

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case №: **IT-03-69-T**

IN THE TRIAL CHAMBER I

BEFORE: Judge **Alphons Orié**, Presiding
Judge **Michèle Picard**
Judge **Elizabeth Gwaunza**

REGISTRAR: Mr. John Hocking

DATE FILED: **15 February 2013**

THE PROSECUTOR

V.

JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ

- PUBLIC REDACTED VERSION -

SIMATOVIĆ FINAL TRIAL BRIEF

THE OFFICE OF THE PROSECUTOR:
Mr. Dermot Groome

COUNSEL FOR MR. JOVICA STANIŠIĆ:
Mr. Wayne Jordash
Mr. Scott Martin

COUNSEL FOR MR. SIMATOVIĆ:
Mr. Mihajlo Bakrač
Mr. Vladimir Petrović

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INTRODUCTION

1. The Third Amended Indictment of 9 July 2008 charges Franko Simatović on 5 counts for Crimes Against Humanity and Violations of the Laws or Customs of War, as a member of the Joint Criminal Enterprise (JCE), with individual criminal responsibility, pursuant to Article 7(1) of the Statute of the International Tribunal.
 - Count 1 Persecutions – Simatović, acting in concert with other members of the JCE, committed persecutions of Croats, Bosnian Muslims and Bosnian Croats and other non-Serbs within SAO Krajina, SAO SBWS and a number of BiH municipalities. Alternatively, or in addition, Simatović planned, ordered and/or otherwise aided and abetted the planning, preparation and/or execution of persecutions of Croats, Bosnian Muslims and other non-Serbs
 - Counts 2 and 3 Murder - from no later than April 1991 until 31 December 1995, Simatović, acting in concert with other Members of the JCE committed murder and wilful killing of non-Serbs, principally Croats, Bosnian Muslims and Bosnian Croats. Alternatively, or in addition, Simatović planned, ordered and/or otherwise aided and abetted the planning, preparation and/or execution of the murder and wilful killing of non-Serbs. Under Count 2, Simatović is charged with committing Murder, a Crime Against Humanity, and under Count 3 with Murder, a Violation of the Laws or Customs of War.
 - Counts 4 and 5 – Deportation and Inhumane Acts (Forcible Transfers) – from no later April 1991 until 31 December 1995, Simatović, acting in concert with other Members of JCE, committed unlawful forcible transfer or deportation of thousands of Croat, Bosnian Muslim, Bosnian Croat and other non-Serb civilians from locations in which they were lawfully present in SAO Krajina, SAO SBWS, and territories of certain BiH municipalities. Alternatively, or in addition, Simatović planned, ordered and/or otherwise aided and abetted the planning preparation and/or execution of unlawful forcible transfer or deportation. Under Count 4, Simatović is charged with Deportation, a Crime Against Humanity, and under Count 5 with Inhumane Acts (Forcible Transfer), a Crime Against Humanity.

2. The Defence claims that the Prosecution failed to prove, beyond reasonable doubt, the liability of the Accused Simatović on any of the aforesaid counts of the indictment. Hereinafter, the Defence will present arguments in support of its claim.

PART ONE

A. THE GENESIS OF THE CONFLICT IN CROATIA

3. In mid-1990 the constitutional status of the Serb people in Croatia, was changed from that of “constituent nation” to “national minority”.¹ The political leadership in Knin, i.e. the Serbian Democratic Party (SDS), responded by organizing a referendum where the Serb people would decide whether to remain within Yugoslavia.² The Croat authorities proclaimed the referendum illegal and ordered the ballot papers to be confiscated.³
4. The Croat political leadership instructed the Croat SDB to selectively monitor the activities of extremist political groups – only the activity of the Serbian Democratic Party was being monitored⁴ although it was a parliamentary political party.⁵
5. The municipalities with majority Serbian population began to organize themselves in 1990. In June 1990, Milan Babić was elected president of the Association of Municipalities of Northern Dalmatia and Lika.⁶ Soon after, on 25 July 1990, the Serbian people held a convention in Srb and elected the Serbian National Council, with Babić as its president.⁷ There is no evidence that either the Serbian SDB or Franko Simatović participated in organizing the Serbian people politically in the municipalities in the territory of Croatia with majority Serbian population. The political organization of the municipalities was the precursor of the entity that would in due course become the Republika Srpska Krajina, whose armed formations are charged with committing the crimes set forth in the indictment.
6. Interethnic tensions in the territory of Croatia grew and threatened to escalate into armed conflict in 1990. The rise of HDZ to power reminded many Serbs of 1941 and the Ustasha

¹ tt.15763,7980

² tt.15764

³ tt.15765

⁴ tt.16678

⁵ D322 para.6

⁶ D322 para.13

⁷ D322 para.14

era.⁸ Insignia on the uniforms were immediately replaced with ones that were almost identical to the insignia of the Independent State of Croatia (NDH) of 1941. Soon after the rise of HDZ to power, the first Serbian guards were being established in the Serbian villages.⁹

7. The police staff members were obliged to sign a loyalty document.¹⁰ The new Croat authorities began to establish new police forces made up exclusively by ethnic Croats, many of whom had a criminal record.¹¹
8. The Croat special police forces attacked various police stations by night.¹² Croat top officials announced and planned a fierce confrontation with the Serbian community. Thus, the Croat Minister of Interior Josip Boljkovac announced that all available means would be used against Serbs in Croatia; that Knin would disappear; and that the Croat State would be established at any cost.¹³ Boljkovac announced a confrontation with the Serbs in January 1991.¹⁴ Croat top officials planned physical annihilation not sparing women and children.¹⁵
9. Weapons from the active and reserve police forces, specifically automatic and semi-automatic weapons, were stored in the police stations in Croatia.¹⁶ The Croat MUP planned to seize the weapons from the police station in the Serbian municipalities.¹⁷ The weapons from the police stations in Obrovac and Benkovac were seized in the night between 16 and 17 August 1990.¹⁸
10. The seizure of weapons in Benkovac drastically changed the security situation¹⁹ For the first time JNA got involved in the events by preventing a Croat helicopter attack on Lika.²⁰

⁸ tt.15764

⁹ tt.16679

¹⁰ tt.16680

¹¹ tt.16681

¹² D322 para.17

¹³ D132,D133

¹⁴ tt.7991

¹⁵ D134,tt.7995

¹⁶ tt.15766

¹⁷ tt.15767-15768

¹⁸ tt.15768-15769,16682

¹⁹ tt.16684-16685

²⁰ tt.16684

11. Witness DFS-14 gave a detailed account of how the seizure of weapons from the Knin police station had been planned.²¹ When people found out about the seizure of weapons in Obrovac and Benkovac, on 17 August 1990 they rallied in front of the Knin police station, broke into the station and took away the police weapons that were stored there.²² The weapons were then taken to the Golubić center.²³ Those weapons were distributed on the same day.²⁴
12. Between 150 and 200 rifles and handguns were taken away from the Knin police station.²⁵ The reason for taking the weapons from the Knin police station was to train people and supply them with arms.²⁶
13. On the same date, 17 August 1990, Milan Babić proclaimed the state of war through Radio Knin.²⁷
14. Roadblocks were erected on the roads between the Serb and Croat villages for the first time after the events of 17 August 1990. The people on the barricades were local villagers armed with hunting weapons, trophy weapons, as well as automatic and semi-automatic weapons.²⁸ The weapons were procured from the Territorial Defence (TO) depot.²⁹
15. Although there is hardly any disagreement between the sides concerning the genesis of the conflict in Croatia³⁰, the Defence believes that establishing the origins of the conflict is crucial in establishing Simatović's role and responsibility. The conflict in Croatia broke out at the moment when the SFRY joint state fell apart. The divergent and irreconcilable interests of the different ethnic communities are the cause of the conflict. Croatia wanted an independent state and fought by political as well as military and police means. The constitutional-legal degradation of the Serb people as well as the threat of violence reminded many Serbs of their suffering in World War II. The Serbs wanted to remain in the joint state, while Croatia wanted

²¹ tt.15768

²² tt.15770

²³ tt.15771,12948

²⁴ D322 para.20

²⁵ P1546 para.11

²⁶ P1546 para.34

²⁷ D322 para.20

²⁸ tt.16685,D322 para.19

²⁹ D322 para.19

³⁰ For example tt.15770

to bail out at all costs. The evidence indicates that the conflict in Croatia had not been imported from outside, for instance from Serbia. The evidence also indicates that the origins of the conflict cannot be linked to the Serbian SDB or Simatović in any way. The political conflict escalated into an armed conflict 10 months before Simatović arrived in the region, as an intelligence officer of the Serbian SDB, which will be elaborated in due course in this brief.

B. SUPPLY OF ARMS TO KRAJINA

16. Franko Simatović is accused of supplying the “Serb forces” and training centres. With this allegation, the Prosecution primarily refers to the supply of arms. The Defence reiterates that there is no credible evidence that Simatović participated either in supplying the centre in Golubić or in supplying any other “Serb forces”. Furthermore, the Defence emphasizes that quality arms were readily available in large quantities at the time.
17. In the second half of 1990, arms were being sold everywhere. [REDACTED].³¹
[REDACTED]³² [REDACTED].³³
18. In the second half of 1990, M56 Thompson submachine guns appeared as well. Witness DFS-14 saw these guns in the hands of civilians at the time.³⁴
19. The arms of the Territorial Defence (TO) in the Croat territory were taken over by the JNA and placed in its depots.³⁵ The JNA had numerous depots in the area of Zadar, Šibenik and Knin.³⁶ In Golubić too there was a JNA depot.³⁷
20. Aside from the one in Golubić there were JNA depots in Žagrović, Bačani, Strmica, Kosovo near Knin, in the Krka River canyon, in the North and South Garrisons in Knin where large

³¹ [REDACTED]

³² [REDACTED]

³³ [REDACTED]

³⁴ tt.15774-15775

³⁵ tt.2423

³⁶ tt.2423-2426

³⁷ tt.2425

quantities of arms and ammunition were stored. Also, ammunition was stored in the area of Knin for the Benkovac and Obrovac units. [REDACTED].³⁸

21. The first arms in Benkovac were distributed in villages bordering the territory controlled by Croat forces. The arms were distributed by decision of the Serb National Council to distribute the arms from the TO depot in Golubić near Knin. The TO Depot in Golubić was controlled by the JNA and this depot was a part of one of the largest JNA warehouses in Central Dalmatia. The villagers came to pick up the arms and they were given ten rifles per village. The distribution of arms was handled by the representatives of the Knin TO in cooperation with the Commander of the Benkovac TO.³⁹
22. [REDACTED].⁴⁰
23. The police officers who left the Croat police stations brought weapons with them.⁴¹
24. The people that were mobilized in Knin by the local police were supplied with standard JNA automatic rifles.⁴² [REDACTED].⁴³
25. Evidence proves that the Ministry of Defence of the Republic of Serbia had been an extremely important source of supply of arms as well as other military equipment. On the eve of the outbreak of a full-fledged armed conflict, the Serbian Ministry of Defence and Krajina TO General Staff had been in direct contact with each other. A request of the Krajina TO General Staff was signed by Milan Martić and Savo Radulović. The request ensued after a letter by the Defence Ministry of 12 September 1991 that evidently addresses the issue of the Krajina TO needs for military equipment and ammunition. Martić and Radulović specified in detail the ammunition and military equipment needs in eight municipalities in Krajina.⁴⁴ Witness DST-34 confirmed that the JNA had the equipment applied for in this request.⁴⁵

³⁸ [REDACTED]

³⁹ tt.16694-16695

⁴⁰ [REDACTED]

⁴¹ tt.12930

⁴² tt.7437

⁴³ [REDACTED]

⁴⁴ D300

⁴⁵ tt.12450

26. Here the Defence would like to note that Savo Radulović who requested the equipment was also the person in charge for the distribution of equipment and arms. [REDACTED]⁴⁶
27. Colonel Dušan Smiljanić, posted to the duty of assistant commander for security and intelligence of the General Staff of the Krajina Serbian Army, drew up a document in which he described the role of JNA in supplying arms to Krajina in detail. In fact, Smiljanić was stationed in the Krajina area from 31 March 1991, and from the time of his arrival to the beginning of July 1991 he actively engaged in the supply of arms to the Serbian people in this area, in conjunction with other officers, specifically the chiefs of military depots in that area. JNA security (OB) and military police (VP) participated in this operation. Smiljanić engaged in this after he had previously established contact with the SDS leadership. Arms were supplied from the depots in Otočac, Perušić, Gospić and Sveti Rok. 15,000 pieces of various infantry weapons, mortars, and anti-aircraft guns were distributed in this manner.⁴⁷ At the beginning of August 1991, Smiljanić participated in supplying arms to the Serb people and in bringing active military staff to the Krajina area. In August–October 1991, 20,000 more pieces of various arms were distributed.⁴⁸
28. Smiljanić was a senior officer who held a responsible position at the time when he sent a letter to General Mladić. The letter was sent to Mladić, who was chief of staff of the 9th (Knin) Corps at the time about which Smiljanić wrote, and hence very well acquainted with all developments, so that there is no possibility that Smiljanić was trying to deceive him, and it is absolutely certain that the facts contained in that letter are true. Those facts are corroborated by other evidence as well.
29. Right after Smiljanić completed the first phase of his action Martić boasted that his men were better armed.⁴⁹

⁴⁶ [REDACTED]

⁴⁷ D118 p.2

⁴⁸ D118 p.3

⁴⁹ P2991

30. The case files include exhibit P2990 in which it is stated that the Minister of Internal Affairs of the Republic of Serbia ordered two convoys of arms and ammunition to be dispatched to Knin. The official note concerning these convoys was made by Milan Tepavčević, Assistant Head of the State Security Service (DB) of the Ministry of the Interior (MUP) of the Republic of Serbia. The same note had also been signed by Radmilo Bogdanović, Minister, on whose orders the convoys had been dispatched.⁵⁰ Witness DST-34 testified that such a quantity of arms could only have been supplied by the JNA.⁵¹ DST-34 agreed that the arms might have been dispatched through the Serbian MUP but that this could certainly not have happened without the knowledge and support of the JNA, because the JNA controlled the area between Serbia and the SAO Krajina checkpoints. With a view to these facts, the witness supposed that the convoy had been accompanied by the JNA through Bosnia and Herzegovina.⁵²
31. The Simatović Defence has no information corroborating the authenticity and reliability of P2990. However, should the Trial Chamber find that the document has probative value, the Simatović Defence would like to reiterate that issues related to the supply of arms were decided at a level far higher than Simatović's level. At the time when Bogdanović and Tepavčević wrote official note P2990, Simatović held the title of senior inspector and occupied the work post of chief of section for the USA (AOS) in the 2nd Department of the SDB Administration in Belgrade.⁵³ Between Simatović and the Minister of Internal Affairs of the Republic of Serbia there were at least four command and decision-making levels. In the position that he occupied, Simatović could not have influenced in any way a possible decision to dispatch the convoys. Simatović could not even have known about such a decision, considering that the jobs and tasks that he performed were not related to the Minister's order to dispatch those convoys. There is no evidence to indicate that Simatović had known about the order and that he could have influenced the practical enforcement of that order either by his acts or omissions.
32. The Defence also notes that even if Bogdanović had really ordered the delivery of 1,450 pieces of arms, this quantity is still an insignificant fraction of the arms delivered by Smiljanić

⁵⁰ P2990

⁵¹ tt.12499-12500

⁵² tt.12499-12500

⁵³ P2398

and his military security. Smiljanić confirmed that he had delivered at least 35,000 pieces of arms. When taking into account all other sources of arms supply aside from Smiljanić, then the arms allegedly supplied by Minister Bogdanović would have been just a drop in an ocean of weapons that were being shipped and distributed in Krajina. Bogdanović's and Tepavčević's accountability for supplying arms, if any, can only be proportional to the quantity and significance of the arms delivered, and that quantity and significance are, as already mentioned, minimal.

33. The Defence concludes that Knin and Kninska Krajina was an area of strategic importance for the JNA considering the number and size of the units stationed in that area that had large quantity of arms, in use as well as in the depots. The area around Knin was packed with arm depots and military equipment. Those arms reached the population in the cities and villages populated by the Serbs, first in small quantities and then by the tens of thousands of pieces. Also, the arms used by the police active and reserve forces, were also used to arm the Serbian units. There were trophy weapons, hunting weapons, and weapons were being sold as well.
34. Under such circumstances, each shipment of arms that the Prosecution tries to attribute to the Serbian SDB seems insignificant and incapable of tipping the balance between the conflicting sides by any means. The Defence believes that the Trial Chamber intends to evaluate the measure of the contribution of each of the actors in these events, and reach its final decision in accordance with its evaluation of that measure.

C. GOLUBIĆ

35. The Prosecution directly links the establishment of the Golubić centre with the Serbian SDB, Jovica Stanišić and Franko Simatović.
36. The Defence notes that the Golubić centre was established at the end of 1990 and beginning of 1991, that the unit located in that centre was formed at the same time, and that the centre

had been established, supplied, financed and managed regardless of any role of the Serbian SDB and Franko Simatović.

37. Witness DFS-43 testified that the structures in Golubić had been reconstructed in February 1991, that the material had been supplied from the depots in Knin, and that the construction workers involved were paid by their employers. The construction material supply needs were drawn up by Martić, Dmitrović and Zelenbaba.⁵⁴ The fact that Golubić had already been reconstructed in February and the materials for its reconstruction had been supplied at local level indicates that Golubić existed and functioning in full autonomy of any subsequent events and the arrival of Captain Dragan in the region.
38. Witness DFS-14 who was fully acquainted with the events, considering the duty that he discharged in 1990 and 1991, testified that Martić mobilized men into a special police unit established at the beginning of 1991.⁵⁵ Martić was the first commander of that unit which was subsequently taken over by Dragan Karna.⁵⁶
39. Karna organized all of the activities in agreement with Martić, without whose knowledge it was impossible to do anything.⁵⁷
40. The special Knin MUP unit in Golubić was formed in December 1990 or January 1991 and its commander was Dragan Karna.⁵⁸ The unit was made up of local staff and when not engaged on the field, it performed various tasks within the Knin SUP.⁵⁹
41. The Knin MUP special unit in Golubić was stationed there before April 1991 when JF-031 came to Golubić. The unit was under the command of Dragan Karna.⁶⁰ Dragan Karna was at the same time the commander of the unit and the commander of the Golubić centre.⁶¹ At the

⁵⁴ tt.12956-12962,12964

⁵⁵ tt.15788,7336-7337

⁵⁶ tt.15788

⁵⁷ tt.18191

⁵⁸ tt.13014-13015

⁵⁹ tt.13015

⁶⁰ tt.7438,7336

⁶¹ tt.7439,7348

time when JF-031 arrived, Captain Dragan was not in Golubić, according to the recollection of this Witness, he arrived there around 15 May 1991.⁶²

42. Thus, JF-041 acknowledges that the Knin SUP special unit in Golubić had been stationed there much earlier than 31 March 1991,⁶³ that is, before the arrival of Captain Dragan in Knin.
43. Dragan Karna confirmed that the unit existed in Golubić before the arrival of Captain Dragan. The unit participated in the combat in Plitvice on 31 March 1991, while Captain Dragan's activity was registered only on 15 May 1991.⁶⁴ Of special importance is the fact that Karna provided information on this unit immediately after the event, much before the indictment in this case.
44. Allegations on the formation of this unit and Karna's role were also confirmed by DFS-10.⁶⁵ He stated that Captain Dragan had arrived in the second half of the May 1991.⁶⁶
45. Witness JF-031 testified that basic infantry training was conducted in Golubić and that it was essentially the same kind of basic training conducted in the JNA.⁶⁷ Witness DFS-10 stated that the training conducted after the arrival of Captain Dragan was something everybody already knew.⁶⁸ Dragan Karna remained the commander of the unit even after the arrival of Captain Dragan.⁶⁹
46. With Captain Dragan's arrival, Golubić's complete organization was already in place, and nothing changed.⁷⁰ The only action in which Captain Dragan took part was the action at Ljubovo.⁷¹

⁶² tt.7440

⁶³ tt.8004

⁶⁴ D117

⁶⁵ tt.18184

⁶⁶ D117,tt.18186

⁶⁷ tt.7436-7437

⁶⁸ tt.18187-18188

⁶⁹ tt.18188

⁷⁰ tt.18191-18192

⁷¹ tt.18192

47. The Defence notes that the MUP Special Units of the Serbian Autonomous District (SAO) Krajina named Krajina Police (“Milicija Krajine”) was formed by decision of the SAO Krajina Assembly on 29 May 1991.⁷² These units were placed under the authority of the Ministry of Defence.

48. Witness JF-041 confirmed that the Krajina MUP special unit was placed directly under the command of the JNA 75th Motorized Brigade and that it got its arms and other supplies from this unit.⁷³ Of particular importance is the fact that the unit was resubordinated after the initial conflicts, in September or October 1991⁷⁴, i.e., much before the events referred to in the indictment against Simatović.

49. Finally, Dragan Karna was still in command of the special unit in 1994.⁷⁵

50. The Defence concludes that the evidence presented hereinabove unequivocally indicates that:

- The Golubić centre was established either at the end of 1990 or at the beginning of 1991, in any case before the arrival of Captain Dragan in Knin, i.e. Golubić. This Centre served as a training centre for the police unit that was stationed there;
- A special police unit was formed, also before the arrival of Captain Dragan, most probably at the end of 1990;
- All of the activities in Golubić were inextricably linked with the activities of Milan Martić, while the commander of the centre and the commander of the unit was Dragan Karna;
- The training delivered in Golubić was the kind of basic infantry training that was conducted in the JNA as well.

51. The indictment against Simatović alleges that in or about April 1991 Simatović helped to establish a training centre in Golubić, near Knin. It also alleges that at this training centre Simatović organized, supplied, financed and supported the training of Serb forces.⁷⁶ In addition, the Prosecutor alleges that Simatović was actively involved in the establishment of

⁷² P1117

⁷³ tt.8006-8007

⁷⁴ tt.8006

⁷⁵ tt.13039

⁷⁶ Third Amended Indictment, para.3

the first training centre in Golubić.⁷⁷ The Defence contends that all of these allegations are entirely incorrect.

52. The Golubić centre existed even before Simatović's arrival in Knin on an intelligence assignment. Simatović could not have helped establish a centre that had already been established, in which training was well underway, in which a special unit was stationed that was fully equipped, armed and already engaged in combat activities. The Centre had already been formed and was operative under the direct command of Milan Martić through Dragan Karna. Milan Martić in turn acted in full autonomy with respect to Simatović. There is no evidence linking Martić's activity with that of Simatović. All of Martić's contacts with the Serbian leadership were unfolding regardless and without the involvement of Simatović.

D. FUNDING

53. Franko Simatović is also being charged with financing the training of Serb forces and funding Serb forces in Croatia and Bosnia and Herzegovina.⁷⁸ Taking into account the position that Simatović held from 1991 to 1995, he could not have had any influence on the financing that was pled in the Indictment.

54. Immediately after the creation of SAO Krajina, Milan Martić issued decisions concerning the funding thereof and the earmarking of funds from the financial system of the Republic of Croatia.⁷⁹ Initially, the Krajina authorities were funded from donations.⁸⁰

55. Until the month of December 1990, the police in Knin was being paid from Zagreb. After December 1990, the reserve police staff was paid by the companies in which they were employed, while the active police was paid from donations, either in money or in food products. The funds for the police were being raised in the villages and companies in Krajina.

⁷⁷ Prosecution's Consolidated Pre-Trial Brief, para.63

⁷⁸ Third Amended Indictment paras.3,5

⁷⁹ P1957

⁸⁰ tt.16692-16693

Radio Knin kept on publicly broadcasting information about this. The money collected through donations was brought to the Knin police station and distributed there.⁸¹

56. How the funds raised through donations would be used was decided by Martić and his associates.⁸²

57. [REDACTED].⁸³ [REDACTED].⁸⁴ [REDACTED].⁸⁵ [REDACTED]⁸⁶

58. Witness JF-040 testified that the SAO Krajina TO Staff received funding from the Ministry of Defence of the Republic of Serbia through the Payments Service (SDK) in Knin. The money was provided through commercial banks as well.⁸⁷

59. The Defence acknowledges that there is evidence that the Federal Republic of Yugoslavia and the Republic of Serbia granted financial support to the Republic of Srpska Krajina. However, the Defence calls attention to the fact that all agreements, and all requests were made at a level far above that of Franko Simatović in the period from 1991 to 1995.

60. On 19 June 1992, the RSK Minister of Finance requested funds from the FRY Federal Government for financing social and other services in RSK. The request concerned an amount of approximately 13 billion dinars that were to be paid to the Krajina budget.⁸⁸

61. The budget deficit of Republika Srpska Krajina was covered by the National Bank of Yugoslavia. The agreement on covering the deficit was made between Slobodan Milošević and the prime minister of Krajina.⁸⁹

62. Various aspects related to the financing of the Republic of Srpska Krajina were discussed in detail at the meeting of the Supreme Defence Council on 16 March 1994, in the presence of

⁸¹ tt.15865-15868, D322 paras.52-53

⁸² tt.12966

⁸³ [REDACTED]

⁸⁴ [REDACTED]

⁸⁵ [REDACTED]

⁸⁶ [REDACTED]

⁸⁷ tt.6855-6856

⁸⁸ P2047

⁸⁹ P2055

Slobodan Milošević, Zoran Lilić, Momčilo Perišić and other top officials. The FRY Federal Prime Minister Radoje Kontić spoke about additional funding for the RSK police, public education and health care.⁹⁰

63. Milan Martić sent a letter to Zoran Sokolović, Minister of the Interior of the Republic of Serbia requesting that the money for the needs of MUP RSK be transferred directly to his ministry rather than through the SDK. Martić too confirmed that the greatest part of the defence had been funded from the army budget.⁹¹ This letter was sent at the beginning of 1992 and evidently referred to the funding modalities of the Krajina MUP in 1991. Franko Simatović, who was at least four levels of management below Minister Sokolović could not have influenced in any way or even known about the decisions of ministers and other top state officials with regard to the financial support to Krajina.
64. The Defence Minister of the Republika Srpska Krajina agreed with the Serbian Defence Minister on the manner in which the funds would be transferred, taking into account the disruption of the payment system. Spanović agreed on transferring 90 million dinars to cover the needs of this ministry.⁹²
65. Milan Martić, as the RSK Minister of the Interior in 1993 sought help from Slobodan Milošević, Nikola Šainović and Zoran Sokolović. Martić stated that RSK had no funds in its budget and also that Milošević and the other were certainly aware of this.⁹³ This document indicates that Martić and Milošević had been in direct contact, it also shows that agreements were being made far above Simatović, and finally that any and all allegations that Simatović had been the channel of communication between Belgrade and Knin are entirely without foundation.
66. With regard to the funding of activities in Knin, the Defence believes that the evidence unequivocally points to the fact that in the initial period, Krajina relied on funding collected by the Krajina municipalities as well as on donations. Donations were granted by villages,

⁹⁰ D679 p.22-23

⁹¹ P1889

⁹² P1683

⁹³ P1552

companies, emigrants abroad, companies from other parts of the former state. Martić's own financial situation reflects the volatility and instability of the financing system. The Defence emphasizes that evidence indicates that the Krajina Police had no steady source of funding, which rules out the possibility that the Serbian SDB was involved in the funding.

67. After the initial period, it is evident that the Federal Republic of Yugoslavia and the Republic of Serbia provided financial support to Krajina, and the Krajina Police. However, the support was discussed and agreed upon at the highest state level. The decision on the support was made at the FRY Supreme Defence Council, requests were sent to the Serbian Defence Ministry, the FRY Federal Government and the National Bank of Yugoslavia. The evidence that the Defence presented herein with regard to that support was discussed and decided by Slobodan Milošević, President of the Republic of Serbia, Momčilo Perišić, Chief of the General Staff of the Yugoslav Army and Zoran Lilić, President of FRY.

68. Franko Simatović had no contact with the highest state officials. Simatović was far below these people in the state hierarchy of the FRY and Serbia. There is no evidence whatsoever that Simatović has ever met with Milošević, as the President of Serbia, or with Lilić, as the President of Yugoslavia. Should the Trial Chamber find that funding had been provided to certain institutions or organizations in Krajina, this could not have been in any way connected with Simatović. Simatović did not belong to the circle that made decisions on state policy, or any aspects of it, including financing. Simatović did not possess any funds, not within the SDB either. The position that he occupied in 1991 rules out that he could have had any financial means that could have been used to finance "Serb forces", as the Prosecutor alleges. The funding of entities, the state or armed formations did not and could not have been connected in any way to an employee of the Republic of Serbia SDB holding the title of senior inspector, in charge of the lowest organizational unit in the SDB Belgrade centre. This is the reason why the Defence concludes that Simatović cannot be held accountable in any way for the funding, as is set forth in the Indictment against him.

E. ŠKABRNJA

69. The Third Amended Indictment holds Franko Simatović accountable for the events that transpired in Škabrnja in November 1991, alleging that the members of Martić's police, JNA

and local Serb TO attacked the village of Škabrnja near Zadar and on 18 November 1991 killed at least 38 civilians of non-Serbian nationality in their homes and on the streets.⁹⁴

70. The Defence contends that Franko Simatović had no part in the event in Škabrnja. First of all, at the time of the events in Škabrnja, Simatović had already been outside the territory of the Krajina for several months, as already stated in the relevant section of this brief. The Defence contends that the genesis of events in this village, presented by the Defence herein, clearly indicates that no responsibility can be attributed to Simatović for the events in Škabrnja.
71. The Defence contends that the explanation of the events in Škabrnja must be sought in the context of the JNA activity in the wider area of Zadar, Šibenik and Knin. In fact, in the summer of 1991, a major shift happened in the relation of the Croat authorities with the JNA. In July, and especially in August 1991, after president Tuđman and the Croat authorities called on the JNA to withdraw from Croatian towns, the JNA was given an ultimatum that led to a further escalation of the situation. The JNA garrisons were placed under a blockade by the Croat MUP and National Guards Corps (ZNG), meaning that the members of JNA in the garrisons were left without any water and power supplies.⁹⁵ In Zadar alone, three large army garrisons and several smaller ones were all placed under a blockade.⁹⁶
72. After negotiations failed, in early October 1991, the JNA launched activities to lift the blockade of the garrisons. Because of the overwhelming supremacy of the JNA forces, the blockade was lifted on 4 October 1991.⁹⁷
73. The blockade of the garrisons in Zadar was lifted following an order by the commander of the JNA 9th Corps, General Vladimir Vuković. On 3 October 1991, General Vuković issued an order to all units subordinated to the command of the 9th Corps to launch an attack along the axis Knin-Benkovac-Zadar, targeting the Croat MUP and ZNG forces, in order to fend them off the communication routes, block the city of Zadar, break through to the port of Zadar and lift the blockade from the military installations thus creating the conditions to pull out

⁹⁴ Third Amended Indictment, para.32

⁹⁵ tt.16688-16689

⁹⁶ tt.16689

⁹⁷ tt.16725

personnel, equipment and population while at the same time taking control of the occupied territory.⁹⁸ In the attack on Zadar, General Vuković deployed substantial Corps forces, specifically the armored, artillery and mechanized units⁹⁹ backed by the air force and artillery units.¹⁰⁰

74. The attack on Zadar shows that the JNA, with its sizeable combat technology, engaged in direct combat with the Croatian forces. All other forces on the ground with combat potential were insignificant in comparison with the 9th Corps forces that had several motorized brigades adequately backed by artillery and aviation. The 9th Corps was a dominant force in that area that had a decisive impact on the course of events on the ground.
75. Škabrnja was located in the immediate vicinity of the Knin – Benkovac – Zadar road along which the attack had been launched, but was not occupied in the attack that took place in early October 1991.¹⁰¹
76. The Benkovac-Zadar road, along which Škabrnja is located, became strategically important for the JNA after the operation in October 1991 because it was used to access the Zemunik military airport. This road had frequently been under attack from Škabrnja, and both military and civilian vehicles were targeted by these attacks.¹⁰²
77. The attacks of the Croat forces from Škabrnja were an evident problem for the JNA in that area. The issue of Škabrnja was discussed at a meeting where Chief of Staff of the Knin Corps, Colonel Mladić was present. With regard to the Škabrnja problem Mladić said that strategically speaking it was impossible to have the Benkovac-Zemunik airport stretch of the road unserviceable and that the army had to react.¹⁰³ Witness Aco Drača was present at the meeting and testified about the position that Mladić took at this meeting.

⁹⁸ D674:item 4

⁹⁹ D674:item 5

¹⁰⁰ D674:item 6

¹⁰¹ tt.16726

¹⁰² tt.16728

¹⁰³ tt.16732

78. Colonel Mladić even made an entry in his diary on his decision and opinion with regard to Škabrnja. The entry of 17 November 1991, under the title “Tasks”, reads that “180th Brigade should move the armoured battalion a little towards Škabrnja and Nadin – to erase that”.¹⁰⁴
79. Thus, on the day before the attack on Škabrnja, Colonel Mladić selected the unit that was to carry out the attack and determined the manner in which the attack would be conducted – “to erase that”. At the time, Colonel Mladić was the Chief of Staff of the JNA 9th (Knin) Corps, and the events that unfolded clearly prove that the decision to attack Škabrnja was made by the JNA command staff in that area.
80. Mladić’s words were heard and confirmed by Aco Drača, who attended the meeting of 17 November 1991 at which the Škabrnja problem was discussed.¹⁰⁵
81. On the same day, 17 November 1991, Mladić made an entry on his meeting with the Knin Corps Commander in his diary, which reads: “Meeting with the commander. To be completed in combat: Properly mop up the sectors of Nadin, Škabrnja. (If necessary work for two days) The chief of staff of the 180th Brigade made preparations.¹⁰⁶ It also reads that a Military Police (VP) company was to be dispatched APCs.¹⁰⁷
82. The attack that was planned and ordered by the command of the 9th (Knin) Corps was launched on the following day, although the representatives of the civilian authorities in Benkovac proposed to solve the Škabrnja problem through peaceful means.¹⁰⁸
83. The attack on Škabrnja was launched on 18 November 1991, after two members of the JNA forces had been killed.¹⁰⁹
84. The command of the 180th brigade notified the command of the 9th Corps of the attack in its report of 18 November 1991. The report reads “the operations carried out so far according to

¹⁰⁴ p.3078

¹⁰⁵ tt.16734

¹⁰⁶ P2928 page 2,tt.16734

¹⁰⁷ tt.16734

¹⁰⁸ tt.16737

¹⁰⁹ tt.15737

the plan”.¹¹⁰ The report confirms that the JNA had a plan to attack Škabrnja, which also corresponds with Mladić’s entry as well as with Aco Drača’s testimony.¹¹¹ The report confirms that the JNA planned and carried out the operation in compliance with the decisions of its superior commands.

85. Of particular interest is the fact that the command of the 180th Motorized Brigade informed its superior command that “there were no events out of the ordinary” on 18 November 1991 in its area of responsibility.¹¹² The command of the JNA brigade that carried out the attack on Škabrnja reported that there were no extraordinary events on that day of 18 November 1991. The Defence can only interpret this formulation of the 180th Brigade Command as an attempt to cover up the event in which the units under its command participated.
86. The same report also indicates the line that was reached in the first day of the attack¹¹³ and states that activities would continue on the next day, in the early morning hours in the sector of the villages of Škabrnja and Nadin.¹¹⁴
87. The action in Škabrnja continued the following day as well.¹¹⁵ As stated hereinabove, General Vuković and Colonel Mladić planned two days for the activities in Škabrnja.
88. The attack of 18 November 1991 had not been the first attack of the JNA on Škabrnja. The JNA had heavily bombed Škabrnja before 2 October 1991 as well, and the attack that was carried out to lift the blockade from Zadar.¹¹⁶ On 2 October 1991, the JNA shelled the entire village of Škabrnja and surrounding villages. Škabrnja stretches over 7 kilometers in length and the JNA shelled it with all available means, artillery weapons, mortars and aviation.¹¹⁷ The attack on Škabrnja and the surrounding villages on 18 November 1991 was carried out with the same weapons and in the same way.¹¹⁸

¹¹⁰ D675 item 5

¹¹¹ tt.16739-16740

¹¹² D675 item 3,tt.16747-16748

¹¹³ D675 item 5

¹¹⁴ D675 item 6

¹¹⁵ tt.16741

¹¹⁶ tt.2360

¹¹⁷ tt.2360-2361

¹¹⁸ tt.2375

89. Witness Marko Miljanić, a former JNA officer who organized the defence of Škabrnja confirmed that the attack on Škabrnja had been a strategic action conducted under the command and control of the JNA.¹¹⁹ Witness Miljanić stated that during the attack of 18 November 1991 he had overheard the conversation between JNA commanders, specifically Colonel Ratko Mladić and Colonel Cecović, Commander of the JNA 180th (Benkovac) Brigade.¹²⁰ Witness Miljanić also confirmed that the JNA had used a strategic action known as “pliers” in military terminology he was acquainted with because he had 23 years of service in the JNA.¹²¹
90. Miljanić also testified that the manner in which the helicopters taking part in the action landed and the manner in which the soldiers disembarked and took combat position was typical for the JNA.¹²² Finally, this witness confirmed that the type of operation carried out in Škabrnja required a high level of coordination between all branches and services involved, and that the only structure that could provide this type of coordination was the command of the JNA in charge of that area.¹²³
91. Aco Drača gave an accurate account of the units that participated in the attack on Škabrnja stating that this was the 180th Brigade from Benkovac reinforced with a Benkovac TO company subordinated to the command of the JNA 180th Brigade.¹²⁴ A JNA 63rd Parachute Brigade from Niš that had state-of-the-art equipment and wore red berets also participated in the attack.¹²⁵
92. The events that were to unfold after the attack of 18 November 1991 also indicate that the action was planned and carried out by JNA units and command.
93. Already on 20 November 1991, the Command of the Military Naval District (VPO) in Split conveyed the request of the Croat side and the European Community’s observation mission to the JNA 9th Corps Command that Škabrnja and Nadin must be visited at once because a crime

¹¹⁹ tt.2399-2400

¹²⁰ tt.2399-2400

¹²¹ tt.2386

¹²² tt.2420-2422

¹²³ tt.2427

¹²⁴ tt.16746-16747

¹²⁵ tt.16757-16758

had been committed there against 30 people. The VPO Command replied to the European Community's observation mission that visiting the area would not be possible since combat action was in progress. The mission of the European Community requested a report from the JNA, so the VPO asked the Command of the 9th Corps to deliver this report by 21 November 1991.¹²⁶ This document shows that the JNA strategic command level had been notified about the events in Škabrnja by 20 November 1991 at the latest and that they sought a report from the 9th Corps Command as the responsible command. A fact of particular significance is that the VPO Command refused to allow the European Community's observation mission to visit Škabrnja.

94. Mladić made an entry in his diary on 22 November 1991, entitled "problems", which reads: "looting and burning, (Colonel Tolimir)".¹²⁷ Immediately after the action in Škabrnja and Nadin, the Chief of Staff Mladić and Chief of Security of the Corps were notified about the looting and torching. Škabrnja and Nadin were clearly located in the area of responsibility of these JNA commanding officers, these commanding officers knew about the criminal conduct, and it was their responsibility to act accordingly and take the necessary precautions to protect the people and property.
95. In his diary, Mladić entered information about the victims in Škabrnja. He wrote: "46 members of the ZNG and civilians were killed in Škabrnja. In Škabrnja, even grannies fired from hunting rifles on the army".¹²⁸ The Defence interprets this entry as information that Mladić got from the Commander of the 180th Brigade. This entry reveals several important facts. Firstly, that the Knin Corps Command knew that civilians had been killed in its area of responsibility. This entry proves that the army participated in the action. It also shows some kind of an attempt to find a justification for the killing of civilians because, allegedly, "grannies fired on the army". The Defence concludes that the Commander of the 180th Brigade, instead of launching a decisive and serious investigation against the perpetrators, was looking for reasons and justifications for the civilian casualties.

¹²⁶ P1203

¹²⁷ tt.16748-16749

¹²⁸ D1474 p.9

96. On that same occasion, Mladić made another entry concerning his position on the killing of civilians. He wrote that proceedings should be instigated if the norms of international law on war crimes and law on armed forces had been violated.¹²⁹ Mladić's entry clearly shows that he has the power to instigate an investigation. Evidently this power is vested in the military authorities, which is also confirmed in Mladić's notes and subsequently by the investigative steps undertaken by the military authorities. His entries also show that according to available information the perpetrators were members of the armed forces, as Mladić mentions a violation of the law on armed forces. Mladić says "instigate proceedings" which leads to the conclusion that Mladić, i.e. the Corps Command has the authority and the instruments to instigate and conduct such proceedings.
97. Mladić stated his position with respect to the victims from Škabrnja. Mladić visited the prisoners from Škabrnja in the Knin prison and said that whoever wanted to build Croatia on the bones of his father will end as the people in Škabrnja. He also stated that the prisoners taken in Škabrnja would not be released from prison as long as he was in that area. The Škabrnja prisoners were exchanged only after Mladić went to Bosnia.¹³⁰
98. Finally, in his notes Mladić clarified who ordered the action, who conducted the action, who participated therein and who was responsible for the killing of civilians. Mladić wrote: "the Chief of Staff of the 180th Brigade must not lead the operations on his own. The Corps Command has made a mistake when it ordered an attack on Škabrnja and Nadin".¹³¹ This entry was made directly in the context of the information on the killing of civilians. This entry shows that the attack had been ordered by the Corps Command, that the Chief of Staff of the 180th Brigade personally led the action, and that the action was assessed as wrong. A senior JNA officer hereby directly accepts responsibility for the attack on Škabrnja and its consequences. This fact was directly confirmed by the event that ensued.
99. In fact, the JNA as the only instance of authority, launched an investigation on the events in Škabrnja and Nadin.

¹²⁹ D1474 p.9; tt.16749

¹³⁰ P1803 p.6

¹³¹ D1474 p.10

100. A fact of particular relevance in this context is the order of Commander of JNA 9th (Knin) Corps, General Vladimir Vuković, of 20 October 1991. To prevent crimes from happening in the Corps' objective area, General Vuković issued an order regulating in detail the matter of subordination, obligations and responsibilities in preventing the perpetration of crimes.¹³²
101. First of all, by this order, all armed units, including volunteers and members of the TO were subordinated to the command of the JNA units in the rank of regiment – brigade.¹³³ Pursuant to this order, a local TO unit participated in Škabrnja under the command of the brigade.¹³⁴ In addition, the orders were that all criminal charges against any individuals suspected of committing crimes were to be filed through the nearest JNA command unit in the combat and responsibility area.¹³⁵ Lastly, Vuković ordered the subordinate units to arrest the perpetrators of crimes over which the military court has jurisdiction and hand them over to the JNA military police in Knin.¹³⁶ This order was in line with Mladić's note on instigating proceedings in case of violations of international law on war crimes and law on armed forces. Therefore, in his order, General Vuković addressed the issue of subordination, the issue of accountability and of the jurisdiction to prosecute perpetrators in the Corps combat area and this jurisdiction was unequivocally conferred to the military authorities and command.
102. In accordance with the order of General Vuković and Mladić's diaries, the military investigators that had exclusive jurisdiction conducted the investigations in the Škabrnja case.
103. Firstly, on 1 December 1991, the authorized official of the Benkovac military police made an official note that was a written account of the events in Škabrnja. The military police made a detailed list of casualties, of the locations where their bodies were retrieved and of the findings on the scene of the event. Attached to the note was a drawing of the places where the bodies had been retrieved.¹³⁷ This document also confirms that the military police had the jurisdiction to conduct the investigation.

¹³² D111

¹³³ D111 item 1

¹³⁴ tt.16747

¹³⁵ D111 item 4

¹³⁶ D111 item 5

¹³⁷ P1211

104. The contents of this document are also validated by Aco Drača, who testified that the 180th Brigade had authority over the events in its combat zone and that no other service had the right to be there under those circumstances. Drača stated that neither the public security nor the state security in Benkovac had the authority to conduct an investigation of those events.¹³⁸

105. [REDACTED].¹³⁹ [REDACTED]¹⁴⁰ [REDACTED].¹⁴¹ [REDACTED]¹⁴²
[REDACTED]¹⁴³

106. The Defence concludes that the events in Škabrnja cannot in any way be linked to Franko Simatović. First of all, Simatović was not in Krajina at the time of the event, and had in fact left the territory of Krajina several months before the event occurred. Simatović did not take any part either in planning or directing and controlling the events in Škabrnja referred to herein, either before, or during the event itself. The Škabrnja operation is entirely linked to the JNA. The JNA had a history of powerful attacks on this area even before 18 November 1991. Also, the reasons for the attack are related to the problems that the JNA had in securing road communications between its units. The JNA was the dominant force on the ground and through special orders subordinated all other armed formations under its command. The JNA command planned, recruited forces, and conducted the attack. The JNA analyzed the attack, drew conclusions, and launched an investigation. The highest command authorities in the JNA had been informed about the events as soon as 20 November 1991. There is not a single piece of evidence that would indicate that Simatović had either wanted the attack, or that he had known about the attack and its consequences. Not a single piece of evidence that would prove that Simatović was in any way responsible for the forces that took part in the attack. Finally, there is not a single piece of evidence that would suggest that Simatović was responsible for conducting an investigation or punishing the perpetrators, or that he had any

¹³⁸ tt.16752-16753

¹³⁹ [REDACTED]

¹⁴⁰ [REDACTED]

¹⁴¹ [REDACTED]

¹⁴² [REDACTED]

¹⁴³ [REDACTED]

connection at all with the perpetrators. It is simply not possible to establish any link between Simatović and the events that transpired in Škabrnja in November 1991.

F. NADIN

107. The village of Nadin is located in the immediate vicinity of Škabrnja and no combat activities had taken place there because the Croat forces had withdrawn from Nadin. On the night between 19 and 20 November crimes were committed, for the purpose of looting. The investigation of these events was conducted by the military security of the 180th brigade. The military security sought the assistance of the public security from Benkovac to conduct the investigation, but the perpetrators were not found.¹⁴⁴

G. BRUŠKA

108. It is stated in the indictment that on 21 December 1991 members of Martić's Police entered the village of Bruška and the hamlet of Marinović where they killed ten civilians, including nine Croats.¹⁴⁵

109. Witness Aco Drača was able to give a detailed account of the events in Bruška of 21 December 1991, since one of the persons killed on that occasion was his close relative Svetozar (Sveto) Drača. On the evening of 21 December 1991, Aco Drača found out about the event, and the public security in Benkovac had been informed about it as well. On the following morning, the public security from Benkovac went to Bruška to examine the scene-of-crime. There had been no armed conflicts in Bruška because the village was located far behind the line of conflict. An investigating judge from the Benkovac Municipality Court, Savo Štrbac, attended the scene as well.¹⁴⁶

¹⁴⁴ tt.16759-16761

¹⁴⁵ Third Amended Indictment, para.35

¹⁴⁶ tt.16760-16761

110. Representatives of civilian authorities from Benkovac also attended the scene to assist the survivors. Martić asked Drača to brief him on the event, and said that such incidents needed to be avoided at all costs. He held the chief of security of Benkovac responsible for not making sure that the population was safe. After the event, Martić dismissed the chief of security of Benkovac. The inhabitants of Bruška requested that Zdravko Zečević pay them a visit, and he did, he tried to calm them down and convince them that they would be safe in their village.¹⁴⁷
111. However, the villagers requested to be taken to the Red Cross in Zadar and Benkovac and left the village.¹⁴⁸ The survivors were transferred to the Knin hospital where they gave statements to the public security as part of the investigation.¹⁴⁹
112. Drača testified that a serious investigation had been conducted and that several dozens of suspects had been interrogated. [REDACTED].¹⁵⁰
113. That there had been a personal motive for committing this crime was also evidenced by the fact that the first victim, Dragan Marinović, knew the person who broke into his home because the latter asked him: “Dragan, what are you doing in Boro’s house?”¹⁵¹ Personal motive is also evidenced by the fact that one of the victims was a Serb national, Sveto Drača, the village postman,¹⁵² and a close relative of the chief of security of Krajina in Benkovac at the time, Aco Drača, as mentioned previously.
114. The only indication of any link of this crime with the “Krajina Police” is the voice that Witness Denona heard when the persons were banging on the door of her house.¹⁵³ Witness Ante Marinović allegedly saw the insignia of the “Krajina Police” on their sleeves¹⁵⁴, but there is no data in his witness statement that would confirm who these persons were, or if they belonged to some armed formation and which one.

¹⁴⁷ tt.16761-16763

¹⁴⁸ tt.16764

¹⁴⁹ tt.16765,P43,P44

¹⁵⁰ [REDACTED]

¹⁵¹ P37 p. 3

¹⁵² P37 p. 2

¹⁵³ P37 p.2.

¹⁵⁴ P490 p.3

115. The reaction of the public and state security as well as that of Martić and Zečević, and the investigation carried out all indicate that this crime can only be explained by personal animosity between some of the victims and the perpetrators. The only evidence about the suspects are those provided by Aco Drača, whose relative was among the victims, who decidedly stated that the suspects had no connection with the Krajina Police or the Golubić centre. The competent authorities, including the investigating judge, conducted an investigation. Also, they attempted to keep the residents in their homes, however, the latter were transferred to Zadar with the assistance of the Red Cross.
116. Simatović cannot be linked to this crime in any way, either directly or indirectly.

H. SABORSKO

117. The indictment against Simatović alleges that on 12 November 1991, members of Martić's police, JNA and local Serb TO units entered the village of Saborsko where they killed at least twenty Croat civilians there and razed the village to the ground.¹⁵⁵
118. The Defence contends that the events in Saborsko have nothing to do with Simatović.
119. Prosecution Witness JF-006 stated that the Serb forces that subsequently participated in the attack on Saborsko were being organized and armed in his village. The Witness alleges that he was mobilized into the TO in August or September 1991. In November 1991, the JNA arrived and formed the Plaški brigade. The JNA also brought new, state-of-the-art arms for the brigade and supplied it with six to eight tanks, five or six APCs, three 130mm howitzers, 120mm mortars, a B-1 cannon and 10 anti-aircraft weapons. [REDACTED]. The JNA also supplied the ammunition and uniforms.¹⁵⁶
120. The Defence considers the statements concerning the supply of arms to this brigade by the JNA to be of particular relevance. The tanks, APCs, guns, mortars were supplied by the

¹⁵⁵ Third Amended Indictment para.31

¹⁵⁶ [REDACTED]

JNA. The arguments as well as the evidence tendered by the Prosecution in the context of its allegation that Stanišić and Simatović participated in arming the Serb forces are without foundation. In addition to being unfounded, the evidence against Stanišić and Simatović also appears insignificant and irrelevant in the context of the role and importance that the JNA had in supplying arms. There can be no comparison between the tanks and guns supplied by the JNA to the Serb forces and the other sources of arms supply of the Serb forces. The tanks and guns, including the full armament of a brigade numbering several hundred members with state-of-the-art military equipment, enabled the Plaški brigade for their activities, including the activities related to Saborsko. The arms supplied by the JNA were the tipping point between the sides in the armed conflict. Without the JNA, the Plaški brigade would have been just a village unit on local guard duty. With the JNA, the Plaški brigade was a fully armed unit capable of carrying out offensive action against Croat forces in the area.

121. JF-006 also explained how the units he belonged to were funded. The funding started coming in when the JNA formed the Plaški brigade, the wage he received was insignificant and had to be spent immediately because it was worth nothing on the following day.¹⁵⁷
122. Witness JF-006 also describes the manner in which the attack on Saborsko was planned and ordered. [REDACTED].¹⁵⁸
123. The attack on Saborsko started on 12 November 1991 with the deployment of military air force and artillery.¹⁵⁹
124. The Prosecution attempted to establish a connection between the attack on Saborsko and the training in Golubić, near Knin. Several young people from Plaški attended the training in Golubić.¹⁶⁰ They spent two or three weeks in Golubić and then went back with automatic weapons. However, the police in Plaški had automatic weapons even before the conflict broke

¹⁵⁷ P103 p.3

¹⁵⁸ [REDACTED]

¹⁵⁹ P103 p.4

¹⁶⁰ P105 p.2749

out.¹⁶¹ Automatic weapons were also in the possession of police officers that came to the Plaški area from Ogulin.¹⁶² In total, around 20 men had been trained in Golubić.¹⁶³

125. The fact that around 20 people were trained in Golubić for two or three weeks is of little or no relevance. More than a thousand soldiers participated in the attack on Saborsko, Saborsko was attacked by JNA aviation, JNA artillery and JNA tanks. Twenty police officers with twenty days of training and the kind of rifles that everyone in that region had could not have had any impact on the success or failure of any action, and least of all the action in Saborsko. The measure of their participation and the measure of their input in the events in Saborsko cannot in any way be likened to the role and input of the JNA units and command. Finally, [REDACTED]. This is of particular relevance in light of the fact that there is no evidence that any of the members of the group that was in Golubić committed any kind of crime.

126. The Defence also reiterates that at the time of the events in Saborsko there was no “Martić militia” or other police force. With the establishment of SAO Krajina, Martić became minister of the interior and all police forces were integrated into the SAO Krajina MUP.¹⁶⁴ In the attack on Saborsko, all police forces were under the command of the Commander-in-Chief of the brigade, who made all the decisions.¹⁶⁵

127. The Defence notes that the police unit from Plaški that participated in the attack on Saborsko took part in the combat that took place on the outskirts of the village and then withdrew. The police set off to Saborsko at the time when it was already visible from afar that Saborsko had been torched and was gone.¹⁶⁶ This unit was also under the command of the JNA.¹⁶⁷

¹⁶¹ tt.2460-2461

¹⁶² tt.2462-2465

¹⁶³ tt.2443

¹⁶⁴ [REDACTED]

¹⁶⁵ tt.2515-2517

¹⁶⁶ D6 p.2,3

¹⁶⁷ tt.2495

128. [REDACTED].¹⁶⁸ [REDACTED].¹⁶⁹ Several dozens of documents are listed in support of this allegation in the attachment to the criminal charges of the Croat MUP.
129. [REDACTED].¹⁷⁰
130. Witness JF-006 confirmed that he had seen houses on fire upon entering Saborsko and confirmed that these structures had been set on fire by the members of JNA and TO forces under the command of Colonel Bulat.¹⁷¹
131. The Defence concludes that the events in Saborsko cannot be linked with Simatović in any way. The JNA established the unit that carried out the attack, the JNA armed this unit with heavy artillery including tanks and guns, the JNA planned the attack, and the JNA directed the attack. The crimes related to Saborsko took place in the JNA operational and authority zone and the JNA authorities and command were obliged to either prevent the crimes or adequately punish the perpetrators.
132. The Prosecutor attempted to implicate twenty people who were trained in Golubić in these events and thus establish a remote and unclear link between these events and Simatović. The Defence reiterates that there is no available evidence indicating which of these people had been in Golubić, whether any of them participated in the attack on Saborsko and who they are, and whether any one of them had committed any crimes, and who they are. As there is no concrete evidence identifying the individuals who committed the crimes in Saborsko, the purported participation of a few police officers with two weeks of training has little weight in the context of the participation of tanks, guns, aviation and thousands of soldiers under JNA command in these events. The measure of these people's role, if they had any, is neglectable in the context of the events that are addressed here.
133. Finally, in the Indictment against Simatović, it is stated that from the beginning of August until 12 November 1991, Martić's police, the JNA and members of the local TO

¹⁶⁸ [REDACTED]

¹⁶⁹ [REDACTED]

¹⁷⁰ [REDACTED]

¹⁷¹ tt.2514-2515

attacked Croat villages of Saborsko, Poljanak and Lipovac.¹⁷² The Defence contends that there is no evidence implicating Simatović in these events, either indirectly or directly.

