit be subordinated to the DK Command which would thereafter use the unit 'strictly for special purposes and in line with the combat capabilities of the unit.'<sup>15628</sup>

4361. The Trial Chamber recalls the evidence reviewed in chapter 9.5.3 that on 25 June 1993, Mladić issued Directive No. 5, concerning the *Lukavac-93* Operation.<sup>15629</sup>

4362. On 7 July 1993, Mladić issued an order, pursuant to Directive No. 5, addressed to the DK Commander or Chief of Staff, in which he ordered that the 2nd Romanija Motorised Brigade and the Zvornik and 1st Birač Light Infantry brigades tie up as many Bosnian-Muslim forces as possible in the regions of Olovo, Kladanj, and Kalesija in order to support the SRK and IBK with the *Lukavac-93* Operation.<sup>15630</sup>

4363. On 17 October 1993, Mladić gave several orders to, *inter alia*, VRS corps command units concerning the crossing of the frontline and the movement of refugees out of the enemy-controlled territory into the Bosnian-Serb Republic and vice versa.<sup>15631</sup> He gave detailed instructions on how to monitor frontline crossings, and noted that corps and brigade commanders were to be personally accountable to him for any unauthorised border crossings or contact with the enemy side on the frontline.<sup>15632</sup> Mladić issued further orders regarding the registration and accommodation of refugees, children and persons crossing the border.<sup>15633</sup> Military-fit Muslims and Croats who fled to the Bosnian-Serb Republic from enemy-controlled territory were to be placed in POW camps and once processed, exchanged as POWs.<sup>15634</sup> The Main Staff was supposed to provide written authorisation only for those exchanges of POWs or civilians, if they were approved by the Supreme Commander, the Bosnian-Serb President, and the Commander of the Main Staff.<sup>15635</sup> Refugees and prisoners in refugee centres and POW camps were to be treated in accordance with the 1949 Geneva Conventions.<sup>15636</sup>

<sup>15627</sup> P3685 (VRS Main Staff Order on the use of sabotage detachment of 65th motorised protection regiment, 31 May 1993).

<sup>15628</sup> P3685 (VRS Main Staff Order on the use of sabotage detachment of 65th motorised protection regiment, 31 May 1993).

<sup>15629</sup> P2006 (VRS Main Staff operational directive entitled 'Directive for further action, VRS, operative number 5', 25 June 1993), p. 4.

<sup>15630</sup> P5035 (Order from Mladić to DK, 7 July 1993), p. 1.

<sup>15631</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), pp. 1-2, 9.

<sup>15632</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), pp. 4-5.

<sup>15633</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), pp. 5, 7.

<sup>15634</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), pp. 6-7.

<sup>15635</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), p. 7.

<sup>15636</sup> P4145 (Order of VRS Main Staff regarding the movement of refugees, 17 October 1993), p. 8.

4364. On 30 November 1993, Mladić ordered the DK to safely return the 5th Podrinje Light Infantry Brigade to the Nišić Plateau and include it in active combat operations according to Operation *Pancir-93*.<sup>15637</sup> The Corps Commander was personally responsible for this task.<sup>15638</sup>

4365. On 3 December 1993, Mladić directed the 1KK Command to deploy an infantry battalion to Ugljevik by 7 December 1993 and to re-subordinate it to the IBK Command until the successful liberation of Teočak, Vitinica, and Rasotnica.<sup>15639</sup> The battalion was to primarily engage in reconnaissance and, if necessary, active combat.<sup>15640</sup> Mladić was to be kept informed of the completion of this task by regular combat reports.<sup>15641</sup>

4366. On 13 January 1994, after referring to ‘the changed circumstances in the general sector of Brčko’ and the need to ‘create the most favourable positions possible for the negotiating team in Geneva’, Mladić instructed the commanders of the 1KK and IBK to prepare for a military operation codenamed *Tetima-84*. The preparatory measures were to be carried out under the direct supervision of Milovanović. He further specified that the VRS Main Staff was in charge of the *Tetima-84* operation.<sup>15642</sup>

4367. On 15 April 1994, Mladić issued an urgent directive to all corps and other VRS units regarding weaknesses in commands and units.<sup>15643</sup> He ordered these units to proceed with operations *Zvijezda-94*, *Tetima-94*, *Grmec-94*, and to take any measures necessary to ensure a speedy completion.<sup>15644</sup> He also ordered the SRK to take all necessary measures to prevent Muslim forces from breaking through towards Sarajevo and Sokolac and from gaining control of the Nišić Plateau.<sup>15645</sup> He directed the 1KK and 2KK to proceed with planned combat activities toward Cazin Krajina, but most strictly forbade any artillery or mortar fire on Bihać.<sup>15646</sup>

4368. On 7 August 1994, Mladić sent an order to, *inter alia*, all corps commands and the Air Force and Anti-Aircraft Defence, specifying the conditions for leave and absence of soldiers and officers from the units, and defined measures that should be

<sup>15637</sup> P5036 (Order from Mladić to DK, 30 November 1993), p. 1.

<sup>15638</sup> P5036 (Order from Mladić to DK, 30 November 1993), p. 2.

<sup>15639</sup> P5037 (Order by Mladić to send an infantry battalion to the IBK, 3 December 1993), p. 1.

<sup>15640</sup> P5037 (Order by Mladić to send an infantry battalion to the IBK, 3 December 1993), p. 1.

<sup>15641</sup> P5037 (Order by Mladić to send an infantry battalion to the IBK, 3 December 1993), p. 2.

<sup>15642</sup> P3658 (VRS Main Staff Order regarding Operation *Tetima-84*, 13 January 1994).

<sup>15643</sup> P5038 (Order by Mladić on operations *Zvijezda-94*, *Tetima-94*, and *Grmec-94*, 15 April 1994), pp. 1-2.

<sup>15644</sup> P5038 (Order by Mladić on operations *Zvijezda-94*, *Tetima-94*, and *Grmec-94*, 15 April 1994), p. 3.

<sup>15645</sup> P5038 (Order by Mladić on operations *Zvijezda-94*, *Tetima-94*, and *Grmec-94*, 15 April 1994), p. 3.

taken in case of unauthorised absence.<sup>15647</sup> He ordered to strictly ban the transfer of VRS members from one unit to another or to the MUP without a request from the MoD and prior approval from the officer in charge.<sup>15648</sup> VRS members who were already transferred without permission were to be sent back to their original units.<sup>15649</sup> Mladić further ordered the prevention of unauthorized border crossing of citizens of the Bosnian-Serb Republic who are fit for military service.<sup>15650</sup> Non-implementation of the order was linked to strict disciplinary and military measures with drastic punishments.<sup>15651</sup>

4369. On 27 November 1994, Mladić instructed the DK Command to comply with the regulations governing communications and to strictly protect the confidentiality of the content of any outgoing messages.<sup>15652</sup> Mladić noted a lot of carelessness in telephone conversations containing, for instance, references to certain locations, and ignoring any protective measures set up to conceal confidential information, thereby jeopardising the code systems.<sup>15653</sup> Mladić warned those who failed to abide by the instructions that they would face disciplinary measures.<sup>15654</sup>

4370. On 13 February 1995, Mladić issued an order to all corps commanders and units subordinated to them and their personnel, setting out that only the Main Staff was allowed to contact the organs of the Bosnian-Serb Republic, or institutions in the FRY and RSK.<sup>15655</sup> Corps commanders and their units were forbidden to directly contact, for any reason, the state organs of the Bosnian-Serb Republic or any other organ in the FRY and RSK without the prior approval of the VRS Main Staff.<sup>15656</sup> Any unauthorised contacts or requests were to immediately be reported to the Main Staff.<sup>15657</sup> Mladić exempted from this order any correspondence between corps commands and

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<sup>15646</sup> P5038 (Order by Mladić on operations *Zvijezda-94*, *Tetima-94*, and *Grmec-94*, 15 April 1994), p. 4.

<sup>15647</sup> P5058 (VRS Main Staff order on conditions for leave and absence of soldiers, 7 August 1994), pp. 1-5, 7.

<sup>15648</sup> P5058 (VRS Main Staff order on conditions for leave and absence of soldiers, 7 August 1994), p. 5.

<sup>15649</sup> P5058 (VRS Main Staff order on conditions for leave and absence of soldiers, 7 August 1994), p. 5.

<sup>15650</sup> P5058 (VRS Main Staff order on conditions for leave and absence of soldiers, 7 August 1994), p. 6.

<sup>15651</sup> P5058 (VRS Main Staff order on conditions for leave and absence of soldiers, 7 August 1994), p. 6.

<sup>15652</sup> P5073 (Instructions on compliance with regulations on communications, 27 November 1994), pp. 1-2.

<sup>15653</sup> P5073 (Instructions on compliance with regulations on communications, 27 November 1994), pp. 1-2.

<sup>15654</sup> P5073 (Instructions on compliance with regulations on communications, 27 November 1994), p. 2.

<sup>15655</sup> P5074 (Order on contact with state organs, 13 February 1995), para. 1.

<sup>15656</sup> P5074 (Order on contact with state organs, 13 February 1995), para. 2.

<sup>15657</sup> P5074 (Order on contact with state organs, 13 February 1995), para. 2.

departments of the MoD in their zones of responsibility, and limited other correspondence.<sup>15658</sup>

4371. On 10 March 1995, Mladić sent an order to the Commands of the 1KK and 2KK, IBK, and the IKMs, concerning a series of combat unit transfers.<sup>15659</sup> Mladić ordered the 2KK Command to pull MUP forces out of combat operations and replace them with their own forces in the Corps zone of responsibility by 12 March 1995.<sup>15660</sup> After two days, the MUP forces were to be sent to the zone of responsibility of Operations Group *Pauk*, pursuant to orders of the Bosnian-Serb President and MUP.<sup>15661</sup> Corps commanders were to be personally accountable to Mladić for the execution of these tasks.<sup>15662</sup>

4372. The Trial Chamber recalls its review in chapter 9.7.2 of a 17 July 1995 order issued by Mladić, in which he ordered, *inter alia*, the Bratunac Brigade, the 67th Military Police Battalion and the MUP to comb the Bratunac-Drinjača-Milići-Bešići area to find and destroy Muslim groups.

4373. On 19 July 1995, in reference to a request from the 4th Drina Light Infantry Brigade Command for troop rotation in Trnovo and withdrawal from combat, Mladić ordered the DK to remain in their combat positions in Trnovo due to the DK activities regarding the liberation of Žepa, searching of the terrain, and blocking and destroying the remnants of Muslim groups from Srebrenica in greater Cerska, Kamenica, and Pobude.<sup>15663</sup>

*General evidence on the role of Mladić as Commander of the VRS Main Staff*

4374. **Ljubomir Obradović** testified that as Commander of the Main Staff, Mladić's duties included, *inter alia*, organizing and building the combat readiness of the entire VRS, and commanding by issuing directives, orders, instructions, warnings, and advice

<sup>15658</sup> P5074 (Order on contact with state organs, 13 February 1995), para. 3.

<sup>15659</sup> P5201 (Order from Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>15660</sup> P5201 (Order from Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>15661</sup> P5201 (Order from Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>15662</sup> P5201 (Order from Mladić addressed *inter alia* to various VRS corps concerning the transfer of MUP units, 10 March 1995), p. 1.

<sup>15663</sup> P7712 (Mladić order for 4th Drina Light Infantry Brigade to remain at Trnovo, 19 July 1995), pp. 1-2.

to units and institutions through the chain of command.<sup>15664</sup> The witness testified that Milovanović went on field missions pursuant to Mladić's orders, and that a forward command post was established when operations were carried out by several different corps, in order to coordinate the work and to carry out a uniform command.<sup>15665</sup> Mladić also sent Main Staff officers to assist subordinate units or to satisfy the control function of the Main Staff.<sup>15666</sup> He further testified that under the law of the SFRY Army, when a person was absent due to illness or unable to perform his duties, another person, by order, would stand in for them and would have all the powers of the position for which he was standing in.<sup>15667</sup> As deputy commander, Milovanović would temporarily stand in during Mladić's absence, which was defined not by Mladić's whereabouts, but by the duration of his absence.<sup>15668</sup> Obradović testified that if both Mladić and Milovanović were absent, Mladić would appoint one of the other assistant commanders to stand in for him, and in this capacity he would coordinate and supervise the work of the Main Staff command and subordinate units.<sup>15669</sup> When standing in for less than a week, an order from Mladić to Milovanović or an assistant commander could be oral, and the person standing in would only be able to issue orders in the spirit of the directives and decisions that had previously been issued by Mladić.<sup>15670</sup> According to the witness, if Mladić was absent longer than a week, a written order was required for the standing-in procedure, in which case the person standing in would have the same authority as Mladić.<sup>15671</sup> In an interview for the newspaper *Oslobođenje*, dated 6 January 1995, Karadžić stated that Mladić, Milovanović, and other generals were often on the first lines of combat.<sup>15672</sup>

4375. The Trial Chamber received evidence from John Wilson reviewed in chapter 9.5.3 that on many occasions, Mladić had effective control of Serb military forces in Bosnia-Herzegovina, and had a sophisticated communication system at his disposal,

<sup>15664</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), p. 11935; P1784 (VRS Main Staff Structure, July 1995).

<sup>15665</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), p. 11950.

<sup>15666</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11950-11951.

<sup>15667</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), p. 11976.

<sup>15668</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), p. 11936; Ljubomir Obradović, T. 14541.

<sup>15669</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11936-11937, 12017, 12020-12021; Ljubomir Obradović, T. 14541, 14544-14546; P1784 (VRS Main Staff structure, July 1995).

<sup>15670</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11936, 12020-12021; Ljubomir Obradović, T. 14544-14546.

<sup>15671</sup> Ljubomir Obradović, T. 14544-14545.

<sup>15672</sup> P6999 (*Oslobođenje* newspaper interview with Karadžić, 6 January 1995), p. 9.

which allowed him to effectively and quickly communicate with his subordinates. **Pyers Tucker** stated that Mladić was the ‘leading player on military matters’ who considered himself the ‘ultimate authority’ on any issue regarding the military security of the Bosnian-Serb Republic and its people.<sup>15673</sup>

4376. **Aernout van Lynden** testified that, on the basis of his observations during field trips and of conversations with soldiers and officers, the officers of the VRS were professionals while many of the soldiers were conscripts.<sup>15674</sup> Alcohol could be found at most of the VRS positions visited by the witness.<sup>15675</sup> The VRS had the same uniforms, ranks, weapons, tanks and military hardware as the JNA.<sup>15676</sup> The VRS followed one clear and precise chain of command, and the soldiers were working in a fairly strictly controlled and hierarchical army.<sup>15677</sup> The witness heard stories from international and Serb journalists that men would come from Serbia on weekends purely for the fun of shooting into Sarajevo, and that these so called ‘weekend soldiers’ were aligned with Vojislav Šešelj.<sup>15678</sup> The Trial Chamber recalls the evidence of Husein Aly Abdel-Razek in chapter 9.3.7 that Karadžić could not make any military decision that Mladić did not approve. **Husein Aly Abdel-Razek** further testified that he met Mladić around four to five times and on some occasions, both civilian and military personnel were present.<sup>15679</sup> According to the witness, Mladić was respected as a military leader and he was very strict and a disciplinarian.<sup>15680</sup> His subordinates feared him and he had the total loyalty of his troops.<sup>15681</sup>

4377. The Trial Chamber reviewed the evidence of Witness RM-511 in chapter 9.5.3 that Mladić did not allow any of the soldiers under his command to do as they pleased. **Slavko Kralj** testified that orders from Mladić, whether written or oral, were strictly adhered to and carried out.<sup>15682</sup> **Basara** testified that based on his observations, Mladić

<sup>15673</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 282.

<sup>15674</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 149, 151; Aernout van Lynden, T. 1449-1450.

<sup>15675</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 114, 149.

<sup>15676</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 93, 99, 150.

<sup>15677</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 150-151.

<sup>15678</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), para. 152.

<sup>15679</sup> Husein Aly Abdel-Razek, T. 3654-3655, 3658.

<sup>15680</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 58; Husein Aly Abdel-Razek, T. 3602.

<sup>15681</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 58.

<sup>15682</sup> Slavko Kralj, T. 27436.

had an active style of command in the sense that he wanted to ‘know everything, follow everything, and participate in things’.<sup>15683</sup>

4378. **Martin Bell** stated that under Mladić’s command, the VRS adopted a more organized, military style approach.<sup>15684</sup> Mladić was a ‘front line general’, who was not found at his headquarters very often.<sup>15685</sup> **Reynaud Theunens** testified that he considered Mladić to be a very well-informed commander between 12 May 1992 and November 1995.<sup>15686</sup> This conclusion was based on the witness’s comparison of applicable legislation and regulations, and the analysis of various combat and reporting documents.<sup>15687</sup> According to Theunens, there was daily reporting in the VRS from May 1992 to November 1995 from the subordinate units to the superior units.<sup>15688</sup> Mladić ordered the subordinate units to submit their daily or regular reports in a ‘timely fashion’.<sup>15689</sup> He also issued orders to subordinate units and commands to report on their state of combat readiness, or would have the Main Staff inspection teams to gather information on this matter.<sup>15690</sup> Mladić regularly visited VRS commands, units and their combat positions on the battlefield, which, according to Theunens, was essential for Mladić to familiarize himself with the situation on the ground, including the implementation of his orders, the activities of his forces, and to exercise authority over his subordinate forces.<sup>15691</sup> Mladić implemented the six strategic goals through the directives for further operations of the VRS, whereby he signed seven out of nine of these directives, which covered the period May 1992 to October 1995.<sup>15692</sup> For Theunens, Mladić had a very high level of situational awareness, which was visible through his visits and inspections at the VRS units, meetings with subordinate commanders, and the regular combat reports submitted to him.<sup>15693</sup>

4379. **Anthony Banbury** testified that, based on his observations, there was no doubt that Mladić was the undisputed leader of the VRS, and that he made the decisions and

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<sup>15683</sup> Branko Basara, T. 34302-34303.

<sup>15684</sup> P832 (Martin Bell, witness statement, 8 March 2010), para. 114.

<sup>15685</sup> P832 (Martin Bell, witness statement, 8 March 2010), para. 114.

<sup>15686</sup> Reynaud Theunens, T. 20241.

<sup>15687</sup> Reynaud Theunens, T. 20241.

<sup>15688</sup> Reynaud Theunens, T. 20254-20255.

<sup>15689</sup> Reynaud Theunens, T. 20254-20255.

<sup>15690</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 342.

<sup>15691</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 243, 344-352.

<sup>15692</sup> Reynaud Theunens, T. 20350.

<sup>15693</sup> Reynaud Theunens, T. 20384; P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 333-352.

gave the orders, which were followed.<sup>15694</sup> According to Banbury, the VRS did what it was told to do by its leadership.<sup>15695</sup> **Robert Donia** testified that Mladić had ‘the overwhelming burden of responsibility’ for implementing the six strategic objectives.<sup>15696</sup> **David Harland** testified that he frequently saw Mladić in the company of Gvero, Tolimir, Indić, Milovanović, and junior officers.<sup>15697</sup> All deferred to Mladić and treated him with great respect.<sup>15698</sup> When Mladić ordered something, it happened.<sup>15699</sup> Harland stated that ‘there was never any doubt whether Mladić had command and control of his military’.<sup>15700</sup> **Rupert Smith** observed Mladić as the military leader of the Bosnian Serbs and as a commander who delegated very little of importance and did not allow for much latitude or interpretation in his orders.<sup>15701</sup>

4380. **Michael Rose** testified that at the military level, nothing could happen without Mladić’s knowledge or authorisation.<sup>15702</sup> During UNPROFOR meetings, Rose never observed anyone from the VRS acting contrary or in opposition to Mladić; they all showed complete respect to him.<sup>15703</sup> According to the witness, Mladić had absolute control of the Bosnian-Serb forces during the Goražde offensive.<sup>15704</sup> Furthermore, the VRS’s operation in Goražde and the documents he reviewed in this respect suggested that Karadžić and Mladić had been in direct and effective control of the events and that the VRS had very good communication systems.<sup>15705</sup> According to the witness, Mladić was revered by his soldiers because of his ‘habit of jumping into a tank and leading the front’.<sup>15706</sup>

4381. **Mihajlo Vujasin** testified that after the JNA withdrew to the FRY, Mladić organised a meeting in Lukavica in which he ordered the representatives of all brigades to abide by the laws of war in their interaction with civilians and UN members.<sup>15707</sup>

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<sup>15694</sup> Anthony Banbury, T. 8225.

<sup>15695</sup> Anthony Banbury, T. 8225.

<sup>15696</sup> Robert Donia, T. 15525.

<sup>15697</sup> P1 (David Harland, witness statement, 4 September 2009), para. 258; David Harland, T. 724.

<sup>15698</sup> David Harland, T. 724.

<sup>15699</sup> David Harland, T. 724-725, 808.

<sup>15700</sup> P1 (David Harland, witness statement, 4 September 2009), para. 258.

<sup>15701</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 229-230.

<sup>15702</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 212.

<sup>15703</sup> Michael Rose, T. 6858.

<sup>15704</sup> Michael Rose, T. 6853.

<sup>15705</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 100.

<sup>15706</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 210.

<sup>15707</sup> D641 (Mihajlo Vujasin, witness statement, 16 December 2012), para. 23; Mihajlo Vujasin, T. 25581-25584.

4382. A report of 30 May 1992 from the UNSG to the UNSC referred to Mladić's 'anomalous position', which allowed him and the forces under his command to act independently beyond the control of the JNA, Belgrade, and the Bosnia-Herzegovina Government.<sup>15708</sup>

*The Trial Chamber's findings*

4383. The Trial Chamber recalls its finding in chapter 3.1.4 that from 12 May 1992 until at least 8 November 1996, Mladić was Commander of the VRS Main Staff. The Trial Chamber further recalls its findings on the 1KK and 2KK, and HK in chapters 3.1.2 that the communication system between these units and the VRS Main Staff was fully functioning; that the units were regularly inspected by VRS Main Staff officers; and that the lower level units submitted daily reports to their Corps Commands, which were then sent to the VRS Main Staff.

4384. The Trial Chamber recalls its finding in chapter 9.3.2 that between May 1992 and April 1995, Mladić issued orders regarding the establishment and organization of the VRS, the training and mobilization of VRS personnel, the incorporation of the paramilitary groups into the VRS, and the promotion of a number of VRS officers. The Trial Chamber recalls its findings in chapter 3.1.3 on the functions and conduct of the VRS Main Staff and its commander, including the issuance of its 'Operational Directives'. It further recalls the finding on the system of daily combat reports, which were sent during the day through the relevant chain of command, eventually reaching the VRS Main Staff, and then reported to the Supreme Command before midnight.

4385. Based on the evidence and the findings reviewed above, the Trial Chamber finds that from May 1992 until 1995, Mladić was stationed at the VRS Main Staff command post in a villa in Crna Rijeka, from where he had daily telephone communication with corps commanders, usually in the mornings and in the evenings. Mladić was kept informed of developments in the battlefield through daily written reports, which were submitted to the VRS Main Staff by corps commanders by 8 p.m. Any emergencies or changes on the reports were communicated by telephone directly to Mladić or Milovanović. Mladić was very meticulous regarding the submission and content of these reports, and although he did not sign all the reports sent to the Supreme

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<sup>15708</sup> P2052 (Report of Secretary-General to UNSC, 30 May 1992), p. 3.

Command, he was kept up to date on the main issues by Milovanović. Mladić also held daily briefings and occasional evening meetings with VRS Main Staff officers and corps commanders, during which they assessed the combat reports sent in the previous days by all units, and Mladić would order tasks accordingly.

4386. The Trial Chamber further finds that between May 1992 and May 1995, Mladić regularly visited and inspected VRS units at the corps, brigade, and tactical level. Mladić also ordered VRS Main Staff officers to conduct inspections of VRS units, in order to be informed on the units' state of combat readiness and to assist on specific tasks. In this regard, Mladić approved briefing agendas to discuss the combat readiness and activities of the VRS in 1992 and 1993. Based on the results of such analyses, Mladić then issued corresponding orders to subordinate units.

4387. The Trial Chamber finds that the VRS had a well-functioning communication system which allowed Mladić to effectively and quickly communicate with his subordinates.

4388. The Trial Chamber also finds that from May 1992 until July 1995, Mladić issued several orders to VRS units, including the 1KK and 2KK, IBK, HK, SRK, IKMs, DK, Višegrad and Foča TGs, the 67th Military Police Battalion, the 65th Protection Regiment and the Air Force and Anti-Aircraft Defence, with detailed instructions regarding, *inter alia*, combat strategies, military operations, deployment of units, authorization of offensive operations, use of weapons and ammunition, and ceasefire agreements.

4389. The Trial Chamber finds that Mladić issued Directive No. 3, which was implemented by the 1KK and 2KK, IBK, and HK; as well as Directives Nos. 4 and 5, which were implemented by, among others, the DK. Mladić also monitored the execution of Operations *Tetima-84*, *Bosna-92*, *Pancir-93*, *Zijezda-94*, *Tetima-94*, and *Grmec-94*.

4390. The Trial Chamber finds that at the 16th Session of the Bosnian-Serb Assembly, Mladić referred to the need for discipline and absolute obedience in the VRS. As the VRS Main Staff Commander, Mladić was respected as a leader by his subordinates.

4391. The Trial Chamber rejects the Defence's argument that the lack of a 'state of war' complicated Mladić's ability to command, mobilize, and coordinate logistics of the VRS. Although the powers of high-ranking officers and the Bosnian-Serb President

might have been formally greater during a declared state of war, the Trial Chamber finds, on the basis of the evidence reviewed above, that Mladić nevertheless possessed a very high level of command and control over his subordinates.

4392. With regard to the Defence's submission that VRS soldiers were more influenced by personal agendas than by loyalty and obedience to the VRS command, evidenced by, *inter alia*, episodes of evasion from military service and misconduct, the Trial Chamber notes that occasional indiscipline in the VRS did not undermine Mladić's overall ability to exercise command and control over his subordinates.

4393. The Trial Chamber rejects the Defence's arguments that Mladić had a limited sphere of influence over the VRS due to his subordination to the Supreme Command and its strategic decisions; that he had strategic but not operational command over the VRS; and that he was not always, or fully, informed of the situation on the ground. As found above, Mladić issued orders to VRS units and closely monitored their implementation, and communicated regularly with his subordinates. He was well aware of the developments on the ground.

4394. Lastly, the Trial Chamber dismisses the Defence's submission that Mladić did not have *de facto* control over members of the military police and security forces, since they would also carry out tasks proposed by the security organs of the government, as the evidence referred to by the Defence does not support their argument.<sup>15709</sup>

4395. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

#### *9.3.4 Commanding and controlling elements of the Serb Forces integrated into, or subordinated to, the VRS*

4396. With regard to this alleged contribution, the Prosecution argued that the Accused contributed to the overarching JCE, *inter alia*, by personally directing, monitoring

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<sup>15709</sup> See Dragomir Keserović, T. 12807, 12812-12813, 12881, 12947-12948. According to Keserović, the security forces, including the military police, were part of the sector for intelligence and security affairs of the VRS Main Staff, headed by Zdravko Tolimir, subordinated to Mladić. Military police units could be tasked to carry out non-combat related assignments planned and proposed by the security organs of the VRS Main Staff such as providing cooperation or a security service for military tribunals or military prosecutor's office. When performing such tasks, the military police units were in the remit of the security organs of the VRS Main Staff.

and/or authorising VRS cooperation with other organs, including the MUP, the JNA/VJ,<sup>15710</sup> SDB, and paramilitaries, in implementing the JCE in furtherance of its criminal objectives.<sup>15711</sup> Once the Accused assumed command of the VRS in May 1992, his ‘command was far-reaching’, embracing paramilitaries.<sup>15712</sup> The MUP personnel cooperated with the VRS in the implementation of the JCE by participating, often in collaboration with or re-subordinated to VRS forces, in the commission of crimes.<sup>15713</sup> Regarding the SDB, the Prosecution submitted that it deployed units to Bosnia-Herzegovina, including the Red Berets, Skorpions, and Arkan’s men which, when participating in operations together with the VRS, were generally placed under VRS command.<sup>15714</sup> The Defence submitted that there was only limited *de facto* re-subordination of the MUP to the VRS and when such joint operations were carried out, MUP units remained separate and within their own command chains, outside of the command or control of the Accused.<sup>15715</sup> Further, the Accused did not support or approve the actions of paramilitaries, nor did he exercise command/control over them.<sup>15716</sup> Furthermore, the paramilitary units of Brne’s Chetniks, Arkan’s men, and the Skorpions were subordinated to the MUP.<sup>15717</sup> Additionally, the Accused was not involved in any decision-making, nor did he exert any influence over, the VJ military chain of command.<sup>15718</sup>

4397. In this section, the Trial Chamber will consider evidence from **Witness RM-019**, a member of the 11th Herzegovina Light Infantry Brigade,<sup>15719</sup> as well as evidence reviewed in chapters 9.2.8 and 9.2.10.

4398. Regarding Mauzer’s group, the Trial Chamber recalls that it reviewed evidence in chapter 9.2.8 about a meeting of the Bosnian-Serb leadership on 31 May 1992 attended by Mladić, where Karadžić noted that ‘Mauzer (in Bijeljina) has grown arrogant and he cannot work in the way that he wants’. In an 11 June 1992 meeting

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<sup>15710</sup> The Trial Chamber recalls that VRS cooperation with the JNA/VJ is addressed in chapter 9.2.6 and the alleged contribution of the Accused by participating in procuring material and military assistance from the VJ will be analysed in chapter 9.3.6.

<sup>15711</sup> Prosecution Final Brief, paras 529-541, 542-554, 572-576, 577-586.

<sup>15712</sup> Prosecution Final Brief, para. 580.

<sup>15713</sup> Prosecution Final Brief, para. 530.

<sup>15714</sup> Prosecution Final Brief, para. 572.

<sup>15715</sup> Defence Final Brief, paras 113, 122, 139, 536 (d), 542.

<sup>15716</sup> Defence Final Brief, paras 743, 746, 751-753.

<sup>15717</sup> Defence Final Brief, paras 758-763.

<sup>15718</sup> Defence Final Brief, paras 737, 741.

<sup>15719</sup> P572 (Witness RM-019, witness statement, 3 September 2003), p. 1, paras 4, 6-8; Witness RM-019, T. 5701-5706.

attended by Mladić, Colonel Zarić discussed Ljubiša Savić, a.k.a. Mauzer, who controlled over half of the municipal presidency in Bijeljina and had been chosen by the municipality to act as its ‘security organ’. He noted that Savić had surrounded himself with 100 criminals who were ‘carrying out searches’ and that he was appointed as Commander of counter-intelligence affairs by the Commander of the IBK.

4399. Regarding Elez’s group, the Trial Chamber recalls the evidence reviewed in chapter 9.2.8 namely that on 24 July 1992, Mladić recorded a meeting with Elez, who had been ‘a go-between between the Army and the Serbs’. On 31 July 1992 Mladić recorded a meeting he had with the Command of Podrinje Operations Group and parts of the HK, including Captain Antelj and Pero Elez, Commander of the Miljevina Independent Battalion, at the time. Elez requested, among others, ammunition, weapons and vehicles. **Witness RM-019**, testified that in December 1992, Mladić, Boro Ivanović, Marko Kovač, and Miroslav Stanić, President of the Foča SDS, came to the Miljevina Motel and had a private meeting with Predrag Trivun, Pero Elez, Radovan Stanković, and Pavle Elez, the President of the Miljevina SDS, for three to four hours.<sup>15720</sup> When greeting him, Mladić kissed Radovan Stanković three times on the cheeks and called him his doggy.<sup>15721</sup>

4400. The Trial Chamber recalls evidence it reviewed in 9.2.10 that on 3 August 1992, Mladić gave his verbal approval for an ICRC team and reporters to visit the detention camps in Manjača, Trnopolje, Omarska, and Prijedor in the following two days. Pursuant to this approval, Commander Momir Talić informed the command of the 43rd Motorized Brigade, the Manjača camp command, the Prijedor CSB MUP organ, and the Security Organ of the 1KK Rear Command Post of the decision and further ordered that all measures be taken to make conditions in these camps satisfactory, through ensuring, *inter alia*, functional medical care for detainees, and records of deaths and findings on the cause of death.

#### *The Trial Chamber’s findings*

4401. The Trial Chamber recalls that this chapter is dedicated to the evidence related directly to the Accused’s alleged command and control of the paramilitary formations,

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<sup>15720</sup> P572 (Witness RM-019, witness statement, 3 September 2003), paras 76-77.

<sup>15721</sup> P572 (Witness RM-019, witness statement, 3 September 2003), para. 76.

MUP forces and other Serb forces integrated into, or subordinated to, the VRS. The evidence and findings relating to the alleged contribution of the Accused by directing, monitoring and/or authorizing the VRS's cooperation and coordination with other elements of Serb forces and with Bosnian Serb political and governmental organs will be reviewed in chapter 9.3.5. As the Prosecution does not allege that the Accused was involved in any decision-making, nor exerted any influence over the VJ military chain of command, the Trial Chamber will not further consider the Defence's argument in this regard. Turning to the Prosecution's allegations that the SDB deployed units such as the Red Berets, the Skorpions and Arkan's men in Bosnia-Herzegovina, the Trial Chamber recalls its finding in chapter 9.2.8 that the Skorpions were working in coordination with the VRS (thus not subordinated or integrated), and that it did not find that the Red Berets or Arkan's men committed crimes in the Municipalities (in this respect, *see* chapter 8). Therefore, the Trial Chamber will not consider these allegations further in this chapter. The Trial Chamber also notes that although it received evidence in chapter 9.3.3 regarding orders issued by Mladić to the VJ Guards Motorized Brigade, it did not find that this unit committed any crimes in the Municipalities (in this respect, *see* chapter 8) and will therefore not further consider it.

4402. Regarding the unit commanded by Pero Elez, the Trial Chamber refers to its findings in chapter 8.9.2(f) that Elez's unit committed plunder in the municipality of Kalinovik in July and August 1992. It recalls its findings in 9.2.8 that Pero Elez commanded the paramilitary Miljevina Battalion that was incorporated into the VRS by at least late June 1992. Within the VRS, Elez headed his own sub-unit under Marko Kovač, Commander of the Foča Tactical Group, which was a part of the HK (in this respect, *see* chapter 3.1.2). Further the Trial Chamber finds that Elez met with Mladić on 24 July, 31 July and in December 1992 and that in July 1992 Elez requested ammunition, weapons and vehicles. The Trial Chamber refers to its findings in 9.3.3 that Mladić, as the Commander of the VRS Main Staff, issued orders to the HK. Based on the foregoing, the Trial Chamber finds that from at least late June 1992, Mladić commanded and controlled Elez's unit.

4403. Regarding the unit commanded by Ljubiša Savić, a.k.a. Mauzer, the Trial Chamber refers to its findings in chapters 8.9.2(f), 8.5.2 and 8.9.2(c), that it committed plunder from 1992 onwards in Bijeljina Municipality as well as forcible transfer or deportation in this municipality in the summer of 1992. The Trial Chamber also recalls

its findings in 3.1.2 that on 3 June 1992, Mauzer's unit joined the IBK and was put under the unified command of the VRS. The Trial Chamber recalls its findings in 9.3.3 that as the Commander of the VRS, Mladić issued orders to the IBK. The Chamber further found in chapter 9.3.2 that on 7 October 1993, Mladić conferred an 'extraordinary promotion' to Mauzer, who was Reserve 2nd Lieutenant, to the rank of Reserve Lieutenant. Based on the foregoing, the Trial Chamber finds that Mladić commanded and controlled Mauzer and his unit from 3 June 1992 onwards.

4404. Turning to the MUP, the Trial Chamber recalls its finding that members of the MUP committed crimes while operating under the command of the 1KK in Banja Luka as set out in Scheduled Incident B.1.4 and the incidents concerning the unlawful detention, ill-treatment, and forced labour in Manjača camp (in this respect, *see* chapters 4.1.2 and 8.9.2). The Trial Chamber finds that on 3 August 1992 Mladić, via Talić, ordered the command of the 43rd Motorized Brigade, the Manjača camp command, the Prijedor CSB, and the Security Organ of the 1KK Rear Command Post to allow an ICRC team and reporters to visit the detention camps in Manjača, Omarska and Trnopolje within the following two days and to take all measures to make conditions in these camps satisfactory, through ensuring, *inter alia*, functional medical care for detainees, and records of deaths and findings on the cause of death. The Trial Chamber notes that this evidence is also addressed in the findings of chapter 9.3.9. The Trial Chamber further recalls its finding in chapter 4.1.2 that the VRS 1KK was in charge of Manjača camp. The Trial Chamber refers to its findings in 9.3.3 that Mladić, as the Commander of the VRS Main Staff, issued orders to the 1KK. Based on the foregoing, the Trial Chambers finds that Mladić commanded and controlled the Manjača camp command, including the subordinated MUP units.

4405. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

*9.3.5 Directing, monitoring and/or authorizing the VRS's cooperation and coordination with other elements of Serb forces and with Bosnian-Serb political and governmental organs*

4406. With regard to this alleged contribution, the Defence submitted that (i) the Accused was not involved in the creation of Crisis Staffs and Crisis Staffs did not include members of the VRS; (ii) Crisis Staffs and the VRS did not cooperate, apart from the support with regard to the supply of recruits and material; and (iii) the Accused did not, directly or indirectly, send orders to Crisis Staffs.<sup>15722</sup>

4407. The Trial Chamber received evidence from **Milenko Stanić**, President of the Vlasenica Municipal Assembly from the beginning of 1991 to the beginning of 1993 and President of the Executive Council of the SAO Birač for a brief period;<sup>15723</sup> **Branko Basara**, Commander of the 6th Krajina Brigade from 29 October 1991 to mid-December 1992;<sup>15724</sup> and **Dorothea Hanson**, a research officer for the Prosecution Leadership Research Team,<sup>15725</sup> as well as documentary evidence.

*Relationship with the MUP*

4408. The Trial Chamber recalls evidence reviewed in chapters 9.2.7 and 9.3.3 that according to a report on a consultation meeting with, *inter alios*, the brigade commanders and the senior officer of the 1KK on 13 September 1992, Mladić tasked brigade commanders to extend maximum support to the civilian authorities and the MUP. Branko Basara stressed that assistance was only provided if those authorities asked for it.

4409. The aforementioned meeting of all units and commands of the 1KK was held in Banja Luka, chaired by representatives of the VRS Main Staff, headed by Mladić, 1KK Commander Major-General Momir Talić, Air Force and Anti-Aircraft Defence Commander Major-General Ninković, and the Bosnian-Serb Minister of Defence,

<sup>15722</sup> Defence Final Brief, paras 426-427, 440, 489, 493-494, 499-500.

<sup>15723</sup> D884 (Milenko Stanić, witness statement, 16 February 2013), paras 1-2, 5; Milenko Stanić, T. 30850, 30883-30884, 30904.

<sup>15724</sup> D1031 (Branko Basara, witness statement, 21 July 2014), para. 4; Branko Basara, T. 34386, 34401.

<sup>15725</sup> P378 (Dorothea Hanson, *curriculum vitae*), p. 1; Dorothea Hanson, T. 4141. The evidence of Dorothea Hanson is also reviewed in chapters 2.2.2 and 3.3.

Colonel Bogdan Subotić.<sup>15726</sup> The meeting was also attended by presidents of 26 municipalities and MUP organs.<sup>15727</sup> The aim of the meeting was to achieve maximum unity and to solve important problems.<sup>15728</sup> Mladić presented the ‘very complex’ general political and military situation and asked for maximum unity of all armed formations, political structures and MUP organs, especially in carrying out, *inter alia*, the operative and strategic tasks.<sup>15729</sup> During the meeting, unit commanders pointed out a series of mistakes arising from the lack of unity in the relationship between the VRS and civilian structures, and an agreement was reached that such phenomena should be prevented, ensuring general unity.<sup>15730</sup> At the meeting, it was decided that common uniforms and insignia were to be provided for both the police and the VRS.<sup>15731</sup> Promotions of certain officers were to be carried out and decorations were introduced.<sup>15732</sup> Organs of the MUP and Military Police were obliged to get rid of personnel who were involved in criminal activities.<sup>15733</sup>

*Relationship with the municipal authorities*

4410. **Dorothea Hanson** testified that Mladić would occasionally give direct orders to Crisis Staff members about military issues.<sup>15734</sup> On 25 May 1992, Gliša Simanić informed Mladić that a convoy of trucks was moving from the direction of Konjic towards Šabići and Trnovo, *via* Lukomir Village.<sup>15735</sup> Mladić ordered him to form a unit of ten to 20 soldiers to intercept the convoy, ‘enslave them’ and to chase them away.<sup>15736</sup> Simanić told Mladić that they had Trnovo under control and they could get through from the direction of Dobro Polje.<sup>15737</sup> Mladić told him to tell the Muslims ‘that they better not start anything because they’ll go to hell’, and that whenever they want to, he will come and talk.<sup>15738</sup> Mladić also ordered Simanić to mobilise soldiers into larger

<sup>15726</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 1.

<sup>15727</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 1.

<sup>15728</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 1.

<sup>15729</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 1.

<sup>15730</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), pp. 3, 5.

<sup>15731</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 3.

<sup>15732</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), pp. 3-4.

<sup>15733</sup> P5151 (Information on IKK Military Round Table, 14 September 1992), p. 6.

<sup>15734</sup> Dorothea Hanson, T. 4171-4172.

<sup>15735</sup> P4125 (Intercepted conversation between Mladić and Gliša Simanić, 25 May 1992), pp. 1-2.

<sup>15736</sup> P4125 (Intercepted conversation between Mladić and Gliša Simanić, 25 May 1992), p. 1.

<sup>15737</sup> P4125 (Intercepted conversation between Mladić and Gliša Simanić, 25 May 1992), p. 2.

<sup>15738</sup> P4125 (Intercepted conversation between Mladić and Gliša Simanić, 25 May 1992), p. 2.

units.<sup>15739</sup> Gliša Simanić was a member of the Trnovo Crisis Staff.<sup>15740</sup> **Hanson** testified that despite local differences, the cooperation and coordination offered by the crisis staffs were essential to the VRS and its operations; they provided the recruits, supplies, material, and moral support without which the military units could not have operated.<sup>15741</sup> The military presence in the crisis staffs ensured a commonality of purpose among the political and military bodies.<sup>15742</sup>

4411. **Milenko Stanić** testified that on or around 25 June 1992, the leadership of the Vlasenica Municipal Assembly met with Mladić and a number of members of the VRS Main Staff in Vlasenica.<sup>15743</sup> The leadership of the Municipal Assembly briefed them on the ongoing security and political situation in the municipality and the degree of mobilization.<sup>15744</sup> During the meeting, the witness conveyed the information received by the President of the Executive Board of Vlasenica Municipality concerning the arrival of detainees in Vlasenica by bus and their placement at the secondary school around 25 June 1992.<sup>15745</sup> At the meeting, Mladić asked for a greater degree of engagement in the process of mobilization and for greater support in the supply of the army units.<sup>15746</sup> Around the end of June or beginning of July 1992, the entire political leadership of the municipalities of the Zvornik region met with Mladić and military commanders in Zvornik.<sup>15747</sup> Mladić talked about a decisive battle against Serbian paramilitary formations that were particularly active in the Zvornik area during that period.<sup>15748</sup> The witness met with Mladić in other meetings during which Mladić spoke about internal problems in the Bosnian-Serb Republic, and he criticized the problems and functioning of the MUP.<sup>15749</sup>

4412. On 3 September 1992, Krstić, Commander of the 2nd Romanija Motorized Brigade, sent a letter to Karadžić reporting that Mladić had notified him that the level of cooperation between the 2nd Romanija Motorized Brigade and the Sokolac Municipal

<sup>15739</sup> P4125 (Intercepted conversation between Mladić and Gliša Simanić, 25 May 1992), p. 3.

<sup>15740</sup> P4024 (Trnovo Minutes of SDS Municipal Board, 27 December 1991), pp. 1-2.

<sup>15741</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 85.

<sup>15742</sup> P379 (Dorothea Hanson, Bosnian-Serb Crisis Staffs, War Presidencies, and War Commissions 1991-1995, July 2012), para. 86.

<sup>15743</sup> Milenko Stanić, T. 30846-30848.

<sup>15744</sup> Milenko Stanić, T. 30846-30848.

<sup>15745</sup> Milenko Stanić, T. 30848-30849, 30907-30909.

<sup>15746</sup> Milenko Stanić, T. 30848.

<sup>15747</sup> Milenko Stanić, T. 30846-30849.

<sup>15748</sup> Milenko Stanić, T. 30849.

<sup>15749</sup> Milenko Stanić, T. 30849-30850.

Assembly was inadequate.<sup>15750</sup> Krstić noted that municipal leaders and party leaders had apparently complained to Karadžić that the 2nd Romanija Motorized Brigade Command obstructed cooperation and treated them improperly.<sup>15751</sup> Krstić denied these allegations and stated that, as much as circumstances allowed, officers not only respected and cooperated with civilian authorities but also frequently met the people of Sokolac community to discuss pressing issues facing civilian authorities.<sup>15752</sup> They also regularly informed civilian authorities of the situation on the front, with respect to the command's operations. According to the letter, the Municipal Board of the Sokolac SDS asked the 2nd Romanija Motorized Brigade to align its activities and actions to the interests of the SDS; however, Krstić informed them that the command only carried out orders issued by its superior commands, and that the command was directly responsible to the state and military leaderships of the Bosnian-Serb Republic.<sup>15753</sup>

*The Trial Chamber's findings*

4413. The Trial Chamber recalls its findings set out in chapter 4 that identified members of the VRS, MUP, TO, regional and municipal authorities, and paramilitary formations as principal perpetrators of crimes charged in the Indictment. The Trial Chamber also recalls its finding in chapter 9.3.3 that as the commander of the VRS Main Staff, Mladić issued orders to the VRS. Further, the Trial Chamber recalls its finding in chapter 3.3 that following the Bosnian-Serb Assembly's 12 May 1992 order to establish the VRS, Serb TO units were incorporated into the VRS. The Trial Chamber will therefore not further consider the TO in this chapter.

4414. Based on the foregoing, with regard to the MUP, the Trial Chamber finds that on 13 September 1992, a 1KK military round table meeting was held in Banja Luka and chaired by members of the VRS Main Staff, including Mladić. The Bosnian-Serb Minister of Defence Colonel Bogdan Subotić, presidents of 26 municipalities, and representatives of the MUP were also in attendance. At the meeting, Mladić called upon

<sup>15750</sup> D2079 (Krstić report to Karadžić discussing cooperation with local authorities in Sokolac and their inability to restore law and order, 3 September 1992), pp. 1, 3.

<sup>15751</sup> D2079 (Krstić report to Karadžić discussing cooperation with local authorities in Sokolac and their inability to restore law and order, 3 September 1992), p. 1.

<sup>15752</sup> D2079 (Krstić report to Karadžić discussing cooperation with local authorities in Sokolac and their inability to restore law and order, 3 September 1992), p. 1.

<sup>15753</sup> D2079 (Krstić report to Karadžić discussing cooperation with local authorities in Sokolac and their inability to restore law and order, 3 September 1992), p. 2.

those present to ensure maximum unity of all armed formations, political structures, and MUP organs, in particular when carrying out operative and strategic tasks. At the same meeting, Mladić tasked brigade commanders of the 1KK to cooperate with the MUP.

4415. With regard to the municipal authorities, the Trial Chamber found in chapter 9.2.9 that in some municipalities, VRS personnel were members of crisis staffs and war presidencies or attended their meetings without being members. Their role at least included coordinating logistics, such as arranging recruits and supplies, and updating the regional and municipal political leaders on the combat situation. The Trial Chamber also found that the crisis staffs in Ključ, Kotor Varoš, Prijedor, Sanski Most, and Vlasenica Municipalities worked with members of the VRS, including the 1KK, to commit crimes as charged in the Indictment. ARK political leaders, including Vojo Kuprešanin, visited Manjača camp and knew of the poor conditions and mistreatment of detainees by members of the VRS, including the VRS 1KK.

4416. The Trial Chamber finds that Mladić, on occasion, gave direct orders to crisis staff members about military issues. For example, on 25 May 1992, Mladić directly ordered Gliša Simanić, a member of the Trnovo Crisis Staff, to form a unit of ten to 20 soldiers and to participate in a military operation. It also finds that Mladić monitored and authorized the VRS and Crisis Staffs' cooperation with regard to providing the VRS with recruits, supplies, other material, and moral support, and that such support was important for the VRS and its operations.

4417. On or around 25 June 1992, Mladić and other members of the VRS Main Staff met with the leadership of the Vlasenica Municipal Assembly, who briefed them about the ongoing security and political situation in the municipality, and the degree of mobilization as well as the arrival of detainees in Vlasenica and their subsequent placement in the Vlasenica secondary school. Mladić asked the Assembly for a greater degree of engagement in the process of mobilization and for greater support in the supply of VRS units.

4418. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

4419. With regard to paramilitary formations, in chapter 9.2.8, the Trial Chamber found that on 28 July 1992, Mladić ordered the disarmament of all paramilitary

formations, groups, and individuals in Bosnian-Serb territory by 15 August 1992, in order to put all armed formations and individuals under the unified command of the VRS. Nevertheless, some paramilitary formations continued to exist and to operate outside the command of the VRS throughout the conflict. In addition, the Trial Chamber found that several paramilitary formations cooperated and coordinated with the VRS while committing crimes in municipalities, including Prijedor, Sanski Most, and Trnovo. Groups referred to as the ‘White Eagles’, ‘Martić’s men’, the ‘Spare Ribs’, Šešelj’s unit, the Skorpions, the SOS, a unit headed by Milan Andžić, and a paramilitary unit of at least 200 Serb soldiers from Lušci Palanka in Sanski Most Municipality, headed by Mićo ‘Kudra’ Praštalo, all worked in cooperation and/or coordination with members of the VRS to commit crimes as charged in the Indictment. The Trial Chamber did not receive any evidence that indicates that Mladić directed, monitored, or authorized the VRS’s cooperation and coordination with the paramilitary formations referred to above. Accordingly, the Trial Chamber will not consider this further.

### *9.3.6 Participating in procuring material and military assistance from the VJ*

4420. The Trial Chamber notes that a substantial amount of evidence regarding the role of the VJ in the Overarching JCE has been reviewed in chapter 9.2.6. A number of references from this chapter and from chapter 9.5.4 has been included below. The Trial Chamber notes that it has addressed the submissions of the parties in relation to this subject in the aforementioned chapters.

4421. With regard to this alleged contribution, the Trial Chamber received evidence from **Đorđe Đukić**, the Assistant Commander for Logistics of the VRS Main Staff;<sup>15754</sup> **Dušan Kukobat**, a major who served in the VRS as of 18 August 1992;<sup>15755</sup> **Slavko Gengo**, the Commander of the 7th Infantry Battalion of the 1st Romanija Infantry Brigade from the end of January 1994 until May 1995,<sup>15756</sup> and **Ekrem Suljević**, a

<sup>15754</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7. *See also* the relevant evidence of Đorđe Đukić in chapter 9.5.4.

<sup>15755</sup> D757 (Dušan Kukobat, witness statement, 23 June 2014), paras 1-3, 6.

<sup>15756</sup> D473 (Slavko Gengo, witness statement, 10 May 2014), paras 3, 30; Slavko Gengo, T. 21613. Gengo’s evidence is reviewed in chapter 9.2.6.

mechanical engineer employed in the Bosnian MUP as of November 1993;<sup>15757</sup> as well as documentary evidence.<sup>15758</sup>

*Procuring of materiel from the VJ*

4422. On 7 May 1992, Mladić recorded in his notebook that he had a meeting with SFRY Vice-President Branko Kostić.<sup>15759</sup> Kostić informed Mladić that the Serbs would be withdrawn from Bosnia-Herzegovina but that the materiel and technical equipment would be kept in the area.<sup>15760</sup> In an 11 June 1992 meeting with Mladić, VJ Commander Panić spoke, among others, about the ‘huge demands for ammunition’ and stated: ‘We don’t have that ammunition, we have to buy it. All that ammunition is produced in Bosnia-Herzegovina. [...] Nobody wants to sell it to us’.<sup>15761</sup> Panić also stated ‘Supplies can no longer be obtained as has been done so far. The Corps must go through the logistics of the VSR [sic] BiH.’<sup>15762</sup> Finally, Panić stated that the VJ was willing to help Mladić ‘to our utmost’ and that all requests must go to Mladić who would then determine how the materiel would be distributed.<sup>15763</sup> In a 13 June 1992 VRS Main Staff meeting attended by Mladić, Major General Đukić noted that many types of ammunition were at critical levels and that Pretis had begun producing ammunition.<sup>15764</sup> Đukić asked what kind of ammunition could be produced together with the FRY’.<sup>15765</sup> In a 13 June 1992 meeting with the Bosnian-Serb Presidency attended by among others Mladić, Krajišnik, and Koljević, Zvonimir Bajagić stated that seven tanks had been taken from the former JNA barracks in Lukavica, including two that were in order but then broke down.<sup>15766</sup> **Reynaud Theunens** testified that on 11 August 1992, Mladić

<sup>15757</sup> P889 (Ekrem Suljević, witness statement, 9 February 2010), p. 1, paras 2-3, 11; Ekrem Suljević, T. 8407-8408, 8410. Suljević’s evidence is reviewed in chapter 9.2.6.

<sup>15758</sup> P4392, P4399, P4486, P4490, P4491, P4492, P4493, P4494, P4489, P4578, D473 are reviewed in chapter 9.2.6; P4959, P4961-P4970 are reviewed in chapter 9.3.2; P7668 is reviewed in chapter 9.3.3; P355, P5086, P4347, P892, P893, P1781, P889, P935 are reviewed in chapter 9.5.4; P354, P359, P3073, P4563, P4567 are also reviewed in chapter 9.5.4.

<sup>15759</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 260.

<sup>15760</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 260-261.

<sup>15761</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 146-147.

<sup>15762</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 147.

<sup>15763</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 147-149.

<sup>15764</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 155, 160-162.

<sup>15765</sup> P353 (Mladić notebook, 27 May - 31 July 1992), p. 162.

<sup>15766</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 155-156.

sent a request to Panić, asking the VJ to send the VRS assistance in weapons, ammunition, and communication equipment.<sup>15767</sup>

4423. On 8 November 1992, at a meeting with Mladić, Karadžić, Krajišnik and the VRS Corps Commanders, VJ Assistant Commander of the General Staff General Domazetović noted that the VJ had the same objectives and that as for the provision of supplies, that they were doing all they could to help, but that reserves were depleted.<sup>15768</sup> At that same meeting, Subotić expressed support for Mladić's idea to meet representatives of the FRY within a broader framework.<sup>15769</sup>

4424. **Đorđe Đukić** stated that from mid-1993 until February 1996, pursuant to Mladić's orders, he travelled to the VJ General Staff in Belgrade in order to secure materiel for the VRS, including clothes, footwear, food, mines, explosives, and ammunition.<sup>15770</sup> Mladić would sign an accompanying letter with a request for allocation of certain quantities of materiel.<sup>15771</sup> The witness would travel to Belgrade and meet with the Commander of VJ General Staff, Momčilo Perišić, who would approve requested materiel and equipment, but would usually deny requests for weapons and ammunition and he would reduce the quantities that Mladić requested.<sup>15772</sup> Transfer of weapons and ammunition was carried out secretly, in the area of Čajniče and Rudo, by civilian trucks, avoiding border crossings where there were UNPROFOR observers, and brought to reception points in the area of the Bosnian-Serb Republic. From these reception points, they were transported to bases in Banja Luka, Koran, Bileća, and Bijeljina. Once they arrived there, the witness would be informed by the VRS Main Staff.<sup>15773</sup>

4425. On 8 July 1993, Mladić, Karadžić, President Milošević, Jovica Stanišić, and General Panić met to discuss the war. Panić raised the need to differentiate the matters between the VRS and the VJ. He further mentioned that they would give small calibre ammunition to the VRS and transfer the production facilities for large calibre

<sup>15767</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 223-224.

<sup>15768</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 141, 147-148.

<sup>15769</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 141, 149. For the affiliation of General Domazetović, see e.g. P5088 (Stenographic notes of the 7th Session of the Supreme Defence Council), p. 1.

<sup>15770</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 3.

<sup>15771</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 3.

<sup>15772</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), pp. 3-4.

<sup>15773</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 4.

ammunition to FRY territory.<sup>15774</sup> Mladić suggested accepting the establishment of a sabotage detachment consisting of 1,000 professional soldiers.<sup>15775</sup> According to Stanišić, some commanders were able to jeopardize the system in Serbia and some acted as paramilitaries.<sup>15776</sup> Mladić noted that there were several weaknesses, such as that discipline was getting worse within the VRS and that the MUP had been dismantled.<sup>15777</sup> Stanišić suggested that the financing of the MUP should be taken over by Serbia as well and that, with the assistance of the police, this would help Mladić and General Novaković in achieving their goals.<sup>15778</sup>

4426. On 2 September 1993, Mladić requested the VJ General Staff to provide 50 rockets to the VRS for the purpose of their modification into surface-to-surface rockets and stated that once the modification had been carried out, the VRS would return half of the modified rockets to the VJ.<sup>15779</sup> On 16 September 1993, the Head of Office of the VJ General Staff requested the opinion of the sector for operations affairs on Mladić's request.<sup>15780</sup>

4427. On 15 October 1993, Mladić sent a proposal to the VJ General Staff, concerning a meeting between the VJ, the VRS, and the SVK.<sup>15781</sup> At this meeting, which was scheduled for 19 October 1993, a number of issues would be addressed relating to coordination, including a brief evaluation of the military situation, an exchange of information and alignment of positions between the armies, problems concerning coordination and cooperation, as well as problems with military industry, ammunition production, and repairs of equipment and materiel.<sup>15782</sup> The meeting would also involve discussions about the provision of assistance in keeping with the 'Izvor-6' plan.<sup>15783</sup>

4428. On 24 December 1993, Mladić requested assistance, in the form of specific equipment, from the VJ General Staff, and from Perišić personally.<sup>15784</sup> On 30 December 1993, Perišić responded that the VJ did not have the requested equipment

<sup>15774</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 238.

<sup>15775</sup> P358 (Mladić notebook, 2 April - 24 October 1993), pp. 238-239.

<sup>15776</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 242.

<sup>15777</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 242.

<sup>15778</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 243.

<sup>15779</sup> P4550 (Request from Mladić concerning the distribution of rockets addressed to the VJ General Staff, 2 September 1993), p. 2.

<sup>15780</sup> P4550 (Request from Mladić concerning the distribution of rockets addressed to the VJ General Staff, 2 September 1993), p. 1.

<sup>15781</sup> P5105 (Proposal of issues for joint meeting of the VRS and the SVK, 15 October 1993), pp. 1-2.

<sup>15782</sup> P5105 (Proposal of issues for joint meeting of the VRS and the SVK, 15 October 1993), p. 1.

<sup>15783</sup> P5105 (Proposal of issues for joint meeting of the VRS and the SVK, 15 October 1993), pp. 1-2.

<sup>15784</sup> P4268 (Request from Ratko Mladić to Momčilo Perišić, 24 December 1993), pp. 5-6.

available to allocate to the VRS but that the 1KK was in possession of at least some of the equipment and Perišić proposed that this be used.<sup>15785</sup>

4429. **Theunens** testified that on 26 January 1994, Mladić proposed that the VJ General Staff set up the production of a 'special chemical substance' in Serbia, to be used for 'anti-sabotage and anti-terrorist activities'.<sup>15786</sup> The VJ General Staff agreed in principle with this proposal and suggested that in order to speed up the process the VRS Main Staff participate in funding the project.<sup>15787</sup> On 30 January 1994, Mladić requested the VJ General Staff to approve the delivery of a large amount of ammunition, which according to Mladić was 'necessary for combat security and supplying of units engaged in combat operations', as part of the 'Izvor-8' plan.<sup>15788</sup>

4430. On 19 February 1994, Colonel Radomir Ećimović, on behalf of Pretis-Vogošća, informed Manojlo Milovanović about Mladić's order for the manufacture of two types of guns for operational support.<sup>15789</sup> The deployment of the guns was to be approved by Mladić personally.<sup>15790</sup>

4431. On 5 February 1995, Mladić recorded a meeting he had in Belgrade with a man named Lazar Kovačević, referred to as 'Lazo'.<sup>15791</sup> Mladić recorded that an Ilyushin-76 aircraft would be arriving a few days later, carrying a large shipment of weapons for both the VJ and the VRS.<sup>15792</sup> Mladić and Kovačević discussed the weapons that would be arriving and their prices, and he recorded he had discussed the purchase of rocket launchers, rockets, mortars, a tank, a grenade launcher, and long range rifles.<sup>15793</sup> On 19 March 1995, Mladić had a meeting in Belgrade with General Vladimir Georgijevich during which the arrival of weapons was discussed.<sup>15794</sup> Mladić recorded that 226

<sup>15785</sup> P4268 (Communication between Momčilo Perišić and Ratko Mladić, 30 December 1993), pp. 1-2.

<sup>15786</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 224.

<sup>15787</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 224-225.

<sup>15788</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 225.

<sup>15789</sup> P3073 (Correspondence regarding VJ materiel, VRS materiel and materiel from *Pretis*, 23 January 1994 and 19 February 1994), pp. 2-3.

<sup>15790</sup> P3073 (Correspondence regarding VJ materiel, VRS materiel and materiel from *Pretis*, 23 January 1994 and 19 February 1994), pp. 2-3.

<sup>15791</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 17.

<sup>15792</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 17. The Trial Chamber understands that Mladić's notebook reference to 'IL-76' concerns an Ilyushin-76 aircraft, *see e.g.* P3029 (Expert Report of Reynaud Theunens, September 2012), Part V, p.252.

<sup>15793</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 17-18.

<sup>15794</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 62-64.

rockets and 57 launchers had arrived, of which the VRS would receive 42 rockets and 11 launchers.<sup>15795</sup>

4432. On 3 March 1995, Mladić recorded a meeting he had with the ‘inner core’ of the VRS Main Staff, during which General Đukić reported he had been in a meeting with Jovica Stanišić in Belgrade. Đukić reported that Stanišić had told him it would have been better for him not to have come, and that Milošević had said ‘nothing more can cross over’. Đukić also reported that ‘Prvi Partizan is ready to deliver to us on loan 40 million rounds under condition that we pay it by 1 August’.<sup>15796</sup>

4433. On 9 March 1995, Mladić recorded a meeting with President Slobodan Milošević during which a decision had been made for steel to be delivered via the VJ General Staff and that decisions had been made regarding fuel, detonators, and rocket engines as well as the commissioning of officers and non-commissioned officers from the Rajko Balać School.<sup>15797</sup> Mladić also recorded that the following had been decided at the meeting ‘Acquisition of ammunition via General Staff of the VJ and transport from other countries with the knowledge of the GŠ VJ and President SM’.<sup>15798</sup>

4434. On 30 March 1995, Mladić recorded a meeting with ‘the inner core’ of the VRS Main Staff Command members, during which a briefing was given by the director of Orao, Major Prica.<sup>15799</sup> Prica explained that on 26 March 1995, Karadžić had called him as well as the directors of Pretis and Hadžići regarding the production of aircraft.<sup>15800</sup>

4435. On 6 April 1995, Mladić recorded a meeting he had in Belgrade with Jovica Stanišić, Momčilo Perišić, and General Gvero. Stanišić provided information on how ‘we’ transported various types of materiel – such as missiles, ‘FAB’, ammunition, and fuel – to Bihać, Pretis and to Martić. Mladić recorded Stanišić to have stated that the ‘stuff planned for Pretis’ was transported in 14 trailer-trucks and went through Colonel Brkić. Stanišić stated ‘the crossing should take place in silence’. He also stated ‘I sent 150 men from Slavonija through Pauk’ and Mladić recorded him to have asked ‘/?Should/ we look for volunteers who would join you’.<sup>15801</sup>

<sup>15795</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 62-63.

<sup>15796</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 49.

<sup>15797</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 53.

<sup>15798</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 53.

<sup>15799</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 71.

<sup>15800</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 72-73.

<sup>15801</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 80.

4436. According to the transcript of the 50th Session of the Bosnian-Serb Assembly held on 15 and 16 April 1995, Mladić reported to the Assembly that the total infantry ammunition that had been used by the VRS from the beginning of the war until that point amounted to 9,185 tonnes. Of this ammunition, 42.2 per cent was from materiel reserves ‘inherited and pulled out of enclaves or found in the barracks of former Army’, 47.2 per cent was provided by the VJ, 9.11 per cent was ‘imported, i.e. bought’, and only 1.49 per cent originated from the VRS’s ‘own’ production.<sup>15802</sup>

4437. From March to October 1995, Mladić sent numerous requests to the VJ General Staff, asking for equipment, weapons and large quantities of ammunition of various calibers and types, including KMD and KMD-2 mines; flamethrowers; anti-tank and anti-personnel mines, and related engineering equipment; nitrogen tanks; *GRAD* rocket engines; FAB-275 and FAB-275/4 aerial bombs; KUB-M rocket batteries; automatic rifles and machine guns; *DVINA* rockets.<sup>15803</sup> Most of the requests were approved,<sup>15804</sup> while some were denied<sup>15805</sup>. On 30 April 1995, Mladić requested the VJ General Staff to facilitate the return to the HK of one 130 millimetre gun, sent for repair, as well as

<sup>15802</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Republic Assembly, 16 April 1995), p. 51.

<sup>15803</sup> P4551 (VRS Main Staff request for motors addressed to the VJ General Staff, 27 June 1995); P4552 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 14 June 1995); P4553 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 3 August 1995), p. 3; P4554 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 11 March 1995); P4555 (VRS Main Staff request for mines, explosives, and technical equipment addressed to the VJ General Staff, 26 May 1995); P4557 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 27 March 1995); P4558 (VRS Main Staff request addressed to the VJ General Staff regarding the allocation of weapons, military equipment, and ammunition, 28 August 1995); P4560 (VRS Main Staff request addressed to the VJ General Staff regarding rocket batteries, 1 September 1995); P4561 (VRS Main Staff request for military equipment addressed to the VJ General Staff, 3 September 1995); P4562 (VRS Main Staff request for weapons and addressed to the VJ General Staff, 3 September 1995); P4563 (VRS Main Staff request regarding aerial bombs addressed to the VJ General Staff, 2 September 1995), p. 1; P4564 (VRS Main Staff request for aerial bombs addressed to the VJ General Staff, 7 October 1995), p. 1; P4565 (VRS Main Staff request for *Dvina* rockets addressed to the VJ General Staff, 7 October 1995); P4577 (Siniša Borović letter, 19 June 1995), pp. 1-2; P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp.225- 230; P5100 (Correspondence between Mladić and the VJ regarding request for flame throwers, 18-19 May 1995), p. 2.

<sup>15804</sup> P4552 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 14 June 1995), p. 4; P4553 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 3 August 1995), p. 3; P4564 (VRS Main Staff request addressed to the VJ General Staff for aerial bombs, 7 October 1995), p. 2; P4566 (Letter from the VJ General Staff addressed to the VRS Main Staff approving a request for aerial bombs, 7 October 1995); P4567 (VJ General Staff order to supply rocket engines signed by Siniša Borović, 28 June 1995); P4577 (Siniša Borović letter, 19 June 1995), pp. 2-3; P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 225-226, 228.

<sup>15805</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 225-226; P5100 (Correspondence between Mladić and the VJ regarding request for flame throwers, 18-19 May 1995), p. 1.

the transportation of two additional guns in need of repair.<sup>15806</sup> On 16 June 1995, Mladić sent a proposal to the Commander of the VJ General Staff, stating that the Belgrade Technical Education Centre had loaned one H-152 Howitzer to the DK in 1992 without the necessary documentation.<sup>15807</sup> He thus asked for the relevant paperwork to be issued.<sup>15808</sup>

4438. On 24 December 1995, Mladić attended a meeting with the Collegium of the Commanders of the VRS Main Staff during which a conclusion was reached that a joint meeting should be held with the VJ General Staff to assess the military and political situation, to define a defence strategy, and to determine the character of a joint defence.<sup>15809</sup> On 25 December 1995, Mladić attended a meeting between VRS Generals and a delegation from the VJ General Staff during which, among others, the production of materiel was discussed.<sup>15810</sup> On 28 December 1995, Mladić attended a meeting with, among others, Perišić, Gvero, General Škrbić, President Zoran Lilić, and President Slobodan Milošević in Belgrade.<sup>15811</sup> At the meeting, Škrbić raised the issue of verification of VRS ranks by the VJ, discussed the possibility of combining VJ and VRS training grounds, and asked whether ‘anyone thought of turning the VRS into a unit of the VJ’.<sup>15812</sup> Perišić proposed to ‘fully support the VRS’.<sup>15813</sup>

#### *Procuring of VRS personnel from the VJ*

4439. Mladić recorded that he had a meeting on 30 April 1992 with JNA General Staff Commander Colonel General Adžić.<sup>15814</sup> Adžić told Mladić that VRS officers would receive payments from the FRY budget and would be partially funded by the Krajinas which were able to provide such funding.<sup>15815</sup>

4440. In a 12 June 1992 meeting held in Belgrade and attended by various VJ Generals and Mladić, General Panić stated that 130 officers had ‘given their consent’ and that the

<sup>15806</sup> P4556 (VRS Main Staff request concerning the repair of ammunition addressed to the VJ General Staff, 30 April 1995). *See also* P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 225-226.

<sup>15807</sup> P5101 (Proposal by Mladić to the VJ on reissuing a Howitzer, 16 June 1995), p. 1.

<sup>15808</sup> P5101 (Proposal by Mladić to the VJ on reissuing a Howitzer, 16 June 1995), p. 1.

<sup>15809</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), pp. 189-190.

<sup>15810</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), pp. 214, 215.

<sup>15811</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), p. 217.

<sup>15812</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), p. 227.

<sup>15813</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), p. 231.

<sup>15814</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 211.

<sup>15815</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 215, 221, 223.

VJ would organize their departure, and he instructed that the education of third-year cadets be sped up.<sup>15816</sup> On 13 July 1992, the Bosnian-Serb Presidency, at a session attended by Karadžić, Mladić, Plavšić, Koljević, Krajišnik, Đerić, and Gvero, Mladić submitted a proposal, which was accepted, that the use of artillery was to be controlled exclusively by the VRS on the basis of orders to be issued by the VRS Commander.<sup>15817</sup> Furthermore, a conclusion was reached that the VRS would submit a list of VJ officers residing in the FRY who would subsequently receive a personal invitation to place themselves at the disposal of the VRS.<sup>15818</sup>

4441. **Theunens** testified that on 11 August 1992, Mladić sent a request to Panić, asking the VJ to direct to the VRS as soon as possible all the officers born in Bosnia-Herzegovina who were carrying out various duties in the VJ, to provide the VRS with assistance in maintenance of technical and materiel equipment and the air force, to regulate treatment of wounded persons and to assist wounded persons after treatment, to connect the special purpose industry for war needs and to provide the VRS with necessary professional and other assistance, to direct conscripts and recruits, citizens of Bosnia-Herzegovina to competent Military Prosecutor's organs of the Bosnian-Serb Republic, and to continue working on solutions of the status of active military personnel and their families.<sup>15819</sup> On 12 August 1992, Mladić had a meeting with Commander of the VJ General Staff, and they discussed issues concerning personnel, ammunition and weaponry, food, clothes and medical aids.<sup>15820</sup> On the same day, Mladić had a conversation with officers from Bosnia-Herzegovina with ranks of major and colonel, and Dušan Kukobat was among the 66 officers in attendance.<sup>15821</sup> The next day, Mladić had a meeting with officers ranked captain 1st class and lower.<sup>15822</sup> **Dušan Kukobat** testified that following a meeting he had with Mladić and Tolimir in Belgrade, he left the position of the Brigade Chief of Staff on 18 August 1992 and went to Bosnia-Herzegovina, where he was appointed Chief of Staff of the Ključ Brigade.<sup>15823</sup> During

<sup>15816</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 152, 155.

<sup>15817</sup> P4263 (Minutes of Bosnian-Serb Presidency Session, 13 July 1992), p. 1.

<sup>15818</sup> P4263 (Minutes of Bosnian-Serb Presidency Session, 13 July 1992), p. 1.

<sup>15819</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 223-224.

<sup>15820</sup> P354 (Mladić notebook, 1 September 1992 - 9 September 1992), pp. 51-52.

<sup>15821</sup> P354 (Mladić notebook, 1 September 1992 - 9 September 1992), p. 55; Dušan Kukobat, T. 28011-28012.

<sup>15822</sup> P354 (Mladić notebook, 1 September 1992 - 9 September 1992), p. 55; Dušan Kukobat, T. 28012.

<sup>15823</sup> D757 (Dušan Kukobat, witness statement, 23 June 2014), paras 3-4.

his service in the VRS, he continued to receive salary from the 30th Personnel Centre of the VJ.<sup>15824</sup>

4442. According to an undated list, a number of officers and non-commissioned officers were transferred from the VJ pursuant to Article 271 of the Law on Service in the Armed Forces.<sup>15825</sup> In response to requests for clarification from subordinate commands concerning VRS officers who had been dispatched to the VRS for a period of three months pursuant to Article 271, Mladić issued an instruction from the VRS Main Staff on 7 October 1992, ordering all such officers to remain in the VRS until further notice.<sup>15826</sup> All VRS officers who had left the VRS without permission were to be called to return to their respective units or face criminal prosecution for treason against the 'Serbian people of Republika Srpska'. Subordinate commands were to send the personal details of such officers to the Main Staff by 11 October 1992. The instruction noted that the Main Staff had sent invitations to all officers of 'Serbian ethnicity hailing from the former Bosnia and Herzegovina' and serving in the VJ to report for obligatory military service in the VRS under threat of prosecution for treason. The instruction also noted that service in the VRS was obligatory for the officers just as for all citizens of the Bosnian-Serb Republic, and that temporary assignments did not exist.<sup>15827</sup>

4443. On 12 October 1992, Mladić recorded a meeting of the VRS Main Organs during which Colonel Grubor stated that the question of enlisting officers from the VJ born in Bosnia-Herzegovina had been resolved with VJ General Domazetović and the call-up was to be sent to them as well.<sup>15828</sup> Grubor also noted that the VJ was ready to assist the VRS with training courses for officers and in drafting the training programme.<sup>15829</sup>

4444. On 12 November 1992, Minister of Defence Subotić told Mladić that the MoD had submitted a request to the VJ General Staff to send officers from the Bosnian-Serb Republic to the VRS.<sup>15830</sup> Subotić also told Mladić that Domazetović had informed him that there was only one way to appoint them on the basis of reinforcement formations,

<sup>15824</sup> Dušan Kukobat, T. 28013.

<sup>15825</sup> P4973 (List of officers and non-commissioned officers, undated).

<sup>15826</sup> P2817 (VRS Main Staff Instruction re VRS officers, 7 October 1992), pp. 1-2.

<sup>15827</sup> P2817 (VRS Main Staff Instruction re VRS officers, 7 October 1992), p. 1.

<sup>15828</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 21. For the affiliation of General Domazetović, see e.g. P5088 (Stenographic notes of the 7th Session of the Supreme Defence Council), p. 1.

<sup>15829</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 22.

<sup>15830</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 164, 166.

and that in that case all promotions had to be based on the law of the VJ.<sup>15831</sup> The FRY wanted the VRS to send them orders and proposals for what they have done and for those that were promoted until that date.<sup>15832</sup>

4445. On 25 November 1992, at a VRS Main Staff briefing, Colonel Grubor informed Mladić that a reliable list of officers in the VJ had been established and that 26 officers had joined the HK, while 22 officers had joined the DK.<sup>15833</sup>

4446. On 22 April 1993, Mladić met with the Commander of the VJ General Staff to discuss sending Bosnian-Serb officers to the VRS.<sup>15834</sup> In a meeting of the Supreme Command of the Bosnian-Serb Republic held on 19 June 1993 in Pale, attended by, among others, Karadžić, Krajišnik, Koljević, Adžić, Mladić, Tolimir, and Gvero, a decision was adopted on the financing of 1,000 professional VRS soldiers by the VJ.<sup>15835</sup> Mladić noted that remuneration of VRS officers was to be arranged with Slobodan Milošević.<sup>15836</sup> At a meeting held on 19 October 1993 in Belgrade between VJ General Staff officers, including Perišić, and VRS Main Staff officers, including Mladić, Perišić suggested that the VJ send all officers and military conscripts born in Bosnia-Herzegovina to the Bosnian-Serb Republic, and whoever would refuse would be discharged from the VJ.<sup>15837</sup> He also mentioned that he did not want a single request without Mladić's signature and that they should cooperate wherever they could.<sup>15838</sup>

4447. On 21 October 1993, at a meeting in Belgrade with Zoran Lilić, Slobodan Milošević, Karadžić, Perišić, Mladić, and Novaković, the financing of the VRS was discussed and Mladić noted that the VJ would give what they had, but that the VRS still had to raise part of the funds.<sup>15839</sup> Milošević requested that all VJ officers and non-commissioned officers be contacted and that, by the end of the week, VJ officers were to be sent to the VRS and the SVK.<sup>15840</sup>

4448. On 9 November 1993, Mladić attended a meeting with President Milošević, Karadžić, Krajišnik, and Perišić where they discussed, *inter alia*: (i) requests for

<sup>15831</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 166-167.

<sup>15832</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 167.

<sup>15833</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 203-205.

<sup>15834</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 48.

<sup>15835</sup> P358 (Mladić notebook, 2 April - 24 October 1993), pp. 212, 216.

<sup>15836</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 216.

<sup>15837</sup> P358 (Mladić notebook, 2 April - 24 October 1993), pp. 386, 389.

<sup>15838</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 389.

<sup>15839</sup> P358 (Mladić notebook, 2 April - 24 October 1993), pp. 390-392.

<sup>15840</sup> P358 (Mladić notebook, 2 April - 24 October 1993), p. 392.

officers, non-commissioned officers and conscripts to return to the Bosnian-Serb Republic; (ii) the status of non-commissioned officers and officers promoted in the Bosnian-Serb Republic, as well as: (iii) the provision of fuel, ammunition, clothing, food, and overhaul material supplies.<sup>15841</sup>

4449. During the 15th Session of the FRY Supreme Defence Council held on 10 November 1993, Momčilo Perišić mentioned that ‘Ratko is constantly asking for weapons’.<sup>15842</sup> The Trial Chamber refers to its more detailed review of the 15th Session in chapter 9.2.6 where it discussed that Mladić reported to Perišić on the promotion of the VRS officers who were on the payroll of the VJ.<sup>15843</sup>

4450. On 18 February 1994, Mladić met with Perišić and discussed the training of personnel and the verification of ranks.<sup>15844</sup>

4451. On 17 May 1994, Mladić requested the opinion of the Commander of the VJ General Staff on matters relating to the coordination between the VRS and VJ.<sup>15845</sup> He noted that, despite authorisation, competent officers in the VJ General Staff were not always prepared to deal effectively with problems highlighted by the VRS Main Staff through the 30th Personnel Centre.<sup>15846</sup> Instead, they repeatedly redirected requests from the VRS to the FRY Supreme Defence Council, the Commander of the VJ General Staff, or raised them in coordination meetings, as a result of which problems were not resolved or resolved with significant delays.<sup>15847</sup> Mladić highlighted problems of coordination, including, *inter alia*, issues relating to the organisational structure and manning table of the VRS; the obligation to terminate fixed-term contracts because the VJ had not approved their extension; and the refusal to verify commissions and promotions of participants in the school for non-commissioned officers of the VRS without justification, as well as their treatment in general.<sup>15848</sup>

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<sup>15841</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 30.

<sup>15842</sup> P7462 (Excerpt from Stenographic notes of the 15th session of the Supreme Defence Council, 10 November 1993), pp. 1, 4-5.

<sup>15843</sup> P7462 (Excerpt from Stenographic notes of the 15th session of the Supreme Defence Council, 10 November 1993), p. 10.

<sup>15844</sup> P360 (Mladić notebook, 9 January - 21 March 1994), p. 115.

<sup>15845</sup> P5096 (Question for coordination with the VJ General Staff, signed by Ratko Mladić, 17 May 1994), pp. 1-4.

<sup>15846</sup> P5096 (Question for coordination with the VJ General Staff, signed by Ratko Mladić, 17 May 1994), p. 1.

<sup>15847</sup> P5096 (Question for coordination with the VJ General Staff, signed by Ratko Mladić, 17 May 1994), p. 1.

<sup>15848</sup> P5096 (Question for coordination with the VJ General Staff, signed by Ratko Mladić, 17 May 1994), pp. 1-4.

4452. On 19 May 1994, a meeting was scheduled between the VJ, the VRS, and the SVK.<sup>15849</sup> The Commander of the VJ General Staff Momčilo Perišić asked the Commander of the VRS Main Staff to attend this meeting.<sup>15850</sup> Perišić stated that it was necessary that the Commander gave a speech that addressed conclusions from situation assessments, decisions for further action, and proposed solutions to existing problems.<sup>15851</sup> The three parties were also scheduled to discuss the possibilities for the VJ to assist the VRS and the SVK.<sup>15852</sup> On 24 May 1994, the acting Commander of the VJ General Staff, Blagoje Kovačević, ordered the sector for operations and staff affairs of the VJ to analyse all requests for assistance made by the VRS and the SVK, and to make proposals as to which requests could be met.<sup>15853</sup> Detailed explanations were to be provided if any of these requests could not be granted.<sup>15854</sup> The requests made were mainly appeals for assistance in the form of materiel, training, or military literature.<sup>15855</sup> For example, in April 1994, the VRS and the SVK were provided with surveillance equipment, and a month-long reconnaissance and sabotage course was organized in Banja Luka.<sup>15856</sup> A cryptographic analysis training of VRS members was also scheduled to take place in Bijeljina, and would be paid for by the VJ.<sup>15857</sup>

4453. **Theunens** testified that on 15 April 1995, Mladić asked Perišić to extend the temporary assignment of two instructors of the Pančevo VJ Security and Intelligence Training Centre at the Banja Luka Military School Centre.<sup>15858</sup> On 25 April 1995, Mladić requested Perišić to send two officers from the VJ 2nd Administration to the VRS.<sup>15859</sup>

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<sup>15849</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), p. 1.

<sup>15850</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), p. 4.

<sup>15851</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), pp. 4, 6.

<sup>15852</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), p. 7.

<sup>15853</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), pp. 8-9.

<sup>15854</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), pp. 8-9.

<sup>15855</sup> P5097 (Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), pp. 10-14.

<sup>15856</sup> P5097 ((Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), p. 12.

<sup>15857</sup> P5097 ((Notification on coordination meeting sent from VJ to VRS Main Staff and SVK, 12 May 1994-27 May 1994), pp. 12-13.

<sup>15858</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 218.

<sup>15859</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 218.

*The Trial Chamber's findings*

4454. Based on the foregoing, the Trial Chamber finds that from May 1992 until at least 30 November 1995, Mladić was in direct contact with members of the political leadership in Serbia and members of the VJ General Staff to ensure the military needs of the VRS were met. To this end, Mladić frequently met with members of the VJ General Staff and attended meetings with Slobodon Milošević, Jovica Stanišić, and other high-ranking politicians in Serbia to discuss materiel and personnel support from the VJ to the VRS for the purpose of the ongoing war effort in Bosnia-Herzegovina. The Trial Chamber finds that from May 1992 to April 1995, almost 90 per cent of the ammunition which was used by the VRS had been provided by the VJ and by its predecessor, the JNA. Over half of this amount was provided by the VJ, whereas the rest was provided by the JNA.<sup>15860</sup>

4455. The Trial Chamber further finds that during the aforementioned meetings with the leadership in Serbia and the VJ General Staff, Mladić often discussed the needs of VRS personnel and he directly proposed promotions of individual VRS members. As discussed in chapter 9.2.6, a substantial number of VRS military personnel received their salary directly from the VJ through the 30th Personnel Centre in Serbia. This centre ensured that VRS soldiers would receive salaries and other benefits, and regulated their subsequent pensions and VJ membership following the conclusion of the war in Bosnia-Herzegovina in 1995. The Trial Chamber further recalls in this context its findings in chapter 9.2.6 that when a VJ soldier was promoted in the VRS, approval of that same promotion by the VJ was required so that rights and benefits associated to that new rank could be enjoyed upon return to the FRY. For promotions to the highest army ranks in the VRS, the FRY Supreme Defence Council's approval ('verification') was required.

4456. Lastly, the Trial Chamber finds that in order to ensure full control over the materiel coming from the VJ to the VRS, Mladić ordered in March 1993 that all requests for materiel were to be authorized by himself and were to be coordinated through the VRS Main Staff Logistics sector. In December 1993, the Commander of the VJ General Staff, Momčilo Perišić, issued a similar order to all related VJ organs,

whereby he added that only VRS requests which had been approved by Mladić would be considered by the VJ General Staff Logistics organ.

4457. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

### *9.3.7 Participating in the development of Bosnian-Serb governmental policies*

4458. With regard to this alleged contribution, the Defence submitted that the Accused was excluded from political decision-making, that he did not have voting rights within the Bosnian-Serb Assembly, and that he only attended very few Assembly sessions.<sup>15861</sup> The Defence further submitted that the Accused was not a member of the Supreme Command and that he could attend its meetings only by invitation and in non-voting capacity.<sup>15862</sup> The Trial Chamber received evidence from **Patrick Treanor**, an intelligence analyst;<sup>15863</sup> **Nenad Kecmanović**, a member of the Bosnia-Herzegovina Presidency from 1 June until 23 August 1992;<sup>15864</sup> **Michael Rose**, the UNPROFOR Commander from 5 January 1994 to 23 January 1995;<sup>15865</sup> **Pyers Tucker**, a British Army officer, who served with UNPROFOR as military assistant to General Philippe Morillon from October 1992 to March 1993;<sup>15866</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>15867</sup> **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>15868</sup> **Rupert Smith**, UNPROFOR commander in Bosnia-Herzegovina between 23 January and December

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<sup>15860</sup> On the subject of the transition of the JNA into the VRS and the VJ, and on the provision of JNA materiel to the VRS, the Trial Chamber further refers to its findings in chapters 3.2 and 3.1.1.

<sup>15861</sup> Defence Final Brief, paras 352, 355-356.

<sup>15862</sup> Defence Final Brief, para. 356.

<sup>15863</sup> P3001 (Patrick Treanor, *curriculum vitae*), p. 3. Patrick Treanor's evidence is reviewed in chapter 2.1.1.

<sup>15864</sup> D556 (Nenad Kecmanović, witness statement, 25 February 2014), para. 9; P6668 (Interview with Kecmanović published by Tanjug press agency, 25 August 1992). Nenad Kecmanović's evidence is reviewed in chapter 9.3.13.

<sup>15865</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

<sup>15866</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751.

<sup>15867</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>15868</sup> Husein Aly Abdel-Razek, T. 3581; P293 (Husein Aly Abdel-Razek, witness statement, 14 July 1992), para. 2.

1995;<sup>15869</sup> **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>15870</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>15871</sup> and **Robert Donia**, an expert on the history of Bosnia-Herzegovina;<sup>15872</sup> as well as documentary evidence.<sup>15873</sup>

4459. **Robert Donia** testified that Mladić was regularly invited to attend sessions of the Bosnian-Serb Assembly starting in May 1992, despite not being a delegate.<sup>15874</sup> He first spoke to the Assembly at the 16th Session on 12 May 1992 and attended and addressed at least seven sessions from then until May 1994.<sup>15875</sup> Mladić stopped attending the sessions as of May 1994, except appearing one last time to address the 50th Session in April 1995.<sup>15876</sup> While Mladić did not have a right to vote or to formally make a proposal at assembly sessions, he served as an ‘influential voice’ and was able to make suggestions, advocate policies, and engage in discussions about those policies.<sup>15877</sup>

4460. On 12 May 1992, at the 16th Session of Bosnian-Serb Assembly, after Karadžić announced the six strategic goals for the ‘Serbian people’, Mladić stated that he had ‘mull[ed] over for a long time and discussed within the most select circle of comrades [...] the strategic goals that are of substance’.<sup>15878</sup> Mladić stated that, in order to define the goal, it would be useful to determine and define the territory of the Bosnian-Serb Republic.<sup>15879</sup> He noted that, from that moment on, there were two paths leading to the future, the first one being the path of war, and that, in his opinion, ‘for any man born in the area of the Serbian Republic of Bosnia and Herzegovina or whose roots reach back to here, there is only the first path, the path I see as the path of honour, glory and

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<sup>15869</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>15870</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020.

<sup>15871</sup> Reynaud Theunens, T.20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4. Reynaud Theunens’s evidence is reviewed in chapter 3.1.3.

<sup>15872</sup> Robert Donia, T. 15492-15493; P1998 (Robert Donia, *curriculum vitae*), p. 5.

<sup>15873</sup> P431 is also reviewed chapter 9.5.5; P2508 is also reviewed in chapter 9.3.13; P3042 and P2210 are reviewed in chapter 2.1.1; P3918 is reviewed in chapter 9.3.8; and P6670 is reviewed in chapter 9.3.13.

<sup>15874</sup> P2001 (Robert Donia, Report on the highlights of deliberations in the Bosnian-Serb Assembly, 18 February 2013), p. 4.

<sup>15875</sup> P2001 (Robert Donia, Report on the highlights of deliberations in the Bosnian-Serb Assembly, 18 February 2013), p. 4.

<sup>15876</sup> P2001 (Robert Donia, Report on the highlights of deliberations in the Bosnian-Serb Assembly, 18 February 2013), p. 4.

<sup>15877</sup> Robert Donia, T. 15702-15703.

<sup>15878</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 9-10, 32. The Trial Chamber notes that the terms ‘goals’ and ‘objectives’ have been used interchangeably in this context.

<sup>15879</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 32.

survival. However, I do not refer only to Serbs here'.<sup>15880</sup> He added that: 'People and peoples are not pawns nor are they keys in one's pocket that can be shifted from here to there. It is something easily said but difficult to achieve.'<sup>15881</sup> According to Mladić, the 'thing' that they were doing 'need[ed] to be guarded as [their] deepest secret'.<sup>15882</sup> Serb representatives in the media and at political talks and negotiations would have to present the goals in a way that would sound appealing to those who they wanted to win over and the 'Serbian people' would need to know how to read between the lines.<sup>15883</sup> Mladić also observed that 'we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay [...] and the rest leave. [...] I do not know how Mr. Krajišnik and Mr. Karadžić would explain this to the world. People, that would be genocide. We have to call upon any man who has bowed his forehead to the ground to embrace these areas and the territory of the state we plan to make. He to [*sic*] has his place with us and next to us'.<sup>15884</sup> During the same assembly session, Mladić stated that: 'I would like to make one suggestion here that we adopt such a wisdom that we are against the war but that we will fight if attacked, and that we do not want a war against the Muslims as a people, or against the Croats as a people, but against those who steered and pitted these people against us [...]. [W]e need to [...] precisely define who our enemy is.'<sup>15885</sup> He further noted: '*Ustašas*, I know what kind of people *Ustašas* are. However, we must now see and assess [...] who our allies and our enemies are, and which enemy would be easier to handle. On the basis of this we must make our move and eliminate them, either temporarily or permanently, so that they will not be in the trenches.'<sup>15886</sup> He further explained that 'if we had taken something in this war that was not ours, we need to keep hold of it so that in political negotiations we can get those things that were ours, and that we cannot get in any other way'.<sup>15887</sup>

4461. Mladić also noted that the enemy, a 'common enemy, regardless whether it is the Muslim hordes or Croatian hordes' had attacked 'with all its might from all directions'. He further said that '[w]hat is important now is either to throw both of them out employing political and other moves, or to organize ourselves and throw out one by

<sup>15880</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 31-32, 34.

<sup>15881</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 33.

<sup>15882</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 34.

<sup>15883</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 34.

<sup>15884</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 35.

<sup>15885</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 33.

<sup>15886</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 33.

<sup>15887</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 32.

force of arms, and we will be able to deal somehow with the other'. According to Mladić, the VRS was being created in 'times of war and blood, [...] when the best sons of [their] nation fall victim'. The 'armed Serbian people' in the Bosnian-Serb Republic, who had responded to the call to put a stop, together with the members of the JNA, to the 'fascist and phantom *Ustaša* dragon', were the starting point for the creation of the army. The sacred duty of the people was to place themselves in the service of an army that would protect its people from being wiped out. Mladić emphasized that they were not to create a conquering army, since they did not need what was not theirs; they were creating an army which would 'defend, successfully the traces [their] fathers have left behind and protect [their] children from the conquering ambitions of Nazi mercenaries; which will bring freedom to its people, and enable it to live in peace and serenity and its environment, at its centuries-old hearths'.<sup>15888</sup> Their goal was to have a corridor to Serbia and a 'state of [their] own where [they] ha[d] left [their] mark, the bones of [their] fathers'.<sup>15889</sup> The Trial Chamber also recalls the evidence reviewed in chapter 9.5.5 that, during the same Assembly session, Mladić stated that Muslims in Sarajevo were under blockade and that 'there is nowhere they can go [...] because the head of the dragon of fundamentalism lies beneath our hammer'.

4462. On 12 October 1992, Mladić recorded a meeting of the VRS main organs, at the end of which, Mladić noted 'define the border of Republika Srpska'.<sup>15890</sup> On 8 November 1992, at a meeting with Karadžić and the Corps Commanders, Mladić proposed a plan that was to be presented at a peace conference, stating that no concessions, demilitarisation, or ceding of parts of the territory should be offered in political negotiations.<sup>15891</sup> He further proposed an unconditional withdrawal of the Croatian armed forces from the territory of Bosnia-Herzegovina and the offering of peace negotiations to the Muslim people.<sup>15892</sup> On 29 November 1992, during negotiations at Sarajevo Airport with Mladić and Petković, a major in the Main Staff of the HVO, Morillon noted that, regarding withdrawal of the forces to the right bank of the river Neretva, Mladić proposed that the politicians should define the borders.<sup>15893</sup>

<sup>15888</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 41.

<sup>15889</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 39.

<sup>15890</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 23.

<sup>15891</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 141, 149.

<sup>15892</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 141, 149-150.

<sup>15893</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 214, 218. The Trial Chamber notes that Petković was also referred to by Mladić as 'brigadier', P356 (Mladić notebook, 5 October - 27 December 1992), p. 214.

4463. The Trial Chamber refers to the evidence reviewed in chapter 9.3.8 with respect to the language used by Mladić during a meeting in the beginning of April 1993, attended by, *inter alios*, Mladić, Karadžić, Krajišnik, and representatives of state and political organs of the Bosnian-Serb Republic.

4464. According to Herbert Okun's meeting notes on 24 April 1993, at the International Conference on the Former Yugoslavia, David Owen and Herbert Okun met with Karadžić, Mladić, and Krajišnik.<sup>15894</sup> The notes state that around 9:40 a.m., Mladić gave a strategic analysis of the problems of the Croats, Serbs, and Muslims and he asked for all sides to sit down together to resolve the overall problem.<sup>15895</sup> Then around 11:20 a.m., the notes indicate that Mladić 'wants the entire west bank of Drina' and Owen and Okun said 'no way'.<sup>15896</sup> During an interview published on 25 June 1993, to answer the question why the Serbs did not accept the Vance-Owen plan, Mladić took Posavina as an example, stating that the Serbs had evidence that they paid taxes there for at least 450 years, therefore Posavina was a Serb land, the Serbs could not accept the plan that only gave them a corridor in that area.<sup>15897</sup>

4465. The Trial Chamber also refers to the evidence reviewed in chapter 9.3.13 that during the meeting of the Bosnian-Serb Assembly on 5 and 6 May 1993, in which the Assembly voted against the ratification of the Vance-Owen Plan, Mladić forcefully demonstrated his opposition to the plan.

4466. During the 34th Session of the Bosnian-Serb Assembly held from 27 August to 1 October 1993, Mladić said that the people and the VRS have carried out most of the strategic goals and tasks and created the Bosnian-Serb Republic. He stated that the 'war ends with the peace accord' and that 'we are in position to finish it properly [...] the political solution is in our hands'. He added that the VRS will observe the political decision made that day.<sup>15898</sup> In this regard, Mladić commented on the constitutional agreement reached in Geneva and said that the VRS did not recognise a sovereign Bosnian-Serb Republic as stipulated in the agreement, and that, in case the agreement

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<sup>15894</sup> P7742 (Meeting notes from the International Conference on the Former Yugoslavia, 24 April 1993), pp. 1-2.

<sup>15895</sup> P7742 (Meeting notes from the International Conference on the Former Yugoslavia, 24 April 1993), p. 3.

<sup>15896</sup> P7742 (Meeting notes from the International Conference on the Former Yugoslavia, 24 April 1993), p. 4.

<sup>15897</sup> P7719 (Press article with interview of Mladić, 25 June 1993), p. 8.

<sup>15898</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 32.

was to be accepted, ‘we should have to explain it very good to the people and the Army’.<sup>15899</sup> According to Mladić, he and the VRS Main Staff considered the constitutional agreement to be a ‘triumph of the West and Croats’. Mladić stated that the abolishment of the VRS and the complete demilitarisation were unacceptable and that the peace had no alternative, but that the ‘Republika Srpska and the interest[s] of [the] Serbian people have no alternative either’. Mladić said that ‘when deciding on ourselves, we have to think about the destiny of Serbian people from Republika Srpska Krajina and wider. We cannot put the people of Republika Srpska Krajina as well as the part of our people in the jaws of Tuđman.’<sup>15900</sup> Mladić, who had participated with Karadžić in two or three rounds of negotiations, stated that ‘military leadership cannot be paraleadership to the political leadership’ and that he did not want to be above the political authorities.<sup>15901</sup> Regarding the exit to the sea, which the Trial Chamber understands to be the sixth strategic objective (see chapter 9.2.4), Mladić opined that ‘it would be the biggest mistake if we do not impose our own will regarding these maps and if we do not exit to the sea’.<sup>15902</sup> He also advised Karadžić on how to solve the problems with Croats and Muslims in the valley of Neretva during peace negotiations.<sup>15903</sup> Mladić also engaged in discussion regarding borders and concessions and suggested to Karadžić that Posavina had to be Bosnian-Serb territory, that Croats and Muslims should not be given any corridor in peace negotiations, and stated that Alija Izetbegović had lost Brčko and that Bosnian-Serbs had their territory in Brčko.<sup>15904</sup> Mladić said that he was aware that his proposals to Karadžić were ‘extremely radical’, but that Karadžić knew ‘to come even stronger’.<sup>15905</sup> Mladić also reproached Karadžić for not having requested ‘what is ours in Zenica and Mostar’, stated that ‘[p]eople would be thrilled with one link or passage to Zenica’, and urged

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<sup>15899</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), pp. 32-33.

<sup>15900</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 33.

<sup>15901</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 38.

<sup>15902</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 41.

<sup>15903</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 38.

<sup>15904</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), pp. 36, 40

<sup>15905</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 40.

Karadžić to request a corridor to Tuzla and a corridor to Zagreb.<sup>15906</sup> Mladić further stated that ‘we are playing around with them in political as well as in the military fields in such proportion that at the end the actual status must be recognised [...] there is no solution to the crises except for the actual status’. He said that he did not want to impose on Karadžić what to vote for, but that he did not want either to ‘divide people from the army, our unity, not from the victory – we are about to cut the ribbon – to suffer the catastrophe. And nobody should allow it.’ Mladić suggested that they should ‘cherish this child of ours’ and that they ‘did not come even close to the conclusion of the job’.<sup>15907</sup> He stated that ‘we all have to stick to our tasks, in the trench as well as in the Assembly and at negotiations if we want to win the fight for our republic’ and that ‘with them we can get only a minimum if we request for the maximum [...] Please, let us not go to sleep over what we have achieved’.<sup>15908</sup>

4467. On 26 December 1993, in preparation for the meeting in Salonica in Greece with the Chief of General Staff of the Greek Armed Forces, to be held on 29 December 1993, Mladić put in writing in his notebook two issues for further reference, these being the ‘exchange of information at the level of intelligence services with the aim of preventing the expansion of Islam and preventing the influence in the international community and the adoption of unfavourable political decisions’ and the reminder ‘come up with more specific forms of cooperation and assistance’.<sup>15909</sup>

4468. The Trial Chamber also refers to the evidence reviewed in chapter 9.3.13 about Mladić’s statement at the session of the Bosnian-Serb Assembly of 10 January 1994 that ‘the enemy that we are facing’ was getting stronger every day and that his concern was ‘to have them vanish completely’.

4469. At the same session, Mladić also stated that the historical task of the Serbs had been to prevent the creation of such ‘Greater Croatia’, that the Serbs had to set preconditions to ensure that Tuđman’s ‘Croatia in Bosnia would collapse’ and that they had to ‘shatter Muslims’ illusions’.<sup>15910</sup>

<sup>15906</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 43.

<sup>15907</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 41.

<sup>15908</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), pp. 41, 44.

<sup>15909</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), pp. 107, 110.

<sup>15910</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 20.

4470. On 15 July 1994, at a meeting with the Minister of Defence of the Bosnian-Serb Republic, Mladić stated that the VRS did not have the adequate political and financial support to accomplish the strategic goals as adopted by the Assembly.<sup>15911</sup> According to Mladić, the political structures had even prevented the VRS from carrying out certain operations aimed at realizing the strategic goals.<sup>15912</sup>

4471. At the 50th Session of the Bosnian-Serb Republic, held on 15 and 16 April 1995, Mladić stated that from the aspect of the defined and initial objectives of the Serbian people, the struggle started and was conducted on the basis of ‘all-Serbian’ interests and objectives.<sup>15913</sup> According to him, next to the protection of the Serbian people and territory, ‘one of the basic defined goals was a struggle for the unity of the Serbian people and territory, so that the Drina should not be a border [...]’.<sup>15914</sup> However, according to Mladić, the current political practice was incompatible with the pursuit of these objectives and it was ‘extremely dangerous [...] for the entire Serbian people and [...] for the Serbian national corpus to be torn apart, except if we are prevented by extreme force to create a single state’.<sup>15915</sup> He saw ‘political disunity in the pursuit of strategic aims and national interests’ as a problem that negatively influenced the combat readiness of the VRS.<sup>15916</sup> Mladić suggested that it was time to overcome the differences and settle them after the ‘main objectives of the protection of the Serbian people and the creation of a single Serbian state’ had been achieved. He further suggested taking measures to affirm ‘all-Serbian unity’ and to define ‘a clear and uniform national strategy’, ‘a single political-state-military concept with a unified perception of our reality’. Mladić stressed the importance of having a ‘unified all-Serbian platform’ that would be ‘the defence of the people’.<sup>15917</sup> He said that the ‘Serbian’ people and their army had ‘liberated’ most of the ‘historic, ethnic and Serbian territories’, and he complained about the political practice of ‘selling’ or ‘scarifying’ those territories.<sup>15918</sup> In his view, ‘it is impermissible that those calling for surrender of territories for the liberation of which the blood was spilled are not deprived of freedom’.<sup>15919</sup> He proposed that the signing of temporary agreements on the cessation of hostilities should be made

<sup>15911</sup> P361 (Mladić notebook, 31 March - 3 September 1994), pp. 207-209.

<sup>15912</sup> P361 (Mladić notebook, 31 March - 3 September 1994), pp. 209-210.

<sup>15913</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), pp. 1, 14, 25.

<sup>15914</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 25.

<sup>15915</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 25.

<sup>15916</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 36.

<sup>15917</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 57.

<sup>15918</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 27.

conditional upon the signing of a peace agreement and the recognition of the actual situation.<sup>15920</sup> Minister of Defence Ninković noticed that Mladić's speech was political in nature and that the issues which Mladić discussed were to be judged by the deputies and other politicians.<sup>15921</sup> Karadžić said that he was not satisfied at all with Mladić's speech, that Mladić's speech was like a speech of a head of state, and that he 'entirely reject[ed]' Mladić's political views.<sup>15922</sup> Mladić later said that he was not interested in 'who will sit in which political armchair but who can unify the people and how we can save the people lest we should perish again in the common graves'.<sup>15923</sup>

4472. **Michael Rose** testified that overall, the military was in support of the civil power and they did not replace it, and Mladić responded to Karadžić, Koljević, and Krajišnik, at least on the surface. However, nothing had happened militarily without Mladić's knowledge or authorisation. Rose added that Mladić may have been able to override the political leadership, since ultimately the power in the Bosnian-Serb Republic emanated from the military, but that he never saw this occurring.<sup>15924</sup> **Husein Aly Abdel-Razek** testified that he believed that Mladić was one of the few people who could stop Karadžić's influence and who could refuse his proposals.<sup>15925</sup> The witness also observed that there was cooperation, consent, and harmony in terms of the relationship between the political command and the military command.<sup>15926</sup> The witness was under the impression that Mladić supported Karadžić's stance with regard to heavy weapons, as the latter could not make any military decisions that Mladić did not approve.<sup>15927</sup> **Anthony Banbury** testified that Koljević and Krajišnik could take decisions on minor matters, but for serious matters they would have to refer the decision to Karadžić or Mladić.<sup>15928</sup>

4473. **Rupert Smith** testified that the formulation of a Bosnian-Serb strategy was a corporate affair and that Karadžić and Mladić stood together.<sup>15929</sup> In the Bosnian-Serb

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<sup>15919</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 27.

<sup>15920</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 60.

<sup>15921</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 71.

<sup>15922</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), pp. 96-97.

<sup>15923</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 249.

<sup>15924</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 212.

<sup>15925</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 58, supplemental witness statement of 16 July, p. 3.

<sup>15926</sup> Husein Aly Abdel-Razek, T. 3601.

<sup>15927</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 28; Husein Aly Abdel-Razek, T. 3601, 3657.

<sup>15928</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 213.

<sup>15929</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 230.

Republic there was a close relationship between military and political structures and Mladić could not completely detach himself from politics.<sup>15930</sup> Smith stated that he was always examining the relationship between Karadžić and Mladić and that he never saw Mladić challenging Karadžić's political authority.<sup>15931</sup> **John Wilson** testified that, according to an analysis on combat readiness and activities of the VRS in 1992 signed by Karadžić, the VRS Main Staff was performing the function of the Staff of the VRS Supreme Command and at the same time the function of the superior command for operational and some joint tactical formations, which presupposed the agreement of the Supreme Command in relation to 'all tasks and objectives of the armed struggle'.<sup>15932</sup> According to Wilson, this meant that all military operations were conducted in accordance with political decisions and objectives, which was consistent with his discussions with Mladić, who was consistently telling Wilson that he, as a military commander, was subject to political control.<sup>15933</sup>

4474. **Pyers Tucker** testified that he attended a meeting between Mladić and Morillon on 27 October 1992 at the headquarters of the SRK.<sup>15934</sup> Morillon sought agreement to the deployment of CanBat 2 into the Banja Luka area, an area representing a big block of Bosnia-Serb-held territory.<sup>15935</sup> Mladić stated he did not have the authority to agree to it and promised to inform the Bosnian-Serb Government and to get back to the request at the next meeting.<sup>15936</sup> During another meeting with Mladić at Lukavica on 15 November 1992, Mladić then expressed his opposition to the deployment of CanBat 2.<sup>15937</sup> Contrary to the meeting of 27 October 1992, during which Mladić told Tucker that he would not have the authority to decide on the CanBat 2 issue, this time he stated that he alone was able to make and implement these decisions.<sup>15938</sup> During a meeting on 19 November 1992, Mladić continued to protest against the presence of the Croatian army in Bosnia and underlined the importance of a meeting with General Tus of the Croatian Armed Forces.<sup>15939</sup> While Mladić conditioned the deploy of CanBat 2 on the withdrawal of the Croatian forces, he this time again referred to the Bosnian-Serb

<sup>15930</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 231, 233.

<sup>15931</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 231-232.

<sup>15932</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 136; P338 (Report on analysis of the combat readiness and activities of the VRS in 1992, 5 April 1993), p. 153.

<sup>15933</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 136.

<sup>15934</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 25.

<sup>15935</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 26-27.

<sup>15936</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 28.

<sup>15937</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 57.

<sup>15938</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 59; Pyers Tucker, T. 3821.

Government as the decision-making authority and recommended a meeting with Radovan Karadžić in this regard and promised that he would use his influence on the parliament in Pale to get them to agree to its deployment.<sup>15940</sup> On 3 March 1993, Tucker accompanied Morillon to a meeting with Mladić at the Sarajevo Airport held at 1:30 p.m., during which the latter opposed a new cease-fire agreement over Bosnia and Herzegovina as previous agreements had failed.<sup>15941</sup> Tucker further testified to the relationship between Karadžić and Mladić and stated that tactical decision-making in distinction to strategy was in Mladić's reserve.<sup>15942</sup> According to Tucker, Mladić said that his final duty was towards the security of the Bosnian-Serb people, which led Morillon to the impression that he would take matters in his own hands if he believed that Serb safety was endangered and would not carry out certain political decisions.<sup>15943</sup> On a number of occasions, Mladić 'boasted socially' to Morillon that he, Mladić, was 'the Napoleon of the Balkans' and that 'he, and he alone' would decide on the issues related to the safety of the Serbs in Bosnia.<sup>15944</sup> In addition, Karadžić usually deferred to the Bosnian-Serb military leaders on any details with regard to the VRS.<sup>15945</sup> He acknowledged however that his assessment of Karadžić's real powers was limited at the time due to limited real intelligence available to them.<sup>15946</sup>

4475. The witness also testified that Mladić barely made any effort to conceal that nothing of military significance would happen in Bosnian-Serb held territory without his specific approval and that it was very apparent that Mladić made all the practical military decisions that mattered.<sup>15947</sup> Tucker testified that on 27 October 1992 in a meeting with Morillon, Mladić stated that the Bosnian-Serb Republic was a real entity and warned that no agreements would be adhered to unless the Bosnian-Serb Republic ratified them.<sup>15948</sup> He further warned Morillon that the Bosnian Serbs would not meet with the UN unless the UN representatives would address them as members of the formal organs of the Bosnian-Serb Republic.<sup>15949</sup> On 26 November 1992, Mladić discussed with the Croatian military authorities the signing of a cease-fire agreement

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<sup>15939</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 58, 61.

<sup>15940</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 62.

<sup>15941</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 151.

<sup>15942</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 277.

<sup>15943</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 277.

<sup>15944</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 282.

<sup>15945</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 279-280.

<sup>15946</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 285.

<sup>15947</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 59.

<sup>15948</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 36.

and said that he would seek political advice and might sign the agreement the following day.<sup>15950</sup> According to Tucker, this was the tactic that he and his colleagues frequently saw Mladić use in order to achieve what he wanted.<sup>15951</sup> The following day, in a meeting with Morillon and Karadžić, Mladić signed the cease-fire agreement.<sup>15952</sup> At this meeting, Mladić, Karadžić, and Koljević took out a map that showed ethnic distribution of Bosnia-Herzegovina and used it in order to illustrate to Morillon that the Bosnian-Serbs had only ‘taken control’ of areas where the Serb population was the majority, and that they had not tried to take control over the areas where the Serbs were in the minority.<sup>15953</sup> They said that they had ‘no wish to live with the Muslims’, referring to them as ‘Turks’.<sup>15954</sup>

4476. The Trial Chamber recalls the evidence reviewed in chapter 2.1.1 that Mladić was not a member of the Supreme Command, which was created on 30 November 1992, and that he could attend its meetings on invitation only. The Trial Chamber also recalls the evidence of Reynaud Theunens reviewed in chapter 3.1.3 who assessed, based on the minutes of meetings of the Bosnian-Serb Presidency and of the Supreme Command Staff, that Mladić attended sessions of the Supreme Command between 1992 and 1995 and briefed the Supreme Command and the Presidency on the military situation in Bosnia-Herzegovina.

4477. Based on the foregoing, the Trial Chamber finds that, while between 12 May 1992 and 16 April 1995, Mladić continuously emphasized that he did not have a tendency to get involved in political matters and on several occasions refused to make a decision without consulting the Bosnian-Serb political leadership, he actively participated in policy discussions during Bosnian-Serb Assembly sessions and meetings between 12 May 1992 and 16 April 1995 with members of the Bosnian-Serb government. Mladić also discussed these policies at several meetings with high-level political figures and representatives of the international community, and expressed his commitment to the strategic objectives. The Trial Chamber further finds that Mladić strongly opposed the Vance-Owen plan during a meeting of the Bosnian-Serb Assembly on 5 and 6 May 1993 and often suggested to Bosnian-Serb politicians what position

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<sup>15949</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 36.

<sup>15950</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 71.

<sup>15951</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 71.

<sup>15952</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 72.

<sup>15953</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 78.

<sup>15954</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 78.

they should take during peace negotiations in order to achieve the strategic objectives as initially defined. In this regard, Mladić insisted on several occasions that Karadžić and the political leadership should stick with their initially defined strategic goals and should not make any territorial concessions to ensure a united single Serbian state without Muslims or Croats.

4478. With regard to the Defence's argument that the Accused did not have voting rights within the Bosnian-Serb Assembly, attended only very few Assembly sessions, and was not a member of the Supreme Command of the VRS, the Trial Chamber notes that the Defence's submissions regarding the membership of Mladić in the Bosnian-Serb Assembly and the Supreme Command are supported by the evidence discussed in this chapter. However, as outlined above, the Accused nevertheless attended and actively participated in Assembly sessions during which policy issues were discussed, such as the definition of the six strategic objectives, peace negotiations, and territorial concessions, and also attended Supreme Command meetings. The Trial Chamber also notes that, during the Assembly sessions, Mladić addressed these issues in detail with the purpose of influencing the Bosnian-Serb political leadership in its decision-making. Accordingly, the Defence's submissions are not responsive in respect of this charge.

4479. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

*9.3.8 Disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise*

4480. With regard to this alleged contribution, the Trial Chamber received evidence from **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>15955</sup> **Miloš Šolaja**, Editor-in-chief within the 1KK Press Centre from 18 July 1992 until the end of

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<sup>15955</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

the war;<sup>15956</sup> and **Savo Sokanović**, Head of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff as of December 1992,<sup>15957</sup> as well as documentary evidence.<sup>15958</sup>

4481. In a VRS Main Staff report from September 1992, Mladić set out a number of tasks that had been ‘placed before VRS members’, including that information and propaganda should be carefully directed and controlled.<sup>15959</sup> Public announcements were to be made through the Main Staff Information Service or the Corps.<sup>15960</sup> The practice of unprepared individuals giving statements that had ‘a very damaging effect’ had to be stopped, and journalists termed ‘sensation hunters’ and ‘thoughtless’ VRS members whose public appearances caused damage were to be held accountable.<sup>15961</sup> According to a plan for moral and psychological activities and information work of the VRS, signed by Gvero and approved by Mladić, the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff was instructed to initiate steps for the Serbian Orthodox Church, along with all political, diplomatic, media and military institutions, to make a joint presentation of their common views on the historical and present position of the Serbs.<sup>15962</sup> Propaganda was to be disseminated by inspiring the best-known scientists, artists and intellectuals from all fields of expertise.<sup>15963</sup> The plan set out a number of measures aimed, amongst others, at ensuring that the VRS and ‘the people’ fully grasped the necessity of self-defence as an expression of their basic human rights, and the firm determination to prevent other peoples from ‘creating and rounding up’ their states at the expense of traditionally Serb territories.<sup>15964</sup> A firm conviction was to be developed among VRS members and the people that VRS operations were an expression of historical necessity through a number of measures, including drawing up a

<sup>15956</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 4.

<sup>15957</sup> Savo Sokanović, T.35678-35681.

<sup>15958</sup> P1975 and P1976 are reviewed in chapter 9.3.13.

<sup>15959</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), pp. 1, 7, 9.

<sup>15960</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), p. 9.

<sup>15961</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), p. 9.

<sup>15962</sup> P4011 (Plan of VRS moral and psychological activities, undated), pp. 1, 5. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 2.

<sup>15963</sup> P4011 (Plan of VRS moral and psychological activities, undated), pp. 2, 4. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 2.

<sup>15964</sup> P4011 (Plan of VRS moral and psychological activities, undated), p. 1. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 1.

report on the endangered position of the Serb people.<sup>15965</sup> The Sector was to spread misinformation in order to ‘cover up our true intentions and forces’, sidetrack attention to less important matters, and instigate conflict and dissent among the enemy ranks.<sup>15966</sup> Psychological propaganda was to be used to undermine the morale of the enemy and enhance the conflict between Croats and Muslims.<sup>15967</sup>

4482. In an interview with the VRS magazine ‘Srpska Vojska’ of 18 November 1992, Mladić offered his congratulations on the publication of the inaugural issue of the VRS magazine and wished the editorial board success.<sup>15968</sup> He expressed his hope that ‘our people’ would be objectively and truthfully informed about what is happening in the VRS and its results and that the magazine becomes one which is ‘gladly read in every house, in every one of our homes’.<sup>15969</sup> He stated that the Serbs learned the lesson from ‘those tragic events in 1941’.<sup>15970</sup> Mladić added that ‘we could have been still more prepared if we had realised in time what kind of neighbours we had and with whom we were sharing the same house’.<sup>15971</sup> **Savo Sokanović** confirmed that Mladić’s mention of the year of 1941 in the interview for magazine ‘Srpska Vojska’ is a reference to past crimes committed against the Serbs.<sup>15972</sup> In the same interview, Mladić also thanked the SDS for having ‘woke[n] up’ the Serbs and ‘opened their eyes to these stormy events’ and the VRS, which ‘stood up in the defence of ancient homes and did not allow us to stand in line again waiting to be thrown into pits’. Mladić stated that ‘our enemies have no chance of [...] endangering the lives of the defenceless’. He explained that Croatian forces entered the territory of the ‘former’ Bosnia and Herzegovina ‘in order to impose their bloody dance and fratricidal war’. Mladić then noted that the Muslims fell for that provocation and succumbed to promises of Franjo Tuđman and the HDZ and thought that they would easily ‘clear the Serbian people out of the territory of Bosnia and

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<sup>15965</sup> P4011 (Plan of VRS moral and psychological activities, undated), pp. 1-2. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 2.

<sup>15966</sup> P4011 (Plan of VRS moral and psychological activities, undated), pp. 3, 5. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 4.

<sup>15967</sup> P4011 (Plan of VRS moral and psychological activities, undated), p. 3. *See also* P5081 (Plan of moral and psychological activities and informing of the VRS, signed by Milan Gvero, approved by Ratko Mladić, undated), p. 3.

<sup>15968</sup> P7391 (Excerpts from VRS magazine ‘Srpska Vojska’, 18 November 1992), pp. 4, 8.

<sup>15969</sup> P7391 (Excerpts from VRS magazine ‘Srpska Vojska’, 18 November 1992), pp. 4, 8.

<sup>15970</sup> P7391 (Excerpts from VRS magazine ‘Srpska Vojska’, 18 November 1992), p. 4.

<sup>15971</sup> P7391 (Excerpts from VRS magazine ‘Srpska Vojska’, 18 November 1992), p. 4.

<sup>15972</sup> Savo Sokanović, T. 35747.

Herzegovina and spread out across it'.<sup>15973</sup> According to Mladić, the Serbs were defending 'its homes, its honour and its dignity', and they all had to be in trenches to defend what they achieved, because 'the enemy will not easily give up its attacks on our lives'.<sup>15974</sup>

4483. According to the magazine 'Srpska Vojska', during a meeting in the beginning of April 1993 attended by, *inter alios*, Mladić, Karadžić, Krajišnik, and representatives of state and political organs of the Bosnian-Serb Republic, Mladić stated that 'our people' fought fierce and victorious battles on Kupres and in the lower flow of the Bosna River in order to prevent 'the *Ustaša* jaws from closing over Central Bosnia'.<sup>15975</sup> He continued that '[i]t was then that strategic-operative conditions were created to prevent the greatest genocide and total annihilation of the Serbian people' west of the Drina River.<sup>15976</sup> According to Mladić, at the time of these operations many Serbs were not aware of the danger nor could understand the criminal designs of the '*Ustaša* coalition' which had been launched for the fragmentation of Yugoslavia.<sup>15977</sup> The 'high patriotic awareness' of the Serb people who heeded the call to join in the defence from the '*Ustaša* invasion' came as a result of the clearly defined goals of 'our struggle' at the Bosnian-Serb Assembly session held on 12 May 1992.<sup>15978</sup>

4484. During an interview published on 25 June 1993 in 'Nin', Mladić stated that the Serbs as a nation had never before been attacked in time and space as they were 'now'.<sup>15979</sup> The very essence of the Serb nation was attacked.<sup>15980</sup> For the Serbs, this was the war of national liberation, to be free for the first time since 'we' had been enslaved after the Kosovo battle.<sup>15981</sup> The Muslims had betrayed the Serb people and repressed them for 500 years.<sup>15982</sup> The Muslims were 'the worst scum – the Serb people who changed their religion, [which] means to betray one's own people, to betray

<sup>15973</sup> P7391 (Excerpts from VRS magazine 'Srpska Vojska', 18 November 1992), p. 4.

<sup>15974</sup> P7391 (Excerpts from VRS magazine 'Srpska Vojska', 18 November 1992), pp. 5, 7.

<sup>15975</sup> P3918 (Speech given by Mladić, summarized in magazine article entitled 'Yearly analysis of defence combat operations of the VRS', 21 April 1993), pp. 1-2.

<sup>15976</sup> P3918 (Speech given by Mladić, summarized in magazine article entitled 'Yearly analysis of defence combat operations of the VRS', 21 April 1993), p. 2.

<sup>15977</sup> P3918 (Speech given by Mladić, summarized in magazine article entitled 'Yearly analysis of defence combat operations of the VRS', 21 April 1993), p. 2.

<sup>15978</sup> P3918 (Speech given by Mladić, summarized in magazine article entitled 'Yearly analysis of defence combat operations of the VRS', 21 April 1993), p. 3.

<sup>15979</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 2. The Trial Chamber understands that 'Nin' was a Serbian magazine.

<sup>15980</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 2.

<sup>15981</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 3.

<sup>15982</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 4.

oneself'.<sup>15983</sup> The Serbs were conducting a just war on 'our' territory and defending 'ourselves'.<sup>15984</sup>

4485. In a speech delivered by Mladić in or around June 1993 regarding Directive No. 5 to an audience including Bishop Nikolaj, the President, generals, commanders, and ministers, Mladić stated the need to develop awareness of the necessity and just struggle of the Serb people through direct contact with people, combatants, and senior officers.<sup>15985</sup> There was also the need to develop patriotic feelings for the purpose of motivating people for combat, and cultivating conviction among combatants and people that their struggle was the military liberation of territories which belonged to them.<sup>15986</sup>

4486. The Trial Chamber recalls the evidence reviewed in chapter 9.3.13. According to this evidence, Mladić stated in an edition of 'Oslobođenje' dated 8 November 1994 that Serbs would 'return the territories that the Muslims took during World War II and as punishment, even more than that'. In a video clip dated 26 June 1995, Mladić stated that the Serb people organised their defence, protected the majority of Serb territories, and prevented 'the planned and prepared /inaudible/ genocide'.

