

## **Trial Chamber I Sentencing Judgement Statement**

1. Trial Chamber I, Section A is sitting today to deliver the judgement in the trial of Vinko Martinovic and Mladen Naletilic.
2. For the purposes of this hearing, the Chamber will summarise briefly its findings , emphasising that this is a summary only, and that the only authoritative account of the Trial Chamber's findings, and of its reasons for those findings, is to be found in the written judgement, copies of which will be made available to the parties and to the public at the conclusion of this hearing.
3. Before turning to the merits, the Chamber wishes to thank the legal support team, the translators and interpreters, the Court Management Section and the Victim and Witnesses Section for having facilitated the conduct of this trial.

### **JUDGE DIARRA**

4. The Indictment concerned events alleged to have occurred between April 1993 and January 1994, in the course of a conflict between the Army of Bosnia and Herzegovina and the Croat Defence Council in the South-western part of Bosnia and Herzegovina , and in particular, in Mostar and the surrounding municipalities. The Prosecution alleged that this conflict was international in nature and that the alleged crimes were part of a widespread, large-scale or systematic attack directed against the Bosnian Muslim population.
5. The accused Mladen Naletilic and Vinko Martinovic have been charged with having committed crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the laws or customs of war in their positions as commanders of the Convicts' Battalion and of the Vinko Skrobo ATG respectively. They are charged with both direct and command responsibility under Articles 7 (1) and 7 (3) of the Statute.
6. More specifically, the accused Mladen Naletilic stood trial on the following charges:
  1. Persecution on political, racial and religious grounds for having subjected Bosnian Muslim civilians to unlawful confinement, forcible transfer, mistreatments, unlawful labour, as well as for having destroyed and plundered Bosnian Muslim property; ( Count 1)
  2. Inhumane acts, inhumane treatment, cruel treatment, unlawful labour, murder and wilful killing for having forced Bosnian Muslim detainees to perform dangerous or unlawful labour, sometimes knowingly exposing them to a high likelihood of death or serious injury; (Counts 2-8)
  3. Torture, cruel treatment and wilfully causing great suffering or serious injury to body or health, as a result of the mistreatments committed against Bosnian Muslim civilians and prisoners of war; (Counts 9-12)
  4. Unlawful transfer of civilians for having commanded or ordered the forcible transfer of Bosnian Muslim civilians following the attack on the villages of Sovici and Doljani on 17 April 1993 and in the course of the conflict in Mostar between 9 May 1993 and January 1994; (Count 18)
  5. Extensive destruction of property and wanton destruction not justified by military necessity for the destruction of Bosnian Muslim property following the attacks on Sovici, Doljani, Mostar and Rastani between April and September 1993; (Counts 19 -20)
  6. Plunder of public or private property following the attacks on Sovici, Doljani, Mostar and Rastani between April and September 1993; (Count 21) and
  7. Seizure, destruction or wilful damage done to institutions dedicated to religion for having ordered the destruction of the mosque of Sovici following the attack on the village; (Count 22).

7. A total of 17 Counts are pleaded against him.
8. The accused Vinko Martinovic stood trial on the following charges:
  1. Persecution on political, racial and religious grounds for having subjected Bosnian Muslim civilians to unlawful confinement, forcible transfer, mistreatments, unlawful labour, as well as for having destroyed and plundered Bosnian Muslim property; ( Count 1)
  2. Inhumane acts, inhumane treatment, cruel treatment, unlawful labour, murder and wilful killing for having forced Bosnian Muslim detainees to perform dangerous or unlawful labour, sometimes knowingly exposing them to a high likelihood of death or serious injury; (Counts 2-8)
  3. Cruel treatment and wilfully causing great suffering or serious injury to body or health, as a result of the mistreatments committed against Bosnian Muslim civilians and prisoners of war; (Counts 11-12)
  4. Murder and wilful killing of the detainee Nenad Harmand`ic in July 1993 while he was under the responsibility of the Vinko Skrobo ATG in Mostar; or alternatively , cruel treatment and wilfully causing great suffering or serious injury to body or health to Nenad Harmand`ic who was allegedly subjected to severe beatings by subordinates of the accused; (Counts 13-17)
  5. Unlawful transfer of civilians for having commanded or ordered the forcible transfer of Bosnian Muslim civilians in the course of the conflict in Mostar between 9 May 1993 and January 1994; (Count 18)
  6. Plunder of public or private property following the attack on Mostar on 9 May 1993 ; (Count 21).
9. A total of 17 Counts are pleaded against him.
10. Following the presentation of the Prosecution case, and pursuant to Rule 98 *bis* of the Rules, the Chamber found that no or insufficient evidence had been presented concerning the incidents described in paragraphs 42 and 47 of the Indictment, respectively relating to the alleged death of prisoners as a direct result of their use as human shields on 17 September 1993 and to the alleged mistreatment of Witness "B" in the base of the KB in Siroki Brijeg.
11. The trial commenced on 10 September 2001 and concluded on 31 October 2002. The Chamber heard a total of 84 witnesses for the Prosecution, 35 for the Naletilic Defence and 27 for the Martinovic Defence. Throughout the trial, approximately 2750 exhibits were admitted.
12. The Chamber will now summarise its findings on the charges held against both accused.

### **JUDGE CLARK**

13. Long after this Tribunal has determined its last case, historians and political scholars will continue to debate and theorise the genesis and causes of the wars in the former Yugoslavia. This is not our task and we have steered a course away from formulating any theories of our own or findings as to the causes of the war . Our duty as Judges of the International Tribunal is to determine whether the case brought by the Prosecution against Mladen Naletilic "Tuta" or Vinko Martinovic "Stela" is proved.
14. The events surrounding the accusations against Naletilic and Martinovic took place in southwestern Herzegovina the south most portion of Bosnia and Herzegovina . This is the only case so far to deal with this particular region. Traditionally Southern Herzegovina was home to a large number of inhabitants who declared themselves as Croats and who shared the Catholic faith and traditions of their neighbours in Croatia. Considering the geographic position of the two countries this is not at all surprising. The same area was also home to a significant number of Muslims who shared no religious ties with Croatia. Both groups of people speak the same language with regional and traditional variations in accent and some vocabulary.