I. DUBICA, CEROVLJANI AND BAĆIN

134. The Indictment holds Simatović accountable for the events in the villages of Dubica, Cerovljani and Baćin.¹⁷³

135. The Defence reiterates that there is no evidence to indicate that the Accused in this trial had any part in events that took place in the aforesaid villages in October 1991. In his statement, Witness JF-023 attempted to identify the armed people who participated in certain events in the area where he was at the time. Witness JF-023 testified that the bridge between Croatia and Bosanska Dubica was guarded by JNA reserve forces in gray-olive uniforms armed with automatic rifles. [REDACTED].¹⁷⁴ [REDACTED].¹⁷⁵

136. [REDACTED].¹⁷⁶

137. The fire hall in which the detainees were kept, was guarded by reservists in JNA uniforms. [REDACTED].¹⁷⁷

138. [REDACTED].¹⁷⁸ [REDACTED].¹⁷⁹ [REDACTED]¹⁸⁰ [REDACTED].¹⁸¹

139. [REDACTED].¹⁸²

¹⁷² Third Amended Indictment para.28

¹⁷³ Third Amended Indictment para.27

¹⁷⁴ [REDACTED]

¹⁷⁵ [REDACTED]

¹⁷⁶ [REDACTED]

¹⁷⁷ [REDACTED]

¹⁷⁸ [REDACTED]

¹⁷⁹ [REDACTED]

¹⁸⁰ [REDACTED]

¹⁸¹ [REDACTED]

¹⁸² [REDACTED]

140. JF-023 even stated that the main people who run the SDS in Dubica wanted to annex Dubica to Bosanska Dubica in Bosnia and Herzegovina rather than to SAO Krajina. [REDACTED]¹⁸³ [REDACTED].¹⁸⁴
141. The Defence reiterates that evidently there was no clear situation with respect to the organization of power in the Kostajnica and Dubica area. The municipality authorities were in conflict with local strongmen, Martić dismissed a local strongman from the position of police commander but the local strongman still made all the decisions. There was a reserve unit, there was a volunteer unit, and there was the local police. The relations between these structures are unclear, there is no subordination, there is no united action, and there is anarchy in conjunction with mutual conflicts.
142. The Defence wishes to state its opinion that Witness JF-023 testimony was confusing and unreliable. The Witness has no direct knowledge about the armed formation that was responsible for the events in his region. The Witness does not remember his earlier statements.¹⁸⁵ The Witness is confused about the uniforms that armed people in his region wore.¹⁸⁶ The Defence contends that this Witness' testimony cannot be used as a basis for drawing any conclusions concerning the responsibility of the Accused in this case in relation with the events in the Hrvatska Kostajnica area.
143. Not a single piece of evidence links the Accused with the events that transpired in the Hrvatska Kostajnica area. The local police of the local lord of life and death called itself SAO Krajina Police ("Milicija SAO Krajine"), while at the same time the SAO Krajina MUP minister dismissed the local lord and attempted to disband his unit. All of these events had nothing to do with Franko Simatović, neither directly nor indirectly.

¹⁸³ [REDACTED]

¹⁸⁴ [REDACTED]

¹⁸⁵ tt.3941-3943

¹⁸⁶ tt.3944

PART TWO

A. CONSTITUTIONAL AND REGULATORY FRAME FOR THE STAY OF SDB/RDB STAFF OUTSIDE THE REPUBLIC OF SERBIA

144. Franko Simatović's Defence does not contend the fact that Simatović spent some time in the Knin area in 1991. The related circumstances and reasons for his stay in this region are discussed in other sections of this brief. In this section the Defence would like to outline some legal and regulatory provisions that are relevant for understanding the working assignment and tasks that Simatović discharged in Knin, in accordance with the decisions of the SDB/RDB leadership.
145. First of all, the Defence wishes to point out the provisions of the Constitution of the Republic of Serbia of 1990. The Constitution of 1990 was the legal framework for all laws and by-laws that were in force at the relevant time in the territory of the Republic of Serbia. Article 72 of this Constitution instructs and obliges the state authorities of the Republic of Serbia to foster relations with Serbs living outside of the Republic of Serbia for the purpose of preserving their national as well as cultural and historical identity.¹⁸⁷ This Constitutional provision directly instructs and authorizes the authorities of the Republic of Serbia to actively foster relations with Serbs outside Serbia. This provision also sets forth the objective to be achieved by fostering these relations, which is the preservation of national, cultural and historical identity. This provision can also be interpreted as the obligation of the state authorities of the Republic of Serbia to contribute, with its activities, to the achievement of the goal set forth therein – the preservation of identity, in its various forms. The obligation prescribed by the Constitution requires the active coordination between competent state authorities in case of any threat to the values established by this constitutional provision.
146. Here the Defence wishes to emphasize that Simatović staid in Knin as an intelligence officer engaged in the mission described in detail in other sections of this brief, as Simatović's involvement can only be understood through his specific activities which are explained in the appropriate sections.

¹⁸⁷ P1043 Art.72

147. Naturally, constitutional provisions are operationalized through laws and by-laws, and in the case reviewed here, through the Rules on Organization and Work of SDB of 1990¹⁸⁸ and Rules on Internal Organization of RDB in the Ministry of Interior of 1992.¹⁸⁹
148. The Rules of 1990 set forth that the State Security Service also covered work on detecting, monitoring documenting and neutralizing political, intelligence, police and other actions and measures aimed at denationalization and assimilation of Yugoslav people living outside the borders of the SFRY.¹⁹⁰
149. The Rules of 1992, adopted after the Constitution of the Republic of Serbia of 1990, provide a definition of intelligence duties which sets forth that duties in the context of the intelligence service include collecting information, data and intelligence on all forms of threats to the national and cultural and historical identity of Serbs living outside the Republic.¹⁹¹
150. Expert Milan Milošević claims that there is a direct link between the constitutional provision of 1990 and the provisions contained in the Rules. As regards the provisions in the Rules of 1992, Milošević claims that there is even a grammatical similarity between the text of the constitution and the RDB definition of intelligence duties.¹⁹²
151. As stated hereinabove, the text of the Constitution, which applies to all state authorities, was further elaborated in accordance with the description and type of work that the RDB engages in. The Rules of 1992 mention threats to the national, cultural and historical identity of Serbs. As threats to the identity of Serbs are defined elsewhere in this brief, the Defence believes that it will suffice to mention here that the status of Serbs in Croatia was changed from constituent people to national minority.

¹⁸⁸ D829

¹⁸⁹ D817

¹⁹⁰ D795 para.118,D829 Art.42

¹⁹¹ D817 para.122, D817 Art.3

¹⁹² tt.18891

152. The Constitution of the Republic of Serbia and the Rules on Internal Organization of 1992 clearly grant the staff tasked with “intelligence duties” authority to collect intelligence on threats to Serbs, naturally including the possibility to do that, if needed, in Knin too. By default, intelligence duties are focused on activities and intelligence-gathering outside the home country and that is a standard in all secret services worldwide, which will be discussed further hereinafter.
153. The Defence also underlines the continuity of the rules of 1990 and 1992. The obligation of the Service to gather intelligence on any threats to Serbs living outside the territory of their home country is common to both Rules. At the time when the new Constitution of the Republic of Serbia was adopted and when the joint Yugoslav state was dissolved, the Rule of 1990 was applied accordingly to the status of Serbs outside the Republic of Serbia.
154. [REDACTED].¹⁹³ [REDACTED].¹⁹⁴
155. The Defence concludes that all SDB/RDB intelligence activities outside the territory of the Republic of Serbia are grounded in the constitution and the law. The legitimacy of intelligence-gathering activities with respect to threats to Serbs outside of Serbia is unquestionable from the aspect of by-laws as well as of the practices of secret services in overall. It is also indisputable that intelligence is collected by all available means, regardless of the territory, affiliation or origin or characteristics of the information sources. The stay of intelligence officers from Serbia in Knin cannot be denoted as an activity of dubious legitimacy and hidden intentions by any means. The stay of intelligence officers in Knin also entailed establishing and talking to all possible contacts. The Prosecution is trying to misrepresent the communication and contacts that an intelligence officer had as aiding or abetting or even participating in an armed conflict. Intelligence work is a special kind of activity and it is a widely known fact that intelligence activity techniques take the most varied forms. Intelligence work entails the use of specific operative tools such as covert

¹⁹³ [REDACTED]

¹⁹⁴ [REDACTED]

collaboration, surveillance, planting information or disinformation and other. Also, operative work entails operative actions, operative combinations, double combinations and other.¹⁹⁵

156. In this sense, the Defence concludes that stay of Serbian SDB/RDB members in Knin is legal and legitimate. Also, the Defence concludes that intelligence work entails the most varied forms and techniques, and that each activity of an intelligence officer should be evaluated in the context of his position within the service and the working assignment assigned to him by the his superior manager in the service.

B. KRAJINA DB AND RELATIONS WITH SERBIA SDB/RDB

157. In the fall of 1990, the Autonomous District of Krajina did not have any security infrastructure. This means that it had neither operative staff, nor management staff, nor the equipment in the state security domain. All aspects of state security were controlled by the Republic of Croatia at the time. Already in the fall of 1990, Martić planned to set up the Krajina State Security. The developments in and around Krajina led the Serb National Council to form a police ministry which was called the Krajina Police ("Milicija Krajine"). On 5 January 1991, Martić issued a decision on establishing the Krajina Police.¹⁹⁶

158. Martić notified Aco Drača that Dušan Orlović would be managing the State Security Service in Krajina.¹⁹⁷ At the beginning of 1991, Dušan Orlović instructed Aco Drača to form a State Security Service branch for the Municipality of Benkovac and to recruit the personnel, seven to eight operatives, to fill the department.¹⁹⁸

159. The Krajina State Security was financed in the same way as the public security. The Serb National Council appealed to individuals willing to provide donations. All public and state security personnel, regardless of the rank or type of work were receiving an identical salary from the fund that was established with these donations.¹⁹⁹

¹⁹⁵ D239 item 3,4

¹⁹⁶ tt.16689-16691

¹⁹⁷ tt.16691

¹⁹⁸ tt.16692

¹⁹⁹ tt.16692-16693

160. The work of the State Security Service in Krajina in this period was total improvisation. There were no typewriters, let alone technical equipment, or the ability to perform any kind of analyses. The only way information was sourced was by collecting information from the local population.²⁰⁰
161. The situation did not improve even when some intelligence officers from Serbia arrived in Knin. The equipment, personnel and work methods were inadequate. A fact of particular significance is that the State Security Service in Krajina did not get any instructions, orders or directions at any point from the SDB of the Republic of Serbia MUP in 1991.²⁰¹
162. In 1991, the State Security Service in Krajina was under the command of Dušan Orlović. Orlović received instructions for his work from the Serb National Council. Martić also had influence on the work of the Service.²⁰²
163. Initially, Martić was satisfied with the work of the State Security Service but as time went by Martić started to object to the quality of work of the Service and his objections gradually increased. Aco Drača testified that Martić dissolved the Security Service of Krajina.²⁰³
164. The State Security Service of Krajina was dissolved by decision of the SAO Krajina government, with immediate effect on the whole territory of SAO Krajina. This decision had been taken at its 2nd meeting, held on 1 August 1991 and came into effect immediately. The decision was signed by Milan Babić.²⁰⁴
165. At the time when the SAO Krajina government decided to disband the State Security Service in Krajina, Milan Martić was a member of that Government and its Interior Minister. The Defence understands that Drača stated that the decision on disbanding the Service had been made by Martić because the Service was a part of Martić's ministry, and Martić himself was a member of the government which made that decision. The Defence concludes that the

²⁰⁰ tt.16692-16693

²⁰¹ tt.16709-16710

²⁰² tt.16693

²⁰³ tt.16693-16694

²⁰⁴ P1903

decision on disbanding the Security Service in Krajina was a joint decision of the Government, including its most prominent members, Milan Babić and Milan Martić.

166. Witness DST-43 interpreted the decision to disband the State Security Service in the context of Babić's fear of the State Security Service.²⁰⁵
167. The State Security Service in Krajina was formed again only in August 1992, again by decision of Martić in agreement with the political leadership of Eastern Slavonia and Baranja. Martić appointed Slobodan Pecikozić as the Head of the Service.²⁰⁶ The Service was being set up from scratch, people were being recruited, general acts were being drawn up, the structure of the services was formed. A part of the budget funds of the Republic of Srpska Krajina was allocated for funding the State Security Service.²⁰⁷
168. Cooperation with RDB Serbia was resumed only at the end of January 1993, specifically in the context of the large offensive launched by the Croatian army on Ravni Kotari.²⁰⁸
169. The reinstatement of cooperation with the Serbian RDB was approved by Martić, primarily in the context of security background checks of the volunteers that arrived in Krajina to help with the defense. Cooperation was established first of all with the First Administration of the Serbian RDB which was charged with these tasks. The same type of cooperation was also established with the State Security Services of Republika Srpska and Montenegro.²⁰⁹
170. After the cooperation was resumed, Aco Drača was in contact with Mijatović. Cooperation concerned the exchange of intelligence and counter-intelligence as well as certain technical matters.²¹⁰

²⁰⁵ tt.13074

²⁰⁶ tt.16776

²⁰⁷ tt.16777-16778

²⁰⁸ tt.16779

²⁰⁹ tt.16780-16783

²¹⁰ tt.16833

171. Based on the aforesaid evidence, the Defence concludes that the State Security Service in Krajina was formed by decision of Martić at the end of 1990 and beginning of 1991, i.e., a long time before the arrival of Franko Simatović, as the Serbian SDB intelligence officer, in the Knin area. There is no evidence to corroborate that the State Security Service in Krajina was either established by or supported by the Serbian SDB. The work of the State Security Service in Krajina bordered on improvisation, and only a few months later, it was disbanded by decision of the Government. Already at the beginning of August 1991, the State Security Service of Krajina had ceased to exist. Furthermore, the Service did not exist at the time of the events in Škabrnja, Saborsko and in the vicinity of Kostajnica referred to in the Indictment.
172. The Prosecution implies that there was a close link between the state security services of Krajina and Serbia, by concluding that the relation between these two services was not that of cooperation but rather that the State Security Service in Krajina can be considered as a part of the Serbian SDB. The Defence contends that this argument does not correspond to the truth. This was not the case, either in 1991, or later on, because these were two separate services that were oriented to one another and cooperating with each other.
173. Should the Trial Chamber conclude that the State Security Service in Krajina was a part of or a branch of the SDB of the Republic of Serbia, then the role and importance of the State Security Service in Krajina should be the measure of the influence of the Serbian SDB on the events in Krajina. In 1991, the State Security Service of Krajina had worked extemporaneously for a few months before being disbanded in August 1991. It neither operated nor even existed in the key months and at the time of key events on the territory of Krajina. It resumed its activity a year later, at a time irrelevant from the standpoint of the Indictment against Simatović. The only possible conclusion is that at the key time, after August 1991, SAO Krajina did not have a developed State Security Service. This fact coincides with the departure of the Serbian SDB intelligence officers from Knin, which also happened at the beginning of August 1991. The Defence concludes that these facts strongly indicate that Simatović was not involved in any way, either directly or indirectly, in the events that transpired after August 1991.

C. THE ARMORED TRAIN IN KNIN

174. In its case, the Prosecution attempted to establish a connection between Franko Simatović and the armored train that was allegedly made and used in the Krajina region.²¹¹ The Defence contends that the evidence presented clearly shows that Simatović was not in any way connected with that train.
175. Witness Aco Drača has first hand knowledge about this train. He stated that the construction of the armored train was an idea of Blagoje Guska supported by Milan Martić. Guska was the president of the trade union of railway workers in Knin at the time. The TO Command in Knin helped with the construction of this train. On 30 June 1993 the train was baptized, Guska wanted Martić to be the train's godfather, but Martić appointed Drača instead. Nobody mentioned Simatović at this celebration inaugurating the train or in connection with that train. Further to the point, during the celebration, letters of thanks were handed out to all those who were in charge for the train, and Simatović did not get any letter of thanks on that occasion.²¹²
176. [REDACTED].²¹³ [REDACTED].²¹⁴
177. The armored train had no combat value. It served as some kind courage booster for the local population and was not used in combat operations. The construction of the train was funded by the Municipality of Knin and other municipalities in Lika and Dalmatia.²¹⁵ Witness DST-31 also confirmed that Simatović had no connection whatsoever with this armored train.²¹⁶
178. Exhibit P2673 concerns the alleged realization of a project for the construction of armored vehicles. The initials found on the document are supposedly similar to Simatović's. The Defence believes that this document is of no probative value. First of all, Simatović had nothing to do with this train, as was corroborated by witnesses who were very well acquainted with the situation in Knin and Krajina.

²¹¹ P978 para.47,tt.7201,P2673

²¹² tt.16827-16828

²¹³ [REDACTED]

²¹⁴ [REDACTED]

²¹⁵ tt.12773

²¹⁶ tt.12869

179. In addition to that, it is evident that P2673 was not drawn up by Simatović. This document is evidently neither authentic nor reliable. First of all, a photocopy of the document, as the only available copy of the document available, reveals that the stamp affixed to the document has the Croat coat of arms featuring the checkerboard (“šahovnica”) in its central section. It is unthinkable that anyone in Knin, in June 1991, would have put a stamp with a checkerboard on a document like this. This was confirmed by Witness DFS-14.²¹⁷ Furthermore, the document is written in the “ijekavski” dialect of Knin and Kninska Krajina. The words used in the document are not used in the “ekavski” dialect.²¹⁸ In addition, the grammatical form used in this document is also not used in the ekavski dialect.²¹⁹ Witness DFS-14 listed a total of 14 words in this short text that are not used in the "ekavski" dialect.
180. The document also lacks any of the elements that it should have – heading, who authored it, what it refers to in particular and who the addressees are.
181. Here we should also consider the position of the Defence with regard to the activities around Lovinac.
182. The Defence concludes that the armored train was an idea that originated from the people in Knin, that it was constructed and funded by Knin and surroundings. In addition to that, the train itself had no combat value. Exhibit P2673 was not written by Simatović, as evidenced by a whole set of facts, mentioned hereinabove. The document is not authentic. Simatović, who spent his whole life in Belgrade and Serbia, could not have written a document in the “ijekavski” dialect. It is also implausible that anyone in June 1991 in Knin would have stamped a document with a Checkerboard stamp. The Defence believes that the evidence clearly indicates that Simatović had nothing to do with this train, and that the allegations of Witness JF-039 are false.

D. SIMATOVIĆ AS A COMMUNICATION CHANNEL

²¹⁷ tt.15810

²¹⁸ P3060

²¹⁹ tt.16024,D622

183. In its Indictment, the Prosecution alleges that Simatović participated in a joint criminal enterprise by providing communication channels between the key JCE actors in Belgrade, in the specific regions, at local level and between them. The Defence contends that this assertion set forth in the Indictment, is entirely without foundation.

184. Milan Babić as one of the leaders of the Serb people in Croatia established his first contact with Slobodan Milošević, and Borisav Jović as the president of SFRY presidency in August 1990. Babić sought contact with Milošević because he wanted to ensure protection for the Serb people in Croatia. Babić met with Jović on 13 August 1990, Borisav Jović as the president of the SFRY presidency promised on their first meeting to support the struggle of the Serb people and said that JNA would be the guarantor of that struggle and would support it. Milošević also promised the support of the JNA to the Serbs in Croatia when he first met with Babić in October 1990. Babić met with Milošević 20 times until the end of 1991.²²⁰

E. SIMATOVIĆ IN KNIN

185. A group of intelligence officers arrived in Knin, people heard they were from the SDB of the Republic of Serbia but nobody knew why they were there. As Knin is a small town, their arrival could not have passed unnoticed for long.²²¹

186. Franko Simatović was one of only a couple Serbian SDB officers who came to Knin. Simatović arrived in Knin as a journalist, but in a small environment such as Knin, people found out very soon that he was not a journalist. Soon after his arrival, Simatović had a conspiratorial apartment that was used to hold secret meetings and have contacts with people who could possibly provide intelligence information,²²² in accordance with Simatović's mission there.

²²⁰ P1877 pages 1365-1368

²²¹ tt.16704

²²² tt.16705

187. Milan Radonjić and Dragan Filipović were also in the group that Simatović arrived with.²²³
188. Aco Drača, as a state security service officer, found out from Dušan Orlović that these people were intelligence officers from Serbia. In mid-May 1991, Drača had the opportunity to talk to Simatović who explained to him, as a colleague and a professional, the reasons for his arrival in Knin. Simatović said that he was interested in the security situation in the area, and in the members of the Ustasha extremist emigration who had appeared on the ground, and that he was interested in the reaction of the JNA and its relations with the ethnic groups in that area. Simatović's professional interest concerned everything that was of interest to and that could possibly have an impact on the security situation in the Republic of Serbia. The reason for Simatović's arrival and the type of information that was of interest to him is typical intelligence information. Aco Drača concluded that Simatović came to Knin as an intelligence officer.²²⁴
189. As a member of the State Security Service in Krajina, Drača was willing to exchange information of mutual interest with the intelligence officers from Serbia because he considered the officers of the intelligence service of Serbia as representatives of a friendly intelligence service.²²⁵
190. Simatović was not in the position to offer any assistance to the State Security Service in Krajina, be it in money or technical equipment. Drača even asked for assistance, but Simatović said he was an intelligence officer not a logistics man.²²⁶ Simatović never gave any sort of instructions, orders or directions, nor did he in any way influence the work of the State Security Service in Krajina during his stay in Knin in 1991.²²⁷
191. Drača testified that one of the reasons of Simatović's stay in Knin was also conducting surveillance over Captain Dragan and other foreign nationals that had come with the latter. There was mistrust towards these people, their links with Captain Dragan were suspicious,

²²³ tt.16708

²²⁴ tt.16705-16707

²²⁵ tt.16707-16708

²²⁶ tt.16709

²²⁷ tt.16709-16710

and nobody knew where these people had acquired their combat experience, or whether they were members of any terrorist group.²²⁸ Drača exchanged information with Simatović on all of these matters. Surveillance over Captain Dragan is discussed in other sections of this brief in more detail.

192. A special bag that Simatović carried with him while he was in Knin was considered by Drača as yet another piece of evidence that Franko Simatović was on an intelligence assignment. That bag was used to take photos of people and buildings. This was a way of conducting surveillance and documenting the surroundings. Drača recognized the bag because he himself had used such equipment in the past.²²⁹ In his testimony, Drača convincingly refuted the allegations of Witness JF-039 concerning a briefcase that Simatović carried around while he was in Knin.²³⁰ The allegation that Simatović was walking around Knin with a briefcase full of money and showing off that money is neither logical nor serious. Such an allegation is fully inconsistent with the nature and reasons of Simatović's stay in Knin as well as the very nature of the service to which he belonged, which, like everywhere in the world, conducts its activities discretely and covertly.

F. FIELD INTELLIGENCE

193. The working materials that the State Security Service of Krajina prepared for the Krajina leadership were only sent to the Serb National Council and Milan Martić. Those reports were prepared by Dušan Orlović in the Centre in Knin.²³¹ The Defence contends that Simatović did not receive the reports drafted by the Service.

194. However, Simatović was on the mailing list of recipients of the report that was sent to many addresses in Krajina, including journalists reporting from Knin. The Territorial Defence Staff prepared those reports by compiling information that came from the TO Staffs in smaller towns. At the time, in Krajina, those documents were considered to be public and contained

²²⁸ tt.16709-16710

²²⁹ D670, D671,tt.16714-16716

²³⁰ P978 para.48

²³¹ D672,tt.16719-16720

no confidential information. The reports that were sent to Simatović were also sent to Ekspres Politika journalist Svetozar Borak.²³²

195. In these documents, Simatović's name is listed at the very end. Although the position of all other recipients is specified, there is nothing next to Simatović's name. The Defence notes that Simatović's position would have certainly been specified if he had had any position within the structures of Krajina at the time.

196. These reports were sent to Simatović for his information, on a daily basis, specifically so that he could fulfill the objective of his trip to Knin - daily collection of information.²³³

197. The last report in which Simatović is listed as one of the addressees is the report of 8 August 1991.²³⁴ Simatović's name is not listed on available reports in the case files after that date.²³⁵ The reason for that is that Simatović had left the area in the first half of August.²³⁶

G. WITNESSES ON SIMATOVIĆ IN KNIN

198. Witness Aco Drača, who had relevant knowledge about the events in Knin and SAO Krajina at the time due to the nature of his work, decidedly stated that Simatović was not involved in managing the camp in Golubić and that he was not in charge for military operations in the territory of SAO Krajina in 1991.²³⁷ Drača said that it would have been impossible for Simatović to have done things or gone places in Krajina or to have been involved in the training of special units without his, Drača's, knowledge. The reason for this is that Krajina is a small community and it would have been impossible for someone to have been involved in the training of 100 people without anybody knowing about it.²³⁸

199. Witness DFS-14 stated that Simatović did not organize, direct and manage the Golubić camp. This witness stated before the Trial Chamber that, considering the tasks he discharged

²³² P2670,P2671,P2672,P2675,P2676,tt.16721-16723;admission of additional documents relevant for evaluation of these reports was denied on 5 December 2012

²³³ tt.16723-16724

²³⁴ P2676

²³⁵ D673

²³⁶ tt.16724

²³⁷ tt.16724-16725

²³⁸ tt.17008-17009

in the time from 1991 to 1995, he would have definitely known something about it, either personally, or through the people in that camp.²³⁹

200. Witness Goran Opačić, who had personally been in the Golubić camp, testified that he had seen Simatović in Knin in front of the police station wearing civilian clothes, and driving a red car. This was in June 1991. The next time Opačić saw Simatović was at Kula, in 1997.²⁴⁰

201. Witness JF-040 who was a senior officer in the SAO Krajina TO Staff in 1991, testified that Simatović did not have any influence on the TO Staff and the Witness was not interested in Simatović at all because Witness JF-40 needed somebody who could help him with intelligence, communications, organization, which Simatović could not do.²⁴¹

202. Witness JF-041 confirmed that he had never seen Simatović and that he knew nothing about him.²⁴²

203. Witness JF-031, who had been in Golubić, testified that he had seen Simatović for the first time in June or July 1991 in Knin and that he knew neither who he was, nor what he was doing. This Prosecution Witness confirmed that he had not seen Simatović in Golubić from April to July 1991.

H. JF-039 ON SIMATOVIĆ

204. Witness JF-039 testified about the role of Simatović in Knin and Kninska Krajina in 1991. The Defence assessed his witness testimony as false, malicious, fabricated, motivated by the wish to conceal and misrepresent the role that the Witness had in the events about which he testified.

²³⁹ tt.16019-16020

²⁴⁰ tt.18218-18219

²⁴¹ tt.6848-6849

²⁴² tt.8005

205. Witness JF-039 said that Martić asked Stanišić to arrange for a special police unit from Serbia to bring weapons to Knin; that the weapons were delivered to Knin in two vehicles, and that Simatović was in one of the two vehicles.²⁴³ The Defence contends that JF-039's entire account of the event is false and is a fabrication of this Witness who was personally involved in arms trade at the time in Knin and surroundings, which is a matter that we addressed in other sections of this brief.

206. [REDACTED].²⁴⁴

207. [REDACTED].²⁴⁵ [REDACTED].²⁴⁶ [REDACTED]²⁴⁷ [REDACTED]²⁴⁸

208. [REDACTED]²⁴⁹ [REDACTED]²⁵⁰ [REDACTED].²⁵¹

209. [REDACTED],²⁵² [REDACTED]²⁵³

210. Witness DFS-014 denied that the police station in Knin had ever been abandoned at any point of time from July 1990 to July 1991, especially not after 17 August 1990 i.e., after the weapons were taken over from the station. There were always people inside the station and in front of the station. Witness DFS-014 never heard that this station had been abandoned in December 1990 for fear of the arrival of the Croat police. People never even contemplated the thought that the Croat police could enter the city of Knin. Furthermore, no vehicle could have passed the checkpoint without the police station being notified thereof.²⁵⁴

211. [REDACTED].²⁵⁵ [REDACTED].²⁵⁶ [REDACTED]²⁵⁷

²⁴³ P978 para.20

²⁴⁴ [REDACTED]

²⁴⁵ [REDACTED]

²⁴⁶ [REDACTED]

²⁴⁷ [REDACTED]

²⁴⁸ [REDACTED]

²⁴⁹ [REDACTED]

²⁵⁰ [REDACTED]

²⁵¹ [REDACTED]

²⁵² [REDACTED]

²⁵³ [REDACTED]

²⁵⁴ tt.15829-15830

²⁵⁵ [REDACTED]

212. [REDACTED]

213. [REDACTED]²⁵⁸ [REDACTED].

214. Witness JF-039 was arrogant, rude, he refused to stop at the checkpoints, there were rumors among the police officers that he was involved in smuggling motor vehicles, but he was protected because he was with Martić.²⁵⁹

215. Prosecution Witness JF-041 testified that JF-039 is a dishonest man, quite insolent, arrogant, aggressive, ready for physical confrontations. [REDACTED].²⁶⁰

216. [REDACTED].²⁶¹ [REDACTED].

217. In this context, the Defence would like to mention the testimony of Witness DST-43 who personally bought arms from JF-039. It is indicative that DST-43 bought arms from JF-039 in November 1990 from the first shipment of arms that arrived in Knin.²⁶² When JF-039 talked about the arms that had arrived in PUHs he also mentioned the first shipment, his first meeting with Simatović, and he also mentioned November or December 1990. All these coincidences indicate that JF-039 attempted to misrepresent his role in the events and to impute his responsibility to others.

218. The Defence notes that Witness JF-039's story of two PUHs carrying arms is the only allegation that brings Simatović in connection with the supply of arms in this region. The story recounted by Witness JF-039, who was involved in arms smuggling and dealing himself, is false and fabricated because the Witness' statements have been inconsistent throughout, he describes events that are implausible, while the actions of the actors in his

²⁵⁶ [REDACTED]

²⁵⁷ [REDACTED]

²⁵⁸ [REDACTED]

²⁵⁹ [REDACTED]

²⁶⁰ [REDACTED]

²⁶¹ [REDACTED]

²⁶² [REDACTED]

story are illogical and not lifelike. Witness JF-039 is a man of little integrity, violent, dishonest and his testimony cannot be given faith.

219. The Defence concludes that JF-039's testimony is unreliable and false. His testimony is inconsistent and illogical precisely because it is founded on inaccurate and nonexistent premises. JF-039 is a man who has a strong motive to conceal his own role in the events, and the Defence finds that not one single conclusion about the role of Simatović in Knin in 1991 can be drawn based on the testimony of this Witness.

I. DOCUMENTS IN WHICH SIMATOVIĆ IS MENTIONED

220. The Defence contends that exhibit P979 is inauthentic, and unreliable. Firstly, the Defence notes that the document was obtained from Stjepan Mesić, president of Croatia.²⁶³ It is very unusual that the president of a country should personally submit a document, bypassing the state authorities responsible for cooperation with the International Tribunal. Furthermore, the Defence contends that this document is an evident forgery. The initials allegedly signed by Simatović are also evidently forged. In the case files there are plenty of documents that clearly show that the initial "F" in Simatović's name is written in a different manner.²⁶⁴ The horizontal line in the letter "F" is never straight, and the letter "F" never identical to the letter "T", as is the case in P979, in any of the documents signed by Simatović.

221. Additionally, exhibit P979 was written by a person of doubtful literacy. The text in P979 is grammatically incorrect, and logically confusing. In simple terms, a person of basic literacy in Serbian would not write in this manner.²⁶⁵ The English translation of this document does not reflect the absurdity of the text in BCS. It is unthinkable that a person like Simatović, who has a university degree and who had been an official of a state institution of the Republic of Serbia for ten years, drafting various documents on a daily basis, would have written a completely illiterate and incomprehensible document. The document is evidently not

²⁶³ tt.7210

²⁶⁴ For example: P2389,P2398,P2409

²⁶⁵ tt.19251

authentic and cannot be used in any way to draw conclusions on Simatović's position and role in the events under examination herein.

222. The fortress that P979 refers to was never used for the accommodation of military or police units. The Serb National Council held its meetings there. The only armed people on the fortress were the security police officers.²⁶⁶

J. LOVINAC

223. Some of the allegations that the Prosecution relies on suggest that Simatović had had a role in the attack on Lovinac. Babić mentioned that he had heard in a restaurant that Simatović boasted about his role,²⁶⁷ while JF-039 also mentioned an attack on this town.²⁶⁸ The Defence contends that Simatović was not in any way involved in the attack on this town, for the reasons that follow.

224. The town of Lovinac is located in the immediate vicinity of Sveti Rok where JNA's largest depot in Lika was located. The depot in Sveti Rok was placed under a blockade by the Croat forces. Parts of the 180th Brigade from Benkovac were sent as reinforcement to the JNA units in that area at the time when the decision was taken to break the blockade. The blockade was broken by the Knin Corps forces, and a day or two later, the population of Lovinac abandoned their own homes.²⁶⁹

225. Mladić also wrote about the action launched to lift the blockade of the Sveti Rok depot in his diary. He quoted the words of Colonel Trbović who led the action and noted: "I repaired my GP. One battalion in Lovinac. Command of Sveti Rok. I had a brandy and a coffee in Sveti Rok. One injured... I have no prisoners. ...Lovinac is a ghost town"²⁷⁰

226. The Defence concludes that the real problem with Lovinac was the blockade of the JNA depot. The JNA with its forces decided to break the blockade of the depot, and as a

²⁶⁶ tt.16703

²⁶⁷ P1877 p.1432

²⁶⁸ P978 para.47,tt.7201,7259

²⁶⁹ tt.16770-16771

²⁷⁰ D1473,p.15

consequence of that action the population of Lovinac had left. It was a planned action led by the Command of the Knin Corps, as indicated in the entries made by Mladić about that particular event. No armored train is mentioned and neither is Simatović. In simple terms, the attack on Lovinac and Sveti Rok was an action planned and conducted by the JNA.

CONCLUSION ABOUT SIMATOVIĆ IN KNIN

227. The Defence concludes that Simatović arrived in Knin in May or June 1991, as an SDB intelligence officer of the Republic of Serbia MUP. His activity in Knin was entirely in line with the tasks of a field intelligence officer. Collecting information by all available means, and contacts with all individuals relevant to the successful accomplishment of his mission. An intelligence officer conceals the real reasons for his arrival, an intelligence officer at times states false reasons. All these activities are in line with the state security service rules of procedure that are quoted herein.
228. The evidence presented indicates that Simatović did not establish Golubić, that Golubić had its sources of funding that had nothing to do with Simatović, and that Simatović did not participate in organizing the training at Golubić. Simatović collected information, and in order to collect information he had to be in the vicinity of the objects of his interest. The contacts that Simatović made in Knin were motivated solely and exclusively by the successful completion of his task as intelligence officer.
229. Simatović neither initiated, nor influenced, nor directed the events. Simatović only followed the events and the people that took part in them from the aspect of the task that had been assigned to him in Belgrade by the SDB leadership. There is no evidence that Simatović either planned or led any action, or that he committed any crime in any action.
230. In the period from May to August 1991 there were no actions, no attacks, no crimes. All decisions of relevance for the events in Knin and other places in Krajina were taken at the power and decision-making levels to which Simatović had no access.
231. The Defence contends that Simatović did not contribute in any way, either by his acts or omissions, to the events that transpired in the area referred to herein. However, should the Trial Chamber find that Simatović did participate in some of the activities that at some point

of time had unlawful consequences, Simatović's contribution in those events would have been insignificant, below any standard required for establishing criminal liability.

232. Simatović is not and cannot be held responsible for the crimes that happened months after his departure, for crimes he did not know about, for perpetrators that he was not connected with in any way. Simatović's liability cannot be established through analogy, assumptions and arbitrary conclusions. There is no evidence against Simatović that proves his guilt beyond reasonable doubt and therefore Simatović cannot be found guilty for any of the crimes that happened in Knin and other parts of Croatia, allegedly committed in 1991.

PART THREE

A. CAPTAIN DRAGAN

233. In its Indictment, while elaborating the statement of facts, the Prosecution alleged, *inter alia*, that in or about April 1991, Jovica Stanišić and Franko Simatović helped to establish a training centre in Golubić, near Knin, in the Serb Autonomous Region (SAO) of Krajina in the Republic of Croatia. Furthermore, the Accused are charged with organizing supplying, financing and supporting the training of “Serb Forces” in this centre.
234. Hereinabove, the Defence has already discussed the evidence indicating that the Golubić centre had been established long before April 1991, that it had been established within SAO Krajina by former members of the police of the Republic of Croatia, *i.e.*, by the Knin SUP, as well as the funding sources and modality, and the command staff of this centre.
235. Although the Prosecution in its Indictment never explicitly mentions Captain Dragan in connection with the training centre in Golubić, it is clear from its case that the Prosecution unambiguously suggests that as early as May 1991, Captain Dragan, together with the Accused Franko Simatović, directed the centre’s activities and the training of “Serb Forces” in the capacity of either a member of or at the very least a person closely associated with the Serbian DB. Further in its case, the Prosecution suggests that in 1992, Captain Dragan, in the same capacity, as either a member or collaborator of the Serbian DB established and directed the Divic centre near Zvornik and, in 1993, the Alpha centre in Bruška, in SAO Krajina. However, neither in its case nor through any witnesses or documents has the Prosecution proved the foregoing arguments beyond reasonable doubt. Indeed, the Defence witnesses and numerous documents the Defence received from the Government of the Republic of Serbia that have been admitted into the documentary evidence of this case strongly indicate that there is more than reasonable doubt with respect to the credibility of the said allegations.
236. At this point, the Defence will submit to the Trial Chamber the most convincing evidence that, in the very least, reinforces reasonable doubt as to the Prosecutor's arguments concerning Captain Dragan and his association, *i.e.*, links with the Serbian DB, and Franko Simatović in particular.

B. SHORT BIOGRAPHY

237. Snedden Daniel was born on 12 December 1954 in Belgrade, Republic of Serbia, SFR of Yugoslavia. He is a citizen of Australia. He left the SFRY with his parents in the early 70s and went to Australia. [REDACTED]
238. According to his own statement, he finished a military academy in the late 70s and served 10 years as an officer of the Australian Army, whereupon he retired at his personal request.
239. After his retirement, Daniel Snedden went to Tanzania where he worked as the chief of security at a construction site near the city of Dar es Salaam, where the works were carried out by a West Germany company his wife Silke Kröger (born 7 October 1957 in Hamburg) worked for.
240. During his stay in Tanzania, Daniel Snedden made friends and exchanged house visits with the then Ambassador of the SFRY to Tanzania, Lukovac Branko.²⁷¹

C. ARRIVAL IN SFRY

241. On 27 July 1987, Daniel and his spouse Silke arrived from Dar es Salaam to the port of Bar, Montenegro, SFRY, on his sailboat "Thunder Child" and since the sailboat engine was out of order and the overhaul was about to take a while, Daniel managed to obtain a temporary residence permit for himself and his wife Silke from the SUP of Bar. At the SUP of Bar he declared himself as a person holding dual citizenship, that of SFRY and Australia and as the owner of the company Hasonlords Photographic from Melbourne and he registered his spouse as a bank employee from Hamburg whose money paid for the above sailboat.
242. Daniel Snedden remained in Bar during 1988 as well, trying to strike some business deals between Bar-based RO Marina and various foreign firms from England and Denmark. For the sake of these business deals, Snedden traveled to England and Denmark, and in

²⁷¹ [REDACTED]

February 1989, some Danish and German nationals visited Bar for the purpose of closing the deals.

243. On 9 March 1989, Daniel Snedden sold his sailboat to a Norwegian national thus committing a minor offence, i.e., violation of the then effective regulations. For that he was fined and his passport was confiscated. Daniel Snedden threatened to suspend all his business activities he was engaged in, on behalf of the city of Bar and that he would send a letter to the Australian Ambassador to SFRY, from which threat he refrained, to avoid hurting the interests of the SFRY.

244. [REDACTED].²⁷²

245. Thus, the first background check of Daniel Snedden's biography, movements and business activities was carried out only in February 1991.

D. STAY IN BELGRADE AND POLITICAL ENGAGEMENT

246. DB was unable to reconstruct Daniel Snedden's movements during the period from March 1989 when, according to available data he moved from Bar to Belgrade to stay with his distant relatives, up until 12 July 1990.

247. Namely, Daniel Snedden became a person of interest in terms of security and intelligence only in December 1990 when he joined the Serbian Renewal Movement (SPO), the largest and most serious party opposing Slobodan Milošević's regime²⁷³ at the time. Then, in December 1990, the first measure introduced was covert monitoring of the phone lines used by Daniel Snedden, and in February 1991, the first background check for this person was requested and obtained (D 573).

248. [REDACTED].²⁷⁴ [REDACTED].²⁷⁵

²⁷² [REDACTED]

²⁷³ tt.15611-15612

²⁷⁴ [REDACTED]

²⁷⁵ [REDACTED]

249. [REDACTED].²⁷⁶

250. [REDACTED].²⁷⁷ [REDACTED].²⁷⁸

251. In addition to his political engagement, according to witness Dejan Lučić, Daniel Snedden also tried to set up his private business operations with his airplane. The witness says that Snedden even had a problem with his airplane, because at one point, the police and the customs searched his plane and prohibited him from flying. The witness says that he referred Snedden to the vice-president of the Belgrade board, Raka Živković, a lawyer by profession, to try to find a solution to this problem.²⁷⁹

252. Witness Lučić further stated that Daniel Snedden was a person who did not belong to a system, whom it would be hard to fit into a system but, nevertheless, he cooperated with Goran Milić's YU info media. According to this witness, Goran Milić and his YU info channel and TV YUTEL tried to ease war and nationalist tensions in the entire region and were supported by Europe and America. He also stated that Daniel Snedden had business communication with them.²⁸⁰ That all the foregoing statements are true is corroborated also by Daniel Snedden's recorded telephone conversations that the Defence will elaborate on further in the text.

E. SDB / RDB MEASURES AND ACTIVITIES TARGETING DANIEL SNEDDEN AND SIMATOVIC'S ROLE IN THE IMPLEMENTATION THEREOF

253. [REDACTED]²⁸¹

254. [REDACTED].²⁸²

255. [REDACTED].²⁸³

²⁷⁶ [REDACTED]

²⁷⁷ [REDACTED]

²⁷⁸ [REDACTED]

²⁷⁹ tt.15618

²⁸⁰ tt.15619-15620

²⁸¹ [REDACTED]

²⁸² [REDACTED]

²⁸³ [REDACTED]

256. [REDACTED]²⁸⁴ [REDACTED]²⁸⁵
257. [REDACTED].²⁸⁶ [REDACTED].²⁸⁷ [REDACTED].²⁸⁸
258. [REDACTED]
259. [REDACTED].²⁸⁹ [REDACTED]²⁹⁰ [REDACTED]²⁹¹ [REDACTED].²⁹²
[REDACTED]²⁹³
260. [REDACTED].²⁹⁴
261. [REDACTED].²⁹⁵ [REDACTED].²⁹⁶
262. [REDACTED].²⁹⁷
263. [REDACTED].²⁹⁸
264. [REDACTED]
265. [REDACTED]²⁹⁹

²⁸⁴ [REDACTED]

²⁸⁵ [REDACTED]

²⁸⁶ [REDACTED]

²⁸⁷ [REDACTED]

²⁸⁸ [REDACTED]

²⁸⁹ [REDACTED]

²⁹⁰ [REDACTED]

²⁹¹ [REDACTED]

²⁹² [REDACTED]

²⁹³ [REDACTED]

²⁹⁴ [REDACTED]

²⁹⁵ [REDACTED]

²⁹⁶ [REDACTED]

²⁹⁷ [REDACTED]

²⁹⁸ [REDACTED]

266. Before the Trial Chamber, Witness Lučić decidedly states that in early 1991, Snedden went to the U.S. for the purpose of acquiring some aircrafts to start a new airline once JAT airways fell apart.³⁰⁰ Lučić, however, also decidedly states before the Trial Chamber what the real purpose of that trip was. He explicitly states: “His basic task was to act upon my instructions, and he was supposed to establish more direct communication through his own contacts with those political forces in the United States, primarily in Texas. Actually, this had to do with some congressman. I cannot remember his name right now, but it is mentioned in our documents. This congressman had already taken part in toppling Communist regimes“.³⁰¹ Lučić further says that he gave Snedden precise instructions before his trip to the USA.³⁰² Dejan Lučić confirms that while he was in America, Snedden had contacts with the Serbian diaspora especially with the Serbs who had some weight and influence since that was one of the purposes of his trip.³⁰³

267. [REDACTED].³⁰⁴ [REDACTED].³⁰⁵ [REDACTED].³⁰⁶

268. Witness Lučić confirmed the allegations contained in this official note with respect to the relevant facts before the Trial Chamber.³⁰⁷ He also confirmed that they had tried to make contact with Snedden while he was in the U.S. through his girlfriend.³⁰⁸

269. Witness Lučić noted, before he was shown a document by the Defence as well, that Daniel Snedden met with a U.S. Senator whose name was, he believed, Wilson.³⁰⁹

270. [REDACTED].³¹⁰ [REDACTED].³¹¹

²⁹⁹ [REDACTED]

³⁰⁰ tt.15621,line 20-22

³⁰¹ tt.15621,line 11-17

³⁰² tt.15622

³⁰³ tt.15629

³⁰⁴ [REDACTED]

³⁰⁵ [REDACTED]

³⁰⁶ [REDACTED]

³⁰⁷ tt.15629-15630

³⁰⁸ tt.15624

³⁰⁹ tt.15631

³¹⁰ [REDACTED]

³¹¹ [REDACTED]

271. [REDACTED]³¹²

272. [REDACTED]

273. [REDACTED]³¹³

274. [REDACTED].³¹⁴

275. [REDACTED].

F. CAPTAIN DRAGAN'S FIRST VISIT TO KNIN AND THE CONTACTS HE ESTABLISHED THERE

276. Extensive written evidence and numerous witness statements presented in this case prove clearly and beyond any doubt that Daniel Snedden made contact with the Kninska Krajina leaders in the late 1990 and early 1991, on his own and through his political partners Lučić and Pavić. His first visit to Kninska Krajina and the contacts and arrangements, mentioned herein, that he made in Knin were made in any case without the mediation of or interference from Serbian DB and in particular Franko Simatović personally. The Defence will at this point call the Trial Chamber's attention to the evidence and testimony that most directly point to this conclusion, as the only possible conclusion.

277. [REDACTED]. We also pointed out that he had relatives and friends in Krajina. Witness Dejan Lučić also testified about this as well as about Snedden's and Pavić's contacts with the leadership of Kninska Krajina.

278. Witness Lučić stated before the Trial Chamber that he and Pavić had organized their first meeting with Martić acting upon a suggestion made by Serbs from Chicago, and that the meeting between Snedden and Martić had been short and informal and that Snedden offered

³¹² [REDACTED]

³¹³ [REDACTED]

³¹⁴ [REDACTED]

Martić to transport casualties with his airplane to Belgrade.³¹⁵ From that, it can clearly be deduced that the armed conflict had already started in Croatia and that Martić already had a unit and casualties.

279. Lučić further explicitly stated that following Snedden's return from the U.S. he had received an invitation from people from a small town called Gary, near southern Chicago, in which he had held a lecture the year before, in the church of Saint Lucas there, and the people who originally came from Knin were worried that in their native area there would be another genocide.³¹⁶ He further testified that those people had asked him to help them out, as a journalist and politician, so that they would not be unprepared for a war that was obviously in the making. He had Daniel Snedden – rather, Captain Dragan, there at the time who had completed some specialist courses in Australia, and this was basically English training characterized by minimum losses in manpower. The witness stated that he said to Captain Dragan that it would be very good if he could teach the Serbs in Krajina how to win without losing one's life.³¹⁷

280. Lučić testified that he took steps after that call, explaining that the telephone contact was made in January 1991, as far as he could remember, and that then he went to Krajina with Pavić and Prica where they met with some people within the political structures there. He further stated that, as far as he could remember, they met with the President of the Municipality of Benkovac, whom they told that they had come at the request of Serbs from Krajina who live in Gary near Chicago.³¹⁸

281. Thereafter, according to the account of this Witness, sometime in March, i.e. in the spring of 1991, Pavić and he took Captain Dragan-Snedden to Benkovac and introduced him to the President of the Municipality, Mr. Zečević. They took his private car and he remembers

³¹⁵ [REDACTED]

³¹⁶ tt.15631-15632

³¹⁷ tt.15632,line 6-14

³¹⁸ tt.15632,line 19-25

that they went to Zečević's house in Benkovac around 6.30 a.m..³¹⁹ This witness allowed for the possibility that the trip might have occurred in April 1991.³²⁰ However, when he was presented with a document of the Serbian DB, he agreed that the trip had been organized in March 1991 after all, as he initially stated.³²¹

282. Witness Lučić's testimony corresponds with the statement of DFS-010, who testified about the arrival of Lučić, Pavić and Captain Dragan at Zečević's, who then took them to see Milan Martić.³²²

283. [REDACTED].³²³ [REDACTED].³²⁴

284. [REDACTED].³²⁵ [REDACTED].³²⁶ [REDACTED].³²⁷ [REDACTED].³²⁸

285. [REDACTED].³²⁹

286. [REDACTED].³³⁰ [REDACTED].³³¹

287. The ensuing incontestable conclusion based on the aforementioned document and Lučić's witness statement is that Daniel Snedden had established contact with the leadership of Kninska Krajina through his own personal contacts and Lučić and Pavić, and that the Serbian DB, and in particular Franko Simatović had no part in it. Furthermore, it can be deduced without a shadow of a doubt that Daniel Snedden had already made an agreement with the Krajina leadership to assist in the training of the formed forces after his first visit to

³¹⁹ tt.15633

³²⁰ tt.15634

³²¹ tt.15637

³²² tt.18183

³²³ [REDACTED]

³²⁴ [REDACTED]

³²⁵ [REDACTED]

³²⁶ [REDACTED]

³²⁷ [REDACTED]

³²⁸ [REDACTED]

³²⁹ [REDACTED]

³³⁰ [REDACTED]

³³¹ [REDACTED]

Kninska Krajina. He refers to himself as a consultant for the formation of some kind of army and asks Lynch to provide him with an Infantry Training Guide and topographic maps of Kninska Krajina, which indicates unequivocally that he alone, without any mediation and part in it of the SDB and Franko Simatović had made an agreement concerning the training, which he later carried out in Golubić near Knin.

288. [REDACTED].³³² [REDACTED].³³³ [REDACTED].³³⁴ [REDACTED]³³⁵
[REDACTED].³³⁶ [REDACTED]³³⁷

289. Otherwise, concerning DB suspicions that Snedden wanted to deliver arms to Krajina, Lučić testified that this was pointless, because it would be tantamount to an attempt “to sell fridges to the Eskimos”.³³⁸

290. [REDACTED].³³⁹ [REDACTED]³⁴⁰

291. [REDACTED]³⁴¹ [REDACTED]

292. [REDACTED]³⁴² [REDACTED].³⁴³

293. [REDACTED]³⁴⁴ [REDACTED].³⁴⁵

³³² [REDACTED]

³³³ [REDACTED]

³³⁴ [REDACTED]

³³⁵ [REDACTED]

³³⁶ [REDACTED]

³³⁷ [REDACTED]

³³⁸ tt.15641

³³⁹ [REDACTED]

³⁴⁰ [REDACTED]

³⁴¹ [REDACTED]

³⁴² [REDACTED]

³⁴³ [REDACTED]

³⁴⁴ [REDACTED]

³⁴⁵ [REDACTED]

294. [REDACTED].³⁴⁶

295. The foregoing evidence shows clearly and beyond doubt that Daniel Snedden, a.k.a. Captain Dragan had no contacts or connections with Serbian DB, and that in addition to the personal contacts that he had established in Krajina, he had also made contact with JNA high ranking officers. The fact that Captain Dragan had visited Krajina in April and May 1991 and met with Zečević and Martić was also confirmed by witness Aco Drača, a member of the Krajina DB at the time. He testified that Zečević had met with Captain Dragan in April 1991, who told him that he had come upon the recommendation of some people from Belgrade and the diaspora, that he was a high-ranking officer of the Australian army, that he had connections with many security companies in the U.S.³⁴⁷ This witness also stated that he subsequently had another meeting in May 1991, when Zečević called him and told him that Captain Dragan was coming again, but this time in the company of Martić. On that occasion Martić told him that they needed someone to make up for the missing Croat staff from the Krajina Police. Martić also said that he could facilitate a course of infantry training and that if any war broke out, this police force would have basic police skills. Then Martić also told him that Captain Dragan would be organizing a course in Golubić.³⁴⁸

G. CAPTAIN DRAGAN'S DEPARTURE TO THE GOLUBIC CAMP AND REASONS FOR THE ARRIVAL OF FILIPOVIC AND SIMATOVIC TO KNIN

296. At this point, the Defence reiterates that the Prosecution upholds the argument proposed in the indictment that in or about April 1991, Franko Simatović helped to establish a training centre in Golubić, near Knin.³⁴⁹ In addition to the strong evidence listed herein by the Defence, we wish to remind the Trial Chamber of the Prosecution witness' testimony.