4487. On 10 February 1995, Mladić signed a document that set out the responsibilities and recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, with the aim to improve the activities of this sector.<sup>15987</sup> Responsibilities of the sector included dissemination of information and propaganda activities geared towards the VRS and Serb people, as well as towards the enemy units and population.<sup>15988</sup> The sector was to report, several times a day, to the Main Staff or the Organ for Information and Propaganda Activities on the situation in the units.<sup>15989</sup> Agency news and other news was to be compiled on the basis of such reports, and presented to the public by way of radio, television, and the press.<sup>15990</sup> In addition, the sector was under an obligation to receive authorised reporters sent to the unit and prepare them to complete

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<sup>15983</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 4.

<sup>15984</sup> P7719 (Press article from 'Nin' with interview of Mladić, 25 June 1993), p. 6.

<sup>15985</sup> P2913 (Partial Transcript of Mladić Giving a Speech Regarding Directive No. 5), p. 1.

<sup>15986</sup> P2913 (Partial Transcript of Mladić Giving a Speech Regarding Directive No. 5), pp. 1, 4.

<sup>15987</sup> P5082 (Responsibilities and Recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, 10 February 1995), p. 1.

<sup>15988</sup> P5082 (Responsibilities and Recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, 10 February 1995), p. 3.

<sup>15989</sup> P5082 (Responsibilities and Recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, 10 February 1995), p. 3.

<sup>15990</sup> P5082 (Responsibilities and Recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, 10 February 1995), p. 3.

their approved assignments, while taking into consideration the protection of confidential information and ‘the achievement of the desired propaganda effects’. If possible, the sector was to publish its own magazines, bulletins, leaflets etc. The sector was also to compile reports for propaganda activities for VRS units and the population and ensure their presentation in order to strengthen combat morale among the people and soldiers.<sup>15991</sup> On 31 March 1995, the VRS Main Staff issued an urgent directive signed by Mladić, in which Corps commands were ordered to coordinate the dissemination of information to the public concerning ‘combat actions in the operation and psychological and propaganda activities directed against the enemy through the Centre for Information and Propaganda Activities of the VRS Main Staff’.<sup>15992</sup>

4488. The Trial Chamber has received evidence on the implementation of the aforementioned orders issued by Mladić and the dissemination of propaganda to the public, and will review this below.

4489. On 18 November 1992, in ‘Srpska Vojska’, Major General Milan Gvero, Assistant Commander for Morale, Religious, and Legal Affairs of the VRS Main Staff, stated that this magazine was intended to be the magazine of the VRS and ‘a pillar and source of moral encouragement for our soldiers and people’.<sup>15993</sup>

4490. On 8 February 1993, Gvero issued a report on the state of morale within the VRS during the month of January of 1993, in which he stated that the work of the Information and Psychological Propaganda Activities Centre had improved, and that they started with releasing ‘better thought-out and more comprehensive statements to the public’.<sup>15994</sup> He added that three quality papers, ‘Srpska Vojska’, ‘Krajiški Vojnik’, and ‘Nova Krila’ were being published.<sup>15995</sup>

4491. **Miloš Šolaja** stated that it was the position of the 1KK Press Centre to avoid propaganda, and that the Centre made attempts to report on topics other than war and ethnic tensions.<sup>15996</sup> The VRS never ordered the Press Centre to describe an event in a manner that did not correspond to the truth, to write any inflammatory texts, or to produce propaganda that non-Serbs should not live together with Serbs in the Bosnian-

<sup>15991</sup> P5082 (Responsibilities and Recruitment of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, 10 February 1995), p. 4.

<sup>15992</sup> P1470 (Main Staff VRS Directive for further operations no. 7/1, 31 March 1995), pp. 1, 6.

<sup>15993</sup> P7391 (Excerpts from VRS magazine ‘Srpska Vojska’, 18 November 1992), pp. 1-3.

<sup>15994</sup> P5078 (Report on the state of morale in the VRS, 8 February 1993), pp. 1, 11.

<sup>15995</sup> P5078 (Report on the state of morale in the VRS, 8 February 1993), p. 11.

<sup>15996</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), paras 6, 23, 35.

Serb Republic.<sup>15997</sup> The witness was the editor-in-chief of the ‘Soldier of Krajina’, the bulletin of the IKK, which published an article on 28 June 1992, 17 days before the witness arrived at the Press Centre, asserting that the Serb people must organise their defence to protect their ethnic identity.<sup>15998</sup>

4492. On 9 March 1993, Gvero issued instructions to all VRS Corps Commands, including Air Force and Anti-Aircraft Defence, on how to inform the local and international public about the activities of the VRS during the month of March 1993, in which he stated that ‘it is absolutely necessary’ that the public information on the VRS activities was unified and that ‘it maximally facilitates desired information-propaganda effects’.<sup>15999</sup> Further, ‘at the present moment, we assess as particular sensitive the information from Eastern Bosnia’ all of which ‘must be carefully monitored and borne in mind when informing the public’.<sup>16000</sup> All uncontrolled and unorganised movements of local and foreign journalists were to be prevented.<sup>16001</sup>

4493. In a 15 July 1993 publication of ‘Srpska Vojska’, Gvero wrote that the Serbs had been forced to defend themselves and fight for their existence against the ‘vengeful, sinister, Asiatic, Turkish oppression,’ and against threats that they would be killed ‘by *Ustaša* knives and in *Ustaša* pits’.<sup>16002</sup> He said that the behaviour of Bosnian Muslims and Bosnian Croats was ‘extreme, uncivilized, [and] often savage,’ and that their hatred of Serbs was ‘so strong that it [was] aimed at the extermination of Serbs by all methods and most often the most bestial ones’.<sup>16003</sup> He also described Alija as a ‘wretched religious fanatic’ and an ‘Islamic fundamentalist’ who represented ‘the greatest evil for his religious followers’.<sup>16004</sup>

4494. A 19 November 1994, order from the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff addressed to the VRS Assistant Commanders for Sector for Morale, Religious, and Legal Affairs in all VRS Corps and other VRS units, instructed the commanders that in providing information to the public, they should point out that Muslim offensive operations were intensifying, and that the Muslims were

<sup>15997</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), paras 23-25; Miloš Šolaja, T. 32779, 32781.

<sup>15998</sup> D924 (Miloš Šolaja, witness statement, 11 June 2014), para. 5; Miloš Šolaja, T. 32731-32733; P7190 (‘Defending Krajina’, IKK Bulletin, 28 June 1992), p. 1.

<sup>15999</sup> P7392 (VRS media instructions, 9 March 1993), p. 2.

<sup>16000</sup> P7392 (VRS media instructions, 9 March 1993), p. 3.

<sup>16001</sup> P7392 (VRS media instructions, 9 March 1993), p. 3.

<sup>16002</sup> P6940 (Srpska Vojska article titled Silk cord for Alija, by Milan Gvero), pp. 1, 3.

<sup>16003</sup> P6940 (Srpska Vojska article titled Silk cord for Alija, by Milan Gvero), p. 2.

committed to war.<sup>16005</sup> In ‘shaping information skilfully’, the commanders were required to give ‘well-supported arguments’ that the enemy was on the decline due to widespread panic and disarray.<sup>16006</sup> Meanwhile, the commanders were instructed to point out the resolve and determination of the army and the people to create just and lasting peace. Public statements were to give general assessments of VRS combat successes, particularly cases demonstrating the courage, resolve, and heroism of the soldiers, including their respect for the international laws of war. Lastly, VRS offensives were to be ‘masked maximally’; the commanders were instructed not to inform the public about VRS offensives, and when they were in an advanced stage, they should present them as ‘a natural right to self-defence and a force response, in other words, a counter-offensive’.<sup>16007</sup>

4495. On 15 March 1995, Gvero issued instructions to all VRS Corps Commands on how to inform the local and international public about the activities of the VRS.<sup>16008</sup> In these instructions Gvero stated that, following Mladić’s order of 27 December 1994, it was the duty of the Information and Propaganda Centre of the corps to, *inter alia*, prepare appropriate reports from the field for every radio and television programme on weekly basis.<sup>16009</sup> While doing so, it was to pay attention to the choice of subject and adhere ‘to previously established positions on the need for the mobilizing effect of the reports’.<sup>16010</sup> The instructions also state that the units were forbidden from receiving journalists without the written approval of the Information and Propaganda Centre of the corps, which would specify the content of the report and the place of recording.<sup>16011</sup> The instructions further established a detailed set of duties of the units and press centres with regard to the procedure of journalists passing through the Bosnian-Serb Republic or staying therein for the purpose of reporting.<sup>16012</sup>

4496. **Milovan Milutinović** testified that Mladić requested that the public be informed objectively and truthfully about the situation in the territory and combat zone activities.<sup>16013</sup> Mladić did not tolerate ‘lies and improvisations’.<sup>16014</sup>

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<sup>16004</sup> P6940 (Srpska Vojska article titled Silk cord for Alija, by Milan Gvero), p. 4.

<sup>16005</sup> P6646 (Sector for Morale, Religious, and Legal Affairs directions on public information), p. 1.

<sup>16006</sup> P6646 (Sector for Morale, Religious, and Legal Affairs directions on public information), p. 1.

<sup>16007</sup> P6646 (Sector for Morale, Religious, and Legal Affairs directions on public information), p. 2.

<sup>16008</sup> D1053 (VRS media instructions, 9 March 1995), p. 1.

<sup>16009</sup> D1053 (VRS media instructions, 9 March 1995), p. 2.

<sup>16010</sup> D1053 (VRS media instructions, 9 March 1995), pp. 1-2.

<sup>16011</sup> D1053 (VRS media instructions, 9 March 1995), p. 2.

<sup>16012</sup> D1053 (VRS media instructions, 9 March 1995), p. 3.

<sup>16013</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 56.

4497. The Trial Chamber notes Milutinović's evidence above that Mladić requested that true and objective information was to be disseminated to the public. Further, the Trial Chamber recalls the documentary evidence considered above that Mladić, in an interview with the magazine 'Srpska Vojska', expressed his hope that the public would be informed objectively and truthfully about VRS combat activities and achievements. The Trial Chamber notes that this evidence is in contrast to other evidence received, including Mladić's orders to the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff to spread misinformation to the public in order to hide the 'true intentions and forces of the VRS', as well as to disseminate information which aimed at achieving the desired propaganda effects, in particular the mobilizing effects, and to strictly control the movements of journalists and the content of their reports. The evidence is also in contrast to examples of the implementation of Mladić's orders, such as Gvero's instructions in 1993 and 1995 that information was to be disseminated to the public in such a way that would enhance the mobilizing effect, or Sokanović's instructions that information for the public was to be 'skilfully shaped', VRS offensives to be 'masked maximally' and to be presented in media as defensive actions. Therefore, the Trial Chamber finds that in light of the vast amount of reliable evidence to the contrary, the evidence going to proof of Mladić's intent that the public be informed truthfully and objectively is unconvincing.

4498. Based on the foregoing, the Trial Chamber finds that between September 1992 and at least March 1995, Mladić introduced and maintained a controlled and centralised system of spreading propaganda related to Bosnian Croats and Bosnian Muslims. He ordered the VRS Main Staff, in particular the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, to disseminate propaganda to Serbs. According to Mladić's orders, the propaganda was to be disseminated in such a way as to make Serbs aware that they were waging the war of national liberation and were defending themselves against Bosnian Croats and Bosnian Muslims, and therefore gain their support in relation to this. To this effect, he ordered the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff to prepare information to be released to the public in such a way that it would conceal the true intentions of the VRS and contribute to the achievement of the 'desired propaganda effects'. Based on the overall content of Mladić's orders which dealt with propaganda issues and which are discussed above, the

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<sup>16014</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 56.

Trial Chamber finds that, by the ‘desired propaganda effects’, Mladić referred to the mobilizing effect of the propaganda on people of Serb ethnicity, which also encompassed the elements of engendering fear and hatred of Bosnian Muslims and Bosnian Croats. Mladić’s orders were implemented on the ground by the relevant organs of the VRS Main Staff, such as the Sector for Morale, Religious, and Legal Affairs and the Centre for Information and Propaganda Activities.

4499. The Trial Chamber also finds that at meetings with the Bosnian-Serb political leadership, Mladić emphasized the importance of propaganda. The Trial Chamber further finds that in interviews with public magazines and other media, Mladić used derogatory language towards Bosnian Muslims and Bosnian Croats, such as ‘the Muslims were the worst scum’; ‘[the Muslims wanted] to clear the Serbian people out of the territory of Bosnia and Herzegovina’; ‘bloody dance and fratricidal war [of Croats]; ‘*Ustaša* jaws’. Mladić also claimed the historical territorial rights of the Serbs, and recalled the narratives about victimisation of Serbs in the past, including the narratives about genocide and crimes committed against Serbs by Bosnian Croats and Bosnian Muslims, such as ‘tragic events of 1941’; ‘[the VRS] stood up in the defence of ancient homes’; ‘[the Serb people] waiting to be thrown into pits’; ‘victorious battles on Kupres [...] prevented the greatest genocide and total annihilation of Serbian people’; ‘the defence from *Ustaša* invasion’; ‘the very essence of the Serb nation was attacked’; ‘Muslims betrayed the Serb people and repressed them for 500 years’; ‘this was the war of national liberation, to be free for the first time since we have been enslaved after the Kosovo battle’.

4500. In conclusion, the Trial Chamber finds that between September 1992 and at least March 1995, Mladić participated in establishing the machinery for the dissemination of propaganda, and used that machinery to control the information which was to be released to the public, in order to conceal the real intent of the VRS forces and to gain support for their actions. Mladić also used this machinery for the dissemination of anti-Muslim and anti-Croat propaganda, either through his subordinates, or personally, by using derogatory language and historical narratives in public media, in order to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats and therefore convince Bosnian Serbs that the war was necessary and justified.

4501. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

*9.3.9 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes*

4502. With regard to this alleged contribution, the Trial Chamber received evidence from **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16015</sup> **Edward Vulliamy**, a journalist for the Guardian who covered events in Bosnia-Herzegovina in the period between 1992 and 1995;<sup>16016</sup> **Pyers Tucker**, a British Army officer, who served with UNPROFOR as military assistant to General Philippe Morillon from October 1992 to March 1993;<sup>16017</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina,<sup>16018</sup> as well as documentary evidence.<sup>16019</sup>

4503. On 10 June 1992, Mladić attended a meeting in Belgrade with representatives of the Bosnian-Serb people including Karadžić and Krajišnik during which they, *inter alia*, discussed the provision of misinformation regarding attacks on Sarajevo.<sup>16020</sup> **Anthony Banbury** testified that it was a widely held view among UNPROFOR officials dealing with Mladić that he very often misrepresented the truth to them.<sup>16021</sup>

4504. **John Wilson** testified that in December 1992 or January 1993, he spoke to Mladić in Geneva about a photograph of a malnourished man held at a Serb detention camp which was circulating in the media.<sup>16022</sup> Mladić responded that the photographer

<sup>16015</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020.

<sup>16016</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 7899-7904, 7989-7990, 8035.

<sup>16017</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751..

<sup>16018</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>16019</sup> P2879 and P201 are reviewed in chapter 9.2.10; P431 is reviewed in chapter 9.3.7; P317 is reviewed in chapter 9.5.9.

<sup>16020</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 130, 142.

<sup>16021</sup> Anthony Banbury, T. 8350-8351.

<sup>16022</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 104; John Wilson, T. 3999, 4002.

had picked a particularly skinny man and that the man's condition did not accurately represent the treatment of persons detained by the Serbs, who looked after their detainees and fed them properly.<sup>16023</sup> With regards to reports and television coverage of allegations concerning Omarska camp, **Edward Vulliamy** recalled that Mladić stated that the photographs from the camps were forgeries and montages, or else they were photographs showing Serbian prisoners in Muslim camps.<sup>16024</sup>

4505. In a 13 April 1993 meeting with representatives of the ICRC, Mladić stated that more than 5,000 'POWs' had been released from Manjača and Trnopolje camps.<sup>16025</sup> He stated that the ICRC's efforts in Manjača camp had been exploited by the media, and that in Trnopolje the foreign media had raised tensions and turned the international community against the 'Serbs'.<sup>16026</sup>

4506. **Pyers Tucker** testified that on 26 March 1993, a meeting, arranged through Milošević, took place between, *inter alia*, Morillon, Gvero and Mladić.<sup>16027</sup> During this meeting Mladić stated that the prisons at Foča, Batković and Kula were under his control and that in these prisons the treatment followed the Geneva Conventions.<sup>16028</sup> The detainees received three meals a day and were not made to dig trenches on the frontlines, 'as Bosnian-Serb prisoners were forced to do in Sarajevo by the Bosniaks and in Mostar by the Croats'.

4507. The Trial Chamber also refers to evidence in chapter 9.2.10 in relation to an order of Mladić of 3 August 1992, pursuant to which measures had to be immediately taken through the MUP and authorities to arrange for 'POW' camps in the various zones of responsibility and to prepare them for the visits of foreign journalists and members of the ICRC.

4508. The Trial Chamber moreover refers to evidence in chapter 9.2.10 that on 3 August 1992, Talić informed several commands that the VRS Main Staff Commander had provided his verbal approval for an ICRC team and reporters to visit the detention camps in Manjača, Trnopolje, Omarska and Prijedor in the next two days. Talić instructed that all measures be taken to make conditions in these camps satisfactory, through ensuring, *inter alia*, functional medical care for detainees, and records of deaths

<sup>16023</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 104.

<sup>16024</sup> P199 (Edward Vulliamy, *Stakić* transcript, 16-18 September 2002), pp. 8114-8115.

<sup>16025</sup> P358 (Mladić notebook, 2 April 1995 - 24 October 1993), pp. 20-21.

<sup>16026</sup> P358 (Mladić notebook, 2 April 1995 - 24 October 1993), p. 24.

<sup>16027</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 241, 243.

and findings on the cause of death. He further instructed that ‘representatives of the detainees for contact with the camp authorities’ be selected.

4509. In a meeting with the officers of the 1KK and the Air Force and Anti-Aircraft Defence of the VRS in Banja Luka on 27 May 1993, Bogojević reported that four or five days previously, the former Chief of the Prijedor SUP, Simo Drljača, had arrived.<sup>16029</sup> He had been sent by the Minister of the MUP, and came to discuss the Tomašica mine, where earlier they had buried around 5,000 Bosnian Muslims.<sup>16030</sup> Drljača went to Bogojević and others and wanted to get rid of the bodies ‘by burning, grinding or some other way’. General Subotić, Arsić, and Mile Matijević from the Banja Luka SUP had also become involved in the matter. Mladić’s advice was that ‘they killed them, so they should get rid of them’. Mladić also told Bogojević that an investigation must be launched in connection with the case, and that the information should be retained well to prevent it getting into the hands of unauthorized people.<sup>16031</sup>

4510. Turning to its finding, the Trial Chamber first recalls its factual findings in chapters 4.1.2 *Schedule C.1.2*, 4.10.3 *Schedules C.15.2, C.15.3, C.15.4*, and legal findings in chapter 8 in relation to the unlawful detention and cruel or inhumane treatment of Bosnian Muslims and Bosnian Croats in detention facilities. It also recalls its findings in chapter 3.1.4 on the position of Mladić as well as his uncontested proposal as to how to deal with the international public, made at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, namely to mislead the public about the truth, as further set out in chapter 9.4.3.

4511. Based on the foregoing, the Trial Chamber finds that on 26 March 1993 in a meeting between, *inter alios*, Morillon, Gvero, and Mladić, the latter informed Morillon, a representative of the international community, that the treatment of detainees at Foča, Batković, and Kula was in accordance with the Geneva Conventions, with detainees being given three meals a day and not being forced to work at the front lines. In relation to the claim of detainees not being forced to worked at front lines, the Trial Chamber recalls its factual findings in chapters 4.2.5, 4.3.5 and legal findings in chapter and 8.9.2(e) where it, *inter alia*, found that generally, between July 1992 and 30 November 1995, detainees from Batković Camp had to perform manual labour on the

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<sup>16028</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 248.

<sup>16029</sup> P358 (Mladić notebook: 2 April 1993 - 24 October 1993), pp. 151, 154.

<sup>16030</sup> P358 (Mladić notebook: 2 April 1993 - 24 October 1993), pp. 154-155.

<sup>16031</sup> P358 (Mladić notebook: 2 April 1993 - 24 October 1993), p. 155.

front lines, and detainees in Foča Municipality had to perform various tasks which included the digging of trenches. In relation to the claim that detainees received three meals a day, the Trial Chamber recalls its factual findings in chapters 4.2.2 *Schedule C.2.1*, 4.3.2 *Schedule C.6.1*, 7.10 *Schedule E.9.1* where it found that non-Serb detainees lost significant amounts of weight, with a number of them dying of malnutrition due to a shortage of food. In this regard the Trial Chamber, in view of Mladić's position at that time and, considering his assurance during the 26 March meeting that the detainees were under his control, finds that his statements were deliberately misleading.

4512. The Trial Chamber moreover finds that Mladić denied allegations by members of the media and international community that the photographs of malnourished men from detention facilities in Prijedor, including Omarska camp, reflected the true conditions in the facilities. The Trial Chamber recalls its factual findings in chapters 4.10.2 *Schedules C.15.2, C.15.3, C.15.4* and legal findings in chapter 8 where it, *inter alia*, found that camp guards frequently and severely beat detainees and that camp authorities supplied insufficient amounts of food to the detainees. On 3 August 1992, Mladić ordered that 'POW' camps be prepared for the visits of foreign journalists and members of the ICRC which facilitated Talić's follow-up action 'to make conditions in these camps satisfactory' before such visits. The Trial Chamber recalls its factual findings in chapters 4.1.2 *Schedule C.1.2*, 4.10.2 *Schedules C.15.2 and C.15.4*, and 9.2.9 and legal findings in chapter 8 where it found, *inter alia* that pursuant to Mladić's order of 3 August 1992, standards at Omarska and Trnopolje were improved prior to visits by members of the media and international community, while detainees were hidden or otherwise made inaccessible for interviews by journalists or inspection by the ICRC at Manjača.. The Trial Chamber notes that this finding is also addressed in chapter 9.3.4. The Trial Chamber finds that, in both instances, Mladić's words and actions were deliberately misleading as they were made in an attempt to portray the camp conditions in a more favourable light than what was actually the case.

4513. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

*9.3.10 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes*

4514. With regard to this form of contribution, the Prosecution submitted that Mladić was aware of crimes committed in the implementation of the overarching JCE, but did not use his authority over the functioning VRS military justice system to punish his subordinates and prevent further crimes.<sup>16032</sup> The Prosecution further argued that Mladić's failure to prevent and punish such crimes and his rewarding of perpetrators created a culture of impunity which encouraged the commission of more crimes and furthered the common objective of the alleged JCE.<sup>16033</sup> According to the Prosecution, Mladić was trained in international laws of war and empowered and obliged to prevent and report crimes against humanity, war crimes, and genocide.<sup>16034</sup> The VRS military justice system gave Mladić the ability to punish his soldiers for these crimes, but he prioritized the punishment of crimes against Serbs, crimes against the state, and crimes against the armed forces.<sup>16035</sup> The Prosecution submitted that orders issued by Mladić referencing the Geneva Conventions or to not mistreat non-Serbs were meaningless and 'window-dressing' rather than genuine attempts to prevent or punish these crimes.<sup>16036</sup> The Prosecution further argued that Mladić's praise and promotion of subordinates whose units committed JCE crimes and his failure to punish them for such crimes provide further evidence of his contribution to the JCE.<sup>16037</sup>

4515. The Defence argued that Mladić espoused discipline and fairness in his commanding principles: he issued orders targeting individuals who were behaving irresponsibly and committing offences; threatened offenders with military discipline and investigations; and issued orders to his subordinates to protect the civilian population and behave with decency.<sup>16038</sup> According to the Defence, the Accused disseminated orders and instructions to prevent the commission of crimes and required his

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<sup>16032</sup> Prosecution Final Brief, paras 478-486.

<sup>16033</sup> Prosecution Final Brief, paras 478-491.

<sup>16034</sup> Prosecution Final Brief, para. 112.

<sup>16035</sup> Prosecution Final Brief, paras 110, 120.

<sup>16036</sup> Prosecution Final Brief, para. 490.

<sup>16037</sup> Prosecution Final Brief, paras 478, 487.

<sup>16038</sup> Defence Final Brief, para. 795.

subordinates to abide by the laws and regulations of the Bosnian-Serb Republic, the VRS, the Geneva Conventions, customary laws of war, and all relevant international laws.<sup>16039</sup> From the outset of the conflict, the military judicial system was ineffective in administering its judicial services and without a properly functioning military police unit the Accused was severely limited in his abilities to exert control over and punish the actions of his subordinates.<sup>16040</sup> The Defence also submitted that the Accused delegated the responsibilities for initiating arrests and investigations to his subordinate officers, and brigade commanders were expected to refer breaches of discipline to the military courts in their regions.<sup>16041</sup> Nevertheless, according to the Defence, where disobedience came to his attention, the Accused sought investigation into and punishment of perpetrators because he placed great importance on prohibiting the commission of crimes within the VRS.<sup>16042</sup> Additionally, the Accused did not praise and reward subordinates for the purpose of encouraging criminality.<sup>16043</sup>

4516. The Trial Chamber received evidence from **Dušan Kukobat**, a major who served in the VRS as of 18 August 1992;<sup>16044</sup> **Dragan Lalović**, a Serb member of the VRS;<sup>16045</sup> **Vlade Lučić**, a battalion commander in the SRK's 216th Mountain Brigade based at Grbavica, Sarajevo, between 18 May 1992 and the end of January 1993;<sup>16046</sup> **Vojin Ubiparip**, a member of the VRS 22nd Brigade since 25 August 1992;<sup>16047</sup> **Nikola Mijatović**, the Chief of Security of the Ilidža Brigade from the end of May or June 1993 until September 1994 and later the Chief of Staff of the Ilidža Brigade;<sup>16048</sup> **Dragomir Andan**, a Bosnian Serb who served as a MUP senior inspector in Bijeljina, Zvornik and Brčko from 1 June 1992 and then as an intelligence officer in the VRS Main Staff from September 1992;<sup>16049</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>16050</sup> **Richard**

<sup>16039</sup> Defence Final Brief, para. 727.

<sup>16040</sup> Defence Final Brief, paras 678, 731-735.

<sup>16041</sup> Defence Final Brief, para. 728.

<sup>16042</sup> Defence Final Brief, paras 728-730, 795-796.

<sup>16043</sup> Defence Final Brief, paras 730, 803.

<sup>16044</sup> D757 (Dušan Kukobat, witness statement, 23 June 2014), paras 1-3, 6.

<sup>16045</sup> D498 (Dragan Lalović, witness statement, 26 May 2014) p. 1, paras 6-8, 18-19; Dragan Lalović, T. 21951.

<sup>16046</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), paras 3-6, 8-9, 13.

<sup>16047</sup> D891 (Vojin Ubiparip, witness statement, 22 July 2014), paras 2-4; Vojin Ubiparip, T. 31182-31183.

<sup>16048</sup> D468 (Nikola Mijatović, witness statement, 10 May 2014), para. 11; Nikola Mijatović, T. 21445-21446; P6532 (Proofing note for Nikola Mijatović, 21 May 2014), para. 2f.

<sup>16049</sup> D512 (Dragomir Andan, witness statement, 6 June 2014), paras 5-7; Dragomir Andan, T. 22386-22388, 22396, 22437.

<sup>16050</sup> Reynaud Theunens, T.20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4.

**Butler**, an intelligence research specialist;<sup>16051</sup> **Ewan Brown**, a military analyst;<sup>16052</sup> **Manojlo Milovanović**, the Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>16053</sup> **Dragomir Keserović**, a VRS member between 17 June 1992 and 2004, who served from February 1995 as Desk Officer for the military police in the security administration of the VRS Main Staff;<sup>16054</sup> and **Witness RM-513**, a Bosnian Serb from Bijeljina,<sup>16055</sup> as well as documentary evidence.

*Orders related to military discipline and to abidance with international law*

4517. **Dragan Lalović** testified that during the war, in conversations with Mladić about the situation in his brigade, Mladić enquired about the situation on the ground and emphasized that the armed forces should treat the enemy in accordance with international conventions and laws applicable during war.<sup>16056</sup> According to the witness, Mladić further said that ‘not a single hair may be touched on the heads of civilians on any side’.<sup>16057</sup> **Dušan Kukobat** testified that on one occasion among senior officers, Mladić emphasized that no crimes were to be committed against the enemy and that civilians and prisoners should be particularly protected.<sup>16058</sup> Mladić also mentioned observance of the Geneva Conventions.<sup>16059</sup> **Nikola Mijatović** testified that Mladić insisted on strict discipline at all times, which included abiding with the Geneva Conventions, observing the customs of war, and ensuring that whoever violated discipline be prosecuted.<sup>16060</sup> According to Mijatović, it was expressly prohibited to launch aerial bombs at civilian targets, and all civilians were to be protected and excluded from military activities.<sup>16061</sup> **Dragomir Andan** never heard Mladić issue any

<sup>16051</sup> Richard Butler, T. 16108; P2094 (Richard Butler, *curriculum vitae*, 10 June 2011).

<sup>16052</sup> P2863 (Ewan Brown, witness statement, 27 and 28 July 2009), p. 2; P2858 (Ewan Brown, *curriculum vitae*), p. 1.

<sup>16053</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *curriculum vitae* of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995).

<sup>16054</sup> Dragomir Keserović, T. 12802, 12805-12807. Dragomir Keserović’s evidence is reviewed in chapter 9.7.2.

<sup>16055</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6. A portion of Witness RM-513’s evidence is reviewed in chapter 9.2.10.

<sup>16056</sup> D498 (Dragan Lalović, witness statement, 26 May 2014), para. 20; Dragan Lalović, T. 21968-21971.

<sup>16057</sup> D498 (Dragan Lalović, witness statement, 26 May 2014), para. 20.

<sup>16058</sup> D757 (Dušan Kukobat, witness statement, 23 June 2014), para. 19.

<sup>16059</sup> D757 (Dušan Kukobat, witness statement, 23 June 2014), para. 19.

<sup>16060</sup> Nikola Mijatović, T. 21517, 21476-21477, 21577.

<sup>16061</sup> Nikola Mijatović, T. 21477.

order that would contravene the Geneva Conventions or the laws and customs of war, despite being close to him when certain combat operations were being carried out.<sup>16062</sup>

4518. On 6 June 1992, Mladić ordered 1KK, 2KK, SRK, and IBK to strictly prohibit the maltreatment of unarmed civilians and to treat prisoners pursuant to the Geneva Conventions.<sup>16063</sup> Pursuant to Mladić's order, on 9 June 1992 1KK Commander Momir Talić ordered various units regarding the defensive, security and offensive operations in the Corps' zone of command, strictly prohibiting any mistreatment of the unarmed civilian population, and that POWs be treated in accordance with the spirit of the Geneva Conventions.<sup>16064</sup>

4519. During a meeting of the Bosnian-Serb Presidency on 9 June 1992, attended by Mladić, Karadžić, Plavšić, Koljević, Krajišnik, Đerić, Gvero, and Tolimir, Mladić briefed the Presidency about the overall situation in the VRS.<sup>16065</sup> In addition, the strategic objective and map of 'Serbian BH' was to be published and sent to the EC and instructions for the VRS were to be drafted to abide by the Geneva Conventions in its treatment of POWs.<sup>16066</sup> In an order of the same day by 1KK Commander Momir Talić to various units regarding the defensive, security, and offensive operations in the corps' zone of command, Talić strictly prohibited any mistreatment of the unarmed civilian population, and ordered that POWs be treated in accordance with the spirit of the Geneva Conventions.<sup>16067</sup>

4520. In a 13 June 1992 VRS Main Staff meeting, General Major Kovačević reported on the passage and publication of a number of 'Basic acts', including the Law on Defence, Law on the Army of the Bosnian-Serb Republic, Order on Treatment of POWs, Instructions on Procedures Pursuant to the Geneva Conventions, and the Decision on Establishment of Military Courts and Military Prosecutor's Office.<sup>16068</sup> On 23 June 1992, Mladić issued a directive to the commands of the IBK, and the Birač and

<sup>16062</sup> D512 (Dragomir Andan, witness statement, 6 June 2014), para. 17.

<sup>16063</sup> P474 (Directive for further actions from Ratko Mladić, 6 June 1992), pp. 1, 5.

<sup>16064</sup> P2877 (1KK Command order regarding defensive and offensive combat operations, 9 June 1992), pp. 4, 15. *See also* evidence provided by Ewan Brown on 19 November 2013 at T. 19529-19531 in which he testified to a direct link between Talić's instructions in this order, and Exhibit P474, a directive from Mladić given to Talić and other commanders.

<sup>16065</sup> P3691 (Meeting minutes of Bosnian-Serb Presidency, 9 June 1992).

<sup>16066</sup> P3691 (Meeting minutes of Bosnian-Serb Presidency, 9 June 1992).

<sup>16067</sup> P2877 (1KK Command order regarding defensive and offensive combat operations, 9 June 1992), pp. 4, 15.

<sup>16068</sup> P353 (Mladić notebook, 27 May - 31 July 1992), pp. 155, 160-161.

Zvornik Brigades ordering that POWs and enemy civilians be treated according to international laws and the Geneva Conventions.<sup>16069</sup>

4521. On 17 August 1992, Mladić issued an order to his subordinate commanders to take measures to prevent desertion from the units and commands serving in the VRS.<sup>16070</sup> This included taking all legal measures against those who worked against the interests of the VRS and who wilfully left the units or avoided military duty.<sup>16071</sup>

4522. In a VRS Main Staff report dated September 1992, Mladić stated that plundering, burning, theft of military property, war profiteering, and other 'negative occurrences' had been prominent since the beginning of the war and the VRS had not been able to prevent these acts because of, *inter alia*, the imperfect functioning of military and civilian justice branches.<sup>16072</sup> This was not only a failure to function by the two systems, but also the implementation of inadequate penal policies, i.e. people were being tried pursuant to peacetime proceedings and laws for acts committed in war.<sup>16073</sup> Mladić also acknowledged that various paramilitary formations involved in plundering, burning, and other criminal activities often hid behind certain individuals in the organs of the local authorities.<sup>16074</sup> Mladić set out a number of tasks that needed to be carried out by VRS members in the future including, ordering that work and discipline needed to be improved; that the failure to carry out tasks, vacillation, faint-heartedness, or cowardice must be taken seriously and criminally prosecuted; that any disobedience or behaviour which might diminish VRS results should be strictly sanctioned; that maximum help should be offered to UNPROFOR forces and to organs of the EU, ICRC, and foreign journalists with proper accreditation; and that persons inclined to robbing, war profiteering, and other criminal acts or negative behaviour should be prosecuted to the fullest extent of the law.<sup>16075</sup>

4523. On 6 October 1992, Mladić forwarded the 'Guidelines For Determining Criteria for Criminal Prosecution' to, *inter alia*, the 1KK Command, and stated that actions and incidents which undermine the frontline and combat readiness of military units, as well as actions which foment discontent among citizens, constituted criminal activities which

<sup>16069</sup> P3673 (VRS Main Staff Directive on the expansion of the corridor between Romanija and Semberija and liberation of the roads in the central watercourse of the Drina River, 23 June 1992), pp. 1, 6-7.

<sup>16070</sup> P3066 (Mladić orders to prevent desertion, 17 August 1992), pp. 1-2.

<sup>16071</sup> P3066 (Mladić orders to prevent desertion, 17 August 1992), pp. 1-2.

<sup>16072</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), pp. 1, 6.

<sup>16073</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), p. 6.

<sup>16074</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), p. 7.

posed a serious threat to society.<sup>16076</sup> The guidelines, prepared by the military judicial organs attached to the VRS Main Staff, identified and explained appropriate responses to three types of criminal offence: the failure to respond to military call-ups and avoidance of military service; the willful abandonment of posts and desertion from the VRS; and criminal offences against humanity and international law.<sup>16077</sup> The guidelines stated that it was the responsibility of the corps officers to take uncompromising action and prevent such conduct, failure to do so would make them answerable for the criminal offences themselves. Commands had a duty to inform the Military Prosecutor's Office, responsible for taking appropriate action in keeping with the law and prosecution policy, of any possible criminal offences. It was noted that officers in units on the front line witnessed negative conduct of members of the armed forces, and frequently took part in such conduct themselves, while making no attempt to prevent such conduct.<sup>16078</sup> According to an order to the DK Command dated 12 July 1993, the DK also received the above-mentioned order by Mladić and the guidelines.<sup>16079</sup>

4524. On 28 November 1992, Mladić ordered the DK Command and the Rogatica Brigade to protect the Muslim population in the villages of Vrhbarje and Burati because they had expressed their loyalty to the Bosnian-Serb Republic.<sup>16080</sup> He issued this order after having received information that unknown people had 'disturbed' the Muslim population there.<sup>16081</sup>

4525. On 30 November 1992, Mladić issued an order to the commands of 1KK, SRK, IBK, DK, the Air Force and Anti-Aircraft Defence, and to the commanders of the 14th, 27th, 30th and 35th logistics bases, that every man and wartime unit was obliged to treat their assigned tasks with decency and discipline.<sup>16082</sup> The personal appearance of soldiers and officers had to comply with the regulations in force to leave a good impression with citizens, foreign observers, and newspaper reporters. Corps

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<sup>16075</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992), pp. 7-8.

<sup>16076</sup> P1094 (Order signed by Mladić regarding VRS Main Staff guidelines on criteria for criminal punishment, 6 October 1992).

<sup>16077</sup> P3352 (VRS Main Staff guidelines on criteria for criminal punishment, 6 October 1992), pp. 1-9.

<sup>16078</sup> P3352 (VRS Main Staff guidelines on criteria for criminal punishment, 6 October 1992), p. 8.

<sup>16079</sup> P1095 (Order by General Gvero to Command of the DK regarding Guidelines for Determining the Criteria for Criminal Prosecution, 12 July 1993), p. 2.

<sup>16080</sup> D1514 (Order by Ratko Mladić to protect Muslim population in S. Burati and Vrhbarje, 28 November 1992), pp. 1-2.

<sup>16081</sup> D1514 (Order by Ratko Mladić to protect Muslim population in S. Burati and Vrhbarje, 28 November 1992), p. 1.

<sup>16082</sup> P5054 (Order by Mladić dealing with discipline among members of the VRS, 30 November 1992), pp. 1-3.

commanders and other officers were ordered to ban the sale of liquor in the vicinity of combat. Foreigners, especially reporters and UNPROFOR members, were to be treated courteously. Corps commanders were to respond to serious violations of military code of conduct with disciplinary or criminal action. Units were to ensure the passage of UNPROFOR vehicles carrying humanitarian aid and treat UNPROFOR personnel with special care and courtesy when checking their documents and vehicles, in order to prevent the supply of weapons, ammunition and other combat equipment to Muslim-Croatian forces.<sup>16083</sup>

4526. **Vojin Ubiparip** testified that Mladić often came to visit the 22nd Brigade, and during these visits, Mladić constantly emphasised that it was necessary for the army to abide by the laws and the customs of war, and the Geneva Conventions.<sup>16084</sup> During a meeting with Mladić in May 1993, an aide-mémoire was 'being elaborated for all members of the VRS.'<sup>16085</sup> It included an annex that had to do with the Geneva Conventions and the Helsinki Agreements.<sup>16086</sup> Every soldier in the 22nd Brigade had a copy of the Geneva Conventions.<sup>16087</sup> At the Bosnian-Serb Assembly's 21st session held in Prijedor from 30 October to 1 November 1992, presided over by Momčilo Krajišnik and attended by, *inter alios*, Karadžić, Mladić submitted a military report stressing that militarily their position was favourable, but that more attention was to be paid to the quality of the army including equipment and discipline.<sup>16088</sup> Mladić stated that it was necessary to prevent all disrespectful acts of members of the army, police, and politicians.<sup>16089</sup>

4527. On 11 August 1994, Mladić pointed to a lack of discipline in the units which caused huge losses in manpower, territory and materiel; a fall of morale, and the loss of trust in senior officers.<sup>16090</sup> Pursuant to an order of the Armed Forces Supreme Command of 9 August 1994, Mladić therefore ordered, *inter alia*, that all corps, battalion, and brigade commands; the Air Force and Anti-Aircraft Defence; and the

<sup>16083</sup> P5054 (Order by Mladić dealing with discipline among members of the VRS, 30 November 1992), p. 2.

<sup>16084</sup> D891 (Vojin Ubiparip, witness statement, 22 July 2014), para. 23.

<sup>16085</sup> Vojin Ubiparip, T. 31188.

<sup>16086</sup> Vojin Ubiparip, T. 31188.

<sup>16087</sup> Vojin Ubiparip, T. 31229.

<sup>16088</sup> P4266 (Minutes of the 21st session of the Bosnian-Serb Assembly, 30 October - 1 November 1992), pp. 1, 7-8.

<sup>16089</sup> P4266 (Minutes of the 21st session of the Bosnian-Serb Assembly, 30 October - 1 November 1992), p. 8.

Military School Centre of the VRS, eliminate such occurrences and ensure combat and military discipline at all levels of command and control.<sup>16091</sup> Teams consisting of military prosecutors and judges were to be formed on the level of the corps commands, the VRS Main Staff, the Operation Group, the Air Force and Anti-Aircraft Defence, and the Light Infantry Division to ensure the necessary order and discipline in the VRS by taking prompt legal measures and by inspecting the directly subordinated commands, units and institutions.<sup>16092</sup> In cases of unjustified losses of manpower, weapons, or military equipment, Mladić ordered the commands in charge to form a commission to examine the causes and consequences; to identify the culprits; and to submit a detailed written report to him within three days after the situation had been encountered.<sup>16093</sup>

4528. On 13 March 1995, Mladić ordered various unit commands to prevent the bringing in and excessive consumption of alcohol on combat and firing positions, to inspect the troops before being transported, and to disarm and place them under control if necessary.<sup>16094</sup> He also ordered unit commands to ensure that mines, explosives, and ammunition be transported separately from the soldiers and that personal weapons were unloaded and secured. Further, before going on a march, unit commands were expected to issue an order to regulate the directions, speed, distance, and places to stop, excluding residential areas. Mladić further ordered unit commands to ensure a military police escort for large convoys, and to take strict legal measures against anyone violating this order.<sup>16095</sup>

#### *Investigation and punishment of crimes*

4529. **Manojlo Milovanović** testified that disciplinary measures and the initiation of disciplinary proceedings before a competent military court generally fell within the responsibility of the respective unit commander, and was prescribed by regulation.<sup>16096</sup>

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<sup>16090</sup> P5059 (VRS Main Staff order on discipline in the commands, units and institutions, 11 August 1994), pp. 1-2, 6.

<sup>16091</sup> P5059 (VRS Main Staff order on discipline in the commands, units and institutions, 11 August 1994), pp. 2-3.

<sup>16092</sup> P5059 (VRS Main Staff order on discipline in the commands, units and institutions, 11 August 1994), pp. 2-3.

<sup>16093</sup> P5059 (VRS Main Staff order on discipline in the commands, units and institutions, 11 August 1994), p. 3.

<sup>16094</sup> P5064 (Order by Mladić to ensure military discipline in the VRS, 13 March 1995), p. 2.

<sup>16095</sup> P5064 (Order by Mladić to ensure military discipline in the VRS, 13 March 1995), p. 3.

<sup>16096</sup> Manojlo Milovanović, T. 16953-16954.

A commander's collegium eventually decided on the removal of individual commanders upon a proposal of the subordinate commands.<sup>16097</sup>

4530. **Witness RM-513** testified that there were disagreements between the military and civilian authorities in the Bosnian-Serb Republic over the control of the military justice system.<sup>16098</sup> According to the witness, in one particular instance, Mladić personally prevented the civilian authorities' attempt to transfer the case of Milovan Zugić to the civilian justice system.<sup>16099</sup> Zugić was accused of assisting the enemy by trading huge amounts of goods with the Croatian-Muslim Federation, but had close relationships with the top leadership of the Bosnian-Serb Republic.<sup>16100</sup> Krajišnik suggested that Zugić be released and the proceedings against him discontinued, and later requested that the military court be dissolved and the penal code changed so that the crime of assisting the enemy would no longer fall under the jurisdiction of the military justice system.<sup>16101</sup> In response, Mladić sent word that the Main Staff of the VRS was backing the military courts, that war profiteers should be punished through the legal system and that he would provide the military courts with any available support.<sup>16102</sup> According to the witness, this was the only case he was aware of that Mladić used his influence to ensure a military prosecution went through given that it was such a drastic example of war profiteering.<sup>16103</sup> He further testified that it was the view of the top military leaders that perpetrators of crimes should be put on trial as normal, but that the serving of prison sentences or detention should be postponed until the end of war operations and imminent threat of war, as every single man was needed at the front.<sup>16104</sup>

4531. According to **Reynaud Theunens**, Mladić had the authority to order investigations within the military justice system, but only used it selectively, focusing on acts which had a negative impact on the combat readiness of the VRS, such as desertions.<sup>16105</sup> Theunens testified that he had not seen any documents originating from Mladić or the VRS Main Staff regarding investigations of alleged violations of the laws

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<sup>16097</sup> Manojlo Milovanović, T. 16954.

<sup>16098</sup> Witness RM-513, T. 9261.

<sup>16099</sup> Witness RM-513, T. 9262.

<sup>16100</sup> Witness RM-513, T. 9262.

<sup>16101</sup> Witness RM-513, T. 9262.

<sup>16102</sup> Witness RM-513, T. 9262-9263.

<sup>16103</sup> Witness RM-513, T. 9263.

<sup>16104</sup> Witness RM-513, T. 9326.

<sup>16105</sup> Reynaud Theunens, T. 20388-20390.

of war by VRS members or other units operating under the command of the Main Staff.<sup>16106</sup> Instead, the documents he had seen, not specifically originating from Mladić, but from the Bosnian-Serb Republic and the VRS in general, concerned investigations of alleged violations of the laws of war by the opponent's forces.<sup>16107</sup> Theunens' position was that the reports on the work of the military prosecutors' offices showed that all investigated cases referred to violations and breaches of military discipline and military justice that directly affected, or that were directly related to, combat activities and were therefore consistent with Mladić's priorities.<sup>16108</sup>

4532. **Richard Butler** testified that he had never come across any orders from Mladić attempting to interfere with the work of the military courts or the military prosecutors, but he had come across many orders from the VRS Main Staff complaining that they wanted to see a more robust military judiciary and prosecutor's office because of a backlog of offences that the courts were unable to deal with.<sup>16109</sup>

4533. On 8 June 1992, Mladić decided that a disciplinary investigation be carried out against Dragan Šuko, Battalion Commander in the 2nd Romanija Brigade, who was alleged to have committed the disciplinary violation of failing to take appropriate measures to safeguard the life and health of his battalion, the equipment, and means used to ensure combat readiness.<sup>16110</sup> During combat activities, Šuko's battalion was led into an ambush during which 36 were killed, 56 were seriously or lightly injured, 12 went missing, and a large amount of combat equipment was either destroyed or captured by the enemy.<sup>16111</sup> Mladić ordered that statements be taken from Milovanović, from SRK Commander Colonel Dragan Šipčić, Commander of the 2nd Romanija Brigade Lieutenant Colonel Veljko Bosanac, as well as from surviving witnesses of those who had been led into the ambush, and that various relevant orders and reports be obtained.<sup>16112</sup>

4534. The Trial Chamber recalls evidence it received in chapter 9.3.3 that on 18 August 1992, the 1KK Command conveyed to commanders of its subordinate units a

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<sup>16106</sup> Reynaud Theunens, T. 20388.

<sup>16107</sup> Reynaud Theunens, T. 20388.

<sup>16108</sup> Reynaud Theunens, T. 20391-20392.

<sup>16109</sup> Richard Butler, T. 16816.

<sup>16110</sup> P3527 (VRS Main Staff decision of 8 June 1992, signed by Ratko Mladić), p. 1.

<sup>16111</sup> P3527 (VRS Main Staff decision of 8 June 1992, signed by Ratko Mladić), p. 1.

<sup>16112</sup> P3527 (VRS Main Staff decision of 8 June 1992, signed by Ratko Mladić), p. 2.

set of instructions which Mladić issued to prevent desertion and maintain the requisite levels of manpower and combat readiness in the VRS.

4535. On 26 March 1993, in a meeting between Mladić and UNPROFOR representatives, Morillon stated that both he and Mladić had been betrayed by local Serb commanders who had attacked Srebrenica, fired at and wounded UN personnel and civilians, and attempted to destroy UN helicopters. Morillon asked that Colonel Ilić be court-martialled. Mladić apologized for this and ordered the immediate arrest of Colonel Ilić. Minutes later, it was reported that the arrest was carried out and an investigation had been initiated.<sup>16113</sup>

4536. The Trial Chamber recalls evidence it received in chapter 9.2.8 that on 28 July 1992, Mladić ordered the disarmament, and integration into the VRS, of all paramilitary formations, groups and individuals in the territory of the Bosnian-Serb Republic. On 22 May 1993, Mladić strictly prohibited the organization of or activity along ‘para-army’, ‘para-militia’, or ‘para-political’ lines warning that all such groups would be arrested and eliminated, or physically liquidated in case of resistance.

4537. The Trial Chamber also recalls evidence it received in chapter 9.2.11 regarding a meeting held on 27 May 1993 between the officers of the 1KK, the Air Force and Anti-Aircraft Defence of the VRS in Banja Luka, and Colonel Bogojević, the head of command and control group and the security department of the 1KK. Bogojević informed Mladić that four or five days earlier he had spoken to Drljača, who had been sent by the Minister of the Interior to discuss the Tomašica mine where they had earlier buried around 5,000 Bosnian Muslims. Drljača wanted Bogojević to get rid of the bodies ‘by burning, grinding, or some other way’ but Mladić advised that ‘they killed them, so they should get rid of them’. Mladić also told Bogojević that an investigation had to be launched in connection with the case, and this information should be well retained in order to prevent it from getting into the hands of unauthorized people.

4538. In an order to the Commanders of the 1st, 2nd, 3rd and 5th Light Infantry Brigades, dated 1 November 1994, Mladić ordered all officers responsible for the self-willing retreat from defence positions and for the suffering of territorial, human and material losses without combat to be criminally charged and prosecuted.<sup>16114</sup>

<sup>16113</sup> D1508 (UNPROFOR code cable, 26 March 1993), p. 2.

<sup>16114</sup> P3067 (Mladić order criminally charge and prosecute for treason, deserting and non-compliance, 1 November 1994), pp. 1-2.

4539. On 7 November 1994, Mladić ordered the Command of the VJ Guards Motorized Brigade, and informed various other VRS corps and units of the order, to institute criminal proceedings against Rajko Šarenac, Assistant Commander for Moral Guidance and Psychological Preparation, and Željko Stupar, Chief of the organ for Intelligence and Security Affairs, as well as against any other persons who were involved in the wilful abandonment of the Forward Command Post in the sector of Ostojići village in Trnovo Municipality.<sup>16115</sup> Mladić further ordered criminal proceedings to be instituted against all members of the VJ Guards Motorized Brigade who had deserted their units or had withdrawn outside of the brigade's zone of responsibility or their combat-firing positions and to bring them into custody.<sup>16116</sup> Similarly, criminal proceedings were to be instituted against all officers, regardless of their rank or position, who had enabled or assisted the deserters or admitted them into their own units without any authorisation from the Main Staff.<sup>16117</sup>

4540. On 8 February 1995, Mladić summarised all stands taken at the 16th session of the Commanders of the VRS Main Staff as follows: (1) superior officers should take decisions on suspension of wages for unjustified leave days of their subordinated professional servicemen who had deserted; (2) superior officers should start criminal and disciplinary procedures against all officers who had wilfully abandoned their unit; and, (3) any change of VRS units by soldiers without written approval of an officer in charge should be prevented.<sup>16118</sup> Any such change of unit was to be treated as wilful abandonment and criminal proceedings were to be initiated against the soldiers and the officers who accepted them into their units.<sup>16119</sup>

4541. In February and March 1995, the Security Administration of the Main Staff conducted an analysis of the situation of military police units in the VRS and sent its report to Mladić.<sup>16120</sup> According to **Dragomir Keserović**, the handwritten portions in the document were written by Mladić in which he issued orders to Zdravko Tolimir in

<sup>16115</sup> P5060 (VRS Main Staff order to institute proceedings against deserters of the Forward Command Post of the 1st Guards Motorised Brigade, 7 November 1994), pp. 1-2.

<sup>16116</sup> P5060 (VRS Main Staff order to institute proceedings against deserters of the Forward Command Post of the 1st Guards Motorised Brigade, 7 November 1994), p. 1.

<sup>16117</sup> P5060 (VRS Main Staff order to institute proceedings against deserters of the Forward Command Post of the 1st Guards Motorised Brigade, 7 November 1994), p. 1.

<sup>16118</sup> P5061 (VRS Main Staff report about the 16th session of the Commanders of the VRS Main Staff discussing the problem of desertion, 8 February 1995), pp. 1-2.

<sup>16119</sup> P5061 (VRS Main Staff report about the 16th session of the Commanders of the VRS Main Staff discussing the problem of desertion, 8 February 1995), p. 1.

relation to some of the matters raised in the analysis.<sup>16121</sup> Mladić ordered that every military police unit be assigned an educated and trained officer by 1 July 1995.<sup>16122</sup> The analysis found that although professional military control and guidance in most units was adhered to properly, some commanders bypassed security organs by assigning other tasks to military police units.<sup>16123</sup> Mladić added that commanders did not have the right to prevent security organs and military policemen from performing their duties.<sup>16124</sup> The analysis also found that the military police units did not have clearly defined areas of jurisdiction, and Mladić instructed Tolimir to define them more clearly.<sup>16125</sup>

4542. On 4 March 1995, Mladić ordered various VRS corps and units to institute criminal and disciplinary proceedings against commanders who broke a series of orders concerning the relocation of conscripts.<sup>16126</sup> He further ordered them to keep the conscripts who abandoned their units in military custody and to arrest, in cooperation with organs of the MUP, those without relocation documents or permits of movement.<sup>16127</sup>

4543. On 19 October 1995, Mladić ordered various VRS Corps and units to remove all paramilitary formations and individuals who refuse subordination in the VRS from the territory of the Bosnian-Serb Republic and to seize all military technical devices and equipment previously issued to these formations.<sup>16128</sup> He further ordered the launch of

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<sup>16120</sup> Dragomir Keserović, T. 12820-12822; P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alia* Ratko Mladić, Zdravko Tolimir, 18 March 1995).

<sup>16121</sup> Dragomir Keserović, T. 12821, 12823-12825, 12832; P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alios* Ratko Mladić and Zdravko Tolimir, 18 March 1995), pp. 3-4.

<sup>16122</sup> Dragomir Keserović, T. 12824-12825; P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alios* Ratko Mladić and Zdravko Tolimir, 18 March 1995), pp. 2-3.

<sup>16123</sup> P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alios* Ratko Mladić and Zdravko Tolimir, 18 March 1995), pp. 2-3.

<sup>16124</sup> Dragomir Keserović, T. 12824-12825; P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alios* Ratko Mladić and Zdravko Tolimir, 18 March 1995), pp. 4-5.

<sup>16125</sup> P1578 (Analysis of the situation in Military Police units in the VRS signed by Ljubiša Beara addressed to *inter alios* Ratko Mladić and Zdravko Tolimir, 18 March 1995), pp. 4-5.

<sup>16126</sup> P5063 (Order from Mladić to various VRS Corps and units concerning units reinforcement, 4 March 1995), p. 1.

<sup>16127</sup> P5063 (Order from Mladić to various VRS Corps and units concerning units reinforcement, 4 March 1995) pp. 1-2.

<sup>16128</sup> P5065 (Order from Mladić to various VRS Corps and units concerning the discipline of paramilitary formations, 19 October 1995), p. 1.

investigations and initiation of proper proceedings for misdemeanours and criminal offences.<sup>16129</sup>

*The Trial Chamber's findings*

4544. The Trial Chamber recalls its findings in chapters 9.3.3 and 9.3.4 that as the commander of the VRS Main Staff, Mladić exercised effective command and control over the VRS and, in certain operations, other Serb Forces. Based on these findings, the Trial Chamber finds that the Accused was under a duty to take adequate steps to prevent, investigate, and/or punish crimes by members of the VRS and other Serb forces under his effective control.

4545. Based on the evidence reviewed in this chapter, the Trial Chamber finds that Mladić issued orders to comply with the laws and regulations of the Bosnian-Serb Republic, the VRS, the Geneva Conventions, customary laws of war, and other international laws. The Trial Chamber further finds that Mladić possessed the authority to order investigations within the military justice system. The Trial Chamber finds that on several occasions Mladić ordered investigations, and called for the punishment of members of the VRS under his effective control for breaches of military discipline, such as failure to respond to call-ups and desertion. The Trial Chamber also finds that Mladić took some measures in relation to investigations regarding alleged war crimes or crimes against humanity, for example on 26 March 1993, Mladić told UNPROFOR that he had ordered the arrest of Colonel Ilić, and an investigation into his conduct, after being informed by General Morillon of Ilić's alleged misconduct, and on 27 May 1993, Mladić told Bogojević that an investigation had to be launched in connection with the Tomašica mine case 9.2.11. In relation to whether these measures were adequate, the Trial Chamber recalls its findings in chapter 9.2.12 that despite the fact that proceedings before military courts continued throughout the war, the Trial Chamber did not receive any evidence of any Bosnian Serbs being prosecuted for war crimes between 12 May 1992 and 30 November 1995. To the contrary, the Trial Chamber found that: (i) the Bosnian-Serb military and civilian justice system failed on many occasions to investigate crimes committed by members of the VRS and other Serb forces; (ii) the military and civilian justice systems failed to arrest or punish the perpetrators of these

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<sup>16129</sup> P5065 (Order from Mladić to various VRS Corps and units concerning the discipline of paramilitary

crimes; and (iii) on multiple occasions in which crimes had been committed against non-Serbs by VRS members or members of other Serb forces, criminal reports were not filed, investigations were not initiated by military prosecutors or investigative judges, suspects were not arrested or detained, and if arrested, perpetrators were unlawfully released from detention to return to their units.

4546. In light of the above, and the Trial Chamber's findings in chapter 9.3.13 that Mladić knew that the crimes of persecution, murder, extermination, deportation, and inhumane acts (forcible transfer) were committed against Bosnian Muslims and Bosnian Croats in the Municipalities, including in detention facilities, the Trial Chamber finds that Mladić should have ensured that crimes carried out by the VRS and subordinated forces were investigated, and perpetrators properly punished. The Trial Chamber did not receive evidence to conclude that Mladić ordered any substantial or meaningful investigations into war crimes and crimes against humanity, or whether Mladić followed up on the few investigations he may have ordered. However, based on the Trial Chamber's findings in chapter 9.3.9 that Mladić deliberately misled the international community and non-governmental organisations on the conditions of the Foča, Batković, Kula and Prijedor camps, and attempted to conceal the crimes committed therein by portraying the camps conditions in a more favourable light, the Trial Chamber finds that Mladić's actions in this regard are indicative of his overall stance towards investigating war crimes and crimes against humanity. The Trial Chamber therefore finds that Mladić did not take appropriate or further steps, to investigate or punish perpetrators of crimes.

4547. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE.

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formations, 19 October 1995), p. 1.

*9.3.11 Directing, implementing and/or authorizing the restriction of humanitarian aid to Bosnian-Muslim and/or Bosnian-Croat enclaves located in territory controlled by the VRS, the TO, the MUP, and Bosnian-Serb paramilitary forces and volunteer units and/or Bosnian-Serb Political and Governmental Organs in an effort to create unbearable living conditions for these inhabitants*

4548. With regard to this alleged contribution, the Defence argued that the Accused made reasonable efforts to ensure humanitarian aid was delivered to Bosnian-Muslim civilians in Sarajevo.<sup>16130</sup> The Defence also argued that at least since August 1994 the VRS Main Staff had no authority to control the movement of humanitarian aid convoys and that the Accused did not prevent the movement of convoys that were scheduled and had proper paperwork.<sup>16131</sup> Finally, the Defence argued that food and goods were available to the Bosnian Muslims in Srebrenica through illicit means.<sup>16132</sup> In this chapter, the Trial Chamber considers the overall situation in Bosnia-Herzegovina, including Srebrenica, with respect to the restriction of humanitarian aid. The Trial Chamber received evidence from **Manojlo Milovanović**, the Chief of Staff and deputy commander of the VRS Main Staff from 1992 to 1996;<sup>16133</sup> **Miloš Škrba**, the Commander of the 2nd Infantry Company of the 2nd Infantry Battalion in the 1st Sarajevo Mechanised Brigade of the SRK;<sup>16134</sup> **Goran Šehovac**, a member of the 65th Protection Regiment in the anti-terrorist unit from mid-1992 until the end of 1992, a member of the military police of the Ilidža Brigade in 1993, and a member of the assault detachment of the Ilidža Brigade from early 1994 until the end of the war;<sup>16135</sup> **Nikola Mijatović**, the Chief of Security of the Ilidža Brigade from the end of May or June 1993 until September 1994 and later the Chief of Staff;<sup>16136</sup> **Milovan Lelek**, Assistant Chief of Staff for Training and Operations for the Rogatica Brigade from late May 1992 until 1994;<sup>16137</sup> **Michael Rose**, UNPROFOR Commander in Bosnia-Herzegovina from 5

<sup>16130</sup> Defence Final Trial Brief, para. 1817.

<sup>16131</sup> Defence Final Trial Brief, paras 2819, 2821.

<sup>16132</sup> Defence Final Trial Brief, para. 2841.

<sup>16133</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *curriculum vitae* of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995).

<sup>16134</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), paras 1, 6, 15; Miloš Škrba. 22797-22798, 22803-22804, 22822, 22902, 22887. Miloš Škrba's evidence is also reviewed in chapter 9.5.9.

<sup>16135</sup> D596 (Goran Šehovac, witness statement, 15 May 2014), p. 1, paras 3-5, 8; Goran Šehovac, T. 24698.

<sup>16136</sup> D468 (Nikola Mijatović, witness statement, 10 May 2014), para. 11; Nikola Mijatović, T. 21445-21446 P6532 (Proofing note for Nikola Mijatović, 21 May 2014), para. 2f.

<sup>16137</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), paras 8, 14; Milovan Lelek, T. 29584.

January 1994 to 23 January 1995;<sup>16138</sup> **David Fraser**, a Military Assistant to the UNPROFOR Commander in Sector Sarajevo from 17 April 1994 to 26 May 1995;<sup>16139</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>16140</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the UN Special Representative of the UNSG in Bosnia-Herzegovina;<sup>16141</sup> **Slavko Kralj**, Liaison Officer of the IKK until approximately November 1994, when he was reassigned to the Main Staff as translator for the English language while working in the Department for Relations with Foreign Military Envoys;<sup>16142</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>16143</sup> **Richard Butler**, an intelligence research specialist;<sup>16144</sup> **Pyers Tucker**, a British Army officer, who served with UNPROFOR as military assistant to General Philippe Morillon from October 1992 to March 1993;<sup>16145</sup> **Ljubomir Obradović**, Deputy Chief of Operations and Training of the VRS Main Staff from September 1994 onwards;<sup>16146</sup> **David Harland**, an UNPROFOR civil affairs officer assigned to Sarajevo as of May 1993;<sup>16147</sup> **Pieter Boering**, a DutchBat Major who served as liaison officer with the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>16148</sup> **Cornelis Nicolai**, the UNPROFOR Chief of Staff at the Bosnia-Herzegovina Command from 28 February to 2 September 1995;<sup>16149</sup> **Eelco Koster**, a Lieutenant with the 13th Infantry Battalion of Dutchbat III, stationed at the UN

<sup>16138</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

Michael Rose's evidence is also reviewed in chapters 9.4.2 and 9.5.3.

<sup>16139</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 7, 11. David Fraser's evidence is also reviewed in chapter 9.5.9.

<sup>16140</sup> Reynaud Theunens, T. 20230; P3093 (Reynaud Theunens, curriculum vitae, 15 October 2012), pp. 1-4. Reynaud Theunens's evidence is also reviewed in chapter 9.5.9.

<sup>16141</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3. Anthony Banbury's evidence is also reviewed in chapters 9.5.3 and 9.5.9.

<sup>16142</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 3. Slavko Kralj's evidence is also reviewed in chapter 9.5.9.

<sup>16143</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287. Rupert Smith's evidence is also reviewed in chapter 9.5.9.

<sup>16144</sup> Richard Butler, T. 16108; P2094 (Richard Butler, *curriculum vitae*, 10 June 2011).

<sup>16145</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751. Pyers Tucker evidence's is also reviewed in chapters 9.5.9 and 7.1.1.

<sup>16146</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11929, 11931-11932; P1784 (VRS Main Staff structure, July 1995).

<sup>16147</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661. David Harland's evidence is also reviewed in chapters 9.3.3 and 7.4.

<sup>16148</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1867-1873; Pieter Boering, T. 10025.

<sup>16149</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), p. 1, paras 1-4, 67.

compound in Potočari in the Srebrenica enclave;<sup>16150</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>16151</sup> **Leendert van Duijn**, a DutchBat platoon commander who was stationed in Potočari from January to July 1995;<sup>16152</sup> **Joseph Kingori**, a UNMO present in the Srebrenica enclave from March 1995 to around 20 July 1995;<sup>16153</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the VRS Bratunac Brigade from November 1992 to at least October 1995,<sup>16154</sup> as well as documentary evidence.<sup>16155</sup>

4549. The Trial Chamber will first review evidence concerning Mladić's orders and actions throughout the Indictment period with regard to humanitarian convoys. It will then turn to evidence related to possible justification for any restrictions of access for humanitarian convoys.

*Mladić's orders and actions with regard to humanitarian convoys*

4550. The 1KK Command reported to the VRS Main Staff on 2 October 1992, that, following orders from the VRS Main Staff, any activity by UNPROFOR forces in the zone of responsibility of the 1KK Corps was to be prohibited until an agreement on movement was reached with UNPROFOR.<sup>16156</sup>

4551. The Trial Chamber recalls Exhibit P5054 reviewed in chapter 9.3.10 that on 30 November 1992, Mladić ordered the commands of the 1KK, 2KK, SRK, IBK, DK, Air Force and Anti-Aircraft Defence to ensure, after checking UNPROFOR documents and vehicles carrying humanitarian aid, their safe passage and to treat them with special courtesy in order to establish what the vehicles were carrying and to prevent the supply of weapons, ammunition, and other combat equipment to Muslim-Croatian forces. On the same day, Mladić ordered the Corps Commanders of the 1KK, 2KK, SRK, IBK, HK and DK to undertake measures to explain to the army members and citizens why the

<sup>16150</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1.

<sup>16151</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109. Robert Franken's evidence is also reviewed in chapter 7.

<sup>16152</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2256-2258, 2261.

<sup>16153</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 3, 7.

<sup>16154</sup> Momir Nikolić, T. 12076. Momir Nikolić's evidence is also reviewed in chapter 7.

<sup>16155</sup> P5054 is also reviewed in chapter 9.3.10; P317 is also reviewed in chapters 9.5 and 7.1.1; D1508 is also reviewed in chapter 9.3.10; D726 is also reviewed in chapters 9.4.2 and 9.5.9; P1758 is also reviewed in chapter 9.4.2; P2245 is also reviewed in chapter 9.5.9; D712 is also reviewed in chapter 9.5.9; P736 is also reviewed in chapter 9.4.2; D462 is also reviewed in chapter 9.5.9.

<sup>16156</sup> P3716 (1KK Command regular combat report to Main Staff, 2 October 1992), pp. 1-2.

VRS and the Bosnian-Serb Republic were allowing UNPROFOR humanitarian convoys to pass.<sup>16157</sup> In the preamble to an order issued on 7 December 1992, Mladić noted that UNPROFOR forces were ‘trying to incite conflicts’ between the VRS and the Serb people by bringing in so-called ‘humanitarian’ aid to Muslim settlements through the ‘Serbian territories’ and were abusing the agreements on the obligation of warring parties.<sup>16158</sup> According to Mladić, at the same time, UNPROFOR demanded that the VRS allow the passage of ‘humanitarian’ convoys.<sup>16159</sup>

4552. According to a news broadcast from Radio Banja Luka on 9 December 1992, in a meeting with the head of the UNHCR, Mladić stated that securing the transport of humanitarian aid using the UNPROFOR convoys was under the authority of the Bosnian-Serb Assembly and that the VRS was going to do everything on its part to ensure that the aid reached its destination.<sup>16160</sup> **Miloš Škrba** testified that in the territory that his unit controlled, the instruction was to allow all vehicles carrying humanitarian aid to pass through and that did in fact happen.<sup>16161</sup> According to the witness, the military police manned the checkpoints and had the responsibility to check vehicles.<sup>16162</sup>

4553. According to a letter from the ECMM headquarters to Mladić, dated 2 March 1993, the ECMM expressed concern about the lack of progress being made in allowing regular humanitarian aid into the Muslim ‘pockets’ of Cerska and Srebrenica.<sup>16163</sup> In drawing Mladić’s attention to specific provisions of the Geneva Conventions, the letter stated that by denying or delaying the UNHCR convoys access to these areas, and by forcing the civilian population out of their homes, he was violating international law.<sup>16164</sup>

4554. Mladić agreed to the resumption of humanitarian aid convoys starting on the morning of 27 March 1993.<sup>16165</sup> When Endall Wahlgren forwarded the meeting notes to Annan and Vance on 29 March 1993, Wahlgren noted that this agreement had failed, although a convoy and Morillon got through to Srebrenica.<sup>16166</sup>

<sup>16157</sup> D725 (Mladić’s order to the Corps Commanders (1KK, 2KK, SRK, IBK, HK, and DK) on information on the passage of UNPROFOR convoys, 30 November 1992), p. 1.

<sup>16158</sup> P2189 (VRS Order, 7 December 1992), p. 1.

<sup>16159</sup> P2189 (VRS Order, 7 December 1992), p. 1.

<sup>16160</sup> P3668 (News broadcast of Radio Banja Luka, 9 December 1992), p. 2.

<sup>16161</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), para. 10; Miloš Škrba, T. 22788, 22883.

<sup>16162</sup> Miloš Škrba, T. 22788, 22881, 22883.

<sup>16163</sup> P2532 (Letter from ECMM Headquarters to General Mladić, 2 March 1993).

<sup>16164</sup> P2532 (Letter from ECMM Headquarters to General Mladić, 2 March 1993)

<sup>16165</sup> D1508 (UNPROFOR code cable, 26 March 1993), p. 5.

<sup>16166</sup> D1508 (UNPROFOR code cable, 26 March 1993), pp. 1, 5.

4555. On 14 May 1993, Mladić ordered all the brigades, the Skelani Independent Battalion and the Višegrad Tactical Group, to: enable unhindered passage and protection of consignments, equipments, and personnel providing aid to the civilian population of the ‘opposing side’; prohibit misuse for military purposes of food items, the harvest, water supply installations, drinking water reserves and dams in the water systems; observe in all respects the Geneva Conventions and other provisions of international laws of war; and ensure that all units and army personnel are acquainted with this order and comply with it.<sup>16167</sup> On 15 May 1993 and similarly on 16 May 1993, Mladić ordered the Commands of the corps, the Air Force and Anti-Aircraft Defence, to take measures to ensure that no convoys enter the Bosnian-Serb territory without written authorization. The VRS Main Staff had discovered that a number of convoys had been ‘roaming’ unchecked in Bosnian-Serb Republic territory because their authorizations were incomplete or had not reached the responsible military and civilian bodies. The Commands also had to inform the VRS Main Staff, through the duty operations officer, of any future convoys that might pass through their area of responsibility. Mladić added that the inspection of UNPROFOR and humanitarian aid convoys headed for ‘Muslim territory’ had to be in accordance with the orders of the VRS Main Staff.<sup>16168</sup> **Manojlo Milovanović** testified that Mladić had the final say on whether or not UNPROFOR humanitarian convoys were allowed to proceed at check-points.<sup>16169</sup>

4556. On 16 June 1993, Mladić sent an order to, *inter alia*, the Corps Commands stating that Commands at all levels were to ensure the delivery of humanitarian aid, grant freedom of movement to all international humanitarian organisations, and ensure the usage of water, gas, and electricity, as well as the restoration and maintenance of the facilities which enabled it.<sup>16170</sup> In a cable, dated 3 July 1993, from Mladić to UNPROFOR Command Kiseljak, Mladić stated that the VRS had done its best to enable UNHCR convoys to enter Goražde.<sup>16171</sup>

4557. **Michael Rose** testified that part of UNPROFOR’s mission in Bosnia-Herzegovina was to facilitate the delivery of humanitarian aid to civilians.<sup>16172</sup> On 30

<sup>16167</sup> D726 (Mladić’s order to all the brigades, the Skelani Independent Battalion and the Višegrad TG on the passage of humanitarian aid, 14 May 1993).

<sup>16168</sup> P1758 (VRS Main Staff Report, signed by Mladić concerning convoys and humanitarian aid, 15 May 1993); *See also* P2245 (Mladić telegram concerning convoys and humanitarian aid, 16 May 1993).

<sup>16169</sup> Manojlo Milovanović, T.17122

<sup>16170</sup> P5219 (Order by VRS Main Staff on the cessation of hostilities, 16 June 1993), para. 4.

<sup>16171</sup> D1498 (Cable from Mladić to UNPROFOR Command, 3 July 1993).

<sup>16172</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 20.

January 1994, Rose, accompanied by UN civil affairs representatives, met in Pale with the Bosnian-Serb leadership, including Karadžić, Mladić, Krajišnik, Koljević, Zametica, and Generals Gvero and Tolimir.<sup>16173</sup> At the meeting, Karadžić said that he ‘instructed’ his civilian and military authorities to ease the movement of UNPROFOR and UNHCR convoys.<sup>16174</sup> Furthermore, Karadžić had no general objection to the opening of the airfield at Tuzla, which would alleviate the difficulties and delays in delivering aid, provided that Serbs could be involved in controlling whether arms were smuggled to the Bosnians.<sup>16175</sup> Karadžić also said that ‘the Muslims would kill Allah himself in order to discredit the Serbs’, and that if the airfield was opened, they would surely shoot down an incoming aircraft and blame it on the Serbs.<sup>16176</sup> At the second meeting with the Bosnian Serbs on the same issues, Mladić surprised everybody by strongly rejecting the Tuzla airport agreement reached earlier with Karadžić.<sup>16177</sup> When Sergio Vieira de Mello, UN Head of Civil Affairs, noted that it would be regrettable if NATO was compelled to reopen the airport by force, Mladić went into a rage, shouting that he was not afraid of the Americans or ‘their’ NATO.<sup>16178</sup> A year later, the airport was still not opened and President Izetbegović ruled out the option of having Serb officers at the Tuzla airport.<sup>16179</sup> Rose further testified that Izetbegović was to say that he was prepared to see 10,000 Bosnians Muslims die of starvation rather than accept a single Serb on Bosnian-Muslim territory.<sup>16180</sup>

4558. On 10 April 1994 and similarly on 19 April 1994, Mladić ordered all Corps Commands, the Air Force and Anti Aircraft Defence, the VJ Guards Motorised Brigade, the Logistics Base, the Sarajevo Communications Centre of the VRS, and the VRS Main Staff to be fully combat ready in order to take measures for the defence of the

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<sup>16173</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 15, 26; P735 (UNPROFOR fax from de Mello to Akashi, 30 January 1994), p. 1.

<sup>16174</sup> P735 (UNPROFOR fax from de Mello to Akashi, 30 January 1994), p. 1.

<sup>16175</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 28.

<sup>16176</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 28; P735 (UNPROFOR fax from de Mello to Akashi, 30 January 1994), pp. 2-3.

<sup>16177</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 32; P735 (UNPROFOR fax from de Mello to Akashi, 30 January 1994), p. 3.

<sup>16178</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 15, 32.

<sup>16179</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 28, 58; Michael Rose, T. 6867-6870, 6875; P761 (UNPROFOR fax from Akashi to Annan, 7 March 1994), pp. 1, 3.

<sup>16180</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 28; Michael Rose, T. 6867-6870, 6875.

Bosnian-Serb Republic against NATO Air Force attacks.<sup>16181</sup> Mladić ordered all the units to immediately block all UNPROFOR and humanitarian organisation convoys on the territory of the Bosnian-Serb Republic and to secure the convoys and the personnel at a safe location.<sup>16182</sup> The order of 10 April 1994, included instructions not to treat UNPROFOR and humanitarian organisations' personnel 'roughly'.<sup>16183</sup> The order further specified that the units were to attack only at the order of the Main Staff but could fire independently in case of self-defence.<sup>16184</sup>

4559. In a separate order, on 10 April 1994, Deputy Commander Milutin Skočajić of the DK informed all its units about the NATO air strikes in Goražde and ordered them to block, *inter alia*, all UNPROFOR convoys on the spot, disarm them, and place them at designated locations under the control of the DK units.<sup>16185</sup> He instructed the units to use force if the UNPROFOR personnel resisted.<sup>16186</sup> **David Fraser** testified that although Skočajić's order of 10 April 1994 did not refer to the instruction not to treat the personnel 'roughly', it was clearly a reaffirmation of Mladić's order issued the same day.<sup>16187</sup> All three orders were issued based on the decision taken by the Bosnian-Serb political and military leadership to retaliate, in an organised manner, against the UNPROFOR call for NATO close air support in the Goražde safe area.<sup>16188</sup>

4560. In the context of the NATO attacks, on 13 April 1994, Mladić ordered all subordinate VRS Corps, and the Air Force and Anti-Aircraft Defence units to treat UNPROFOR, UN observers, ICRC, UNHCR personnel, and foreigners uniformly by completely limiting their movement, accommodating them in appropriate premises outside of NATO potential targets, and having them secured by guards.<sup>16189</sup> Mladić

<sup>16181</sup> P587 (Order by Mladić), pp. 1-2; P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 314; P6930 (VRS Main Staff Order from Ratko Mladić, 19 April 1994); *See also* David Fraser, T. 5809, 5810.

<sup>16182</sup> P587 (Order by Mladić), pp. 1-2; P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 314; P6930 (VRS Main Staff Order from Ratko Mladić, 19 April 1994); *See also* David Fraser, T. 5809, 5810.

<sup>16183</sup> P6930 (VRS Main Staff Order from Ratko Mladić, 19 April 1994); *See also* David Fraser, T. 5809, 5810.

<sup>16184</sup> P587 (Order by Mladić), p. 3; *See also* David Fraser, T. 5855-5858.

<sup>16185</sup> P608 (Order by Deputy Commander Milutin Skočajić, 10 April 1994).

<sup>16186</sup> P608 (Order by Deputy Commander Milutin Skočajić, 10 April 1994).

<sup>16187</sup> David Fraser, T. 5929-5932, 5948-5949; *See also* P608 (Order by Deputy Commander Milutin Skočajić, 10 April 1994).

<sup>16188</sup> P587 (VRS Main Staff Order from Ratko Mladić, 10 April 1994); P6930 (VRS Main Staff Order from Ratko Mladić, 19 April 1994); P608 (Order by Deputy Commander Milutin Skočajić, 10 April 1994).

<sup>16189</sup> P514 (VRS Main Staff Order from Mladić regarding treatment of members of international organisations, 13 April 1994), pp. 1-2. *See also* P3029 (Expert Report of Reynaud Theunens, September

further ordered to treat them as POWs if they resisted.<sup>16190</sup> Mladić also ordered the blockage of all convoys from UNPROFOR and humanitarian aid organisations.<sup>16191</sup>

4561. On 14 April 1994, the VRS Main Staff reported, *inter alia*, on the lack of movement of UNPROFOR and humanitarian organisations across the Bosnian-Serb Republic and stated that the Supreme Command's decision on the restriction of movement was being implemented.<sup>16192</sup>

4562. **Anthony Banbury** testified that on 21 July 1994, during a meeting with UN officials Mladić expressed his discontent with detained Serbs in Goražde and Tarčin and stated that if they were not released by 1 August 1994, humanitarian aid and UNPROFOR supplies to the enclaves would be cut off.<sup>16193</sup> Mladić also insisted that the Serbs would continue to closely examine UNPROFOR convoys and asked for special equipment, which he claimed had previously been promised to him by Generals Briquemont and Morillon, to detect explosives in order to facilitate such checks.<sup>16194</sup>

4563. On 22 July 1994, Mladić issued orders to the DK, HK, and SRK, concerning the Muslim enclaves in Srebrenica, Žepa, and Goražde.<sup>16195</sup> He declared a previous order, implementing a ceasefire around Srebrenica, null and void.<sup>16196</sup> Furthermore, Mladić's orders introduced a number of restrictions concerning the enclaves.<sup>16197</sup> Muslims were to be prevented at any cost from leaving these areas along certain routes and communication between the enclaves was also prohibited.<sup>16198</sup> No equipment was to be allowed into Srebrenica, Žepa, or Goražde, apart from food and medication which had been approved by the VRS Main Staff.<sup>16199</sup> UNPROFOR movements to and from the

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2012), Part II, p. 317; P5224 (MUP order regarding treatment of members of international organisations, 17 April 1994).

<sup>16190</sup> P514 (VRS Main Staff Order from Mladić regarding treatment of members of international organisations, 13 April 1994), pp. 1-2. *See also* P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, p. 317; P5224 (MUP order regarding treatment of members of international organisations, 17 April 1994).

<sup>16191</sup> P514 (VRS Main Staff Order from Mladić regarding treatment of members of international organisations, 13 April 1994), pp. 1-2.

<sup>16192</sup> P588 (VRS Main Staff Report, signed by Manojlo Milovanović, Chief of Staff, 14 April 1994), p. 3.

<sup>16193</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), paras 41-42; P764 (UNPROFOR fax from Victor Andreev to Sergio Vieira de Mello, 22 July 1994), p. 2.

<sup>16194</sup> P764 (UNPROFOR fax from Victor Andreev to Sergio Vieira de Mello, 22 July 1994), p. 3. *See also* P736 (Michael Rose, witness statement, 26 March 2009), para. 125.

<sup>16195</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), pp. 1, 5.

<sup>16196</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), pp. 1, 5;

*See also* D1648 (Order from the VRS Main Staff signed by Milovanović, 18 April 1993), p.1.

<sup>16197</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), pp. 1-5.

<sup>16198</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), p. 1.

<sup>16199</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), p. 1.

enclaves were also prohibited unless authorized by the VRS Main Staff.<sup>16200</sup> Checkpoints were to be regulated and equipped with sufficient forces and means so that they could be secured in case of provocation or attack by UNPROFOR or other international humanitarian organisations being checked.<sup>16201</sup> The enclaves were to be completely surrounded by trenches, stone walls, or a wooden fence, so that it would be made impossible for Muslims to leave.<sup>16202</sup>

4564. **Rose** testified that by 25 July 1994, he had encountered problems with Mladić, who was refusing to allow the UN to fly out 35 patients from Goražde until 500 Serb civilian detainees held by the ABiH in Goražde were released.<sup>16203</sup>

4565. **Banbury** testified that the people living in the eastern enclaves of Bosnia-Herzegovina were dependent on humanitarian assistance in the autumn of 1994.<sup>16204</sup> It was the role and mandate of UNPROFOR to deliver this assistance, yet UNPROFOR had been consistently hindered to do so by the Bosnian-Serb leadership, including Karadžić and Mladić, who had failed to accord freedom of movement in the region.<sup>16205</sup>

4566. **David Harland** testified that in a message he drafted to Akashi on 19 October 1994 he stated that Mladić had given personal orders saying that no UNPROFOR fuel convoys would cross Serb held territory until UNPROFOR guaranteed that all Bosnian-Muslim forces had been cleared from the Mount Igman demilitarized zone or that 50 percent of each fuel convoy was given to his forces.<sup>16206</sup> Harland added that the normal means of transmission of Mladić's messages to UNPROFOR was through UNMOs who would receive this message from Milovanović.<sup>16207</sup>

4567. According to an UNPROFOR memorandum, on 23 September 1994, Mladić threatened to attack UNPROFOR 'with the same degree of warning' that was given to Mladić by UNPROFOR on 22 September 1994. The exact nature or targets of the threat were not specified. The attack was to take place if UNPROFOR did not respond to the VRS in a 'satisfactory manner' within 24 hours. VRS headquarters also announced that they would not approve any convoy movement or helicopters on Bosnian-Serb

<sup>16200</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa, and Goražde, 22 July 1994), p. 2.

<sup>16201</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa and Goražde, 22 July 1994), p. 2.

<sup>16202</sup> P5041 (Order from the VRS Main Staff re Srebrenica, Žepa and Goražde, 22 July 1994), p. 3.

<sup>16203</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 126.

<sup>16204</sup> Anthony Banbury, T. 8212.

<sup>16205</sup> Anthony Banbury, T. 8213-8214.

<sup>16206</sup> P1 (David Harland, witness statement, 4 September 2009), para. 144.

<sup>16207</sup> P1 (David Harland, witness statement, 4 September 2009), para. 144.

territory.<sup>16208</sup> Movement of UNPROFOR units near the confrontation line was thus limited essentially to the operational mission of the unit concerned.<sup>16209</sup>

4568. On 11 January 1995, Nikolić asked the DK Command to inform Mladić that the co-ordinator of MSF had made a public apology for the behaviour of one of its members who had been smuggling goods with Bosnian Muslims in Srebrenica and confirmed that the Serbs acted correctly by confiscating the vehicle and smuggled goods.<sup>16210</sup>

4569. On 2 March 1995, Mladić ordered all Corps Commands, and all other VRS units, and the Hospital of the VRS Main Staff to prevent occurrences of unauthorised crossing of the frontline by individuals, vehicles, and convoys of UNPROFOR, humanitarian and other organisations and foreign journalists.<sup>16211</sup> The military police was to control the movement and the entry or exit of foreign nationals, particularly members of UNPROFOR, international humanitarian organisations, and other organisations with the approval of the VRS Main Staff and the Coordinating Body for Cooperation with International Humanitarian Organisations.<sup>16212</sup> Detailed checks of vehicles were to be conducted at military police checkpoints to discover and prevent illegal export and trafficking of weapons and military equipment.<sup>16213</sup> Persons leaving the territory without the necessary permits or approvals were to be arrested and handed over to the closest military police unit or military facility. A register was to be kept of deserters, and of people whose movement was restricted or against whom other measures were to be taken. All corps commanders and independent unit commanders were responsible to Mladić for the realisation of this order.<sup>16214</sup>

4570. **Richard Butler** testified that around March 1995 the VRS Main Staff was directly responsible for approving UNPROFOR convoys and that other convoys related to humanitarian goods were dealt with by another coordinating body.<sup>16215</sup> **Rupert Smith** testified that Mladić approved the passage of convoys on 4 March 1995 and 6

<sup>16208</sup> P5228 (UNPROFOR memorandum from General Brinkman, 24 September 1994), p. 1.

<sup>16209</sup> P5228 (UNPROFOR memorandum from General Brinkman, 24 September 1994), pp. 1-2.

<sup>16210</sup> D365 (Document on protest to Dutch Battalion and military observers, 11 January 1995), p. 1.

<sup>16211</sup> P5229 (Order of the VRS Main Staff on regime and control of movement in the Bosnian-Serb Republic, 2 March 1995), p. 1.

<sup>16212</sup> P5229 (Order of the VRS Main Staff on regime and control of movement in Bosnian-Serb Republic, 2 March 1995), p. 2.

<sup>16213</sup> P5229 (Order of the VRS Main Staff on regime and control of movement in Bosnian-Serb Republic, 2 March 1995), p. 2.

<sup>16214</sup> P5229 (Order of the VRS Main Staff on regime and control of movement in Bosnian-Serb Republic, 2 March 1995), p. 3.

<sup>16215</sup> Richard Butler, T. 16727, 16730.

March 1995 confirming that restrictions and orders were controlled by him and his headquarters<sup>16216</sup> On 7 March 1995, during a meeting between Mladić and General Smith, Mladić reported that over the previous 24 hours he had cleared food and medicine convoys to travel to Srebrenica and Žepa.<sup>16217</sup>

4571. **Slavko Kralj** testified that after the establishment of the State Commission for Cooperation with the UN and International Humanitarian Organisations on 14 March 1995, the VRS was duty-bound to carry out its orders.<sup>16218</sup> Once the Commission notified the VRS Main Staff whether or not they had approved the passage of a convoy the Main Staff would then give their final approval and guarantee safe passage.<sup>16219</sup> Once a request for passage was submitted to the VRS Main Staff and reviewed it was annotated with decisions and questions by Mladić, Milovanović, or Tolimir.<sup>16220</sup> However, Mladić's notes were considered final orders.<sup>16221</sup> Kralj further testified that there were no restrictions imposed on humanitarian aid for the enclaves in 1995.<sup>16222</sup> UNPROFOR was warned about adhering to strict convoy passage policies on multiple occasions due to lack of compliance.<sup>16223</sup> However, many convoys frequently passed without authorisation because the units on the ground did not implement or were slow to implement and forward information to their subordinate units.<sup>16224</sup> Mladić ordered the VRS to take measures to ensure that no convoy could enter the Bosnian-Serb Republic without written authorisation.<sup>16225</sup> **Ljubomir Obradović** testified that he did not know how Mladić made decisions regarding which convoys should be allowed through and which ones should be denied passage, only that he received a document from Mladić with his initials and saying 'yes' or 'no'.<sup>16226</sup>

4572. According to an UNPROFOR report of March 1995, Mladić had threatened to cut off all delivery of aid to the enclaves if the sanctions imposed on the Bosnian Serbs

<sup>16216</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 58.

<sup>16217</sup> P19 (Minutes of meeting between Rupert Smith and Mladić, 7 March 1995), para. 4.

<sup>16218</sup> P6856 (Witness Statement of Slavko Kralj, 25 January 2012), p. 1; Slavko Kralj, T. 27460; *See also* Manojlo Milovanović, T. 17088

<sup>16219</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 12.

<sup>16220</sup> P6856 (Witness Statement of Slavko Kralj, 25 January 2012), p. 1; Slavko Kralj, T. 27459

<sup>16221</sup> P6856 (Witness Statement of Slavko Kralj, 25 January 2012), p. 1; Slavko Kralj, T. 27460.

<sup>16222</sup> Slavko Kralj, T. 27448.

<sup>16223</sup> P6856 (Witness Statement of Slavko Kralj, 25 January 2012), p. 1; D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), paras 6, 28; Slavko Kralj, T. 27461.

<sup>16224</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 8. *See also* P1758 (Report on movement of humanitarian assistance and convoys signed by Mladić, 15 May 1993).

<sup>16225</sup> P1758 (Report on movement of humanitarian assistance and convoys signed by Mladić, 15 May 1993. *See also* D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 8.

<sup>16226</sup> Ljubomir Obradović, T. 14601.

were not lifted, and if a greater percentage of the total aid delivered to Bosnia-Herzegovina was not given to the Serbs.<sup>16227</sup> At a later meeting between UN representatives and the Bosnian-Serb leadership, Mladić demanded absolute parity between the aid delivered to the enclaves and the aid delivered to the Bosnian Serbs.<sup>16228</sup> Several UNPROFOR reports from 1994 and 1995 registered issues with providing humanitarian aid and assistance to the enclaves due to obstacles raised by the VRS.<sup>16229</sup> **Smith** testified that humanitarian convoys were often denied access to Srebrenica by Mladić and the VRS.<sup>16230</sup>

4573. In a meeting held on 4 June 1995, General Janvier informed Mladić that the eastern enclaves were in urgent need of supplies of food and fuel and that such supplies would have to be delivered by helicopter if the movement of convoys would continue to be prevented.<sup>16231</sup> Mladić agreed to the provision of supplies to the enclaves transiting the territory of the FRY, under the condition that the latter would agree with the transit.<sup>16232</sup> According to a letter from Mladić to General Janvier dated 12 June 1995, Mladić approved the transport of the most urgent supplies to the enclaves of Srebrenica, Žepa, Goražde, and Sarajevo, in accordance with their earlier agreement on this issue reached on 4 June 1995.<sup>16233</sup> On 14 June 1995, in a daily report to the UNSC, the UN reported that UNHCR convoys which had requested clearance for passage to the enclaves had not received it, a convoy bound for Srebrenica had been cancelled, and another convoy that was supposed to go to Sarajevo had not left Zenica.<sup>16234</sup> During a meeting on 17 June 1995, General Janvier demanded that Mladić ensure the delivery of supplies of food and fuel to the UNPROFOR troops and population in the enclaves.<sup>16235</sup> Mladić agreed that a need existed to re-supply the enclaves with food and fuel, but insisted on checks around Zvornik, due to the existing black market and the problem of hidden ammunition deliveries.<sup>16236</sup>

<sup>16227</sup> P876 (Political assessment of Bosnia-Herzegovina for 5-11 March 1995, 11 March 1995), para. 8.

<sup>16228</sup> P880 (Political assessment of Bosnia-Herzegovina for 12-18 March 1995, 18 March 1995), para. 11.

<sup>16229</sup> P877 (Political assessment of Bosnia-Herzegovina for 21-27 August 1994, 28 August 1994), para.

25; P878 (Political assessment of Bosnia-Herzegovina for 26 February-4 March 1995, 4 March 1995),

para. 15; P882 (Political assessment of Bosnia-Herzegovina for 26 March to 1 April, 1 April 1995), para.

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<sup>16230</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 33, 35-36, 54, 57-58, 79; P1772 (Akashi letter to Karadžić, 4 March 1995), p. 2.

<sup>16231</sup> P2196 (Summary of a meeting between General Janvier and Mladić, 4 June 1995), p. 2.

<sup>16232</sup> P2196 (Summary of a meeting between General Janvier and Mladić, 4 June 1995), p. 6.

<sup>16233</sup> P2197 (Letter from Mladić to General Janvier, 12 June 1995).

<sup>16234</sup> P6860 (UN daily report cable from Akashi to Annan, 14 June 1995) para. 2.

<sup>16235</sup> P2198 (Summary of a meeting between General Janvier and Mladić, 17 June 1995), p. 3.

<sup>16236</sup> P2198 (Summary of a meeting between General Janvier and Mladić, 17 June 1995), p. 6.

4574. **Cornelis Nicolai** testified that the negotiations to re-supply the enclaves with food and fuel ran from the end of February to the beginning of July 1995 and that he liaised with Mladić if Milovanović was absent, in order to process all the requests.<sup>16237</sup> The fuel shortages were described to be in a desperate situation and permission was denied to refuel right up until July.<sup>16238</sup> On 26 June 1995, a letter written by Nicolai to Mladić explains how UNPROFOR troops were unable to carry out effective patrols due to lack of fuel.<sup>16239</sup> As a result of lack of fuel UNPROFOR was unable to fully investigate Mladić's report of several attacks that were carried out by the ABiH from the safe area of Srebrenica.<sup>16240</sup> A large convoy, which departed on 28 June, received permission to enter Srebrenica, Žepa, and Goražde carrying with it at least four weeks of supplies that the troops needed.<sup>16241</sup> Mladić made this convoy take a longer specific route that lasted four days and required it to pay some taxes to Serbia for crossing their borders.<sup>16242</sup> According to Nicolai, this decision was made by Mladić and President Milosević.<sup>16243</sup> At every VRS checkpoint the convoy was stopped and searched, with trucks being turned back at many points after being told that they had no permission to proceed.<sup>16244</sup> By the time the convoy reached the enclaves, only food supplies were left on the vehicles, other supplies such as fuel and spare parts never made it.<sup>16245</sup>

4575. On 29 June 1995, Mladić had a meeting with General Janvier in Zvornik.<sup>16246</sup> General Janvier indicated to Mladić that the arrival of humanitarian convoys in Sarajevo, which had previously been interrupted, was a favourable development.<sup>16247</sup> Nonetheless, Janvier stressed to Mladić that the situation in Sarajevo and the 'strangulation of the eastern enclaves' had to be alleviated, and that '[t]here are nearly 100,000 people in Sarajevo who need aid. They have one loaf each for two days'.<sup>16248</sup> Mladić and Janvier agreed that on Sunday at noon, one humanitarian aid convoy of

<sup>16237</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 38; P1182 (Letter from General Nicolai to General Ratko Mladić, 26 June 1995).

<sup>16238</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 38.

<sup>16239</sup> P1182 (UNPROFOR letter to Mladić, 26 June 1995) p. 1.

<sup>16240</sup> P1182 (UNPROFOR letter to Mladić, 26 June 1995) p. 1.

<sup>16241</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39.

<sup>16242</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39; P1166 (Signed agreement between General Smith and General Mladić, 19 July 1995), para. 4.

<sup>16243</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39; P1166 (Signed agreement between General Smith and General Mladić, 19 July 1995), para. 4.

<sup>16244</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39.

<sup>16245</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39.

<sup>16246</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 196.

<sup>16247</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 197.

<sup>16248</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 197.

seven vehicles would be allowed to cross Kobiljača and go to Sarajevo, and that one humanitarian convoy of the same size would be allowed to cross the bridge in Zvornik for the Serb side.<sup>16249</sup>

4576. **Smith** testified that Mladić stated that his concerns about the intentions of the ABiH had led him to restrict the amount of food, medicine, and fuel to the enclaves.<sup>16250</sup> Smith was aware that arms had reached the ABiH through humanitarian aid convoys prior to his taking up the command in 1995 but not during his tenure.<sup>16251</sup> During his tenure, Smith did not find any evidence that the UN in Srebrenica was supplying fuel to ABiH.<sup>16252</sup>

*Possible justification for restriction of access for humanitarian aid convoys*

4577. The Trial Chamber will consider the following evidence with regard to the Defence submissions that problems with the delivery of humanitarian aid and supplies to the enclaves including Srebrenica arose out of UNPROFOR's inability to effectively prevent smuggling and due to the abuse of humanitarian aid convoys.

4578. **Pyers Tucker** testified that in order to contain the enclaves and exacerbate the conditions in them, the Bosnian Serbs deliberately placed obstructions in the way of almost all efforts to deliver humanitarian aid to the enclaves.<sup>16253</sup> According to Tucker, the Bosnian Serbs used an array of excuses such as protests against the Bosniaks or UN action, damaged roads and bridges, the presence of fighting or armed locals along the roads, mined or snow-covered roads, and other dangers they said were beyond their control.<sup>16254</sup> Although on a small number of occasions weapons were found in the convoys this was not a sufficient reason to prevent convoys from passing, thereby making people starve.<sup>16255</sup> UNPROFOR officially did not allow weapons on convoys and any suspicions thereof led to convoys being searched and firm protests being lodged with the offending side.<sup>16256</sup> Tucker was aware of two occasions in early 1993 where

<sup>16249</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 203.

<sup>16250</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 58.

<sup>16251</sup> Rupert Smith, T. 7528-7529.

<sup>16252</sup> Rupert Smith, T. 7530-7531.

<sup>16253</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 141, 143; Pyers Tucker, T. 3826.

<sup>16254</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 143.

<sup>16255</sup> Pyers Tucker, T. 3827-3828.

<sup>16256</sup> Pyers Tucker, T. 3827-3828; 3836.

weapons were transported in humanitarian aid convoys.<sup>16257</sup> The first involved some explosives hidden inside one or two oxygen bottles that were to be transported to a hospital in Sarajevo.<sup>16258</sup> The bottles were found by the Serbs when they halted a UNHCR convoy.<sup>16259</sup> The second was the result of a tip-off UNPROFOR received regarding a UNHCR convoy taking aid into a Bosnian Croat area.<sup>16260</sup> UNPROFOR immediately searched the convoy and found around 20 AK-47s and 2,000 rounds of ammunition.<sup>16261</sup> On 17 February 1993, the Bosnian Serbs informed the UNHCR that when checking each UNHCR convoy, they expected details of full timings, manifests of the load on each truck, names of drivers, and weapon serial numbers of the escorts and other details.<sup>16262</sup> The communication and coordination units of the UNHCR and UNPROFOR were unable to provide them with these details without paralysing many other activities.<sup>16263</sup>

4579. The VRS Main Staff received information that UNPROFOR and humanitarian organizations were gathering intelligence and taking part in reconnaissance activities using video cameras and still cameras to detect and record VRS firing positions, positions of anti-aircraft defence rocket units, positions of air surveillance and warning systems, command posts, communication centres, and other important facilities.<sup>16264</sup> The Main Staff was ‘certain that ammunitions and other types of military hardware were also being smuggled in with the convoys’, especially through Sarajevo airport.<sup>16265</sup> Based on this information, on 26 September 1993, Milovanović ordered the Corps Commands and Air Force and Anti-aircraft Defence to: (i) analyze intelligence and reconnaissance activities by the UNPROFOR and humanitarian organizations in their zone of responsibility; (ii) submit to the Main Staff a list of UNPROFOR forces and permanent representatives of organizations in their zone of responsibility; and (iii)

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<sup>16257</sup> Pyers Tucker, T. 3827-3828.

<sup>16258</sup> Pyers Tucker, T. 3827-3828.

<sup>16259</sup> Pyers Tucker, T. 3829.

<sup>16260</sup> Pyers Tucker, T. 3828.

<sup>16261</sup> Pyers Tucker, T. 3828.

<sup>16262</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 136; *See also*, Pyers Tucker, T. 3825. .

<sup>16263</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), para. 136; *See also*, Pyers Tucker, T. 3825.

<sup>16264</sup> D717 (Milovanović’s order to the Corps Commands (1KK, 2KK, SRK, IBK, HK, and DK), and Air Force and Anti-Aircraft Defence, on UNPROFOR and humanitarian organisations’ activities, 26 September 1993), pp. 1-2.

<sup>16265</sup> D717 (Milovanović’s order to the Corps Commands (1KK, 2KK, SRK, IBK, HK, and DK), and Air Force and Anti-Aircraft Defence, on UNPROFOR and humanitarian organisations’ activities, 26 September 1993), p. 2.

define the forces, means and methods of work by organs at all levels for effectively detecting and opposing intelligence and reconnaissance activities.<sup>16266</sup>

4580. On 30 September 1993, due to reports of fuel smuggling using double tanks, the VRS Main Staff ordered humanitarian aid organisations entering and exiting Muslim territory to have their fuel quantity checked.<sup>16267</sup> Milovanović protested the use of double tanks for smuggling fuel during the regular meetings held with the Chief of Staff of the UNPROFOR for Bosnia-Herzegovina.<sup>16268</sup>

4581. **Goran Šehovac** testified that in March or April 1993, all aid and all UNPROFOR vehicles moved freely through the territory of the municipality of 'eastern' Ilidža, where, save for routine checks, there were strict orders in place that no vehicle be bothered.<sup>16269</sup> At this time, the witness and others from his unit discovered 5.56 and 12.7 millimetre calibre ammunition concealed in an UNPROFOR vehicle that was transporting humanitarian aid.<sup>16270</sup> The witness also knew of other cases where humanitarian aid convoys were used to transport weapons and other equipment for the ABiH in Sarajevo, referring to a time when gunpowder was found in oxygen bottles intended for hospital use.<sup>16271</sup> **Nikola Mijatović** also testified that in late March or mid-April 1993, the 'Serbian Army' uncovered ammunition in UNPROFOR trucks that the French Battalion was transporting humanitarian aid in for Muslims in Hrasnica and Butmir.<sup>16272</sup> Members of the 'military police of Ilidža' discovered that the containers carrying flour had a double floor in which ammunition, bullets, and sniper ammunition were stored.<sup>16273</sup> This particular incidence was caught by TV cameras.<sup>16274</sup> According to the witness several such incidents occurred including two incidents that were caught on TV cameras.<sup>16275</sup>

<sup>16266</sup> D717 (Milovanović's order to the Corps Commands (1KK, 2KK, SRK, IBK, HK, and DK), and Air Force and Anti-Aircraft Defence, on UNPROFOR and humanitarian organisations' activities, 26 September 1993), pp. 2-3.

<sup>16267</sup> Manojlo Milovanović, T.17083.

<sup>16268</sup> Manojlo Milovanović, T.17084.

<sup>16269</sup> Goran Šehovac, T. 24690-24691.

<sup>16270</sup> D596 (Goran Šehovac, witness statement, 15 May 2014), para. 16; Goran Šehovac, T. 24689-24694.

<sup>16271</sup> D596 (Goran Šehovac, witness statement, 15 May 2014), para. 16.

<sup>16272</sup> Nikola Mijatović, T. 21470-21471, 21485-21486; P6532 (Proofing note for Nikola Mijatović, 21 May 2014), para. 7; D472 (Video extract and transcript– Ammunition found in UN truck).

<sup>16273</sup> Nikola Mijatović, T. 21485; D472 (Video extract and transcript– Ammunition found in UN truck).

<sup>16274</sup> Nikola Mijatović, T. 21485; D472 (Video extract and transcript– Ammunition found in UN truck).

<sup>16275</sup> Nikola Mijatović, T. 21464-21465; P6532 (Proofing note for Nikola Mijatović, 21 May 2014), para. 7.

4582. On 15 June 1993, Špiro Pereula of the Corps Command of the IKM reported to the VRS Main Staff that according to an intercepted conversation between Luna in Split and Veziata in Goražde on 1 June 1993, large quantities of iron, which Pereula considered to mean weapons and ammunition, were to be dropped at locations where humanitarian aid was to be dropped off on 15 June 1993 in Goražde, under Operation Parachute.<sup>16276</sup> Similarly, **Milovan Lelek** testified that in 1994 helicopters were often seen flying towards Žepa, which he later found out were part of Operation Parachute.<sup>16277</sup> Lelek believed that the helicopters were also supplying weapons, ammunition, and other military equipment through humanitarian aid.<sup>16278</sup>

4583. A report on the movement of humanitarian aid convoys in 1994 compiled by Slavko Novaković, detailed that UNPROFOR, UNHCR, ICRC, and other humanitarian organisation convoys were subjected to entry and exit checks at seven checkpoints.<sup>16279</sup> The entry of convoys, control, and security through the Bosnian-Serb Republic was conducted with the approval of the VRS Main Staff, and in accordance with the instructions of August 1993.<sup>16280</sup> A reserve captain from the DK Command monitored and reported the entry and movement of UNPROFOR and other humanitarian organisation convoys, and reported immediate problems on the passage of convoys to the VRS Main Staff in accordance with the orders and instructions of the VRS Main Staff.<sup>16281</sup> Requests for passage of convoys were submitted to the VRS Main Staff.<sup>16282</sup>

4584. In 1994, checks by the VRS Main Staff revealed various abuses by convoys, such as, items carried by UNPROFOR and humanitarian aid organisations which were not permitted, goods which did not constitute humanitarian aid being carried in humanitarian aid convoys, transport of goods greater in quantity than those permitted, and attempts at border crossings without the approval of the VRS Main Staff. In these instances, the convoys were turned back if they did not agree to a detailed inspection or if they refused to handover the goods temporarily at the control points. If they refused to return to their original point of departure, they were blocked until they handed over the goods in question, and the VRS Main Staff was made aware of the situation. Most cases

<sup>16276</sup> D1600 (Note from Špiro Pereula to the VRS Main Staff and Miletić, 15 June 1993).

<sup>16277</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), para. 19.

<sup>16278</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), para. 19.

<sup>16279</sup> D1615 (Report on movement by UNPROFOR, December 1994), pp. 1, 5.

<sup>16280</sup> D1615 (Report on movement by UNPROFOR, December 1994), p. 1.

<sup>16281</sup> D1615 (Report on movement by UNPROFOR, December 1994), p. 1.

<sup>16282</sup> D1615 (Report on movement by UNPROFOR, December 1994) p. 2.

of attempted smuggling of goods were in the convoys for Srebrenica, Žepa, and Goražde.<sup>16283</sup>

4585. **Lelek** testified that while he was in Rogatica, humanitarian aid convoys frequently passed through towards Žepa and Goražde.<sup>16284</sup> These convoys, organised and escorted by UNPROFOR, often contained items not listed on the notification for the transport of goods.<sup>16285</sup> In 1994 the witness was present when a convoy transporting bags of flour was found to contain ammunition, and another convoy was found to contain various types of technical equipment and sniper rifles.<sup>16286</sup>

4586. **Rose** testified that on 3 June 1994, during a meeting with Karadžić, he pointed out that UNPROFOR convoys had been subjected to unacceptably stringent searches in one instance, lavatory rolls that were not on the manifest had been used as an excuse to detain the convoy.<sup>16287</sup>

4587. On 7 July 1994, the UNPROFOR Office of Civil Affairs reported to Sergio Vieira de Mello, UN Head of Civil Affairs, that there were concerns about the deteriorating relations between UNPROFOR and the Bosnian Serb side.<sup>16288</sup> In the recent past, UNPROFOR forces had been fired upon by the Serbs, medical evacuation requests had been rejected, convoys had been blocked, equipment had been stolen, and UNPROFOR had been 'generally mistreated by the Serb side'.<sup>16289</sup> These issues were discussed during a meeting with VRS Generals Gvero and Tolimir on 6 July 1994.<sup>16290</sup> During the meeting Gvero stated that UNPROFOR's freedom of movement was restricted because of prior incidents where UNPROFOR had acted in a way that created suspicion, such as bringing arms and radio equipment into Goražde.<sup>16291</sup> He alleged that UNPROFOR helicopters brought arms and munitions to the ABiH in Bihać.<sup>16292</sup> Gvero further accused the UN of providing nitrate-based fertilizers to the Bosnian side, which they used to make explosives.<sup>16293</sup> He also alleged there were five trucks in each

<sup>16283</sup> D1615 (Report on movement by UNPROFOR, December 1994), p. 2.

<sup>16284</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), para. 18.

<sup>16285</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), paras 18-19.

<sup>16286</sup> D849 (Milovan Lelek, witness statement, 2 August 2014), para. 19; Milovan Lelek, T. 29568.

<sup>16287</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 112; P763 (UNPROFOR fax from Akashi to Annan, 4 June 1994).

<sup>16288</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 1.

<sup>16289</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 1.

<sup>16290</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 1.

<sup>16291</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 2.

<sup>16292</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 2.

<sup>16293</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 4.

UNHCR convoy filled with arms and munitions for which Bosnia-Herzegovina had paid 5,000 DM.<sup>16294</sup>

4588. **Rose** testified that at a 1 December 1994 meeting with Karadžić, Koljević, Krajišnik, Tolimir, and Zamedica, the Bosnian Serbs agreed to the release of the Dutch and British convoys detained en route to Srebrenica and Goražde.<sup>16295</sup> At other December 1994 meetings with Koljević, Krajišnik, Tolimir, and Gvero, the Bosnian Serbs complained that they had found clear evidence that the UNHCR and others had been smuggling items through their convoys, and that there were discrepancies between the supplies carried by UNPROFOR convoys and the accompanying manifests, proving that the UNPROFOR assisted the Muslims.<sup>16296</sup> **Rose** testified that the ‘endless bureaucracy and checks’ made compliance by the UN impossible and therefore the Bosnian-Serb leadership effectively prevented the convoys’ freedom of movement.<sup>16297</sup>

4589. By early 1995, fewer and fewer supply convoys were making it through to the Srebrenica enclave.<sup>16298</sup> The already meagre resources of the civilian population dwindled further, and even UN forces started running low on food, medicine, fuel, and ammunition.<sup>16299</sup> **Witness RM-323** stated that, in the beginning of 1995 there were increased food shortages as a result of a decrease in humanitarian aid.<sup>16300</sup> Civilians were getting injured either by ambush or by stepping on minefields, while collecting food, fuel, or wood.<sup>16301</sup>

4590. In January 1995, a new set of UNPROFOR troops entered Srebrenica.<sup>16302</sup> **Pieter Boering** testified that between January and July 1995 there were approximately 400 to 450 DutchBat soldiers serving in the Srebrenica enclave.<sup>16303</sup> Water was scarce because the provisional water system present in Srebrenica was often broken or malfunctioning

<sup>16294</sup> D1590 (UNPROFOR report on meeting with Gvero and Tolimir, 7 July 1994), p. 4.

<sup>16295</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 179; P774 (UNPROFOR fax from Akashi to Annan, 2 December 1994).

<sup>16296</sup> P729 (Report from the Bosnia-Herzegovina headquarters command on a meeting in Pale, 12 December 1994), p. 1; *See also* Michael Rose, T. 6847.

<sup>16297</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 182; Michael Rose, T. 6845-6846; P729 (Report from the Bosnia-Herzegovina headquarters command on a meeting in Pale, 12 December 1994), p. 1.

<sup>16298</sup> Adjudicated Facts II, no. 1306.

<sup>16299</sup> Adjudicated Facts II, no. 1307.

<sup>16300</sup> P3524 (Witness RM-323, *Popović et al.* transcript, 15 November 2006), p. 3938.

<sup>16301</sup> P3524 (Witness RM-323, *Popović et al.* transcript, 15 November 2006), pp. 3940-3941.

<sup>16302</sup> Adjudicated Facts II, no. 1295.

<sup>16303</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1872; Pieter Boering, T. 10025.

resulting in poor sanitation.<sup>16304</sup> People had scant access to medical care due to limited medical equipment.<sup>16305</sup> There was only one hospital in Srebrenica supported by MSF and a few local doctors' stations; therefore, people headed towards Tuzla, by bus, for additional medical treatment.<sup>16306</sup> Furthermore, the fuel and food supplies were limited for both DutchBat and the civilian population and electricity was almost non-existent; this scarcity became very pronounced for DutchBat troops beginning early May 1995.<sup>16307</sup>

4591. **Robert Franken** testified that humanitarian aid in Srebrenica was handled by UNHCR and MSF, who dealt with food and medical care respectively.<sup>16308</sup> Humanitarian aid coming into the enclave was subject to the same approval and inspection process by the VRS as the delivery of DutchBat supplies; therefore, UNHCR convoys had similar problems to those of DutchBat.<sup>16309</sup> **Nicolai** testified that Srebrenica depended on humanitarian aid for food, fuel, and medical supplies because the enclave contained more than its original population and there was an insufficient amount of food available to them.<sup>16310</sup> The shortage of food further deteriorated from February to July 1995.<sup>16311</sup> On 28 February 1995, he received a daily situational report indicating that there was only four days of supplies left in Srebrenica and that DutchBat's food and medical supplies were nearly exhausted.<sup>16312</sup> Fuel shortage was also a problem and obtaining permission for relief convoys was extremely difficult.<sup>16313</sup> Relief convoys needed VRS permission to reach their destination and these requests had to be submitted ahead of time.<sup>16314</sup> Some food convoys would get permission to enter Srebrenica by begging the VRS for permission.<sup>16315</sup> In the cases that permission was granted, the convoys would either be blocked *en route* or parts of it were allowed to

<sup>16304</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), p. 1891.

<sup>16305</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1891-1893.

<sup>16306</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1891-1892.

<sup>16307</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21 and 22 September 2006), pp. 1888, 1892-1894.

<sup>16308</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 27-28.

<sup>16309</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 27-28.

<sup>16310</sup> Cornelis Nicolai, T. 10570.

<sup>16311</sup> Cornelis Nicolai, T. 10570. *See also* P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39.

<sup>16312</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 36; Cornelis Nicolai, T. 10568-10570.

<sup>16313</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 36.

<sup>16314</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 36; P1169 (Notes of telephone conversation between Nicolai and Gvero at 2:45 p.m., 12 July 1995), p. 1; Cornelis Nicolai, T. 10565.

<sup>16315</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 38.

pass.<sup>16316</sup> Problems in trying to supply the enclaves were so bad that a more sophisticated plan was devised in consultation with NATO, but the plan was never put into effect.<sup>16317</sup> On 4 March 1995, Mladić agreed to grant passage to a convoy after General Rupert Smith told him that he would use an air supply route or force if necessary to get supplies to Srebrenica.<sup>16318</sup> The relief convoy of 4 March 1995 was the first and last night convoy to enter Srebrenica.<sup>16319</sup> Nicolai further testified that based on the daily situational reports provided by troops in the enclaves, humanitarian aid organisations, including UNHCR and NGOs, had the same problems as UNPROFOR with regard to supplying the enclaves with fresh food because the food was often ruined by the time it reached its destination.<sup>16320</sup> **Franken** testified that the VRS restrictions on DutchBat supplies, in particular of diesel, resulted in DutchBat closing its medical station to civilians, conducting only foot patrols, and being unable to heat its compound or cook food because it had no other source of electricity.<sup>16321</sup>

4592. According to **Kralj**, an assessment was carried out when UNPROFOR and humanitarian aid convoys were found to be carrying forbidden goods.<sup>16322</sup> The entire convoy would be stopped if the forbidden goods were ammunition or something more serious.<sup>16323</sup> In order to allow the convoys to continue on their journey, goods that were not for military purposes were seized temporarily and returned upon the return of the convoy or sent back to their place of origin.<sup>16324</sup> In 1995, information that ABiH was receiving aid never formed a reason for restricting humanitarian aid.<sup>16325</sup> In 1995 several convoys would typically pass through the Bosnian-Serb Republic during the course of one day.<sup>16326</sup> For example, on 30 March 1995, there were 16 convoys travelling between Sarajevo and Kiseljak, 9 convoys travelling between Kiseljak and Srebrenica, and 11

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<sup>16316</sup> Cornelis Nicolai, T. 10564-10565.

<sup>16317</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 37.

<sup>16318</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 36.

<sup>16319</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 36.

<sup>16320</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 39; Cornelis Nicolai, T. 10564, 10566-10577.

<sup>16321</sup> P1417 (Robert Franken, witness statement, 15 January 2012), para. 29; Robert Franken, T. 10721-10722.

<sup>16322</sup> Slavko Kralj, T. 27393-27394.

<sup>16323</sup> Slavko Kralj, T. 27394.

<sup>16324</sup> Slavko Kralj, T. 27394.

<sup>16325</sup> Slavko Kralj, T. 27448.

<sup>16326</sup> Slavko Kralj, T. 27422.

convoys travelling between Sarajevo and Žepa.<sup>16327</sup> An average convoy was made up of ten or more trucks.<sup>16328</sup>

4593. **Momir Nikolić** testified that from April to June 1995, restrictions were imposed on the materials, including fuel, DutchBat was allowed to receive.<sup>16329</sup> Based on their requests and the quantities of materials they received, Nikolić assessed that DutchBat was getting around 10 to 15 per cent of the supplies it needed.<sup>16330</sup> Representatives of the ICRC and UNHCR told Nikolić that the situation in Srebrenica was terrible as those in the enclave suffered from contagious diseases, lice, lacked hygiene items, and had insufficient food.<sup>16331</sup> According to the witness, humanitarian aid supplies into the enclaves were intended only for the civilian population not the military.<sup>16332</sup>

4594. The VRS Main Staff agreed to the delivery of humanitarian aid, specifically seeds, to be delivered to Rogatica on 18 April 1995.<sup>16333</sup> The VRS Main Staff, again through Miletić, denied the transport of UN military police from Sarajevo to Rogatica, the rotation of UNMOs in Žepa, and the transport of technical goods, food, and oil from Sarajevo to Žepa, all scheduled for 20 April 1995.<sup>16334</sup> The VRS Main Staff approved deliveries of UNHCR humanitarian aid, consisting primarily of food, to be transported to Žepa on 22 March, 12 April, 24 May, and 14 June 1995.<sup>16335</sup> A handwritten note on one report approving the UNHCR deliveries states that the transport of matches and motor oil to Žepa on 22 March 1995 had not been approved.<sup>16336</sup> On 20 June 1995, Akashi informed Annan and Gharekhan that the VRS limited a UNHCR convoy to Žepa to one container of food, one container of water, and ten cubic metres of a mixture of diesel and gas; although, two containers of food, one container of water, eleven cubic metres of diesel, and six cubic metres of gas had been requested.<sup>16337</sup>

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<sup>16327</sup> Slavko Kralj, T. 27422.

<sup>16328</sup> Slavko Kralj, T. 27423.

<sup>16329</sup> Momir Nikolić, T. 11799 -11800.

<sup>16330</sup> Momir Nikolić, T. 11801.

<sup>16331</sup> Momir Nikolić, T. 11801-11802.

<sup>16332</sup> Momir Nikolić, T. 12074-12075.

<sup>16333</sup> P2151 (VRS Main Staff Report, 14 April 1995), pp. 1, 3-4.

<sup>16334</sup> P2152 (VRS Main Staff Report, 19 April 1995), pp. 1, 3-4.

<sup>16335</sup> P2153 (VRS Main Staff Report, 7 April 1995), pp. 1-2; P2154 (VRS Main Staff Report, 19 May 1995), pp. 1-2, 4; P2155 (VRS Main Staff Report, 12 June 1995), pp. 1-2; P2160 (VRS Main Staff Report), p. 1.

<sup>16336</sup> P2160 (VRS Main Staff Report), p. 2

<sup>16337</sup> P2199 (UNPROFOR Report, 20 June 1995), pp. 2-4.

4595. In April 1995, UNHCR humanitarian aid to the eastern enclaves was generally good; they were able to meet 82 per cent of their food target.<sup>16338</sup> However, following the May 1995 air strikes, UNHCR was forced to cancel some humanitarian aid convoys to Goražde for security reasons while others were cancelled by the Bosnian Serbs.<sup>16339</sup>

**Joseph Kingori** testified that in the spring and summer of 1995, there was never enough food in Srebrenica, noting that UNHCR was unable to feed the people and also recalled issues with the supply of water, electricity, and fuel in the enclave.<sup>16340</sup> Some people tried to capitalise on the lack of food in Srebrenica by going outside of Srebrenica, buying food, and bringing it over to the enclave to sell at a higher price.<sup>16341</sup>

4596. On 4 June 1995, in a report to the UNPROFOR headquarters, Karremans reported that the food situation in Srebrenica was dire and that warehouses were going to be empty within days.<sup>16342</sup> He reported that the lack of electricity and medical aid was making living conditions difficult.<sup>16343</sup> He also asked the superior commands and UN to make a plea on behalf of Srebrenica and figure out a way to allow the Bosnian Serbs to implement better living conditions.<sup>16344</sup>

4597. On 8 June 1995, according to Banbury's notebook, the VRS stopped a UNHCR convoy going to Žepa and initial reports indicated that they found three boxes of ammunition on the convoy.<sup>16345</sup> On 13 June 1995, Karadžić ordered the VRS Main Staff to allow a commission composed of Miloš Djurić, Momčilo Mancić, and Dragiša Mihić to conduct a detailed investigation into the incident where ammunition was found in a UNHCR convoy headed to Žepa and Goražde.<sup>16346</sup> The commission was to submit a detailed report to the State Committee for the Liaison with the UN and the International Humanitarian Organisations.<sup>16347</sup>

4598. **Butler** testified that Directive 7, which was sent out in a memo by Milovanović on 17 March 1995,<sup>16348</sup> was part of a broader policy for inspecting convoys and

<sup>16338</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

<sup>16339</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

<sup>16340</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 33-42; Joseph Kingori, T. 1037-1038.

<sup>16341</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), para. 35.

<sup>16342</sup> P7709 (Report from Karremans to HQ UNPROFOR, 4 June 1995), p. 2.

<sup>16343</sup> P7709 (Report from Karremans to HQ UNPROFOR, 4 June 1995), p. 2.

<sup>16344</sup> P7709 (Report from Karremans to HQ UNPROFOR, 4 June 1995), p. 3.

<sup>16345</sup> D1594 (Handwritten notes of Banbury, 17 May 1995-10 July 1995), p. 78.

<sup>16346</sup> D1602 (Order by Karadžić to the VRS Main Staff, 13 June 1995), pp. 1-2.