15. The capital of this area of Herzegovina was the ancient and lovely Ottoman City of Mostar with a culturally diverse population of Croats, Muslims, Serbs, Jews and others. In the upheavals and tearing apart which followed the expression of national or ethnic identity, which occurred throughout the regions of the former Yugoslavia from 1990 onwards, the control of Mostar and the adjacent areas played an important and profoundly tragic part. No people escaped the effects of this episode of history.
16. Prior to the break-up of the former Yugoslavia, Mostar was an ethnically diverse city with areas within the city which were enclaves of Serbs, Croats or Muslims. For the most part however, the city was ethnically mixed with a long history of tolerance. This is evidenced by the presence of Franciscan monasteries, Orthodox churches, a Roman Catholic cathedral, convents, a synagogue and nineteen Mosques which had survived many centuries of political changes, including more than forty years of single party socialist rule. The city is divided by the fast flowing Neretva river. The older and more historic part of the city is on the East bank and was traditionally the more Muslim and Serb end of the town. The eastern side was, during the Serb conflict and then the Croat/Muslim war, subjected to merciless bombardment and is now in a state of ruin. The painfully beautiful old arched footbridge which stood over the Neretva River for four centuries was blasted and finally destroyed by artillery on November 1993.
17. Although Mostar and the surrounding region was the battleground of several conflicts between the different groups in the breakup of the former Yugoslavia, this Judgement deals with only the short period running from April 1993 to March 1994. The indictment deals only with the conflict between the BH Croats and Muslims . These two ethnic groups had co-operated and fought jointly in 1992 in the Serb -Montenegrin conflict. Sadly, many complex factors, the rights and wrongs of which it is not our task to adjudicate, lead to a bitter conflict and Mostar itself became a divided city with the ABiH on the East part and the HVO on the western part . The war was hard and brutal .
18. In dealing with the background to the allegations in this case, this Trial Chamber has noted a strange uniformity in the description of these tragic events from all the witnesses called. The war with the Serbs is always referred to as the “Serb aggression“ or the “Serb and Montenegrin” aggression but the conflict between the HVO and the ABiH or between the Croats and the Muslims is always referred to as the war. The disappearance of more than twenty per cent of the population of the city following the Serb withdrawal in mid 1992 elicited no regret or adverse comment from witnesses.
19. Many Defence witnesses testified that it was the Constitutional duty of Croatia to protect Croats throughout the world and therefore the Croats in Bosnia and Herzegovina . Counsel for the Defence of Naletilic and witnesses called on his behalf asserted that there was no such thing as a “Bosnian Croat”. There were only ‘Croats from Bosnia and Herzegovina. Many Defence witnesses objected strongly to this description yet the same witnesses frequently, no doubt inadvertently, used the description “Bosnian Croat ” themselves. There was objection to the use of the name Bosnia to describe the country. There is no doubt that some of the country is indeed called Bosnia, some of the country is traditionally Herzegovina and the whole entity is known as Bosnia and Herzegovina. A country enjoying such an unfortunately long name is described almost universally by its shortened name Bosnia . We heard the testimony of witnesses against such a background of sensitivities. For the purposes of this judgement therefore we propose to refer to the participants as BH Croats, Muslims and BH Serbs. Croat *simpliciter* refers to citizens of the Republic of Croatia . As mentioned previously the scene of the accusations is Herzegovina in Bosnia and Herzegovina.
20. Most witnesses did their best to recount painful events from eight or nine years ago. Sometimes however, the level of untruthful testimony presented was disappointing . Some witnesses exaggerated the facts, some were economical with the truth and some told deliberate untruths. It has been disappointing to note the frequency with which well-positioned witnesses saw nothing, heard nothing and knew nothing of important events in their local area. It is accepted that in a bitter inter ethnic conflict the same events can and frequently are described in quite different and sometimes irreconcilable ways. The Trial Chamber allows for this possibility . The Trial Chamber excludes this

slant or interpretation of the evidence in the assessment of witnesses who were untruthful. Our comments refer to witnesses who presented untruthful testimony quite deliberately and not from a genuine although objectively misconceived perception of events.

21. At all stages we have approached the evidence from the premise that the Prosecution must carry the burden of proof and that any reasonable doubt raised must inure to the benefit of the accused. Because of the continuing mistrust between the two communities with divided loyalties, unless we found consistency between the evidence of independent sources and the evidence of participants we rejected that evidence as unreliable. Almost 150 witnesses were heard and a very large volume of documents were presented for the Trial Chamber's consideration.
22. Documents play a key role in this trial. The vast bulk of the documents came from the HVO archive which is retained in Zagreb. These included some of the records from the Heliudrom prison or camp, which document the daily releases of prisoners to work for named units of the HVO and the HV. The HVO archives are a careful, meticulous military style recording of army reports and orders and equally carefully prepared reports and orders of the civilian administration of the HVO government .
23. The Chamber also received daily reports and weekly summaries from International observers and from humanitarian organisations. The Chamber also received documents , which were seized from the headquarters of the Kaznjenicka Bojna in Siroki Brijeg pursuant to a search warrant. These documents confirmed much of the evidence received from seven previous members of the KB and leave no doubt as to the position of Mladen Naletilic Tuta as supreme commander of the KB.
24. The Chamber also received the humble diary of a careful and observant man, who recorded in a preused notebook, the daily happenings of the HVO command at Orlovac at the old fishfarm outside Doljani. This diary records in some detail the comings and goings of "Tuta" during the period material to the accusations relating to Sovici and Doljani. In spite of efforts by the Defence to minimise the diarist's role in the HVO or to deny his presence at the fishfarm, the Chamber is satisfied that this diary is a genuine and reliable document.. The Chamber ordered that a photocopy be made of the original diary and a translation be made of this photocopy and compared with the original photocopy presented to the Chamber through the witness who had retained the first photocopy and diary for many years. The Chamber has no doubt as to the authenticity of this diary, which is not to say that the contents of the diary are necessarily true. The diary represents what the writer recorded of events as they occurred to him. The diary has corroborated the testimony of other witnesses as to their treatment when brought as captured prisoners to the fishfarm. It has also assisted the Naletilic Defence in placing Tuta in Doljani on the 19th April 1993 and not before that.
25. A small number of documents were received from the Muslim component of the Government of Bosnia and Herzegovina. For the most part, these documents were taken from the same HVO Command at the fishfarm in Orlovac when the ABiH over ran Doljani in July 1993. This is how the Rados diary came to the attention of the Chamber which saw and examined the original diary.
26. All the documents indicate an extraordinary consistency with testimony of witnesses and provided corroboration in contested issues.
27. Having made those preliminary comments, we return to the subject matter of this trial.
28. Mladen Naletilic is aged 56 and was born on 1 December 1946 in Siroki Brijeg , Bosnia and Herzegovina. Nicknames are a common feature with witnesses in this case to the extent that many persons were known only by their nickname to the loss of their family identity. Mladen Naletilic has the nickname Tuta and indeed was known by many witnesses only as Tuta, Mr. Tuta or General Tuta. The accused often signed documents using only this name and other documents as Mladen Naletilic-Tuta . Hence his nickname Tuta as one of the accused.