³⁴⁶ [REDACTED]

³⁴⁷ tt.16697-16698

³⁴⁸ tt.16698

³⁴⁹ indictment para.3

297. [REDACTED].³⁵⁰ He further stated that the locals, who got arms from the JNA and TO, were sent to Golubić for training.³⁵¹ This Witness also testified that Captain Dragan arrived in Golubić on 15 May 1991 and that the MUP Krajina special unit was sent to Golubić for training before Captain Dragan's arrival.³⁵²
298. Prosecution Witness JF-039 also explicitly testified that the Golubić camp had opened a few months before Captain Dragan's arrival to Knin.³⁵³
299. Prosecution Witness JF-031 further confirmed that a MUP Krajina special unit had been stationed in Golubić even before April 1991, under the command of Karna Dragan. He went on to add that Dragan Karna had also been the commander of the camp.³⁵⁴ This special unit, under the command of Dragan Karna, stationed in Golubić, was under the direct command of Milan Martić.³⁵⁵ The Witness confirmed that there was no Republic of Serbia SDB unit in Kninska Krajina from April to September 1991.³⁵⁶ [REDACTED].³⁵⁷
300. This allegations were also confirmed by Defence Witness DFS-014, who testified before the Trial Chamber that he had known Dragan Karna for many years and that he was in the special police unit that had the first armed conflict in Plitvice in March 1991, on the Catholic Easter and that participated in the disarmament of paramilitary formations in Potion and Role.³⁵⁸
301. Thus, it is clear that even the witnesses the Prosecution called to the stand while presenting its case contend the Prosecution's allegations that Franko Simatović helped to establish the training centre in Golubić. The Defence clearly proved that the centre in Golubić and the special unit of the MUP Krajina had existed even before Cpt. Dragan's arrival and that the Serbian DB and Franko Simatović in particular had nothing to do with either the formation of the camp and the unit or the arrival of Cpt. Dragan and his taking over of the

³⁵⁰ [REDACTED]

³⁵¹ tt.7952

³⁵² tt.8004

³⁵³ tt.7339

³⁵⁴ tt.7438

³⁵⁵ tt.7440

³⁵⁶ tt.7442

³⁵⁷ [REDACTED]

³⁵⁸ tt.15788-15789

training in May 1991. The Defence also points out that witness DST-043, too, explicitly testifies that he knew well Dragan Karna, who used to work in Sinj as an inspector. When the conflict broke out, Karna moved with his family to Knin where he became the commander of a special police unit formed around January-February 1990-1991 (the witness could not be more precise).³⁵⁹ The special police unit was formed by the best people from the reserve and active police (around 30-60 members), it was placed in Golubić.³⁶⁰ Through numerous witnesses and written evidence, the Defence has shown that until May 1991, Franko Simatović was engaged in operative work in Belgrade monitoring, inter alia, the activities of Daniel Snedden through employment of OT measures. All of the listed evidence clearly indicates that the training centre in Golubić in which a special unit of the MUP Krajina was formed and trained under the command of Dragan Karna and Milan Martić had existed even before May-June 1991 when Franko Simatović came to Krajina. Not a single piece of evidence presented by the Prosecution proves that Simatović determined the structure of the camp, the time and manner in which the training was to be delivered, the duration thereof, the type and manner of training delivery or the criteria for selection of persons to be trained.

302. The Defence witness Aco Drača stated before the Trial Chamber that at first, his experiences with Cpt. Dragan were very good, that he was an energetic person and that he was not an extremist. He did not express any pro-Chetnik views but as time went by, this witness' opinion changed.³⁶¹ The witness, a member of the DB of the Krajina MUP, explicitly states that he was very well acquainted with the events in the region of Benkovac and Knin and that he discovered for sure that Cpt. Dragan came to the area on his own initiative without any agreement made with anyone from the Serbian authorities, the Serbian National Council, police, or the army.³⁶² This witness also confirmed that Captain Dragan kept pointing out that he was the only person who could save Krajina and he would try to cause a rebellion of the people against the army. The witness also said that Captain Dragan brought a foreigner to Golubić, Mark Lynch who was an Irish national. He also said that he confided his observations in Zečević but Zečević told him it was not clever to criticize this person in public

³⁵⁹ tt.13014-13015

³⁶⁰ tt.13015

³⁶¹ tt.16699

³⁶² tt.16700

since the entire Serbian diaspora saw him as a man who could help Krajina.³⁶³ When prompted by the Presiding Judge this witness clarified that Martić had said that he had proposed to the Serb National Council, which agreed, that Captain Dragan should, with regard to the Golubić Centre which had been working from earlier on, August of 1991, put together a serious infantry course. This witness understood that this was the context of his activities, to organize and deliver the training of police personnel.³⁶⁴

303. Defence Witness DFS-014, mentioned earlier, stated before the Trial Chamber that a special police unit participated in the action of disarming two villages, Vrpolje and Potkonje at the end of April and the beginning of May 1991 and that he himself also took part in the action.³⁶⁵ In his answer to the follow-up questions, the witness stated that when he was in Golubić, at the time of the above actions, he did not hear about Captain Dragan and neither did he meet a person of that name. He met Captain Dragan only later and he is sure that he would have noticed him had he been in Golubić during the preparations for the said action.³⁶⁶

304. In his testimony, Witness DFS-010, who also participated in the disarming operation at the villages of Vrpolje and Potkonje stated that Captain Dragan arrived at Golubić on 15 May 1991.³⁶⁷

305. As already mentioned by the Defence, the former police officer from Knin and the political official JF-041 also confirms that Captain Dragan came to Golubić on 15 May 1991,³⁶⁸ upon the invitation of the Krajina MUP.³⁶⁹

306. [REDACTED].

307. [REDACTED].

³⁶³ tt.16700-16701

³⁶⁴ tt.16711

³⁶⁵ tt.15791

³⁶⁶ tt.15793

³⁶⁷ tt.18186

³⁶⁸ tt.8004

³⁶⁹ tt.8030

308. Further to the point, Defence Witness Radivoje Mičić testified before the Trial Chamber that in 1991 he worked with Franko Simatović in the American section (group) of the Second Department of SDB Belgrade, named AOS for short.³⁷⁰ In his further testimony before the Trial Chamber, witness Radivoje Mičić said that he knew that Franko Simatović had staid in Kosovo for a while and that he had also gone to Knin in connection with the case of an Australian national, Daniel Snedden, a.k.a. Dragan Vasiljković. This witness also testified that the work on that particular case called for activities to be carried out outside of the territory of the Republic of Serbia.³⁷¹ [REDACTED]³⁷² This witness later confirmed that as far as he remembers Simatović had been in Knin during the summer of 1991 and that he cannot be more precise from this distance.³⁷³ When asked who authorized that mission, this witness could not be precise, but he did mention that for such an operation the operatives would have to receive money and technical resources necessary for this kind of operative work, from the 8th Administration.³⁷⁴

309. Further in his testimony, prompted by the Presiding Judge, the witness stated that Frenki was there to obtain information, to interview individuals, to monitor his subjects – but not just subjects but also collaborators – everything that could be gathered on the activities of Daniel Snedden.³⁷⁵

310. [REDACTED].³⁷⁶

311. [REDACTED].³⁷⁷ [REDACTED].³⁷⁸ [REDACTED]³⁷⁹

³⁷⁰ [REDACTED]

³⁷¹ tt.19789-19791

³⁷² [REDACTED]

³⁷³ tt.19875

³⁷⁴ tt.19876

³⁷⁵ tt.19790-19791

³⁷⁶ [REDACTED]

³⁷⁷ [REDACTED]

³⁷⁸ [REDACTED]

³⁷⁹ [REDACTED]

312. Finally, when prompted by Mr. Jordash, the witness confirmed that he had spoken to Filipović who made the Witness believe that Frenki was in Knin for the purpose of surveilling Captain Dragan.³⁸⁰
313. Unlike Witness Mičić, Witness Aco Drača, an operative from Knin, was present in the area during Franko Simatović's stay in Knin. In fact, he testified that his colleagues had arrived in Knin from Serbia in 1991, which the Witness learned about from a public statement. Orlović confirmed the news.³⁸¹ One of the people arriving from Serbia was Simatović, who initially posed as a journalist. Simatović was housed in a conspiratorial apartment – (a type of safe house³⁸²).³⁸³ Such apartments would be rented in order to hold secret meetings and have secret contacts with the sources and agents to provide secret information when they did not want anyone to see that they were meeting these persons.³⁸⁴
314. The witness first met Frenki in mid-May at a meeting with Orlović in a restaurant in Knin.³⁸⁵ There, the witness learned the purpose of Frenki's stay in Knin, as Frenki was an active employee of the security service of Serbia, and that he needed intelligence from the Krajina area so that Belgrade could take a proper attitude.³⁸⁶ The witness stated that Frenki told him he worked for the “American Group“. Frenki told the witness that he was primarily interested in the security situation in the area, and also the fact that many members of an extremist Ustasha organization had appeared.³⁸⁷ The witness and Frenki agreed to share information, especially when it came to possible attacks from Croatian helicopters.³⁸⁸
315. [REDACTED]³⁸⁹ [REDACTED]³⁹⁰

³⁸⁰ tt.19931

³⁸¹ tt.16703

³⁸² tt.16705

³⁸³ tt.16704

³⁸⁴ tt.16705

³⁸⁵ tt.16705

³⁸⁶ tt.16706-16707

³⁸⁷ tt.16706

³⁸⁸ tt.16707

³⁸⁹ [REDACTED]

³⁹⁰ [REDACTED]

316. Frenki spoke about Captain Dragan and told the witness that he should pay special care about Captain Dragan and keep an eye on his activities, in terms of him attempting to head the TO and to become politically engaged in Krajina, his frequent tours accompanied by people who came from Serbia whom he knew nothing of.³⁹¹ Frenki did not say why the witness should do this.³⁹² Frenki also mentioned a German named Robert and an Irishman called Mark Lynch who had come along with Dragan, both of whom Frenki did not trust.³⁹³
317. The Defence has already touched upon the testimony of Radivoje Mičić who testified before the Trial Chamber that operatives in such missions received money and technical equipment from the 8th Administration.³⁹⁴ This testimony coincides with the testimony of the witness Aco Drača who noticed that Simatović had a bag of the same kind he used during his professional carrier, with a camera hidden inside which Frenki used to take pictures of people and/or buildings. This was a way to conduct surveillance and document the surroundings.³⁹⁵ This witness also says that they all used the same type of bag for such purposes since these bags were manufactured in one place, Belgrade, only for the security services in all the republics.
318. [REDACTED]³⁹⁶ [REDACTED].³⁹⁷ In addition to the above, numerous other pieces of evidence point to the intelligence and operative background of Franko Simatović's stay in Knin in 1991.

H. ACTIVITIES UNDERTAKEN BY CAPTAIN DRAGAN IN KNIN FROM 15 MAY 1991 TO AUGUST 1991 – RELATIONS WITH MARTIC AND OTHER KRAJINA OFFICIALS

319. [REDACTED].³⁹⁸

³⁹¹ tt.16710

³⁹² tt.16709

³⁹³ tt.16710

³⁹⁴ tt.19874

³⁹⁵ tt.16714

³⁹⁶ [REDACTED]

³⁹⁷ [REDACTED]

³⁹⁸ [REDACTED]

320. Witness Aco Drača, already referred to herein above, states in his testimony that Milan Martić was very positively inclined towards Captain Dragan and that Martić said that Captain Dragan could facilitate a course of infantry training, and if any war broke out, this police force would have basic police skills.³⁹⁹
321. Defence witness DSF-014 testified that several persons from Velika Glava received training from Captain Dragan. He also says that those persons did not have any special knowledge or skills and were not assigned special positions within the unit.⁴⁰⁰
322. Witness DFS-010 testified that he and other members of Dragan Karna's special police unit thought Captain Dragan was an expert of some kind but actually, as far as infantry training was concerned, he went through that training in the same way that they all did, and that is what he knew. In his testimony he alleges that they trained how to jump from a Land Rover going 30km/h and some trainees complained to Martić that such training was inappropriate. This witness spent 20 days in the training.⁴⁰¹
323. Prosecution witness JF-031, who also passed Captain Dragan's training course in Golubić testified that the training was essentially similar to the regular infantry training course organized by the JNA only with more rifle shooting training. He further states that he had a standard M-70 CZ rifle, regularly used by JNA and police units.⁴⁰²
324. DFS-010 testified also that the supply of food, necessary equipment, material and assets was secured by the Ministry of Internal Affairs in Knin and the Government of SAO Krajina. There were also donations from private persons and those donations, too, were supplied through the MUP of SAO Krajina.⁴⁰³

³⁹⁹ tt.16698

⁴⁰⁰ tt.15799

⁴⁰¹ tt.18187

⁴⁰² tt.7436-7437

⁴⁰³ tt.18191

325. This witness also said that it was Milan Martić who organized the activities at Golubić and that nothing was done without his knowledge. In the organizational sense, according to the witness, nothing changed even when Captain Dragan came to Golubić.⁴⁰⁴
326. In addition to the fact that Captain Dragan's basic activity was to carry out the training in Golubić, in the documentary evidence of this case Captain Dragan is also mentioned in the context of actions carried out in the village of Ljubovo and the town of Glina in the summer of 1991.
327. When asked if beside these instruction and training related activities, Captain Dragan got engaged in anything else, this witness answered that Captain Dragan had devised the whole action in the village of Ljubovo they later carried out. The witness also says that Captain Dragan went about promoting himself over the media and that he was really engaged in self-promotion.⁴⁰⁵
328. The Stanišić Defence witness DST-031 states that in July 1991, Captain Dragan participated in the attack on Glina in coordination with a tank unit of the JNA and that, generally speaking all military actions, including the attack on Glina, were carried out in coordination with and under the command of the JNA. This witness also says that that the action was very widely covered by the media. It was in the lime light.⁴⁰⁶ He confirms that Captain Dragan together with a group known as "Knindže" participated in the Glina operation.⁴⁰⁷ This witness also states that the "Knindže" were coordinated with the JNA.⁴⁰⁸
329. Prosecution witness JF-040 also testifies that in the operation in Gospić Captain Dragan's units were coordinated with the 9th Corps of the JNA.⁴⁰⁹
330. Prosecution witness JF-041, who testified in detail about the camp in Golubić, the training that was carried out there before as well as after the arrival of Captain Dragan and

⁴⁰⁴ tt.18191-18192

⁴⁰⁵ tt.18192

⁴⁰⁶ tt.12766

⁴⁰⁷ tt.12835

⁴⁰⁸ tt.12724

⁴⁰⁹ tt.6863

who knows for sure that Captain Dragan came to Knin on 15 May 1991⁴¹⁰ decidedly states that he never heard about Franko Simatović, that he never saw Franko Simatović in Knin or elsewhere in Kninska Krajina and neither does he know him personally at all⁴¹¹, and he does testify in detail about the camp in Golubić, the training that was carried out there and the unit that was stationed there.

331. The already quoted Prosecution witness JF-031, who underwent Captain Dragan's training and who confirms that even before Captain Dragan's arrival, a special force of the MUP of Krajina was stationed in Golubić under the command of Dragan Karna who was at the same time the commander of the entire camp, testifies that he saw Franko Simatović for the first time in July 1991 and that he had no idea whatsoever what that man was doing there. This means that, prior to July 1991, this witness who had undergone the training and was stationed at Golubić, never saw Franko Simatović there.⁴¹²

332. Finally, Defence witness DFS-014 testified that Karna Dragan, at first, and later on also Captain Dragan, were always being referred to as the Golubić camp commanders, and that he, despite being a high-ranking police officer, had never heard of Franko Simatović being referred to as the commander of the camp in Golubić.⁴¹³

333. [REDACTED].⁴¹⁴

334. Also, Prosecution Witness JF-040, who held the position of TO Krajina commander confirmed in his statement that MUP Serbia only provided technical support. So, this witness said that it was the Serbian MUP, not the Serbian DB, that provided the Krajina police with only technical and no other kind of support.⁴¹⁵ Furthermore, this witness stated that he knows nothing of the MUP Krajina special unit,⁴¹⁶ and that the unit that called itself "special" was in fact an ordinary unit that had not undergone any special training.⁴¹⁷ Finally, this witness

⁴¹⁰ tt.7951-7952;8004

⁴¹¹ tt.8005

⁴¹² tt.7441-7442

⁴¹³ tt.15822

⁴¹⁴[REDACTED]

⁴¹⁵ tt.6915-6916

⁴¹⁶ tt.6969

⁴¹⁷ tt.6970-6971

concluded that the whole time he had been stationed in Krajina (second half of 1991), JNA was in charge of all military operations while the MUP was only in charge of maintaining public law and order.⁴¹⁸

335. The extensive evidence presented before the Trial Chamber clearly shows that Franko Simatović had no part in this, or in establishing and organizing the camp in Golubić, as we stated earlier, furthermore, he never had any part in organizing the training conducted by Captain Dragan, nor was he in any way connected with the operations in which Captain Dragan and his “Knindže” participated.

336. The Defence submitted to the Trial Chamber extensive evidence that proves clearly and beyond any doubt that Franko Simatović was stationed in Knin as an operative – intelligence officer whose tasks are explained in considerable detail herein above. All of this evidence establishes at the very least a reasonable doubt as to the Prosecution’s argument that Franko Simatović was organizing the training in Golubić, providing the means for the functioning of the centre and that he was in charge of the Golubić centre. Aside from the sheer speculations and unconvincing statements by a few witnesses lacking credibility, and a couple of documents of small probative value, the Prosecution has no other evidence that proves beyond reasonable doubt that Franko Simatović helped to establish the centre in Golubić in any way, that he organized, supplied, financed and supported the training of police forces in Golubić, and that he planned or took part in any military operations in the territory of SAO Krajina.

I. CONFLICT WITH BABIC AND DEPARTURE FROM KNIN

337. Stanišić Defence Witness DST-031 was shown exhibit D298 and specifically, a press interview with Captain Dragan in which the latter says that he came to Krajina on his own initiative and that he previously conveyed his ideas by phone to the people from Krajina, who then supported him. He then spoke about the training that he was conducting and emphasized that he had no interest in politics and that he was there only because he was interested in the

⁴¹⁸ tt.6987

protection of Serbian homes and children.⁴¹⁹ The Witness commented that he did not discuss the “Knindže” and Cpt. Dragan with Milan Babić, until Cpt. Dragan started interfering in politics and criticizing the SDS. The Witness stated that Cpt. Dragan began to interfere in politics in the Krajina and that he believed it happened in July 1991 after the Glina operation.⁴²⁰

338. Further, Stanišić Defence Witness DST-043 inter alia stated that on 2 August 1991, Day of St. Ilija, Babić sent Đoko Majstorović to hoist the TO flag (in place of the Serbian flag) on the Knin fortress but Cpt. Dragan prevented him. A huge quarrel between Cpt. Dragan and Babić followed that probably had its roots in something else, because the hoisting of the flag was just a provocation. After the quarrel, Cpt. Dragan moved to Belgrade. He came back in 1993, after the attack on the Zadar hinterland, and opened a Camp in Bruška.⁴²¹

339. Among other things, Defence Witness Aco Drača also stated in his testimony that Cpt. Dragan began to attend meetings of the Serbian National Council, held in the citadel located above Knin⁴²², though he was not invited.⁴²³ Tensions between Martić and Cpt. Dragan began to grow as well. Then, Babić prohibited Cpt. Dragan from attending Serbian National Council meetings without Cpt. Dragan’s knowledge.⁴²⁴ Cpt. Dragan arrived to one of the meetings and the security did not let him in, he was sent back and he was greatly disappointed with this. Upon this prohibition, Cpt. Dragan organized public rallies in Knin where he expressed his dissatisfaction.⁴²⁵ Cpt. Dragan said that he came to Knin to defend, to help and they were chasing him away. The witness said that Cpt. Dragan told him that he was leaving Krajina because of this and that they would see what was going to happen after that. A few days later he heard from Orlović that Cpt. Dragan left Knin and that it had happened around the beginning of August 1991.

340. [REDACTED]⁴²⁶

⁴¹⁹ D298

⁴²⁰ tt.12727-12728

⁴²¹ tt.13016-13017;D322 para.37

⁴²² tt.16702-16703

⁴²³ tt.16701

⁴²⁴ tt.16701-16702

⁴²⁵ tt.16702

⁴²⁶ [REDACTED]

341. The clear conclusion that can be derived from this piece of evidence as well as other extensive evidence, is that all forces deployed in operations in Kninska Krajina in the second half of 1991 that are listed in the indictment, were under the command of TO Krajina, i.e., JNA.
342. Witness Aco Drača also testified that when he was shown the SAO Krajina TO General Staff Report of 19 September 1991, for a month already, Frenki or rather Mr. Simatović, was not in that area any longer. He could not remember the precise date when Simatović had left Knin, but believed that it had been in the first half of August 1991.
343. Prosecution Witness JF-039 testified before the Trial Chamber that Frenki, i.e., Franko Simatović, left Knin sometime in late July 1991.⁴²⁷
344. Hence, it is evident that when Cpt. Dragan had an argument with Milan Babić over his attempt to become involved in politics in SAO Krajina, and when he left Knin and returned to Belgrade as a result of that argument, the operatives who monitored his activities also returned to Belgrade, given the nature of and need for their field work.

J. ARRIVAL IN BELGRADE AND FURTHER APPLICATION OF OT MEASURES TARGETING CPT. DRAGAN

345. Written evidence, obtained by the Defence from the Serbian state, confirm that the testimonies of the said witnesses with regard to the time of Cpt. Dragan's return, followed by Franko Simatović and other DB operatives, were correct.
346. [REDACTED]
347. [REDACTED]⁴²⁸ [REDACTED]

⁴²⁷ tt.7328,7332

⁴²⁸ [REDACTED]

348. [REDACTED].⁴²⁹

349. [REDACTED].⁴³⁰

350. Witness Dejan Lučić testified that, upon his return from Krajina in September 1991, he met with Cpt. Dragan in Belgrade. On that occasion Cpt. Dragan told him that he was dissatisfied in, rejected and betrayed by the political structures in Kninska Krajina.⁴³¹

351. [REDACTED].⁴³²

352. [REDACTED].⁴³³

353. [REDACTED]

354. [REDACTED].⁴³⁴

355. [REDACTED].⁴³⁵

356. [REDACTED]

357. [REDACTED].⁴³⁶

358. [REDACTED]

⁴²⁹ [REDACTED]

⁴³⁰ [REDACTED]

⁴³¹ tt.15654

⁴³² [REDACTED]

⁴³³ [REDACTED]

⁴³⁴ [REDACTED]

⁴³⁵ [REDACTED]

⁴³⁶ [REDACTED]

359. [REDACTED]⁴³⁷

360. [REDACTED]

361. When presented the above document, Witness Lučić testified that all the statements therein were absolutely authentic, that Cpt. Dragan had only had that one offer from the army, that he had appreciated the offer, but also complained to Lučić that he was all alone and that it looked as though he was waging his personal war. Witness Lučić added that Cpt. Dragan had refused to accept another offer to become a reserve captain of the Territorial Defence of the Yugoslav Army.

362. [REDACTED].⁴³⁸

363. [REDACTED]⁴³⁹ [REDACTED]

364. [REDACTED].⁴⁴⁰

365. [REDACTED]⁴⁴¹, [REDACTED].

366. [REDACTED].

K. ESTABLISHMENT OF THE CAPTAIN DRAGAN FUND AND THE TRAINING IN BUBANJ POTOK

⁴³⁷ [REDACTED]

⁴³⁸ [REDACTED]

⁴³⁹ [REDACTED]

⁴⁴⁰ [REDACTED]

⁴⁴¹ [REDACTED]

367. Witness Dejan Lučić testified before the Trial Chamber that in September 1991, when he and Cpt. Dragan met in Belgrade, Cpt. Dragan told him that he had established a Fund to take care of the wounded and the families of those killed, and that the Fund bore his name – Captain Dragan Fund.⁴⁴²

368. [REDACTED].⁴⁴³

369. [REDACTED].⁴⁴⁴

370. [REDACTED].⁴⁴⁵

371. [REDACTED].⁴⁴⁶

372. [REDACTED].

373. Witness Dejan Lučić testified before the Trial Chamber that in Autumn 1991 Cpt. Dragan held a training camp in Bubanj Potok, where he was visited by this Witness. To the Witness's best recollection, this used to be a youth camp before the war. Later on, it became a military training camp. It was under the umbrella of the Army of Yugoslavia.⁴⁴⁷

374. [REDACTED].⁴⁴⁸

375. [REDACTED].⁴⁴⁹

376. [REDACTED]

377. [REDACTED].⁴⁵⁰

⁴⁴² [REDACTED]

⁴⁴³ [REDACTED]

⁴⁴⁴ [REDACTED]

⁴⁴⁵ [REDACTED]

⁴⁴⁶ [REDACTED]

⁴⁴⁷ [REDACTED]

⁴⁴⁸ [REDACTED]

⁴⁴⁹ [REDACTED]

378. All of the evidence listed above, which is mutually related and corresponding, unmistakably proves that Cpt. Dragan did not have any position in or connection with the Serbian DB, and that he was only the object of intelligence operations conducted by Franko Simatović, as the chief of the AOS Section, and nothing else. To say the least, all this evidence causes reasonable doubt as to the Prosecution case regarding the relationship between Cpt. Dragan and Franko Simatović.

L. DIVIČ CAMP IN REPUBLIKA SRPSKA, 1992

379. In the exhibits for this case, as well as in the testimonies of some of the witnesses, Cpt. Dragan was also said to be in some sort of connection with the Divič Camp, in the vicinity of Zvornik, notably in 1992.

380. At this point, the Defence argues that the Divič training camp near Zvornik was a centre for training of the Serbian army in Bosnia and Herzegovina and that this centre, including Cpt. Dragan's involvement in it, was by no means related to the Serbian DB or Franko Simatović.

381. This claim of the Defence is strongly corroborated by the Prosecution document, dated 14 June 1992. Namely, the header of this document reads: Serbian Republic of BiH – Serbian Army Training Centre – Divič – Zvornik. Furthermore, it shows that the commander of the centre, Captain Ljubomir Kitanović, reported to the brigade commander, Lt. Colonel Blagojević.⁴⁵¹

⁴⁵⁰ [REDACTED]

⁴⁵¹ P1407

382. The same fact is demonstrated by the report of 6 June 1992, included by the Prosecution in the exhibits for this case.⁴⁵²

383. Finally, the Prosecution witness, Manojlo Milovanović, who was the Chief of the Main Staff of Army of the Republic of Srpska, testified with regard to the centre in Divič that in the territory of the Republic of Srpska there was only one training centre, Cpt. Dragan's centre in Divič, near Zvornik.⁴⁵³ This centre was held by Cpt. Dragan, who first operated in the area of Kninska Krajina. When the Vans Plan was signed, Cpt. Dragan left the area, went to Divič and started training some special forces.⁴⁵⁴

384. In his diary, in the entry dated 30 June 1992, General Mladić wrote that a police officer from Zvornik was present, who pointed out the problem of the training centre formed by Cpt. Dragan, as the men trained there had broken loose from any command. The witness could not confirm this, but he did say that these men were mostly people who did not want to join the army and were mostly troubled people.⁴⁵⁵ He added that he knew that Denčić had taken Cpt. Dragan under his wing. Denčić was the commander of the Eastern Bosnia Corps.⁴⁵⁶ At one point, Mladić ordered the centre to be dismantled, so the witness went to the training centre. The men from Cpt. Dragan's centre were never involved in any form of action.⁴⁵⁷

385. It is, therefore, evident that Cpt. Dragan conducted training in a centre that was under the command of the Army of the Republic of Srpska, that Cpt. Dragan was under direct supervision of Denčić, the commander of the Eastern Bosnia Corps, and that the camp was closed down by Mladić, which clearly indicates that this was a military camp.

386. [REDACTED].⁴⁵⁸ [REDACTED].

⁴⁵² D180

⁴⁵³ tt.15373

⁴⁵⁴ tt..15373-15374

⁴⁵⁵ tt.15379

⁴⁵⁶ tt.15377-15379

⁴⁵⁷ tt.15380

⁴⁵⁸ [REDACTED]

M. CPT.DRAGAN'S RETURN TO KNINSKA KRAJINA IN 1993 AND ESTABLISHMENT OF THE ALFA CENTRE IN BRUSKA

387. Giving an account of the attack of the Croatian forces in January 1993, Defence Witness DFS-014 said that after 22 or 23 January 1993 he saw Cpt. Dragan in Benkovac. Of the event, the Witness said that he went to the barracks and met up with him. They went to see the president of the municipality and agreed then that Captain Dragan should take one of his police stations in Bruška. So, on the premises that used to be a knitwear factory, he was supposed to establish his camp.⁴⁵⁹ When asked who had accompanied Cpt. Dragan to Benkovac, the witness answered that Cpt. Dragan had come alone, without a driver or any other person accompanying him. The witness took Cpt. Dragan to Bruška and told his men that they should withdraw, until Cpt. Dragan set up his camp. Cpt. Dragan stayed in Bruška and established his camp. The witness further stated that Cpt. Dragan received everything he needed from the army. He was also given weapons and he was preparing a camp that would be used for military purposes. He was preparing the camp with them. Moreover, the witness testified that he had spoken with Cpt. Dragan about those matters. In those conversations, Cpt. Dragan never mentioned the Serbian MUP or DB, or implied any connection with them whatsoever.⁴⁶⁰

388. Further, the witness confirmed that the name of the camp was Alfa and that the number 100 or something along those lines preceded the name.⁴⁶¹ The witness stated that Cpt. Dragan had stayed for several months, but he did not know the exact time of Cpt. Dragan's departure. All he knew was that Cpt. Dragan was later involved in some kind of humanitarian

⁴⁵⁹ [REDACTED]

⁴⁶⁰ tt.15817

⁴⁶¹ tt.15818

work. The camp, which he occasionally visited, remained under control of the Army of the Republic of Serbian Krajina (VRSK) until the fall of Krajina in 1995.⁴⁶²

389. In the cross-examination, as well, the witness maintained his statement that the SVK command was sending recruits to Cpt. Dragan's camp Alfa and that this was a training centre.⁴⁶³ The witness further stated that the camp was part of the 7th Corps, under the command of Colonel Đilas.⁴⁶⁴ The witness was also presented with the document D 617 and he recognised that Budimir Milosavljević aka Cale, was for a while the commander of the Alfa training centre and maintained that that military document showed that the Alfa centre belonged to the VRSK.⁴⁶⁵ The witness also gave his comment on exhibit D172, a document signed by Budimir Milosavljević, stating that he recognised that the document concerned the training centre in Bruška, which was assigned the military post 9050.⁴⁶⁶

390. At this point, the Defence wishes to emphasize that the document D 172 reveals that this was 107th Training Centre (TC) Alfa and that the inscription on the stamp is: Army of the Republic of Serbian Krajina – Training Centre Alfa.⁴⁶⁷ Evidence supporting the statement that 107th TC Alfa was a structure within the SVK, military post 9050, is also found in the exhibit D172, since its header and stamp unequivocally lead to that conclusion.

391. Finally, the order issued by the commander of 107th TC Alfa on 20 July 1995 also indicates that TC Alfa was under the command of the VRS, as the military post 9050.⁴⁶⁸

392. A document dated 18 February 1994, which is an order issued by the commander of 107th TC Alfa, also indicates that the TC operated under the umbrella of the SVK (see the header and stamp).⁴⁶⁹

⁴⁶² tt.15819

⁴⁶³ tt.15969-15970

⁴⁶⁴ tt.15816-15818

⁴⁶⁵ tt.15820-15821

⁴⁶⁶ tt.15821,D171

⁴⁶⁷ D172

⁴⁶⁸ D173

⁴⁶⁹ D618

393. A communication dated 1 October 1994 has the stamp of the military post 9050 Bruška and it was signed by Budimir Milosavljević Cale.⁴⁷⁰
394. When presented with exhibit P1569 during cross-examination, the Prosecution witness JF-041 confirmed to the Defence that the soldiers seen in the Alfa Training Centre had worn uniforms with the emblem of the Army of the Republic of Serbian Krajina.⁴⁷¹
395. Defence Witness Aco Drača confirmed the testimony of Witness DFS-014 and stated that Cpt. Dragan was given premises to establish the training centre and that it was Witness DFS-014 who provided the premises. The location was an old factory in the village of Bruška.⁴⁷² Training Centre Alfa in Bruška was directly subordinated to the Main Staff in Knin.⁴⁷³ He further testified that some recruits were sent directly by the brigade command. However, some recruits left their units on their own and came to Cpt. Dragan's centre.⁴⁷⁴ At one time, due to the popularity of Cpt. Dragan, all recruits wanted to be trained at his centre, so some of them had to be sent back.⁴⁷⁵ Cpt. Dragan's arrival in Benkovac had nothing to do with the state security of the Republic of Serbia. On the contrary, according to this Witness, Cpt. Dragan asked upon his arrival if there was anyone from the Serbian DB present.⁴⁷⁶ He said that he was not on good terms with the DB. Why this was the case, the witness did not know.⁴⁷⁷
396. It is quite reasonable to assume that Cpt. Dragan arrived to the conclusion that he was the object of Serbian DB operations and that this was the reason why he asked the witness whether anybody from the DB was present there. Thus, when he was told that no DB operatives were there, he told the witness that he was not on good terms with them.

⁴⁷⁰ D71

⁴⁷¹ tt.8023;P1569

⁴⁷² tt.16792

⁴⁷³ tt.16792

⁴⁷⁴ tt.16793

⁴⁷⁵ tt.16793

⁴⁷⁶ tt.16793

⁴⁷⁷ tt.16793

397. In the end, this witness was also shown a video still in which he identified Cpt. Dragan wearing the insignia of the Republic of Serbian Krajina, both on his sleeve and on his cap.⁴⁷⁸

N. DEPARTURE FROM KRAJINA AND PRESENCE IN OTHER TRAINING CENTRES

398. The Defence witness DFS-014 testified that after the establishment of Training Centre Alfa in Bruška in January-February 1993, Cpt. Dragan had staid in the centre for several months, four or five months, and that he later got involved in some kind of humanitarian work, helping the wounded and the families of the killed. The witness stated that Cpt. Dragan's visits to the camp gradually became less frequent (he came to this area four or five times), but also that this military camp of the Army of the Republic of Serbian Krajina operated until the fall of the Republic of Serbian Krajina in 1995.⁴⁷⁹

399. In the cross-examination by the Prosecutor, this witness confirmed that he had had a conversation with Cpt. Dragan and that Cpt. Dragan had confirmed to him his intention to establish other training camps like the Alfa camp in the Republic of Serbian Krajina, but also that this plan was not executed.⁴⁸⁰

400. Moreover, the Prosecution has never offered any additional evidence in an attempt to prove that, in addition to Golubić in 1991 and the Alfa centre in Bruška that was established in 1993, there were other training centres in Kninska Krajina.

401. Besides, as far as the Republic of Croatia is concerned, in addition to the two training centres, the case also included evidence on the training centre in Erdut, which did not in any way relate to the Serbian DB and Franko Simatović, a fact that will be discussed in more detail later in the final brief.

⁴⁷⁸ tt.16795;D677

⁴⁷⁹ tt.15809

⁴⁸⁰ tt.15967-15968

PART FOUR

A. ŽELJKO RAŽNATOVIĆ ARKAN AND SERBIAN VOLUNTEER GUARD (SDG)

402. In para. 4 of the Indictment, the Prosecutor alleges that in addition to the Special Purpose Units JATD and JSO, other units such as “Scorpions”, “Serbian Volunteer Guard” (SDG), also known as “Arkanovci” (Arkan’s Men) and the elite SDG unit known as “Arkan’s Tigers” were established by or with the assistance of the Serbian DB.⁴⁸¹

403. However, the entire body of evidence that the Prosecution and Defence entered into the case files makes it clear that there is not a shred of evidence that can lead to the conclusion that the Republic of Serbia DB participated in establishing SDG and/or “Arkan’s Tigers” or that at any moment relevant to this Indictment, these units were under the control of the SDB of the Republic of Serbia.

404. On the contrary, from the entire body of facts and evidence of this case any reasonable trier of facts could only draw the conclusion that the SDB of Serbia had nothing to do with the establishment of these units and that at no point of their existence were these units under the control of or in connection with the Serbian SDB.

B. ESTABLISHMENT OF THE SDG

405. On 11 October 1990, together with several friends, Željko Ražnatović formed the Serbian Volunteer Guard at the Pokajnica Monastery near the town of Velika Plana, Republic of Serbia.⁴⁸²

406. This fact, the Prosecutor seems not to have even tried to dispute, was disclosed by the Defence witness Borislav Pelević who at one point became the deputy commander of Arkan's SDG and his best man and who, after joining the SDG, every year in October participated in the celebration to mark the anniversary of the establishment of the Guard. Indeed, on several

⁴⁸¹ Indictment para.4

⁴⁸² tt.16516

occasions before the Trial Chamber, this witness referred to the celebration of the anniversary of the establishment of the SDG.⁴⁸³

407. [REDACTED]

408. [REDACTED]⁴⁸⁴

409. Faced with the testimony on the date and place of the establishment of the SDG, the Prosecutor did not oppose this fact with any piece of evidence to support his allegations that the Serbian DB and/or Franko Simatović had anything to do with or any role in the establishment of the Guard.

C. TIES WITH FEDERAL DB, BOGDANOVIC AND SIMOVIC

410. [REDACTED].⁴⁸⁵ [REDACTED].⁴⁸⁶ [REDACTED].⁴⁸⁷ [REDACTED]

411. [REDACTED].⁴⁸⁸

412. Finally, the Simatović Defence witness, Jovan Dimitrijević, who was one of Željko Ražnatović Arkan's closest associates, stated before the Trial Chamber that the liaison between the Federal MUP headed by Stane Dolanc and Arkan was an urban legend of a sort that could be heard all over the city of Belgrade. He also stated that he had no direct knowledge of this liaison and that Arkan never told him anything about that but that such stories and rumors were being spread around Belgrade. At the end he said that the rumor is still being spread, that the story is still popular among people.⁴⁸⁹

⁴⁸³ tt.16342-16343;16434;16449;16452; 16573

⁴⁸⁴ [REDACTED]

⁴⁸⁵ [REDACTED]

⁴⁸⁶ [REDACTED]

⁴⁸⁷ [REDACTED]

⁴⁸⁸ [REDACTED]

⁴⁸⁹ tt.16090

413. In an article published by the NIN weekly magazine under the title “Black Knight” in the second paragraph of the section subtitled “Zagreb”, there is a mention of the fact that sometime between 1981 and 1986, Arkan was arrested by the SUP Chief Branko Đurić and that he was remanded in custody until his judgment became final despite Stane Dolanc’s intervention.⁴⁹⁰
414. The Defence wishes to point out the fact that the Prosecution called to the stand numerous witnesses who, based precisely on such stories and rumors, i.e., second-hand, hearsay information, brought Željko Ražnatović Arkan in connection with the Serbian DB. Indeed, not a single witness called by the Prosecution could testify, first-hand, about Arkan’s alleged membership or association with the SDB of Serbia.
415. Notwithstanding the above, in the early 1990s, Arkan established a relationship with Radovan Stojčić Badža, member of the MUP of the Republic of Serbia, but employed in the Public Security Department of the MUP which was not functionally connected with the DB of the Republic of Serbia. Stories and rumors were spread about this friendship between Arkan and Badža as well and the Defence will address this issue more concretely further on in this text.
416. 1990. Before the establishment of the SDG, Željko Ražnatović Arkan was the leader of the fans of the Red Star football club. One of the club’s top officials was Radmilo Bogdanović, Minister of the Interior of Serbia at the time, later appointed as president of the parliamentary board for relations with Serbs living outside Serbia.
417. In an interview given to the Duga, a Belgrade weekly magazine, in 1993, Bogdanović referred also to the demonstrations of 9 March 1991, saying: “...had Arkan been there with his Delije who knows what else would have happened there.”⁴⁹¹ At the time of the demonstrations, Arkan was in prison in Croatia and the Delije were the fans of the Red Star FC. Bogdanović also said in this interview that on numerous occasions in the premises of the Red Star he had warned Arkan that his behavior was not going to be tolerated by the MUP the

⁴⁹⁰ D1196

⁴⁹¹ P00404,page 3.

way it had been tolerated previously by the Federal SUP which always looked the other way. Bogdanović says that he even read some reports about Arkan wounding some police officers. Bogdanović denied that he ever used Arkan's services.⁴⁹²

418. Finally, prompted by the journalist to say what Arkan was doing in Erdut, Bogdanović replied that as President of the Parliamentary Board for Serbs living outside Serbia he knew well that Arkan had gathered 250 to 300 volunteers and that he, Bogdanović, sent him to report to general Simović, i.e., to the Ministry of Defence and that Arkan did so and registered them as volunteers there.⁴⁹³

419. The Stanišić Defence witness DST-043, confirmed before the Trial Chamber that he had heard over the media that Dušan Bandić, Dušan Sarić, a certain Stefanović and Željko Ražnatović Arkan were arrested in Dvor na Uni (Republic of Croatia) in November 1990.⁴⁹⁴ This witness also says that Nebojša Mandinić and his brother told him that Milan Babić and Arkan had met in Golubić by the end of 1990.⁴⁹⁵

420. The official note of the Knin SUP dated 31 May 1991 precisely establishes the connection between Milan Babić, Arkan and Dušan Bandić who were brought in touch, inter alia, by the aforementioned Mandinić Nebojša. The document also shows that in November 1990 Arkan was in the company of Bandić at Marko Dobrijević's. Dobrijević talked with Babić about the best way to collect material means, i.e., donations for the defence of Krajina. Arkan, who was present at the meeting, explained that he was skillful in certain jobs associated with the DB Service of the Federal Secretariat for Internal Affairs since, as he put it, now he was "retired" but he used to work abroad. During this visit, Arkan insisted that "Delije" "wanted to help to defend Krajina and he suggested that "Delije" should be included in the protection of the Krka Monastery, to which the Prior of the monastery agreed. Finally, the document actually shows that late in November Dušan Bandić and Arkan went to a

⁴⁹² P00404, page 3.

⁴⁹³ P00404, page 3.

⁴⁹⁴ tt.13017

⁴⁹⁵ tt.13017-13018

meeting with President Babić, whereupon the information about the arrest of Arkan and Bandić by the MUP of Croatia was announced on TV.⁴⁹⁶

421. [REDACTED].⁴⁹⁷ [REDACTED]⁴⁹⁸ [REDACTED].⁴⁹⁹ [REDACTED]⁵⁰⁰

422. Finally, the Simatović Defence Witness Jovan Dimitrijević confirmed that in 1991 Radmilo Bogdanović was the honorary president and member of the managing board of the Red Star football club at the same time when Arkan was the leader of Red Star's fans which is why Radmilo Bogdanović and Arkan were in close contact in relation to the Red Star issues.⁵⁰¹ He also pointed out that the control over the football fans was one of the most important Arkan's duties and added that the basic cell the SDG later evolved from actually consisted of fifteen to twenty young men from the north stand of the Red Star Stadium.⁵⁰²

423. The Defence witness, Borislav Pelević, Arkan's second in command and best man, in his testimony states that Radmilo Bogdanović, when he was the Minister of the Interior in the Federal Republic of Yugoslavia, referred Arkan to General Simović. Arkan asked him for his assistance since they knew each other. And Radmilo Bogdanovic was an official in the Crvena Zvezda football club. Željko Ražnatovic Arkan was the leader for the Crvena Zvezda fans. On that occasion they had to be in contact. He told him that some Crvena Zvezda fans, together with himself, had decided to found the Serbian Volunteer Guards (SDG) and go to the Slavonia battle-field. And he asked for the assistance in the form of weapons and equipment. Radmilo Bogdanović said that this was not possible, and he referred him to the minister of defence, Tomislav Simović.⁵⁰³

424. [REDACTED].⁵⁰⁴ [REDACTED]⁵⁰⁵

⁴⁹⁶ D00098

⁴⁹⁷ [REDACTED]

⁴⁹⁸ [REDACTED]

⁴⁹⁹ [REDACTED]

⁵⁰⁰ [REDACTED]

⁵⁰¹ tt.16167-16168

⁵⁰² tt.16168

⁵⁰³ tt.16330

⁵⁰⁴ [REDACTED]

⁵⁰⁵ [REDACTED]

425. The Defence introduced into the exhibits a letter addressed to the JNA General Staff, dated 26 June 1993. In this document it is stated that Radmilo Bogdanović, member of the Executive Board of the SPS, vice-president of the Chamber of the Republics and president of the Defence and Security Committee of the FRY and Željko Ražnatović Arkan, an independent member of the National Parliament of the Republic of Serbia conducted selective talks with certain officers of the Yugoslav Army serving at the General Staff as well as with some strategic and operational commands for the purpose of winning them over for the Serbian Army. Elsewhere in the document it is also stated that Bogdanović talked to a number of officers ranking from lieutenant colonels to generals and Arkan with the officers up to the rank of major. The contents of the talks were, however, identical.⁵⁰⁶
426. It is also pointed out in the document that the main objective of the task was the creation of a “new Serbian army” since this war convinced Arkan that officers of the JNA were totally incompetent, burdened by ideological fallacies and that they could not be relied upon in the creation of the new army. According to the document, Arkan claimed that his proposal was accepted to appoint General Andrija Biorčević as the Chief of the General Staff of the VJ. At the end of the document it is stated that on 19 July 1993, a wedding celebration was organized at the Guard House on Topčider for Ivica Dačić, member of the Main Board of SPS, and that among the guests who showed up were: Slobodan Milošević, Radmilo Bogdanović and Arkan and that Bogdanović and Arkan were seated right next to Milošević. The informant believes that the selection of the wedding venue and the seating plan were meant to convey a special message to the officers.⁵⁰⁷
427. It is therefore, obvious that Franko Simatović and the Serbian DB had nothing to do and no part in the establishment of the SDG and its deployment to any of the war-engulfed regions of the former SFRY.
428. All the foregoing pieces of evidence indicate, beyond any doubt, that the SDG was formed of the “Red Star” fans from the north bleachers of the stadium, that they were organized by Arkan who was the leader of the fans at the time, and that Radmilo Bogdanović, honorary president and member of the managing board of the Red Star instructed them to

⁵⁰⁶ D1213,page 1.

⁵⁰⁷ D1213,page 2.

report to the Minister of Defence of the Republic of Serbia, General Tomislav Simović as a group of volunteers.

429. In the book written by Dobrila Gajić – Glišić, introduced into the exhibits by the Prosecution it is possible to clearly and unequivocally recognize the true nature of the relationship between Arkan and General Simović which in turn confirms the proofs we emphasized above.
430. In fact, in the period from September 1991 up until January 1992, Dobrila Gajić – Glišić was Chief of Cabinet to the Serbian Minister of Defence, General Tomislav Simović. This book represents a special first-hand testimony regarding the relations between the Minister of Defence of the Republic of Serbia, General Simović and Arkan and his SDG.⁵⁰⁸
431. On page 57 of her book, and in connection with the fights around Vukovar, General Simović's Chief of Cabinet discloses that Arkan's volunteers acted together with the JNA.⁵⁰⁹
432. On the next page, she testifies that Simović was asked to order the air strikes since Arkan and his men were left encircled. She goes on by saying that Simović, visibly upset ordered the air force to fly over but not to open fire to avoid hitting own forces. Later in her book, the Defence Minister's Chief of Cabinet says that in connection with this event, they spent the whole night in Simović's cabinet, keeping the line open with the air force command and following the situation closely until just before dawn when they received the information that Arkan's volunteers broke through the siege but there was no sign of Arkan himself. Later, when, according to the Chief of Cabinet, they already lost all hope, a call came through that Arkan showed up at last and that he was on his way to Simović's office. Indeed, Arkan arrived at General Simović's right after the action, in full combat gear, carrying a sniper rifle over his shoulder with an Ustasha cap soaked in blood hanging from it. He entered the office with his best man and several other friends to give an account of what had happened and to give the seized sniper rifle and the Ustasha cap to General Simović as a present.⁵¹⁰ So, the Chief of Cabinet of the Minister of Defence of the Republic of Serbia describes the event

⁵⁰⁸ P1050

⁵⁰⁹ P1050,book page 57,last para.(ET page 9)

⁵¹⁰ P1050,book page 58.(ET page:9,10)

from first-hand experience, i.e., the event she personally witnessed and which shows that the actions undertaken in Slavonia, with the participation of Arkan's SDG and JNA were coordinated from the Ministry of Defence, i.e., from General Simović's cabinet. Moreover, immediately after the action, Arkan, together with several of his volunteers in combat uniforms came directly to General Simović's cabinet.

433. In her book, Simović's Chief of Cabinet also writes about a talk show on a Belgrade media outlet where the topic of discussion was the establishment of an all-Serbian army. General Simović and volunteers from the frontline were supposed to take part in the talk show. He was to talk about openly on TV, inter alia, about organizing volunteers and about the fact that it was precisely he, the Minister of Defence, who supported them. However, since Simović was "busy elsewhere" his aide appeared on the talk show instead of him.⁵¹¹

434. In her explanation of the media appearance of Simović's aide, the Chief of Cabinet stated as follows: "While we were watching the show, we got the impression that he (Simović's aide, Mlađa) is on some other side, and that we were not the ones supporting volunteers and all these political party armies which were being resubordinated to JNA and TO in accordance with the law."⁵¹²

435. At the end of the talk show, as Ms Gajić – Glišić wrote in her book, the host openly asked Arkan who his supreme commander was. The cabinet room went silent, everyone expected that, after a moment of hesitation, Arkan would state in front of the entire audience – that it was General Simović. However, Arkan said – Patriarch Pavle! Several days later, they received a video tape made by the same TV station showing volunteers saluting Minister Simović and openly proclaiming him their supreme commander. Simović did not hold it against them although some other officials did.⁵¹³

436. When prompted to comment on the part of the book where Ms Glišić describes Arkan's appearance in the Belgrade media, TV station Studio B, the Defence witness Dimitrijević said that he did not remember the talk show, but that he believed it had been a

⁵¹¹ P1050,book page 59.(ET page:10,11)

⁵¹² P1050,book page 60.(ET page:11)

⁵¹³ P1050,book page 60.(ET page:11)

good illustration of the relationship between Arkan and General Simović. He said: “ ... it was a close relationship, and it was mutually benevolent. “⁵¹⁴

437. The Simatović Defence witness Borislav Pelević, first testified before the Trial Chamber, that when he came to Erdut as a volunteer at the beginning of 1992, he was given an application form to fill by a clerk, Jovan Dimitrijević. He was instantly given an olive-gray uniform, of the kind previously worn by soldiers of the JNA.⁵¹⁵ He goes on by saying that later he found out that those first uniforms had been supplied by the JNA and that he recognized this same type of uniform on the video clip shown to him, worn by Arkan at the funeral of General Bratić, commander of the Novi Sad Corps in the fall of 1991.⁵¹⁶ Asked further if members of the SDG received any other things, the witness says that apart from the uniforms, they received from the Army of Yugoslavia weapons and relevant equipment: ammunition, Zoljas, bombs and grenades and Osas.⁵¹⁷

438. Although this witness joined the SDG only in the early 1992, he testified that he found out about the foregoing facts from three sources: from the commander Arkan himself, as the first source who personally told him he got the weapons from VJ because that was the deal he had made with the Minister of Defence Tomislav Simović.⁵¹⁸

439. The second source was General Andrija Biorčević with whom the witness became fairly good friends and who confirmed all of this to him.⁵¹⁹

440. The witness claimed that his third source had been Dobrila Gajić who wrote a book on these events. The witness knows she was General Simović’s Chief of Cabinet and he knows her because she is friends with his wife’s parents. The witness claims that she told him about the meeting between Arkan and General Simović, the Defence Minister.⁵²⁰

441. This witness proceeds by saying that he knows that Radmilo Bogdanović referred Arkan to General Simović. Namely, since Bogdanović was an official of the Red Star FC and

⁵¹⁴ tt.16186

⁵¹⁵ tt.16323

⁵¹⁶ tt.16328;D789

⁵¹⁷ tt.16328

⁵¹⁸ tt.16329-16330

⁵¹⁹ tt.16330

⁵²⁰ tt.16330

Arkan was the leader of the club's fans, they were in touch. Arkan told Bogdanović that he and some fans had decided to form the SDG and go to the Slavonia battle-field. Arkan asked Bogdanović for weapons and equipment. Bogdanović said this was not possible and referred him to the Minister of Defence, Tomislav Simović. And this meeting was held and had the results that the witness has already mentioned.⁵²¹

442. Witness Pelević also testified about the ties between Arkan and SDG with the Minister of Defence, General Simović, when he spoke about the agreement the two of them reached regarding the use of military trucks and border crossing. He said: "From before, there was agreement in place between Commander Arkan and Minister of Defence of the Army of the Republic of Serbia, Mr. Tomislav Simovic, according to which they were allowed to use military trucks and according to which they would not be crossing the border at the official border crossing, but, rather, that they would use some military routes. That's how they crossed the border from Slavonia, Baranja, and Western Srem onto the territory of the Republika Srpska and into the Knin-Krajina."⁵²²

443. Finally, the Defence witness Jovan Dimitrijević, who, according to witness Pelević welcomed him in Erdut in January 1992, and gave him the application form to fill, also testified before the Trial Chamber about the relations between Arkan and his SDG and the Minister of Defence, Simović. Under cross-examination, this witness actually stated that he did not know that Bogdanović had referred Arkan to Simović but that he personally contacted the General Staff and General Simović in order to request assistance that was needed in Erdut.⁵²³

444. To the question whether Arkan visited Simović on a regular basis in 1991 and 1992, the witness replied that it was generally true although he was not sure how regular those visits had been.⁵²⁴

⁵²¹ tt.16330

⁵²² tt.16369

⁵²³ tt.16171

⁵²⁴ tt.16172

445. The witness further confirms that Arkan obtained his supplies through his relationship with General Simović and his relationship with the JNA. That was the only way for SDG to have the needs satisfied, the needs for weapons for 250 or 300 volunteers. He also added that Arkan always intentionally increased the numbers so that he could demand from the JNA representatives and General Simović more supplies than he actually needed.⁵²⁵
446. The witness was present at one of the meetings Arkan had with Simovic, which was held either at the end of February or the beginning of March when the witness had just arrived in Belgrade. Two JNA officers were also present and Marko Pejić, and another member of the Guard.⁵²⁶ The JNA could not comply with Arkan's requests for vehicles so it was an unsuccessful meeting. But in spite of that fact they were well liked by General Simović and they continued to co-operate with him when it came to receiving weapons and ammunition. The witness further stated that Arkan was in contact with the Novi Sad Corps Commander Biorčević as well.⁵²⁷
447. The witness states that although General Simović did not have available the number of vehicles demanded by Arkan, the co-operation continued and the co-operation was good. The witness confirmed that he personally co-operated with the Army regarding the issuance of certificates he requested for the members of SDG so that they could resolve their health insurance problems, and regarding their needs when it came to weapons. He also dealt with the platoons that were present at burials. In the conclusion of his testimony the witness said that he had various forms of communication, mainly with the Army. In 1992, he personally saw weapons and supplies coming into Arkan's camp directly from military.⁵²⁸
448. Finally, the Defence tendered the admission into evidence of the official note dated 10 December 1991 made by the then operative of the SDB Belgrade Center, Franko Simatović – Frenki, in which he stated that according to verified data, the Serbian Volunteer Guard (Arkan), No 3 Ljutice Bogdana Street is connected to the Jugoskandik company. Frenki

⁵²⁵ tt.16172

⁵²⁶ tt.16174

⁵²⁷ tt.16174

⁵²⁸ tt.16176

claimed that the money was paid regularly, every month with the assistance of the Republic Secretary of National Defence– RSNO (Simović).⁵²⁹

D. ARKAN AND SBZS (TO, JNA, BADZA AND BIORCEVIC)

449. Hereinabove, the Defence offered to the Trial Chamber numerous pieces of evidence clearly showing that Arkan asked Radmilo Bogdanović for assistance so that he and his SDG could go to Slavonia – Erdut to the battle-field. On that issue, Bogdanović referred him to the Minister of Defence Simović who, as we already saw and as described by his Chief of Cabinet, Ms Gajić – Glišić, was responsible for resubordinating volunteers to JNA and TO, which is why the volunteers considered him to be the supreme commander.