<sup>16347</sup> D1602 (Order by Karadžić to the VRS Main Staff, 13 June 1995), p. 1.

<sup>16348</sup> P1469 (Memo containing Directive 7, 17 March 1995), p.1.

designed to prevent weapons and other illicit goods from being transported by UN and humanitarian aid convoys.<sup>16349</sup> **Kralj** testified that Mladić would have been responsible for implementing Directive 7 if it was sent to him.<sup>16350</sup> Kralj and Đurđić, who dealt specifically with UNPROFOR and humanitarian organisations, were responsible for following through orders that were intended for implementing the directives which Mladić was responsible for.<sup>16351</sup> **Butler** testified that the restriction affected UNPROFOR and humanitarian aid organisations alike.<sup>16352</sup> For example, a 56 truck convoy scheduled for 19 June 1995 was reduced to 23 trucks; cutting the amount of food by 50 percent, the amount of fuel by 70 percent, and the refusal of two ambulances needed by UN troops.<sup>16353</sup> Butler testified that the VRS Main Staff prevented UNPROFOR forces from re-supplying because they wanted everyone going into the enclave to come back out again.<sup>16354</sup> Over time the ability of the UNPROFOR to sustain themselves and conduct peacekeeping operations became more difficult.<sup>16355</sup> Mladić would have been aware of the 19 June 1995 convoy reductions because the VRS Main Staff granted convoy clearances and because he had been involved with Janvier in setting up the convoy.<sup>16356</sup>

4599. In June 1995, UNHCR had sporadic access to Srebrenica and Žepa.<sup>16357</sup> The food convoys that were expected had not arrived, putting the elderly and weak in a difficult situation.<sup>16358</sup> By 6 July 1995, only one UNHCR humanitarian aid convoy had accessed the enclaves.<sup>16359</sup> An ABiH Combat Report dated 6 July 1995 reported the first deaths due to starvation in Srebrenica.<sup>16360</sup> According to a 6 July 1995 UNMO report, the Bosnia-Herzegovina government reported the death of 13 civilians in Srebrenica due to starvation but UNHCR was not in a position to confirm the report.<sup>16361</sup> The UNHCR office in Srebrenica assessed that while the food situation was precarious the population was not facing malnutrition.<sup>16362</sup>

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<sup>16349</sup> Richard Butler, T. 16728.

<sup>16350</sup> Slavko Kralj, T. 27455.

<sup>16351</sup> Slavko Kralj, T. 27455.

<sup>16352</sup> Richard Butler, T.16157.

<sup>16353</sup> Richard Butler, T.16874.

<sup>16354</sup> Richard Butler, T.16874.

<sup>16355</sup> Richard Butler, T.16157-16158.

<sup>16356</sup> Richard Butler, T.16874-16875.

<sup>16357</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

<sup>16358</sup> P6862 (28th Infantry Division Combat Report, 6 July 1995), p. 2.

<sup>16359</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

<sup>16360</sup> P6862 (28th Infantry Division Combat Report, 6 July 1995), p. 2.

<sup>16361</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

<sup>16362</sup> P6861 (Outgoing Code Cable Humanitarian Situation, 6 July 1995), para. 4.

4600. According to an 8 July 1995 UNMO report, the constant refusal by the Bosnian-Serbs to allow convoys through to the enclaves was creating a serious shortage of food. With only one UNHCR convoy reaching the enclaves a week they were meeting less than 25 percent of the needs of the population. The report stated that even if they had received the three UNHCR convoys they requested a week before they would have barely met 65 percent of the population's needs. The report also mentions the lack of water, medical, fuel, and electricity supplies.<sup>16363</sup> On 11 July 1995, an UNMO report declared the food situation in Srebrenica as hopeless; although the battalion had some food left, it was impossible to give any to the refugees who were entering the enclave.<sup>16364</sup> Dutchbat was also unable to provide medical assistance to the wounded because they did not have any supplies.<sup>16365</sup>

*The Trial Chamber's findings*

4601. Based on the foregoing, the Trial Chamber finds that Mladić prevented the delivery of humanitarian aid and authorised deliberately obstructive inspections calculated to restrict humanitarian aid to the enclaves. From August 1993 the VRS Main Staff provided instructions to units on the passage of humanitarian aid convoys, including UNPROFOR and UNHCR convoys, into the Bosnian-Serb Republic. According to these instructions, humanitarian aid convoys could not pass without Main Staff authorisation and the VRS was responsible for the safe passage of the convoys. Requests for passage of humanitarian aid convoys were reviewed and assessed by Mladić, Manojlo Milovanović, or General Tolimir. Mladić had the final say on whether or not UNPROFOR or other humanitarian aid convoys were allowed to proceed through the Bosnian-Serb Republic. Mladić communicated his messages and decisions to the UN through Milovanović. Upon the creation of the State Committee for Liaison with the UN and the International Humanitarian Organisations on 14 March 1995, authorisations for passage were no longer issued by the VRS Main Staff, although Mladić, through the VRS Main Staff, retained ultimate discretion where passage related to security matters.

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<sup>16363</sup> P42 (UNMO report, 8 July 1995), p. 2.

<sup>16364</sup> D22 (UNMO report, 11 July 1995), p. 4.

<sup>16365</sup> D22 (UNMO report, 11 July 1995), p. 4.

4602. The Trial Chamber finds that initially Mladić showed a willingness to allow humanitarian aid through the Bosnian-Serb Republic as demonstrated by his orders of 30 November 1992, 14 May 1993, and 16 June 1993, whereby he ordered VRS units to allow the unhindered passage and protection of consignments, equipment and personnel providing aid intended for the civilian population of the opposing side. Strict instructions, however, were given to prevent the passage of weapons, ammunition, and fuel.

4603. In early 1994 the situation regarding humanitarian aid began to change. On 30 January 1994, Mladić rejected the agreement the UNPROFOR had made with Karadžić regarding the reopening of Tuzla airport. Reopening the airport and starting an airlift operation would have alleviated the difficulties of providing food and other aid to northern Bosnia-Herzegovina.

4604. Mladić placed severe restrictions on humanitarian aid delivery from 10 April 1994 onwards in retaliation for NATO providing air support to UN safe areas. He ordered all VRS units to immediately block all UNPROFOR and humanitarian organisations' activities on the territory of the Bosnian-Serb Republic. On 13 April 1994, Mladić ordered all subordinate Corps and the Air Force and Anti-Aircraft Defence to treat all personnel of humanitarian organisations, including UNMOs and members of UNPROFOR, as POWs if they resisted isolation.

4605. The Trial Chamber finds that between July 1994 and July 1995, Mladić was increasingly obstructive and threatened to block the delivery of humanitarian assistance to the enclaves unless concessions were granted to him such as: the release of Bosnian-Serb prisoners; parity in delivery of humanitarian aid or fuel to Bosnian Serbs; the lifting of international sanctions; or the relocation of Bosnian-Muslim or NATO forces from strategic locations.

4606. Beginning in July 1994 there was a marked decrease in humanitarian aid delivered to Srebrenica because VRS restrictions allowed fewer convoys access to the enclave. On 22 July 1994, Mladić issued an order that prevented anything but food or medication from entering Srebrenica. This order also prevented Bosnian Muslims from moving between the enclaves, restricted communication with other enclaves, and restricted the movement of UNPROFOR and humanitarian aid organisations. UNHCR and other humanitarian organisations were unable to feed the people of Srebrenica due to shortage of food. The humanitarian situation was generally dire. On 6 July 1995, the

Bosnian-Herzegovina government reported the death of 13 civilians in Srebrenica due to starvation. By 8 July 1995 due to refusal of permission of entry to the enclaves UNHCR could only meet less than 25 percent of the needs of the population.

4607. The Trial Chamber finds that the VRS carried out stringent and obstructive fuel inspections upon the entry of humanitarian aid convoys into Bosnian-Serb territories for fear of the fuel being smuggled to ABiH. The consequent lack of fuel had a direct and severe impact on UNHCR and UNPROFOR's ability to deliver humanitarian aid or medical assistance to the enclaves until July 1995.

4608. The Trial Chamber finds that on some instances weapons and ammunition were found in UNPROFOR and humanitarian aid convoys. On one occasion explosives hidden inside oxygen bottles were to be transported to a hospital in Sarajevo and on another occasion, UNPROFOR found weapons and ammunition inside a UNHCR convoy. Between March and April 1993 two incidents were documented on TV cameras including an incident where ammunition was found in UNPROFOR trucks. The Bosnian Serbs complained on multiple occasions that they had found clear evidence that the UNHCR and UNPROFOR were smuggling illegal items and articles not declared. The Trial Chamber finds that despite the fact that aid convoys occasionally may have contained weapons, ammunition or explosives, contrary to the UN mandate for delivery of humanitarian aid, the convoys were already subjected to stringent checks and controls by the VRS. These checks and controls by the VRS were contrary to the agreements for the delivery of humanitarian aid but were tolerated by the UN as a courtesy. The blockading of delivery of humanitarian aid and deliberately obstructive inspections by the VRS was disproportionate and calculated to restrict humanitarian aid to the enclaves.

4609. In chapter 9.3.12, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Overarching JCE. The Trial Chamber will address the relevant evidence in this chapter relating to the *mens rea* of the Accused in chapter 9.3.13.

### *9.3.12 Legal Findings*

4610. The Trial Chamber recalls its findings in chapter 9.2.14 that from 1991 until 30 November 1995, there existed a JCE with the objective of permanently removing the

Bosnian Muslims and Bosnian Croats from Bosnian-Serb-claimed territory in Bosnia-Herzegovina through persecution, extermination, murder, inhumane acts (forcible transfer), and deportation. The Trial Chamber also found that the following people participated in the realization of the common criminal objective: Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Bogdan Subotić, Momčilo Mandić, and Mićo Stanišić. The Trial Chamber also recalls its findings in chapter 4 that many of the charged crimes were committed by members of the VRS, which were under the operational command of one of the corps, and ultimately the VRS Main Staff. Many other crimes were committed by MUP members, either under the operational supervision of the VRS or under the supervision of the MUP.

4611. The Trial Chamber will briefly summarise Mladić's actions relevant for determining whether he significantly contributed to the Overarching JCE. In chapters 9.3.2-9.3.12, the Trial Chamber made findings about Mladić's acts and omissions during the existence of the Overarching JCE. The Trial Chamber found that Mladić: (i) between May 1992 and at least October 1995 issued orders regarding the establishment and organization of VRS organs and corps, including assignments and promotions; (ii) from May 1992 until 1995 held daily briefings and occasional meetings with VRS Main Staff officers and corps commanders, regularly visited and inspected VRS units, and issued orders and 'Operational Directives' to VRS units as well as other groups; (iii) tasked brigade commanders of the 1KK to cooperate with the MUP; (iv) from May 1992 to October 1995 was in direct contact with members of the leadership in Serbia and members of the VJ General Staff to ensure the military needs of the VRS were met; (v) addressed the Bosnian-Serb Assembly during several of its sessions on issues surrounding the development of policies of the Bosnian-Serb political leadership and often suggested to Bosnian-Serb politicians what position they should take during peace negotiations in order to achieve the strategic objectives as initially defined; (vi) between September 1992 and at least March 1995 introduced and maintained a controlled and centralised system of spreading propaganda related to Bosnian Croats and Bosnian Muslims; (vii) made deliberately misleading statements to members of the media and international community in relation to crimes committed on the ground; (viii) did not take appropriate or further steps, to investigate or punish perpetrators of crimes; and (ix) placed severe restrictions on the delivery of humanitarian aid from 10 April 1994

onwards by ordering all VRS units to immediately block all UNPROFOR and humanitarian organisations' activity on the territory of the Bosnian-Serb Republic.

4612. The Trial Chamber considered in particular Mladić's acts vis-à-vis the VRS, given that many of the principal perpetrators of crimes were VRS members. Mladić issued orders regarding the establishment and organization of the VRS and its organs. Mladić was closely involved in VRS activities, as evidenced by regular briefings, meetings, and inspections. Mladić commanded and controlled VRS units and issued orders to other groups. Mladić also addressed the Bosnian-Serb Assembly during several of its sessions on issues surrounding the development of policies of the Bosnian-Serb political leadership and often suggested to Bosnian-Serb politicians what position they should take during peace negotiations in order to achieve the strategic objectives as initially defined. Mladić further placed severe restrictions on humanitarian aid. Mladić's acts were so instrumental to the commission of the crimes that without them the crimes would not have been committed as they were. In light of this, the Trial Chamber finds that through his actions set out in the previous paragraph, the Accused significantly contributed to achieving the objective of permanently removing the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia-Herzegovina through persecution, extermination, murder, inhumane acts (forcible transfer), and deportation.

### 9.3.13 *Mens rea*

4613. The Prosecution argued that the Accused's statements and conduct demonstrate his intention to commit all of the alleged crimes.<sup>16366</sup> The Defence submitted that the Accused (i) was primarily concerned with defending against a legitimate military threat, and made it clear that the fight was not against non-Serbs, but against those who sought war;<sup>16367</sup> (ii) did not intend for his actions to have discriminatory effects, but assisted in the legitimate movement of populations when this was imperative on account of the conflict or humanitarian considerations;<sup>16368</sup> (iii) did not know about the crimes or

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<sup>16366</sup> Prosecution Final Brief, paras 216-239.

<sup>16367</sup> Defence Final Brief, para. 115.

<sup>16368</sup> Defence Final Brief, paras 116, 142-143.

intend for them to be committed;<sup>16369</sup> and (iv) demonstrated a consistent intent to negotiate peace.<sup>16370</sup>

4614. The Trial Chamber received evidence with regard to the Accused's alleged intent to achieve the common objective of the Overarching JCE from **Slavisa Sabljic**, a Serb journalist who was mobilized in the 2KK on 1 June 1992 and demobilized in March 1996;<sup>16371</sup> **Savo Strbač**, a Serb lawyer from Benkovac and Chief of Intelligence of the Benkovac TO in September 1991;<sup>16372</sup> **Miroslav Deronjic**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>16373</sup> **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>16374</sup> **Nenad Kecmanovic**, a member of the Bosnia-Herzegovina Presidency from 1 June until 23 August 1992;<sup>16375</sup> **Grujo Boric**, a JNA officer between 1990 and mid-1992, and Commander of the 2KK from July 1992 to December 1994;<sup>16376</sup> **Witness RM-802**, a VRS officer;<sup>16377</sup> **Aernout van Lynden**, a Sky News journalist covering the conflict in the former Yugoslavia from Sarajevo, Pale, and Central Bosnia from May 1992 until 1995;<sup>16378</sup> **Witness RM-048**, a Bosnian Muslim;<sup>16379</sup> **Maria Karall** and **Dora Sokola**, both Prosecution employees;<sup>16380</sup> **Šefik Hurko**, a Bosnian Muslim who was detained in Rasadnik camp from August 1992 through April 1994;<sup>16381</sup> **Predrag Radulovic**, head of an intelligence team known as the Miloš group in the Banja Luka CSB from mid-1991 to 1994;<sup>16382</sup> **Nedo Vlaški**, a member of the SDB;<sup>16383</sup> **Dragan**

<sup>16369</sup> Defence Final Brief, paras 115-119, 131-135, 144, 807-817.

<sup>16370</sup> Defence Final Brief, paras 804-805.

<sup>16371</sup> D876 (Slaviša Sabljic, witness statement, 17 July 2014), p. 1, paras 2-3.

<sup>16372</sup> Savo Strbač, T. 41068-41072, 41107-41108, 41113-41114; P7637 (List of Benkovac TO staff members dated 24 September 1991), p. 2.

<sup>16373</sup> P3566 (Miroslav Deronjic, witness statement, 25 November 2003), para. 2. Deronjic's evidence is reviewed in chapter 9.2.2.

<sup>16374</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Aly Abdel-Razek, T. 3578. Abdel-Razek's evidence is reviewed in chapter 9.2.5.

<sup>16375</sup> D556 (Nenad Kecmanovic, witness statement, 25 February 2014), para. 9; P6668 (Interview with Kecmanovic published by Tanjug press agency, 25 August 1992).

<sup>16376</sup> Grujo Boric, T. 34580-34581, 34586, 34599-34600, 34608.

<sup>16377</sup> P439 (Witness RM-802, witness statement, 25 April 2012), pp. 1-2, 33; P438 (Witness RM-802, pseudonym sheet).

<sup>16378</sup> P66 (Aernout van Lynden, witness statement, 16 March 2010), paras 5, 10-11, 17, 27, 38, 40-43; Aernout van Lynden, T. 1343. Van Lynden's evidence is reviewed in chapter 9.5.11.

<sup>16379</sup> P979 (Witness RM-048, witness statement, 8 June 1999), p. 1, para. 1; Witness RM-048, T. 8815.

<sup>16380</sup> **Maria Karall**: Maria Karall, T. 16591-16593. **Dora Sokola**: Dora Sokola, T. 18163-18165.

<sup>16381</sup> P164 (Šefik Hurko, witness statement, 1 September 2011), p. 1, paras 15, 21-22, 49; Šefik Hurko, T. 2220.

<sup>16382</sup> P3207 (Predrag Radulovic, witness statement, 5 December 2009), p. 1, paras 4-5.

<sup>16383</sup> D735 (Nedo Vlaški, witness statement, 28 June and 23 July 2014), p. 1; D736 (Nedo Vlaški, information from witness proofing, 1 November 2014), p. 2.

**Kijać**, Chief of the Sarajevo National Security Service Sector from 6 April 1992 onwards and Undersecretary of the MUP-SNB from 6 August 1992 until September 1994, after which he was appointed Undersecretary and Chief of the RDB,<sup>16384</sup> **Witness RM-019**, a member of the VRS 11th Herzegovina Brigade from May 1992,<sup>16385</sup> and **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996,<sup>16386</sup> as well as documentary evidence. The Trial Chamber also reviewed evidence relevant to the Accused's alleged *mens rea* in chapters 3.1.4, 9.2.2, 9.2.5, 9.3.3, 9.3.7, and 9.5.11, and will recall this evidence when necessary.

4615. As set out in further detail below, the Trial Chamber recalls its finding in chapter 9.3.12 that Mladić's acts significantly contributed to the Overarching JCE. In particular, Mladić was closely involved in VRS activities, as evidenced by regular briefings, meetings, and inspections. Mladić commanded and controlled VRS units and issued orders to other groups. His acts were so instrumental to the commission of the crimes that without them the crimes would not have been committed as they were. The Trial Chamber will now consider whether, in carrying out these acts, Mladić intended to pursue the common objective of the Overarching JCE.

*Mladić's knowledge, statements, and conduct prior to 12 May 1992*

4616. The Trial Chamber received evidence relating to Mladić's knowledge, statements, and conduct prior to 12 May 1992. The Prosecution argued that Mladić was fully aware that he was taking over a criminal campaign and that he demonstrated through his statements and conduct, particularly his conduct in Croatia in 1991, that he shared the JCE members' criminal intent.<sup>16387</sup> The Prosecution submits that Mladić's *modus operandi* of seizing territory and forcibly removing civilians in Croatia during

<sup>16384</sup> D1292 (Dragan Kijać, witness statement, 30 November 2013), para. 4; Dragan Kijać, T. 40018-40020; P7576 (Decision by Mićo Stanišić to appoint Dragan Kijać as undersecretary of the SNB of the MUP, 6 August 1992), pp. 1-2.

<sup>16385</sup> P572 (Witness RM-019, witness statement, 3 September 2003), p. 1, paras 4, 6-8; Witness RM-019, T. 5701-5706.

<sup>16386</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>16387</sup> Prosecution Final Brief, paras 196-208.

the autumn of 1991 was the same as the one he employed between 1992 and 1995 as Commander of the VRS Main Staff.<sup>16388</sup>

4617. *Mladić's statements and conduct in Croatia, autumn 1991.* **Slavisa Sabljčić** testified that on 26 August 1991, Mladić entered the Croatian village of Kijevo and attacked the town along with JNA forces, commanded by Slavko Lisica, over several days.<sup>16389</sup> The witness testified that Kijevo was shelled heavily during the attack and the town was almost completely demolished.<sup>16390</sup>

4618. **Savo Strbač** testified that sometime in September 1991, JNA forces commanded by Mladić launched an attack on the town of Sinj in Croatia, where the vast majority of the population was Croat.<sup>16391</sup> On 26 September 1991, during the take-over of the town, Mladić was recorded to have threatened an enemy soldier that if his demands were not met, he would cause destruction of a level the soldier had not yet seen before.<sup>16392</sup> Mladić added 'I do not wish for you to take this as a threat. I am a soldier, I execute my tasks. Had I been listened to – Kijevo would not have happened, nor would have Vrlika – had I been listened to, or Šibenik – had I been listened to.'<sup>16393</sup> When the soldier told Mladić that his orders would be followed through, Mladić responded '[I]n that case, you can count on having Sinj. Otherwise, you can tell the residents of Sinj and those who are deciding on their fate [...] that they can just wait for me in a destroyed city'.<sup>16394</sup> During the take-over of Sinj, Mladić was also recorded to have stated that '...I'm not turning anything on, not the water or anything else at all, or the bridge or anything else at all, until this... I won't /open/ the bridge until we also do Dalmatia like this, everything, and I'm not turning your power on [...].'<sup>16395</sup>

4619. On 7 October 1991, Mladić told JNA Lieutenant-Colonel Milosav, who was reporting from Šibenik, that the Šibenik authorities should accept the demands of the Serb forces and stop firing at the JNA.<sup>16396</sup> Mladić informed him that they had encircled Zadar from all sides and that they 'had them by the neck' as there was 'no way out of

<sup>16388</sup> Prosecution Final Brief, paras 206-208. See also T. 20807-20808, 41135.

<sup>16389</sup> Slavisa Sabljčić, T. 30553.

<sup>16390</sup> Slavisa Sabljčić, T. 30555.

<sup>16391</sup> Savo Strbač, T. 41120.

<sup>16392</sup> P7639 (Transcript of video of Mladić 26 September 1991), p. 1.

<sup>16393</sup> P7639 (Transcript of video of Mladić 26 September 1991), p. 1.

<sup>16394</sup> P7639 (Transcript of video of Mladić, 26 September 1991), pp. 1-2.

<sup>16395</sup> P7640 (Transcript of video of Mladić, 26 September 1991), p. 1.

<sup>16396</sup> P1959 (Audio recording of October 1991 from an audio cassette labelled on the cover '07.10.91 operations around Skradin, Sibe and Zadar', from 00:19:46 to 00:28:52).

Dalmatia'.<sup>16397</sup> Mladić stated that, if the authorities in Šibenik, Split, and Zadar did not do exactly as the Serb forces 'dictate[d]', they would continue with operations which would be the 'destruction of Zadar and then the destruction of the rest of the towns'.<sup>16398</sup> He told Milosav that 'we have taken control of the Peruća dam, some fifteen days ago, mined it with 1,783 kilograms of explosive. I am just waiting to pick up the fuse, if they do not let Šibenik and Zadar go, it will be a total flood for them.'<sup>16399</sup> Mladić stated that 'nothing will get out of Dalmatia except children under the age of ten if they carry on like this. [...] All that is older than 10 and younger than 75 will come to harm in Šibenik and we will not leave a single house standing, unless they finish the job like it was done in Sinj.'<sup>16400</sup>

4620. *Mladić's knowledge and conduct from 5 May to 11 May 1992.* The Trial Chamber recalls its finding in chapter 9.2.4 that on 7 May 1992, Mladić and Krajišnik had a meeting regarding the six strategic objectives. The Trial Chamber further received evidence that, at the abovementioned meeting, Mladić recorded that the first objective was 'to separate from the Croats and the Muslims forever'.<sup>16401</sup> On 10 May 1992, Mladić made a note to set out at the 16th Session of the Bosnian-Serb Assembly that 'the Serbian people is one nation from Knin to Kovin, and Orthodoxy from Knin to Siberia'.<sup>16402</sup> Mladić noted he would set out two choices to the Assembly: 'fight and survive' or 'be passive, disorganized, not fight [and] disappear'.<sup>16403</sup>

4621. The Trial Chamber recalls the evidence of Miroslav Deronjić, reviewed in chapter 9.2.2, that Mladić attended a meeting in Pale on 10 or 11 May 1992, during which everyone applauded after hearing reports that the village of Glogova had been partially destroyed, that most of it was on fire, and that the Bosnian Muslims had been evacuated by force. A map depicting the ethnic structure of Bosnia-Herzegovina was hanging in the conference room; it was divided into two parts in different colours, the

<sup>16397</sup> P1959 (Audio recording of October 1991 from an audio cassette labelled on the cover '07.10.91 operations around Skradin, Sibe and Zadar', from 00:19:46 to 00:28:52), p. 5.

<sup>16398</sup> P1959 (Audio recording of October 1991 from an audio cassette labelled on the cover '07.10.91 operations around Skradin, Sibe and Zadar', from 00:19:46 to 00:28:52), p. 5. *See also* p. 3.

<sup>16399</sup> P1959 (Audio recording of October 1991 from an audio cassette labelled on the cover '07.10.91 operations around Skradin, Sibe and Zadar', from 00:19:46 to 00:28:52), p. 6.

<sup>16400</sup> P1959 (Audio recording of October 1991 from an audio cassette labelled on the cover '07.10.91 operations around Skradin, Sibe and Zadar', from 00:19:46 to 00:28:52), p. 8.

<sup>16401</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 262.

<sup>16402</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 284-285. The Trial Chamber understands Mladić's reference in his notebook entry on 10 May 1992 to 'the government session' to refer to the 16th Assembly Session that was held two days later.

<sup>16403</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 285.

Serb areas being blue. Following the applause on the destruction of Glogova, Ostojić said ‘We can now also colour Bratunac blue’.

4622. On 11 May 1992, the Commander of the JNA 5th Corps reported to Mladić that Derventa had not been ‘mopped up’ yet, but that this would begin in 1-2 days.<sup>16404</sup> Branko Simić informed Mladić that 150 soldiers were ‘clearing up’ Mostar, and the Chief of the Trebinje security centre, Krsto Savić, referred to the organized looting of Mostar.<sup>16405</sup>

*Mladić’s knowledge, statements, and conduct from 12 May 1992 onwards*

4623. The Trial Chamber recalls its finding in chapter 3.1.4 that on 12 May 1992, Mladić was appointed Commander of the VRS Main Staff and that he remained in this position until at least 8 November 1996.

4624. *Mladić’s role in developing Bosnian-Serb governmental policies.* The Trial Chamber found in chapter 9.3.7 that, between 12 May 1992 and 16 April 1995, Mladić addressed the Bosnian-Serb Assembly during several of its sessions on issues relating to the development of policies of the Bosnian-Serb political leadership, and that at various meetings, he discussed these policies with high-level political figures and representatives of the international community and affirmed his commitment to the strategic objectives.

4625. The Trial Chamber recalls in particular the minutes of the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, reviewed in chapter 9.3.7, according to which Mladić stated that the ‘thing’ that they were doing needed to be ‘guarded as [their] deepest secret’. Serb representatives would have to present the objectives in a way that would sound appealing to those whom they wanted to win over and the ‘Serbian people’ would need to know how to read between the lines. Mladić also observed that ‘we cannot cleanse nor can we have a sieve to sift so that only Serbs would stay, or that the Serbs would fall through and the rest leave. [...] I do not know how Mr. Krajišnik and Mr. Karadžić would explain this to the world. People, that would be genocide’. However, he later said ‘we must make our move and eliminate them, either temporarily or permanently, so that they will not be in the trenches.’

<sup>16404</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 285.

<sup>16405</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), p. 295.

4626. The Trial Chamber recalls the evidence of Husein Aly Abdel-Razek, reviewed in chapter 9.2.5, that during a Christmas celebration in Pale on 7 January 1993, Karadžić stated that the Muslims would be transferred out of Serb territory as the Serbs and Muslims could not live together anymore. Mladić, Gvero, Krajišnik, and Plavšić all agreed. Krajišnik said that ethnic cleansing was necessary.

4627. During the 24th Session of the Bosnian-Serb Assembly, which took place on 8 January 1993 and was attended by the VRS Main Staff, including Mladić, the Bosnian-Serb Assembly adopted a unanimous conclusion that Muslims should be taken out of 'Serbism' forever, and that the Muslims, as a nation, were a 'sect' of Turkish provenance; a communist, artificial creation which the Serbs did not accept.<sup>16406</sup> During the same session, Vojo Kuprešanin, the President of the ARK Assembly, stated that the war in Bosnia-Herzegovina was necessary and that if Serbia did not go to war now, then the Albanians and Muslims were to entirely and legally overtake the power in Belgrade in the next three to five years.<sup>16407</sup>

4628. **Nenad Kecmanović** testified that when the Vance-Owen plan was discussed during the meeting of the Bosnian-Serb Assembly on 5 and 6 May 1993, Mladić forcefully demonstrated his opposition to the plan.<sup>16408</sup> Mladić presented a map depicting the situation in the field, which he claimed showed the results achieved by the Bosnian-Serb leadership and the VRS.<sup>16409</sup> He also presented another map to demonstrate how much territory the Serbs would have to give back under the Vance-Owen plan.<sup>16410</sup> The Bosnian-Serb Assembly subsequently voted against the ratification of the Vance-Owen plan.<sup>16411</sup>

4629. At the 37th Session of the Bosnian-Serb Assembly, on 10 January 1994, Mladić stated that '[t]he enemy that we are facing is getting stronger every day and that fact that the enemy in Žepa, Mostar, Goražde, Srebrenica, Orašje, Bihać, Kladuša, Tesanj, Zenica, or Sarajevo does not even think of surrendering, means that they are determined

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<sup>16406</sup> P6921 (Excerpts from transcript of the 24th session of the Bosnian-Serb Assembly, 8 January 1993), pp. 1-3, 96-97.

<sup>16407</sup> P6921 (Excerpts from transcript of the 24th session of the Bosnian-Serb Assembly, 8 January 1993), pp. 8, 10; Miloš Milinčić, T. 28382.

<sup>16408</sup> Nenad Kecmanović, T. 23945, 23948; P6670 (Video excerpt from BBC documentary 'Death of Yugoslavia').

<sup>16409</sup> Nenad Kecmanović, T. 23949; P6670 (Video excerpt from BBC documentary 'Death of Yugoslavia').

<sup>16410</sup> Nenad Kecmanović, T. 23949; P6670 (Video excerpt from BBC documentary 'Death of Yugoslavia').

<sup>16411</sup> Nenad Kecmanović, T. 23945-23946.

to fight until the last one of us lives [*sic*]. [...] They started the war at first, they are heading this war, but that is not my concern. My concern is not that they will create the state. My concern is to have them vanish completely'.<sup>16412</sup> Mladić also stated that this was a 'historical chance' to create an 'all-Serbian state' with as few enemies as possible, or 'those who could be our potential enemies, and raise [*sic*] against us again in a few years'.<sup>16413</sup> He said 'it is better that we fight the war now while they are on their knees, instead of letting them have rest for five years and the whole world supply them with weapons, materiel and brains. In case of that, we would be in their position of digging our way out through the hills or below the runway in order to survive.'<sup>16414</sup>

4630. *Mladić's knowledge of crimes in the Municipalities.* The Trial Chamber found in chapters 8.3.2, 8.4.2, 8.5.2, and 8.9.2 that the crimes of persecution, murder, extermination, deportation and inhumane acts (forcible transfer) were committed in the Municipalities.

4631. The Trial Chamber recalls its finding in chapter 9.3.3 that the VRS had a well-functioning communication system which allowed Mladić to effectively and quickly communicate with his subordinates. From May 1992 until 1995, Mladić had daily telephone communication with corps commanders, usually in the mornings and in the evenings. Mladić also held regular briefings and occasional evening meetings with VRS Main Staff officers and corps commanders. The Trial Chamber also recalls its finding that Mladić was kept informed of developments in the battlefield through daily written reports, which were submitted to the VRS Main Staff by corps commanders by no later than 8 p.m. Any emergencies or changes on the reports were communicated by telephone directly to Mladić or Milovanović. Mladić was very meticulous regarding the submission and content of these reports, and although he did not sign all the reports sent to the Supreme Command, he was kept up to date on the main issues by Milovanović. The Trial Chamber further found that between May 1992 and May 1995, Mladić regularly visited and inspected VRS units at the corps, brigade, and tactical level. In this respect, **Grujo Borić**, the commander of the 2KK, testified that Mladić 'would know what the situation was like on the front line of the 2KK' without Borić having to report to him.<sup>16415</sup> **Witness RM-802** testified that Mladić was a 'hands-on' commander who

<sup>16412</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 20.

<sup>16413</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 18.

<sup>16414</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 19.

<sup>16415</sup> Grujo Borić, T. 34596.

visited the front often.<sup>16416</sup> The Trial Chamber further received documentary evidence that the 1KK sent regular reports to the VRS Main Staff detailing, *inter alia*, ‘cleansing’ operations, detentions, and ‘methods of exercising pressure’ on Bosnian Muslims and Bosnian Croats, as well as ‘organised expulsions’ of the Bosnian-Muslim and Bosnian-Croat population.<sup>16417</sup> The Trial Chamber further recalls its finding in chapter 3.1.3 that during the war, the Main Staff organized regular daily, weekly, and monthly meetings to coordinate and keep itself apprised of the ongoing war effort.

4632. The Trial Chamber recalls the evidence of Aernout van Lynden, reviewed in chapter 9.5.11, that Sky News reports about ongoing events were translated and broadcast locally, and that Mladić, as well as Karadžić, told van Lynden that they watched Sky News and other international broadcasts.

4633. On 25 August 1992, the UNGA expressed grave concerns on the situation in Bosnia-Herzegovina, urging the UNSC to consider, on an urgent basis, taking further measures as provided for in Chapter VII of the Charter of the UN in order to put an end to the fighting and to restore the unity and territorial integrity of Bosnia-Herzegovina.<sup>16418</sup> The UNGA strongly condemned, *inter alia*, the practice of ethnic cleansing, and expressed grave concern about the continuing reports of widespread, massive and grave violations of human rights, including reports of mass forcible expulsions and deportation of civilians, imprisonment and abuse of civilians in detention centres and deliberate attacks on non-combatants, wanton devastation and destruction of property, arbitrary executions, forced disappearances, torture, rape and other cruel, inhumane and degrading treatment.<sup>16419</sup> On 20 December 1993, the UNGA reiterated its grave concerns about the continuing ‘systematic violations of human rights’ against the Muslim population, particularly in the areas of Bosnia-Herzegovina under Bosnian-Serb control.<sup>16420</sup> It further condemned the specific violations committed in connection with ‘ethnic cleansing’. On 5 January 1994, the UNGA strongly

<sup>16416</sup> P439 (Witness RM-802, witness statement, 25 April 2012), para. 74.

<sup>16417</sup> See e.g. P246 (Report by 1KK Commander Talić to the VRS Main Staff, 1 June 1992), p. 1 (the capture of approximately 7,000 people ‘so far’); P214 (Witness RM-051, *Stanišić and Župljanin* transcript, 21-22 January 2010), pp. 5278-5280; P217 (1KK regular combat report, signed for Momir Talić, 13 June 1992), p. 2 (the movement of approximately 900 detainees from Stara Gradiška to Manjača); P3731 (Report by 1KK Commander Talić to VRS Main Staff, 28 June 1992), p. 1 (‘cleansing and liquidation of terrorist groups’); P5148 (1KK Command combat report, 2 August 1992), p. 1-2 (the increase in ‘methods of exercising pressure’ and the organized expulsion of the Bosnian-Muslim and Bosnian-Croat population from the area of the Bosnian Krajina and further afield).

<sup>16418</sup> P2044 (UNGA Resolution 46/242, 25 August 1992), pp. 1-3.

<sup>16419</sup> P2044 (UNGA Resolution 46/242, 25 August 1992), pp. 1-3.

condemned the ‘abhorrent practice of rape and abuse’ and the systematic use of this practice as an instrument of ‘ethnic cleansing’, in particular against Bosnian-Muslim women and children.<sup>16421</sup>

4634. On 11 September 1992, Mladić was present at a military-political consultation with military commanders, presidents of municipal assemblies, as well as presidents of various municipalities, during which Jovo Banjac, President of Ključ Municipality, reported that out of 17,000 Bosnian Muslims originally present in the municipality, only 5,000 remained, and of those, another 1,500 had left that day.<sup>16422</sup> On 17 September 1992 in a meeting held in Foča, Mladić was informed by Miroslav Stanić, Head of the Foča War Presidency, that before the war, 51 per cent of the population of Foča was Bosnian Muslim but that at the time of the meeting, Serbs represented 99 per cent of the population in Foča.<sup>16423</sup>

4635. The Trial Chamber recalls its finding in chapter 9.2.11 that on 27 May 1993, Bogojević reported to Mladić that the Bosnian-Serb Minister of Interior sent Drljača to discuss the mass grave at Tomašica with Subotić, Arsić, Matijević and himself. At this meeting, Drljača said that he wanted to get rid of the bodies buried at Tomašica by burning or grinding them. Mladić told Bogojević that those responsible for the killings should get rid of the bodies. Mladić further noted that an investigation had to be launched in connection with the case and that the information was to be retained well to prevent it getting into the hands of unauthorized people.

4636. The Trial Chamber recalls evidence reviewed in chapter 3.1.4, according to which on 27 November 1996, Mladić wanted the Bosnian-Serb President to provide written guarantees that no member of the VRS would incur disciplinary, criminal, or other responsibility for the execution of orders in line with Mladić’s decisions and orders up until that date.

4637. *Mladić’s knowledge of crimes in detention facilities.* The Trial Chamber found in chapters 8.3.2, 8.4.2, 8.5.2, and 8.9.2 that members of the VRS and other subordinated forces committed the crimes of murder and extermination as crimes against humanity, as well as murder, unlawful detention, cruel and inhumane treatment, and forced labour

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<sup>16420</sup> P2046 (UNGA Resolution 48/153, 20 December 1993), pp. 1-2

<sup>16421</sup> P2045 (UNGA Resolution 48/143, 5 January 1994), pp. 1-3.

<sup>16422</sup> P355 (Mladić notebook, 10-30 September 1992), pp. 7, 26.

<sup>16423</sup> P355 (Mladić notebook, 10-30 September 1992), pp. 60, 66.

as underlying acts of persecution against Bosnian Muslims and Bosnian Croats in detention facilities.

4638. The Trial Chamber received evidence that regular reports were sent to the VRS Main Staff on the function of, and conditions at, detention camps, including reports of detainees being killed.<sup>16424</sup> The Trial Chamber also recalls its finding in chapter 9.3.4 that on 2 August 1992, Mladić, through Talić, ordered the command of the 43rd Motorized Brigade, the Manjača camp command, the Prijedor CSB, and the Security Organ of the 1KK Rear Command Post to allow an ICRC team and reporters to visit the detention camps in Manjača, Omarska, and Trnopolje within the following two days, and to take all measures to make conditions in those camps satisfactory, through ensuring, *inter alia*, functional medical care for detainees, records of deaths, and findings on the causes of death.

4639. In chapter 8.9.2, the Trial Chamber found that from early August 1992, Radovan Stanković held several groups of Bosnian-Muslim women and girls in ‘Karaman’s house’, and ill-treated them, as further set out in chapter 4.3.2, *Schedule C.6.2*. The Trial Chamber further found that Dragoljub Kunarac took a Bosnian-Muslim woman from ‘Karaman’s house’ and brought her to a Serb soldier’s<sup>16425</sup> apartment in Foča, where the Serb soldier detained her and ill-treated her from August 1992 until July 1993, as further set out in chapter 4.3.2, *Schedule C.6.2*.

4640. **Witness RM-048** testified that at the end of September 1992, the Serb soldier in whose apartment she was held took her to a military celebration in Trnovače where Mladić approached them and asked the soldier whether the witness was his ‘Herzegovinian woman’, before turning to the witness directly and asking her whether she was ‘faring better than in Alija’s state’. This led the witness to think that he had more information about her, and that he was aware that she was being held in Foča along with the other girls.<sup>16426</sup> The witness testified that the Serb soldier told her that

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<sup>16424</sup> P3708 (Combat report by 1KK Command, 9 July 1992), p. 1; P161 (Report from 1KK Command, 25 July 1992), p. 1; P161 (Report from 1KK Command, 25 July 1992), p. 2; P248 (1KK regular combat report, 26 July 1992), p. 1.

<sup>16425</sup> The Trial Chamber refers to the confidential annex in Appendix D for the identity of the ‘Serb soldier’.

<sup>16426</sup> Witness RM-048, T. 8816-8819, 8837, 8846, 8848-8852.

this man was Mladić.<sup>16427</sup> According to the witness, there were no Muslim women or girls living freely in Foča at the time.<sup>16428</sup>

4641. On 14 January 1993, Mladić noted that a woman named Lejla Cengiç was ‘in Elez’s prison in Miljevina’.<sup>16429</sup> According to **Witness RM-048**, ‘Elez’s prison in Miljevina’ was a reference to ‘Karaman’s house’.<sup>16430</sup> The Trial Chamber understands this to be a reference to ‘Karaman’s house’ in Foča (*see* chapter 4.3.2 *Schedule C.6.2*). The Trial Chamber further recalls its finding in chapter 9.3.4 that Elez’s unit, the paramilitary Miljevina Battalion, was under Mladić’s command and control from at least late June 1992.

4642. On 6 November 1993, in the context of a discussion on prisoner exchanges, Mladić noted that Efendić and Muratović were ‘looking for two young women from Foča’.<sup>16431</sup> Mladić further noted that Dragan Đurović wanted to marry one of these girls.<sup>16432</sup>

4643. The Trial Chamber also considered the evidence of Maria Karall and Dora Sokola, which has been placed in the confidential annex in Appendix D.

4644. *Mladić’s role in disseminating propaganda and providing misleading information.* The Trial Chamber recalls its finding in chapter 9.3.8 that between September 1992 until at least March 1995, Mladić introduced and maintained a controlled and centralised system of spreading propaganda related to Bosnian Croats and Bosnian Muslims. He ordered the VRS Main Staff, in particular the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff, to disseminate propaganda to Serbs. According to Mladić’s orders, the propaganda was to be disseminated in such a way as to make Serbs aware that they were waging the war of national liberation and were defending themselves against Bosnian Croats and Bosnian Muslims, and therefore gain their support in relation to this. To this effect, he ordered the Sector for Morale, Religious, and Legal Affairs to prepare information to be released to the public in such a way that it would conceal the true intentions of the VRS and contribute to the achievement of the ‘desired propaganda effects’. The Trial Chamber also recalls that at meetings with the Bosnian-Serb political leadership, Mladić emphasized the importance

<sup>16427</sup> Witness RM-048, T. 8817, 8848, 8853.

<sup>16428</sup> Witness RM-048, T. 8867-8869.

<sup>16429</sup> P357 (Mladić notebook, 2-28 January 1993), p. 67.

<sup>16430</sup> Witness RM-048, T. 8820-8822.

<sup>16431</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 13.

of propaganda. The Trial Chamber further found that in interviews with public magazines and other media, Mladić used derogatory language towards Bosnian Muslims and Bosnian Croats, claimed the historical territorial rights of the Serbs, and recalled the narratives about victimisation of Serbs in the past, including the narratives about genocide and crimes committed against Serbs by Bosnian Croats and Bosnian Muslims.

4645. On 27 June 1992, Mladić congratulated all senior officers, non-commissioned officers, soldiers and employees of the VRS on Patron Saints Day – St. Vitus’ Day – ‘the great day of the Serbian people’.<sup>16433</sup> Mladić recounted the glorious Serbian history and moments such as those when the Serbian knights fought to protect the Serbian land and traditions and stated that invasion of ‘fascism and darkness’ by *Ustašas* and ‘militant Islam’ in Bosnia and Herzegovina forced the Serbian people to fall back into combat and defend their freedom.<sup>16434</sup> He wrote that the Serbian people created a strong and competent army which was able to protect its people and provide them with a sovereign and independent territory – a Serbian Republic of Bosnia and Herzegovina.<sup>16435</sup>

4646. The Trial Chamber also recalls its finding in chapter 9.3.9 that despite his knowledge of the conditions in detention facilities, Mladić denied allegations by the media and international community that the photographs of malnourished men from detention camps in Prijedor, including Omarska camp, reflected the true conditions in the facilities. On 3 August 1992, Mladić ordered that ‘POW’ camps be prepared for the visits of foreign journalists and members of the ICRC which facilitated Talić’s follow-up action ‘to make conditions in these camps satisfactory’ before such visits. The Trial Chamber also found in chapter 4.1.2, *Schedule C.1.2*, chapter 4.10.2, *Schedule C.15.2* and *Schedule C.15.4*, chapter 9.2.9, and chapter 9.3.9 that pursuant to an order issued by Mladić on 3 August 1992, standards at Omarska and Trnopolje were improved prior to visits by members of the media and international community, while detainees at Manjača were hidden or otherwise made inaccessible for interviews with journalists or for inspection by the ICRC. In these instances, Mladić’s words and actions were

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<sup>16432</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 13.

<sup>16433</sup> P5075 (Letter from Mladić with congratulations regarding St. Vitus’ Day, 27 June 1992), p. 1.

<sup>16434</sup> P5075 (Letter from Mladić with congratulations regarding St. Vitus’ Day, 27 June 1992), pp. 1-2.

<sup>16435</sup> P5075 (Letter from Mladić with congratulations regarding St. Vitus’ Day, 27 June 1992), p. 2.

deliberately misleading as they were made in an attempt to portray the camp conditions in a more favourable light than what was actually the case.

4647. In a speech at the 'Commemorative Academy' for the anniversary of the establishment of the Bosnian-Serb Air Force and Anti-Aircraft Defence on 27 May 1993, Mladić stated that the war was one of 'national liberation' imposed on the Serbs, which they were waging 'in order to protect [their] people from a new genocide and defend the right to survive on [their] great-grandfathers' homelands.'<sup>16436</sup> Pressure from the UNSC was the result of a joint plan to break the unity of the Serbian people, and in this machinery, Mladić stated that the 'main levers' were the 'loyal offspring of the ghost from the past whose ancestry had taken part in the mass genocide against the Serbian population.'<sup>16437</sup> He said that the army was protecting the people from the '*Ustaša* monster'.<sup>16438</sup>

4648. According to an article in 'Oslobođenje' newspaper dated 8 November 1994, Mladić is reported to have stated that Serbs would 'return the territories that the Muslims took' during World War II, 'and as punishment, even more than that'.<sup>16439</sup>

4649. In a video clip dated 26 June 1995, Mladić stated: 'The Serbian people organised for defence and created their army, and together, they prevented the planned and prepared /inaudible/ genocide. It protected the majority of Serbian historical territories. It liberated most of the occupied areas through combat and created conditions for the Serbs to finally establish their united state'.<sup>16440</sup>

4650. During an Orthodox New Year's speech on 13 or 14 January 1996, Mladić used the terms '*Ustašas*' and '*balijas*' in referring to Bosnian Croats and Bosnian Muslims.<sup>16441</sup> He stated that 'our number one task must be to focus not on ourselves and our needs, but on the needs of the orphans left behind those heroes of ours, those who were roasted on the spit, or those that the *Ustašas* and *balijas* skinned alive in their torture chambers, finishing them off, or those Serbian saints who were decapitated at Mt. Ozren and Mt. Vlašić in 1992.'<sup>16442</sup> Mladić further expressed that they should do

<sup>16436</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), pp. 157-158.

<sup>16437</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), pp. 161-162.

<sup>16438</sup> P358 (Mladić notebook, 2 April 1993 - 24 October 1993), p. 159.

<sup>16439</sup> P1975 (Article from 'Oslobođenje' newspaper entitled 'The Muslims will lose everything', 8 November 1994), p. 1.

<sup>16440</sup> P1976 (Video clip of 26 June 1995 on VHS tape labelled '1/2 tape TV Pale, Karadžić, Koljević, Mladić- vojska 1/2 my tape'), p. 1.

<sup>16441</sup> P1981 (Speech by Mladić at a Serbian New Year's Eve Party, 14 January 1996), pp. 1, 5.

<sup>16442</sup> P1981 (Speech by Mladić at a Serbian New Year's Eve Party, 14 January 1996), p. 5.

everything 'to prevent a split in the Serbian nation' and that he hoped that they would once be in a unified Serbian state, which he stated is what he had fought for.<sup>16443</sup>

4651. *Mladić's statements and orders with regard to Bosnian Muslims and Bosnian Croats: Mladić's alleged order to commit ethnic cleansing and to kill Muslims and Croats.* The Trial Chamber has received evidence according to which, during a meeting held in Teslić sometime between July and September 1992, Mladić expressed the opinion that the SJB should commit ethnic cleansing, and allegedly instructed members of the VRS and the SDS to set on fire and kill Muslims and Croats wherever they could.<sup>16444</sup>

4652. This evidence stems from an undated official note by the Miloš Group, which provides information about a working meeting which took place between the political leadership of Teslić municipality, Mladić, and Colonel Slavko Lisica, the Commander of the Doboj Operational Group. According to the report, Mladić and Lisica stated that ethnic cleansing should be carried out in Teslić municipality 'as soon as and as efficiently as possible'.<sup>16445</sup> This declaration antagonized a large number of those present at the meeting and caused certain distrust among the management of the SJB. The report states that when asked to explain if his stance was also the official stand of the political leadership, such as Karadžić and the Assembly, Mladić 'allegedly replied that the Army should do their job and the politicians theirs' and that 'it was less important whether that was also' Karadžić's 'stand'. According to the report, '[i]n the opinion of General Mladić, Colonel Lisica and the President of the Teslić Municipal Assembly, ethnic cleansing should be carried out by members of the SJB'. This suggestion complicated the meeting and led to divergent opinions among those present, 'due to which the management of the SJB requested some suggestions and opinions of employees of the Banja Luka SNB concerning the performance of tasks issued to them'. The report further states that Mladić 'allegedly, advised some members of the Serbian Army and the SDS to set on fire and kill Muslims and Croats wherever they could, that they would not be held responsible in any way and that he could issue them with [*sic*] a written guarantee for that'. According to the report, the next day Colonel Dejan Bilanović and Major Vukašin Nedić 'insisted that the police should kill citizens of

<sup>16443</sup> P1981 (Speech by Mladić at a Serbian New Year's Eve Party, 14 January 1996), p. 5.

<sup>16444</sup> P6890 (Miloš Group Report, undated), p. 1.

Muslim and Croatian ethnicity wherever they could, in public places and houses', causing psychosis and fear among Muslims and Croats with the aim of forcing them to leave. The report stated that Croats and Muslims had expressed readiness to leave but that under these circumstances, it was impossible because they were not allowed to organise a convoy and pass through Bosnian-Serb Republic territory to go abroad. According to the report, the Miloš group was confronted more and more often with the issues of the different views on expelling Muslims and Croats from the territory of the Bosnian-Serb Republic to which they were unable to give any answers because 'the official political views differ from the opinions of the most responsible people' in the VRS. Finally the report explained that 'extremists among the Serbian people use[d] these opinions of the top military leadership as the basis and grounds for carrying out the most heinous crimes against the Croats and Muslims, even against those who have demonstrated their loyalty to the Serbian authorities, or who have been members of the Serbian Army' and that this has caused indignation among a large number of Serbs.<sup>16446</sup>

4653. With regard to exhibit P6890, **Predrag Radulović** stated that this was a Miloš group report from 1992.<sup>16447</sup> He believed that the meeting mentioned in the Miloš report between Mladić, the police and the political leadership of Teslić took place between July and September 1992 and that the report was sent at the time the meeting was held.<sup>16448</sup> Radulović stated that this report was submitted to both Kesić and Župljanin, and that the latter reacted by saying 'Let's stay out of it'.<sup>16449</sup> Radulović stated that the information contained in the report was also sent to Karadžić through Branko Ratić and that the Miloš group often did this to prompt Karadžić to call Župljanin or Kesić to ask them what they knew about the information; however, he explained that he did not know if Karadžić actually spoke to any of them about the information contained in the report.<sup>16450</sup> Radulović gave some background about this meeting and stated that it took place in the context of the planning of an attack on Tešanj from Teslić and Doboj, and that Mladić came to Teslić to agree on the plan for that attack with local authorities and

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<sup>16445</sup> P6890 (Miloš Group Report, undated), pp. 1-2; P3823 (Combat Report sent by the 1KK Command to the VRS Main Staff, 6 December 1992), p. 2; P5153 (Commendation of the TG-3 headed by Group Commander Lisica signed by Talić, Commander of the 1KK, 7 October 1992).

<sup>16446</sup> P6890 (Miloš Group Report, undated), p. 1.

<sup>16447</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 133. The Trial Chamber notes that the ERN number stated in the beginning of paragraph 133 (ERN 0608-4543-0608-4544) corresponds to exhibit P6890 admitted in evidence in this case.

<sup>16448</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 133.

<sup>16449</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 135.

<sup>16450</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 135.

reinforce the front lines.<sup>16451</sup> Further, he stated that he had received the information about Mladić and Lisica's mention of the ethnic cleansing to be carried out by members of the SJB, as mentioned in the report, from 'very reliable sources'.<sup>16452</sup>

4654. When commenting on exhibit P6890, **Nedo Vlaški** stated that it was an official note but the document was lacking all the formal indications that it had been assessed or found to fulfil the necessary criteria of literacy, content, and security information.<sup>16453</sup> He added that the document was not addressed to a particular recipient, and was not signed. According to the witness, it looked like a report 'that was commissioned because certain people felt the need to tailor the report to the reader'. These reports did not go through the legal reporting channels but were intended for structures outside the system. He also questioned the authenticity of the report because it was impossible to determine the date of the meeting mentioned therein. Finally, he testified that the Miloš group was operating outside of the SNB framework and was 'formed solely to destabilize and spread misinformation'.<sup>16454</sup> **Dragan Kijać** testified that exhibit P6890 did not contain the elements which such documents were supposed to contain, such as the date, the sources of the information, or an indication whether the information reported therein was verified or unverified.<sup>16455</sup> Kijać further testified that neither Mladić nor the president of the municipality were able to issue orders to the police because the chain of command in the police went up to the Minister of Interior and no one outside that chain of command could interfere regardless of their position, including the Commander of the Main Staff.<sup>16456</sup>

4655. *Documentary evidence relating to the alleged meeting in Teslić detailed in exhibit P6890.* On 29 October 1992, Mladić recorded in his notebook that he had a meeting with officers of the Doboj Operations Group, officers of the 1KK, and representatives of several municipalities including Doboj and Teslić.<sup>16457</sup> At the meeting, Lieutenant Colonel Bilanović reported on an 'incident' regarding 'replacement

<sup>16451</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 133.

<sup>16452</sup> P3207 (Predrag Radulović, witness statement, 5 December 2009), para. 133.

<sup>16453</sup> D735 (Nedo Vlaški, witness statement, 28 June and 23 July 2014), para. 111. The Trial Chamber notes that the document presented to the witness during the taking of his statement bears Rule 65 *ter* number 26215 and corresponds to exhibit P6890 admitted in evidence in this case.

<sup>16454</sup> D735 (Nedo Vlaški, witness statement, 28 June and 23 July 2014), para. 111.

<sup>16455</sup> Dragan Kijać, T. 39993-39994, 39996.

<sup>16456</sup> Dragan Kijać, T. 39999.

<sup>16457</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 89.

at the MUP', regarding statements made by the Chiefs of the Teslić SJB and the Doboj CSB.<sup>16458</sup>

4656. On 30 October 1992, the Operative Group Doboj reported to the 1KK Command that Mladić had visited the Teslić Brigade where he 'pointed out shortcomings, and set out specific tasks for the Brigade, its units and soldiers'.<sup>16459</sup> The Operative Group further reported that the civilian authorities were 'meddling in the units' command' and that this would likely improve after Mladić's visit to Teslić.<sup>16460</sup> On the same day, Mladić recorded that he had met with 'government organs and commanders at Teslić', who included the President of the Municipal Assembly Perišić, assemblymen, the Chief of the SJB and commanders and organs of the Command of the Teslić Brigade.<sup>16461</sup>

4657. On 30 October 1992, Radulović and other operatives of the SNB Banja Luka sent a report to the Chief of the CSB Banja Luka stating that Mladić had visited Teslić that day 'in order to solve problems between the political bodies in Teslić and Doboj'.<sup>16462</sup> Mladić gave 'full support to the political bodies in Teslić, especially to the Teslić SJB current management' and said he would support the deputies from the Teslić Municipal Assembly at the Bosnian-Serb Republic Assembly and would ask Karadžić to verify an earlier decision by the Teslić Municipal Assembly to be merged with the Banja Luka Region.<sup>16463</sup> However, the operatives also reported on the same day that the Doboj CSB sent a dispatch stating that the management of the Teslić SJB should be replaced.<sup>16464</sup> The operatives noted that the Doboj CSB was likely so adamant on this replacement 'to conceal numerous serious crimes committed by members of the active and reserve force of the Doboj CSB three to four months ago'.<sup>16465</sup>

4658. On 31 October 1992, Mladić attended the 21st Session of the Bosnian-Serb Assembly, which was held in Prijedor.<sup>16466</sup> While in Prijedor, Mladić had a meeting with deputies from Teslić and recorded that 'it is a fact that there was hesitation about

<sup>16458</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 89. The Trial Chamber notes that the diary records an obviously typographical error in the name of the Lieutenant Colonel, recorded as 'Bilalović'. See also P356 (Mladić notebook, 5 October - 27 December 1992), pp. 93-94.

<sup>16459</sup> P4233 (Regular combat report Doboj Operations Group to 1KK Command), pp. 1-3.

<sup>16460</sup> P4233 (Regular combat report Doboj Operations Group to 1KK Command), p. 2.

<sup>16461</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 91.

<sup>16462</sup> P3222 (SNB report to CSB Banja Luka, 30 October 1992), p. 1

<sup>16463</sup> P3222 (SNB report to CSB Banja Luka, 30 October 1992), p. 1; P5239 (SNB report to CSB Banja Luka, 30 October 1992), p. 1.

<sup>16464</sup> P3222 (SNB report to CSB Banja Luka, 30 October 1992), p. 1.

<sup>16465</sup> P3222 (SNB report to CSB Banja Luka, 30 October 1992), p. 1.

<sup>16466</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 95-106; P4266 (Minutes of the 21st Session of the National Bosnian-Serb Assembly held on 30, 31 October and 1 November 1992), pp. 8-9.

beginning to liberate the territory, the army requested to start doing it, morale was declining.<sup>16467</sup> Mladić noted that '[i]t was recommended that they should start liberating the municipality.'<sup>16468</sup>

4659. During the 34th Session of the Bosnian-Serb Assembly, held from 27 August to 1 October 1993, Mladić, referring to the area of Tešanj, said 'we cannot allow leaving the mosques with two minarets there'.<sup>16469</sup> He further stated that if the Bosnian-Serb Government were to refuse the agreement set out during the Geneva Conference on the former Yugoslavia, the army should organize itself for the continuation of 'a bloodier war' and have the means to do so.<sup>16470</sup> With respect to Cazin Krajina, Mladić stated that his goal was to throw Muslims from the area on Croats and let them quarrel with each other.<sup>16471</sup>

4660. *Defence arguments in relation to exhibit P6890.* The Defence made specific arguments regarding exhibit P6890, stating that it was 'fundamentally unreliable' and not an authentic document.<sup>16472</sup> The Defence submitted that: (i) exhibit P6890 does not correspond to the template of documents produced by the sector or state of national security; (ii) a heading, number, name, date and codename of the drafter, which are always included in Miloš group reports, are missing in this exhibit; (iii) the Miloš group is known to be a group formed to destabilise and spread misinformation; and (iv) there is no evidence to corroborate the content of the document and no mention of this meeting in Mladić's notebook, therefore rendering it impossible to date.<sup>16473</sup> The Defence further argued that as Predrag Radulović, who could have testified about the content of the report, was unavailable to testify, the document could not be used as the basis for a conviction.<sup>16474</sup>

4661. *The Trial Chamber's assessment of P6890.* The Trial Chamber recalls that the document now in evidence as exhibit P6890 was first presented for admission by the

<sup>16467</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 92-93.

<sup>16468</sup> P356 (Mladić notebook, 5 October - 27 December 1992), p. 93.

<sup>16469</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 72.

<sup>16470</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29 September-1 October 1993), p. 67.

<sup>16471</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29 September-1 October 1993), p. 70.

<sup>16472</sup> Defence Final Brief, para. 106.

<sup>16473</sup> Defence Final Brief, paras 106-107.

<sup>16474</sup> Defence Final Brief, paras 106, 816. *See also* Defence Final Brief, para. 817, where the Defence submitted arguments with regard to the status of 'intercept evidence' admitted pursuant to Rule 92 *quater* of the Rules of Procedure and Evidence.

Prosecution through Radulović's statement pursuant to Rule 92 *quater* of the Rules. The Trial Chamber denied admission of the document, considering that it constituted hearsay evidence which would be unduly prejudicial to the Accused without the benefit of cross-examination. The Trial Chamber therefore ordered the redaction of paragraph 133 of Radulović's statement in relation to this exhibit.<sup>16475</sup> However, the Defence subsequently included exhibit P6890 on the list of associated exhibits for witness Neđo Vlaški, and Vlaški commented on it in his statement.<sup>16476</sup> Thus, following Vlaški's testimony, the document was admitted into evidence together with the relevant paragraph of Predrag Radulović's statement.<sup>16477</sup>

4662. With regard to the Defence's arguments concerning the authenticity of the document, the Trial Chamber received evidence from Vlaški and Kijać about the absence of a number, a date, and other indications that the report was genuine. The Trial Chamber notes that it admitted into evidence a number of Miloš Group reports (P3210; P3211; P3212; P3213; P4235; P4237; P4239; P4240; P4241; P4242; P4243; P4244; P4245) which all have a similar template to exhibit P6890 and include the name 'Miloš' at the end of the text. However, unlike exhibit P6890, these other reports contain a date and a number. Furthermore, exhibit P6890 is titled 'Official Note', whereas the other Miloš group reports have no title.

4663. The Trial Chamber notes that although Radulović stated that the report was genuine and that he received his information from 'very reliable sources', he did not provide any further details as to the identity of these sources or their basis of knowledge. He was not available to testify to further shed light on the hearsay evidence contained in the document. The Trial Chamber also notes that there were no other witnesses who could be cross-examined on the content of exhibit P6890, as neither Vlaški nor Kijać had knowledge about the substance of the report.

4664. With respect to the Defence's argument that exhibit P6890 is uncorroborated, particularly as it is not mentioned in Mladić's notebook, the Trial Chamber notes that three sources, including Mladić's notebook, state that Mladić visited Teslić on 30 October 1992. The Trial Chamber further notes that the individuals mentioned in P6890 are the same persons as those whom Mladić recorded meeting on 30 October 1992. In

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<sup>16475</sup> The Trial Chamber issued two decisions: one on 20 December 2013 and one on 26 February 2014.

<sup>16476</sup> D735 (Neđo Vlaški, witness statement, 28 June and 23 July 2014), para. 111.

<sup>16477</sup> See T. 27833-27834.

addition, Mladić recorded in his notebook that he discussed the conflict in Teslić with military and political representatives in Teslić on 29 October 1992, and that he discussed the conflict with deputies from the Teslić Municipal Assembly in Prijedor on 31 October 1992.<sup>16478</sup> Mladić also noted on 31 October 1992 that there was hesitation by the Teslić SJB to ‘liberate the territory’ and that ‘the army requested to start doing it’, which corresponds to the hesitation expressed by the ‘management of the SJB’ as expressed in exhibit P6890. However, although the abovementioned evidence indicates that on 30 October 1992, Mladić attended a meeting in Teslić with the individuals listed in exhibit P6890, it does not corroborate the content of the document with regard to the statements allegedly made by Mladić at the meeting. In particular, there is no evidence to corroborate the assertion that Mladić and Lisica encouraged the SJB to carry out ethnic cleansing in Teslić Municipality ‘as soon as and as efficiently as possible’ or that Mladić ‘allegedly, advised some members of the Serbian Army and the SDS to set on fire and kill Muslims and Croats wherever they could, that they would not be held responsible in any way and that he could issue them with a written guarantee for that’.

4665. Thus, in light of the highly inculpatory nature of the alleged statements described in the report, the lack of corroborating evidence, and the impossibility of cross-examination with regard to the document’s content, the Trial Chamber considers that exhibit P6890 is not reliable. As such, the Trial Chamber finds that it cannot rely on exhibit P6890 alone to establish the words spoken by Mladić, and will therefore not further consider the uncorroborated hearsay evidence contained in this document in its assessment of the Accused’s state of mind.

4666. *Mladić’s other statements and orders with regard to Bosnian Muslims and Bosnian Croats.* In chapter 9.3.2, the Trial Chamber found that on 9 June and 16 July 1992, Mladić ordered all the VRS Corps to immediately send Bosnian-Muslim and Bosnian-Croat officers on leave, and instructed that only Muslim and Croat officers who had proven themselves in combat and were willing to sign an oath declaring their acceptance of Bosnian-Serb Republic citizenship could remain in the VRS.

4667. The Trial Chamber received evidence that Mladić used discriminatory terms to refer to Bosnian Muslims and Bosnian Croats in orders and directives, as well as in private conversations. At a meeting held on 10 October 1992, Mladić referred to Bosnian Muslims as ‘Turks’, and the Croat armed forces as ‘*Ustaša*’ who ‘want[ed] to

<sup>16478</sup> P356 (Mladić notebook, 5 October - 27 December 1992), pp. 85-91.

introduce Germany in the East'.<sup>16479</sup> Mladić stated that the '[Bosnian-Serb] [p]eople's blood compels us to avenge them' and that '[t]he border was written in human blood, and marked with human heads'.<sup>16480</sup>

4668. In a report of the VRS Main Staff in September 1992, Mladić described the Croat forces as '*Ustaša* forces' and '*Ustaša* units'.<sup>16481</sup> He described the goals of 'those who were breaking up Yugoslavia' as being to 'defeat and destroy the Serbian people in the former Bosnia-Herzegovina and make them citizens of a lower order'.<sup>16482</sup> Mladić described the goals of the Bosnian-Serb leadership as 'the struggle to preserve Serbdom and create a state of our own in our ancestral land', as the attacks of '*Ustaša* formations' threatened Bosnian Serbs with 'extinction'.<sup>16483</sup>

4669. In a recorded telephone conversation between Mladić and several VRS privates, Mladić referred to the enemy as '*Ustašas*' and 'Turks'.<sup>16484</sup> Mladić instructed his men, 'off you go to the truck and against the *Ustašas*! That's where you should show your strength!'.<sup>16485</sup> He continued by telling them to 'carry out your task' and to 'hit the Turks while there are still some left!', to which a VRS soldier then said 'As soon as we see them'.<sup>16486</sup> Mladić responded 'No, no, you go so that they see you, mate. You go to them and then sneak up to them and shoot them down.'<sup>16487</sup> During the conversation, Mladić also told a VRS soldier 'if you are who you say you are [...] you killed or captured fewer *Ustašas* than I did, and had a much easier time of it than I did.'<sup>16488</sup>

4670. The Trial Chamber also received evidence on Mladić's threats to attack Bosnian-Muslim and Bosnian-Croat civilians. In an intercepted conversation on 23 May 1992, Mladić told Fikret Abdić that he was 'here for peace', but threatened reprisal attacks if his demands were not met and stated that he would 'order the shelling of entire Bihać [...] and it will burn too'.<sup>16489</sup> Mladić warned Abdić that '[t]he whole of Bosnia will burn if I start to 'speak''.<sup>16490</sup> Mladić then threatened that the Bosnian leadership, which

<sup>16479</sup> P1967 (Minutes of meeting held at SRK Command, 10 November 1992), p. 24.

<sup>16480</sup> P1967 (Minutes of meeting held at SRK Command, 10 November 1992), p. 26.

<sup>16481</sup> P1966 (VRS Main Staff Report of Ratko Mladić, 1 September 1992). *See e.g.*, pp. 3, 5.

<sup>16482</sup> P1966 (VRS Main Staff Report of Ratko Mladić, 1 September 1992), p. 2.

<sup>16483</sup> P1966 (VRS Main Staff Report of Ratko Mladić, 1 September 1992), p. 3.

<sup>16484</sup> P1971 (Clip of VHS video tape marked Mladić no. 2, from 02:34:32 to 02:38:17), pp. 1-6.

<sup>16485</sup> P1971 (Clip of VHS video tape marked Mladić no. 2, from 02:34:32 to 02:38:17), p. 5.

<sup>16486</sup> P1971 (Clip of VHS video tape marked Mladić no. 2, from 02:34:32 to 02:38:17), p. 5.

<sup>16487</sup> P1971 (Clip of VHS video tape marked Mladić no. 2, from 02:34:32 to 02:38:17), p. 6.

<sup>16488</sup> P1971 (Clip of VHS video tape marked Mladić no. 2, from 02:34:32 to 02:38:17), p. 4.

<sup>16489</sup> P2750 (Intercepted conversation between Mladić and Fikret Abdić, 23 May 1992), pp. 3-6.

<sup>16490</sup> P2750 (Intercepted conversation between Mladić and Fikret Abdić, 23 May 1992), p. 5

included Abdić, caused ‘all of this’ and stated that if his demands to Abdić were not met, he would ‘not leave Sarajevo alone as long as anyone’s breathing in it’.<sup>16491</sup>

4671. According to an intercept dated 5 August 1992, Mladić had warned the UNPROFOR Commander General Nambiar that he would use heavy artillery weapons if the HVO and Bosnia-Herzegovina TO forces did not cease combat activities in Central Bosnia.<sup>16492</sup> Mladić stated that he would most likely aim the heavy artillery weapons at densely populated areas.<sup>16493</sup>

4672. **Witness RM-019** testified that in late July or early August 1993, he saw Mladić at Mount Igman.<sup>16494</sup> On this occasion, the witness heard somebody from the opposing forces on the radio address Mladić by name.<sup>16495</sup> Then, the voice of somebody screaming for help was heard on the radio and another voice stated ‘This is one of your *Chetniks*’.<sup>16496</sup> The witness had the impression that somebody was torturing a Serb soldier.<sup>16497</sup> Mladić cursed and replied ‘Don’t forget that I have Žepa and Srebrenica which are full of people’ and then cut off the line.<sup>16498</sup>

4673. On 26 July 1995, at the UN Checkpoint in Bokšanica, Mladić boarded several buses of Muslim refugees, including women and children, to tell them that they would be transported to Kladanj.<sup>16499</sup> Mladić warned people in at least two of these buses that those of military age should not go to the front again as there would be ‘no more forgiveness’. Mladić told both groups that he was giving them their lives as a gift. He told one elderly passenger that he could have lived there and no one would have touched them if only his people had not touched Serb lives.<sup>16500</sup>

4674. On 27 July 1995, Mladić had a meeting with General Smith at Bokšanica Mountain. Mladić recorded in his notebook that an agreement was reached with representatives of the Muslim population on the surrender of weapons and able-bodied

<sup>16491</sup> P2750 (Intercepted conversation between Mladić and Fikret Abdić, 23 May 1992), p. 5.

<sup>16492</sup> P2244 (Intercept, 5 August 1992), p. 1.

<sup>16493</sup> P2244 (Intercept, 5 August 1992), p. 1.

<sup>16494</sup> Witness RM-019, T. 5696, 5720, 5726-5727.

<sup>16495</sup> Witness RM-019, T. 5697, 5721, 5723-5724.

<sup>16496</sup> Witness RM-019, T. 5697, 5720-5721.

<sup>16497</sup> Witness RM-019, T. 5697.

<sup>16498</sup> Witness RM-019, T. 5697, 5721.

<sup>16499</sup> P1147 (Updated Srebrenica Trial video with Transcript), pp. 110, 113-114.

<sup>16500</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 114.

men aged 18-55 to the VRS. Mladić then wrote 'Žepa is free – it will never be Turkish again' and initialled his notebook on this page.<sup>16501</sup>

4675. In a recorded conversation dated 15 November 1995 between Mladić and Karadžić, Mladić said 'So, we went slowly to capture these valleys and clean up that Turkish rubble'. Mladić added that he was afraid 'the guys from down there' would allow the refugees – whom he described as 'Turks' and Croats – to return, stating this was why they 'should see what we need to do and how to do it'. In another recorded conversation between Mladić and Karadžić on the same day, Mladić stated that he had earlier said to Professor Koljević, 'fuck the Turks in Žepa, in Srebrenica, in Goražde.'<sup>16502</sup>

4676. *Mladić's role in peace negotiations.* On 30 August 1992, Mladić informed UNPROFOR Command of the VRS's willingness to exchange all war prisoners and disband all detention camps on a reciprocal basis as a gesture of goodwill for peace.<sup>16503</sup>

4677. The Trial Chamber recalls its review of an order by Mladić to observe the ceasefire agreement, reviewed in chapter 9.3.3, and notes that on 16 May 1993, Mladić ordered all Corps Commands, along with the Air Force and Anti-Aircraft Defence, to ensure strict observance of the agreement on ceasefire and cessation of hostilities signed on 8 May 1993 between Mladić and the ABiH Commander, General Sefer Halilović. Mladić further ordered them to prevent any unauthorized firing, and to respond to enemy fire only if absolutely necessary.

4678. According to an UNPROFOR code cable, during a meeting between the US Secretary of Defence and UNPROFOR representatives on 22 July 1994, General Rose mentioned that Mladić seemed to recognize the need for peace but required time to convince the army and the people.<sup>16504</sup> He also mentioned that Slobodan Milošević retained some influence over Mladić.<sup>16505</sup>

4679. During an intercepted conversation from 1994, Mladić and Karadžić discussed attacks on Bihać. Mladić stated that '[w]e fired two Maverick rockets on Bihać today,'

<sup>16501</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 239.

<sup>16502</sup> P1979 (Clip of 15 November 1995 from Dictaphone cassette 7 of 7 labelled 'Complete cassettes of conversations from 09.11.96 to 30.11.96', from 01:26:11 to 01:27:15), p. 1.

<sup>16503</sup> D1504 (Cable to UNPROFOR Command, 30 August 1992).

<sup>16504</sup> D1509 (UNPROFOR code cable on UNPROFOR discussion with US Secretary of Defence, 22 July 1994), pp. 1, 3.

<sup>16505</sup> D1509 (UNPROFOR code cable on UNPROFOR discussion with US Secretary of Defence, 22 July 1994), p. 3.

and confirmed that these rockets were air-to-surface missiles.<sup>16506</sup> Mladić further stated that ‘we fired on barracks. The effects are fantastic.’<sup>16507</sup> Later on, Mladić said ‘I ordered full mobility of all systems in the event that they charge at us, we’ll knock down everybody indiscriminately. We’ll retaliate against all UNPROFOR targets in the territory of Republika Srpska and within range’.<sup>16508</sup> During the same conversation, Mladić and Karadžić also discussed attacks on Izetbegović and the company securing him. Mladić stated ‘[w]e set the Presidency on fire’ to which Karadžić responded ‘I’ll get [...] the information. There are many, they say /unintelligible/ civilians there, many more than five. They say five.’<sup>16509</sup>

4680. A statement was issued by the VRS Main Staff on 27 November 1994 seeking the opinion of Karadžić on an announcement made by Mladić in support of a preliminary cessation of hostilities agreement.<sup>16510</sup>

4681. On 13 February 1995, Mladić sent a protest to the UNPROFOR Command concerning a Muslim offensive in the direction of Ripač, Skočaj, and Medudražje, south of Bihać, which he stated undermined the peace process.<sup>16511</sup>

4682. Mladić, accompanied by Generals Tolimir and Đukić, met with the UNPROFOR Force Commander De la Presle and General Janvier in Jahorina on 24 February 1995.<sup>16512</sup> At this meeting, Mladić insisted that peace was his goal and that the international community was being misled in its opinion of the Serbs.<sup>16513</sup>

4683. On 13 March 1995, UNPROFOR, Karadžić, Mladić, Krajišnik, and Koljević held a meeting at the Sarajevo airport to discuss various aspects of the implementation of the Cessation of Hostilities Agreement.<sup>16514</sup> As it became evident that the difficulties with the implementation were essentially political, the Bosnian-Serb leadership agreed

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<sup>16506</sup> P1972 (Four conversations from a 1994 audio recording from Dictaphone cassette labelled ‘Mica-Kola’), p. 16.

<sup>16507</sup> P1972 (Four conversations from a 1994 audio recording from Dictaphone cassette labelled ‘Mica-Kola’), p. 16.

<sup>16508</sup> P1972 (Four conversations from a 1994 audio recording from Dictaphone cassette labelled ‘Mica-Kola’), p. 16.

<sup>16509</sup> P1972 (Clip of 1994 audio recording from Dictaphone cassette labelled ‘Mica-Kola’), p. 17.

<sup>16510</sup> D1505 (Main Staff Statement to Karadžić for his opinion, 27 November 1994).

<sup>16511</sup> D1501 (Protest from Mladić to UNPROFOR Command, 13 February 1995).

<sup>16512</sup> D1506 (Internal UNPROFOR memorandum, 26 February 1995), p. 1.

<sup>16513</sup> D1506 (Internal UNPROFOR memorandum, 26 February 1995), p. 2.

<sup>16514</sup> P2050 (Cable code from UNPROFOR to Annan on meetings with Bosnian-Serb officials, 14 March 1995), para. 1.

to convene another meeting at the Sarajevo airport on 15 March 1995 to address these problems with political representatives of both sides.<sup>16515</sup>

4684. **Milovan Milutinović** testified that after the war, under Mladić's direct leadership, information and propaganda activities were aimed at the strict implementation of the Military Annex to the Dayton Peace Agreement.<sup>16516</sup> According to the witness, Mladić made an exceptional contribution to the Annex's implementation.<sup>16517</sup>

*The Trial Chamber's findings*

4685. Based on the foregoing, in particular (i) the Accused's position as Commander of the VRS Main Staff; (ii) the VRS Main Staff's receipt of detailed reports; (iii) the Accused's personal receipt of regular updates, including meetings and phone calls; (iv) the Accused's involvement in the units' activities; and (v) the fact that the commission of crimes was widely acknowledged, reported on by international media outlets, and commented on by the UN, the Trial Chamber finds that the Accused knew that the crimes of persecution, murder, extermination, deportation, and inhumane acts (forcible transfer) were committed against Bosnian Muslims and Bosnian Croats in the Municipalities, including in detention facilities. The Accused significantly contributed to the Overarching JCE, as further detailed in chapter 9.3.12, with awareness of all of these crimes.

4686. The Trial Chamber further finds that the Accused's statements and conduct, in particular (i) his repeated use of derogatory terms such as 'Turks', '*balijas*', and '*Ustašas*' to refer to Bosnian Muslims and Bosnian Croats; (ii) his recalling of historical crimes that were allegedly committed against Bosnian Serbs and his references to the threat of 'genocide' against the Bosnian Serbs; (iii) his statements indicating an intention not to respect the laws of war in Croatia in 1991, and his later references to repeating the destruction inflicted during this conflict; and (iv) his expressions of commitment to an ethnically homogenous Bosnian-Serb Republic, even in territories that previously had a large percentage of non-Serb inhabitants; all demonstrate an intent

<sup>16515</sup> P2050 (Cable code from UNPROFOR to Annan on meetings with Bosnian-Serb officials, 14 March 1995), para. 1.

<sup>16516</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 68.

<sup>16517</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 68.

for the abovementioned crimes to be committed against Bosnian Muslims and Bosnian Croats on discriminatory grounds.

4687. The Trial Chamber received evidence that the Accused gave orders to the VRS and other subordinated forces to respect the Geneva Conventions. The Trial Chamber further received evidence, both in this chapter and in chapter 9.3.9, that the Accused appeared on various occasions to pursue peaceful solutions to the conflict, and made statements to UNPROFOR members indicating his desire to further the peace process. However, these actions and statements, sometimes providing misinformation, are inconsistent with the Accused's other conduct and are directly contradicted by his other contemporaneous statements. Considering this, and in light of what happened on the ground, the Trial Chamber finds that the Accused's orders to respect the Geneva Conventions, his statements to UNPROFOR personnel, and his involvement in peace negotiations were not indicative of his true state of mind.

4688. Based on all of the foregoing, the Trial Chamber finds that the Accused intended to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the commission of the crimes of deportation, inhumane acts (forcible transfer), murder, extermination, and persecution. The Trial Chamber is satisfied that the Accused shared the intent to achieve the common objective of the Overarching JCE through the commission of these crimes, and finds that the Accused held this intent by 12 May 1992 at the latest.

## 9.4 Second joint criminal enterprise (Sarajevo)

### *9.4.1 Overview of the charges*

4689. The Indictment states that between 12 May 1992 and November 1995, the Accused participated in a JCE to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population. The objective of this JCE involved the commission of the crimes of terror, unlawful attacks on civilians, and murder. This JCE existed between April 1992 and November 1995.<sup>16518</sup> The Accused shared the intent for the commission of each of the crimes with other members of the JCE.<sup>16519</sup>

4690. According to the Indictment, the named members of this JCE included, besides the Accused, Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Stanislav Galić, Dragomir Milošević, and Vojislav Šešelj.<sup>16520</sup>

4691. Other members included members of the Bosnian-Serb leadership; republic-level members of Bosnian-Serb political and governmental organs; regional, municipal, and local-level members of Bosnian-Serb political and governmental organs with responsibility in or for the Sarajevo area; commanders, assistant commanders, senior officers, and chiefs of JNA, VRS, TO, and MUP units whose areas of responsibility included the Sarajevo area; and leaders of Serbian and Bosnian-Serb paramilitary forces and volunteer units operating in or with responsibility over the Sarajevo area. Alternatively, some or all of these individuals were not members but were used by members of the JCE to carry out crimes committed in furtherance of its objective.<sup>16521</sup>

4692. Members of the JCE implemented their objective by personally committing crimes and/or through and by using others to carry out crimes committed in furtherance of this objective.<sup>16522</sup> Those used to carry out the crimes were until about 20 May 1992, members of the JNA operating in or with responsibility over the Sarajevo area; members of the VRS, in particular the SRK; and members of other elements of the Serb Forces operating in or with responsibility over the Sarajevo area.<sup>16523</sup>

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<sup>16518</sup> Indictment, para. 14.

<sup>16519</sup> Indictment, para. 15.

<sup>16520</sup> Indictment, para. 15.

<sup>16521</sup> Indictment, para. 16.

<sup>16522</sup> Indictment, para. 17.

#### 9.4.2 Existence of and membership in the joint criminal enterprise

4693. The Defence submitted that there was no campaign of sniping and shelling civilians and that the SRK's firing was always of a defensive and proportional nature.<sup>16524</sup> Secondly, it submitted that the Bosnian-Serb leadership made efforts to protect the civilian population, for example by prohibiting forces from firing at civilians, ensuring freedom of movement, and supplying water, electricity, and humanitarian aid.<sup>16525</sup> Thirdly, the Defence submitted that it was the ABiH, not the SRK, which spread terror in Sarajevo in order to receive international attention and assistance.<sup>16526</sup> Lastly, the Defence submitted that the city of Sarajevo itself was a valid military target and can therefore not be seen as an 'undefended city' pursuant to Article 3 (c) of the Statute.<sup>16527</sup> With regard to this submission, the Prosecution responded that it never alleged that Sarajevo was an 'undefended city'.<sup>16528</sup> The Defence replied that the Indictment's references to Article 3 of the Statute in the Sarajevo counts must be understood to refer to Article 3 (c).<sup>16529</sup>

4694. The Trial Chamber took judicial notice of a number of Adjudicated Facts in relation to the existence of the JCE.<sup>16530</sup> Moreover, it received evidence from **Michael Rose**, the UNPROFOR Commander from 5 January 1994 to 23 January 1995;<sup>16531</sup> **David Fraser**, a Military Assistant to the UNPROFOR Commander in Sector Sarajevo from 17 April 1994 to 26 May 1995;<sup>16532</sup> as well as documentary evidence, and finds that this evidence is consistent with the Adjudicated Facts.<sup>16533</sup> The Trial Chamber further received evidence from **Witness RM-055**, an UNPROFOR soldier stationed in Sarajevo between 12 May and 28 September 1995;<sup>16534</sup> **Francis Thomas**, the UN Senior Military Observer in Sarajevo between 15 October 1993 and 14 July 1994;<sup>16535</sup>

<sup>16523</sup> Indictment, para. 17.

<sup>16524</sup> Defence Final Brief, paras 1736-1737, 1740, 1745-1763, 1771-1790, 2270-2274, 2778, 2290, 2294, 2314-2319, 2380-2381, 2449. In this regard, the Defence argued that the SRK's firing into Sarajevo had the legitimate aim of definitively ending attacks by the ABiH, *see* Defence Final Brief, para. 1785.

<sup>16525</sup> Defence Final Brief, paras 1741, 1761-1763, 1791-1795, 1800-1840, 2101-2102.

<sup>16526</sup> Defence Final Brief, paras 1849-1871.

<sup>16527</sup> T. 44767.

<sup>16528</sup> T. 44768, 44860-44861.

<sup>16529</sup> T. 44888.

<sup>16530</sup> Some of these Adjudicated Facts are set out in chapter 5.1.1.

<sup>16531</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

<sup>16532</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 7, 11.

<sup>16533</sup> **Michael Rose**: P736 (Michael Rose, witness statement, 26 March 2009), para. 200. **David Fraser**: P576 (David Fraser, witness statement, 3 December 2012), paras 80, 82. **Documentary evidence**: P645 (Message to Radovan Karadžić, 2 June 1993).

<sup>16534</sup> P749 (Witness RM-055, witness statement, undated), p. 3.

<sup>16535</sup> P503 (Francis Thomas, witness statement, 15 May 2009), paras 1, 13, 82.

**Witness RM-163**, an UNPROFOR soldier stationed in Sarajevo in 1993/1994 and a member of the RRF in 1995;<sup>16536</sup> **Milorad Šehovac**, the Chief of Staff of the 1st Posavina Brigade in Brčko between 23 May and 15 August 1992 and the Commander of the SRK 2nd Sarajevo Light Infantry Brigade between 18 August 1992 and mid-September 1995;<sup>16537</sup> **Richard Mole**, the UN Senior Military Observer in Sarajevo from 16 September 1992 to 26 December 1992;<sup>16538</sup> **David Harland**, an UNPROFOR civil affairs officer assigned to Sarajevo as of May 1993;<sup>16539</sup> **Witness RM-115**, a Bosnian Muslim from Sarajevo;<sup>16540</sup> **Witness RM-147**, a member of the VRS from June 1992 onwards;<sup>16541</sup> **Nikola Mijatović**, the Chief of Security of the Ilidža Brigade from the end of May or June 1993 until September 1994 and later its Chief of Staff;<sup>16542</sup> **Predrag Trapara**, Commander of the 5th Company of the 2nd Infantry Battalion of the 1st Sarajevo Mechanised Brigade as of 1992 for the duration of the conflict;<sup>16543</sup> **Slobodan Tuševljak**, the Commander of the 1st platoon of the 4th Infantry Company of the 2nd Infantry Battalion in the 1st Sarajevo Mechanised Brigade;<sup>16544</sup> **Dragan Lalović**, a member of the VRS;<sup>16545</sup> **Ratomir Maksimović**, who served in the SRK Command from 1 April 1993 to 1 September 1994 and from 30 April 1995 to 31 March 1996;<sup>16546</sup> **Mihajlo Vujasin**, Company Commander and Chief of Engineers at the Rajlovac Airforce Base in Sarajevo;<sup>16547</sup> **Witness RM-511**, a member of the SRK;<sup>16548</sup> **Mile Sladoje**, a member of the 1st Battalion of the Ilidža Brigade as of April 1992;<sup>16549</sup> **Vlade Lučić**, a battalion commander in the SRK's 216th Mountain Brigade based at

<sup>16536</sup> P628 (Witness RM-163, witness statement, undated), paras 4, 6-7, 9-10.

<sup>16537</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), p. 1, paras 1-2; Milorad Šehovac, T. 24055.

<sup>16538</sup> P421 (Richard Mole, witness statement, 7 May 2010), paras 3-4; Richard Mole, T. 4302.

<sup>16539</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>16540</sup> P102 (Witness RM-115, witness statement 4 November 2008), p. 1, para. 1.

<sup>16541</sup> P107 (Witness RM-147, witness statement, 3 June 2012), p. 1, paras 3-4, 12.

<sup>16542</sup> D468 (Nikola Mijatović, witness statement, 10 May 2014), para. 11; Nikola Mijatović, T. 21445-21446; P6532 (Proofing note for Nikola Mijatović, 21 May 2014), para. 2f.

<sup>16543</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), p. 1, para. 1; Predrag Trapara, T. 21121, 21141-21142.

<sup>16544</sup> D539 (Slobodan Tuševljak, witness statement, 10 May 2014), p. 1, para. 2; D540 (Slobodan Tuševljak, witness statement, 5 November 2012), paras 13, 17; Slobodan Tuševljak, T. 23384-23386, 23389-23390; P6621 (Order on appointments in the 4th Company of the 3rd Battalion), p. 1.

<sup>16545</sup> D498 (Dragan Lalović, witness statement, 26 May 2014) p. 1, paras 6-8, 18-19; Dragan Lalović, T. 21951. Dragan Lalović's evidence is reviewed in chapter 9.3.10.

<sup>16546</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 4-5; Ratomir Maksimović, T. 26741, 26800.

<sup>16547</sup> D641 (Mihajlo Vujasin, witness statement, 16 December 2012), para. 1.

<sup>16548</sup> Witness RM-511, T. 4983, 4993, 4996, 5056; P500 (Pseudonym sheet). Witness RM-511's evidence is also reviewed in chapter 9.5.11.

<sup>16549</sup> D453 (Mile Sladoje, witness statement, 10 May 2014), para. 5.

Grbavica, Sarajevo, between 18 May 1992 and the end of January 1993;<sup>16550</sup> **Stojan Džino**, a member of the Rajlovac Brigade as of May 1992 and the Assistant Commander of the 4th Battalion of the 3rd Sarajevo Brigade from early 1994;<sup>16551</sup> **Stevan Veljović**, Assistant Chief of Staff for Operations and Training of the 1st Romanija Brigade from 19 May 1992 until December 1994 and Commander of the 4th Sarajevo Light Infantry Brigade as of early August 1995 until February 1996;<sup>16552</sup> **Milenko Indić**, a VRS liaison officer for cooperation with international organisations and institutions;<sup>16553</sup> **Vladimir Radojčić**, the commander of the VRS Ilidža Brigade from January 1993 until the end of the war;<sup>16554</sup> **Husein Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>16555</sup> **Milan Babić**, the former President of the RSK;<sup>16556</sup> and **Dušan Škrba**, commander of the mixed artillery battalion of the 1st Sarajevo Mechanised Brigade as of 27 May 1992;<sup>16557</sup> as well as documentary evidence.

4695. The Trial Chamber will first set out evidence and Adjudicated Facts which suggest that there was a JCE to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population. In this respect, the Trial Chamber first recalls its factual findings on the alleged crimes committed during the Indictment period and on the general conditions in Sarajevo, as set out in chapter 5. The Trial Chamber also recalls its legal findings regarding the crimes in Sarajevo, as set out in chapter 8, and its general findings on the SRK, as set out in chapter 3.1.2. The Trial Chamber will consider the evidence and Adjudicated Facts related to the existence and membership of the JCE in light of these findings.

<sup>16550</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), paras 3-6, 8-9, 13.

<sup>16551</sup> D643 (Stojan Džino, witness statement, 4 November 2012), paras 3-4; Stojan Džino, T. 25700.

<sup>16552</sup> D532 (Stevan Veljović, witness statement, 19 October 2012), para. 28; D533 (Stevan Veljović, witness statement, 10 May 2014), para. 13; P6610 (Stevan Veljović, *Dragomir Milošević* transcript, 30 May 2007), pp. 5834-5835.

<sup>16553</sup> D614 (Milenko Indić, witness statement, 31 July 2014), paras 1-2.

<sup>16554</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 1.

<sup>16555</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Abdel-Razek, T. 3578.

<sup>16556</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3325-3326.

<sup>16557</sup> D463 (Dušan Škrba, witness statement, 11 May 2014), para. 7.

*Adjudicated Facts and evidence supporting a conclusion that a JCE existed*

4696. From 2 or 3 May 1992 and for several weeks onwards, Baščaršija, the centre of old Sarajevo, was set alight; the national and university libraries, the railway station, the post office, many key buildings, and apartment buildings in town were heavily shelled and destroyed.<sup>16558</sup> The above mentioned buildings were scattered all over town, so one could not identify a particular part of town being targeted, except for the buildings themselves, which were symbols of the town and were essential for its functioning, like the post office, the railway stations, the Zetra sports hall, and similar such facilities.<sup>16559</sup> Orders from the Bosnian-Serb chain of command were relayed down the chain of command of the Bosnian-Serb troops positioned around the city of Sarajevo and its surroundings to target civilians or the civilian population of Sarajevo.<sup>16560</sup>

4697. Sarajevo was discussed extensively at the 16th session of the Bosnian-Serb Assembly on 12 May 1992. Karadžić noted that Sarajevo had developed at the expense of Serb areas and was built, for the most part, on ‘Serbian’ land and with ‘Serbian’ money. For these reasons, the Serbs would not agree to its exclusion from their state unit in Bosnia-Herzegovina. Furthermore, Karadžić noted that the Serbs did not want war in Sarajevo; they wanted the ‘Serbian’ police to control the ‘Serbian’ part of the town and the Muslims the Muslim part, and to make a partition of both Sarajevo and the whole of Bosnia-Herzegovina ‘without any fighting’. According to Karadžić, the war in Sarajevo had been imposed on the Serbs by criminals.<sup>16561</sup> Karadžić further stated that the Serbs held all municipalities around Sarajevo and were holding their enemies in ‘complete encirclement’, so that they could not receive military assistance, either in manpower or in weapons.<sup>16562</sup> Trifko Radić noted that the Serbs had cut off and mined the railway line and the motorway so that no one could get into Sarajevo; they would do their best to prevent the enemy from ever getting to Sarajevo from the direction of Zenica.<sup>16563</sup> He also stated that ‘[their] enemies [...] can pass only dead’ through Ilijaš.<sup>16564</sup> Dragan Kalinić noted that ‘what Radio and Television did for Alija Izetbegović and Stjepan Kljujić is equivalent to what two divisions can do’ and

<sup>16558</sup> Adjudicated Facts III, no. 1713.

<sup>16559</sup> Adjudicated Facts III, no. 1714.

<sup>16560</sup> Adjudicated Facts III, no. 1813.

<sup>16561</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 8.

<sup>16562</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 8.

<sup>16563</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 16.

<sup>16564</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 15.

therefore proposed that if the TV building and the antennae would not remain on Bosnian-Serb territory, they were to be destroyed. He added that if the Military Hospital were to fall into the hands of the enemy, he would be in favour of the destruction of the Koševo Hospital, so that the enemy would have nowhere to go for medical help.<sup>16565</sup>

4698. The Trial Chamber also considered other documentary evidence (P431, D2022, D2045, D2081, D66, and D2039), which is reviewed in chapters 9.2.4, 9.2.5, 9.5.5 and 9.5.11.

4699. Besides the extensive evidence reviewed in chapter 5, the Trial Chamber received further witness testimonies and documentary evidence about the situation in Sarajevo during the war and statements and actions by Bosnian-Serb political and military leaders. On 14 May 1992, Plavšić told an unidentified female, Radmila, that the shelling was a ‘horror’ and asked ‘do they really have to shell civilian targets?’<sup>16566</sup> In response, Radmila said ‘I cannot tell you anything, I was told not to disclose any information over the phone’.<sup>16567</sup> When Plavšić again questioned whether civilian targets needed to be shelled, Radmila responded ‘What is being done, had to be done, that is all I can tell you’.<sup>16568</sup> Earlier in the conversation, Radmila told Plavšić that the reason for the shelling was ‘probably’ that ‘they must retaliate’.<sup>16569</sup>

4700. **Witness RM-115** heard a broadcast on the radio news on 28 May 1992, in which Mladić stated ‘Fire at Velešići and at Pofalići. There aren’t many Serbian inhabitants there...’<sup>16570</sup> On 28 May 1992, Mladić ordered Mirko Vukašinić to direct artillery fire at the Velešići and Pofalići neighbourhoods of Sarajevo as ‘there is not much Serb population there’.<sup>16571</sup> In particular, he ordered targeting around Dobrovoljačka, Humska, and Đure Đakovića streets and to apply artillery reconnaissance ‘so that they

<sup>16565</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 19.

<sup>16566</sup> P2733 (Intercepted conversation between Plavšić and ‘Radmila’, 14 May 1992), pp. 1-2.

<sup>16567</sup> P2733 (Intercepted conversation between Plavšić and ‘Radmila’, 14 May 1992), p. 2.

<sup>16568</sup> P2733 (Intercepted conversation between Plavšić and ‘Radmila’, 14 May 1992), p. 2. Based on the content of the intercept, as well as exhibit P2766, the Trial Chamber is satisfied that ‘Radmila’ was affiliated with the Bosnian-Serb leadership.

<sup>16569</sup> P2733 (Intercepted conversation between Plavšić and ‘Radmila’, 14 May 1992), p. 1.

<sup>16570</sup> P102 (Witness RM-115, witness statement 4 November 2008), para. 4; P105 (Recording and partial transcript of media broadcast of intercepted conversations during bombardment of Sarajevo by VRS forces 28-29 May 1992), pp. 1, 7; Witness RM-115, T. 1659. *See also* P111 (Intercepted telephone conversation of 28 May 1992). The Trial Chamber understands this to be the recording broadcast on the radio. *See also* P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), pp. 3-4. *See also* P107 (Witness RM-147, witness statement, 3 June 2012), para. 76.

<sup>16571</sup> P111 (Intercepted telephone conversation of 28 May 1992). The Trial Chamber understands this to be the recording broadcast on the radio. *See also* P105 (Recording and partial transcript of media

cannot sleep, that we roll out their minds/as written: drive them crazy/’.<sup>16572</sup> **Witness RM-511** testified that Mladić ordered the shelling of Velešići and Pofalići, two neighbourhoods in Sarajevo, and that the civilians in these neighbourhoods be harassed throughout the night so they could not rest.<sup>16573</sup> On the night of the recording, **Witness RM-147** heard shells exploding all over town, sometimes simultaneously in different areas. Some shells were fired from VRS positions above Grbavica.<sup>16574</sup> There were a lot of snipers in Grbavica and sniping went on constantly.<sup>16575</sup> Members of platoons guarding sniper positions received orders, which they followed, not to leave their positions at any time and to shoot at anything that moved without distinction.<sup>16576</sup> According to the witness, the snipers on Ozrenka Street stated that they targeted civilians and soldiers alike at the transversal roads that were running roughly from the north to the south across the width of the city and which could clearly be seen from their positions.<sup>16577</sup> The snipers also said that they targeted persons at intersections despite there being containers or barriers which were set up for protection.<sup>16578</sup>

4701. On 28 June 1992, General MacKenzie called Nikola Koljević, who promptly started the conversation by saying that he had ‘checked the shelling’ and had been informed by Mladić that several shells had been fired at Lukavica but that no shelling had been fired by the VRS.<sup>16579</sup> MacKenzie then asked Koljević whether the tanks would leave Sarajevo airport, since they were part of the agreement on the concentration of heavy weapons which was to take place the following day at 2 p.m. Koljević responded that he had to check whether the tanks would indeed leave, but assumed that they would leave at the same time as ‘the soldiers’.<sup>16580</sup>

4702. **Richard Mole** recalled one occasion when he asked a VRS local commander about his firing into the city and received the answer that he was only ‘warming the

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broadcast of intercepted conversations during bombardment of Sarajevo by VRS forces 28-29 May 1992), pp. 6-7; P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), pp. 3-4.

<sup>16572</sup> P111 (Intercepted telephone conversation of 28 May 1992). *See also* P105 (Recording and partial transcript of media broadcast of intercepted conversations during bombardment of Sarajevo by VRS forces 28-29 May 1992), pp. 6-7; P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), pp. 3-4.

<sup>16573</sup> Witness RM-511, T. 5049-5054.

<sup>16574</sup> P107 (Witness RM-147, witness statement, 3 June 2012), para. 77.

<sup>16575</sup> P107 (Witness RM-147, witness statement, 3 June 2012), para. 41.

<sup>16576</sup> P107 (Witness RM-147, witness statement, 3 June 2012), paras 41, 62; Witness RM-147, T. 1739.

<sup>16577</sup> P107 (Witness RM-147, witness statement, 3 June 2012), para. 46; Witness RM-147, T. 1688, 1697-1698.

<sup>16578</sup> P107 (Witness RM-147, witness statement, 3 June 2012), paras 46, 49, 51, Appendix E; P110 (Photograph); P121 (Map marked by witness); P122 (Map marked by witness).

<sup>16579</sup> P2771 (Intercept of Koljević and MacKenzie, 28 June 1992), p. 1.

barrels'.<sup>16581</sup> However, shortly after these shots, the firing stopped.<sup>16582</sup> On another occasion, after three rounds were fired into the city, Mole received the answer that the three rounds were 'one for each finger of the Serb salute'.<sup>16583</sup> According to Mole, the firing hit civilian areas and was random.<sup>16584</sup>

4703. According to a VRS Main Staff document of 31 May 1993 concerning the situation in the SRK area of responsibility, activities of 'sabotage-terrorists groups' should be used in order to achieve:

a constant negative effect on the morale of the Muslim forces and population, that they have a sense of fear and constant insecurity from the activities of our forces. Through tactical acts and our propaganda activity, it is necessary to develop in them a feeling that their fate depends on the [VRS].<sup>16585</sup>

4704. **David Harland** testified that Karadžić told him on one occasion that it would not be politically useful to try to force Sarajevo to surrender. Karadžić told Harland '[y]ou know, we could destroy the [Butmir] tunnel, but we're going to let the Muslims breathe'.<sup>16586</sup> At a meeting between Karadžić, Krajišnik, and UNPROFOR held on 15 October 1993, Karadžić stated that the Serb shelling of civilian areas in Sarajevo was the action of 'rogue individuals' and that he would take further action to curb it if the Muslim side would do the same.<sup>16587</sup> He also stated that he had given orders for shelling and sniping to stop.<sup>16588</sup> According to Harland, during negotiations the Serbs did not even really hide that sniping of civilians in downtown Sarajevo was one of the means by which they sought to assert pressure on the Bosnian government.<sup>16589</sup> In the spring of 1995, following a failed attempt by the ABiH to break the siege, Serb military interlocutors indicated to UNPROFOR that they were going to increase their sniping and shelling as a punishment for this attempt.<sup>16590</sup>

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<sup>16580</sup> P2771 (Intercept of Koljević and MacKenzie, 28 June 1992), p. 2.

<sup>16581</sup> P421 (Richard Mole, witness statement, 7 May 2010), paras 80, 82.

<sup>16582</sup> P421 (Richard Mole, witness statement, 7 May 2010), para. 80.

<sup>16583</sup> P421 (Richard Mole, witness statement, 7 May 2010), paras 80, 82.

<sup>16584</sup> P421 (Richard Mole, witness statement, 7 May 2010), para. 82.

<sup>16585</sup> P4517 (Conclusions from the assessment of the situation in the SRK area, 31 May 1993), p. 9.

<sup>16586</sup> P1 (David Harland, witness statement, 4 September 2009), para. 41.

<sup>16587</sup> P1 (David Harland, witness statement, 4 September 2009), paras 60-61; David Harland, T. 682-683.

<sup>16588</sup> P1 (David Harland, witness statement, 4 September 2009), para. 61; P7 (UNPROFOR cable on meeting with Karadžić, 15 October 1993), p. 1.

<sup>16589</sup> David Harland, T. 698, 706-707.

<sup>16590</sup> David Harland, T. 706-707.

4705. When **Rose** visited the Sarajevo suburb of Dobrinja on 21 February 1994, he asked one of the VRS soldiers whether he had ever opened fire at children.<sup>16591</sup> The soldier said that although he had not seen any children, he would certainly shoot them, as they would grow up to be Muslims and it was better to ‘kill them now’.<sup>16592</sup> **David Fraser** testified that by the time he arrived in Sarajevo in April 1994, the city had already been under siege for about two years.<sup>16593</sup> Based on the reports received and his personal observations, Fraser was of the opinion that although Sarajevo could not have been taken without significant casualties, the objective of the VRS was not to take over the city, but to keep the pressure on.<sup>16594</sup> Trams were the favourite target of the Bosnian-Serb snipers because of the psychological impact these attacks had on the civilian population in the city.<sup>16595</sup> On several occasions, General Rose spoke to Mladić about the sniping, and although Mladić denied having targeted civilians, the situation would improve after such meetings.<sup>16596</sup> **Mole** testified that Galić told him several times that Sarajevo would be shelled if a certain event did not materialise according to the Serbs’ wishes.<sup>16597</sup> According to an UNPROFOR report dated 25 September 1994, a UN liaison officer in Lukavica was told that the VRS did not consider Sarajevo to be the most problematic area, but used it as a means of asserting pressure due to the presence of the media.<sup>16598</sup>

4706. A video recorded on 15 August 1994 reflects the following conversation:

Mladić: On this road, but I fucked them. I led them there, made a /?mask/, and then we cleaned up the barricades here with chain saws, this all had been blocked. And then we brought tanks here. And kicked the hell out of the Turks.

Lešić: Kicked the hell out of them?

Mladić: And whenever I come by Sarajevo, I kill someone in passing. That’s why the traffic for Sarajevo was disrupted. /*unintelligible*/ snipers. I go, kick the hell out of the Turks, who gives a fuck for them! /*laughter*/ Somehow I and my have to ... I don’t know whether you kill that kind over there in Canada and America, you ought to kill these

<sup>16591</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 51-52.

<sup>16592</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 52.

<sup>16593</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 27.

<sup>16594</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 40.

<sup>16595</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 66; David Fraser, T. 5870-5871.

<sup>16596</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 83, 141.

<sup>16597</sup> P421 (Richard Mole, witness statement, 7 May 2010), paras 92, 94, 96; Richard Mole, T. 4324.

<sup>16598</sup> P629 (UNPROFOR message, 25 September 1994), p. 2.

Ustaša there, and those who support them and ours as well who collaborate with them.<sup>16599</sup>

Mladić further stated:

Here is the village of Plane, it used to be Turkish. Now we will go towards it. You film this freely, you know. Let our Serbs see what we have done to them, how we took care of the Turks. In Podrinje we thrashed the Turks. If the Americans and English, the Ukrainians and Canadians in Srebrenica, in the meantime it's the Dutch, would not protect them, they would have disappeared from this area long ago. [...] See what a village they got. Look there */destroyed houses come up on the screen/*. Should I slow down a bit so you can film them? [...] Film it. Look what a house this Turk motherfucker had! This is a Turkish house. [...] This was a Turkish house. The one over there was Turkish and that one, all of them.<sup>16600</sup>

4707. At a meeting with General Smith, Mladić commented on the frequent sniping incidents in Sarajevo in early March 1995 and stated that the increase in sniping was a response to Serb casualties suffered in military offences launched by the Bosnian government.<sup>16601</sup> In an intercept of a telephone conversation between Mladić and Tolimir, Mladić indicated that if any harm should come to VRS soldiers, then Sarajevo would be 'gone'.<sup>16602</sup> In a directive of the VRS Main Staff dated 22 July 1992, Mladić indicated that the use of artillery was strictly banned save in cases of self-defence.<sup>16603</sup> The witness confirmed that this was the actual position of Mladić and the VRS Main Staff.<sup>16604</sup> In an intercepted telephone conversation between Mladić and Gutović on 28 March 1995, Mladić told Gutović, '[w]henver you see a Turk, take aim at him, and send him off to the al-akhira'.<sup>16605</sup>

<sup>16599</sup> P1974 (Video clip of 15 August 1994 on VHS tape labelled '1/2 tape TV Pale, Karadžickosi, Koljevic, Mladic- vojska 1/2 my tape', from 00:49:26 to 01:00:05), p. 1.

<sup>16600</sup> P1974 (Video clip of 15 August 1994 on VHS tape labelled '1/2 tape TV Pale, Karadžickosi, Koljevic, Mladic- vojska 1/2 my tape', from 00:49:26 to 01:00:05), p. 2.

<sup>16601</sup> P876 (Political assessment of Bosnia-Herzegovina for 5-11 March 1995, 11 March 1995), para. 9. See also Rupert Smith, T. 7297; P787 (Notes re Smith-Mladić meeting in Jahorina, 6 March 1995), p. 3.

<sup>16602</sup> Witness RM-511, T. 5043-5045; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 3; P1601 (Intercepted telephone conversation among General Mladić, Colonel Zdravko Tolimir, and Jerko Doko, and the audio thereof), p. 2.

<sup>16603</sup> Witness RM-511, T. 5126-5127; D99 (VRS Main Staff Directive No. 02/5-72 entitled 'Future Activities of the Army of the BiH Republic of Sprska' and type-signed by Ratko Mladić, 22 July 1992), p. 2.

<sup>16604</sup> Witness RM-511, T. 5126-5127; D99 (VRS Main Staff Directive No. 02/5-72 dated 22 July 1992, entitled 'Future Activities of the Army of the BiH Republic of Sprska' and type-signed by Ratko Mladić), p. 2.

<sup>16605</sup> P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 7; P1609 (Intercepted telephone conversation between Gutović and Mladić, 22 May 1992), p. 3.

4708. According to an UNMO report of 15 March 1995, UNMOs met with Captain Mile, the commander of the 3rd Battalion of the 1st Romanija Brigade, who expressed anger at ABiH activity and said that the ceasefire agreement would not be respected within his area of responsibility if this continued.<sup>16606</sup> Captain Mile was overheard telling his subordinate commander to go back to his position and inform his troops to fire on anything that moved – soldiers or civilians.<sup>16607</sup> According to information from soldiers on the confrontation line, the ceasefire agreement no longer existed in their area of responsibility, and they would no longer only shoot at armed soldiers but also at anybody who moved, including women and children.<sup>16608</sup> The soldiers also threatened to fire at UNPROFOR in that area ‘if this is what it takes to stop the sniping activity’.<sup>16609</sup>

4709. **Witness RM-055** testified that when UNPROFOR protested the SRK shelling of UNPROFOR positions, civilian goods, and people in the city of Sarajevo on 18 May 1995, Indić said ‘we will not stop until we have retaken the *debelo brdo* elevation’.<sup>16610</sup> According to an order by Dragomir Milošević to several units of the SRK dated 21 July 1995, the subordinated units were to attack or show-attack Sarajevo on 22 July 1995 as a reaction to difficulties other units in Mount Treskavica and on the Trnovo axis had encountered and in order to ‘reduce pressure, tie down forces, and trick the enemy’.<sup>16611</sup> **Rose** testified that the Serbs explained that as they did not have the same level of infantry available as the ABiH, shelling was their method of responding to attacks by the ABiH.<sup>16612</sup>

4710. Between September 1992 and August 1994, the objective the SRK pursued was to make every inhabitant of Sarajevo feel that nobody was sheltered from the shooting.<sup>16613</sup> The shooting was not aimed at military objectives but rather to increase the helplessness of the population.<sup>16614</sup> The attacks on civilians had no discernible

<sup>16606</sup> P7809 (UNMO patrol report Sarajevo, 15 March 1995), pp. 1-2.

<sup>16607</sup> P7809 (UNMO patrol report Sarajevo, 15 March 1995), p. 2.

<sup>16608</sup> P7810 (UNMO patrol report Sarajevo, 16 March 1995). *See also* P503 (Francis Thomas, witness statement, 15 May 2009), para. 120 (p. 41).

<sup>16609</sup> P7810 (UNMO patrol report Sarajevo, 16 March 1995). *See also* P503 (Francis Thomas, witness statement, 15 May 2009), para. 120 (p. 41). The Trial Chamber understands ‘sniping activity’ to refer to sniping from the ABiH-side.

<sup>16610</sup> P749 (Witness RM-055, witness statement, undated), p. 8.

<sup>16611</sup> P6513 (Order by Dragomir Milošević to attack Sarajevo, 21 July 1995).

<sup>16612</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 200-201.

<sup>16613</sup> Adjudicated Facts III, no. 2053.

<sup>16614</sup> Adjudicated Facts III, no. 2054.

significance in military terms.<sup>16615</sup> Not only was Stanislav Galić (the SRK commander from 10 September 1992 until 10 August 1994, as found in chapter 3.1.2) informed personally about both sniping and shelling activity attributed to SRK forces against civilians in Sarajevo, but his subordinates were conversant with such activity.<sup>16616</sup>

4711. Dragomir Milošević (SRK commander from 10 August 1994 until November 1995, as found in chapter 3.1.2) was in command and control of his troops, who carried out this campaign of sniping and shelling.<sup>16617</sup> The campaign of sniping and shelling civilians in Sarajevo was already in place when Milošević took over the SRK Command from Galić.<sup>16618</sup> There was a pattern of shelling and sniping contemplated and implemented by Milošević during his tenure as Commander of the SRK.<sup>16619</sup> Milošević received protest letters from UNPROFOR about crimes committed by SRK troops.<sup>16620</sup> The monthly reports of the military prosecutor's office for Sarajevo did not contain any information about criminal proceedings against SRK members on war crimes.<sup>16621</sup> Disciplinary proceedings against SRK soldiers were conducted and disciplinary measures taken in matters other than violations of international humanitarian law.<sup>16622</sup> The shelling that involved modified air bombs and mortars fired by the SRK in Sarajevo from 10 August 1994 through 21 November 1995 could only occur pursuant to Dragomir Milošević's orders.<sup>16623</sup>

4712. **Husein Abdel-Razek** testified that he met Plavšić approximately five or six times during his time in Sarajevo, where she would represent Karadžić.<sup>16624</sup> He regularly dealt with Serb military commanders, but at all meetings, senior Bosnian-Serb political figures, such as Plavšić, Karadžić, Koljević, or Krajišnik, were present and the Serb military commanders would defer to them.<sup>16625</sup> Because Plavšić was always present, the witness felt he could not freely talk with the military commanders.<sup>16626</sup> At his first meeting with Plavšić and the Serb leadership at the Lukavica Barracks, the witness met Tomislav Šipčić, Galić's predecessor. He met Galić at his second meeting

<sup>16615</sup> Adjudicated Facts III, no. 2056.

<sup>16616</sup> Adjudicated Facts III, nos 1809-1810.

<sup>16617</sup> Adjudicated Facts III, no. 1866.

<sup>16618</sup> Adjudicated Facts III, no. 1868.

<sup>16619</sup> Adjudicated Facts III, no. 1869.

<sup>16620</sup> Adjudicated Facts III, nos 1855-1856.

<sup>16621</sup> Adjudicated Facts III, no. 1857.

<sup>16622</sup> Adjudicated Facts III, no. 1859.

<sup>16623</sup> Adjudicated Facts III, no. 1841.

<sup>16624</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 22.

<sup>16625</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 24, 26.

with the Bosnian-Serb leadership.<sup>16627</sup> The witness met Galić approximately every ten to 15 days in order to solve problems, usually at the Lukavica Barracks.<sup>16628</sup> According to the witness, Galić was aware of everything within his area of responsibility, controlled everything on the ground level in the Sarajevo sector, and was much respected and feared by his men.<sup>16629</sup> The witness repeatedly met with the civilian and military Bosnian-Serb leadership, including Mladić, Galić, Karadžić, and Plavšić, to discuss ceasefire violations; the continuous sniping and at times indiscriminate shelling of Sarajevo; the targeting of civilians, hospitals, funerals, trams, waterlines, and the market place; the shelling of the UN headquarters and other UN facilities; challenges concerning humanitarian matters such as the provision of fuel, the lack of freedom of movement, and the existence of checkpoints and blockades, including the blockades of UN and humanitarian convoys; and the assassination of Hskija Turajlić.<sup>16630</sup> Other UN officials also raised these issues in meetings with Karadžić, Koljević, and Galić.<sup>16631</sup> At meetings with the witness, Galić, Plavšić, and other Serb leaders would deny responsibility for shelling and sniping incidents and they often claimed that it was the Bosnian side who wanted to get sympathy from the world.<sup>16632</sup> They would also justify Serb shelling as retaliation for alleged Bosnian acts.<sup>16633</sup> The witness recalled that at such meetings many promises were made, but that the situation on the ground never changed.<sup>16634</sup> Later on, after meeting with the witness, Galić acknowledged that shelling had come from the Serb side and that it was in retaliation. Galić denied targeting civilians, but admitted to shelling and shooting civilians at the airfield.<sup>16635</sup> When the witness discussed the issue of Serbs targeting UN soldiers, Galić had first denied this, but then admitted that it happened.<sup>16636</sup>

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<sup>16626</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 40.

<sup>16627</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 71.

<sup>16628</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 72.

<sup>16629</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 38, 119.

<sup>16630</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 38, 73, 75, 79, 82-84, 86-87, 93, 100, 108, 110-112, 116-117, 121, 140; Husein Abdel-Razek, T. 3592-3593, 3595-3596, 3658-3659.

<sup>16631</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 106, 113.

<sup>16632</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, pp. 13, 15, paras 86, 100, 103-105, 127.

<sup>16633</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 100, 103-105, 127, 138.

<sup>16634</sup> Hussein Abdel-Razek, T. 3593-3595.

<sup>16635</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 103.

<sup>16636</sup> P293 (Husein Abdel-Razek, witness statements), witness statement of 16 July 2002, paras 103-104, 117, supplemental witness statement of 16 July 2002, p. 5.

4713. **Milan Babić** stated that Šešelj's concept of Greater Serbia – a homogenous Serbia – was his political platform.<sup>16637</sup> While similar to that advocated for by Milošević, the witness testified that Šešelj's notion was not quite the same and more specific.<sup>16638</sup> Šešelj had identified the borders of greater Serbia and wanted to remove non-Serbs from its borders.<sup>16639</sup> The witness concluded based on his words, deeds, and conduct that Šešelj had a hostile attitude towards the non-Serb population.<sup>16640</sup>

*Evidence suggesting that there was no JCE*

4714. The Trial Chamber also received evidence suggesting that there was no objective to attack civilians in Sarajevo. This evidence consists primarily of orders and instructions from the Bosnian-Serb military leadership and evidence by VRS officers and soldiers active in Sarajevo during the war.

4715. **Vladimir Radojčić** testified that when conducting combat operations, the Ilidža Brigade did not view its actions as part of a systematic or widespread attack on civilians; it was not the objective of the Ilidža Brigade to open fire on civilians, to make their living conditions more difficult, or to prevent them from leaving or entering Sarajevo. According to the witness, it was the Muslim authorities who did not permit civilians to leave and who controlled the living conditions.<sup>16641</sup> The witness never received oral or written orders from his superior command to attack public transport vehicles, such as trams or busses, in the Muslim-controlled part of Sarajevo. Accordingly, he never issued oral or written orders for these sorts of attacks.<sup>16642</sup> Orders from the superior command specified that fire could be opened only on identified military targets. According to the witness, fire was not even returned until permission was received from superior command.<sup>16643</sup> The witness personally issued oral and written orders stating that firing on civilians was forbidden, which he confirmed was in line with the position of the SRK and the VRS Main Staff.<sup>16644</sup>

<sup>16637</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3393-3394.

<sup>16638</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), p. 3393.

<sup>16639</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), pp. 3393-3394.

<sup>16640</sup> P4166 (Milan Babić, *Krajišnik* transcript, 2-7 June 2004), p. 3394.

<sup>16641</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), paras 10, 25, 50.

<sup>16642</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), paras 26-27.

<sup>16643</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), paras 28-29.

<sup>16644</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 30. *See also* D463 (Dušan Škrba, witness statement, 11 May 2014), para. 20; D453 (Mile Sladoje, witness statement, 10 May 2014), paras 15, 18, 20; Mile Sladoje, T. 21100, 21103-21104.

4716. The SRK and Ilidža Brigade executed primarily defensive actions; they only went on the offensive in the Corps's area of responsibility in the initial stages of the war in order to improve tactical positions.<sup>16645</sup> The SRK and VRS Main Staff strategy in Sarajevo was twofold: (i) to utilise 'decisive defence' to preserve 'Serbian' settlements by preventing the ABiH from capturing settlements with a Serb majority such as Vogošća, Ilijaš, Hadžići, Lukavica, and Ilidža; and (ii) to block the main force of the ABiH 1st Corps in the city and to prevent them from manoeuvring and being used on other fronts.<sup>16646</sup> Blocking the main force of the ABiH created a military advantage for the Serb side because if the ABiH 1st Corps was able to break out of the city it would have had a major effect on the other fronts.<sup>16647</sup>

4717. The Ilidža brigade command took precautionary measures in order to (i) avoid opening fire at civilian buildings located in the ABiH 1st Corps zone of responsibility; and (ii) reduce collateral civilian casualties by not opening fire on targets if it knew that this would cause needless civilian casualties.<sup>16648</sup> For example, in 1995 the brigade abandoned its intention to capture Butmir because it had information that there were large numbers of civilians in the vicinity and artillery fire would have caused heavy casualties. The operation was suspended on the orders of Mladić. The main and only task of that operation was to push the 104th Brigade back from Butmir across Željeznica River into Hrasnica.<sup>16649</sup> The ABiH command posts were located in civilian buildings.<sup>16650</sup> The brigade would often warn the UN that the ABiH was using civilian buildings for military operations. The witness did not receive any information in return from the UN and did not notice that the reports had any effect.<sup>16651</sup>

4718. On 12 June 1993, SRK Deputy Commander Colonel Dragan Marčetić issued a warning to all commands of the SRK brigades and the Rear Command Post on the continued opening of fire on Sarajevo using large calibre weapons, by battalion commanders in particular, despite several standing orders and warnings from the SRK

<sup>16645</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 9. *See also* D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 6; D560 (Corrections to witness statement, 10 July 2014), para. 3; D463 (Dušan Škrba, witness statement, 11 May 2014), para. 9; D453 (Mile Sladoje, witness statement, 10 May 2014), paras 15, 18, 20; Mile Sladoje, T. 21100, 21103-21104; D532 (Stevan Veljović, witness statement, 19 October 2012), paras 15, 22, 24; D534 (Regular combat report, 13 September 1992).

<sup>16646</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 7.

<sup>16647</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 8.

<sup>16648</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), paras 23, 34.

<sup>16649</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 35.

<sup>16650</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 31.

Commander to the contrary. Marčetić noted the common desire ‘to liquidate as many of the *poturica* as possible’ was not worth the cost of the political consequences generated by isolated sniping and shelling on Sarajevo, which had minimal effects.<sup>16652</sup> Furthermore, Marčetić warned that conserving ammunition represented ‘task number one’ as the sources of provisions were drying up and ammunition could not be obtained.<sup>16653</sup> Fire was to be opened only on clearly visible objectives and only in cases of extreme necessity and when ordered and approved by authorized officers. Commanders were further instructed to hold insubordinate or negligent officers accountable for their actions and to submit reports enabling the initiation of criminal proceedings against them.<sup>16654</sup>

4719. The Ilidža Brigade received brochures from the superior command explaining the provisions of international humanitarian law, which were distributed to subordinate units. The witness’s predecessors had already distributed instructions on adherence to the Geneva Conventions before the witness took over the brigade command.<sup>16655</sup> **Nikola Mijatović** testified that the Ilidža Brigade was constantly warned by the VRS commander and from the SRK command to adhere to the Geneva Conventions.<sup>16656</sup>

4720. **Milorad Šehovac** testified that the ultimate objective of the Serb authorities regarding Sarajevo was to hold on to a part of the city.<sup>16657</sup> As far as the witness knew, efforts were made to enable the flow of electricity, gas, and water to civilians in Sarajevo and according to him the position of higher commands was to provide normal living conditions for all Serbs, Muslims, and Croats in the territory.<sup>16658</sup> The Serb side, moreover, did not deny civilians freedom of movement to and from the city.<sup>16659</sup> According to the witness, his unit avoided opening fire on civilian facilities in Sarajevo and did not fire on civilians, which was ensured through OPs.<sup>16660</sup> There was never any intention of creating psychological effects on civilians nor was there a Serb policy of

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<sup>16651</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 33.