29. Siroki Brijeg is fourteen kilometres west of Mostar. It is on the main route from Mostar to the Croatian border the sea or the Adriatic coast and approximately 40 kilometers from Doljani and Sovici. By all accounts Siroki Brijeg is an exclusively Roman Catholic town with a population of less than 30,000 people.
30. For its size, Siroki Brijeg plays a surprisingly large part in this case being the birth place of Mladen Naletilic and the birth place or habitual residence of a very large number of witnesses called by the Naletilic Defence.
31. The evidence in relation to where Tuta lived and worked before he returned to live in Siroki Brijeg is unclear. There have been oblique references to his wealth, his villa with landscaping and a swimming pool in terrain with no water supply and him being driven in an expensive car surrounded by bodyguards. For an extended period of his life, he lived outside Herzegovina in Germany and returned to Siroki Brijeg to live and build a villa in the early 1990's. He appears to have been a generous donor to the citizens of Siroki Brijeg supporting the town's religious and sporting activities while living and working abroad.
32. In 1991 Tuta was in his mid 40's. He is a slightly built man giving to wearing longish hair. Photographs taken of him during the period of the conflict show a light framed man with glasses, a beard and longish greying hair. He does not present as the usual military commander.
33. Before he returned to Siroki Brijeg in 1990-1991, he had already set up an independent paramilitary group known as the Convicts' Battalion or "KB" Kaznjenicka Bojna with the knowledge and approval of Dr. Franjo Tudjman. This group was described as a special purposes unit engaged in sabotage and infiltrating enemy lines. Under the leadership and tutelage of Mladen Naletilic and his close associate Ivan Andabak, the small group grew in popularity and legend becoming for its fans the group which was instrumental in the defeat of the Serbs and the liberation of Mostar in the Spring of 1992.
34. The break-up of Yugoslavia and single party rule produced a period of extreme lawlessness. Defence counsel for Naletilic described the early days of the conflicts between the different ethnic groups in Mostar as where every man who had a weapon was a soldier and every man who had enough money could buy weapons and uniforms to set up a unit and call himself commander. In spite of the arms embargo it seems that for the BH Croats, weapons and uniforms were readily available. Later this became the situation for almost all citizens.
35. After the Serb withdrawal, Naletilic who was known in his locality simply as Tuta enjoyed somewhat of a cult status being described over and over again by witnesses as a legend. In the meanwhile the Convicts' Battalion grew in numbers and engaged in continuing combat against the BH Serbs and forces of the JNA until June of 1992 only to emerge again under the HVO umbrella in early skirmishes against BH Muslim forces in late '92 and early '93.
36. Tuta was a close friend and associate of Gojko Susak, Minister of Defence in the government of Croatia thus affording a line of communication to President Franjo Tudjman. He was associated with Mate Boban President of the HDZ in BH and president of HZ H-B. There is no evidence to show that he was a member of the HDZ nor that he was a member of the Government of HZ H-B or the subsequent HR HB. The Defence deny that he played any role during the war and deny that he was the Commander of the Convicts' Battalion but we are satisfied that he was a man of influence and importance in the affairs of the Croatian community of Herzegovina. He was in a position to negatively affect the lives of the BH Muslims during the war.
37. Vinko Martinovic (Stela) is aged 39 and was born on 21 September 1963 in Mostar, Bosnia and Herzegovina. He was brought up in an ethnically diverse area of Mostar called Rodoc. He grew up, worked and lived in close association with Muslims. Prior to the war he had mostly been engaged as a taxi driver in Mostar. Many of the witnesses including his brother and some neighbours described him as a natural born leader and a patriot. In 1992 when the conflict in Mostar started against the

Serb-Montenegrin army, Vinko Martinovic, at the age of 29 joined the HOS a paramilitary group of BH Croats and Muslims where he became the Commander of the Mostar battalion . He was never engaged politically. He was a local Mostar boy with a basic education .

38. Following the break down of relations between Muslims and Croats HOS was dissolved and Vinko Martinovic became the commander of an anti-terrorist group (“ATG”) of the HVO called Vinko Skrobo or Mrmak. This small sub-unit was part of the Convicts’ Battalion although for the most part they lead a fairly independent existence. Vinko Martinovic who carries the nickname of “Stela” appears to have prospered as such leader and to have gathered to himself a group of like minded young men. It is an unfortunately sad fact of life that in wartime, groups of mean spirited profiteers and bullies frequently emerge. Under the guise of a uniform and the safety of arms and numbers they proclaim themselves commanders and take over areas to the disadvantage of other citizens and to the benefit of themselves. Vinko Martinovic is an example of those who prospers during war. He rose from a taxi driver to a commander. When he first appeared before the Tribunal he described himself as a restaurant owner . Throughout the trial he was presented as a simple foot-soldier doing his best to protect his town and area from attack.
39. The twenty-two counts in the indictment are alleged to have occurred during an international armed conflict and partial occupation of the Republic of Bosnia and Herzegovina. These crimes are alleged to have been perpetrated by the Convicts’ Battalion with the armed forces of the HVO (the BH Croatian Defence Council) who the Prosecution alleges were backed and supported by the HV (the Armed forces of the Republic of Croatia) in the municipalities of Mostar and Jablanica
40. It is alleged that Mladen Naletilic (Tuta) commanded the Convicts Battalion or KB within the HVO from its headquarters in Siroki Brijeg and that Vinko Martinovic (Stela) commanded a sub-unit, a so-called Anti Terrorist Group (“ATG”) of the Convicts’ Battalion known as Mrmak, and later named Vinko Skrobo on the frontline in Mostar.
41. The Prosecution alleges that on 17 April 1993, the HV and the HVO, including the Convicts’ Battalion (KB), under the over-all command of Mladen Naletilic (Tuta ) participated in attacks on Sovici and Doljani, two villages in the municipality of Jablanica. During this operation the BH Muslim populations were forcibly removed from these villages and their houses and mosque were destroyed. The first part of our findings of fact will therefore relate to these two villages ,whether the events occurred within an International armed conflict and whether Mladen Naletilic Tuta was the leader of the KB at the time and whether he was in overall command of the Sovici / Doljani military operation.
42. The Prosecution further alleges that on 9 May 1993, forces of the HV and the HVO, including the Convicts’ Battalion (KB) and the Mrmak later to become the Vinko Skrobo unit, participated in launching a large military offensive against the BH Muslim population in the town of Mostar provoking the separation of Mostar along the confrontation line dividing the city between Croats and Muslims.
43. In the closing arguments of the Naletilic defence the Trial Chamber was addressed on the writings of a Professor of Law and Anthropology who it was alleged had written that this Tribunal  
“ delivers justice that is biased with prosecutorial decisions based on national characteristics of the accused, rather than on the available evidence indicating what he has done ”

The Trial Chamber was also reminded of the Kupreskic decision of the Appeal Chamber , which reversed the findings of the Trial Chamber and acquitted the accused and urged us to apply the same principles outlined in that Appeal judgement.