450. [REDACTED]⁵³⁰ [REDACTED].⁵³¹ [REDACTED]⁵³²

451. [REDACTED]⁵³³, [REDACTED].⁵³⁴ [REDACTED].⁵³⁵

452. [REDACTED].⁵³⁶ [REDACTED].⁵³⁷ [REDACTED]⁵³⁸ [REDACTED].⁵³⁹

453. At this point, the Defence would like to draw the Trial Chamber's attention to a Prosecution's exhibit, a certificate to the effect that Stričević Milorad from the Dalj police station on 5 October 1991 took over a number of persons of Croatian ethnicity. Namely, in this certificate, Stričević Milorad states that he took over these persons ON BEHALF OF THE DALJ DEFENCE STAFF.⁵⁴⁰

⁵²⁹ D407

⁵³⁰ [REDACTED]

⁵³¹ [REDACTED]

⁵³² [REDACTED]

⁵³³ [REDACTED]

⁵³⁴ [REDACTED]

⁵³⁵ [REDACTED]

⁵³⁶ [REDACTED]

⁵³⁷ [REDACTED]

⁵³⁸ [REDACTED]

⁵³⁹ [REDACTED]

⁵⁴⁰ P315

454. [REDACTED].⁵⁴¹

455. The Prosecution witness JF-018, who joined the police in Dalj sometime between 20 and 25 August 1991, testified that in the afternoon on 1 August 1991, JNA trucks brought weapons and distributed these among Serb villages. Anyone who asked for a weapon had only to sign a document.⁵⁴²

456. In September 1991, the Government of the Autonomous Region of Slavonia, Baranja and Western Srem (SBZS) had already been established. Goran Hadžić became President of the Government. [REDACTED].⁵⁴³ [REDACTED]

457. In presenting its case, the Prosecution called only two or three witnesses who could have had some first-hand knowledge regarding the organization, financing and mutual links among different military and police structures in the territory relevant to the Indictment. [REDACTED].⁵⁴⁴

458. [REDACTED].⁵⁴⁵

459. [REDACTED].⁵⁴⁶ [REDACTED]⁵⁴⁷

460. [REDACTED]⁵⁴⁸, [REDACTED]⁵⁴⁹ [REDACTED]⁵⁵⁰ [REDACTED].⁵⁵¹
[REDACTED]⁵⁵²

461. [REDACTED]⁵⁵³ [REDACTED].⁵⁵⁴ [REDACTED]⁵⁵⁵

⁵⁴¹ [REDACTED]

⁵⁴² tt.4163

⁵⁴³ [REDACTED]

⁵⁴⁴ [REDACTED]

⁵⁴⁵ [REDACTED]

⁵⁴⁶ [REDACTED]

⁵⁴⁷ [REDACTED]

⁵⁴⁸ [REDACTED]

⁵⁴⁹ [REDACTED]

⁵⁵⁰ [REDACTED]

⁵⁵¹ [REDACTED]

⁵⁵² [REDACTED]

⁵⁵³ [REDACTED]

⁵⁵⁴ [REDACTED]

⁵⁵⁵ [REDACTED]

462. The Defence would like to draw the Trial Chamber's attention to a certificate jointly issued and signed on 4 December 1991 by commander Enes Taso, a JNA colonel, and Željko Ražnatović Arkan, commander of the TO SBZS center for special training. Namely, this document certifies that a certain person named Marković Nenad participated in the liberation of Tenja as a member of Arkan's unit which acted with the JNA.⁵⁵⁶ In fact, Marković Nenad joined the SDG in the first half of 1991 and received medical treatment for his wounds at the Military Medical Academy (VMA). The Belgrade City Administration for war-veteran and disability issues passed a decision granting Marković the status of a 4th category war military invalid, and the entitlement to disability pension.⁵⁵⁷

463. [REDACTED].⁵⁵⁸ [REDACTED].⁵⁵⁹

464. [REDACTED].⁵⁶⁰

465. [REDACTED].⁵⁶¹

466. Before the Trial Chamber the Defence showed a video clip where Željko Ražnatović Arkan personally emphasizes that he and his SDG are under the TO of the Serbian SBZS district and the Territorial Defence is subordinated to the armed forces of the JNA.⁵⁶²

467. [REDACTED].⁵⁶³

468. That this testimony is absolutely true is corroborated also by a document that was tendered into evidence by the Prosecution itself. Namely on 23 November 1991, Command of the JNA 12th Corps (Novi Sad Corps) in Dalj issued a decision to award small arms as the war trophies to the most successful leaders of the TO SO SBZS in recognition of successful

⁵⁵⁶ D166

⁵⁵⁷ P337

⁵⁵⁸ [REDACTED]

⁵⁵⁹ [REDACTED]

⁵⁶⁰ [REDACTED]

⁵⁶¹ [REDACTED]

⁵⁶² D196

⁵⁶³ [REDACTED]

cooperation and most direct participation in the combats for the liberation of Borovo. The awards recipients were Stojčić Radovan – Badža, commander of the TO SO SBZS, Trajković Živko, deputy commander of the TO SO SBZS and Ražnatović Željko Arkan, commander of the special volunteer detachment of the TO SO SBZS. This document was signed by General Major Andrija Biorčević commander of the JNA Novi Sad Corps.⁵⁶⁴

469. [REDACTED]⁵⁶⁵

470. The Defence also tendered the admission into evidence of the SAO Krajina document – Municipality of Petrinja dated 25 November 1991 (several days after the fall of Vukovar), signed by president of the SO Petrinja, Dr. Radovan Maljković. This document shows that president of the SO Petrinja gave his consent to the members of the unit under the command of Željko Ražnatović Arkan to participate in the combat activities at the positions of the JNA and TO in the Petrinja municipality. The document also reads that the unit will be led by a superior officer and that it will be within the composition and under the command of the commander of the 2nd Motorized Battalion (MTB) of the 622nd Motorized Brigade (MTBR), Bogdan Ercegovac. At the end of the document, it is stated that 2nd mtb will take over the responsibility to provide arms and food to Arkan's unit.⁵⁶⁶

471. That Arkan and his SDG were armed by the JNA through the mediation of generals Simović and Andrija Biorčević is confirmed also by the Defence witness, Mladen Karan, who, in 1988 reassigned to work at the counter – intelligence group of the 17th Corps, the Tuzla garrison.⁵⁶⁷ Soon after that, from the Tuzla garrison, from the counter-intelligence group of the 17th Corps, he was transferred to the Security Administration of the Federal Secretariat for National Defence. He remained in this position until the moment he received an order to be assigned to the Guards Motorized Brigade, which was on the positions around Vukovar, in September 1991.⁵⁶⁸

⁵⁶⁴ P3010

⁵⁶⁵ [REDACTED]

⁵⁶⁶ D103

⁵⁶⁷ tt.17669

⁵⁶⁸ tt.17670

472. This witness confirmed that TO already existed in Slavonia when he arrived there.⁵⁶⁹ He also stated that there was a state of immediate war danger at the time that had been officially declared by the Supreme Command soon after his arrival in Slavonia. Under such circumstances, TO and other structures placed themselves under the command of the JNA.⁵⁷⁰ SO SBZS had its own Territorial Defence.⁵⁷¹ The commander of the Territorial Defence was Radovan Stojčić a.k.a. Badža.
473. Via meetings within the Security Administration in Belgrade, when he was still member, and where they discussed information about Arkan, the witness knew that Željko Ražnatović Arkan had placed himself under the command of the Territorial Defence, that he had a training camp, and that he had been armed by the JNA from JNA depots, which General Simović, who was appointed Defence Minister of the Republic of Serbia, enabled.⁵⁷²
474. While the witness was a member of the first section, they knew that certain high-ranking officers from the Novi Sad Corps maintained close relations with Željko Ražnatović Arkan.⁵⁷³ Arkan kept close relations with Mladen Bratić, who was commander of the Novi Sad Corps until he got killed, with Boro Ivanović, Chief of Staff, and with a general, who replaced Bratić, named Andrija Biorčević.⁵⁷⁴
475. When, under the cross-examination, he commented on exhibit D754, the witness was aware of this order by Major-General Biorčević of 17 November 1991, ordering all forces within the zone to be identified and placed under the command of the JNA. He knows this due to the Guards Motorized Brigade receiving a similar order, of course at a lower level than the corps.⁵⁷⁵ In the witness's area it was implemented, which did not relate to Arkan as he was not present there. He was in operation group north. However, it related to the entire JNA and Arkan was, at least following this order, placed under direct subordination to the Novi Sad Corps vis-à-vis this order. There was no improvisation there.⁵⁷⁶

⁵⁶⁹ tt.17671

⁵⁷⁰ tt.17672

⁵⁷¹ tt.17673

⁵⁷² tt.17674

⁵⁷³ tt.17675

⁵⁷⁴ tt.17676

⁵⁷⁵ tt.17760

⁵⁷⁶ tt.17761-17762

476. The witness stated that Arkan's unit was a permanent unit on the strength of the Territorial Defence that was resubordinated to the JNA.⁵⁷⁷

477. The Defence witness, Gvozden Gagić, who had a rich experience and held high-level positions in the Public Security Sector of the MUP of the Republic of Serbia, testified that close to the end of September 1991, the Public Security Sector of the Serbian MUP formed two volunteer units sending one to Knin and the other to Dalj.⁵⁷⁸ People volunteering for the units were mostly compromised policemen who were thrown out of Croatia.⁵⁷⁹ The unit that went to Slavonia, which included the witness, left Belgrade in an organized manner, as a group⁵⁸⁰ on the 29th of September 1991⁵⁸¹ and arrived in Dalj on the same day.⁵⁸² It was under the command of Veljko Bogunović⁵⁸³, who reported back to Radovan Stojčić Badža.⁵⁸⁴

478. The Witness also commented on two video clips shown to him by the Defence and confirmed that Vice-President of the Presidency of the SFRY Branko Kostić visited Borovo Selo in July 1991 after the conflict, on which occasion Kostić stated that the Serbian people in Croatia were at risk and that therefore the JNA should help those Serbs.⁵⁸⁵ The witness confirmed that the JNA was already more active in the protection of the civilian population at this time.⁵⁸⁶

479. This unit placed itself under the command of the TO staff of the SAO SBZS headed by Radovan Stojčić Badža. However, their immediate superiors were, in fact, the Novi Sad Corps. They were part of the Novi Sad Corps, but locally were under the command of the TO

⁵⁷⁷ tt.17798

⁵⁷⁸ tt.17121-17125

⁵⁷⁹ tt.17121

⁵⁸⁰ tt.17124

⁵⁸¹ tt.17125

⁵⁸² tt.17128

⁵⁸³ tt.17129

⁵⁸⁴ tt.17230

⁵⁸⁵ tt.17113- 17117;D690;D691

⁵⁸⁶ tt.17120

staff commander Radovan Stojčić Badža.⁵⁸⁷

480. The witness states that joining the volunteer unit was a personal act because the witness was a sympathizer and supporter of the people in Slavonia.⁵⁸⁸ Permission for the unit to go to Slavonia was granted by the then-chief of the Secretariat of Interior, Rade Markovic and the then-minister of the interior, Zoran Sokolović.⁵⁸⁹
481. The witness testified that they received their supplies from TO Defence arms depot. The witness thinks it was a central depot of the TO staff of the SAO SBZS stationed in Dalj.⁵⁹⁰ The witness said that based on the information he had that particular depot received its supplies from other military depots of the JNA.⁵⁹¹
482. The witness's unit was relocated from Dalj to Erdut around 20 October 1991.⁵⁹² His tasks were to patrol and secure the facility where it was billeted. While on patrol the witness took with him only a military pass but no other form of ID.⁵⁹³ General Bratić was the head of the Novi Sad Corps. Early in October 1991 General Bratić was killed.⁵⁹⁴ He was replaced by General Andrija Biorčević.⁵⁹⁵
483. Relocating to Erdut the unit was given another task, that of checking the traffic crossing the Brotherhood and Unity bridge, which was the only road between Vojvodina and Eastern Slavonia although the witness himself was assigned with mostly administrative tasks. The witness was only occasionally present at the bridge.⁵⁹⁶
484. His unit was billeted in a part of the "Saponia" company complex.⁵⁹⁷ The unit took their meals at the canteen in the 101st Recruitment Centre, which was, in fact, the so – called

⁵⁸⁷ tt.17129-17130

⁵⁸⁸ tt.17127

⁵⁸⁹ tt.17235

⁵⁹⁰ tt.17130

⁵⁹¹ tt.17131

⁵⁹² tt.17131

⁵⁹³ tt.17132

⁵⁹⁴ tt.17132

⁵⁹⁵ tt.17133

⁵⁹⁶ tt.17146

⁵⁹⁷ tt.17133

Arkan Centre, the TO Centre where he met Arkan and Radovan Stojčić Badža.⁵⁹⁸

485. The Prosecution introduced into the evidence of this case a photo of Arkan and Badža standing in front of a board sign at the Erdut Center entrance which reads: Center for special training of volunteers and TO SO SBZS.⁵⁹⁹
486. He also saw Hadžić there, and members of Arkan's volunteer squad. This volunteer squad, the Serbian Volunteer Guard subordinated to the TO Staff but were under the direct command of the Novi Sad Corps Command.⁶⁰⁰ New arrivals usually wore civilian clothes and arrived in a large van with Belgrade number plates. These arrivals were not armed.⁶⁰¹ Weapons were supplied to the Serbian Volunteer Guard by the TO Staff depot in Dalj.⁶⁰² This Guard also trained at the centre; martial arts, target practice, etc.⁶⁰³
487. When shown a document of the security organ of the 1st Military District dated 18 October 1991, representing the information on activities of SDG in the Erdut center, which states, inter alia, that Arkan received weapons, ammunition and MES (mining and explosive devices) from the MUP and the Ministry of Defence of the RS, for further distribution to the Staffs of TO Erdut, Sarvaš and Borovo Selo⁶⁰⁴, the Witness's comment was that the MUP did not have such explosive devices in its arsenal.⁶⁰⁵ The witness does not know whether Arkan was distributing weapons to the Erdut, Sarvaš and Borovo Selo TO's.⁶⁰⁶ The relations of Željko Ražnatović Arkan with the Novi Sad Corps Command and the lower ranking officers of that corps was professional. Arkan conducted himself as subordinate.⁶⁰⁷ Members of the Novi Sad Corps also trained at the centre and he saw generals Biorčević and Ivanović visiting Centre as well as Colonel Košutić security officer of the Novi Sad Corps.⁶⁰⁸
488. The command of the Corps was located on a ship named Kozara, anchored in Erdut.

⁵⁹⁸ tt.17133

⁵⁹⁹ P1669

⁶⁰⁰ tt.17134

⁶⁰¹ tt.17135

⁶⁰² tt.17135

⁶⁰³ tt.17136

⁶⁰⁴ D31

⁶⁰⁵ tt.17140

⁶⁰⁶ tt.17140

⁶⁰⁷ tt.17141

⁶⁰⁸ tt.17141

The witness visited the ship twice.⁶⁰⁹ The witness also knows, given the fact that he performed patrol duty, that Arkan together with his officers went aboard the ship serving as the command post of the Novi Sad Corps on numerous occasions. He personally witnessed this on several occasions.⁶¹⁰

489. The training centre was the only one in Erdut, according to the witness,⁶¹¹ and it was opened by the Ministry of Police of the Republic of the Serbian Krajina and the Ministry of Defence.⁶¹² Arkan reported directly to Badža. Arkan was charged with the reception and training of volunteers and their deployment to the neuralgic points where there was the greatest risk from the Croatian forces in the area of Slavonia. He took these orders from the TO Staff.⁶¹³ Arkan would meet Badža, usually in the morning at the same location as the witness's unit was billeted. Some of these meetings the witness attended.

490. Finally, witness Gagić decidedly stated that during his stay in Slavonia he never saw or heard that Franko Simatović attended any dinner or celebration; on the contrary, witness never saw Simatović in the territory of Slavonia at all, and neither did he hear that he had been there at any moment.⁶¹⁴

491. The previously mentioned Defence Witness Jovan Dimitrijević, who had been one of Arkan's closest associates, also testified about the training center in Erdut where he came as a volunteer after the fall of Vukovar, in late November 1991.⁶¹⁵ When he arrived at the camp in Erdut, he told Arkan about his professional background.⁶¹⁶ Arkan announced to the witness he would become a clerk. His immediate superior was Arkan himself. His duties consisted of recording all the names and personal information of the people arriving at the camp. In addition to those administrative tasks that he had at the very beginning, his daily duties were to compose daily orders that would be read out every morning as the flag was raised. Those

⁶⁰⁹ tt.17141

⁶¹⁰ tt.17141-17142;D698,page12

⁶¹¹ tt.17275

⁶¹² tt.17278

⁶¹³ tt.17276

⁶¹⁴ tt.17147-17148

⁶¹⁵ tt.16055

⁶¹⁶ tt.16057

daily orders concerned the 101st training centre of Slavonia, Baranja, and Western Srem.⁶¹⁷ In addition to that, during the course of a day he would have some other regular duties, inter alia, looking after people who had been wounded in combat and he was in charge of logistics.⁶¹⁸ The witness stated that towards the end of 1991 and the beginning of 1992 the Erdut camp had its own military post stamp. It started with a number 8. And then sometime in 1993 the camp started using this number as seen on the screen. The camp was always a military post.⁶¹⁹

492. According to Dimitrijević's testimony, at first, members of SDG wore the same uniforms as the JNA. However, when members of SDG went on field missions, the Croats wore the same uniforms and it was difficult to tell them apart, owing to the fact that they all got their supplies from the former TO depots.⁶²⁰ Later on, Arkan bought hunting jackets and camouflage jackets for the officers from a hunting store called Magnum in Belgrade.⁶²¹ The camp also received about 20 donated uniforms from Canada.⁶²² Later on, they found a tailor named Slankamenac in Novi Sad who made uniforms for the volunteers. The witness confirms there was a weapons warehouse present at the Erdut centre. There were automatic rifles, M-70, semi-automatic rifles, hand-grenades, Zoljas, Osas and ammunition.⁶²³ The first weapons were obtained, to a certain extent, from the JNA. Some of the weapons that the officers had, but not all of them, the Heckler weapons, for example, were treated as war booty. There was one particular event when there was a dispute with the Croats and some Hecklers were found in a warehouse in Zenga and some of the officers had these weapons on them.⁶²⁴ The camp had contact in particular with the Territorial Defence command in Western Srem. They would list their needs and the witness personally would take that list to Dalj, which is where he would hand over the list of their needs for that day. The following day he would be provided with a response in Erdut, but in some cases he directly contacted the JNA, and requested their assistance if it was not possible to obtain assistance.⁶²⁵

493. The commander of the Novi Sad Corps at the end of 1991 and 1992 was General

⁶¹⁷ tt.16058

⁶¹⁸ tt.16059

⁶¹⁹ tt.16061

⁶²⁰ tt.16061

⁶²¹ tt.16061

⁶²² tt.16062

⁶²³ tt.16065

⁶²⁴ tt.16065

⁶²⁵ tt.16066

Biorčević.⁶²⁶ When shown the video clip D640, the witness recognized the entrance to the Training Center in Erdut, and the place where the volunteers lined up every morning. He also recognized that the individual who appeared and greeted the troops was General Biorčević, who frequently visited them at the Center, about three to four times a month.⁶²⁷

494. The witness stated that Arkan and the General frequently met. The witness occasionally went with Arkan to these meetings. When the witness accompanied Arkan he usually went there officially to deal with certain needs that the army would help them with. They'd provide the centre with some rifles and ammunition.⁶²⁸ The witness does not know what Arkan and the General discussed when he was not present.

495. The witness commented on the Defence exhibit D166 to the effect that, while he had been in Erdut, all operations were carried out together with JNA. He also said that there was the command of the TO and of the JNA that acted together with the Serbian Volunteer Guards.⁶²⁹

496. The witness confirms that Radovan Stojčić aka Badža, visited the camp regularly. His visits were considered very important and because of that, the troops would be lined up every time he'd visit the camp.⁶³⁰ Radovan Stojčić was replaced in early 1992 by Živorad Trajković aka Žile Trajković. The witness added that Badža was the commander of TO SBZS and that it was normal that his visits received such a level of attention.⁶³¹

497. The witness was shown the video clip D641.⁶³² The Video clip shows Željko Ražnatović Arkan, providing instructions. It also shows a number of soldiers, some of which the witness recognizes - Ranko Živanović Homa and Nebojša Đorđević.⁶³³ They are wearing green helmets, which the centre received from the JNA, together with some dressings and gas

⁶²⁶ tt.16068

⁶²⁷ tt.16069-16070;D640

⁶²⁸ tt.16070

⁶²⁹ tt.16071

⁶³⁰ tt.16075

⁶³¹ tt.16075

⁶³² tt D641

⁶³³ tt.16077

masks.⁶³⁴

498. The witness confirmed that high UN representatives and foreign UN representatives visited the camp on a daily basis.⁶³⁵ The witness was shown the video clip D643.⁶³⁶ The video clip shows a news report from Sky News. Three high-ranking officials can be seen in the clip named Owen, Newman and Moody.⁶³⁷ The witness stated that he remembers these visits in November/December 1991 and in January 1992.⁶³⁸ The witness was not present at the centre when Cyrus Vance visited.⁶³⁹ The training centre was not walled in, as seen in the video clips. It had a gate, a guard at the gate, but everything else was quite transparent.⁶⁴⁰
499. Goran Hadžić would occasionally stay over at the centre. His security was stationed at the centre as well, at some point.⁶⁴¹
500. The witness, who was in charge of logistics⁶⁴² at the Erdut camp, states that the supply of weapons was his responsibility once the weapons arrived at the depot in Erdut. He did all the paperwork and he also checked on a daily basis the paperwork versus the actual stock in the depot. Although it was impossible to count every weapon and every piece of ammunition, he assured that there could not have been any discrepancy between the depot and the paperwork.⁶⁴³ The person in charge of the stock was Mr. Borivoje aka Bore Ackov.⁶⁴⁴
501. The Defence witness Borislav Pelević testified that he joined SDG in January 1992 and two days later he was transferred from Belgrade to the training center in Erdut.⁶⁴⁵ The witness was issued with a woolen olive-drab uniform that had previously been worn by the soldiers of the JNA. For the first few days, all of the volunteers were issued with that kind of

⁶³⁴ tt.16077

⁶³⁵ tt.16083

⁶³⁶ D643

⁶³⁷ tt.16086

⁶³⁸ tt.6084

⁶³⁹ tt.16087

⁶⁴⁰ tt.16088

⁶⁴¹ tt.16089

⁶⁴² tt.16179

⁶⁴³ tt.16181

⁶⁴⁴ tt.16182

⁶⁴⁵ tt.16321-16322

uniform.⁶⁴⁶ He was not issued any weapons during the first couple of days.

502. When the witness was shown the video clip D789.⁶⁴⁷ from the funeral of General Bratić who had formally been the commander of the Novi Sad Corps, the Witness recognized Mr. Ražnatović and his uniform. Next to him was the then-president of SO SBZS Goran Hadžić. General Blagoje Adžić is standing behind the flag. Lieutenant-General Života Panić is also in the video.⁶⁴⁸

503. After the death of Bratić, Andrija Biorčević, lieutenant-general, became the head of the Novi Sad Corps.⁶⁴⁹

504. Witness Pelević also testified that there were various types of weapons at the Centre in Erdut when he came. There were automatic rifles, M-70 automatic rifles, and there were semi-automatic rifles as well.⁶⁵⁰ There were also perhaps four or five Hecklers, small automatic weapons, Heckler and Kochs, that commander Arkan had on him, as well as a few other officers. The Hecklers had been seized in an operation in the vicinity of Osijek.⁶⁵¹ These weapons were not really used on the battlefield. It was more the case that special units in towns used these weapons. So the wartime weapons that were used the most in this war were automatic and semi-automatic rifles. Semi-automatic rifles were later excluded when they received other weapons from the JNA.⁶⁵²

505. Witness Pelević explained that later on, when he became close to Arkan, he found out from three sources that Arkan received the weapons from the JNA. He learned that from Arkan himself, from General Biorčević and from Dobrila Glišić, a family friend.⁶⁵³

506. Pelević further testified that after a battle in which the Volunteer Unit captured 8 tanks, Arkan gave 6 of them back to the army immediately. Two he kept to trade for

⁶⁴⁶ tt.16323

⁶⁴⁷ D789

⁶⁴⁸ tt.16327

⁶⁴⁹ tt.16329

⁶⁵⁰ tt.16329

⁶⁵¹ tt.16329

⁶⁵² tt.16329

⁶⁵³ tt.16330

automatic rifles. An agreement was reached according to which a large amount of automatic rifles and accompanying equipment would be provided for those two tanks. So the volunteers gave the army the PUP semi-automatic rifles, and in return they received "papovke" automatic rifles.⁶⁵⁴

507. As regards the uniforms, Pelević confirmed that part of the uniforms, part of the camouflage uniforms, were received from someone who donated them in Canada. But the quantity was not sufficient for all the guards, so one overall was taken to Novi Sad, to a man called Stankamenac, and he used that uniform to make a certain number of camouflage uniforms. Pelević said he knew that some of those uniforms were also sewn in the "Yumco" factory in Kosovo and Metohija.⁶⁵⁵

508. Pelević stated that there was a shop in Belgrade called "Magnum", which had perhaps been renamed as "Army Shop" later on, where "you can buy equipment and uniforms, but not weapons, you could buy hunting knives, but not other weapons. I know that Commander Arkan bought just for the officers some very nice uniforms in that shop in Belgrade. He bought some knives and officer boots, so that the officers looked quite different from the ordinary soldiers, from us who were the volunteers."⁶⁵⁶

509. General Biorčević came several times while the Witness was in Erdut. He paid the 101st Centre in Erdut a visit. And whenever he came, Commander Arkan lined up all of the guards. General Biorčević saluted the volunteers as soon as he arrived in the centre.⁶⁵⁷

510. The Witness stated that the Serbian Volunteer Guard together with the military carried out actions almost all over Slavonia, Baranja and Western Srem. There was Operation Lužac, where the volunteer guards launched an infantry attack and they were supported by the Army of Yugoslavia artillery and tanks, since they did not have any tanks. These actions were commanded by the corps commander of the Army of Yugoslavia, General Bratić first, and

⁶⁵⁴ tt.16332

⁶⁵⁵ tt.16333

⁶⁵⁶ tt.16333

⁶⁵⁷ tt.16334

later General Biorčević.⁶⁵⁸ In 1992, there were just a few smaller-sized operations.⁶⁵⁹

511. When he arrived, the witness saw a big billboard at the very entrance into the centre, and the inscription on there was the 101st Training Centre of the TO SBZS, which means that it belonged to the TO and its headquarters was in Dalj, a town very close to Erdut.⁶⁶⁰
512. Regarding Arkan's relationship with Badža, witness Pelević testifies that Arkan was close to Radovan Stojčić Badža. However, the SDG, all of its members, and Arkan harbored quite a lot of animosity towards the MUP. That animosity was due to the fact that they thought that the DB, i.e., the secret police and the police in general, saw Arkan as a person with a criminal record. Badža was the commander of the TO as well as the commander of the SDG that was part of the TO. So that friendship must not be confused with Arkan's attitude towards the police and the DB. This was a very personal relationship, and that continued to exist all the way up to Badža's death.⁶⁶¹
513. The witness makes a distinction between the personal relation that Badža had with Arkan and the relationship that Arkan had with the Serbian MUP as an institution. Arkan was happy about the relationship between the two co-fighters and two friends, and this continued to be the case up until Badža's death. This has nothing to do with the relationship between the SDG and the Serbian MUP or state security.⁶⁶²
514. [REDACTED].⁶⁶³
515. [REDACTED].⁶⁶⁴
516. Apart from uniforms and weapons, for the normal functioning of the Erdut training center for volunteers and TO it was also necessary to provide food for the men. Before the Trial Chamber, witness Jovan Dimitrijević confirms that it was he who was in charge of

⁶⁵⁸ tt.16336

⁶⁵⁹ tt.16336

⁶⁶⁰ tt.16337

⁶⁶¹ tt.16339

⁶⁶² tt.16464

⁶⁶³ [REDACTED]

⁶⁶⁴ [REDACTED]

logistics in SDG in the Erdut Center as well as later, when he was transferred to Belgrade.

517. This Witness states that regarding the food, he was the one who would take the list of necessities to Dalj to the government offices there. They were the ones who provided them with salt, flour, sugar, oil and such bare necessities.⁶⁶⁵

518.

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The Witness was shown the document of the Defence Ministry of SO SBZS No 01-73/92 (probably from January 1992), in which Milan Milanović – Mrgud approved the refund of expenses of the Erdut TO training center for volunteers also to the Dalj social enterprise which will effect payment within the currency deadline, and take care of the daily business of the Center. (Defence remark: please note that the word “poslovi”, meaning business, is evidently a typo and should read “potrebe”, i.e. needs).⁶⁶⁶

519. Witness Dimitrijević confirmed the accuracy of the above, saying that it referred to their Centre, which was the only one in Erdut, and added that this was the only way in which provisions had been obtained. Further, he stated that Mrgud had been a member of the Government and the one in charge of paying the invoices. He added that, in addition to the basic foodstuffs and meat, the same procedure had applied in the procurement of toiletries.⁶⁶⁷ The witness stated that he remembered this document and, furthermore, stated that the company in Dalj was not paid by the Centre directly. Instead, the Ministry would reimburse the company’s expenses for supplying the Centre with toiletries.⁶⁶⁸

520. Moreover, the witness and his driver often visited companies throughout Slavonia, as well as companies in the border region of Serbia close to Erdut and presented them their needs. The witness visited the companies seeking assistance and the companies were eager to help, despite the difficult situation resulting from the war. In those situations, the SDG did not pay these companies for the provisions; instead, it issued appreciation notes to them. This

⁶⁶⁵ tt.16091

⁶⁶⁶ P1187

⁶⁶⁷ tt.16092

⁶⁶⁸ tt.16293

referred not only to the companies, but also to the individuals who helped the SDG.⁶⁶⁹

521. Another piece of evidence showing that the costs of the Centre for training of volunteers in Erdut was covered by the Ministry of Defence of SO SBZS is the invoice No 29/92, dated 22 January 1992. Namely, on the said date, the company “Dalj” issued an invoice to the Ministry of Defence for the costs of the training centre in Erdut for the year 1991, which amounted to 1,001,550.70 dinars.⁶⁷⁰

522. On 17 January 1992, Arkan raised an objection with the company “Dalj” regarding the invoice specification, previously issued by the company, which amounted to 3,488,033.40 dinars. Arkan’s objection referred to the fact that the invoice specification showed combined costs incurred by both the Government of SO SBZS and the TO Centre for Special Training. Accordingly, he requested the company to issue a separate invoice, showing only the costs of the Centre.⁶⁷¹

523. The Defence witness Gvozden Gagić testified that the members of SDG had conducted training in Erdut even before he arrived there with his unit, as well as after their arrival. Training was a part of the activities conducted in that centre. There was a football pitch, which was used for the training activities. There was also an area which was suitable for target practice, infantry weapons target practice.⁶⁷²

524. The witness also knew from talking with the members of the SAJ unit that, in the beginning, the members of this unit were the instructors for the Serbian Volunteer Guard. The SAJ members initially trained 50 to 60 men and the most talented members of the Guard were later appointed as instructors. The witness explained that this had been the case in the beginning and that, when the first cycle of training had been completed and the first group of instructors formed from among the SDG members, they had taken over further training activities of the SDG, whereas the SAJ members had no longer participated.⁶⁷³ Furthermore, the witness explained that only a smaller part of the SAJ unit had been in Slavonia, 15 to 20

⁶⁶⁹ tt.16092

⁶⁷⁰ P331

⁶⁷¹ P332

⁶⁷² tt.17136

⁶⁷³ tt.17136

of its members, that they had come as volunteers, headed by Radovan Stojčić, and that the SAJ was a part of the Public Security Service.⁶⁷⁴

525. The testimony of witness Gagić was practically confirmed by witness Pelević, who had arrived in Erdut in early 1992. He testified that after two or two and a half months of his arrival in the camp in Erdut, he had taken over the training of the SDG members. He added that the training had lasted for 3 months and, once completed, the Guard members had joined combat units. The witness confirmed that the instructors who had trained the recruits were members of the SDG. Further, he stated that, when Legija had arrived in the Guard in April 1992, he had also been appointed as an instructor, since he had a lot of military experience. They had also had a colonel, an army colonel, a colonel from the JNA and, because of his rank, they had called him “Puki“, which was short for the Serbian word for “colonel” – “pukovnik“.⁶⁷⁵ He had worn the uniform of the Army of Yugoslavia.⁶⁷⁶ Lastly, the witness stated that none of the Serbian MUP or DB members had conducted training of the SDG members. He added that it would have been quite unnatural for them to do so, since the police and the state security, given the nature of their work, were not military units and knew nothing about warfare.⁶⁷⁷

526. Thus, at the time when Arkan established the SDG, when he equipped it and when he and the Guard, being a part of the TO, were stationed in Erdut, SBZS, he closely cooperated with:

- **Radmilo Bogdanović**, who was the Secretary of Internal Affairs of the Republic of Serbia until May 1991, a high official of the SPS and the Chairman of the Committee for Relations with Serbs outside of Serbia;
- **General Tomislav Simović**, Minister of Defence of the Republic of Serbia.

527. When Arkan arrived as a volunteer with the SDG in the area of SO SZBS in Erdut, he initiated direct and close cooperation with:

⁶⁷⁴ tt.17122-17123;17137

⁶⁷⁵ tt.16344

⁶⁷⁶ tt.16345

⁶⁷⁷ tt.16345

- **Radovan Stojčić aka Badža**, the then commander of TO SO SZBS, previously the commander of the SAJ within the Public Security Service of the Serbian SUP. In early 1992, Radovan Stojčić was appointed Assistant Minister of the Interior of the Republic of Serbia and the Head of the Public Security Service;
- **General Bratić**, commander of the Novi Sad Corps of the JNA, until he was killed in November 1991;
- **General Andrija Biorčević**, commander of the Novi Sad Corps as of November 1991;
- **Milan Milanović aka Mrgud**, Assistant Minister responsible for SO SZBS.

528. In the considered period, until May 1992, Franko Simatović was a senior inspector – operative in a unit of Department II of the Belgrade SDB. In terms of position, importance and influence, all persons listed above were significantly above the position of Franko Simatović. Moreover, the Prosecutor has not even presented any evidence in support of the claim that Franko Simatović and Željko Ražnatović aka Arkan had anything in common during 1991 and 1992.

529. Therefore, it is obvious that the Serbian DB, especially Franko Simatović, had no role whatsoever either in establishing Arkan's SDG, or in supplying the latter with weapons, equipment and provisions, or in training any of its members.

E. ARKAN AND SDG IN BIJELJINA AND ZVORNIK IN 1992

530. The participation of Željko Ražnatović aka Arkan and the SDG in combat activities in Bijeljina and Zvornik in the spring of 1992 has been the subject of many witness testimonies and evidence presentations. At this point, the Defence will try to summarize the testimonies and exhibits, which prove beyond any reasonable doubt that Arkan and his SDG joined the combat activities as volunteers at the invitation of the highest political and military leadership of Republika Srpska, as well as that Franko Simatović was not connected in any way with Arkan's arrival in that territory and the activities he undertook there.

531. In his testimony, the Defence witness Jovan Dimitrijević stated that the reason for Arkan's departure to the battlefield in Bijeljina was that he was a patriot, he was proud of the fact that the Presidency of Bosnia and Herzegovina had appealed to him to help with the situation in Bijeljina at the time. He had been asked to help the Serbs who were under threat

there at the time. That request came from Biljana Plavšić, a member of the Presidency of Bosnia and Herzegovina.⁶⁷⁸ Arkan took 60 of his men and they went to Bijeljina from Erdut.⁶⁷⁹

532. The witness was shown video D644, Arkan's interview, in which he said that the Serbian Democratic Party (SDS) had invited them to Bijeljina and that they had gone to Bijeljina overnight and took the city in just one day. After Bijeljina was taken, Fikret Abdić, Biljana Plavšić and General Prašćević were present there.⁶⁸⁰ The witness confirmed those facts and explained that he had gone to Bijeljina one day after the operation itself, at Arkan's request to come urgently because a soldier had been wounded, Gojak Kasin, and the witness was instructed to take the wounded soldier to the VMA (Military Medical Academy) in Belgrade.⁶⁸¹ Subsequently, the witness had discovered that in the Bijeljina area and in the town of Bijeljina itself after the operation, Biljana Plavšić had arrived together with Fikret Abdić. General Prašćević was also present, and he had welcomed the entire operation. There was Major Gavrilović; Arkan had mentioned him in the video. The troops had not gone out into the streets at that point in time to avoid more intense conflicts. The impressions one had of the entire operation were extremely positive.⁶⁸² The witness stated that Major Gavrilović had been in charge of the JNA barracks in Bijeljina and that the SDG members had stayed in the barracks 7 or 8 days after the operation.⁶⁸³

533. The witness stated that he had stayed in Bijeljina for a very short time. He had asked Arkan how long he and the troops would stay in the area and Arkan had answered that he had wanted to proceed in the direction of Tuzla. However, that being out the question, he had said that he would stay in Bijeljina for a while. Tuzla was no longer on the table because Biljana Plavšić, Vladika Kačavenda and General Prašćević convinced him and told him that Tuzla was safe and that there was no need for the troops to go there.⁶⁸⁴

⁶⁷⁸ tt.16099

⁶⁷⁹ tt.16100

⁶⁸⁰ tt D644

⁶⁸¹ tt.16103

⁶⁸² tt.16104

⁶⁸³ tt.16107

⁶⁸⁴ tt.16108

534. In the beginning of April, the Serbian Volunteer Guard participated in the liberation of Bijeljina and Zvornik.⁶⁸⁵ Biljana Plavšić asked the commander to act in such a way in order to defend prominent individuals from Bijeljina.⁶⁸⁶ The guards had two forms of support. They were supported by the SDG members led by Mauzer. The main support was in the form of logistics, and it was provided by an army garrison in Bijeljina. Major Gavrilović commanded that garrison and he later became the commander of the 2nd Semberija Brigade.⁶⁸⁷ When Major Gavrilović became the commander of the 2nd Brigade, he and the witness met and they became good friends.⁶⁸⁸

535. All logistical support was provided by the army garrison in Bijeljina under the command of Major Gavrilović. The volunteers slept there and received food, so it wasn't necessary to have any other form of combat support, since the operation only lasted one day. Therefore, the army did not get involved. However, an agreement had been reached previously, according to which the army would provide artillery support and all other forms of support for the guards. In the end, none of that was necessary, as the operation was rapidly completed.⁶⁸⁹ Thus, the army provided the volunteer guard with logistical support in the form described above.⁶⁹⁰

536. [REDACTED].⁶⁹¹ [REDACTED].⁶⁹²

537. The Defence also refers the Trial Chamber to the video showing that Arkan had a meeting in Bijeljina with Biljana Plavšić, Fikret Abdić and Generals Dobrašin Prašević and Savo Janković.⁶⁹³

538. The Defence witness Jovan Dimitrijević also testified before the Trial Chamber about Arkan and the SDG members going to Zvornik, several days after the operation in Bijeljina. The witness knew that after Bijeljina, seven or eight days later, the volunteers had gone to

⁶⁸⁵ tt.16346

⁶⁸⁶ tt.16347

⁶⁸⁷ tt.16348

⁶⁸⁸ tt.16349

⁶⁸⁹ tt.16478

⁶⁹⁰ tt.16479

⁶⁹¹ [REDACTED]

⁶⁹² [REDACTED]

⁶⁹³ D84;P1621

Zvornik, following Biljana Plavšić's instructions and based on the information received from the field, and they had participated in fighting, in liberating Zvornik. They had acted in concert with the JNA.⁶⁹⁴

539. The witness had obtained this information when Arkan called him again to come to Zvornik urgently. The reason was the killing of two of their combatants - Ivan Okiljević and Branko Živanović. The witness had been instructed to take over their bodies and transport them to Belgrade according to the established procedure.⁶⁹⁵

540. The witness was shown a video of Arkan's interview about his travel to Zvornik and the participation in the town's liberation.⁶⁹⁶ Among other things, Arkan said that he had ordered artillery fire during the operation in Zvornik. The witness stated that the volunteers had not had artillery pieces.⁶⁹⁷ Arkan then stated that they had taken Zvornik with the help of others and the witness stated those others had been the JNA.⁶⁹⁸ Witness Dimitrijević further confirmed what Arkan had said in the interview – that they had taken many prisoners and that it was common practice to hand over all the prisoners to the army.⁶⁹⁹

541. The witness was then shown a document in which the commander of the 17th Corps, General Savo Janković, requested on 10 April 1992 from the command of the 2nd Military District to open artillery fire on Kula in Zvornik on 11 April 1992 at 09.00 hours. He added that artillery fire had been requested in order to neutralize the forces firing "at our units".⁷⁰⁰

542. The witness did not know General Savo Janković personally. The witness had communicated with him about the two dead volunteers, whose bodies the witness had been instructed by Arkan to take over. The paperwork involved was to come from General Janković.⁷⁰¹ Having received the paperwork, the witness transported the bodies back to

⁶⁹⁴ tt.16109

⁶⁹⁵ tt.16110

⁶⁹⁶ P1601

⁶⁹⁷ tt.16112

⁶⁹⁸ tt.16112

⁶⁹⁹ tt.16113

⁷⁰⁰ D177

⁷⁰¹ tt.16113- 16114

Belgrade.⁷⁰²

543. The Defence indicates to the Trial Chamber that the meeting held in Bijeljina several days before the operation in Zvornik, in addition to Fikret Abdić, Biljana Plavšić and General Praščević, was also attended by General Savo Janković.⁷⁰³ It is only reasonable and logical to conclude that the operation for the liberation of Zvornik, in which Arkan and the SDG and the 17th Corps led by General Janković participated, was agreed at that meeting.

544. Finally, such a conclusion is also substantiated by the daily report of the General Staff of the Yugoslav Armed Forces – 1st Administration – Operational Centre, dated 12 April 1992. In item I – “Combat Activities”, the report shows that the casualties in the Zvornik region were three members of “Arkan’s group”.⁷⁰⁴ This daily military report indicates, firstly, that the JNA participated in the operation in Zvornik, that it engaged in a skirmish with the “green berets” and that its losses were three members of “Arkan’s group” and one member of the TO. The military combat reports specify the losses of the army forces and the units resubordinated to the army. This fact was also confirmed by witness Dimitrijević, since he had been in the army and was familiar with the reporting procedure as described.⁷⁰⁵ The witness stated that approximately 60 of Arkan’s men had participated in the Zvornik operation.⁷⁰⁶

545. The Defence witness Borislav Pelević also testified that Arkan and the SDG had participated in the Zvornik operation at the invitation of Biljana Plavšić.⁷⁰⁷ He added that Biljana Plavšić had insisted that Arkan and the SDG proceed towards Zvornik, where the Serbs had come under the threat.⁷⁰⁸ It was thus decided to proceed towards Zvornik.

546. The witness was shown a number of photographs related to that operation and he was

⁷⁰² tt.16114

⁷⁰³ D84;P1621

⁷⁰⁴ D158

⁷⁰⁵ tt.16116-16117

⁷⁰⁶ tt.16287

⁷⁰⁷ tt.16347

⁷⁰⁸ tt.16351

able to comment on them. The photograph D655 was shown and the witness commented that the photograph had been taken shortly after the operations in Bijeljina and Zvornik. The witness believed it was in May, but he was not certain. It had been taken in the headquarters of the Serbian Volunteer Guard in Erdut, in Commander Arkan's office. The witness did not recognize the first gentleman to the left. Ms Biljana Plavšić was sitting next to him. Princess Linda Karađorđević, the wife of Prince Tomislav Karađorđević, was sitting next to Ms Plavšić. The gentleman to her left was someone the witness could not recognize and the person in the uniform was Commander Arkan. The gentleman with the beard, to the extreme right, was someone he could recognize but he could not remember his name. He knew it was a politician from SZBS, but he did not know exactly what his name was.⁷⁰⁹

547. The witness was also shown the following photographs:

- Photograph D652⁷¹⁰: The photograph was taken in 1995, on the anniversary of the MUP of Republika Srpska in Zvornik, on Archangel Michael's Feast Day, and the person at the roster (Defence remark: please note that the word "roster" is evidently a typo and should read "rostrum") was Radovan Karadžić, the then-president of Republika Srpska.⁷¹¹
- Photograph D654⁷¹²: The event was the same, the anniversary of the MUP of Republika Srpska in 1995. The first person on the right was the Minister of the Police of Republika Srpska, Mr. Tomislav Kovač. Radovan Karadžić, the President of Republika Srpska was the second. The third individual was Vladika Vasilije Kačavenda and the fourth person was Commander Arkan.⁷¹³
- Photograph D653⁷¹⁴: The photograph was taken in Zvornik on the same day, on the same occasion. There was Commander Arkan and the other person was an official of the MUP. Arkan was presented with a gift. The witness did not know who the official was. However, he knew that the gift was a pistol with an engraving, a dedication to Arkan as the liberator of Zvornik.⁷¹⁵

548. The above testimonies, evidence and photographs, presented by the Defence to the

⁷⁰⁹ tt.16358;D655

⁷¹⁰ D652

⁷¹¹ tt.16351

⁷¹² D654

⁷¹³ tt.16353

⁷¹⁴ D653

⁷¹⁵ tt.16352

Trial Chamber, clearly and unambiguously indicate that Arkan and his SDG arrived in Bijeljina and Zvornik at the invitation of the political leadership of Republika Srpska and the SDS party. For his credits in the liberation of Zvornik, he was presented with a pistol. The photographs show him sitting in the first row with President Karadžić and the Minister of Interior of Republika Srpska, Tomislav Kovač. The photograph does not show any representatives of the JNA, under whose command Arkan participated in the liberation of Zvornik, since the JNA withdrew from Bosnia and Herzegovina after that operation and the Army of Republika Srpska (VRS) was established. None of the photographs show either Franko Simatović or any other individual from the Serbian DB.

549. An additional piece of evidence supporting the case that Arkan operated under the command of the JNA General Savo Janković is a dispatch sent by Izet Mehinagić to General Savo Janković, referring to the failed negotiations in Zvornik, where the negotiators on the Serbian side were Arkan, Cpt. Obrenović from the JNA and Jovo Mijatović. The dispatch was also delivered to General Kukanjac, the commander of the 2nd Military District.⁷¹⁶

550. The events that had taken place in Zvornik in 1992 were also a part of the testimony given by the Prosecution witness JF-026, who had been a member of the Crisis Staff in Zvornik and a member of the SDS. The witness unambiguously confirmed before the Trial Chamber that Biljana Plavšić had been in Zvornik a day or two before the conflict at the meeting of the Crisis Staff, which he had also attended. The witness had heard Plavšić request at that meeting to have Arkan called to Zvornik. The meeting had also been attended by “Peja”.⁷¹⁷ The witness had heard, a day or two before the conflict in Zvornik, that Arkan was in Bijeljina.⁷¹⁸ The witness further confirmed that the JNA had participated in the Zvornik operation, as well as that Arkan and his unit had participated in that operation under the JNA command.⁷¹⁹ The witness added that Arkan had left Zvornik after Colonel Tačić had ordered him to leave the area.⁷²⁰

551. The same Prosecution witness, who had been at a high position in Zvornik and who

⁷¹⁶ P1380

⁷¹⁷ tt.9744

⁷¹⁸ tt.9745

⁷¹⁹ tt.9751-9752

⁷²⁰ tt.9833

had participated in bringing Arkan and the SDG to Zvornik, testified before the Trial Chamber that he had never seen Franko Simatović and that the latter had not been connected to the developments in Zvornik in any way.⁷²¹ The first time the witness had heard about Franko Simatović was when he was indicted by the Tribunal.⁷²²

F. MILORAD ULEMEK LEGIJA

552. [REDACTED].⁷²³

553. [REDACTED]⁷²⁴

554. [REDACTED].⁷²⁵

555. [REDACTED]⁷²⁶

556. [REDACTED].⁷²⁷

557. Witness Dimitrijević stated that, while he had been waiting in Zvornik to pick up the bodies, he had seen something that had been strictly forbidden; the receipt of volunteers in a combat area. A person had appeared as a volunteer on that very day when the witness was there, and he had conveyed some information to him to the effect that his name was Milorad Ulemek. He had come to volunteer as a Serb volunteer guard. He had been captured a day or a couple of days by the Muslims, and then the military leaders from Belgrade had intervened and he had been released. He had come to the JNA. He had wanted to join the JNA, but he had not liked it there.⁷²⁸ The witness added that this had happened after the end of the combat in Zvornik. At that time, Ulemek had not been issued any weapons, he had stayed there until

⁷²¹ tt.9756

⁷²² tt.9757

⁷²³ [REDACTED]

⁷²⁴ [REDACTED]

⁷²⁵ [REDACTED]

⁷²⁶ [REDACTED]

⁷²⁷ [REDACTED]

⁷²⁸ tt.16134

they decided what to do with him.⁷²⁹ After returning to Belgrade, the witness had gone to Ulemek's address to check the data the latter had given, and had met his parents, who had confirmed those data.⁷³⁰ Dimitrijević had informed Arkan of this and Arkan approved Ulemek's admission into the SDG. Soon afterwards, Ulemek had become an instructor, in view of his experience in the Foreign Legion.⁷³¹

558. The witness had subsequently become Ulemek's friend and business partner, as they jointly owned the disco club "Zombie" in Belgrade.⁷³²

559. The Defence witness Pelević stated that when Legija had arrived in the guards, in April 1992, he had been appointed as an instructor since he had a lot of military experience. He had been a sergeant in the Foreign Legion for four years, so he had had such experience.⁷³³ [REDACTED].⁷³⁴

560. [REDACTED]

561. [REDACTED]⁷³⁵ [REDACTED].⁷³⁶ [REDACTED].⁷³⁷ [REDACTED]

562. [REDACTED].⁷³⁸

⁷²⁹ tt.16135

⁷³⁰ tt.16136

⁷³¹ tt.16136-16137

⁷³² tt.16183; 16161

⁷³³ tt.16344

⁷³⁴ tt.16529-16530

⁷³⁵ [REDACTED]

⁷³⁶ [REDACTED]

⁷³⁷ [REDACTED]

⁷³⁸ [REDACTED]

G. TRANSFORMATION OF THE SDG

563. [REDACTED].⁷³⁹

564. [REDACTED].⁷⁴⁰

565. [REDACTED]⁷⁴¹

566. [REDACTED].⁷⁴²

567. The Defence witness Jovan Dimitrijević was shown the video clip - a part of an interview with Arkan showing that Arkan said that after Bijeljina they had returned to Erdut, and immediately after the Vance-Owen Plan had come in, they had become the Krajina Police.⁷⁴³ Witness Dimitrijević confirmed that in mid-1992 the Vance Plan had entered into force and, after that international document had been adopted, all SDG members had become the Krajina Police. They had received Krajina Police number plates and SDG members had received blue uniforms, which had not been identical with, but similar to the Serbian police uniforms. The witness was not sure about the pattern, but the color had been the same.⁷⁴⁴

568. In the cross-examination by the Stanišić Defence, witness Pelević mentioned that, in view of the fact that the Serbian Volunteer Guard, after the Vance Plan had been implemented, had had to be transformed into the police of the Republic of Serbian Krajina, in that sense, Arkan had been subordinated to Kojić.⁷⁴⁵

569. Witness Pelević explained that the SDG had initially had green berets, and then black berets. And then, after the Vance Plan had put a ban on the RSK Army, the SDG had had blue

⁷³⁹ [REDACTED]

⁷⁴⁰ [REDACTED]

⁷⁴¹ [REDACTED]

⁷⁴² [REDACTED]

⁷⁴³ P1601 p.4

⁷⁴⁴ tt.16133

⁷⁴⁵ tt.16488-16489

berets. Finally, they had ended up with dark red berets.⁷⁴⁶

H. ARKAN AS A MEMBER OF THE PARLIAMENT AND DEPARTURE FOR KNIN KRAJINA IN 1993

570. In addition to being the SDG commander, in November 1992 Arkan obtained 20,000 signatures of Serbs from Kosovo in support of his candidacy to represent them in the Serbian Parliament.⁷⁴⁷ Arkan requested witness Pelević to be the second on his list of candidates. Pelević declined it; however, despite this, Arkan included him on the list of a group of citizens from Kosovo to be represented in the Parliament by Arkan.⁷⁴⁸ From that moment, Arkan and Pelević started an election campaign in Kosovo and Metohija. As a result of this campaign, Arkan won many votes, which earned him 5 seats in the Serbian Parliament.⁷⁴⁹ In December 1992, Arkan and Pelević became members of the Serbian Parliament, Arkan became the president of the parliamentary group, and witness Pelević – his deputy.⁷⁵⁰

571. Witness Pelević commented on and viewed a video clip showing a speech given by Mr. Ražnatović.⁷⁵¹ Mr. Ražnatović mentioned a discord among the Serbs. At one point he said they wanted to sell Serbian Krajina and Serbian Kosovo. According to the witness, he referred to the politicians in power, because there was nobody else who was in a position to trade in Serbian Krajina and Serbian Kosovo and Metohija but the powers that be. It was a direct attack on Slobodan Milošević and his policies.⁷⁵² The gathering as seen in the video was part of the election campaign. It was in the Sava conference hall, possibly November, perhaps December 1992. The witness was there as the only one representing the party, and both he and the witness spoke at that rally.⁷⁵³

572. The Serbian Volunteer Guard was never disbanded. However, Arkan and witness Pelević started dedicating their time to the political world. Towards the end of January 1993,

⁷⁴⁶ tt.16441

⁷⁴⁷ tt.16360,

⁷⁴⁸ tt.16361

⁷⁴⁹ tt.16362,P3073

⁷⁵⁰ tt.16362

⁷⁵¹ P3073

⁷⁵² tt.16366

⁷⁵³ tt.16367

the Croatian forces started attacking Maslenica and numerous crimes were committed against innocent population. Unfortunately, this was happening in front of the peacekeeping forces of the United Nations.⁷⁵⁴ Arkan and witness Pelević went to Erdut. They put on their uniforms once again and joined the SDG on a campaign towards the Knin-Krajina.⁷⁵⁵

573. They were billeted in Benkovac, in the Aseria hotel, which had been completely empty. There was a problem with food supplies. They participated in some operations around Benkovac, on the Paljuv plateau, where there were several Serbian villages that had been plundered and torched. Islam Grčki and Islam Latinski and some other villages where the population had suffered terribly, and there is UN documentation to prove that. Later on there was struggle to liberate Maslenica and the Serbian volunteers actively participated in that fighting.⁷⁵⁶

574. The volunteers were under the command of the commander of the Army of the Republic of Serbian Krajina, that was Mile Novaković, and they did that when they fought in the Knin and Benkovac theatre of war.⁷⁵⁷ There was a change in 1992 after the adoption of Cyrus Vance's peace plan according to which both warring parties should be without militaries. Pursuant to an order that the volunteer unit received from the Army of the Republic of Serbian Krajina, they were transformed into the police of the Republic of Serbian Krajina, and they operated in that way until the attack on Maslenica in late January 1993.⁷⁵⁸

575. Witness Pelević also commented on a document, produced by the staff of the Army of Serbian Krajina, dated 28 January 1993.⁷⁵⁹ The document shows that the assistant commander of the General Staff of the Army of Serbian Krajina informed the subordinate commands on the situation in the north-Dalmatian theatre of war in the RSK and stated that the fighters' morale had been raised considerably by the arrival of Arkan and his SDG, and that, with skilful tactical moves, he had made combat operations useful and the situation in Obrovac had

⁷⁵⁴ tt.16369

⁷⁵⁵ tt.16369

⁷⁵⁶ tt.16373

⁷⁵⁷ tt.16374

⁷⁵⁸ tt.16374

⁷⁵⁹ D69

been fully consolidated.⁷⁶⁰ Witness Pelević stated that, because this report was from the General Staff of the Serbian army and had been sent to all the corps of the Army of the RSK and all the press centers in Knin, Topusko and Vukovar, this was an accurate description of the situation.⁷⁶¹

576. That these statements of witness Pelević are true and that Arkan and the SDG were under the command of the General Staff of the Army of the RSK and Major-General Mile Novaković, is also witnessed by the order issued by Novaković personally to Arkan, as the commander of the SDG.⁷⁶²

577. [REDACTED].⁷⁶³ [REDACTED].⁷⁶⁴ [REDACTED]⁷⁶⁵ [REDACTED]⁷⁶⁶
[REDACTED]⁷⁶⁷ [REDACTED]⁷⁶⁸ [REDACTED]⁷⁶⁹

578. [REDACTED]⁷⁷⁰ [REDACTED].⁷⁷¹

579. Witness Aco Drača, in his testimony on the 1993 attack of the Croatian army on Maslenica, which was a UN protected area, stated that during these times, in the first days of the attack, Arkan had arrived in the Benkovac area.⁷⁷² Arkan had come as a result of Martić's discussion with his deputy minister Milan Milanović aka Mrgud, due to his (Martić's) concern about Eastern Slavonia and Baranja not sending units to help.⁷⁷³ Mrgud had then contacted Arkan and, two days later, Arkan had arrived.⁷⁷⁴ Once there, Martić had taken him to see General Mile Novaković, the then commander of the Army of the Republic of Serbian

⁷⁶⁰ D69, page 2

⁷⁶¹ tt.16615

⁷⁶² D1137

⁷⁶³ [REDACTED]

⁷⁶⁴ [REDACTED]

⁷⁶⁵ [REDACTED]

⁷⁶⁶ [REDACTED]

⁷⁶⁷ [REDACTED]

⁷⁶⁸ [REDACTED]

⁷⁶⁹ [REDACTED]

⁷⁷⁰ [REDACTED]

⁷⁷¹ [REDACTED]

⁷⁷² tt.16788

⁷⁷³ tt.16789

⁷⁷⁴ tt.16789

Krajina.⁷⁷⁵ The following day he had continued to Benkovac. He had refused to be stationed in the Benkovac barracks because the conditions were not good as there had been too many men and volunteers quartered there already.⁷⁷⁶ Therefore, the Benkovac municipality had billeted him in the Aseria hotel in Benkovac.⁷⁷⁷ Arkan's unit had subordinated itself to the brigade command from Benkovac and was engaged in combat operations under their command.⁷⁷⁸ During a meeting, which Arkan's unit had attended, the witness stated that he had learned that Colonel Momčilo Bogunović had issued orders to the units, which had been deployed in the area of Benkovac and Ravni Kotari.⁷⁷⁹

580. Due to the lack of combat activity in the months of July, August until November 1992, witness Dimitrijević was not present at the training centre.⁷⁸⁰ He returned in November because Arkan asked him to come back due to an agreement that he reached with the people surrounding him; he should participate in the elections for the republican parliament. He was supposed to be an independent candidate for the Željko Ražnatović Arkan Group. He needed witness Dimitrijević present in order to organize things.⁷⁸¹

581. Towards the end of 1992 and in early 1993, Arkan became a member of the Parliament of the Republic of Serbia and the president of a parliamentary group. At the time, Franko Simatović was deputy head of the 2nd Administration of the Serbian RDB.