<sup>16652</sup> P4424 (SRK Command order, signed by Dragan Marčetić, 12 June 1993), p. 1.

<sup>16653</sup> P4424 (SRK Command order, signed by Dragan Marčetić, 12 June 1993), p. 1. *See also* P6617 (SRK command order, 19 April 1995), p. 2.

<sup>16654</sup> P4424 (SRK Command order, signed by Dragan Marčetić, 12 June 1993), p. 1.

<sup>16655</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 15.

<sup>16656</sup> Nikola Mijatović, T. 21477, 21517. *See also* D532 (Stevan Veljović, witness statement, 19 October 2012), paras 15, 20.

<sup>16657</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 8.

<sup>16658</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), paras 41-42.

<sup>16659</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 42.

<sup>16660</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), paras 7, 22-26, 28, 68; Milorad Šehovac, T. 24033, 24036, 24106.

persecution.<sup>16661</sup> The witness took active measures to reduce collateral civilian casualties through direct reconnaissance during combat operations and when firing on military targets.<sup>16662</sup> He also issued verbal and written orders to his subordinates, ordering them to use extreme caution in choosing their targets and to carefully choose sniping positions to avoid negative repercussions on civilians, especially children.<sup>16663</sup> According to the witness, the superior commands or civilian authorities had ordered his brigade that, if Muslim civilians were to come under fire in Sarajevo, an investigation was to be carried out and the perpetrators were to be punished, however there were no such cases.<sup>16664</sup> According to the witness, Mladić never ordered him to issue orders that were viewed as either criminal or illegal.<sup>16665</sup>

4721. **Vlade Lučić** testified that he never received any orders from either higher command or civilian authorities to carry out attacks on civilians in the Muslim part of Sarajevo.<sup>16666</sup> The witness did receive orders that the humanitarian aid convoys were not to be hindered in any way.<sup>16667</sup> According to the witness, the Supreme Command and civilian authorities both permitted and enabled the free movement of civilians towards and out of the city.<sup>16668</sup>

4722. **Ratomir Maksimović** testified that brigade commanders were ordered not to open fire on civilian features, as the SRK had no intention to cause civilian casualties or to terrorize civilians, which would have been detrimental to the SRK.<sup>16669</sup> The SRK neither received nor issued orders to attack civilians or means of public transport.<sup>16670</sup> Combat operations and fire were 'directed selectively and only against military targets'.<sup>16671</sup> The 'higher commands or civilian authorities' issued orders to respond to fire by targeting the positions from which the fire came.<sup>16672</sup> When the SRK Command learned that an exchange of fire caused civilian casualties, it 'reacted energetically by

<sup>16661</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), paras 24, 49; Milorad Šehovac, T. 24097.

<sup>16662</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 28.

<sup>16663</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), paras 28, 65; Milorad Šehovac, T. 24044.

<sup>16664</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 29.

<sup>16665</sup> Milorad Šehovac, T. 24106.

<sup>16666</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), para. 18. *See also* D643 (Stojan Džino, witness statement, 4 November 2012) paras 49-51; D459 (Predrag Trapara, witness statement, 10 May 2014), paras 13, 15.

<sup>16667</sup> Vlade Lučić, T. 26274.

<sup>16668</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), para. 28.

<sup>16669</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 21-23.

<sup>16670</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 27-28.

<sup>16671</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 50.

<sup>16672</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 29.

saying that civilian casualties had to be avoided at any cost'.<sup>16673</sup> Whenever the SRK Command found out about possible civilian casualties, it suspended fire.<sup>16674</sup>

4723. The Trial Chamber also received evidence in the form of orders and statements by the Bosnian-Serb political and military leadership. For example, on 14 May 1993, Mladić ordered unhindered passage for personnel providing aid intended for the civilian population 'of the opposing side', and the observance in all respects of the Geneva Conventions and other provisions of international law of war.<sup>16675</sup>

4724. In a cable addressed to Akashi, Vieira de Mello reported on a 3 January 1994 meeting with Karadžić during which he discussed the issue of disproportionate retaliation to small levels of firing from the area controlled by the ABiH in Sarajevo.<sup>16676</sup> Karadžić acknowledged that Serb retaliation was 'inappropriate' and counter-productive and informed that he would discuss the matter with Galić.<sup>16677</sup>

4725. In an order to VRS troops of 6 November 1994, Mladić stated that he had been informed that the leadership of the local Serb authorities in Sarajevo had met with the SRK Commander and had adopted a decision to blockade UNPROFOR, capture heavy weapons under UNPROFOR control, and use these weapons to fire at civilian targets in the city of Sarajevo.<sup>16678</sup> He went on to say that such decisions could have far-reaching negative effects on the Serb people and that these combat operations were being planned without his knowledge. Mladić then issued an order (a) forbidding the seizure of heavy weapons under UNPROFOR control without his specific order and approval; (b) forbidding the planning and carrying out of any offensive combat operations without the approval of the VRS Main Staff or the implementation of operations planned without the agreement and approval of the VRS Main Staff; and (c) forbidding firing from large calibre weapons at civilian targets in Sarajevo without his approval.<sup>16679</sup>

4726. In a public letter to Janvier dated 4 September 1995, Mladić asked why Janvier had not informed the public about the role of the Muslim side in staging the Markale II

<sup>16673</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 26.

<sup>16674</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 33.

<sup>16675</sup> D726 (Mladić's order to all the brigades, the Skelani Independent Battalion and the Višegrad Tactical Group on the passage of humanitarian aid, 14 May 1993).

<sup>16676</sup> P7534 (Cable from Vieira de Mello to Akashi concerning a meeting with Radovan Karadžić, 4 January 1994), p. 3.

<sup>16677</sup> P7534 (Cable from Vieira de Mello to Akashi concerning a meeting with Radovan Karadžić, 4 January 1994), p. 3.

<sup>16678</sup> P812 (Mladić order, 6 November 1994), p. 1; P813 (Implementation order of Mladić order, 7 November 1994).

incident.<sup>16680</sup> Mladić assured Janvier that the city of Sarajevo was under no threat from the VRS and gave firm guarantees that the VRS would only carry out combat operations in self-defence.<sup>16681</sup>

4727. According to **Witness RM-163**, VRS representatives occasionally justified firing on Sarajevo by saying that their forces had been attacked elsewhere.<sup>16682</sup> On one occasion, the VRS announced that shelling of the inner city was a consequence of the ABiH breaking through the lines surrounding the city.<sup>16683</sup>

4728. **Milenko Indić** testified that a large number of convoys with food and medicines, organised by humanitarian organisations and NGOs, entered Sarajevo *via* Serb-controlled territory without any problems.<sup>16684</sup> The witness testified in more general terms that there was a VRS order to approve the passage of humanitarian convoys.<sup>16685</sup>

4729. On 8 September 1992, Karadžić, as the President of the Bosnian-Serb Presidency, sent a telegram to the presidents of all municipalities in the Bosnian-Serb Republic reminding them that they were personally responsible for what happened within their municipalities.<sup>16686</sup> According to the telegram, civilians should not be kept in prisons and collection centres against their will, and must be able to reach the territory they wished to go to safely when seeking refuge from war operations.<sup>16687</sup> The same applied to sick enemy soldiers who upon release would not rejoin the enemy forces and for whom there was no conclusive evidence that they had committed crimes.<sup>16688</sup> Karadžić also informed the presidents that it was their duty to inform the Bosnian-Serb Presidency about the existence of prisons and collection centres in their

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<sup>16679</sup> P812 (Mladić order, 6 November 1994), p. 2.

<sup>16680</sup> D150 (Mladić letter to Janvier, 4 September 1995), p. 2.

<sup>16681</sup> D150 (Mladić letter to Janvier, 4 September 1995), p. 4.

<sup>16682</sup> Witness RM-163, T. 6255-6256, 6277.

<sup>16683</sup> P628 (Witness RM-163, witness statement, undated), para. 33.

<sup>16684</sup> D614 (Milenko Indić, witness statement, 31 July 2014), para. 15.

<sup>16685</sup> Milenko Indić, T. 25203.

<sup>16686</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

<sup>16687</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

<sup>16688</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

territories.<sup>16689</sup> Further, prison guards were obliged to accommodate the ICRC and the UNHCR.<sup>16690</sup>

4730. On 11 March 1993, Karadžić, in order to maintain a ceasefire, issued a directive to the VRS headquarters wherein he set out several instructions.<sup>16691</sup> The VRS were to enable the undisturbed passage and protection of mail, equipment, and personnel who rendered assistance to the civilian population of the opposing side.<sup>16692</sup> Any misuse, for military purposes, of food supplies, crops, plumbing, and drinking water reservoirs, and water dams was prohibited.<sup>16693</sup>

4731. According to **Slobodan Tuševljak**, on one occasion in Vrace in late May 1992, Mladić emphasised that civilians could not be targeted at any cost.<sup>16694</sup> In addition, superior commands instructed soldiers merely to open fire on defensive grounds and only towards the enemy forces.<sup>16695</sup> Tuševljak's platoon was careful not to target any civilian objects in the zone where the units of the ABiH and the VRS units were fighting against each other.<sup>16696</sup>

4732. **Mihajlo Vujasin** testified that, after the JNA withdrew to the FRY, Mladić organised a meeting in Lukavica in which he ordered the representatives of all brigades to abide by the laws of war in their interaction with civilians and UN members.<sup>16697</sup>

#### *9.4.3 The Trial Chamber's findings*

4733. The Trial Chamber considers that the Defence's arguments in relation to the existence of the JCE are unmeritorious. Specifically, in relation to the Defence's argument about Sarajevo as an 'undefended city', the Trial Chamber considers that the Defence's submission is based on the assumption that the Indictment's mentioning of Article 3 of the Statute must be understood as a reference to Article 3 (c). However, the Indictment does not refer to Article 3 (c), the list of violations of the laws or customs of

<sup>16689</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

<sup>16690</sup> D2081 (Telegram from Radovan Karadžić to presidents of all municipalities in the Bosnian-Serb Republic, 8 September 1992).

<sup>16691</sup> D2039 (Karadžić order regarding VRS actions during ceasefire, 11 March 1993).

<sup>16692</sup> D2039 (Karadžić order regarding VRS actions during ceasefire, 11 March 1993).

<sup>16693</sup> D2039 (Karadžić order regarding VRS actions during ceasefire, 11 March 1993).

<sup>16694</sup> D539 (Slobodan Tuševljak, witness statement, 5 November 2012), para. 28.

<sup>16695</sup> D539 (Slobodan Tuševljak, witness statement, 5 November 2012), paras 20-21.

<sup>16696</sup> D539 (Slobodan Tuševljak, witness statement, 5 November 2012), para. 19.

war in Article 3 of the Statute is explicitly non-exhaustive, and the language used in the Indictment in respect of Counts 9 and 10 mirrors that of Article 51 of Additional Protocol I to the Geneva Conventions, and not that of Article 59 of the protocol which refers to non-defended localities.

4734. Exhibit D726 indicates that on 14 May 1993 Mladić ordered observance in all respects of the Geneva Conventions and other provisions of international law. Similar orders were given by Karadžić in June and July 1992 and in March 1993. The Trial Chamber recalls that Adjudicated Facts numbers 2053, 2054, 2056, 1813, 1866, 1868, and 1869 state that civilians were to be specifically targeted. While Mladić and Karadžić's orders do not necessarily contradict these Adjudicated Facts, the underlying premise of ordering observance with the law is so diametrically opposed to the Adjudicated Facts that the Trial Chamber considers that in this specific situation this evidence contradicts the Adjudicated Facts. Further, there are no indications that would negatively affect the reliability of exhibits D726, D2022, D2039, D2045, or D2081 when looking at the documents alone. Under these circumstances, the Trial Chamber finds that these exhibits are sufficiently reliable to rebut the above-mentioned Adjudicated Facts and will accordingly make its determinations on the basis of the evidence before it.

4735. The Trial Chamber notes that the evidence before it in relation to the existence of the JCE points in different directions. On the one hand, the Trial Chamber received evidence indicating that civilians were fired at for strategic reasons or indiscriminately. Other evidence indicates that Bosnian-Serb officials, in communications with internationals as well as with their own forces, emphasised that civilians had nothing to fear and were not to be targeted.

4736. With regard to evidence of Bosnian-Serb officials' statements to international organizations, for example Karadžić's assurances that shelling and sniping would stop<sup>16697</sup> or Mladić's assurances that the city of Sarajevo was under no threat from the VRS<sup>16699</sup>, the Trial Chamber considered this evidence in light of Mladić's uncontested proposal of dealing with the international public at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, namely to mislead the public about the truth and guard what

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<sup>16697</sup> D641 (Mihajlo Vujasin, witness statement, 16 December 2012), para. 21; Mihajlo Vujasin, T. 25581-25584.

<sup>16698</sup> See P7 and P7534.

<sup>16699</sup> See D150.

they were doing as their deepest secret.<sup>16700</sup> Accordingly, the Trial Chamber considers that the statements of Bosnian-Serb officials to international organizations cannot serve as a reliable basis for determining their true state of mind.

4737. Some of the evidence received may indicate that the leadership was genuinely concerned with the well-being of civilians. For example, on 6 November 1994 Mladić prohibited the firing at civilian targets without his approval.<sup>16701</sup> On 13 July 1992, Mladić ordered that firing upon Sarajevo was only to take place in self-defence. Shooting without an order would be considered a crime and be prosecuted.<sup>16702</sup> On 12 June 1993, Marčetić ordered that fire was to be opened only in cases of extreme necessity and only if approved by authorized officers.<sup>16703</sup> In all of these instances though, the language of the orders demonstrates that Mladić's and Marčetić's motivation for the orders did not lie with the well-being of the civilian population but with insubordination or wasting of ammunition. Accordingly, the Trial Chamber finds that these orders do not assist in determining the true state of mind of the Bosnian-Serb leadership vis-à-vis the question of whether terror should be spread among the civilian population through a campaign of sniping and shelling.

4738. The Trial Chamber received evidence from witnesses that there were standing orders not to target civilians in Sarajevo. The Trial Chamber notes that these witnesses were members of the SRK, each of whom had a personal interest with regard to the question of whether the SRK was involved in a sniping and shelling campaign against civilians in Sarajevo. Accordingly, the Trial Chamber treated their evidence with caution.

4739. The evidence pointing towards the existence of the JCE came from a wide range of different sources: from international witnesses, but also insider witnesses (Witness RM-147, Mile Sladoje, and Witness RM-511), and documentary evidence (exhibits P6513, P876, P431, and P4517), as further detailed above. More importantly, the Trial Chamber considered its findings in relation to the general conditions in Sarajevo in chapter 5.1.1, its factual and legal findings in relation to the Sarajevo crimes of terror, unlawful attacks, and murder in chapters 5 and 8, and its findings in relation to the structure and command and control of the SRK in chapter 3.1.2. Although there were a

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<sup>16700</sup> See P431 as further set out in chapters 9.2.4 and 9.5.5.

<sup>16701</sup> See P812. See also P7552 set out in chapter 5.3.11 in relation to the incident of 27 May 1992.

<sup>16702</sup> See D66.

<sup>16703</sup> See P4424.

few orders not to target civilians,<sup>16704</sup> in light of the totality of the evidence and its previous findings, the Trial Chamber is convinced that such orders did not demonstrate a genuine concern for the rule of law and accordingly a reliable factor for determining the true state of mind of the Bosnian-Serb leadership. The Trial Chamber also observes that such orders not to target civilians were not adhered to and the leadership did not take measures to enforce such orders. Rather, the Trial Chamber finds that such orders provided mere lip-service in order to support assertions made to the international community and/or to keep up the appearance of a leadership obeying the law. This is also supported by Mladić's statement at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992 that 'Serbian people' would need to know how to read between the lines.<sup>16705</sup>

4740. Based on the foregoing, including the Trial Chamber's findings regarding crimes and their perpetrators in Sarajevo, the Trial Chamber finds that between 12 May 1992 and November 1995, there existed a JCE with the primary purpose of spreading terror among the civilian population through a campaign of sniping and shelling. In this respect, the Trial Chamber considered that the policy of the Bosnian-Serb leadership with regard to Sarajevo was outlined at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992. About two days later, as detailed in chapter 5.3.11, the SRK commenced its heavy shelling on Sarajevo, which together with regular and frequent sniping (as set out in detail in chapter 5), continued throughout the Indictment period. The objective of the JCE involved the commission of the crimes of terror, unlawful attacks against civilians, and murder. The infliction of terror among the civilian population was used to gain strategic military advantages and done out of ethnical vengeance. The Trial Chamber finds that for purposes of establishing a plurality of persons, the following participated in the realization of the common criminal objective: members of the Bosnian-Serb military and political leadership, including Karadžić, Galić, Dragomir Milošević, Krajišnik, Plavšić, and Koljević.<sup>16706</sup> In coming to this finding, the Trial Chamber considered the evidence of witnesses with regard to the Bosnian-Serb military and political leadership's frequent communications and uniform positions, expressed at joint meetings with internationals; evidence that the leadership

<sup>16704</sup> See D726, D2022, D2039, D2045, or D2081.

<sup>16705</sup> See P431 as further set out in chapter 9.2.4.

<sup>16706</sup> The evidence received by the Trial Chamber did not show that Vojislav Šešelj participated in the realization of the common criminal objective.

was informed of crimes on the ground and that the campaign of sniping and shelling continued, largely unabated, over almost four years; as well as its findings on the composition and organisation of political and military institutions, set out in chapter 3. The Trial Chamber will further determine whether Mladić was a member of this JCE in chapter 9.5. SRK units, subordinate to at least Galić, Dragomir Milošević, and Karadžić, committed the crimes in Sarajevo in furtherance of the JCE.

9.5 Ratko Mladić's alleged contribution to the second joint criminal enterprise  
(Sarajevo)

*9.5.1 Introduction*

4741. According to the Indictment, between 12 May 1992 and November 1995, the Accused participated in a JCE to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population.<sup>16707</sup> The Accused is alleged to have significantly contributed to this JCE in one or more of the ways specified in paragraphs 13 and 18 of the Indictment.<sup>16708</sup> The Trial Chamber will deal with the alleged contributions in turn, focusing on those on which it has received evidence and which the parties have addressed in their final briefs and closing arguments. In chapter 9.5.10, it will consider whether the Accused's alleged contribution was significant to the Sarajevo JCE. It will then turn to the *mens rea* of the Accused in chapter 9.5.11.

*9.5.2 Participating in the establishment, organisation, and/or maintenance of the VRS*

4742. With regard to this alleged contribution, the Trial Chamber recalls its findings in chapter 9.3.2 that from 18 May until 31 May 1992, Mladić sent several requests to the Serbian SSNO Personnel Administration regarding the assignment of named officers to specific VRS corps and brigades, with the purpose of reinforcing units. He also appointed high-ranking officers to the command of, *inter alia*, the Ilidža Light Infantry Brigade of the SRK. The Trial Chamber also recalls its finding that on 4 June 1992, Mladić established the area of responsibility of the SRK. From 18 June 1992 until at least October 1994, Mladić ordered and approved the promotions of a number of VRS officers. He also filled in a questionnaire for the promotion of Galić to the rank of Major General. Mladić graded the performances of high-ranking VRS officers including Dragomir Milošević. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

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<sup>16707</sup> Indictment, para. 14.

<sup>16708</sup> Indictment, paras 13, 18.

### 9.5.3 Commanding and controlling the VRS

4743. With regard to this alleged contribution, the Defence submitted that Mladić was the single commander presiding over the VRS and that, according to the concept of ‘singularity of command’, he also formally had control over the SRK.<sup>16709</sup> However, according to the Defence, Mladić was not able to issue orders to any person outside of the VRS and the chain of command in relation to the SRK did not always work effectively.<sup>16710</sup> In particular, the Defence submitted that many orders issued by Mladić were not followed, and officers and soldiers engaged in activities without the consent or knowledge of their superiors.<sup>16711</sup> The Defence argued that Mladić was not always or fully informed of the situation on the ground in Sarajevo in a timely manner; orders from lower level commands were issued without Mladić’s knowledge at times; and civilian authorities, including Krajišnik and Karadžić, frequently interfered in SRK matters and sought to control SRK actions.<sup>16712</sup>

4744. The Trial Chamber received evidence from **Manojlo Milovanović**, the Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>16713</sup> **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16714</sup> **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>16715</sup> **David Harland**, an UNPROFOR Civil Affairs Officer assigned to Sarajevo as of May 1993;<sup>16716</sup> **Witness RM-163**, an UNPROFOR soldier stationed in Sarajevo in 1993 and 1994 and member of the RRF in;<sup>16717</sup> **Michael Rose**, the UNPROFOR Commander from 5 January 1994 to 23 January

<sup>16709</sup> Defence Final Brief, paras 2447-2448.

<sup>16710</sup> Defence Final Brief, paras 2443, 2447, 2450-2451.

<sup>16711</sup> Defence Final Brief, para. 2450.

<sup>16712</sup> Defence Final Brief, paras 2450-2454. The Defence further argued that the orders issued by Mladić were considered a reflection of his ‘personal standpoint’ and as such, Mladić’s actions and orders were not ‘understood to be in furtherance of a campaign of systematic and widespread shelling against the civilian population of Sarajevo’; however the Trial Chamber notes that the Defence does not provide any evidentiary support for it and thus, the Trial Chamber will not consider it further. *See* Defence Final Brief, para. 2440.

<sup>16713</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *Curriculum Vitae* of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995). Manojlo Milovanović’s evidence is also reviewed in chapter 5.1.2.

<sup>16714</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020. The evidence of John Wilson is also reviewed in chapters 5.1.1 and 5.3.1.

<sup>16715</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Aly Abdel-Razek, T. 3578. The evidence of Husein Aly Abdel-Razek is reviewed in chapters 9.3.7 and 9.3.3.

<sup>16716</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>16717</sup> P628 (Witness RM-163, witness statement, undated), paras 4, 6-7, 9-10.

1995;<sup>16718</sup> **Witness RM-511**, a member of the SRK;<sup>16719</sup> **Witness RM-120**, an UNPROFOR soldier stationed in Sarajevo in 1994 and 1995;<sup>16720</sup> **David Fraser**, a military assistant to the UNPROFOR Commander in Sector Sarajevo from 17 April 1994 to 26 May 1995;<sup>16721</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the assistant to the UN Special Representative of the Secretary-General in Bosnia-Herzegovina;<sup>16722</sup> **Richard Gray**, the Senior Military Observer for UNPROFOR in Sector Sarajevo from 11 June 1992 to 20 September 1992, based in the city since 10 April 1992;<sup>16723</sup> **Mihajlo Vujasin**, Company Commander and Chief of Engineers at the Rajlovac Airforce Base in Sarajevo;<sup>16724</sup> **Milorad Šehovac**, the Chief of Staff of the 1st Posavina Brigade in Brčko between 23 May and 15 August 1992 and the Commander of the SRK 2nd Sarajevo Light Infantry Brigade between 18 August 1992 and mid-September 1995;<sup>16725</sup> **Đorđe Đukić**, the Assistant for Logistics of the VRS Main Staff;<sup>16726</sup> and **Witness RM-183**, a former VRS officer;<sup>16727</sup> as well as documentary evidence.<sup>16728</sup>

#### *Events between 12 -27 May 1992*

4745. **Manojlo Milovanović** testified that Mladić was physically present in Sarajevo at Lukavica from about mid-May 1992 to mid- or end of June 1992 while working on establishing the SRK.<sup>16729</sup> The Trial Chamber recalls the evidence of **John Wilson** reviewed in chapter 5.1.1 that on 14 May 1992 heavy fighting broke out throughout Sarajevo, including in the Dobrinja area where the witness resided. On 20 May 1992, Wilson and two other UNMOs met with Mladić and Colonel Čađo, the JNA liaison

<sup>16718</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839. The evidence of Michael Rose is also reviewed in chapter 9.3.3.

<sup>16719</sup> Witness RM-511, T. 4983, 4993, 4996, 5056; P500 (Pseudonym sheet). Witness RM-511's evidence is also reviewed in chapter 9.5.11.

<sup>16720</sup> P807 (Witness RM-120, witness statement, undated), p. 3.

<sup>16721</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 7, 11.

<sup>16722</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>16723</sup> D1413 (Richard Gray, witness statement, 22 April 2012), paras 2, 4-5; D1423 (Certification of UN medal for service with UNPROFOR – Richard Gray).

<sup>16724</sup> D641 (Mihajlo Vujasin, witness statement, 16 December 2012), para. 1. Mihajlo Vujasin's evidence is reviewed in chapter 9.4.2.

<sup>16725</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), p. 1, paras 1-2; Milorad Šehovac, T. 24055.

<sup>16726</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7. The evidence of Đorđe Đukić is reviewed in chapters 5.1.2.

<sup>16727</sup> P3307 (Witness RM-183, witness statement, 28 to 30 July 2004), p. 5.

<sup>16728</sup> The relevant evidence of P7552 is reviewed in chapter 5.3.11. The relevant evidence of P5035 is reviewed in chapter 9.3.3.

officer to UNPROFOR, at the Lukavica barracks.<sup>16730</sup> They discussed the evacuation of JNA personnel from the three barracks in Sarajevo.<sup>16731</sup> These were the Viktor Bubanj, Jusuf Džonlić, and Maršal Tito barracks.<sup>16732</sup> ABiH forces had surrounded the barracks, placed barricades around them, and in some cases were denying them electricity and water.<sup>16733</sup> The families of JNA members were present in the barracks as well.<sup>16734</sup> Mladić stated that if a peaceful solution could not be found, he would use other means and threatened to destroy half of Sarajevo with his artillery.<sup>16735</sup> At this time, the humanitarian organizations wanted to evacuate a group of around 2,000 women and children, known as the ‘children’s embassy convoy’, from near Ilidža.<sup>16736</sup> According to the witness, the Serb forces prevented these persons from leaving and used them as a bargaining tool in negotiations with the Presidency.<sup>16737</sup> The witness believed the convoy was being held on Mladić’s authority, as he made it clear on a number of occasions that he controlled everything.<sup>16738</sup> On 21 May 1992, pursuant to an agreement with Mladić, the children’s embassy convoy was escorted to a safe haven outside Ilidža in return for a delivery of food to the Viktor Bubanj barracks.<sup>16739</sup>

4746. The Trial Chamber received further evidence relating to the evacuation of JNA personnel from the barracks in Sarajevo and Mladić’s orders and involvement thereon. On 21 May 1992, in a phone conversation with Captain Tomčić, a member of one of the units located inside one of the barracks, Mladić ordered the units to shoot if they were attacked and instructed him to fire incendiary munitions to burn down the buildings in which ‘they’<sup>16740</sup> were hiding.<sup>16741</sup> Mladić said he was waiting to begin negotiations and

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<sup>16729</sup> Manojlo Milovanović, T. 17005.

<sup>16730</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 71; John Wilson, T. 3940, 3956; P321 (Series of UNPROFOR reports on the situation in Sarajevo, 21 May 1992), pp. 4, 7.

<sup>16731</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 71; John Wilson, T. 3940; P321 (Series of UNPROFOR reports on the situation in Sarajevo, 21 May 1992), pp. 4, 7-8.

<sup>16732</sup> John Wilson, T. 3938.

<sup>16733</sup> John Wilson, T. 3939, 4005-4006, 4012-4013.

<sup>16734</sup> John Wilson, T. 4006.

<sup>16735</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 71; John Wilson, T. 3942; P321 (Series of UNPROFOR reports on the situation in Sarajevo, 21 May 1992), pp. 4, 7-8.

<sup>16736</sup> John Wilson, T. 3941; P321 (Series of UNPROFOR reports on the situation in Sarajevo, 21 May 1992), pp. 7-8; P322 (Report on the situation in Sarajevo, Adnan Abdelrazek, 22 May 1992), p. 1.

<sup>16737</sup> John Wilson, T. 3941; P321 (Series of UNPROFOR reports on the situation in Sarajevo, 21 May 1992), pp. 7-8; P322 (Report on the situation in Sarajevo, Adnan Abdelrazek, 22 May 1992), p. 1.

<sup>16738</sup> John Wilson, T. 3945, 4046.

<sup>16739</sup> John Wilson, T. 3942-3942, 3944-3945, 3948, 4047; P322 (Report on the situation in Sarajevo, Adnan Abdelrazek, 22 May 1992), p. 2.

<sup>16740</sup> The Trial Chamber understands ‘they’ in this context refers to ABiH units.

<sup>16741</sup> P323 (Intercepted telephone conversation between Mladić and Tomčić, 21 May 1992), pp. 1-2.

that he would resolve it in a peaceful way if ‘they’<sup>16742</sup> wished.<sup>16743</sup> Mladić then instructed Tomčić to tell his men that Sarajevo was blocked and there was nothing they could do.<sup>16744</sup> Mladić asked if Tomčić had enough snipers with silencers, which he confirmed, and then Mladić advised Tomčić to ‘take them down’ immediately without letting them get close.<sup>16745</sup> Mladić further instructed him that as soon as he saw a vehicle that did not belong to UNPROFOR, or any other unannounced vehicle, he should take it out immediately.<sup>16746</sup>

4747. On 24 May 1992, in intercepted telephone conversations with Nedo Bošković and Jerko Doko, Defence Minister of the Bosnia-Herzegovina government, Mladić discussed further negotiations about the evacuation of the JNA personnel.<sup>16747</sup> Bošković told Mladić that he had spoken with Izetbegović twice and that Delimustafić had ‘messed up the plan’ but that the Presidency had made another decision which enabled them to move and that they were just waiting for the moment.<sup>16748</sup> Mladić then spoke to Doko, who was waiting for a call from Izetbegović.<sup>16749</sup> Doko told Mladić that he did not need to provide air support for the convoy.<sup>16750</sup> Mladić said he only cared about the personnel and the equipment and asked him to make sure there would not be any problems.<sup>16751</sup> Mladić told Doko that if he was to make trouble, it would be better to leave the military in the barracks so that he could ‘unblock’ it on his own, but Doko insisted that there would not be any problems and there would be no need to resolve things by arms.<sup>16752</sup> Mladić emphasized he wanted his men to be evacuated safely and reminded him that he had not ordered a single bullet to be fired at Sarajevo yet, but that

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<sup>16742</sup> The Trial Chamber understands ‘they’ in this context refers to representatives from the Bosnia-Herzegovina Presidency.

<sup>16743</sup> P323 (Intercepted telephone conversation between Mladić and Tomčić, 21 May 1992), p. 2.

<sup>16744</sup> P323 (Intercepted telephone conversation between Mladić and Tomčić, 21 May 1992), p. 2.

<sup>16745</sup> P323 (Intercepted telephone conversation between Mladić and Tomčić, 21 May 1992), p. 3.

<sup>16746</sup> P323 (Intercepted telephone conversation between Mladić and Tomčić, 21 May 1992), p. 4.

<sup>16747</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992).

<sup>16748</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 2.

<sup>16749</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), pp. 3-4.

<sup>16750</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 3.

<sup>16751</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 3.

<sup>16752</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 5.

Sarajevo was within the range of his artillery.<sup>16753</sup> Mladić also stated that he ‘made fire around Sarajevo cease’ and emphasized that he had more artillery pieces around Sarajevo now than there were soldiers there when he arrived.<sup>16754</sup> Mladić said that he would only talk after his barracks, soldiers, arms, and vehicles were evacuated safely.<sup>16755</sup> Doko promised a peaceful evacuation for the convoy, but that he was waiting to speak to Izetbegović.<sup>16756</sup> Mladić responded that he would hold him responsible.<sup>16757</sup>

4748. **Wilson** testified that on 24 May 1992, in the presence of UNMOs, the Viktor Bubanj barracks were evacuated.<sup>16758</sup> There was relative calm in Sarajevo that day but not a total ceasefire.<sup>16759</sup> In an intercepted telephone conversation between Mladić and General Tolimir on that day, Mladić indicated that if any harm should come to VRS soldiers, then Sarajevo would be destroyed.<sup>16760</sup> In another telephone conversation with Doko on 24 May 1992, Mladić threatened that if Doko brought his men into the barracks, he would shell the barracks, as well as the Presidency.<sup>16761</sup>

4749. Also on 24 May 1992, in an intercepted phone conversation, a man told Obrad Popadić, a battalion commander in the Ilidža Brigade at the time, that all their men and equipment of the Victor Bubanj Barracks were successfully relocated, without a single bullet being fired.<sup>16762</sup> The man also confirmed that in accordance with the plan, they were to deal with ‘these other barracks’.<sup>16763</sup> Mladić instructed Popadić to inform his people that the men and equipment in the Victor Bubanj barracks had been relocated with no casualties or fire, that they had to keep the situation calm, and that he had to

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<sup>16753</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), pp. 6-7.

<sup>16754</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), pp. 6-7.

<sup>16755</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 7.

<sup>16756</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), pp. 7-8.

<sup>16757</sup> P324 (Intercepted telephone conversation between Gagović, Bošković, Mladić, and Doko, 24 May 1992), p. 8.

<sup>16758</sup> John Wilson, T. 3953, 3955-3956.

<sup>16759</sup> John Wilson, T. 3954.

<sup>16760</sup> Witness RM-511, T. 5043-5045; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 3; P1601 (Intercepted telephone conversation among General Mladić, Colonel Zdravko Tolimir, and Jerko Doko, and the audio thereof), p. 2.

<sup>16761</sup> P1601 (Intercepted telephone conversation among General Mladić, Colonel Zdravko Tolimir, and Jerko Doko, and the audio thereof), pp. 3-4.

<sup>16762</sup> D75 (Intercepted telephone conversation between Obrad Popadić, an unidentified man, and Mladić, 24 May 1992), p. 1.

prohibit additional shooting.<sup>16764</sup> Mladić emphasized that people who were relocated should be given credit and were not allowed to do things their own way.<sup>16765</sup> Finally, Mladić emphasized that he was in charge of giving orders to open fire and that not everything around them should be destroyed and that Popadić should make sure that ‘no man’s small children suffer’.<sup>16766</sup>

4750. On 25 May 1992, Mladić instructed a man to report to him if ‘they’<sup>16767</sup> started shooting at him.<sup>16768</sup> Mladić said that ‘if a single bullet’ was fired at him, or at the Jusuf Džonlić or Maršal Tito barracks, or if a single soldier was wounded either at the front or in the barracks, Mladić would retaliate against the town.<sup>16769</sup> Mladić told the man to make sure his soldiers were aware that Sarajevo was ‘going to shake’ and that more shells would fall on it per second than in the entire war so far.<sup>16770</sup> Mladić emphasized that he had the means to cross the Miljacka River where he wanted and that he had blocked Sarajevo from four corners so the city was trapped and there was no way out.<sup>16771</sup> Mladić then stated that it was not his intention to destroy the town or kill innocent people.<sup>16772</sup> He further stated that ‘[t]hey should pull out the civilians and if they want to fight, we’ll fight’, but that it would be better to fight in the mountains than the town.<sup>16773</sup>

4751. **Wilson** testified that on 25 May 1992, he and others met Mladić and Plavšić to discuss the evacuation of JNA personnel from the Sarajevo barracks.<sup>16774</sup> Mladić stated

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<sup>16763</sup> D75 (Intercepted telephone conversation between Obrad Popadić, an unidentified man, and Mladić, 24 May 1992), pp. 1-2.

<sup>16764</sup> D75 (Intercepted telephone conversation between Obrad Popadić, an unidentified man, and Mladić, 24 May 1992), p. 3.

<sup>16765</sup> D75 (Intercepted telephone conversation between Obrad Popadić, an unidentified man, and Mladić, 24 May 1992), p. 3.

<sup>16766</sup> D75 (Intercepted telephone conversation between Obrad Popadić, an unidentified man, and Mladić, 24 May 1992), p. 5.

<sup>16767</sup> The Trial Chamber understands ‘they’ to refer to ABiH units, based on the context of the conversation.

<sup>16768</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 1.

<sup>16769</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 1.

<sup>16770</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 1.

<sup>16771</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 2.

<sup>16772</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 3.

<sup>16773</sup> P327 (Intercepted telephone conversation between Mladić and an unidentified man, 25 May 1992), p. 3.

<sup>16774</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3956, 4038; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

that the evacuation had to be completed in three days, or strong action would be taken against Sarajevo.<sup>16775</sup> The witness interpreted Mladić's words as a threat to engage the city of Sarajevo with heavy artillery fire.<sup>16776</sup> Mladić further stated that an international military intervention would be a catastrophe for Sarajevo, as the city would be levelled if a military option was pursued.<sup>16777</sup> The witness understood this to mean that Mladić would use artillery fire to level the city.<sup>16778</sup> Mladić added, pointing at Wilson's badge, that the UN badge would become the badge of death.<sup>16779</sup> At this meeting, Mladić also stated that he was subordinate to the political leadership of the Bosnian-Serb Republic.<sup>16780</sup> According to the witness, Mladić told him on several occasions that, as a military commander, he was subject to political control.<sup>16781</sup>

4752. On 27 May 1992, Mladić ordered the SRK, the 1KK, the 2KK, the IBK, the HK, the Air Force, and the Anti-Aircraft Defence to have all units ready to open fire after the Green Berets attacked the FRY Army during the evacuation of the Jusuf Džonlić barracks.<sup>16782</sup> Mladić specifically instructed that the units be brought to full combat readiness and to be 'ready to immediately open fire' on the enemy's infrastructure, units, and individuals and to 'open fire independently immediately after an operation, or after uncovering the enemy's intentions to attack'.<sup>16783</sup> He also banned negotiations with the enemy and stated that he would 'personally establish the conditions for any negotiations'.<sup>16784</sup>

4753. **Wilson** testified that on 27 May 1992, from around 6 to 8 p.m., JNA personnel from the Jusuf Džonlić barracks were evacuated.<sup>16785</sup> A convoy of around 150 trucks left the barracks led by Colonel Čađo.<sup>16786</sup> General Bošković, the chief JNA negotiator

<sup>16775</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3958, 4039; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

<sup>16776</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3964, 4039.

<sup>16777</sup> John Wilson, T. 3959; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

<sup>16778</sup> John Wilson, T. 3959.

<sup>16779</sup> John Wilson, T. 3959.

<sup>16780</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 74, 127; John Wilson, T. 4014; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 2.

<sup>16781</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 134, 136.

<sup>16782</sup> P4359 (VRS Order from Ratko Mladić, 27 May 1992), pp. 1-3.

<sup>16783</sup> P4359 (VRS Order from Ratko Mladić, 27 May 1992), p. 2.

<sup>16784</sup> P4359 (VRS Order from Ratko Mladić, 27 May 1992), p. 2.

<sup>16785</sup> John Wilson, T. 3965-3966; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), pp. 2-5.

<sup>16786</sup> John Wilson, T. 3966; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), pp. 3, 5.

during the evacuations, rode in the last vehicle of the convoy.<sup>16787</sup> Čađo decided to alter the pre-approved route, so as to avoid a possible ambush, and encountered a group of militia-men.<sup>16788</sup> Firing started and one soldier was killed and a number were wounded.<sup>16789</sup> Some vehicles made it out of Sarajevo to Lukavica.<sup>16790</sup> The JNA lost about 30 vehicles, and approximately 30 soldiers were killed the next day.<sup>16791</sup> At a meeting of 28 May 1992, Bošković told the witness that the convoy had been attacked by the Serbian TO and TO.<sup>16792</sup> The witness assessed that during the May 1992 barracks negotiations, Mladić was subordinate to JNA General Panić.<sup>16793</sup> The witness based this assessment on the military courtesies exchanged between the generals, Panić's ability to overturn Mladić's firmly held opinion against the handover of weapons, and because Mladić must have been reporting to Panić because the JNA was still engaged in the Bosnian territory and Mladić was in charge of all forces there.<sup>16794</sup>

#### *Shelling incident of 27 May 1992*

4754. The Trial Chamber recalls its finding in chapter 5.3.11 regarding the firing of a shell by a member of the SRK on 27 May 1992. The Trial Chamber further recalls its review of the intercepted phone conversation between Colonel Čađo and Miroslav Gagović on 27 May 1992, admitted into evidence as exhibit P7552, in chapter 5.3.11.

#### *Events on 28-30 May 1992*

4755. The Trial Chamber recalls the evidence of Witness RM-511 reviewed in chapter 9.5.11 regarding further details about the lead-up to the attack on Sarajevo of 28-29 May 1992. **Witness RM-511** testified that Mladić personally visited the VRS artillery positions around Sarajevo prior to the attack on the city on 28 May 1992.<sup>16795</sup> The

<sup>16787</sup> John Wilson, T. 3966-3967; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), p. 5.

<sup>16788</sup> John Wilson, T. 3966; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), pp. 2-3, 5.

<sup>16789</sup> John Wilson, T. 3966.

<sup>16790</sup> John Wilson, T. 3966.

<sup>16791</sup> John Wilson, T. 3966; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), pp. 3-4.

<sup>16792</sup> John Wilson, T. 3967; P328 (UNPROFOR report on JNA withdrawal from Jusuf Džonlić barracks, 29 May 1992), p. 3.

<sup>16793</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 131.

<sup>16794</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 131.

<sup>16795</sup> Witness RM-511, T. 4994.

witness testified that Šipčić considered that the Baščaršija area of Sarajevo, a marketplace in the old town, did not contain any military targets, and that on this basis, Šipčić refused to implement Mladić's order to shell that part of the city.<sup>16796</sup> Following Šipčić's refusal to follow the order, Mladić assumed full control of the SRK at the end of May 1992.<sup>16797</sup>

4756. In an intercepted phone conversation on 28 May 1992 Mladić ordered Colonel Vukašinović to '[s]hell Velešići and Baščaršija again from both sides and the Presidency' and to '[f]ire three volleys each everywhere'.<sup>16798</sup>

4757. The Trial Chamber recalls its review of Wilson's evidence on the shelling incident of Sarajevo on 28 May 1992 and meetings he attended with Mladić thereafter on 30 May in chapter 5.3.1.

4758. The Trial Chamber recalls its finding in chapter 5.3.1 that Mladić personally directed the SRK artillery, mortar, and rocket attack on Sarajevo that commenced at 5 p.m. on 28 May 1992 and continued until early the next morning; that Mladić selected targets such as the Presidency, the town hall, police headquarters, and the children's embassy convoy and that Mladić directed the fire away from Serb-populated areas. On 30 May 1992, the UNSG reported that it appeared that Mladić ordered the heavy shelling of Sarajevo in the night of 28 and 29 May 1992.<sup>16799</sup> On 30 May 1992, Mladić agreed to a halt of the shelling of Sarajevo.<sup>16800</sup>

*June to November 1992, including Operation Bosna-92*

4759. **Wilson** testified that from 2 to 5 June 1992, he and Cedric Thornberry, the UN Chief Civil Affairs Officer, negotiated the demilitarization of Sarajevo and the re-opening of the airport separately with representatives of the Serbs, including Karadžić, Plavšić, Mladić, and later Momčilo Krajišnik, and the Bosnian Muslims, including

<sup>16796</sup> Witness RM-511, T. 5045-5049, 5051-5054; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 5; P1604 (Intercepted telephone conversation between Ratko Mladić and Colonel Mirko Vukašinović, 28 May 1992 and the audio thereof), pp. 2-3.

<sup>16797</sup> Witness RM-511, T. 5048.

<sup>16798</sup> P105 (Recording and partial transcript of media broadcast of intercepted conversations during bombardment of Sarajevo by VRS forces 28-29 May 1992), p. 6. *See also* P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), pp. 1-2.

<sup>16799</sup> P2052 (Report of Secretary-General to Security Council, 30 May 1992), p. 3.

<sup>16800</sup> P2052 (Report of Secretary-General to Security Council, 30 May 1992), p. 3.

Ganić and the ABiH commander.<sup>16801</sup> Bosnian-Serb forces controlled the airport and the area around it.<sup>16802</sup> Based on his observations, including of the airport negotiations, the witness opined that Mladić had a comfortable relationship with the Bosnian-Serb civilian leadership and that, while Mladić was a strong personality capable of independent action, he was under the control of the Bosnian-Serb political leadership, including Karadžić.<sup>16803</sup>

4760. On 6 June 1992, Mladić issued Directive No. 1, stating *inter alia* that the VRS ‘received the task to use offensive actions with restricted aim in order to improve operationally-tactical position in the wide area of Sarajevo’ and ordered the SRK to ‘mop up or cleanse parts of Sarajevo’ and further to ‘mop up or cleanse Mojmiilo, Dobrinja, Butmir and Sokolović Kolonija of remaining groups [...] [and] de-block the Sarajevo-Trnovo and Pale-Zlatište communication’.<sup>16804</sup> **Witness RM-511** testified that the VRS command structure worked effectively insofar as the SRK was concerned, at least up to 8 June 1992.<sup>16805</sup>

4761. On 9 June 1992, Mladić informed the Bosnian-Serb Government and the ‘MNO’<sup>16806</sup> that they needed to conserve resources and reserves to create a main source of supply for the army.<sup>16807</sup> On 10 June 1992, Mladić ordered the 1KK, 2KK, IBK, HK, Air Force, and Anti-Aircraft Defence *inter alia* that ammunition quantities be specified in the planning of combat operations, fire be opened only at defined targets, and that only small amounts of difficult-to-obtain ammunition be used.<sup>16808</sup> He also forbade shooting at features which had not definitely been pinpointed as locations from which fire originated or where the enemy was staying.<sup>16809</sup> On 13 July 1992, Mladić ordered the 1KK, 2KK, SRK, IBK, HK, Command of the Air Force and Anti-Aircraft Defence, as well as the 14th, 27th, 30th, and 35th Logistics Bases to conserve ammunition.<sup>16810</sup> The consumption of ammunition for combat operations was to be regulated, each

<sup>16801</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 15, 84-87; John Wilson, T. 3989, 3997, 4019-4020; P336 (UNPROFOR report on airport meetings in Sarajevo, 3 June 1992), pp. 3-4; P337 (UNPROFOR report on Sarajevo airport talks, 4 June 1992).

<sup>16802</sup> John Wilson, T. 4021.

<sup>16803</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 132-134.

<sup>16804</sup> P474 (Directive for further actions from Ratko Mladić, 6 June 1992), paras 2, 5.

<sup>16805</sup> Witness RM-511, T. 5026-5027.

<sup>16806</sup> The Trial Chamber notes that in the translation of this exhibit, it is noted that ‘MNO’ likely refers to ‘Ministry of National Defence’.

<sup>16807</sup> P4361 (VRS Report from Ratko Mladić, 9 June 1992), pp. 1-2.

<sup>16808</sup> P4360 (VRS Order from Ratko Mladić, 10 June 1992), pp. 1-2.

<sup>16809</sup> P4360 (VRS Order from Ratko Mladić, 10 June 1992), pp. 1-2.

<sup>16810</sup> P4358 (VRS Order from Ratko Mladić, 13 July 1992), pp. 1-2.

soldier was to receive a specified number of bullets, and ammunition quantities were to be reported in regular combat reports.<sup>16811</sup>

4762. In August 1992, Mladić issued Directive No. 3, under the code name 'Bosna - 92', in which he ordered the SRK to keep the positions reached in Sarajevo and to 'tighten the siege of Sarajevo'.<sup>16812</sup> One of the operation's objectives was to 'prevent the breaking of the blockade of Sarajevo and the penetration of 'Ustaša' forces from Croatia and Central Bosnia towards the corridors in Posavina, Eastern Bosnia and Herzegovina'.<sup>16813</sup> On 17 August 1992, Mladić congratulated the Commander, Major General Živomir Ninković, as well as all members of the Air Force and Anti-Aircraft Defence for their efforts concerning Operation *Bosna-92*. On 23 August 1992, Mladić issued an order instructing the 1KK, the 2KK, the SRK, the HK, along with other units, to carry out 'protection of combat activities' in accordance with Operation *Bosna-92*.<sup>16814</sup>

4763. **Richard Gray** stated that he had meetings in Pale around 18 August 1992 with Karadžić and Mladić to negotiate a weapons collection agreement after Major-General MacKenzie left Bosnia. During these meetings, Karadžić spoke but deferred to Mladić concerning matters of military practicality and realities.<sup>16815</sup>

4764. In September 1992, a report on the state of the morale in the SRK noted that a visit by Mladić had an 'exceptionally favourable' effect on the morale of the corps' units and fighters.<sup>16816</sup> On 1 September 1992, Mladić congratulated the SRK Command, specifically the Ilijaš and Vojkovići Brigades, on their 'heroic conduct and high combat morale'.<sup>16817</sup> He also noted that heavy fighting was still to come until the Muslim-Croat offensive was broken.<sup>16818</sup> On 27 September 1992, Mladić recorded that he held talks with General Morillon in Pale.<sup>16819</sup> General Morillon asked Mladić to lift the blockade on Sarajevo and noted the use of heavy weaponry against civilians there.<sup>16820</sup>

<sup>16811</sup> P4358 (VRS Order from Ratko Mladić, 13 July 1992), p. 1.

<sup>16812</sup> P1963 (VRS Main Staff Directive 3, type-signed by Ratko Mladić, 3 August 1992), p. 5.

<sup>16813</sup> P1963 (VRS Main Staff Directive 3, type-signed by Ratko Mladić, 3 August 1992), p. 3.

<sup>16814</sup> P4480 (VRS Main Staff order signed by Mladić, 23 August 1992).

<sup>16815</sup> D1413 (Richard Gray, witness statement, 22 April 2012), paras 30-32, 34.

<sup>16816</sup> P7399 (Attachments to SRK Command minutes, 15 November 1992), pp. 6-7.

<sup>16817</sup> P4354 (VRS Commendation from Ratko Mladić, 1 September 1992), pp. 1-2.

<sup>16818</sup> P4354 (VRS Commendation from Ratko Mladić, 1 September 1992), p. 2.

<sup>16819</sup> P344 (Mladić notebook, 14 September 1992 - 27 September 1992), p. 25.

<sup>16820</sup> P344 (Mladić notebook, 14 September 1992 - 27 September 1992), pp. 28-29.

4765. On 19 November 1992, Mladić issued Directive No. 4, in which he ordered the SRK to keep Sarajevo under full blockade, tighten the circle around the city and cut off and isolate parts of the city and the surrounding settlements.<sup>16821</sup>

#### *Operation Lukavac-93*

4766. On 25 June 1993, Mladić issued Directive No. 5, under the code name ‘Lukavac – 93’, in which he ordered *inter alia* that the SRK ‘prevent the lifting of the siege of Sarajevo, create conditions for taking control of it’ and link Herzegovina with the territory of the Bosnian-Serb Republic.<sup>16822</sup> On 26 June 1993, Galić issued an order to implement the *Lukavac 93* operations stating that its aim was to create conditions for the takeover of Sarajevo and to ‘prevent the attempt to lift the blockade of Sarajevo by firing on the sectors of the Stari Grad municipality’, as well as other sectors of Sarajevo.<sup>16823</sup>

4767. The Trial Chamber recalls its review in chapter 9.3.3 of the directive dated 7 July 1993 admitted as exhibit P5035 in which Mladić ordered the 2nd Romanija Motorised Brigade, and the Zvornik and 1st Birač light infantry brigades, to support the SRK with the *Lukavac-93* Operation.

4768. In an intercepted phone conversation on 31 July 1993, Čelik advised Mladić to cut something off from Bjelašnica and told Mladić they would follow him. Mladić asked if ‘the heavy stuff’ had arrived but Čelik said that there was a lack of almost everything, including ‘the heavy stuff’. Mladić also asked whether Čelik had any problems. Čelik replied that they had problems with ammunition for the heavy weapons and Mladić told them to take it easy.<sup>16824</sup>

#### *Operation Pancir-2*

4769. On 11 November 1993, Radovan Karadžić issued Directive No. 6, in which he ordered the VRS to create objective conditions for the achievement of strategic goals

<sup>16821</sup> P1968 (VRS Main Staff Directive 4, type-signed by Ratko Mladić, 19 November 1992), p. 5.

<sup>16822</sup> P2006 (VRS Main Staff operational directive entitled ‘Directive for further action, VRS, operative number 5’, 25 June 1993), pp. 1-5.

<sup>16823</sup> P6549 (Order from Stanislav Galić concerning the logistics of the Lukavac Operation, 26 June 1993), pp. 3, 7.

<sup>16824</sup> P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), p. 6.

during offensive operations, including the liberation of Sarajevo, defining the borders of Bosnian-Serb Republic in the Una river basin and on the Neretva river and gaining access to the sea in the Neum, as well as expanding the borders of Bosnian-Serb Republic in its north eastern part and establishing firmer ties with Serbia.<sup>16825</sup> He also ordered the VRS to bring Croatians and Muslims military and political leadership into a situation to sign a truce unconditionally.<sup>16826</sup> Combat actions and operations were to be supported by the Air Force and the Air Defence exclusively by decision of the Supreme Commander and the Commander of the VRS Main Staff.<sup>16827</sup> Moreover, Karadžić ordered the SRK to use the main body of forces to prevent the breaking of the blockade of Sarajevo and to group its forces when it was convenient to improve the operative position in Sarajevo in accordance with the approved decision.<sup>16828</sup> The VRS Main Staff and corps commands were to work out plans of camouflaging for the purpose of misinforming and deceiving the aggressor concerning the activities and intentions of the VRS.<sup>16829</sup> The Command Post of the Supreme Commander was to be in the Pale area and that of the VRS Main Staff in Han Pijesak. The Forward Command Post of the VRS Main Staff was to be located at the command post of the corps where the planned operation was to be conducted. Karadžić further ordered the VRS to organise communications according to the existing work plans and to submit daily reports, reports about the readiness for offensive operations, interim reports when necessary in the event of surprise enemy activities, and summary reports every three days during active combat operations. The decisions of corps commanders were to be submitted to the Commander of the VRS Main Staff for approval seven days before a planned operation.<sup>16830</sup>

4770. On 14 December 1993, pursuant to a supplement to Directive No. 6, Mladić ordered the SRK to commence the planning of Operation *Pancir-2* and prevent an ABiH breakthrough towards Sarajevo from the direction of central Bosnia and Goražde.<sup>16831</sup> One part of the forces was to engage in active combat on a smaller scale

<sup>16825</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 6.

<sup>16826</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 7.

<sup>16827</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 7.

<sup>16828</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 10.

<sup>16829</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 13.

<sup>16830</sup> P4383 (Directive No. 6 from the Supreme Command of the VRS, 11 November 1993), p. 15.

<sup>16831</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993), pp. 1-2.

in the areas of Mt. Trebević, Mojmiilo, Vojkovići, and Ilidža.<sup>16832</sup> Another part of the forces was to carry out an attack along the Vogošća-Žuč-Pofalići and Lukavica-Hrasnica axes in order to: break up Muslim forces and inflict as many losses as possible; take control over the Žuč, Orlić, and Hum facilities, as well as Mojmiilo, if possible, to allow the uninterrupted work of the *Famos*, *Orao*, and *Pretis* factories; cut off Muslim communication from Sarajevo to Mt. Igman and central Bosnia; and 'provide conditions for the division of Sarajevo into two (2) parts'.<sup>16833</sup> Mladić informed the SRK that, in order to achieve these objectives, it would receive a number of reinforcements, including from the 1KK, the MUP special forces, and from the VJ.<sup>16834</sup> These forces would be re-subordinated to the SRK Command.<sup>16835</sup> Mladić directed the SRK to be ready to begin the operation on 19 December 1993.<sup>16836</sup>

4771. On 14 January 1994, in a meeting with Karadžić and the SRK commanders, Mladić stated that 'Sarajevo is strategic goal no. 1 and it can be resolved militarily, not politically' and that the goal must be pursued through Operation *Pancir-2*.<sup>16837</sup>

#### *Other orders: 1994-1995*

4772. On 9 July 1994, Mladić ordered the 1KK, 2KK, IBK, SRK, HK, DK, and the 89th Rocket Brigade to increase combat readiness.<sup>16838</sup> Specifically, they were to analyse the combat readiness in the corps and 89th Rocket Brigade artillery-rocket units between 20 July and 5 August 1994.<sup>16839</sup> A briefing was to be prepared on the state of combat readiness and preparation of corps artillery organs with the command organs and artillery unit commanders.<sup>16840</sup> **Milorad Šehovac** testified that Mladić frequently

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<sup>16832</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993),

p. 1.

<sup>16833</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993),

p. 1.

<sup>16834</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993),

p. 2.

<sup>16835</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993),

p. 2.

<sup>16836</sup> P4422 (VRS Main Staff order to the SRK Command, signed by Ratko Mladić, 14 December 1993),

p. 1.

<sup>16837</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), pp. 133, 144.

<sup>16838</sup> P4353 (VRS Main Staff Order from Ratko Mladić, 9 July 1994), pp. 1-4.

<sup>16839</sup> P4353 (VRS Main Staff Order from Ratko Mladić, 9 July 1994), p. 1.

<sup>16840</sup> P4353 (VRS Main Staff Order from Ratko Mladić, 9 July 1994), pp. 1-2.

attended meetings in Jahorina where he was briefed on issues concerning the combat-readiness of the SRK.<sup>16841</sup>

4773. In a 4 December 1994 order to the commands of the SRK, the HK, the DK, the Tactical Group Trnovo-Umčani, and the 1st Guards Motorized Brigade, Mladić provided instructions on the continued implementation of Operation *Krivaja-94*, including ‘completely liberat[ing]’ the Sarajevo-Trnovo-Rogoj road communications.<sup>16842</sup>

4774. On 30 August 1995, Mladić sent a telegram to Momčilo Perišić, Commander of the VJ General Staff, subsequently relayed to Slobodan Milošević, indicating that the VRS was prepared to stop its military action in the sector of Sarajevo if NATO aircraft and the RRF artillery were to put an end to their action against the VRS, except in the event of a direct Bosnian-Muslim or other attack on the Bosnian-Serb positions.<sup>16843</sup>

4775. In a 4 September 1995 meeting in Pale, Mladić informed SRK commanders that Milošević, Koljević, and Krajišnik had attributed responsibility to him and had stated that the VRS must pull artillery out of Sarajevo, which Mladić described as ‘absurd’.<sup>16844</sup> Mladić prohibited any ‘moving away’.<sup>16845</sup>

4776. On 14 September 1995, Mladić ordered the cessation of all hostilities in safe areas pursuant to the Sarajevo ceasefire agreement reached the same day.<sup>16846</sup> The order prohibited opening any kind of fire on Sarajevo, Tuzla, Bihać, and Goražde as safe areas.<sup>16847</sup> Corps commanders were ordered to inform the VRS Main Staff of any operations by ABiH units in Bosnian-Serb Republic territory or any activity by NATO.<sup>16848</sup> Mladić further prohibited any offensive operations by units deployed around the safe areas, unless in self-defence.<sup>16849</sup> The SRK Command was ordered to cease hostilities and withdraw heavy weapons from the TEZ.<sup>16850</sup>

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<sup>16841</sup> Milorad Šehovac, T. 24082-24083.

<sup>16842</sup> P5198 (Order from Mladić addressed *inter alia* to various VRS corps on the continuation of Operation *Krivaja-94*, 4 December 1994), pp. 1-3.

<sup>16843</sup> P4559 (Communication from Momčilo Perišić to Slobodan Milošević forwarding a telegram from Mladić, 30 August 1995).

<sup>16844</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), pp. 11, 17.

<sup>16845</sup> P364 (Mladić notebook, 25 August 1995 - 15 January 1996), pp. 17-18.

<sup>16846</sup> P4373 (VRS Main Staff order, 14 September 1995), p. 1.

<sup>16847</sup> P4373 (VRS Main Staff order, 14 September 1995), p. 3.

<sup>16848</sup> P4373 (VRS Main Staff order, 14 September 1995), p. 3.

<sup>16849</sup> P4373 (VRS Main Staff order, 14 September 1995), pp. 3-4.

<sup>16850</sup> P4373 (VRS Main Staff order, 14 September 1995), p. 4.

*Modified air bombs*

4777. The Trial Chamber recalls the evidence from **Đorđe Đukić** reviewed in chapter 5.1.2 on the production, distribution, and use of modified air bombs by the SRK and VRS and Mladić's role in ordering their construction and use in Sarajevo.

4778. **Manojlo Milovanović** testified that on 6 January 1994, he had a conversation with Momčilo Perišić, the Commander of the VJ General Staff, who told him that Mladić and he discussed 'the aerial bombs that we could use'.<sup>16851</sup> The witness further testified that Ivan Đokić, an officer in command of the air force and anti-aircraft defence of the VJ and an expert for rocket anti-aircraft assets, helped Colonel Rajko Balac, chief of artillery of the Main Staff, in developing the prototype of a modified air bomb called *Skalamerija*, a term referring to 'an item that was put together in a makeshift way'.<sup>16852</sup>

4779. According to a VRS Main Staff order to the commands of the IBK, the 2KK, and the 35th Logistics Base, dated 17 December 1994 and signed by Mladić, on 18 December 1994, the IBK Command was to send one *Skalamerija* launcher, fitted to launch 275-kilogram aerial bombs, and its most experienced crew taught and trained to launch such bombs to the 2KK IKM in Petrovac.<sup>16853</sup> Upon arrival, the commander of the launcher crew was to be informed by the 2KK Commander of a specific task.<sup>16854</sup> The fuel necessary for transporting the launcher and the crew were to be provided by the 35th Logistics Base.<sup>16855</sup> On the same day, the 35th Logistics Base Command was to send eight 275-kilogram aerial bombs to the 2KK IKM in Petrovac.<sup>16856</sup> The VRS Main Staff Operations and Training Administration was to provide a jeep for the transportation of Colonel Ivan Đokić and his team of five men from Bijeljina to the 2KK command post.<sup>16857</sup> The 2KK was to work out issues regarding its engagement with Đokić and his team.<sup>16858</sup> All other matters regarding the engagement of the team and use of the aerial bombs were to be coordinated between the 2KK Commander and

<sup>16851</sup> Manojlo Milovanović, T. 17015-17016.

<sup>16852</sup> Manojlo Milovanović, T. 17016-17017, T.17103. *See also* P2221 (VRS Main Staff request for an expert assistance team addressed to the VJ General Staff, 31 May 1995), p. 1.

<sup>16853</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), pp. 1, 3.

<sup>16854</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 1.

<sup>16855</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 1.

<sup>16856</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 2.

<sup>16857</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 2.

<sup>16858</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 2.

General Milovanović.<sup>16859</sup> According to another order also dated 17 December 1994, from the IBK Command to the Majevisa Tactical Group Command, signed by Major General Novica Simić, on 18 December 1994 the tactical group was to send its *Skalamerija* launcher, fitted to launch 275-kilogram aerial bombs, and a four-man crew trained for launching, to the 2KK.<sup>16860</sup> The fuel for the transport of the launcher was to be provided by the 35th Logistics Base.<sup>16861</sup> All questions regarding the use and firing of the *Skalamerija* launcher were to be coordinated with Colonel Ivan Đokic.<sup>16862</sup>

4780. On 31 May 1995, Mladić requested the Commander of the General Staff of the VJ to send an expert assistance team to ‘resolve problems with the rockets and modified anti-aircraft defence equipment’.<sup>16863</sup> **Witness RM-183** stated that following the orders of the VRS Main Staff, approximately 300 modified air bombs were transported from *Pretis* to Koran and stored there.<sup>16864</sup> The air bombs were primarily distributed to the SRK but some were taken to the DK and HK and the Bijeljina Logistics Base.<sup>16865</sup> The 27th Logistics Base was the exclusive supplier of ammunition to the SRK and also distributed large amounts of ammunition to the DK and to the 2KK at one time.<sup>16866</sup> All the ammunition *Pretis* produced came to the 27th Logistics Base and the Koran warehouse then redistributed the ammunition to other bases and warehouses, following the orders of the VRS Main Staff.<sup>16867</sup>

4781. The Trial Chamber recalls its review of evidence from Husein Aly Abdel-Razek in chapter 9.3.7 that his impression was that Mladić supported Karadžić’s stance with regard to heavy weapons, as the latter could not make any military decisions that Mladić did not approve.

*General evidence on role of Mladić as Commander of the VRS Main Staff*

4782. **John Wilson** testified that Mladić demonstrated an ability to effectively control Serb military forces in Bosnia-Herzegovina on many occasions, including by arranging

<sup>16859</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 2.

<sup>16860</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), pp. 5-6.

<sup>16861</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 5.

<sup>16862</sup> P4350 (VRS Main Staff order and IBK Command order, 17 December 1994), p. 6.

<sup>16863</sup> P2221 (VRS Main Staff request for an expert assistance team addressed to the VJ General Staff, 31 May 1995), p. 1.

<sup>16864</sup> P3307 (Witness RM-183, witness statement, 28 to 30 July 2004), p. 15.

<sup>16865</sup> P3307 (Witness RM-183, witness statement, 28 to 30 July 2004), p. 15.

<sup>16866</sup> P3307 (Witness RM-183, witness statement, 28 to 30 July 2004), p. 15.

<sup>16867</sup> P3307 (Witness RM-183, witness statement, 28 to 30 July 2004), p. 15.

the opening of confrontation line crossing points, implementing temporary cease-fires, and by directly commanding operations such as the Drina Valley offensive.<sup>16868</sup> According to the witness, Mladić had sophisticated communication systems at his disposal which the VRS had taken over from the JNA and he demonstrated an ability to effectively and quickly communicate with his forces, for instance during negotiations when he would locate the position of convoys within minutes.<sup>16869</sup> **Witness RM-120** testified that judging from various meetings, Mladić was the one with the real power.<sup>16870</sup> The witness testified that his observations at various meetings with Dragomir Milošević and Indić led him to believe that Indić was Mladić's representative, keeping an eye on Milošević, and he had thus more 'power to design' than Dragomir Milošević, who simply executed orders.<sup>16871</sup> According to the witness, Milošević retained limited freedom to choose the means for executing the orders.<sup>16872</sup> On one occasion, on 8 April 1995, Milošević signed an agreement in Indić's absence and Indić subsequently stated that the agreement had no value.<sup>16873</sup> From the witness's understanding, Indić said to Milošević that Mladić was furious.<sup>16874</sup> **Anthony Banbury** testified that based on his observations, Mladić was the leader of the VRS 'who made the decisions and gave the orders and his orders were followed'.<sup>16875</sup> **David Harland** testified that he frequently saw Mladić in the company of Gvero, Tolimir, Indić, Milovanović, and junior officers.<sup>16876</sup> All deferred to Mladić and treated him with great respect.<sup>16877</sup> When Mladić ordered something, it happened.<sup>16878</sup>

4783. **Witness RM-511** testified that Mladić did not allow any of the soldiers under his command to do as they pleased.<sup>16879</sup> He recalled that early on, Mladić had brought to the attention of the corps commanders the shortage of senior officers capable of

<sup>16868</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 127; John Wilson, T. 4048.

<sup>16869</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 130.

<sup>16870</sup> P807 (Witness RM-120, witness statement, undated), p. 11; Witness RM-120, T. 7597.

<sup>16871</sup> P807 (Witness RM-120, witness statement, undated), pp. 11-13, 15-16, 24, 26, 77; Witness RM-120, T. 7597, 7622, 7625; P815 (UNPROFOR report, 21 March 1995). P. 2; P816 (UNPROFOR fax re Žepa, 20 July 1995).

<sup>16872</sup> P807 (Witness RM-120, witness statement, undated), pp. 18, 21, 24; Witness RM-120, T. 7600, 7604.

<sup>16873</sup> Witness RM-120, T. 7627, 7668-7669; P818 (Agreement between UNPROFOR and SRK, 8 April 1995).

<sup>16874</sup> Witness RM-120, T. 7799.

<sup>16875</sup> Anthony Banbury, T. 8224-8225.

<sup>16876</sup> P1 (David Harland, witness statement, 4 September 2009), para. 258; David Harland, T. 724.

<sup>16877</sup> David Harland, T. 724.

<sup>16878</sup> David Harland, T. 724-725, 808.

<sup>16879</sup> Witness RM-511, T. 5142-5143.

commanding certain units.<sup>16880</sup> Neither the JNA nor the VRS followed any targeting protocol which required prior determination of the substantial likelihood of serious injury to civilians; reliance was placed solely on the artillery officers' assessment of the situation and discretion.<sup>16881</sup>

4784. **Witness RM-163** testified that each time UNPROFOR asked for something from the SRK commanders, it got the impression that they had to consult with Mladić.<sup>16882</sup> Based on this observation, the witness concluded that the corps commanders had very limited room for manoeuvre and could not take the initiative to launch offensives, such as fire artillery, and could only counter-attack when attacked.<sup>16883</sup> Mladić was the direct superior of the SRK commanders.<sup>16884</sup> According to the witness, during 1993 and 1994 the VRS mostly kept their advantages and did not launch offensives to gain territory around Sarajevo.<sup>16885</sup> The witness further testified that the commander of the SRK was 'Mladić's eyes' in Sarajevo.<sup>16886</sup> Based on the observation that Mladić was frequently present in Sarajevo, the witness reached the conclusion that Mladić monitored the situation in Sarajevo closely.<sup>16887</sup> UNPROFOR representatives participated in several meetings at the Lukavica barracks with the SRK commander and Mladić, where Mladić led the debates and the corps commander could not make suggestions of any kind.<sup>16888</sup>

4785. **David Fraser** testified that the SRK commanders enjoyed some latitude, but ultimately received orders from Mladić, who was, alongside Milovanović, the executioner of Karadžić's political strategy.<sup>16889</sup> For example, in June 1994, Manojlo Milovanović informed the SRK Command that all the requests for the use of aerial bombs addressed to the VRS Main Staff needed a prior approval of the corps commander or chief of staff.<sup>16890</sup> This confirmed the witness's belief that the Corps Commander was generally in control of the shelling and sniping, but was operating under the direction of the VRS Main Staff.<sup>16891</sup> In November 1994, General Gobillard

<sup>16880</sup> Witness RM-511, T. 5032-5033.

<sup>16881</sup> Witness RM-511, T. 5036.

<sup>16882</sup> P628 (Witness RM-163, witness statement, undated), para. 44; Witness RM-163, T. 6101.

<sup>16883</sup> P628 (Witness RM-163, witness statement, undated), paras 44-45; Witness RM-163, T. 6101.

<sup>16884</sup> P628 (Witness RM-163, witness statement, undated), para. 47.

<sup>16885</sup> Witness RM-163, T. 6258.

<sup>16886</sup> P628 (Witness RM-163, witness statement, undated), para. 32.

<sup>16887</sup> Witness RM-163, T. 6101, 6106.

<sup>16888</sup> Witness RM-163, T. 6102.

<sup>16889</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 36-37.

<sup>16890</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 134; P589 (VRS Main Staff Order to the SRK Command, signed by Manojlo Milovanović, 12 June 1994).

<sup>16891</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 134.

asked Dragomir Milošević for his opinion about the proposal to renegotiate the agreement on the TEZ.<sup>16892</sup> From the vague answer given by Milošević, the witness and other UNPROFOR members concluded that Milošević did not have authority to discuss any such details; instead, he referred to Mladić.<sup>16893</sup> According to the witness, General Milošević served at Mladić's pleasure and although he did have effective control of the SRK, it could be inferred from his actions that he merely adhered to the orders issued to him by Mladić.<sup>16894</sup>

4786. **Fraser** reviewed an April 1995 communication between Mladić and the SRK Command and concluded that there was a timely and accurate transmission of information between Mladić and the corps.<sup>16895</sup> Mladić was the 'top dog' and the witness never saw anyone challenge him.<sup>16896</sup> It transpired from various UNPROFOR meetings and the interactions between Mladić and his subordinates that Mladić had effective command and control over Galić and Milošević.<sup>16897</sup> Having observed Mladić and General Galić interact, the witness came to the conclusion that they worked well together.<sup>16898</sup> According to the witness, the operational chain of command between Mladić and his Corps Commander covered combat operations and movement of troops.<sup>16899</sup> Apart from that, extensive use of liaison officers embedded in the corps or the brigade was made, who reported directly back to Mladić, such as Indić, who also provided UNPROFOR with information about the intentions of the headquarter in Pale.<sup>16900</sup>

4787. **Đorđe Đukić** stated that Karadžić and Krajišnik interfered in military matters, including using some units and approving the use of live ammunition, particularly in the SRK zone of responsibility.<sup>16901</sup> Karadžić and Krajišnik often called Dragomir Milošević to come see them and they 'planned some operations in Sarajevo'.<sup>16902</sup> The witness stated that some actions in the zone of the SRK were undertaken without the

<sup>16892</sup> David Fraser, T. 5890-5891, 5941-5942.

<sup>16893</sup> David Fraser, T. 5941-5942.

<sup>16894</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 35; David Fraser, T. 5777-5778, 5820.

<sup>16895</sup> David Fraser, T. 5784-5789; P580 (Report to the SRK Command from Colonel Tadija Manojlović, Head of Artillery, 26 April 1995); P581 (Urgent Request from Mladić to the SRK Command, 26 April 1995).

<sup>16896</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 146.

<sup>16897</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 146; David Fraser, T. 5777-5778.

<sup>16898</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 33.

<sup>16899</sup> David Fraser, T. 5789-5790.

<sup>16900</sup> David Fraser, T. 5789-5791.

<sup>16901</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7.

knowledge and approval of the Main Staff, such as individual shellings of the city or intensified artillery fire during planned operations by the Main Staff and SRK.<sup>16903</sup>

4788. According to **Michael Rose**, the senior military level on both sides of the conflict had the ability to control the shelling and sniping.<sup>16904</sup> The halting of the shelling and sniping after a ceasefire had been arranged, proved to the witness that on both sides there was a total and absolute control of the ‘military machine’.<sup>16905</sup>

*The Trial Chamber’s findings*

4789. The Trial Chamber recalls its finding in chapter 3.1.4, namely that from 12 May 1992 until at least 8 November 1996, Mladić was Commander of the VRS Main Staff. The Trial Chamber further recalls its findings in chapter 3.1.3 and in chapter 3.1.2 on the functions and conduct of the VRS Main Staff and its commander, including the issuance of its ‘Operational Directives’, and in respect of command and control and the reporting chain within the SRK.

4790. The Trial Chamber recalls its findings on the general conditions and incidents in Sarajevo in chapter 5 with respect to the start of the conflict in Sarajevo in early May 1992 and the shelling and sniping incidents that occurred in Sarajevo throughout the conflict until November 1995.

4791. Based on the foregoing, the Trial Chamber finds that Mladić issued orders to the SRK with regard to operations in Sarajevo, including at least on 28 and 29 May 1992, Operation *Lukavac-93* in July to early August 1993, and Operation *Pancir-2* in December 1993 to January 1994. In this regard, the Trial Chamber finds that Mladić formulated the plans for and issued Directives Nos 1, 3, 4, and 5, which were implemented by the SRK in Sarajevo. Furthermore, immediately following Mladić’s appointment as Commander of the VRS Main Staff, the sniping and shelling campaign in Sarajevo intensified, as demonstrated by the shelling on 14 May and later on 28 and 29 May 1992. The Trial Chamber further finds that Mladić monitored the operations he ordered in Sarajevo as they were implemented by the SRK. Mladić’s subordinates also showed him complete respect and compliance.

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<sup>16902</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7.

<sup>16903</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 8.

<sup>16904</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 205; Michael Rose, T. 6850.

<sup>16905</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 205; Michael Rose, T. 6850-6852.

4792. The Trial Chamber finds that Mladić ordered the production of modified air bombs and he personally oversaw the program of its development which started in 1993. Following production in 1994, the VRS Main Staff invited commanders to state how many modified air bombs and launchers they required for use in combat operations. Upon approval of these requests by the VRS Main Staff, modified air bombs were subsequently issued. The Trial Chamber finds that the evidence of Đukić is reliable in this respect, based on his insight as the VRS Main Staff Assistant Commander for Logistics and his close knowledge of this issue. Accordingly, the Trial Chamber finds that the use of any single modified air bomb in combat operations required Mladić's personal approval. Further down the command chain, any shelling involving modified air bombs and mortars fired by the SRK in Sarajevo could only occur pursuant to Dragomir Milošević's orders. VRS and SRK Corps commanders were carefully instructed not to directly mention their use of modified air bombs in combat operations, and would give their reports to Mladić using phrases such as 'Boss, what we had agreed on has been used'.

4793. The Trial Chamber rejects the Defence's arguments that Mladić was not always, or fully, informed of the situation on the ground, that orders from lower level commands were issued without his knowledge, and that Krajišnik and Karadžić frequently interfered in SRK matters and sought to control SRK actions. The Trial Chamber does not rely on Đukić's evidence that some actions in the SRK zone were undertaken without the knowledge and approval of the Main Staff as it considers that Đukić as VRS Main Staff Assistant Commander for Logistics would not be kept informed about the knowledge or approval by all members of the Main Staff of actions carried out on the ground. Moreover, as found above, Mladić issued orders to the SRK, which were implemented in Sarajevo, and he monitored the implementation of those orders, as demonstrated by the above-mentioned operations.

4794. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

*9.5.4 Participating in procuring material and military assistance from the VJ*

4795. With respect to the Accused's alleged participation in procurement of material and military assistance from the VJ, the Trial Chamber received evidence from **Reynaud Theunens**, a military intelligence analyst,<sup>16906</sup> **Slavko Gengo**, the Commander of the 7th Infantry Battalion of the VRS 1st Romanija Infantry Brigade from the end of January 1994 until May 1995,<sup>16907</sup> **Manojlo Milovanović**, the Chief of Staff and deputy commander of the VRS Main Staff from 1992 to 1996,<sup>16908</sup> **Đorđe Đukić**, the Assistant Commander for Logistics of the VRS Main Staff,<sup>16909</sup> and **Ekrem Suljević**, a mechanical engineer employed in the Bosnian MUP as of November 1993,<sup>16910</sup> as well as documentary evidence.<sup>16911</sup>

*Procuring of materiel from the VJ*

4796. The Trial Chamber has received extensive documentary evidence detailing the Accused's involvement in procuring weapons and ammunition from the VJ. Some of this evidence is set out in chapters 5.1.2, 9.2.6, 9.3.6; other evidence is discussed below.

4797. In 1992, Mladić was in direct contact with the Commander of the VJ General Staff, General Života Panić, and between 1992 and 1995, with General Momčilo Perišić, who replaced General Života Panić as the Commander of the VJ General Staff; they discussed the military needs of the SRK, including requests by Mladić for weapons and ammunition, sniper rifles, mortar shells, aerial bombs and rocket launchers.<sup>16912</sup>

<sup>16906</sup> Reynaud Theunens, T.20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4.

<sup>16907</sup> D473 (Slavko Gengo, witness statement, 10 May 2014), paras 3, 30; Slavko Gengo, T. 21613. Slavko Gengo's evidence is also reviewed in chapter 9.2.6.

<sup>16908</sup> Manojlo Milovanović, T. 16889; P2211 (Signed Curriculum Vitae of Manojlo Milovanović), 22 April 2010, pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995). Manojlo Milovanović's evidence is also reviewed in chapter 9.5.3.

<sup>16909</sup> P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), p. 7. Đorđe Đukić's evidence is reviewed in chapter 5.2.1.

<sup>16910</sup> P889 (Ekrem Suljević, witness statement, 9 February 2010), p. 1, paras 2-3, 11; Ekrem Suljević, T. 8407-8408, 8410. Ekrem Suljević's evidence is reviewed in chapter 9.2.6.

<sup>16911</sup> P352, P353, P358, P3073, and P4550 are reviewed in chapter 9.3.6; P359 is also reviewed in chapter 5.1.2; P362 is reviewed in chapter 5.1.2; P900, P935, P3029, P4392, P4400, P4407, P4486, P4489, P4490, P4491, P4492, P4493, P4494, P4578, P5209, and P5210 are reviewed in chapter 9.2.6; P4383 is reviewed in chapter 9.5.3; P4422 is reviewed in chapter 9.5.3; P4551, P4567, and P4578 are also reviewed in chapter 9.2.6; P4583 is also reviewed in chapter 9.3.6.

<sup>16912</sup> P355 (Mladić notebook, 10-30 September 1992), pp. 115-118; P3073 (Correspondence regarding VJ materiel, VRS materiel and materiel from *Pretis*, 23 January 1994 and 19 February 1994), p.1; P4551 (VRS Main Staff request for *Grad* motors addressed to the VJ General Staff, 27 June 1995); P4552 (VRS Main Staff request for ammunition addressed to the VJ General Staff, 14 June 1995); P4557 (VRS Main

4798. Between 1993 and 1995, Mladić issued orders to the VRS and SRK Corps Commanders as well as to all SRK units directly that requests for equipment and materiel from the VJ were to be forwarded by subordinate VRS units to the VRS Main Staff Logistics Sector; if verified and approved by this sector, the requests were to be submitted to Mladić for his approval and signature.<sup>16913</sup> This centralised system for requesting VJ material support was established following an agreement between Mladić and Momčilo Perišić; both men stressed in their orders to subordinate units that requests which had not gone through the aforementioned procedure would be not considered.<sup>16914</sup> The Trial Chamber received evidence that, indeed, the SRK requested and received materiel from the VJ using the aforementioned system.<sup>16915</sup>

4799. The Trial Chamber refers to its review of the evidence in chapter 9.2.6 that between 1993 and 1995, the MoD of the Bosnian-Serb Republic was involved in purchasing weapons and ammunition for the VRS from a factory called *Krušik*, based in Valjevo, Serbia. These included silencers for sniper rifles for the SRK, mortar shells, sniper rifle bullets, and hand-held rocket launchers. Purchases by the MoD were made following information by the VRS Main Staff that the MoD could proceed accordingly. The materiel in question was then dispatched from *Krušik*-Valjevo to the Bosnian-Serb Republic in various ways, as further discussed in chapter 9.2.6.

4800. The Trial Chamber received a significant amount of evidence regarding Mladić's role between 1993 and 1995 in obtaining the necessary approval by the VJ General Staff

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Staff request for ammunition addressed to the VJ General Staff, 27 March 1995); P345 (Mladić notebook, 27 January - 5 September 1995), p. 80; P4282 (VRS Main Staff decision, 3 August 1995); P4550 (Request from Mladić concerning the distribution of rockets addressed to the VJ General Staff, 2 September 1993); P4563 (VRS Main Staff request regarding aerial bombs addressed to the VJ General Staff, 2 September 1995). See also the following evidence reviewed in chapter 5.1.2: P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108; P362 (Mladić notebook, 4 September 1994 - 28 January 1995), pp. 81, 100-101.

<sup>16913</sup> P5086 (Order on material support from the FRY, signed by Ratko Mladić, 6 March 1993), pp. 1-2; P4397 (Mladić order regarding material requests from the VJ, 24 October 1993); P1781 (Order by Mladić on obtaining material assistance from the FRY, 19 July 1995), pp. 1-2.

<sup>16914</sup> P5086 (Order on material support from the FRY, signed by Ratko Mladić, 6 March 1993), p. 1; P4397 (Mladić order regarding material requests from the VJ, 24 October 1993). See also the following evidence reviewed in chapter 9.2.6: P4578 (VJ General Staff order on implementation of requests and coordination between VJ, VRS and SVK Main Staffs, 27 December 1993).

<sup>16915</sup> P893 (SRK request addressed to VRS Main Staff, 10 July 1995); P892 (Order issued by SRK Commander, 29 July 1995). See also the following evidence reviewed in chapter 9.2.6: P4392 (VRS Main Staff order, 10 December 1993), p. 2; D473 (Slavko Gengo, witness statement, 10 May 2014), paras 3, 30; Slavko Gengo, T. 21613, T.21679-21681; P4399 (Krsmanović material status report request to SRK, 26 June 1994), p. 1; P4400 (Marjanović material status report request, 9 December 1994), p. 1; P4407 (Letter to VRS Main Staff asking it to request ammunition from VJ), p. 1; P900 (Request for VJ General Staff approval to send air bombs to SRK units, 15 July 1995). See also the following evidence reviewed

for the VJ to produce and deliver weapons and ammunition to the logistic bases to be used by the SRK. For example, correspondence from January 1994 indicates that, following a request from Mladić to Momčilo Perišić, the VJ General Staff allowed *Krušik-Valjevo* to deliver mortar shells to the MoD of the Bosnian-Serb Republic, which were to be used by the VRS.<sup>16916</sup> On 10 May 1994, *Pretis-Vogošća* factory requested Mladić to urge Momčilo Perišić to send Mladić's letter requesting rocket engines to the FRY Assistant Defence Minister for approval.<sup>16917</sup> This approval would subsequently be relayed to *Krušik-Valjevo*, for the needs of *Pretis-Vogošća*.<sup>16918</sup> In this respect, the Trial Chamber recalls that *Pretis-Vogošća* produced and assembled modified air bombs and rocket launchers used by the SRK between August 1994 and November 1995, as further set out in chapter 5.1.2. The Trial Chamber also received evidence that on 2 September 1995, Mladić requested the approval of the Commander of the VJ General Staff, which was necessary for *Krušik-Valjevo* to complete a sale of aerial bombs to the MoD of the Bosnian-Serb Republic.<sup>16919</sup>

4801. The Trial Chamber also received evidence of Mladić's efforts to ensure that materiel for the SRK could be delivered to Bosnia-Herzegovina through meetings with high ranking FRY officials. On 6 April 1995, Mladić recorded a meeting he had in Belgrade with Jovica Stanišić, Momčilo Perišić, and General Gvero.<sup>16920</sup> At this meeting, Stanišić stated that 'we' transported various types of materiel, including 'FAB' for the needs of *Pretis*, and that 'the crossing should take place in silence'.<sup>16921</sup>

4802. The Trial Chamber recalls the evidence reviewed in chapter 9.5.3 regarding assistance provided by the VJ to the VRS Main Staff in developing the prototype of a modified air bomb referred to as *Skalamerija*, Mladić's role in overseeing the development of modified air bombs, and the Trial Chamber's findings on their accuracy

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in chapter 9.3.6: P353 (Mladić notebook, 27 May - 31 July 1992), pp. 155, 160-162; P1052 (Đorđe Đukić, Extracts from redacted interview, February 1996), pp. 3-4.

<sup>16916</sup> P3073 (Correspondence regarding VJ materiel, VRS materiel and materiel from *Pretis*, 23 January 1994 and 19 February 1994), p.1.

<sup>16917</sup> P4347 (Request from *Pretis* Holding to Mladić, 10 May 1994).

<sup>16918</sup> P4347 (Request from *Pretis* Holding to Mladić, 10 May 1994). See also the evidence reviewed in chapter 9.2.6 indicating that on 8 August 1994 *Pretis-Vogošća* and *Krušik-Valjevo* concluded a contract by which *Krušik-Valjevo* was to supply *Pretis-Vogošća* with military equipment, including primary charges for 120 millimetre mortars, detonators, and ammunition; the prices for the weapons and ammunition and the quality clearance would be determined by the responsible administration of the 'SMO VJ' and the SNO, respectively.

<sup>16919</sup> P4563 (VRS Main Staff request regarding aerial bombs addressed to the VJ General Staff, 2 September 1995), p. 1

<sup>16920</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 80.

<sup>16921</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 80.

discussed in chapter 5.1.2. In this light, the Trial Chamber refers to the evidence reviewed in chapter 9.5.3 that on 31 May 1995, Mladić requested Momčilo Perišić to provide expert assistance to the VRS Main Staff to resolve ‘problems’ they had encountered with rockets and modified anti-aircraft defence equipment used for launching modified air bombs.

4803. Lastly, the Trial Chamber received evidence that at a session of the Bosnian-Serb Assembly held on 15 and 16 April 1995, Mladić stated that ‘I got with my own means and paid for 2,500 shells from *Krušik*. You can verify this in *Krušik* [...]’.<sup>16922</sup>

*Procuring of VRS personnel from the VJ*

4804. On 27 December 1993, Mladić recorded a meeting in Belgrade with the Commander of the VJ General Staff Momčilo Perišić, in which the latter informed Mladić that the Supreme Defence Council adopted a decision for ‘everyone’ to go back to the Bosnian-Serb Republic and the RSK, as well as that the offensive on Sarajevo should be kept ‘universal’.<sup>16923</sup> Approximately 19,000 conscripts and 3,500 recruits would be transferred to Han Pijesak and should be deployed from there to war units.<sup>16924</sup> Perišić was told that he and Mladić should make an assessment of Sarajevo, as the politicians would come to a decision in this regard.<sup>16925</sup>

4805. With regard to the procurement of VRS personnel from the VJ, the Trial Chamber refers to the entries from Mladić’s notebooks, reviewed in chapter 9.3.6.

*Subordination of VJ unit to the SRK in November 1993- January 1994*

4806. **Reynaud Theunens** testified that VJ forces joined the SRK in combined combat operations in wider area of Vogošća, including mount Žuč in Sarajevo, supporting the implementation of Directive 6 in ‘Operation *Pancir 2*’.<sup>16926</sup>

4807. **Manojlo Milovanović** testified that on 6 January 1994, he had a conversation with Perišić, in which Milovanović told Perišić that Mladić was in a position to decide

<sup>16922</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Republic Assembly, 16 April 1995), p. 273.

<sup>16923</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>16924</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>16925</sup> P359 (Mladić notebook, 28 October 1993 - 15 January 1994), p. 108.

<sup>16926</sup> P3029 (Expert Report of Reynaud Theunens, September 2012), Part II, pp. 108, 232.

whether a VJ unit, which had been brought by General Mrkšić to the zone of the SRK, was to be further deployed there.<sup>16927</sup>

*The Trial Chamber's findings*

4808. The Trial Chamber recalls its factual findings in chapters 5.1.2, 5.3, 9.2.6, 9.3.6, 9.5.3 and legal findings on murder, terror, and unlawful attacks in chapters 8.3.2, 8.6.2, and 8.7.2 in relation to the sniping and shelling of civilians by the SRK. The Trial Chamber finds that between 1992 and 1995, Mladić ensured that the SRK received military equipment from the VJ, including weapons, ammunition, and army personnel. To this end, Mladić was in direct contact with commanders of the VJ General Staff, Života Panić and Momčilo Perišić, to ensure that the military needs of the VRS and the SRK were met. In order to ensure full control over the material coming from the VJ to the SRK, Mladić ordered in March 1993 that all requests for material were to be authorized by himself and were to be coordinated through the VRS Main Staff Logistics sector. In December 1993, Perišić issued a similar order to all related VJ organs, whereby he added that only VRS requests which had been approved by Mladić would be considered by the VJ General Staff Logistics organ.

4809. The Trial Chamber recalls its finding in chapter 9.2.6 that a factory Krušik-Valjevo, located in Serbia, produced material for the VJ and the SRK, and that approval by the VJ General Staff was required for material to be provided from Krušik-Valjevo factory to the SRK. The Trial Chamber recalls its findings discussed in chapters 5 and 8 where it concluded that members of the SRK shelled civilian targets in Sarajevo. The Trial Chamber further recalls its finding in chapter 9.2.6 that throughout the war, a factory called *Pretis-Vogošća* factory produced and assembled weapons for the needs of the SRK (and the VRS). This company, which was based in Vogošća (in the Bosnian-Serb Republic), produced weapons and ammunition and assembled modified air bombs for the needs of the SRK.

4810. The Trial Chamber finds that *Pretis-Vogošća* factory was in direct communication with Mladić and could request Mladić to contact the VJ General Staff regarding military equipment for the needs of the SRK. Following approval of such requests by the VJ General Staff, the material would be sent to *Pretis-Vogošća* factory,

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<sup>16927</sup> Manojlo Milovanović, T. 17015-17016.

which would be delivered to the VRS, in particular to the SRK, via the Krušik-Valjevo factory.

4811. The Trial Chamber recalls its findings in chapter 9.5.3 regarding Mladić's personal involvement in the development of modified air bombs. In addition to the findings, the Trial Chamber finds that Mladić obtained assistance from the VJ in the development and procurement of these weapons.

4812. The Trial Chamber finds that in December 1993 and January 1994, in order to prevent the breaking of the blockade of Sarajevo, Mladić re-subordinated at least one VJ unit, called 'Guards Motorized Brigade', and placed it under the control of the SRK around the area of Vogošća.

4813. In conclusion, the Trial Chamber finds that Mladić procured military assistance from the VJ, which included weapons, ammunition, and army personnel, for the needs of the SRK. It further finds that at least some of the materiel procured through the VJ was used by members of the SRK in incidents of sniping and shelling against the civilian population of Sarajevo.

4814. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

#### *9.5.5 Participating in the development of Bosnian-Serb governmental policies*

4815. With regard to this alleged contribution, the Trial Chamber received evidence from **Robert Donia**, an expert on the history of Bosnia-Herzegovina;<sup>16928</sup> **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16929</sup> **Milenko Indić**, a VRS liaison officer for cooperation with international

<sup>16928</sup> Robert Donia, T. 15492-15493; P1998 (Robert Donia, *curriculum vitae*), p. 5. Robert Donia's evidence is reviewed in chapter 9.3.7.

<sup>16929</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020.

organisations and institutions;<sup>16930</sup> **Witness RM-511**, a member of the SRK,<sup>16931</sup> as well as documentary evidence.<sup>16932</sup>

4816. On 12 May 1992, at the 16th Session of the Bosnian-Serb Assembly, Mladić said that: ‘Fear, might, prays to no God, and God cares not for might. But that does not mean that Muslims have to be expelled or drowned [...] both Serbs and Muslims, all must take care of one another [...] [b]ut there are ways in which we can neutralise them. Since these Muslims somewhere there above Kalinovik are encircled.’<sup>16933</sup> He further added: ‘Just as this Military Hospital was under blockade, so the Muslims too are under a blockade. There is nowhere they can go. One of the reasons is because the head of the dragon of fundamentalism lies beneath our hammer’.<sup>16934</sup> Furthermore, Mladić stated that: ‘One cannot take Sarajevo by spitting at it from a mortar or a howitzer. You cannot win the negotiations that way either.’<sup>16935</sup> According to Mladić, the Muslims were in a more difficult position than the ‘sealed-off Military Hospital, which is not a combat institution, in Sarajevo [...]’.<sup>16936</sup> He further noted that: ‘[T]hey will neither benefit from this Military hospital nor from the Koševo hospital, nor from Sarajevo unless they accept peace. We can now offer them peace, so that we can talk in peace. If there is going to be a war, Bosnia will be of no use to anyone, and Sarajevo even less. I refer to what is not on the front. We should not spit at Sarajevo with two mortars.’<sup>16937</sup> Mladić also added that ‘[i]f we want to make the Muslims surrender, 300 guns must be densely planted around Sarajevo’.<sup>16938</sup> He further stated: ‘And Sarajevo, I don’t need any applause, mate. I am not doing it for that or for recognition, I am just doing it to avenge the bones of my dead comrades. Because when I think of them I cannot speak.’<sup>16939</sup>

4817. Later on, Mladić added that: ‘when we start fighting over Sarajevo, we must not say before the international public [...] we are going to shut down your water and power supply [...] [a]nd we have to put a ring around the dragon’s head of Sarajevo this very

<sup>16930</sup> D614 (Milenko Indić, witness statement, 31 July 2014), paras 1-2. Milenko Indić’s evidence is reviewed in chapter 9.5.11.

<sup>16931</sup> Witness RM-511, T. 4983, 4993, 4996, 5056; P500 (Pseudonym sheet). Witness RM-511’s evidence is reviewed in chapter 9.5.11.

<sup>16932</sup> P356 is reviewed in chapter 9.3.7; P359 is reviewed in chapter 9.5.3; P2508 is also reviewed in chapter 9.3.7; P3076 is also reviewed in chapter 9.3.7; and P4583 is also reviewed in chapter 9.3.7.

<sup>16933</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 1, 35.

<sup>16934</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 35.

<sup>16935</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 35.

<sup>16936</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 33-34.

<sup>16937</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 38.

<sup>16938</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 36.

<sup>16939</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), p. 36.

moment, and only those whom we let out should be allowed out [...] We should not say: we will destroy Sarajevo, we need Sarajevo. We are not going to say that we are going to destroy the power supply pylons or turn off the water supply, no, because that would get America out of its seat, but [...] one day there is no water at all in Sarajevo. What is it, we do not know, damage, we should fix it, no, we will fix it, slowly. [...] Therefore, we have to wisely tell the world, it was they who were shooting, hit the transmission line and the power went off, they were shooting at the water supply facilities, there was a power cut at such and such a place, we are doing our best repairing this, that is what diplomacy is'.<sup>16940</sup>

4818. **Wilson** testified that on 25 May 1992, he and others met met Mladić and Plavšić to discuss the evacuation of JNA personnel from the Sarajevo barracks.<sup>16941</sup> Mladić stated that the evacuation had to be completed in three days, or strong action would be taken against Sarajevo.<sup>16942</sup> The witness interpreted Mladić's words as a threat to engage the city of Sarajevo with heavy artillery fire.<sup>16943</sup> Mladić further stated that an international military intervention would be a catastrophe for Sarajevo, and that the city would be levelled.<sup>16944</sup> The witness understood this to mean that Mladić would use artillery fire to level the city.<sup>16945</sup> Mladić added, pointing at Wilson's badge, that the UN badge would become the badge of death.<sup>16946</sup> At this meeting, Mladić also stated that he was subordinate to the political leadership of the Bosnian-Serb Republic.<sup>16947</sup> According to the witness, Mladić told him on several occasions that, as a military commander, he was subject to political control.<sup>16948</sup>

4819. At the 34th Session of the Bosnian-Serb Assembly held from 27 August to 1 October 1993, Karadžić presented documents which formed a 'peace package of the Geneva conference on the former Yugoslavia', and which included a 'Constitutional

<sup>16940</sup> P431 (Minutes of the 16th session of the Bosnian-Serb Assembly, 12 May 1992), pp. 38-39.

<sup>16941</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3956, 4038; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

<sup>16942</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3958, 4039; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

<sup>16943</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 72-73; John Wilson, T. 3964, 4039.

<sup>16944</sup> John Wilson, T. 3959; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 1.

<sup>16945</sup> John Wilson, T. 3959.

<sup>16946</sup> John Wilson, T. 3959.

<sup>16947</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 74, 127; John Wilson, T. 4014; P326 (UNPROFOR record of discussion with Plavšić and Mladić, 25 May 1992), p. 2.

<sup>16948</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 134, 136.

Agreement on the Alliance of the BiH Republics'.<sup>16949</sup> With regard to a part of the agreement which concerned Sarajevo and the fifth strategic goal, Karadžić stated that it would allow Bosnian Serbs to keep everything what was theirs in Sarajevo for at least a period of two years.<sup>16950</sup> Karadžić believed that this agreement could be accepted immediately and that there was no need to discuss it further.<sup>16951</sup> Mladić opposed the agreement and stated that the international community 'put a key into our lock' regarding Sarajevo with such agreement.<sup>16952</sup> Mladić stated that Operation *Lukavac-93* achieved its goal to create the Bosnian-Serb Republic.<sup>16953</sup> He added that the Bosnian Serbs should make 'Olymp' out of mountain Bjelašnica.<sup>16954</sup>

4820. At the 37th Session of the Bosnian-Serb Assembly of 10 January 1994, Mladić stated that '[a]n operation around Sarajevo and Olovo is going on today, so we will see what we could do (do not publish what I am saying right now)'.<sup>16955</sup> He also stated the following: 'It is better that we fight the war now when they are on their knees, instead of letting them have rest for five years and the whole world supply them with weapons, materiel and brains. In case of that, we would be in their position digging our way out through the hills or below the runway in order to survive.'<sup>16956</sup>

4821. At the 50th Session of the Bosnian-Serb Assembly, held on 15 and 16 April 1995, Mladić reminded the Assembly that the Bosnian Serbs were holding 74% of the territory and that they therefore had the most favourable negotiating position.<sup>16957</sup> He said that the task of Serbian diplomacy and Serbian politics is to verify the result of the war and that 'I as a general for as long as I last, I will agree to nothing other than the factual situation'.<sup>16958</sup> He further stated that 'the tragedy is that the troops were withdrawn from Bjelašnica without asking me' and that 'I request the force which

<sup>16949</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 9.

<sup>16950</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 15.

<sup>16951</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), pp. 10-11.

<sup>16952</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 40.

<sup>16953</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 33.

<sup>16954</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 44.

<sup>16955</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 20.

<sup>16956</sup> P3076 (Transcript from 37th session of the Bosnian-Serb Assembly, 10 January 1994), p. 19.

<sup>16957</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 243.

<sup>16958</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 243.

carried this out, be it international or local, to drive the Turks away from Vlačić'.<sup>16959</sup>  
 He referred to Bjelašnica as 'Serbian Olymp'.<sup>16960</sup>

4822. The Trial Chamber notes that Inđić's testimony regarding Mladić being in favour of demilitarisation, political negotiations, and peaceful solution of situation in Sarajevo, which is reviewed in chapter 9.5.11, is contradictory to Mladić's own statements at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, the 34th Session of the Bosnian-Serb Assembly held from 27 August to 1 October 1993, the 37th Session of the Bosnian-Serb Assembly on 10 January 1994, the 50th Session of the Bosnian-Serb Assembly on 15 and 16 April 1995, and Mladić's diary entries of 8 November 1992 and 14 January 1994, which are reviewed in this chapter and also in chapters 9.3.7 and 9.5.3. Mladić's statements demonstrate that he favoured military implementation of Bosnian-Serb government's policy for Sarajevo over political negotiations. The Trial Chamber also recalls Mladić's statement at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992 that the Serbs should not disclose their plans regarding Sarajevo before the international public, and further notes that the UNPROFOR was present at the meeting with Mladić and Inđić when Mladić expressed his position on Sarajevo. Given that the witness's testimony contradicts Mladić's own statements, and considering that Mladić declared that the Serbs should not reveal their intentions in relation to Sarajevo before the international public, the Trial Chamber will not further consider Inđić's testimony in this regard.

4823. Based on the foregoing, the Trial Chamber finds that the Accused addressed the Bosnian-Serb Assembly during its 16th Session on 12 May 1992 in relation to political proposals regarding the Bosnian-Serb government's policy for Sarajevo, including matters of international diplomacy. He further participated in policy discussions in other Assembly sessions and meetings between May 1992 and April 1995 with high level members of the Bosnian-Serb government regarding Sarajevo, proposing, *inter alia*, a massive bombardment of Sarajevo with explicit disregard for the safety of civilians, and stating that Sarajevo should be resolved militarily, not politically.

4824. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

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<sup>16959</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 243

<sup>16960</sup> P4583 (Transcript from 50th session of the Bosnian-Serb Assembly, 16 April 1995), p. 250.

*9.5.6 Disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise*

4825. With regard to this alleged contribution, the Trial Chamber received evidence from **Savo Sokanović**, Head of the Sector for Morale, Religious, and Legal Affairs of the VRS Main Staff as of December 1992,<sup>16961</sup> and documentary evidence, which it examined in chapter 9.3.8.<sup>16962</sup> Given that the aforementioned evidence is reviewed in other chapters, the Trial Chamber will immediately turn to its findings.

4826. The Trial Chamber recalls its finding that between September 1992 and June 1995, the Accused participated in establishing the machinery through which propaganda could be disseminated, and used this machinery for the dissemination of anti-Muslim and anti-Croat propaganda, as further set out in chapter 9.3.8. The Trial Chamber has carefully reviewed the evidence and has found that in some instances these acts of propaganda were not limited to particular municipalities or regions, but rather were addressed to people of Serb ethnicity in Bosnia-Herzegovina in order to engender fear of and hatred for Bosnian Muslims and Bosnian Croats. The Trial Chamber finds that this, combined with the nature of propaganda, demonstrates that the Accused intended this propaganda to reach Bosnian Serbs in all municipalities, including Sarajevo.

4827. In chapter 9.5.10 the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

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<sup>16961</sup> Savo Sokanović, T.35678-35681.

<sup>16962</sup> P1966 (VRS Main Staff Report of Ratko Mladić, September 1992); P5082 (Responsibilities and Recruitment of the organ for Moral Guidance, Religious and Legal Affairs, 10 February 1995); P7391 (Excerpts from VRS magazine 'Srpska Vojska', 18 November 1992); P7719 (Press article with interview of Mladić, 25 June 1993).

*9.5.7 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes*<sup>16963</sup>

4828. In relation to this alleged contribution the Trial Chamber received evidence from **John Wilson**, the Chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16964</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>16965</sup> and **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>16966</sup> as well as documentary evidence.<sup>16967</sup> Given that the aforementioned evidence is reviewed in other chapters, the Trial Chamber will immediately turn to its findings.

4829. The Trial Chamber recalls its factual and legal findings in chapters 5.2.6, 5.3.1, 5.3.10, 5.3.11, 8.3, 8.6, and 8.7 in relation to the following incidents of sniping and shelling of civilians in Sarajevo by the VRS/SRK: Scheduled Incident F.11 – the wounding of Alma Ćutuna while she was travelling on a tram on Zmaja od Bosne Street in Sarajevo on 8 October 1994; Scheduled Incident G.1 – the firing of artillery, rockets and mortars against the city of Sarajevo from 28 May 1992 until early the next morning, damaging buildings and causing injury to Witness RM-115 and Fadila Tarčin; Scheduled Incident G.18 – the shelling of a street in the vicinity of the Markale Market in Sarajevo on 28 August 1995 by the SRK, whereby 43 people were killed and 88 were injured; and an alleged unscheduled incident of shelling of Sarajevo which took place on 27 May 1992, as set out in further detail in chapter 5.3.11. It also recalls its findings in chapters 3.1.1 and 3.1.4 on the structure of the VRS/SRK and Mladić's position. The Trial Chamber also recalls its consideration of Mladić's uncontested proposal as to how

<sup>16963</sup> The Trial Chamber notes that the objective of the JCE in relation to Sarajevo is alleged to have been carried out against the 'civilian population' of Sarajevo.

<sup>16964</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020. John Wilson's evidence is reviewed in chapters 5.3.1 and 5.3.11.

<sup>16965</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287. Rupert Smith's evidence is reviewed in chapter 5.3.10.

<sup>16966</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038. Milovan Milutinović's evidence is reviewed in chapter 5.3.10.

<sup>16967</sup> Exhibit P16 is reviewed in chapter 5.2.6.

to deal with the international public, made at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, namely to mislead the public about the truth, as further set out in chapter 9.5.5.

4830. Based on the foregoing, in relation to the incidents that occurred on 27 May 1992, 8 October 1994, and 28 August 1995, the Trial Chamber finds that the Accused denied involvement of any Serb forces and claimed that the shooting and shelling had come from the Bosnian-Muslim<sup>16968</sup> side when confronted by UNPROFOR. In light of the Accused's position, and his words at the 16th Session of the Bosnian-Serb Assembly in relation to how to deal with the international public, namely to mislead them, the Trial Chamber finds that the Accused either knew that his statements were inaccurate, or that he had insufficient information at the time, yet still blamed the Bosnian Muslims. In either event, his words in relation to these incidents were deliberately misleading.

4831. In relation to scheduled incident G.1, which was alleged to have taken place on 28 and 29 May 1992, the Trial Chamber recalls its findings in chapters 5.3.1, 8.3, 8.6 and 8.7 that the attack against, *inter alia*, a hospital bearing a Red Cross emblem and a predominantly Muslim residential area, was personally directed by the Accused and was a wilful act of violence directed against civilians not taking part in hostilities. When meeting with UNPROFOR the Accused stated that while he was responsible for the attack, the shelling was only in response to provocations and had the sole purpose of defending the Serb people and neighbourhoods of Sarajevo from the ABiH.<sup>16969</sup> The Trial Chamber finds that the Accused acknowledged responsibility for the attack and did not deny the crimes. However, in light of his words at the 16th Session of the Bosnian-Serb Assembly, as well as the fact that the attack was carried out against a hospital bearing a Red Cross emblem in predominantly Muslim residential area, and directed against civilians not taking part in active hostilities, the Trial Chamber finds that the Accused's statement to UNPROFOR to be deliberately misleading.<sup>16970</sup>

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<sup>16968</sup> The evidence refers to 'the Presidency', 'Bosnian side', 'Muslim' or 'the other side'. The Trial Chamber understands that all of these refer to the Bosnian Muslims.

<sup>16969</sup> The evidence refers to 'Presidency forces' and the Trial Chamber understands that this refers to the ABiH.

<sup>16970</sup> See also on chapter 9.4.2: P111 (Intercepted telephone conversation of 28 May 1992). The Trial Chamber understands this to be the recording broadcast on the radio; P105 (Recording and partial transcript of media broadcast of intercepted conversations during bombardment of Sarajevo by VRS forces 28-29 May 1992), pp. 6-7; P330 (Intercepts of Mladić and his subordinates concerning shelling in Sarajevo), pp. 3-4.

4832. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

*9.5.8 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes*

4833. With respect to this form of contribution, the Defence argued that Mladić responded to problems when he was made aware of them and did everything within his ability to start investigations and ensure criminal sanctions, or, where appropriate, to report crimes to the competent authorities, 'as he did not condone illegal or immoral actions'.<sup>16971</sup> In particular, the Defence pointed to Mladić's request for a joint investigation team after the Markale 2 incident, and his implementation of an immediate investigation after the bread-line attack on 27 May 1992, as evidence of Mladić starting investigations.<sup>16972</sup> The Trial Chamber took judicial notice of a number of Adjudicated Facts with regard to this alleged contribution. The Trial Chamber also received evidence from **Dragan Lalović**, a Serb member of the VRS;<sup>16973</sup> **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16974</sup> **Slobodan Tuševljak**, the Commander of the 1st platoon of the 4th Infantry Company of the 2nd Infantry Battalion in the 1st Sarajevo Mechanised Brigade;<sup>16975</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>16976</sup> and **Milorad Šehovac**, the Chief of Staff of the 1st Posavina Brigade in Brčko between 23 May and 15 August 1992 and Commander of the SRK 2nd Sarajevo

<sup>16971</sup> Defence Final Brief, paras 2417-2418.

<sup>16972</sup> Defence Final Brief, para. 2418.

<sup>16973</sup> D498 (Dragan Lalović, witness statement, 26 May 2014) p. 1, paras 6-8, 18-19; Dragan Lalović, T. 21951. Dragan Lalović's evidence is reviewed in chapter 9.3.10.

<sup>16974</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020. John Wilson's evidence is reviewed in chapter 5.3.11.

<sup>16975</sup> D539 (Slobodan Tuševljak, witness statement, 10 May 2014), p. 1, para. 2; D540 (Slobodan Tuševljak, witness statement, 5 November 2012), paras 13, 17; Slobodan Tuševljak, T. 23384-23386, 23389-23390; P6621 (Order on appointments in the 4th Company of the 3rd Battalion), p. 1. Slobodan Tuševljak's evidence is reviewed in chapter 9.4.2.

<sup>16976</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287. Rupert Smith's evidence is reviewed in chapter 5.3.10.

Light Infantry Brigade between 18 August 1992 and mid-September 1995;<sup>16977</sup> as well as documentary evidence.<sup>16978</sup>

4834. Most of this evidence has been reviewed in other chapters. The relevant Adjudicated Facts set out that the monthly reports of the military prosecutor's office for Sarajevo did not contain any information about criminal proceedings against SRK members for war crimes.<sup>16979</sup> Disciplinary proceedings against SRK soldiers were conducted and disciplinary measures taken in matters other than violations of international humanitarian law.<sup>16980</sup>

4835. On 14 September 1995, Mladić informed, among others, the 1KK, 2KK, the SRK, the DK, and the 65th Protection Regiment that an agreement had been reached that same day between the President of the Bosnian-Serb Republic and Richard Holbrooke to cease hostilities in the Sarajevo zone and to cease bombardment of targets in the Bosnian-Serb Republic by NATO aircrafts.<sup>16981</sup> Mladić ordered the aforementioned units that it would be prohibited for them to open artillery or any other kind of fire on the towns of Tuzla, Bihać, Sarajevo, and Goražde, which Mladić stated had the status of safe areas. Mladić then repeated this order and added that '[t]here must be no artillery fire on the towns of Tuzla, Bihać, Goražde and Sarajevo without an explicit order from me'. The framework agreement on the cessation of hostilities within the Sarajevo exclusion zone and the withdrawal of heavy weapons from the zone was to be compiled by Generals Tolimir and Dragomir Milošević and was to be sent for inspection and authorization to Mladić personally. Lastly, Mladić stated that corps commanders would be personally responsible to Mladić for failure to adhere to the measures contained in the order.<sup>16982</sup>

4836. The Trial Chamber recalls its findings in chapters 5 and 8 where it found that members of the SRK were responsible for incidents of sniping and shelling in Sarajevo. It further recalls its findings in chapter 3 where it found that Mladić was the commander

<sup>16977</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), p. 1, paras 1-2; Milorad Šehovac, T. 24055. Milorad Šehovac's evidence is reviewed in chapter 9.4.2.

<sup>16978</sup> P7552 is reviewed in chapter 5.3.11; D66 is reviewed in chapter 9.5.11; P5054 is reviewed in chapter 9.3.10; P812 is reviewed in chapter 9.4.2; P876 is reviewed in chapter 9.4.2; P5064 is reviewed in chapter 9.3.10; P5065 is reviewed in chapter 9.3.10.

<sup>16979</sup> Adjudicated Facts III, no. 1857.

<sup>16980</sup> Adjudicated Facts III, no. 1859.

<sup>16981</sup> P4300 (Order by Mladić to the commanders of the SRK and various VRS corps and units regarding a cease-fire, 14 September 1995), pp. 1-2.

<sup>16982</sup> P4300 (Order by Mladić to the commanders of the SRK and various VRS corps and units regarding a cease-fire, 14 September 1995), p. 2.

of the VRS Main Staff and that the subordinate corps included the SRK. The Trial Chamber therefore finds that Mladić had a duty to take adequate steps to address crimes committed by SRK members. The Trial Chamber recalls its findings in chapter 3.1.2 that SRK personnel generally were under normal military command and control, that the SRK had a strong reporting chain, and that the SRK command reported to its superior, Mladić. In addition, the Trial Chamber recalls its findings in chapter 5.3.1 about Mladić's involvement in one particular shelling incident. Finally, the Trial Chamber recalls its findings in chapter 9.5.7 about information on sniping and shelling that Mladić received from UNPROFOR. Based on these findings, the Trial Chamber finds that Mladić was aware of the incidents of sniping and shelling committed by the SRK in Sarajevo.

4837. The Trial Chamber further recalls its findings in 9.3.10 that although the Accused issued orders with respect to the prevention and punishment of some crimes, he failed to take adequate steps to prevent crimes in furtherance of the Overarching JCE, or to adequately investigate or punish members of the VRS, which includes members of the SRK, for such crimes.

4838. With regard to Mladić's role in the prevention or punishment of SRK crimes in particular, the Trial Chamber finds that monthly reports of the Military Prosecutor's Office for Sarajevo did not contain any information about criminal proceedings against SRK members for war crimes. The Trial Chamber further finds that disciplinary proceedings against SRK soldiers were conducted and disciplinary measures taken in matters other than violations of international humanitarian law. The Trial Chamber also recalls the evidence reviewed in chapter 5.3.10 with regard to Mladić's request to Smith for a joint investigation into the incident. The Trial Chamber finds that although Mladić requested the establishment of a joint commission to investigate the incident, he did not take any serious steps to independently investigate the involvement of members of the SRK. Considering all of the above, the Trial Chamber finds that there were no meaningful investigations into allegations of war crimes committed by the members of the SRK. In this respect, the Trial Chamber also recalls its findings in chapter 9.5.7 that on several occasions Mladić deliberately misled members of the international community about crimes committed by members of the SRK.

4839. Based on the foregoing, the Trial Chamber finds that the Accused failed to take adequate steps to prevent, investigate, or punish members of the SRK for crimes in furtherance of the alleged Sarajevo JCE.

4840. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

*9.5.9 Directing, implementing and/or authorizing the restriction of humanitarian aid to Bosnian-Muslim and/or Bosnian-Croat enclaves located in territory controlled by the VRS, the TO, the MUP, and Bosnian-Serb paramilitary forces and volunteer units and/or Bosnian-Serb Political and Governmental Organs in an effort to create unbearable living conditions for these inhabitants*<sup>16983</sup>

4841. With regard to this alleged contribution, the Defence submitted that Mladić made all reasonable efforts to ensure the safety and protection of the people of Sarajevo by: directing that Sarajevo airport be used by UNPROFOR for humanitarian purposes although knowing the disadvantage it would cause the SRK; and issued orders enabling the unobstructed transit of humanitarian aid convoys and did not issue or support any orders that obstructed the passage of humanitarian aid through SRK-held territory.<sup>16984</sup> Humanitarian aid convoys were merely required to register and be searched before travel to ensure that the SRK units were aware of the convoys' passage and to prevent misuse of the humanitarian convoys by the ABiH.<sup>16985</sup> If convoys were delayed it was due to a lack of escorts, combat activity, individuals acting illegally by trafficking or appropriating goods, and international or UNPROFOR personnel opposing inspection.<sup>16986</sup> The Trial Chamber received evidence from **Michael Rose**, the UNPROFOR Commander from 5 January 1994 to 23 January 1995;<sup>16987</sup> **David Fraser**, a Military Assistant to the UNPROFOR Commander in Sector Sarajevo from 17 April 1994 to 26 May 1995;<sup>16988</sup> **Reynaud Theunens**, a military intelligence analyst;<sup>16989</sup>

<sup>16983</sup> The Trial Chamber, having considered Indictment paras 8, 13(k), and 18, understands the scope of this section to cover only Bosnian Muslims in Sarajevo.

<sup>16984</sup> Defence Final Brief, paras 1800, 1802, 1804, 1817.

<sup>16985</sup> Defence Final Brief, para. 1818.

<sup>16986</sup> Defence Final Brief, paras 1820-1823.

<sup>16987</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

Michael Rose's evidence is also reviewed in chapter 9.3.11.

<sup>16988</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 7, 11. David Fraser's evidence is also reviewed in chapter 9.3.11.

**Witness RM-163**, an UNPROFOR soldier stationed in Sarajevo in 1993 and 1994 and a member of the RRF in 1995;<sup>16990</sup> **David Harland**, an UNPROFOR civil affairs officer assigned to Sarajevo as of May 1993;<sup>16991</sup> **Mile Sladoje**, a member of the 1st Battalion of the Ilidža Brigade as of April 1992;<sup>16992</sup> **John Wilson**, the chief UNMO for UNPROFOR deployed to Sarajevo from 22 March to 24 June 1992;<sup>16993</sup> **Rupert Smith**, UNPROFOR commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>16994</sup> **Anthony Banbury**, an UNPROFOR Civil Affairs Officer in Sarajevo between March 1994 and May 1995 and later the Assistant to the Special Representative of the UNSG in Bosnia-Herzegovina;<sup>16995</sup> **Milorad Šehovac**, the Chief of Staff of the 1st Posavina Brigade in Brčko between 23 May and 15 August 1992 and the Commander of the SRK 2nd Sarajevo Light Infantry Brigade between 18 August 1992 and mid-September 1995;<sup>16996</sup> **Svetozar Guzina**, the commander of the Ilidža Brigade's 5th Battalion from June 1992 to 1993 and the commander of 1st Battalion from 1993 until the end of the war;<sup>16997</sup> **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993;<sup>16998</sup> **Jeremy Bowen**, the BBC's foreign correspondent in the territory of the former Yugoslavia between July 1992 and 1995;<sup>16999</sup> **Vlade Lučić**, a battalion commander of the 2nd Mountain Battalion in the SRK's 216th Mountain Brigade based at Grbavica, Sarajevo, between 18 May 1992 and the end of January 1993,<sup>17000</sup> **Nedo Vlaški**, the chief of the SDB Administration for security of persons and buildings from at least 1991;<sup>17001</sup> **Richard Gray**, the Senior Military Observer for UNPROFOR in Sector Sarajevo from 11 June

<sup>16989</sup> Reynaud Theunens, T. 20230; P3093 (Reynaud Theunens, *curriculum vitae*, 15 October 2012), pp. 1-4. Reynaud Theunens's evidence is also reviewed in chapters 9.3.11.

<sup>16990</sup> P628 (Witness RM-163, witness statement, undated), paras 4, 6-7, 9-10.

<sup>16991</sup> P1 (David Harland, witness statement, 4 September 2009), p. 1, para. 5; David Harland, T. 661.

<sup>16992</sup> D453 (Mile Sladoje, witness statement, 10 May 2014), para. 5.

<sup>16993</sup> P320 (John Wilson, witness statement, 26 March 2009), paras 6-8, 25, 64, 93; John Wilson, T. 3919, 4020.

<sup>16994</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>16995</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 3.

<sup>16996</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), p. 1, paras 1-2; Milorad Šehovac, T. 24055.

<sup>16997</sup> D514 (Svetozar Guzina, witness statement, 15 May 2014), p. 1, paras 1, 36-37; Svetozar Guzina, T. 22467, 22527-22528, 22552.

<sup>16998</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Aly Abdel-Razek, T. 3578. Husein Aly Abdel-Razek's evidence is also reviewed in chapter 5.1.1.

<sup>16999</sup> P2515 (Jeremy Bowen, witness statement, 10 August 2009), pp. 1-2, paras 3, 5; Jeremy Bowen, T. 18027.

<sup>17000</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), paras 3-6, 8-9, 13.

<sup>17001</sup> D735 (Nedo Vlaški, witness statement, 8 August 2014), para. 2.

1992 to 20 September 1992, based in the city since 10 April 1992;<sup>17002</sup> **Vladimir Radojčić**, the commander of the VRS Ilidža Brigade from January 1993 until the end of the war;<sup>17003</sup> **Velimir Dunjić**, Commander of the Igman Brigade of the SRK from August 1992 until January 1993;<sup>17004</sup> **Miloš Škrba**, the Commander of the 2nd Infantry Company of the 2nd Infantry Battalion in the 1st Sarajevo Mechanised Brigade of the SRK;<sup>17005</sup> **Predrag Trapara**, Commander of the 5th Company of the 2nd Infantry Battalion of the 1st Sarajevo Mechanised Brigade as of 1992 for the duration of the conflict;<sup>17006</sup> **Pyers Tucker**, UNPROFOR military assistant from October 1992 to March 1993;<sup>17007</sup> and **Slavko Kralj**, liaison officer of the 1KK from 1992 until November 1994 and then worked for the Department for Relations with Foreign Military Envoys in the VRS Main Staff;<sup>17008</sup> as well as documentary evidence.<sup>17009</sup>

<sup>17002</sup> D1413 (Richard Gray, witness statement, 22 April 2012), paras 2, 4-5; D1423 (Certification of UN medal for service with UNPROFOR – Richard Gray).

<sup>17003</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 1. Vladimir Radojčić's evidence is also reviewed in chapter 5.1.1.

<sup>17004</sup> Velimir Dunjić: T. 24883.