This Trial Chamber can assure the parties that we have heard and given deep consideration to all the very many worthy representations made by Defence and the Prosecution counsel.

44. In many instances both of the accused shared witnesses and adopted similar legal arguments. There was no serious difference between them as to issues argued. Both parties took the position that every material fact was denied and that all facts were in issue. Although Vinko Martinovic in his pre-trial brief accepted that he was the commander of the Vinko Skrobo ATG during the relevant period, at trial he appeared to have resiled from this position and witnesses who had previously been prisoners at the Heliodrom prison were frequently cross-examined as to visual identification of Stela, his headquarters at Kalimova Street or the frontline at the Bulevar.
45. The main thrust of Mladen Naletilic's defence was that he was not the Commander of the KB and that the Commander was Ivan Andabak. During the Defence case after more than 50 witnesses had been cross examined and after 7 Defence witnesses had presented their evidence the defence became more specific. For the first time, the Chamber heard that he had resigned from the KB in the early autumn months of 1992 due to failing health and that he therefore was not responsible either as a superior or as a perpetrator of any of the counts charged.
46. Clearly, if the Prosecution cannot prove beyond reasonable doubt that Mladen Naletilic Tuta was the commander of the KB in April 1993 to January 1994, then all counts against him fail and he must be acquitted. Such a finding would not affect the counts against Vinko Martinovic Stela although of course the rejection of much of the evidence against Naletilic would well affect the credibility of witnesses who gave evidence concerning the role of both accused. Before dealing specifically with each count of the indictment, it is proposed to make factual findings on the chronological sequence of events which for the basis for specific charges.
47. The witnesses and documents in this case deal mainly with first the background to the conflict, the involvement of the Republic of Croatia in the conflict, the military picture of the Convicts' Battalion within the HVO structure and the locations of the crimes charged.
48. The accused have been charged with grave breaches of the Geneva Conventions as included in Article.2 of the Statute. The jurisdictional prerequisites therefore are that the conflict must be international by the intervention of another state in that conflict through direct deployment of its troops or by indirect intervention so as to exercise overall control over one of the parties to the conflict. The victims of the alleged crimes must be protected persons.
49. The circumstances leading up to the conflict between the HVO and the ABiH in this part of Herzegovina differ little if at all, from the factual and historical backdrop of two other cases already dealt with by this Tribunal. These are the Prosecutor v. Blaskic (3.3.2000) and Prosecutor v. Kordic and Cerkez (26.2.2001). Although both of those cases involved the conflict between the HVO and ABiH in the area of the Lasva Valley, the essential ingredients relating to the jurisdictional prerequisites are identical.
50. The location of the crimes alleged in this case and in Blaskic and Kordic is all within the separate self proclaimed Herzeg- Bosna. As in those two cases, there is ample evidence of deployment of Croatian Army troops (HV) and equipment in the area of Herzegovina during the period of this indictment. Many, many victims and prisoners who were witnesses in this case had daily sightings of soldiers wearing HV uniforms, driving HV vehicles and occupying separate areas of the Heliodrom, a former JNA military barracks used during the conflict for the detention of prisoners of war and other mainly Muslim detainees. These troops appeared to fight in separate units under separate commands thereby belying the Defence claim that they were for the most part volunteers of Herzegovinan origin who had taken up arms against the Serbs for Croatia and after that conflict had returned to protect their homes from ABiH attack.
51. This same defence had been argued and rejected in the Blaskic and Kordic cases and has equally been rejected by this Trial Chamber. The sheer volume of testimony and documents recording the presence and participation of HV troops from reliable independent sources and the HVO archives leave little doubt on this question.

52. There is ample evidence of Croatia's attempts to conceal its direct involvement in the conflict in Bosnia Herzegovina from the documents presented during the Trial and referred to as the Presidential Transcripts. These documents were first the subject of debate during the last stages of the trial of Dario Kordic, the former senior political ruler of Herzeg-Bosna. The Trial Chamber heard evidence as to the technical details of the taping and subsequent transcription of conversations at meetings which took place in President Tudjman's office.
53. This Trial Chamber received that testimony under Rule 92 *bis*-and was assisted in matters relating to the examination of this extremely valuable archive by Mr. Marko Prelec. This is the first Trial Chamber to rely on the contents of this portion of the Presidential Transcripts which were immensely helpful in highlighting unambiguous evidence of President Tudjman's deep involvement in the affairs of Herzeg Bosna, the HVO and the conflict in Bosnia and Herzegovina. The findings which follow therefore are made in the context of an International Armed Conflict.
54. The Trial Chamber finds that Mladen Naletilic-Tuta was one of the main commanders of the plan to take Sovici and Doljani as part of an overall plan to take Jablanica , a predominantly Muslim town which resisted being included in a Croat dominated Herzeg Bosna. Ivan Andabak and Mario Hrkac known as Cikota were with him as commanders of KB units.
55. In April 1993, the Jablanica area was in a state of readiness for conflict on both sides and acts of provocation, manipulation of media reports and gross exaggeration of mutual fears were common. The arrival of large numbers of Muslim refugees from the Serb conflict in Jablanica upset the ethnic balance and contributed to heightened tensions. There were troop movements of both sides into the area and roadblocks were a common occurrence after the 15th April. The local Muslim population was less unprepared than witnesses were prepared to admit. The Chamber has no function in determining the rights and wrongs in the overall political situation, which prevailed in the larger conflict. This Trial Chamber does not minimise or condone the subsequent military activity in the village of Doljani where it is agreed that atrocities took place in July of the same year.
56. The Trial Chamber finds that in the local conflict which ensued in Sovici and Doljani, Mladen Naletilic was instrumental in the gross mistreatment of some of the captured soldiers loyal to the ABiH and in the mistreatment of the civilian population and their property. The local Muslims were without doubt outgunned and out manned in the days of 17th April and thereafter. Following their surrender they became protected persons subject to the protections of the Geneva Conventions III and IV. The Commanders of the occupying forces were obliged to follow the duties imposed by these conventions for the treatment of civilians and prisoners of war . Had these conventions been upheld Mladen Naletilic would not be before this Tribunal today.
57. The 75-80 men who surrendered their arms to the HVO that day were not all combatants . They were interrogated by Ivan Andabak among others, held overnight in unpleasant conditions and transported the next day to Ljubuski prison. The Muslim houses of Sovici and Doljani were for the most part torched and remain uninhabitable to this day... All the civilians of Sovici were held against their will in either the school building or crowded into a small hamlet under armed guard for almost three weeks when they were effectively expelled to ABiH held territory. Mladen Naletilic is guilty of their unlawful transfer.
58. Many of the soldiers who surrendered to the HVO in the village of Sovici testified to harrowing mistreatment on the bus on the way to and while in Ljubuski prison. Witness Y was specifically selected for especially cruel treatment. His tormentors were frequently members of the KB who it was reported were beyond the control of either the prison commander or the local police. This same torture and mistreatment became the pattern in the Heliostrom and Siroki Brijeg. The same specific members of the KB were identified on numerous occasions. They belonged either to the KB unit in Siroki Brijeg or to the Mrmak/Vinko Skrobo unit. They acted with apparent impunity under the command of Mladen Naletilic. Mladen Naletilic must take responsibility for the actions of his subordinates as he observed their treatment of prisoners at Sovici and Doljani and on the bus taking