582. Witness Pelević was shown the video clip D656.⁷⁸² The witness identified persons as follows: To the left, he recognized the late president of Serbia Slobodan Milošević. In the middle, the then-president of Montenegro Momir Bulatović, to the right, the president of Yugoslavia Dobrica Ćosić, and in the background, the witness recognized himself.⁷⁸³ The meeting was held in the spring of 1993. The witness still had a bandage on as he was still being treated for his shoulder wounds. The gathering was on the occasion of opening the Sava Centre in Belgrade. The meeting gathered officials from all the Serbian territories from

⁷⁷⁵ tt.16789

⁷⁷⁶ tt.16789

⁷⁷⁷ tt.16790

⁷⁷⁸ tt.16790

⁷⁷⁹ tt.16790

⁷⁸⁰ tt.16140

⁷⁸¹ tt.16140

⁷⁸² D656

⁷⁸³ tt.16396

Serbia, Montenegro, Republika Srpska and the Republic of Serbian Krajina, and the members of parliament from those areas, those countries, participated at the meeting.⁷⁸⁴

583. Arkan's position at the time and his political influence were considerably above the position and title held by Franko Simatović. In the above text, the Defence has also offered to the Trial Chamber plenty of evidence of the manner in which Arkan and his SDG went to Knin Krajina in 1993, the aims with which they went and who commanded their activities in the field. In this case too, the Prosecution has provided no evidence whatsoever tying Franko Simatović to Arkan and the SDG in the said period.

I. SDG ON TRESKAVICA IN 1995

584. In the summer of 1995, a part of the SDG participated in operations on Mount Treskavica in Republika Srpska. This operation has been the subject of many testimonies, and one of the witnesses who has first-hand knowledge of this operation is witness Pelević.

585. Before the Defence presents a part of his testimony on this operation, we wish to bring two exhibits to the attention of the Trial Chamber.

586. On 16 April 1994, Željko Ražnatović aka Arkan, in his own name and on behalf of the SDG, sent a letter to the President of Republika Srpska, Mr. Radovan Karadžić, in which he supported the defence of Republika Srpska and emphasized that he and the SDG would put all available forces to the defence of the Serbian people. He added that he expected a invitation from Mr. Karadžić for him and the SDG to join the RS armed forces to defend Serbdom and Orthodoxy.⁷⁸⁵

587. In a televised interview, presented before the Trial Chamber, Arkan confirmed that he had personally sent the letter to President Karadžić and expressed his willingness to put the SDG under the command of Republika Srpska.⁷⁸⁶

⁷⁸⁴ tt.16396

⁷⁸⁵ D29

⁷⁸⁶ D657

588. As stated above, the witness Pelević has first-hand knowledge of the key facts of the participation of SDG members. Witness Pelević confirmed that SDG members participated in combats on Mount Treskavica in the Trnovo theatre of war. A small detachment of the SDG under the command of Lieutenant Dragan Petrović aka Kajman, who died in 1998.⁷⁸⁷

589. Arkan had met with Milan Milanović aka Mrgud and Radovan Stojčić Badža. At that time Badža was already an assistant minister of the MUP in charge of public security. Badža told him that he had been asked for assistance by Radovan Karadžić in the Trnovo theatre of war. Since the Dayton peace negotiations were coming up, he said that Serbia could not do much about that. And then Arkan came with Milan Milanović into his office. Arkan invited the witness to join them. The witness was present when Milan Milanović asked Arkan to help him out. That same afternoon, Radovan Karadžić called. Pelević was in Arkan's office when that telephone rang, and he asked him to send some of his guards to Trnovo and to place them under the command of Dragomir Milošević, the commander of the Sarajevo-Romanija Corps. That was the breaking point, and it was then that Arkan decided that the SDG unit should go to Trnovo.⁷⁸⁸

590. The witness provided the photograph D661.⁷⁸⁹ Pelević stated he had taken the photograph in Erdut. On the left-hand side was Commander Arkan, who was inspecting the lineup. In the centre was Milan Milanović aka Mrgud, the assistant minister of the MUP. On the right-hand side was Dragan Petrović aka Kajman, who was in command of that unit and that was why he attended the unit lineup. General Marko Pejić aka Peja can be seen in the background. He was responsible for what was going on in Republika Srpska.⁷⁹⁰

591. The witness had no knowledge whatsoever of Franko Simatović having any role in sending the SDG members to Treskavica and the Trnovo theatre of war.⁷⁹¹

592. After the death of three volunteers, Arkan ordered the witness to go to Trnovo to see what had happened and to visit the volunteers. Pelević was accommodated at the Jahorina

⁷⁸⁷ tt.16423

⁷⁸⁸ tt.16423

⁷⁸⁹ D661

⁷⁹⁰ tt.16424

⁷⁹¹ tt.16425

hotel. There were no headquarters or staff at the Jahorina hotel. The staff was in Pale. As soon as he arrived, he went to Trnovo and talked to Lieutenant-Colonel Kajman. Arkan's son Mihajlo was also there. He had already been wounded. The witness learned that they were wounded by the artillery fire of the Muslim army.⁷⁹² There were two staffs present in Pale; one belonged to the Army of the Republic of Serbian Krajina under the command of General Dragomir Milošević, and the staff of Republika Srpska MUP under the command of the Defence Minister Tomislav Kovač.⁷⁹³

593. Witness Pelević was shown a telegram issued by the chief of the Security Services Centre in Srbinje Rade Radović, describing the events that had happened on 5 July 1995.⁷⁹⁴ Pelević recognized the name Miroslav Radišić. The witness also stated that the document was full of errors and misinformation. He drew attention to number 1. The name was not Milorad Ristović, but rather Milovan Ristić, who had succumbed to his wounds. Further, under number 4, it was not Miroslav Radišić, but Radošić. Also, a journalist, an RTV journalist, embedded in the Serbian MUP forces had also apparently been seriously wounded. This was not true, this was nonsense, according to the witness.⁷⁹⁵

594. The witness provided document D662⁷⁹⁶ to the Defence. It was a statement by Professor Borislav Pelević, dated 10 February 2011. It concerned the circumstances under which Miroslav Radušić had been killed in Trnovo. The statement had been sent to the Ministry of Labour and Welfare Issues of the Government of Republika Srpska. The witness co-operated with them in order to take care of the families of the killed SDG members, SDG members who had been killed in the territory of Republika Srpska.⁷⁹⁷ Based on this statement, the mother of a combatant killed in action received a pension from the Government of Republika Srpska, the Ministry for Labour and Combatants Welfare.⁷⁹⁸

595. Witness Pelević explained that the Republic of Serbia did not recognize any pension entitlements or any other form of assistance to these SDG volunteers and that these family

⁷⁹² tt.16425

⁷⁹³ tt.16426

⁷⁹⁴ P1457

⁷⁹⁵ tt.16427

⁷⁹⁶ D662

⁷⁹⁷ tt.16429

⁷⁹⁸ tt.16429-16430

members and wounded individuals would claim their rights through the Government of the RS.⁷⁹⁹

596. Document D663⁸⁰⁰ shows that it is an exchange between Republika Srpska and the Ministry for the Welfare of Veterans, on the one hand, and Borislav Pelević, on the other.

597. Witness Pelević was also shown a report from General-Major Dragomir Milošević, dated 23 July 1995, item number 6.⁸⁰¹ The witness confirmed he was aware of two volunteers from the Republic of Serbian Krajina being killed at a somewhat later date. There had been a third individual, Radošić, who had been wounded and later died in Belgrade. Pelević confirmed that these volunteers, referred to by General Milošević, had been volunteers from the RSK, that they had been SDG members⁸⁰² This corroborates Pelević's testimony that SDG members went to Trnovo from Erdut, i.e. from the RSK.

598. The Defence points to the Trial Chamber that, by the application for assistance, it is ascertained that all persons killed and wounded in the Trnovo operation, referred to as members of the Serbian MUP, were never employees of the Serbian MUP.⁸⁰³

599. In the cross-examination, witness Dimitrijević stated that he had not been present during preparatory meetings for the Trnovo operation. He stated that the preparatory operations had mostly taken place in Erdut. All the movements and all the details had been prepared in Erdut. Therefore, his presence had not been necessary there, because there was another man in Erdut.⁸⁰⁴

600. [REDACTED].⁸⁰⁵

601. [REDACTED].⁸⁰⁶

⁷⁹⁹ tt.16428

⁸⁰⁰ D663

⁸⁰¹ P1470

⁸⁰² tt.16432-16433

⁸⁰³ D207

⁸⁰⁴ tt.16216-16217;P1466;D207

⁸⁰⁵ [REDACTED]

⁸⁰⁶ [REDACTED]

602. [REDACTED]⁸⁰⁷ [REDACTED].⁸⁰⁸

603. [REDACTED]⁸⁰⁹

604. Franko Simatović had no connection whatsoever with the sending of the SDG to Trnovo, nor did he stay in Trnovo at the time of the operation. Franko Simatović was in Greece in July 1995. The Defence will indicate evidence of these facts later in this brief.

J. SDG IN BANJA LUKA KRAJINA IN 1995

605. [REDACTED] “⁸¹⁰[REDACTED]

606. Witness Pelević also confirmed that the SDG was a battalion within the RSK Army also in 1995. He was shown the video clip⁸¹¹ – a celebration of the anniversary of the SDG. The date is 10 October 1995, in Erdut. Because the SDG belonged to the Army of the Republic of Serbian Krajina, the vehicles used by the Guard were given by the Army to the SDG.⁸¹²

607. [REDACTED]⁸¹³ [REDACTED]

608. That the SDG was part of the RSK Army also in 1995 is also shown by the certificate issued by the Chief of Staff, Major Mladen Šarac, concerning the manner and circumstances of the death of Aleksandar Dražović. This certificate shows, firstly, that the SDG in Erdut still represented military post 9189 of the RSK Army. Further, the certificate shows that the said individual was killed while executing a combat assignment in Mrkonjić Grad on 1 October 1995, where he was doing military service.⁸¹⁴

⁸⁰⁷ [REDACTED]

⁸⁰⁸ [REDACTED]

⁸⁰⁹ [REDACTED]

⁸¹⁰ [REDACTED]

⁸¹¹ D666

⁸¹² tt.16449

⁸¹³ [REDACTED]

⁸¹⁴ [REDACTED]

609. Witness Pelević confirms that the SDG was in Erdut, military post, in November 1995.⁸¹⁵ He also states that Major Mladen Šarac was at the time the Chief of Staff of the Serbian Volunteer Guard.⁸¹⁶
610. The fact that Mladen Šarac was the Chief of Staff in Erdut was also confirmed by the Defence witness Jovan Dimitrijević, who also confirmed that the SDG had had the military post 9189 in Erdut within the Army of the Republic of Serbian Krajina.⁸¹⁷ Moreover, in the cross-examination, witness Dimitrijević appears to have confirmed that the preparatory meetings for the Sanski Most operation were held in Erdut.⁸¹⁸
611. [REDACTED].⁸¹⁹
612. Witness Pelević confirmed that the SDG had participated in combat in Banja Luka Krajina in September and October 1995. There had been about 200 seasoned volunteers from the SDG. They had been under the command of Željko Ražnatović aka Arkan.⁸²⁰
613. The witness stated that he had visited the battlefield after 10 October 1995, when he visited the guards and the guards' commander, when the Muslim and Croat forces acted together with the NATO support and attacked Čađevica, which was the first line in the direction of the Muslim army in the direction of the 5th Corps. The witness had spent five or six days there.⁸²¹
614. Witness Pelević commented on a telegram from the deputy minister Tomislav Kovač.⁸²² It states that Arkan was part of a Joint Staff, which consisted of the representatives of the VRS, 1st Krajina Corps, the 2nd Krajina Corps and the MUP. The witness was aware Arkan was part of such a Joint Staff. He also states that this was an order from the president

⁸¹⁵ tt.16453

⁸¹⁶ tt.16453-16454

⁸¹⁷ tt.16152;tt.16283

⁸¹⁸ tt.16217-16224

⁸¹⁹ [REDACTED]

⁸²⁰ tt.16433

⁸²¹ tt.16434

⁸²² D140

of Republika Srpska Radovan Karadžić, according to which all forces should join and should resist the enemy. All the units in the battlefield were under a Joint Command. One of the members of the Staff was Arkan.⁸²³ Arkan received orders from Momir Talić, the commander of the 1st Krajina Corps, who was in charge of defence and also from the minister of the interior of Republika Srpska, Tomislav Kovač, since he closely co-operated with the command of the special police brigade in Republika Srpska Ljubomir or Ljubiša Borovčanin.⁸²⁴

615. The witness was also given the opportunity to comment on a combat order from General Talić the commander of the 1st Krajina Corps of the Army of Republika Srpska dated 13th of October 1995.⁸²⁵ The witness states that when Muslim and Croatian forces attacked, he and Arkan went to Čadevica, which was the front line and there he also met General Talić. The above document is a combat order issued by General Talić and directed to the command of SDG. Under point 5. “TASKS OF THE UNITS (5.4.)“, Talić issues the attack order to the SDG unit ordering the unit to take control over the outer edge of Sanski Most (Mahala)⁸²⁶

616. The witness Pelević provided to the Defence a photograph D664.⁸²⁷ The photograph was taken by the witness in Manjača. Manjača is a hilltop between the front line in Čadevica and Banja Luka. On the left-hand side the witness recognized the minister of the police of Republika Srpska Tomislav Kovač and Arkan is on the right-hand side.⁸²⁸

617. The witness was shown a video clip D665⁸²⁹ and he stated that this footage was taken in the Banja Luka theatre of war. On Arkan’s left is Ljubiša Borovčanin, who was either the commander or the deputy commander in charge of the special brigade of the Republika Srpska MUP.⁸³⁰

⁸²³ tt.16434- 16435

⁸²⁴ tt.16435;D28;D82 para 3;P2948

⁸²⁵ D146

⁸²⁶ tt.16436

⁸²⁷ D664

⁸²⁸ tt.16437

⁸²⁹ D665

⁸³⁰ tt.16441

618. The witness identified the following persons in the same video clip⁸³¹: The person on the left-hand side is Tomislav Kovač, the minister of the police of Republika Srpska and in the middle the witness recognized Radovan Karadžić the then-president of the Republika Srpska. On the right-hand side the witness recognized Marko Pejić a general in the Serb Volunteer Guard. The person Arkan is kissing is General Subotić a general in the RSK.⁸³²
619. At this point the Defence refers to the authorization Radovan Karadžić sent to the MUP of the Republika Srpska on 12 October 1995.⁸³³ By this document President Karadžić authorizes, among other military police and police of the MUP forces, the Special force of the MUP of RS, “Tigers” to arrest all deserters and escapees from the armed forces of the Republika Srpska.
620. Finally, in his testimony Pelević states that Arkan returned from the Banja Luka theatre of war with his unit in late October 1995, when the situation on the ground was finally stabilized.⁸³⁴
621. The SDG, after the events in Banja Luka Krajina, received a thank-you note which was signed by the president of Republika Srpska Dr Radovan Karadžić. The thank-you note was bestowed on the SDG by Dr Radovan Karadžić on the 22nd of October 1995.⁸³⁵ Also, Arkan received another thank-you note on the same occasion also from Radovan Karadžić, the president of Republika Srpska.⁸³⁶ Both thank-you notes are now in the witness Pelević’s house, in the memorial room of the SDG that the witness founded. The witness took photographs of the note and sent them to the Defence.
622. The following year, in 1996, Arkan was decorated by the highest decoration of Republika Srpska and the Serbian people in general. He received the Medal of Karađorđe's Star by Radovan Karadžić.⁸³⁷

⁸³¹ D665;02h03min-02h50min

⁸³² tt.16443

⁸³³ D190

⁸³⁴ tt.16440

⁸³⁵ tt.16456;D668

⁸³⁶ tt.16456

⁸³⁷ tt.16457;D669

623. Extensive evidence clearly shows that Franko Simatović had nothing to do with organizing and sending Arkan and his SDG to Banja Luka Krajina and their engagement there in September and October 1995. To oppose the extensive evidence corroborating the above, the Prosecution presented very little evidence of low probative value and several second-hand testimonies given by non-credible witnesses in an attempt to show Simatović's alleged connection with the said operation.

K. ARKAN'S CROSSING FROM ERDUT TO RSK AND RS

624. [REDACTED].⁸³⁸

625. Further to the point, the deputy commander of SDG, Witness Pelević, testified that, from before, there was agreement in place between Commander Arkan and Minister of Defence of the Army of the Republic of Serbia Mr. Tomislav Simović, according to which they were allowed to use military trucks and according to which they would not be crossing the border at the official border crossing, but, rather, that they would use some military routes. That's how they crossed the border from SBZS onto the territory of the Republika Srpska and into the Knin-Krajina.⁸³⁹

626. By this "military roads" he meant that the SDG used improvised roads that were also used by the military. In peacetime there are no such routes, because they passed through police check-points controlled by the police.⁸⁴⁰

627. [REDACTED]

L. ARKAN AS AN OBJECT OF SDB/RDB OPERATIONS

628. The Defence asserts, based on numerous existing evidence, that Arkan an object of Serbian DB operations and that no relationship, cooperation or coordination existed between

⁸³⁸ [REDACTED]

⁸³⁹ tt.16369

⁸⁴⁰ tt.16466

Arkan and his SDG and the DB of the Republic of Serbia, whether institutional or non-institutional, i.e., covert or secret.

629. [REDACTED].⁸⁴¹ [REDACTED].⁸⁴²
630. [REDACTED].⁸⁴³ [REDACTED]⁸⁴⁴ [REDACTED]⁸⁴⁵. [REDACTED].⁸⁴⁶
[REDACTED].⁸⁴⁷
631. [REDACTED].⁸⁴⁸
632. [REDACTED].⁸⁴⁹ [REDACTED]⁸⁵⁰
633. [REDACTED].⁸⁵¹ [REDACTED].⁸⁵²
634. [REDACTED].⁸⁵³ [REDACTED].⁸⁵⁴
635. [REDACTED].⁸⁵⁵ [REDACTED].⁸⁵⁶
636. [REDACTED]⁸⁵⁷, [REDACTED].⁸⁵⁸ [REDACTED].⁸⁵⁹

⁸⁴¹ [REDACTED]

⁸⁴² [REDACTED]

⁸⁴³ [REDACTED]

⁸⁴⁴ [REDACTED]

⁸⁴⁵ [REDACTED]

⁸⁴⁶ [REDACTED]

⁸⁴⁷ [REDACTED]

⁸⁴⁸ [REDACTED]

⁸⁴⁹ [REDACTED]

⁸⁵⁰ [REDACTED]

⁸⁵¹ [REDACTED]

⁸⁵² [REDACTED]

⁸⁵³ [REDACTED]

⁸⁵⁴ [REDACTED]

⁸⁵⁵ [REDACTED]

⁸⁵⁶ [REDACTED]

⁸⁵⁷ [REDACTED]

⁸⁵⁸ [REDACTED]

⁸⁵⁹ [REDACTED]

637. [REDACTED].⁸⁶⁰ [REDACTED]⁸⁶¹ [REDACTED].⁸⁶² [REDACTED]⁸⁶³
[REDACTED].⁸⁶⁴
638. [REDACTED].⁸⁶⁵
639. [REDACTED]⁸⁶⁶ [REDACTED].⁸⁶⁷ [REDACTED]⁸⁶⁸
640. [REDACTED].⁸⁶⁹
641. [REDACTED]⁸⁷⁰ [REDACTED].⁸⁷¹
642. The Defence reminds the Trial Chamber that the RDB center – Novi Sad kept the activities of Arkan and SDG under surveillance even in 1994, as seen from the information dated 11 May 1994 also directly forwarded to the head of the DB Sector of Serbia.⁸⁷²
643. [REDACTED].⁸⁷³
644. [REDACTED]

M. JF-057

⁸⁶⁰ [REDACTED]

⁸⁶¹ [REDACTED]

⁸⁶² [REDACTED]

⁸⁶³ [REDACTED]

⁸⁶⁴ [REDACTED]

⁸⁶⁵ [REDACTED]

⁸⁶⁶ [REDACTED]

⁸⁶⁷ [REDACTED]

⁸⁶⁸ [REDACTED]

⁸⁶⁹ [REDACTED]

⁸⁷⁰ [REDACTED]

⁸⁷¹ [REDACTED]

⁸⁷² D400

⁸⁷³ [REDACTED]

645. [REDACTED]
646. [REDACTED].⁸⁷⁴
647. [REDACTED]⁸⁷⁵ [REDACTED]
648. [REDACTED]
649. [REDACTED]
650. [REDACTED].⁸⁷⁶
651. [REDACTED]⁸⁷⁷ [REDACTED]⁸⁷⁸
652. [REDACTED].⁸⁷⁹
653. [REDACTED].⁸⁸⁰ [REDACTED].⁸⁸¹
654. [REDACTED]⁸⁸²
655. [REDACTED].⁸⁸³
656. [REDACTED].⁸⁸⁴
657. [REDACTED].⁸⁸⁵
658. [REDACTED]
659. [REDACTED].⁸⁸⁶

⁸⁷⁴ [REDACTED]

⁸⁷⁵ [REDACTED]

⁸⁷⁶ [REDACTED]

⁸⁷⁷ [REDACTED]

⁸⁷⁸ [REDACTED]

⁸⁷⁹ [REDACTED]

⁸⁸⁰ [REDACTED]

⁸⁸¹ [REDACTED]

⁸⁸² [REDACTED]

⁸⁸³ [REDACTED]

⁸⁸⁴ [REDACTED]

⁸⁸⁵ [REDACTED]

⁸⁸⁶ [REDACTED]

660. [REDACTED].⁸⁸⁷ [REDACTED]⁸⁸⁸ [REDACTED]⁸⁸⁹

661. [REDACTED].⁸⁹⁰ [REDACTED].⁸⁹¹ [REDACTED]⁸⁹² [REDACTED].⁸⁹³
[REDACTED]

662. [REDACTED]⁸⁹⁴ [REDACTED].⁸⁹⁵

663. [REDACTED]⁸⁹⁶ [REDACTED]

664. [REDACTED]⁸⁹⁷ [REDACTED].⁸⁹⁸

665. [REDACTED].⁸⁹⁹ [REDACTED].⁹⁰⁰ [REDACTED]

666. [REDACTED].⁹⁰¹

667. [REDACTED]

668. [REDACTED].⁹⁰² [REDACTED]

⁸⁸⁷ [REDACTED]

⁸⁸⁸ [REDACTED]

⁸⁸⁹ [REDACTED]

⁸⁹⁰ [REDACTED]

⁸⁹¹ [REDACTED]

⁸⁹² [REDACTED]

⁸⁹³ [REDACTED]

⁸⁹⁴ [REDACTED]

⁸⁹⁵ [REDACTED]

⁸⁹⁶ [REDACTED]

⁸⁹⁷ [REDACTED]

⁸⁹⁸ [REDACTED]

⁸⁹⁹ [REDACTED]

⁹⁰⁰ [REDACTED]

⁹⁰¹ [REDACTED]

669. [REDACTED].⁹⁰³
670. [REDACTED].⁹⁰⁴
671. [REDACTED].⁹⁰⁵
672. [REDACTED]⁹⁰⁶
673. [REDACTED].⁹⁰⁷ [REDACTED].⁹⁰⁸
674. [REDACTED].⁹⁰⁹
675. [REDACTED]⁹¹⁰, [REDACTED]⁹¹¹ [REDACTED].⁹¹²
676. [REDACTED].⁹¹³
677. [REDACTED].⁹¹⁴
678. [REDACTED].⁹¹⁵
679. [REDACTED]
680. [REDACTED].

⁹⁰² [REDACTED]

⁹⁰³ [REDACTED]

⁹⁰⁴ [REDACTED]

⁹⁰⁵ [REDACTED]

⁹⁰⁶ [REDACTED]

⁹⁰⁷ [REDACTED]

⁹⁰⁸ [REDACTED]

⁹⁰⁹ [REDACTED]

⁹¹⁰ [REDACTED]

⁹¹¹ [REDACTED]

⁹¹² [REDACTED]

⁹¹³ [REDACTED]

⁹¹⁴ [REDACTED]

⁹¹⁵ [REDACTED]

681. [REDACTED]⁹¹⁶ [REDACTED].

682. [REDACTED]. “⁹¹⁷ [REDACTED]. “ ⁹¹⁸

683. [REDACTED].

684. [REDACTED].⁹¹⁹ [REDACTED].⁹²⁰ [REDACTED].⁹²¹ [REDACTED]⁹²²
[REDACTED]⁹²³ [REDACTED].⁹²⁴ [REDACTED].⁹²⁵

685. [REDACTED].⁹²⁶

686. [REDACTED].⁹²⁷

687. [REDACTED].⁹²⁸

688. [REDACTED].⁹²⁹

689. [REDACTED].⁹³⁰

690. [REDACTED].⁹³¹

691. [REDACTED].⁹³²

⁹¹⁶ [REDACTED]

⁹¹⁷ [REDACTED]

⁹¹⁸ [REDACTED]

⁹¹⁹ tt.16141

⁹²⁰ [REDACTED]

⁹²¹ [REDACTED]

⁹²² [REDACTED]

⁹²³ [REDACTED]

⁹²⁴ [REDACTED]

⁹²⁵ [REDACTED]

⁹²⁶ [REDACTED]

⁹²⁷ [REDACTED]

⁹²⁸ [REDACTED]

⁹²⁹ [REDACTED]

⁹³⁰ [REDACTED]

⁹³¹ [REDACTED]

⁹³² [REDACTED]

692. [REDACTED].⁹³³
693. [REDACTED].⁹³⁴ [REDACTED].⁹³⁵ [REDACTED].⁹³⁶
694. [REDACTED].⁹³⁷ [REDACTED].⁹³⁸
695. [REDACTED].⁹³⁹ [REDACTED].⁹⁴⁰ [REDACTED].⁹⁴¹
696. [REDACTED].⁹⁴² [REDACTED].⁹⁴³ [REDACTED].⁹⁴⁴
697. [REDACTED].⁹⁴⁵
698. [REDACTED].⁹⁴⁶
699. [REDACTED].⁹⁴⁷
700. [REDACTED].⁹⁴⁸
701. [REDACTED].⁹⁴⁹
702. [REDACTED]⁹⁵⁰ [REDACTED]

⁹³³ [REDACTED]

⁹³⁴ [REDACTED]

⁹³⁵ [REDACTED]

⁹³⁶ [REDACTED]

⁹³⁷ [REDACTED]

⁹³⁸ [REDACTED]

⁹³⁹ [REDACTED]

⁹⁴⁰ [REDACTED]

⁹⁴¹ [REDACTED]

⁹⁴² [REDACTED]

⁹⁴³ [REDACTED]

⁹⁴⁴ [REDACTED]

⁹⁴⁵ [REDACTED]

⁹⁴⁶ [REDACTED]

⁹⁴⁷ [REDACTED]

⁹⁴⁸ [REDACTED]

⁹⁴⁹ [REDACTED]

703. [REDACTED]

N. JF-050

704. [REDACTED].⁹⁵¹

705. [REDACTED].⁹⁵²

706. [REDACTED].⁹⁵³

O. RADOVAN STOJČIĆ BADŽA AND ENGAGEMENT OF POLICE FORCES FROM RSK IN EARLY 1992

707. Extensive evidence, already noted by the Defence, shows that Badža was the commander of the TO SBZS all the way up to 31 December 1991, when he was appointed Deputy Minister of the Republic of Serbia by decision of the Government of the Republic of Serbia.⁹⁵⁴ On that same day, the Government of the Republic of Serbia also issued a decision appointing Nikola Čurčić as the Secretary of the Ministry of Interior.⁹⁵⁵

708. In his testimony, Defence Witness Gvozden Gagić confirmed that Badža was the commander of the TO SBZS until the end of 1991, when he was appointed Deputy Minister of Interior of the Republic of Serbia and he then became the chief of the State Security Sector, also.⁹⁵⁶ The Witness further stated that Badža continued to visit the Eastern Slavonia area and that he personally saw him there on several occasions. Badža went on visiting the area for the purpose of surrendering his duty to the new commander of the TO SBZS, Živko Trajković.⁹⁵⁷

⁹⁵⁰ [REDACTED]

⁹⁵¹ tt.6183

⁹⁵² [REDACTED]

⁹⁵³ [REDACTED]

⁹⁵⁴ P1055,page 5

⁹⁵⁵ P1055,page 6

⁹⁵⁶ tt.17159

⁹⁵⁷ tt.17160

709. Further on in his testimony, the Witness insisted that he remembers well that in early 1992, the territory of the Republic of Serbia was violated by the incursion carried out by a terrorist group from the Republic of Croatia. The group penetrated the territory of the Republic of Serbia, in the area of Sombor and Apatin, using a vehicle that could travel on land and water. For that reason, the action on neutralizing the group was named “Amfibija”. The aim of this terrorist group was to destroy the bridge near Erdut where the Witness’s unit was deployed.⁹⁵⁸
710. The Witness knew that the operation was personally commanded by Badža who, at the time, was already Deputy Minister and Head of the Public Security Department of the Republic of Serbia. The action was carried out by members of the special anti-terrorist unit, the SAJ, the local police and a certain number of police members and volunteers from the Krajina.⁹⁵⁹
711. Witness Gagić heard from Badža personally that he, Badža, engaged volunteers and policemen from the Krajina because he didn’t want to weaken the set-up in Slavonia.⁹⁶⁰
712. That the statements of this Witness are true is also confirmed by a judgment of the District court in Sombor, dated 3 July 1992, finding the group of Croatian terrorists guilty of the criminal act of terrorism. It was established that in early February 1992, this group, disguised in the uniforms of JNA had tried to destroy the bridge on the Danube between Bezdán and Batina. The group was arrested with a large quantity of ammunition and various weapons. A large quantity of explosives was also found in their personnel carrier – the amphibious vehicle.⁹⁶¹
713. Witness Gagić also has personal knowledge that in early 1992, Badža engaged a large number of policemen, members of the MUP of the Republic of Serbian Krajina, to prevent riots expected during the opposition rally scheduled for 9 March 1992, to commemorate the

⁹⁵⁸ tt.17160;17169

⁹⁵⁹ tt.17161

⁹⁶⁰ tt.17162-17163;17255

⁹⁶¹ D695

victims of the meeting of 9 March 1991. The security situation was very precarious and for that reason, around a thousand policemen from the MUP of the RSK were engaged.⁹⁶²

714. [REDACTED]⁹⁶³

715. [REDACTED].⁹⁶⁴ [REDACTED].⁹⁶⁵ [REDACTED]⁹⁶⁶

716. [REDACTED].⁹⁶⁷

717. [REDACTED].⁹⁶⁸ [REDACTED].⁹⁶⁹

718. [REDACTED].⁹⁷⁰ [REDACTED].⁹⁷¹

719. That Dušan Momčilović had been a member of the MUP of the RSK at first before he was assigned to the JATD of Serbia was also corroborated by Witness Dejan Plahuta who stated that he met Mićo Petraković, Zoran Gulić and Dušan Momčilović for the first time on Petrova Gora (“PAUK”) in 1994 while they were still members of the police of the RSK from Glina. They were later transferred to the JATD of the MUP of Serbia.⁹⁷²

720. The Prosecution also admitted the application Dušan Momčilović sent to the “Captain Dragan Foundation” on 26 June 1992 into the case evidence. Along with the application, later, on 17 July 1992, Momčilović also submitted his statement verified by two witnesses to the effect that as a member of the special police force of the Krajina he had participated in clearing the terrain near Derventa with the Army of the Republika Srpska and that he was wounded on 14 June 1992. On 3 August 1992, he submitted as an attachment to his application for assistance, a certificate issued by the SUP of Glina-MUP Knin, confirming

⁹⁶² tt.17163;17255

⁹⁶³ [REDACTED]

⁹⁶⁴ [REDACTED]

⁹⁶⁵ [REDACTED]

⁹⁶⁶ [REDACTED]

⁹⁶⁷ [REDACTED]

⁹⁶⁸ [REDACTED]

⁹⁶⁹ [REDACTED]

⁹⁷⁰ [REDACTED]

⁹⁷¹ [REDACTED]

⁹⁷² tt.19362-19363;19515-19516

that Momčilović Dušan from Glina, as an active officer of the SUP of Glina, at the time subordinated to the MUP of Knin, was wounded on 14 June 1992 while executing combat activities – Operation KORIDOR.⁹⁷³

721. This document was also shown to the Witness DST-031 who pointed out that this document shows that Momčilović Dušan was a member of the MUP of the Krajina and that persons wounded in Krajina normally filed applications for financial assistance with the Captain Dragan Foundation. He also says that, had Momčilović been a member of the MUP of the Republic of Serbia, he would have naturally received financial aid from the state of Serbia and not from a private Foundation.⁹⁷⁴

722. Witness Plahuta was shown a document from Dušan Momčilović's personnel file signed personally by Momčilović in the presence of two witnesses, representing a statement by which he confirms that in the period between 26 June 1991 and 5 August 1995 he was employed full-time in the SUP of Glina-MUP of the RSK. Plahuta testified that his superior officer on Petrova Gora confirmed to him that Momčilović was from the SUP of Glina when the Witness met him for the first time in 1995.⁹⁷⁵

723. [REDACTED].⁹⁷⁶

⁹⁷³ P2996

⁹⁷⁴ tt.12883-12884

⁹⁷⁵ tt.19543-19544

⁹⁷⁶ [REDACTED]

PART FIVE

A. OPERATION PAUK 1994-1995

724. Throughout this whole trial, the Prosecution has tried to persuade the Trial Chamber that Operation Pauk was launched in October 1994, and that, along with other forces, members of the SDG, Scorpions and JATD forces also took part in this operation, and that these forces were under the command of Franko Simatović.

725. Here, the Defence will tender evidence that clearly and unambiguously proves that Operation Pauk was launched well before October 1994, and that it had been agreed at the highest state level, specifically between President Milošević, President Martić, President Karadžić and Fikret Abdić.

726. Furthermore, the Defence will adduce ample evidence to show that Franko Simatović took no part in, and had no role in preparing and planning this operation. There is also extensive evidence showing that Franko Simatović, as an experienced intelligence officer, had been deployed to Operation Pauk by the Head of RDB to organize and set up a system of radio-electronic surveillance. Aside from the aforesaid intelligence field assignments, Franko Simatović had no role in planning the actions or commanding the forces on the ground. Among other, this is also corroborated by the fact that Franko Simatović resided in that area temporarily, i.e. that he visited the area several times for several days at a time between October 1994 and August 1995. A reasonable trier of facts would clearly understand that a person responsible for planning actions and commanding the forces on the ground would have to be a steady presence in the area.

727. In several sections of its brief, the Defence proved that parts of the Scorpions unit and parts of the SDG unit were deployed to the ground as members of the RSK armed forces, and that they were subordinated to the command of Mile Novaković, as the commander of the Pauk staff and Čedo Bulat as the head of that staff. Both were first and foremost members of the JNA forces and only thereafter members of the RSK armed forces, according to the agreement made between the highest military authorities of the Republic of Serbia and Republic of Serbian Krajina.

728. Here, the Defence will also prove that a few of the JATD members were deployed to Operation Pauk to protect the personnel and equipment as well as the facilities where the complex radio-surveillance system had been set up.

B. THE DISPATCH OF VJ OFFICERS TO RSK AND RS ARMED FORCES

729. Witness Mladen Karan, former VJ officer testified that on 15th of October 1993, he was sent to the Serbian Army of Krajina.⁹⁷⁷ The Witness stated that he was supposed to be at the Main Staff in Knin on the 8th of October, but he was invited to a meeting organized between General Perišić and General Novaković with officers who were natives of Croatia and Bosnia and Herzegovina, and it was decided at that meeting that two buses of such officers would go to Knin. The Witness was told by his superior that if he failed to report to Knin, that will be treated as his application to terminate military service.⁹⁷⁸

730. The Witness was shown an entry from Mladić's diary in which the latter mentions the meeting in Dobanovci, in October 1993, where General Perišić stated that all officers born in BiH and Croatia will be sent to the RS and RSK, while those who refuse to go will be thrown out of the VJ.⁹⁷⁹

731. The Witness confirmed the authenticity of this entry by saying that sometime around the 10th of October 1993, a meeting took place at the military school centre. There were some 200 or 300 officers there who were born in the territory of the former BiH or Croatia. General Perišić showered the officers with insults because of their origin, and as a result two buses were hired to take people to the RSK. On the 15th, about 80 officers were dispatched to Knin.⁹⁸⁰

732. When the Witness arrived in Knin with 15 other officers they were received by General Novaković, the commander of the Main Staff. The Witness was sent to the 21st Corps of the Serbian Army of Krajina, the Kordun Corps as the chief of security of the 21st

⁹⁷⁷ tt.17680

⁹⁷⁸ tt.17680-17681

⁹⁷⁹ D1482 page 39

⁹⁸⁰ tt.17682

Corps.⁹⁸¹ Its area of responsibility covered the municipalities of Slunj, Vojnic, and Vrgin Most. Which means, on the western side, on the right bank of the Korana river, the Kupa River; and on the eastern side, along the Glina river or, rather, along Velika Kladaša. That would be the territory of Western Bosnia National Defence.⁹⁸² The area included Petrova Gora.

C. THE BEGINNINGS OF RSK COOPERATION WITH ABDIC

733. At that time when the Witness Karan arrived in RSK, in October 1993 civilian, military, and police authorities already existed in the Autonomous Region of Western Bosnia and they were already in direct combat contact with the forces of the 5th Corps. The Autonomous Region of Western Bosnia, which had a Supreme Command, was headed by their president who was the supreme commander, Fikret Abdić. The majority population was Muslim and they made up his forces.⁹⁸³ They had units of brigade strength, and companies.⁹⁸⁴ The forces of Fikret Abdić were in constant combat contact with the forces of the 5th Corps⁹⁸⁵ belonged to the Government of BiH⁹⁸⁶, but not the VRS.⁹⁸⁷

734. A rapprochement occurred between Fikret Abdić and the Witness' side. Communication began and conditions were put in place for the staff of the Army of the Republic of Serbian Krajina to meet with him. Within 20 to 30 days of his arrival, the Witness attended the first meeting between Fikret Abdić and the prime minister and the chief of the Main Staff and some other officers.⁹⁸⁸ This meeting took place in Maljevac village, two kilometers away from Velika Kladaša. That meeting was attended by the prime minister of the Republic of Serbian Krajina, Borislav Mikelić; the commander of the Main Staff of the RSK, Major-General Mile Novaković; the corps commander, commander of the 21st Corps, Čedomir Bulat. The Witness was there. Also Irfan Saračević, the army and police minister with Fikret Abdić. And a person called Čelebić who was in charge of the police. And

⁹⁸¹ tt.17682

⁹⁸² tt.17682

⁹⁸³ tt.17685-17686

⁹⁸⁴ tt.17686

⁹⁸⁵ tt.17687

⁹⁸⁶ tt.17689

⁹⁸⁷ tt.17687

⁹⁸⁸ tt.17689

someone from the defence ministry, Hasan Hasib Hodžić was also present.⁹⁸⁹

735. The main topic was to show that they were not hostile to each other, economic and military rapprochement, and mutual, economic and other assistance. Fikret Abdić wanted a telephone line to be laid between Kladuša and the corps command, and that was done very soon afterwards. And during one break, Fikret Abdić told the Witness that he did not choose them because he liked them more or less than the Croats, that it was the circumstances and the territory and the military situation that brought these two parties together and in a position where they should help each other.⁹⁹⁰

736. The Witness Karan was shown an entry from Mladić's diary of 19th January 1994⁹⁹¹ ("BK of ABH has formed a TG"). The Witness understood this as the Bihać Corps of the BiH army has formed tactical groups.⁹⁹² "And there were another four company-strong brigades. Fikret has lost Skokovi village and part of Pecigrad. Smuggling channels from Banija to the AP Western Bosnia are strong." The Witness stated that this is an accurate description of the situation at the time. The 1st Brigade should be the 4th Brigade.⁹⁹³

737. The Witness confirmed that Fikret Abdić sought help from the Government and the RSK armed forces, and that the meetings with the representatives of the Government and the RSK armed forces began as early as mid-November 1993 and continued in the spring of 1994.⁹⁹⁴ And it was then agreed that Fikret Abdić's forces should receive aid in material, ammunition, weapons, and other types of equipment.⁹⁹⁵ The Witness said that the RSK Main Staff determined how the equipment was to be delivered and at what price it was to be sold. The representatives of Fikret Abdić would bring the money to the 21st Corps command where a three-member committee would collect the money for the equipment delivered, and take orders for new shipments.⁹⁹⁶

⁹⁸⁹ tt.17688

⁹⁹⁰ tt.17689

⁹⁹¹ D1483 page 1 ET

⁹⁹² tt.17690

⁹⁹³ tt.17690

⁹⁹⁴ tt.17688;17691

⁹⁹⁵ tt.17691

⁹⁹⁶ tt.17691-17692

738. Defence Witness Aco Drača testified that the political situation in the part of the Republic of Bosnia and Herzegovina in the Bihać and Kladaša area in 1993 were seriously divided which started in the summer of 1993 between the forces of the 5th Corps led by Colonel Atif Dudaković and the political part of the region of Bihać which was called Western Bosnia and which was led by Fikret Abdić.⁹⁹⁷ Abdić wanted to contact and negotiate with the leadership of the Republic of the Serbian Krajina about pacification of the situation and cease-fires.⁹⁹⁸ In relation to this, the witness received assignments to start negotiations with Abdić.⁹⁹⁹ Abdić and the Witness met in mid-September 1993 on the very boundary of the area referred to as Kordun and the area referred to as western Bosnia in an abandoned house.¹⁰⁰⁰ At this meeting, Abdić stated he wanted truce. However, the issue of a part of the 5th Corps did not want truce.¹⁰⁰¹ At one point Abdić spoke with President Milošević who asked Abdić to visit him in Belgrade.¹⁰⁰²

739. The meeting between Abdić and Milosević took place, the Witness stated, as he knew this as he organized Abdić's trip to Belgrade and was a part of the traveling company to Belgrade.¹⁰⁰³ The meeting took place in Botičeva Street at the Presidency villa. The Witness did not attend the meeting itself but on the way back to Benkovac Abdić told the Witness that he was very impressed by Milosević, who accepted and supported his plan on peace.¹⁰⁰⁴ Milosević told him it was time for peace and brought up the possibility of a peace agreement with Republika Srpska.¹⁰⁰⁵

⁹⁹⁷ tt.16797

⁹⁹⁸ tt.16797-16798

⁹⁹⁹ tt.16798

¹⁰⁰⁰ tt.16798

¹⁰⁰¹ tt.16799

¹⁰⁰² tt.16799

¹⁰⁰³ tt.16800

¹⁰⁰⁴ tt.16801

¹⁰⁰⁵ tt.16801

D. THE PREPARATION AND LAUNCHING OF OPERATION PAUK

740. Witness Karan was shown an exhibit consisting of a note on the application of work methods on the 30th of June 1994, drafted by OB GŠ SVK, Major Đuro Čelić. In this note, Čelić lists numerous meetings that VRSK representatives had with the representatives the National Defence of the Autonomous Province of Western Bosnia (NO AP ZB). Furthermore, Čelić states herein that the VRSK and VJ representatives held three meetings with the AP ZB president Fikret Abdić in Velika Kladuša, to prepare offensive action and reclaim the occupied territories and liberating new ones in Cazinska Krajina. At these meetings, Abdić approved the draft decision on the offensive operations that were to be launched on 28 June 1994 at 03:00 hours. Abdić stated that he had had a meeting with Serbian President Milošević on 21 June 1994, also attended by Borislav Mikelić (RSK Prime Minister), Major General Milan Čeleketić, Lieutenant General Ratko Mladić, Lieutenant General Momčilo Perišić and Jovica Stanišić. Abdić said that Milošević gave orders that "Fikret must win", and that the soldiers should see to it that this is done. For the needs of NO AP ZB Milošević approved weaponry and ammunition worth around USD 9 mln. Borislav Mikelić, RSK Prime Minister, was tasked with overseeing the delivery of weaponry and ammunition to AP ZB.¹⁰⁰⁶

741. Witness Karan commented on the document and said that Čelić was the security organ in the Main Staff of the Army of the Republic of Serbian Krajina, and later on he was the commander of the police battalion in the Knin Corps.¹⁰⁰⁷ The Witness stated that Abdić would send a request every 10 to 15 days with what he required in terms of weaponry and ammunition.¹⁰⁰⁸

742. About the information concerning the period between the 14th and the 29th of June 1994, the Witness stated he was familiar with the persons who participated in the meetings with representatives of the Army of the Republic of Serbian Krajina.¹⁰⁰⁹

743. General Borislav Djukić was the Chief of Staff of the Main Staff of the Army of the

¹⁰⁰⁶P1285

¹⁰⁰⁷ tt.17693

¹⁰⁰⁸ tt.17692-17693

¹⁰⁰⁹ tt.17693; P1285,page 3

Republic of Serbian Krajina in Knin.¹⁰¹⁰ General Mile Mrkšić was assistant minister in the Army of Yugoslavia at the time. And General Novaković was still the commander of the Main Staff.¹⁰¹¹

744. The Witness stated that he believed that Abdić had contact with President Milosević in Belgrade before June of 1994.¹⁰¹² In fact, the Witness knew that Fikret Abdić met with President Milošević even before June 1994, because he was granted police escort and an ID so that he could transit through Republika Srpska on the way to Belgrade, where he would meet with President Milošević. The Witness believed that the meeting of the 21st of June 1994 mentioned in the note had been the last meeting, where a definitive decision was taken to support him.¹⁰¹³

745. A list of material that arrived: "In the command of the 22nd Corps there was a dilemma as to whether everything should be handed over to the AP ZB or just a part of the weapons, as they never asked for more than 40 pieces of weapons. However, having consulted with the Main Staff of the Serbian army of Krajina, the president of the Government of the Serbian Krajina and Lieutenant-General Mrkšić and especially after the Autonomous Province representatives said that that was their weapons, that they would take everything or nothing and intervene with Milošević, everything was given to them, all the weapons and ammunition." The Witness stated he knew about this discussion and several officers from the Witness' unit were against giving Abdić weapons and ammunition.¹⁰¹⁴

746. The Witness Karan was shown an entry from Mladić's diary from the meeting of 9th of June 1994.¹⁰¹⁵ The Witness knew that Colonel Mihajlo Knežević was the chief of the security organ of the Main Staff of the Serbian Army of Krajina in Knin. The following quote was read to the Witness: "F.A. is now weak enough. He should be supported so that he can prevail. They want to present their weaknesses as our betrayal or insufficient artillery support". The Witness was aware of this situation and the army provided Abdić with support

¹⁰¹⁰ tt.17694

¹⁰¹¹ tt.17694

¹⁰¹² tt.17694

¹⁰¹³ tt.17694-17695; P1285 page 4

¹⁰¹⁴ tt.17695

¹⁰¹⁵ D1484, page 8

from early spring 1994 and then later in April and in May, in keeping with the requests he made to the command. He would plan an operation, and before his forces attacked, artillery support was provided by VRSK forces using T-130 cannons, which have a long range.¹⁰¹⁶

747. The Witness was shown a letter of 2nd of June 1994.¹⁰¹⁷ Letter head: Main Staff of the VRS. There's a reference to some directive dating back to 11 November 1993 pursuant to an agreement between the Army of Yugoslavia, the Army of Republika Srpska, and the Army of the Republic of Serbian Krajina, and the forces of AP Western Bosnia. The Witness stated that he knew of the directive but he had never read the whole text. It was about coordinated action between these forces. It was issued by the supreme commander of the Army of Republika Srpska, President Karadžić. This was a political decision.¹⁰¹⁸

748. The Witness was aware of the plans that Republika Srpska should, beginning with 10 July 1994, start an offensive towards the Una river, tie-up as many forces of the BH army as it can, reach the other bank of the Una river, and thus realize the plans of the forces of AP Western Bosnia to capture the entire area of Cazin Krajina.¹⁰¹⁹ This was supposed to be implemented by the 1st Corps of the VRS; the 15th the 21st and the 39th Corps of the Serbian army of Krajina and the National Defence forces of Western Bosnia. The plan was not fully materialized.¹⁰²⁰

749. The Witness was shown an entry from Mladić's diary from July 1994.¹⁰²¹ The readiness of the fighters of the Witness' corps and the 39th Corps for participating in these combat operations was poor. Members of the 21st Corps, especially the military complement, were reluctant to accept participation in these tasks.¹⁰²²

750. The Witness also commented the entry made on the same page about a meeting with

¹⁰¹⁶ tt.17697

¹⁰¹⁷ D747

¹⁰¹⁸ tt.17698

¹⁰¹⁹ tt.17698-17699

¹⁰²⁰ tt.17699

¹⁰²¹ D1484, page 21

¹⁰²² tt.17699

President Milošević. Those present were Milošević, Perišić, Stanišić, Martić, Mikelić, Đukić and General Mladić. The entry reads: "Soldiers of the 39th and 21st Corps are not ready to carry out combat operations except two groups of 20 to 40 soldiers, and they only want to do it for money." The Witness stated that this was true.¹⁰²³

751. The Witness further stated that after all these activities that were marked by a significant lack of co-ordination and this Serbian offensive against the 5th Corps, the 5th Corps launched a counter-offensive and defeated the forces of Fikret Abdić. And then, together with the civilian population, his forces moved to the Witness's area, the area of Kordun.¹⁰²⁴ In August 1994, all of Fikret Abdić's units moved to the RSK's side together with the civilians. And Fikret Abdić also managed the transport of large amounts of material by truck, carrying goods from his "Agrokomerc" company and trailer-trucks carrying fuel, so he left nothing to the forces of the 5th Corps except the bare town. There were between 15- and 16.000 refugees together with the units of Fikret Abdić's army.¹⁰²⁵ Fikret started making plans to return almost immediately. He came to see the Witness many times, asking to enable him not only to assure free movement of some members of the Supreme Command and to help him organize the work in the refugee camp. Abdić talked a lot with the Witness and he wanted – he was dead set on going back to Velika Kladuša, and he also traveled to Belgrade to see Milošević and discuss this.¹⁰²⁶