<sup>17005</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), paras 1, 6, 15; Miloš Škrba. 22797-22798, 22803-22804, 22822, 22902, 22887. Miloš Škrba evidence is also reviewed in chapter 9.3.11.

<sup>17006</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), p. 1, para. 1; Predrag Trapara, T. 21121, 21141-21142.

<sup>17007</sup> P317 (Pyers Tucker, witness statement, 10 May 2010), paras 4, 6; Pyers Tucker, T. 3751. Pyers Tucker's evidence is also reviewed in chapters 9.3.11.

<sup>17008</sup> D712 (Slavko Kralj, witness statement, June 2013), para. 3; Slavko Kralj, T. 27437.

<sup>17009</sup> D725 (Mladić's order to the Corps Commanders (1KK, 2KK, SRK, IBK, HK, DK) on information on the passage UNPROFOR convoys, 30 November 1992) is reviewed in chapter 9.3.11; D726 (Mladić's order to all the brigades, the Skelani Independent Battalion and the Višegrad Tactical Group on the passage of humanitarian aid, 14 May 1993) is reviewed in chapter 9.3.11; D717 (Milovanović's order to the Corps Commands (1KK, 2KK, SRK, IBK, HK, and DK), and Air Force and Anti-Aircraft Defence, on UNPROFOR and humanitarian organisations' activities, 26 September 1993) is reviewed in chapter 9.3.11. P1758 (VRS Main Staff Report, signed by Mladić concerning convoys and humanitarian aid, 15 May 1993) is also reviewed in chapter 9.3.11; P2245 (Mladić telegram concerning convoys and humanitarian aid, 16 May 1993) is also reviewed in chapter 9.3.11; D1531 (VRS instructions on the unhindered movement of humanitarian aid, 6 September 1993) is also reviewed in chapter 9.3.11; D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993); D2032 (Milovanović order about movement of UNPROFOR and humanitarian aid groups, 10 August 1993); P735 (UNPROFOR fax from de Mello to Akashi, 30 January 1994) is also reviewed in chapter 9.3.11; P761 (UNPROFOR fax from Akashi to Annan, 7 March 1994) is also reviewed in chapter 9.3.11; P587 (VRS Main Staff Order by Ratko Mladić, 10 April 1994) is also reviewed in chapter 9.3.11; P608 (Order by Deputy Commander Milutin Skočajić, 10 April 1994) is also reviewed in chapter 9.3.11; D462 (Combat report by Manojlo Milovanović, 11 April 1994); P6930 (VRS Main Staff Order from Ratko Mladić, 19 April 1994) is also reviewed in chapter 9.3.11; P514 (VRS Main Staff Order from Mladić regarding treatment of members of international organisations, 13 April 1994) is also reviewed in chapter 9.3.11; P588 (VRS Main Staff Report, signed by Manojlo Milovanović, Chief of Staff, 14 April 1994) is also reviewed in chapter 9.3.11; P5228 (UNPROFOR memorandum from General Brinkman, 24 September 1994) is also reviewed in chapter 9.3.11; P763 (UNPROFOR fax from Akashi to Annan, 4 June 1994) is also reviewed in chapter 9.3.11; P764 (UNPROFOR fax from Victor Andreev to Sergio Vieira de Mello, 22 July 1994) is also reviewed in chapter 9.3.11; P774 (UNPROFOR fax from Akashi to Annan, 2 December 1994) is also reviewed in chapter 9.3.11; P729 (Report from the Bosnia-Herzegovina headquarters command on a meeting in Pale, 12 December 1994) is also reviewed in chapter 9.3.11; P5229 (Order of the VRS Main Staff on regime and control of movement in Bosnian-Serb

4842. **John Wilson** testified that on 1 June 1992, French Protection Company personnel and military observers accompanied a humanitarian effort to deliver food to Dobrinja. The delivery had been agreed to by Serbs and Muslims in Sarajevo. Near Nedarići, two buses containing food and unarmed civilian personnel, who were volunteers from Sarajevo, were subjected to heavy machine gun-fire. The driver of the first bus was killed and a passenger seriously wounded. Most of the civilian volunteers were killed in this attack. When the French commander placed his APC between the buses and one of the machine-gun position, sustained machine-gun fire was directed against the window of the APC. UNPROFOR later tried to revisit the area, in order to recover the wounded and the dead, but soldiers with anti-tank rockets prevented them from doing so.<sup>17010</sup> At a meeting of 3 June 1992, Serb representatives admitted that Serb forces had ambushed the humanitarian convoy at Dobrinja, but only because the Serb military had been confused.<sup>17011</sup>

4843. **Richard Gray** stated that the UNPROFOR Commander in Sector Sarajevo concluded an agreement with the Bosnian Serbs on the opening of the Sarajevo airport.<sup>17012</sup> He further stated that the Bosnian Serbs had agreed to let the UN take over the airport to allow access for humanitarian aid.<sup>17013</sup> **Vladimir Radojčić** testified that he heard Sarajevo airport was handed over to the UN in June 1992 so that humanitarian aid could be distributed to both Bosnian-Muslim and Bosnian-Serb civilians in Sarajevo on both sides of the demarcation line.<sup>17014</sup> He had clear orders from higher commands that every humanitarian aid convoy approved by higher civilian and military authorities

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Republic, 2 March 1995 is also reviewed in chapter 9.3.11; P880 (Political assessment of Bosnia-Herzegovina for 12-18 March 1995, 18 March 1995) is also reviewed in chapter 9.3.11; P2196 (Summary of a meeting between General Janvier and Mladić, 4 June 1995) is also reviewed in chapter 9.3.11; P2197 (Letter from Mladić to General Janvier, 12 June 1995) is also reviewed in chapter 9.3.11; P2198 (Summary of a meeting between General Janvier and Mladić, 17 June 1995) is also reviewed in chapter 9.3.11; P6620 (Fax message from David Harland of UNPROFOR, 8 July 1995) is also reviewed in chapter 9.3.11; P1758 (Report on movement of humanitarian assistance and convoys signed by Mladić, 15 May 1993) is also reviewed in chapter 9.3.11; P7405 (UNPROFOR Weekly Situation Report 8-15 May 1995) is also reviewed in chapter 9.3.11.

<sup>17010</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 70.

<sup>17011</sup> P320 (John Wilson, witness statement, 26 March 2009), para. 70; P336 (UNPROFOR report on airport meetings in Sarajevo, 3 June 1992), p. 3.

<sup>17012</sup> D1413 (Richard Gray, witness statement, 22 April 2012), para. 6. The Trial Chamber notes that the witness does not specify which period he is referring to but that he was the Senior Military Observer for UNPROFOR in Sector Sarajevo from 11 June 1992 to 20 September 1992 and based in the city since 10 April 1992.

<sup>17013</sup> D1413 (Richard Gray, witness statement, 22 April 2012), para. 6. *See also* evidence of Milorad Šehovac who testified that, in June 1992, Sarajevo airport was handed over to the UN for humanitarian use. D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 8; D560 (Corrections to witness statement, 10 July 2014), para. 8.

<sup>17014</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), paras 12, 46.

should be allowed to pass.<sup>17015</sup> Instances of stopped convoys were due to the absence of approval from the higher command because of irregularities in these convoys.<sup>17016</sup> The Ildža Brigade provided security for humanitarian convoys and the witness saw convoys being used by the 1st Corp of the ABiH for military purposes, which was one of the reasons for the denial of the humanitarian convoys' passage by the superior commands. The Ildža Brigade received information from members of the international forces and intelligence that the bulk of humanitarian aid was going to ABiH military warehouses instead of being delivered to civilians. The Assistant for Security of the Ildža Brigade, Nikola Mijatović, found ammunition on the floor of a UNPROFOR French vehicle intended for the ABiH.<sup>17017</sup> **Milorad Šehovac** testified that he had information that the Ildža Brigade enabled the passage of humanitarian convoys for civilians in Sarajevo.<sup>17018</sup>

4844. According to an official note of the Ildža War Department of the MUP, dated 29 September 1992, Velimir Dunjić refused, on that day, to let UNHCR convoys with Bosnian-Muslim drivers to pass on the basis that UNHCR staff was carrying letters to Bosnian Muslims.<sup>17019</sup> The note stated that Dunjić made an ultimatum to UNPROFOR officers and UNHCR officials to provide him with a guarantee that future convoys would not include any Muslim drivers and not carry any compromising material, letters or food to Bosnian Muslims in Sarajevo.<sup>17020</sup> According to the note, Dunjić also warned them that he would confiscate the whole convoy and all trucks if any of the aforementioned conditions were not met.<sup>17021</sup> The note stated that the Command of the VRS had promised the MUP not to let any more convoys through Serbian territory unless the above conditions were met and asked the MUP for further instructions.<sup>17022</sup> Dunjić denied banning the passage of food destined for Muslims but that he did prohibit compromising material such as weapons and ammunition which were materials that his unit had found in convoys on two occasions.<sup>17023</sup>

<sup>17015</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 46.

<sup>17016</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 46.

<sup>17017</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 47.

<sup>17018</sup> D559 (Milorad Šehovac, witness statement, 13 May 2014), para. 38.

<sup>17019</sup> P6702 (Order from Ildža War Department of the MUP, 29 September 1992), p. 1.

<sup>17020</sup> P6702 (Order from Ildža War Department of the MUP, 29 September 1992), p. 1; Velimir Dunjić: T. 24900.

<sup>17021</sup> P6702 (Order from Ildža War Department of the MUP, 29 September 1992), p. 1.

<sup>17022</sup> P6702 (Order from Ildža War Department of the MUP, 29 September 1992), p. 2.

<sup>17023</sup> Velimir Dunjić: T. 24900.

4845. **Husein Aly Abdel-Razek** testified that UNPROFOR and UNHCR convoys were stopped, checked, and blockaded all the time by both sides, but mostly by the Serbs.<sup>17024</sup> He recalled having a conversation with Plavšić who expressed concern about UN drivers who were Muslims as they were likely to report information to ‘Bosnians’.<sup>17025</sup> The witness recalled having raised a complaint to Galić after being stopped by the Serbs during his attempt to get to the airport.<sup>17026</sup> Galić responded by saying that he had no intention to personally stop the witness, but had some information about some Muslims attempting to enter the airport road under the UN’s protection.<sup>17027</sup> The witness maintained that the French battalion did not violate their mandate at the airport and were very strict about being impartial.<sup>17028</sup> On 8 October 1992, Adnan Abdel-Razek wrote to his subordinate in the UNPROFOR Civil Affairs Department, Cedric Thornberry that he called Mr. Ahtisaari and reported that the general mood of the people in Sarajevo had reached its lowest level since April 1992, due to the lack of water and electricity, and the continuous shelling of civilians.<sup>17029</sup> Adnan went on to note that the month-long suspension of humanitarian flights and small amount of food coming in through UNHCR land convoys had a critical effect on the food situation. Starvation had not yet been detected, but signs of malnutrition were becoming evident, particularly in children. It was also recalled that Serb officials such as Plavšić and Galić had admitted almost explicitly that they cut off Sarajevo’s water supply in retaliation for the disconnection of telephone connections to Pale and of the water supply to Ilijaš, a small village near Sarajevo.<sup>17030</sup>

4846. According to an official note of the Ilidža War Department of the MUP, dated 29 October 1992, a convoy of a humanitarian organization named ‘The Serious Road Trip’ was stopped at the checkpoint named the ‘Mostar Intersection’. The inspectors confiscated medical equipment and medical material including food, medicine and

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<sup>17024</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 9, paras 43-44. The Trial Chamber observes that the precise timeframe is unclear but that the witness was UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February 1993.

<sup>17025</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 9, para. 43.

<sup>17026</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 9, para. 44.

<sup>17027</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 9, para. 44.

<sup>17028</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 9, paras 44-45.

<sup>17029</sup> P303 (Note for Mr. Thornberry signed by Adnan Abdel-Razek, 8 October 1992), p. 1; Husein Aly Abdel-Razek, T. 3604-3605.

<sup>17030</sup> P303 (Note for Mr. Thornberry signed by Adnan Abdel-Razek, 8 October 1992), p. 1.

clothing intended for a hospital in Sarajevo, as the equipment and materials were not listed in documents. This equipment, however, was later given to the Žica Hospital in Blažuj which the note stated was vital for 'our hospital'.<sup>17031</sup> In addition, two packages which were addressed to Muslims were confiscated as they were without certification from the Serb SJB.<sup>17032</sup>

4847. **Velimir Dunjić** testified that on 17 November 1992, at an advisory meeting on the military and political situation, Mladić tasked his subordinates to behave professionally and in a fair way towards UNPROFOR members, not to permit the passage of weapons and ammunition in the area of responsibility of the units, and to allow humanitarian aid to pass through without any problems.<sup>17033</sup> Based upon the conclusions and tasks from the advisory meeting on 29 November 1992, Dunjić ordered unit commanders to: (a) be aware of their attitudes and behaviour towards UNPROFOR members; (b) make sure that the members of each unit were acting politely towards UNPROFOR members; (c) take immediate disciplinary measures for any violations of good conduct including launching criminal proceedings; and (d) report any case of misbehaviour by UNPROFOR members towards any members of the unit.<sup>17034</sup> According to the witness, it was a well-known fact that Muslim units would launch attacks two or three days after the passage of humanitarian aid convoys through the zone of responsibility of the Igman Brigade.<sup>17035</sup> On two occasions, ammunition had been found in the false bottom of a truck at check-points.<sup>17036</sup> Gunpowder had also been found in medical oxygen tanks.<sup>17037</sup> These events were recorded by video footage and reported live by Bosnian-Serb Republic television. As a result, the UN received written instructions about the security checks which would be in force during the passage of humanitarian aid convoys. The witness stated that nevertheless all convoys were let through.<sup>17038</sup>

4848. **Predrag Trapara** testified that humanitarian aid destined for the Muslim-held part of Sarajevo passed through his unit's area of responsibility along Bjelopolska

<sup>17031</sup> P6770 (Official Note of the Ilidža War Department, 20 October 1992), p. 1.

<sup>17032</sup> P6770 (Official Note of the Ilidža War Department, 20 October 1992), pp. 1-2.

<sup>17033</sup> D607 (Order from the Military Post Command regarding attitude and behavior towards the UNPROFOR, 29 November 1992); Velimir Dunjić, T. 24983, 24900.

<sup>17034</sup> D607 (Order from the Military Post Command regarding attitude and behavior towards the UNPROFOR, 29 November 1992).

<sup>17035</sup> D598 (Velimir Dunjić, witness statement, 12 November 2012), para. 14.

<sup>17036</sup> D598 (Velimir Dunjić, witness statement, 12 November 2012), para. 14.

<sup>17037</sup> D598 (Velimir Dunjić, witness statement, 12 November 2012), para. 14; Velimir Dunjić: T. 24900.

<sup>17038</sup> D598 (Velimir Dunjić, witness statement, 12 November 2012), para. 14.

Road.<sup>17039</sup> His unit received orders from the battalion command to let the convoys through, and always allowed convoys to travel through.<sup>17040</sup> The witness testified that there were instances when UNPROFOR abused the humanitarian aid convoys by using them to supply the Muslims with weapons.<sup>17041</sup> The witness was present in late 1992 at the Lukavica intersection when the Corps' military police found seven rifles in a humanitarian aid shipment headed for the Muslim-held part of Sarajevo.<sup>17042</sup> Once the rifles were removed, the convoy proceeded on its way after a detailed inspection.<sup>17043</sup>

4849. In January 1993, Vladimir Radojčić reported to the SRK Command that UNPROFOR convoys were passing through without problems, except for the convoy for Butmir which was sent back due to a shelling incident in the sector of the Health Centre at the moment when the convoy arrived.<sup>17044</sup>

4850. According to a decision dated 7 May 1993, addressed to the VRS Main Staff, and signed by Karadžić, deliveries of humanitarian aid to 'the other side's territories' were to be unhindered, and full and effective checks on humanitarian aid were to be carried out correctly with as few delays as possible.<sup>17045</sup> The decision was issued in the context of a cease-fire and the implementation of UNSC resolution 824.<sup>17046</sup> On 15 May 1993, Stanislav Galić, SRK Commander, ordered all SRK units to ensure the undisturbed passage of humanitarian aid and staff providing assistance to the population of the opposing side and to respect the Geneva Conventions and other international law regulations.<sup>17047</sup> The order was issued on the basis of a directive from the Bosnian-Serb Presidency and a VRS Main Staff order, both dated 14 May 1993.<sup>17048</sup>

4851. **Svetozar Guzina** testified that in accordance with orders from the Supreme Command, the VRS Main Staff, and Corps Commands all SRK units were to allow the

<sup>17039</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), paras 21-22.

<sup>17040</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), paras 21-22; Predrag Trapara, T. 21128, 21131-21132, 21138, 21195.

<sup>17041</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), paras 21-22.

<sup>17042</sup> D459 (Predrag Trapara, witness statement, 10 May 2014), paras 21-22; Predrag Trapara, T. 21195.

<sup>17043</sup> Predrag Trapara, T. 21195.

<sup>17044</sup> D815 (A daily report sent to the SRK Command, January 1994). *See also* D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 118.

<sup>17045</sup> D460 (Decision by Karadžić addressed to the VRS Main Staff, 7 May 1993).

<sup>17046</sup> D460 (Decision by Karadžić addressed to the VRS Main Staff, 7 May 1993).

<sup>17047</sup> D1981 (SRK order on undisturbed passing of humanitarian aid, 15 May 1993); D1989 (SRK order on undisturbed passing of humanitarian aid, 15 May 1993), pp. 1-2.

<sup>17048</sup> D1981 (SRK order on undisturbed passage of humanitarian aid, 15 May 1993); D1989 (SRK order on undisturbed passage of humanitarian aid, 15 May 1993), p. 1.

passage of humanitarian convoys into Sarajevo.<sup>17049</sup> During routine checks of these convoys, Guzina's battalion found that UNPROFOR members were supplying Muslims with prohibited and undeclared goods, specifically weapons, flak jackets, and the like.<sup>17050</sup> Guzina emphasized that they allowed the convoys arriving in Sarajevo via Nedžarići to pass without any problems.<sup>17051</sup>

4852. **Miloš Škrba** testified that in the territory which his unit controlled, the instruction was to allow all vehicles carrying humanitarian aid to pass through and that did in fact happen.<sup>17052</sup> According to the witness, the military police manned the checkpoints and had the responsibility to check vehicles.<sup>17053</sup> **Vlade Lučić** testified that the general stance of the VRS superior commands was not to prevent but to make possible the delivery of humanitarian aid to the civilians in Sarajevo, including those staying in the Bosnian-Muslim-held territory.<sup>17054</sup> Between 18 May 1992 and the end of January 1993, the witness's units ensured free and safe passage for humanitarian convoys through the territory under their control.<sup>17055</sup> He did not have direct knowledge concerning the misuse of humanitarian convoys by the 1st Corp of the ABiH to obtain weapons, but testified that this may have been the case because of the intensification of the ABiH's operations and their new weaponry.<sup>17056</sup>

4853. On 16 June 1993, Dragan Marčetić, Deputy Commander of the SRK ordered the commanders of brigades, regiments, and independent battalion commands to ensure the delivery of humanitarian aid and free movement of international humanitarian organizations although 'applying usual control measurements'.<sup>17057</sup> They were also at the same time required to provide water, gas, and electricity.<sup>17058</sup>

4854. According to a report, dated 3 November 1993, sent by the Pale MUP and SNB to the Bosnian-Serb President, the Prime Minister, and the President of the Bosnian-Serb Assembly, following the hand over of the Sarajevo Airport to UNPROFOR, there were reasonable grounds to suspect that humanitarian flights were used to: supply

<sup>17049</sup> D514 (Svetozar Guzina, witness statement, 15 May 2014), para. 44; Svetozar Guzina, T. 22484-22485.

<sup>17050</sup> D514 (Svetozar Guzina, witness statement, 15 May 2014), paras 44, 46; Svetozar Guzina, T.22485.

<sup>17051</sup> D514 (Svetozar Guzina, witness statement, 15 May 2014), para. 46; Svetozar Guzina, T.22485.

<sup>17052</sup> D524 (Miloš Škrba, witness statement, 10 May 2014), para. 10; Miloš Škrba, T. 22788, 22883.

<sup>17053</sup> Miloš Škrba, T. 22788, 22881, 22883.

<sup>17054</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), para. 26.

<sup>17055</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), para. 26; Vlade Lučić, T. 26274.

<sup>17056</sup> D658 (Vlade Lučić, witness statement, 5 November 2012), para. 26.

<sup>17057</sup> D807 (Order signed by Dragan Marčetić to the SRK command, 16 June 1993), pp. 1-2.

<sup>17058</sup> D807 (Order signed by Dragan Marčetić to the SRK command, 16 June 1993), pp. 1-2.

weapons and military equipment to the Muslims, transport persons of interest, and consignments were dropped by parachute to enemy positions. Tunnels dug underneath the airport were used to transfer men or whole units of the ABiH from or to Sarajevo. These activities went unhindered as the work of the VRS representatives at the airport was almost completely blocked. The report considered that the Muslims employed at the airport in institutions such as UNHCR, UNPROFOR, and the ICRC by far outnumbered the Serbs and that the Serbs faced poor treatment by comparison.<sup>17059</sup> **Nedo Vlaški** testified that when the war began and the Serbs had already formed defence lines around Sarajevo, the Serbs turned over the Sarajevo airport to UNPROFOR in order to prevent the conflict from escalating and to resolve the humanitarian crisis.<sup>17060</sup> By referring to the report dated 3 November 1993, Nedo stated that advantage was then taken of the decision to hand over the airport as it was then used to supply weapons to the Muslims.<sup>17061</sup>

4855. On 13 March 1994, SRK Deputy Commander Dragomir Milošević sent a letter to all units, wherein he set out an order, of the same date, from the Bosnian-Serb President, that the VRS will do its utmost to refrain from retaliating to the provocations of the ABiH during the days of *Bairam*, on 13 and 14 March 1994, and to only be active to the level required for defence from serious attacks.<sup>17062</sup> The order also mentioned that the VRS would do everything in its power to ensure that convoys that have reached its lines, including in the direction of Maglaj, reach their destination safely.<sup>17063</sup> VRS units also had to inform the convoy escort about all the dangers of attacks or provocations that the opposing side could blame on the Serbs.<sup>17064</sup>

4856. On 17 March 1994, Hasan Muratović, a Minister of Bosnia-Herzegovina, and Momčilo Krajišnik, President of the Bosnian-Serb Assembly, in the presence of Sergio de Mello, the UNPROFOR Head of Civil Affairs, signed the Agreement on the Freedom of Movement in the Sarajevo Area.<sup>17065</sup> The agreement called for the opening of three routes in the Sarajevo area for civilian traffic and humanitarian goods.<sup>17066</sup> The

<sup>17059</sup> D744 (Report of MUP-SNB regarding security problem in Sarajevo airport, 3 November 1993).

<sup>17060</sup> D735 (Nedo Vlaški, witness statement, 8 August 2014), para. 109.

<sup>17061</sup> D735 (Nedo Vlaški, witness statement, 8 August 2014), para. 109.

<sup>17062</sup> D2023 (President's order to VRS on Bairam, 13 March 1994), pp. 1-2.

<sup>17063</sup> D2023 (President's order to VRS on Bairam, 13 March 1994), p. 1.

<sup>17064</sup> D2023 (Dragan Milošević Bairam order, 13 March 1994), p. 1.

<sup>17065</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), pp. 1, 2.

<sup>17066</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 2.

three routes were: airport routes between Lukavica-Ilidža (Bosnian-Serb side) and Butmir-Dobrinja (Bosnian-Muslim side); Sarajevo-Vogošća-Visoko; and Bratsvo bridge.<sup>17067</sup>

4857. **Radojčić** testified that on 9 April 1994, he reported that a convoy carrying humanitarian aid contained ammunition for 'Browning' and medical supplies, neither of which was on the list of transported goods.<sup>17068</sup> On 12 May 1994, the witness reported that while conducting a routine check of a UN personnel carrier, the border police found seven cases of mortar shells and there was no documentation indicating who the intended recipients of the shells were.<sup>17069</sup> The provision of water, gas and electricity in Sarajevo was exclusively within the jurisdiction of the civilian authorities.<sup>17070</sup> The Ilidža Brigade had information that the Muslim authorities deliberately cut off their own water, gas, and electricity supplies during periods when foreign delegations were visiting in order to present themselves as victims.<sup>17071</sup>

4858. **David Fraser** testified that the mandate of UNPROFOR in Sarajevo consisted of ensuring the freedom of movement for humanitarian aid.<sup>17072</sup> After his arrival in Sarajevo on 17 April 1994, Fraser was briefed about the VRS controlling the humanitarian aid flow and the freedom of movement of UNPROFOR and UNMOs.<sup>17073</sup> UNPROFOR had a belief, which was later confirmed, that Mladić and the VRS Main Staff controlled and manipulated the flow of humanitarian aid in Bosnian-Serb held territory for political purposes.<sup>17074</sup> This was one of the means by which the VRS maintained control over the city.<sup>17075</sup> Fraser testified that Mladić would run them down to the last day of food, water, fuel and then show who was in control by allowing a convoy in. Around Christmas 1994, UNPROFOR went 20 days without re-supply. It was clear from Fraser's conversation with General Milošević that he did not control

<sup>17067</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 2.

<sup>17068</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 127; D820 (Daily report signed by Vladimir Radojčić, 9 April 1994), p. 1.

<sup>17069</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 95; D828 (Report from the 1st Ilidža Brigade, 12 May 1994), p. 1.

<sup>17070</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 49.

<sup>17071</sup> D535 (Vladimir Radojčić, witness statement, 11 May 2014), para. 49.

<sup>17072</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 14.

<sup>17073</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 39, 42, 149; David Fraser, T. 5805, 5926-5927.

<sup>17074</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 136-138; David Fraser, T. 5809-5810.

<sup>17075</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 136.

freedom of movement but took directions from Pale.<sup>17076</sup> Fraser confirmed that the VRS maps accurately reflected information about the location of the UN personnel and the number and ethnicity of the troops at each location, as well as the location of weapons available to them.<sup>17077</sup> According to the witness, this explained how Mladić was able to predict when UNPROFOR would run out of food, fuel, and ammunition.<sup>17078</sup>

4859. Fraser also testified that from 17 April 1994 freedom of movement for the UN and humanitarian convoys into the enclaves and Sarajevo was severely restricted and that Mladić's headquarters were controlling the operations and the control of movement of the UN.<sup>17079</sup> Fraser drew his conclusions on the basis that restrictions were imposed throughout enclaves in Serb-controlled territory and the geographical dispersion and similarities of the restrictions.<sup>17080</sup> Many excuses were made why there was a restriction of humanitarian aid but that ultimately it impacted non-combatants.<sup>17081</sup> Fraser did not recall ever hearing about any weapons being found in an aid convoy other than when the French battalion were moving ammunition around for their own use.<sup>17082</sup>

4860. According to a daily report of the Ilidža Brigade to the SRK Command dated 18 April 1994, the VRS were not in contact with UNPROFOR 'troops' other than that announced UNPROFOR vehicles transporting food under VRS escort were allowed to move towards their destination.<sup>17083</sup>

4861. **Ratomir Maksimović** testified that the SRK Command was not opposed to the supply of humanitarian aid to civilians in Sarajevo.<sup>17084</sup> The attitude of the 'superior commands' was that such aid should be supplied across 'Serbian' territory in 'the city controlled by the Muslim authorities'.<sup>17085</sup> Because it had information that humanitarian convoys were being misused to transport combat material for the ABiH 1st Corps and that UNPROFOR itself transported military material in humanitarian convoys, the SRK Command occasionally 'checked' humanitarian convoys.<sup>17086</sup> At morning briefings, the

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<sup>17076</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 137.

<sup>17077</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 49; P3 (Sarajevo map book), pp. 52, 57.

<sup>17078</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 49.

<sup>17079</sup> David Fraser, T. 5808.

<sup>17080</sup> David Fraser, T. 5808.

<sup>17081</sup> David Fraser, T. 5927.

<sup>17082</sup> David Fraser, T. 5839, 5927.

<sup>17083</sup> D1784 (Daily report of the Ilidža Brigade to the SRK Command, 18 April 1994), pp. 1-2.

<sup>17084</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 44.

<sup>17085</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 44.

<sup>17086</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), paras 44-45.

witness was informed of an incident in which weapons were discovered in a humanitarian aid convoy.<sup>17087</sup> The SRK Command had information that humanitarian aid was sold on the black market controlled by Muslim authorities and that humanitarian aid often did not reach Serb civilians.<sup>17088</sup>

4862. **Witness RM-163** testified that both warring parties, but particularly the VRS, attempted to have the Sarajevo airport closed by shooting at aircraft.<sup>17089</sup> As a result, the airport was often closed, which stopped the arrival of humanitarian aid.<sup>17090</sup> UNPROFOR representatives participated in meetings with political leaders of the Bosnian Serbs, including Karadžić, Krajišnik, and Koljević, which usually took place at the Lukavica barracks or the Sarajevo airport, where the UNPROFOR representatives raised issues concerning the freedom of movement for humanitarian food supplies and called for a cessation to action against the civilian population.<sup>17091</sup> Mladić was also present at most of these meetings.<sup>17092</sup>

4863. On 23 July 1994, Manojlo Milovanović, upon order from the President of the Bosnian-Serb Republic, ordered the SRK Command to carry out all necessary preparations, including anticipating the forces and means required, for the closure of the 'Blue Road' which goes across Sarajevo Airport in order to prevent the transit of Muslims to and from Sarajevo, and to prevent UNPROFOR and other humanitarian organisations from getting across the airport on their way towards and from Igman and Lukavica.<sup>17093</sup>

4864. On 26 July 1994, Karadžić informed de Mello and Victor Andreev, UNPROFOR Civil Affairs Coordinator for Bosnia-Herzegovina, about the cancellation of any further implementation of the 17 March agreement across Sarajevo airport due to: (a) smuggling of arms by the Muslims; (b) continuous sniper activities by the Muslims; (c) Muslims' refusal to implement the agreement on exchange of prisoners; and (d) non-

<sup>17087</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 45.

<sup>17088</sup> D686 (Ratomir Maksimović, witness statement, 15 December 2012), para. 46.

<sup>17089</sup> Witness RM-163, T. 6107.

<sup>17090</sup> Witness RM-163, T. 6107.

<sup>17091</sup> P628 (Witness RM-163, witness statement, undated), para. 30; P636 (UNPROFOR message, 24 July 1994).

<sup>17092</sup> P628 (Witness RM-163, witness statement, undated), paras 30-31.

<sup>17093</sup> P4634 (VRS Main Staff document, 23 July 1994), p. 1.

respect of the agreement on cessation of hostilities.<sup>17094</sup> On 27 July 1994, the roads across the airport were closed.<sup>17095</sup>

4865. **Fraser** testified that on 23 September 1994, he witnessed a telephone conversation between General Brinkman and Mladić, where Mladić made it clear that he controlled the situation in Sarajevo.<sup>17096</sup> Mladić was incensed about the NATO strikes inflicted on the VRS the day before, demanded an apology, and threatened to stop all the convoys from entering Sarajevo.<sup>17097</sup> On 27 September 1994, Akashi sent a briefing report to Kofi Annan, stating that UNPROFOR took seriously the threat delivered by the VRS Liaison Officer on behalf of Mladić on 25 September 1994 in which he could no longer ‘guarantee’ the safety of aircraft approaching the Sarajevo airport. The threat was accompanied by a display of SAM-7 missiles and anti-aircraft weapons. Although such provocative actions were stopped shortly thereafter, the threat was not rescinded and no aircraft landed in Sarajevo until at least two days later. Akashi also reported a considerably reduced desire on the part of the VRS to cooperate with UNPROFOR, which led into new restrictions being imposed on freedom of movement both within and around Sarajevo and denial of clearances to re-supply convoys.<sup>17098</sup>

4866. According to an UNPROFOR weekly situation report, dated 10 December 1994, the Serbs had blockaded and restricted the movement of humanitarian supplies to Sarajevo, and threatened to shoot at UN vehicles if they were to use an alternate route to the city.<sup>17099</sup>

4867. On 31 December 1994, Bosnia-Herzegovina, represented by Izetbegovic and the ABiH Commander Rasim Delic, and the Bosnian-Serb Republic, represented by Karadžić and Mladić, signed the Agreement on Complete Cessation of Hostilities, which called for the parties to implement the 17 March Agreement.<sup>17100</sup> On 12 January

<sup>17094</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 2.

<sup>17095</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 2.

<sup>17096</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 142; David Fraser, T. 5774-5776. *See also* P5228 (UNPROFOR memorandum from General Brinkman, 24 September 1994) which is reviewed in chapter 9.3.11.

<sup>17097</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 142; David Fraser, T. 5774-5776; P579 (Message from General Brinkman, 24 September 1994), p. 1.

<sup>17098</sup> P6555 (Letter from Akashi at UNPROFOR, Zagreb to Annan at the UN, New York, 27 September 1994), p. 2.

<sup>17099</sup> P775 (UNPROFOR weekly report on Sarajevo and other areas, 10 December 1994), p. 5.

<sup>17100</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 3.

1995, the Bosnian Serbs affirmed their previous consent to open the three routes for civilians and humanitarian goods but called upon UNHCR to provide clarifications on the terms ‘international humanitarian organization’ and ‘humanitarian goods’.<sup>17101</sup> On 14 January 1995, the VRS liaison officer informed UNPROFOR, who opened the airport routes, that they ‘could not guarantee’ the safety of anyone who attempted to cross as the two sides reached a deadlock in defining these terms.<sup>17102</sup> On 15 January 1995, as a proposal initiating the implementation of the 17 March Agreement, Karadžić stated that only official international humanitarian organizations constituted on the basis of international treaties or acts and other organisations suggested by UNPROFOR were authorized to use the airport routes.<sup>17103</sup> With regard to the definition of ‘humanitarian goods’, the Bosnian-Serb government fully accepted the interpretation of the International Conference on Former Yugoslavia relating to humanitarian aid allowed to cross over the Drina River.<sup>17104</sup> The Bosnian-Muslim government, however, rejected the Bosnian-Serb proposal by insisting on full implementation of the 17 March Agreement, which resulted in the routes remaining closed.<sup>17105</sup> After three high level meetings chaired by UNPROFOR, on 23 January 1995, both sides signed a protocol to the 31 December 1994 Agreement calling for, among others, the implementation of the 17 March Agreement.<sup>17106</sup>

4868. **Mile Sladoje** testified that on the intersection of Kasindolska Street, Sarajevo, approximately 200 metres from the airport the 1st Battalion of the Ilidza Brigade stopped an UNPROFOR convoy at the end of 1994.<sup>17107</sup> The intelligence service of the brigade had informed the witness that the convoy was transporting weapons and flak

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<sup>17101</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 3.

<sup>17102</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 4.

<sup>17103</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 4. The official international humanitarian organizations were listed as UNHCR, UNESCO, UNICEF, WHO, WFP, FAO, ICRC and the Office of the Special Coordinator for Sarajevo.

<sup>17104</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 4.

<sup>17105</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 4.

<sup>17106</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), pp. 4-5.

<sup>17107</sup> D453 (Mile Sladoje, witness statement, 10 May 2014), para. 27; Mile Sladoje, T. 21075-21077; P6508 (Map with position of mortars and tank of the 1st Battalion of the Ilidža Brigade additionally marked by Mile Sladoje).

jackets for the ABiH, and the brigade found about 126 flak jackets and confiscated them.<sup>17108</sup>

4869. On 1 February 1995, the airport routes between Lukavica-Iliđza (Bosnian-Serb side) and Butmir-Dobrinja (Bosnian-Muslim side) were opened for official international humanitarian organizations.<sup>17109</sup> The Sarajevo-Visoko road was opened briefly from 10 February 1995 until 24 February 1995 when the Bosnian Serbs insisted on being provided with 20 litres of fuel per day for police escorts on that 'Blue Route' but was refused by UNPROFOR.<sup>17110</sup>

4870. On 4 March 1995, an empty convoy arranged by the Office of the Special Coordinator for Sarajevo was refused access to the airport routes by a VRS inspector.<sup>17111</sup> **Rupert Smith** testified that in a meeting with Mladić on 5 March 1995 in Jahorina, Mladić threatened a complete blockade of all enclaves including Sarajevo if international sanctions against the Bosnian Serbs were not lifted.<sup>17112</sup> He cited a list of major shortages and outlined the humanitarian consequences of continued sanctions.<sup>17113</sup> According to Smith, Mladić had the ability to act upon his threats as his forces controlled the routes into the enclaves, and every convoy and truck had to go through Bosnian-Serb checkpoints.<sup>17114</sup> Additionally, administrative controls were put in place whereby UN convoys were searched and required to submit a list of all items in the vehicles before the convoys were given clearance.<sup>17115</sup>

4871. On 7 March 1995, the VRS inspectors for the airport routes refused a UNHCR convoy made up of empty trucks, stating that only trucks with UNHCR or other official organisations' license plates were allowed to pass.<sup>17116</sup> On 11 March 1995, Karadžić

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<sup>17108</sup> D453 (Mile Sladoje, witness statement, 10 May 2014), para. 27; Mile Sladoje, T. 21077-21078.

<sup>17109</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), pp. 2, 5-6. The official international humanitarian organizations were listed as UNHCR, UNESCO, UNICEF, WHO, WFP, FAO, ICRC and the Office of the Special Coordinator for Sarajevo.

<sup>17110</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 6.

<sup>17111</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), pp. 6-7.

<sup>17112</sup> P785 (Rupert Smith, witness statement, 22 October 2009), paras 37, 39; Rupert Smith, T. 7298.

<sup>17113</sup> P785 (Rupert Smith, witness statement, 22 October 2009), para. 39

<sup>17114</sup> Rupert Smith, T. 7298.

<sup>17115</sup> Rupert Smith, T. 7298.

<sup>17116</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 7.

announced the closure of the 'Blue Routes' following sniper incidents in Grbavica where two Serb girls were killed, and implemented the closure the next day.<sup>17117</sup>

4872. According to a VRS Main Staff combat report, dated 11 March 1995, addressed to, *inter alios*, the Bosnian-Serb President and signed by Manojlo Milovanović, two girls, one born in 1986 and the other in 1984, were killed by enemy sniper fire in Grbavica.<sup>17118</sup> As a result, the movement of humanitarian organisations and convoys was prohibited until further notice.<sup>17119</sup> **Trapara** testified that he did not receive an order to stop humanitarian aid convoys following the death of the two girls.<sup>17120</sup>

4873. **Smith** testified that on 13 March 1995 he accompanied Akashi and the UNPROFOR Commander to Pale where he met with Karadžić, Koljević, Krajišnik, and Mladić. The meeting was marred by the shooting of the two Serb girls within the Serb held areas of Sarajevo by 'Bosnian snipers' which had triggered an increase in activity by the Serbs. This resulted in the Serbs closing the 'Blue Routes' across Sarajevo Airport in retaliation. When questioned about the closure Karadžić announced that they would be closed for one month for every Serb that was killed in the Sarajevo area.<sup>17121</sup> On 13 March 1995, Mladić recorded this meeting.<sup>17122</sup> Akashi expressed his condolences for the murder of two little girls in Grbavica.<sup>17123</sup> He raised the issue of the 31 December 1994 agreement, which UNPROFOR wished to renew but stated that the implementation of the agreement had deteriorated so much that its sustainability was put in doubt.<sup>17124</sup> Akashi emphasised the need to have obligations in the agreement respected until the investigation of the murder of the two girls was completed.<sup>17125</sup> Abu Zaid of the UNHCR and Akashi also raised the issue of convoy movement in the checkpoint in Kasindolska and the difficulty that the military imposed in approving the convoys.<sup>17126</sup>

<sup>17117</sup> P7687 (UNPROFOR Message sent to the UNPROFOR Civil Affairs in Sarajevo, 15 March 1995), p. 7.

<sup>17118</sup> D461 (Combat report by Manojlo Milovanović, 11 March 1995), pp. 1-3. *See also* Predrag Trapara, T. 21132-21133.

<sup>17119</sup> D461 (Combat report by Manojlo Milovanović, 11 March 1995), pp. 1-3. *See also* Predrag Trapara, T. 21132-21133.

<sup>17120</sup> Predrag Trapara, T. 21138-21139.

<sup>17121</sup> P785 (Rupert Smith, witness statement, 22 October 2009), para. 64.

<sup>17122</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 60-62.

<sup>17123</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 61.

<sup>17124</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 62.

<sup>17125</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 61.

<sup>17126</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 61.

4874. **Anthony Banbury** testified that on 18 March 1995, he sent a weekly report covering the period between 12 and 18 March 1995 stating that the 'Blue Routes' across Sarajevo airport were closed on 12 March 1995 following the deaths of two girls by sniper fire in the Serb held area of Grbavica in Sarajevo.<sup>17127</sup> The Bosnian Serbs pledged to keep the Blue Routes closed for 30 days for every Serb killed by sniping.<sup>17128</sup> Banbury recalled that the Blue Routes did not open from this point onwards until the end of the war.<sup>17129</sup> On 12 March 1995, Dragomir Milošević sent a regular combat report to the Main Staff stating that the order to close the 'Blue Roads' had been delivered to the units and implemented.<sup>17130</sup> Movements were limited in the area of responsibility of the SRK, except for emergency cases and the transportation of the sick.<sup>17131</sup>

4875. **Harland** testified that the incident in which two Serb girls were shot and killed by a 'Bosnian sniper' in Grbavica resulted in the Serbs closing the 'Blue Routes', confirmed by a VRS report. Furthermore, there was increased restriction of freedom of movement for UNPROFOR convoys through all Bosnian Serb held territories. As a result stock levels in enclaves, particularly Srebrenica, became critical. Humanitarian convoys were affected, as was UNPROFOR troop rotation and re-supply.<sup>17132</sup> On 8 April 1995, the Serbs closed Sarajevo altogether, including for humanitarian relief coming by air, when they halted the Sarajevo airlift alleging that the UN was violating the 1992 airport agreement.<sup>17133</sup> Negotiations on 19 April 1995 between Krajisnik, Momčilo Mandić, and Maksim Stanišić with Harland and Aguilar in Pale were unfruitful and Krajisnik stated that resumption of the airlift was in the hands of Koljević 'who is in charge of humanitarian aid'.<sup>17134</sup> There was never a resumption of the airlift until the end of the war.<sup>17135</sup>

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<sup>17127</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), paras 99-100; Anthony Banbury, T. 8327.

<sup>17128</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 100; Anthony Banbury, T. 8328.

<sup>17129</sup> P874 (Anthony Banbury, witness statement, 19 May 2009), para. 100.

<sup>17130</sup> P7707 (Regular Combat Report of the SRK, 12 March 1995), pp. 1-3.

<sup>17131</sup> P7707 (Regular Combat Report of the SRK, 12 March 1995), p. 2.

<sup>17132</sup> P1 (David Harland, witness statement, 4 September 2009), para. 171.

<sup>17133</sup> P1 (David Harland, witness statement, 4 September 2009), para. 173. The Trial Chamber notes that the reference to '8 April 1992' in the evidence appears to be a typographical error and finds that the reference clearly relates to 1995.

<sup>17134</sup> P1 (David Harland, witness statement, 4 September 2009), para. 173.

<sup>17135</sup> P1 (David Harland, witness statement, 4 September 2009), para. 173.

4876. On 29 June 1995, Mladić had a meeting with General Janvier in Zvornik.<sup>17136</sup> Janvier told Mladić that the arrival of humanitarian convoys in Sarajevo, which had previously been interrupted, was a favourable development.<sup>17137</sup> Nonetheless, Janvier stressed to Mladić that the situation in Sarajevo and the ‘strangulation of the eastern enclaves’ had to be alleviated, and that ‘[t]here are nearly 100,000 people in Sarajevo who need aid. They have one loaf each for two days’.<sup>17138</sup> Mladić and Janvier agreed that on 30 June 1995 at noon, one humanitarian aid convoy of seven vehicles would be allowed to cross Kobiljača and go to Sarajevo, and that one humanitarian convoy of the same size would be allowed to cross the bridge in Zvornik for the Serb side.<sup>17139</sup>

4877. According to an UNPROFOR report, in July 1995 the ‘Serbs’ again refused to allow UNHCR to bring humanitarian aid to Sarajevo through Serb-controlled territory.<sup>17140</sup> The ‘Serbs’ demanded 50 per cent of all aid, whereas UNHCR insisted on a distribution according to need, which would result in 77 per cent going to the Muslim-controlled part of Sarajevo.<sup>17141</sup> According to an UNPROFOR memo relating to a meeting between Smith and Mladić on 25 July 1995, Mladić promised to restore Sarajevo’s utilities ‘if the Muslims stop their offensives’.<sup>17142</sup>

4878. **Jeremy Bowen** testified that the Bosnian Serbs controlled the roads into and out of Sarajevo.<sup>17143</sup> He witnessed aid convoys being held up many times, which was another way of putting pressure on the civilian population and a source of frustration for UNPROFOR soldiers.<sup>17144</sup>

4879. On 6 September 1993, Manojlo Milovanović, the Chief of Staff of the Main Staff, instructed subordinate Corps Commands to: (a) allow the movement of humanitarian convoys and teams exclusively during the day; (b) where trips cannot be completed in one day, organise accommodation and list the name of places where the convoys and teams spend the night; and (c) not allow the convoys and teams enter the Bosnian-Serb Republic if it is impossible to reach the destination before nightfall. Milovanović also informed that UNPROFOR Command and the humanitarian

<sup>17136</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 196.

<sup>17137</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 197.

<sup>17138</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 197.

<sup>17139</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 203.

<sup>17140</sup> P1089 (UNPROFOR weekly sitrep, 2 July 1995), p. 5.

<sup>17141</sup> P1089 (UNPROFOR weekly sitrep, 2 July 1995), p. 5.

<sup>17142</sup> P1778 (Report on Smith-Mladić meeting, 26 July 1995).

<sup>17143</sup> P2515 (Jeremy Bowen, witness statement, 10 August 2009), para. 23.

<sup>17144</sup> P2515 (Jeremy Bowen, witness statement, 10 August 2009), para. 23.

organizations were to adapt the organisation of movement along the approved roads. This was done to prevent any disruption and ensure safe movement to the humanitarian aid convoys.<sup>17145</sup>

4880. **Slavko Kralj** testified that on 17 September 1993, Milutin Skočajić, Chief of Staff of the Command of the DK, reported to Colonel Magazin that on 15 September 1993 a 'French convoy' to Sarajevo arrived in Karakaj carrying, in addition to the items approved by the VRS Main Staff, televisions, video, still cameras, films, car radios, and Walkmans in one of the trucks.<sup>17146</sup> As the leader of the convoy did not allow that truck to be inspected, that truck and another truck carrying communications equipment were sent back while the rest of the convoy was allowed to proceed to Sarajevo after the inspection was completed.<sup>17147</sup>

4881. On 1 August 1993, Manojlo Milanović, the Chief of Staff of the Main Staff, sent an order to the Corps Commands regarding the movement of humanitarian aid convoys following the 30 July 1993 Agreement between the commander of the conflicting parties and a decision issued by the Bosnian-Serb Republic government.<sup>17148</sup> He ordered that the representatives of humanitarian organizations should give timely notification of their convoys to obtain authorisation from the MoD of the Bosnian-Serb Republic.<sup>17149</sup> Therefore, only convoys with pre-approved routes to their destination or the line of demarcation, list of escorting personnel, motor vehicles, and technical equipment, as well as a declaration of type and quantity of freight, were allowed to pass.<sup>17150</sup> The convoy escort should be made up of one motor vehicle and a total of four men.<sup>17151</sup> The MoD would send information about authorized convoys to the local MUP and the Main Staff.<sup>17152</sup> Upon the entry of these convoys to the territory of the Bosnian-Serb Republic, the inspection of which includes checking of documentation, identity

<sup>17145</sup> D1531 (VRS instructions on the unhindered movement of humanitarian aid, 6 September 1993), p. 1.

<sup>17146</sup> D716 (Report from Milutin Skočajić, Chief of Staff of the DK to Colonel Magazin at the VRS Main Staff on a convoy for Sarajevo, 17 September 1993).

<sup>17147</sup> D716 (Report from Milutin Skočajić, Chief of Staff of the DK to Colonel Magazin at the VRS Main Staff on a convoy for Sarajevo, 17 September 1993).

<sup>17148</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 1, 5.

<sup>17149</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 1-2.

<sup>17150</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 1-2.

<sup>17151</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), p. 4.

<sup>17152</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), p. 2.

documents of convoy personnel, the content of humanitarian aid with or without taking it off the lorries or opening every type of passage, the quantity of fuel in the vehicles' tanks, and luggage, was to be conducted once only.<sup>17153</sup> Members of the inspection team and the location of the inspection was to be jointly chosen by the MUP and the responsible military command.<sup>17154</sup> The inspection was to be well organised, take as little time as possible, and be conducted by people who had prior appropriate training and who behave and talk in a civilised way.<sup>17155</sup> Any non-humanitarian aid materials without authorisation found during the inspection was to be seized, stored, kept, recorded, and later returned to the humanitarian organisations by the MoD.<sup>17156</sup> UN forces were to be allowed to escort convoys at the request of UNPROFOR, in which case the Main Staff should inform in timely manner its subordinate commands and the MoD.<sup>17157</sup> Finally, the responsible units should ensure the presence of civilian and military police to ensure safe passage of the convoys through the territory of Bosnian-Serb Republic and to prevent it from being held up at checkpoints.<sup>17158</sup>

4882. On 10 August 1993, pursuant to an order by the Bosnian-Serb Prime Minister and the VRS Main Staff, Milovanović ordered all Corps Commands to ensure the reception, envisioned inspection, and unhindered and safe movement of UNPROFOR teams and humanitarian convoys through the Bosnian-Serb Republic, on approved roads and at approved times. All facets of civilian authority were to be informed that the VRS Main Staff was responsible for the safe and unhindered movement of UNPROFOR and humanitarian aid convoys because the VRS commander was the one negotiating and signing agreements with them and the other parties to the conflict. Local organs of civilian authority were required to inform civilians of the position of the Bosnian-Serb President, Prime Minister, and the VRS Main Staff Commander that the approved movement of UNPROFOR teams and humanitarian aid convoys should not be prevented or blocked. If a road was blocked, civilian authorities had to be instructed to

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<sup>17153</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 2-3.

<sup>17154</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 2-3.

<sup>17155</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), p. 3.

<sup>17156</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), p. 4.

<sup>17157</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), p. 4.

<sup>17158</sup> D713 (Main Staff's order regarding the movement of humanitarian aid convoy through Bosnian-Serb Republic, 1 August 1993), pp. 4-5.

prevent such road blocks, and open it up again. Furthermore, brigade commanders in their respective zones of responsibility, organs for civilian affairs in the corps command, and if needed, corps commanders, were to be directly engaged. Corps commands had to keep daily records of the movement of UNPROFOR teams and humanitarian aid convoys, in order to monitor implementation and to take urgent and effective measures to resolve any problems that may arise. Commanders also had to become familiar with quality of the personnel at all checkpoints and remove those who could have provoked an incident, were profiteers, or failed to respect orders from superiors.<sup>17159</sup> The corps commands and the VRS Main Staff were to organize regular inspections of the movement of UNPROFOR teams and humanitarian aid convoys in order to understand the situation and take urgent and necessary measures to eliminate any shortcomings. Milovanović also ordered them to help the civilian authorities in ensuring the supply of gas and electricity to the Sarajevo area, to the extent that the supply depended on military organization. Corps commanders and the organs of the VRS Main Staff were directly responsible to Milovanović for the execution of these tasks.<sup>17160</sup>

4883. According to a VRS Main Staff combat report addressed to, *inter alios*, the Bosnian-Serb President and the VRS Main Staff Commander, dated 11 April 1994, and signed by the VRS Chief of Staff, Manojlo Milovanović, the restriction of movement for UNPROFOR teams and convoys and humanitarian organisations following an order from the VRS Main Staff was still in force.<sup>17161</sup>

4884. According to a letter dated 30 July 1995, authored by Mladić and addressed to General Smith of UNPROFOR Command in Sarajevo and UNHCR Office in Pale, allegations that the Bosnian-Serb Republic had raised a blockade and returned a convoy headed towards the Muslim part of Sarajevo were rebuked.<sup>17162</sup> Mladić ordered an urgent investigation into the situation and reported that on 29 July 1993 UNHCR directed two humanitarian aid convoys from Metković.<sup>17163</sup> One convoy, NOR STAR 1, went to the Muslim part of the city, while the other convoy, NOR STAR 2, went to

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<sup>17159</sup> D2032 (Milovanović order about movement of UNPROFOR and humanitarian aid groups, 10 August 1993), p. 1.

<sup>17160</sup> D2032 (Milovanović order about movement of UNPROFOR and humanitarian aid groups, 10 August 1993), p. 2.

<sup>17161</sup> D462 (Combat report by Manojlo Milovanović, 11 April 1994), pp. 1, 5-6.

<sup>17162</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) pp. 1-2.

<sup>17163</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) p. 1.

Rajlovac.<sup>17164</sup> According to Mladić, the Muslim side had prevented the convoy movement on the route which had been used for three years.<sup>17165</sup> The convoy heading towards Sarajevo was stopped at the Muslim checkpoint after its safe passage through the Bosnian-Serb Republic. The road was mined and was not cleared after two-hours of waiting. While the convoy was waiting for Muslim clearance to pass into the city UNHCR personnel were engaged by small-arms fire from Muslim positions. Due to this, Mark Cutts, Head of UNHCR Office, Sarajevo, decided that the personnel should turn back.<sup>17166</sup> Mladić stated that his side would take all necessary measures to ensure the full safety of the convoys moving through the Bosnian-Serb Republic and would put in place measures for shortening and speeding up the procedure for getting clearance.<sup>17167</sup>

4885. **Kralj** testified that Mladić reviewed each item in detail and would ask for Colonel Djurdjić's suggestions on issues in order to make a proper decision.<sup>17168</sup> Occasionally, Mladić had an insight into what went in and out of the Bosnian-Serb Republic.<sup>17169</sup> Kralj testified that they received instructions from the Main Staff of the VRS on orders for the passage of individual humanitarian aid and UNPROFOR convoys.<sup>17170</sup> Convoys could generally not pass through corps' zones of responsibility without the authorisation of the Main Staff of the VRS.<sup>17171</sup> Mladić would occasionally meet with UNPROFOR representatives in relation to the movement of convoys.<sup>17172</sup> Some UNHCR convoys were allowed into the eastern enclaves of Goražde, Žepa and Srebrenica while UNPROFOR supplies were denied which created critical conditions for the troops.<sup>17173</sup>

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<sup>17164</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) p. 1.

<sup>17165</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) pp. 1-2.

<sup>17166</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) p. 1.

<sup>17167</sup> D1616 (Letter from Mladić to UNPROFOR Command Sarajevo and UNHCR Office Pale, 30 July 1995) p. 2.

<sup>17168</sup> P6856 (Witness Statement of Slavko Kralj, 25 January 2012), p.1; Slavko Kralj, T.27461.

<sup>17169</sup> Slavko Kralj, T.27475.

<sup>17170</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 5.

<sup>17171</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 6.

<sup>17172</sup> D712 (Witness Statement of Slavko Kralj, 27-29 June 2013), para. 27.

<sup>17173</sup> P7405 (UNPROFOR Weekly Situation Report 8-15 May 1995), para. 10

*The Trial Chamber's findings*

4886. The Trial Chamber recalls its findings in chapter 9.3.11 regarding orders, instructions, and approvals provided by Mladić to the VRS about authorisation and passage of humanitarian aid, including UNPROFOR convoys, into the Bosnian-Serb Republic. Such aid would not be allowed to pass without VRS Main Staff written authorisation and the VRS was responsible for safe passage. Mladić had the final say on whether humanitarian aid, including that provided by UNPROFOR, was allowed to proceed into Sarajevo through check-points. The Trial Chamber recalls its findings in chapter 9.3.11 that Mladić, via the VRS Main Staff, retained ultimate discretion for aid passage where it related to security matters. Mladić often communicated his messages and decisions to the UN through Milovanović.

4887. Mladić frequently ordered the restriction of humanitarian aid to Sarajevo either through imposing very difficult administrative controls on convoys through the VRS, in particular from 8 October 1992 onwards, or through ordering more direct obstructions from 1994 onwards.

4888. The UNHCR and UNPROFOR frequently reported restrictions on the passage of humanitarian aid, in particular from 8 October 1992, as a result of increasingly bureaucratic and obtrusive checks which paralysed many aid activities. These included restrictions on access to Sarajevo airport, restrictions on electricity and water supply, and restrictions on medical supplies. The restrictions, however, were interspersed, at least until April 1994, by official orders, directives, and actions either from the Bosnian-Serb Presidency or the VRS Main Staff which allowed the unhindered passage of humanitarian aid convoys.

4889. The Trial Chamber recalls its findings in chapter 9.3.11 regarding the severe restrictions placed by Mladić on humanitarian organisations' activity on the territory of the Bosnian-Serb Republic from 10 April 1994 onwards. The passage of humanitarian aid in Sarajevo was subject to severe restrictions due to military or political considerations, as throughout June and July 1994 when the 'Blue Route's came under greater obstruction. Mladić provided different reasons for restrictions including the lack of explosives-detection equipment provided by the UN, Bosnian-Muslim use of the Sarajevo airport route, and the detention of Bosnian Serbs by the ABiH in Gorazde. On 23 September 1994, Mladić in a telephone conversation with General Brinkman

threatened to attack UNPROFOR 'with the same degree of warning' that was given to Mladić by NATO when carrying out an airstrike against the VRS the day before and threatened to stop all convoys from entering Sarajevo. Following NATO airstrikes, there was a considerably reduced desire on the part of the VRS to cooperate with UNPROFOR, which led to new restrictions being imposed on freedom of movement in and around Sarajevo and denial of clearances to re-supply convoys. On 25 September 1994, the VRS Liaison Officer on behalf of Mladić stated he could no longer 'guarantee' the safety of aircraft approaching Sarajevo airport and the threat was accompanied by a display of SAM-7 missiles and anti-aircraft weapons. In December 1994, humanitarian aid was blockaded and the UN was threatened with being shot at if they had attempted to use alternative routes into Sarajevo; UNPROFOR went for 20 days without any re-supply. The Trial Chamber also found in chapter 9.3.11 that between July 1994 and July 1995, Mladić was increasingly obstructive and, threatened a complete blockade of all enclaves, including Sarajevo, if international sanctions against the Bosnian Serbs were not lifted. On 11 March 1995, Milovanović issued instructions closing the Blue Routes following sniper incidents in Grbavica where two Serb girls were killed. Karadžić also announced the closure of the Blue Routes stating that they would be closed for one month for every Serb who was killed in the Sarajevo area. The Blue Routes did not open from this point onwards until the end of the war and neither did the Sarajevo airlift. Both measures, together with restrictions on utilities, had a severe impact on the population of Sarajevo. The Trial Chamber also recalls from the aforementioned chapter that between March and July 1995, Mladić was very obstructive with regard to the delivery of humanitarian assistance to Sarajevo unless there was absolute parity with deliveries to the Bosnian Serbs.

4890. The Trial Chamber recalls its finding from chapter 9.3.6 with regard to the smuggling of weapons and ammunition allegedly by the ABiH or other Bosnian-Muslim forces. Witnesses Dunjić, Trapara, Maksimović, Sladoje, Guzina stated that the SRK found weapons, ammunition, explosives, or flak jackets in humanitarian aid convoys. The Trial Chamber finds that despite the fact that aid convoys occasionally may have contained weapons, ammunition or explosives, contrary to the UN mandate for delivery of humanitarian aid, the convoys were already subject to stringent checks and controls by the VRS. These checks and controls by the VRS were contrary to the agreements for the delivery of humanitarian aid but were tolerated by the UN as a

courtesy. Therefore, the measures utilised by the VRS which went further, and included the blockading of delivery of humanitarian aid and deliberately obstructive inspections, were disproportionate and calculated to restrict humanitarian aid to Sarajevo.

4891. In chapter 9.5.10, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Sarajevo JCE.

#### *9.5.10 Legal findings*

4892. The Trial Chamber recalls its findings in chapter 9.4.3 that between 12 May 1992 and November 1995, there existed a joint criminal enterprise with the primary purpose of spreading terror among the civilian population of Sarajevo through a campaign of sniping and shelling. The objective of the JCE involved the commission of the crimes of terror, unlawful attacks against civilians, and murder. The Trial Chamber also found that for purposes of establishing a plurality of persons, the following participated in the realization of the common criminal objective: members of the Bosnian-Serb military and political leadership, including Karadžić, Galić, Dragomir Milošević, Krajišnik, Plavšić, and Koljević. The Trial Chamber also recalls its findings in chapter 5 that all principal perpetrators of the crimes in Sarajevo were members of the SRK.

4893. In chapters 9.5.2-9.5.10, the Trial Chamber made findings about Mladić's acts and omissions during the existence of the Sarajevo JCE. The Trial Chamber found that Mladić: (i) worked on establishing the SRK in May 1992; (ii) made personnel decisions in the SRK; (iii) commanded SRK units from 1992 to 1995 in various operations; (iv) ordered the production and use of modified air bombs; (v) procured military assistance from the VJ for the SRK; (vi) participated in policy discussions between 1992 and 1995 with members of the Bosnian-Serb government; (vii) participated in the dissemination of anti-Muslim and anti-Croat propaganda between September 1992 and June 1995; (viii) provided misleading information about crimes to representatives of the international community; (ix) failed to investigate crimes and/or punish members of the SRK who committed crimes; and (x) frequently ordered the restriction of humanitarian aid to Sarajevo. The Trial Chamber considered in particular Mladić's acts vis-à-vis the SRK, given that all perpetrators of the Sarajevo crimes were SRK members. Mladić's

acts were instrumental to the commission of these crimes. In light of this, the Trial Chamber finds that through his acts set out in this paragraph, the Accused significantly contributed to achieving the objective of spreading terror among the civilian population of Sarajevo through a campaign of sniping and shelling by way of committing the crimes of terror, unlawful attacks against civilians, and murder.

#### 9.5.11 *Mens rea*

4894. According to the Indictment, the Accused and the other members of the JCE, the objective of which was to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, shared the intent for the commission of the crimes of terror, unlawful attacks on civilians, and murder.<sup>17174</sup> The Defence submitted that the Accused (i) did not intend to establish or carry out any campaign of sniping or shelling against the civilian population of Sarajevo, (ii) strictly implemented an absolute ban on the targeting of civilians, (iii) ensured that SRK personnel were made aware of their obligations under international law, (iv) made all efforts to reduce the risk to the civilian population of Sarajevo, and (v) made constant efforts to ensure the wellbeing and safety of civilians in Sarajevo.<sup>17175</sup>

4895. As set out in further detail below, the Trial Chamber recalls its findings in chapter 9.5.10 regarding the significant contribution of the Accused to the common objective of the Sarajevo JCE. The Trial Chamber further received evidence with regard to the Accused's alleged intent to achieve the common objective of the Sarajevo JCE from **Rupert Smith**, UNPROFOR commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>17176</sup> **David Fraser**, a Military Assistant to the UNPROFOR Commander in Sector Sarajevo from 17 April 1994 to 26 May 1995;<sup>17177</sup> **Michael Rose**, the UNPROFOR Commander from 5 January 1994 to 23 January 1995;<sup>17178</sup> **Witness RM-163**, an UNPROFOR soldier stationed in Sarajevo from 1993 to 1994 and a member of the RRF in 1995;<sup>17179</sup> **Husein Aly Abdel-Razek**, UNPROFOR Sector Sarajevo Commander from 21 August 1992 to 20 February

<sup>17174</sup> Indictment, paras 14-15.

<sup>17175</sup> Defence Final Brief, paras 2434-2441.

<sup>17176</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

<sup>17177</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 7, 11.

<sup>17178</sup> P736 (Michael Rose, witness statement, 26 March 2009), paras 5, 195; Michael Rose, T. 6839.

<sup>17179</sup> P628 (Witness RM-163, witness statement, undated), paras 4, 6-7, 9-10.

1993;<sup>17180</sup> **Savo Simić**, an artillery officer in the SRK throughout the conflict;<sup>17181</sup> **Witness RM-511**, a member of the SRK;<sup>17182</sup> and **Milenko Indić**, a VRS liaison officer for cooperation with international organisations and institutions,<sup>17183</sup> as well as documentary evidence.<sup>17184</sup>

4896. On 30 April 1992, Mladić recorded that he had a meeting with JNA Colonel General Adžić, who informed him of the ‘great damage’ caused by the bombardment of the old part of Sarajevo.<sup>17185</sup> On 9 May 1992, Mladić recorded that he had a meeting with General Kukanjac, who informed him that the ‘Serbian’ leadership had been shelling Sarajevo for months with mortars and artillery.<sup>17186</sup> **Milenko Indić** testified that at one of a series of meetings organized by UNPROFOR, Mladić suggested on several occasions that the agreement with regard to the demilitarized zones in Bosnia-Herzegovina should include Sarajevo, ‘so that we finish the war and give politicians an opportunity to resolve the further fate of Bosnia-Herzegovina’, a suggestion that was not accepted by the Muslim side.<sup>17187</sup>

4897. The Trial Chamber recalls its review of the minutes of the 16th session of the Bosnian-Serb Assembly on 12 May 1992, admitted into evidence as exhibit P431, in chapter 9.5.5, noting that Mladić stated that ‘[o]ne cannot take Sarajevo by spitting at it from a mortar or a howitzer’ and that, with respect to Sarajevo, ‘I don’t need any applause, mate. I am not doing it for that or for recognition, I am just doing it to avenge the bones of my dead comrades’. Mladić further stated that, when the fighting over Sarajevo began, the Serbs should not say ‘before the international public’ that they would destroy Sarajevo or that they would shut down the water and power supply ‘because that would get America out of its seat’; rather, they should ‘wisely tell the world’ that it was ‘they’ who were cutting the power and water supplies and that the Serbs were doing their best to repair the damage.

<sup>17180</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, p. 1, paras 2, 65, supplemental witness statement of 16 July 2002, p. 1; Husein Aly Abdel-Razek, T. 3578.

<sup>17181</sup> D1062 (Savo Simić, witness statement, 4 November 2012), paras 1 and 3; Savo Simić, T. 35932, 35935, 35944, 35949-35850.

<sup>17182</sup> Witness RM-511, T. 4983, 4993, 4996, 5056; P500 (Pseudonym sheet).

<sup>17183</sup> D614 (Milenko Indić, witness statement, 31 July 2014), paras 1-2.

<sup>17184</sup> The relevant evidence of P16 is reviewed in chapter 5.2.6. The relevant evidence of P876 is reviewed in chapter 9.4.2. The relevant evidence of P431 is reviewed in chapter 9.5.5. The relevant evidence of P1974 is reviewed in chapter 9.4.2.

<sup>17185</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 211, 224.

<sup>17186</sup> P352 (Mladić notebook, 14 February 1992 - 25 May 1992), pp. 268, 273.

<sup>17187</sup> D614 (Milenko Indić, witness statement, 31 July 2014), paras 21-23.

4898. **Witness RM-511** testified that at a meeting attended by, *inter alios*, Karadžić, Krajišnik, and SRK Commander Tomislav Šipčić in May 1992, Mladić proposed that the VRS undertake a massive bombardment of Sarajevo.<sup>17188</sup> Mladić also mentioned at the meeting that he did not care where the bombs landed, after having been asked whether civilian areas would also be bombed.<sup>17189</sup> Mladić further indicated that all the military targets in the area of Sarajevo were part of the plan for combat, and that all the artillery of the VRS deployed in the area would be used.<sup>17190</sup> Šipčić expressed his disagreement and offered his resignation rather than be involved in the execution of the plan, and Mladić responded: ‘Very well. Leave that to me. I’ll do it on my own.’<sup>17191</sup>

4899. The Trial Chamber reviewed transcripts of several phone intercepts concerning the evacuations of barracks in Sarajevo, in which Mladić made statements relevant for the determination of his mental state. On 19 May 1992, in a telephone conversation with a person called Janković concerning threats from ABiH general Jovo Divjak in relation to evacuations of barracks, Mladić stated: ‘If Jovo Divjak wants to destroy Sarajevo, then he should bring cisterns in as happened in Mostar! [...] But in that case, he would sentence first himself and then entire Sarajevo to death. If he wants to do this in a peaceful manner, you do it peacefully. If they want to wage war, then let him say so, so we can start fighting’.<sup>17192</sup> On the same day, in a telephone conversation with JNA General Miloš Baroš concerning the evacuation of the Maršal Tito barracks, Mladić stated: ‘Finally, comrade General, you are in a far better position than entire Sarajevo and them! You can stay as long as 150 days in those fortresses. There. So there’s no need to hurry. None of our barracks is in danger. None of the barracks lacks food, Sarajevo lacks food! And don’t pressure me, you presume your men... Take care of the morale. I don’t care whether I’m going to evacuate you today, in five months, or in two years. If they want to play blockade, let them take as much as they can. We can take more than them. We learned to take more. You have more food, you have ammunition, you have water, you have everything you need. Anything they deprive you of, we will

<sup>17188</sup> Witness RM-511, T. 4989, 4993, 5051-5053.

<sup>17189</sup> Witness RM-511, T. 5051-5052.

<sup>17190</sup> Witness RM-511, T. 4990, 4995-4996.

<sup>17191</sup> Witness RM-511, T. 4990-4991, 4993-4994, 5052.

<sup>17192</sup> P4636 (Conversation between Janković and Mladić, 19 May 1992), pp. 1-2.

deprive Sarajevo of! If a bullet is fired at you, you will see what will be fired at Sarajevo'.<sup>17193</sup>

4900. The day after, on 20 May 1992, in another telephone conversation with Miloš Baroš concerning ABiH attacks on JNA barracks, Mladić stated: 'Your task, comrade general, is to organise a circle defence. Anything that is moving, like a vehicle or a cistern, no matter what sign it bears, shall be destroyed! You shall attack everything within the range of the heaviest weapons. Don't allow them to repeat Mostar. [...] Organise observation on a circular basis and burn anything coming towards you, no matter if it's a car, a cistern, a truck, a caterpillar, a vehicle for the transportation of bread, a carriage, or a cistern! [...] Don't allow them make us look bad as they did in Mostar. In case they try something report immediately, and shoot right away. You have full authorisation'.<sup>17194</sup> In the same conversation but speaking to a person called Potpara, Mladić stated: 'Anything on wheels coming towards the barracks you shall fire at directly no matter who it is except UNPROFOR vehicles! [...] No cisterns, no carriages, no bread vehicles, no regular cars within the range of your weapons'.<sup>17195</sup>

4901. In an intercepted telephone conversation with a person surnamed Trandafilović on 23 May 1992, General Nedeljko Bošković said that in a session of the Bosnia-Herzegovina Parliament, he had signed an agreement to pull out soldiers, military academy students, and military hardware, and to allow one-third of the weapons to remain with the Serbs and to return two-thirds of the weapons to the Muslims and the Croats.<sup>17196</sup> Bošković indicated that Mladić wanted to have him arrested as a result of this agreement.<sup>17197</sup>

4902. The Trial Chamber recalls its finding in chapter 5.3.1 that Mladić personally directed the SRK artillery, mortar, and rocket attack on Sarajevo that commenced at 5 p.m. on 28 May 1992 and continued until early the next morning; that Mladić selected targets such as the Presidency, the town hall, police headquarters, and the children's embassy; and that Mladić directed the fire away from Serb-populated areas.

<sup>17193</sup> P4637 (Conversation between Baroš and Mladić, 19 May 1992), pp. 1-2. *See also* Miloslav Gagović, T. 25341-25342; P2728 (Conversation between Ratko Mladić, Miloš Baroš and Miloslav Gagović, 11 May 1992), p. 1.

<sup>17194</sup> P4638 (Conversation between Baroš/Potpara and Mladić, 20 May 1992), pp. 1-2.

<sup>17195</sup> P4638 (Conversation between Baroš/Potpara and Mladić, 20 May 1992), p. 3.

<sup>17196</sup> P1600 (Intercepted telephone conversation between General Nedeljko Bošković and Trandafilović, 23 May 1992), p. 3; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 3.

<sup>17197</sup> P1600 (Intercepted telephone conversation between General Nedeljko Bošković and Trandafilović, 23 May 1992), p. 4; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 3.

4903. In an intercepted telephone conversation with Potpara on 29 May 1992, Mladić was advised of return fire directed towards a museum and a hospital.<sup>17198</sup> Mladić advised Potpara to target the railway station.<sup>17199</sup> In another intercepted telephone conversation between Mladić and Potpara on the same date, Mladić inquired whether Velešići had been shelled and whether strong detonations could be heard in Sarajevo, and Potpara responded in the affirmative to both questions.<sup>17200</sup> In the same conversation, Mladić ordered Potpara to fire at the station if necessary.<sup>17201</sup> In an intercepted telephone conversation between Mladić and Fikret Abdić also on 29 May 1992, Mladić claimed that he had never bombed Sarajevo and that he had only returned fire when the ABiH attacked his soldiers.<sup>17202</sup>

4904. Mladić issued an order on 13 July 1992 to the SRK Commander forbidding the SRK to fire upon Sarajevo, and allowing only the use of infantry weapons in self-defence. Exceptionally, weapons of greater calibre could be used against enemy artillery positions. Artillery, tank and mortar fire could be carried out only with prior approval from the VRS Main Staff. The order warned that shooting without authorization would be considered a crime and violations would be prosecuted.<sup>17203</sup> **Husein Aly Abdel-Razek** testified that Galić told him that he had issued orders along the lines of Mladić's order of 13 July 1992.<sup>17204</sup> **Witness RM-511** testified that, on 15 or 17 July 1992, Šipčić issued an order to the SRK prohibiting the use of artillery and other weapons against Sarajevo.<sup>17205</sup> According to this order, which was complied with, light weapons were to be used only in situations of self-defence whereas artillery pieces, tanks, and mortars could be used only with the prior approval of the VRS Main Staff.<sup>17206</sup> The witness further testified that Šipčić never received an order from the VRS Main Staff to target buildings and structures of cultural, religious, or other significance in Bosnia-

<sup>17198</sup> P1607 (Intercepted telephone conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 6.

<sup>17199</sup> P1607 (Intercepted telephone conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 6.

<sup>17200</sup> P1606 (Intercepted telephone conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 6. The Trial Chamber understands the reference to 'Velešići' in P1606 to be a misspelling of 'Velešići', and has therefore used the latter.

<sup>17201</sup> P1606 (Intercepted telephone conversation between Ratko Mladić and Potpara, 29 May 1992); P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), p. 6.

<sup>17202</sup> P1605 (Intercepted telephone conversation between Ratko Mladić and Fikret Abdić, 29 May 1992), pp. 7-9; P1596 (Comment chart of Witness RM-511 on intercepts he reviewed), pp. 5-6.

<sup>17203</sup> D66 (Order by Mladić to the SRK Commander, 13 July 1992), para. 2.

<sup>17204</sup> Husein Aly Abdel-Razek, T. 3664-3665.

<sup>17205</sup> Witness RM-511, T. 5123-5125.

Herzegovina.<sup>17207</sup> In a VRS Main Staff directive dated 22 July 1992, Mladić indicated that the use of artillery was strictly banned save in cases of self-defence.<sup>17208</sup> The witness confirmed that this was the actual position of Mladić and the VRS Main Staff.<sup>17209</sup>

4905. According to an UNPROFOR code cable dated 15 September 1992, UNPROFOR Lieutenant-General Satish Nambiar admonished Mladić for the indiscriminate shelling of civilian targets in Sarajevo, Bihać, and Cazin on 14 September 1992, putting into serious doubt Mladić's 'bona fides' in placing heavy weapons under UNPROFOR supervision.<sup>17210</sup> Mladić was requested to issue instructions for the placement of all heavy weapons under UNPROFOR control.<sup>17211</sup> Nambiar requested Mladić to ensure that under no circumstances were non-military targets to be engaged.<sup>17212</sup>

4906. On 26 October 1992, a meeting to implement the agreements reached at the Geneva conference was held at the Sarajevo airport with representatives from UNPROFOR, including UNPROFOR Commander General Morillon; the HVO, including Tihomir Blaškić, Commander of the Central Bosnia Operations Zone; the ABiH, including Enver Hadžihasanović, Chief of Staff of the Sarajevo Corps; and the VRS, including General Milan Gvero.<sup>17213</sup> The main subject of discussion at this meeting was the demilitarization of the Sarajevo airport and its reopening for humanitarian purposes.<sup>17214</sup> **Abdel-Razek**, who attended the meeting, testified that it was the first of a series of meetings referred to as the joint military committee

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<sup>17206</sup> Witness RM-511, T. 5123-5125, 5139-5140.

<sup>17207</sup> Witness RM-511, T. 5131; D100 (Video of an attack on city hall and library in August 1992).

<sup>17208</sup> Witness RM-511, T. 5126-5127; D99 (VRS Main Staff Directive No. 02/5-72 entitled 'Future Activities of the Army of the BiH Republic of Sprska' and type-signed by Ratko Mladić, 22 July 1992), p. 2.

<sup>17209</sup> Witness RM-511, T. 5126-5127; D99 (VRS Main Staff Directive No. 02/5-72 dated 22 July 1992, entitled 'Future Activities of the Army of the BiH Republic of Sprska' and type-signed by Ratko Mladić), p. 2.

<sup>17210</sup> P296 (Outgoing UNPROFOR code cable, 15 September 1992), pp. 1-2; P316 (Outgoing UNPROFOR code cable, 15 September 1992), pp. 1-2. *See also* Husein Aly Abdel-Razek, T. 3606-3607.

<sup>17211</sup> P296 (Outgoing UNPROFOR code cable, 15 September 1992), p. 2; P316 (Outgoing UNPROFOR code cable, 15 September 1992), p. 2

<sup>17212</sup> P296 (Outgoing UNPROFOR code cable, 15 September 1992), p. 2; P316 (Outgoing UNPROFOR code cable, 15 September 1992), p. 2

<sup>17213</sup> D74 (Transcript of meeting of the HVO, ABiH, VRS, and UNPROFOR, 26 October 1992), p. 1; Husein Aly Abdel-Razek, T. 3645-3646.

<sup>17214</sup> D74 (Transcript of meeting of the HVO, ABiH, VRS, and UNPROFOR, 26 October 1992), pp. 3-9, 12-14. *See also* Husein Aly Abdel-Razek, T. 3645, 3648-3649.

meetings.<sup>17215</sup> The meetings were attended by high-ranking commanders, including Mladić.<sup>17216</sup>

4907. On 11 November 1992, Mladić issued an order to the various VRS corps implementing the ceasefire signed on 10 November 1992 by VRS representatives following an order from Karadžić.<sup>17217</sup> Mladić's order was to take effect at midnight on 11 November 1992.<sup>17218</sup> The order specified that a total ceasefire was to be secured in the VRS corps' zones of responsibility through the line of command and control, and with HVO and Muslim armed forces on the entire front, but noted that the ceasefire did not apply to the regular Croatian army, as it did not sign the agreement.<sup>17219</sup> The order provided that in the event of a violation of the ceasefire, the VRS was to return fire only upon the approval of the corps commander and, exceptionally, upon the approval of the brigade commander in the event of a sudden threat to soldiers' lives or property.<sup>17220</sup> The VRS Main Staff Commander had authority over the Corps Artillery Group and Corps Missile Group, the corps commander had authority over the Brigade Artillery Group, and the battalion commanders had authority over 14.5-millimetre infantry fire.<sup>17221</sup> The order specified that the corps commanders and the commander of the Bosnian-Serb Air Force and Air Defence would be personally answerable to Mladić for the order's consistent implementation.<sup>17222</sup> **Abdel-Razek** testified that Galić told him that he had issued a similar order to his subordinates, but that the situation did not prevail for a long time and that sniping and shelling continued for a long period of time in Sarajevo.<sup>17223</sup>

4908. At a 12 May 1993 mixed military working group meeting held at the Sarajevo airport and attended by UNPROFOR, Bosnian-Muslim, Serb, and Croat representatives, high-ranking VRS officers proposed an agreement, signed by Mladić, on the

<sup>17215</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 99; Husein Aly Abdel-Razek, T. 3645-3646. The Trial Chamber understands the 'joint military working committee', the 'joint military working group', and the 'mixed military working group' to refer to the same set of meetings held at Sarajevo airport in 1992 and 1993, and has therefore used the terms interchangeably.

<sup>17216</sup> P293 (Husein Aly Abdel-Razek, witness statements), witness statement of 16 July 2002, para. 99.

<sup>17217</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992).

<sup>17218</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992), p. 2.

<sup>17219</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992), p. 1.

<sup>17220</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992), p. 2.

<sup>17221</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992), p. 2.

<sup>17222</sup> D65 (Order of Mladić to secure cease-fire, 11 November 1992), p. 2. Exhibit D65 refers to the corps commanders and the commander of the 'V i PVO', which the Trial Chamber understands to refer to the Bosnian-Serb Air Force and Anti-Aircraft Defence.

<sup>17223</sup> Husein Aly Abdel-Razek, T. 3659-3660.

demilitarization of Sarajevo.<sup>17224</sup> The Serb proposal was not accepted by the Bosnian-Muslim and HVO delegations, as it was not in accordance with the ‘attitude’ of UNSC Resolution 824.<sup>17225</sup> In turn, the Bosnian-Muslim and HVO delegations stated that they would submit a joint proposal on the implementation of the Resolution for Sarajevo as a safe area.<sup>17226</sup>

4909. **Michael Rose** testified that in response to a mortar attack on 4 February 1994 in Dobrinja, he called the VRS and wrote a letter of protest to Mladić and Karadžić, to which no response was ever received.<sup>17227</sup>

4910. On 14 June 1994, Manojlo Milovanović, chief of staff of the VRS Main Staff sent a letter to the UNPROFOR Command in Sarajevo, to General Rose personally, as well as to the SRK Command, protesting about breaches of an agreement on ceasefire and interruption of engineering works reached on 9 February 1994.<sup>17228</sup> According to the letter, Muslim forces had intensified their engineering work along the conflict line, especially in the sectors of Hrasnica, Mojmiro, Dobrinj, Grbavica (Jewish cemetery), Zlatište and Rajlovac in violation of the agreement.<sup>17229</sup> The letter accused UNPROFOR of failing to address these breaches and for general partiality and support of the Muslim forces and was sent ‘as a caution before we abrogate the agreement of 9 February 1994’.<sup>17230</sup>

4911. On 30 July 1994, Mladić sent a protest letter to the UNPROFOR Command in Sarajevo in relation to the latter’s claims that the VRS was responsible for an incident on Mount Igman.<sup>17231</sup> According to an agreement between the UNPROFOR Commander and the VRS, UNPROFOR was in charge of the most strategic positions on

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<sup>17224</sup> D1516 (UNPROFOR report on the 19th Mixed Military Working Group Meeting, 12 May 1993), pp. 1, 4, 12.

<sup>17225</sup> D1516 (UNPROFOR report on the 19th Mixed Military Working Group Meeting, 12 May 1993), pp. 1-2.

<sup>17226</sup> D1516 (UNPROFOR report on the 19th Mixed Military Working Group Meeting, 12 May 1993), pp. 1-2.

<sup>17227</sup> P736 (Michael Rose, witness statement, 26 March 2009), para. 35. The Trial Chamber understands this to refer to Schedule G.7, which is addressed in chapter 5.3.5.

<sup>17228</sup> D1573 (Letter of protest sent by Milovanović, chief of staff of the VRS Main Staff to UNPROFOR Sarajevo Command regarding breach of ceasefire agreement and UNPROFOR bias against Serbs, 14 July 1993), p. 1.

<sup>17229</sup> D1573 (Letter of protest sent by Milovanović, chief of staff of the VRS Main Staff to UNPROFOR Sarajevo Command regarding breach of ceasefire agreement and UNPROFOR bias against Serbs, 14 July 1993), p. 1.

<sup>17230</sup> D1573 (Letter of protest sent by Milovanović, chief of staff of the VRS Main Staff to UNPROFOR Sarajevo Command regarding breach of ceasefire agreement and UNPROFOR bias against Serbs, 14 July 1993), pp. 1-2.

<sup>17231</sup> D1745 (Letter of protest from Mladić to the UNPROFOR Command, 30 July 1994), pp. 1-2.

Mounts Igman and Bjelašnica, and Muslim forces were not permitted to be deployed on those mountains.<sup>17232</sup> Mladić stated that the VRS had warned UNPROFOR several times that the agreement was breached and added that it was clear that Muslims were provoking incidents in order to involve UNPROFOR forces in the conflict.<sup>17233</sup> He stated that he had no intention of making the UNPROFOR peacekeeping mission more difficult.<sup>17234</sup>

4912. The Trial Chamber recalls its review in chapter 9.4.2 of a video recorded on 15 August 1994, admitted into evidence as exhibit P1974, in which Mladić stated: ‘And whenever I come by Sarajevo, I kill someone in passing. That’s why the traffic for Sarajevo was disrupted. /*unintelligible*/ snipers. I go, kick the hell out of the Turks, who gives a fuck for them!’

4913. On 9 October 1994, General Michael Rose sent a letter of protest to Karadžić and Mladić about the sniping incident that had occurred the day before.<sup>17235</sup> **David Fraser** testified that this incident involved a tram.<sup>17236</sup> In his letter, Rose stated that this incident was in direct violation of the anti-sniping agreement of 14 August 1994.<sup>17237</sup> He called on the addressees to condemn such acts and to take appropriate measures to identify the perpetrators and to ensure that there is no recurrence of these acts.<sup>17238</sup> According to **Fraser**, this incident was also discussed with Mladić during a meeting of UNPROFOR representatives with the Bosnian Serbs at a ski resort in Jahorina.<sup>17239</sup> The Trial Chamber recalls the evidence admitted as exhibit P16 and reviewed in chapter 5.2.6 that, in a 10 October 1994 meeting with UNPROFOR representatives, Mladić denied that Serbs were involved in the 8 October 1994 sniping of the Sarajevo tramway, claiming that the Bosnian Muslims were responsible and had duped UNPROFOR.

4914. The Trial Chamber recalls an UNPROFOR situation report, admitted into evidence as exhibit P876 and reviewed in chapter 9.4.2, which describes, *inter alia*,

<sup>17232</sup> D1745 (Letter of protest from Mladić to the UNPROFOR Command, 30 July 1994), p. 1.

<sup>17233</sup> D1745 (Letter of protest from Mladić to the UNPROFOR Command, 30 July 1994), p. 1.

<sup>17234</sup> D1745 (Letter of protest from Mladić to the UNPROFOR Command, 30 July 1994), p. 1.

<sup>17235</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 143; P590 (UNPROFOR Letter of protest sent to Radovan Karadžić and Ratko Mladić, signed by General Michael Rose, 9 October 1994). The Trial Chamber understands this to refer to Schedule F.11, which is addressed in chapter 5.2.6.

<sup>17236</sup> P576 (David Fraser, witness statement, 3 December 2012), para. 143.

<sup>17237</sup> P590 (UNPROFOR Letter of protest sent to Radovan Karadžić and Ratko Mladić, signed by General Michael Rose, 9 October 1994).

<sup>17238</sup> P590 (UNPROFOR Letter of protest sent to Radovan Karadžić and Ratko Mladić, signed by General Michael Rose, 9 October 1994).

<sup>17239</sup> P576 (David Fraser, witness statement, 3 December 2012), paras 141, 144.

sniping incidents between 5 and 11 March 1995 in which UNPROFOR anti-sniping teams were targeted and civilians were killed or injured. The Trial Chamber notes that, in a meeting with General Smith, Mladić stated that the increase in sniping incidents in Sarajevo in early March 1995 was a response to Serb casualties of Bosnian military offensives.

4915. On 5 September 1995, the IBK forwarded a telegram from Mladić to UNPROFOR Command in Zagreb and to General Janvier, personally.<sup>17240</sup> In this telegram, Mladić complained about the bias of the international community and questioned, *inter alia*, why the public had not been told the ‘real truth’ about the incident at Markale-II and why neutral ballistic experts and a mixed commission of experts were not appointed to determine the circumstances of this incident.<sup>17241</sup> Mladić said that the Muslim side and intelligence service experts of a foreign power had played a part in staging Markale-II, and accused the UN of protecting Muslim soldiers in Sarajevo and Goražde.<sup>17242</sup> Mladić asked that ultimatums and bombings be replaced with talks and called for a meeting of the commanders of the different sides of the conflict in order to sign a complete, lasting, and unconditional cessation of hostilities.<sup>17243</sup> He declared that, pending such a meeting, there would be a unilateral ceasefire in Sarajevo and that the VRS would not engage in any operations except in legitimate self-defence.<sup>17244</sup>

4916. On 6 September 1995, Mladić ordered the SRK Command to ‘stop supplying water, electricity and gas to the Muslim part of Sarajevo’ until the attacks from the NATO air force and the RRF stopped.<sup>17245</sup> The Trial Chamber recalls its finding in chapter 5.1.1 that the living conditions for the inhabitants of Sarajevo were extremely difficult as a result of living in constant fear and the lack of basic necessities, such as food, water, gas, and electricity, which forced them to go outside and be exposed to sniping and shelling. Hospitals, clinics, and ambulances were also targeted by snipers

<sup>17240</sup> D1575 (Telegram from Mladić addressed to UNPROFOR Command in Zagreb and to General Janvier, dated 4 September 1995 forwarded by the IBK Command, 5 September 1995), pp. 1, 5.

<sup>17241</sup> D1575 (Telegram from Mladić addressed to UNPROFOR Command in Zagreb and to General Janvier, dated 4 September 1995 forwarded by the IBK Command, 5 September 1995), pp. 1-2.

<sup>17242</sup> D1575 (Telegram from Mladić addressed to UNPROFOR Command in Zagreb and to General Janvier, dated 4 September 1995 forwarded by the IBK Command, 5 September 1995), pp. 2-3.

<sup>17243</sup> D1575 (Telegram from Mladić addressed to UNPROFOR Command in Zagreb and to General Janvier, dated 4 September 1995 forwarded by the IBK Command, 5 September 1995), p. 5.

<sup>17244</sup> D1575 (Telegram from Mladić addressed to UNPROFOR Command in Zagreb and to General Janvier, dated 4 September 1995 forwarded by the IBK Command, 5 September 1995), p. 5.

and shelled. As of mid-June 1992, telephone lines were cut. In October 1992, electricity was shut down, while there was no natural gas supply to Sarajevo as of 26 August 1994. In September 1995, the supply of water, electricity, and gas to the Bosnian-Muslim part of Sarajevo was halted.

4917. The Trial Chamber recalls its findings in chapter 9.5.2-9.5.10 including that Mladić established the SRK and organised the corps through personnel decisions, that he commanded and controlled the SRK, was often personally involved in the SRK's operations, that during the siege, he procured military assistance from the VJ, and ordered the production and use of modified air bombs on Sarajevo. Following the commission of crimes, Mladić failed to investigate and punish the perpetrators. He also made deliberately misleading statements (i) in stating that the 28 May 1992 shelling of Sarajevo, which he ordered, was in response to provocations from the opposing party and (ii) in claiming that Bosnian Muslims rather than Serb forces were responsible for sniping and shelling incidents on 27 May 1992, 8 October 1994, and 28 August 1995. In particular, the Trial Chamber recalls its finding in chapter 9.5.3 that (i) the campaign in Sarajevo intensified immediately following Mladić's appointment as Commander of the VRS Main Staff, as demonstrated by the shelling on 14 May 1992 and later on 28 and 19 May 1992; (ii) Mladić issued orders to the SRK with regard to operations in Sarajevo between at least 28 May 1992 and January 1994; (iii) Mladić formulated the plans for and issued Directives 1, 3, 4, and 5, which were implemented by the SRK; (iv) Mladić monitored the operations he ordered in Sarajevo as they were implemented by the SRK; (v) Mladić ordered the production of modified air bombs and personally oversaw their development from 1993; and (vi) VRS and SRK Corps commanders reported to Mladić on the use of modified air bombs.

4918. The Trial Chamber also recalls its findings in chapters 9.5.5 that in meetings between May 1992 and April 1995, Mladić participated in policy discussions with high-level members of the Bosnian-Serb government and proposed a massive bombardment of Sarajevo with explicit disregard for the safety of civilians, stating that Sarajevo should be resolved militarily rather than politically.

4919. The Trial Chamber further recalls the evidence reviewed in chapter 9.4.2 and its subsequent finding in chapter 9.4.3 that, while Mladić made statements assuring

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<sup>17245</sup> P7406 (Mladić order to the SRK, 6 September 1995), p. 1. The Trial Chamber understands the 'ART Rapid Reaction Forces' and 'ATR Rapid Reaction Forces' referred to in P7406 to be the RRF.

international organizations that Sarajevo was under no threat from the VRS, such statements are not a reliable basis for determining the true state of mind of the Bosnian-Serb leadership, particularly in light of Mladić's proposal to mislead the public. The Trial Chamber further recalls its finding that while Mladić prohibited firing at civilian targets without his approval and ordered that firing upon Sarajevo was only to take place in self-defence, such orders do not assist in determining the true state of mind of the Bosnian-Serb leadership, given that the language of the orders demonstrates that Mladić was more concerned with insubordination than with the welfare of the civilian population. The Trial Chamber finally recalls its finding that while Mladić ordered observance in all respects of the Geneva Conventions and other provisions of international law, such orders not to target civilians are not a reliable factor for determining the true state of mind of the Bosnian-Serb leadership, given that such orders were not adhered to and the leadership did not take measures to enforce such orders.

4920. The Trial Chamber notes that certain statements, such as the Accused's proposal to include Sarajevo in the agreement with regard to the demilitarized zones 'so that we finish the war', suggest that the Accused had peaceful intentions. However, the Trial Chamber does not consider such statements to be an accurate reflection of the Accused's mental state, as they directly contradict his other contemporaneous statements, and are inconsistent with his conduct. In light of the above, and considering the Trial Chamber's findings in chapter 9.4.3 regarding the unreliability of the Accused's orders prohibiting firing at civilian targets in Sarajevo as a means of determining his true state of mind, the Trial Chamber rejects the Defence submissions regarding the Accused's mental state.

4921. Based on all of the foregoing, in particular: (i) the Accused personally directing the 28 May 1992 shelling of Sarajevo, selecting targets, and directing fire away from Serb-populated areas; (ii) the Accused formulating and issuing directives and commanding the SRK; (iii) the Accused proposing in the spring of 1995 that Sarajevo be bombarded with explicit disregard for the safety of civilians; and (iv) the Accused ordering the SRK Command to cut utilities supplying Sarajevo on 6 September 1995, thereby forcing the inhabitants of Sarajevo to go outside and be exposed to sniping and shelling, the Trial Chamber finds that the Accused intended to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo. The Trial

Chamber further finds that the Accused intended this campaign to spread terror among the civilian population of Sarajevo and that the Accused intended to perpetrate the crimes of terror, unlawful attacks on civilians, and murder. Lastly, the Trial Chamber finds that the Accused held this intention throughout the Indictment period.

## 9.6 Third joint criminal enterprise (Srebrenica)

### *9.6.1 Overview of the charges*

4922. The Indictment states that between the days immediately preceding 11 July 1995 and 1 November 1995, the Accused participated in a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica.<sup>17246</sup> The objective amounted to or included the commission of the crimes of genocide (under Count 2), persecution, extermination, murder, deportation, and inhumane acts (forcible transfer).<sup>17247</sup> The Accused shared the intent for the commission of each of these crimes with other members of the JCE.<sup>17248</sup>

4923. According to the Indictment, the members of the JCE included, besides the Accused, Radovan Karadžić and:

republic-level members of Bosnian-Serb Political and Governmental Organs [as defined in the Indictment]; regional, municipal, and local level members of Bosnian-Serb Political and Governmental Organs [as defined in the Indictment] with responsibility in or for the Srebrenica, Vlasenica, Bratunac, and/or Zvornik areas; and commanders, assistant commanders, senior officers, and chiefs of VRS and MUP operating in or with responsibility over territory within the DK area of responsibility and/or Trnovo municipality; and members of a Serbian MUP unit called the Scorpions.<sup>17249</sup>

Alternatively, some or all of these individuals were not members but were used by members of the JCE to carry out crimes committed in furtherance of its objective.<sup>17250</sup>

4924. Members of the JCE implemented their objective by personally committing crimes or through and by using others to carry out crimes committed in furtherance of the objective.<sup>17251</sup> Those used to carry out the crimes were members of the VRS and MUP operating in or with responsibility over territory within the DK area of responsibility and/or Trnovo Municipality and a Serbian MUP unit called the Scorpions.<sup>17252</sup>

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<sup>17246</sup> Indictment, paras 7, 19.

<sup>17247</sup> Indictment, paras 7, 19.

<sup>17248</sup> Indictment, para. 20.

<sup>17249</sup> Indictment, paras 20-21.

<sup>17250</sup> Indictment, para. 21.

<sup>17251</sup> Indictment, para. 22.

<sup>17252</sup> Indictment, para. 22.

4925. The Trial Chamber recalls its detailed findings in chapter 7 and will consider them when determining the existence and scope of a Srebrenica JCE in chapter 9.6.4 below. In addition, in chapters 9.6.2 and 9.6.3 it will consider relevant contemporaneous statements and meetings as well as alleged attempts to conceal and cover up crimes committed in Srebrenica, before turning to its legal findings on the existence, scope, and membership of a Srebrenica JCE in chapter 9.6.4.

#### *9.6.2 Contemporaneous statements and meetings*

4926. In relation to contemporaneous statements and meetings relevant for determining whether the Srebrenica JCE existed, the Prosecution argued that between the evening of 11 July and the morning of 12 July 1995, Mladić and his officers decided to separate and murder the Bosnian-Muslim men and boys in Potočari.<sup>17253</sup> On 12 July, Mladić, Krstić, and the DK brigade commanders met at the Bratunac Brigade headquarters, where the murder operation was discussed.<sup>17254</sup> The Prosecution further argued that the opening of a corridor for the column on 16 July was not a humanitarian gesture but done out of military necessity.<sup>17255</sup> The Defence argued that: (i) Momir Nikolić's evidence lacks credibility and is generally unreliable, and more specifically, if there was a plan to murder Srebrenica's Muslim males, his conduct during and after the take-over of Srebrenica is illogical;<sup>17256</sup> (ii) the intercept evidence is of dubious authenticity and cannot be relied upon;<sup>17257</sup> and (iii) the Bratunac Brigade headquarters meeting took place on 11 July, and not on 12 July, and nothing illegal was discussed.<sup>17258</sup>

4927. The Trial Chamber received documentary evidence<sup>17259</sup> as well as evidence from the following witnesses in relation to statements and meetings around the time of the take-over of the Srebrenica enclave: **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the IKK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>17260</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade

<sup>17253</sup> Prosecution Final Brief, paras 1174-1175; T. 44553, 44556.

<sup>17254</sup> Prosecution Final Brief, paras 1213-1226; T. 44556.

<sup>17255</sup> Prosecution Final Brief, paras 1308-1312.

<sup>17256</sup> Defence Final Brief, paras 2523-2575; T. 44610.

<sup>17257</sup> Defence Final Brief, paras 2576-2677.

<sup>17258</sup> Defence Final Brief, paras 2888-2894; T. 44793-44794.

<sup>17259</sup> P1235 is reviewed in chapter 7.1.5. P1515 is reviewed in chapter 7.1.5.

<sup>17260</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

in 1995;<sup>17261</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>17262</sup> **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>17263</sup> **Ljubomir Mitrović**, the president of the Exchange Commission in the IBK as of 12 April 1994;<sup>17264</sup> **Milenko Todorović**, Assistant Commander of the Intelligence and Security Organ of the IBK as of 16 November 1993;<sup>17265</sup> **Mirko Trivić**, Commander of the 2nd Romanija Motorised Brigade from August 1994;<sup>17266</sup> **Witness RM-284**, a Bosnian Serb;<sup>17267</sup> **Bruce Bursik**, an investigator with the Prosecution as of 1 September 1999;<sup>17268</sup> **Milenko Jevđević**, Commander of the Signals Battalion of the DK from November 1992;<sup>17269</sup> **Miodrag Dragutinović**, Assistant Chief of Staff for Operations and Training in the Zvornik Brigade and Operations Officer in the Zvornik Brigade's Tactical Group 1;<sup>17270</sup> **Svetozar Andrić**, Commander of the VRS Birač Brigade in Šekovići from 19 May 1992 to 6 August 1995, then Chief of Staff of the DK until March 1996;<sup>17271</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>17272</sup> and **Petar Škrbić**, the Assistant Commander for Organisation, Mobilisation, and Personnel affairs of the VRS Main Staff in July 1995.<sup>17273</sup> Evidence and findings in relation to the Hotel Fontana meetings are set out in chapter 7.1.4 above.

#### *Precursors to the attack on Srebrenica*

4928. On 31 March 1995, Mladić recorded a meeting he had in Pale with the Bosnian-Serb Republic leadership, including Karadžić, Koljević, Finance Minister Pejić, Tomo

<sup>17261</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322).

<sup>17262</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>17263</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676.

<sup>17264</sup> P3507 (Ljubomir Mitrović, *Tolimir* transcript, 6-7 June 2011), pp. 15144, 15152, 15156-15160.

<sup>17265</sup> Milenko Todorović, T. 19835, 19837.

<sup>17266</sup> P1463 (Mirko Trivić, *Popović et al.* transcript, 18, 21 May 2007), p. 11795.

<sup>17267</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

<sup>17268</sup> Bruce Bursik, T. 38860.

<sup>17269</sup> Milenko Jevđević, T. 31843, 31846-31847, 31856.

<sup>17270</sup> Miodrag Dragutinović, T. 32224; P7156 (Miodrag Dragutinović, witness statement, 29 July 2014), para. 3; D914 (Order to establish the tactical group 1 of the Zvornik Brigade, signed on 2 July 1995 by Pandurević), p. 1.

<sup>17271</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), para. 1; Svetozar Andrić, T. 34737; D1034 (Order of hand-over of duties as Commander of the 1st Birač Infantry Brigade from Andrić to Colonel Ljubomir Vlačić, 6 August 1995).

<sup>17272</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>17273</sup> Petar Škrbić, T. 13981.

Kovač, and Krajišnik, regarding the supply for the VRS.<sup>17274</sup> Mladić recorded Kovač to have stated ‘we have to install order in the army, the MUP and the banks’.<sup>17275</sup> Mladić then recorded Kovač to have discussed ‘[t]he holy trinity of the municipality (municipal government, army [Brigade command], Chief of Police Station)’.<sup>17276</sup> Krajišnik stated that ‘[a]s an orchestra, we are slightly out of tune. [...] This is the first meeting. The needs were outlined. Everything has to be put on the table, we have to be united’.<sup>17277</sup> Karadžić ordered a working version of the war budget to be made by 7 April 1995’.<sup>17278</sup>

4929. On 15 and 16 April 1995, Mladić recorded in his notebook that he held an exposé at the 50th Session of the Bosnian-Serb Assembly in Sanski Most; the assembly was attended by Karadžić, Minister of Defence Milan Ninković, Tomo Kovač, VRS generals and high-ranking officers, Municipal SDS Presidents and Executives, high-ranking SDS officials, and high-ranking MUP officials.<sup>17279</sup> One of the deputies at the assembly, Kerović, lamented the discord between the state, the political leadership, and the VRS Main Staff.<sup>17280</sup> During the session, many Assembly members were dissatisfied with Mladić’s exposé. They expressed strong discontent with the army, the battles it lost over the last six months, and the manner in which it was functioning. Among others, Đurić lamented corruption in the ranks of the VRS and stated that he had requested Mladić’s replacement twice and commented that Gvero and Tolimir ‘cannot stay’ in the VRS Main Staff.<sup>17281</sup>

4930. Around 14 June 1995, the VRS cancelled the UNHCR aid convoy to Srebrenica due to the latter’s refusal to submit to the demand made by the VRS that it should be allocated 50 per cent of the aid.<sup>17282</sup>

4931. **Miroslav Deronjić** stated that he was appointed to the position of civilian commissioner for Srebrenica on 11 July 1995.<sup>17283</sup> His main task in this respect was the

<sup>17274</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 73.

<sup>17275</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 75.

<sup>17276</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 75.

<sup>17277</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 76.

<sup>17278</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 77.

<sup>17279</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 91-113. *See also* P4583 (Transcript from 50th Session of the Bosnian-Serb Republic Assembly, 16 April 1995).

<sup>17280</sup> P345 (Mladić notebook, 27 January - 5 September 1995), p. 93. *See also* P4583 (Transcript from 50th Session of the Bosnian-Serb Republic Assembly, 16 April 1995).

<sup>17281</sup> P345 (Mladić notebook, 27 January - 5 September 1995), pp. 102-103. *See also* P4583 (Transcript from 50th Session of the Bosnian-Serb Republic Assembly, 16 April 1995).

<sup>17282</sup> P2806 (Daily report to the UNSC, 14 June 1995).

treatment of the civilians of Srebrenica Municipality, *i.e.* to 'ensure that all civilian and military organs treat all citizens who participated in combat against the Army of Republika Srpska as prisoners of war, and ensure that the civilian population can freely choose where they will live or move to'.<sup>17284</sup> Decisions taken by the civilian commissioner were binding for all civilian authority organs in Srebrenica Municipality.<sup>17285</sup> According to Deronjić, he was not in a position to give orders to the military.<sup>17286</sup> In the evening of 11 July, Deronjić had a telephone conversation with Karadžić inquiring what exactly was meant with regard to the parts of his appointment relating to POWs.<sup>17287</sup> Karadžić replied that this matter would fall under the authority of Mladić and that he would give him orders about that.<sup>17288</sup> **Petar Škrbić** testified that on 11 July 1995 the VRS Main Staff was aware of the need for 50 buses for evacuating non-Serbs.<sup>17289</sup>

*Meeting at Bratunac Brigade headquarters*

4932. **Witness RM-284** testified that on 12 July 1995 Krstić met with the commanders of the DK at the Bratunac Brigade command post from 8 or 9 p.m. until between 11 p.m. and midnight.<sup>17290</sup> Mladić was present for the entire meeting.<sup>17291</sup>

4933. **Bruce Bursik** testified that during interviews he conducted with Momir Nikolić on 28 and 29 April and 1 May 2003 at the UNDU, Nikolić disclosed that he had seen Mladić and other commanders attend a meeting on the night of 11 July 1995 at the

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<sup>17283</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6137; P3568 (Three copies of Directive 01-1340/95, Decision on appointment of Miroslav Deronjić, 11 July 1995), p. 1.

<sup>17284</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6163-6164; P3568 (Three copies of Directive 01-1340/95, Decision on appointment of Miroslav Deronjić, 11 July 1995), p. 1.

<sup>17285</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6158-6160, 6163-6164; P3568 (Three copies of Directive 01-1340/95, Decision on appointment of Miroslav Deronjić, 11 July 1995), p. 1.

<sup>17286</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6163-6164, 6342.

<sup>17287</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6403-6404, 6408-6409.

<sup>17288</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), p. 6403.

<sup>17289</sup> Petar Škrbić, T. 14024-14025, 14029.

<sup>17290</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14594-14595; Witness RM-284, T. 11130-11131.

<sup>17291</sup> Witness RM-284, T. 11131.

Bratunac Brigade command.<sup>17292</sup> Nikolić found out from Blagojević that in the meeting they analysed the attack on Srebrenica.<sup>17293</sup>

4934. According to **Svetozar Andrić**, on the evening of 11 July 1995, Mladić, Pandurević, Krstić, Blagojević, and he himself attended a meeting at the Bratunac Brigade headquarters.<sup>17294</sup> The only decision taken at this meeting was to continue operations towards Žepa; there was no mention of any liquidations or relocation of the local population.<sup>17295</sup> On 12 July, the witness's unit received the task to march to Mount Viogor, where it was inspected by Mladić and Krstić, and where Mladić tasked the unit to go towards Žepa.<sup>17296</sup> **Miodrag Dragutinović** testified that he travelled from Zeleni Jadar to Srebrenica with Commander Pandurević, who told him that on the evening of 11 July 1995, he had had a debriefing at the command of the Bratunac Brigade.<sup>17297</sup> Pandurević told the witness that the debriefing was called by Krstić and that it was about previous combat activities and the future task regarding the deployment of units in the Žepa sector.<sup>17298</sup> According to the witness, 'the presence of General Mladić [at this meeting] was obvious'.<sup>17299</sup>

4935. Dragutinović testified that on the evening of 12 July 1995, both groups stayed in Viogor, where, at around 5 or 6 p.m., General Krstić instructed them to start marching towards the enclave of Žepa the following morning.<sup>17300</sup> In the morning of 13 July 1995, at around 10 a.m., Mladić also visited the groups in Viogor and ordered the unit commanders to gather their units and start marching in the direction of the Žepa sector.<sup>17301</sup>

<sup>17292</sup> D1228 (Information Report, 23 June 2003), p. 1; P7542 (Addendum to information report); Bruce Bursik, T. 38908-38909.

<sup>17293</sup> Bruce Bursik, T. 38859; D1228 (Information Report, 23 June 2003), pp. 1-2.

<sup>17294</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), para. 19.

<sup>17295</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), para. 19.

<sup>17296</sup> D1033 (Svetozar Andrić, witness statement, 16 July 2013), para. 20.

<sup>17297</sup> Miodrag Dragutinović, T. 32240.

<sup>17298</sup> Miodrag Dragutinović, T. 32242, 32258.

<sup>17299</sup> Miodrag Dragutinović, T. 32260.

<sup>17300</sup> Miodrag Dragutinović, T. 32244; P7156 (Miodrag Dragutinović, witness statement, 29 July 2014), paras 15, 17.

<sup>17301</sup> Miodrag Dragutinović, T. 32243; P7156 (Miodrag Dragutinović, witness statement, 29 July 2014), paras 18-19.

<sup>17301</sup> Miodrag Dragutinović, T. 32245-32246.

4936. **Mirko Trivić** testified that on 12 July 1995 Mladić arrived at the Bratunac Brigade headquarters at 10 p.m. and ordered General Krstić to prepare a decision to go to Žepa.<sup>17302</sup>

4937. **Milenko Jevđević** testified that he participated in the meeting at the Bratunac Brigade headquarters on 11 July 1995 between 10 and 11 p.m. and that the meeting was headed by Mladić, and the participants included Živanović, Krstić, Pandurević, Furtula, and all the brigade commanders of the DK who had taken part in operation 'Krivaja 95'.<sup>17303</sup> The witness based his conviction that the meeting was on 11 July, as opposed to 12 July, on his memory that Zvonko Bajagić, a very religious person, appeared at the end of the meeting carrying a platter with fish.<sup>17304</sup> On Saint Peter's day, which is on 12 July, according to Christian Orthodox customs, meat is traditionally served.<sup>17305</sup> This is not the case, however, if Saint Peter's day falls on a Wednesday or Friday.<sup>17306</sup> The witness acknowledged that 12 July 1995 fell on a Wednesday.<sup>17307</sup> During the meeting, an analysis of the combat actions of the day was presented, and Mladić stated that on the following day, all units that participated in the 'Krivaja 95' operation were to regroup and set towards Žepa, in order to execute the operation 'Stupanica 95'.<sup>17308</sup> The witness was ordered to set up a command post at Krivace between Srebrenica and Žepa.<sup>17309</sup> According to the witness, he arrived in the area of Žepa on 12 July, where he found that parts of the 5th Light Infantry Brigade were already present.<sup>17310</sup> The other units were relocated from Srebrenica during the night of 13 and 14 July and the operation itself started in the morning of 14 July.<sup>17311</sup>

### *12 and 13 July 1995*

4938. Prior to the third Hotel Fontana meeting in the morning of 12 July 1995, **Momir Nikolić** briefly spoke with Lieutenant Colonels Popović and Kosorić in front of the

<sup>17302</sup> Mirko Trivić, T. 11272-11273; P1467 (Personal diary of Mirko Trivić), pp. 25, 28.

<sup>17303</sup> Milenko Jevđević, T. 31972-31973, 31995, 31998, 32001, 32151-32152, 32059-32060.

<sup>17304</sup> Milenko Jevđević, T. 32151-32152, 32182.

<sup>17305</sup> Milenko Jevđević, T. 32151-32152, 32177-32179, 32181-32182, 32198.

<sup>17306</sup> Milenko Jevđević, T. 32151-32152, 32177-32179, 32181-32182, 32198.

<sup>17307</sup> Milenko Jevđević, T. 32198.

<sup>17308</sup> Milenko Jevđević, T. 31973-31974, 31996, 31998-31999.

<sup>17309</sup> Milenko Jevđević, T. 31974, 32001-32002.

<sup>17310</sup> Milenko Jevđević, T. 32061.

<sup>17311</sup> Milenko Jevđević, T. 31975, 32002.

hotel.<sup>17312</sup> Popović told the witness that all the women and children would be transferred from the territory to territory under the control of the Muslim forces, *i.e.* Kladanj or Tuzla.<sup>17313</sup> The witness asked what would happen to the able-bodied men, to which Popović responded that all the ‘balijas’ should be killed.<sup>17314</sup> The witness told Popović that there were vacant facilities in Bratunac where the separated able-bodied men from Potočari could be temporarily held, including the Vuk Karadžić primary school, the hangar, and the sports gym.<sup>17315</sup> The witness, Kosorić, and Popović then discussed possible execution sites, including the Sase mine and the brick factory (known as *Ciglana*).<sup>17316</sup>

4939. **Bursik** testified about his interview with Nikolić in May 2003. According to the interview, when Nikolić spoke with Kosorić and Popović outside Hotel Fontana on the morning of 12 July 1995 about the killings, they discussed the killings in such a manner that it sounded like the motive for the killings was an act of revenge.<sup>17317</sup> On 12 July 1995, after the first convoy left Potočari and three to four hours after first hearing of the killing operation, Nikolić returned to the Bratunac Brigade headquarters and compiled a report about separations and mentioned that all the men would be killed. On the same day, Nikolić told Colonel Janković about the killing operation; Janković told him that all those separated would be transported to Bratunac facilities and it was at that stage when Nikolić realized that Janković already had knowledge of the killing operation. Nikolić then asked Janković why the people were going to be detained in Bratunac and not transported to Kladanj, to which Janković replied that it was an order and that he should not comment on it. Nikolić stated that he never mentioned the killings in his written report, but only in his verbal report. Nikolić disclosed to Bursik that he never told anyone at the time who his source was, *i.e.* Popović and Kosorić. Nikolić stated that he had never received a direct order to kill the separated men, but that he was just told what their fate would be.<sup>17318</sup> On the evening of 12 July 1995 and the morning of the

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<sup>17312</sup> Momir Nikolić, T. 11820, 11827; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>17313</sup> Momir Nikolić, T. 11820; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>17314</sup> Momir Nikolić, T. 11820; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>17315</sup> Momir Nikolić, T. 11821-11822; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>17316</sup> Momir Nikolić, T. 11821-11823, 11827; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), para. 4.

<sup>17317</sup> D1228 (Information Report, 23 June 2003), p. 2; P7542 (Addendum to information report).

<sup>17318</sup> D1228 (Information Report, 23 June 2003), p. 3.

following day, Nikolić discussed the killing of captured Muslims with Blagojević.<sup>17319</sup> According to Nikolić, Blagojević knew about ‘everything’ and gave him authorisation to continue.<sup>17320</sup> The Trial Chamber also considered the testimony and statement of Nikolić in relation to these matters, as further set out in chapter 7.1.5.

4940. **Deronjić** testified that Ljubiša Beara, who was very drunk, came into his office in the evening of 13 July 1995 and told him that he was about to kill all detainees in Bratunac and that he would do so based on ‘orders from the top’.<sup>17321</sup> Deronjić argued with Beara, saying that he had orders of a different kind which originated from Karadžić and that he would not allow those killings to be committed in Bratunac.<sup>17322</sup> The detainees were not killed in Bratunac that night and instead they were taken to Zvornik on 14 July.<sup>17323</sup> On that day, Deronjić went to see Karadžić and conveyed Beara’s intentions of the previous night and got the impression that Karadžić would do something about it.<sup>17324</sup>

4941. **Milenko Todorović** stated that in the evening of 11 July or morning of 12 July, he received orders from General Tolimir to prepare Batković camp for the impending arrival of between 1,000 and 1,200 POWs from Srebrenica.<sup>17325</sup> According to the witness, these detainees would have been traded for the release of captured members of the VRS, but they never arrived and after a few days Tolimir conveyed that the order was given up on.<sup>17326</sup> Tolimir did not tell him the reason for the change in plans, but he later heard that there had been mass executions near Pilica.<sup>17327</sup> **Ljubomir Mitrović**

<sup>17319</sup> D1228 (Information Report, 23 June 2003), p. 8.

<sup>17320</sup> D1228 (Information Report, 23 June 2003), p. 8.

<sup>17321</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6226, 6274, 6445-6447, 6449, 6452.

<sup>17322</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6226, 6274, 6278.

<sup>17323</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6226, 6274, 6278-6279, 6445, 6450.

<sup>17324</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6226-6227.

<sup>17325</sup> P2914 (Milenko Todorović, Interview, 2 February 2010), pp. 2-4, 6; P2915 (Milenko Todorović, *Tolimir* transcript, 18-20 April 2011), pp. 12933-12934, 12936-12939; Milenko Todorović, T. 19814-19817, 19820-19821, 19852-19856, 19858. *See also* P3507 (Ljubomir Mitrović, *Tolimir* transcript, 6-7 June 2011), pp. 15144, 15154-15156, 15174, 15179, 15183.

<sup>17326</sup> P2914 (Milenko Todorović, Interview, 2 February 2010), pp. 2, 7-10, 15; P2915 (Milenko Todorović, *Tolimir* transcript, 18-20 April 2011), pp. 12941-12944, 12993, 13122; Milenko Todorović, T. 19814, 19818, 19822-19823, 19858-19859. *See also* P3507 (Ljubomir Mitrović, *Tolimir* transcript, 6-7 June 2011), pp. 15174-15175, 15183-15184.

<sup>17327</sup> P2914 (Milenko Todorović, Interview, 2 February 2010), p. 10. *See also* P3507 (Ljubomir Mitrović, *Tolimir* transcript, 6-7 June 2011), pp. 15175, 15184.

stated that later, he heard from Todorović that 20 wounded men from Srebrenica had arrived.<sup>17328</sup>

*Opening of a corridor*

4942. **Witness RM-322** testified that during a meeting on 15 July 1995, Vasić of the MUP suggested that in order to avoid casualties and minimise threats to security, a corridor should be opened to let the Muslim column through.<sup>17329</sup> When the VRS Main Staff was contacted in this respect, Miletić did not approve and instead said that the column should be destroyed using all military hardware possible as had been previously ordered, and complained about the telephone call being made on an insecure line before hanging up.<sup>17330</sup> Vasić then called a MUP advisor in Pale on speakerphone and asked permission to let the column pass, but the advisor told him to alert the air force and ‘kill them all’.<sup>17331</sup> When Krstić was contacted and informed of the situation and that Zvornik was about to fall, Krstić said that there should not be any worry, that Pandurević and ‘Legenda’, whom the witness knew referred to Captain Jolović of the Drina Wolves, and his men were on their way to Zvornik.<sup>17332</sup> The witness also informed Pandurević about the location and size of the column and Pandurević asked why the column had not been stopped using the military hardware as ordered.<sup>17333</sup> When the witness suggested that a corridor be opened for the column to pass as discussed, Pandurević was against the proposal, stating that no one had the right to trade Serb land and that things would be done the way he ordered them to be done.<sup>17334</sup>

4943. After the call with Krstić had concluded, Vasić said that the situation in Bratunac had become dangerous because of the problems associated with guarding large numbers of Muslim detainees and the lack of space to accommodate them which had led to incidents in which detainees who had to spend the night on buses became agitated and began rocking the buses. Borovčanin said that he was not happy that civilian police were being used to provide security on the buses and he did not want the police to provide security for the detainees when they reached Zvornik. Borovčanin further said

<sup>17328</sup> P3507 (Ljubomir Mitrović, *Tolimir* transcript, 6-7 June 2011), pp. 15175, 15179.

<sup>17329</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 3.

<sup>17330</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 3.

<sup>17331</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 4.

<sup>17332</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 4.

<sup>17333</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 5.

<sup>17334</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 5; Witness RM-322, T. 11649-11650.

that after battles with the column he had not expected such a large number of people to have passed through the lines in the Konjević Polje area, and that large numbers of detainees trying to cross the lines on the Konjević Polje road had been captured by the special police.<sup>17335</sup>

4944. **Ljubomir Bojanović** stated that in the afternoon of 15 July 1995, he saw Pandurević and the chief of staff talking at the IKM for 30 to 45 minutes.<sup>17336</sup> After the conversation, Pandurević asked the witness to come to the command post and dictated the content of an interim combat report to him which Pandurević then signed and sent to the DK Command at 7:25 p.m.<sup>17337</sup> According to the witness, the report stated that the large number of detainees distributed throughout schools in the brigade's area of responsibility constituted an additional burden for the brigade and that if no one else would take over responsibility for them, the command would be forced to release the detainees.<sup>17338</sup>

4945. According to an intercept of a conversation between Beara and Krstić on 15 July 1995 at 10 a.m., Beara stated that 'Furtula didn't carry out the boss's order' and that he needed 15 or 30 men and Boban Inđić for the day, 'just like it was ordered'.<sup>17339</sup> Krstić suggested to him to take men from Nastić or Blagojević, and added: 'Check with Blagojević. Take his Red Berets'.<sup>17340</sup> Beara replied that they had taken off and that only four remained.<sup>17341</sup> Krstić then suggested that Beara take men from the MUP.<sup>17342</sup> Beara said that he had talked to them and 'they won't do anything' and that there was no other solution than to take 15 to 30 men with Inđić.<sup>17343</sup> He added: '[t]here are still 3,500 "parcels" that I have to distribute and I have no solution'.<sup>17344</sup> Krstić responded that he would see what he could do.<sup>17345</sup>

<sup>17335</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 4.

<sup>17336</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11723-11724. The Trial Chamber understands the reference to 'chief of staff' as a reference to the Zvornik Brigade's chief of staff Dragan Obrenović.

<sup>17337</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11724-11725, 11728.

<sup>17338</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), p. 11727.

<sup>17339</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995). *See also* P1322 (Intercept of conversation).

<sup>17340</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995). *See also* P1322 (Intercept of conversation).

<sup>17341</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995). *See also* P1322 (Intercept of conversation).

<sup>17342</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995).

<sup>17343</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995).

<sup>17344</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995).

<sup>17345</sup> P2126 (Intercept of conversation between Beara and Krstić, 15 July 1995).