prisoners to Ljubuski and did nothing to prevent further ill treatment or to punish his soldiers' behaviour.

59. Some of the ABiH soldiers who refused to surrender and who may have continued to resist the HVO attack were captured a few days later. They were taken to the HVO headquarters in Doljani to Naletilic who was described to them only as Tuta. There, they were beaten, abused and tortured in the presence and with the participation of Mladen Naletilic. It is a great pity that a man much respected and revered by his soldiers acted as he did. He could with ease have been an example to his troops. Instead, his abuse of captured combatants, his tolerance of the appalling mistreatment of the local ABiH commander by his soldiers, the ordering of the destruction of Muslim houses and mosque in Doljani, the forced transfer of all Muslims out of the area, all set the pattern for future abuse of Muslim prisoners by the soldiers in his Convicts Battalion.
60. Many of the men from the village who became prisoners in Ljubuski were subsequently moved to the Heliodrom and were subsequently killed when forced to work on the confrontation line in Mostar. One family from Sovici lost three sons in Mostar.
61. The next scene of enquiry and findings is Mostar. The simmering tensions between the HVO and the ABiH bubbled over on 9 May 1993 when a well organised mass round up of Muslims to the Heliodrom was carried out. At the same time there was a massive attack and bombardment of the ABiH headquarters. The round up involved the civilian population of Mostar. Their only common denominator was their Muslim identity. Young and old, influential or insignificant, they were herded out of their homes in the early morning and directed at gunpoint to collection centres and then to the Heliodrom where no reason for their transfer and detention was given apart from the reason that it was for their protection. It was not deemed necessary to lock up the Croat citizens of Mostar. The Red Cross and other humanitarian organisations were denied access to the Heliodrom until the International community became involved and effected the release of the women, children and elderly men. Assurances to release the other detainees were not heeded.
62. Many of the other Muslim civilians were forced to cross the Neretva to the East side of the city. The ABiH soldiers in their headquarters and the civilian residents of the same high rise building complex remained under siege until they surrendered the following day. The soldiers were then separated from the group and brought by Juka, the commander of a KB unit, to Mladen Naletilic and many HVO luminaries. The soldiers were physically and psychologically abused by Naletilic in the presence of his soldiers thereby repeating the pattern set in Sovici and Doljani. These soldiers were then directed by Naletilic personally to the MUP station in Siroki Brijeg, his home town and seat of the KB headquarters, where they were held under inhumane conditions and frequently and severely abused.
63. Some of the prominent civilian leaders who emerged from the besieged Vranica building were tortured and mistreated and held in captivity until the end of the conflict. Mladen Naletilic is responsible personally for the torture of Z. Witness FF, one of the ABiH soldiers who surrendered was the son of a prominent politician. He was personally tortured by Naletilic who following interrogation told him that his father had been executed that morning. This prisoner subsequently lost the use of his arm when injured while obliged to repair fortifications on the frontline. He believed his father was dead right up to the date of his release in March 1994
64. The soldiers who surrendered in Mostar were held at the MUP station in Siroki Brijeg and were subjected to violent assaults by members of the KB. Some named prisoners were selected for interrogation and torture. The Chamber finds Mladen Naletilic responsible as Commander for this torture. There is no reason to suppose that Mladen Naletilic who had personally directed the detention of these prisoners to Siroki Brijeg following a threat to have them executed was unaware of the conditions of their detention and their treatment. Similarly when prisoners of war were subjected to cruel treatment at both the MUP station and the cells in his headquarters at Siroki Brijeg tobacco station. He must bear command responsibility for this prohibited treatment.

65. After some time, the prisoners in Siroki Brijeg were taken to work on the municipal pool. This pool has wrongly been described as Tuta's pool. Some skilled prisoners of war worked for specified member of the KB. The testimony of these prisoners established that their skills were instrumental in preventing further abuse at the hands of those notorious KB members who assaulted prisoners in their cells and who had now become their masters.
66. The Chamber heard testimony of harsh work conditions undertaken by prisoners for a period of two months during high Summer on a canal leading to the Naletilic villa. Defence evidence suggests that this canal was for the installation of radio cables to a hill near the villa and not for Naletilic's personal benefit. Such labour is not prohibited but the harsh conditions are. Naletilic visited the work site and was aware therefore of the conditions and must bear command responsibility for the unlawful labour. He is acquitted of the charges relating to inhuman treatment, inhuman acts and cruel treatment as the extreme discomfort of the prisoners did not reach the requisite standard for such findings.
67. The KB had a number of sub units. Some were what has been described as intervention units who were temporarily attached to other commands for a specific purpose. For the most part these intervention units had the appearance of a more elite corps being lead by professionally trained soldiers. There were also a number of so called ATGs or anti terrorist units whose role seemed to be to hold the confrontation line in Mostar. These units were of a paramilitary nature. Their members rarely had any professional training although most of them had completed mandatory service with the JNA before the break up of the former Yugoslavia. These units had no role in travelling to trouble spots and remained in Mostar.
68. Vinko Martinovic was the commander of one of these ATGs, which was made up of his old comrades from the HOS. His unit started out as the Mrmak unit and then became the Vinko Skrobo ATG. His base was in the former Medical Centre, which had been damaged in the Serb conflict and may already have been his HOS base at this time. Certainly on the 9th May he and his followers were already in place there and taking their meals at their usual canteen. There is some evidence that the unit had been resurrected before the 9th. May and was engaged in action as such unit that day. No finding is made on this point.
69. After some weeks, Vinko Martinovic took his orders from the Mostar Town Defence and from the supreme command of the KB. How the unit first came to be associated with the KB and Mladen Naletilic is not clear. The Chamber has received convincing corroborated evidence that the Vinko Skrobo unit was part of the KB. The most telling of this evidence was a statement made to a Court in Zagreb by Martinovic himself in the presence of Naletilic when he was called as a defence witness in proceedings unrelated to this trial. The Chamber received the testimony of Jan Van Hecke a senior investigator from the Office of the Prosecutor who was present in the Zagreb Court when this testimony was given. Martinovic stated that he was the Commander of the Vinko Skrobo unit, which formed part of the KB under the command of Mladen Naletilic. This testimony further corroborates the testimony of former KB members and documents seized at the tobacco factory in Siroki Brijeg.
70. Vinko Martinovic's main task was to hold the front line against the ABiH who were literally shouting distance away. In holding this line he used many Muslim prisoners from the Heliodrom to carry out work digging and repairing trenches and sand bag fortifications, carrying supplies and generally assisting the soldiers of his unit. The prisoners had a tough existence with harsh living conditions in the Heliodrom and dangerous work conditions on the frontline. Although the HVO used printed forms reminding commanders that the use of prisoners of war for labour was subject to the Geneva Conventions, there was no evidence that they were applied at the Vinko Skrobo area of responsibility.
71. Prisoners were forced to work in crossfire without the minimum protection of a flak jacket or helmet and many suffered death and injury. An attitude of complete indifference to the welfare of