752. The refugees in the area posed a huge problem; due to their presence it was not possible for the army to maintain their strategic combat position.¹⁰²⁷

753. The Witness was shown an entry in Mladić's diary on a meeting in Karadorđevo on 20 September 1994 attended by President Milošević, Lilić, Bulatović, and General Perišić.¹⁰²⁸ The entry reads as follows: "Concerning CK (Cazin Krajina) Abdić pulled out with all his weapons, enough to make two good camps in RSK, and his men are sufficient to set up two good brigades to be equipped. And with your help and Čeleketić's help he could recover this territory". The Witness stated he didn't know about this particular meeting but Abdić told him

¹⁰²³tt.17700

¹⁰²⁴tt.17700

¹⁰²⁵tt.17701

¹⁰²⁶tt.17702

¹⁰²⁷tt.17702

¹⁰²⁸D1468,page 8

that he went to see Milošević and that they agreed Abdić's return to Kladaša and that the army was to help him return.¹⁰²⁹

754. The Witness was shown an entry from Mladić's diary on Martić's and Mikelić's meeting with President Milošević, where they also talked about the agreement between Martić and Karadžić.¹⁰³⁰

755. The Witness testified that the agreement between Milošević, Karadžić and Martić was about an absolute support of Fikret Abdić in every term, especially in military terms, to help him to return to the territory of Western Bosnia. This is a political framework for something that the army would have to do.¹⁰³¹

756. The Witness' command, the 21st Corps command, was located in a hunting lodge known as Muljeva which was at the foot of Petrova Gora hill. The Witness' security section was in Vojnić in the culture hall, a building adjacent to the police station in Vojnić.¹⁰³²

757. The Witness Aco Drača testified that the population of Velika Kladaša and the members of the Army fled to the territory of Republic of the Serbian Krajina in August 1994.¹⁰³³ The weapons of the Army were laid down voluntarily.¹⁰³⁴ The refugees were placed in the open in two camps named Slunj and Turanj.¹⁰³⁵ Help was asked for to the international community and they sent food however it was not enough. An alarming situation, since people did not have anything on them and could therefore not fend for themselves.¹⁰³⁶ The Witness kept Martić informed on the situation in the camps.¹⁰³⁷ Martić did ask the UNPROFOR for help on this situation and also because of the security situation.¹⁰³⁸ The UNPROFOR did not permit the move of the refugees out of concern they would ask for

¹⁰²⁹ tt.17703

¹⁰³⁰ D1485, pages 26-28

¹⁰³¹ tt.17704

¹⁰³² tt.17703

¹⁰³³ tt.16802

¹⁰³⁴ tt.16803

¹⁰³⁵ tt.16803

¹⁰³⁶ tt.16803

¹⁰³⁷ tt.16803

¹⁰³⁸ tt.16803

asylum in western countries.¹⁰³⁹ The Witness was shown a report from the RSK Army titled: "National Defence of the Autonomous Province of Western Bosnia Forces of 18 August 1994".¹⁰⁴⁰ Abdić stated that he wants to proclaim this area (Autonomous Province of Western Bosnia) a protected area or make this area an UN protectorate with the help from UNPROFOR, but this was not accepted.¹⁰⁴¹ The Witness was also shown a letter from Abdić to the then-UN Secretary General Boutros-Ghali of 7 October 1994.¹⁰⁴² The Witness confirmed that Abdić's view was that he was desperate for the UN to come in or the international community to provide assistance to his people in the Bihać region.¹⁰⁴³ The Witness confirms that the absence of any action by the international community and the UN meant for Abdić that he had to seek help from Serbia and the RSK.¹⁰⁴⁴

758. The 5th Corps and the government of Sarajevo also did not agree to any kind of return so Martić asked Milošević as well as Karadžić for help to resolve these problems. However, first he asked Abdić what he thought was best to be done.¹⁰⁴⁵ In early September of 1994, he told the witness and Martić that he had 4,000-5,000 soldiers that he could organize into a combat force to try to make sure that the refugees return.¹⁰⁴⁶ Martić then launched an initiative for them to be returned by force, by use of weapons.¹⁰⁴⁷

759. As far as Witness Drača can remember, a second meeting between Abdić and Milošević took place in Belgrade. Before this meeting Matić and General Čeleketić went to speak to Milošević. Abdić told the witness about his meeting and said that Milošević agreed to help him to ensure the return of the people and specifically by providing him the needed logistic such as uniforms and various other equipment.¹⁰⁴⁸ Martić and general Mile Novaković informed the Witness that a staff had been set up to bring this plan into action.¹⁰⁴⁹

¹⁰³⁹tt.16804

¹⁰⁴⁰tt.16866;P1289

¹⁰⁴¹tt.16867

¹⁰⁴²D687

¹⁰⁴³tt.16867-16868

¹⁰⁴⁴tt.16869

¹⁰⁴⁵tt.16809-16810

¹⁰⁴⁶tt.16810

¹⁰⁴⁷tt.16804

¹⁰⁴⁸tt.16810-16811

¹⁰⁴⁹tt.16811

E. THE PAUK COMMAND

760. Witness Karan testified before the Trial Chamber that in the autumn of 1994, as he said, in military terms, a special command was set up code named Pauk. People who were appointed to that command, besides the Commander, General Novaković, and the Chief of Staff, Čedo Bulat, who had already been removed from their respective positions, and they became the commanders of the Pauk command, a lot of other high-ranking officers from the corps command as well as some of the most capable officers from the brigade commands. The Chief of Staff of the Witness' corps joined the Pauk command, Colonel Petar Trkulja, as well as Colonel Popac Branko, who was later replaced by one of his deputies, a captain. Lieutenant-Colonel Tomasevic also joined. He was the chief of the artillery and rocket units from the corps command. Also the commander of the 19th Brigade, Major Ćurčija. The commander of a battalion from the 11th Brigade, Officer Basara. The Witness gave the chief of security of one of his detachments to Pauk, Captain First Class Nikola Vuletić. The chief of armoured units, Colonel Bobić.¹⁰⁵⁰ The Pauk command was based at the top of Petrova Gora called Magarčevac.¹⁰⁵¹

761. Witness Drača also testified that a staff was set up headed by General Novaković and the Chief of the Staff was Colonel Čedo Bulat. The staff was code named Pauk.¹⁰⁵²

762. Forces of Western Bosnia were to be engaged in this combat. Some 4,000 to 4,500 people wanted to return to their home village.¹⁰⁵³ The same number of able-bodied men who stepped forward stating their willingness to fight their way back.¹⁰⁵⁴ It was arranged that some instructors were to arrive in the camps to assess these men and to train them for some infantry action.¹⁰⁵⁵ Instructor Žika Ivanović (nicknamed 'the Montenegrin') arrived with the convoy.¹⁰⁵⁶ It was Martić himself who called him by phone in Novi Sad where he resided. He trusted him. Later, he was replaced by Rajo Božović.¹⁰⁵⁷ Also an instructor but arriving later

¹⁰⁵⁰tt.17705-17706

¹⁰⁵¹tt.17709

¹⁰⁵²tt.16811

¹⁰⁵³tt.16813

¹⁰⁵⁴tt.16813

¹⁰⁵⁵tt.16814

¹⁰⁵⁶tt.16814

¹⁰⁵⁷tt.16817

than Ivanović, some 15 to 20 days after the arrival of the convoy, was Milorad Ulemek aka Legija, along with him some men. The Witness does not know exactly how many of Arkan's men had come with Legija. The Witness knows that Martić called RSK Assistant Minister of Defence in Eastern Slavonia, requesting the latter to dispatch these instructors over to him.¹⁰⁵⁸

763. The operation to return began after some twenty days of training on the 17th of November 1993, commanded by Mile Novaković.¹⁰⁵⁹ Also, Abdić's units were formed and he appointed Šerif Mustedanagić to command the units.¹⁰⁶⁰ Abdić's units were indicated as Tactical Group 1, 2, and 3.¹⁰⁶¹

764. The instructors were together in combat with the Muslim units because it was found to be good for morale and then there was some sort of control of the units from within.¹⁰⁶² Also, the instructors handled the units' communication.¹⁰⁶³

765. The document of 15 December 1994 also corroborates that Mile Novaković was the Commander of the Pauk Command. In fact, this order was signed by Mile Novaković in person, in his capacity as Major General, on behalf of the Pauk Command which was a part of the RSK armed forces. Furthermore, the document shows that both Tactical Group 2 (TG-2) and Tactical Group 3 (TG-3) were part of the Pauk Command and that they received orders from Commander Mile Novaković. In addition, this document shows that the organizational-formational units of the 21st and 39th Corps were also sent to the Pauk Command, as well as two RSK police troops, one from the Vojnić SUP and the other one from the Glina SUP.¹⁰⁶⁴

766. The Prosecution's exhibit dated 17 January 1995 shows that the Chief of Staff of the Pauk Command was precisely Colonel Čedomir Bulat, as Witness Karan testified. Both this document and the previous one show that TG-2 (Legija) and TG-3 (Kobac-Božović), and the MUP units listed above were also under the Pauk command. Finally, this document proves

¹⁰⁵⁸tt.16814-16815

¹⁰⁵⁹tt.16816

¹⁰⁶⁰tt.16816

¹⁰⁶¹tt.16816

¹⁰⁶²tt.16817

¹⁰⁶³tt.16817

¹⁰⁶⁴D139

that the weaponry and ammunition were supplied through the Pauk command, and that this Command was keeping an inventory log to record the supplies on hand.¹⁰⁶⁵

767. Finally, the list of military staff scheduled to meet with the President of Western Bosnia Fikret Abdić, of 3 March 1995 shows exactly the kind of command structure that the Pauk Command had, indicating that Mile Novaković was the commander of Pauk, Čeda Bulat the chief of staff of the Pauk Command, Legija the commander of TG-2 and Kobac the commander of TG-3.¹⁰⁶⁶

768. The Witness Karan confirmed the accuracy of this list, on which - in addition to Novaković, and Bulat - he also identified Stanko Čurčija, a Major from his Corps, as well as Dušan Basara, commander of the battalion, both from his Corps. Both of them were listed as members of the TG-2 unit.¹⁰⁶⁷

769. Witness Karan was also shown an entry from Mladić's diary concerning the meeting of 13 October 1994 where General Čeleketić said: "Since the MUP of Serbia will not arrive, they're not sending MTS. I will help in the direction of Kladuša."¹⁰⁶⁸ The Witness stated that General Čeleketić was at the time replacing VRSK commander Mile Novaković. He added that the abbreviation MTS stood for material and technical supplies, in military terminology this referred to weaponry, ammunition, guns, tanks, trucks, logistic support, etc. In reality it was the VRSK that provided this kind of support to Operation Pauk, not the Serbian MUP. The Witness explained the difference between MTS and the electronic surveillance equipment which really did come from Serbia.¹⁰⁶⁹

770. The Witness Drača confirms that Čeleketić was supposed to be providing supplies but no supplies were coming from the Serbian MUP.¹⁰⁷⁰ The Witness knew of this due to his position as the chief of the state security department and his subsequent position as a member

¹⁰⁶⁵P236

¹⁰⁶⁶D47

¹⁰⁶⁷tt.17727-17728

¹⁰⁶⁸ D1485, pages 47-48

¹⁰⁶⁹tt.17706-17707

¹⁰⁷⁰tt.16872-16873

of the Supreme Defence Council of the RSK.¹⁰⁷¹ The issue was not a shortage in weapons but in ammunition and artillery shells.¹⁰⁷² Čeleketić was complaining to Mladić about this.¹⁰⁷³

771. The Witness Karan was also shown a video clip recorded on 6 April 1995,¹⁰⁷⁴ and the Witness recognized the person in the foreground as Milorad Ulemek aka Legija. The bareheaded man was Colonel Nikola Bobić, head of the armored mechanized units who transferred to the Pauk command. Major-General Mile Novaković, commander of the Pauk command was the man without headgear on.¹⁰⁷⁵ Thus, this video clip shows Legija (TG-2) in a command position with general Novaković and artillery commander Nikola Bobić.

772. [REDACTED].¹⁰⁷⁶

773. [REDACTED].¹⁰⁷⁷ [REDACTED]

774. [REDACTED].¹⁰⁷⁸

775. [REDACTED].¹⁰⁷⁹

776. The Witness Plahuta was aware of the fact that in the Pauk operation there were also two tactical groups, Tactical Group 2 (TG-2) and Tactical Group 3 (TG-3). Legija was in command of Tactical Group 2 and Rajo Bozović was in command of Tactical Group 3. During his stay at Petrova Gora, the Witness met both commanders. The commander of Tactical Group 2, which was under Legija's command, was located in a school in the town of Velika Kladuša. They had a training centre there for members of Babo's troops, Babo's Youth. Babo was Fikret Abdić's nickname. They were called the Cherokees.¹⁰⁸⁰ As for Tactical Group 3, its command was in the town, and it was located in two or three houses in Velika

¹⁰⁷¹tt.16873

¹⁰⁷²tt.16873

¹⁰⁷³tt.16873

¹⁰⁷⁴P2160,tt.17712-17714

¹⁰⁷⁵tt.17714

¹⁰⁷⁶[REDACTED]

¹⁰⁷⁷[REDACTED]

¹⁰⁷⁸[REDACTED]

¹⁰⁷⁹[REDACTED]

¹⁰⁸⁰tt.19354

Kladuša.¹⁰⁸¹ Witness Plahuta mentioned that nobody from TG-2 and TG-3 which were under the command of Legija and Božović, not even themselves, were members of JATD or the Serbian MU. Both Legija and Božović with their TG-2 and TG-3 were subordinated to the Pauk command, whose Commander was Mile Novaković, and Chief of Staff Čedo Bulat.¹⁰⁸² Under cross-examination, witness Plahuta repeated that Legija and Božović were under the direct command of the Pauk command.¹⁰⁸³

777. The Witness was shown document: "National Defence of Western Bosnia Supreme Command - Report on the Visit to the Surovi RNC" dated 11 March 1995.¹⁰⁸⁴ When the Witness arrived there in April, there really was a training center for Babo's soldiers known as Surovi. There were around 158 soldiers under Legija's command.¹⁰⁸⁵

778. Defence Witness Karan also testified that President Martić sought help from the VRSK 11th Corps commander. Legija had been sent from the training base to help train the forces of Fikret Abdić for the upcoming operation.¹⁰⁸⁶ Legija was a member of the RSK armed forces and specifically the Vukovar Corps under the command of general Dušan Lončar who had deployed him to Operation Pauk. This information was conveyed to the Witness by his superiors.¹⁰⁸⁷

779. In addition to the documents mentioned hereinabove, the following documents also prove that Franko Simatović had nothing to do with the Pauk command and the aforementioned tactical groups. Thus, the documents admitted to the case files by the Prosecution, specifically the progress report on strengthening combat readiness measures of 30 December 1994 clearly shows that this document was jointly signed by the commander of TG-3 Radojica Božović and commander of 1st Brigade Izet Latić. The report was dispatched to the Pauk command, the staff of the ZBR National Defence Supreme Command Staff, one copy for the archives, and one copy each for the commanders. Hence, this document too, like the previous ones, were not sent to Franko Simatović, nor was he designated in any of them as

¹⁰⁸¹tt.19355

¹⁰⁸²tt.19357

¹⁰⁸³tt.19514-19515

¹⁰⁸⁴tt.19355;D863

¹⁰⁸⁵tt.19356-19357

¹⁰⁸⁶tt.17812

¹⁰⁸⁷tt.17813

a person who holds any kind of position or who has any kind of connections with the Pauk command.¹⁰⁸⁸ Here, the Defence kindly refers the Trial Chamber to the list of staff scheduled to meet NO ZB President Fikret Abdić dated March 1995, featuring all of the members of the Pauk command and the commanders of the Tactical Groups, that makes no mention of Franko Simatović.¹⁰⁸⁹

780. Other documents related to this Operation that have been admitted into case evidence also corroborated this.¹⁰⁹⁰

F. SIMATOVIC'S PARTICIPATION AND ROLE IN OPERATION PAUK

781. The notes Ratko Mladić took at the meeting held on 7 October 1994 in Dobanovci attended by President Milošević, General Perišić, General Čeleketić, General Mladić and Jovica Stanišić, clearly show that Jovica Stanišić proposed to support Fikret Abdić among other through **“radio surveillance”**.¹⁰⁹¹ In fact Jovica Stanišić first uses the first-person-plural voice:

¹⁰⁸⁸P1300

¹⁰⁸⁹D47

¹⁰⁹⁰ D45;P2949;D70;D164;P1296;

¹⁰⁹¹ P2536,page 11

782. “ – Our idea is to consolidate FA and his army.

- We cannot do that without the help of the Yugoslav Army.
- We can organize a battalion-sized unit, help with artillery, radio surveillance...”

783. Hence, it is evident that in saying “WE”, Jovica Stanišić refers to the Republic of Serbia and the Yugoslav Army, and he even explicitly mentions the Yugoslav Army. This becomes even more evident further on when he says, again in the plural voice, that they can help with artillery. Any reasonable trier of facts would know that the Serbian DB had no artillery units. Finally, radio surveillance is something the DB could have provided and that Stanišić did provide, according to the extensive evidence in this case.

784. At the same meeting, according to Mladić’s notes, Jovica Stanišić first spoke about organizing some command, after which he drew a line, and then mentioned the proposal that Simatović from the DB should go to Petrova Gora. Mladić’s notes read: “JS: Organizing a command – our Simatović should go...”¹⁰⁹² Given the manner in which Stanišić spoke previously and the manner in which Mladić took notes of the meetings, it is evident that Jovica Stanišić first spoke about organizing the command and then, as the following topic (considering that Mladić drew a line below the note concerning the need to organize a command), he proposes to send his operative Simatović to Petrova Gora to set up a radio surveillance system, and this fact was confirmed by numerous witnesses.

785. The Witness Karan testified before the Trial Chamber that he heard from Veljko Bosanac, the commander of his Corps that some electronic surveillance equipment will be sent from Serbia and that this equipment will be installed on Petrova Gora in the facilities of the radio relay hub on the very top of Petrova Gora. And the name on that radio relay was Magarčevac.¹⁰⁹³

786. Before Operation Pauk, the Witness did not know Frenki personally. He knew of him

¹⁰⁹² P2536, page 15

¹⁰⁹³ tt.17704-17705

and where Frenki was employed. He saw Frenki when he went to the base near the Petrova Gora monument to fetch some uniforms, and that base is very close to the headquarters of the Pauk command, the Witness visited a friend, Major Korkut, which is when he spotted Frenki in the centre.¹⁰⁹⁴ The Witness knows that Frenki had gathered a group of engineers and technicians that were involved in electronic surveillance and that he was the head of that group.¹⁰⁹⁵

787. There was another radio relay hub on Plješevica on a hilltop called Čelavac. That was the elevation where that facility was located. There is optical visibility between Čelavac and Magarčevac and Čelavac was a former JNA radio relay hub. The Witness knew that Simatović established the electronic surveillance system on this location as well.¹⁰⁹⁶

788. The Witness Mladen Karan was shown a document dated 17 February 1995.¹⁰⁹⁷ This material was obtained through a complicated process of decrypting, which means decoding. Conversations between the Supreme Command or the Main Staff of the General Staff of the BH army and the corps were encrypted. This was intercepted through electronic surveillance and decrypted on a special machine and the name on that machine is visible in the lower corner (“Pacts”). The Witness Karan testified that when he visited that electronic surveillance centre on Petrova Gora he saw how this type of work was being conducted. That centre was really impressive.¹⁰⁹⁸

789. As a result of the electronic surveillance system that was set up on Petrova Gora, an enemy drone was located and shot down. The Witness Karan also gave an account of an example of the activities of this centre. He said that a drone was in their territory. None of the people from the 21st Corps saw it. It was grounded in the general sector of Glina. The chief of security of the 39th Corps, Lieutenant-Colonel Gledić, together with his military policemen secured the location, collected the remains of the drone, and, after having received an order of the commander of the 39th Corps, Colonel Stanko Letić was supposed to hand over the remains of the drone to the Pauk command. However, the Witness later learned that

¹⁰⁹⁴tt.17715

¹⁰⁹⁵tt.17716

¹⁰⁹⁶tt.17716-17717

¹⁰⁹⁷D749

¹⁰⁹⁸tt.17724

Lieutenant-Colonel Gledić did not hand over the most important part of the drone, and that was the photo and optical surveillance equipment. The most essential part of the drone was not handed over to the Pauk command. They got only the tin and metal parts. He did not hand over those things that showed what the drone had documented and recorded up to then.¹⁰⁹⁹ In connection with this event, the Witness Karan contested the entirety of the Prosecution Witness Slobodan Lazarević's statement as false. Karan stated that Petar Ajdinović had nothing to do with this event, that he had not been in the RSK army ever since 1992.¹¹⁰⁰ Karan also contested Lazarević's allegation that Franko Simatović had had an office in Topusko.¹¹⁰¹ Karan also contested other allegations made by Witness Lazarević, which will be addressed in more detail in other sections of this brief.

790. [REDACTED]¹¹⁰² [REDACTED].¹¹⁰³ The Witness furthermore knew that towards the end of that year from time to time Frenki went to Petrova Gora. At first it was from time to time and for longer stints several times at a weekly level. However, from 1995 it got shorter. It was only a few days and he went less and less often. That is to say, he left the premises of the 2nd Administration less and less often. Later on, the Witness saw the results of this involvement. There was a great deal of radio reconnaissance. In the administration they obtained the results of this work.¹¹⁰⁴

791. [REDACTED].¹¹⁰⁵ [REDACTED].¹¹⁰⁶ [REDACTED].¹¹⁰⁷ [REDACTED]¹¹⁰⁸

792. [REDACTED]¹¹⁰⁹

793. The Witness Aco Drača testified before the Trial Chamber that some form of aid had

¹⁰⁹⁹tt.17718

¹¹⁰⁰tt.17757

¹¹⁰¹tt.17758

¹¹⁰²[REDACTED]

¹¹⁰³[REDACTED]

¹¹⁰⁴tt.19838

¹¹⁰⁵[REDACTED]

¹¹⁰⁶[REDACTED]

¹¹⁰⁷[REDACTED]

¹¹⁰⁸[REDACTED]

¹¹⁰⁹[REDACTED]

arrived from the Federal Republic of Yugoslavia in mid-October 1994, after the Pauk command had already been established. He had already been posted there by decision of the RSK government, and his operative duties included spending time in the Pauk Staff so that he could report on the activities of the Croat armed forces to the President and the RSK Government. He was also personally present when a convoy of 20 vehicles arrived from the FRY with old JNA uniforms, fuel and supplies, as well as part of the technical equipment. The Witness confirmed there were no weapons on board of the convoy.¹¹¹⁰

794. Franko Simatović came to that area of Petrova Gora two days after the convoy. He was there to bring technical equipment to upgrade the old equipment on the Čelavac-Plješevica and Magarčevac-Petrova Gora observation points. Simatović stayed in the camp for one day. On the next day, he went to the Plješevica mountain, 100 kilometers from the camp.¹¹¹¹

795. The Witness met with Simatović occasionally, discussing the Pauk Operation and the Witness requested Simatović to keep him informed about possible threats to the Operation, such as any movements by Croatian, Muslim troops, helicopter, transports of ammunition to the 5th Corps. Simatović said that he could provide such information and he did so, to the Witness and to Pauk HQ. The Witness provided Simatović with information on important troop movements as well, including international forces. All this information was provided through radio reconnaissance.¹¹¹² Gathering information on international forces was important because it was found to be important to know what the international community was planning and what its intention were.¹¹¹³

796. [REDACTED].¹¹¹⁴

797. [REDACTED]¹¹¹⁵

¹¹¹⁰tt.16812-16813

¹¹¹¹tt.16818

¹¹¹²tt.16819

¹¹¹³tt.16820

¹¹¹⁴[REDACTED]

¹¹¹⁵[REDACTED]

798. [REDACTED].¹¹¹⁶

799. [REDACTED].¹¹¹⁷ [REDACTED].¹¹¹⁸ [REDACTED].¹¹¹⁹

800. The decision to establish these listening posts outside of Serbia that would have had to be approved by the chief of the Serbian DB. Some individuals on their own initiative began listening and then were eventually incorporated and paid by the 8th Administration. That decision would have also had to be approved by the chief of the service.¹¹²⁰ The 7th Administration posts weren't always able to communicate with each other directly. Communication between that point in Plješevica and the other one in Petrova Gora. The Witness did not know what the specific solutions found were, but he did not think that it was the same all the time. It depended on the conditions involved. In the winter, they would have one set of conditions; in the summertime, another set of conditions. So it depended on the way information was sent from the point to Petrova Gora. There were different ways involved.¹¹²¹

801. The Witness explained that Plješevica is a mountain top and the intelligence post was on top of that mountain. And Ličko Petrovo Selo was there to receive information from the mountain in order to forward the information to Petrova Gora. This was a very specific situation which explains the closeness of the three points. When you monitor a radio spectrum you don't have to be that close. If the range of radio waves is short, then the reception abilities are much more comfortable. And you can be quite further away from the target area. So, for example, you could monitor some of the communications on ultrashort waves even from Belgrade, and that was done.¹¹²² If you wanted to listen in to communications of the other party, communications with a limited range due to the low power used by the sending equipment, then you would need more listening – in posts in order not to miss part of those short-range communications.¹¹²³

¹¹¹⁶[REDACTED]

¹¹¹⁷[REDACTED]

¹¹¹⁸[REDACTED]

¹¹¹⁹[REDACTED]

¹¹²⁰tt.19691

¹¹²¹tt.19691-19692

¹¹²²tt.19758

¹¹²³tt.19759

802. [REDACTED].¹¹²⁴ [REDACTED].¹¹²⁵ [REDACTED]¹¹²⁶

803. Witness Dejan Plahuta testified that in the period between end of April 1995 and end of July 1995, during his stay there, he saw Franko Simatović at Petrova Gora two or three times.¹¹²⁷ When he arrived with Milan Karapandža, they came to the Petrova Gora facility. The Witness and his men were introduced there, and Mr. Karapandža told the Witness that Simatović was an operative who was sent to unify the work of people working at the communications systems and technicians, and he was supposed to unify their work. The Witness supplied Frenki with fuel. He wanted to go to the repeater station at Pljesevica. Before that, the Witness testified that JATD members were tasked with securing the compounds at Petrova Gora, Magarčevac and the transmitter at Plješevica.¹¹²⁸

G. JATD AND OPERATION PAUK

804. The Stanišić Defence witness, a highly ranked member of JATD, testified that the JATD was a special organizational unit within the Serbian DB, i.e. the Serbian MUP. He added that the JATD had a separate administrative office for the unit. Milenko Milovanović was the main clerk the main administrator, for the unit who was in charge of the administrative office of the JATD. Milovanović sent all requests by the unit to the 8th Administration regarding equipment and other supplies.¹¹²⁹ This Witness further stated that in November 1994 he personally heard from Milan Radonjić, who was his superior, about Operation Pauk.¹¹³⁰

805. Between November 1994 and March 1995, the Witness staid several times at Petrova Gora. He knew that in Petrova Gora there was a radio reconnaissance or surveillance centre. The Witness saw Franko Simatović at Petrova Gora and believed that he was there for some

¹¹²⁴[REDACTED]

¹¹²⁵[REDACTED]

¹¹²⁶[REDACTED]

¹¹²⁷tt.19352

¹¹²⁸tt.19353

¹¹²⁹tt.14522

¹¹³⁰tt.14522-14523

operational reasons that had to do with the work of the centre.¹¹³¹ The Witness staid at Petrova Gora several times between November 1994 and March 1995. He knew that there was a radio reconnaissance or surveillance centre there. The Witness saw Franko Simatović at Petrova Gora and believed that he was there for some operational reasons that had to do with the work of the centre.¹¹³²

806. The Witness knew that the JATD unit provided security for the facilities at Petrova Gora and Plješevica. Another part of RDB men who were attached worked on radio reconnaissance. It was a different, another group of people. They were technicians.¹¹³³ This Witness made a clear distinction between the JATD members who provided security and the operatives and technicians led by Franko Simatović that were involved in operative work. The Witness repeated and confirmed these facts when cross-examined by the Prosecution.¹¹³⁴

807. The witness Plahuta, who was also a member of JATD testified before the Trial Chamber that in late April 1995 he and one more member of JATD, went to Petrova Gora. It was on orders of the then-base commander, Dragoslav Krsmanović. At Petrova Gora, they were received by Milan Karapandža. He awaited them and he was their superior there throughout their stay at Petrova Gora. They were busy with logistics, because there were warehouses there. They also had to provide security or stand guard at the Petrova Gora facility.¹¹³⁵

808. In the period between end of April 1995 and end of July 1995, during his stay there, the Witness saw Franko Simatović at Petrova Gora two or three times.¹¹³⁶ When he arrived with Milan Karapandža, they came to the Petrova Gora facility. The Witness and his men were introduced there, and Mr. Karapandža told the Witness that he was an operative who was sent to unify the work of people working at the communications systems and technicians,

¹¹³¹tt.14524

¹¹³²tt.14524

¹¹³³tt.14525-14526

¹¹³⁴tt.14633

¹¹³⁵tt.19350

¹¹³⁶tt.19352

and he was supposed to unify their work. The Witness supplied Frenki with fuel. He wanted to go to the repeater station at Plješevica.¹¹³⁷

809. The Witness stated that the JATD's task was to guard the three facilities, the complex of buildings at Petrova Gora, Magarčevac and the monument at Petrova Gora. They also had to provide security for the repeater at Plješevica. The facilities housed communications equipment for electronics reconnaissance and the scrambling of signals at all three locations.¹¹³⁸

810. [REDACTED].

811. [REDACTED]

812. [REDACTED].¹¹³⁹ [REDACTED]

813. [REDACTED].¹¹⁴⁰

814. [REDACTED].¹¹⁴¹ [REDACTED]¹¹⁴² [REDACTED]¹¹⁴³ [REDACTED]¹¹⁴⁴

815. [REDACTED].

816. Thus, Witness Aco Drača testified that he was paid a regular income for his work from the budget of the RSK government.¹¹⁴⁵ Fighters were also paid a daily allowance by Abdić himself.¹¹⁴⁶

¹¹³⁷tt.19353

¹¹³⁸tt.19352

¹¹³⁹[REDACTED]

¹¹⁴⁰[REDACTED]

¹¹⁴¹[REDACTED]

¹¹⁴²[REDACTED]

¹¹⁴³[REDACTED]

¹¹⁴⁴[REDACTED]

¹¹⁴⁵[REDACTED]

¹¹⁴⁶tt.16826

817. The Witness Pelević confirmed that finances were coming from Abdić to Arkan's men who were taking part in Pauk. The Witness knew that because the paper administration recording that payment came through him.¹¹⁴⁷
818. Finally, in the entry made in Mladić's diary at the Dobanovci meeting of 7 October 1994, there is a remark concerning the fact that Jovica Stanišić agreed with Fikret Abdić that the latter should pay the people for this operation, and the latter agreed to do so.¹¹⁴⁸
819. [REDACTED]¹¹⁴⁹ [REDACTED]
820. It is therefore evident that Franko Simatović went to Petrova Gora on the order of the head of the service on an operative assignment. An agreement with regard to this Operation was made at the highest level, in which Franko Simatović had no part whatsoever. The order that he got from the head of service fell within the scope of the tasks, obligations and authorities that he, as an operative, had, which is why he could not refuse to obey these orders.
821. Within Operation Pauk, Simatović managed a group of operatives and technicians, who, as we examined hereinabove, had nothing to do with the JATD, which was the unit providing security for equipment and buildings, or with the tactical groups, as the training and combat groups.
822. In conclusion, the Defence proved that Franko Simatović played no role in and had no influence on the disbursement of wages to the persons who took part in this Operation. The financial arrangement had been made by Jovica Stanišić, while the head of the 8th Administration, who actually made these disbursements, was on the ground during Operation Pauk.

¹¹⁴⁷tt.16648

¹¹⁴⁸P2536,page 16

¹¹⁴⁹[REDACTED]

PART SIX

A. THE SCORPIONS

823. In para. 4 of the Indictment, the Prosecution listed all the groups and units which were included in the so-called special units of the Republic of Serbia DB. The Prosecution contends that the Scorpions, under the command of Slobodan Medić Boca, were also part of those special units of the Republic of Serbia DB.
824. Furthermore, in para. 15 (c) of the Indictment, the Prosecution alleges that Jovica Stanišić and Franko Simatović directed and organized the financing, training, logistical support and other substantial assistance or support to special units of the Republic of Serbia DB, part of which, according to the Prosecution were the Scorpions.
825. Finally, in para. 60 of the Indictment, the Prosecution alleges that Jovica Stanišić and Franko Simatović ordered the Scorpions, a special unit of the Republic of Serbia DB to travel from their base in Đeletovci in the RSK (SBWS) to the village of Trnovo where they arrived in early July 1995.
826. In an effort to corroborate these arguments, the Prosecution heard several of its own witnesses, who were either members of the Scorpions or closely connected with this unit.
827. These witnesses proved to be unreliable and inconsistent, and even mutually contradictory concerning the issue of this unit's connection with the DB of the Republic of Serbia, and Franko Simatović in particular. Hereinafter, the Defence will draw the Trial Chamber's attention to the indisputable facts these witnesses were simply unable to deny as well as to the completely unconvincing and implausible parts of their testimonies in which they tried to establish a link between this unit and the Republic of Serbia DB and Franko Simatović personally.

B. ESTABLISHMENT OF SCORPIONS

828. [REDACTED].¹¹⁵⁰
829. [REDACTED].¹¹⁵¹ [REDACTED]
830. [REDACTED].¹¹⁵² [REDACTED].¹¹⁵³
831. All of the foregoing evidence clearly and unequivocally prove that the Serbian DB, and Franko Simatović in particular, had nothing to do with and no part or role in the establishment of Boca's detachment, i.e., the Scorpions. Further to the point, it is evident that this unit was formed for the purpose of guarding the oil plants at Đeletovci and not for the purpose of undertaking special military actions. The Defence wishes to remind the Trial Chamber that at the time of the establishment of this unit, Franko Simatović was just an ordinary operative with the Belgrade center of SDB.

C. TRANSFORMATION AND BASIC TASKS OF THE SCORPIONS IN SBWS IN 1992 UNTIL 1996

832. The Defence will draw the Trial Chamber's attention to the extensive evidence indicating that the basic duties of the Scorpions, i.e. guarding the oil plants in Đeletovci and protecting the demarcation line with Croatian forces did not change in the period between 1992 and 1996, although, during that period, the unit underwent changes regarding its institutional affiliation and subordination.
833. [REDACTED].¹¹⁵⁴

834. [REDACTED]¹¹⁵⁵ [REDACTED]¹¹⁵⁶ [REDACTED]¹¹⁵⁷ [REDACTED]¹¹⁵⁸
[REDACTED].¹¹⁵⁹

¹¹⁵⁰ [REDACTED]

¹¹⁵¹ [REDACTED]

¹¹⁵² [REDACTED]

¹¹⁵³ [REDACTED]

¹¹⁵⁴ [REDACTED]

835. [REDACTED].¹¹⁶⁰ [REDACTED].¹¹⁶¹ [REDACTED]

836. [REDACTED].¹¹⁶²

837. [REDACTED].¹¹⁶³ [REDACTED].¹¹⁶⁴

838. Thus, it is clear that the tank trucks were legally dispatched to Pančevo for processing purposes, that the refined oil was transported back to RSK and that DB of the Republic of Serbia had nothing to do with that.

839. Even Witness Goran Stoparić, regardless of the fact that his testimony is malicious and biased, could not deny the fact that the main task of the Scorpions was to guard the oil fields and the 40 km long demarcation line running along the Bosut River between RSK and Croatia. He also confirms that the commander of the unit was Slobodan Medić Boca.¹¹⁶⁵

840. Defence Witness, Petar Đukić, testified before the Trial Chamber that in March 1993 he was appointed chief inspector of the RSK police in SBWS. In January and February 1994, he carried out an inspection of the business activities of NIK and there he found Boca Medić and his Scorpions guarding NIK. At first, Boca refused to allow the inspection, but then Witness Đukić went to Đeletovci and resolved the situation with Medić.¹¹⁶⁶ Witness Đukić, also confirms that Boca Medić and his Scorpions were a special battalion within the composition of the 11th – Slavonia Baranja Corps of the Army of RSK in charge of guarding the oil fields at Đeletovci.¹¹⁶⁷

¹¹⁵⁵ [REDACTED]

¹¹⁵⁶ [REDACTED]

¹¹⁵⁷ [REDACTED]

¹¹⁵⁸ [REDACTED]

¹¹⁵⁹ [REDACTED]

¹¹⁶⁰ [REDACTED]

¹¹⁶¹ [REDACTED]

¹¹⁶² [REDACTED]

¹¹⁶³ [REDACTED]

¹¹⁶⁴ [REDACTED]

¹¹⁶⁵ tt.10333

¹¹⁶⁶ tt.17989-17993

¹¹⁶⁷ tt.11978

841. Thus, it is clear that the Scorpions were not established for the purpose of undertaking special military operations and that the Serbian DB had nothing to do with the establishment of this unit and neither did it have any connection with the basic tasks assigned to this unit.

D. DIRECTING, FINANCING, TRAINING AND LOGISTICAL SUPPORT

842. [REDACTED].¹¹⁶⁸ [REDACTED]

843. [REDACTED]

844. [REDACTED].¹¹⁶⁹ [REDACTED].¹¹⁷⁰

845. [REDACTED].¹¹⁷¹ [REDACTED].¹¹⁷² [REDACTED]¹¹⁷³ [REDACTED].¹¹⁷⁴
[REDACTED].¹¹⁷⁵

846. [REDACTED].¹¹⁷⁶

847. [REDACTED].¹¹⁷⁷ [REDACTED]¹¹⁷⁸

848. [REDACTED].¹¹⁷⁹ [REDACTED]¹¹⁸⁰

849. [REDACTED].¹¹⁸¹

850. [REDACTED]¹¹⁸² [REDACTED]

¹¹⁶⁸ [REDACTED]

¹¹⁶⁹ [REDACTED]

¹¹⁷⁰ [REDACTED]

¹¹⁷¹ [REDACTED]

¹¹⁷² [REDACTED]

¹¹⁷³ [REDACTED]

¹¹⁷⁴ [REDACTED]

¹¹⁷⁵ [REDACTED]

¹¹⁷⁶ [REDACTED];

¹¹⁷⁷ [REDACTED]

¹¹⁷⁸ [REDACTED]

¹¹⁷⁹ [REDACTED]

¹¹⁸⁰ [REDACTED]

¹¹⁸¹ [REDACTED]

851. [REDACTED].¹¹⁸³

852. [REDACTED].¹¹⁸⁴

853. [REDACTED].¹¹⁸⁵

854. [REDACTED].¹¹⁸⁶ [REDACTED].¹¹⁸⁷

855. [REDACTED].¹¹⁸⁸

856. [REDACTED].¹¹⁸⁹

857. Under cross-examination, Witness Stoparić admitted that the ID cards members of the Scorpions had on them were printed in Vukovar.¹¹⁹⁰

858. Hence, it is clear that Witness Stoparić, through the ID's, tried to falsely bring the Scorpions in connection with the Serbian DB. After all, under cross-examination, Witness Stoparić admitted that there always were numerous rumors and speculations associated with the DB of the Republic of Serbia. Besides, the Witness admitted that a representative of the Prosecution had showed him a video clip of the ceremony in Kula before he had had a chance to give his statement.¹¹⁹¹

E. THE SCORPIONS AND OPERATION PAUK

859. [REDACTED].¹¹⁹² [REDACTED]

¹¹⁸² [REDACTED]

¹¹⁸³ [REDACTED]

¹¹⁸⁴ [REDACTED]

¹¹⁸⁵ [REDACTED]

¹¹⁸⁶ [REDACTED]

¹¹⁸⁷ [REDACTED]

¹¹⁸⁸ [REDACTED]

¹¹⁸⁹ [REDACTED]

¹¹⁹⁰ tt.10448

¹¹⁹¹ tt.10452-10462

¹¹⁹² [REDACTED]

860. [REDACTED].¹¹⁹³ [REDACTED].¹¹⁹⁴

861. [REDACTED].¹¹⁹⁵ [REDACTED].¹¹⁹⁶

862. [REDACTED].¹¹⁹⁷

863. [REDACTED].¹¹⁹⁸ [REDACTED].¹¹⁹⁹

864. Witness Goran Stoparić, under cross-examination undertaken by the Defence, confirmed that the Scorpions had gone to the Bihać war theatre (Operation Pauk) but he cannot recall when exactly this happened. The Witness, however, does know that Medić had issued the order for the deployment to that operation and he thinks that Medić had received an order to that effect from the command of the Army of RSK.¹²⁰⁰ The Witness has no knowledge that any special unit of the Serbian MUP participated in this operation. He did not see Franko Simatović in Operation Pauk and he does not know if he had any role in the operation at all.¹²⁰¹

F. OPERATION TRESKAVICA – DECISION ON DISPATCHING THE SCORPIONS TO TRNOVO

865. [REDACTED]¹²⁰² [REDACTED].¹²⁰³

866. [REDACTED].¹²⁰⁴ [REDACTED]¹²⁰⁵

¹¹⁹³ [REDACTED]

¹¹⁹⁴ [REDACTED]

¹¹⁹⁵ [REDACTED]

¹¹⁹⁶ [REDACTED]

¹¹⁹⁷ [REDACTED]

¹¹⁹⁸ [REDACTED]

¹¹⁹⁹ [REDACTED]

¹²⁰⁰ tt.10503

¹²⁰¹ tt.10504

¹²⁰² [REDACTED]

¹²⁰³ [REDACTED]

¹²⁰⁴ [REDACTED]

¹²⁰⁵ [REDACTED]

867. [REDACTED].¹²⁰⁶ [REDACTED].¹²⁰⁷

868. [REDACTED].¹²⁰⁸

869. [REDACTED].¹²⁰⁹ [REDACTED].¹²¹⁰ [REDACTED]¹²¹¹

870. At this point, the Defence would like to draw the Trial Chamber's attention to the testimony of Witness Pelević in connection with Operation Trnovo and the circumstances under which SDG went there as well as to the photograph Pelević took himself at the send-off party staged for the SDG company leaving for Trnovo. In the photograph, Arkan, Kajman and Mrgud are standing in front of the lined up SDG company in Erdut. The Defence wrote about this in more detail in the previous chapter of this Brief titled „Arkan and SDG“.

871. Finally, Witness Stoparić, too, could not deny that the Scorpions were sent to Trnovo by Dušan Lončar, general of the Army of RSK. Namely, as far as he recalls, Medić's aide, Srđan Manojlović, brought Lončar's order on the unit's departure to Trnovo from the Main Staff billeted in Vukovar or Beli Manastir.¹²¹²

872. [REDACTED].

G. CHAIN OF COMMAND IN OPERATION TRESKAVICA

873. [REDACTED].¹²¹³

874. [REDACTED].

¹²⁰⁶ [REDACTED]

¹²⁰⁷ [REDACTED]

¹²⁰⁸ [REDACTED]

¹²⁰⁹ [REDACTED]

¹²¹⁰ [REDACTED]

¹²¹¹ [REDACTED]

¹²¹² tt.10508-10509

¹²¹³ [REDACTED]

875. [REDACTED].¹²¹⁴ [REDACTED].¹²¹⁵ [REDACTED]¹²¹⁶ [REDACTED].¹²¹⁷
[REDACTED].¹²¹⁸

876. [REDACTED].¹²¹⁹ [REDACTED].¹²²⁰ [REDACTED].¹²²¹

877. [REDACTED].¹²²² [REDACTED].¹²²³

878. [REDACTED].

879. [REDACTED]¹²²⁴ [REDACTED].¹²²⁵

880. Prosecution Witness Goran Stoparić, despite his best efforts to be of assistance to the Prosecution, admitted before the Trial Chamber that he did not know Vaso Mijović personally but that his name sounded familiar to him. The Witness thought that he had been in Trnovo as well, but he was not sure about it.¹²²⁶ He went on by saying that the name sounded familiar but that he did not know which unit he had belonged to, where he had served, the Zvornik or the Bratunac Brigade. In any case, he did not know how Mijović looked like and he had never heard that he had been Medić's commander although he knew that Medić had not been the top superior. He allowed the possibility that General Milošević was the top superior. He heard that but he is not sure.¹²²⁷

881. [REDACTED].¹²²⁸

H. MUP OF THE REPUBLIC OF SERBIA AND OPERATION TRESKAVICA

¹²¹⁴ [REDACTED]

¹²¹⁵ [REDACTED]

¹²¹⁶ [REDACTED]

¹²¹⁷ [REDACTED]

¹²¹⁸ [REDACTED]

¹²¹⁹ [REDACTED]

¹²²⁰ [REDACTED]

¹²²¹ [REDACTED]

¹²²² [REDACTED]

¹²²³ [REDACTED]

¹²²⁴ [REDACTED]

¹²²⁵ [REDACTED]

¹²²⁶ tt.10515

¹²²⁷ tt.10516

¹²²⁸ [REDACTED]

882. [REDACTED].¹²²⁹ [REDACTED].¹²³⁰ [REDACTED].¹²³¹

883. [REDACTED].¹²³² [REDACTED]¹²³³

884. It is, therefore, evident that neither MUP nor DB of the Republic of Serbia had anything to do with Operation Treskavica and the activities of the Scorpions, SDG and Plavi in Trnovo.

I. SIMATOVIC AND OPERATION TRESKAVICA IN 1995

885. [REDACTED].

886. [REDACTED].¹²³⁴

887. [REDACTED].¹²³⁵

888. [REDACTED].

889. [REDACTED].¹²³⁶

890. [REDACTED].

891. Finally, Prosecution Witness, Goran Stoparić testified to the effect that he, personally, did not see Franko Simatović in Trnovo but that he heard that he was staying at the Jahorina

¹²²⁹ [REDACTED]

¹²³⁰ [REDACTED]

¹²³¹ [REDACTED]

¹²³² [REDACTED]

¹²³³ [REDACTED]

¹²³⁴ [REDACTED]

¹²³⁵ [REDACTED]

¹²³⁶ [REDACTED]

Hotel. When prompted by the Defence and subsequently by the Trial Chamber as well, to say who he had heard about Simatović's presence from, the Witness came up with some contradictory and absurd explanations. It was unclear whether the Witness had heard that from Medić at all or not. At first, the Witness stated that Medić did not tell him that only to change his mind later by saying that it was Medić who told him that after an alleged meeting.¹²³⁷ He then said that he also heard that from the Zengas, offering a completely contradictory explanation regarding an alleged cut-off head, brought and placed on Frenki's desk. In fact, it remains unclear from his testimony whether the head was really placed on Frenki's desk or those were only stories, rumors spread among them. He was not able to explain to the Trial Chamber and the Defence whether this really happened or not.¹²³⁸

892. The Witness was reminded that what he said before the Trial Chamber was not consistent with the statement he had given to the Prosecution (P-1702), where he admitted that he actually had not seen Frenki.¹²³⁹ During further rounds of cross-examination the Defence demonstrated the lack of credibility of this Witness who disclosed, inter alia, that he had testified in Serbia twice before, once before a court of law in Prokuplje and then again before a court of law in Belgrade. He confessed to the Defence that in Belgrade he changed the statement he had previously given in Prokuplje because his lawyer talked him into it, admitting that he had lied at the Prokuplje trial.¹²⁴⁰

893. Clearly, Witness Goran Stoparić is an absolutely untrustworthy witness who, before the Trial Chamber, kept changing his original statements and giving absurd and illogical explanations and who even openly admitted that he was prone to lying. This Witness cannot be trusted.

894. [REDACTED]¹²⁴¹ [REDACTED]

895. [REDACTED].¹²⁴² [REDACTED]

¹²³⁷ [REDACTED]

¹²³⁸ tt.10512-10514;10516-10517

¹²³⁹ tt.10514-10515

¹²⁴⁰ tt.10540-10541

¹²⁴¹ [REDACTED]

¹²⁴² [REDACTED]

896. The Defence has already presented to the Chamber numerous pieces of evidence corroborating the fact that the Scorpions, SDG and Plavi were sent to Trnovo in late June 1995 and that they stayed there until the end of July 1995.
897. The Defence tendered two exhibits for admission into evidence that could clearly point to the activities and movements of Franko Simatović precisely in July 1995. Namely, from the arguments set forth the Judgment divorcing the marriage concluded between Simatović Franko and Simatović Sanja, maiden name Bugarski, it is evident that their marriage was concluded in SO Zvezdara on 9 July 1995.¹²⁴³
898. From the copy of Franko Simatović's passport it is evident that he went to Greece via Athens Airport on 14 July 1995 and that he staid in Greece until 2 August 1995 when he left Greece also via the Athens airport.¹²⁴⁴
899. The above evidence very clearly evidences that in July 1995, Franko Simatović did not work at all. The marriage was concluded on 9 July 1995 and such an act implies the need for several days of preparations prior to the ceremony. It is also obvious that immediately after the wedding, Franko Simatović went to Greece on vacation and honeymoon and that he staid there up until 2 August 1995.
900. All of the above evidence clearly and unequivocally shows that the Prosecution failed to prove beyond reasonable doubt the existence of any ties between Franko Simatović and the Scorpions and Franko Simatović's alleged involvement in Operation Treskavica and the events in Trnovo in July 1995.

¹²⁴³ [REDACTED]

¹²⁴⁴ D1358

PART SEVEN

A. RADIO MONITORING AND ITS RELEVANCE TO INTELLIGENCE ACTIVITIES

901. Radio monitoring is the surveillance of the radio spectrum and all radio communication, and it is of special interest to the intelligence service. Radio monitoring is a very complex activity, which also entails seeking certain channels, certain frequencies of interest to the service. The physical terrain features are particularly significant for the successful surveillance of the radio spectrum. Most radio monitoring activities require approaching the target as much as possible, from an adequate geographic location, to be able to monitor the spectrum of interest.¹²⁴⁵
902. The proximity of the monitoring point to the target spectrum is significant because certain radio communications cannot be detected from a distance. Also, links stretch across a certain axis and you have to be right on that axis.¹²⁴⁶
903. [REDACTED].¹²⁴⁷
904. [REDACTED].¹²⁴⁸
905. [REDACTED].¹²⁴⁹ [REDACTED].¹²⁵⁰ [REDACTED]¹²⁵¹
906. The Pajzos site was important because large parts of Eastern Slavonia could be covered from there. Pajzos was particularly interesting for monitoring link communications.¹²⁵²

¹²⁴⁵ tt.19591-19592

¹²⁴⁶ tt.19594

¹²⁴⁷ [REDACTED]

¹²⁴⁸ [REDACTED]

¹²⁴⁹ [REDACTED]

¹²⁵⁰ [REDACTED]

¹²⁵¹ [REDACTED]

¹²⁵² tt.19598

907. Witness Rade Vujović, as the chief of the 7th Administration used to go to Pajzos in person, in 1994 and 1995. The 7th Administration technicians and translators would also go to Pajzos. Pajzos was a very good monitoring point, and the staff of the 2nd Administration had been deployed there as well. An intelligence point was established at Pajzos. The staff of the 7th and 2nd Administration cooperated at this intelligence point. The materials acquired by means of radio monitoring were immediately forwarded to intelligence operatives.¹²⁵³ [REDACTED]¹²⁵⁴ [REDACTED].

908. [REDACTED]¹²⁵⁵

909. [REDACTED].¹²⁵⁶

910. [REDACTED].¹²⁵⁷

911. [REDACTED].¹²⁵⁸ [REDACTED]¹²⁵⁹

912. [REDACTED].¹²⁶⁰

913. Witness Dejan Plahuta, as a JATD member, was deployed to Pajzos in the August of 1995, by order of Dragoslav Krsmanović. Krsmanović went to Pajzos with Plahuta and a dozen of other JATD members. Plahuta also engaged in the protection of the Pajzos compound. The special focus of the security was Tito's villa, because the wire tapping, surveillance and coding equipment was in there. This is where the technical equipment operators were, and the translators.¹²⁶¹

¹²⁵³ tt.19599

¹²⁵⁴ [REDACTED]

¹²⁵⁵ [REDACTED]

¹²⁵⁶ [REDACTED]

¹²⁵⁷ [REDACTED]

¹²⁵⁸ [REDACTED]

¹²⁵⁹ [REDACTED]

¹²⁶⁰ [REDACTED]

¹²⁶¹ tt.19364-19365

914. The training in Ilok was not feasible because of the topography of the terrain.¹²⁶²
[REDACTED]¹²⁶³ [REDACTED]¹²⁶⁴

915. [REDACTED].¹²⁶⁵

916. Plahuta saw Simatović several times at Pajzos. Simatović would go straight to the villa from the main gate, and he would remain there for an extended period of time. Plahuta testified that Simatović did not have any contacts with the JATD members.¹²⁶⁶

917. [REDACTED].¹²⁶⁷

918. Plahuta denied the possibility that Slobodan Medić Boca ever came to Pajzos, and he in particular denied that Boca could have come for ammunition supplies. Plahuta testified that there was no ammunition and no equipment that could have been supplied to other units.¹²⁶⁸
[REDACTED].¹²⁶⁹

919. The Defence concludes that the Pajzos facility was being used as an intelligence point for the purpose of gathering intelligence by electronic means. Pajzos, which is situated near Ilok, very close to the Serbian and Croat border, is exceptionally well positioned geographically for these tasks. A mound that dominates the surroundings is located in the immediate vicinity of the communication lines that are vital for gathering intelligence.

920. The advantages that the site offers were used for gathering intelligence by means of radio monitoring. Initially, these tasks were performed by a group of amateurs who used their own equipment to attempt to collect useful information. The intelligence administration of the Republic of Serbia MUP RDB tried to assess the potential value and usability of the intelligence that this group of amateurs succeeded in collecting. This context provides the

¹²⁶² tt.13415

¹²⁶³ [REDACTED]

¹²⁶⁴ [REDACTED]

¹²⁶⁵ [REDACTED]

¹²⁶⁶ tt.19369-19370

¹²⁶⁷ [REDACTED]

¹²⁶⁸ tt.19382

¹²⁶⁹ [REDACTED]

only possible explanation for Simatović's presence at Pajzos, on several occasions before these tasks were officially delegated to the 7th Administration.

921. This activity gained added value when the 7th Administration took over these activities in 1993. Due to the reasons mentioned herein, this intelligence point required the cooperation of the staff of the 2nd and 7th Administration. Simatović, as an employee of the 2nd Administration came to Pajzos several times in that period. These visits to Pajzos were entirely legitimate in the context of the 2nd Administration's terms of reference, and of Simatović's job description.
922. Combat training was not practicable at Pajzos. The topography of the terrain was a limiting factor in this regard. Both the topography of the terrain, and consistent statements made by the witnesses mentioned herein successfully disprove all allegations that there was a camp for combat training at Pajzos.
923. Simatović's visits to Pajzos could not have been, and in fact were not, in any way connected to a training camp. This is corroborated by evidence proving that Pajzos was a radio monitoring centre, and by evidence proving that combat training was impracticable there. The armed men who guarded the facility were few and had a special assignment, they did not participate in combat, there is not a single shred of evidence of any kind of involvement of these men in any of the crimes mentioned in the indictments against Franko Simatović.