4946. **Witness RM-322** testified that sometime before 6 p.m. on 15 July 1995, shelling in Zvornik was reported and ‘the enemy’ blocked the Zvornik Brigade’s escape route.<sup>17346</sup> The Bosnian-Serb forces endured heavy fighting and eventually withdrew from the area sometime between 1 and 2 p.m. on 16 July 1995, having lost 30 to 40 men.<sup>17347</sup> Subsequently, Pandurević changed his mind and the corridor was finally opened around 2 p.m. on 16 July to allow the column to pass through to Muslim territory, and then closed between 5 and 6 p.m. the same day.<sup>17348</sup> In his interim combat report to the Command of the DK, Pandurević explained that the opening of the corridor was necessary to allow about 5,000 Muslim civilians to pass through, and that although it was likely that there were some soldiers among those who had passed, they were unarmed.<sup>17349</sup> According to **Witness RM-322**, in his report Pandurević tried to justify his decision to open the corridor against all the orders received in this respect.<sup>17350</sup> Many Muslims from the 28th Division had died in and around the VRS trenches before the corridor was opened.<sup>17351</sup> The VRS collected some of the bodies of these Muslims and buried them in a mass grave at Parlog, near Krizevici.<sup>17352</sup>

4947. At approximately noon on 17 July 1995, the witness was asked by Pandurević to brief officers from the Main Staff led by Colonel Trkulja, about the opening of the corridor.<sup>17353</sup> The officers, including Colonels Sladojević and Stanković, were surprised about the losses suffered by the VRS and the witness gained the impression that the commander of the Brigade had come under scrutiny for opening up the corridor and that the officers thought that the VRS had not put up any resistance against the 28th Division.<sup>17354</sup>

4948. **Witness RM-322** stated that following an incident on 18 July 1995, when a Bosnian Serb soldier was shot when taking detainees into custody, Pandurević issued an order that to avoid risk, people should be shot rather than captured and that some

<sup>17346</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 6; Witness RM-322, T. 11896.

<sup>17347</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 6; Witness RM-322, T. 11897.

<sup>17348</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11650, 11656, 11896-11897.

<sup>17349</sup> P1513 (Interim combat report from the Zvornik Brigade addressed to the DK Command, 16 July 1995, signed by Commander Vinko Pandurević).

<sup>17350</sup> Witness RM-322, T. 11926.

<sup>17351</sup> Witness RM-322, T. 11656-11657, 11898-11899.

<sup>17352</sup> Witness RM-322, T. 11658.

<sup>17353</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11625, 11654-11655, 11928-11929; P1498 (Extracts from the Zvornik Brigade duty officer logbook, 11-18 July and 16-17 September 1995), p. 4.

<sup>17354</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7; Witness RM-322, T. 11625.

brigade units did not take detainees after this order was issued. Pandurević modified the order a few days later around 21 July stating over the radio that detainees were to be processed according to the standard procedures and, from around this time, detainees were again taken into custody. The witness testified that by 18 July 1995, news of the executions of the detainees was widespread and everyone was talking about it.<sup>17355</sup>

4949. **Milovan Milutinović** testified that in July 1995, Mladić spoke to UNPROFOR Commander General Rupert Smith on Bokšanica Hill, in the presence of the witness, about the safe area of Žepa.<sup>17356</sup> According to the witness, Smith commended Mladić on the army's fair treatment of the Srebrenica population, and Mladić promised Smith that the population and Muslim soldiers in Žepa would be treated fairly.<sup>17357</sup>

4950. According to an intercepted conversation between Mladić and Miloš Kostić on 17 July 1995 in relation to Žepa, Mladić stated that 'their' goal was not to target the civilian population or the UN forces, but the Muslim fundamentalist gangs and terrorists.<sup>17358</sup>

#### *Other statements*

4951. **Witness RM-322** testified that sometime in August 1995, when General Krstić was visiting Zvornik, one of the soldiers listened to a radio broadcast from Tuzla about the story of a survivor of one of the executions. Krstić ordered that the enemy radio should not be listened to. When the witness enquired why the killings had taken place, Krstić cut him short and said that they would not speak about the matter any more.<sup>17359</sup>

#### *The Trial Chamber's findings*

4952. The Trial Chamber received contradictory evidence about the date of a meeting held at the Bratunac Brigade headquarters. Trivić and Witness RM-284 gave evidence that the meeting took place in the evening of 12 July 1995. Andrić, Dragutinović, and Jevđević testified that the meeting took place in the evening of 11 July. Bursik also testified that Nikolić told him that the meeting took place on 11 July.

<sup>17355</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 7.

<sup>17356</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 93.

<sup>17357</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), para. 93.

<sup>17358</sup> P7397 (Intercepted communication between General Mladić and Miloš Kostić, 17 July 1995), p. 1.

<sup>17359</sup> P1494 (Witness RM-322, statement of facts, 20 May 2003), p. 8.

4953. The Trial Chamber considered the positions of the witnesses and their bases of knowledge for claiming when the meeting took place. The Trial Chamber refers to the confidential annex in Appendix D for more specific reasoning in this respect. The Trial Chamber noted inconsistencies between the evidence of the witnesses claiming the meeting took place on 11 July. Some witnesses claimed that the meeting solely concerned the upcoming advance on Žepa, others claimed it also analysed the attack on Srebrenica. Further, the evidence of Andrić and Dragutinović contained internal inconsistencies making it unreliable in this respect. Bursik based his evidence on an interview with Nikolić. A meeting at the Bratunac Brigade headquarters on 11 July is not mentioned in Nikolić's evidence. In relation to Jevđević's evidence, the Trial Chamber considers that his basis for claiming that the meeting took place on 11 July (at the meeting fish was served and on 12 July, a religious holiday, it is traditional to serve meat) was undermined by his own admission that meat would not be served on 12 July 1995 because it was a Wednesday. In any event, all witnesses testified that Mladić was present at this meeting. In this respect, the Trial Chamber recalls its finding that in the evening of 11 July 1995 Mladić was present at two meetings at Hotel Fontana (*see* chapter 7.1.4). Under these circumstances, the Trial Chamber will not rely on the evidence of Bursik, Andrić, Dragutinović, and Jevđević in relation to the date of the meeting at the Bratunac Brigade headquarters.

4954. With regard to the Defence's submission that Nikolić's evidence is generally unreliable, the Trial Chamber refers to its general discussion of the reliability of this witness's evidence, which is set out in Appendix B. With regard to the Defence's specific argument that Nikolić's behaviour following 12 July 1995 is illogical if there was a plan to murder Bosnian Muslims, his behaviour does not negate the existence of a plan to kill. Nikolić told Bursik that he never mentioned the killings in his written reports, but only in his verbal reports, which indicates that written reports may not contain the whole truth. In addition, if Nikolić indeed made efforts to evacuate wounded Bosnian-Muslim soldiers and spare Bosnian-Muslim UNPROFOR staff, this may affect whether he was a member of any JCE, not necessarily whether such a JCE existed. Accordingly, the Trial Chamber disagrees with the Defence's contention that Nikolić's behaviour is illogical if there was a plan to murder and rejects this specific Defence submission.

4955. With regard to the Defence's submissions on the reliability of intercept evidence, the Trial Chamber refers to its approach to this category of evidence set out in Appendix B.

4956. Based on the foregoing, the Trial Chamber finds that in the morning of 12 July 1995, prior to the third Hotel Fontana meeting, Popović, Kosorić, and Nikolić spoke in front of the hotel and Popović told Nikolić that all the women and children would be transferred to Kladanj or Tuzla. With regard to the able-bodied men, Popović said that all the 'balijas' should be killed. They then discussed temporary detention facilities and possible execution sites. Later, Nikolić told Janković about the killing operation and realised that Janković already knew. Janković said that all of this was ordered and that Nikolić should not comment on it. On the evening of 12 July, Nikolić discussed the killing operation with Blagojević, who also already knew and authorised him to continue. Also on the evening of 12 July, Mladić met a number of DK commanders, including Krstić, Pandurević, Blagojević, Živanović, Furtula, Jevđević, and Andrić, for a meeting at the Bratunac Brigade headquarters. Following the fall of Srebrenica, Tolimir ordered Todorović to prepare Batković camp for the arrival of over 1,000 detainees. Shortly thereafter, this order was cancelled by Tolimir without giving a reason. In relation to the column of Muslims trying to break through the lines of the Bosnian Serbs, Miletić said on 15 July that no corridor should be opened and that the column should be destroyed. A MUP adviser in Pale who was also consulted stated that the people in the column should be killed by the air force.

4957. With regard to the role of the MUP, the Defence argued that as of 12 or 13 July 1995: (i) operation *Krivaja 95* was considered completed; (ii) the combat engagement of MUP forces in the context of this operation was finished; (iii) the MUP forces were operating under their own command at that time, under Borovčanin; and (iv) from 13 July 1995 onwards, the actions of the MUP were conducted under the MUP command and not pursuant to any re-subordination to the VRS.<sup>17360</sup> Having considered, *inter alia*, the involvement of MUP forces in the Srebrenica operation and in Potočari, as well as their role in operations against the column and in the commission of crimes (*see* chapters 7.1.6; 7.2, *Schedule E.1.1*; 7.4, *Schedule E.3.1*; 7.5, *Schedule E.4.1*; 7.14, *Schedule E.15*; 7.17; and 8) from at least 12 until 17 July 1995; the direct orders Borovčanin and his forces received from Mladić and from VRS officers, including

<sup>17360</sup> Defence Final Brief, para. 2977.

Blagojević, from 11 July until at least 17 July 1995 about their deployment and military actions to block the column; and the reporting of MUP activities to the Bratunac Brigade, the Trial Chamber finds that from 11 July 1995 until at least 17 July 1995 the MUP forces deployed in the sector of Srebrenica and under Borovčanin's command were under the command of the VRS. The Trial Chamber thus dismisses the Defence's arguments that the MUP forces were operating under their own command in Srebrenica as of 12 or 13 July 1995.

4958. The Trial Chamber will further consider these findings in chapter 9.6.4 when determining whether the Srebrenica JCE existed. The Trial Chamber will also further address Mladić's role in the alleged Srebrenica JCE in chapter 9.7.

### *9.6.3 Attempts to cover up and the non-investigation of crimes*

4959. The Prosecution argued that members of the alleged Srebrenica JCE, including members of the VRS, attempted to conceal and cover up crimes committed in Srebrenica between the days immediately preceding 11 July 1995 and continuing until 1 November 1995.<sup>17361</sup> The Trial Chamber considered the evidence concerning the reburial operations in Srebrenica and other municipalities in chapter 7.18. In the present chapter, the Trial Chamber will first consider evidence in relation to attempts to conceal the commission of some of the crimes charged in the Indictment committed in Srebrenica. It will then turn to evidence on whether there were investigations and punishments of the perpetrators of crimes in Srebrenica, which the Trial Chamber has found to have been committed within the geographic and temporal scope of the Indictment. The Trial Chamber received evidence from **Witness RM-513**, a Bosnian Serb from Bijeljina;<sup>17362</sup> **Witness RM-269**, a member of the Drina Wolves from 1993 and a Military Police officer in the Zvornik Brigade in June and July 1995;<sup>17363</sup> **Ljubomir Bojanović**, a member of the Zvornik Brigade in 1995;<sup>17364</sup> **Witness RM-294**, a Bosnian Muslim from Srebrenica Municipality;<sup>17365</sup> **Predrag Drinić**, a VRS chief military prosecutor from 1992 to 2000;<sup>17366</sup> and **Miroslav Deronjić**, the President

<sup>17361</sup> Prosecution Final Brief, paras 1392-1397; Indictment, para. 19.

<sup>17362</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), p. 1, paras 2, 4-6.

<sup>17363</sup> P1561 (Witness RM-269, *Popović et al.* transcript, 29 January 2007), pp. 6437-6438.

<sup>17364</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11673, 11676.

<sup>17365</sup> Witness RM-294, T. 9838, 9840; P1136 (Pseudonym sheet for Witness RM-294, 16 April 2013).

<sup>17366</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10843-10844.

of the Bratunac Municipality Crisis Staff as of April 1992;<sup>17367</sup> as well as documentary evidence.

*Concealment of crimes*

4960. The Trial Chamber recalls its findings in chapter 7.7, *Scheduled Incidents E.6.1 and E.6.2* and chapter 8.3.2 that on 14 July 1995, members of the Zvornik Brigade shot and killed Bosnian-Muslim men previously detained at Grbavci School in Orahovac. **Richard Butler** testified that erased entries on a personnel roster for the Zvornik Brigade Military Police Company listed Miomir Jasikovac (the Military Police Company's Commander), Nada Stojanović, Goran Bogdanović, Čedo Jović, Dragoje Ivanović, Predrag Ristić, Željko Stevanović, Milomir Simić, Stanoje Birčaković, and Slađan Jokić as present in Orahovac on 14 July 1995.<sup>17368</sup> The entries indicating that personnel had been in Orahovac were erased and replaced with entries indicating that this personnel had been in the terrain instead.<sup>17369</sup> **Witness RM-269** testified that the record of attendance for members of the Zvornik Brigade was maintained by Stevo Kostić.<sup>17370</sup> In the record's entry for 14 July 1995 the letter 'T' indicating 'Terrain' was noted next to the witness's name.<sup>17371</sup> The witness also testified that the letter 'O', which appears faintly underneath the entry 'T', would stand for 'Orahovac' where the witness was actually deployed on that day.<sup>17372</sup> According to the witness, the entry 'O' would be the correct one.<sup>17373</sup> The letter 'T' was also recorded under the entry concerning his attendance for 15 July 1995, and the inscription 'R' was faintly visible underneath.<sup>17374</sup> He testified that the entry 'R' was consistent with his deployment in Ročević on that day and was, in his view, the correct entry.<sup>17375</sup> In addition, the entry for 14 July 1995 concerning Nada Stojanović, who was also in Orahovac according to the witness, stated 'T' while the inscription 'O' was still visible underneath.<sup>17376</sup> During the

<sup>17367</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2.

<sup>17368</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), paras 7.7, 7.17. The Trial Chamber has also considered exhibit P1565 in relation to the correct spelling of names.

<sup>17369</sup> P2203 (Richard Butler, Military Narrative on Operation *Krivaja 95* in Srebrenica, 1 November 2002), para. 7.16.

<sup>17370</sup> Witness RM-269, T. 12727-12728.

<sup>17371</sup> Witness RM-269, T. 12710-12712; P1565 (Zvornik Brigade attendance roster, July 1995), pp. 5, 8.

<sup>17372</sup> Witness RM-269, T. 12710-12712.

<sup>17373</sup> Witness RM-269, T. 12712.

<sup>17374</sup> Witness RM-269, T. 12712; P1565 (Zvornik Brigade attendance roster, July 1995), pp. 5, 8.

<sup>17375</sup> Witness RM-269, T. 12712-12713.

<sup>17376</sup> Witness RM-269, T. 12713; P1565 (Zvornik Brigade attendance roster, July 1995), pp. 3, 8.

testimony of Witness RM-269, the Trial Chamber also noted that on a personnel roster of the Zvornik Brigade an inscription which appeared to be an ‘O’ (which would stand for ‘Orahovac’) had been rubbed out of the legend.<sup>17377</sup> The parties did not dispute this observation.<sup>17378</sup>

4961. **Ljubomir Bojanović** stated that on 14 to 15 July 1995, Dragan Jokić was the duty operations officer of the Zvornik Brigade.<sup>17379</sup> According to a daily combat report drafted on 14 July 1995 and signed by the Chief of Staff Major Dragan Obrenović, the situation in the area of responsibility of the 1st Zvornik Infantry Brigade was ‘stable and under control’ and there were no unexpected events.<sup>17380</sup> According to the witness, a mass execution of detainees in the Zvornik Brigade’s area of responsibility would have qualified as an extraordinary event that would have been reflected in a daily combat report and notified to the superior command.<sup>17381</sup>

4962. The Trial Chamber recalls its findings in chapters 7.1.5, 8.3.2, and 8.5.2 that on 12 and 13 July 1995, the VRS, and more particularly the DK, transferred about 25,000 Bosnian Muslims, mostly women, children, and elderly, in buses and trucks outside the enclave of Srebrenica to the territory under ABiH control. The Trial Chamber further recalls the evidence of **Witness RM-294** and **Miroslav Deronjić** reviewed in chapter 7.1.5 that a document signed by the DutchBat Deputy Commander Major Franken, Miroslav Deronjić, and Nesib Mandžić on 17 July 1995 about the evacuation in Potočari did not reflect the reality with regard to options the population would have had, as no one was given a choice to either remain or be evacuated.

*Investigation and punishment of the perpetrators*

4963. The Trial Chamber recalls its findings in chapter 9.2.12 on the general functioning of the Bosnian-Serb military and civilian justice systems. The Trial Chamber further recalls its findings in chapters 7.2-7.15 and 8.3.2 with regard to the killings of Bosnian Muslims in Srebrenica Municipality between the days immediately preceding 11 July and continuing until 1 November 1995. **Witness RM-513** testified

<sup>17377</sup> Witness RM-269, T. 12715-12716; P1565 (Zvornik Brigade attendance roster, July 1995), p. 8.

<sup>17378</sup> T. 12716.

<sup>17379</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), p. 11705.

<sup>17380</sup> P3572 (Zvornik Brigade Daily Combat Report, 14 July 1995), paras 3-4; P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11705-11706.

<sup>17381</sup> P3570 (Ljubomir Bojanović, *Blagojević and Jokić* transcript, 8-9 July 2004), pp. 11706-11707.

that in July 1995, the DK came under the jurisdiction of the Bijeljina Military Court, but that there were no investigations or prosecutions with regard to the killings of Muslims in Srebrenica or the Zvornik area by members of the DK, even though information of mass killings was discussed by VRS officers and reached Bijeljina almost immediately in the days following the fall of Srebrenica.<sup>17382</sup> **Predrag Drinić** stated that he attended a meeting on 25 or 26 March 1996 in the office of Dragomir Vasić, the chief of the Zvornik SJB, to discuss an order from Radovan Karadžić of 23 March 1996 requesting the VRS and MUP to immediately form a mixed expert commission to investigate the alleged discovery of two decomposed bodies in the Pilica area in Zvornik Municipality.<sup>17383</sup> Milorad Trbić attended the meeting on behalf of the Zvornik Brigade.<sup>17384</sup> Following the meeting, the witness wrote a letter to the Department of Intelligence and Security Affairs of the VRS Main Staff, in which he proposed the initiation of an investigation and to which he never received an answer.<sup>17385</sup> A follow-up order from Radovan Karadžić of 1 April 1996 ordered a detailed investigation into the locations of victims of the armed conflict in and around Srebrenica, including their identification as well as any relevant information surrounding their deaths.<sup>17386</sup> While the witness is listed as recipient on the order, he stated that he had never received it.<sup>17387</sup> According to the witness, no investigations were conducted by any Bosnian-Serb military or civilian authority regarding crimes committed in Srebrenica in 1995.<sup>17388</sup>

### *The Trial Chamber's findings*

4964. As mentioned above, the Trial Chamber considered the evidence concerning the reburial operations in Srebrenica and other municipalities in chapter 7.18, and it refers to its findings in that chapter.

<sup>17382</sup> P1054 (Witness RM-513, witness statement, 25 June 2011), paras 82-83; Witness RM-513, T. 9267-9268.

<sup>17383</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10879-10880; P3353 (Notice from VRS military prosecutor on the establishment of a commission for the exhumation of bodies in Pilica), pp. 3, 6, 8.

<sup>17384</sup> P3353 (Notice from VRS military prosecutor on the establishment of a commission for the exhumation of bodies in Pilica), p. 3.

<sup>17385</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10883-10884; P3353 (Notice from VRS military prosecutor on the establishment of a commission for the exhumation of bodies in Pilica), pp. 3, 5.

<sup>17386</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), p. 10880; P3354 (Order from Radovan Karadžić with regard to investigation in Srebrenica, 1 April 1996).

<sup>17387</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10885-10886, 10889, 10894-10895.

4965. The Trial Chamber recalls its findings in chapter 9.7.4 that on 13 July 1995, Mladić gave an order which called for the prevention of entry of local and foreign journalists into the zones of combat operations in Srebrenica and Žepa, as well as a ban on giving any information to the media about operations in Srebrenica, particularly on POWs, evacuated civilians and escapees, and that Mladić's action was to keep the media from knowing what was happening in Srebrenica. The Trial Chamber further recalls its finding that Mladić was deliberately misleading a representative of the international community, the public and the media when on 11 July 1995, he said that the civilians were free to stay or go, adding that if people gathered in Potočari decided to leave they would be taken to Kladanj or anywhere they liked; and when on 19 July 1995, Mladić said to Smith that the population present in Potočari was evacuated at its own request.

4966. With respect to the alleged concealment of killings of Bosnian-Muslim men previously detained at Grbavci School in Orahovac, the Trial Chamber finds that a member or members of the Zvornik Brigade made efforts to conceal these killings by falsifying entries and the legend of the record of attendance of the Zvornik Brigade in a way to suggest that personnel of the Zvornik Brigade was not in Orahovac, the place/scene of the killings, but in the terrain instead.

4967. With regard to the alleged concealment of crimes during transportation out of Potočari, the Trial Chamber finds that a declaration signed by, *inter alios*, Miroslav Deronjić, on 17 July 1995 did not reflect the reality with regard to options the population would have had, as no one was given a choice to either remain or be evacuated.

4968. With respect to the investigation and punishment of the perpetrators of the killings of Bosnian Muslims in Srebrenica between the days immediately preceding 11 July and continuing until 1 November 1995, the Trial Chamber finds that since July 1995 there were no investigations or prosecutions with regard to the killings of Bosnian Muslims in Srebrenica or the Zvornik area by members of the DK, although VRS officers were aware of such killings. The Trial Chamber further finds that on 23 March 1996, Radovan Karadžić ordered the VRS and MUP to immediately form a mixed commission to investigate the alleged discovery of two decomposed bodies in the Pilica area, however the proposal of such investigation by Drinić was never addressed. In

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<sup>17388</sup> P3351 (Predrag Drinić, *Blagojević and Jokić* transcript, 15 June 2004), pp. 10879, 10892-10893.  
Case No.: IT-09-92-T 2378 22 November 2017

addition, although on 1 April 1996 Radovan Karadžić ordered a detailed investigation into the locations and deaths of victims of the armed conflict in and around Srebrenica, no investigations were conducted by any Bosnian-Serb military or civilian authority in relation to these crimes.

4969. The Trial Chamber will further consider these findings in chapter 9.6.4 when determining whether the Srebrenica JCE existed. The Trial Chamber will also further address Mladić's role in the concealment and non-punishment of crimes in Srebrenica chapter 9.7.

#### *9.6.4 Conclusion*

4970. The Prosecution argued that from about 11 July 1995, the Accused and others shared a common criminal objective to eliminate the Bosnian Muslims in Srebrenica.<sup>17389</sup> This objective encompassed the crimes of forcible transfer, genocide, extermination, murder, and persecutions (through cruel or inhumane treatment, killings, and forcible transfer or deportation).<sup>17390</sup> This JCE was implemented through (i) the forcible removal of women, children, and elderly from Srebrenica on 12 and 13 July 1995; (ii) the murder of the able-bodied Muslim men and boys separated in Potočari or captured from the column fleeing Srebrenica; (iii) cruel and inhumane treatment; (iv) terrorising the population; and (v) other persecutions.<sup>17391</sup> The Prosecution relied on the following as proof of the existence of the alleged Srebrenica JCE:

- Mladić's statement at the Hotel Fontana meetings on 11 July 1995 with regard to his knowledge of the situation in Potočari;
- The mobilisation of buses on Mladić's order on the evening of 11 July 1995;
- Popović and Kosorić telling Nikolić of the plan to murder the able-bodied men on the morning of 12 July 1995;
- Mladić's announcement at the third Hotel Fontana meeting on 12 July 1995 that Bosnian-Muslim men in Potočari were to be separated and screened for war criminals;

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<sup>17389</sup> Prosecution Final Brief, paras 1612-1615.

<sup>17390</sup> Prosecution Final Brief, para. 1612. *See also* Indictment, paras 58-59.

<sup>17391</sup> Prosecution Final Brief, para. 1613.

- Separating the men and boys in Potočari, not performing any screening, and subjecting them to serious physical violence;
- Forcibly transferring women, children, and elderly from Potočari;
- Executing thousands of Srebrenica men and boys from 13-26 July 1995;
- Blocking and capturing thousands of Muslim men fleeing in the column; and
- Reburying the executed victims.<sup>17392</sup>

4971. The Prosecution argued that at least Mladić, Karadžić, Krstić, Borovčanin, Tolimir, and Popović were members of the Srebrenica JCE.<sup>17393</sup>

4972. The Defence argued that the Prosecution's evidence is insufficient to establish that the Srebrenica JCE existed, *inter alia* submitting that there is no evidence of a meeting where crimes were discussed.<sup>17394</sup>

4973. The Trial Chamber recalls its findings in relation to (i) the take-over of the Srebrenica enclave (chapter 7.1); (ii) the crimes committed in the aftermath of the take-over, including murder, extermination, inhumane acts (forcible transfer), persecution, and genocide (chapters 7.2-7.17, 8.3-8.5, and 8.9-8.10); and the various statements, acts, and meetings of Bosnian-Serb individuals around the time of the take-over of the enclave (chapters 9.6.2 and 9.6.3), and sets out a summary of the findings from these chapters below.

4974. In relation to precursors to the alleged Srebrenica JCE, the Trial Chamber found that a 24 November 1992 DK order, which followed the issuance of Directive No. 4, called for inflicting the highest possible losses on the enemy, forcing the Bosnian-Muslim population to abandon the areas of Cerska, Žepa, Srebrenica, and Goražde. The VRS placed restrictions on humanitarian aid convoys, with few convoys making it into the Srebrenica enclave by early 1995. In Directive No. 7 of March 1995, Karadžić stated that the DK was to carry out the 'complete physical separation of Srebrenica and Žepa [...] as soon as possible, preventing even communication between individuals in the two enclaves', and 'by planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa'.

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<sup>17392</sup> Prosecution Final Brief, paras 1614-1615.

<sup>17393</sup> Prosecution Final Brief, para. 1615.

4975. In relation to the attack on Srebrenica, the VRS intended to make the enclave disappear, to empty it, and to make it Serb territory, and the decision to forcibly remove the Bosnian-Muslim population from Srebrenica came as a result of the fall of the enclave. General Krstić was to command the operation and the DK was the military formation tasked with its planning and carrying out. He was fully apprised of the VRS territorial goals in the Srebrenica enclave, which included cleansing the area of the Bosnian-Muslim population.

4976. The VRS attack on the Srebrenica enclave began on 6 July 1995. On 10 July 1995, pursuant to an order from the VRS Supreme Commander, the Bosnian-Serb MUP ordered various MUP units to participate in the Srebrenica operation. Srebrenica remained under fire until the enclave fell under the complete control of the VRS on 11 July 1995. During the attack on the enclave, the VRS embarked upon a campaign of burning Bosnian-Muslim houses and religious buildings in the enclave.

4977. By the end of 11 July 1995, Bosnian Muslims from the municipality, mainly women, children, elderly men, and injured, were gathered in Potočari. By 12 July 1995, 25,000 to 30,000 civilians had gathered in Potočari, five percent of whom were able-bodied men. On 11 and 12 July 1995, three meetings were held at Hotel Fontana in Bratunac. The first meeting was attended by VRS members and UNPROFOR members. In the following two meetings, there were also one or more 'representatives' of the Bosnian Muslims in Potočari present. At the meetings, the fate of those who had gathered in Potočari was discussed. Mladić said that neither UNPROFOR nor the civilian Muslim population were the objective of the VRS and that the population was free to go or stay. He offered to provide buses for their transport, if others provided the fuel. When Mandžić proposed that international organizations should be involved in the evacuation process, Mladić told him that his people were to either live or vanish and that their fate was in Mandžić's hands. Mladić demanded the surrender of all armed Bosnian-Muslim men and weapons and stated that 'you can either survive or disappear'. Shortly after the fall of Srebrenica, Tolimir ordered Todorović to prepare Batković camp for the arrival of over 1,000 detainees. Some time later, it was communicated to Todorović that the plan in relation to the detainees had been given up.

4978. In the morning of 12 July 1995, prior to the third Hotel Fontana meeting, Popović, Kosorić, and Nikolić spoke in front of the hotel and Popović told Nikolić that

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<sup>17394</sup> Defence Final Brief, paras 2886-2894; T. 44791-44793.

all the women and children would be transferred to Kladanj or Tuzla. With regard to the able-bodied men, Popović said that all the 'balijas' should be killed. They then discussed temporary detention facilities and possible execution sites. Later, Nikolić told Janković about the killing operation and realised that Janković already knew. Janković said that all of this was ordered and that Nikolić should not comment on it. On the evening of 12 July and morning of 13 July, Nikolić discussed the killing operation with Blagojević, who also already knew of it and ordered him to carry on.

4979. On 12 July 1995, VRS officers, including Krstić and Mladić, Miroslav Deronjić, DutchBat officers, and 'representatives' of the Bosnian-Muslim population agreed that the evacuation of the Bosnian-Muslim civilians to Kladanj Municipality would be organised by the VRS and MUP forces and take place under the supervision and escort of UNPROFOR.

4980. On the evening of 12 July, Mladić had a meeting with a number of DK commanders, including Krstić, Pandurević, Blagojević, Živanović, Furtula, Jevđević, and Andrić, at the Bratunac Brigade headquarters.

4981. On 12 July 1995, in response to a request from the DK, the Bosnian-Serb MoD sent three orders to its local secretariats directing them to procure buses and to send them to Bratunac. On the same day, dozens of buses and trucks arrived in Potočari. As the Bosnian Muslims later began boarding the buses in Potočari, Bosnian-Serb soldiers and MUP units systematically separated out men of military age who were trying to get onboard. Beginning on the afternoon of 12 July and continuing throughout 13 July 1995, males detained in the White House, numbering approximately 1,000, were placed on separate buses from the women and the majority of children and elderly and were taken out of the Potočari DutchBat compound to detention sites in Bratunac in execution of VRS orders. The separations were frequently aggressive and caused fear among the families. On 12 and 13 July 1995, the VRS and MUP transported by trucks and buses around 25,000 Bosnian Muslims, mostly women, children, and elderly, out of Potočari. On 17 July 1995, a VRS-pre-formulated declaration was signed by the DutchBat Deputy Commander Major Franken, Miroslav Deronjić, and Nesib Mandžić stating that the transportation of the Bosnian Muslims out of Potočari had been performed in a proper and humanitarian way in accordance with international law. UNPROFOR's Franken added a clause stating that the transportation was carried out in accordance with the law only 'as far as convoys actually escorted by UN forces [were]

concerned'. Only the first convoy of buses was escorted by UNPROFOR. The declaration did not reflect the reality with regard to options the population would have had, as no one was given a choice to either remain or be evacuated.

4982. On 12 July 1995, Mladić gave an order which called for the prevention of entry of local and foreign journalists into the zones of combat operations in Srebrenica and Žepa, as well as a ban on giving any information to the media about operations in Srebrenica, particularly on POWs, evacuated civilians, and escapees. Mladić's action was to keep the media from knowing what was happening in Srebrenica.

4983. In the days following the 11 and 12 July meetings at Hotel Fontana, VRS units, including DK units not engaged in the Žepa campaign, were assigned to block a column of people trying to escape through the woods towards Tuzla. Several thousand Bosnian-Muslim men from the column who were captured on 13 July 1995 were collected in or near the Sandići meadow and on the Nova Kasaba football field. The head of the column finally managed to break through to Bosnian-Muslim-held territory on 16 July 1995. Miletić had said on 15 July that no corridor should be opened and that the column should be destroyed. A MUP adviser in Pale who was also consulted stated that the people in the column should be killed by the air force.

4984. Between 12 July and mid-August 1995, thousands of Bosnian-Muslim male detainees from Potočari and the column were transported to various places and executed near or around Srebrenica. The perpetrators were members of the VRS DK, the 10th Sabotage Detachment, the MUP, and, at times, paramilitaries. Paramilitaries were the sole perpetrators in only one incident, namely Scheduled Incident E.13.1, where they worked in coordination with VRS units. The MUP units active in the area were operationally subordinate to the VRS. Several perpetrators beat the Bosnian-Muslim men and boys prior to their execution.

4985. From July 1995 onwards, there were no investigations or prosecutions with regard to the killings of Bosnian Muslims in Srebrenica or the Zvornik area by members of the DK.

4986. During several weeks in September and early October 1995, members of the VRS and MUP including members of the VRS Main Staff; the DK; the Bratunac Brigade, including members of its military police; and members of the Zvornik Brigade, engaged in what was intended to be a covert operation to exhume human remains from

several primary mass graves, and then rebury those remains in remote secondary graves in the Zvornik and Bratunac municipalities in an effort to hide them.

4987. Based on all of these findings, the Trial Chamber finds that there existed a JCE with the primary purpose of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica. In the days immediately preceding 11 July 1995, the objective of the Srebrenica JCE involved the commission of the crimes of persecution and inhumane acts (forcible transfer). In this respect, the Trial Chamber specifically considered its findings that the VRS intended to empty the enclave, as well as its findings that the crimes of persecution and inhumane acts (forcible transfer) were committed following the attack. The crimes of genocide, extermination, and murder became part of the means to achieve the objective by the early morning of 12 July 1995, prior to the first crime being committed. In this respect, the Trial Chamber specifically considered its findings that Nikolić, Kosorić, and Popović discussed the killings on the morning of 12 July 1995, as well as its findings that Tolimir first ordered that Batković camp be prepared for a large number of detainees and thereafter conveyed that this plan had been given up. The JCE existed until at least October 1995, when reburials in the Zvornik and Bratunac municipalities took place.

4988. The Trial Chamber finds that for purposes of establishing a plurality of persons, the following participated in the realization of the common criminal objective and shared intent in this respect: Radovan Karadžić, Radislav Krstić, Vujadin Popović, Zdravko Tolimir, Ljubomir Borovčanin, Svetozar Kosorić, Radivoje Miletić, Radoslav Janković, Ljubiša Beara, Milenko Živanović, Vinko Pandurević, and Vidoje Blagojević. The Trial Chamber will further determine whether Mladić was a member of this JCE in chapter 9.7.

4989. The charged crimes, except for Scheduled Incident E.13.1 and the ill-treatment of the Trnovo victims prior to them being killed, were committed by VRS or MUP units, all under the operational command of the DK or the Main Staff at the time. As such, JCE members used these units to commit the Srebrenica crimes in furtherance of the JCE. With regard to Scheduled Incident E.13.1 and the ill-treatment of the Trnovo victims prior to them being killed, there is insufficient evidence to suggest that members of the Skorpions unit were members of the Srebrenica JCE. Further, the Trial Chamber found that members of the Skorpions unit committed the killings set out in Scheduled

Incident E.13.1 in coordination with VRS units. There is insufficient evidence to suggest that the Skorpions unit was subordinated to the VRS or that JCE members had other ways to use them as tools. Accordingly, the Trial Chamber will not further consider these crimes as part of its discussion on Mladić's responsibility under the first JCE form.

9.7 Ratko Mladić's alleged contribution to the third joint criminal enterprise  
(Srebrenica)

*9.7.1 Introduction*

4990. According to the Indictment, between the days immediately preceding 11 July 1995 and 1 November 1995, the Accused participated in a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica.<sup>17395</sup> The Accused is alleged to have significantly contributed to this JCE in one or more of the ways specified in paragraphs 13 and 23 of the Indictment.<sup>17396</sup> The Trial Chamber will deal with the alleged contributions in turn, focusing on those on which it has received evidence and which the parties have addressed in their final briefs and closing arguments. In chapter 9.7.6, it will address whether the Accused's alleged contribution was significant to the Srebrenica JCE. It will then turn to the *mens rea* of the Accused in chapter 9.7.7.

*9.7.2 Commanding and controlling the VRS*

4991. In relation to Mladić's alleged contribution through commanding and controlling the VRS, the Defence submitted that Mladić did not order the departure of the Bosnian Muslims from Srebrenica, but that the 'Civilian/Military leadership of Srebrenica' had made this decision on 11 July 1995 before Mladić arrived in Potočari.<sup>17397</sup> Subsequent operations in Srebrenica and Žepa were carried out by the DK independently, with significant autonomy, and without coordination from the VRS Main Staff.<sup>17398</sup> Contrary to Directive no. 7, which required operations in Srebrenica to be carried out by the DK in coordination with the SRK, the DK acted on its own.<sup>17399</sup> Thus, Operation *Krivaja-95* was not a VRS Main Staff operation, but rather a DK operation and the DK, not Mladić, had operative command.<sup>17400</sup> Moreover, according to the Defence, Mladić was in Belgrade and not in the *Krivaja-95* theatre of operation in July 1995 and therefore did

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<sup>17395</sup> Indictment, para. 5.

<sup>17396</sup> Indictment, paras 13, 23.

<sup>17397</sup> Defence Final Brief, para. 2853.

<sup>17398</sup> Defence Final Brief, paras 2860, 2862, 2874-2877.

<sup>17399</sup> Defence Final Brief, para. 2862.

<sup>17400</sup> Defence Final Brief, paras 2873, 2875-2877.

not have effective control over the units and individuals in Srebrenica.<sup>17401</sup> As he was in Belgrade without any means of secure communication, he also did not have command over the VRS Main Staff during that period.<sup>17402</sup> The Defence further argued that the evidence of the intercepted conversations during that time is unreliable, specifically to the extent to which the evidence identifies Mladić as one of the participants in these conversations.<sup>17403</sup>

4992. The Trial Chamber received evidence from **Ljubomir Obradović**, Deputy Chief of Operations and Training of the VRS Main Staff from September 1994 onwards;<sup>17404</sup> **Mitar Kovač**;<sup>17405</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>17406</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>17407</sup> **Cornelis Nicolai**, the UNPROFOR Chief of Staff at the Bosnia-Herzegovina Command;<sup>17408</sup> **Witness RM-284**, a Bosnian Serb;<sup>17409</sup> **Zoran Kovačević**, a company commander in the Bratunac Brigade as of April 1992;<sup>17410</sup> **Tihomir Stevanović**, desk officer for cryptographic protection in the communications department of the Main Staff of the VRS;<sup>17411</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon with the Bratunac Brigade;<sup>17412</sup> **Witness RM-265**, a member of the Bratunac Brigade;<sup>17413</sup> **Milenko Todorović**, Assistant Commander of the Intelligence and Security Organ of the IBK as of 16 November 1993;<sup>17414</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>17415</sup> **Petar Škrbić**, the Assistant Commander

<sup>17401</sup> Defence Final Brief, para. 2878.

<sup>17402</sup> Defence Final Brief, para. 2878.

<sup>17403</sup> Defence Final Brief, paras 2588-2594, 2660-2665.

<sup>17404</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11929, 11931-11932; P1784 (VRS Main Staff structure, July 1995).

<sup>17405</sup> Mitar Kovač, T. 41295.

<sup>17406</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756.

<sup>17407</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>17408</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), paras 3-5; Cornelis Nicolai, T. 10563; P1176 (UNPROFOR Directive 2/95 signed by Lieutenant-General Rupert Smith, 29 May 1995), p. 4.

<sup>17409</sup> P1460 (Witness RM-284, *Popović et al.* transcript, 31 August 2007), pp. 14582-14583; Witness RM-284, T. 11120, 11139.

<sup>17410</sup> D594 (Zoran Kovačević, witness statement, 6 June 2014), paras 2, 4-5, 7.

<sup>17411</sup> Tihomir Stevanović, T. 35202.

<sup>17412</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4.

<sup>17413</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3793, 3796, 3800; P2541 (Witness RM-265, *Tolimir* transcript, 15 March 2011), pp. 11274, 11282. The evidence of Witness RM-265 is reviewed in chapter 7.1.5.

<sup>17414</sup> Milenko Todorović, T. 19835, 19837.

<sup>17415</sup> Ljubodrag Gajić, T. 40268-40269, 40311.

for Organisation, Mobilisation, and Personnel affairs of the VRS Main Staff in July 1995;<sup>17416</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>17417</sup> **Miće Gavrić**, Chief of Artillery in the Bratunac Brigade from 14 November 1992 until the end of the war;<sup>17418</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>17419</sup> **Velo Pajić**, Commander of the 2nd Battalion of the 67th Communication Regiment for frequency-carrying devices from 18 May 1992 until 1 July 2002;<sup>17420</sup> **Manojlo Milovanović**, the Chief of Staff and Deputy Commander of the VRS Main Staff from 1992 to 1996;<sup>17421</sup> **Mladen Kenjić**, Mladić's driver from 18 May 1992 until around 2002;<sup>17422</sup> **Dragomir Keserović**, a desk officer for the military police in the security administration of the Main Staff of the VRS from February 1995, and commander of an armoured brigade in the 1KK;<sup>17423</sup> **Joseph Kingori**, a UNMO present in the Srebrenica enclave from March 1995 to around 20 July 1995;<sup>17424</sup> **Eelco Koster**, a member of DutchBat;<sup>17425</sup> **Bojan Subotić**, commander of a police platoon in the military police battalion of the 65th Motorised Protection Regiment in July 1995;<sup>17426</sup> **Mirko Trivić**, Commander of the 2nd Romanija Motorised Brigade from August 1994;<sup>17427</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>17428</sup> **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>17429</sup> **Rupert Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>17430</sup> **Witness RM-255**, a Bosnian Muslim from Srebrenica

<sup>17416</sup> Petar Škrbić, T. 13981.

<sup>17417</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2. The evidence of Miroslav Deronjić is reviewed in chapter 9.6.2.

<sup>17418</sup> Miće Gavrić, T. 13899.

<sup>17419</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>17420</sup> Velo Pajić, T. 35819-35820, 35824.

<sup>17421</sup> Manojlo Milovanović, T. 16889; P2211 (Signed *Curriculum Vitae* of Manojlo Milovanović, 22 April 2010), pp. 1-2; P2212 (VRS Main Staff Structure - organisation chart, July 1995).

<sup>17422</sup> D1218 (Mladen Kenjić, witness statement, 3 August 2014), paras 2-5.

<sup>17423</sup> Dragomir Keserović, T. 12802, 12805-12807.

<sup>17424</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 3, 7.

<sup>17425</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1. The evidence of Eelco Koster is reviewed in chapter 7.1.3.

<sup>17426</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 2, 4.

<sup>17427</sup> P1463 (Mirko Trivić, *Popović et al.* transcript, 18, 21 May 2007), p. 11795.

<sup>17428</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109.

<sup>17429</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6.

<sup>17430</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287.

Municipality;<sup>17431</sup> **Ramiz Husić**, a Muslim from Brezovica who moved to Srebrenica in 1993 and who was 18 years old in July 1995;<sup>17432</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>17433</sup> **Biljana Stojković**, a Serb journalist from Belgrade;<sup>17434</sup> **Žarko Stojković**, a Serb from Belgrade;<sup>17435</sup> **Radovan Popović**, a Serb journalist and photographer from Croatia;<sup>17436</sup> **Bosiljka Mladić**, the wife of Ratko Mladić;<sup>17437</sup> **Witness RM-316**, a Bosnian Muslim from Brnjik Municipality;<sup>17438</sup> **Witness RM-322**, an officer in the VRS Zvornik Brigade in 1995;<sup>17439</sup> **Milomir Savčić**, the Chief of Staff of the 65th Motorised Protection Regiment of the VRS Main Staff as of 6 or 7 June 1992;<sup>17440</sup> **Witness RM-256**, a Bosnian Muslim from Srebrenica and member of the ABiH;<sup>17441</sup> **Leendert van Duijn**, a DutchBat platoon commander who was stationed in Potočari from January to July 1995;<sup>17442</sup> **Salih Osmanović** a Bosnian Muslim from Srebrenica Municipality;<sup>17443</sup> **Pero Andrić**, a Serb member of the military police platoon of the Bratunac Brigade from 1994 until July 1995;<sup>17444</sup> **Dušan Mičić**, commander of a PJP unit in Bratunac;<sup>17445</sup> **Neđo Jovičić**, a member of the Special Police Brigade and driver for Deputy Commander of the brigade Ljubomir Borovčanin during 1995;<sup>17446</sup> **Pieter Boering**, a DutchBat Major who served as liaison officer with

<sup>17431</sup> P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2. The evidence of Witness RM-255 is reviewed in chapter 7.1.3.

<sup>17432</sup> P3376 (Ramiz Husić, witness statement, 9 June 1999), pp. 1-2.

<sup>17433</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297). The evidence of Witness RM-297 is reviewed in chapter 7.1.6

<sup>17434</sup> D1202 (Biljana Stojković, witness statement, 12 July 2014), p. 1, paras 1, 3.

<sup>17435</sup> D1203 (Žarko Stojković, witness statement, 12 July 2014), p. 1, para. 3.

<sup>17436</sup> D1238 (Radovan Popović, witness statement, 12 July 2014), p. 1, paras 1-2.

<sup>17437</sup> D1185 (Bosiljka Mladić, witness statement, 17 July 2014), paras 1-2.

<sup>17438</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010), pp. 2046-2047; Witness RM-316, T. 13593-13594; P1653 (Pseudonym sheet for Witness RM-316). The evidence of Witness RM-316 is reviewed in chapter 9.7.7.

<sup>17439</sup> Witness RM-322, T. 11621-11622, 11626-11627, 11667-11668; P1492 (Pseudonym sheet for Witness RM-322). The evidence of Witness RM-322 is reviewed in chapters 7.15 and 7.18.

<sup>17440</sup> D968 (Milomir Savčić, witness statement, 21 July 2013), paras 1, 2, 4, 24; Milomir Savčić, T. 33638, 33653.

<sup>17441</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2; Witness RM-256, T. 13187.

<sup>17442</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2256-2258, 2261. The evidence of Leendert van Duijn is reviewed in chapter 7.1.3.

<sup>17443</sup> P1461 (Salih Osmanović, witness statement, 18 June 2000), p. 1, para. 1; Salih Osmanović, T. 11177-11178. The evidence of Salih Osmanović is reviewed in chapter 7.1.3.

<sup>17444</sup> Pero Andrić, T. 34096-34097, 34130-34131; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2. The evidence of Pero Andrić is reviewed in chapter 7.1.3.

<sup>17445</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758. The evidence of Dušan Mičić is reviewed in chapter 7.1.3.

<sup>17446</sup> D976 (Neđo Jovičić, witness statement, 3 August 2014), para. 2. The evidence of Neđo Jovičić is reviewed in chapter 7.1.3.

the VRS and ABiH in Srebrenica from 3 January to July 1995;<sup>17447</sup> **Milivoje Simić**, Commander of the Doboj Garrison and Commander of Task Force Doboj until 1994;<sup>17448</sup> and **Richard Butler**, an intelligence research specialist;<sup>17449</sup> as well as documentary evidence.

*General command structure relevant for Srebrenica operations*

4993. The Trial Chamber recalls the evidence of Ljubomir Obradović in relation to the chain of command within the VRS Main Staff in chapter 9.3.3. **Ljubomir Obradović** further testified that despite Milovanović's presence at an IKM on the western front in Jasenica in July 1995, he was able to have regular contact with Mladić at the Main Staff headquarters in Crna Rijeka because the IKM had the same communication means available as at the Main Staff headquarters, although somewhat less developed.<sup>17450</sup> Similarly, the IKMs received combat reports from the Main Staff.<sup>17451</sup>

4994. **Mitar Kovač** testified that the DK commanded the *Krivaja-95* operation based on Directive 7 and Directive 7/1.<sup>17452</sup> Mladić's presence on the ground during the *Krivaja-95* operation was natural because the Commander of the Main Staff was supposed to be in the key area where the combat is going on; this was typical of Mladić throughout the war.<sup>17453</sup> According to the witness, Mladić's physical presence in a place did not mean that he commanded an operation, because that would go against the regulations and powers involved in the command over the VRS.<sup>17454</sup> When the Commander of the VRS Main Staff was not the operative commander and outside the combat zone in a neighbouring state without technical systems and the support enabling command, he was not commanding.<sup>17455</sup> Thus, the Commander was effectively not commanding in such a case and his duties were discharged by someone who was present on the ground. There was no obligation for the Commander to be constantly

<sup>17447</sup> P1139 (Pieter Boering, *Popović et al.* transcript, 19, 21, and 22 September 2006), pp. 1867-1873; Pieter Boering, T. 10025. The evidence of Pieter Boering is reviewed in chapter 7.1.3.

<sup>17448</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), paras 6, 20; Milivoje Simić, T. 32527. The evidence of Milivoje Simić is reviewed in chapter 9.7.4.

<sup>17449</sup> Richard Butler, T. 16108.

<sup>17450</sup> P1783 (Ljubomir Obradović, *Tolimir* transcript, 29-31 March 2011), pp. 11986-11987; Ljubomir Obradović, T. 14612, 14619.

<sup>17451</sup> Ljubomir Obradović, T. 14612, 14620.

<sup>17452</sup> Mitar Kovač, T. 41392.

<sup>17453</sup> Mitar Kovač, T. 41392-41393.

<sup>17454</sup> Mitar Kovač, T. 41393.

<sup>17455</sup> Mitar Kovač, T. 41393

present. The Chief of Staff, Milovanović, was the second in command and dealing with problems in the western part of the theatre of war in Krajina.<sup>17456</sup> The witness believed that General Gvero signed documents while Mladić was absent, as it was possible for a member of the command, the oldest officer in an area, to represent the VRS Main Staff.<sup>17457</sup> A formal hand-over was not necessary as it was not a hand-over of duties but rather standing in for a certain period of absence for a superior and thus could be regulated verbally.<sup>17458</sup> The army would be informed through a signed document, in which the logo, memorandum and signature would denote that a different person signed for the given person, which the witness considered to be demonstrated by the document General Gvero signed on 13/14 July.<sup>17459</sup>

*Events in early July 1995*

4995. The Trial Chamber recalls the evidence of Momir Nikolić in chapter 7.1.5 that General Krstić was in command of all units taking part in the *Krivaja-95* operation until Mladić arrived and took over command of all units engaged in the combat operations, which were completed on 11 July 1995. The Trial Chamber further recalls the evidence of Witness RM-284 in chapter 7.1.3 that on 9 and 10 July 1995, Mladić was almost always at the Bratunac Brigade's IKM and that he was receiving information from Krstić and Živanović on how the attack on Srebrenica was progressing. The Trial Chamber also recalls the evidence of **Momir Nikolić** in chapter 7.1.3 that a few days after the start of combat on 6 July 1995, Mladić visited the Bratunac Brigade and in the days before 11 July, the witness saw a number of VRS Main Staff officers at the Bratunac Brigade headquarters in Bratunac, including Mladić, Janković, and many DK Command officers, including General Krstić, Lieutenant Colonel Popović, Lieutenant Colonel Kosorić, and Vinko Pandurević. According to a daily combat report of 10 July 1995, signed by Vidoje Blagojević and sent to the DK Command, Mladić, Živanović, Krstić, and the commanders of the Corps brigades, who were participating in offensive activities, were all present in the area of responsibility of the Bratunac Brigade on that

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<sup>17456</sup> Mitar Kovač, T. 41393.

<sup>17457</sup> Mitar Kovač, T. 41394.

<sup>17458</sup> Mitar Kovač, T. 41394.

<sup>17459</sup> Mitar Kovač, T. 41394. In this context, the Trial Chamber also considered P2119 (VRS Main Staff Order to the Commands of the DK, 13 July 1995).

day.<sup>17460</sup> **Cornelis Nicolai** testified that at 7:20 p.m. on 10 July 1995, he called the VRS headquarters but was unable to reach any senior officers.<sup>17461</sup> He left a message for Mladić informing him of UNPROFOR's request for 'Close Air Support' due to the continuing attack on Srebrenica.<sup>17462</sup> According to the personal diary of Mirko Trivić, Mladić was personally in command of the DK IKM in Pribićevec on 10 July 1995 as of 3:30 p.m.<sup>17463</sup>

#### *Events on 11 July 1995*

4996. With regard to the events on 11 July 1995, the Trial Chamber recalls the evidence of Witness RM-284 in chapter 7.1.3 that Mladić entered Srebrenica around 11 a.m. or noon and stated 'Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet another great Serb holiday, we give this town to the Serb people as a gift. Finally, after the [R]ebellion against the Dahis, the time has come to take revenge on the Turks in this region.' Soldiers from the 10th Sabotage Detachment were present at a checkpoint during the VRS victory walk through Srebrenica. **Witness RM-265** stated that on 11 July 1995, the military police secured the Spat-Pribićevec road for the passage of Mladić.<sup>17464</sup> Mladić took the road in both directions that day.<sup>17465</sup>

4997. In a VRS Main Staff order of 11 July 1995, Mladić instructed the commands of the DK, 65th Motorised Protection regiment, and 67th Communications Regiment to prevent the withdrawn Bosnian-Muslim forces from returning to Srebrenica; the DK Command was to have the soldiers at the northwestern part of the front ready for combat.<sup>17466</sup> Mladić further wrote that the unit commanders were responsible to him for carrying out the order.<sup>17467</sup> In relation to this order, **Tihomir Stevanović** testified that the handwriting 's.r.' stands for 'svojeručno' which means 'signature in his own hand'.<sup>17468</sup> It does not mean that the person indicated actually signed the document.<sup>17469</sup>

<sup>17460</sup> P2107 (1st Bratunac Light Infantry Brigade daily combat report, 10 July 1995), para. 2.

<sup>17461</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 52; P1174 (Notes of a message left by General Nicolai with the VRS switchboard operator, 10 July 1995, 7:20 p.m.).

<sup>17462</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), paras 34, 52; P1174 (Notes of a message left by General Nicolai with the VRS switchboard operator, 10 July 1995, 7:20 p.m.).

<sup>17463</sup> P1467 (Excerpts from personal diary of Mirko Trivić, 5-16 July 1995), p. 17.

<sup>17464</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), pp. 3853-3854.

<sup>17465</sup> P2540 (Witness RM-265, *Popović et al.* transcript, 8-9 November 2006), p. 3854.

<sup>17466</sup> P2109 (VRS Main Staff order from Mladić, 11 July 1995), p. 1. *See also* P7372 (Order from General Mladić, 11 July 1995).

<sup>17467</sup> P2109 (VRS Main Staff order from Mladić, 11 July 1995), p. 2.

<sup>17468</sup> Tihomir Stevanović, T. 35249-35250, 35264.

The witness clarified that when the operative staff sent a telegram with the handwriting 's.r.', it did not have to ask Mladić's permission to send such a telegram but was duty-bound to inform their commander about the activities that were carried out in his absence.<sup>17470</sup>

4998. **Nicolai** testified that Colonel Karremans commenced negotiations with Mladić in the evening of 11 July 1995, and Nicolai was advised for the first time that Mladić was actually in Srebrenica.<sup>17471</sup>

4999. The Trial Chamber recalls the testimony of Petar Škrbić reviewed in chapter 7.1.5 that late at night on 11 July 1995, he received a request by someone from the operation centre located at Crna Rijeka to organise the mobilisation of buses. The witness knew that the request came from Mladić.

#### *Events on 12 July 1995*

5000. **Mičo Gavrić** testified that at 7:10 a.m. on 12 July 1995 he attended a meeting at the operations centre of the Bratunac Brigade, during which Mladić ordered Lieutenant-Colonel Furtula to sweep the terrain near the school in Sućeska in the Srebrenica area.<sup>17472</sup> All the commanders and officers carrying out combat assignment in Srebrenica were present.<sup>17473</sup> Mladić left the operations centre at around 8 a.m.<sup>17474</sup> In this respect, the Trial Chamber also recalls the evidence of Momir Nikolić reviewed in chapter 7.1.5 that in the morning of 12 July 1995, Mladić, Krstić, and senior officers from the police and the army met at the Bratunac Brigade Command and that Mladić and Krstić assigned tasks to all participants at the meeting. The Trial Chamber further recalls the evidence of Witness RM-284 in chapter 7.1.5 that on 12 July 1995, he over Mladić asking Krstić how everything was going, to which Krstić replied that he believed everything was going according to plan but that he was 'going to check'.

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<sup>17469</sup> Tihomir Stevanović, T. 35250, 35264.

<sup>17470</sup> Tihomir Stevanović, T. 35264.

<sup>17471</sup> P1165 (Cornelis Nicolai, witness statement, 18 November 1996), para. 59.

<sup>17472</sup> Mičo Gavrić, T. 13920-13922, 13965. The Trial Chamber understands 'Lieutenant-Colonel Furtula' to refer to Radomir Furtula, Commander of the 5th Light Infantry Brigade. *See* Milenko Jevdjević, T. 32060-32061; P7138 (Regular combat report from 5th Podrinje Light Infantry brigade to the DK Command, 13 July 1995).

<sup>17473</sup> Mičo Gavrić, T. 13965.

<sup>17474</sup> Mičo Gavrić, T. 13921-13922.

5001. Following up on Mladić's order to Furtula, according to an intercepted conversation between Beara and Živanović on 15 July 1995 at 9:54 a.m., Colonel Beara told General Živanović that he informed 'the commander' that Furtula had not sent Lukić's intervention platoon, Beara confirmed that Lukić was with him.<sup>17475</sup> The platoon was made up of 60 men, Beara asked for half of the platoon to be dispatched, Živanović then told Beara to stay on the line and ask for Zlatar at extension 385.<sup>17476</sup> According to **Butler**, the phone extension 385 was reserved for the commander of the DK.<sup>17477</sup>

5002. The Trial Chamber further recalls the evidence of an intercepted conversation on 15 July 1995 at 10 a.m. between Beara and Krstić admitted as exhibit P2126 and reviewed in chapter 9.6.2, Beara told Krstić that 'Furtula didn't carry out the boss's order' and Krstić said 'Fuck it, now I'll be the one to blame'. Beara added, '[t]here are still 3,500 "parcels" that I have to distribute and I have no solution'.

5003. **Joseph Kingori** testified that later in the day of 12 July, he began negotiating with Mladić, telling him that the UN would prepare for evacuation and provide buses for the displaced people to leave, but Mladić denied any help in the 'evacuation process' from the UN and stated that he himself would organise buses to pick up the Muslims from Srebrenica and take them to their brothers in Tuzla.<sup>17478</sup> Shortly thereafter, buses started arriving outside the DutchBat compound, and the displaced people were forced to board them by being pushed in.<sup>17479</sup> Following the third Hotel Fontana meeting on 12 July, an UNMO report stated that Mladić ordered the evacuation of the displaced people to proceed.<sup>17480</sup> The Trial Chamber recalls the evidence of Mile Janjić, Eelco Koster, Neđo Jovičić, Paul Groenewegen, Milovan Milutinović, Saliha Osmanović, and Ljubodrag Gajić reviewed in chapter 7.1.3 that on 12 July 1995, Mladić addressed the Bosnian-Muslim refugees in Potočari and reassured them that they would be transported to Bosnia-Herzegovina. According to Gajić's evidence in the same chapter, Mladić

<sup>17475</sup> P1320 (Intercept of Beara and Živanović, 15 July 1995), p. 1; P1321 (Intercept of Beara and Živanović), p. 1.

<sup>17476</sup> P1320 (Intercept of Beara and Živanović, 15 July 1995), pp. 1-2; P1321 (Intercept of Beara and Živanović), p. 1. According to Butler, Zlatar was the phone extension reserved for the commander of the DK.

<sup>17477</sup> Richard Butler, T. 16359.

<sup>17478</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 167-168; Joseph Kingori, T. 1049; D15 (Debrief of UNMOs from the Srebrenica Enclave, 24 July 1995), para. 27.

<sup>17479</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 170, 172.

<sup>17480</sup> P50 (Situation Report from UNMOs in Srebrenica, forwarded by UNPROFOR HQ Sector Northeast, 12 July 1995), pp. 1, 5.

mentioned that he had issued an order to provide a convoy for the transportation of the population in the area.

5004. The Trial Chamber recalls the evidence of Robert Franken in chapter 7.1.5 that the transportation of Bosnian Muslims out of Potočari to Kladanj was not a decision made by the Muslim delegation but rather ordered by Mladić. The Trial Chamber further recalls the intercepted conversation between Mladić and an unidentified individual, admitted as exhibit P1235 and reviewed in the same chapter that on 12 July 1995, Mladić inquired about the departure of buses and stated that they all surrendered and should be evacuated including those who do not want to leave, and told the unidentified individual that a road towards Kladanj would be opened for the evacuation.

5005. The Trial Chamber also recalls the evidence of Robert Franken in chapter 7.1.5 that as the transportation was being carried out, he had information gained from a debriefing, that at one of the meetings with DutchBat members, Mladić said he wanted to interrogate men aged 16 to 60 as they were potential soldiers, in order to check if they were war criminals. Mladić told Karremans that Colonel Aćamović was to be responsible for the transportation of the population out of Potočari.

5006. The Trial Chamber further recalls the evidence of Momir Nikolić in chapter 7.1.5 that Mladić, Ljubiša Borovčanin, and a number of officers from the brigades which were engaged in the attack on the enclave were present in Potočari when the evacuation began. The Trial Chamber also recalls the evidence of Rave and Mile Janjić in the same chapter that Mladić was present when the separation of men was taking place and that when asked about the procedure of directing women and children to the buses while bringing the men away, members of the Special Police stated that they were acting on Mladić's orders. According to Janjić, due to Mladić's presence in Potočari on 12 July 1995, the level of discipline was very high.

#### *Events on 13 July 1995*

5007. **Mladen Blagojević** testified that on 13 July 1995, Mladić, escorted by a military police detachment, visited Potočari, Sućeska, Bratunac, Srebrenica, and in particular the Bratunac Brigade Command, Sandići, Konjević Polje, Nova Kasaba, Vlasenica, and

Han Pijesak.<sup>17481</sup> In the sector of Sućeska village, Mladić visited a Drina Wolves unit, commanded by a man called Legenda, and congratulated the soldiers on a successfully conducted operation.<sup>17482</sup> While passing through Konjević Polje in the afternoon, Mladić shouted at civilian police manning the checkpoint that they were not doing anything and that soldiers were dying for them.<sup>17483</sup> The Trial Chamber recalls the evidence of Momir Nikolić in chapter 7.1.5 that Mladić, Vasić, Popović, and Krstić met at the Bratunac Brigade headquarters and Mladić informed Vasić that part of the MUP forces was delegated the task of organising the evacuation of approximately 15,000 civilians from Srebrenica to Kladanj by bus. Following this meeting, Blagojević tasked Nikolić with continuing the Potočari operation to transport Muslim women and children to Kladanj and separate and detain able-bodied Muslim men.

5008. According to an intercepted conversation between Mladić and Beara on 13 July 1995 at 11:05 p.m., Mladić asked him if everything was going as planned.<sup>17484</sup> Mladić told him to take care of rations and to solve it so that there would not be a lack of food.<sup>17485</sup> He said that they would see how to get supplies and he would order something immediately at Krle's place to be sent to Beara.<sup>17486</sup> Mladić asked him if 'it' was over at Zoran Malinić's and told him 'it' would come.<sup>17487</sup> He told Beara to keep working, to find a way to not have the men hungry and check if 'they' had any there.<sup>17488</sup> He told Beara he would issue an order right away.<sup>17489</sup>

5009. The Trial Chamber recalls the evidence of Evert Rave in chapter 7.1.5 that Mladić asked him to tell the Bosnia-Herzegovina authorities to surrender and further told him that the Srebrenica males were brought to a camp in Bijeljina. The Trial Chamber further recalls the evidence of Paul Groenewegen and Eelco Koster in chapter 7.1.5 that Mladić was in Potočari on 13 July 1995. The Trial Chamber also recalls its

<sup>17481</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 5-12; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 18-20.

<sup>17482</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), para. 6; Mladen Blagojević, T. 32604; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 20.

<sup>17483</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 9-10; Mladen Blagojević, T. 32605, 32669-32670, 32673-32674.

<sup>17484</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.). The Trial Chamber understands that 'Ljubo' to refer to Colonel Ljubiša Beara, the Chief of Security Administrations, Sector for Intelligence and Security Affairs, VRS Main Staff. ). See also P1322 (Intercept of Beara and Krstić), p.1.; P1320 (Intercept of Beara and Živanović, 15 July 1995), p. 1; P1321 (Intercept of Beara and Živanović), p. 1.

<sup>17485</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.).

<sup>17486</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.).

<sup>17487</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.).

<sup>17488</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.).

review of video footage admitted as exhibit P1147, in the same chapter, according to which while being in Potočari, Mladić said that Bosnian-Serb authority had been established in Srebrenica and the entire enclave was under the control of the VRS and everyone who wanted to leave had been evacuated safely.

5010. With regard to Mladić's visit of Nova Kasaba football field on 13 July 1995, the Trial Chamber recalls the evidence of Bojan Subotić, reviewed in chapter 7.14.1 *Schedule E.15.1*, that Mladić ordered Zoran Malinić and Subotić to secure the transfer of detainees to the Vuk Karadžić Elementary School in Bratunac.

5011. The Trial Chamber reviewed the evidence of Dragomir Keserović in chapter 7.1.6 that Mladić instructed Zoran Malinić to stop the registration and told the detainees that they would be transferred to Tuzla.

5012. The Trial Chamber recalls the evidence of Witness RM-346 in chapter 7.1.6 that Mladić gave a speech while a camera was filming him and the detainee, and Mladić told the detainees that they would all be exchanged and go to Bratunac. He said that he would organise groups to collect the wounded in the woods and bury the dead, and ordered the soldiers to make a list of all the captured people. At that moment, one of the detainees got up and the Serb soldiers beat him with their rifle butts, following which one of the soldiers shot the detainee dead while Mladić was present. The soldier told the detainees that if they misbehaved, they would be killed. Mladić did not respond in any way and left towards Konjević Polje when the list of captured people was completed.

5013. With regard to Mladić's presence at Sandići Meadow on 13 July 1995, the Trial Chamber recalls the evidence of Ramiz Husić, Witness RM-256, Witness RM-297, and Mladen Blagojević in chapter 7.5 *Schedule E.4.1* that Mladić addressed the detainees at the meadow, telling them that the governments were negotiating and that they would be exchanged the next day.

5014. Finally, the Trial Chamber recalls the VRS Main Staff order of 13 July 1995 admitted as exhibit P2120 and reviewed in chapter 7.1.6 which was sent to the DK, the 65th Motorised Protection Regiment, and other units. Therein Mladić ordered a ban on the giving of information to the media and that entry of all uninvited individuals to the combat operations zone in the general sector of Srebrenica and Žepa be prevented.

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<sup>17489</sup> P1297 (Intercept of Mladić and Beara, 13 July 1995 at 11:05 p.m.).

*Mladić's presence in Belgrade between 13 and 17 July 1995*

5015. According to the Agreed Facts, Mladić was at the VRS Main Staff's Command Post in Crna Rijeka on the evening of 13 July 1995.<sup>17490</sup> He left Bosnia-Herzegovina on 14 July 1995 to travel to Belgrade.<sup>17491</sup> He began his travel at approximately noon.<sup>17492</sup> He first left from the Main Staff in Crna Rijeka by helicopter and attempted to travel by helicopter for approximately 45 minutes.<sup>17493</sup> Bad weather impeded their travel and the helicopter landed on a plateau near Pogledi in the Crna Rijeka area.<sup>17494</sup> After landing, a mechanic stayed with the helicopter while Mladić and the pilot waited for a passing car.<sup>17495</sup> After a half hour they stopped a car.<sup>17496</sup> At that point the pilot returned to the helicopter and Mladić returned to Crna Rijeka in the private car, driven by the vehicle's owner.<sup>17497</sup> When Mladić arrived at Crna Rijeka he changed cars and left for Belgrade at approximately 2 p.m.<sup>17498</sup> The car was driven by one of Mladić's drivers, Mladen Kenjić.<sup>17499</sup> They travelled along the following route: Crna Rijeka–Zvornik (by Karakaj) -Loznica-Šabac-Beograd and they crossed the Drina on the Loznica Bridge.<sup>17500</sup> **Mladen Kenjić** testified that he drove Mladić to Serbia in a civilian vehicle, which was not equipped with any communications equipment.<sup>17501</sup>

5016. On the evening of 14 July, Mladić attended a meeting at Dobanovci, Serbia, commencing at approximately 9 p.m., with President Slobodan Milošević, Carl Bildt and General Bertrand de Sauville de La Presle.<sup>17502</sup> During this meeting, President Milošević explained the situation around Srebrenica and the acceptance was discussed with regard to access to POWs by the ICRC, approval of UNHCR convoys with supplies for the population, exclusive control for UN police in Srebrenica and Žepa and that everyone may return to their places, if they wanted to.<sup>17503</sup> Mladić summarized what Bildt had said at the meeting: 'Srebrenica – to free the boys – young men who

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<sup>17490</sup> Agreed Facts II, no. 1.

<sup>17491</sup> Agreed Facts II, no. 2.

<sup>17492</sup> Agreed Facts II, no. 2.

<sup>17493</sup> Agreed Facts II, no. 3.

<sup>17494</sup> Agreed Facts II, no. 3.

<sup>17495</sup> Agreed Facts II, no. 4.

<sup>17496</sup> Agreed Facts II, no. 4.

<sup>17497</sup> Agreed Facts II, no. 4.

<sup>17498</sup> Agreed Facts II, no. 5. *See also* D1218 (Mladen Kenjić, witness statement, 3 August 2014), paras 11-12; Mladen Kenjić, T. 38637.

<sup>17499</sup> Agreed Facts II, no. 5.

<sup>17500</sup> Agreed Facts II, no. 6.

<sup>17501</sup> D1218 (Mladen Kenjić, witness statement, 3 August 2014), para. 11, Mladen Kenjić, T. 38636-38637, 38661-38662.

<sup>17502</sup> P363 (Mladić notebook, 14 July - 18 September 1995), p. 2. *See also* Agreed Facts II, no. 7.

were taken to Bratunac.<sup>17504</sup> Bildt indicated he wanted the liberation of Dutch soldiers, and Mladić recorded 'To free at least 48 or 86 Dutch soldiers who are with us.'<sup>17505</sup>

5017. On the night between 14 and 15 July 1995, Mladić was in Belgrade, where he spent the night at his family home.<sup>17506</sup> During the morning of 15 July, Mladić visited the gravesite of his daughter at the Topcider Cemetery at 6th Pionirska Street, Belgrade.<sup>17507</sup> From approximately noon until approximately 10 p.m. on 15 July he attended a meeting at Dobanovci with international negotiators including: Carl Bildt; Yasushi Akashi; Thorvald Stoltenberg; General Bertrand de Sauville de La Presle; and General Rupert Smith.<sup>17508</sup> **Rupert Smith** testified that he and Mladić then met separately from the others and Smith confronted Mladić with rumours about atrocities in Srebrenica.<sup>17509</sup> General Mladić remained in the Belgrade area the entire day.<sup>17510</sup>

5018. Again, the night between 15 and 16 July 1995, Mladić was in Belgrade, where he spent the night at his family home.<sup>17511</sup> During the first part of 16 July 1995, Mladić and other guests were present for the wedding festivities of Biljana Djurdjević and Žarko Stojković, which commenced at Narodnog Fronta no. 4, Belgrade at approximately 9:30 a.m.<sup>17512</sup> Later, Mladić and other guests attended the wedding ceremony at the Serbian Orthodox Church at Admiral Geprata Street, Belgrade, which commenced at approximately noon.<sup>17513</sup> After the church ceremony the wedding celebrations moved to the Dva Ribara restaurant on Narodnog Fronta Street and the reception lasted until approximately 8 or 9 p.m.<sup>17514</sup> Mladić left before the end of the reception.<sup>17515</sup>

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<sup>17503</sup> P363 (Mladić notebook, 14 July - 18 September 1995), p. 2.

<sup>17504</sup> P363 (Mladić notebook, 14 July - 18 September 1995), p. 2.

<sup>17505</sup> P363 (Mladić notebook, 14 July - 18 September 1995), p. 3.

<sup>17506</sup> Agreed Facts II, no. 8.

<sup>17507</sup> Agreed Facts II, no. 10.

<sup>17508</sup> Agreed Facts II, no. 9. *See also* P785 (Rupert Smith, witness statement, 27 October 2009), para. 157; Rupert Smith, T. 7339.

<sup>17509</sup> Rupert Smith, T. 7340, 7342-7343.

<sup>17510</sup> Agreed Facts II, no. 11.

<sup>17511</sup> Agreed Facts II, no. 12.

<sup>17512</sup> Agreed Facts II, no. 13. *See also* D1218 (Mladen Kenjić, witness statement, 3 August 2014), paras 12-13, Mladen Kenjić T. 38654-38655; D1202 (Biljana Stojković, witness statement, 12 July 2014), paras 3-4, 6-9; Biljana Stojković T. 38059, 38061-38062; D1203 (Žarko Stojković, witness statement, 12 July 2014), paras 3-5; Žarko Stojković, T. 38073; D1238 (Radovan Popović, witness statement, 12 July 2014), paras 3-6; Radovan Popović, T. 38979.

<sup>17513</sup> Agreed Facts II, no. 14. *See also* D1202 (Biljana Stojković, witness statement, 12 July 2014), para. 7; Biljana Stojković, T. 38060; D1203 (Žarko Stojković, witness statement, 12 July 2014), paras 5-6; Žarko Stojković, T. 38087, 38103; D1238 (Radovan Popović, witness statement, 12 July 2014), para. 5.

<sup>17514</sup> Agreed Facts II, no. 15. *See also* D1202 (Biljana Stojković, witness statement, 12 July 2014), paras 7-8; Biljana Stojković, T. 38060; D1203 (Žarko Stojković, witness statement, 12 July 2014), paras 5-6; Žarko Stojković, T. 38087, 38103.

<sup>17515</sup> Agreed Facts II, no. 15.

5019. **Žarko Stojković** testified that during the wedding lunch, around 80 wedding guests were present.<sup>17516</sup> Mladić was seated at the head table along with the witness.<sup>17517</sup> At no time did the witness notice Mladić leave the table, whether it was to dance, to go outside, or to go to the bathroom.<sup>17518</sup> According to the witness, Mladić did not use any communication equipment or a telephone from 10 a.m. onwards or during his entire stay.<sup>17519</sup> The witness first stipulated that Mladić did not smoke but later testified that he could not be sure to how many cigarettes Mladić did smoke.<sup>17520</sup> The Trial Chamber received a photograph which depicts Mladić with a cigarette in his left hand.<sup>17521</sup> **Biljana Stojković** testified that she did not recall seeing Mladić's security detail when the wedding party walked from the apartment to the Church, nor from the Church to the restaurant, and she did not notice the security detail at the restaurant.<sup>17522</sup> According to the witness, Mladić never left the restaurant or the dining room between 2 p.m. and 5:30 p.m., not even to use the toilet, and only stood when he gave the toast.<sup>17523</sup> **Radovan Popović** testified that Mladić did not leave his field of vision, testifying that neither he, nor Mladić, went to the restroom while in the restaurant.<sup>17524</sup> **Žarko Stojković** testified that around 5:30 or 5:45 p.m., Mladić and his wife left the wedding and the witness escorted them to a car parked in front of the restaurant.<sup>17525</sup> The witness did not notice any communication equipment in the car.<sup>17526</sup> **Biljana Stojković** testified that she did not see Mladić in possession of or using a communication device and noted that he was fully focused on the wedding and the celebrations attached to it.<sup>17527</sup> The original wedding tapes were left at the witness's mother's house which was burgled on several

<sup>17516</sup> Žarko Stojković, T. 38097.

<sup>17517</sup> Žarko Stojković, T. 38097; P7511 (Photograph showing Ratko Mladić and the Stojković wedding party at a social gathering with a visible wristwatch and time).

<sup>17518</sup> Žarko Stojković, T. 38090, 38093, 38095, 38098.

<sup>17519</sup> Žarko Stojković, T. 38073, 38100-38101, 38104.

<sup>17520</sup> Žarko Stojković, T. 38091.

<sup>17521</sup> P7511 (Photograph showing Ratko Mladić and the Stojković wedding party at a social gathering with cigarette in his left hand).

<sup>17522</sup> D1202 (Biljana Stojković, witness statement, 12 July 2014), paras 8-9.

<sup>17523</sup> Biljana Stojković, T. 38061-38063, 38065-38066.

<sup>17524</sup> D1238 (Radovan Popović, witness statement, 12 July 2014), para. 5; Radovan Popović, T. 38983-38984.

<sup>17525</sup> D1203 (Žarko Stojković, witness statement, 12 July 2014), paras 6-7; Žarko Stojković, T. 38073, 38101. *See also* D1202 (Biljana Stojković, witness statement, 12 July 2014), para. 9; Biljana Stojković, T. 38058-38059; D1238 (Radovan Popović, witness statement, 12 July 2014), para. 6; Radovan Popović, T. 38979, 38987-38993.

<sup>17526</sup> Žarko Stojković, T. 38074.

<sup>17527</sup> Biljana Stojković, T. 38058, 38066.

occasions in the summer of 2007, after which the tapes could not be found.<sup>17528</sup> No copies were made.<sup>17529</sup>

5020. During the second part of the day, Mladić was present at the Military Medical Academy (VMA) in Belgrade.<sup>17530</sup> He travelled back to Bosnia-Herzegovina and was present at the Main Staff Headquarters in Crna Rijeka no later than 17 July 1995.<sup>17531</sup>

5021. **Bosiljka Mladić** testified that Mladić was in Belgrade with her from late evening of 14 July 1995 until the morning of 17 July 1995.<sup>17532</sup> During this period, her husband had no communications equipment on him.<sup>17533</sup> On 16 July, she was present when her husband had a telephone conversation during a meeting at the Military Medical Academy.<sup>17534</sup> Years later, she asked her husband whether he had issued any orders regarding the Srebrenica crimes.<sup>17535</sup> He looked at her sharply and answered ‘are you doubting me?’<sup>17536</sup>

*Communication and orders by Mladić on 14 July 1995*

5022. According to an order from the VRS Main Staff to the Commander of the DK and for the information of the Bratunac Brigade dated 14 July 1995, signed by Mladić, approximately 50 DutchBat members who had spent the last days in Bratunac were to be enabled to leave Bratunac by noon on 15 July 1995 and travel to Ljubovija on buses provided by the FRY.<sup>17537</sup> Colonel Savo Božanović and an appropriate team were to take part in the implementation of the task on behalf of the VRS Main Staff.<sup>17538</sup> According to an order from the VRS Main Staff to the Command of the SRK and DK also dated 14 July 1995 and signed by Mladić, General Rupert Smith’s team was to be

<sup>17528</sup> D1202 (Biljana Stojković, witness statement, 12 July 2014), para. 12. *See also* D1203 (Žarko Stojković, witness statement, 12 July 2014), paras 8-9; Žarko Stojković 38071-38072.

<sup>17529</sup> D1202 (Biljana Stojković, witness statement, 12 July 2014), para. 12. *See also* D1203 (Žarko Stojković, witness statement, 12 July 2014), para. 8; D1238 (Radovan Popović, witness statement, 12 July 2014), para. 7.

<sup>17530</sup> Agreed Facts II, no. 16. *See also* D1218 (Mladen Kenjić, witness statement, 3 August 2014), paras 12-13, Mladen Kenjić T. 38654-38655.

<sup>17531</sup> Agreed Facts II, no. 17. *See also* D1218 (Mladen Kenjić, witness statement, 3 August 2014), para. 13.

<sup>17532</sup> D1185 (Bosiljka Mladić, witness statement, 17 July 2014), paras 2, 8; Bosiljka Mladić, T. 37680-37682, 37707.

<sup>17533</sup> Bosiljka Mladić, T. 37681.

<sup>17534</sup> D1185 (Bosiljka Mladić, witness statement, 17 July 2014), paras 4-7; Bosiljka Mladić, T. 37702-37703.

<sup>17535</sup> Bosiljka Mladić, T. 37689-37690.

<sup>17536</sup> Bosiljka Mladić, T. 37690.

<sup>17537</sup> P2123 (VRS Main Staff order with regard to transport of DutchBat members, 14 July 1995), p. 1.

enabled to travel on 15 July 1995 from 7 a.m. to Belgrade.<sup>17539</sup> The SRK Commander was to ensure a police escort and appropriate escort members on the route.<sup>17540</sup>

5023. According to an intercepted conversation between Mladić and a man on 14 July 1995 at 8:05 a.m., the man told Mladić he was just ‘here’ with a narrow circle of friends and that now something would depend on Mladić. He asked if Mladić was going to be ‘there’ those days and Mladić replied that he would be there after Sunday, but that if the man wanted to see him, he would be ‘there’ until 3 p.m. that day, after which he would go to the field, where he would be busy for two or three days, and then he would come back. Mladić also told him that Pepo was in the field.<sup>17541</sup>

5024. The Trial Chamber recalls an order, admitted as P2122, from Mladić reviewed in chapter 9.3.3 that on 14 July 1995, Mladić informed, *inter alios*, the Supreme Commander, the VJ General Staff, the SVK Main Staff, and various VRS Corps, including the 1KK and IBK, that due to failure of power supply to the Veliki Žep Stationary Communications Centre, the VRS Main Staff communications centre would operate only from 8 p.m. until 8 a.m. the next day. Mladić instructed that any information the commands had for the VRS Main Staff should be prepared and exchanged during those operating hours.

*Communication and orders by Mladić on 15 and 16 July 1995*

5025. According to an order from the VRS Main Staff to the IBK Command and the VRS Main Staff IKM dated 15 July 1995 and signed by Mladić, the IBK was to send an officer to the IKM, where he was to report to Lieutenant General Manojlo Milovanović no later than 6 p.m. on 20 July 1995.<sup>17542</sup>

5026. **Witness RM-316** testified that an operator could use various ways to identify Mladić in an intercepted phone conversation.<sup>17543</sup> First, he could identify him through voice recognition as Mladić’s voice was recognisable and operators could not mistake

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<sup>17538</sup> P2123 (VRS Main Staff order with regard to transport of DutchBat members, 14 July 1995), p. 1.

<sup>17539</sup> P2124 (VRS Main Staff order with regard to the passage of UNPROFOR Commander Rupert Smith, 14 July 1995), p. 1.

<sup>17540</sup> P2124 (VRS Main Staff order with regard to the passage of UNPROFOR Commander Rupert Smith, 14 July 1995), p. 1.

<sup>17541</sup> P1298 (Intercept of Mladić and a man, 14 July 1995 at 8:05 a.m.).

<sup>17542</sup> P2125 (VRS Main Staff order to maintain duty service for the IKM-2 communications system, 15 July 1995).

it.<sup>17544</sup> Second, sometimes an operator heard a reference to Mladić at the start of the conversation before he could start the recording.<sup>17545</sup> In such situations, the operator would indicate in the intercept transcript that Mladić was a participant in the conversation.<sup>17546</sup> In relation to phone calls from Mladić's office, Witness RM-316 testified that it was possible that instead of Mladić, the other person was in his office and Mladić himself was somewhere else.<sup>17547</sup>

5027. According to a conversation intercepted on channel 13 between Mladić and a person called 'Dule' at 8:30 a.m., dated 16 July 1995, Mladić and 'Dule' agreed they would see each other that night.<sup>17548</sup> The call was made from the telephone in Mladić's office.<sup>17549</sup> The intercept is unclear as to whether Mladić was in his office, or 'Dule'.<sup>17550</sup>

5028. The Trial Chamber recalls the evidence of an intercepted conversation on channel 13 between Mladić and a VRS Main Staff duty officer admitted into evidence as exhibit P1655 and reviewed in chapter 9.7.7 that on 16 July 1995 at 4:15 p.m., Mladić was informed that 'Pandurević had arranged passage for Muslims over to that territory'. During that conversation, the duty officer informed Mladić that he had asked to be urgently connected to Pandurević. The Trial Chamber also recalls the evidence of Witness RM-316 in the same chapter that Mladić would not have been inserted into the record of the intercept unless the operators had clearly identified him and that channel 13 was Mladić's line.

5029. In relation to the intercepted conversation at 4:15 p.m. between Mladić and a VRS Main Staff duty officer, **Velo Pajić** testified that if Mladić was calling from Belgrade, it was impossible to be intercepted at the Pale radio relay route.<sup>17551</sup> Mladić had only a PTT number in Belgrade, and if he was calling from there, it would use the Veliki Žep-Cer-Avala route which was entirely protected.<sup>17552</sup> The unprotected route

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<sup>17543</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010), pp. 2075-2079; Witness RM-316, T. 13696-13697; P1672 (Table of concordance).

<sup>17544</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010), pp. 2062-2063, 2077; Witness RM-316, T. 13620-13621.

<sup>17545</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010), p. 2077.

<sup>17546</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010), p. 2077.

<sup>17547</sup> Witness RM-316, T. 13625, 13629, 13669.

<sup>17548</sup> Witness RM-316, T. 13617-13618; P1656 (Intercept no. 648, 16 July 1995).

<sup>17549</sup> Witness RM-316, T. 13667-13669.

<sup>17550</sup> Witness RM-316, T. 13667-13669; P1656 (Intercept no. 648, 16 July 1995).

<sup>17551</sup> Velo Pajić, T. 35890-35891.

<sup>17552</sup> Velo Pajić, T. 35891, 35894.

from Cer to Veliki Žep was never used.<sup>17553</sup> If Mladić was in Belgrade, and if the interceptor was only hearing Crna Rijeka, the interceptor would have to be on the territory of Serbia.<sup>17554</sup> On 16 July 1995, while monitoring the Pale radio relay, the SDB recorded a conversation between Mladić and Mane.<sup>17555</sup> Pajić testified that if someone called Mladić directly at a civilian number in Belgrade instead of his civilian Belgrade number located in his office, the call would bypass the radio relay system in the Bosnian-Serb Republic, and could not be intercepted.<sup>17556</sup>

5030. According to an intercepted conversation on 16 July 1995 at 4:43 p.m., a person told another person that ‘the boss’ wanted Popović or Drago Nikolić to go to Vinko.<sup>17557</sup> The other person asked where they had checked about the ‘thing’ regarding those wounded and whether they had been transferred, to which the first person responded with ‘the vehicles there in the zone’.<sup>17558</sup>

5031. The Trial Chamber recalls the evidence of Witness RM-322 in chapter 9.6.2 that on 16 July 1995, Pandurević had opened the corridor between 1 and 2 p.m. and closed it between 5 and 6 p.m. on the same day.

5032. The Trial Chamber recalls the evidence of the intercepted conversation on 16 July 1995 between Mladić and Mane at 10:30 p.m. admitted as exhibit P1657 and reviewed in chapter 9.7.7 that Mane told Mladić that the ‘road is open’ and that everything is going as it should. Mladić then told Mane to continue and asked him if there was ‘any chance to make him happy with a new one’ and that everything was under control and positive on his end. The Trial Chamber also recalls the evidence of Witness RM-316 in chapter 9.7.7 of an intercepted conversation between Mladić and a person called Kostić, during which Mladić said ‘the best would be to give up on Muslims completely, and on Croats as well’ and that it was finished and that there were only smaller groups left. Mladić told Kostić to do his job and not to worry because they were waiting for him to come to Srebrenica and Žepa.

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<sup>17553</sup> Velo Pajić, T. 35895.

<sup>17554</sup> Velo Pajić, T. 35909-35910.

<sup>17555</sup> P1658 (Intercepted communication of 16 July 1995), p. 1

<sup>17556</sup> Velo Pajić, T. 35897-35898.

<sup>17557</sup> P1339 (Intercept of two unidentified persons), p. 1. *See also* P1340 (Intercept of two unidentified persons, 16 July 1995), p. 1.

<sup>17558</sup> P1339 (Intercept of two unidentified persons), p. 1. *See also* P1340 (Intercept of two unidentified persons, 16 July 1995), p. 1.

*Events around 17 July 1995*

5033. On 17 July 1995, Mladić ordered the Bratunac Brigade, the 1st Milići Light Infantry Brigade, the 67th military police battalion, the 65th Motorised Protection Regiment, and MUP forces present in the Bratunac-Milići-Drinjača area to comb the Bratunac-Drinjača-Milići-Bešići area to find and destroy Muslim groups.<sup>17559</sup> He appointed Colonel Keserović as commander of the forces and set a deadline to 19 July 1995.<sup>17560</sup> **Dragomir Keserović** testified that in the late afternoon or early evening of 16 or 17 July 1995, he arrived at the VRS Main Staff headquarters in Crna Rijeka.<sup>17561</sup> General Miletić, Colonel Sladojević, Ljubo Obradović and Tolimir were present.<sup>17562</sup> At around 8 or 9 p.m., Mladić, who then had also arrived, told the witness that an operation aiming to block the 28th Division of the ABiH, coordinated by Blagojević, Commander of the Bratunac Brigade, was underway in the area of responsibility of the DK, more particularly around Konjević Polje in the Drinjača valley.<sup>17563</sup> Mladić tasked the witness to take over the command of the units involved in this operation, and informed him that General Miletić would issue an order containing additional details.<sup>17564</sup> The units were also tasked to sweep the terrain to find parts or complete units left in the area, initiate combat against them, if necessary, capture or disarm their members.<sup>17565</sup> The witness told Mladić that he considered his assignment militarily unacceptable as he was not a commander of any unit participating in the operation, had no staff or communication centre, had no information about the units' capabilities necessary to carry out an assessment of the terrain and of the units, and was asked to exercise his command function from a command post lacking the capacity and ability to execute command over joint units.<sup>17566</sup> Mladić answered that Miletić would explain the details and left.<sup>17567</sup> According to Keserović, Mladić eventually agreed not to assign command of these units

<sup>17559</sup> P1579 (Order from Ratko Mladić concerning the integration of operations to crush lagging Muslim forces addressed to DK, 17 July 1995).

<sup>17560</sup> P1579 (Order from Ratko Mladić concerning the integration of operations to crush lagging Muslim forces addressed to DK, 17 July 1995).

<sup>17561</sup> Dragomir Keserović, T. 12836-12837, 12840, 12860-12862, 12921-12923; P1579 (Order from Ratko Mladić concerning the integration of operations to crush lagging Muslim forces addressed to DK, 17 July 1995); P1580 (ICRC Communication to the press on the evacuation of wounded persons from Bratunac and Potočari, 18 July 1995); P1581 (Intercept from 2nd Corps Command of a communication between Badem addressed to Mičić, dated 17 July 1995), pp. 1-2; P1583 (Situation report in the Srebrenica region from Dragan Kijać about humanitarian aid and evacuation of POWs, 18 July 1995), p. 1.

<sup>17562</sup> Dragomir Keserović, T. 12840, 12858.

<sup>17563</sup> Dragomir Keserović, T. 12840-12841, 12843, 12858.

<sup>17564</sup> Dragomir Keserović, T. 12840-12843.

<sup>17565</sup> Dragomir Keserović, T. 12843-12844.

<sup>17566</sup> Dragomir Keserović, T. 12846, 12851-12853.

to him but ordered him to go to the area to meet Blagojević, to gather information about the operation, and report to him.<sup>17568</sup> Furthermore, Keserović testified that he heard Mladić say that three officers from the Main Staff, Sladojević, from the operations administration, Trkulja, chief of armoured units, and Stanković, from the analysis department of the intelligence administration, were expected to go to the AOR of the Zvornik Brigade to assess the situation and provide assistance to the commander, if needed.<sup>17569</sup> The witness later found out that instructions concerning this operation were laid out in General Mladić's 18 July 1995 order.<sup>17570</sup> **Ljubomir Obradović** testified that on 17 July 1995, when he was at the VRS Main Staff, Miletić told him that pursuant to Mladić's order, he had sent Neđeljko Trkulja and some senior officers for an assignment in the Zvornik Brigade area of responsibility 'because of some unclear situation'.<sup>17571</sup>

5034. On 17 July 1995, General Mladić ordered Colonel Trkulja, Stanković and Sladojević to the 1st Zvornik Infantry Brigade to assist the MUP and VRS forces to plan and coordinate the combing of the areas of Kamenica, Cerska, and Udrič to block, crush and destroy Muslim forces.<sup>17572</sup>

#### *Events in late July 1995*

5035. **Smith** testified that during a meeting with Mladić on 19 July 1995, Mladić specifically pointed out that Srebrenica was 'finished in a correct way'.<sup>17573</sup> He stated that the population that moved to Potočari was evacuated at its own request and with the full cooperation and help of UNPROFOR.<sup>17574</sup> He reported that on 11 July 1995 he had met with the commanding officer of DutchBat and three civilian 'representatives' of the local population to organise the evacuation.<sup>17575</sup>

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<sup>17567</sup> Dragomir Keserović, T. 12846, 12851-12853.

<sup>17568</sup> Dragomir Keserović, T. 12848, 12852-12853, 12896, 12898, 12901-12902, 12931-12933.

<sup>17569</sup> Dragomir Keserović, T. 12847-12848, 12859.

<sup>17570</sup> Dragomir Keserović, T. 12847, 12873-12874, 12918-12919, 12921-12922; P1579 (Order from Ratko Mladić concerning the integration of operations to crush lagging Muslim forces addressed to DK, 17 July 1995) p. 1.

<sup>17571</sup> Ljubomir Obradović, T. 14535-14537.

<sup>17572</sup> P1579 (Order from Ratko Mladić concerning the integration of operations to crush lagging Muslim forces addressed to DK, 17 July 1995).

<sup>17573</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 165, 168; P795 (Report on Smith-Mladić meeting, 19 July 1995), pp. 1, 3.

<sup>17574</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 168; P795 (Report on Smith-Mladić meeting, 19 July 1995), p. 3.

<sup>17575</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 168; P795 (Report on Smith-Mladić meeting, 19 July 1995), p. 3.

5036. According to an intercept dated 20 July 1995, a conversation took place between two unidentified men ((X) and (Y)) on channel 13 at 12:05 p.m.<sup>17576</sup> During this conversation ‘the boss’ was busy with ‘the thing down there’ which was finished. When told that it should have been finished ‘at 2’, the (Y) responded ‘no, no, the gathering is in progress’. (Y) further informed (X) that during another gathering at ‘10’ they discussed the wounded.<sup>17577</sup>

5037. **Milomir Savčić** testified that he met up with Mladić several times between 14 and 25 July 1995 in the area of Žepa. He met Mladić once in Brezova Ravanin and later Mladić only observed and monitored how the witness was commanding his troops. Mladić also met General Smith. According to the witness, the activities were governed by the rules of military police and Mladić never ordered him to run counter to the laws of warfare.<sup>17578</sup>

5038. According to footage of General Milenko Živanović’s retirement celebration on 20 July 1995, Mladić gave a speech where he commended Živanović, alongside his successor General Krstić and their subordinate commanders, for the successful liberation of Srebrenica and Žepa for the Serbian people.<sup>17579</sup> Mladić explained that he had just arrived from the area of Srebrenica and Žepa and that Srebrenica was ‘finished’.<sup>17580</sup> He said that the members of UNPROFOR would be evacuated from Srebrenica the next day and that he would ‘put an end to everything’.<sup>17581</sup> He added that he would ‘put an end’ to Žepa today.<sup>17582</sup>

5039. The Trial Chamber recalls the evidence from Witness RM-322 reviewed in chapter 7.15 that when asked about the ten detainees previously held at the Standard Baracks on or about 23 July 1995, Pandurević said that Popović, acting as courier, had passed on an order from Mladić to Dragan Nikolić to execute these detainees.

5040. **Richard Butler** testified that within the DK, Srebrenica and Žepa were normally seen as part of the same larger security issue.<sup>17583</sup> By 24 July 1995, local Muslim leaders had signed a document for the cessation of combat at Žepa, and by the next day, they

<sup>17576</sup> P1669 (Intercept no. 760, 20 July 1995).

<sup>17577</sup> P1669 (Intercept no. 760, 20 July 1995), p. 1.

<sup>17578</sup> Milomir Savčić, T. 33650.

<sup>17579</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 99.

<sup>17580</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 99.

<sup>17581</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 99.

<sup>17582</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 99.

<sup>17583</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para 4.2.

had begun talking with senior UNPROFOR officials about the potential surrender of Muslim forces in Žepa.<sup>17584</sup> By 25 July 1995, the VRS agreed to allow UNPROFOR to manage the evacuation of the wounded and had itself begun to remove civilians from Žepa.<sup>17585</sup> By 29 July 1995, almost all of the civilians had been removed from the enclave. During this time, Mladić acted as Commander of the Main Staff with the various staff branches, departments, and Corps Commands under his control.<sup>17586</sup> In July 1995, the VRS Main Staff issued orders pertaining to preventing the escape of Srebrenica Muslims.<sup>17587</sup> An order signed by Mladić directed a number of road closures.<sup>17588</sup> Another instructed the DK and subordinate brigades to ensure the most likely escape routes to be blocked.<sup>17589</sup>

#### *Events after July 1995*

5041. The Trial Chamber recalls its review of Directive no. 8 in chapter 7.1.2 and admitted as exhibit P5048, that on 3 August 1995, Mladić issued a directive to the commands of the 1KK and 2KK, and for the information of VRS Main Staff and the SVK, instructing VRS forces to prevent further advances of the enemy along all axes, then to re-group and move into counter-attack along the Livno axis. According to this directive, Mladić was to be personally in charge of the entire operation *Vaganj-95*, which was to be executed in the spirit of Directive no. 7 and Directive no. 7/1.

5042. The Trial Chamber also recalls the evidence of Witness RM-322 and Butler, as well as documentary evidence, reviewed in chapter 7.18 that on 14 September 1995, according to an authorization addressed to the DK and the Logistics Sector of the VRS Main Staff, Mladić approved that five tonnes of diesel fuel be delivered to Milorad Trbić for carrying out engineering works.

5043. The Trial Chamber recalls its review of exhibit P4317 in chapter 7.1.2 that, on 11 October 1995, Mladić sent an order to *inter alia* the Corps Commands and the MUP to carry out combat security ‘as per Directive no. 7’.

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<sup>17584</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.15.

<sup>17585</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.16

<sup>17586</sup> P2208 (Diagram of Main Staff VRS Structure, July 1995), p. 1.

<sup>17587</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.8.

<sup>17588</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.8.

<sup>17589</sup> P2210 (Richard Butler, VRS Main Staff Command Responsibility Report, 9 June 2006), para. 4.9.

5044. According to an intercepted conversation between Mladić and Tolimir on 18 November 1995 at 3:18 p.m., Tolimir asked Mladić whether he had seen a certain document and Mladić said that what ‘their side’ had offered, both in the first and second document, was a catastrophe, ‘worse than a capitulation and occupation’ and that Tolimir could tell them that they can adopt it but it would not get through the Assembly as the people would not accept it and their word is final.<sup>17590</sup>

5045. According to footage of a New Years celebration on 13 January 1996, Mladić addressed General Manojlo Milovanović, General Milan Gvero, General Đorđe Đukic, and General Stevan Tomić.<sup>17591</sup> Mladić credited the success of the Bosnian-Serb people to the VRS Main Staff.<sup>17592</sup> Mladić stated that the most important decisions were made by the inner core of the Main Staff which included, in addition to himself, General Milovanović, Đukić, Gvero and Tolimir.<sup>17593</sup> Other generals who had often participated in the decision-making were Jovo Marić, Tomić, Grubor at the time, and Škrbić.<sup>17594</sup> Important decisions which could be made later were taken by the Commander’s expanded collegiums attended by Corps commanders.<sup>17595</sup> Mladić said he and his associates often consulted many people within and outside the army.<sup>17596</sup> The most complex decisions were made by Mladić and the Chief of Staff with one of Mladić’s assistants, following consultations, while the most difficult ones, when lives were to be put at risk, were often made by Mladić alone.<sup>17597</sup> Mladić thanked General Milovanović, his ‘right-hand man’, for successfully standing in for him in difficult times, as well as the other generals.<sup>17598</sup>

### *The Trial Chamber’s findings*

5046. At the outset, the Trial Chamber refers to Appendix B *Evidentiary matters* where it addresses the general argument by the Defence in relation to the reliability of intercepts. With regard to the Defence’s specific arguments regarding the reliability of intercepted conversations and the identification of Mladić as a participant in these

<sup>17590</sup> P4219 (Intercept of Mladić and Tolimir, 18 November 1995 at 3:18 p.m.).

<sup>17591</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 123.

<sup>17592</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 123.

<sup>17593</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 123.

<sup>17594</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 123.

<sup>17595</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 123.

<sup>17596</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 124.

<sup>17597</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 124.

<sup>17598</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 124.

conversations during Mladić's travel to Belgrade from 14 to 17 July 1995, the Trial Chamber considered the evidence of Velo Pajić and Witness RM-316. With regard to intercepted phone calls made from Mladić's office during his travels to Belgrade from 14 to 17 July 1995, the Trial Chamber notes that it is possible that the person Mladić was talking to was in Mladić's office using his phone, while Mladić could have been somewhere else. Moreover, in relation to Pajić's evidence that it was impossible to intercept the phone conversations at the Pale radio relay route from a civilian number in Belgrade, the Trial Chamber notes that the witness was not able to account for all situations in which the conversations could have been intercepted. In this regard, the Trial Chamber has not received any evidence indicating that these intercepts are forgeries. The Trial Chamber also considered the testimony of Witness RM-316 and is satisfied that Mladić would not have been identified unless the operators were certain that it was Mladić speaking in the intercept. Therefore, the Trial Chamber dismisses the Defence's argument that Mladić was not sufficiently identified in the intercepted conversations and lacked communication while he was in Belgrade.

5047. The Trial Chamber recalls its finding in chapter 3.1.4 that from 12 May 1992 until at least 8 November 1996, Mladić was the Commander of the VRS Main Staff. The Trial Chamber also recalls its finding in chapter 9.3.3 on Mladić's role with respect to commanding and controlling the VRS.

5048. With respect to the implementation of Directives nos 7 and 7/1, the Trial Chamber recalls its finding in chapter 7.1.2 that on 31 March 1995, in Directive no. 7/1, Mladić decided to conduct operation *Sadejstvo 95* with the VRS main forces, including the 1KK, IBK, and DK. Based on the foregoing, the Trial Chamber finds that Mladić issued orders to VRS forces to implement Directives nos 7 and 7/1.

5049. The Trial Chamber finds that between at least 11 July and 11 October 1995, Mladić issued several orders to VRS forces, including the DK, concerning the operation in and around Srebrenica. The Trial Chamber further finds that from 10 July 1992 to 17 July 1995, Mladić received reports from VRS units, including the DK, which were present in and around Srebrenica. In addition, the Trial Chamber understands the reference to 'the boss' in exhibits P2126, P1339, and P669 to refer to Mladić.

5050. The Trial Chamber is not convinced by the Defence argument that Mladić had no control over the operations in Srebrenica and that the DK acted without Mladić's orders. In this regard, the Trial Chamber notes that Directive no. 7/1 included the DK amongst

its addressees. In addition, the Trial Chamber finds that in the days before 11 July 1995, Mladić was in the area of responsibility of the Bratunac Brigade and at the Bratunac Brigade headquarters and IKM. During these days and on 12 July, Janković and many DK Command officers, including Krstić, Popović, Lieutenant Kosorić, and Vinko Pandurević, were also at the Bratunac Brigade headquarters. On 10 July 1995, Živanović, Krstić, and the commanders of the Corps brigades, who participated in offensive activities, were all in the area of responsibility of the Bratunac Brigade. On 9 and 10 July 1995, Mladić received information from Krstić and Živanović on how the attack on Srebrenica was progressing and on 10 July, he was personally in command of the DK IKM. Moreover, between 11 July and 14 September 1995, Mladić issued several orders to the DK. The Trial Chamber considered its findings in chapter 3.1.3 on the functions and conduct of the VRS Main Staff and its commander, including the issuance of its 'Operational Directives'. It further recalls its findings on the DK in chapter 3.1.1 in respect of command and control and the reporting chain within the DK.

5051. The Trial Chamber recalls its findings in chapter 9.3.2 that on 13 July 1995, pursuant to a recommendation of Mladić, Karadžić promoted Krstić to replace Živanović as Commander of the Drina Corps.<sup>17599</sup>

5052. The Trial Chamber further recalls its finding in chapter 7.1.5 on the transportation of Bosnian Muslims of Srebrenica out of Potočari and the separation of Bosnian-Muslim men from Bosnian-Muslim women and children and elderly from 12 to 14 July 1995. The Trial Chamber finds that in the evening of 11 July 1995, Mladić ordered Škrbić to mobilise buses and by 12 July, he ordered the transportation of Bosnian Muslims out of Potočari under the responsibility of Aćamović. The Trial Chamber further finds that Mladić was present while the separation of men was taking place and that the separations were carried out by VRS soldiers under his command. In relation to Mladić's command and control of the VRS regarding detainees in and around Srebrenica, the Trial Chamber finds that on 13 July 1995, Mladić visited Sućeska, Bratunac, Srebrenica, and in particular Sandići, Konjević Polje, Nova Kasaba, Vlasenica and Han Pijesak. Mladić addressed Bosnian Muslims at Nova Kasaba football field and assured the Bosnian-Muslim soldiers there that they would be fed, housed, and taken to Bratunac to be exchanged. Mladić then ordered Zoran Malinić and Bojan

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<sup>17599</sup> The Trial Chamber notes that this action could also fall under the heading of paragraph 13 (a) in the Indictment.

Subotić to secure the transfer of detainees to the Vuk Karadžić Elementary School in Bratunac. Later that day, Mladić addressed the detainees at Sandići Meadow, telling them that the governments were negotiating and that they would be exchanged the next day.

5053. The Defence argued that Mladić travelled to Belgrade in July 1995 and was therefore unable to exercise command and control over VRS forces. The Trial Chamber finds that Mladić was in Srebrenica from 10 until 14 July 1995, before he travelled to Belgrade. The Trial Chamber further finds that irrespective of whether Mladić was in Srebrenica or in Belgrade in July 1995, he was still commander of the VRS Main Staff giving instructions and issuing orders. Throughout July 1995, including during his travel to Belgrade, Mladić: (i) was in contact with the VRS Main Staff and maintained command and control; (ii) gave orders to the VRS units which were implemented; (iii) took measures to ensure the implementation of his orders including when he was not physically present on the ground; and (iv) communicated over the phone with his Chief of Staff, Milovanović, on a regular basis.

5054. In chapter 9.7.6, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Srebrenica JCE.

*9.7.3 Commanding and controlling elements of the Serb Forces integrated into, or subordinated to, the VRS*

5055. With regard to this alleged contribution, the Prosecution argued that Mladić, together with Karadžić, commanded the forces implementing the Srebrenica JCE's objective. These forces were exclusively the armed forces of the Bosnian-Serb Republic, acting within the normal chain of command of the VRS and included subordinated forces of the MUP. The Prosecution further argued that there is no credible evidence that paramilitaries, mercenaries, volunteer forces or 'groups of avengers' acting outside the chain of command, played any role in carrying out the Srebrenica JCE.<sup>17600</sup> The MUP forces involved in the July 1995 Srebrenica operation, comprising of elements of the Special Police Brigade including the 2nd Šekovići Detachment, two companies from the MUP's Jahorina Training Centre, and PJP units, were

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<sup>17600</sup> Prosecution Final Brief, para. 1060 (i).

resubordinated to the VRS and under Krstić's and Mladić's direct command.<sup>17601</sup> The Defence submitted that the MUP forces were not resubordinated to either the VRS or the Accused but were operating under their own command, *i.e.* under Borovčanin.<sup>17602</sup> The Defence further argued that the limited interaction between Mladić and MUP personnel regarding civilians in Potočari is best demonstrated by the brief exchange between Mladić and Borovčanin on 12 July 1995 which did not allow for any instructions for the forcible removal of civilians or other crimes.<sup>17603</sup> According to the Defence, it was the duty of the MUP to deal with the Srebrenica civilians' well-being.<sup>17604</sup>

5056. The Trial Chamber received evidence from **Witness RM-333**, a member of the joint MUP forces of the RSK, Serbia, and Bosnian-Serb Republic in 1995;<sup>17605</sup> **Nedo Jovičić**, a member of the Special Police Brigade and driver for Deputy Commander of the brigade Ljubomir Borovčanin during 1995;<sup>17606</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>17607</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>17608</sup> **Dušan Mičić**, a military policeman of the TO from early May 1992 until March 1993 and later commander of a PJP unit in Bratunac;<sup>17609</sup> **Momir Nikolić**, the Assistant Commander for Intelligence and Security of the Bratunac Brigade from November 1992 to at least October 1995;<sup>17610</sup> **Miroslav Deronjić**, the President of the Bratunac Municipality Crisis Staff as of April 1992;<sup>17611</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>17612</sup> **Witness RM-256**, a Bosnian Muslim from Srebrenica and member of the

<sup>17601</sup> Prosecution Final Brief, para. 1090.

<sup>17602</sup> Defence Final Brief, paras 2977, 3035.

<sup>17603</sup> Defence Final Brief, paras 2932, 3067.

<sup>17604</sup> Defence Final Brief, paras 2927, 2932-2933.

<sup>17605</sup> Witness RM-333, T. 6759, 6792-6793; P724 (Report on the combat engagement of police forces in Srebrenica 95 signed by Ljubiša Borovčanin) p. 1; D129 (MUP order signed by Tomislav Kovač, 10 July 1995), p. 1. Witness RM-333's evidence is reviewed in chapter 7.1.3.

<sup>17606</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2.

<sup>17607</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756. Mile Janjić's evidence is reviewed in chapter 7.1.5.

<sup>17608</sup> Ljubodrag Gajić, T. 40268-40269, 40311. Ljubodrag Gajić's evidence is reviewed in chapter 7.1.3.

<sup>17609</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758.

Dušan Mičić's evidence is reviewed in chapter 7.1.3.

<sup>17610</sup> Momir Nikolić, T. 11768-11771, 11776-11777; D301 (Momir Nikolić, statement of facts and acceptance of responsibility, 6 May 2003), paras 1, 13-14.

<sup>17611</sup> P3566 (Miroslav Deronjić, witness statement, 25 November 2003), para. 2. Miroslav Deronjić's evidence is reviewed in chapter 7.1.5.

<sup>17612</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297). Witness RM-297's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

ABiH in 1995;<sup>17613</sup> **Pero Andrić**, a Serb member of the Military Police Platoon of the Bratunac Brigade from 1994 until July 1995;<sup>17614</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon with the Bratunac Brigade in July 1995;<sup>17615</sup> and **Bojan Subotić**, commander of a platoon in the military police battalion of the 65th Motorised Protection Regiment in July 1995,<sup>17616</sup> as well as documentary evidence.

5057. The Trial Chamber refers to its finding in chapter 7.13 *Schedule E.13.1* that the Skorpions were the sole perpetrators of the killings in Scheduled Incident E.13.1 and its finding in chapter 9.6.4 that they were not tools in the Srebrenica JCE and will therefore not further consider this unit in the present chapter.

5058. The Trial Chamber recalls its finding in chapter 9.6.2, that from 11 July 1995 until at least 17 July 1995 the MUP forces deployed in the sector of Srebrenica and under Borovčanin's command were under the command of the VRS.

5059. The Trial Chamber recalls its finding in chapter 7.1.3 that on 10 July 1995 pursuant to an order from the Supreme Commander, the MUP ordered various of its units, including a company from the Jahorina MUP Training Centre, the 2nd Special Police Detachment from Šekovići, the 1st Company of the Zvornik Special Police Unit of the Zvornik CSB, and one company of joint forces of the RSK MUP, Serbian MUP, and of the Bosnian-Serb MUP, to form a combined unit of MUP forces, commanded by Ljubiša Borovčanin, to participate in the Srebrenica operation. The Trial Chamber further recalls evidence reviewed in chapter 7.1.3 that Borovčanin was to contact General Krstić upon arrival; however when he arrived in Bratunac around noon on 11 July 1995, he contacted Mladić, who, according to Borovčanin's report, personally commanded the operation. Mladić ordered him to go to Potočari and Milačevići with all available manpower and equipment and to launch an attack in the early morning hours of 12 July 1995. The Trial Chamber also recalls the evidence of Mile Janjić reviewed in chapter 7.1.5 that in Potočari on 12 July 1995, he asked members of the police units why they were directing the women and children towards the buses, while bringing the

<sup>17613</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2; Witness RM-256, T. 13187. Witness RM-256's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

<sup>17614</sup> Pero Andrić, T. 34096-34097, 34130-34131; P7295 (Bosnia-Herzegovina Prosecutor's Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2. Pero Andrić's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

<sup>17615</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4. Mladen Blagojević's evidence is reviewed in chapter 7.5 *Schedule E.4.1* and in chapter 7.14.1 *Schedule E.15.1*.

men towards the yard of the White House and they responded that they were acting on Mladić's order. **Nedo Jovičić** testified that on 12 July 1995, on the way from Bratunac to Potočari, he and Borovčanin saw Mladić on the side of the road and that when they got out of the vehicle Mladić started cursing at Borovčanin and Jovičić, and called them 'Kovač's thieves'.<sup>17617</sup> The witness heard Mladić ordering that one part of Borovčanin's men go to Potočari, to provide security for the transport of the civilians towards Kladanj and Tuzla which was about to start, while the other part should go to Zvornik as Mladić had information that a large group of Muslim soldiers was moving towards the town.<sup>17618</sup>

5060. The Trial Chamber further recalls its findings in chapters 7.1.5 and 7.17 that in Potočari: (i) some soldiers, as well as one member of the Jahorina Detachment of the Special Police Brigade, hit and abused the Bosnian Muslims as they boarded the buses and called them names; (ii) pursuant to Borovčanin's order, members of the MUP Special Police Brigade, including members of the Jahorina Detachment, assisted in the boarding process; (iii) members of the MUP Special Police units brought the males towards the White House; (iv) DK officers were seen in the vicinity of the White House during the time the separated males were detained there and a member of the civilian police was seen counting the buses. In addition, the Trial Chamber recalls its findings in chapters 7.17 and 8.9.2 that members of the civilian police, including members of the Bratunac SJB, and a company of the PJP, were present in Potočari and assisted in the boarding process.

5061. With regard to Mladić's visit to Potočari on 12 July 1995, the Trial Chamber also reviewed the evidence of Ljubodrag Gajić in chapter 7.1.3 that Mladić mentioned that he had issued an order to the civilian authorities in Bratunac to provide a convoy for the transportation of the population in the area. In the same chapter, the Trial Chamber reviewed evidence of Dušan Mičić, that he saw Borovčanin in the vicinity of Mladić on that day.<sup>17619</sup>

5062. The Trial Chamber further reviewed evidence of Momir Nikolić in chapter 7.1.5 about a meeting held in Potočari on 12 July 1995 attended by Dragomir Vasić, Chief of

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<sup>17616</sup> D926 (Bojan Subotić, witness statement, 15 June 2014), paras 2, 4. Bojan Subotić's evidence is reviewed in chapter 7.14.1 *Schedule E.15.1*.

<sup>17617</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 15, 17-18.

<sup>17618</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), paras 19-20.

<sup>17619</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), para. 23.

the Zvornik Public Security Centre, who reported that at 8 a.m. Mladić and Krstić, and other senior officers from the police and the army had met at the Bratunac Brigade Command and assigned tasks to all participants at the meeting.<sup>17620</sup> The Trial Chamber recalls evidence of Miroslav Deronjić reviewed in chapter 7.1.5, that on 12 July 1992, Deronjić asked Vasić to contact Mladić and to tell him that the separations going on in Potočari should stop.<sup>17621</sup> Vasić later confirmed to Deronjić that he conveyed the message to Mladić.<sup>17622</sup>

5063. The Trial Chamber also recalls evidence of Momir Nikolić reviewed in chapter 7.1.5 about a meeting at 9:30 a.m. on 13 July 1995, during which Mladić informed Vasić that part of the MUP forces was tasked with organising the evacuation of approximately 15,000 civilians from Srebrenica to Kladanj by bus. Nikolić further testified that when the evacuation began, he observed that Mladić, brigade officers, Borovčanin, and MUP units under Borovčanin's command were present in Potočari. According to Nikolić, General Krstić was in command of all units taking part in the *Krivaja* operation until Mladić arrived and took over command of all units engaged in the combat operations, which were completed on 11 July 1995. Vasić reported that during the meeting with Mladić they were informed that the VRS was continuing operations towards Žepa and 'leaving all other work to the MUP' including the 'killing of about 8,000 Muslim soldiers whom [they] blocked in the woods near Konjević Polje'.<sup>17623</sup> This job was reported to be done solely by MUP units.<sup>17624</sup>

5064. The Trial Chamber recalls evidence reviewed in chapter 7.5 *Schedule E.4.1* relating to the presence of Mladić in Sandići Meadow on 13 July 1995 as well as its findings in that chapter, that members of the 1st Company of the Jahorina Police Training Centre shot and killed 10 to 15 Bosnian-Muslim men later that day.

5065. The Trial Chamber further recalls evidence by Bojan Subotić reviewed in chapter 7.14.1 *Schedule E.15.1* relating to Mladić's presence at the Nova Kasaba football field on 13 July 1995 and his orders to the military police to escort the detainees

<sup>17620</sup> P1509 (Report of the Zvornik Public Security Centre by Dragomir Vasić on meeting in Bratunac, 12 July 1995); *See also* Momir Nikolić, T. 11814-11815.

<sup>17621</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6273, 6412.

<sup>17622</sup> P3567 (Miroslav Deronjić, *Blagojević and Jokić* transcript, 19-22 January 2004), pp. 6274, 6412.

<sup>17623</sup> P2118 (Zvornik CJB Report, 13 July 1995). *See also*, Richard Butler, T. 16286-16288. During Richard Butler's testimony, the Defence raised that the term 'killing' in the English translation of this exhibit was not accurate. The Trial Chamber suggested that the Defence submit a request for verification of the translation if it so wished. The Trial Chamber notes that no such request was made and that therefore the translation of exhibit P2118 in court still contains the term 'killing'.

to Vuk Karadžić Elementary School in Bratunac, and to hand them over to the civilian police. In the same chapter, the Trial Chamber found that from 12 to 14 July 1995, members of the VRS Bratunac Brigade Military Police Platoon, members of the special police, members of the MUP, members of the Drina Wolves and paramilitary formations held several thousand Bosnian-Muslim civilians and soldiers in and around Vuk Karadžić Elementary School, and on buses parked outside the school and killed more than 50 Bosnian-Muslim men inside and outside the school in the surrounding area.

*The Trial Chamber's findings*

5066. The Trial Chamber recalls its finding in chapter 9.7.2 about the Accused's command and control of VRS forces in Srebrenica operation. Further, the Trial Chamber recalls its finding in chapter 7.1.3 that Ljubiša Borovčanin was the Commander of a MUP unit composed of a company from the MUP Training Centre in Jahorina, the 2nd Special Police Detachment from Šekovići, the 1st Company of the Zvornik Special Police Unit of the Zvornik CSB, one company of joint forces of the RSK MUP, Serbian MUP, and Bosnian Serb MUP from 10 July 1995. The Trial Chamber finds that on 11 July 1995, the Accused was contacted by Borovčanin and that he ordered him to launch an attack in the early morning of 12 July 1995.

5067. At 8 a.m. on 12 July 1995, a meeting was attended by Mladić and Krstić at the Bratunac Command Centre. That same day, on the road from Bratunac to Potočari, Mladić cursed at Neđo Jovičić and Borovčanin and called them 'Kovač's thieves'. He then ordered that part of Borovčanin's unit provide security for the transport of the civilians towards Kladanj and Tuzla, while the other part should go to Zvornik since Mladić had information that a large group of Muslim soldiers was moving towards the town. On 12 July 1995, Mladić visited Potočari and Dragomir Vasić, Chief of the Zvornik Public Security Centre, informed him about the ongoing separations there.

5068. The Trial Chamber further finds that on 13 July 1995 at 9:30 a.m., a meeting was held at the Bratunac Command Centre with Vasić, Popović, Krstić, and Mladić. Mladić informed Vasić that part of the MUP forces was delegated the task of organising the evacuation of approximately 15,000 civilians from Srebrenica to Kladanj. During that

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<sup>17624</sup> P2118 (Zvornik CJB Report, 13 July 1995).

meeting with Mladić, Vasić was informed that the VRS was leaving the MUP with the task of '[k]illing of about 8,000 Muslim soldiers whom we blocked in the woods near Konjević Polje' and that this job was 'being done solely by MUP units'.

5069. Further, the Trial Chamber finds that Mladić visited Sandići Meadow on 13 July 1995 before the members of the 1st Company of the Jahorina Police Training Centre shot and killed 10 to 15 unarmed Muslim men. The Trial Chamber also finds that on 13 July 1995, Mladić visited Nova Kasaba football stadium and ordered the military police to escort the men from the column who had surrendered to Vuk Karadžić Elementary School in Bratunac and to hand them over to the MUP and that between 12 and 14 July 1995 members of the military police, MUP, Drina Wolves and paramilitary formations, killed more than 50 Bosnian-Muslim men inside and around the school.

5070. In chapter 9.7.6, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Srebrenica JCE.

*9.7.4 Engaging in, supporting and/or facilitating efforts to deny or to provide misleading information about crimes against Bosnian Muslims and about the role that Serb Forces played in those crimes to representatives of the international community, non-governmental organisations, the media and the public, thereby facilitating the commission of crimes*

5071. With regard to this alleged contribution, the Trial Chamber received evidence from **Nedo Jovičić**, a member of the Special Police Brigade and the driver for Deputy Commander of the brigade Ljubomir Borovčanin during 1995;<sup>17625</sup> **Eelco Koster**, a member of DutchBat;<sup>17626</sup> **Milovan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>17627</sup> **Paul Groenewegen**, a member of DutchBat;<sup>17628</sup> **Rupert**

<sup>17625</sup> D976 (Nedo Jovičić, witness statement, 3 August 2014), para. 2. Nedo Jovičić's evidence is reviewed in chapter 7.1.3.

<sup>17626</sup> P57 (Eelco Koster, witness statement, 26 September 1995), pp. 1-2; Eelco Koster, T. 1235; D25 (UN Peacekeeper Interview Questionnaire completed by Eelco Koster), p. 1. Eelco Koster's evidence is reviewed in chapter 7.1.3.

<sup>17627</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

**Smith**, UNPROFOR Commander in Bosnia-Herzegovina between 23 January and December 1995;<sup>17629</sup> **Joseph Kingori**, an UNMO present in the Srebrenica enclave from March 1995 to around 20 July 1995;<sup>17630</sup> **Milivoje Simić**, Commander of the Dobož Garrison and Commander of Task Force Dobož until 1994;<sup>17631</sup> **Saliha Osmanović and Witness RM-255**, Bosnian-Muslims from Srebrenica Municipality;<sup>17632</sup> **Ljubodrag Gajić**, a member of the MUP 1st Company of the Jahorina Training Centre;<sup>17633</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>17634</sup> **Pero Andrić**, a Serb member of the military police platoon of the Bratunac Brigade from 1994 until July 1995;<sup>17635</sup> and **Dušan Mičić**, a military policeman of the TO from early May 1992 until March 1993 and later commander of a PJP unit in Bratunac;<sup>17636</sup> as well as documentary evidence.<sup>17637</sup>

5072. The Trial Chamber recalls the VRS Main Staff order of 13 July 1995 admitted as exhibit P2120 and reviewed in chapter 7.1.6, according to which Mladić ordered a ban on the giving of information to the media and that entry of all uninvited individuals, especially entry by local and foreign journalists that were not VRS Main Staff Press Centre journalists, to the combat operations zone in the general sector of Srebrenica and Žepa be prevented.

5073. The Trial Chamber also recalls the evidence of, *inter alios*, Mile Janjić, Eelco Koster, Neđo Jovičić, Paul Groenewegen, Milovan Milutinović, Saliha Osmanović and Ljubodrag Gajić in chapter 7.1.3 that Mladić and officers of the VRS Main Staff were present in Potočari on 12 July 1995. Mladić told Koster that he wanted to evacuate the ‘refugees’. While walking among the people in Potočari, Mladić stroked the heads of

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<sup>17628</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6. Paul Groenewegen’s evidence is reviewed in chapter 7.1.5.