prisoners prevailed. Their fate depended on Vinko Martinovic's humour each day. There were prisoners who as friends prior to the war enjoyed his protection and who were required only to work in the relative safety of his Headquarters at Kalimova Street and render free their technical and mechanical skills. Those fortunate ones were not exposed to the dangers of the frontline which were in general reserved to former combatants. Many of these men testified that they felt safer at Stela's than anywhere else. They were indeed the lucky ones.

72. There were many who were less fortunate. Among the worst excesses committed by Vinko Martinovic against these prisoners was their use as human shields on the 17 September 1993. On that day, four prisoners of war were dressed in HVO uniforms and furnished with replica Kalashnikov guns. One of the selected prisoners was so frightened of what was to happen that he fainted and was replaced by another prisoner. This unfortunate prisoner was subsequently found later that day near the frontline in a pool of blood. It is known that he died.
73. The four prisoners in uniform were ordered to walk alongside a tank to draw fire from the other side. The opposing army was aware of the misuse of prisoners in this way and frequently held their fire, hence the HVO uniforms on this occasion. In the confusion caused by the firing of the tank into the buildings opposite and the deafening noise of gunfire, the four soldiers armed with the replica wooden rifles made it to the other side and relative safety. At least three of them were injured. While the word human shield was used in the indictment, decoy would be the most appropriate description for the position in which the prisoners were put to draw fire and protect the HVO advance. Vinko Martinovic is personally responsible for the inhuman treatment, inhumane acts and cruel treatment to the four prisoners in this incident.
74. The Chamber received a wooden rifle into evidence. This rifle may well be the rifle carried by witness PP that day and subsequently taken by an ABiH soldier in the building on the opposite side. This soldier kept the rifle until 2002 when he gave it to an investigator from the OTP. He described receiving it from a prisoner dressed as a soldier in HVO uniform. His description of the prisoner fits PP's description. PP was shown this rifle and recognised it by a hole which he said had housed a screw holding the rifle strap and which had worked loose. Forensic examination of the rifle could not determine when the rifle was made but screw holes were noted. The Chamber does not require an identification of the rifles to establish that the event took place.
75. Three prisoners of war signed out to the Vinko Skrobo units lost their lives that day. Others were injured while obliged to collect the injured and fallen HVO soldiers. The indictment charges Vinko Martinovic with the wilful killing of the three prisoners who were killed on the confrontation line that day. These prisoners were clearly signed out to Vinko Martinovic personally and were engaged on the frontline in prohibited labour. This evidence cannot however rebut the suggestion made by the Martinovic defence that the three prisoners may have died in an escape attempt during the confusion created by the firing of the tank. As all four of the prisoners with the replica rifles made it to the other side, there is the possibility that the three prisoners, Colakovic Aziz, Colakovic Hamdija and Pajo Enis tried to make a run and were caught in cross fire. Vinko Martinovic must receive the benefit of that doubt.
76. The loss of prisoners' lives at Santiceva Street that day was enormous. Santiceva Street was outside of Vinko Skrobo operations. Vinko Martinovic cannot be held responsible. He is however responsible for the unlawful labour of the prisoners on the frontline as ordering that unlawful labour and as a commander for the acts of his subordinates. There was no convincing evidence to relate the deaths of prisoners at Santiceva Street as human shields to Naletilic.
77. Similar terrifying misuse of prisoners of war occurred in Rastani a village to the West of Mostar which changed hands fairly regularly during the conflict. On 23 September while the KB was engaged in combat operations there, several prisoners were forced to walk five or six metres in front of KB soldiers and search houses where it was believed ABiH soldiers were hiding. The search was carried out in the very real fear of the presence of ABiH troops as bodies of soldiers of both armies

were found in the vicinity and two ABiH soldiers were captured. This incident is the subject of charges of cruel treatment, inhuman acts and inhumane treatment against Mladen Naletilic. Although Naletilic was the commander of his troops on that occasion, he was not actually in the village at the time as he was directing operations from a higher location and may have been unaware of the use to which the prisoners were put. He is therefore entitled to the benefit of the doubt on these charges and on the charges of what was clearly also unlawful labour.