B. UNITS ON THE TERRITORY OF PAJZOS AND ILOK

924. Several units of different affiliation were on the territory of Ilok and Pajzos at various time intervals in the period from 1991 to 1995. As indicated by evidence, there were some Serbian MUP units in this area in the initial period that were directly linked with the public security department.

925. [REDACTED]¹²⁷⁰ [REDACTED].¹²⁷¹ [REDACTED].¹²⁷²

926. [REDACTED].¹²⁷³

927. [REDACTED].¹²⁷⁴

928. [REDACTED].¹²⁷⁵ In the case files there is a set of documents concerning the MUP Krajina Special Unit in that period. Thus, in exhibit D68, this unit is being informed about the checks and patrol activities in Šarengrad. Exhibit P3007 reveals that the commander of this unit was Ilija Vučković. As these people belonged to the Krajina MUP unit, they were issued IDs by Republic of Srpska Krajina.¹²⁷⁶

929. [REDACTED].

930. [REDACTED]¹²⁷⁷ [REDACTED].

931. [REDACTED].¹²⁷⁸

¹²⁷⁰ [REDACTED]

¹²⁷¹ [REDACTED]

¹²⁷² [REDACTED]

¹²⁷³ [REDACTED]

¹²⁷⁴ [REDACTED]

¹²⁷⁵ [REDACTED]

¹²⁷⁶ P3007

¹²⁷⁷ [REDACTED]

¹²⁷⁸ [REDACTED]

932. [REDACTED].¹²⁷⁹

933. [REDACTED].¹²⁸⁰

934. [REDACTED].¹²⁸¹ [REDACTED]¹²⁸²

935. The Defence concludes that various different units or groups were stationed in the Ilok and Pajzos area, at different time intervals. Some of these units or groups were sometimes attached to a structure, sometimes they received orders from two different commands, while sometimes they received orders from nobody and acted independently and for their own account.

936. In the initial period, a Special Unit of the Serbian MUP had been stationed in this area. This unit relied on the logistic support of the Serbian MUP Police Administration. These Serbian MUP units were concurrently a part of the Krajina MUP.

937. At the same time, a Special Purpose Unit of the Krajina MUP was stationed in that area. This unit underwent various transformations. [REDACTED]. Often they used the name “Red Berets” to facilitate the achievement of their purposes in the overall confusion.

938. The Defence contends that there is no evidence that could link the units from the area of Ilok and Pajzos with Franko Simatović, beyond any reasonable doubt. Simatović’s link with Pajzos is explained in further detail in other sections of this brief. Here the Defence would like to emphasize that the military and police structures in this area were intertwined, that there was no organized and regulated state authority, and that there were constant political conflicts and uncertainty. Under these circumstances it is impossible to identify the various units, the affiliation of the various individuals, and who was responsible for whom, and in what way. These circumstances make it impossible to determine any kind of link,

¹²⁷⁹ [REDACTED]

¹²⁸⁰ [REDACTED]

¹²⁸¹ [REDACTED]

¹²⁸² [REDACTED]

influence or contribution on the part of Simatović in the context presented herein by the Defence.

C. ARKAN'S ATTEMPT TO ENTER PAJZOS

939. [REDACTED].¹²⁸³

940. At the beginning of August 1995, Arkan arrived at Pajzos with his escort, consisting of seven or eight individuals. Arkan came up to the main gate and wanted to enter the compound. There were two members of JATD at the gate and soon several more arrived. They stopped Arkan, did not allow him to come in and informed the officer on duty. The officer on duty banned Arkan from entering the compound and said that there was nothing for him to do there.¹²⁸⁴ The officer on duty informed Dragoslav Krsmanović about the event, who was also at the Villa at the time.¹²⁸⁵

941. Arkan was very angry, his security stepped out of the vehicle, Arkan shouted, swore and demanded to go in. The JATD members were armed with automatic rifles and were ready

¹²⁸³ [REDACTED]

¹²⁸⁴ tt.19367-19368

¹²⁸⁵ tt.19369

to use them. Arkan saw that, he interpreted it as a serious threat and ten minutes later he left.¹²⁸⁶

942. Plahuta believes that the reason for Arkan's arrival was that he wanted to go into the winery.¹²⁸⁷

943. [REDACTED].¹²⁸⁸

944. The reaction of the security of the Pajzos facility to Arkan's arrival is a clear illustration of the relation between Arkan and the Republic of Serbia RDB JATD. Arkan and his unit were treated just as anyone else who would have attempted to trespass into a secured facility. Arkan did not have a special status, Arkan did not have special rights. This event is one of a whole set of evidence that Arkan and his unit were not a part of RDB, that the RDB neither controlled nor influenced Arkan and his activities in the region.

¹²⁸⁶ tt.19368-19369

¹²⁸⁷ tt.19369

¹²⁸⁸ [REDACTED]

PART EIGHT

A. THE POSITION OF FRANKO SIMATOVIĆ IN THE REPUBLIC OF SERBIA MUP SDB/RDB

945. Franko Simatović's position within the Republic of Serbia SDB/RDB MUP is highly important for determining Simatović's level, role and authorities at the time relevant for the indictment.

946. Simatović had been an SDB employee from 1978. As soon as he began working with the SDB, Simatović was assigned to duty in the SDB Administration for the City of Belgrade. Within the City of Belgrade SDB Administration he discharged the duty of operative officer in the 2nd Sector. In 1986, he was transferred to the position of Chief of the US group within the 2nd Sector of the SDB Administration for the City of Belgrade.¹²⁸⁹

B. SIMATOVIĆ AS CHIEF OF SECTION

947. From 15 December 1990, Simatović held the position of chief of section for the USA in the 2nd Branch of the SDB Administration in Belgrade.¹²⁹⁰ At the time relevant for the indictment Simatović figures as a staff member appointed to the position of chief of section.

948. The tasks of a chief of group and chief of section in the 2nd Branch of the SDB Administration in Belgrade are identical. The only difference is in the slightly higher wage coefficient. This difference appeared with the introduction of new SDB staffing and job grading regulation.¹²⁹¹

949. The position of chief of section, which Simatović had been appointed to in December 1990, was the lowest-ranked management position.¹²⁹²

¹²⁸⁹ D795 paras.331-333

¹²⁹⁰ D795 para.335

¹²⁹¹ D795 para.364

¹²⁹² D795 paras.363-364

950. Simatović's authorities as a manager were exclusively restricted to tasks related to the section he headed. In this role, Simatović was responsible for the management of the section, for the coordination as well as participation in or direct execution of tasks and assignments. In this role, Simatović was responsible for the detection, surveillance, investigation, documentation and prevention of the activities of the US intelligence service, police security and other institutions.¹²⁹³ [REDACTED]¹²⁹⁴ [REDACTED].
951. The Defence also emphasizes that Simatović has no managerial authority with respect to the Service itself. He has no influence on managing the service, on making strategic and tactical decisions at the level of the Service. He did not have any contacts with the political leadership of the country. He did not submit reports or participate in meetings.
952. Simatović's position from December 1990 to May 1992 is at the very bottom of the hierarchical ladder of the Republic of Serbia SDB MUP at the time. As a chief of section, Simatović was subordinated to the assistant chief of department, chief of department, chief of the SDB for Belgrade, assistant chief of the SDB, deputy chief of the SDB, and finally chief of the RDB of the MUP of the Republic of Serbia.¹²⁹⁵ Simatović was six levels below the level of the chief of the Service, and seven levels below the position of the interior minister of the Republic of Serbia. The Defence contends that Simatović's job and working engagement were restricted by seven management levels in the MUP. Simatović's position in the hierarchy of the SDB and MUP is a measure of his influence on the Service's activities both in the country and abroad.
953. The title Simatović had in the period from December 1990 to May 1992 is another important fact. In December 1990, Simatović was given the title of senior inspector, which means that there were five titles above him.¹²⁹⁶ The Defence reiterates that the title indicates the rank of an employee.¹²⁹⁷

¹²⁹³ D795 para.351

¹²⁹⁴ [REDACTED]

¹²⁹⁵ [REDACTED]

¹²⁹⁶ D795 paras.362-363,P2398

¹²⁹⁷ tt.18936

954. It is important to note that Simatović's position is a professional position he was appointed to by decision of the line manager in the Service. Simatović was not appointed by, nor was he accountable for his work to the Government of the Republic of Serbia. Simatović's title was also low. These facts indicate the very limited weight of his position within the structure of the Service, MUP and the state administration as a whole.

C. SIMATOVIĆ'S APPOINTMENT TO DEPUTY CHIEF OF SECOND ADMINISTRATION

955. By Decision of the Chief of the RDB of the MUP of the Republic of Serbia, on 1 May 1992, Simatović was appointed to the position of Deputy Chief of Second Administration. Although he was appointed to this position, Simatović still had the same title – senior inspector.¹²⁹⁸ Simatović performed these tasks until his appointment to the position of special advisor that followed on 1 May 1993.¹²⁹⁹

956. The position of deputy chief to which Simatović had been appointed meant that Simatović prepared and proposed the operative program of work to the Administration and took care of its implementation, that he was directly responsible for gathering intelligence and data, that he was directly responsible for organizing and executing assignments and tasks related to gathering information, data and knowledge about all kinds of threats to the national, cultural and historical identity of the Serbs living outside of Serbia, as well as for other tasks.¹³⁰⁰

957. The position of deputy chief that Simatović held from May 1992 to May 1993 was a mid-level management position at RDB. It is of notable significance that a deputy chief of administration does not manage the administration directly and independently. The deputy chief performs the tasks assigned to him by the chief of administration. The deputy chief is not a member of the Collegium of SDB Chiefs.¹³⁰¹

¹²⁹⁸ D795 para.337

¹²⁹⁹ D795 para.337

¹³⁰⁰ D795 para.352,D115

¹³⁰¹ D795 para.365

958. In the hierarchical structure, the deputy chief is subordinated to the chief of administration, assistant chief of RDB for intelligence operations, deputy chief of RDB, chief of RDB and finally the interior minister.¹³⁰² Even at the level of deputy chief of RDB, there was a whole range of top-ranking officials in the Service who were superior to Simatović in the decision making process.
959. As the chief of section and deputy chief of 2nd Administration, Simatović could directly engage in intelligence gathering, documenting, investigation, surveillance, all in line with the job description of the position to which he had been appointed. He could travel outside of Belgrade, and he could also travel abroad in case of operative need.¹³⁰³
960. Simatović's authorities as deputy chief were restricted by the fact that at the time when he was a deputy, the 2nd Administration had its chiefs. Marko Lazović was the chief of the 2nd Administration in the period from 15 April 1992 until the appointment of Zoran Mijatović. Lazović held the title of senior advisor,¹³⁰⁴ Zoran Mijatović was appointed chief of 2nd Administration in 1 February 1993, and remained on this position until 10 October 1993. Mijatović also held the title of senior advisor.¹³⁰⁵
961. After Mijatović left the position of chief, the position of deputy chief of 2nd Administration was filled by Dragan Filipović, who was appointed to that position by decision of the chief of 8th Administration Milan Prođanić. While discharging this function, Filipović held the title of senior inspector.¹³⁰⁶ [REDACTED].¹³⁰⁷ [REDACTED]¹³⁰⁸ A new chief of 2nd Administration had not been appointed immediately after Mijatović's departure, but this does not mean that the 2nd Administration was left without a manager. The 2nd Administration was managed by deputy chief Filipović¹³⁰⁹, and this situation lasted until the appointment of a successor to the position of chief of Administration. The Defence reiterates

¹³⁰² D795 para.366

¹³⁰³ tt.18938-18939

¹³⁰⁴ D852

¹³⁰⁵ P2486 pages:2,3

¹³⁰⁶ P474 p.16 (ENG)

¹³⁰⁷ [REDACTED]

¹³⁰⁸ [REDACTED]

¹³⁰⁹ tt.19634

that Simatović had never at any time been chief of 2nd Administration or acting chief of Administration in the capacity of deputy chief.

962. The Defence concludes that Simatović, in his capacity as deputy chief of Second Administration, had always been limited in his work by the decisions of the chief of Administration. The level of his autonomy and responsibility in dealing with his working assignments did not extend beyond mid-level management, which distances Simatović from every strategic decision concerning program orientation and operational use of the State Security Department and the resources it had at its disposal. In his workplace, Simatović was also far-flung from any communication with top state officials. All communication, reporting, planning happened at a decision-making and responsibility level far beyond that of Simatović.

D. SIMATOVIĆ AS SPECIAL ADVISOR

963. [REDACTED].¹³¹⁰

964. [REDACTED].¹³¹¹ There were six special advisor positions, and three advisor positions within the RDB, according to the staffing and job classification.¹³¹²

965. The terms of reference of a special advisor are formulated in a very vague manner, and cover all RDB activity areas. The reason for the generality of the formulation of the terms of reference of the special advisor lies in the fact that this are the terms of reference that apply collectively to all advisors appointed by the chief of RDB. The chief of RDB appointed advisors, and the chief of RDB determined their terms of reference.¹³¹³

966. Of particular significance is the fact that, in terms of hierarchy, special advisors were not superior to the chief of the various administrations within the RDB, nor could he interfere

¹³¹⁰ [REDACTED]

¹³¹¹ [REDACTED]

¹³¹² D833

¹³¹³ D795 para.354

with their responsibilities. When he was appointed special advisor, Simatović ceased to be the deputy chief of the RDB 2nd Administration.¹³¹⁴

967. As a special advisor, Simatović had no independent decision making authority. Because subordination is one of the fundamental principles of work in the State Security Department,¹³¹⁵ Simatović's work as special advisor was determined by the decisions and positions of the chief of RDB.¹³¹⁶

968. As a special advisor, Simatović dealt with the coordination of intelligence gathering, the use of new technologies, and the introduction of new systems in this field.¹³¹⁷ Simatović dealt with the development and use of technical means in the department, especially in the analytical domain.¹³¹⁸

969. Simatović, as a special advisor, did not have the authority to make any independent decisions within the Department. A special advisor provides advice but does not make the decisions.¹³¹⁹

970. Each of the special advisors had their respective tasks, and was not allowed to get directly involved in the work of the chief of the administrations within the RDB.¹³²⁰

971. A special advisor reports exclusively to the chief of RDB. The chief of RDB is the one who decides whether any of the intelligence or reports will be forwarded to the political leadership.¹³²¹

972. A special advisor, just as a deputy chief of administration or chief of department, is required to execute all orders and assignments issued by his line manager, or other manager who is superior to him in the hierarchy. The only restriction is the lawfulness of the order or

¹³¹⁴ D795 paras.354,356

¹³¹⁵ D817 art.2

¹³¹⁶ D795 paras.56,368,369

¹³¹⁷ tt.19634-19635

¹³¹⁸ tt.19826,19871

¹³¹⁹ tt.18940

¹³²⁰ tt.14790-14791

¹³²¹ tt.14812-14813

task. An RDB employee is even obliged to execute any instructions that he might deem unlawful. An employee may only refuse to execute an order if the execution of that order would constitute a criminal offense¹³²²

973. The Defence concludes that Simatović, as a special advisor, was outside the lines of subordination of the State Security Department (RDB). Simatović had no jurisdiction in relation to the administrations, and Simatović had no independent decision-making authority. The work of a special advisor is restricted to the assignments and instructions imparted by the chief of RDB. The ultimate and maximum output of the work of a special advisor is to provide advice or recommendations to the chief of department, the latter being the one to ultimately decide on the matter of concern, in line with the principle of subordination.

974. The defense emphasizes that even in his role of special advisor, Simatović did not come into contact with the state leadership. Simatović's role within the RDB was heavily overshadowed by the rights and responsibilities of the chief of RDB, the deputy chief of RDB as well as the assistant and chief of the administrations. Simatović did not make independent decisions, Simatović did not convey information to the state leadership, Simatović did not receive orders from the state leadership. Simatović's accountability can only be discussed within the context of the limited rights and duties that he had in the positions to which he had been assigned.

975. Simatović gained to a certain extent some independent decision-making authority when he was subsequently appointed to the position of assistant chief of the RDB, on 4 April 1996,¹³²³ at a time of no relevance to the indictment in this case.

¹³²² D795 para.367

¹³²³ D795 para.369

PART NINE

A. THE POSITION OF JATD WITHIN THE RDB

976. The way in which the Anti-Terrorist Operations Unit (JATD) was established, its status and type of management are a highly contentious issue between the parties to this trial. Here, the Defence would like to present evidence and arguments that unequivocally shows the genesis and position of the JATD within the Republic of RDB of the MUP of the Republic of Serbia.
977. The issue of the decision establishing the JATD was the object of an extended debate in this case. The Defence notes that there is no such decision in the case files, so the Defence contends that all circumstances of relevance for the formation of the JATD can and should be determined indirectly.
978. The authority to establish an organizational unit within the Republic of Serbia MUP was vested in the minister. The minister of interior determined its terms of reference and structure.¹³²⁴ Minister Sokolović availed himself of his authority to establish Special Police Units (PJM). Sokolović issued a decision based on the Law on Internal Affairs of the Republic of Serbia. In this decision he prescribed the strength of the unit, its specific scope of activity and the manner in which these units would be utilized.¹³²⁵ Alertness measures, the grouping and deployment of the PJM were executed by order of the minister, by the authority of the minister and by order of the chief of the public security department.¹³²⁶ This decision was issued by the minister on 1 August 1993, merely a couple of days before the decision that concerns the JATD.
979. The Defence contends that all provisions of the decision on the establishment of the PJM apply *mutatis mutandis* to the JATD as well. The legal grounds are identical, the scope of work is similar, as well as the requirements and scope of organization. These similarities are not just implicit, they have been established based on available evidence in this case.

¹³²⁴ P1044 Art.6

¹³²⁵ D87

¹³²⁶ D87 item 2

980. [REDACTED].¹³²⁷ Such a decision was taken by the minister of interior in accordance with the authority stipulated in the Law on Internal Affairs.¹³²⁸ [REDACTED].¹³²⁹
981. [REDACTED].¹³³⁰ [REDACTED].¹³³¹
982. [REDACTED].¹³³²
983. [REDACTED].¹³³³ [REDACTED].¹³³⁴
984. [REDACTED].¹³³⁵
985. [REDACTED].¹³³⁶ [REDACTED].¹³³⁷
986. JATD was a special organizational unit within the State Security Department.¹³³⁸ This is evident based on the manner in which the unit was formed and the way in which the unit functioned.
987. [REDACTED].¹³³⁹ [REDACTED].¹³⁴⁰
988. The unit was led by Milan Radonjić, in his capacity as deputy commander, until the formation of the Special Operations Unit of the State Security Department (JSO) in 1996. The

¹³²⁷ [REDACTED]

¹³²⁸ tt.14098,D795 para.373,P972 p.24

¹³²⁹ [REDACTED]

¹³³⁰ [REDACTED]

¹³³¹ [REDACTED]

¹³³² [REDACTED]

¹³³³ [REDACTED];

¹³³⁴ [REDACTED]

¹³³⁵ [REDACTED]

¹³³⁶ [REDACTED]

¹³³⁷ [REDACTED]

¹³³⁸ tt.18950,19618,19619

¹³³⁹ [REDACTED]

¹³⁴⁰ [REDACTED]

JATD commander position was never filled because it required a higher-ranking officer with a military academy degree.¹³⁴¹

989. [REDACTED].¹³⁴²

990. [REDACTED].¹³⁴³

991. [REDACTED].¹³⁴⁴ [REDACTED].¹³⁴⁵

992. [REDACTED].¹³⁴⁶ [REDACTED].¹³⁴⁷

993. The status and position that the JATD had within the RDB is further corroborated by the analogy with the JSO, which was established in 1996. The JSO was also a special organizational unit within the Department. The Staffing and Job Classification Rules of 6 April 1996, categorized the JSO under “Special Organizational Units” within the Department.¹³⁴⁸

994. The Defence concludes that JATD was established by decision of the minister who was also the one to adopt key decisions concerning the unit. The JATD was formed as a special organizational unit, which means that the unit was not attached to any particular administration or individual. The formation and the activities of this unit were fully legal and legitimate. The unit was formed based on the statutory authority of the minister, it was formed and it existed just as any other organizational unit within the MUP, i.e. the RDB. The formation and the work of the JATD correspond to a similar organizational form that already existed within the public security department.

¹³⁴¹ tt.19348,19620

¹³⁴² [REDACTED]

¹³⁴³ [REDACTED]

¹³⁴⁴ [REDACTED]

¹³⁴⁵ [REDACTED]

¹³⁴⁶ [REDACTED]

¹³⁴⁷ [REDACTED]

¹³⁴⁸ D847 p.55

995. The JATD had its internal acts, and the JATD members' employment and legal status were regulated. The JATD was not some kind of secret enterprise of a few individuals, but a well-regulated and legitimate sub-system within the RDB.

996. JATD operations had the support of all the structures within the RDB, each structure was operating within the scope of its authorities. The RDB administrations all cooperated with the JATD, within their respective obligations and responsibilities. In this context, it is important to emphasize that the 2nd Administration did not have any special relation with or responsibility in relation to the JATD. The 2nd Administration is one of the several administrations that, within its specific scope of work, provided intelligence that could be of interest to the JATD command unit, in executing its envisaged tasks.

B. PER DIEM LISTS AND SIMATOVIĆ

997. [REDACTED]¹³⁴⁹ [REDACTED]”.¹³⁵⁰

998. [REDACTED].¹³⁵¹

999. [REDACTED].

C. KULA

1000. The celebration in Kula took place in 1997 and the speech that Simatović read on that occasion is being used by the Prosecution as important evidence in support of the allegations

¹³⁴⁹ [REDACTED]

¹³⁵⁰ [REDACTED]

¹³⁵¹ [REDACTED]

made in the Indictment. The Defence contends that the celebration in Kula and the speech that was read there cannot be interpreted outside the specific context in which this celebration took place.

1001. Vlado Dragičević testified that Milošević gave credit to Stanišić for his work as head of Department.¹³⁵² [REDACTED].¹³⁵³ [REDACTED].¹³⁵⁴

1002. [REDACTED].¹³⁵⁵

1003. [REDACTED].¹³⁵⁶ [REDACTED]¹³⁵⁷ [REDACTED].¹³⁵⁸

1004. The Defence contends that the contents of the speech that was read in Kula can be understood only in the context of the reasons for which this celebration was organized.

1005. In the speech it is stated that the Special Operations Unit was formed on 4 May 1991.¹³⁵⁹ None of the other evidence admitted into the case files corroborates this allegation. The JATD was established in August 1993, and the JSO was established only in 1996, as mentioned in other sections of this brief. Here, the Defence wishes to emphasize that the involvement in armed conflict of any individual that was at some later stage with the JATD or the JSO does not affect the facts determined with regard to the existence of these two units. In various periods of time, various people participated in various activities. The fact that some individuals were associated with JATD in 1994 or 1995 does not prove in any way that the JATD existed in 1991.

1006. It is stated in the speech that 5,000 soldiers were involved in the theatres of operation of Benkovac, Stari Gospić, Plitvice, Glina, Kostajnica and elsewhere since 12 October 1991, and that their actions were coordinated by the unit command and intelligence team of the 2nd

¹³⁵² [REDACTED]

¹³⁵³ [REDACTED]

¹³⁵⁴ [REDACTED]

¹³⁵⁵ [REDACTED]

¹³⁵⁶ [REDACTED]

¹³⁵⁷ [REDACTED]

¹³⁵⁸ [REDACTED]

¹³⁵⁹ P61 p.9

Administration. It is said that a helicopter escadrille had been established in May 1991.¹³⁶⁰ It is said that there were 26 training camps and that there were airports in Bratunac, Skelani, Sokolac, Rogatica, and that thousands of flights were made from those airports. It is also stated that the unit participated in six large joint operations in Eastern Slavonia, Brčko, on the Drina, in Sarajevo, and in Maglaj.¹³⁶¹ All of these statements, read by Simatović, are incorrect.

1007. [REDACTED].¹³⁶²

1008. [REDACTED].¹³⁶³

1009. Manojlo Milovanović testified about the airports that were used in Bosnia and Herzegovina between 1992 and 1995. Milovanović had been tasked by the VRS commander to deal with air force related issues.¹³⁶⁴ Concerning the Bratunac airport, he said that this was a sports airport, which could only have been used in the first couple of months in 1992 for propeller planes.¹³⁶⁵ With regard to the Rogatica airport he said that there had been a proposal to set up an airport between Rogatica and Sokolac, but that this airport had never been made or used.¹³⁶⁶ Milovanović, who was responsible for aviation-related issues does not mention that there was an airport in Skelani.

1010. Risto Seovac who was in Bajina Bašta, in the immediate vicinity of Skelani, had never heard of any airport in Skelani, nor had he ever seen any aircrafts take off or land in Skelani.¹³⁶⁷

1011. Manojlo Milovanović testified that he never received any information, either from international organizations, or from VRS units, that the Republic of Serbia DB was flying over Bosnia and Herzegovina. Milovanović stated that the VRS air force commander would

¹³⁶⁰ P61 p.10

¹³⁶¹ P61 p.11

¹³⁶² [REDACTED]

¹³⁶³ [REDACTED]

¹³⁶⁴ tt.15339

¹³⁶⁵ tt.15336,15337

¹³⁶⁶ tt.14339

¹³⁶⁷ tt.17559

have informed him if there had been hundreds of flights over Bosnia and Herzegovina, as mentioned in the speech that Simatović read. Milovanović was informed in detail about all flights of every type of aircraft over Bosnia and Herzegovina.¹³⁶⁸

1012. Manojlo Milovanović, who was the VRS chief of staff from 1992 to 1995, had never heard that the Serbian DB run any training camps in Banja Luka, Šamac, Brčko, Bijeljina, Trebinje, Višegrad, Ozren, and Mrkonjić grad. Milovanović heard someone testify about a camp in Doboj, but he had no first hand knowledge of that camp.¹³⁶⁹ Milovanović also does not know that any resources or supplies were being provided, or that there were any movements of personnel connected to any training camps.¹³⁷⁰

1013. [REDACTED].¹³⁷¹ [REDACTED]¹³⁷²

1014. [REDACTED].¹³⁷³

1015. [REDACTED].¹³⁷⁴

1016. [REDACTED].¹³⁷⁵

1017. [REDACTED].¹³⁷⁶ [REDACTED].¹³⁷⁷ [REDACTED]¹³⁷⁸

1018. Furthermore, the SDB 2nd Administration of the Republic of Serbia MUP did not even exist in 1991.¹³⁷⁹ Finally, Žika Ivanović, Radojica Božović, Dušan Orlović, Vasilije Mijović,

¹³⁶⁸ tt.15570-15571

¹³⁶⁹ tt.15571-15572

¹³⁷⁰ tt.15572

¹³⁷¹ [REDACTED]

¹³⁷² [REDACTED]

¹³⁷³ [REDACTED]

¹³⁷⁴ [REDACTED]

¹³⁷⁵ [REDACTED]

¹³⁷⁶ [REDACTED]

¹³⁷⁷ [REDACTED]

¹³⁷⁸ [REDACTED]

¹³⁷⁹ tt.14914,P61 p.10

Goran Opačić, Predrag Prica, were introduced to Milošević as colonels, along with a bunch of lieutenant colonels.¹³⁸⁰

1019. Firstly, the Defence concludes that there is no evidence to prove that the speech read by Franko Simatović was actually written by him. There is evidence indicating that Simatović came to the celebration sick. The Defence emphasizes that it cannot be established beyond reasonable doubt that the speech had been written by Simatović. The celebration in Kula was organized at the level of the RDB, the celebration in Kula had its protocol regulating all its details, including where each of the invitees would be standing during the celebration. The celebration had its scene setting that also entailed the preparation of uniforms for the people attending who were not part of the unit, either at that point of time or earlier, which is discussed in the appropriate sections of this brief. Even ranks were handed out just in order to stage a theatrical and pompous celebration. Therefore, the celebration in Kula had been planned at the level of the RDB leadership, and it is unimaginable that Simatović would have composed the speech that he read there himself, of his own initiative. The speech was a part of the event scenario and cannot be attributed to Simatović.

1020. The speech that was read there was in the service of the reasons for which this celebration had been organized. The witnesses stated that the relationship between Milošević and the RDB leadership had deteriorated. The reason for the deterioration of those relations is Milošević's mistrust after Stanišić's visit to CIA head office in Washington D.C. The RDB leadership wanted to impress Milošević, and this is why everything that took place or that was heard at the celebration in Kula was excessive and exaggerated.

1021. Much of what was heard in Kula, in the service of the goal the RDB set out to achieve, is also not true. There is no proof that 5,000 soldiers participated in the battles, and there is no proof that some DB team coordinated or managed their activities. There are simply no witness statements, no documentary evidence in the case files to corroborate this.

1022. There is no evidence that there was some "Second War Service Intelligence Administration", which apparently existed already 1991, according to the speech that was

¹³⁸⁰ P61 p.4,5

read there. In particular, the story that the RDB Second Administration existed in 1991 is sheer nonsense. The Second Intelligence Administration was set up only in January 1992, which is corroborated by incontrovertible evidence.¹³⁸¹ Intelligence work had nothing to do with the Second Administration that existed until 1992.¹³⁸²

1023. Of all the training centers mentioned in the speech, no proof has been found on any camps in Dinara, Obrovac, Gračac, Plitvice, Šumarice, Lički Osik, Benkovac, Vukovar, Šamac, Brčko, Bijeljina, Trebinje, Višegrad, Mrkonjić Grad. Simply said, none of the witnesses ever mentioned any of these camps, nor is there any trace of these camps in the documentary evidence admitted into the case files. Other sites mentioned in the speech were not training camps and this is explained in the appropriate sections of this brief.

1024. Airports are also mentioned in the speech. Evidence shows that either there were no airports on these sites or they were not being used, in any case they had nothing to do with the SDB/RDB of the MUP of the Republic of Serbia. The thousands of flights also mentioned in the speech, of which there are no records, is another entirely inconceivable fact.

1025. The evidence presented in the case disproves the content of the speech read in Kula. The purpose of the speech that was read was to serve a specific goal, this is why the speech abounds in statements that have nothing to do with the truth, but that the authors believe had everything to do with the purpose for which the celebration was organized.

1026. The Defence concludes that Simatović cannot be judged based on a speech that he read. The speech is not corroborated by any other evidence, the speech contradicts all other evidence, and as such it is worthless in the process of determining the facts that are relevant for this case.

1027. The Defence wants to emphasize in particular that the celebration in Kula is uniquely significant from the point of view of Franko Simatović's relationship with Slobodan Milošević, the latter being the key actor of the joint criminal enterprise that Simatović is being

¹³⁸¹ D795 para.314,D817

¹³⁸² D795 para.311

charged with. The one and only meeting between Simatović and Milošević took place in 1997, at the JSO celebration in Kula. The meeting took place two years after the end of the time relevant for the indictment. The Defence notes that this was a meeting attended by dozens of other people, at which Simatović and Milošević did not actually talk. The one and only meeting between these two individuals boils down to the courteous exchange of greetings and a few appropriate phrases.

1028. There is no evidence in the case files of any talks between Simatović and Milošević, that Simatović briefed Milošević, that he defined policies and strategies with him, that he received orders or instructions from him. Simatović's importance was simply minor from Milošević's point of view; to Milošević, Simatović was just one of the thousands public officials, a man of no influence and of no weight for the state policy.

D. PARTICIPANTS IN THE CELEBRATION IN KULA

1029. The Defence believes that the manner in which people had been invited to attend the celebration in Kula is a fact of particular interest.

1030. [REDACTED].¹³⁸³ [REDACTED]¹³⁸⁴ [REDACTED].

¹³⁸³ [REDACTED]

¹³⁸⁴ [REDACTED]

1031. Goran Opačić never was a member of the Republic of Serbia MUP or RDB. Goran Opačić and his brother Miloš were invited to the Kula celebration by Zoran Raić. Opačić went to the celebration wearing civilian clothes. When he arrived at Kula he was told that he must wear a uniform because President Milošević was coming. Opačić was given the rank of colonel on the spot. After the celebration he gave back the uniform and the rank. Opačić testified that he had been a colonel for three hours, for as long as the celebration lasted. At the Kula celebration, Opačić met Vaso Mijović and Radojica Božović for the first time.¹³⁸⁵
1032. The Defence reminds that footage of the Kula celebration shows that Goran Opačić was introduced to Milošević as a colonel.¹³⁸⁶ Žika Ivanović, Radojica Božović, Dušan Orlović, Vasilije Mijović, Goran Opačić and Predrag Prica were also introduced to him as colonels.
1033. Dejan Plahuta testified that some participants in the celebration, such as Vasilije Mijović and Živojin Ivanović, arrived at Kula on the very day of the celebration wearing civilian clothes, and were issued uniforms in the depot, where they were also given ranks. After the celebration, the witness did not see these individuals near the unit anymore.¹³⁸⁷
1034. In the context of the Prosecution's allegation that Arkan's unit was a Serbian DB unit, it is well worth noting that Arkan did not attend the Kula celebration.¹³⁸⁸ Had there been any truth in the perception of the relation between the RDB and Arkan that the Prosecution wants to impose in this case, it is hardly imaginable that Arkan would have been left out.
1035. The facts related to the composition of the guests also indicate that this segment of the organization also served propaganda purposes. The persons who were not a part of the unit were invited by friends and acquaintances, they dressed up in uniforms that did not belong to them, displaying ranks that they never acquired. The facts concerning the colonels who were colonels only while the parade lasted clearly corroborate the Defence's claim that the event in

¹³⁸⁵ [REDACTED]

¹³⁸⁶ P61 p.5

¹³⁸⁷ tt.19372-19373

¹³⁸⁸ tt.13232

Kula was a propaganda show put on for Milošević at a time of Milošević's hesitation and suspicion towards the leadership of the RDB of the MUP of the Republic of Serbia.

PART TEN

A. DRINA

1036. The Defence understands that the Prosecution suggests in its case that the deployment of the Republic of Serbia MUP RDB and Franko Simatović in Bajina Bašta and Mount Tara was a model according to which the RDB and Franko Simatović operated in other regions of Croatia and Bosnia and Herzegovina. The Defence points out that the alleged crimes are not mentioned in the context of these events, however, in the absence of serious evidence concerning the sites in the indictment, the Prosecution uses Bajina Bašta and Tara in an attempt to establish the accountability, refuted by the Defence, by analogy.
1037. Both banks of the Drina River were of special strategic importance in the period from 1992 to 1995. In the town of Perućac near Bajina Bašta, there was a hydro power plant, on the very border between Serbia and Bosnia-Herzegovina. The RDB Center in Užice made special security assessments. The RDB in Užice had information that the dam would be bombed from a location on the territory of Bosnia-Herzegovina. From the positions that were under the control of the Muslim forces one could directly target the facility near the dam.¹³⁸⁹
1038. As early as April 1992, the JNA formed the Drina Operative Group (OG), to secure all facilities on the left and right river banks in the section from Bajina Bašta to Rača. All of the units in that area were placed under the command of OG Drina.¹³⁹⁰ The chief of the VJ main staff gave orders that operative staffs be established in cooperation with the MUP.¹³⁹¹
1039. The complex situation in this region was of special interest to the RDB because there was an immediate threat to the territory of the Republic of Serbia in that area. The RDB leadership strengthened its presents in that area. The RDB staff from the Užice Centre was deployed to Bajina Bašta to help with work.¹³⁹²

¹³⁸⁹ tt.14045-14047

¹³⁹⁰ D156

¹³⁹¹ P599

¹³⁹² tt.14041-14044

1040. The JNA, and subsequently the Yugoslav Army (VJ) secured the border on the Drina River.¹³⁹³ The border crossing between Bajina Bašta and Skelani was secured by the Serbian MUP police from the public security department. This station secured the border crossing itself, while the border line was secured by the VJ 16th border battalion. This cell was responsible for preventing cross-border arm trafficking. The members of the VJ on the border crossing were responsible for the armed people in uniforms.¹³⁹⁴ There was one more crossing on the territory of Bajina Bašta towards Bosnia-Herzegovina, over the Perućac dam, which was controlled by the VJ.¹³⁹⁵
1041. On 16 January 1993, the Muslim forces attacked Skelani. The entire population of Skelani fled over the bridge into Serbia. The Muslim forces opened fire at the fleeing population, and at the police station on the right bank of the Drina river. Forty people were killed on the section of the bridged that belonged to the Republic of Serbia, among which four children, and 60 were wounded. Bajina Bašta was also shelled by mortar fire. The population of Bajina Bašta also started fleeing.¹³⁹⁶
1042. On the first day of the attack, special police units (PJP) from Užice were deployed in the defense.¹³⁹⁷
1043. On the following day, Radovan Stojčić Badža arrived to Bajina Bašta, together with Obrad Stevanović, PJP commander at the level of the Serbian MUP. A PJP staff was established in Bajina Bašta and Stevanović was in command of this staff.¹³⁹⁸ Stevanović was in command of all PJP forces at the time.¹³⁹⁹ The staff that Stevanović was in command of was located in the SUP building in Bajina Bašta, in the office used by the chief.¹⁴⁰⁰
1044. [REDACTED].¹⁴⁰¹

¹³⁹³ tt.14041-14042

¹³⁹⁴ tt.17539-17542

¹³⁹⁵ tt.17544

¹³⁹⁶ tt.17544-17546

¹³⁹⁷ tt.17546-17547

¹³⁹⁸ tt.17547-17548,7156-7157,19340

¹³⁹⁹ tt.19340

¹⁴⁰⁰ tt.17557

¹⁴⁰¹ [REDACTED]

1045. PJP members from other cities in Serbia came to Bajina Bašta after the formation of the staff. The policemen that belonged to these units had no combat experience and they needed training. A PJP training centre was established on Mount Tara. For the needs of that training centre, they used a hotel that had been used for its intended purpose until then.¹⁴⁰²
1046. The delivery of training on the Tara mountain was ordered by the chief of public security department Radovan Stojčić Badža. Badža informed all of the secretariats for internal affairs in Serbia that the training on Tara would begin on 20 February 1993 and instructed all the secretariats to send people to the training. Stojčić also gave orders that the instructors would be command officers meeting certain requirements as regards knowledge and capabilities.¹⁴⁰³ Stojčić's order concerning the start of the training was sent out to all of the secretariats in Serbia as urgent.¹⁴⁰⁴
1047. At a later time, the Tara facility was also used for the training of the persons who would become JATD members. Dejan Plahuta was on Tara in 1994. There were about twenty people in the Tara facility, including logistics. At the training itself, there were five people, and the training program consisted of physical training, lectures on weapons, and lasted for about two weeks. From Tara, these people were sent to Lipovica and it was only there that they found out that they had come to an anti-terrorist unit.¹⁴⁰⁵
1048. The fact the prime minister of the Government of the Republic of Serbia visited this region in February 1993 also stands as a testimony to the top state-level importance of the activity in Bajina Bašta. The minister of the interior Sokolović as well as the chiefs of the public and state security Stojčić and Stanišić, respectively, were also present. Šainović inspected the units that had been deployed on the ground.¹⁴⁰⁶ During his visit, Šainović said that any violation of sovereignty would be dealt with by military force, if necessary, and that the state would take all necessary precautions to improve the security situation in the entire Drina border area.¹⁴⁰⁷

¹⁴⁰² tt.17548-17549

¹⁴⁰³ D415,tt.19341

¹⁴⁰⁴ tt.17550

¹⁴⁰⁵ tt.19343-19345

¹⁴⁰⁶ P1592,D744 pages 3-5

¹⁴⁰⁷ P1592 pages 4, 5

1049. After the attack of the Muslim forces on Skelani and Bajina Bašta, the Yugoslav Army took measures to fend off the enemy from the border. A few days after the strike, parts of the Užice Corps as well as the VJ Special Forces Corps crossed over to the territory of Skelani and Bosnia-Herzegovina. The 63rd Parachute Brigade, the 72nd Brigade and the Guards Brigade all participated in this action. The VJ forces established cooperation with the VRS Drina Battalion.¹⁴⁰⁸
1050. The action to fend off Muslim forces was launched a few days after the attack, with the incursion of the VJ forces into Bosnia, over the bridge between Bajina Bašta and Skelani. The forces that crossed over from Bajina Bašta into the direction of Skelani were under the command of Colonel Mrkšić.¹⁴⁰⁹
1051. [REDACTED].¹⁴¹⁰ The commander of the Užice Corps, Ojdanić, informed the Drina Corps command that it needs to take over the frontline that the Užice Corps had reached. The Užice Corps blocked the lines and directions, and coordinated the fire and grouping of forces to defend the lines they had reached. Ojdanić also informed them that he would continue to support the activities of the Drina Corps with his artillery from the right bank of the Drina River. Ojdanić notified the VJ main staff thereof as well.¹⁴¹¹
1052. The Užice Corps undertook an intensive offensive operation inflicting heavy losses on the enemy. The Užice Corps conducted its operation under direct orders from the VJ main staff.¹⁴¹² The Užice Corps requested the VRS main staff and Drina Corps to provide crews for clearing up the theatre of operations, and to bring the press and cameramen to collect evidence for propaganda purposes and for documenting crimes against Serbs.¹⁴¹³
1053. The Defence notes that Bajina Bašta was an area of particular interest to the Republic of Serbia, both because of its geographic positions, and the infrastructure located there. This

¹⁴⁰⁸ tt.19312-19313

¹⁴⁰⁹ tt.17556, 19403

¹⁴¹⁰ [REDACTED]

¹⁴¹¹ D856

¹⁴¹² D857

¹⁴¹³ D858

area had been the object of immediate interest of top state officials. When Skelani and Bajina Bašta were attacked, the state leadership directly enforced and controlled the measures that were being taken as well as those that would be taken. Among this set of measures, the most important one was the deployment of large VJ forces, specifically the Užice Corps and the Special Forces Corps. Only a few days after the attack, the VJ forces were already on the territory of Bosnia-Herzegovina, where they led combat operations in conjunction with the VRS, all under the orders of the VJ main staff. The assistant minister and chief of public security department ordered the setting up of a training camp on Mount Tara, where PJP units from the entire territory of the Republic of Serbia were gathered.

1054. All of the activities were decided at the highest state level. None of the activities had been initiated by a single individual or independently. Franko Simatović had no access to any of the decision-making levels concerning these issues.

1055. In addition to that, the situation on the Drina and in Bajina Bašta is not comparable to any other situation, considering that this was a case of an immediate threat to the territory of the Republic of Serbia. This is why the events and activities that took place on the Drina cannot be compared to any other events elsewhere in Bosnia-Herzegovina and Croatia at that time. Therefore, no conclusions on the activities of the RDB or Franko Simatović in other places relevant to the indictment can be drawn by analogy with the events on the Drina, on Tara and in Bajina Bašta.

1056. Finally, the Defence stresses that the VJ was the dominating force in that area. No other armed formation or group could have influenced events in a way that would have been significant from the military-strategic point of view.

B. SIMATOVIĆ IN BAJINA BAŠTA

1057. At the time of the events in the early 1993, Simatović spent some time in the area of Bajina Bašta. Dejan Plahuta testified that Simatović came to Bajina Bašta as an RDB

operative to set up an electronic surveillance system.¹⁴¹⁴ Seovac saw Simatović in the SUP building in Bajina Bašta.¹⁴¹⁵

1058. In Mladić's Notebooks there are very few entries mentioning Franko Simatović. It is the entry of 28 February 1993, according to the notes it was made on Tara.¹⁴¹⁶ Mladić did not write down who Frenki was, or why he was there, he did not write that Frenki had said anything or that he had been given any kind of assignment. Nothing can be deduced merely based on the fact that Frenki's name was noted there, particularly in light of the fact that in the thousands of pages that Mladić wrote, Frenki's name is mentioned two or three times, which is addressed elsewhere in this brief, where appropriate.

1059. Furthermore, the Defence reiterates that Mladić noted down who was present, the third row, below the heading "Planning", reads: "present: Panić, I, Ojdanić, Lončar, Tkač", and then: "units in certain zones". It is evident that the words "Frenki and two from MUP" were inserted between these two lines— these words are written in smaller letters, and the lines are not so compressed anywhere else in Mladić's text, as in this case.¹⁴¹⁷ The only logical conclusion is that Frenki, if he had been present, came to the meeting later, when the discussion concerning planned activities was already well under way. This fact also indicates the peripheral relevance of Simatović's presence at this meeting.

1060. Witness JF-030 spoke about the events on the Drina. However, the Defence emphasizes that this witness' statement simply cannot be used to establish any fact.

1061. [REDACTED].¹⁴¹⁸ [REDACTED]¹⁴¹⁹, [REDACTED]¹⁴²⁰ [REDACTED]¹⁴²¹
[REDACTED]¹⁴²² [REDACTED].¹⁴²³ [REDACTED]¹⁴²⁴

¹⁴¹⁴ tt.19340

¹⁴¹⁵ tt.17558

¹⁴¹⁶ P392 p.3

¹⁴¹⁷ P392 p.3

¹⁴¹⁸ [REDACTED]

¹⁴¹⁹ [REDACTED]

¹⁴²⁰ [REDACTED]

¹⁴²¹ [REDACTED]

¹⁴²² [REDACTED]

¹⁴²³ [REDACTED]

¹⁴²⁴ [REDACTED]

1062. [REDACTED].

1063. [REDACTED].¹⁴²⁵ [REDACTED]¹⁴²⁶ [REDACTED]¹⁴²⁷

1064. [REDACTED]¹⁴²⁸ [REDACTED].¹⁴²⁹

1065. [REDACTED].

1066. [REDACTED]¹⁴³⁰ [REDACTED]¹⁴³¹ [REDACTED]¹⁴³² [REDACTED].¹⁴³³
[REDACTED]”.¹⁴³⁴ [REDACTED].¹⁴³⁵ [REDACTED]¹⁴³⁶ [REDACTED]¹⁴³⁷

1067. [REDACTED].

1068. The footage made on the occasion of Šainovic’s visit also shows Franko Simatović wearing a uniform. On that same occasion, Mihajlo Lukić, RDB staff member in Bajina Bašta is also shown wearing the same uniform. Mihajlo Lukić was an RDB staff member permanently employed in Bajina Bašta.¹⁴³⁸ The fact that Simatović was wearing a uniform on that particular occasion says nothing about his involvement. As the other RDB staff member seen in the same footage was wearing the same uniform too, this fact can only be interpreted as a consequence of the specific conditions in which RDB staff members worked at that time in the Bajina Bašta area.

¹⁴²⁵ [REDACTED]

¹⁴²⁶ [REDACTED]

¹⁴²⁷ [REDACTED]

¹⁴²⁸ [REDACTED]

¹⁴²⁹ [REDACTED]

¹⁴³⁰ [REDACTED]

¹⁴³¹ [REDACTED]

¹⁴³² [REDACTED]

¹⁴³³ [REDACTED]

¹⁴³⁴ [REDACTED]

¹⁴³⁵ [REDACTED]

¹⁴³⁶ [REDACTED]

¹⁴³⁷ [REDACTED]

¹⁴³⁸ [REDACTED]

1069. [REDACTED].¹⁴³⁹ [REDACTED].¹⁴⁴⁰

1070. [REDACTED].¹⁴⁴¹

1071. [REDACTED].¹⁴⁴² [REDACTED].¹⁴⁴³

1072. When testifying before the International Tribunal in another case, Stevanović solemnly swore to tell the truth. Stevanović confirmed that there had been a staff, that he was the commander of that staff, and that he knew nothing about the JATD in January 1993. The Defence finds that the Trial Chamber cannot possibly admit JF094's testimony, or the report of the commission concerning these matters. In particular, the official note is completely unacceptable, as it does not meet the minimum reliability requirements for drawing any kind of conclusions on these matters.

1073. The Defence concludes that Simatović's involvement in the area of Bajina Bašta is directly related to the dramatic deterioration of the security situation in this area in early 1993. Undisputed evidence indicates that Simatović had been engaged in the context of his regular intelligence activities. Witnesses attempting to establish Simatović's link with the combat operations of military units, failed to provide grounds for drawing any conclusions beyond reasonable doubt. Finally, Simatović has no reason to hide the role that he had in this area, because the activities he was involved in were a part of the legitimate defense of the territory of the state. Naturally, Simatović's role was limited by restrictions imposed by his position within the RDB, i.e. the position of deputy chief of one of the RDB administrations, which will be examined in more depth in other sections of this brief.

C. DOBOJ, RED BERETS AND RAJO BOŽOVIĆ

1074. It is stated in the indictment that at the beginning of 1992, Serbian DB special units set up a training camp at Ozren, that they took over the city of Doboj on 2 May 1992, and that

¹⁴³⁹ [REDACTED]

¹⁴⁴⁰ [REDACTED]

¹⁴⁴¹ [REDACTED]

¹⁴⁴² [REDACTED]

¹⁴⁴³ [REDACTED]

they used the non-Serb prisoners as a live shield on 12 July 1992, on which occasion 27 civilians were killed.¹⁴⁴⁴ The Defence contends that there is no evidence to corroborate these allegations.

1075. The Prosecutor is attempting to establish a link between the events in Doboj and the Serbian DB special unit through Radojica Raja Božović. To accomplish this, the Prosecution uses the letter of the director of the Republika Srpska police concerning the alleged link between the Serbian RDB and the Red Berets in BiH. This letter provides a set of arbitrary allegations, which cannot possibly be verified. No clues are provided on the sources of the information, no assessment is made of the reliability of the sources, and no explanation is given.¹⁴⁴⁵ This report is a compilation of semi-information and misinformation without any probative value whatsoever.

1076. At the time relevant for the indictment, Radojica Božović was a member of the MUP of the Republika Srpska of Bosnia-Herzegovina. In the documents of this MUP for April and May 1992, Božović was identified as a staff member of this ministry. In these two months, Božović received his wages as a member of the "special group".¹⁴⁴⁶

1077. The Prosecution is attempting to establish a link between Božović's position and the application forms that some individuals completed requesting support from the Captain Dragan Foundation. These forms were especially designed to facilitate application for financial or other types of support with this Foundation, and they contain numerous inaccurate and contradictory data.

1078. For instance, in the form filled out by Slobodan Katanić it is stated that he had been a member of the "special purpose police Petrovo" called "black berets" since 1 May 1992, that Božović was an "assistant" in that unit, and that he was a deputy commander. There is a document proving that the same individual was a member of the Republika Srpska MUP, and this document is signed by Andrija Bjelošević, chief of the Doboj centre.¹⁴⁴⁷

¹⁴⁴⁴ Third Amended Indictment paras.51-54

¹⁴⁴⁵ P150

¹⁴⁴⁶ P142,P143

¹⁴⁴⁷ P144 p.5,7

1079. However, Katanić was a commander for the special units training at Ozren, and then commander of the reserve police in SJB Petrovo, and in September 1992, Andrija Bjelošević proposed that he be appointed chief of SJB Petrovo.¹⁴⁴⁸

1080. However, in Goran Đurić's form it is stated that he was a member of the Special Purpose Battalion from 3 May 1992, and that his superior was Božović.¹⁴⁴⁹

1081. The Defence emphasizes that there is strong evidence indicating that there is no way that Božović could not have participated in the events of 12 July 1992, mentioned in the indictment. In fact, from 26 June 1992 to 23 July 1992, Božović was hospitalized in the Doboj General Hospital. Božović was recovering from the serious injuries that he had sustained, and Božović's diagnosis is provided in the notification of the director of this hospital.¹⁴⁵⁰

1082. [REDACTED]¹⁴⁵¹ [REDACTED]

1083. [REDACTED].¹⁴⁵² [REDACTED].¹⁴⁵³ [REDACTED]¹⁴⁵⁴, [REDACTED]

1084. [REDACTED].

1085. [REDACTED]¹⁴⁵⁵, [REDACTED].¹⁴⁵⁶ [REDACTED].¹⁴⁵⁷ [REDACTED].¹⁴⁵⁸
[REDACTED]¹⁴⁵⁹

1086. [REDACTED]¹⁴⁶⁰ [REDACTED]¹⁴⁶¹ [REDACTED]¹⁴⁶² [REDACTED]¹⁴⁶³
[REDACTED].

¹⁴⁴⁸ D13

¹⁴⁴⁹ P145

¹⁴⁵⁰ D121

¹⁴⁵¹ [REDACTED]

¹⁴⁵² [REDACTED]

¹⁴⁵³ [REDACTED]

¹⁴⁵⁴ [REDACTED]

¹⁴⁵⁵ [REDACTED]

¹⁴⁵⁶ [REDACTED]

¹⁴⁵⁷ [REDACTED]

¹⁴⁵⁸ [REDACTED]

¹⁴⁵⁹ [REDACTED]

¹⁴⁶⁰ [REDACTED]

1087. [REDACTED].¹⁴⁶⁴ [REDACTED]¹⁴⁶⁵ [REDACTED]¹⁴⁶⁶ [REDACTED]
1088. [REDACTED]¹⁴⁶⁷ [REDACTED].
1089. In 1998 and 2007 witness Edin Hadžović gave a statement to the BiH authorities in which he claimed that all units in Doboj were subordinated to the command of Milovan Stanković and Andrija Bjelošević. He also said that he was taken out of Perčin's disco into the live shield by the members of Predrag Kujundzic's unit.¹⁴⁶⁸ At the time when he was being taken out of the disco, among the soldiers the witness recognized Milan Kerkez and Nenad Markovičević.¹⁴⁶⁹ These individuals were part of Karagin's group, and Kerkez was wearing a red beret.¹⁴⁷⁰
1090. This witness also said that the commander of the Red Berets' nickname was Golub and that he had a large scar on his face.¹⁴⁷¹ However, in his numerous statements, this witness gives completely different accounts of the moment in which he found out who Golub was, and who Crnogorac was.¹⁴⁷² He stated that he had seen this person even before 12 July, but that he did not know the man, or his name, or who he really was.¹⁴⁷³
1091. In his statement from 2001, Hadžović did not describe the soldier who gave orders to leave Perčin's disco but only said that two soldier stormed in and randomly picked 50 people. On their way to Putnik's hill he saw one of the soldiers whom the others called Golub kill one of the prisoners.¹⁴⁷⁴ He does not mention Crnogorac here.