<sup>17629</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 4, 6; Rupert Smith, T. 7287. Rupert Smith’s evidence is also reviewed in chapter 9.7.2.

<sup>17630</sup> P34 (Joseph Kingori, witness statement, 8 January 2012), paras 3, 7. Joseph Kingori’s evidence is reviewed in chapter 7.1.3.

<sup>17631</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), paras 6, 20; Milivoje Simić, T. 32527.

<sup>17632</sup> P1461 (Saliha Osmanović, witness statement, 18 June 2000), p. 1, para. 1; Saliha Osmanović, T. 11177-11178. P55 (Witness RM-255, witness statement, 25 May 1996), pp. 1-2. Saliha Osmanović’s and Witness RM-255’s evidence are reviewed in chapter 7.1.3.

<sup>17633</sup> Ljubodrag Gajić, T. 40268-40269, 40311. Ljubodrag Gajić’s evidence is reviewed in chapter 7.1.3.

<sup>17634</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756. Mile Janjić’s evidence is reviewed in chapter 7.1.3.

<sup>17635</sup> Pero Andrić, T. 34096-34097, 34130-34131; P7295 (Bosnia-Herzegovina Prosecutor’s Office record of interview, 29 June 2006), p. 1; P7297 (List of conscripts within the Bratunac Brigade, July 1995), p. 2. Pero Andrić’s evidence is reviewed in chapter 7.1.3.

<sup>17636</sup> D977 (Dušan Mičić, witness statement, 24 March 2013), paras 2, 14-16; Dušan Mičić, T. 33758.

Dušan Mičić’s evidence is reviewed in chapter 7.1.3.

<sup>17637</sup> P2120 is reviewed in chapter 7.1.6.

some children present in the crowd. When Koster received orders to protest against Mladić's wish to evacuate the people, Mladić became annoyed and irritated and told Koster that 'he could not give a shit about the UN and that he would do as he wanted and that he was now going to evacuate'. He further stated that '[i]f you oppose me, you will be in trouble'. When Mladić addressed the crowd, he told them that buses would arrive soon and bring them to Kladanj or wherever they wanted to be taken and that they were safe. Mladić further stated that the men had to wait longer and be patient. A journalist asked Mladić what would happen to the several hundred Muslim civilians located in the newly liberated Srebrenica. Mladić responded that 'representatives of the population' had asked him for assistance to enable the 'civilians' who wanted to leave Srebrenica to go to territory controlled by the Muslims and Croats. Mladić said that transportation had been arranged for them along with food, water and medicine and that the 'civilians' and UNPROFOR were never the VRS's targets. Women, children and the elderly would be the first to be evacuated on that day without any kind of force, along with anyone else who wanted to leave.

5074. The Trial Chamber further recalls its finding in chapter 7.1.3 in relation to the filmed food distribution by Serb women and soldiers to Bosnian Muslims in Potočari. While distributing, some of the soldiers said 'here you are, filthy swine'. Policemen and VRS soldiers also took part in the distribution. Some soldiers handed out chocolate and cigarettes when a cameraman was filming and took them back when the filming stopped. In addition, the Trial Chamber received evidence of, *inter alios*, Witness RM-255, Koster, Osmanović, Milutinović, Pero Andrić, Dušan Mičić, Neđo Jovičić, Mile Janjić and Joseph Kingori in relation to Mladić's participation during the food distribution in Potočari which is also summarized in chapter 7.1.3. Several witnesses testified that they saw Mladić participate in the distribution of food and cigarettes to the people. Milutinović testified that Mladić had bought candy in a store on his way to Potočari and asked the vendor to invoice the VRS Main Staff. According to Milutinović, Mladić did not hand out the sweets because of the video being made, but because 'he was a man like that'. Milutinović further testified that Mladić ordered him to sell the footage to foreign agencies, with funds to be paid to the VRS Main Staff Financial Service. Koster testified that when the cameraman stopped filming, they stopped distributing these things to the 'refugees'. Joseph Kingori testified that on several occasions he witnessed VRS soldiers, and at times Mladić himself, handing out

candy and drinks to the displaced people in front of UNMOs or TV cameras, only to take it back when the observers left or the cameras were switched off. Jovičić testified that he observed that a few army officers started taking the juice and chocolate and Mladić reprimanded those officers by cursing and pushing someone, and ordered the witness and others to assist with the distribution. Janjić saw Mladić shouting at the members of the Logistics Battalion. The witness was later told by members of the Logistics Battalion that Mladić had ordered that all the food was to be distributed to the people who were leaving and not to the military policemen or the members of the Special Police.

5075. The Trial Chamber moreover recalls its findings from chapter 7.1.4 where it found that Mladić stated several times in the presence of, *inter alios*, Karremans and Boering, that the civilian population were not the target of the VRS and were free to go or stay. Similarly, the Trial Chamber refers to the evidence of Rupert Smith reviewed in chapter 9.7.2 who testified that on 19 July 1995, Mladić pointed out that Srebrenica was ‘finished in a correct way’ and that the population was evacuated at its own request.

5076. **Rupert Smith** testified that during a meeting with Mladić on 22 August 1995, Mladić stated ‘I am a war criminal but you have to talk to me as I am the only one who can allow you to leave Goražde’.<sup>17638</sup> With respect to Srebrenica, Mladić stated that the allegations of atrocities had been contrived to divert attention from the cleansing of the Krajinas by the Croats.<sup>17639</sup>

5077. According to an internal UNPROFOR fax of 20 July 1995, Mladić indicated to General Gobilliard that he wanted to immediately hold a meeting to discuss the possibility of an exchange of all the prisoners held by the Bosnians Muslims and Bosnian Serbs. No final agreement was reached at the meeting as the Bosnian Muslims were not satisfied that the Bosnian Serbs had accounted for all the prisoners taken in the assault on the Srebrenica enclave. The Bosnian Serbs agreed that they would try to produce a fuller reckoning of the Srebrenica prisoners.<sup>17640</sup>

5078. **Milivoje Simić** testified that Mladić visited the corps command in Doboj in early August 1995 to meet with General Talić, Milan Martić, and the witness.<sup>17641</sup> According

<sup>17638</sup> P785 (Rupert Smith, witness statement, 27 October 2009), paras 189, 191.

<sup>17639</sup> P785 (Rupert Smith, witness statement, 27 October 2009), para. 195.

<sup>17640</sup> P816 (UNPROFOR fax re Žepa, 20 July 1995).

<sup>17641</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), para. 28; Milivoje Simić, T. 32529, 32574-32575, 32577, 32581.

to the witness, Mladić said: ‘People, something happened that should not have happened, something I could not even imagine. About 2,000 Muslims were killed during the night. Somebody did it without my knowledge and approval. It is terrible, it should not have happened [...]’.<sup>17642</sup> According to the witness, the further conversation revealed that Mladić was talking about the events following the fall of Srebrenica.<sup>17643</sup> Mladić stated that those killed had been in the custody of the VRS and Bosnian-Serb MUP.<sup>17644</sup>

5079. During a CNN interview on 13 August 1995, when asked where the Muslims from Srebrenica who disappeared while fighting the Serbs were, Mladić responded that most had gotten through to Muslim territory and that a small part of the group had surrendered and were under their control and had been registered, or would be registered by the ICRC.<sup>17645</sup> Mladić also denied that any executions took place, and responded to allegations of mass graves by stating that only those who were killed in battle were, for hygienic reasons, put ‘in the proper place’ until their remains could be exchanged.<sup>17646</sup>

#### *The Trial Chamber’s findings*

5080. Turning to its findings, the Trial Chamber first recalls its factual and legal findings in chapters 7 and 8 in relation to the killing of the men and boys of Srebrenica and the forcible removal of the women, young children and some elderly from Srebrenica. It also recalls its finding in chapter 3.1.3 on the position of Mladić, as well as its findings in relation to his presence on the ground in Potočari and involvement in the Hotel Fontana meetings 7.1.4, 7.1.3 and 7.1.5. In addition, the Trial Chamber recalls its finding on Mladić’s proposal to mislead the international public about the truth, made at the 16th Session of the Bosnian-Serb Assembly on 12 May 1992, as further set out in chapter 9.4.3. The Trial Chamber moreover recalls its finding in chapter 7.18 in relation to reburials.

<sup>17642</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), para. 28; Milivoje Simić, T. 32577-32578, 32583, 32585, 32597.

<sup>17643</sup> D921 (Milivoje Simić, witness statement, 24 July 2014), para. 28; Milivoje Simić, T. 32579-32580, 32585-32589.

<sup>17644</sup> Milivoje Simić, T. 32588.

<sup>17645</sup> P1147 (Srebrenica Trial Video), p. 119.

<sup>17646</sup> P1147 (Srebrenica Trial Video), p. 119.

5081. Based on the foregoing, the Trial Chamber finds that Mladić gave an order on 13 July 1995, which called for the prevention of the entry of local and foreign journalists into the zones of combat operations in Srebrenica and Žepa, as well as a ban on giving any information to the media about operations in Srebrenica, particularly on POWs, evacuated civilians and escapees. The Trial Chamber finds that Mladić's action was to keep the media and international community from knowing what was happening in Srebrenica.

5082. The Trial Chamber further finds that on 11 July 1995, Mladić, while in the presence of Karremans and Boering, said that the civilians were free to stay or go and repeated this statement to a journalist as well as to the people gathered in Potočari on 12 July 1995 adding that if they decided to leave they would be taken to Kladanj or anywhere they liked. Similarly, on 19 July 1995 Mladić said to Smith that the population present in Potočari was evacuated at its own request. In light of its earlier findings, the Trial Chamber finds that Mladić was deliberately misleading representatives of the international community, the public, and the media on these occasions.

5083. The Trial Chamber moreover finds that on 12 and 13 July 1995, Mladić was present in Potočari during the filmed distribution of food and water by members of the VRS, where he personally at times handed out food. He also ordered Milutinović to sell the footage of the distribution to foreign agencies.<sup>17647</sup> In this regard, the Trial Chamber recalls its finding from chapter 7.1.3 The Fall of Srebrenica that some of the soldiers only handed out chocolate and cigarettes when a cameraman was filming, only to take the food back when the filming stopped. In light of its earlier findings, the Trial Chamber finds that Mladić's order regarding the selling of the videotape of the distribution of food and water to foreign agencies was meant to deliberately mislead the international community.

5084. On 13 July 1995, Mladić told Evert Rave that the men and boys who were separated were taken to Bijeljina. On 19 July and 22 August 1995, Mladić denied allegations by the Commander of UNPROFOR in relation to alleged atrocities committed after the fall of Srebrenica, stating that there were rumours being spread to

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<sup>17647</sup> The Trial Chamber also notes the evidence received from Janjić, Milutinović, and Jovičić in relation to Mladić's actions during the food distribution in Potočari and finds that it is without impact on its finding whether Mladić's order of selling the videotape to foreign agencies misled the international community.

divert attention from crimes Croats in the Krajina were committing. In a CNN interview on 13 August 1995, Mladić stated that the majority of the men from Srebrenica had escaped to Muslim territory and denied that executions had taken place. In light of its earlier findings, the Trial Chamber finds that Mladić's words and actions during these occasions were deliberately misleading as they did not reflect the reality of the fate of many Bosnian Muslims of Srebrenica of which Mladić was aware.

5085. In chapter 9.7.6, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Srebrenica JCE.

*9.7.5 Facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb Forces under his effective control, of crimes that furthered the objective of the joint criminal enterprise by failing, while under a duty stemming from his position, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes*<sup>17648</sup>

5086. The Prosecution argued that the Accused's physical presence in Srebrenica facilitated logistical support, neutralized potential obstacles, and reassured and emboldened his troops that orders to commit crimes came from the top.<sup>17649</sup> The Defence argued that (i) with regard to events in Kravica, the MUP authorities retained all disciplinary responsibility for alleged crimes committed by its personnel while performing their police functions, the Accused was only required to report disciplinary infractions to the MUP, and because there is evidence that the MUP Commander was aware of the alleged crimes, the Accused was discharged of his duty to report them; (ii) the Accused's material ability to investigate and/or punish perpetrators of crimes in Srebrenica was negated by events in Žepa and Drvar, as well as by the fact that the military police had the ability to provide misleading information to the Accused to cover their alleged acts; (iii) due to conflicts with Karadžić and civilian authorities, the Accused lacked the authority and support to effectively investigate and/or punish VRS perpetrators of crimes in Srebrenica.<sup>17650</sup>

<sup>17648</sup> The Trial Chamber considers that this alleged contribution encompasses the one set out in para. 13 (i) of the Indictment.

<sup>17649</sup> Prosecution Final Brief, paras 1640-1642.

<sup>17650</sup> Defence Final Brief, paras 3273-3292.

5087. The Trial Chamber received evidence from **Paul Groenewegen**, a member of DutchBat stationed in Potočari from January until July 1995;<sup>17651</sup> **Milan Milutinović**, Chief of the Press Centre and the Information Service at the 1KK between 1992 and 1994 and head of the VRS Main Staff Information Service and Centre for Information and Propaganda Activities between 1994 and 1996;<sup>17652</sup> **Robert Franken**, the Deputy Commanding Officer of DutchBat in Potočari from 15 January to late July 1995;<sup>17653</sup> **Mile Janjić**, a member of the Bratunac Brigade military police platoon in July 1995;<sup>17654</sup> **Witness RM-297**, a Bosnian Muslim from Zvornik;<sup>17655</sup> **Witness RM-256**, a Bosnian Muslim from Srebrenica and member of the ABiH in 1995;<sup>17656</sup> **Mladen Blagojević**, a Serb member of the Military Police Platoon with the Bratunac Light Infantry Brigade in July 1995;<sup>17657</sup> as well as documentary evidence.<sup>17658</sup>

5088. The Trial Chamber recalls evidence it received from Robert Franken, reviewed in chapter 7.1.4, that he believed Mladić's statements during the first Hotel Fontana meeting that, *inter alios*, DutchBat and the Bosnian Muslims could go away, stay or die were implicit threats. Additionally, in an entry on 15 July 1995, under the heading 'General SMITH', Mladić recorded that Smith informed him: 'Treatment of the population in Srebrenica and Žepa – there are rumours about atrocities, massacres and rape'.<sup>17659</sup> General Smith told him 'It would be good if you would allow the UNHCR and ICR/International Red Cross/ as soon as possible'.<sup>17660</sup>

5089. The Trial Chamber recalls evidence it reviewed in chapter 7.1.3 that on 12 July 1995, Mladić addressed the Bosnian Muslims gathered at the UN compound in Potočari, telling them that anyone who wanted to be transported would be, starting with

<sup>17651</sup> P1157 (Paul Groenewegen, witness statement, 11 November 2011), paras 3-4, 6. Groenewegen's evidence is reviewed in chapter 7.1.3.

<sup>17652</sup> D862 (Milovan Milutinović, witness statement, 11 July 2014), paras 3, 5, 51, 54, 140; Milovan Milutinović, T. 30038.

<sup>17653</sup> P1417 (Robert Franken, witness statement, 15 January 2012), paras 3-4, 109. Franken's evidence is reviewed in chapter 7.1.4.

<sup>17654</sup> P1445 (Mile Janjić, *Blagojević and Jokić* transcript, 24-25 May 2004), p. 9756. Janjić's evidence is reviewed in chapter 7.1.6.

<sup>17655</sup> P1443 (Witness RM-297, witness statement, 14 August 2013), pp. 1-2; P1442 (Pseudonym Sheet for Witness RM-297). Witness RM-297's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

<sup>17656</sup> P1592 (Witness RM-256, witness statement, 16 January 1996), p. 1, paras 1-2; Witness RM-256, T. 13187. Witness RM-256's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

<sup>17657</sup> D922 (Mladen Blagojević, witness statement, 6 June 2014), p.1, para. 3; P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), pp. 2, 4. Blagojević's evidence is reviewed in chapter 7.5 *Schedule E.4.1*.

<sup>17658</sup> P1147 is reviewed in chapter 7.1.3.

<sup>17659</sup> P363 (Mladić notebook, 14 July - 18 September 1995), pp. 4-5.

<sup>17660</sup> P363 (Mladić notebook, 14 July - 18 September 1995), pp. 5-6.

the women, children, and elderly. He said that they would not be harmed, and that food, water, and medicine had been arranged for them.

5090. The Trial Chamber further recalls that it reviewed evidence in chapter 7.5 *Schedule E.4.1* that on 13 July 1995, Mladić told detainees gathered at Sandići Meadow that they would not be mistreated or provoked, and that they would be exchanged the following day. He also told them that their families were being evacuated and that they would be given food and brought to a cooler place.

*The Trial Chamber's findings*

5091. In relation to the Defence argument with regard to Kravica that the Accused only had a duty to report crimes allegedly committed by MUP personnel and that the MUP Commander was in any event aware of such crimes, the Trial Chamber recalls that the MUP units were subordinated to the VRS during the Srebrenica operation. Under these circumstances, merely reporting the crimes to the MUP Commander would not satisfy the Accused's duties as commander. Therefore the Trial Chamber rejects this argument. With regard to the Defence argument that the Accused lacked the material ability to investigate and/or punish the perpetrators of crimes in Srebrenica because of other events preoccupying the Accused and the military police's ability to provide misleading information, the Trial Chamber dismisses these arguments as irrelevant. First, even if the Accused was not in a position to immediately take steps to investigate and/or punish crimes, he was under a duty to do so soon thereafter. Second, the Defence has failed to identify any evidence demonstrating misreporting by the military police. In relation to the Defence contention that the Accused lacked the authority to investigate and/or punish the perpetrators of crimes in Srebrenica because of conflicts with Karadžić and the civilian authorities, the Trial Chamber recalls its finding in chapter 9.3.10 that Mladić did possess the authority to order investigations within the military justice system, and therefore finds the Defence's arguments to the contrary to be unpersuasive.

5092. The Trial Chamber first recalls its findings in chapters 7 and 8, in which it found that killings, ill treatment, and deportation and forcible transfer were committed in Srebrenica by (i) members of the VRS, including the Zvornik and Bratunac Brigades of the DK, and (ii) members of the MUP, including the 1st Company of the Jahorina police Training Center, and the Special Police Brigade, including the 2nd Šehovići

Detachment, a MUP company of the Zvornik PJP, and a mixed company of the Janja MUP . In relation to the Accused's presence in Srebrenica and Potočari, the Trial Chamber recalls its finding in chapter 7.1.3 on the fall of Srebrenica on 11 July 1995. The Trial Chamber also recalls its finding in chapters 9.6.2, 9.7.2, and 9.7.3 that during and after the fall of Srebrenica the Accused was in command of the VRS and other elements of Serb forces under his effective control, including MUP forces deployed in the sector of Srebrenica and under Borovčanin's command. Based on these findings, the Trial Chamber finds that the Accused was under a duty to take adequate steps to investigate and/or punish crimes committed in Srebrenica by members of the VRS and other Serb forces under his effective control, including the MUP.

5093. The Trial Chamber takes note of its findings in chapter 7.1.4 that during the Hotel Fontana meetings, the Accused made statements to the effect that the civilian population was not the target of VRS operations and that he would facilitate their transportation out of Potočari. However, the Trial Chamber also recalls that it found in chapter 3.1.2 that in 1995, the DK maintained an effective command and control structure with a strong reporting chain and that there was a fully functioning communication system in place. The Trial Chamber further refers to its finding in chapter 9.6.3, in which it found that VRS officers were aware of killings of Bosnian Muslims in Srebrenica and the Zvornik area, but that there were no investigations or prosecutions with regard to killings committed in July 1995. In light of these findings, the Trial Chamber finds that the Accused was aware of crimes committed in Srebrenica in July 1995 by members of the VRS and the MUP.

5094. The Trial Chamber did not receive evidence to conclude that Mladić ordered any substantial or meaningful investigations into war crimes or crimes against humanity. However, based on the Trial Chamber's findings in chapter 9.7.4 that Mladić engaged in words and actions that were deliberately misleading, the Trial Chamber finds that Mladić's actions in this regard are indicative of his overall stance towards investigating war crimes and crimes against humanity. Based on the foregoing, the Trial Chamber therefore finds that Mladić failed to take adequate steps to investigate crimes and/or punish members of the VRS and other elements of Serb forces, including the MUP, under his effective control who committed crimes in Srebrenica.

5095. In chapter 9.7.6, the Trial Chamber will consider whether Mladić's conduct in this respect, considered together with other acts or omissions, amounts to a significant contribution to the Srebrenica JCE.

#### *9.7.6 Legal findings*

5096. The Trial Chamber recalls its findings in chapter 9.6.4 that between the days immediately preceding 11 July 1995 and at least October 1995, there existed a JCE with the primary purpose of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica. In the days immediately preceding 11 July 1995, the objective of the Srebrenica JCE involved the commission of the crimes of persecution and inhumane acts (forcible transfer). The crimes of genocide, extermination, and murder became part of the means to achieve the objective by the early morning of 12 July 1995, prior to the first crime being committed. The Trial Chamber also found that there was a plurality of persons, with the following participating in the realization of the common criminal objective: Radovan Karadžić, Radislav Krstić, Vujadin Popović, Zdravko Tolimir, Ljubomir Borovčanin, Svetozar Kosorić, Radivoje Miletić, Radoslav Janković, Ljubiša Beara, Milenko Živanović, Vinko Pandurević, and Vidoje Blagojević. The Trial Chamber also recalls its findings in chapters 7 and 9.6.4 that physical perpetrators of the crimes forming part of the Srebrenica JCE were VRS or MUP members, all under the operational command of the DK or the Main Staff at the time.

5097. In chapters 9.7.2-9.7.5, the Trial Chamber made findings about Mladić's acts and omissions during the existence of the Srebrenica JCE. The Trial Chamber found that Mladić: (i) recommended the promotion of Krstić to replace Živanović as Commander of the DK; (ii) between at least 11 July and 11 October 1995, issued several orders to VRS forces, including the DK, concerning the operation in and around Srebrenica; (iii) on 11 and 12 July 1995, gave orders to MUP commander Borovčanin and his units; (iv) in July and August 1995 provided misleading information about the crimes by: informing UNPROFOR that the separated boys and men had been taken to Bijeljina; denying UNPROFOR allegations of atrocities committed after the fall of Srebrenica, stating that these were rumours being spread to divert attention from crimes Croats in the Krajina were committing; and stating in a CNN interview that the majority of the men from Srebrenica had escaped to Muslim territory, denying that executions

had taken place; and (v) failed to take adequate steps to investigate crimes and/or punish members of the VRS and other elements of the Serb Forces under his effective control who committed such crimes.

5098. In considering whether these actions can be deemed significant contributions to the Srebrenica JCE, the Trial Chamber considered in particular Mladić's acts vis-à-vis the VRS and subordinated MUP units, given that all of the principal perpetrators of the crimes forming part of the Srebrenica JCE were VRS or MUP members. Mladić commanded and controlled VRS and MUP units during the Srebrenica operation and its aftermath. Mladić failed to take adequate steps to investigate crimes and/or punish members of the VRS and other elements of the Serb Forces under his effective control who committed such crimes. Mladić's acts were so instrumental to the commission of the crimes that without them the crimes would not have been committed as they were. In light of this, the Trial Chamber finds that through his actions set out in the previous paragraph, the Accused significantly contributed to achieving the objective of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica by way of committing the crimes of persecution, inhumane acts (forcible transfer), genocide, extermination, and murder.

#### 9.7.7 *Mens rea*

5099. According to the Indictment, the Accused and other members of the Srebrenica JCE, the objective of which was to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica Municipality, shared the intent for the commission of the crimes charged.<sup>17661</sup> The Defence argued that (i) the Accused's words and deeds towards Bosnian Muslims in Potočari, Sandići Meadow, and Nova Kasaba disprove any allegations of criminal intent;<sup>17662</sup> (ii) the Accused's personal actions and character do not support allegations of an intent to destroy the Bosnian Muslims in Srebrenica, nor the *dolus specialis* for genocide;<sup>17663</sup> and (iii) the evidence of Momir Nikolić is dubious and unreliable, particularly with regard to the alleged hand

<sup>17661</sup> Indictment, paras 19-20.

<sup>17662</sup> Defence Final Brief, paras 2921, 2924-2926, 2928; T. 44785-44790.

<sup>17663</sup> Defence Final Brief, paras 2895-2905, 2928, 2952-2955; T. 44795-44798, 44804-44805.

gesture made by the Accused during an encounter with the witness at Konjević Polje on 13 July 1995.<sup>17664</sup> In addition to the evidence underlying the Trial Chamber's findings in previous chapters,<sup>17665</sup> the Trial Chamber received evidence from **Witness RM-316**, a Bosnian Muslim from Brnjik Municipality,<sup>17666</sup> and **Leendert van Duijn**, a DutchBat platoon commander from January to July 1995,<sup>17667</sup> as well as documentary evidence.

5100. The Trial Chamber recalls its finding in chapter 3.1.4 that on 12 May 1992, Mladić was appointed Commander of the VRS Main Staff. He remained in this position until at least 8 November 1996. In chapter 7.1.1, the Trial Chamber found that on 19 November 1992, Mladić issued Directive no. 4, in which he ordered the DK to inflict the heaviest possible losses on the ABiH and force them to leave the Birač, Žepa, and Goražde areas with the Muslim population.

5101. On 9 April 1993, at a meeting with UNPROFOR Commander Wahlgren, Deputy Chief of Mission and Director of Civil Affairs of UNPROFOR Thornberry, UNPROFOR Commander Morillon, and General Gvero, Mladić stated that he was ready to allow the UN to enter Srebrenica with as many empty trucks as it would like, in order to remove the Bosnian Muslims.<sup>17668</sup> He also stated that he was ready to open a corridor for the Muslim civilian population to go to Tuzla and that he guaranteed their safety.<sup>17669</sup> He emphasized that the Muslim civilians were not the object of Serb activities.<sup>17670</sup>

5102. On 25 June 1993, during a press interview for NIN magazine and in response to a question about the position of Serbs in Muslim or Croat-controlled towns, Mladić said that in some towns, HVO units had saved many Serbs from the 'Turkish cauldron'.<sup>17671</sup> Mladić stated that if the Muslims did not fulfil the ceasefire agreement for Srebrenica and Žepa 'nobody [would] be able to help them'.<sup>17672</sup> He added that the Muslims should worry about how they would feed their people in a VRS-encircled Srebrenica and Žepa as winter arrived and no one could provide them with food.<sup>17673</sup> He went on to say that

<sup>17664</sup> Defence Final Brief, paras 2523-2575; T. 44798-44799.

<sup>17665</sup> See chapters 7.1.3, 7.1.4, 7.1.5, 7.1.6, 9.7.2, 9.7.3, 9.7.4, and 9.7.5.

<sup>17666</sup> P1654 (Witness RM-316, *Tolimir* transcript, 27 May 2010) pp. 2046-2047; Witness RM-316, T. 13593-13594; P1653 (Pseudonym sheet for Witness RM-316).

<sup>17667</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2256-2258, 2261.

<sup>17668</sup> D1597 (Summary of a meeting of Mladić and UNPROFOR, 11 April 1993), pp. 2, 6.

<sup>17669</sup> D1597 (Summary of a meeting of Mladić and UNPROFOR, 11 April 1993), p. 6.

<sup>17670</sup> D1597 (Summary of a meeting of Mladić and UNPROFOR, 11 April 1993), p. 6.

<sup>17671</sup> P7719 (Press article with interview of Mladić, 25 June 1993), p. 7.

<sup>17672</sup> P7719 (Press article with interview of Mladić, 25 June 1993), pp. 4, 5.

<sup>17673</sup> P7719 (Press article with interview of Mladić, 25 June 1993), p. 5.

while he was convinced that the majority of UNPROFOR members had been impartial, in Srebrenica, ‘everything was done for the protection of the Muslim population, but in turn, not a single Serb was evacuated from Tuzla, despite the loud promises’.<sup>17674</sup> Mladić also stated that the Serbs did not need to ‘exchange territories’ in which Serbs were a majority, and that ‘if the Croats or the Turks want to exchange territories, we can only let them have a part of what was ours’.<sup>17675</sup>

5103. During the 34th session of the Bosnian-Serb Assembly held from 27 August to 1 October 1993, Mladić noted that they did not allow any connection of the enclaves in Eastern Bosnia.<sup>17676</sup> He stated ‘my aim was, and I am sure that if we establish Republika Srpska they could not wait to get out of the enclaves. However, if they don’t want to, we have to provide the conditions so that they could feel glad when we offer it to them’.<sup>17677</sup> During the same session, Mladić said that the army had to ‘make some moves to tighten the rope in Srebrenica’.<sup>17678</sup>

5104. According to an interview published on 11 February 1994, Mladić remarked that until the war, Srebrenica was a large ‘Islamic and Turkish stronghold’ which had been built on Serb soil, and although they had been the majority population there, the heritage did not belong to the ‘Turks’. He further remarked that ‘If the international community had not meddled, they would have paid the price for everything they had done up to then to the Serb people [...] The Turks from Srebrenica committed the worst crimes against the Serb people at the time of the suppression of the rebellion against the Turkish governors’. He also stated that Muslims from Srebrenica, Žepa, and Goražde burnt down over 100 Serb villages in June and July 1992, and that Serbs were therefore forced to ‘stop their savagery by a complex and militarily efficient operation, and to adequately punish them for what they had done in the past and for what they were doing now’.<sup>17679</sup> Mladić stated that the Drina was a synonym of domination over the Serbs,

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<sup>17674</sup> P7719 (Press article with interview of Mladić, 25 June 1993), p. 6.

<sup>17675</sup> P7719 (Press article with interview of Mladić, 25 June 1993), p. 8.

<sup>17676</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 70.

<sup>17677</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 70.

<sup>17678</sup> P2508 (Excerpts of the minutes of the 34th session of the Bosnian-Serb Assembly, 27-29 August, 9-10 September, 29-1 October 1993), p. 73.

<sup>17679</sup> P1973 (Article in newspaper ‘Nin’ entitled ‘Being on the offensive is my destiny’, 11 February 1994), p. 4.

dating from the time of the powerful Turkish empire, when five-year old and seven-year old Serb boys were taken across this river and turned into ‘Turkish warriors’.<sup>17680</sup>

5105. On 15 August 1994, Mladić told Milan Lešić, a representative of the Canada-based Humanitarian Organization ‘Republika Srpska’, that he did not know whether they killed that ‘kind’ over there in Canada and America, but that they ought to kill the ‘*Ustaša*’ there, as well as those who support and collaborate with them: Macedonians, Slovenes, and Muslims.<sup>17681</sup> Mladić demanded that Lešić film the area around them; ‘Let our Serbs see what we have done to them, how we took care of the Turks’.<sup>17682</sup> Mladić also said that if the Dutch had not been there to protect them, ‘they would have disappeared from this area a long time ago’.<sup>17683</sup>

5106. The Trial Chamber recalls evidence in exhibit P1147, reviewed in chapter 7.1.3, that upon arriving in Srebrenica on 11 July 1995, Mladić said: ‘Here we are, on 11 July 1995, in Serb Srebrenica. On the eve of yet great Serb holiday, we give this town to the Serb people as a gift. Finally, after the [R]ebellion against the Dahis, the time has come to take revenge on the Turks in this region’.

5107. The Trial Chamber recalls its findings in chapter 8 that the crimes of murder, extermination, persecution, inhumane acts (forcible transfer), and genocide, were committed in Srebrenica in July 1995.

5108. The Trial Chamber further recalls its finding in chapter 9.6.4 that there existed a JCE with the primary purpose of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica. In the days immediately preceding 11 July 1995, the objective of the Srebrenica JCE involved the commission of the crimes of persecution, and inhumane acts (forcible transfer); the crimes of genocide, extermination, and murder became part of the means to achieve the objective by the early morning of 12 July 1995, prior to the first crime being committed. The JCE existed until at least October 1995, when reburials in the Zvornik and Bratunac municipalities took place. The Trial Chamber further recalls that the charged crimes, except for Scheduled Incident E.13.1 and the ill-treatment of the Trnovo victims prior to

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<sup>17680</sup> P1973 (Article in newspaper ‘Nin’ entitled ‘Being on the offensive is my destiny’, 11 February 1994), p. 5.

<sup>17681</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 116.

<sup>17682</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 117.

<sup>17683</sup> P1147 (Updated Srebrenica Trial video with Transcript), p. 117.

them being killed, were committed by VRS or MUP units, all under the operational command of the DK or the VRS Main Staff at the time. As such, JCE members used these units to commit the Srebrenica crimes in furtherance of the JCE.

5109. In chapter 9.7.2, the Trial Chamber found that between at least 11 July and 11 October 1995, Mladić issued several orders to VRS forces, including the DK, concerning the operation in and around Srebrenica, and that from 10 July 1992 to 17 July 1995, he received reports from VRS units, including the DK, present in and around Srebrenica. In relation to Mladić's command and control over the VRS, the Trial Chamber further recalls that in the days before 11 July 1995, Mladić was in the area of responsibility of the Bratunac Brigade and at the Bratunac Brigade headquarters and IKM. During these days and on 12 July 1995, Janković and many DK Command officers, including Krstić, Popović, Lieutenant Kosorić, and Vinko Pandurević, were also at the Bratunac Brigade headquarters. On 10 July 1995, Živanović, Krstić, and the commanders of the Corps brigades were all in the area of responsibility of the Bratunac Brigade. On 9 and 10 July 1995, Mladić received information from Krstić and Živanović on how the attack on Srebrenica was progressing. On 10 July, he was personally in command of the DK IKM. Between 11 July and 14 September 1995, Mladić issued several orders to the DK. In the evening of 11 July 1995, Mladić ordered Škrbić to mobilise buses and by 12 July, he ordered the transportation of Bosnian Muslims out of Potočari under the responsibility of Aćamović. Mladić was present while the separation of men was taking place and that the separations were carried out by VRS soldiers under his command. On 13 July 1995, Mladić addressed Bosnian Muslims at Nova Kasaba football field and assured the Bosnian-Muslim soldiers there that they would be fed, housed, and taken to Bratunac to be exchanged. Mladić then ordered Zoran Malinić and Bojan Subotić to secure the transfer of detainees to the Vuk Karadžić Elementary School in Bratunac.

5110. The Trial Chamber recalls its findings in chapter 7.1.4 that on 11 and 12 July 1995, three meetings were held at Hotel Fontana in Bratunac between the VRS, DutchBat officers, and 'representatives' of the Bosnian Muslims (during the second and third meetings) in Potočari to discuss the fate of those who had gathered in Potočari. The first meeting took place at approximately 8 p.m. on 11 July and was attended by, *inter alios*, Mladić, Živanović, Janković, Nikolić, Krstić, Kosorić, some other VRS members, as well as DutchBat representatives. During this meeting unarmed DutchBat

soldiers were being detained by the VRS in an adjacent room. Mladić led the first meeting in an intimidating atmosphere, using threatening language. On the same evening at approximately 10 or 11 p.m., the second meeting took place. It was attended by the same participants, in addition to Ljubisav Simić, the Mayor of Bratunac, and Nesib Mandžić, who had been asked by Karremans and Boering to act as a representative for the Bosnian-Muslim population gathered in Potočari. During the second meeting, the evacuation of the civilian population from Potočari was again discussed and Mladić reiterated that they were not the target of the VRS and were free to go or stay. He offered to provide buses for their transport, if others provided the fuel. When Mandžić proposed that international organizations should be involved in the evacuation process, Mladić told him that ‘his people’ were to either live or vanish and that their fate was in Mandžić’s hands. The following morning, on 12 July 1995, a third meeting took place at around 10 a.m. attended by Mladić, several VRS officers, including Krstić, as well as Miroslav Deronjić, two DutchBat officers Karremans and Boering as well as three Bosnian Muslims who were told to act as representatives of the civilian population in Potočari, Nesib Mandžić, Ibro Nuhanović and Ćamila Omanović. Mladić repeated his demand for the surrender of all armed Bosnian-Muslim men and weapons, and stated that ‘you can either survive or disappear’. Mladić also stated that the civilians could stay or go where they wished and that he would let everyone go regardless of the fact that some of them may have been involved in crimes. The screening of men aged between 16 and 60 was also discussed. The Trial Chamber also recalls the evidence of Witness RM-294, reviewed in chapter 7.1.4, that on 11 July 1995, during the second Hotel Fontana meeting, Mladić was informed about the extremely poor humanitarian situation in Potočari where 25,000 or 30,000 people had gathered.

5111. The Trial Chamber recalls evidence from Robert Franken, reviewed in chapter 7.1.5 and chapter 9.7.2 regarding Mladić’s involvement in the transportation of Bosnian Muslims towards Kladanj on 12 July 1995.

5112. During a conversation between Mladić and a VRS Main Staff duty officer, intercepted on 16 July 1995 at 4.15 p.m. on channel 13 (Mladić’s telephone line), Mladić was informed that ‘Pandurević had arranged passage for Muslims over to that

territory'.<sup>17684</sup> The duty officer received this information on the phone from the 'President', who in turn had been informed by 'Karišik'. The duty officer informed Mladić that he had asked to be urgently connected to Pandurević. The duty officer said that he had requested a telegram from Pandurević with the information he had just received from the President and instructed Pandurević 'not to do anything without authorisation until he receives our answer'. He also informed Mladić that equipment was captured at four UN checkpoints in Žepa, which was then confiscated.<sup>17685</sup> **Witness RM-316** testified that even though this intercept only reflects the duty officer's side of the conversation, and the introduction note states that Mladić was inaudible, Mladić would not have been inserted unless the operators had clearly identified him.<sup>17686</sup> The Main Staff duty officer was the person who used that telephone on that channel to speak to Mladić; Mladić himself could have been anywhere.<sup>17687</sup>

5113. According to an intercepted conversation that took place at 10:30 p.m. on 16 July 1995 between Mladić and someone called 'Mane', during which Mane told Mladić that 'the road is open' and confirmed that all was good and going as it should.<sup>17688</sup> Mladić told Mane to continue, and asked him if there was 'any chance to make me happy with a new one tomorrow', to which Mane responded 'yes'.<sup>17689</sup> Mladić said 'everything is under control on this end and very positive'.<sup>17690</sup> Witness RM-316 testified that Mladić was in his office during this conversation.<sup>17691</sup>

5114. According to another intercepted conversation that took place on channel 13 on 16 July 1995, at 10:50 p.m., between Mladić and a person called 'Kostić', who was inaudible, Mladić said that 'the best would be to give up on Muslims completely, and on Croats as well', 'that's finished bro, there are only some smaller groups left', and 'of

<sup>17684</sup> Witness RM-316, T. 13624-13625; P1655 (Intercept no. 664, 16 July 1995). *See also* P1338 (Intercept of a Main Staff Duty Officer and Mladić, 16 July 1995), p. 1. The Trial Chamber notes that exhibits P1655 and P1338 are duplicates and has thus referred only to P1655 in further references to the same document.

<sup>17685</sup> P1655 (intercept no. 664, 16 July 1995).

<sup>17686</sup> Witness RM-316, T. 13606-13608, 13639, 13655-13657; P1655 (Intercept no. 664, 16 July 1995).

<sup>17687</sup> Witness RM-316, T. 13625-13629.

<sup>17688</sup> Witness RM-316, T. 13618-13619; P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 1. The Trial Chamber understands the reference to 'Mane' to be a reference to Manojlo Milovanović. *See* P4221 (Intercept of Mladić and Milovanović, 16 July 1995 at 10:30 p.m.).

<sup>17689</sup> P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 1.

<sup>17690</sup> P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 1.

<sup>17691</sup> Witness RM-316, T. 13674-13675, 13676-13677; P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 1.

course, we'll deal with those terrorists'.<sup>17692</sup> Further, Mladić told Kostić to do his job and not to worry, and that they were waiting for Kostić to come to Srebrenica and Žepa.<sup>17693</sup> Based on the document and the fact that only Mladić was audible, **Witness RM-316** concluded that Mladić was in his office when the call was made.<sup>17694</sup>

5115. The Trial Chamber further recalls its findings in chapter 9.7.3 that on 11 July 1995, Mladić ordered Ljubiša Borovčanin to launch an attack in the early morning of 12 July 1995. At 8 a.m. on 12 July 1995, Mladić and Krstić attended a meeting at the Bratunac Command Centre. Later that day, Mladić visited Potočari. Dragomir Vasić, Chief of the Zvornik Public Security Centre, informed him about the ongoing separations there. At 9:30 a.m. on 13 July 1995, during another meeting at the Bratunac Command Centre with Vasić, Popović, and Krstić, Mladić informed Vasić that part of the MUP forces was delegated the task of organising the evacuation of approximately 15,000 civilians from Srebrenica to Kladanj. During that meeting with Mladić, Vasić was informed that the VRS was leaving the MUP with the task of '[k]illing of about 8,000 Muslim soldiers whom we blocked in the woods near Konjević Polje' and that this job was 'being done solely by MUP units'.

5116. The Trial Chamber further recalls from chapter 9.7.3 that on 13 July 1995, Mladić visited (i) Sandići Meadow before the members of the 1st Company of the Jahorina Police Training Centre shot and killed 10 to 15 unarmed Muslim men; and (ii) Nova Kasaba football stadium, where he ordered the military police to escort the men from the column who had surrendered to Vuk Karadžić Elementary School in Bratunac and to hand them over to the MUP. Between 12 and 14 July 1995 members of the military police, MUP, Drina Wolves and paramilitary formations, killed more than 50 Bosnian-Muslim men inside and around the school.

5117. The Trial Chamber recalls its findings in chapter 9.7.4 that Mladić's words and actions between 11 July and 22 August 1995, in particular his repeated statements that the civilians in Potočari were free to stay or go, his presence in Potočari on 12 and 13 July 1995, where he encouraged the filmed distribution of food and water by members of the VRS, his orders to have Milutinović sell the footage of the distribution to foreign

<sup>17692</sup> Witness RM-316, T. 13619; P1657 (Intercept no. 671 and no. 672, 16 July 1995), pp. 1-2. *See also* P1658 (Intercept nos. 671 and 672, 16 July 1995), pp. 1-2. The Trial Chamber notes that exhibits P1657 and P1658 are duplicates and has thus referred only to P1657 in further references to the same document.

<sup>17693</sup> P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 2.

agencies, and his denial that executions had occurred, did not reflect the reality of the fate of many Bosnian Muslims of Srebrenica and were meant to deliberately mislead representatives of the international community, the public, and the media. The Trial Chamber further found that Mladić's order of 13 July 1995, calling for the prevention of entry of local and foreign journalists into the zones of combat operations in Srebrenica and Žepa, as well as the ban on giving any information to the media about operations in Srebrenica, particularly on POWs, evacuated civilians, and escapees, was intended to keep the media from knowing what was happening in Srebrenica.

5118. The Trial Chamber recalls the evidence of Eelco Koster, reviewed in chapter 7.1.3 that, on 12 July 1995, Mladić became annoyed and irritated when the witness protested against Mladić's wish to 'evacuate the refugees'. Mladić told Koster that he 'could not give a shit about the UN and that he would do as he wanted, and that he was now going to evacuate'. Mladić also said '[i]f you oppose me, you will be in trouble'.

5119. The Trial Chamber recalls its review of Momir Nikolić and Bruce Bursik's evidence in chapter 7.1.6. Nikolić testified that in the afternoon of 13 July 1995, he met Mladić at the crossroads in Konjević Polje. Nikolić reported to Mladić that the road was secure. There were detainees visibly present at Konjević Polje that afternoon, at the time when Mladić was present. Mladić exited his vehicle, approached a group of detainees, and addressed them, stating that everything would be all right, that they should not worry and would soon be taken wherever they pleased. Returning to the vehicle, the witness asked Mladić what would really happen to the detainees. Mladić responded by smiling and making a sweeping gesture with his right hand from left to right approximately at the middle of his body. Mladić then laughed and entered the vehicle, which left for Vlasenica.

5120. In 2003, Nikolić described to Bruce Bursik, an investigator for the Prosecution, his encounter with Mladić in Konjević Polje on 13 July 1995, during which Mladić turned and gestured with his hand with a flat wave which was understood by Nikolić to mean that the prisoners were to be killed. Nikolić was in Konjević Polje as he had the duty of checking if the road Mladić was to pass through was operative, passable and secure. Bursik testified that with regard to the killings on 12 and 13 July 1995, Nikolić

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<sup>17694</sup> Witness RM-316, T. 13676-13677, 13678-13679; P1657 (Intercept no. 671 and no. 672, 16 July 1995), p. 2.

stated that he never gave the orders for the killings, but knew that soldiers were carrying out ‘unauthorised killings’ of men.

5121. In the supplementary statement of 16 April 2009, Nikolić corrected 12 out of 15 paragraphs from his original statement of facts and acceptance of responsibility. On 28 and 29 April and 1 May 2003 at the UNDU, Bursik conducted interviews with Nikolić, after having agreed with a counsel from the Prosecution not to record the conversations.

5122. The Trial Chamber recalls the evidence of Mladen Blagojević and Mile Petrović, members of the Bratunac Brigade military police platoon, reviewed in chapter 7.1.6 on their presence in Konjević Polje on 13 July 1995 and the hand gesture made by Mladić as described in Nikolić’s evidence.

5123. The Trial Chamber recalls its finding in chapter 9.7.5 that Mladić failed to take adequate steps to investigate crimes and/or punish members of the VRS and other elements of Serb forces, including the MUP, under his effective control who committed crimes in Srebrenica.

5124. In the following paragraphs, the Trial Chamber will present, and in some cases recall from other chapters, evidence of remarks about Muslims made by Mladić as well as general statements from Mladić about the events in Srebrenica.

5125. **Leendert van Duijn** testified that on 12 July 1995, while the transportation of Bosnian Muslims out of Potočari was still ongoing, he had a conversation with Mladić.<sup>17695</sup> Mladić, commenting on the dark skin-colour of one of the DutchBat officers, told the witness that multi-ethnic societies were a problem for the Netherlands and that in ten years time he would be in the Netherlands, with his soldiers to protect the Dutch from Muslims and other races.<sup>17696</sup> Later that day, in an effort to reunite a Bosnian-Muslim woman who had been separated from her children that were aboard one of the last trucks of the convoy ready to depart, van Duijn asked his Bosnian-Muslim interpreter to go over to Mladić to explain why van Duijn was crossing into an area where DutchBat soldiers were not supposed to go.<sup>17697</sup> His interpreter hesitated.<sup>17698</sup> Van Duijn told his interpreter that he was going anyway and picked up

<sup>17695</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2292-2293.

<sup>17696</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), pp. 2292-2293; Leendert van Duijn, T. 10316-10317.

<sup>17697</sup> Leendert van Duijn, T. 10317-10319.

<sup>17698</sup> Leendert van Duijn, T. 10319.

the woman and ran towards the truck with her children in it.<sup>17699</sup> When he turned around, van Duijn saw that his interpreter was speaking to Mladić.<sup>17700</sup> When van Duijn joined them, Mladić took issue with van Duijn's interpreter speaking to him in van Duijn's absence.<sup>17701</sup> Mladić warned van Duijn, through the use of van Duijn's interpreter, that if it were to happen again, *i.e.* if his interpreter would address him again directly, he would personally shoot the interpreter.<sup>17702</sup> During this second interaction, Mladić had also made a comment to van Duijn's interpreter suggesting that Muslims only think of reproducing.<sup>17703</sup> According to van Duijn, his interpreter was so scared that he was shivering; the interpreter did not let go of van Duijn until he was escorted back and handed over to a colleague at the UN compound.<sup>17704</sup>

5126. The Trial Chamber recalls the evidence of Witness RM-297, reviewed in chapter 7.1.6, who testified that when the enclave finally fell on 11 July 1995, everyone decided to flee because Karadžić and Mladić had said that they would take revenge on the people of Srebrenica. The witness testified that Mladić called Srebrenica “‘Srebrenica Srpska’”, Serbian Srebrenica, and he promised to take revenge on the Turks and the janissaries’.

#### *The Trial Chamber's findings*

5127. With regard to the Defence's general arguments on the reliability of Momir Nikolić, the Trial Chamber refers to its discussion in chapter Appendix B. The Trial Chamber received evidence from Nikolić concerning an encounter with Mladić in Konjević Polje on 13 July 1995 and an alleged hand-gesture made by Mladić. The Trial Chamber further reviewed the evidence of Mladen Blagojević and Mile Petrović denying any encounter between Nikolić and Mladić on 13 July 1995 at the Konjević Polje intersection. The Trial Chamber notes that Blagojević's evidence on this event is

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<sup>17699</sup> Leendert van Duijn, T. 10319.

<sup>17700</sup> Leendert van Duijn, T. 10319.

<sup>17701</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2295; Leendert van Duijn, T. 10319-10320.

<sup>17702</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2295; Leendert van Duijn, T. 10319-10320.

<sup>17703</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2294; Leendert van Duijn, T. 10320.

<sup>17704</sup> P1154 (Leendert van Duijn, *Popović et al.* transcript, 27 September 2006), p. 2295; Leendert van Duijn, T. 10319-10320, 10402.

internally inconsistent and will not consider it further in this regard.<sup>17705</sup> The Trial Chamber notes that Petrović's evidence contradicts Nikolić's evidence in so far as it suggests that Nikolić did not meet Mladić in Konjević Polje on the afternoon of 13 July 1995. Under these circumstances and in the absence of corroboration on this potentially important event, the Trial Chamber finds that it is unable to establish beyond reasonable doubt that the encounter between Nikolić and Mladić took place and that Mladić made the alleged hand gesture. The Trial Chamber will therefore not further consider Nikolić and Petrović's evidence in this regard.

5128. In determining whether Mladić shared the intent to achieve the common objective of the Srebrenica JCE, the Trial Chamber considered, Mladić's statements and conduct throughout the take-over of the Srebrenica enclave, including his command and control over VRS and MUP units operating in and around Srebrenica in July 1995, his role in the Hotel Fontana meetings on 11 and 12 July 1995 during which the transportation of Bosnian Muslims out of Srebrenica Municipality was discussed, his presence at a meeting at the Bratunac Command Centre on 13 July 1995 with VRS and MUP officers during which the task of killing about 8,000 Muslim males near Konjević Polje was discussed,<sup>17706</sup> his presence during the gathering of Bosnian Muslims in Potočari on 12 and 13 July 1995 and during the separation of Bosnian-Muslim men, his denial of the crimes committed in Srebrenica, as well as the measures he took to provide misleading information and to prevent the media from knowing what was happening in Srebrenica. The Trial Chamber also considered his statements that the Bosnian Muslims should be evacuated including those who did not want to leave and his request to open a road towards Kladanj for the evacuation. The Trial Chamber further considered that from at least 1994 and throughout July 1995, Mladić made numerous statements expressing the need to take revenge on the Bosnian Muslims from Srebrenica, adding that they would have 'disappeared a long time ago' had it not been for the involvement

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<sup>17705</sup> The Trial Chamber notes that in an interview with the US Department of Homeland Security in 2005, in evidence as exhibit P7186, Blagojević stated that on 13 July 1995, he saw Momir Nikolić in an UNPROFOR vehicle near Konjević Polje. In his witness statement, in evidence as exhibit D922, Blagojević testified that he did not see Nikolić in Konjević Polje on 13 July 1995 and that Nikolić did not meet Mladić at the intersection. See P7186 (Mladen Blagojević, US Department of Homeland Security, Report of Investigation), p. 11; D922 (Mladen Blagojević, witness statement, 6 June 2014), paras 11-12; Mladen Blagojević, T. 32613-32615.

<sup>17706</sup> The Trial Chamber refers to the submissions of the Parties with regard to P2118 as set out in chapter 9.7.3. In the absence of a request for a revised translation, the Trial Chamber will rely on the language in the document itself, namely the word 'killing'. Even if the word 'killing' were to be replaced by the word 'liquidating' as suggested by the Defence (Defence Final Brief, para. 2977), this would not alter the Trial Chamber's interpretation of the document.

of the international community. He further stated on several occasions during the Hotel Fontana meetings that the Bosnian Muslims from Srebrenica could ‘live or vanish’ and ‘survive or disappear’. Based on the foregoing, the Trial Chamber finds that Mladić intended to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica, through the commission, as set out in chapter 8, of the crimes of persecution, inhumane acts (forcible transfer), murder, and extermination.

5129. With regard to the crime of genocide in particular, the Trial Chamber recalls its findings in chapter 8 that at least 3,720 Bosnian-Muslim males were killed and thousands of Bosnian Muslims in Srebrenica were subjected to serious bodily or mental harm, which contributed to the destruction of the targeted group as a result of actions of members of the VRS, military police, civilian police, special police, Drina Wolves, and paramilitary formations. With regard to whether the targeted part of the protected group constituted a substantial part of the protected group, the Trial Chamber recalls its finding in chapter 8 that the Bosnian Muslims in Srebrenica constituted a substantial part of the Bosnian-Muslim population in Bosnia-Herzegovina. Finally, the Trial Chamber recalls its finding that the physical perpetrators committed the prohibited acts with the intent to destroy the Bosnian Muslims in Srebrenica, as a substantial part of the protected group of Bosnian Muslims in Bosnia-Herzegovina, which constituted the crime of genocide.

5130. With regard to Mladić’s intent to commit genocide, the Trial Chamber considered in particular, his command and control over VRS and MUP units operating in and around Srebrenica from at least 11 July to 11 October 1995, his orders to separate the Bosnian-Muslim men from the women, children and elderly in Potočari from 12 July 1995, as well as his statements and speeches between 11 July and August 1995, in which he articulated that it was time to take revenge, and threatened that the Bosnian Muslims of Srebrenica could either ‘live or vanish’, ‘survive or disappear’, that only the people who could secure the surrender of weapons would save the Bosnian Muslims from ‘destruction’. The Trial Chamber further considered Mladić’s presence at Nova Kasaba football field and Sandići Meadow on 13 July 1995, where several thousand Bosnian-Muslim males were detained, and his misleading assurances that they would be taken to Bratunac to be exchanged, as well as his presence at a meeting on 13 July 1995, with MUP and VRS officers during which the VRS tasked the MUP with the killing of

about 8,000 Muslim males near Konjević Polje. Finally, the Trial Chamber recalls its findings on the murder, extermination, and persecution of Bosnian Muslims in Srebrenica, in chapters 7.2 – 7.16 and 8. Based on the foregoing and the Trial Chamber's finding that the Bosnian Muslims in Srebrenica constituted a substantial part of the Bosnian-Muslim population in Bosnia-Herzegovina, the Trial Chamber finds that the only reasonable inference is that Mladić had the specific intent to commit genocide. Under these circumstances, the Trial Chamber finds that Mladić intended to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children, and some elderly men from Srebrenica, through the commission, as set out in chapter 8.10.2, of the crime of genocide.

5131. Based on the above, the Trial Chamber is satisfied that Mladić shared the intent to achieve the common objective of the Srebrenica JCE through the crimes charged in counts 2 to 6 and 8 and rejects the Defence's argument that his personal actions and behaviour did not support criminal intent.

## 9.8 Fourth joint criminal enterprise (Hostages)

### *9.8.1 Overview of the charges*

5132. According to the Indictment, during May and June 1995, the Accused participated in a JCE to take UN personnel hostage in order to compel NATO to abstain from conducting air strikes against Bosnian-Serb military targets. This objective involved the commission of the crime of hostage-taking.<sup>17707</sup> The Accused shared the intent for the commission of this crime with each of the other members of the alleged JCE.<sup>17708</sup> According to the Indictment, these members included, besides the Accused:

Radovan Karadžić, members of the Bosnian-Serb Political and Governmental Organs; and commanders, assistant commanders, senior officers, and chiefs of the VRS and MUP.<sup>17709</sup>

Alternatively, some or all of the unnamed individuals were not members of the alleged JCE but were used by members of the alleged JCE to carry out crimes committed in furtherance of its objective.<sup>17710</sup>

5133. Members of the alleged JCE implemented their objective by personally committing crimes or through and by using members of the VRS and MUP to carry out crimes committed in furtherance of the objective.<sup>17711</sup>

5134. The Prosecution submitted that during the relevant period, the Accused issued orders to VRS subordinates to detain UN personnel, use them as human shields, and film them at potential NATO targets for broadcast.<sup>17712</sup> It further submitted that the Accused admitted being involved in the decision to detain UN personnel at potential NATO targets, repeatedly threatened them with death in the event of further air strikes, and participated in the interrogation of hostages who were suspected of assisting NATO.<sup>17713</sup> It also submitted that the Accused negotiated the release of hostages on the condition that air strikes would not take place again and implemented Karadžić's orders to stagger the release of the hostages.<sup>17714</sup>

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<sup>17707</sup> Indictment, para. 24.

<sup>17708</sup> Indictment, para. 25.

<sup>17709</sup> Indictment, paras 25-26.

<sup>17710</sup> Indictment, para. 26.

<sup>17711</sup> Indictment, para. 27.

<sup>17712</sup> Prosecution Final Brief, paras 1684-1686, 1688-1689, 1691.

<sup>17713</sup> Prosecution Final Brief, paras 1684-1686, 1688, 1691.

<sup>17714</sup> Prosecution Final Brief, paras 1684-1689, 1691.

5135. The Defence submitted that there is no reliable evidence proving a plan or an agreement involving the Accused and establishing his intent to detain UN personnel to deter NATO air strikes.<sup>17715</sup>

### *9.8.2 Common objective*

5136. The Trial Chamber considered the evidence on the crime of hostage-taking in chapter 6. The Trial Chamber recalls its findings in that chapter that between 25 May and 24 June 1995, VRS soldiers and officers, including members of the military police, and police officers wearing violet uniforms arrested and detained between 260 and 400 UNMOs and UNPROFOR personnel in Pale, Banja Luka, Brčko, and in and around Sarajevo and Goražde. The Trial Chamber recalls that the UNMOs arrested by police officers were then placed in VRS custody. Some were detained in their OPs while others were taken to and detained in strategic military locations in Bosnia-Herzegovina: the ammunition bunker in Jahorinski Potok, the Jahorina radar site, a bridge leading to Pale, a military compound in Banja Luka, the Doboj ammunition depot, the Lukavica barracks, the military police building in Lukavica, and military installations in Višegrad and between Bileća and Zvornik. They were detained in order to exert leverage over NATO to stop air strikes, recover Serb weapons under UNPROFOR control, secure the compliance of UNPROFOR forces with an order to surrender, and on one occasion, obtain the withdrawal of UNPROFOR forces from certain positions and secure an exchange of Bosnian-Serb prisoners.

5137. The Trial Chamber received and reviewed evidence, which it considers reliable, concerning orders to disarm, capture, and detain UN personnel issued by the VRS Main Staff, including the Accused, and the Bosnian-Serb political leadership as well as notes of meetings during which these actions were discussed by the Bosnian-Serb military and political leadership and statements by members of the Bosnian-Serb Presidency concerning the hostage-taking crisis. This evidence is set out in detail in chapter 6 and will be recalled below. In this respect, the Trial Chamber recalls that on 25 May 1995, the Accused ordered the Ilidža Brigade to block and disarm UNPROFOR forces and detain them as 'POWs'. Further, on 30 May 1995, the Accused ordered the SRK Command to complete the disarming of captured UNPROFOR personnel, deploy them

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<sup>17715</sup> Defence Final Brief, paras 3308-3309, 3372, 3375, 3381, 3383-3385.

to potential NATO air strike targets, and transport the remaining detained UNPROFOR personnel to a safe place. The Trial Chamber also recalls that on 27 May 1995, the VRS Main Staff issued an order, approved by the Bosnian-Serb President, requesting VRS Corps Commands, as well as the SRK and the military police, to place captured UNPROFOR forces and disarmed surrounded UNPROFOR forces at potential air strike targets to prevent NATO from carrying out air strikes. On 28 May 1995, during a meeting of representatives of the Bosnian-Serb military and political leadership and in the presence of the Accused, it was concluded that the detained UN personnel should be treated as 'POWs'. It further recalls that on 14 and 15 June 1995 during the 51st session of the Bosnian-Serb Assembly, Karadžić acknowledged that the Bosnian-Serb leadership had ordered the arrest of the UN personnel. Around 3 June 1995, the VRS Main Staff issued a press release stating that UNMOs and UNPROFOR forces would remain under VRS control until the UN guaranteed the end of air strikes. Finally, the Trial Chamber recalls that on 15 June 1995, Nikola Koljević, Vice-President of the Bosnian-Serb Republic (*see* chapter 2.1.1), told one of the released UNMOs that the extremely high magnitude of the crisis precipitated by the bombing warranted the response of the Bosnian-Serb Government to take UN peacekeepers hostage. On 18 June 1995, Koljević gave a speech to Pale TV explaining why the Bosnian Serbs had taken hostages.

5138. The Trial Chamber also received and reviewed evidence, which it considers reliable, pertaining to the reporting obligations of VRS units to the Bosnian-Serb military or political leadership regarding the detention of UNPROFOR forces and UNMOs.<sup>17716</sup> In this respect, the Trial Chamber recalls that on 27 May 1995, SRK Commander Dragomir Milošević informed all SRK units that they were to report to SRK Command about, *inter alia*, the number of UN personnel taken prisoner and under blockade. On the same day, Main Staff Deputy Commander Manojlo Milovanović informed various VRS corps and units that they were to report to him personally by the next day about the execution of his order to place at potential air strike targets the captured UNPROFOR forces and the surrounded UNPROFOR forces, who had previously been disarmed. On 28 May 1995, the VRS Chief of Staff reported to the Bosnian-Serb President about the capture of 102 UNPROFOR forces by the DK, the

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<sup>17716</sup> Set out in detail in chapter 6 and recalled in this section.

IBK, and the SRK, mentioning the involvement of the Krajina Corps and the HK Command.

5139. Further, the Trial Chamber received and reviewed evidence, which it considers reliable, concerning the release of UNMOs and UNPROFOR forces by the Bosnian-Serb political leadership and the VRS in June 1995.<sup>17717</sup> The Trial Chamber recalls that Karadžić and the Accused issued orders addressed to the VRS Main Staff and various VRS units to release detainees between 2 and 24 June 1995. The Accused issued these orders in execution of Karadžić's orders. The Trial Chamber further recalls that Karadžić said that the release of UN personnel had to be staggered. The MUP was tasked to organise their transport, in execution of Karadžić's orders, and facilitated their transfer. In a meeting with the Accused held on 10 June 1995, Momčilo Perišić said that Slobodan Milošević wanted the release of the rest of the detained UN personnel. The release of some of the detained UN personnel was publicised and filmed and some were taken to Pale to meet with Milošević's security chief in the presence of the press.

5140. The Trial Chamber also received and reviewed evidence, which it considers reliable, regarding the visiting of UN personnel by VRS officers, including members of the VRS Main Staff, as well as by members of the Bosnian-Serb political leadership, including Jovan Zametica, Karadžić's political advisor, at some of the sites where the UNMOs were detained.<sup>17718</sup>

### *9.8.3 Conclusion*

5141. The Trial Chamber is satisfied beyond reasonable doubt that a JCE existed from around 25 May 1995, when NATO air strikes against Bosnian-Serb targets commenced, until approximately 24 June 1995, when the last UN personnel were released. The JCE's objective was the capture of UN personnel deployed in various parts of Bosnia-Herzegovina and their detention in strategic military locations to prevent NATO from launching further military air strikes on Bosnian-Serb military targets. This common objective amounted to the crime of hostage-taking punishable under Article 3 of the Statute.

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<sup>17717</sup> Set out in detail in chapter 6 and recalled in this section.

<sup>17718</sup> Set out in detail in chapter 6.

5142. The members of the JCE were members of the VRS Main Staff, members of the VRS Corps Commands, Karadžić, and Nikola Koljević. With respect to the other unnamed individuals who were members of the groups charged as members of the JCE, the Trial Chamber has not received sufficient evidence identifying them and establishing their participation as members of the JCE. In some instances, the members of the JCE implemented the common objective themselves; in other instances, they used VRS soldiers and officers, including members of the military police, and members of the civilian police, to implement the common objective. Members of the JCE issued orders to capture UNMOs and members of UNPROFOR and detain them at potential air strike targets. These orders were implemented by VRS soldiers and officers, including members of the military police, and members of the civilian police. Information on the capture or detention of UN personnel was reported to the VRS Main Staff and/or the Bosnian-Serb political leadership. The Trial Chamber is satisfied that the issuance of orders and their implementation, the reporting obligations by the members of the JCE, as well as their statements, establish that the members of the JCE shared the intent to achieve the common objective.

5143. Concerning the Accused's alleged contribution and intent to participate in the JCE, the Trial Chamber will consider it in chapter 9.9 below.

9.9 Ratko Mladić's alleged contribution to the fourth joint criminal enterprise  
(Hostages)

*9.9.1 Overview of the charges*

5144. According to the Indictment, the Accused significantly contributed to the objective of taking hostages by one or more of the following: (1) participating in the establishment, organization, and/or maintenance of the VRS, one of the organs used to implement the objective of the JCE; (2) commanding and controlling the VRS, including issuing orders, formulating plans, and monitoring, authorizing, and/or directing operations in furtherance of the objective of the JCE; (3) directing, monitoring and/or authorizing the VRS's cooperation and coordination with other elements of Serb forces and with Bosnian-Serb political and governmental organs in furtherance of the objective of the JCE; (4) participating in the development and implementation of Bosnian-Serb governmental policies intended to advance the objective of the JCE; and (5) facilitating and/or encouraging the commission by members of the VRS, and other elements of Serb forces under his effective control, of crimes that furthered the objective of the JCE by failing, while under a duty stemming from his position as the most senior officer of the VRS, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes.<sup>17719</sup> The Accused shared the intent for the commission of the crime of hostage-taking with other members of the hostage-taking JCE.<sup>17720</sup>

5145. The Defence submitted that the Prosecution did not establish that the Accused significantly contributed to the common objective of the hostage-taking JCE.<sup>17721</sup> More specifically, the Defence submitted that the Prosecution failed to establish that the acts or conduct of the Accused resulted in the detention of UN personnel, that the Accused attempted to secure concessions through hostage-taking, that the Accused threatened the detained UNPROFOR personnel or used them as human shields,<sup>17722</sup> or that the detention of UN personnel was for the purpose of deterring NATO air strikes.<sup>17723</sup> The Defence further submitted that the Accused did not intend that UNPROFOR personnel

<sup>17719</sup> Indictment, paras 13(a), 13(b), 13(d), 13(f), 13(j), 28.

<sup>17720</sup> Indictment, para. 25.

<sup>17721</sup> Defence Final Brief, para. 3384.

<sup>17722</sup> The Trial Chamber understands this to be a reference to the crime of hostage-taking.

<sup>17723</sup> Defence Final Brief, paras 171, 173, 3372, 3382-3383, 3385.

be detained in order to deter any action and that any knowledge he may have had regarding the use of human shields was vague and acquired after the fact.<sup>17724</sup>

### *9.9.2 The Accused's alleged contribution*

5146. The Trial Chamber recalls its finding in chapter 3.1.4 that, throughout the duration of the hostage-taking, the Accused was Commander of the VRS Main Staff.

5147. The Trial Chamber received evidence with regard to the alleged contribution of the Accused, which is discussed in chapter 6 and will be recalled below. The Trial Chamber finds this evidence reliable.

5148. In particular, the Trial Chamber considered the evidence that on 25 May 1995, the Accused ordered the Ilidža Brigade to block and disarm UNPROFOR forces and detain them as 'POWs'. On 26 May 1995, a VRS officer informed an UNPROFOR officer, Jonathon Riley, that he had been ordered by the Accused to attack the UNPROFOR officer's camp if further NATO attacks were to take place. The UNPROFOR officer was told that the UNPROFOR headquarters and UN commanders in Srebrenica, Tuzla, and Žepa had received similar messages.<sup>17725</sup> Two days later, all OPs in the area were surrounded by heavily armed Serbs and 33 of the UNPROFOR officer's soldiers were detained. As early as 26 May 1995, the Accused was informed about the detention of UN personnel at potential NATO military targets.

5149. On 28 May 1995, during a meeting of the Supreme Command of the Bosnian-Serb Republic in the presence of Karadžić and attended by the Accused, it was concluded that the detained UNPROFOR personnel should be treated as 'POWs' and that relations with the UN should be frozen.

5150. Also on 28 May 1995, in a conversation with General Smith, the Accused stated that neither he nor the Bosnian Serbs had threatened the detained UN personnel; that the detained UN personnel were treated humanely and properly, although some were

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<sup>17724</sup> Defence Final Brief, paras 178-179, 3308-3309.

<sup>17725</sup> The Defence submitted that there is no documentary evidence of this order and questions the accuracy of the communication from the VRS officer to the UNPROFOR officer regarding this order (Defence Final Brief, para. 3372). The Trial Chamber notes that Riley, who testified as to these events, is the UNPROFOR officer who received the message conveying the threat to shell the UNPROFOR camp. The Trial Chamber further notes that there is no suggestion that the order issued by the Accused was a written order. The Trial Chamber thus finds Riley's evidence in this regard reliable.

located at potential NATO targets; and that he had ordered that the detained UN personnel not be handcuffed, although he was aware that some had been.

5151. On 30 May 1995, the Accused informed various VRS corps commands and units that NATO was preparing an operation to free the UNPROFOR personnel held captive. Based on a 29 May 1995 Supreme Command decision, he ordered that all units were to open fire on the area of airborne assault and the area of deployment of UNPROFOR troops in the event NATO launched such an operation.

5152. On 30 May 1995, the Accused ordered the SRK Command to complete the disarming of captured UNPROFOR personnel, to deploy them to potential NATO air strike targets, and to transport the remaining detained UNPROFOR personnel to a safe place. This order included a reporting obligation to the Accused by way of regular combat reports.

5153. The Accused visited some of the detained UNMOs between 2 and 4 June 1995 and ordered their filming; footage of detained UNMOs was later broadcast on a local Bosnian-Serb television station and worldwide. The Accused issued orders addressed to various VRS units to release detained UN personnel between 2 and 17 June 1995 in execution of Karadžić's orders.

5154. During a meeting between General Janvier, the UNPROFOR Commander, and the Accused, held on 4 June 1995, Janvier requested the immediate release of UN personnel, to which the Accused stated that their liberation was contingent on a guarantee concerning the end of air strikes.

5155. Finally, the Trial Chamber recalls its finding on the hostage-taking JCE in chapter 9.8.

5156. Based on the foregoing, the Trial Chamber finds that the Accused was closely involved from around 25 May 1995 and throughout every stage of the hostage-taking, including as a negotiator with UNPROFOR representatives. Apart from the inherent threats associated with the way in which UN personnel were taken hostage, he ordered VRS units to detain the UNPROFOR personnel and to place them at potential NATO air strike targets, ordered the release of the detained UNPROFOR personnel, and informed an UNPROFOR representative that such release was contingent on the cessation of air strikes. The Trial Chamber further considers that UNPROFOR personnel were detained after a VRS officer communicated a threat from the Accused

that an UNMO officer's camp would be attacked if air strikes continued, and concludes that the only reasonable interpretation is that the Accused ordered the detention of the UNPROFOR personnel. The Accused's contributions to the hostage-taking JCE were central to the implementation of the JCE's common objective. Having considered the above, the Trial Chamber finds that the Accused significantly contributed to the JCE's common objective of capturing UN personnel deployed in various parts of Bosnia-Herzegovina and detaining them in strategic military locations to prevent NATO from launching further military air strikes on Bosnian-Serb military targets. The Trial Chamber is satisfied that the Accused's contribution falls within the scope of what is charged in the Indictment in that respect.

### *9.9.3 Mens rea*

5157. The Trial Chamber recalls its findings in chapter 9.9.2 regarding the significant contribution of the Accused to the objective of the hostage-taking JCE, in particular that between 25 May and approximately 24 June 1995, the Accused ordered VRS units to detain UNPROFOR personnel, ordered the detainees to be placed at potential NATO air strike targets, personally visited the detainees, and informed the UNPROFOR Commander that the detainees' release was contingent on a guarantee concerning the end of air strikes. While the Accused, in his conversation with an UNPROFOR representative, maintained that the detained UNPROFOR personnel had not been threatened, the Trial Chamber recalls its finding in chapter 6 that subordinates of the Accused made such threats to exert leverage over NATO in order to secure the end of air strikes. The Trial Chamber finds that the Accused intended these threats to allow the hostage-taking crisis to develop.

5158. The Trial Chamber further received evidence with regard to the Accused's intent for the commission of the crime of hostage-taking, which is discussed in chapter 6 and recalled below. The Trial Chamber finds this evidence reliable. In particular, the Trial Chamber considered the evidence that on 26 May 1995, a VRS officer informed an UNPROFOR officer that he had been ordered by the Accused to attack the UNPROFOR officer's camp if further NATO attacks were to take place. Two days later, all OPs in the area were surrounded by heavily armed Serbs and 33 of the UNPROFOR officer's soldiers were detained.

5159. The Accused had two conversations with the UNPROFOR Commander on 26 May 1995. In the first conversation and upon the resumption of NATO air strikes around 10 a.m., the Accused urged the UNPROFOR Commander to think of the consequences to those under his command. In the second conversation, which took place around 2:50 p.m., the Accused informed the UNPROFOR Commander that he had received information that some detained UNPROFOR personnel had been placed at targets and that their fate rested with the UNPROFOR Commander.

5160. The Accused again spoke with the UNPROFOR Commander on 28 May 1995, acknowledging that some UN personnel were detained at potential NATO targets. During this conversation, the Accused told the UNPROFOR Commander that if he were to comply with the Accused's request to send letters of condolences to the families of dead Serb soldiers, he would 'give a chance for survival to the UK soldiers in Goražde'. The Accused also met separately with a representative of the French government, General Janvier, and the Commander of the VJ between 29 May and 10 June 1995. Each of these individuals urged the Accused to release the detained UNPROFOR personnel. The Accused informed General Janvier that the release of the detainees was directly linked to a guarantee that air strikes would cease.

5161. On 30 May 1995, the Accused ordered various VRS commands and units not to leak any information regarding the detained UNPROFOR personnel and forbade contact with the detained UNPROFOR personnel without Main Staff approval. Around 3 June 1995, following a meeting of the VRS Supreme Command, a press release was issued presenting the detention of UN personnel as an act of self-defence that would continue until the UN guaranteed the end of air strikes.

5162. The Trial Chamber considers both Defence submissions – that the Accused did not intend that UNPROFOR personnel should be detained in order to deter any action and that any knowledge the Accused had regarding the hostage-taking was vague and acquired after the fact – unsupported in light of the evidence recalled above, particularly the evidence of the Accused issuing orders to detain UN personnel and to place them at potential NATO air strike locations.

5163. Based on the foregoing, particularly the Accused's statements and conduct throughout the hostage-taking, including his issuing of orders to detain UN personnel and to place them at potential NATO air strike locations, the Trial Chamber finds that the Accused intended to capture UN personnel deployed in various parts of Bosnia-

Herzegovina and detain them in strategic military locations. The Trial Chamber also finds that the Accused's statements, in particular on the fate of UNPROFOR personnel, are tantamount to having issued threats to kill or continue to detain the UN personnel, and that these threats were meant to obtain the end of the air strikes. The Trial Chamber further finds that the evidence – particularly the Accused communicating to the UNPROFOR Commander that the release of the detained UNPROFOR personnel was contingent on the cessation of air strikes and the Accused's subordinates threatening the detained UNPROFOR personnel with the aim of stopping the air strikes – establishes that the Accused intended the hostage-taking to prevent NATO from launching further air strikes on Bosnian-Serb military targets. The Trial Chamber is thus satisfied that the Accused shared the intent to achieve the common objective of the hostage-taking JCE.

### 9.10 Other modes of liability

5164. The Indictment charges the Accused for the crimes pursuant to multiple modes of liability, including planning, instigating, ordering, and aiding and abetting, as well as liability as a superior pursuant to Article 7(3) of the Statute.<sup>17726</sup> It also charges the Accused for the same crimes through his participation in the four JCEs.<sup>17727</sup> The Defence argued that alleging all forms of responsibility in respect of each incident threatens to cumulatively convict the Accused under multiple modes of liability for the same conduct.<sup>17728</sup>

5165. The Trial Chamber first emphasises that an accused's convictions rest on the crimes themselves and not the mode or modes of liability.<sup>17729</sup> The Trial Chamber notes that trial chambers are not inherently precluded from entering a conviction for a crime on the basis of more than one mode of liability where doing so would reflect the totality of the accused's conduct.<sup>17730</sup> In light of the Accused's leading and grave role in the four JCEs, the Trial Chamber considers that his conviction for commission of the crimes charged fully reflects the totality of his conduct. For this reason, the Trial Chamber will not enter convictions for planning, instigating, ordering, and aiding and abetting the crimes.

5166. With regard to the Accused's responsibility as a superior pursuant to Article 7(3), the Trial Chamber recalls that it is inappropriate to convict an accused pursuant to Article 7(1) and Article 7(3) of the Statute in relation to the same counts based on the same facts.<sup>17731</sup> Where both individual and superior responsibility are alleged under the same count, and elements of both modes of liability are satisfied, a trial chamber should enter a conviction on the basis of Article 7(1) only, and consider the accused's superior position as an aggravating factor in sentencing.<sup>17732</sup> In this regard, the Trial Chamber observes that Mladić's conduct and superior position is encapsulated within the conduct

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<sup>17726</sup> Indictment, paras 4, 31.

<sup>17727</sup> Indictment, paras 5, 7. *See also* Indictment, paras 14, 19, 24.

<sup>17728</sup> Defence Final Brief, para. 40.

<sup>17729</sup> *See Dorđević* Appeal Judgment, para. 831, referring to *Kamuhanda* Appeal Judgment, Separate and Partially Dissenting Opinion of Judge Shahabuddeen, para. 405; *Ndindabahizi* Appeal Judgment, para. 122.

<sup>17730</sup> *Dorđević* Appeal Judgment, para. 831.

<sup>17731</sup> *Blaškić* Appeal Judgment, para. 92; *Kordić and Čerkez* Appeal Judgment, paras 33-34; *Jokić* Sentencing Appeal Judgment, para. 23.

<sup>17732</sup> *Aleksovski* Appeal Judgment, para. 183; *Čelebići* Appeal Judgment, para. 745; *Blaškić* Appeal Judgment, para. 91; *Kordić and Čerkez* Appeal Judgment, para. 34; *Jokić* Sentencing Appeal Judgment, para. 23; *Dorđević* Appeal Judgment, para. 939.

relied upon to establish his participation in the four JCEs. For this reason, the Trial Chamber will not enter convictions pursuant to superior responsibility and will consider his superior position for the purposes of sentencing in chapter 11 below. The Trial Chamber will enter convictions under Article 7(1) only.

5167. In relation to crimes that the Trial Chamber found were not part of the JCEs due to the physical perpetrators not being JCE members or used as tools by any JCE member, the Trial Chamber has considered whether the Accused is criminally responsible pursuant to other modes of liability. In all these incidents, however, the link between the Accused and the physical perpetrators is too tenuous to find him liable.

## 10. Cumulative convictions

5168. The Trial Chamber has found Mladić responsible for genocide under Article 4 of the Statute; for persecution, extermination, murder, deportation, and inhumane acts (forcible transfer) as crimes against humanity under Article 5 of the Statute; and for murder, acts of violence the primary purpose of which is to spread terror among the civilian population, unlawful attacks on civilians, and taking of hostages as violations of the laws or customs of war under Article 3 of the Statute.

5169. The Defence submitted that cumulative convictions for Counts 4 and 5 are impermissible because ‘the crime of extermination subsumes the elements for murder’.<sup>17733</sup> Secondly, the Defence submitted that Counts 7 and 8 are not only ‘potentially cumulative’ but ‘mutually exclusive’ because deportation requires ‘an evacuation which takes individuals beyond State borders’ whereas inhumane acts (forcible transfer) requires that ‘the evacuation occurs only within a State’.<sup>17734</sup> With respect to Counts 3, 5, and 8, the Defence further submitted that where persecution is committed through acts of murder and inhumane acts, cumulative convictions are impermissible.<sup>17735</sup>

5170. The Trial Chamber recalls that it is permissible to enter cumulative convictions under different statutory provisions to punish the same criminal conduct only if ‘each statutory provision involved has a materially distinct element not contained in the other’, and an element is materially distinct ‘if it requires proof of a fact not required by the other statutory provision’.<sup>17736</sup> For this purpose, the elements include the general elements and jurisdictional requirements.<sup>17737</sup> When this test is not met, the conviction on the more specific provision will be entered.<sup>17738</sup> The more specific offence subsumes

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<sup>17733</sup> Defence Final Brief, para. 35.

<sup>17734</sup> Defence Final Brief, para. 37. The Trial Chamber considers this point moot because, as set out above in chapter 8, there are no incidents where a positive finding is made for both deportation and forcible transfer.

<sup>17735</sup> Defence Final Brief, para. 39.

<sup>17736</sup> *Čelebići* Appeal Judgment, para. 412; *Jelisić* Appeal Judgment, para. 78; *Kupreškić et al.* Appeal Judgment, para. 387; *Kunarac et al.* Appeal Judgment, paras 168, 173; *Krstić* Appeal Judgment, para. 218; *Kordić and Čerkez* Appeal Judgment, para. 1032; *Stakić* Appeal Judgment, para. 355; *Naletilić and Martinović* Appeal Judgment, para. 584; *Galić* Appeal Judgment, para. 163; *Krajišnik* Appeal Judgment, para. 386; *Dragomir Milošević* Appeal Judgment, para. 39; *Đorđević* Appeal Judgment, para. 839; *Tolimir* Appeal Judgment, paras 601-602; *Stanišić and Župljanin* Appeal Judgment, para. 1088.

<sup>17737</sup> *Kunarac et al.* Appeal Judgment, para. 177; *Stakić* Appeal Judgment, para. 356.

<sup>17738</sup> *Čelebići* Appeal Judgment, para. 413; *Jelisić* Appeal Judgment, para. 79; *Kupreškić et al.* Appeal Judgment, para. 387; *Kunarac et al.* Appeal Judgment, para. 168; *Krstić* Appeal Judgment, para. 218; *Kordić and Čerkez* Appeal Judgment, para. 1032; *Stakić* Appeal Judgment, para. 355; *Galić* Appeal

the less specific one because the commission of the former necessarily entails the commission of the latter.<sup>17739</sup>

*Cumulative convictions under Article 3 and Article 5 of the Statute*

5171. With regard to the permissibility of cumulative convictions for crimes against humanity under Article 5 of the Statute and violations of the laws or customs of war under Article 3 of the Statute, the two categories of crimes require proof of distinct elements.<sup>17740</sup> While crimes under Article 3 require proof of a nexus between the acts of the accused and the armed conflict, crimes under Article 5 require proof that the act occurred as part of a widespread or systematic attack directed against a civilian population.<sup>17741</sup> Therefore, a conviction for crimes under both Articles 3 and 5 of the Statute, with regard to the same criminal conduct, is permissible.

*Cumulative convictions under Article 4 and Article 5 of the Statute*

5172. With regard to the permissibility of cumulative convictions for the crime of genocide under Article 4 of the Statute and crimes against humanity under Article 5 of the Statute on the basis of the same acts, each contains a materially distinct element from the other.<sup>17742</sup> Genocide requires proof of intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. This element is not required for crimes against humanity under Article 5.<sup>17743</sup> Common to offences under Article 5 is the requirement that the underlying act be committed as part of a widespread or systematic attack directed against a civilian population. This requirement is not present in the legal

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Judgment, para. 163; *Strugar* Appeal Judgment, para. 321; *Krajišnik* Appeal Judgment, para. 386; *Dorđević* Appeal Judgment, para. 839; *Tolimir* Appeal Judgment, para. 601.

<sup>17739</sup> *Krstić* Appeal Judgment, para. 218; *Galić* Appeal Judgment, para. 163.

<sup>17740</sup> *Jelisić* Appeal Judgment, para. 82; *Kupreškić et al.* Appeal Judgment, para. 387; *Kunarac et al.* Appeal Judgment, para. 176; *Kordić and Čerkez* Appeal Judgment, para. 1036; *Galić* Appeal Judgment, para. 165.

<sup>17741</sup> *Jelisić* Appeal Judgment, para. 82; *Kupreškić et al.* Appeal Judgment, para. 387; *Kordić and Čerkez* Appeal Judgment, para. 1036; *Galić* Appeal Judgment, para. 165.

<sup>17742</sup> *Krstić* Appeal Judgment paras 222-227; *Ntakirutimana* Appeal Judgment, para. 542; *Semanza* Appeal Judgment, para. 318; *Ntagerura et al.* Appeal Judgment, para. 426; *Nahimana et al.* Appeal Judgment, para. 1029; *Tolimir* Appeal Judgment, para. 610.

<sup>17743</sup> *Musema* Appeal Judgment, para. 366; *Krstić* Appeal Judgment, paras 222-226; *Semanza* Appeal Judgment, para. 318; *Ntagerura et al.* Appeal Judgment, para. 426; *Tolimir* Appeal Judgment, para. 610.

elements of genocide.<sup>17744</sup> Therefore, cumulative convictions for genocide and crimes against humanity are permissible.

*Cumulative convictions under Article 3 and Article 4 of the Statute*

5173. Cumulative convictions for genocide under Article 4 of the Statute and violations of the laws or customs of war under Article 3 of the Statute may be entered on the basis of their materially distinct elements.<sup>17745</sup> While genocide requires proof of specific intent, violations of the laws or customs of war under Article 3 of the Statute require proof of the existence of a nexus between the alleged crimes and an armed conflict.<sup>17746</sup> Cumulative convictions for genocide under Article 4 and violations of the laws and customs of war under Article 3 of the Statute are therefore permissible.

*Cumulative convictions under Article 5 of the Statute*

5174. Persecution as a crime against humanity has a materially distinct element from murder as a crime against humanity in that persecution requires proof that an act or omission discriminates in fact and proof that the act or omission was committed with specific intent to discriminate. Conversely, murder as a crime against humanity requires proof that the accused intentionally caused the death of one or more persons which is not required by persecution.<sup>17747</sup> As a result, cumulative convictions for persecution, on the one hand, and murder on the other hand, are permissible. The same reasoning applies to cumulative convictions for persecution, on the one hand, and deportation and inhumane acts (forcible transfer), on the other hand. Accordingly, the Trial Chamber rejects the Defence submissions that cumulative convictions are impermissible when the

<sup>17744</sup> *Musema* Appeal Judgment, para. 366; *Krstić* Appeal Judgment, para. 223; *Semanza* Appeal Judgment, para. 318; *Ntagerura et al.* Appeal Judgment, para. 426; *Tolimir* Appeal Judgment, para. 610.

<sup>17745</sup> *Rutaganda* Appeal Judgment, para. 583; *Semanza* Appeal Judgment, para. 368; *Tolimir* Appeal Judgment, para. 616.

<sup>17746</sup> *Rutaganda* Appeal Judgment, para. 583; *Semanza* Appeal Judgment, para. 368; *Tolimir* Appeal Judgment, para. 616.

<sup>17747</sup> *Kordić and Čerkez* Appeal Judgment, para. 1041; *Stakić* Appeal Judgment, para. 359; *Krajišnik* Appeal Judgment, paras 388-391; *Dorđević* Appeal Judgment, para. 840; *Stanišić and Župljanin* Appeal Judgment, para. 1089.

crime of persecution under Count 3 is committed through acts of murder or inhumane acts, as alleged under Counts 5 and 8, respectively.<sup>17748</sup>

5175. When considering the crimes of extermination under Article 5 (b) of the Statute and murder under Article 5 (a) of the Statute, the Trial Chamber notes that the crime of extermination subsumes the elements of murder. In addition to the elements of murder, extermination requires that the killings occur on a mass scale and that the perpetrator intended by his or her acts this result.<sup>17749</sup> Where the elements of the crimes of extermination and murder are established on the basis of the same underlying facts, the crime of extermination is considered the more specific crime and cumulative convictions for crimes under Articles 5 (a) and 5 (b) of the Statute are therefore impermissible.<sup>17750</sup> Accordingly, the Trial Chamber accepts the Defence submission that cumulative convictions for Counts 4 and 5 are impermissible.

*Cumulative convictions under Article 3 of the Statute*

5176. With respect to the offences of terror and unlawful attacks on civilians under Article 3 of the Statute, despite similarities between their elements, the two offences are separate and distinct as each requires proof of a fact not required by the other. The offence of unlawful attacks on civilians requires proof of death or serious injury to body or health which is not required for the offence of terror. Conversely, the offence of terror requires proof of intent to spread terror among the civilian population, which is not an element of the offence of unlawful attacks.<sup>17751</sup> Cumulative convictions for these two offences are therefore permissible.

5177. With regard to murder as a violation of the laws or customs of war and unlawful attacks on civilians under Article 3 of the Statute, the two are materially distinct offences. The offence of murder requires proof that the accused intentionally caused the death of one or more persons. However, death is not a requirement *per se* of unlawful attacks on civilians. The offence may also be established by proof of serious injury to

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<sup>17748</sup> See Defence Final Brief, para. 39. Regarding this submission, the Trial Chamber notes that this matter was recently addressed by the Appeals Chamber in the *Stanišić and Župljanin* case. See *Stanišić and Župljanin* Appeal Judgment, paras 1089-1091.

<sup>17749</sup> *Ntakirutimana and Ntakirutimana* Appeal Judgment, paras 516, 542; *Stakić* Appeal Judgment, paras 260, 366; *Bagosora and Nsengiyumya* Appeal Judgment, para. 416; *Ntabakuze* Appeal Judgment, para. 260.

<sup>17750</sup> *Stakić* Appeal Judgment, para. 366; *Bagosora and Nsengiyumya* Appeal Judgment, para. 416; *Ntabakuze* Appeal Judgment, paras 260-261.

body or health, or any other consequence of the same gravity. Additionally, the offence of unlawful attacks requires that the attack be directed against civilians, which is not required for murder. Therefore, cumulative convictions for murder and unlawful attacks on civilians under Article 3 of the Statute are permissible.

5178. Similarly, it is permissible to enter convictions for murder as a violation of the laws or customs of war and terror as the elements for the two offences are materially distinct from one another. While the offence of murder requires proof that the accused caused the death of one or more persons, this is not a *per se* requirement of the offence of terror. Rather, causing death represents only one of the possible modes of commission of the offence of terror.<sup>17752</sup> Conversely, the offence of terror requires proof of intent to spread terror among the civilian population which is not an element of murder.

#### *Conclusion*

5179. The Trial Chamber recalls its findings concerning Counts 4 (extermination as a crime against humanity) and 5 (murder as a crime against humanity). For certain incidents it has found the Accused guilty on both counts based on the same criminal conduct. Therefore, for those incidents and based on the law of cumulative convictions as set out above, it will enter a conviction for extermination only.

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<sup>17751</sup> *Dragomir Milošević* Appeal Judgment, para. 39.

<sup>17752</sup> *Dragomir Milošević* Appeal Judgment, paras 33, 39.

## 11. Sentencing

### 11.1 Law on sentencing

5180. The relevant provisions of the Tribunal's Statute and Rules are:

#### *Article 24 of the Statute*

##### *Penalties*

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.
2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.
3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

#### *Rule 101*

##### *Penalties*

- (A) A convicted person may be sentenced to imprisonment for a term up to and including the remainder of the convicted person's life.
- (B) In determining the sentence, the Trial Chamber shall take into account the factors mentioned in Article 24, paragraph 2, of the Statute, as well as such factors as:
- (i) any aggravating circumstances;
  - (ii) any mitigating circumstances including the substantial cooperation with the Prosecutor by the convicted person before or after conviction;
  - (iii) the general practice regarding prison sentences in the courts of the former Yugoslavia;
  - (iv) the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 10, paragraph 3, of the Statute.
- (C) Credit shall be given to the convicted person for the period, if any, during which the convicted person was detained in custody pending surrender to the Tribunal or pending trial or appeal.

### 11.2 Purpose of sentencing

5181. The case law of the Tribunal indicates that the two primary purposes of sentencing are retribution and deterrence.<sup>17753</sup> Rehabilitation is also considered to be a relevant, though less important, purpose of sentencing.<sup>17754</sup>

5182. Retribution is not to be interpreted as a desire for revenge or vengeance but as an expression of the outrage of the international community at the crimes committed; retribution, unlike vengeance, requires the imposition of a ‘just and appropriate punishment, and nothing more’.<sup>17755</sup> To fulfil the objective of retribution, the Trial Chamber must therefore impose a sentence which properly reflects the personal culpability of the wrongdoer.<sup>17756</sup> The Trial Chamber considers that this purpose is reflected in the obligation that the Trial Chamber has to take into account the gravity of the offences or the totality of the culpable conduct.

5183. Both special and general deterrence are important purposes of sentencing in criminal law.<sup>17757</sup> The rationale of special deterrence is to dissuade the wrongdoer from recidivism in the future, whereas general deterrence aims at discouraging others from committing similar crimes.<sup>17758</sup> As far as general deterrence is concerned, persons who believe themselves to be beyond the reach of international criminal law must be warned that they have to abide by the norms underpinned by substantive criminal law or face prosecution and, if convicted, sanctions.<sup>17759</sup> In the present case, and considering the circumstances in which the crimes were committed, the Trial Chamber considers that the risk that Ratko Mladić would commit the same kinds of crimes in the future is small, which considerably reduces the relevance of special deterrence. The Trial Chamber further considers that an appropriate sentence for Mladić in this case essentially contributes to achieving a general deterrent effect.

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<sup>17753</sup> *Aleksovski* Appeal Judgment, para. 185; *Čelebići* Appeal Judgment, para. 806; *Stakić* Appeal Judgment, para. 402; *Krajišnik* Appeal Judgment, paras 775, 803.

<sup>17754</sup> *Čelebići* Appeal Judgment, para. 806; *Kordić and Čerkez* Appeal Judgment, para. 1079; *Stakić* Appeal Judgment, para. 402; *Hadžihasanović and Kubura* Appeal Judgment, paras 325, 328; *Krajišnik* Appeal Judgment, para. 806.

<sup>17755</sup> *Kordić and Čerkez* Appeal Judgment, para. 1075; *Krajišnik* Appeal Judgment, para. 804. *See also* *Aleksovski* Appeal Judgment, para. 185.

<sup>17756</sup> *Kordić and Čerkez* Appeal Judgment, para. 1075.

<sup>17757</sup> *Kordić and Čerkez* Appeal Judgment, para. 1076.

<sup>17758</sup> *Kordić and Čerkez* Appeal Judgment, paras 1077-1078; *Dragan Nikolić* Appeal Sentencing Judgment, para. 45; *Krajišnik* Appeal Judgment, paras 776, 805.

<sup>17759</sup> *Kordić and Čerkez* Appeal Judgment, para. 1078.

### 11.3 Sentencing factors

#### *11.3.1 Gravity of the offences and the totality of the culpable conduct*

5184. The gravity of the offences is the primary consideration in imposing a sentence.<sup>17760</sup> By considering the gravity of the offences together with aggravating circumstances, the Trial Chamber avoids the pitfall that a specific factor will be counted twice for sentencing purposes, which is impermissible.<sup>17761</sup>

5185. Determining the gravity of the crime to impose an appropriate sentence requires consideration of the particular circumstances of the case, as well as the form and degree of the participation of the convicted person in the crime.<sup>17762</sup> Aggravating circumstances must be directly related to the charged offence.<sup>17763</sup> A Trial Chamber has the discretion to find that direct responsibility, under Article 7 (1) of the Statute, is aggravated by the abuse of a perpetrator's position of authority.<sup>17764</sup> In assessing the gravity of the offence the overall impact of the crimes upon the victims and their families may be considered.<sup>17765</sup> Only factors which have been proven beyond a reasonable doubt will be taken into consideration as aggravating circumstances.<sup>17766</sup> The Appeals Chamber has established that there is no hierarchy of crimes.<sup>17767</sup> As such, crimes against humanity are not to be sentenced more harshly than violations of the laws or customs of war, in respect of the same acts, or *vice versa*.<sup>17768</sup>

5186. In the present case, the Prosecution submitted that the scale, scope, and duration of the underlying crimes as well as the form and degree of Mladić's participation are of

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<sup>17760</sup> *Aleksovski* Appeal Judgment, para. 182; *Čelebići* Appeal Judgment, para. 731; *Kupreškić et al.* Appeal Judgment, para. 442; *Blaškić* Appeal Judgment, para. 683; *Momir Nikolić* Appeal Sentencing Judgment, para. 11; *Galić* Appeal Judgment, para. 442; *Mrkšić* Appeal Judgment, para. 375; *Krajišnik* Appeal Judgment, para. 774.

<sup>17761</sup> *Deronjić* Appeal Sentencing Judgment, paras 106-107; *Limaj* Appeal Judgment, para. 143; *Krajišnik* Appeal Judgment, para. 787; *Dragomir Milošević* Appeal Judgment, para. 309.

<sup>17762</sup> *Aleksovski* Appeal Judgment, para. 182; *Furundžija* Appeal Judgment, para. 249; *Čelebići* Appeal Judgment, para. 731; *Jelić* Appeal Judgment, para. 101; *Blaškić* Appeal Judgment, para. 683; *Kordić and Čerkez* Appeal Judgment, para. 1061; *Dragan Nikolić* Appeal Sentencing Judgment, para. 18; *Babić* Appeal Sentencing Judgment, para. 39; *Galić* Appeal Judgment, para. 409.

<sup>17763</sup> *Stakić* Trial Judgment, para 911; *Dorđević* Trial Judgment, para. 2218.

<sup>17764</sup> *Aleksovski* Appeal Judgment, para. 183; *Čelebići* Appeal Judgment, para. 745; *Kupreškić et al.* Appeal Judgment, para. 451; *Blaškić* Appeal Judgment, paras 90-91; *Naletilić and Martinović* Appeal Judgment, para. 613; *Hadžihasanović and Kubura* Appeal Judgment, para. 320; *Strugar* Appeal Judgment, para. 353; *Dragomir Milošević* Appeal Judgment, para. 302.

<sup>17765</sup> *Krajišnik* Appeal Judgment, para. 779; *Mrkšić* Appeal Judgment, para. 409; *Dragomir Milošević* Appeal Judgment, para. 323.

<sup>17766</sup> *Čelebići* Appeal Judgment, para. 763.

<sup>17767</sup> *Kunarac et al.* Appeal Judgment, para. 171.

<sup>17768</sup> *Tadić* Sentencing Appeal Judgment, para. 69; *Furundžija* Appeal Judgment, para. 247; *Kunarac et al.* Appeal Judgment, para. 171.

such gravity that the strongest condemnation that the international community can express is merited.<sup>17769</sup> In relation to aggravating factors, the Prosecution submitted that Mladić's abuse of authority as the Commander of the VRS Main Staff and the special vulnerability of many of the victims constitute two of the most significant aggravating circumstances.<sup>17770</sup>

5187. The Defence submitted that in deciding on a sentence, the Trial Chamber is primarily tasked with analysing the gravity of the offences with the sole purpose of imposing a corresponding penalty.<sup>17771</sup> Furthermore, the Defence submitted that no aggravating circumstances exist.<sup>17772</sup> In the alternative, it argued that if the Trial Chamber were satisfied that aggravating circumstances do exist, limited weight should be attached to them.<sup>17773</sup> Mladić did not abuse his position within the VRS and he did everything in his power to maintain or achieve peace, given the circumstances.<sup>17774</sup> Additionally, the Defence argued that the vulnerability of the victims has been subsumed in the overall gravity of the crimes for which Mladić has been charged, and that therefore extending the sentence based on this consideration would constitute double-counting.<sup>17775</sup>

5188. Mladić has been found responsible for having committed a wide range of criminal acts through his participation in four JCEs. The crimes committed include some of the most heinous in international humanitarian law, namely genocide and extermination as a crime against humanity. In determining an appropriate sentence for Mladić, the Trial Chamber has considered the nature, scale, and brutality of the crimes for which Mladić has been found responsible, as well as the duration of his participation in those crimes and their overall impact on the victims and their families.

5189. More specifically, with respect to the Municipalities component of the case, Mladić has been found responsible for having significantly contributed to the overarching JCE the purpose of which was to permanently remove Bosnian-Muslim and Bosnian-Croat inhabitants from the territories of Bosnia-Herzegovina between 12 May 1992 and 30 November 1995. This is set out in detail in chapter 9.3, and involved the

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<sup>17769</sup> Prosecution Final Brief, paras 1735-1739. *See also* T. 44572-44574.

<sup>17770</sup> Prosecution Final Brief, paras 1740-1743.

<sup>17771</sup> Defence Final Brief, para. 3413.

<sup>17772</sup> Defence Final Brief, para. 3420.

<sup>17773</sup> Defence Final Brief, para. 3420.

<sup>17774</sup> Defence Final Brief, paras 3421-3423.

<sup>17775</sup> Defence Final Brief, paras 3429-3431.

commission of the crimes of persecution, extermination, murder, and deportation. The Trial Chamber's findings concerning these crimes are set out in detail in chapters 4 and 8. The Trial Chamber therefore finds that the crimes that Mladić has been found to have committed through his participation in the overarching JCE for the Municipalities are of a high level of gravity.

5190. With respect to the Sarajevo component of the case, Mladić has been found responsible for having significantly contributed to a JCE to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo between 12 May 1992 and November 1995, the primary purpose of which was to spread terror among the civilian population. This is set out in detail in chapter 9.5 and involved the commission of the crimes of terror, unlawful attacks on civilians, and murder. The Trial Chamber's findings concerning these crimes are set out in detail in chapters 5 and 8. The Trial Chamber therefore finds that the crimes that Mladić has been found to have committed through his participation in the Sarajevo JCE are of a high level of gravity.

5191. With respect to the Srebrenica component of the case, Mladić has been found responsible for having significantly contributed to a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and by forcibly removing women, young children, and some elderly men from at least 11 July to 11 October 1995. This is set out in detail in chapter 9.7 and involved the commission of the crimes of genocide, persecution, extermination, murder, and inhumane acts (forcible transfer). The Trial Chamber's findings concerning these crimes are set out in detail in chapters 7 and 8. The Trial Chamber therefore finds that the crimes that Mladić has been found to have committed through his participation in the Srebrenica JCE are of a high level of gravity.

5192. With respect to the hostages component of the case, Mladić has been found responsible for having significantly contributed to a JCE to take UN personnel hostage in order to compel NATO to abstain from conducting air strikes against Bosnian-Serb military targets during the months of May and June 1995. This is set out in detail in chapters 9.9 and involved the commission of the crime of taking hostages, which the Trial Chamber has discussed in chapters 6 and 8. The Trial Chamber therefore finds that the crime that Mladić has been found to have committed through his participation in the JCE to take UN personnel hostage was grave.

5193. Mladić's participation in all four JCEs was undertaken in his official capacity as Commander of the VRS Main Staff, a position which he held throughout the entire

Indictment period. The Trial Chamber therefore finds that Mladić abused his position. The Trial Chamber further considered the vulnerability of the victims of the four JCEs for which Mladić has been found responsible, who to a large extent consisted of POWs and civilians, including women, children, and elderly. The Trial Chamber finds that Mladić's abuse of his superior position and the vulnerability of the victims adds to the gravity of the offences.

### *11.3.2 Individual circumstances of Ratko Mladić*

5194. The acknowledgement and application of mitigating circumstances does not diminish the gravity of the crime.<sup>17776</sup> Such factors only need to be proven on a balance of probabilities.<sup>17777</sup> The only mitigating factor specifically mentioned in the Rules is the 'substantial cooperation with the Prosecutor by the convicted person before or after conviction'.<sup>17778</sup> Other mitigating factors recognised by the Tribunal's jurisprudence include: voluntary surrender;<sup>17779</sup> good character, including no prior criminal record;<sup>17780</sup> comportment in detention;<sup>17781</sup> personal and family circumstances;<sup>17782</sup> and age.<sup>17783</sup> Voluntary surrender constitutes a mitigating factor since it presents considerable benefits to the international community and because it may encourage other accused persons to surrender in the future.<sup>17784</sup> Good behaviour in detention has been considered in mitigation although it does not weigh significantly in favour of mitigation.<sup>17785</sup>

<sup>17776</sup> *Erdemović* Sentencing Judgment, para. 46; *Bralo* Sentencing Judgment, para. 42; *Zelenović* Trial Sentencing Judgment, para. 44.

<sup>17777</sup> *Blaškić* Appeal Judgment, para. 697; *Krajišnik* Appeal Judgment, para. 816.

<sup>17778</sup> Rule 101 (B) (ii).

<sup>17779</sup> *Blaškić* Appeal Judgment, para. 696; *Babić* Appeal Sentencing Judgment, para. 43; *Hadžihasanović and Kubura* Appeal Judgment, para. 325; *Martić* Appeal Judgment, para. 341.

<sup>17780</sup> *Kupreškić et al.* Appeal Judgment, para. 459; *Blaškić* Appeal Judgment, para. 696; *Kordić and Čerkez* Appeal Judgment, para. 1090; *Babić* Appeal Sentencing Judgment, para. 43; *Hadžihasanović and Kubura* Appeal Judgment, para. 325; *Krajišnik* Appeal Judgment, para. 816.

<sup>17781</sup> *Blaškić* Appeal Judgment, paras 696, 728; *Kordić and Čerkez* Appeal Judgment, para. 1091; *Babić* Appeal Sentencing Judgment, para. 43; *Simić et al.* Appeal Judgment, para. 266; *Hadžihasanović and Kubura* Appeal Judgment, para. 325; *Krajišnik* Appeal Judgment, para. 816.

<sup>17782</sup> *Kunarac et al.* Appeal Judgment, paras 362, 408; *Blaškić* Appeal Judgment, para. 696; *Kordić and Čerkez* Appeal Judgment, para. 1091; *Babić* Appeal Sentencing Judgment, para. 43; *Simić et al.* Appeal Judgment, para. 266; *Hadžihasanović and Kubura* Appeal Judgment, para. 325; *Krajišnik* Appeal Judgment, para. 816.

<sup>17783</sup> *Blaškić* Appeal Judgment, para. 696; *Babić* Appeal Sentencing Judgment, para. 43; *Simić et al.* Appeal Judgment, para. 266; *Krajišnik* Appeal Judgment, para. 816.

<sup>17784</sup> *Naletilić and Martinović* Appeal Judgment, para. 600.

<sup>17785</sup> *Momir Nikolić* Sentencing Judgment, para. 168; *Deronjić* Sentencing Judgment, para. 273.

5195. The Defence referred to the following mitigating circumstances: (i) benevolent treatment of, and assistance to, victims;<sup>17786</sup> (ii) good character;<sup>17787</sup> (iii) diminished mental capacity;<sup>17788</sup> (iv) poor physical health;<sup>17789</sup> and (v) advanced age.<sup>17790</sup> The Prosecution submitted that there are no factors warranting mitigation.<sup>17791</sup> It submitted that Mladić's health does not have an impact on the determination of his sentence and noted that his health has improved since his transfer into the custody of the Tribunal.<sup>17792</sup>

*Benevolent treatment of, and assistance to, victims*

5196. The Trial Chamber first turns to the Defence's submission regarding Mladić's treatment of, and assistance to, victims. The Defence submitted that Mladić took concrete steps to minimise the number of victims and the suffering to the best of his abilities, through: a demilitarisation agreement; issuing an order commanding the observance of two ceasefires; ordering a ceasefire with the sole purpose of ensuring that part of the civilian population would be able to safely withdraw from the combat zone; and, ordering that troops ought to be mobilised to protect Bosnian Serbs and members of other nationalities alike.<sup>17793</sup> The Defence further submitted that Mladić insisted that patients should not be discriminated against during a visit to the Sokolac Military hospital; personally provided assistance to the daughter of a Bosnian Muslim; and was kind towards children throughout the conflict as evidenced by his distribution of sweets.<sup>17794</sup>

5197. With regard to ordering that troops ought to be mobilised to protect Bosnian Serbs and members of other nationalities alike, the Trial Chamber notes that the order only concerned 'honest' members of other nationalities.<sup>17795</sup> Moreover, regarding the order of a ceasefire with the sole purpose of ensuring that part of the civilian population

<sup>17786</sup> Defence Final Brief, paras 3393-3398.

<sup>17787</sup> Defence Final Brief, paras 3399, 3400-3402. On 12 December 2016, the Trial Chamber also admitted into evidence three witness statements tendered by the Defence pursuant to Rule 85 (A) of the Rules.

<sup>17788</sup> Defence Final Brief, paras 3403-3406.

<sup>17789</sup> Defence Final Brief, paras 3407-3410.

<sup>17790</sup> Defence Final Brief, paras 3411-3414.

<sup>17791</sup> Prosecution Final Brief, para. 1745.

<sup>17792</sup> Prosecution Final Brief, paras 1746-1747.

<sup>17793</sup> Defence Final Brief, paras 3393-3394.

<sup>17794</sup> Defence Final Brief, paras 3395-3397.

<sup>17795</sup> P3032 (2nd Military District mobilisation order in Bosnia-Herzegovina, 11 May 1992), p. 1.

would be able to safely withdraw from the combat zone, the Trial Chamber notes that it solely concerned the Jewish population of Sarajevo, and does therefore not constitute a benevolent treatment of, and assistance to, Bosnian Muslims or Bosnian Croats.<sup>17796</sup>

5198. The Trial Chamber considers that while some of the acts cited by the Defence may show at best some kindness towards individual Bosnian Muslims and Bosnian Croats, they did not affect the achievement of the common objective of the overarching JCE. Bearing in mind the gravity of the crimes of which Mladić is found responsible, the assistance provided by him was sporadic. By occupying a central position within the leadership of the VRS, Mladić had the power to provide assistance to the victimized population on a large scale, had he wished to do so. The Trial Chamber recalls that in such a case, sporadic benevolent acts or ineffective assistance may be disregarded.<sup>17797</sup> The Trial Chamber therefore will not consider the factors raised by the Defence in this respect in mitigation.

#### *Good character*

5199. The Trial Chamber notes that some witnesses including Velibor Šotra, Darko Mladić, Witness GRM-999, Simo Bilbija, Rajko Banduka, and Dusan Todić gave evidence as to Mladić's good character.<sup>17798</sup> The Trial Chamber recalls, in this regard, that the good character of a person is often accorded little weight in the determination of the sentence.<sup>17799</sup> The Trial Chamber considered the evidence, but finds that, in light of the crimes for which Mladić has been found responsible, it has little weight as a mitigating factor.

#### *Diminished mental capacity*

5200. The Defence submitted that the death of Mladić's daughter at the height of the conflict took a significant toll on Mladić's mental health and clouded his

<sup>17796</sup> P4264 (VRS Main Staff Order, 3 August 1992), paras 1-2.

<sup>17797</sup> *Čelebići* Appeal Judgment, para. 776; *Krajišnik* Appeal Judgment, para. 817.

<sup>17798</sup> D711 (Rajko Banduka, witness statement, 14 July 2014), paras 4, 17-18; D798 (Dusan Todić, witness statement, 19 June 2014), para. 21; D832 (Simo Bilbija, witness statement, 28 July 2014), para. 20; D2182 (Velibor Šotra, witness statement, 7 October 2016); D2183 (Darko Mladić, witness statement, 30 October 2016); D2184 (Witness GRM-999, witness statement, 17 December 2016).

<sup>17799</sup> *Babić* Sentencing Appeal Judgment, paras 49-51; *Stanišić and Župljanin* Appeal Judgment, para. 1132.

judgement/vision of ‘the conflict’.<sup>17800</sup> The Defence further submitted that there was uncertainty around his daughter’s death and that it caused Mladić to blame her death on the ‘opposing side’.<sup>17801</sup>

5201. The Defence correctly recalled that an accused suffers from a diminished mental responsibility where his capacity to appreciate the unlawfulness or the nature of his conduct, or to control his conduct so as to conform to the requirements of the law is impaired.<sup>17802</sup> In this regard, the Trial Chamber notes that the evidence the Defence relies on does not establish that Mladić suffered from a diminished mental capacity. The Trial Chamber will therefore not further consider these Defence submissions.

### *Physical health*

5202. The Defence also recalled a Defence Interlocutory Appeal Brief concerning the health of Mladić.<sup>17803</sup> The Defence submitted that Mladić has a history of medical issues.<sup>17804</sup> It further submitted that Mladić has a high risk of aggravation and is at a risk of a stroke if the given sentence is unjustifiably long.<sup>17805</sup>

5203. The Trial Chamber considers that, although Mladić is suffering certain health problems, these are not such as to warrant consideration as mitigating factors. The Trial Chamber further notes that Mladić’s general condition is stable.<sup>17806</sup> The Trial Chamber therefore will not consider the factors raised by the Defence in this respect in mitigation.

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<sup>17800</sup> Defence Final Brief, paras 3405-3406.

<sup>17801</sup> Defence Final Brief, paras 3405-3406.

<sup>17802</sup> *Čelebići* Appeal Judgment, para. 590; *Vasiljević* Appeal Judgment, para. 22.

<sup>17803</sup> Defence Final Brief, paras 3406-3408, referring to Defence Interlocutory Appeal Brief Against the Trial Chamber Decision on Second Defence Motion Seeking Adjustment of the Trial Sitting Schedule due to the Health Concerns of the Accused, 29 August 2013, para. 17.

<sup>17804</sup> Defence Final Brief, para. 3408.

<sup>17805</sup> Defence Final Brief, para. 3409.

<sup>17806</sup> *See e.g.*, Deputy Registrar’s Submission of Medical Report, 13 April 2017, Annex, point 5 (Confidential); Deputy Registrar’s Submission of Independent Expert’s Medical Report, 7 April 2017, Annex B, p. 7 (Confidential); Deputy Registrar’s Submission of Independent Expert’s Medical Report, 10 October 2017 (Confidential); Deputy Registrar’s Submission of Medical Report, 12 October 2017 (Confidential); Confidential Annex to Second Registry Submission in Relation to Defence Motion on the Provision of Medical Records, 3 November 2017.

### Age

5204. Mladić was born on 12 March 1942. At the time of rendering of this judgment, he is therefore 75 years old. The Trial Chamber has given due consideration to Mladić's age.

#### 11.3.3 General practice regarding the prison sentences in the courts of the former Yugoslavia

5205. The Trial Chamber is required to consider 'the general practice regarding prison sentences in the courts of the former Yugoslavia' in determining the appropriate penalty. This does not mean that the Trial Chamber is obliged to conform to that practice.<sup>17807</sup> The Defence submitted that any sentence that would exceed the parameters of the 1976 Criminal Code of the SFRY would be a violation of the principle of legality and of the prohibition of retroactive application of the law.<sup>17808</sup> The Tribunal may impose a sentence in excess of that which would be applicable under the relevant law in the former Yugoslavia, and the Appeals Chamber has held that this sentencing practice does not violate the principle of *nulla poena sine lege* because a defendant would have been aware that the crimes for which he or she is indicted constitute serious violations of international humanitarian law, punishable by the most severe of penalties.<sup>17809</sup> Moreover, a trial chamber may diverge from the sentencing practice of the former Yugoslavia if this practice is inadequate in light of international law.<sup>17810</sup>

5206. During the period of the Indictment, the sentencing law in Bosnia-Herzegovina was regulated by the Criminal Code of the SFRY, adopted by the Federal Assembly on 28 September 1976, and in force since 1 July 1977 (SFRY Criminal Code), and by the Criminal Code of the Socialist Republic of Bosnia-Herzegovina of 10 June 1977 (Bosnia-Herzegovina Criminal Code). The SFRY Criminal Code regulated the general

<sup>17807</sup> *Tadić* Appeal Sentencing Judgment, para. 21; *Čelebići* Appeal Judgment, paras 813, 816, 820; *Jelisić* Appeal Judgment, para. 117; *Kupreškić et al.* Appeal Judgment, para. 418; *Kunarac et al.* Appeal Judgment, paras 347-349; *Krstić* Appeal Judgment, para. 260; *Blaškić* Appeal Judgment, paras 681-682; *Kordić and Čerkez* Appeal Judgment, para. 1085; *Dragan Nikolić* Appeal Sentencing Judgment, paras 17, 69; *Jokić* Appeal Sentencing Judgment, para. 38; *Galić* Appeal Judgment, para. 398; *Hadžihasanović and Kubura* Appeal Judgment, paras 335, 346; *Krajišnik* Appeal Judgment, paras 749, 811; *Boškoski and Tarčulovski* Appeal Judgment, para. 212.

<sup>17808</sup> Defence Final Brief, paras 3416-3417.

<sup>17809</sup> *Tadić* Appeal Sentencing Judgment, para. 21; *Čelebići* Appeal Judgment, para. 817; *Krstić* Appeal Judgment, para. 262; *Blaškić* Appeal Judgment, para. 681; *Stakić* Appeal Judgment, para. 398; *Simić et al.* Appeal Judgment, para. 264; *Krajišnik* Appeal Judgment, para. 750.

aspects of criminal law and a few specific offences, such as genocide and war crimes, while the Bosnia-Herzegovina Criminal Code primarily regulated the specific offences. Both criminal codes remained in force after Bosnia-Herzegovina declared independence in 1992.

5207. Chapter 16 of the SFRY Criminal Code is entitled ‘Criminal acts against humanity and international law’ and covers crimes committed during armed conflict. Specifically, Article 141 of the SFRY Criminal Code prohibited genocide, Article 142 prohibited war crimes against the civilian population, Article 143 prohibited war crimes against the wounded and sick, and Article 144 prohibited war crimes against POWs.<sup>17811</sup> The offences under Articles 141-144 of the SFRY Criminal Code were punishable by imprisonment for not less than five years or by the death penalty.<sup>17812</sup> The punishments for specific offences, such as murder, rape, and grievous bodily harm were regulated by the Bosnia-Herzegovina Criminal Code.<sup>17813</sup> It does not, however, codify crimes against humanity, with their specific *actus reus* and *mens rea* requirements. The punishment provided for specific crimes which do not require proof of these distinguishing elements does not reflect the seriousness of crimes against humanity. It is thus not an adequate basis for determining the punishment to be imposed for this category of crimes.<sup>17814</sup>

5208. Under the SFRY Criminal Code, the range of penalties included fines, confiscation of property, imprisonment, and the death penalty.<sup>17815</sup> The general provisions of the SFRY Criminal Code regarding punishment provided that the maximum term of imprisonment was 15 years,<sup>17816</sup> but that for the most serious crimes the death penalty may be imposed,<sup>17817</sup> or, instead of the death penalty, a prison sentence of 20 years.<sup>17818</sup> In 1998, Bosnia-Herzegovina abolished the death penalty.<sup>17819</sup> The maximum sentence that may currently be imposed in Bosnia-Herzegovina and in

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<sup>17810</sup> *Kunarac et al.* Appeal Judgment, para. 377.

<sup>17811</sup> Arts 141-144 of the SFRY Criminal Code. *See also* Arts 145 (organising a group and instigating the commission of genocide and war crimes), 150 (cruel treatment of the wounded, sick, and prisoners of war), 151 (destruction of cultural and historical monuments), and 154 (racial and other discrimination).

<sup>17812</sup> Articles 141-144 of the SFRY Criminal Code.

<sup>17813</sup> Arts 36 (punishing murder with imprisonment of not less than five years, and in aggravated cases, not less than 10 years or the death penalty) and 88 (punishing rape with one to 10 years of imprisonment, in aggravated cases the lower limit being three years imprisonment) of the Bosnia-Herzegovina Criminal Code.

<sup>17814</sup> *Erdemović* Sentencing Judgment, para. 32.

<sup>17815</sup> Art. 34 of the SFRY Criminal Code.

<sup>17816</sup> Art. 38 (1) of the SFRY Criminal Code.

<sup>17817</sup> Art. 37 of the SFRY Criminal Code.

<sup>17818</sup> Art. 38 (2) of the SFRY Criminal Code.

<sup>17819</sup> *Tadić* Sentencing Judgment, para. 12.

the Bosnian-Serb Republic is 45 years for ‘the gravest forms of serious criminal offences perpetrated with intent’.<sup>17820</sup> The Appeals Chamber has upheld sentences of more than 20 years of imprisonment by Trial Chambers of this Tribunal as not infringing the principle of *nulla poena sine lege*.<sup>17821</sup>

5209. In determining the appropriate sentence for Mladić in accordance with Article 24(1) of the Statute, the Trial Chamber has taken into account the general practice regarding prison sentences in the courts of Bosnia-Herzegovina at the time of the commission of the crimes in relation to which Mladić was found responsible, and the manner in which it developed.

#### *11.3.4 Comparison with other cases*

5210. The Trial Chamber recalls that the Appeals Chamber has held that, while a sentence must be tailored to the individual circumstances of the case at hand, a sentence should not be capricious or out of line with sentences in similar cases, for similar crimes, and with similar circumstances.<sup>17822</sup> The Trial Chamber notes the long history of cases dealing with the events in the Municipalities,<sup>17823</sup> Srebrenica,<sup>17824</sup> and Sarajevo.<sup>17825</sup> The Trial Chamber has considered the sentences imposed in these cases but finds them of limited guidance considering the scope and size of this case and the individual circumstances of Mladić.

#### *11.3.5 Credit for the time served in custody*

5211. According to Rule 101 (C) credit shall be given to the convicted person for the period during which the convicted person was detained pending surrender to the Tribunal or pending trial. Mladić has been detained since his arrest on 26 May 2011. He is therefore entitled to credit for the time spent in detention.

<sup>17820</sup> Art. 42(2) Bosnia-Herzegovina Criminal Code, 2013; Art. 31a(1) Bosnian-Serb Republic Criminal Code, 2013.

<sup>17821</sup> *Stakić* Appeal Judgment, para. 398.

<sup>17822</sup> *Kvočka et al.* Appeal Judgment, para. 681; *Čelebići* Appeal Judgment, paras. 719, 721; *Jelisić* Appeal Judgment, para. 96; *Furundžija* Appeal Judgment, para. 250; *Krstić* Appeal Judgment, para. 248.

<sup>17823</sup> *Plavšić* Sentencing Judgment, paras 120-133; *Krajišnik* Appeal Judgment, paras 732-819.

<sup>17824</sup> *Krstić* Appeal Judgment, paras 234-275; *Blagojević & Jokić* Appeal Judgment paras 136-142, 319-346; *Popović et al.* Appeal Judgment, paras 1959-2116; *Tolimir* Appeal Judgment, paras 624-648.

#### 11.4 Determination of sentence

5212. The Prosecution recommended that Mladić be sentenced to life imprisonment.<sup>17826</sup> The Defence argued that considering Mladić's age when the sentence will be read out, it should be borne in mind that any sentence exceeding five years would be tantamount to imposing a life sentence.<sup>17827</sup> For this reason, in the event that the Trial Chamber was to determine that the gravity of the crimes demands the highest punishment, it would mean nothing more than a sentence of five years.<sup>17828</sup>

5213. The Trial Chamber has considered all the circumstances referred to above and finds that the appropriate sentence is life imprisonment.

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<sup>17825</sup> *Galić* Appeal Judgment, paras 391-456; *Dragomir Milošević* Appeal Judgment, paras 295-338.

<sup>17826</sup> Prosecution Final Brief, para. 1735.

<sup>17827</sup> Defence Final Brief, para. 3412.

<sup>17828</sup> Defence Final Brief, para. 3413.