78. When the two ABiH soldiers were captured, they were immediately physically abused by soldiers of the KB whose members on this occasion included BH Croat convicted criminals recently released from the Heliodrom. One of these criminals was about to set fire to the captives when a radio message from "Stari" ordered that they be brought alive to Siroki Brijeg. These soldiers did not fare well at the tobacco factory headquarters of the KB. They were kept in solitary confinement in inhuman conditions and beaten on a regular basis. This treatment is the subject of torture charges found against Mladen Naletilic.
79. Returning to the events of September 17th 1993. HVO and SIS documents show that Mladen Naletilic with two other highly placed members of HVO military was one of the planners of this attempt to take territory and move the frontline. They acted without the knowledge and approval of the HVO main staff, an indicator of the power and influence he exercised as Commander of the Kaznjenicka Bojna. There is no evidence that he was aware of the wooden rifles incident. Vinko Martinovic bears responsibility for this grave breach of the Geneva Convention in relation to prisoners of war and Mladen Naletilic is acquitted of this series of charges.
80. Stela's activities during the war were not confined to the frontline. He and his now infamous subordinates and others were involved in evicting Muslims from their flats and forcing them to leave the West side of Mostar. They were also engaged in the looting of those now emptied flats. The prohibited activity described as unlawful transfer is an almost inadequate depiction of the crime with all its attendant horrors. The very quietly understated text accompanying a video film made by BBC war correspondent Jeremy Bowen shown to the Trial Chamber captured some of the true horrors of unlawful transfers. Civilians in time of war usually suffer deprecation of some sort. To minimise the suffering of non-combatants in a conflict, Geneva Convention IV guarantees civilians that they cannot be moved unless for their own safety. Any such prohibited transfer or deportation is deemed a grave breach of this Convention. The elderly and young civilians of Mostar were therefore entitled to expect to remain in their homes without HVO or KB soldiers arriving at their door and forcing them out. In Mostar the Geneva Convention was not heeded. The civilians targeted were moved to the East side without their consent or sanction, without their clothes or necessities and with guns firing over their heads.
81. The Chamber heard very convincing and distressing evidence of the involvement of Vinko Martinovic personally and that of his soldiers in this activity. His unit was the subject of frequent and adverse comment in SIS reports and that of Humanitarian organisations. The ABiH commander Arif Pasalic wrote to the ECMM observers complaining of this behaviour and naming Mladen Naletilic, Ivan Andabak and Vinko Martinovic for the eviction of many Muslim citizens from their homes at gunpoint and the forcing of these people over the remnants of the old Mostar footbridge to the East side of the city. The Chamber heard and received convincing documentary and oral evidence connecting the KB with the wave of evictions, which occurred on 29th September 1993. Vinko Martinovic is guilty of such unlawful transfers and looting for his personal involvement and for the activities of his subordinates. Mladen Naletilic is guilty as a commander, who being aware of the wave of evictions or ethnic cleansing on 29th September and the involvement of his subordinates including Ivan Andabak did nothing to punish the actions or to prevent their occurrence.
82. Nenad Harmandzic a former police inspector was one of Stela's victims. He was specifically sought out on 13 July 1993 at the Heliodrom. He was beaten and taunted throughout the day while at the Vinko Skrobo Headquarters. When the other prisoners were leaving to return to the Heliodrom, he

was left behind. The other prisoners were admonished to forget what they had seen or heard. The prison authorities were told he had escaped. His body was exhumed five years later where it was revealed that he had suffered multiple fractures and a bullet wound to the head. His injuries were such that he could not walk prior to being shot.

83. The Chamber heard the evidence of Halil Ajanic an acquaintance of Vinko Martinovic for many years and a civilian prisoner at the Heliodrom. He testified to the beating and abuse of Nenad Harmandzic at the Vinko Skrobo base. In spite of the efforts to discredit this simple and brave man who gave his testimony in open Court with no protective measures, the Chamber is convinced by the truth of his testimony .
84. The identification of the remains as those of the late Nenad Harmandzic was contested and an expert called to cast doubt on the identification conclusions. The Chamber accepts that there is a question over the height of Nenad Harmandzic when alive and the estimated height of the remains. The Chamber has considered this discrepancy against the other findings at autopsy. These findings included identification by a close relative of his belt buckle, shoe, teeth, cigarette lighter , and most important the discovery of a bullet embedded in muscle tissue in his right thigh. The close relative was aware that several years earlier, Nenad Harmandzic has accidentally shot himself in the right thigh and the bullet had never been removed . The exhumation team of forensic pathologists were specifically directed to this fact before the autopsy took place. The possibility that another body unrelated to Nenad Harmandzic should also have a bullet of the same calibre in the right thigh negates any discrepancy in the post mortem height found. No allowance was made when hearing the testimony of the two forensic experts for the possibility of human error in the measurement of the femur or indeed in the estimated height of Nenad Harmandzic while living. The Chamber therefore finds that the findings at autopsy combined with the location of the burial site by the witness who buried the body determinative. The other evidence of false representations to the Heliodrom authorities that he had escaped coupled with conversations with the Harmandzic family that he had been killed at the Vinko Skrobo unit convince the Trial Chamber of the involvement of Vinko Martinovic in his killing. The secret burial and the injuries to the body which are inconsistent with any possibility of flight are all links in a chain of strong circumstantial which convince the Chamber that Vinko Martinovic played a role in Nenad Harmandzic's death. He is guilty of cruel treatment and wilfully causing great suffering to Nenad Harmandzic. His participation before and after the shooting amounts to substantial involvement in his killing in the form of encouragement and practical assistance. He is guilty of individual criminal responsibility of aiding and abetting the murder of Nenad Harmandzic.
85. Mladen Naletilic was charged with the destruction of Muslim houses in Sovici, Doljani and Rastani. There was evidence that the houses in Rastani were substantially damaged in previous skirmishes. Mladen Naletilic must be acquitted on this charge . There is compelling evidence that Mladen Naletilic ordered the destruction of the Muslim houses in Doljani. This order was carried out to good effect. No charge was brought in relation to the mosque in Doljani. There is insufficient evidence as to the involvement of the KB in the burning of the Muslim houses in Sovici. The same situation prevails with the mosque in Sovici. Mladen Naletilic is therefore not guilty of the charges relating to Muslim property in Sovici. He is guilty of ordering the destruction of Muslim houses in Doljani.
86. The prosecution case is that all the unlawful treatment of civilians and prisoners was motivated by a discriminatory intent towards this section of the population who were specifically targeted because they were Muslims. The main judgement deals with the legal issues associated with a finding that such persecution existed. It suffices at this stage to say that the Chamber is satisfied from the weight of the evidence that the Muslim civilian population of Mostar, Sovici and Doljani were subject to persecution. Neither Mladen Naletilic nor Vinko Martinovic were the grand architects of this plan and its implementation. They each however, played a role in giving effect to the plan. The Chamber is satisfied that the detention and subsequent transfer of the civilian population of Doljani and Sovici was motivated by malice towards Muslims and that they were the object of discrimination. Mladen Naletilic is guilty of persecution of the civilian population of Sovici and Doljani. He is also

found guilty of the torture of two civilians referred to previously as Z and FF. These two witnesses were members of or associated with the SDA leadership in Herzegovina and were targeted because they were Muslims and associated with certain political beliefs.