## 12. Disposition

5214. For all the foregoing reasons, pursuant to Articles 23 and 24 of the Statute and Rules 98 *ter*, 101, and 103 of the Rules, and having considered all of the evidence and the parties' submissions, the Trial Chamber finds the Accused, Ratko Mladić:

**NOT GUILTY** of Count 1: Genocide; and

**GUILTY** of the following counts pursuant to Article 7(1) of the Statute:

Count 2: Genocide;

Count 3: Persecution, a crime against humanity;

Count 4: Extermination, a crime against humanity;

Count 5: Murder, a crime against humanity;

Count 6: Murder, a violation of the laws or customs of war;

Count 7: Deportation, a crime against humanity;

Count 8: Inhumane acts (forcible transfer), a crime against humanity;

Count 9: Terror, a violation of the laws or customs of war;

Count 10: Unlawful attacks on civilians, a violation of the laws or customs of war; and

Count 11: Taking of Hostages, a violation of the laws or customs of war.

5215. The Trial Chamber sentences Ratko Mladić to life imprisonment.

5216. Pursuant to Rule 101(C) of the Rules, Ratko Mladić is entitled to credit for time served since his arrest and detention on 26 May 2011. Pursuant to Rule 103(C) of the Rules, Ratko Mladić shall remain in the custody of the Tribunal pending the finalisation of arrangements for his transfer to the State where he shall serve his sentence.

Judge Orié appends a partially dissenting opinion.

Done in five volumes, in English and French, the English text being authoritative.

Dated this twenty-second day of November 2017  
At The Hague,  
The Netherlands



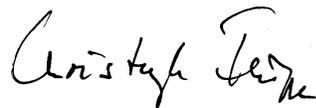
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**Judge Bakone Justice Moloto**



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**Judge Alphons Orié  
Presiding**



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**Judge Christoph Flüge**

### 13. Partially Dissenting opinion of Judge Alphons Orie

5217. With regard to the Trial Chamber's legal findings on genocide in the Municipalities, the majority concludes that certain physical perpetrators in five of the Count 1 municipalities possessed the intent to destroy a part of the protected group of Bosnian Muslims in Bosnia-Herzegovina as such.<sup>17829</sup> I respectfully disagree with this conclusion.

5218. It should be emphasized that in the relevant chapter, the Trial Chamber solely deals with the intent of the physical perpetrators. In order for them to commit the crime of genocide, thereby possibly engaging the Accused's individual criminal responsibility through various modes of liability, these individuals need to possess the intent to destroy a part of the protected group as such.

5219. Proving intent, in particular intent to destroy a part of a protected group, is difficult. Evidence of utterances of the physical perpetrators suggesting such intent is rare. There is an inherent and complex evidentiary issue with regard to establishing the intent vis-à-vis the fate of the group as such, where the physical perpetrators act in a limited geographic area and at a relatively low level of hierarchy and responsibility. As is often the case when analysing *mens rea*, the mental state of the physical perpetrators must be determined based on inferences from their acts and omissions. In this respect, it is insufficient to rely on the fact that the physical perpetrators committed murder, extermination, or persecution. The acts as established by the Trial Chamber were horrendous, widespread, and systematic. However, the only question here is whether the only reasonable inference to be drawn from their acts and omissions is that the physical perpetrators intended to physically or biologically destroy a part of the protected group as such.<sup>17830</sup>

5220. The Trial Chamber rightly explored various factors and links between physical perpetrators so as to carefully analyse whether intent to destroy could be found. However, I differ from my colleagues in their findings. The prohibited acts and other culpable acts were committed by the physical perpetrators on a large scale. The culpable

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<sup>17829</sup> See chapter 8.10.2.

<sup>17830</sup> I am here not focusing on the requirement that this part of the group be 'substantial' as I consider that the 'intent to destroy a part of the group as such' is already lacking, irrespective of the substantiality of the part of the group. I note in this respect that the Trial Chamber, after having found by majority the intent to destroy part of the group as such, concludes that the targeted group cannot be considered 'substantial'.

acts included displacements, destruction of property, looting, or forced labour. While many were killed, many others were displaced. I, however, cannot reasonably discount that there were other reasons on the physical perpetrators' minds than the intent to destroy part of the protected group *as such*. I am convinced that the acts of the physical perpetrators were committed with the intent to support the moving out of the Bosnian-Muslim population so as to create ethnically pure areas, but not with the intent to destroy a part of the protected group as such. In other words, for me, the evidence only allows for an inference that the physical perpetrators intended to destroy the part of the group's *presence* in their respective municipalities, but not part of the group's *existence* per se.<sup>17831</sup>

5221. Despite this difference of opinion, the majority and I come to the same conclusion, *i.e.* that the physical perpetrators of crimes in the Municipalities did not commit genocide.

Done in English and French, the English text being authoritative.

Dated this twenty-second day of November 2017  
At The Hague,  
The Netherlands



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Judge Alphons Orie

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<sup>17831</sup> I note that for me the situation in Srebrenica is different. In that respect, I fully agree with the Trial Chamber's findings that the only reasonable inference from the evidence is that the physical perpetrators in Srebrenica intended to destroy part of the protected group as such, as set out in chapter 8.10.2.

## Appendices

### A. Procedural history

#### *Arrest, transfer, and initial appearance*

5222. From August 1995 onwards, the Tribunal issued a number of arrest warrants and orders for surrender to various state authorities in relation to the Accused.<sup>17832</sup> He was arrested in Serbia on 26 May 2011 and transferred to the seat of the Tribunal on 31 May 2011.<sup>17833</sup> His initial appearance was held before Judges Orić, Moloto, and Flügge on 3 June 2011.<sup>17834</sup> A further appearance was held on 4 July 2011.<sup>17835</sup> On that date, a plea of ‘not guilty’ was entered by the Pre-Trial Chamber on behalf of the Accused.<sup>17836</sup> Following the filing of the third amended indictment, the Pre-Trial Chamber ordered a further appearance to enable the Accused to enter a plea on the new crime charged therein, namely the Bišina incident.<sup>17837</sup> On 8 December 2011, the Accused pled ‘not guilty’ to the Bišina incident.<sup>17838</sup>

#### *Assignment of case to Trial Chamber I*

5223. On 27 May 2011, the Acting President of the Tribunal assigned the case of *Prosecutor v. Ratko Mladić* to Trial Chamber I and ordered that the Bench be composed of Judges Flügge, Orić, and Moloto.<sup>17839</sup> On 1 June 2011, acting pursuant to Article 14

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<sup>17832</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-95-5-I, Warrant of Arrest Order for Surrender, 1 August 1995; *Prosecutor v. Ratko Mladić*, Case No. IT-95-18-I, Warrant of Arrest Order for Surrender, 21 November 1995; *Prosecutor v. Ratko Mladić*, Case No. IT-95-5-I, Warrant of Arrest Order for Surrender, 7 September 1995; *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18-R61, International Arrest Warrant and Order for Surrender, 12 July 1996; *Prosecutor v. Ratko Mladić*, Case No. IT-95-5/18-I, Order for Issue of a Warrant of Arrest and Order for Surrender to the Republika Srpska for Ratko Mladić, 14 February 2002; *Prosecutor v. Ratko Mladić*, Case No. IT-95-5/18-I, Warrant of Arrest Order for Surrender, 14 February 2002; *Prosecutor v. Ratko Mladić*, Case No. IT-95-5/18-I, Warrant of Arrest Order for Surrender, 11 November 2002.

<sup>17833</sup> T. 6; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Scheduling Order for Initial Appearance, 1 June 2011.

<sup>17834</sup> T. 1; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Scheduling Order for Initial Appearance, 1 June 2011.

<sup>17835</sup> T. 19-20, 38-39.

<sup>17836</sup> T. 47-50, 123.

<sup>17837</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision on Consolidated Prosecution Motion to Sever the Indictment, to Conduct Separate Trials, and to Amend the Indictment, 13 October 2011, para. 42.

<sup>17838</sup> T. 124-125.

<sup>17839</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Order Assigning Judges to a Case Before a Trial Chamber, 27 May 2011.

(7) of the Statute and Rules 54 and 65 *ter* (A), Judge Orié, the Presiding Judge of Trial Chamber I, was designated the Pre-Trial Judge in the case.<sup>17840</sup>

5224. On 11 May 2012, the Defence filed a motion seeking the disqualification of Judge Orié.<sup>17841</sup> On 14 May 2012, Judge Orié reported to the President of the Tribunal, presenting his views as to why the grounds for disqualification advanced by the Defence were without merit.<sup>17842</sup> On 15 May 2012, the President of the Tribunal denied the Defence request for disqualification.<sup>17843</sup>

5225. On 16 December 2013, the Defence filed two motions seeking, *inter alia*, the disqualification of Judges Orié and Flügge pursuant to Rule 15 (A).<sup>17844</sup> On 17 January 2014, Judge Orié submitted a report to the President of the Tribunal pursuant to Rule 15 (B) concerning both motions in which he presented his views as to why the grounds for disqualification advanced by the Defence were without merit. Judge Orié attached a memorandum from Judge Flügge also concluding that the grounds advanced for his disqualification were without merit.<sup>17845</sup> On 22 January 2014, the President of the Tribunal rendered two separate decisions in which he found both motions to be without merit.<sup>17846</sup>

5226. On 20 July 2016, the Defence filed a motion seeking the disqualification of Judges Orié and Flügge.<sup>17847</sup> On 1 August 2016, Judge Orié reported to the President of the Tribunal, presenting his and Judge Flügge's views as to why the grounds for

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<sup>17840</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Order Designating Pre-Trial Judge, 1 June 2011.

<sup>17841</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Presiding Judge Alphons Orié and for a Stay of Proceedings, 11 May 2012, p. 41.

<sup>17842</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Order Denying Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Presiding Judge Alphons Orié and for a Stay of Proceedings, 15 May 2012 (Confidential with Confidential Annexes).

<sup>17843</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Order Denying Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Presiding Judge Alphons Orié and for a Stay of Proceedings, 15 May 2012 (Confidential with Confidential Annexes), p. 3.

<sup>17844</sup> Defence Motion to Exceed Word Count and Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Christoph Flügge, 16 December 2013, p. 11; Defence Motion to Exceed Word Count and Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Alphons Orié, 16 December 2013, p. 46.

<sup>17845</sup> Decision Concerning Defence Motion to Exceed Word Count and Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Christoph Flügge, 22 January 2014.

<sup>17846</sup> Decision Concerning Defence Motion to Exceed Word Count and Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Christoph Flügge, 22 January 2014, p. 3; Decision Concerning Defence Motion to Exceed Word Count and Defence Motion Pursuant to Rule 15(B) Seeking Disqualification of Judge Alphons Orié, 22 January 2014, p. 3.

<sup>17847</sup> Defence Motion Seeking to Disqualify the Honourable Judge Alphons Orié and the Honourable Judge Christoph Flügge under this Trial Chamber's Enunciated Standard for Judicial Bias, 20 July 2016.

disqualification advanced by the Defence were without merit.<sup>17848</sup> On 26 August 2016, the President of the Tribunal denied the Defence request for disqualification.<sup>17849</sup>

*Assignment of counsel*

5227. Pursuant to Rule 45 (C), the Deputy Registrar assigned, on 2 June 2011, Mr Aleksandar Aleksić as duty counsel to represent the Accused at his initial appearance and in any relevant matters until permanent counsel could be assigned.<sup>17850</sup> On 22 July 2011, the Deputy Registrar temporarily assigned Mr Branko Lukić as lead counsel and terminated the assignment of Mr Aleksić.<sup>17851</sup> On 23 February 2012, the Registrar temporarily assigned Mr Miodrag Stojanović as co-counsel to Mr Lukić.<sup>17852</sup> On 31 January 2013, the Deputy Registrar permanently assigned Mr Lukić as counsel and Mr Stojanović as co-counsel.<sup>17853</sup> On 19 January 2017, the Registrar issued a decision withdrawing the assignment of Mr Stojanović as co-counsel to Mr Lukić and assigning Mr Dragan Ivetić as co-counsel to Mr Lukić effective as of 19 January 2017.<sup>17854</sup>

5228. On 17 September 2012, the Trial Chamber granted Mr Ivetić and Mr Nenad Petrušić permission to cross-examine witnesses and make witness-related submissions before the Trial Chamber, provided that either counsel or co-counsel would be present.<sup>17855</sup> On 13 January 2014, the Trial Chamber granted Mr Ivetić conditional permission to be the sole member of the Defence team present at the Rule 98 *bis* oral proceedings, pending the consent of the Accused, which was filed on 5 March 2014.<sup>17856</sup> On 19 May 2014, Mr Ivetić was granted permission to examine Defence witnesses and to make witness-related submissions throughout the Defence case, although only in the presence of lead or co-counsel.<sup>17857</sup> On 18 February 2015, the Trial Chamber granted

<sup>17848</sup> Decision on Defence Motion Seeking to Disqualify the Honourable Judge Alphons Orié and the Honourable Judge Christoph Flügge, 26 August 2016, Annex A.

<sup>17849</sup> Decision on Defence Motion Seeking to Disqualify the Honourable Judge Alphons Orié and the Honourable Judge Christoph Flügge, 26 August 2016.

<sup>17850</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Decision of the Deputy Registrar on Assignment of Duty Counsel, 2 June 2011.

<sup>17851</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision of the Deputy Registrar on Assignment of Counsel, 22 July 2011, p. 2.

<sup>17852</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision of the Registrar on Assignment of Co-Counsel, 23 February 2012.

<sup>17853</sup> Decision by the Deputy Registrar regarding Appointment of Counsel, 1 February 2013.

<sup>17854</sup> Decision of the Registrar on Withdrawal and Assignment of Co-Counsel, 19 January 2017.

<sup>17855</sup> T. 2416.

<sup>17856</sup> Scheduling Order for Rule 98 *bis* Oral Submissions, 13 January 2014, p. 3; Notice of Filing, 5 March 2014.

<sup>17857</sup> T. 21046-21047.

the Defence request for Mr Saša Lukić to be able to examine one witness and to make related procedural submissions.<sup>17858</sup>

### *Indictment*

5229. On 24 July 1995, the Prosecution filed its first joint indictment against Radovan Karadžić and the Accused.<sup>17859</sup> Judge Jorda confirmed the indictment against Karadžić and the Accused on 25 July 1995.<sup>17860</sup> On 15 November 1995, the Prosecution filed a second indictment against Karadžić and the Accused, concerning events that took place in Srebrenica in July 1995.<sup>17861</sup> Judge Riad confirmed the second indictment against Karadžić and the Accused on 16 November 1995.<sup>17862</sup> On 20 and 21 June 1996, Judges Jorda and Riad, respectively, ordered that the first and second indictment be submitted by the Prosecution in open court, in accordance with Rule 61.<sup>17863</sup> On 16 July 1996, a trial chamber composed of Judges Jorda, Odio Benito, and Riad ordered the joinder of the cases *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case no. IT-95-5, and *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case no. IT-95-18, and invited the Prosecutor to supplement the indictment.<sup>17864</sup> On the same day, after having reviewed all the evidence submitted and hearing from witnesses and two *amici curiae*, this trial chamber stated that there were reasonable grounds to believe that Karadžić and the Accused committed the offences charged in the indictments confirmed on 25 July and 16 November 1995.<sup>17865</sup>

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<sup>17858</sup> T. 31928-31929.

<sup>17859</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5-I, Indictment, 24 July 1995.

<sup>17860</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5-I, Review of the Indictment, 25 July 1995.

<sup>17861</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-18-I, Indictment, 15 November 1995.

<sup>17862</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-18-I, Review of the Indictment, 16 November 1995.

<sup>17863</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5-R61, Order for Review of the Indictment in Open Court by Trial Chamber I (Rule 61 of the Rules of Procedure and Evidence), 20 June 1996; *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-18-R61, Order for Review of the Indictment in Open Court by Trial Chamber I (Rule 61 of the Rules of Procedure and Evidence), 21 June 1996.

<sup>17864</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case Nos IT-95-5-R61, IT-95-18-R61, Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence, 16 July 1996.

<sup>17865</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case Nos IT-95-5-R61, IT-95-18-R61, Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence, 16 July 1996, pp. 2, 58.

5230. On 11 October 2002, the Prosecution filed a motion for leave to file an amended indictment and on the same day filed an amended indictment.<sup>17866</sup> Judge Orić granted leave to file an amended indictment and confirmed the amended indictment on 11 November 2002.<sup>17867</sup>

5231. On 15 October 2009, Trial Chamber III severed the case of the Accused from case IT-95-5/18, concerning Karadžić.<sup>17868</sup> Trial Chamber III recalled that since Karadžić had made his initial appearance before the Tribunal on 31 July 2008 and the Accused remained at large, it was in the interests of justice and clarity to sever the case of the Accused from the case of Karadžić.<sup>17869</sup>

5232. On 10 May 2010, the Prosecution filed a motion to amend the 11 October 2002 indictment and supporting materials in order to further clarify and specify its allegations against the Accused in the form of a proposed second amended indictment.<sup>17870</sup> On 27 May 2011, Judge Orić instructed the Prosecution to file the proposed second amended indictment with exception of the Bišina crime, within seven days.<sup>17871</sup> On 1 June 2011, the Prosecution filed the second amended indictment.<sup>17872</sup>

5233. On 16 August 2011, the Prosecution filed a consolidated motion to sever the indictment, to conduct separate trials, and to amend the resulting ‘Srebrenica indictment’.<sup>17873</sup> In particular, the Prosecution sought leave to sever the second amended indictment into a ‘Srebrenica indictment’ and a ‘Sarajevo, Municipalities, and Hostages indictment’, and for the Accused to be tried first in relation to the ‘Srebrenica

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<sup>17866</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18-I, Memorandum in Support of Prosecutor’s Motion for Leave to file an Amended Indictment, for Confirmation of the Amended Indictment, and for an Order in terms of Rules 53(A) and 59 bis (A), 11 October 2002; *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18-I, Amended Indictment, 11 October 2002.

<sup>17867</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18-I, Order Granting Leave to file an Amended Indictment and Confirming the Amended Indictment, 11 November 2002.

<sup>17868</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-09-92-I, Order Severing Ratko Mladić, 15 October 2009.

<sup>17869</sup> *Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5/18-PT, Order Severing Ratko Mladić, 15 October 2009, p. 2.

<sup>17870</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Motion to Amend the Amended Indictment and for Orders Under Rules 53(A), 55 and 59 bis (A), 10 May 2010; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Supporting Material to Motion to Amend the Amended Indictment and for Orders Under Rules 53 (A), 55 and 59 bis (A), 10 May 2010 (Confidential).

<sup>17871</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Decision on Amendment of Indictment, 27 May 2011.

<sup>17872</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Prosecution’s Second Amended Indictment, 1 June 2011.

<sup>17873</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Consolidated Prosecution Motion to Sever Indictment, to Conduct Separate Trials and to Amend Resulting Srebrenica Indictment, 16 August 2011.

indictment'.<sup>17874</sup> In addition, the Prosecution sought to amend the 'Srebrenica indictment' to include the Bišina incident.<sup>17875</sup> On 13 October 2011, the Pre-Trial Chamber denied leave to sever the case but granted the Prosecution's motion to amend the indictment to include the Bišina incident. In addition, the Pre-Trial Chamber instructed the Prosecution to file the third amended indictment within seven days of that decision.<sup>17876</sup> On 20 October 2011, the Prosecution filed its third amended indictment.<sup>17877</sup>

5234. At status conferences held on 25 August, 6 October, and 10 November 2011, the Pre-Trial Chamber invited the Prosecution to reduce the scope of the indictment pursuant to Rule 73 bis (D).<sup>17878</sup> On 18 November 2011, the Prosecution submitted a proposed reduction pursuant to Rule 73 bis (D).<sup>17879</sup> On 2 December 2011, the Pre-Trial Chamber adopted the Prosecution's proposal with respect to the reduction of the scope of its case and instructed the Prosecution to file an amended indictment.<sup>17880</sup> On 16 December 2011, the Prosecution filed its Fourth Amended Indictment which became the operative Indictment in this case.<sup>17881</sup>

#### *Preliminary motion*

5235. On 12 September 2011, the Defence filed a motion alleging defects in the form of the second amended indictment, arguing that the indictment lacked sufficient

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<sup>17874</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Consolidated Prosecution Motion to Sever Indictment, to Conduct Separate Trials and to Amend Resulting Srebrenica Indictment, 16 August 2011, paras 1, 7-14, 23-25.

<sup>17875</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Consolidated Prosecution Motion to Sever Indictment, to Conduct Separate Trials and to Amend Resulting Srebrenica Indictment, 16 August 2011, paras 1, 29-30; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-I, Decision on Amendment of Indictment, 27 May 2011, paras 17, 20.

<sup>17876</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision on Consolidated Prosecution Motion to Sever the Indictment, to Conduct Separate Trials, and to Amend the Indictment, 13 October 2011, para. 42.

<sup>17877</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Third Amended Indictment, 20 October 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution's Submission of the Third Amended Indictment and Schedules of Incidents, 20 October 2011.

<sup>17878</sup> T. 64-65, 83, 97-98.

<sup>17879</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Submission on Reduction of the Indictment pursuant to Rule 73 bis (D), 18 November 2011.

<sup>17880</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision Pursuant to Rule 73 bis (D), 2 December 2011, para. 15.

<sup>17881</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Submission of the Fourth Amended Indictment and Schedules of Incidents, 16 December 2011.

identification of victims, dates, and locations.<sup>17882</sup> On 13 October 2011, the Pre-Trial Chamber denied the Defence's motion and, although it affirmed that the identity of the victims were not material to the case, instructed the Prosecution to file a list of identifying information by 1 November 2011 on the basis that the information would assist the Defence in its preparation.<sup>17883</sup> On 1 November 2011, the Prosecution filed its victim lists in relation to scheduled incidents in the third amended indictment.<sup>17884</sup> An updated victims list in relation to scheduled incidents in the fourth amended indictment was filed on 16 December 2011.<sup>17885</sup> Following an additional Defence motion on the form of the indictment, on 30 November 2016, the Trial Chamber issued a decision denying said motion.<sup>17886</sup>

*Pre-Trial Preparations, Pre-Trial Briefs, and Rule 65 ter Filings*

5236. During the pre-trial stage, the Pre-Trial Judge held regular Rule 65 *ter* meetings and status conferences to monitor the parties' trial preparations, including the status of disclosure.<sup>17887</sup> On 10 February 2012, the Prosecution filed its Rule 65 *ter* witness list and exhibit list.<sup>17888</sup> On 24 February 2012, the Prosecution filed its Pre-Trial Brief.<sup>17889</sup> On 3 April 2012, the Defence filed its Pre-Trial Brief.<sup>17890</sup>

*Rule 73 bis (C) and commencement of trial*

5237. On 24 April 2012, the Pre-Trial Chamber set the number of Prosecution witnesses to be presented at 413 and the number of hours available to the Prosecution

<sup>17882</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 12 September 2011, paras 5-16.

<sup>17883</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision on Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 13 October 2011, paras 8, 16.

<sup>17884</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Filing of Victim Lists in Relation to Scheduled Incidents in the Third Amended Indictment, 1 November 2011.

<sup>17885</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, List of Victims Relevant to the Fourth Amended Indictment, 16 December 2011.

<sup>17886</sup> Decision on Defence Motion Alleging Defects in the Form of the Indictment, 30 November 2016.

<sup>17887</sup> See *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Scheduling Order for Status Conference, 18 July 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Scheduling Order for Rule 65 *ter* Meetings and Status Conferences and Decision on Deadline for Rule 68 (i) Disclosure, 1 September 2011.

<sup>17888</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Witness List, 10 February 2012 (Confidential); *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Supplemental Witness List, 10 February 2012 (Confidential); *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Exhibit List, 10 February 2012 (Confidential).

<sup>17889</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Pre-Trial Brief, 24 February 2012.

<sup>17890</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Defence Pre-Trial Brief, 3 April 2012.

for its examinations-in-chief at 200.<sup>17891</sup> On 16 and 17 May 2012, the Prosecution presented its opening statement.<sup>17892</sup> The first Prosecution witness gave evidence on 9 July 2012.<sup>17893</sup> On 3 December 2013, the Trial Chamber granted the Prosecution additional time for the presentation of its case.<sup>17894</sup>

*End of Prosecution's case and Rule 98 bis decision*

5238. The last Prosecution witness concluded his testimony on 12 December 2013.<sup>17895</sup> The Prosecution rested its case on 24 February 2014 and the Trial Chamber closed the Prosecution's case on 26 February 2014.<sup>17896</sup> The Trial Chamber heard Rule 98 *bis* submissions from 17 to 19 March 2014.<sup>17897</sup> On 15 April 2014, the Trial Chamber delivered its Rule 98 *bis* decision, denying the motion for acquittal on all counts.<sup>17898</sup> On 24 July 2014, the Appeals Chamber dismissed the Defence's appeal of the Trial Chamber's Rule 98 *bis* decision.<sup>17899</sup>

*Start of Defence Case*

5239. At the Pre-Defence Conference on 12 May 2014, the Trial Chamber granted the Defence 207.5 hours to present its case, the same amount of time used by the Prosecution to present its case, and set a deadline of 16 May 2014 for the Defence to file an amended witness list and a consolidated exhibit list.<sup>17900</sup> The Defence stated that it would not make an opening statement at the start of the Defence case and that the Accused did not wish to make a statement pursuant to Rule 84 *bis*.<sup>17901</sup> The first Defence witness gave evidence on 19 May 2014.<sup>17902</sup>

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<sup>17891</sup> T. 313-315.

<sup>17892</sup> T. 402-523.

<sup>17893</sup> T. 537.

<sup>17894</sup> T. 20189-20191.

<sup>17895</sup> T. 20685.

<sup>17896</sup> Prosecution Notice of the Close of its Case-in-Chief, 24 February 2014; Scheduling and Closing Order, 26 February 2014.

<sup>17897</sup> T. 20716-20916.

<sup>17898</sup> T. 20918-20955.

<sup>17899</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.4, Decision on the Defence Interlocutory Appeal from the Trial Chamber Rule 98 *bis* Decision, 24 July 2014.

<sup>17900</sup> T. 20992, 21004, 21024, 21033.

<sup>17901</sup> T. 21003.

<sup>17902</sup> T. 21049.

*Re-opening of Prosecution's Case*

5240. On 23 October 2014, the Trial Chamber granted the Prosecution's motion to re-open its case-in-chief to present evidence in relation to a recently discovered mass grave in Tomašica.<sup>17903</sup> On 27 March 2015, the Trial Chamber issued its Decision on the Defence Request to Adopt Modality for Prosecution Re-Opening, which provided for a four-week adjournment prior to the presentation of the Prosecution's re-opening evidence.<sup>17904</sup> On 17 April 2015, the Trial Chamber granted the Defence certification to appeal its 27 March 2015 decision.<sup>17905</sup> The Defence's Interlocutory Appeal was dismissed by the Appeals Chamber on 22 May 2015.<sup>17906</sup> The Prosecution re-opened its case-in-chief on 22 June 2015 and closed its case on 8 July 2015.<sup>17907</sup>

*End of Defence case*

5241. On 29 September 2015, the Trial Chamber set a deadline of 18 January 2016 for the filing of Defence bar table motions.<sup>17908</sup> On 31 March 2016, the Trial Chamber set a deadline of 15 April 2016 for the tendering of certain documents relating to witness testimony.<sup>17909</sup> On 26 April 2016, the Trial Chamber ordered that the remaining Defence witnesses should start their testimonies no later than the week of 30 May 2016.<sup>17910</sup> On 16 June 2016, the Trial Chamber informed the parties that it would formally close the Defence case once it had decided on all evidentiary motions.<sup>17911</sup> During a status conference on 8 July 2016, the Defence indicated that there would be no more evidentiary filings as part of the Defence case after 22 July 2016.<sup>17912</sup> On 15 August 2016, the Trial Chamber denied the Defence's request for an extension of the deadline

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<sup>17903</sup> Decision on Prosecution Motion to Re-Open its Case-In-Chief, 23 October 2014.

<sup>17904</sup> Decision on Defence Request to Adopt Modality for Prosecution Re-Opening, 27 March 2015.

<sup>17905</sup> Decision on Defence Motion for Certification to Appeal the Decision on Defence Request to Adopt Modality for Prosecution Re-Opening, 17 April 2015.

<sup>17906</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.5, Decision on Interlocutory Appeal Against the 27 March 2015 Trial Chamber Decision on Modality for Prosecution Re-Opening, 22 May 2015.

<sup>17907</sup> T. 36085, 36885.

<sup>17908</sup> T. 39449.

<sup>17909</sup> First Defence Case Omnibus Decision, 31 March 2016, para. 2.

<sup>17910</sup> T. 43703.

<sup>17911</sup> T. 44211.

<sup>17912</sup> T. 44223.

for presenting its remaining witnesses.<sup>17913</sup> The last Defence witness concluded his testimony on 16 August 2016.<sup>17914</sup>

5242. On 4 July 2016, the Trial Chamber issued its decision denying the Defence motion ‘for a fair trial and the presumption of innocence or, in the alternative, a mistrial’.<sup>17915</sup> On 27 February 2017, the Appeals Chamber issued its decision dismissing the interlocutory appeal against that decision.<sup>17916</sup>

5243. On 16 August 2016, the Trial Chamber established that no evidentiary issues remained, that the Defence had rested its case, and that the Defence case was therefore closed.<sup>17917</sup> On 23 August 2016, the Trial Chamber dismissed the Defence’s request for a ‘reasoned decision’ on this matter.<sup>17918</sup>

#### *Rebuttal and rejoinder evidence*

5244. On 16 August 2016, the Trial Chamber granted the Prosecution’s motion requesting the admission of rebuttal evidence.<sup>17919</sup> On 2 September 2016, the Trial Chamber granted the Prosecution’s request for leave to withdraw three of the exhibits admitted in rebuttal and dismissed a Defence motion to admit evidence in rejoinder as moot.<sup>17920</sup>

#### *Final Trial Briefs and closing arguments*

5245. On 9 September 2016, the Trial Chamber issued a scheduling order closing the presentation of evidence in this case.<sup>17921</sup> On 25 October 2016, the parties filed their

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<sup>17913</sup> Decision on Defence Requests to Vary the Deadline for Presenting Witnesses, 15 August 2016 (Confidential).

<sup>17914</sup> See T. 44311.

<sup>17915</sup> Decision on Defence Motion for a Fair Trial and the Presumption of Innocence or, in the Alternative, a Mistrial, 4 July 2016.

<sup>17916</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.6, Decision on Interlocutory Appeal against Decision on Defence Motion for a Fair Trial and the Presumption of Innocence, 27 February 2017.

<sup>17917</sup> T. 44319.

<sup>17918</sup> Decision on Defence Request for Reasoned Decision Regarding Closure of Defence Case, 23 August 2016.

<sup>17919</sup> Decision on Prosecution Motion to Admit Evidence in Rebuttal, 16 August 2016; Corrigendum to Decision on Prosecution Motion to Admit Evidence in Rebuttal, 18 August 2016.

<sup>17920</sup> Decision on Defence Motion to Admit Evidence in Rejoinder and Prosecution Request to Withdraw Exhibits, 2 September 2016.

<sup>17921</sup> Scheduling Order, 9 September 2016.

Final Trial Briefs.<sup>17922</sup> On 2 December 2016, the Appeals Chamber issued its decision dismissing the interlocutory appeal against the scheduling order.<sup>17923</sup> The Trial Chamber heard the parties' closing arguments from 5 to 15 December 2016.<sup>17924</sup>

*Behaviour of the Accused during the proceedings*

5246. The Accused received verbal warnings from the Trial Chamber over 150 times during the course of the proceedings for disruptive behaviour.<sup>17925</sup> Such disruptive behaviour included communicating with the public gallery and speaking out of turn.<sup>17926</sup> The Trial Chamber also warned the Accused that such conduct would result in his removal if it were to continue.<sup>17927</sup> The Accused was removed from the courtroom 17 times during the course of the trial due to disruptive behaviour.<sup>17928</sup>

*Health of the Accused and the trial sitting schedule.*

5247. During the trial, the Trial Chamber established four types of medical reporting regimes to monitor the health of the Accused: (i) regular expert medical reports; (ii) regular reports from the UNDU Reporting Medical Officer; (iii) special UNDU medical reports filed only on occasions when the Accused raised health concerns; and (iv) reports from the UNDU filed only when the Accused was absent from court.<sup>17929</sup>

5248. On 16 November 2011, the Trial Chamber ordered the Registry to have a complete medical examination of the Accused conducted and to have a detailed report compiled.<sup>17930</sup> On 15 February 2012, the Trial Chamber granted the Defence request for morning court sessions and urged the Registry to do its utmost to schedule such

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<sup>17922</sup> Prosecution Final Brief, 25 October 2016 (Confidential); Defence Final Brief, 25 October 2016 (Confidential).

<sup>17923</sup> Decision on Interlocutory Appeal against Scheduling Order, 2 December 2016.

<sup>17924</sup> T. 44323-44905.

<sup>17925</sup> See, for example, T. 211, 3102, 3479, 4262, 4805, 5761, 7695, 10148, 11376, 12161, 14572, 19346, 19363, 19376, 20234, 21292, 23690, 26000, 29480, 30453, 31415, 33120, 35423, 40671, 43556, 44194.

<sup>17926</sup> T. 36769, 38285.

<sup>17927</sup> T. 3728, 21801, 24693-24694, 27139, 27157, 33202, 33329, 33433, 35725, 42204, 43965, 44870.

<sup>17928</sup> T. 46-47, 2057, 3728, 4040-4041, 5081, 6416-6418, 7729-7730, 8832, 9564-9566, 9885-9888, 22032-22033, 22723, 29051-29052, 29090, 29788, 35159-35160, 35854.

<sup>17929</sup> T. 12016-12017, 24176-24177; Decision on the Trial Sitting Schedule, 14 March 2014; Decision on Defence Motion Seeking Adjustment of Modalities for Trial, 13 March 2013 (Confidential).

<sup>17930</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Order for a Medical Examination of the Accused Pursuant to Rule 74 bis, 16 November 2011.

sessions.<sup>17931</sup> On 12 July 2013, the Trial Chamber denied a Defence motion requesting that trial days last no longer than four hours in total and that the trial sitting schedule be reduced from five days per week to four four-hour days separated by a day of rest.<sup>17932</sup> On 22 August 2013, the Trial Chamber granted the Defence certification to appeal its Decision of 12 July 2013.<sup>17933</sup> On 22 October 2013, the Appeals Chamber reversed the Trial Chamber's 12 July 2013 Decision and ordered the Trial Chamber to adopt a four-day trial sitting schedule for the remainder of the Prosecution case and directed the Trial Chamber to reassess the matter at the beginning of the Defence case.<sup>17934</sup> On 15 November 2013, in compliance with the Appeals Chamber's Decision, the Trial Chamber ordered the Registry to have expert medical examinations of the Accused conducted, in order to reassess the trial sitting schedule before the commencement of the Defence case.<sup>17935</sup> Given the findings of the expert medical reports, on 14 March 2014, the Trial Chamber denied the Defence request for a four-day trial sitting schedule and ordered a five-day trial sitting schedule for the Defence case.<sup>17936</sup> On 9 and 24 July 2014, the Registry filed two additional expert medical reports.<sup>17937</sup> Given the findings of these expert medical reports, the Trial Chamber, on 25 August 2014, partially granted the Defence's request dated 13 June 2014 to permanently adopt a four-day trial sitting schedule with Friday provisionally designated as the non-sitting day.<sup>17938</sup>

### *Safe conduct orders*

5249. In April and May 2014, the Trial Chamber granted a number of safe conduct orders for Defence witnesses the basis being that Article XVIII(1) of the Agreement between the UN and the Kingdom of The Netherlands concerning the Headquarters of the Tribunal only afforded protection from prosecution in the Kingdom of the

<sup>17931</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Scheduling Order, 15 February 2012.

<sup>17932</sup> Decision on Second Defence Motion Seeking Adjustment of the Trial Sitting Schedule due to the Health Concerns of the Accused, 12 July 2013 (Confidential).

<sup>17933</sup> Decision on Defence Motions for Reconsideration and Certification to Appeal the Decision on Defence Motion Seeking Adjustment of the Trial Schedule, 22 August 2013.

<sup>17934</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.3, Decision on Mladić's Interlocutory Appeal Regarding Modification of Trial Sitting Schedule Due to Health Concerns, 22 October 2013 (Confidential).

<sup>17935</sup> Order for Medical Examination of the Accused Pursuant Rule 74 bis, 15 November 2013.

<sup>17936</sup> Decision on the Trial Sitting Schedule, 14 March 2014.

<sup>17937</sup> Deputy Registrar's Submission of Medical Report, 9 July 2014 (Confidential); Registrar's Submission of Medical Report, 24 July 2014 (Confidential).

<sup>17938</sup> T. 24701-24702; Reasons for Decision on the Future Trial Sitting Schedule, 17 September 2014 (Confidential).

Netherlands to witnesses appearing at the request of the Tribunal or the Prosecutor but not to witnesses appearing at the request of the Defence. In accordance with fair trial standards, including the principle of equality of arms, the Trial Chamber granted safe conduct to a number of Defence witnesses in order to ensure that the appearance in court of Defence witnesses was not made more difficult than the appearance of Prosecution witnesses.<sup>17939</sup> On 21 May 2014, the Trial Chamber expressed its concern regarding the number of safe conduct motions being filed by the Defence and reminded the Defence that for safe conduct to be ordered, a realistic concern about being prosecuted or investigated should exist.<sup>17940</sup>

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<sup>17939</sup> Orders for Safe Conduct, 5 May 2014 (Confidential).

<sup>17940</sup> T. 21224-21229.

## B. Sources and use of evidence

### *Standard of Proof*

5250. Pursuant to Article 21 (3) of the Statute, an accused is entitled to be presumed innocent until proven guilty. Pursuant to Rule 87 (A) of the Rules, the standard for determining guilt is proof beyond a reasonable doubt. While each and every fact in a Trial Judgement need not be proven beyond a reasonable doubt,<sup>17941</sup> all facts which are material to the elements of the alleged crime must be proven beyond a reasonable doubt for a finding of guilt in relation to that crime.<sup>17942</sup> The burden of proof remains with the Prosecution throughout the trial.<sup>17943</sup> An accused must be acquitted if there is any reasonable explanation of the evidence other than the guilt of the accused.<sup>17944</sup> In making findings, the Trial Chamber applied this standard of proof. The Trial Chamber notes that in many instances the evidence suggested a conclusion which seemed to be very likely. However, in keeping with the applicable standard of proof, the Trial Chamber strictly examined whether such a conclusion was the only reasonable one.<sup>17945</sup>

### *Witnesses*

5251. In total, the Trial Chamber heard or received evidence of 592 witnesses. On 24 April 2012, the Trial Chamber, pursuant to Rule 73 *bis* (C) of the Rules, granted the Prosecution's request for 200 hours to present evidence through witnesses.<sup>17946</sup> On 3 December 2013, the Trial Chamber granted the Prosecution's request to exceed the 200 hours in order to finish the testimony of one witness, which resulted in a total number of 207.5 hours.<sup>17947</sup> On 12 May 2014, the Defence was granted the same amount of time to present evidence through witnesses, and used a total of almost 188.5 hours out of the

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<sup>17941</sup> *Ntagerura et al.* Appeal Judgment, paras 174-175.

<sup>17942</sup> *Čelebići* Trial Judgment, para. 109; *Halilović* Appeal Judgment, para. 109; *Martić* Appeal Judgment, para. 55; *Dragomir Milošević* Appeal Judgment, para. 20.

<sup>17943</sup> *Brdanin* Trial Judgment, para. 22; *Haradinaj et al.* Trial Judgment, para. 7; *Gotovina et al.* Trial Judgment, para. 14.

<sup>17944</sup> *Čelebići* Appeal Judgment, para. 458.

<sup>17945</sup> See *Vasiljević* Appeal Judgment, paras 120, 128. For example, this was often the case in relation to the ethnicity of victims of crimes.

<sup>17946</sup> T. 313-315.

<sup>17947</sup> T. 20189-20191, 21032-21033. See also T. 34539, where the Trial Chamber granted the Prosecution an additional nine hours for the re-opening of its case in order to present evidence on the then recently discovered Tomasića mass grave, which is not reflected in the total hours granted to the Prosecution to present its case-in-chief.

207.5 hours.<sup>17948</sup> Out of a total of 377 fact and expert witnesses who appeared before the Trial Chamber, 169 were called by the Prosecution and 208 were called by the Defence.<sup>17949</sup>

5252. The Trial Chamber admitted witness statements or testimony pursuant to Rules 92 *bis*, *ter*, and *quater* of the Rules. The Trial Chamber admitted the written evidence of 187 witnesses pursuant to Rule 92 *bis* of the Rules.<sup>17950</sup> Rule 92 *bis* of the Rules allows for the admission of written evidence that goes to proof of matters other than the acts and conduct of the accused as charged in the indictment, without the need for the witness to appear in person before the Court.<sup>17951</sup> The Trial Chamber admitted written evidence tendered pursuant to Rule 92 *ter* of the Rules in relation to 299 witnesses. Rule 92 *ter* of the Rules allows for the admission of written evidence that goes to proof of the acts and conduct of the accused as charged in the indictment and, *inter alia*, requires the witness's presence in court.<sup>17952</sup> Rule 92 *quater* of the Rules allows for the admission of written evidence that goes to proof of the acts and conduct of an accused as charged in the indictment, in circumstances where the witness is unavailable or unable to testify due to reasons set out in the Rule which include death or the existence of a mental condition.<sup>17953</sup> The Trial Chamber admitted statements and prior testimony of 24 unavailable witnesses pursuant to this Rule. The Trial Chamber admitted such written evidence only if it was satisfied that the evidence concerned was reliable.<sup>17954</sup> In its assessment, the Trial Chamber considered whether the statements were corroborated by other evidence, whether the statements were internally consistent, the circumstances in which the statements were made or recorded, and whether the evidence had ever been subject to cross-examination.<sup>17955</sup>

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<sup>17948</sup> T. 21032-21033.

<sup>17949</sup> One person was called to testify by the Defence and appeared before the Trial Chamber, but refused to testify after the Trial Chamber denied the witness protective measures. Therefore, the Trial Chamber did not hear the evidence of this person, resulting in the total number of Defence witnesses testifying before the Trial Chamber being 208. *See* T. 30269.

<sup>17950</sup> *See*, for example, Decision on Prosecution's 18th Motion to Admit Evidence Pursuant to Rule 92 *bis*, 23 September 2013; Decision on Prosecution 31st Motion to Admit Evidence Pursuant to Rule 92 *bis*, 13 February 2014; Decision on Defence Motion to Admit the Evidence of Dušan Đenadija Pursuant to Rule 92 *bis*, 29 October 2015; Decision on Defence Motion to Admit the Evidence of Witness GRM-065 Pursuant to Rule 92 *bis*, 14 January 2016.

<sup>17951</sup> Rule 92 *bis* (A) of the Rules.

<sup>17952</sup> Rule 92 *ter* (B) of the Rules.

<sup>17953</sup> Rule 92 *quater* (B) of the Rules.

<sup>17954</sup> Rule 92 *quater* (A) (ii) of the Rules.

<sup>17955</sup> *See*, for example, Decision on Prosecution Motion to Admit the Evidence of Witness RM-266 pursuant to Rule 92 *quater*, 23 July 2012; Decision on Prosecution Motion to Admit the Evidence of Witnesses Zaim Košarić and Đula Leka pursuant to Rule 92 *quater*, 9 November 2012; Decision on

5253. On 12 December 2016, the Trial Chamber admitted three statements tendered by the Defence pursuant to Rule 85 (A)(vi) of the Rules.<sup>17956</sup> This rule provides for the presentation of relevant information that may assist the Trial Chamber in determining an appropriate sentence if the accused is found guilty.<sup>17957</sup>

5254. The Trial Chamber heard the evidence of 26 witnesses by way of video-conference link, pursuant to Rule 81 *bis* of the Rules. In each instance a Court Officer was present with the witness for the duration of the witness's testimony. The consequences of denying a motion to hear a witness by video-conference link can result in, *inter alia*, the evidence not being heard by the Chamber. When deciding whether hearing a witness in this way would be consistent with the interests of justice, the Trial Chamber considered a number of factors which varied depending on the reasons provided by the calling party for the witness's evidence to be heard by video-conference link. Factors included but were not limited to the importance of the witness's testimony, the ability for the parties to cross-examine and directly confront the witness, the reasons for the witness's unwillingness to testify in The Hague, the parties' ability to prepare for the examination of the witness, the Trial Chamber's ability to assess the witness's demeanour, the impact on trial expediency due to possible technical delays, the witness's perception of the seriousness of the proceedings, and the parties' ability to present the witness's evidence.<sup>17958</sup>

### *Experts*

5255. Rule 94 *bis* of the Rules sets out the requirements relating to expert witness testimony.<sup>17959</sup> Of the total number of witnesses heard in court, 34 were expert witnesses. In most cases, the Trial Chamber decided on the expertise of the witness

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Prosecution Motion to Admit the Evidence of Witness RM-265 pursuant to Rule 92 *quater*, 4 October 2014; Decision on Joint Motion to Admit the Evidence of Jasmin Odošević pursuant to Rule 92 *quater*, 28 July 2016.

<sup>17956</sup> T. 44723-44727.

<sup>17957</sup> Rule 85 (A)(vi) of the Rules.

<sup>17958</sup> See, for example, Decision on Prosecution Motion for Testimony of Witness RM-088 to be Heard via Video-Conference Link, 1 November 2012; Decision on Prosecution Motion for Testimony of Witness RM-145 to be Heard via Video-Conference Link, 7 September 2012; Reasons for the Decision on Prosecution Motion for Testimony of Witness RM-284 via Video-Conference Link and Request to Registry, 10 May 2013; Decision on Defence Motion for Testimony of Witness Tomislav Delić to be Heard via Video-Conference Link, 10 November 2014; Decision on Defence Motion for Testimony of José Cutiliero to be Heard via Video-Conference Link, 12 November 2015.

<sup>17959</sup> Rule 94 *bis* of the Rules. The Trial Chamber considered Rule 92 *ter* motions which related to expert witnesses under Rule 94 *bis* of the Rules.

before the witness testified, and in doing so considered whether the person, by virtue of some specialized knowledge, skill, or training, could assist the Trial Chamber in understanding an issue in dispute, and whether the content of his or her report fell within this expertise. The Trial Chamber deferred its decision to admit the expert's report until the time of the expert witness's testimony, and admitted expert reports which it found to be relevant and probative.<sup>17960</sup> In addition to those expert witnesses who appeared in court, the Trial Chamber also admitted the evidence of one Prosecution expert witness pursuant to Rule 94 *bis* (C) of the Rules, which permits the admission of expert testimony by the Trial Chamber without calling the witness to testify in person, if certain requirements have been met.<sup>17961</sup>

#### *Admission of Evidence*

5256. Pursuant to Rule 89 (C) of the Rules, the Trial Chamber admitted documents into evidence which it determined were relevant and of probative value.<sup>17962</sup> Such documents included exhumation reports, orders, photographs, and (marked) maps tendered in connection with witness testimonies, or tendered from the bar table. In relation to those documents tendered from the bar table, the Trial Chamber also considered whether the tendering party had demonstrated with clarity and specificity where and how each document fitted into its case.<sup>17963</sup> In total, the Trial Chamber admitted 9,914 exhibits.

#### *Tendering of contextual documents*

5257. On 13 January 2016, the Trial Chamber decided on the Prosecution's request to tender contextual evidence in response to Defence bar table motions, as opposed to tendering such evidence during the rebuttal phase. The Trial Chamber decided that the

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<sup>17960</sup> See, for example, Decision on Defence Motion to Disqualify Richard Philipps as an Expert and Bar the Prosecution from Presenting His Report, 1 November 2012; Decision Pursuant to Rule 94 *bis* in relation to Proposed Expert Helge Brunborg, 19 July 2013; Decision on Zoran Stanković's Expertise Pursuant to Rule 94 *bis*, 6 April 2016; Decision on the Admission of Mitar Kovač's Expert Report and its Annex, 30 May 2016; Decision on Defence Motion to Admit into Evidence Subotić and Poparić's Expert Reports and Related Documents, 9 June 2016. For examples of in-court admissions of expert reports see T. 4682, 5327-5329, 19474, 19806, 38152, 41982, 42188-42189, 43239-43240.

<sup>17961</sup> T. 13973-13975.

<sup>17962</sup> Rule 89 (C) of the Rules.

<sup>17963</sup> See, for example, Decision on Prosecution First Motion to Admit Evidence from the Bar Table Mladić Notebooks, 25 September 2012, para. 12; Decision on Prosecution's Bar Table Motion for the Admission of Intercepts: Srebrenica Segment, 2 May 2013, paras 7-10; Decision on Defence's Eighth Motion for the Admission of Documents from the Bar Table, 24 March 2016, para. 7.

Prosecution should explain the necessity of tendering the specific evidence during the Defence phase of the proceedings. Only after hearing these submissions and any submissions by the Defence, would the Trial Chamber decide whether the Prosecution should be allowed to proceed with the tendering.<sup>17964</sup>

*Guidance on the presentation and tendering of evidence*

5258. Motivated by case management concerns and as part of its obligations under Article 20 of the Statute and Rule 90 (F) of the Rules, the Pre-Trial Chamber and subsequently the Trial Chamber issued guidance on how to present and tender evidence.<sup>17965</sup> Through this guidance the Trial Chamber provided an indication to both parties of its strong preferences regarding the presentation and tendering of evidence.<sup>17966</sup> It set out that the parties were responsible for selecting the most relevant evidence and presenting their case in a clear and comprehensible manner.<sup>17967</sup> For example, the Pre-Trial Chamber instructed the parties to avoid presenting evidence overlapping with Adjudicated Facts and that any such tendering would need to be clearly explained.<sup>17968</sup> It also set out that the parties should limit Rule 92 *bis*, 92 *ter*, and 92 *quater* motions to one witness statement, while exceptionally accepting one or more short supplemental witness statements dealing with specific issues or corrections to the original statement.<sup>17969</sup> For both Rule 92 *bis* and 92 *ter* motions, the Trial Chamber would only under exceptional circumstances admit transcripts of testimony given in another case if compelling reasons existed.<sup>17970</sup> The tendering party should only tender those portions of a transcript upon which it wanted to rely, including any portions necessary to contextualise or clarify, while the other party in its response to the motion should add any portions considered relevant for the proper understanding of the witness's testimony.<sup>17971</sup> The parties were to abstain from redactions that could result in a misleading presentation of the evidence.<sup>17972</sup>

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<sup>17964</sup> Reasons for Decision on Prosecution Request to Tender Documents and Decision on Defence Motion for Certification to Appeal, 10 March 2016, paras 1, 10, 12.

<sup>17965</sup> T. 106.

<sup>17966</sup> T. 526.

<sup>17967</sup> T. 106.

<sup>17968</sup> T. 204-206, 528-530.

<sup>17969</sup> T. 107-109, 321, 527.

<sup>17970</sup> T. 108, 527-528

<sup>17971</sup> T. 5407-5508. *See also* Decision on Prosecution Motion to Admit the Evidence of Witness RM-266 Pursuant to Rule 92 *quater*, 23 July 2012, para. 14.

<sup>17972</sup> T. 5407.

5259. The Pre-Trial Chamber further instructed the parties that, generally, the number of associated exhibits for Rule 92 *bis* witnesses should not exceed five documents and that those exhibits would need to be clearly addressed and discussed in the witness's statement. Its preference was that Rule 92 *ter* motions should not encompass any associated exhibits at all but that exhibits that the parties intended to tender with a witness pursuant to Rule 92 *ter* were to be presented as part of the examination-in-chief.<sup>17973</sup> Documentary evidence supporting a witness's statement should only be tendered in re-examination in a case where the relevant part of a statement was challenged in cross-examination.<sup>17974</sup>

5260. With regard to bar table submissions, the Pre-Trial Chamber instructed the parties that documentary evidence should preferably be tendered in court through witnesses who could give a proper contextualisation and that bar table motions would only be accepted exceptionally and for a limited amount of documents.<sup>17975</sup> Based on its preference of receiving bar table motions at a late stage of the case, the Pre-Trial Chamber accepted the Prosecution's proposal to submit bar table motions at the close of the presentation of an individual component of its case when it would be evident to the tendering party that the documentary evidence could not have been tendered through any witness.<sup>17976</sup>

### *Agreed Facts*

5261. On 25 August 2011, during the Pre-Trial phase of the proceedings, the parties were encouraged by the Pre-Trial Chamber to identify issues not in dispute between the parties.<sup>17977</sup> The parties filed joint submissions on agreed facts on 19 September and 25 November 2011, 6 January, 10 February, 16 March, 27 April, and 6 July 2012.<sup>17978</sup> On 4

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<sup>17973</sup> T. 109, 530-532.

<sup>17974</sup> T. 320.

<sup>17975</sup> T. 109-110.

<sup>17976</sup> T. 110, 235-237.

<sup>17977</sup> T. 63-64.

<sup>17978</sup> T. 63, 77; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Joint Submission on Progress of Agreed Facts Negotiations (Confidential with Confidential Appendix A), 19 September 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Second Joint Submission on Progress of Agreed Facts Negotiations (Confidential), 25 November 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Third Joint Submission on Progress of Agreed Facts Negotiations (Confidential), 6 January 2012; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Fourth Joint Submission on Progress of Agreed Facts Negotiations (Confidential), 10 February 2012; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Fifth Joint Submission on Progress of Agreed Facts Negotiations (Confidential with Confidential Annexes A and B), 16 March 2012; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Sixth Joint Submission on

June 2013 and 6 June 2016, the parties filed joint submissions on agreed facts pertaining to the Accused's whereabouts between 14 and 17 July 1995, and on 4 March 2016, the parties filed a joint submission on agreed facts pertaining to a correction to site coordinates for Godinjske Bare.<sup>17979</sup> In the course of the trial, the parties agreed to other facts through stipulations made in court.<sup>17980</sup>

### *Adjudicated Facts*

5262. Subsequent to an agreement by the parties on a template for the Prosecution's adjudicated facts motion,<sup>17981</sup> and guidance from the Pre-Trial Chamber,<sup>17982</sup> the Prosecution filed a motion on 9 December 2011, requesting that the Pre-Trial Chamber take judicial notice of certain adjudicated facts. The Pre-Trial Chamber issued four separate decisions on the Prosecution's 9 December motion, addressing the annexes to the motion and the rebuttal evidence procedure. These decisions were issued on 28 February, 21 March, 13 April, and 2 May 2012, taking notice of approximately 2,000 adjudicated facts.<sup>17983</sup> Following an interlocutory appeal by the Defence on three of the decisions issued by the Trial Chamber, on 12 November 2013 the Appeals Chamber instructed the Trial Chamber to remove from the record 61 adjudicated facts.<sup>17984</sup> The Trial Chamber accordingly withdrew its judicial notice of these facts on 13 November

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Progress of Agreed Facts Negotiations (Confidential with Confidential Annex A), 27 April 2012; Seventh Joint Submission on Progress of Agreed Facts Negotiations (Confidential with Confidential Annex A), 6 July 2012.

<sup>17979</sup> Joint Submission on Agreed Facts (Location of Mladić 14 to 17 July 1995), 4 June 2013; Joint Submission on Agreed Facts (Correction to Site Coordinates for Godinjske Bare), 4 March 2016; Joint Submission on Revised Agreed Facts (Location of Mladić 14 to 17 July 1995), 6 June 2016.

<sup>17980</sup> See, for example, T. 1105, 16253-16254, 20631-20632, 29075.

<sup>17981</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Proposed Adjudicated Facts Motion Template, 20 October 2011.

<sup>17982</sup> T. 102-103.

<sup>17983</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, First Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 February 2012; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Second Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 21 March 2012; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Third Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 13 April 2012; Fourth Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts Concerning the Rebuttal Evidence Procedure, 2 May 2012. During the trial proceedings the Trial Chamber took *proprio motu* judicial notice of two adjudicated facts, see Decision on *Proprio Motu* Taking Judicial Notice of Two Adjudicated Facts, 5 June 2012. On 15 January 2016, the Prosecution filed a notice clarifying its reliance on Adjudicated Fact 1233, which the Trial Chamber had taken judicial notice of in its 28 February 2012 decision, see Prosecution Notice Concerning Adjudicated Fact 1233, 15 January 2016.

<sup>17984</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.1, Decision on Ratko Mladić's Appeal Against the Trial Chamber's Decisions on the Prosecution Motion for Judicial Notice of Adjudicated Facts, 12 November 2013.

2013.<sup>17985</sup> The Prosecution reformulated some of the facts in accordance with the Appeals Chamber's 12 November decision and requested that the Trial Chamber take judicial notice of 24 of the 61 adjudicated facts. The Trial Chamber took judicial notice of 12 of these proposed adjudicated facts.<sup>17986</sup>

*Judicial notice of the authenticity of documents*

5263. Pursuant to Rule 94 (B) of the Rules, the Trial Chamber decided to take judicial notice of the authenticity of documentary evidence which had been admitted in prior proceedings.<sup>17987</sup> In doing so, the Trial Chamber considered whether the moving party had demonstrated that the relevant documents had been tendered as evidence before the Tribunal, had been found to be authentic in those prior proceedings, and were relevant to the present case.<sup>17988</sup>

*Public character of proceedings*

5264. Accused before the Tribunal have the right to a public hearing. This right is not absolute. The Statute and the Rules provide for the protection of victims and witnesses,<sup>17989</sup> as well as the protection of the national security interests of States,<sup>17990</sup> or of public order.<sup>17991</sup> In this case, protective measures applied for 137 witnesses.

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<sup>17985</sup> T. 19228.

<sup>17986</sup> Decision on Prosecution Motion Pursuant to the Appeals Chamber's Decision on Adjudicated Facts, 30 January 2014.

<sup>17987</sup> Decision on Prosecution First Motion to Admit Evidence from the Bar Table: Mladić Notebooks, 25 September 2012; Decision on Prosecution's Bar Table Motion for the Admission of Intercepts: Srebrenica Segment, 2 May 2013; Decision on Prosecution Motion to Admit Evidence from the Bar Table: Excerpts from Mladić's Audio Tapes, 18 September 2013.

<sup>17988</sup> See, for example, Decision on Prosecution First Motion to Admit Evidence from the Bar Table: Mladić Notebooks, 25 September 2012, paras 5, 7-11.

<sup>17989</sup> Article 22 of the Statute and Rule 75 of the Rules.

<sup>17990</sup> Rule 54 *bis* (F) of the Rules.

<sup>17991</sup> Rule 79 (A) (i) of the Rules.

*Interpretation of the Indictment: Scheduled and unscheduled incidents*

5265. In its Final Brief, the Defence argued that there are defects in the form of the Indictment.<sup>17992</sup> It alleged that for the purposes of entering a conviction, if any, against the Accused, the crimes underpinning all eleven Counts in the Indictment are confined to the 106 Scheduled Incidents. This would make certain Counts partially defective.<sup>17993</sup> The Defence submitted that Counts 7 and 8, relating to deportation and forcible transfer, are wholly defective as they do not identify any Scheduled Incidents and are therefore without factual basis.<sup>17994</sup> According to the Defence, the Trial Chamber's Rule 73 *bis* (D) decision must be interpreted as excluding all crimes apart from those listed in Schedules A-G and the crime of hostage-taking.<sup>17995</sup> The Defence submitted that in relation to the crime of hostage-taking a schedule is not necessary as Count 11 is 'premised upon a single set of facts which is not amenable to inclusion in any of the Schedules' and that it is 'based upon the facts which were in reality set out in the body of the Indictment rather than the Schedules'.<sup>17996</sup> The Defence claimed to have relied on the interpretation regarding the scope of the case both from apparent Prosecution statements at the Rule 73 *bis* (D) stage and from the Trial Chamber's apparent confirmation in its Rule 73 *bis* (D) decision.<sup>17997</sup> The Prosecution averred that the reduction in its case at the Rule 73 *bis* (D) stage was limited to the reduction of certain *scheduled* incidents and nothing further.<sup>17998</sup>

5266. On 25 October 2016, the Defence filed a motion also arguing that there are defects in the form of the Indictment.<sup>17999</sup> The Trial Chamber reiterates, as it clarified in the decision denying this motion, that challenges to an indictment may be brought by the Defence in two ways: (a) at the pre-trial stage, as a preliminary motion pursuant to

<sup>17992</sup> Defence Final Brief, paras 8-33.

<sup>17993</sup> Defence Final Brief, paras 8-17, 20(h), 23-33.

<sup>17994</sup> Defence Final Brief, paras 28-31.

<sup>17995</sup> Defence Final Brief, paras 11-12, 22.

<sup>17996</sup> Defence Final Brief, para. 22. The Defence does however state that it does not necessarily accept the sufficiency of the way in which Count 11 is pled.

<sup>17997</sup> Defence Final Brief, paras 13-23.

<sup>17998</sup> T. 44384 ('And finally, Mr. President, Your Honours, let me quickly address the 73 bis argument, another Defence claim that is frankly untethered to reality. The reduction pursuant to 73 bis in this case was clearly about Scheduled Incidents, as reflected in the very first paragraph of the Prosecution's submission. After explaining in paragraph 1 which of the "crimes enumerated in the schedules" it would present evidence on, it noted again in paragraph 7 that it had identified "the scheduled crimes" upon which it would present evidence and that it would not present evidence on the remainder of the previously scheduled crimes, resulting in a reduction of the case. Thereafter, the Trial Chamber adopted the proposal and ordered the Prosecution to file an amended indictment in accordance with the decision, which the Prosecution did.').

Rule 72 of the Rules, for alleged defects on the face of an indictment; or (b) at the trial stage, by way of objecting to the admission of evidence, when alleged defects become apparent as a result of evidence of material facts proffered by the Prosecution.<sup>18000</sup> In relation to (a), on 12 September 2011, the Defence filed a preliminary motion objecting to the form of the then-operative indictment.<sup>18001</sup> On 13 October 2011, the Pre-Trial Chamber issued a decision denying that preliminary motion on the basis that the Indictment was not defective.<sup>18002</sup> In respect of (b), the Defence did not identify any evidence of apparent new material facts led by the Prosecution during trial to which it objected and, therefore, this avenue was not pursued by the Defence.

5267. The Trial Chamber also reiterates, as it has previously clarified, that at the Rule 73 *bis* (D) stage it approved amendments to the Indictment so as to fix the number of *scheduled* incidents but its decision did not affect other incidents within the scope of the Indictment, which accordingly remained part of the Indictment as charged.<sup>18003</sup> The amendments to the Indictment included striking out 90 incidents from Schedules A-G which had, as the Prosecution confirmed, the following consequence: ‘Allegations and text that are marked by the single strikethrough are withdrawn, vestigial and no longer have legal effect’.<sup>18004</sup> These stricken-out incidents were, therefore, no longer charged and were not considered by the Trial Chamber although the Trial Chamber allowed the Prosecution to lead evidence on them under certain circumstances.<sup>18005</sup>

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<sup>17999</sup> Defence Motion Alleging Defects in the Form of the Indictment, 25 October 2016.

<sup>18000</sup> See Decision on Defence Motion Alleging Defects in the Form of the Indictment, 30 November 2016; Decision on Defence Motion for Reconsideration of or, in the Alternative Certification to Appeal the Decision on the Defence Motion Alleging Defects in the Form of the Indictment, 23 February 2017.

<sup>18001</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 12 September 2011. See also *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Second Amended Indictment, 1 June 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Ratko Mladić’s Motion for Enlargement of Time to File Preliminary Motion, 12 August 2011 (Confidential); *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution’s Response to Motion for Enlargement of Time, 23 August 2011; T. 59; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Prosecution Response to Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 26 September 2011; *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Defence Request to File Reply in Support of Preliminary Motion Objecting to the Form of the Second Amended Indictment, with Annex A, Defence Reply in Support of Preliminary Motion Objecting to the Form of the Second Amended Indictment, 30 September 2011.

<sup>18002</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision on Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 13 October 2011.

<sup>18003</sup> Decision on Defence Motion for Reconsideration of or, in the Alternative Certification to Appeal the Decision on the Defence Motion Alleging Defects in the Form of the Indictment, 23 February 2017. See *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Decision Pursuant to Rule 73 *bis* (D), 2 December 2011, paras 12, 14-15.

<sup>18004</sup> Indictment, fn. 1.

<sup>18005</sup> In its Rule 73 *bis* (D) decision, the Chamber held that ‘[it] does not strictly prohibit the Prosecution from presenting evidence on incidents it has proposed to remove, if it considers this necessary to prove an

5268. Based on the foregoing, and notwithstanding the fact that the challenges to the Indictment cannot be brought at this stage of the proceedings, the Trial Chamber makes the following observations, for clarification, relating to ‘unscheduled incidents’ in the Indictment as charged.

5269. Alleged crimes not enumerated in Schedules A-G of the Indictment may loosely be considered as ‘unscheduled incidents’. Whether an alleged crime is listed in a schedule attached to the Indictment or not does not determine whether an indictment is defective. As set out in the jurisprudence, the key consideration is whether the relevant material facts were pled with sufficiency under the applicable law.<sup>18006</sup> The Trial Chamber recalls that in the Pre-Trial Chamber’s decision of 13 October 2011 on the Rule 72 preliminary motion, it was held that there were no formal requirements as to how the notification of relevant information (such as the identity of victims) in an indictment ought to be made and there was no requirement to have annexes or schedules.<sup>18007</sup> The Pre-Trial Chamber’s decision on the preliminary motion was not appealed by the parties.

5270. In the Indictment, a number of alleged crimes are not particularised by schedule, for instance: deportation, forcible transfer, inhumane treatment, plunder, discriminatory measures, and forced labour. A number of alleged crimes are enumerated partly by schedule, for instance: destruction, terror and unlawful attacks, and murder. This enumeration is not exhaustive as is indicated by the use of incorporating language such as ‘including’,<sup>18008</sup> ‘illustrative examples’,<sup>18009</sup> ‘as well as’,<sup>18010</sup> and ‘including but not limited to’.<sup>18011</sup> The Trial Chamber further notes that the Indictment details sufficient material facts, such as references to victims, dates, and locations, for each incident whether enumerated by schedule or not. Those material facts limit the scope of the

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element of a charged count. The Prosecution should indicate such proposed evidence clearly in its Rule 65 *ter* filings and explain its specific relevance to the Prosecution’s case. The Chamber notes that the Accused cannot be convicted with respect to crimes which have been removed pursuant to Rule 73 *bis* (D) of the Rules’.

<sup>18006</sup> See, for example, Decision on Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 13 October 2011.

<sup>18007</sup> Decision on Defence Preliminary Motion Objecting to the Form of the Second Amended Indictment, 13 October 2011, para. 8.

<sup>18008</sup> Indictment, paras 46, 59(j), 62,

<sup>18009</sup> Indictment, para. 81.

<sup>18010</sup> Indictment, paras 39, 62.

<sup>18011</sup> Indictment, para. 46.

relevant charge.<sup>18012</sup> The Trial Chamber's understanding is consistent with its previous interpretation of language used in the Indictment.<sup>18013</sup> Accordingly, the Trial Chamber's interpretation of the language of the Indictment remains unchanged, is attuned to the clear context in which limiting or incorporating words are used, and is subject to the material facts limiting a charge.

*Consideration of adjudicated facts*

5271. During the pre-trial stage of this case, the Pre-Trial Chamber set out its approach to Adjudicated Facts in its 'Fourth Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts Concerning the Rebuttal Evidence Procedure'.<sup>18014</sup> The parties neither sought reconsideration nor certification to appeal this decision. Accordingly, the Trial Chamber proceeded on the basis of this decision with regard to the approach on Adjudicated Facts.

5272. By taking judicial notice of an adjudicated fact, a chamber establishes a well-founded presumption for the accuracy of this fact, which therefore does not have to be proven again at trial, but which may be challenged during that trial.<sup>18015</sup> Taking judicial notice of an adjudicated fact does not shift the ultimate burden of persuasion, which remains with the Prosecution.<sup>18016</sup> It fosters judicial economy by avoiding the need for evidence-in-chief to be presented in support of a fact already previously adjudicated.<sup>18017</sup> Taking judicial notice of an adjudicated fact is limited to the fact itself and does not involve a trial chamber taking notice of the evidence on which the

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<sup>18012</sup> See, for example, the limiting language in the Indictment, para. 58, relating to the alleged persecution against the Bosnian Muslims of Srebrenica.

<sup>18013</sup> See, for example, the Interim Decision Regarding the Expert Reports of Mile Poparić and Zorica Subotić, 17 September 2015, where the Trial Chamber held in relation to paragraph 81 of the Indictment, that '[a]ccording to the Indictment, the specific instances of the sniping and shelling attacks forming part of the campaign, by way of illustrative examples, include but are not limited to, the incidents set forth in Schedule F and G of the Indictment'. See, for example, the Trial Chamber's Rule 98 *bis* decision of 15 April 2014, where it held that '[t]he destructions of religious sites are part of one of seven charged underlying acts of persecution for the municipalities part of the case. The other part of this underlying act concerns the destruction of public and private property'.

<sup>18014</sup> *Prosecutor v. Ratko Mladić*, Case No. IT-09-92-PT, Fourth Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts Concerning the Rebuttal Evidence Procedure, 2 May 2012.

<sup>18015</sup> *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-AR73.5, Decision on the Prosecution's Interlocutory Appeal against the Trial Chamber's 10 April 2003 Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 October 2003, p. 4.

<sup>18016</sup> See *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006, para. 42.

<sup>18017</sup> See *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73.17, Decision on Joseph Nzirorera's Appeal on Decision on Admission of Evidence Rebutting Adjudicated Facts, 29 May 2009, para. 20.

previous chamber relied to establish that fact. The presentation of evidence contradicting an adjudicated fact is to be understood as a step towards reopening the evidentiary debate on the issues addressed in the adjudicated fact.

5273. The Trial Chamber analysed the evidence and considered, as an initial step, whether evidence contradicted the Adjudicated Facts. The Trial Chamber required evidence to be unambiguous in its meaning in order to be termed as ‘contradicting the Adjudicated Facts’. For example, evidence suggesting mere possibilities was deemed not to reach that threshold.<sup>18018</sup> In other words, merely pointing at the possibility of alternative scenarios was in itself not sufficient ground to reopen the evidentiary debate. A contradiction can exist in either presenting evidence on a specific alternative scenario, as opposed to a mere suggestion of one or more possible alternative scenarios, or in the unambiguous demonstration that the scenario as found in the Adjudicated Fact must reasonably be excluded as true.

5274. The Trial Chamber was mindful that evidence contradicting adjudicated facts does not automatically rebut the adjudicated fact. The presumption of accuracy of the adjudicated fact is only rebutted by ‘reliable and credible’ contradictory evidence.<sup>18019</sup> In determining whether a piece of evidence rebuts the presumption of accuracy, the Trial Chamber was mindful to limit its analysis of the reliability only to that piece of evidence, without weighing it against any evidence supporting the relevant adjudicated fact. To do otherwise would be tantamount to prematurely reopening the evidentiary debate and thus undermine the very purpose of adjudicated facts.

5275. As facts themselves cannot be weighed against evidence, once an adjudicated fact has been rebutted, the party who initially presented the adjudicated fact must be allowed to submit evidence proving the fact at issue. This evidence will then be weighed against the evidence presented to contradict the Adjudicated Fact. This restores a situation in which the Trial Chamber weighs evidence and makes its own findings regarding the issue addressed in the adjudicated fact.<sup>18020</sup> During the presentation of

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<sup>18018</sup> For example, if an adjudicated fact stated that ‘B killed C’, and the Trial Chamber received evidence that ‘C was possibly/likely killed by A’. See in this regard also chapter 5.3.6.

<sup>18019</sup> *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006, paras 42, 49. See also *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR73.1, Decision on Interlocutory Appeals Against Trial Chamber’s Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts and Prosecution’s Catalogue of Agreed Facts, 26 June 2007, paras 16-17.

<sup>18020</sup> Fourth Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts Concerning the Rebuttal Evidence Procedure, 2 May 2012.

evidence, there is no obligation for the Defence to preface any challenge to an adjudicated fact by referring to that fact.<sup>18021</sup> Such a reference may contribute to the expediency of the trial, but is not a requirement for the Trial Chamber to consider whether an adjudicated fact has been rebutted.

5276. The Trial Chamber used a specific approach for dealing with evidence in relation to adjudicated facts. Where evidence overlapped and was congruous with the adjudicated facts, meaning that relying on the evidence would lead to the same factual finding already contained in the adjudicated facts, the Trial Chamber found that the evidence was ‘consistent with the Adjudicated Facts’ and did not further summarise such evidence in detail.<sup>18022</sup> In situations where evidence added relevant details, which could not be found in the adjudicated facts, the Trial Chamber summarised and considered such evidence for its findings. Where evidence contradicted the adjudicated facts, the Trial Chamber generally summarized this evidence and specifically addressed whether or not it was sufficiently reliable to rebut the adjudicated facts. Where a witness’s evidence mainly contradicted the adjudicated facts, but in some parts contained information, which overlapped and was congruent with the adjudicated facts, the Trial Chamber used the expression ‘the evidence is partly consistent with the Adjudicated Facts’.

5277. A special category of evidence, which could be seen as contradicting the Adjudicated Facts, was not explicitly discussed in the Trial Chamber’s findings.<sup>18023</sup> With regard to this category, the Trial Chamber considered that even if the evidence could be found to be contradicting the Adjudicated Facts, it was insufficiently reliable to rebut the Adjudicated Facts.<sup>18024</sup> Considering that the evidence in this category was relevant to a multitude of incidents, the Trial Chamber refrained from repeating this determination in each finding.

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<sup>18021</sup> Fourth Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts Concerning the Rebuttal Evidence Procedure, 2 May 2012, fn. 31; T. 21047.

<sup>18022</sup> However, the Trial Chamber referenced evidence it found to be consistent with the Adjudicated Facts.

<sup>18023</sup> This category especially related to documents underlying the expert reports of Ewa Tabeau. For example, certain forensic documentation such as ‘Circumstances of Death’ documents or ‘Death reports’ contained information about date, location, or circumstances of the death of a victim. This information generally stemmed from relatives or friends of the victims who were not eye-witnesses to any crimes or at least did not provide any source of knowledge for this information and therefore lacked a sound basis for providing reliable information in this regard.

<sup>18024</sup> The Trial Chamber in such instances used the following terminology: ‘the evidence does not rebut the Adjudicated Facts’.

*Weighing the Evidence*

5278. The Trial Chamber considered the charges against the Accused in light of all the evidence it admitted during the trial. It assessed the evidence in accordance with the Statute, the Rules, and the jurisprudence of the Tribunal. Where no specific guidance was found in these sources the Trial Chamber decided matters of evidence in such a way as would best favour a fair determination of the case in consonance with the spirit of the Statute and the general principles of law.<sup>18025</sup>

5279. In evaluating the evidence, the Trial Chamber took into account the witnesses' credibility and reliability, which sometimes varied for different portions of their evidence. It considered the demeanour of witnesses when they appeared in court. It further considered the individual circumstances of a witness, including his or her possible involvement in the events and fear of self-incrimination, the witness's relationship with the Accused, and whether the witness would have an underlying motive which could affect his or her credibility and reliability. The Trial Chamber also assessed the internal consistency of each witness's testimony and other features of his or her evidence, as well as whether there was corroborating or contradicting evidence. The evidence presented in this case relates to events which occurred between 1991 and 1995, in many cases more than 20 years before the witnesses' testimony in this Tribunal. The Trial Chamber took into consideration that the time that had passed since the events might have affected the memories of witnesses and thereby their testimonies. It has therefore carefully considered whether, and if so how, minor inconsistencies affected the overall reliability and credibility of the testimony of certain witnesses.<sup>18026</sup>

5280. Some of the witnesses who played a role in the events at the time were evasive in their testimonies. This in itself did not lead the Trial Chamber to discard all of their evidence irrespective of the subject-matter. This is consistent with the jurisprudence of the Tribunal according to which it is not unreasonable for a Trial Chamber to accept certain parts of a witness's testimony while rejecting others.<sup>18027</sup> While the Trial Chamber may not always have explicitly stated whether it found a witness's testimony or portions of his or her testimony credible, it consistently took the aforementioned

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<sup>18025</sup> Rule 89 (B) of the Rules.

<sup>18026</sup> *Čelebići* Appeal Judgment, paras 484-485, 496-498; *Kupreškić et al.* Appeal Judgment, para. 31.

<sup>18027</sup> *Kupreškić et al.* Appeal Judgment, para. 333; *Blagojević and Jokić* Appeal Judgment, para. 82.

factors into account in making findings on the evidence. The Trial Chamber explicitly dealt with inconsistencies and other credibility and reliability issues where these touched upon significant aspects of the testimony and where the parties raised these issues.

5281. The Appeals Chamber has held that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.<sup>18028</sup> Nonetheless, in such situations, the Trial Chamber exercised particular caution, considering all circumstances relevant to the testimony of the witness, including whether the witness may have had a motive to give inaccurate evidence.<sup>18029</sup>

5282. In assessing and weighing the testimony of expert witnesses, the Trial Chamber considered factors such as the professional competence of the expert, the material at his or her disposal, the methodologies used, the credibility of the findings made in light of these factors and other evidence, the position or positions held by the expert, and the limits of the expertise of each witness. The Trial Chamber's general approach to underlying documents used by expert witnesses in compiling their reports was that the calling party was not expected to tender such material merely because it was referred to in the expert's report.<sup>18030</sup> In the Trial Chamber's opinion, expert reports should be sufficiently clear, insofar as they describe and draw conclusions, so as to render the tendering of underlying documentation unnecessary.<sup>18031</sup> However, the Trial Chamber permitted the cross-examining party to tender certain material, including underlying documentation, when challenging the conclusions of an expert witness. Subsequently, the calling party could also tender its underlying material in response.<sup>18032</sup>

5283. A number of witnesses have not been cited by the Trial Chamber in the Judgment. The Trial Chamber reviewed all of the witnesses' evidence, but considered that the evidence of some of them was marginal to the adjudication of this case. It notes in this respect that many of these witnesses were not at all, or hardly, cited by the parties in their final briefs. The evidence of some witnesses was, at least partially, deemed unreliable or not credible by the Trial Chamber. The Trial Chamber gave its reasons for such assessments in those sections of the Judgment to which the evidence related.

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<sup>18028</sup> *Tadić* Appeal Judgment, para. 65; *Aleksovski* Appeal Judgment, para. 62; *Čelebići* Appeal Judgment, para. 492; *Kupreškić et al.* Appeal Judgment, para. 33.

<sup>18029</sup> *See Muvunyi* Appeal Judgment, para. 37.

<sup>18030</sup> T. 4139.

<sup>18031</sup> T. 4139, 18023.

5284. In relation to some witnesses, due to lack of relevance or reliability and credibility, the Trial Chamber gave no weight to their evidence. In the following section, the Trial Chamber will provide its reasoning in relation to each such witness.

5285. *Richard Higgs*. On 2 September 2013, the Trial Chamber decided that Richard Higgs, an expert in the field of mortar weaponry, could testify as an expert witness.<sup>18033</sup> Higgs presented evidence on the trajectory and origin of fire in relation to a number of shelling incidents listed in Schedule G of the Indictment. Higgs's evidence includes, *inter alia*, reports he had prepared on a number of shelling incidents specifically for this case and statements about the same incidents as provided in the Karadžić case. Although the evidence presented falls within the direct scope of Higgs's expertise,<sup>18034</sup> the Trial Chamber observes that some of the conclusions in relation to the direction of fire provided by Higgs in the Karadžić case differ from the conclusions established in the reports he had prepared for this case.<sup>18035</sup> In particular, Higgs testified that he had changed his estimates for this particular case in light of the 'confusion' it caused in the Karadžić case.<sup>18036</sup> Higgs, however, was unable to adequately explain the inaccuracies or provide an explanation as to why changes were made. In light of this, the Trial Chamber finds the witness's evidence unreliable and did not rely on it for any of its findings.

5286. *Richard Dannatt*. Dannatt provided evidence in relation to the concept of command and control, which falls within the scope of his expertise, as well as evidence in relation to a number of factual matters. The Trial Chamber observed Dannatt's aggressive demeanour in court<sup>18037</sup> and considered that the evidence proffered was often based on his personal views and included his views of the Accused. In particular, Dannatt described the Accused as a 'monster' and expressed his desire that he 'be apprehended by justice'.<sup>18038</sup> The Trial Chamber considers Dannatt's evidence unreliable. The Trial Chamber did not rely on Dannatt's evidence for any of its findings.

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<sup>18032</sup> T. 4139, 18023-18024.

<sup>18033</sup> T. 16050-16051.

<sup>18034</sup> See P2604 (*Curriculum vitae* of Richard Higgs).

<sup>18035</sup> See, for example, Richard Higgs, T. 18778-18788, 18793-18809, 19029; P2605 (Report of Richard Higgs, 8 October 2012); D395 (Report on market firing incident, 28 August 1995). See also D396 (Markale Market map); D397 (Markale Market Google earth map); D398 (Markale Market parallel lines); D399 (Google earth map Colina kapa-Bistrik kula); D400 (Google earth map-terrain profile 170 degrees); D401 (Google earth map-terrain profile 160 degrees).

<sup>18036</sup> See Richard Higgs, T. 18778-18788, 18807.

<sup>18037</sup> See, for example, Richard Dannatt, T. 19151, 19174, 19185.

<sup>18038</sup> See Richard Dannatt, T. 19135-19137, 19192-19193.

5287. The Defence argued that UN personnel were biased against Bosnian Serbs, and that therefore the evidence they provided as witnesses was unreliable.<sup>18039</sup> The Defence generally asserted biased actions taken against Bosnian Serbs by UN personnel, but it failed to demonstrate that these were relevant to the credibility and reliability of UN witnesses and documentary evidence.<sup>18040</sup> Therefore, the Trial Chamber rejects the Defence's assertion that evidence provided by UN personnel is inherently unreliable, and treats this evidence as any other witness testimony or documentary evidence; assessing its credibility and reliability in the context of the entire trial record. In case of inconsistencies or other credibility and reliability issues, the Trial Chamber will assess these in the sections of the Judgment to which the evidence relates.

5288. In assessing the reliability of documentary evidence and the weight to be attributed to it, the Trial Chamber considered the origin of the document, the author and his or her role in the relevant events, the chain of custody of the document, the source of the information contained in the document, and whether the evidence was corroborated by witness testimony or other exhibits.

5289. In evaluating the probative value of hearsay evidence, the Trial Chamber carefully considered all *indicia* of its reliability, including whether the evidence stemmed from a source that gave it voluntarily, whether that source had personal knowledge of the information, the absence of an opportunity to cross-examine the source, and the circumstances under which the hearsay evidence arose.<sup>18041</sup> The Trial Chamber's primary interest in hearing a fact witness's testimony was to establish facts which were observed by the witness.

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<sup>18039</sup> Defence Final Brief, paras 1726-1734, 1848, 2752-2781; T. 44707-44708, 44611. In relation to Defence arguments, relying on evidence from Yasushi Akashi, that the UN and UNPROFOR were no longer neutral from May 1995 onwards, the Trial Chamber considered this in chapter 6.1. *See further*, Defence Final Brief, paras 3331, 3337, 3346.

<sup>18040</sup> The Trial Chamber notes that in its final brief, the Defence referred in particular to the testimony of Joseph Kingori and alleged that UN reporting on Srebrenica was severely compromised because UNMOs conveyed unverified information which they had received from one of their Bosnian-Muslim interpreters. The Trial Chamber notes, however, that when conveying such information, the UNMOs clearly noted that it had not been verified. *See* Defence Final Brief, para. 2772; Joseph Kingori, T. 1108-1112.

<sup>18041</sup> *See Prosecutor v. Aleksovski*, Case No. IT-95-14/1-T, Decision on Prosecutor's Appeal on Admissibility of Evidence, 16 February 1999, para. 15.

*Assessment of the evidence of specific witnesses*

5290. *András Riedlmayer*. In a decision of 3 October 2013, the Trial Chamber accepted András Riedlmayer as an expert witness on matters related to the destruction of cultural monuments in Bosnia-Herzegovina.<sup>18042</sup> In its Final Brief, the Defence submitted that Riedlmayer relies on hearsay and records from various sources which are not in evidence.<sup>18043</sup> The Trial Chamber considered that Riedlmayer's evidence on destruction in the municipalities listed in the Indictment, such as evidence on the scope and type of destruction, falls within the direct scope of his expertise and found it reliable. Concerning his evidence on dates and perpetrators of destruction, the Trial Chamber notes that he relied on various sources.<sup>18044</sup> Riedlmayer did not always specify how his sources had obtained their information or the methods they had used to compile the written information he ultimately relied on. In such cases, the Trial Chamber generally did not rely on Riedlmayer's evidence. However, the Trial Chamber relied on Riedlmayer's evidence in relation to dates and perpetrators of destruction, when it was based on eye-witness accounts or from journalists embedded within armed units or present at the time of the events, and whose source of information was deemed reliable by the Trial Chamber. The Trial Chamber discussed Riedlmayer's evidence in greater detail when reviewing his evidence in relation to specific incidents of destruction in chapter 4.

5291. *Dragić Gojković*. In a decision of 13 May 2015, the Trial Chamber accepted Dragić Gojković as an expert witness on matters related to the destruction of the religious buildings in Bosnia-Herzegovina between 1992 and 1995.<sup>18045</sup> Gojković testified on 10 and 11 August 2015 and the Trial Chamber admitted into evidence various documents during and after his testimony.<sup>18046</sup> The Defence argued that Gojković challenged the reliability of Riedlmayer's report on the ground of Riedlmayer's lack of analysis of the construction material, sources used to prepare the

<sup>18042</sup> P2503 (Expert report of András Riedlmayer, December 2012), para. 75; András Riedlmayer, T. 17790-17792, 17888; P2504 (*Curriculum vitae* of András Riedlmayer), p. 1.

<sup>18043</sup> Defence Final Brief, paras 1155, 1501.

<sup>18044</sup> For a non-exhaustive list of András Riedlmayer's sources, see P2503 (András Riedlmayer's expert report, December 2012), paras 78-97.

<sup>18045</sup> T. 35584-35585; D1170 (*Curriculum vitae* of Dragić Gojković), pp. 1-2; D1183 (Expert report of Dragić Gojković on the destruction of Islamic and Catholic religious buildings in Bosnia-Herzegovina between 1992 and 1995, 10 November 2014), p. 2.

<sup>18046</sup> Dragić Gojković, T. 37491-37647; T. 43827-43829.

report, and the timing of his on-site visits.<sup>18047</sup> The Prosecution submitted that Gojković left out critical information on the timing of events thereby falsifying his arguments.<sup>18048</sup> The Prosecution further submitted that Gojković admitted that he did not study the sites relevant to this case beyond looking at the pictures collected by Riedlmayer.<sup>18049</sup> The Prosecution also argued that Gojković could not explain his conclusion that ten sites had been destroyed during combat and 84 after the VRS had left the area and admitted that some sites did not fit in either category.<sup>18050</sup>

5292. Gojković identified very few of the sources used to prepare his report. His conclusions on the circumstances and perpetrators of destruction of the religious buildings rest mainly on general assertions, such as technical training of the VRS at the time of the events or selected comparative analyses of the manner of destruction and construction material of destroyed buildings.<sup>18051</sup> They are not based on a case-by-case analysis of specific destructions. Under these circumstances, the Trial Chamber finds that Gojković's conclusions in this regard are unreliable. Accordingly, the Defence's claim concerning the reliability of Riedlmayer's evidence is rejected.

5293. *Ewa Tabeau*. On 7 November 2013, the Trial Chamber decided that Ewa Tabeau could testify as an expert witness.<sup>18052</sup> In relation to Ewa Tabeau's report on displaced persons and refugees, in evidence as exhibits P2788 and P2798, the Trial Chamber considered the report's methodology of comparing data from the 1991 population census and the 1997-1998 OSCE voters register. While this methodology is reliable insofar as it reveals changes in the ethnic composition of certain municipalities between 1991 and 1997-1998, it does not indicate if, when exactly, and for what reason, people left these municipalities. Therefore, the Trial Chamber did not rely on Ewa Tabeau's conclusion that these demographic changes occurred as a result of conflict and not of usual economic, social, and demographic factors.<sup>18053</sup> Instead, the Trial Chamber relied on the underlying data contained in the report to determine the ethnic composition of a municipality, where necessary.

<sup>18047</sup> Defence Final Brief, paras 1055, 1155, 1478.

<sup>18048</sup> Prosecution Final Brief, para. 1716; T. 44449.

<sup>18049</sup> T. 44448-44449.

<sup>18050</sup> T. 44449.

<sup>18051</sup> D1183 (Expert report of Dragić Gojković on the destruction of Islamic and Catholic religious buildings in Bosnia-Herzegovina between 1992 and 1995, 10 November 2014), p. 40.

<sup>18052</sup> T. 18874-18875.

<sup>18053</sup> See P2798 (Ewa Tabeau, *Ethnic Composition and Displaced Persons and Refugees in 22 Municipalities of Bosnia-Herzegovina, 1991 and 1997*), pp. 15-16.

5294. Ewa Tabeau's proof of death expert report, Exhibit P2796, contains an overview and assessment of (i) the proof of death evidence collected by the Prosecution for the victims on the scheduled victims list; and (ii) the proof of death material for additional victims not included on the scheduled victims list.<sup>18054</sup> Tabeau linked victims to incidents based on an analysis of the available proof of death documents. Victims marked 'confirmed' meant that (i) the victim should be regarded as confirmed as a war victim; and (ii) the victim's circumstances of death fell within the scope of the incident as set out in the Indictment.<sup>18055</sup> The report does not claim that the number of victims it confirms as being linked to any incident is exhaustive. Therefore, if the report confirms a lower number of victims than provided for by an Adjudicated Fact, the Trial Chamber did not consider this to contradict the Adjudicated Fact.

5295. In instances where underlying proof of death documentation was tendered<sup>18056</sup> and if there was an inconsistency between the report and the proof of death documentation, the Trial Chamber placed more weight on the underlying documentation.

5296. With regard to Tabeau's conclusions as to the military status of victims,<sup>18057</sup> the Trial Chamber did not place any weight on this evidence. Tabeau's basis for identifying victims as soldiers was that their names appeared on 'lists of fallen soldiers and other military personnel of the three warring parties'.<sup>18058</sup> The Trial Chamber was not satisfied as to the completeness and reliability of such lists so as to rely on Tabeau's conclusions in this respect. The Trial Chamber in particular took into consideration Tabeau's own analysis of the reliability of such lists as set out in exhibit D344. There, Tabeau states '[...] reporting of cases in ABiH lists is not highly reliable. The lists were made for the post-mortem pension purposes, so attention was predominantly paid to the fact whether or not a given person died. Including cases in these lists was motivated financially and in some cases had nothing to do with the actual being of an army member'.<sup>18059</sup>

<sup>18054</sup> P2796 (Ewa Tabeau, proof of death expert report, 24 July 2013), p. 1.

<sup>18055</sup> P2796 (Ewa Tabeau, proof of death expert report, 24 July 2013), p. 12.

<sup>18056</sup> For example autopsy reports, exhumation reports, identification reports, court rulings on death, death certificates, and missing person certificates.

<sup>18057</sup> P2797 (Annex to Expert report by Ewa Tabeau, 14 July 2013), column 7 'Military Status'.

<sup>18058</sup> P2796 (Ewa Tabeau, proof of death expert report, 24 July 2013), p. 10.

<sup>18059</sup> D344 (Memorandum by Ewa Tabeau, 24 July 2008), p. 2.

5297. Generally, the Defence submitted that Tabeau's testimony is unreliable, based on her bias towards the Prosecution and the concealment of her sources and methodology.<sup>18060</sup> Tabeau was examined at length in court. The Trial Chamber also considered in this respect the evidence of expert witness Svetlana Radovanović, which the Defence relied on to challenge the reliability of Tabeau's evidence.<sup>18061</sup> The Trial Chamber does not find that Tabeau concealed her sources or methodology. It also does not find that she was biased towards the Prosecution so as to call into question the reliability of her evidence.

5298. *William Haglund*. The Trial Chamber recalls that during the testimony of expert William Haglund, he raised a matter concerning his health which occurred over the previous two years.<sup>18062</sup> Both the Prosecution and Defence were aware of and informed about this matter prior to Haglund's testimony.<sup>18063</sup> The Trial Chamber was made aware of the matter for the first time during the testimony.<sup>18064</sup> The parties asked that greater weight be placed on Haglund's testimony from previous cases.<sup>18065</sup> Given the parties position on the matter and that the matter concerning his health did not impact evidence which was more than two years old, the Trial Chamber gave greater weight to Haglund's testimony from previous cases as well as his reports which were produced closer in time to the relevant underlying events, as opposed to his testimony provided in this case. The Trial Chamber did not fully discount Haglund's testimony in this case, but approached it with caution.

5299. *Dušan Janc*. The Trial Chamber received evidence from Dušan Janc concerning the exhumation of the graves and surface remains recoveries related to Srebrenica.<sup>18066</sup> In this section, the Trial Chamber will address Janc's methodology with regard to the determination of the number of individuals identified in each mass grave and the DNA connections between mass graves. The Trial Chamber will not address the overall number of victims related to Srebrenica in this section but rather in the section dedicated to the findings on the allegation of genocide in Srebrenica. The Trial Chamber notes that one of Janc's reports admitted in evidence as Exhibit P1987 contains the total

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<sup>18060</sup> Defence Final Brief, paras 1097-1105, 1108-1109..

<sup>18061</sup> Defence Final Brief, paras 1099-1101.

<sup>18062</sup> William Haglund, T. 15021-15022.

<sup>18063</sup> William Haglund, T. 15021-15030.

<sup>18064</sup> William Haglund, T. 15023-15024, 15027-15030.

<sup>18065</sup> William Haglund, T. 15027-15030.

<sup>18066</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), p. 2.

number of victims identified in each known Srebrenica grave sites.<sup>18067</sup> In Annex D of this report, Janc compiled the lists of DNA profiles corresponding to the remains exhumed from each mass grave.<sup>18068</sup> Janc clarified that the term ‘identified’ referred to an individual with a unique DNA profile, whether matched to a missing person or not. In Annex C of this report, Janc identified DNA connections between primary mass graves or execution sites and secondary mass graves.<sup>18069</sup> Janc defined a DNA connection as a situation in which the remains of one individual were found in at least two different graves.<sup>18070</sup> When DNA connections were identified between mass graves, Janc only listed the related DNA profile in one mass grave (as can be found in Annex D of his report), thus avoiding double counting individuals.

5300. The Trial Chamber considers that the absence of an established DNA connection between two graves does not mean that these graves are not connected. The Trial Chamber further considers that the number of DNA connections between a primary and a secondary grave is not necessarily indicative of the number of bodies that were ultimately moved from one grave to the other.

5301. In terms of assessing the number of bodies, the Trial Chamber took a conservative approach in its determination of the number of individuals to be linked to a specific Scheduled Incident and considered three scenarios. The first scenario concerns a situation where a DNA connection has been established between a primary and a secondary grave, irrespective of the number of connections, and if no connection to any other grave was established. In this scenario, the Trial Chamber determined that all the bodies in the secondary grave originated from the primary grave. The second scenario concerns a situation where a DNA connection has been established between a primary and a secondary grave. In this scenario an additional DNA connection has been established between this secondary grave and another secondary grave which is solely connected to the same primary grave or connected to other secondary graves. All of these secondary graves are not connected to other primary graves. In this scenario, the

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<sup>18067</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), pp. 2-3. *See also* P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), Annex A, pp. 40-41.

<sup>18068</sup> P1982 (Annex D to the report titled Update to the Summary of Forensic Evidence, Srebrenica Investigation, by Dušan Janc).

<sup>18069</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), Annex C, p. 48.

<sup>18070</sup> P1987 (Dušan Janc, Srebrenica Investigation, Update to Summary of Forensic Evidence, 28 June 2013), Annex C, p. 48.

Trial Chamber determined that all the bodies in the secondary grave originated from the primary grave. The third scenario concerns a situation where there is an additional DNA connection to another primary grave or another secondary grave that is connected to another primary grave. In this scenario, the Trial Chamber considered the frequency of connections in order to determine whether bodies, and if so how many, could be counted as part of the Scheduled Incident at issue.

5302. *Patrick Van der Weijden*. On 9 January 2013, the Trial Chamber denied a Defence request to disqualify Patrick Van der Weijden as an expert witness and bar the Prosecution from presenting his report and decided that he could testify as an expert witness.<sup>18071</sup> In its Final Brief, the Defence made a number of submissions which called into question Van der Weijden's qualifications and training, as well as his methodology.<sup>18072</sup> The Defence submitted, *inter alia*, that in drafting his report, the witness used information from the internet for which he could not provide a source when questioned during cross-examination.<sup>18073</sup> On the basis of these submissions, the Defence argued that 'the testimony of this witness must be disqualified as expert in nature'.<sup>18074</sup> The Trial Chamber reviewed Van der Weijden's evidence in relation to some of the Sarajevo sniping incidents in Chapter 5. However, in these incidents, given that Van der Weijden's evidence was consistent with the Adjudicated Facts or the testimony of other witnesses, the Trial Chamber relied on the latter and therefore did not need to determine whether Van der Weijden's testimony was reliable. Given these circumstances, the Trial Chamber sees no need to further address the Defence submissions in this regard.

5303. *John Clark*. On 23 September 2013, John Clark testified before the Trial Chamber as a forensic pathologist expert.<sup>18075</sup> In some of his reports admitted into evidence on 23 September 2013 and 22 October 2015, Clark used the following formulation to describe the age range of exhumed bodies upon which autopsies were conducted: 'ranging in age potentially from 17 to 85 or above'.<sup>18076</sup> The Trial Chamber

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<sup>18071</sup> Decision on Defence request to disqualify Patrick Van der Weijden as an expert and bar the Prosecution from presenting his report, 9 January 2013.

<sup>18072</sup> Defence Final Brief, paras 2253-2263.

<sup>18073</sup> Defence Final Brief, para. 2258.

<sup>18074</sup> Defence Final Brief, para. 2262.

<sup>18075</sup> John Clark, T. 17185; P2236 (*Curriculum vitae* of John Clark); P2257 (John Clark, *Krstić* transcript, 30-31 May 2000), pp. 3897-3899; P2258 (John Clark, *Karadžić* transcript, 10 January 2012), pp. 22692-22693.

<sup>18076</sup> P2260 (John Clark, Report on autopsies of human remains from Lažete 1-2, Glogova 1, Kravica, and Ravnice, 2000), p. 14.

understands Clark's evidence to refer to an almost certain age range but nonetheless not excluding the possibility that some of the examined bodies were those of individuals younger than 17 or older than 85.

5304. *Momir Nikolić*. The Trial Chamber received evidence from Momir Nikolić concerning the attack and takeover of the Srebrenica enclave in early July 1995, the gathering of people in Potočari, the separation of the Bosnian-Muslim men and the forcible removal of Bosnian-Muslim women, children, and elderly out of the enclave, as well as killings and burial operations that occurred in the immediate aftermath of the fall of Srebrenica. The Defence argued that Nikolić is a dubious and unreliable witness.<sup>18077</sup> In particular, the Defence submitted that as an 'insider witness', Nikolić is 'motivated to give false testimony inasmuch as he pled guilty for his role in the opportunistic killings/executions in Srebrenica'.<sup>18078</sup> The Trial Chamber notes that on 8 March 2006, Nikolić was sentenced to 20 years' imprisonment for crimes committed in Srebrenica.<sup>18079</sup> The Trial Chamber also notes the problems associated with the testimony of accused or convicted persons, notably a witness's motive or incentive to testify untruthfully for the purpose of improving his or her chances at the sentencing stage, but recalls that such evidence is not *per se* unreliable, especially when the witness may be thoroughly cross-examined.<sup>18080</sup> The Trial Chamber notes that in this respect, it has approached Nikolić's evidence with great caution. The witness testified over the course of four days, during which the Defence was granted ample time for cross examination.<sup>18081</sup> The Trial Chamber finds Nikolić's testimony to be generally credible and internally consistent. It notes that a Trial Chamber may find certain parts of a witness's testimony credible, and rely on them, while rejecting other parts of that same testimony as not credible.<sup>18082</sup> In light of the above, the Trial Chamber sees no need to further address the Defence submissions with regard to Nikolić's general reliability. Bruce Bursik, an investigator with the Prosecution as of 1 September 1999,<sup>18083</sup> testified about Momir Nikolić's demeanour during his interviews with him.<sup>18084</sup> According to

<sup>18077</sup> Defence Final Brief, paras 2523-2575.

<sup>18078</sup> Defence Final Brief, paras 2523-2526.

<sup>18079</sup> *Momir Nikolić* Appeal Sentencing Judgment. See also *Momir Nikolić* Sentencing Judgment.

<sup>18080</sup> See *Krajišnik* Trial Judgment, para. 1203. See also *Krajišnik* Appeal Judgment, para. 147; *Šainović et al.* Appeal Judgment, para. 1101; *Popović et al.* Appeal Judgment, para. 134.

<sup>18081</sup> See *Momir Nikolić*, T. 11974-12157.

<sup>18082</sup> See *Krajišnik* Trial Judgment, para. 1203. See also *Blagojević and Jokić* Appeal Judgment, para. 82.

<sup>18083</sup> Bruce Bursik, T. 38860.

<sup>18084</sup> Bruce Bursik, T. 38861.

Bursik, Nikolić was evasive, but that for the most part told the truth.<sup>18085</sup> However, Bursik believed that Nikolić did not tell everything in its entirety.<sup>18086</sup> Where the Defence has made further arguments regarding specific evidence that it considers unreliable, the Trial Chamber has dealt with this accordingly in the relevant section of the Judgment.

*Assessment of certain documentary evidence*

5305. *Intercepts.* The Defence argued that the ABiH, the SDB, and the Croatian authorities lacked the necessary expertise and technological capacity to intercept VRS communications, the majority of which were encrypted radio-relay transmissions.<sup>18087</sup> The Defence further asserted that the intercepts were neither authentic nor reliable as the Tribunal was provided with transcripts of intercepted communications but not with the corresponding audio recordings.<sup>18088</sup> The Defence also argued that the transcripts were inaccurate due to negligent reporting procedures and claimed that there were indications that many of them had been forged or doctored after the war.<sup>18089</sup> Finally, the Defence submitted that the evidence of Witness RM-506, who testified about Croatian intercept operations, should be given no weight as the Rule 70 restrictions imposed by the Croatian government impacted upon the fair trial rights of the Accused.<sup>18090</sup>

5306. The Prosecution argued that VRS communications were regularly unencrypted and that important communication lines were open and susceptible to interception.<sup>18091</sup> It further stated that the intercepts were corroborated by various other sources of evidence, such as original VRS documents, aerial imagery, and the testimony of witnesses, including members of the VRS.<sup>18092</sup> The Prosecution asserted that a full chain of custody was established, and that intercept operators from the ABiH, the SDB, and the Croatian authorities gave detailed testimony which demonstrated that consistent

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<sup>18085</sup> Bruce Bursik, T. 38861.

<sup>18086</sup> Bruce Bursik, T. 38861.

<sup>18087</sup> Defence Final Brief, paras 2579-2583, 2605-2611, 2619-2622, 2624, 2627-2628, 2630, 2633-2634, 2638-2640, 2644, 2649-2650, 2652-2654, 2656-2657, 2676; T. 44806.

<sup>18088</sup> Defence Final Brief, paras 2588, 2590-2591, 2594, 2632, 2636, 2674, 2677.

<sup>18089</sup> Defence Final Brief, paras 2587, 2589, 2592-2593, 2595-2596, 2598-2599, 2618, 2661-2662, 2663, 2668-2671, 2674; T. 44611, 44788.

<sup>18090</sup> Defence Final Brief, paras 2625-2626.

<sup>18091</sup> Prosecution Final Brief, paras 1724-1725.

<sup>18092</sup> Prosecution Final Brief, para. 1723.

procedures were followed with regard to the transcription of intercepted conversations.<sup>18093</sup>

5307. The Trial Chamber assessed the intercepts in the context of the entire trial record, and is satisfied that the intercepts are genuine contemporaneous reports of intercepted VRS communications. The Trial Chamber finds that there is no evidence to support the Defence's assertion that the intercepts were forged or manipulated or that the ABiH, the SDB, and the Croatian authorities were unable to intercept VRS communications. Nonetheless, the Trial Chamber treated the intercepts with caution, and considered whether there was corroboration or further detail provided by other sources of evidence.

5308. With regard to the Defence's argument concerning the evidence of Witness RM-506, the Trial Chamber previously considered the conditions concerning the testimony of this witness pursuant to Rule 70.<sup>18094</sup> It is satisfied that the interventions of the Croatian representative, which were permitted by the Trial Chamber in court, did not exceed what was necessary and proportionate, and did not interfere with the Accused's right to a fair trial, particularly when assessed in light of the witness's testimony as a whole. The Trial Chamber thus finds that the interventions of the Croatian representative do not affect the reliability of Witness RM-506's evidence, and rejects the Defence's arguments in this regard.

5309. *Forensic documentation.* The Defence argued that the presence of alleged blindfolds on some of the exhumed bodies could be bandanas worn to distinguish Bosnian-Muslim fighters, which may have slipped over their eyes during the putrefaction of the bodies or worn by victims before being killed.<sup>18095</sup> The Defence further argued that the loose strips of cloth found in some of the graves could also be bandanas or identifying ribbons and not ligatures.<sup>18096</sup> The Trial Chamber recalls that it received a large amount of evidence on the circumstances of the executions, including evidence that victims were blindfolded and that their hands were tied as well as evidence relevant to establish the status of the victims. Based on this evidence, the Trial Chamber found that the Defence submission did not amount to a reasonable alternative

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<sup>18093</sup> Prosecution Final Brief, paras 1721-1722.

<sup>18094</sup> Decision on Prosecution Motion for Conditions Concerning the Testimony of Witness RM-506 Pursuant to Rule 70, 9 July 2013.

<sup>18095</sup> Defence Final Brief, paras 2689-2694; T. 44807-44808.

<sup>18096</sup> Defence Final Brief, paras 2695-2698.

explanation of this issue. Accordingly, the Trial Chamber dismisses the Defence's arguments.

*The Trial Chamber's approach to findings*

5310. The Trial Chamber took judicial notice of a number of Adjudicated Facts and received a large quantity of evidence in relation to the crimes alleged in the Indictment. The Trial Chamber reviewed the Adjudicated Facts and evidence and proceeded to make factual findings on all relevant aspects in relation to the crimes charged.<sup>18097</sup> These factual findings can be found in chapters 4-7.<sup>18098</sup> In chapter 8, the Trial Chamber then proceeded to make legal findings on the basis of these factual findings by considering the evidence in light of the applicable law. Finally, in chapter 9, the Trial Chamber addressed the criminal responsibility of the Accused.

5311. The Trial Chamber reviewed all of the evidence before it. While the Trial Chamber did not cite in the Judgment to every piece of evidence, it examined each piece of evidence individually, as well as in light of the totality of the evidence, and considered its specific relevance to the crimes alleged in the Indictment. The Trial Chamber also paid particular attention to the evidence referred to by the parties in their final briefs and closing arguments. The Trial Chamber generally set out and addressed the most pertinent submissions of the parties in those sections it deemed most appropriate.

5312. A finding of the Trial Chamber that a charge in the Indictment had been proven beyond a reasonable doubt required that the Trial Chamber was convinced beyond a reasonable doubt that every material aspect of the charge was proven. However, in some instances, the Indictment alleged further factual details that the Trial Chamber found to be immaterial or inconsequential to the charge. In some such instances, the Trial

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<sup>18097</sup> In its review of the evidence, the Trial Chamber provided precise citations to exhibits in the footnotes. It generally referred to the page numbers allocated to the exhibit in eCourt, the electronic filing system used by the Tribunal, with the following three exceptions. First, where a single exhibit comprised multiple, separate documents, as was often the case when a party tendered evidence pursuant to Rule 92 *bis* of the Rules, the Trial Chamber cited to the page number of the specific document within the exhibit. Second, where an exhibit comprised portions of transcript from a prior Tribunal case, the Trial Chamber cited to the page number of the original transcript rather than to the eCourt page number. Third, in the interest of specificity, the Trial Chamber cited to paragraph numbers rather than page numbers where paragraphs were numbered.

<sup>18098</sup> With regard to Trnovo Municipality as part of the Municipalities component of the case, the Trial Chamber notes that the Prosecution presented insufficient evidence to prove the charges. Accordingly, it did not address Trnovo Municipality as part of chapter 4.

Chamber did not make a finding as to these aspects. For example, with respect to Scheduled Incident B.13.4, the Indictment charges that a number of ‘men’ from a particular region were executed at a specific place on or about a specific date,<sup>18099</sup> and the Trial Chamber found that ‘individuals’ from that region were killed at that place on or about that date but did not make a finding as to their sex.<sup>18100</sup> Further, with respect to Scheduled Incident F.16, the Indictment charges that a particular victim was shot and wounded ‘in the hand’ while walking on a particular street,<sup>18101</sup> and the Trial Chamber found that that victim was shot and wounded on that date and on that street but did not make a finding as to precisely where on his body he was shot.<sup>18102</sup> In these instances, the Trial Chamber made findings on the material aspects of the crime and concluded that the sex of the victims in Scheduled Incident B.13.4 and the precise location of the victim’s injury in Scheduled Incident F.16 were immaterial to the charges. Other examples pertain to the direction of fire as included in Schedule G of the Indictment.

5313. According to the Indictment, the Accused is responsible for, *inter alia*, the forcible transfer and deportation of Bosnian Muslims and Bosnian Croats from ‘the Municipalities’.<sup>18103</sup> The ‘Municipalities’ are defined in the Indictment as 15 municipalities in Bosnia-Herzegovina.<sup>18104</sup> Accordingly, in the context of the alleged crime of forcible transfer and deportation, the Trial Chamber assessed whether any displacement related to individuals who were residents of one of these Indictment municipalities. This meant that any displacement of individuals residing outside the Indictment municipalities, even if they were brought into an Indictment municipality during the displacement process, was not covered by the Indictment. A further consequence of this was that the Trial Chamber discussed the displacement of individuals in the chapter of their municipality of origin, even if the displacement process involved other municipalities. Additionally, the Trial Chamber considered an individual’s displacement holistically, from the moment the individual was displaced from his or her home until the end of the displacement, as opposed to treating separate transfers to and from detention centres as multiple displacements.

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<sup>18099</sup> Indictment, Schedule B.13.4.

<sup>18100</sup> Chapter 4.10.1 *Schedule B.13.4*.

<sup>18101</sup> Indictment, Schedule F.16.

<sup>18102</sup> Chapter 5.2.10.

<sup>18103</sup> Indictment, para. 67.

<sup>18104</sup> Indictment, para. 47.

5314. In its findings, the Trial Chamber used a specific terminology to set out its conclusions. It will here describe and explain some of that terminology. For example, in several instances, the Trial Chamber used the terms ‘approximately’ or ‘at least’ with regard to the number of victims of an incident or the date range on which an incident occurred. The Trial Chamber used ‘approximately’ to indicate that a number or date range was roughly accurate but not precise. The Trial Chamber used ‘at least’ to indicate a precise minimum number or date range. Consistent with the principle of *in dubio pro reo*, the Trial Chamber must resolve ambiguities in favour of the Accused. As such, the Trial Chamber used ‘at least’ to indicate where it made a factual finding on the minimum number or date range established with precision and beyond reasonable doubt.

5315. The Trial Chamber considered that the word ‘sniping’, when used in the Indictment, the Adjudicated Facts, and in evidence, should not be interpreted narrowly to merely refer to fire from professional snipers with sniping equipment.

5316. Further concerning terminology, the Trial Chamber received evidence from various witnesses and documentary evidence which referred to ‘exchanges’ of detained people. The Trial Chamber also used this term in its findings. In all of these instances, the Trial Chamber considered that this term is not to be understood in a narrow sense, *i.e.* limited to a reciprocal hand-over of POWs between parties to the conflict. Rather, the Trial Chamber understood this term as encapsulating any transfer of detained people by those keeping them detained to territory not under their control.

5317. Lastly, evidence, Adjudicated Facts, and the Trial Chamber’s findings were often pertinent to numerous parts of the charges. Instead of repeating evidence, Adjudicated Facts, or findings in all relevant chapters, the Trial Chamber often recalled such information by way of cross-referencing. In doing so, the Trial Chamber sometimes provided short summaries of the information recalled. These short summaries are exclusively meant as an aid for the reader, to facilitate review of the Judgment. They are not meant to be complete or authoritative versions of the information recalled.

C. Table of cases\* with abbreviations

\* ICTY cases, unless otherwise indicated.

<i>Akayesu</i>	Trial Judgement: <i>Prosecutor v. Jean-Paul Akayesu</i> , Judgement, 2 September 1998 (ICTR)  Appeal Judgement: <i>Prosecutor v. Jean-Paul Akayesu</i> , Judgement, 1 June 2001 (ICTR)
<i>Aleksovski</i>	Appeal Judgement: <i>Prosecutor v. Zlatko Aleksovski</i> , Judgement, 24 March 2000
<i>Bagilishema</i>	Appeal Judgement: <i>Prosecutor v. Ignace Bagilishema</i> , Judgement, 3 July 2002 (ICTR)
<i>Bagosora and Nsengiyumva</i>	Appeal Judgement: <i>Théoneste Bagosora and Anatole Nsengiyumva v. The Prosecutor</i> , Judgement, 14 December 2011 (ICTR)
<i>Blaškić</i>	Trial Judgement: <i>Prosecutor v. Tihomir Blaškić</i> , Judgement, 3 March 2000  Appeal Judgement: <i>Prosecutor v. Tihomir Blaškić</i> , Judgement, 29 July 2004
<i>Blagojević and Jokić</i>	Trial Judgement: <i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Judgement, 17 January 2005  Appeal Judgement: <i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Judgement, 9 May 2007
<i>Boškoski and Tarčulovski</i>	Trial Judgement: <i>Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Judgement, 10 July 2008  Appeal Judgement: <i>Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Judgement, 19 May 2010
<i>Bralo</i>	Sentencing Judgement: <i>Prosecutor v. Miroslav Bralo</i> , Judgement, 7 December 2005
<i>Brđanin</i>	Trial Judgement: <i>Prosecutor v. Radoslav Brđanin</i> , Judgement, 1 September 2004  Appeal Judgement: <i>Prosecutor v. Radoslav Brđanin</i> , Judgement, 3 April 2007
<i>Čelebići</i>	Trial Judgement: <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo</i> , Judgement, 16 November 1998  Appeal Judgement: <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, Hazim Delić, and Esad Landžo</i> , Judgement, 20 February 2001
<i>Deronjić</i>	Sentencing Judgement: <i>Prosecutor v. Miroslav Deronjić</i> , Judgement, 30 March 2004  Appeal Sentencing Judgement: <i>Prosecutor v. Miroslav Deronjić</i> , Judgement on Sentencing Appeal, 20 July 2005

<i>Dorđević</i>	Trial Judgement: <i>Prosecutor v. Vlastimir Dorđević</i> , Judgement, 23 February 2011 Appeal Judgement: <i>Prosecutor v. Vlastimir Dorđević</i> , Judgement, 27 January 2014
<i>Erdemović</i>	Sentencing Judgement: <i>Prosecutor v. Dražen Erdemović</i> , Judgement, 29 November 1996
<i>Furundžija</i>	Appeal Judgement: <i>Prosecutor v. Anto Furundžija</i> , Judgement, 21 July 2000
<i>Gacumbitsi</i>	Appeal Judgement: <i>Prosecutor v. Sylvestre Gacumbitsi</i> , 7 July 2006 (ICTR)
<i>Galić</i>	Trial Judgement: <i>Prosecutor v. Stanislav Galić</i> , Judgement and Opinion, 5 December 2003 Appeal Judgement: <i>Prosecutor v. Stanislav Galić</i> , Judgement, 30 November 2006
<i>Hadžihasanović and Kubura</i>	Trial Judgement: <i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Judgement, 15 March 2006 Appeal Judgement: <i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Judgement, 22 April 2008
<i>Halilović</i>	Appeal Judgement: <i>Prosecutor v. Sefer Halilović</i> , Judgement, 16 October 2007
<i>Haradinaj et al.</i>	Trial Judgement: <i>Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj</i> , Judgement, 3 April 2008 Appeal Judgement: <i>Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj</i> , Judgement, 19 July 2010
<i>Hategekimana</i>	Appeal Judgment: <i>Ildephonse Hategekimana v. Prosecutor</i> , Judgement, 8 May 2012 (ICTR)
<i>Jelisić</i>	Trial Judgement: <i>Prosecutor v. Goran Jelisić</i> , Judgement, 14 December 1999 Appeal Judgement: <i>Prosecutor v. Goran Jelisić</i> , Judgement, 5 July 2001
<i>Jokić</i>	Appeal Sentencing Judgement: <i>Prosecutor v. Miodrag Jokić</i> , Judgement on Sentencing Appeal, 30 August 2005
<i>Kajelijeli</i>	Appeal Judgement: <i>Prosecutor v. Juvénal Kajelijeli</i> , Judgement, 23 May 2005 (ICTR)
<i>Kalimanzira</i>	Appeal Judgement: <i>Prosecutor v. Callixte Kalimanzira</i> , Judgement, 20 October 2010 (ICTR)
<i>Kamuhanda</i>	Appeal Judgement: <i>Prosecutor v. Jean de Dieu Kamuhanda</i> , Judgement, 19 September 2005 (ICTR)
<i>Karadžić</i>	Trial Judgment: <i>Prosecutor v. Radovan Karadžić</i> , Judgment, 24 March 2016

<i>Karemera</i>	Appeal Judgement: <i>Édouard Karemera, Mathieu Ngirumpatse v. Prosecutor</i> , Judgement, 29 September 2014 (ICTR)
<i>Kayishema and Ruzindana</i>	Appeal Judgement: <i>Prosecutor v. Clément Kayishema and Obed Ruzindana</i> , Judgement (Reasons), 1 June 2001 (ICTR)
<i>Kordić and Čerkez</i>	Appeal Judgement: <i>Prosecutor v. Dario Kordić and Mario Čerkez</i> , Judgement, 17 December 2004 (with corrigendum of 26 January 2005)
<i>Krajišnik</i>	Trial Judgement: <i>Prosecutor v. Momčilo Krajišnik</i> , Judgement, 27 September 2006  Appeal Judgement: <i>Prosecutor v. Momčilo Krajišnik</i> , Judgement, 17 March 2009
<i>Krnjelac</i>	Trial Judgement: <i>Prosecutor v. Milorad Krnojelac</i> , Judgement, 15 March 2002  Appeal Judgement: <i>Prosecutor v. Milorad Krnojelac</i> , Judgement, 17 September 2003
<i>Krstić</i>	Trial Judgement: <i>Prosecutor v. Radislav Krstić</i> , Judgement, 2 August 2001  Appeal Judgement: <i>Prosecutor v. Radislav Krstić</i> , Judgement, 19 April 2004
<i>Kunarac et al.</i>	Trial Judgement: <i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković</i> , Judgement, 22 February 2001  Appeal Judgement: <i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač, and Zoran Vuković</i> , Judgement, 12 June 2002
<i>Kupreškić et al.</i>	Trial Judgement: <i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, and Vladimir Šantić</i> , Judgement, 14 January 2000  Appeal Judgement: <i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, and Vladimir Šantić</i> , Appeal Judgement, 23 October 2001
<i>Kvočka et al.</i>	Trial Judgement: <i>Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlađo Radić, Zoran Žigić, and Dragoljub Prcać</i> , Judgement, 2 November 2001  Appeal Judgement: <i>Prosecutor v. Miroslav Kvočka, Mlađo Radić, Zoran Žigić, and Dragoljub Prcać</i> , Judgement, 28 February 2005
<i>Limaj et al.</i>	Appeal Judgement: <i>Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu</i> , Judgement, 27 September 2007
<i>Lukić and Lukić</i>	Appeal Judgement: <i>Prosecutor v. Milan Lukić and Sredoje Lukić</i> , Judgement, 4 December 2012

<i>Martić</i>	Trial Judgement: <i>Prosecutor v. Milan Martić</i> , Judgement, 12 June 2007 Appeal Judgement: <i>Prosecutor v. Milan Martić</i> , Judgement, 8 October 2008
<i>Dragomir Milošević</i>	Appeal Judgement: <i>Prosecutor v. Dragomir Milošević</i> , Judgement, 12 November 2009
<i>Mrkšić and Šljivančanin</i>	Appeal Judgement: <i>Prosecutor v. Mile Mrkšić and Veselin Šljivančanin</i> , Judgement, 5 May 2009
<i>Musema</i>	Appeal Judgement: <i>Alfred Musema v. Prosecutor</i> , Judgement, 16 November 2001 (ICTR)
<i>Muvunyi</i>	Appeal Judgement: <i>Tharcisse Muvunyi v. Prosecutor</i> , Judgement, 29 August 2008
<i>Nahimana et al.</i>	Trial Judgement: <i>Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Hassan Ngeze v. Prosecutor</i> , Judgement, 3 December 2003 (ICTR) Appeal Judgement: <i>Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, and Hassan Ngeze</i> , Judgement, 28 November 2007 (ICTR)
<i>Naletilić and Martinović</i>	Trial Judgement: <i>Prosecutor v. Mladen Naletilić and Vinko Martinović</i> , Judgement, 31 March 2003 Appeal Judgement: <i>Prosecutor v. Mladen Naletilić and Vinko Martinović</i> , Judgement, 3 May 2006
<i>Nchamihigo</i>	Appeal Judgement: <i>Prosecutor v. Siméon Nchamihigo</i> , Judgement, 18 March 2010 (ICTR)
<i>Ntabakuze</i>	Appeal Judgement: <i>Aloys Ntabakuze v. Prosecutor</i> , Judgement, 8 May 2012
<i>Ntagerura et al.</i>	Appeal Judgement: <i>Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe</i> , Judgement, 7 July 2006 (ICTR)
<i>Ntakirutimana and Ntakirutimana</i>	Appeal Judgement: <i>Prosecutor v. Elizaphan Ntakirutimana and Gérard Ntakirutimana</i> , Judgement, 13 December 2004 (ICTR)
<i>Dragan Nikolić</i>	Appeal Sentencing Judgement: <i>Prosecutor v. Dragan Nikolić</i> , Judgement on Sentencing Appeal, 4 February 2005
<i>Momir Nikolić</i>	Sentencing Judgement: <i>Prosecutor v. Momir Nikolić</i> , Judgement, 2 December 2003 Appeal Sentencing Judgement: <i>Prosecutor v. Momir Nikolić</i> , Judgement on Sentencing Appeal, 8 March 2006
<i>Orić</i>	Trial Judgement: <i>Prosecutor v. Naser Orić</i> , Judgement, 30 June 2006 Appeal Judgement: <i>Prosecutor v. Naser Orić</i> , Judgement, 3 July 2008

<i>Perišić</i>	Appeal Judgement: <i>Prosecutor v. Momčilo Perišić</i> , Judgement, 28 February 2013
<i>Popović et al.</i>	Trial Judgement: <i>Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero and Vinko Pandurević</i> , Judgement, 10 June 2010  Appeal Judgement: <i>Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Radivoje Miletić and Vinko Pandurević</i> , Judgement, 30 January 2015
<i>Prlić et al.</i>	Trial Judgement: <i>Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić, Berislav Pušić</i> , Judgement, 29 May 2013
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