87. Vinko Martinovic protested vehemently through his counsel that he never discriminated against Muslims having many Muslims in his unit and under his protection. The Chamber nevertheless finds that the crimes already proved involving the rounding up and movement of Muslims on the 9th May, 13th June and the 29th September were committed with discriminatory intent. The Muslim civilians of Mostar were targeted for no reason than their Muslim ethnicity. Vinko Martinovic was personally involved on those occasions and therefore bears responsibility under Article 7(1).
88. Mladen Naletilic bears responsibility under Article 7(3) for the unlawful transfer carried out by his subordinates on 13th June and 29th September 1993.
89. There are no further charges against the accused after the end of September 1993. It is not the function of the Chamber to deal further with the events in Herzegovina. It is clear however that the suffering of the prisoners and civilians continued for a very considerable time thereafter. Prisoners and soldiers continued to die on both sides of the conflict and the beautiful old Stari Mos was destroyed to the loss of all the peoples of Mostar. As previously mentioned, no group was immune from the terrible suffering know. What we do know is that following a cease -fire agreement the war officially ended. Time will tell if the scars will heal and the wonderful fabric of a diverse city described by the leader of the Jewish community in Mostar will return. Mladen Naletilic and Vinko Martinovic are responsible for much of the pain inflicted and must now take the consequences of their actions

#### **JUDGE LIU**

For the foregoing reasons, and having applied the applicable standards in relation to the cumulative convictions, the Chamber enters the following convictions:

90. Mladen Naletilic, please stand up. The Chamber finds you guilty on the following counts:

**Count 1** (persecutions on political, racial and religious grounds as a crime against humanity, under Article 5(h) of the Statute)

**Count 5** (unlawful labour as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 9** (torture as a crime against humanity, under Article 5(f) of the Statute )

**Count 10** (torture as a grave breach of the Geneva Conventions of 1949 under Article 2(b) of the Statute)

**Count 12** (wilfully causing great suffering or serious injury to body or health as a grave breach of the Geneva Conventions of 1949, under Article 2(c) of the Statute )

**Count 18** (unlawful transfer of a civilian as a grave breach of the Geneva Conventions of 1949, under Article 2(g) of the Statute)

**Count 20** (wanton destruction not justified by military necessity as a violation of the laws or customs of war, under Article 3(b) of the Statute)

**Count 21** (plunder of public or private property as a violation of the laws or customs of war, under Article 3(e) of the Statute)

91. The Chamber acquits you on the following counts:

**Count 2** (inhumane acts as a crime against humanity, under Article 5(i) of the Statute)

**Count 3** (inhuman treatment as a grave breach of the Geneva Conventions of 1949, under Article 2(b) of the Statute)

**Count 4** (cruel treatment as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 6** (murder as a crime against humanity, under Article 5(a) of the Statute )

**Count 7** (wilful killing as a grave breach of the Geneva Conventions of 1949 , under Article 2(a) of the Statute)

**Count 8** (murder as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 11** (cruel treatment as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 19** (extensive destruction of property as a grave breach of the Geneva Conventions of 1949, under Article 2(d) of the Statute)

**Count 22** (seizure, destruction or wilful damage done to institutions dedicated to religion as a violation of the laws or customs of war under Article 3(d) of the Statute)

92. In determining the appropriate sentence to be imposed on you, the Chamber has adhered to all of the formal requirements laid down in the Statute and the Rules and to its obligation to fit the sentence to the gravity of the crimes and the individual circumstances of the accused. As an aggravating circumstance, the Chamber took into account your status as a commander and your position of great influence in the area. The Chamber further found that the Defence has not presented evidence as to your medical condition such as to constitute a mitigating circumstance. Furthermore , the Chamber found no mitigating circumstances as your transfer from the Republic of Croatia to the Tribunal was not voluntary and as you have not shown substantial co-operation with the Prosecutor. Taking all these circumstances into account, the Chamber hereby sentences you, Mladen Naletilic, to a single sentence of 20 years of imprisonment.
93. Pursuant to Rule 101(C) of the Rules, you are entitled to credit for time spent in detention, as of the date of this Judgement, together with such additional time that you may serve pending the determination of any appeal. Pursuant to Rule 103 (C) of the Rules you shall remain in custody of the Tribunal pending finalisation of arrangements for your transfer to the State where you shall serve your sentence .

You may sit down.

94. Vinko Martinovic, please stand up. The Chamber finds you guilty on the following counts:

**Count 1** (persecutions on political, racial and religious grounds as a crime against humanity, under Article 5(h) of the Statute)

**Count 2** (inhumane acts as a crime against humanity, under Article 5(i) of the Statute)

**Count 3** (inhuman treatment as a grave breach of the Geneva Conventions of 1949, under Article 2(b) of the Statute)

**Count 5** (unlawful labour as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 12** (wilfully causing great suffering or serious injury to body or health as a grave breach of

the Geneva Conventions of 1949, under Article 2(c) of the Statute )

**Count 13** (murder as a crime against humanity, under Article 5(a) of the Statute )

**Count 14** (wilful killing as a grave breach of the Geneva Conventions of 1949 , under Article 2(a) of the Statute)

**Count 18** (unlawful transfer of a civilian as a grave breach of the Geneva Conventions of 1949, under Article 2(g) of the Statute)

**Count 21** (plunder of public or private property as a violation of the laws or customs of war, under Article 3(e) of the Statute)

95. Vinko Martinovic, you are acquitted on the following counts:

**Count 4** (cruel treatment as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 6** (murder as a crime against humanity, under Article 5(a) of the Statute )

**Count 7** (wilful killing as a grave breach of the Geneva Conventions of 1949 , under Article 2(a) of the Statute)

**Count 8** (murder as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 11** (cruel treatment as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 15** (murder as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 16** (cruel treatment as a violation of the laws or customs of war, under Article 3 of the Statute)

**Count 17** (wilfully causing great suffering or serious injury to body or health as a grave breach of the Geneva Conventions of 1949, under Article 2(c) of the Statute )

96. In determining the appropriate sentence to be imposed on you, the Chamber has also adhered to all of the formal requirements laid down in the Statute and the Rules and to its obligation to fit the sentence to the gravity of the crimes and the individual circumstances of the accused. As a primary consideration, the Chamber noted that you have been found guilty of heinous crimes, including murder. The Chamber further considered your command role and influence on your unit as an aggravating circumstance. Further, your transfer to the Tribunal has not been deemed voluntary so as to constitute a mitigating circumstance. Considering your prior criminal conduct, the Chamber noted that the conviction of murder rendered by the Zagreb County Court is pending appeal and has not taken it into account as an aggravating circumstance. It also has not considered your previous convictions for grand larceny and looting in light of the nature of the crimes that you are found guilty of today . Taking all these circumstances into account, the Chamber hereby sentences you , Vinko Martinovic, to a single sentence of 18 years imprisonment.

97. Pursuant to Rule 101(C) of the Rules, you are entitled to credit for time spent in detention, as of the date of this Judgement, together with such additional time that you may serve pending the determination of any appeal. Pursuant to Rule 103 (C) of the Rules, you shall remain in custody of the Tribunal pending finalisation of arrangements for your transfer to the State where you shall serve your sentence .

98. You may sit down.



99. The hearing is adjourned.

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