¹⁴⁶¹ [REDACTED]

¹⁴⁶² [REDACTED]

¹⁴⁶³ [REDACTED]

¹⁴⁶⁴ [REDACTED]

¹⁴⁶⁵ [REDACTED]

¹⁴⁶⁶ [REDACTED]

¹⁴⁶⁷ [REDACTED]

¹⁴⁶⁸ [REDACTED]

¹⁴⁶⁹ D5 p.10

¹⁴⁷⁰ P88,tt.2298

¹⁴⁷¹ tt.2242

¹⁴⁷² tt.2336-2338

¹⁴⁷³ tt.2338

¹⁴⁷⁴ P83 p.8

1092. In a statement made in 2007, he claimed that the man with the scarred face gave orders to leave Perčin's disco, he did not identify the man, but a little later he goes on to say that next to Blašković from the Doboj MUP he saw a Serbian soldier whom they called Crnogorac. In the same context he also mentions Bjelošević who gave orders over the radio concerning what to do with the civilians. In his statement, he claimed that Crnogorac killed one of the prisoners.¹⁴⁷⁵ He did not mention Golub here, it is evident here that the man with the scar and Crnogorac are two different persons.
1093. In his testimony before the Trial Chamber Hadžović said that Golub and Crnogorac are the same person and that this person had a large scar on his face.¹⁴⁷⁶
1094. Hadžović stated that all of the soldiers who took the prisoners out to use them as a live shield were local people, with the exception of Crnogorac.¹⁴⁷⁷
1095. [REDACTED].¹⁴⁷⁸ [REDACTED].
1096. The Prosecution witnesses inconsistently and erratically describe the persons that took the prisoners out of Perčin's disco. [REDACTED]. Hadžović's description is also full of contradictions and irreconcilable differences. His statements about this man that he knows nothing of are contradictory, hence, it is impossible to draw any conclusion on the identity of this person, based on his testimony. The Defence also reiterates that "Crnogorac" is not a nickname of any sort, but a designation of geographic origin, shared by thousands of other people who participated in the armed conflicts in the region of former Yugoslavia. Finally, on 12 July 1992, Rajo Božović was in hospital with serious injuries, and he could not have participated in the events that took place in the surroundings of Doboj on that date.
1097. The confusion in identifying the participants in the events in the area of Doboj is further exacerbated by the fact that there is a whole series of groups or units that wore red berets.

¹⁴⁷⁵ D5 p.11

¹⁴⁷⁶ tt.2242

¹⁴⁷⁷ tt.2318

¹⁴⁷⁸ [REDACTED]

1098. The witnesses were unable to differentiate between the members of the various groups. For some witnesses the difference was in the insignia, for others in the type of caps they wore, as already discussed.

1099. Hadžović says that Karagin's unit was a paramilitary formation and that its members wore red berets.¹⁴⁷⁹ He says that Predo's Wolves also wore camouflage uniforms and red berets.¹⁴⁸⁰ He also says that the Mice group in Doboje, made up of local people, also wore red berets.¹⁴⁸¹ However, Hadžović says that he does not know under whose command any of these units were, but he supposes they were under Stanković's command.¹⁴⁸²

1100. [REDACTED].¹⁴⁸³

1101. [REDACTED]¹⁴⁸⁴ [REDACTED].¹⁴⁸⁵ [REDACTED].¹⁴⁸⁶ [REDACTED]¹⁴⁸⁷

1102. [REDACTED].¹⁴⁸⁸

1103. The Defence concludes that the Prosecution did not succeed in proving that "DB special units" participated in the perpetration of crimes in the Doboje area. The Prosecution must prove which unit it was, who established it, who supplied it, who was in command. The Prosecution's only evidence is the identification of the kind of beret they were wearing. The fact that the berets that some groups wore were red does not establish a link between these groups and the Serbian DB unit, which may have existed in some other place, at some other time, with some other tasks.

1104. Further to the point, the Prosecution attributes undue weight to the fact that some people who belonged to some other units and groups, in other times, and other places, are the

¹⁴⁷⁹ [REDACTED]

¹⁴⁸⁰ tt.2315

¹⁴⁸¹ tt.2343-2344

¹⁴⁸² tt.2316-2317

¹⁴⁸³ [REDACTED]

¹⁴⁸⁴ [REDACTED]

¹⁴⁸⁵ [REDACTED]

¹⁴⁸⁶ [REDACTED]

¹⁴⁸⁷ [REDACTED]

¹⁴⁸⁸ [REDACTED]

same people that subsequently become members of JATD and JSO. The past combat experience and earlier affiliation of the JATD or JSO members does not equate these units with all the units and events that these members were a part of. The Prosecution must also prove beyond any reasonable doubt what the role of the SDB/RDB was in the events in the indictment. Equating the SDB/RDB with the actions of the individuals who subsequently became part of the service, in any way, cannot be construed as proof beyond reasonable doubt, but only as conjectures and speculations.

1105. Finally, it is extremely important to note that Simatović had nothing to do with Dobož whatsoever. There is no evidence that he influenced these events, there is no evidence that he was even aware about them, and there is no evidence that he had intended these events to happen.

D. TRAINING CENTER IN DOBOŽ AND JF-005

1106. [REDACTED]¹⁴⁸⁹, [REDACTED].¹⁴⁹⁰

1107. [REDACTED].¹⁴⁹¹ The Defence insists that the testimony of JF-005 is completely unreliable and has no probative value whatsoever.

1108. [REDACTED].¹⁴⁹²

1109. [REDACTED]¹⁴⁹³ [REDACTED].¹⁴⁹⁴ [REDACTED]¹⁴⁹⁵

1110. [REDACTED]¹⁴⁹⁶ [REDACTED];¹⁴⁹⁷ [REDACTED],¹⁴⁹⁸ [REDACTED]

¹⁴⁸⁹ [REDACTED]

¹⁴⁹⁰ [REDACTED]

¹⁴⁹¹ [REDACTED]

¹⁴⁹² [REDACTED]

¹⁴⁹³ [REDACTED]

¹⁴⁹⁴ [REDACTED]

¹⁴⁹⁵ [REDACTED]

1111. [REDACTED].¹⁴⁹⁹
1112. [REDACTED]¹⁵⁰⁰, [REDACTED]¹⁵⁰¹
1113. [REDACTED].¹⁵⁰²
1114. In his statement he explained that anyone could take the official car, and that the license plate number was actually the personal identification number, however in his testimony he clarified that it was just an ordinary, local license plate.¹⁵⁰³
1115. [REDACTED].¹⁵⁰⁴ [REDACTED]”.¹⁵⁰⁵
1116. [REDACTED]¹⁵⁰⁶, [REDACTED]¹⁵⁰⁷, [REDACTED]¹⁵⁰⁸
1117. [REDACTED].¹⁵⁰⁹ [REDACTED].¹⁵¹⁰
1118. [REDACTED].¹⁵¹¹ [REDACTED].¹⁵¹²
1119. [REDACTED]¹⁵¹³, [REDACTED]¹⁵¹⁴
1120. [REDACTED]¹⁵¹⁵, [REDACTED].¹⁵¹⁶

¹⁴⁹⁶ [REDACTED]

¹⁴⁹⁷ [REDACTED]

¹⁴⁹⁸ [REDACTED]

¹⁴⁹⁹ [REDACTED]

¹⁵⁰⁰ [REDACTED]

¹⁵⁰¹ [REDACTED]

¹⁵⁰² [REDACTED]

¹⁵⁰³ P137 para.7, tt.2947

¹⁵⁰⁴ [REDACTED]

¹⁵⁰⁵ [REDACTED]

¹⁵⁰⁶ [REDACTED]

¹⁵⁰⁷ [REDACTED]

¹⁵⁰⁸ [REDACTED]

¹⁵⁰⁹ [REDACTED]

¹⁵¹⁰ [REDACTED]

¹⁵¹¹ [REDACTED]

¹⁵¹² [REDACTED]

¹⁵¹³ [REDACTED]

¹⁵¹⁴ [REDACTED]

1121. [REDACTED]¹⁵¹⁷, [REDACTED].¹⁵¹⁸

1122. [REDACTED].¹⁵¹⁹ [REDACTED].¹⁵²⁰

1123. [REDACTED].¹⁵²¹ [REDACTED]¹⁵²² [REDACTED].¹⁵²³

1124. The Defence finds this witness, JF-005 to be completely unreliable. Not a single word of his testimony could be accepted as part of the evidence in connection with any relevant issue of this case. [REDACTED].

1125. The content of his written statements is in direct conflict with the content of his oral testimony before the Trial Chamber. Moreover, the conflicting elements are not sporadic or of minor significance, on the contrary. [REDACTED]

1126. [REDACTED].

1127. [REDACTED].

¹⁵¹⁵ [REDACTED]

¹⁵¹⁶ [REDACTED]

¹⁵¹⁷ [REDACTED]

¹⁵¹⁸ [REDACTED]

¹⁵¹⁹ [REDACTED]

¹⁵²⁰ [REDACTED]

¹⁵²¹ [REDACTED],

¹⁵²² [REDACTED]

¹⁵²³ [REDACTED]

E. BOŽOVIĆ AND FILIPOVIC IN BANJA LUKA

1128. Manojlo Milovanović testifies to the effect that Karadžić informed him that at the time of the major offensive in the fall of 1995 people from the MUP of Serbia would come to Banja Luka. Milovanović met with Filipović and Božović who promised to provide some kind of assistance. Milovanović told them that they should talk to the members of the MUP of Republika Srpska and suggested a location for their accommodation, however according to Milovanović, no one showed up at all.¹⁵²⁴ Arkan did not come with Filipović and Božović, he only showed up perhaps even a month later.¹⁵²⁵
1129. Milovanović's words were recorded even in Mladić's Notebooks, where the latter noted that Božović said that the Republic of Serbia MUP decided to send 1,200 fighters to join the First Krajina Corps.¹⁵²⁶
1130. In September 1995, Radovan Stojčić Badža ordered Stevanović and Grekulović to prepare the forces of the PJP (Special Police Unit) to be sent to BiH to protect the region of Banja Luka.¹⁵²⁷ 400 men were sent and they took over the regular police duties in the area of Doboje, Banja Luka and Prijedor.¹⁵²⁸ A SAJ unit from the Public Security Sector of the Republic of Serbia MUP was deployed in the greater Banja Luka Area.¹⁵²⁹ The Staff was formed in Banja Luka to defend the region, with Grekulović and Stevanović as its members, as the representatives of the PJP.

¹⁵²⁴ [REDACTED]

¹⁵²⁵ tt.15524

¹⁵²⁶ P2543 p.5

¹⁵²⁷ D522 paras.6,7

¹⁵²⁸ D522 paras.6,10

¹⁵²⁹ D522 para.14

1131. At a meeting with Mladić and Perišić, Jovica Stanišić mentioned 400 men who had been sent to help in Sanski Most and Novigrad.¹⁵³⁰ Grekulović believes that Stanišić was talking about those particular 400 men from the PJP formations, who were under his, Grekulović's command.¹⁵³¹ Grekulović states in his testimony that the assistance sent to Republika Srpska came as a response to the request sent to the Republic of Serbia.¹⁵³²
1132. Filipović, who was also in the area of Banja Luka at the time, was not a member of the Staff.¹⁵³³ Grekulović contacted Filipović when there was a request to submit, particularly in connection with the supplies. Ammunition and weapons were never the subject of those requests, given the fact that the members of the PJP brought their own weapons and no ammunition was needed since they were not included in combat missions.¹⁵³⁴ Filipović made contacts with various persons from Republika Srpska.¹⁵³⁵ Grekulović, however, is unable to confirm if Filipović was maintaining high-level contacts with the leadership of the MUP of Republika Srpska.¹⁵³⁶
1133. The proofs about Filipović's role in Banja Luka imply that he played a very limited role there. Indeed, his role was reduced mostly to maintaining communications between the PJP of the MUP of Serbia and Belgrade. As the deputy head of the Second Administration he was certainly involved in intelligence activities as well, given the fact that he made contact with numerous persons who were at the time present in the area of Banja Luka.
1134. At the time of the relevant activities in Banja Luka, Filipović held the position of the deputy chief of the RDB Second Administration. Since the Second Administration did not have a chief then, Filipović was exercising de facto powers of the chief, as further discussed where appropriate in this brief. Filipović's activities were in line with the description of his workplace duties.

¹⁵³⁰ P2545

¹⁵³¹ D522 para.26

¹⁵³² D522 para.6

¹⁵³³ D522 para.18

¹⁵³⁴ tt.15233-15234

¹⁵³⁵ tt.15255

¹⁵³⁶ tt.15254-15255

1135. The Defence especially emphasizes that Simatović had nothing to do with the events in the Banja Luka area whatsoever. The activities in Banja Luka were agreed at the highest instance, far above Simatović's position. The agreements were reached with the participation of the Government of the Republic of Serbia and sector heads of the MUP of the Republic of Serbia. At the time, Simatović was a special advisor without any authorities and powers to make any decisions independently, as discussed in detail where appropriate in this brief. Moreover, Filipović, as the acting chief of administration was responsible for his work directly to the sector chief and certainly not to a special advisor.

1136. Finally, the 400 men Stanišić was talking about, who were under Grekulović's command, were not engaged in combat activities and there is no evidence whatsoever that they participated in any unlawful activities.

PART ELEVEN

A. BOSANSKI ŠAMAC

1137. The Indictment charges that on or about 11 April 1992, special units of the Republic of Serbia DB arrived in Bosanski Šamac, that on 17 April 1992 they took control over the city, and that between that date and 31 July 1992 they detained and mistreated non-Serb civilians at the police headquarters and TO buildings. It is also alleged in the Indictment that on 7 May 1992, members of the special units of the Republic of Serbia DB beat the non-Serb detainees and shot and killed at least 16 persons.¹⁵³⁷
1138. As early as October 1991, JNA units were deployed in the greater Šamac area, in particular, the 17th Tactical Group headed by Colonel Stevan Nikolić. At the time, the Croatian forces planned to take control over the towns in Posavina including Šamac.¹⁵³⁸
1139. In November 1991, a referendum was held under the supervision of the SDS on the formation of Serbian people's municipalities of Bosanski Šamac and Pelagićevo. The new municipalities were formed by redrawing the borders of the then existing municipalities for the purpose of organizing the Serb population for defense, under the leadership of the SDS.¹⁵³⁹ Blagoje Simić was president of the SDS in Bosanski Šamac and he was one of Radovan Karadžić's most trusted men.¹⁵⁴⁰
1140. The 17th Tactical Group was additionally reinforced by the end of 1991 and in early 1992 with the conscripts and reservists from the Serb populated towns and villages. These reinforcements were deployed in the border areas towards the places held by Croats and Muslims. The JNA was solely in charge of arming and commanding these units.¹⁵⁴¹ The 17th Tactical Group itself had at its disposal tanks, the Pragas, armored combat vehicles, Howitzers and mortars.¹⁵⁴² On 16 January 1992 conscripts were mobilized and four

¹⁵³⁷ Third Amended Indictment paras.46-51

¹⁵³⁸ tt.17921-17922

¹⁵³⁹ P178

¹⁵⁴⁰ tt.17931

¹⁵⁴¹ tt.17822-17925,P1576 p.23430-23431

¹⁵⁴² tt.17925

detachments were formed in the area of Šamac also directly under the command of the JNA.¹⁵⁴³ In addition, the leaders of Šamac established direct contacts with the command of the Yugoslav Air Force in Belgrade, concretely with General Bajić.¹⁵⁴⁴

1141. In Bosanski Šamac, the SDS was highly dissatisfied with the work of the public security station in the city.¹⁵⁴⁵ In April 1992, the leadership of the SDS decided to reorganize the activity of the police station in Šamac and plans were prepared for this task.¹⁵⁴⁶

1142. [REDACTED].¹⁵⁴⁷

1143. Some ten days before capturing Bosanski Šamac, the JNA started distributing weapons in the surrounding villages. Witness JF012 saw weapons being unloaded from two JNA trucks.¹⁵⁴⁸ In the village of Obudovac, near Šamac, this same witness noticed tanks and heavy artillery belonging to the JNA stationed within the grounds of a large farm.¹⁵⁴⁹

1144. On 17 April 1992, members of the TO and MUP of the Serbian Municipality seized control over the MUP of Bosanski Šamac, the silo and the bridge on the river Sava. The Command of the 17th Tactical Group announced that its forces are in Šamac and that the artillery was deployed to prevent the attack of the Croatian forces.¹⁵⁵⁰ As part of the activities of the JNA in Šamac, on 17 April 1992, the Commander of the 17th Corps demanded from the air force to fly planes over Bosanski Šamac to create a psychological effect and frighten the adversary.¹⁵⁵¹

1145. The Command of the 2nd Military District informed the General Staff of the Armed Forces of the SFRY in Belgrade that the Command of the 17th Corps reported about possessing all vital objects in Šamac. The intervention was launched as a response to an

¹⁵⁴³ tt.17928

¹⁵⁴⁴ tt.17929

¹⁵⁴⁵ tt.17938

¹⁵⁴⁶ tt.17941-17942

¹⁵⁴⁷ [REDACTED]

¹⁵⁴⁸ P122 p.2

¹⁵⁴⁹ P122 p.3

¹⁵⁵⁰ D124

¹⁵⁵¹ P1838

enemy forces' attempt at attacking the Corps' units. It is also stated in the report that some isolated persons opened fire on "our forces".¹⁵⁵²

1146. Stevan Todorović led the action of seizing the public security station in Bosanski Šamac. Colonel Nikolić took measures to collect weapons and he positioned two armored vehicles in the center of the city.¹⁵⁵³

1147. At the meeting of the leadership of Bosanski Šamac with Ratko Mladić held on 7 December 1992, the top-ranking leaders of Šamac talked to Mladić about the beginning of the war in Šamac. Blagoje Simić, as the municipality president said that they went into the war to liberate the territory between the 16 and 17 April 1992, that the war was started with a 6,700-men strong brigade and that all men were mobilized.¹⁵⁵⁴ Stevan Todorović explained that he knew Colonel Slobodan Jeremić and General Bajić and that he sent 18 people to Ilok to be trained and they came back by helicopters together with another 30 volunteers from Kragujevac, among whom were Dragan Đorđević and Aleksandar Vuković.¹⁵⁵⁵ Simo Zarić also had contacts with General Bajić from the air force.¹⁵⁵⁶ Mladić did not record any mention of the Republic of Serbia MUP or DB in Todorović's speech. Todorović connects the sending of people to Ilok directly with his acquaintanceship with the air force officers.

1148. In May 1992, the Crisis Staff of Bosanski Šamac requested assistance in aviation and armored units.¹⁵⁵⁷ The same Crisis Staff also sought support from the Federal Government in Belgrade.¹⁵⁵⁸ This Crisis Staff demanded from the Republic of Serbia MUP the return of the runaway conscripts.¹⁵⁵⁹ These documents show the extent of the armed conflict in the area and the practical insignificance of the thirty volunteers around whose presence the Prosecutor builds his case. Moreover, the foregoing clearly points to the fact that the assistance was sought from the highest state and political authorities. The level of these authorities was far above the position Simatović held at the time.

¹⁵⁵² D18

¹⁵⁵³ tt.17943-17944

¹⁵⁵⁴ P3117 p.1,2

¹⁵⁵⁵ P3117 p.4,5;tt.15540-15541

¹⁵⁵⁶ tt.17927

¹⁵⁵⁷ D16

¹⁵⁵⁸ D1201

¹⁵⁵⁹ P1581

1149. The Defence concludes that the antagonism had existed in Bosanski Šamac long before April 1992. Both sides were preparing for a confrontation, both political and armed. Both sides were preparing to capture Šamac. The Serbs managed to take possession of the city owing primarily to the presence of the 17th Tactical Group of the JNA in the area and its armament including tanks, artillery and airplanes.
1150. Stevan Todorović and the Crisis Staff seize the effective powers over the city of Bosanski Šamac. The JNA holds the positions inside and outside the city. The JNA even reports to its superior command about the “isolation”, i.e., detention of people in Bosanski Šamac. All the responsibility for the events in the city after the seizure of power lies with Todorović and the Crisis Staff who enjoy full support of the JNA.
1151. The capture of the city including the public security station was planned and designed by the SDS. For months before 17 April 1992, the SDS had been planning and designing the establishment of a Serbian municipality, by way of separating parts of the neighboring municipalities and joining them to form the Serbian municipalities of Šamac and Pelagićevo. No one from the outside ordered the attack and neither was there any need for any external intervention. Indeed, long before the arrival of the volunteers, as further discussed where appropriate in this brief, the decision to seize control over Šamac had been made and worked out. The arrival of the volunteers had no impact on the decision whatsoever – the time of the seizure of the city was determined based on the information on the preparation of the Croats to occupy the city.

B. VOLUNTEERS - POSAVSKA BRIGADE

1152. On 11 April 1992, a group of volunteers landed in the village of Batkuša near Bosanski Šamac by a helicopter and Colonel Nikolić decided to include them in the composition of the 17th Tactical Group.¹⁵⁶⁰ There were about 30 of these volunteers who landed in Batkuša. At the same time, the 4th detachment in Bosanski Šamac counted 550 members, the 2nd and 3rd detachments between 500 and 600 members, the 1st detachment around 600.¹⁵⁶¹
1153. Colonel Nikolić directly issued orders to the volunteers. On 7 May 1992, Nikolić issued a direct and detailed order to the Lugar group. To the group Nikolić attached a TO company equipped with the Pragas and 120mm and 82 mm mortars. “Lugar” was appointed commander of the group. “Crni” was appointed commander of the third column in this attack.¹⁵⁶² The Defence notes that Nikolić issued this order to Lugar on the same day when Slobodan Miljković Lugar and Dragan Đorđević Crni committed a murder according to the Indictment raised in Crkvina.
1154. Nikolić assigned tasks to the Lugar group also for 8 May 1992. He appointed “Crni” as the commander of the group. Nikolić also decided on artillery support, armored vehicles, quantity of ammunition needed for Lugar’s and Crni’s actions.¹⁵⁶³
1155. After the withdrawal of the JNA, Dragan Đorđević was appointed commander of the Posavina Brigade by Nikola Denčić, the Commander of the East Bosnia Corps. The same person also appointed Srećko Radovanović as the Chief of Staff.¹⁵⁶⁴ Denčić actually agreed with the proposal received from the SDS.¹⁵⁶⁵

¹⁵⁶⁰ tt.17942-17943

¹⁵⁶¹ tt.18167

¹⁵⁶² P1413 p.1,tt.17949-17950

¹⁵⁶³ P1413 p.4, 5

¹⁵⁶⁴ P1416 p.2

¹⁵⁶⁵ tt.17959

1156. Blagoje Simić also participated in the assignment of Đorđević as the brigade commander with the assistance of the supreme leaders of the SDS.¹⁵⁶⁶
1157. Srećko Radovanović as the Chief of Staff of the Posavina Brigade submitted daily combat reports to the East Bosnia Corps Command.¹⁵⁶⁷ Srećko Radovanović reported to the Corps Command about the use of his Brigade's artillery and tanks.¹⁵⁶⁸ There is no proof that the DB of the Republic of Serbia had anything to do with arming the brigade commanded by Radovanović with artillery means and tanks.
1158. Radovanović also informed the East Bosnia Corps Command on the realization of the "Vihor" plan.¹⁵⁶⁹ Obviously, this is about a plan worked out by the Corps Command. Radovanović also held meetings with the Corps Command.¹⁵⁷⁰
1159. Srećko Radovanović was invited for the second time to the territory of Šamac by Mile Beronja, the Commander of the 2nd Posavina Brigade since 24 August 1992. Beronja summoned Radovanović on the proposal of the president of the municipality of Šamac, president of the executive committee and the head of the public security station in Šamac.¹⁵⁷¹ Beronja had problems with Dragan Đorđević aka Crni and he informed Colonel Jeremić about that. Colonel Jeremić organized a meeting with the presence of General Bajić, Colonel Novica Simić and Đorđević himself. When Beronja explained the problems, Jeremić said he should not insist that Đorđević be returned to Serbia and that he should send him back to Serbia only after the liberation of Orašje.¹⁵⁷²
1160. Colonel Novica Simić testified before the Military Tribunal in Banja Luka to the effect that the civilian authorities in Šamac had been in touch with Đorđević through General Bajić, Colonel Sekulić and Colonel Jeremić. Simić informed General Bajić about Đorđević's misconduct. General Bajić told Simić that if Đorđević were not acting as agreed Simić should

¹⁵⁶⁶ tt.17959

¹⁵⁶⁷ D1205,P1419,P1420,P1520,P1521

¹⁵⁶⁸ P1419,P1521

¹⁵⁶⁹ P1420

¹⁵⁷⁰ P1520

¹⁵⁷¹ P1583 p.1

¹⁵⁷² P1583 p.2

send him back to Serbia. Bajić repeated that directly to Đorđević aka Crni in Simić's presence.¹⁵⁷³

1161. In the context of the foregoing evidence, it makes no sense to claim that Simatović was Đorđević's superior, as claimed by JF-047, which will be discussed in detail further on in this brief. The contacts with Đorđević were maintained by General Bajić and other military officers from the very beginning. General Bajić participated in bringing Đorđević to Šamac, General Bajić decided whether and how Đorđević would be sent back to Serbia. It is inconceivable that all these activities related to Đorđević would have unfolded the way Mladić noted in his diary in 1992, the way Beronja and Simić described in their testimony before the Military Tribunal in Banja Luka, also in 1992, and the way Todorović recounted in his testimony as well, without any of them ever mentioning, consulting or informing Đorđević's alleged commander, Franko Simatović, according to the Prosecution's thesis.

C. SERBIAN RADICAL PARTY

1162. The Defence points out that the group of volunteers that disembarked in the area of Bosanski Šamac on 11 April 1992, was a group formed by the Serbian Radical Party and it acted under the leadership of that party and was directly responsible to its War Staff.

1163. The Kragujevac Center of the Republic of Serbia DB, worked directly on investigating "militant paramilitary groups" in the area of its responsibility from the very initiation to the actual organization of such groups. The DB states that a paramilitary formation was formed under the patronage of the Serbian Radical Party as early as 6 July 1991. Srećko Radovanović imposed himself as the group leader. Radovanović maintained close ties with the right wing party's leaders – Drašković, Šešelj and Nikolić as well as with prominent military and political leaders of the RSK and RS. [REDACTED].¹⁵⁷⁴

1164. Srećko Radovanović was a Chetnik Vojvoda, and he was a holder of a Chetnik membership card No 2, second only to Šešelj, whose Chetnik membership card bore the

¹⁵⁷³ P1584 p.2

¹⁵⁷⁴ [REDACTED]

registration No 1. Radovanović was a strong advocate of Chetnik ideology of the Serbian Radical Party. He spoke negatively about people who supported either Tito's or Milošević's communist ideology.¹⁵⁷⁵ In his talks with Petar Đukić, Radovanović never mentioned any ties with the DB, on the contrary, he despised everybody who refused to accept Šešelj's ideology.¹⁵⁷⁶

1165. Dragan Đorđević Crni was also a member of the Serbian Radical Party and a holder of its membership card.¹⁵⁷⁷

1166. [REDACTED].¹⁵⁷⁸ [REDACTED].

1167. [REDACTED].¹⁵⁷⁹ [REDACTED]

1168. [REDACTED]¹⁵⁸⁰ [REDACTED],¹⁵⁸¹ [REDACTED]¹⁵⁸²

1169. In the indictment filed by the Military Prosecutor in Banja Luka, Đorđević is also identified as a member of the military. This indictment also identifies Mile Beronja, Commander of the 2nd Posavska Brigade and Novica Simić, Commander of the East Bosnia Corps as his superior officers.¹⁵⁸³

1170. The Crisis Staff of the municipality of Šamac issues a decision on the establishment of the "Aleksandar Vuković – Vuk" Foundation to provide assistance to the members of the Army of Republika Srpska.¹⁵⁸⁴ JF-047 tries to establish ties between Vuković and the Republic of Serbia DB,¹⁵⁸⁵ however, this decision by the Crisis Staff was sent to the Posavska Brigade but not to the Serbian MUP as well, which would have only been logical if this had been about a member of one of this ministry's units.

¹⁵⁷⁵ tt. 17952,17955-17956

¹⁵⁷⁶ tt.17956

¹⁵⁷⁷ tt.17958

¹⁵⁷⁸ [REDACTED]

¹⁵⁷⁹ [REDACTED]

¹⁵⁸⁰ [REDACTED]

¹⁵⁸¹ [REDACTED]

¹⁵⁸² [REDACTED]

¹⁵⁸³ D126 p.4

¹⁵⁸⁴ D125

¹⁵⁸⁵ tt.7736

1171. [REDACTED]¹⁵⁸⁶

1172. [REDACTED].¹⁵⁸⁷

1173. [REDACTED]¹⁵⁸⁸ [REDACTED].¹⁵⁸⁹ [REDACTED]¹⁵⁹⁰ [REDACTED].¹⁵⁹¹
[REDACTED]

1174. [REDACTED].¹⁵⁹²

1175. The Defence concludes that the volunteers who landed in Bosanski Šamac were members of the group formed and sent to the theatre of operations by the SRS. The ties and competences of the War Staff of the SRS over the members of the group are obvious even at the time the group was stationed in the area of Šamac.

1176. The Kragujevac RDB Center, within the scope of its competences monitored the activity of this group as a paramilitary and extremist group. It is impossible that the DB Center in Kragujevac does not know that this group is actually a “special unit of the DB”, as alleged by the Prosecutor.

1177. At one point, however, this group was subordinated to the JNA in the area of Šamac and later it became part of the Army of Republika Srpska. JNA Officers issued detailed orders to the group, VRS Officers promoted members of the group and appointed them to responsible positions in that army. Members of this group sent detailed written reports to the appropriate commands of the VRS.

1178. In connection with the crime in Crkvina, there are no proofs whatsoever that orders were issued to Lugar to commit the crime, and in case it was, by whom. There are indications

¹⁵⁸⁶ [REDACTED]

¹⁵⁸⁷ [REDACTED]

¹⁵⁸⁸ [REDACTED]

¹⁵⁸⁹ [REDACTED]

¹⁵⁹⁰ [REDACTED]

¹⁵⁹¹ [REDACTED]

¹⁵⁹² [REDACTED]

that Lugar committed the murder under the influence of alcohol in the wake of Vuković's death. There is no evidence that anyone at all in the Republic of Serbia DB knew about the crime in Crkvina at the time when the crime was committed. The accountability of several members of this group, which was formed by the Serbian Radical Party, and was a part of the army, subordinated to its command at the time, can in no way be attributed to the Serbian DB. There simply is no cause-and-effect relationship whatsoever between the Republic of Serbia DB and this crime.

D. LUGAR

1179. Not only that Slobodan Miljković aka Lugar was not a member of the "DB special unit" but he was a target of the Serbian RDB's operative treatment. Moreover, the RDB filed criminal charges against this person.

1180. [REDACTED].¹⁵⁹³ [REDACTED].¹⁵⁹⁴ [REDACTED]¹⁵⁹⁵ [REDACTED]¹⁵⁹⁶

1181. A proof that Slobodan Miljković Lugar is neither a member of the "special unit of the Serbian DB" nor in any way an associate of the state security service is also the letter he sent to the Kragujevac DB Center.¹⁵⁹⁷ In that letter, Lugar describes his war itinerary in detail. Not a single word in this letter indicates that he served in a DB unit or that he collaborated with anyone from the DB. In the letter, Lugar claims that he has numerous problems, that he receives threats and that he is unemployed. This letter in which he requests support from the DB Lugar signs as the commander of a SRS unit. It is inconceivable that he, as a member of the "special unit of the Serbian DB" as alleged by the Prosecutor, would write a letter to that same Service without ever mentioning that he was its member or at least an associate.

¹⁵⁹³ [REDACTED]

¹⁵⁹⁴ [REDACTED]

¹⁵⁹⁵ [REDACTED]

¹⁵⁹⁶ [REDACTED]

¹⁵⁹⁷ P1425

1182. The relationship between Lugar and the SRS is also clear from the fact that Lugar provided security for the SRS president during his stay in Kragujevac.¹⁵⁹⁸ The City Committee of the SRS in Kragujevac informs the MUP of Kragujevac about this arrangement. Had Lugar been a member of the Serbian DB unit or an associate of the Serbian DB, sending such a notification to the MUP would have made no sense at all. Among the exhibits are also the receipts received for the money Lugar handed over to the SRS,¹⁵⁹⁹ which also points to the close ties between this person and the SRS.

1183. All available evidence clearly shows that at no time was Miljković a member of any “special unit of the Serbian DB”, an associate of the Serbian DB or that he had any ties with the DB whatsoever. Quite the contrary. Within the scope of its authority, the Republic of Serbia DB was involved in the criminal trial against Miljković. The RDB surrenders the data it has about a murder committed by Miljković to the Kragujevac SUP which functions within the system of the public security sector of the Serbian MUP as the authority in charge of processing such criminal offences. In the report submitted by the Kragujevac DB Center, there is not a single word about any ties existing between Miljković and the DB. It is inconceivable that the Kragujevac DB had no idea that Miljković was either a member or an associate of the DB. Even Miljković himself, in the letter he writes to the Kragujevac DB Center, asking for assistance, makes no mention of his alleged membership in or collaboration with the Republic of Serbia DB. It is simply inconceivable that Miljković would have begged for help without emphasizing that he was a member or an associate of the DB.

1184. The Defence concludes that Miljković was evidently a subject of interest to the Serbian DB since he was described as an extremist and a member of a paramilitary formation. The Defence especially emphasizes that there is not a single shred of evidence linking Simatović with Miljković. Simatović was not being copied on the reports of the Kragujevac DB Center, since this was a line of work of the security service that Simatović had nothing to do with.

¹⁵⁹⁸ P1426

¹⁵⁹⁹ P1426 pages 2-5

1185. The evidence shows that Miljković was a member of a SRS paramilitary unit, that he went to the theatre of operations within the scope of the activity of this political party, and that at the theatre of operations he was within the composition and under the command of the related appropriate military units.

E. JF-047

1186. [REDACTED]¹⁶⁰⁰

1187. [REDACTED].¹⁶⁰¹ [REDACTED].¹⁶⁰² [REDACTED]¹⁶⁰³ [REDACTED]¹⁶⁰⁴

1188. [REDACTED].¹⁶⁰⁵ [REDACTED].

1189. [REDACTED].¹⁶⁰⁶ [REDACTED].¹⁶⁰⁷ [REDACTED].¹⁶⁰⁸ [REDACTED]¹⁶⁰⁹

1190. [REDACTED]¹⁶¹⁰

1191. [REDACTED].¹⁶¹¹ [REDACTED].¹⁶¹² [REDACTED]¹⁶¹³

1192. [REDACTED]¹⁶¹⁴ [REDACTED].¹⁶¹⁵

1193. [REDACTED].¹⁶¹⁶ [REDACTED]¹⁶¹⁷

¹⁶⁰⁰ [REDACTED]

¹⁶⁰¹ [REDACTED]

¹⁶⁰² [REDACTED]

¹⁶⁰³ [REDACTED]

¹⁶⁰⁴ [REDACTED]

¹⁶⁰⁵ [REDACTED]

¹⁶⁰⁶ [REDACTED]

¹⁶⁰⁷ [REDACTED]

¹⁶⁰⁸ [REDACTED]

¹⁶⁰⁹ [REDACTED]

¹⁶¹⁰ [REDACTED]

¹⁶¹¹ [REDACTED]

¹⁶¹² [REDACTED]

¹⁶¹³ [REDACTED]

¹⁶¹⁴ [REDACTED]

¹⁶¹⁵ [REDACTED]

¹⁶¹⁶ [REDACTED]

1194. [REDACTED]¹⁶¹⁸
1195. [REDACTED] „¹⁶¹⁹ [REDACTED].¹⁶²⁰ [REDACTED]
1196. [REDACTED].¹⁶²¹ [REDACTED].¹⁶²²
1197. [REDACTED]¹⁶²³ [REDACTED]
1198. [REDACTED].¹⁶²⁴ [REDACTED].¹⁶²⁵ [REDACTED].¹⁶²⁶
1199. [REDACTED].¹⁶²⁷ [REDACTED]
1200. The Defence therefore concludes that witness JF-047 cannot be trusted at all. JF-047 draws indirect conclusions about Simatović. [REDACTED].
1201. [REDACTED].
1202. [REDACTED].

¹⁶¹⁷ [REDACTED])

¹⁶¹⁸ [REDACTED]

¹⁶¹⁹ [REDACTED]

¹⁶²⁰ [REDACTED]

¹⁶²¹ [REDACTED]

¹⁶²² [REDACTED]

¹⁶²³ [REDACTED]

¹⁶²⁴ [REDACTED]

¹⁶²⁵ [REDACTED]

¹⁶²⁶ [REDACTED]

¹⁶²⁷ [REDACTED]

F. TODOROVIĆ

1203. Todorović's testimony is part of the case file pursuant to Rule 92 quater. Some segments in his testimony explain how he established contacts with the Serbian DB.
1204. In early March 1992, Todorović went to Belgrade where he met with Milan Prođanić.¹⁶²⁸ Todorović states that at the meeting held in the presence of Prođanić from the Serbian RDB, Jugoslav Maksimović from the military intelligence service, and Miloš Bogđanović from Šamac, it was agreed that 20 men from Šamac were to be sent to a training center of the Serbian MUP for training.¹⁶²⁹ Those men from Šamac were sent from Šamac late in March 1992.¹⁶³⁰ On the occasion of Todorović's second trip to Belgrade, Bogđanović again told him to contact Prođanić. Indeed, as soon as he arrived in Belgrade, he met with Prođanić in the building of the Serbian MUP.¹⁶³¹
1205. The Defence finds Todorović's testimony to be generally unreliable and incredible. The reasons for such an opinion are disclosed in the corresponding submissions filed by the Simatović Defence.¹⁶³² However, should the Trial Chamber find that certain parts of Todorović's testimony have sufficient weight, the Defence needs to point out that from Todorović's testimony it is obvious that Simatović had nothing to do with planning and organizing the departure of the group of volunteers. On a number of occasions, Todorović gets in touch with Prođanić, makes arrangements about sending people from Šamac, again with Prođanić. A representative of the military intelligence was also involved in Todorović's and Prođanić's activities. This piece of information is of particular importance in light of the

¹⁶²⁸ [REDACTED]

¹⁶²⁹ P1576 p.23432

¹⁶³⁰ P1576 p. 23433

¹⁶³¹ P1576 p. 23434

¹⁶³² "Simatovic Defence Response to the Prosecution's Motion for Admission of Evidence of B-1244 Pursuant to Rule 92 quater" 9 July 2007

fact that the volunteers fly to Šamac in a military cargo helicopter, as described elsewhere in this brief.

1206. This part of Todorović's testimony is consistent with exhibit P1416 which reads that the SDS Committee in Šamac suggested to Colonel Nikolić to use the friendship-acquaintanceship ties some members of the SDS from Šamac had with the Serbian MUP to ask for support.¹⁶³³ Also from P1428 it is obvious that Todorović established contacts with a group of radicals in connection with their coming to Šamac.¹⁶³⁴
1207. On 11 April 1992, Bogdanović told Todorović that the group that had been sent from Šamac would be transported back to the area of Šamac with another 30 people by military helicopters.¹⁶³⁵ This statement made by Todorović is of significance because it shows how Todorović knew about the arrival of the volunteers and in that context Todorović does not testify about any Simatović's role in this matter.
1208. In the fall of 1992, Todorović demanded Đorđević be brought to Bosanski Šamac for the second time. The Crisis Staff composed a request to the Serbian MUP and Todorović submitted this request to Prodanić in the presence of Maksimović from the military intelligence.¹⁶³⁶ The existence of this request is documented in the case file.¹⁶³⁷
1209. In his testimony Todorović says that the commander of the JNA brigade in the area brought a decision to prevent the enemy from capturing Šamac and that the commander himself made an attack plan which was submitted to Todorović as well. Todorović also says that the group that landed from the helicopters became a composite part of the JNA brigade stationed in the area.¹⁶³⁸
1210. Todorović claims that Prodanić told him to follow Simatović's car in order to reach the place the people from Šamac were stationed at. Todorović says that was the first time he

¹⁶³³ P1416 p. 2

¹⁶³⁴ P1428 p.4

¹⁶³⁵ P1576 p.23441-23442

¹⁶³⁶ P1576 p.23479-23480

¹⁶³⁷ P1416 p.8

¹⁶³⁸ P1576 p.23455-23457

ever saw Simatović.¹⁶³⁹ In connection with Simatović, Todorović provides one more reference, describing his and Đorđević's meeting with Simatović when Simatović allegedly told Đorđević to write a report and Đorđević refused and did not write the report.¹⁶⁴⁰ Todorović also describes one more meeting held in the presence of Simatović.¹⁶⁴¹ He also describes his conversation with Stanišić when they talked about Đorđević.¹⁶⁴² The Defence points out that the foregoing Todorović's claims were not corroborated by any other piece of evidence during the presentation of evidence, and consequently no weight can be attributed to these claims.

1211. The Defence concludes that Todorović's testimony, should the Trial Chamber decide to award it some weight, can be used for establishing the facts related to the organization of arrival of volunteers in Bosanski Šamac in which activity obviously Prodanić and the military intelligence played the key role.

1212. Simatović's role in the organization of the deployment of volunteers to Šamac is non-existent. All that connects Simatović with the group leaving for Šamac is his alleged presence prior to the group's departure, according to the description provided by JF-047. The Defence strongly believes that claims engineered by JF-047 have no weight whatsoever, as already explained where appropriate in this brief.

1213. The Defence can only conclude that all the presented proofs indicate that Simatović cannot be found guilty for the events in Bosanski Šamac.

¹⁶³⁹ P1576 p.23434-23436

¹⁶⁴⁰ P1576 p.23461-23462

¹⁶⁴¹ P1576 p.23475

¹⁶⁴² P1476 p.23477

PART TWELVE

A. BRČKO

1214. Through the presented evidence, the Prosecution tries to establish a connection between the events at Brčko and the Republic of Serbia DB and the accused in this case. Although Brčko is not specified in the Indictment against Simatović, the Brčko example is frequently referred to for the purpose of illustrating the alleged involvement of the Serbian DB in the events in Bosnia.

1215. The first clashes in Brčko took place in May 1992. Once the armed conflicts broke out, various armed formations started pouring into the city. Most of the Serbian forces came from Bijeljina and Ugljevik led by Ljubiša Savić aka Mauzer, while the radicals were under the command of Mirko Blagojević. A group that identified itself as Captain Dragan's instructors also arrived in Brčko. There was also a group organized by Željko Ražnatović Arkan. The presence of a group led by a reserve Captain Žugić from Novi Sad was also noted. Of course, there was a JNA garrison stationed in Brčko as well, under the command of Lt. Colonel Milinković.¹⁶⁴³

1216. Mauzer, Major Gavrilović and Arkan's Major Peja were brought to Brčko by the civilian leadership of Bijeljina.¹⁶⁴⁴

1217. Numerous units from all sides arrived in Brčko. The heterogeneity of the groups that appeared in Brčko speaks about the absence of any plan in terms of bringing them to the city and coordinating their activities there. The group headed by Živojin Ivanović was just one more group that appeared in Brčko and its impact upon the events in the city of Brčko was quite limited.

¹⁶⁴³ D83 pages 2,3,4

¹⁶⁴⁴ P1432 p.1

B. IVANOVIĆ

1218. Živojin Ivanović aka Crnogorac came to Brčko when the town was already in the hands of the Serb forces. Petar Đukić saw Ivanović for the very first time at the Brčko garrison barracks, in the office of the military security and intelligence organ, Captain Mitrić. Mitrić explained that Ivanović was at the War Presidency of Brčko, and that he worked at the secretariat on confiscating robbed and looted property.¹⁶⁴⁵ Ivanović took over the documentation on stolen vehicles for the purpose of instigating an investigation and processing the persons who stole the vehicles.¹⁶⁴⁶ Ivanović prepared and processed the documentation which was part of the documentation kept at the police station in Brčko.¹⁶⁴⁷
1219. Ivanović worked within the scope of the SAO Semberia and Majevisa.
[REDACTED]¹⁶⁴⁸
1220. [REDACTED]¹⁶⁴⁹ [REDACTED].
1221. [REDACTED].¹⁶⁵⁰
1222. In favor of the claim that Ivanović was a member of the Krajina MUP is also a requisition Ivanović prepared on 27 June 1992. There, Ivanović states that on the behalf of the Krajina MUP, the Special purpose unit requests from the Presidency of the Municipality of Brčko to provide funds for the procurement of communications equipment.¹⁶⁵¹ The Defence concludes that had Ivanović been a member of the “special unit of the Republic of Serbia DB” he would have requested and received equipment from the RDB.
1223. [REDACTED].¹⁶⁵² [REDACTED]¹⁶⁵³ [REDACTED].

¹⁶⁴⁵ tt.17963-17964,18169-18170

¹⁶⁴⁶ tt.17966,18171-18172

¹⁶⁴⁷ P1432 p.1

¹⁶⁴⁸ [REDACTED]

¹⁶⁴⁹ [REDACTED]

¹⁶⁵⁰ [REDACTED]

¹⁶⁵¹ [REDACTED]

¹⁶⁵² [REDACTED]

¹⁶⁵³ [REDACTED]

1224. [REDACTED]¹⁶⁵⁴ [REDACTED]¹⁶⁵⁵ [REDACTED].¹⁶⁵⁶

1225. [REDACTED].¹⁶⁵⁷ [REDACTED].¹⁶⁵⁸

1226. In the case file there is also a request for the purchase of equipment submitted by Captain Saša Vukojević on the behalf of the command of the special unit. From this document it is evident that this was the Brčko special unit within the composition of the Army of the Serbian Republic of BiH. The equipment purchase request is addressed to the War Presidency of the Municipality of Brčko.¹⁶⁵⁹ Attached to this request is a list of equipment requested from the War Presidency. Both documents were signed and stamped by Vukojević using the stamp of the special unit of Brčko.¹⁶⁶⁰ There was also another special unit in Brčko at the time, within the composition of the military post of the Brčko garrison, headed by Rade Božić.¹⁶⁶¹ [REDACTED],¹⁶⁶² [REDACTED]

1227. In connection with the supply of equipment to Ivanović, of interest is also the session of the Supreme Defence Council of the FRY, held on 7 August 1992. In the course of this session, Pavle Bulatović, Minister of Defence, discloses that the unit headed by Živojin Ivanović was supplied with weapons in the “4th of July” barracks. The “4th of July” barracks in Belgrade were used by the Guards units from the Belgrade garrison.¹⁶⁶³ With the permission of General Simović, the barracks were used for training purposes by the members of the Serbian Guard as well.¹⁶⁶⁴

1228. Ivanović requested equipment from the Presidency of the Municipality of Brčko but also from the Yugoslav Army. All of the foregoing facts show that Ivanović cooperated with

¹⁶⁵⁴ [REDACTED]

¹⁶⁵⁵ [REDACTED]

¹⁶⁵⁶ [REDACTED]

¹⁶⁵⁷ [REDACTED]

¹⁶⁵⁸ [REDACTED]

¹⁶⁵⁹ D175 p.1

¹⁶⁶⁰ D175 p.2

¹⁶⁶¹ D202 p.2

¹⁶⁶² [REDACTED]

¹⁶⁶³ [REDACTED]

¹⁶⁶⁴ tt.15416

various structures and that he cannot be brought into connection with the Republic of Serbia RDB in the way suggested by the Prosecutor.

1229. Ivanović was in Brčko at the time the activities on capturing the city had been already completed. The evidence shows that at various times Ivanović was a member of different formations. This fact does not equate the formations Ivanović passed through or their commands. Last but not the least, there is no evidence that Ivanović committed any crimes at all.

C. RADE BOŽIĆ

1230. In some documents there is a mention of the activities of Captain Dragan's Red Berets group, whose members were Rade and Božo Božić, Saša Vukojević and others in the area of Brčko.¹⁶⁶⁵

1231. Vukojević is identified as the representative of the command of the Special unit of Brčko within the composition of the Army of the Srpska Republika of BiH.¹⁶⁶⁶

1232. Rade Božić was an officer of the army unit, military post 9840, Brčko. Božić held the rank of Captain and he was the commander of the special unit of the military post 9840.¹⁶⁶⁷

1233. A member of the same military 9840 was also Lt. Colonel Predrag Manojlović who negotiated, on the behalf of the Brčko garrison command, the supply of ammunition and anti-tank weapons from Belgrade to Brčko and Bosanski Šamac. Božić and Manojlović verify their documents using the identical seal.¹⁶⁶⁸

1234. The proofs show that Božić and his special unit were within the composition of the Army. The Defence points out that there is no evidence whatsoever linking Rade Božović

¹⁶⁶⁵ P3017 p.7

¹⁶⁶⁶ D175 p.1

¹⁶⁶⁷ D202 page 1

¹⁶⁶⁸ D948

with the Republic of Serbia RDB either at the time of the events in Brčko or at any other time, for that matter.

D. DOCUMENTS IN CONNECTION WITH BRČKO

1235. Radovan Karadžić presented to the Tribunal a document prepared by Milorad Davidović.¹⁶⁶⁹ In his testimony before the Tribunal in the Karadžić case Davidović said that “he thought the signature” was his.¹⁶⁷⁰ It is not known how Karadžić came into possession of this document.
1236. The document itself does not contain even the basic elements any document should have. Namely, the document is not registered as filed and it is not obvious whether and by whom it was received, there is no seal - in other words, it has none of the marks that would indicate that anyone really received it. Particularly unusual are the footnotes on the first page of the document where, in the document allegedly sent to the Minister, the author of the document informs the Minister about a decision that was issued by this very Minister.
1237. Rade Vujović testified that the documents addressed to the Minister had to satisfy various formal requirements. No document could be addressed directly to the Minister but rather to the Chief of Administration. The Chief of Administration would read the document and then he would forward it to the minister with an accompanying document of his own attached to it. The documents are evidenced in the register of the Administration forwarding them as well as in the register of the Minister’s Office.¹⁶⁷¹ Vujović testifies that Davidović’s document is made contrary to the federal state service practice.¹⁶⁷²

¹⁶⁶⁹ P3017

¹⁶⁷⁰ tt.12520

¹⁶⁷¹ tt.19586

¹⁶⁷² tt.19587

1238. Davidović claims that his group counting 17 police officers in three utility vehicles¹⁶⁷³ disarmed and crushed all paramilitary formations in Bijeljina¹⁶⁷⁴ which, according to him, consisted of numerous members who were equipped with tanks and armored personnel carriers.¹⁶⁷⁵
1239. Davidović claims that Ivanović presented himself as an official of the Serbian MUP and that he had certain connections and contacts with the MUP of the Republic of Serbia.¹⁶⁷⁶ [REDACTED].¹⁶⁷⁷ [REDACTED]¹⁶⁷⁸
1240. The document made by Davidović is not kept in the corresponding archives of the Republic of Serbia.¹⁶⁷⁹ The Defence concludes that this is obviously a document from some unknown, private collection and that there is no reliable information about how and for which purpose it came into existence and if it was ever submitted to anyone. The whereabouts of the original copy of the document are unknown and the document appears to have been sent by fax, however, probably not at the time earmarked on the document.¹⁶⁸⁰ Davidović offers no proofs in support of his claims, he drafted no protocol, took no statement, kept no piece of substantive evidence – he took none of the actions any police officer would have taken. In the report the Defence believes was never sent, Davidović praises his own role and courage without referring to any proofs. The Defence concludes that Davidović's report does not have the required probative weight.
1241. The Prosecution is trying to prove its charges pertaining to Brčko and other places by presenting, inter alia, exhibit P1075. This is a document without any title, heading, signature or seal. It is neither known who composed it nor whom it was sent to. It is also unknown if it exists in any official archive. Attached to this document is a list of persons who allegedly has something to do with the celebration staged in Kula. This document was surrendered to the Prosecution by General Aleksandar Vasiljević. It is not known how Vasiljević got hold of this

¹⁶⁷³ P3017 p.1,2

¹⁶⁷⁴ P3017 p.9

¹⁶⁷⁵ P3017 p.6

¹⁶⁷⁶ P3017 pages.7,10

¹⁶⁷⁷ [REDACTED]

¹⁶⁷⁸ [REDACTED]

¹⁶⁷⁹ D872

¹⁶⁸⁰ tt.19588

document, i.e., how this document, if indeed it was an official document, found its way to Vasiljević. The weight the Trial Chamber can assign to this document is minimal, if any at all. The same arguments refer to P1061, which is also without any title, heading, signature and seal. Such a document could be produced by anyone at all and therefore it has no probative value either.

E. VASO MIJOVIĆ IN BRATUNAC

1242. The key role in preparing and forming “war units” in the territory of Bratunac was played by the SDS. Units were formed of platoon and company size and composition, and the training was organized for the commanding cadre. All these activities were carried out illegally.¹⁶⁸¹ At the outbreak of the war, ammunition and weapons were handed out via the SDS. The rear security for the Serb Army was provided by the Staff of the TO Bratunac. Later, the provision of supplies was performed through the VJ.¹⁶⁸²

1243. In June 1992, Mijović was the commander of the anti-sabotage detachment within the composition of the 1st Bratunac Brigade. The Drina Corps Command was making decisions on the combat engagement of the anti-sabotage detachment as well as on resubordination of parts of the detachment, including Mijović himself.¹⁶⁸³

1244. The cooperation between Mijović and the Bratunac Brigade was still going on in February 1993. In the report prepared by the commander of the Bratunac Brigade military police, there is a mention of the special unit headed by Major Mijović. The context of the document undoubtedly indicates that this military unit was within the composition of the said brigade.¹⁶⁸⁴

1245. The special purpose unit headed by Mijović was resubordinated to the Bratunac Brigade Command. This unit was going to be organized as a reconnaissance-sabotage detachment. Finally, he was to receive orders for the work and engagement of the detachment

¹⁶⁸¹ D1221 p.2

¹⁶⁸² D1221 pages 3,4

¹⁶⁸³ D963

¹⁶⁸⁴ P277

exclusively from the brigade commander.¹⁶⁸⁵ This order was issued based directly upon the special order issued by Ratko Mladić.¹⁶⁸⁶

1246. P3124, a document composed by General Živanović dated 27 November 1993, contains Živanović's opinion about Mijović expressed in connection with Mijović's request to form a "Mijović's unit" from the brigade's own personnel¹⁶⁸⁷. Živanović opposes the formation of such a unit and claims that the brigade command never issued any orders to Mijović.¹⁶⁸⁸ Živanović erroneously claims that the brigade never issued any orders to Mijović since there are numerous such orders to prove the opposite.¹⁶⁸⁹ Živanović's document, however, does prove that at the time of its composition there is no Mijović's unit acting independently outside of the composition of the Bratunac Brigade.

1247. The unit Vaso Mijović was a member of had been part of the Bratunac Brigade ever since the outbreak of the armed conflict. The unit changed its organizational form several times, passing through the periods when the cooperation was riddled with obstacles and conflicts, however its essential status was always the same. Evidence of that can be found in the position of the platoon known as "Red Berets" during 1994, which also acted within the composition of the Bratunac Brigade.

1248. The command of the 1st Bratunac Brigade directly issued orders to the platoon called "Red Berets", always based on the orders received from the Drina Corps Command. The brigade command also provided logistic support to the platoon – transport vehicles, food, and other.¹⁶⁹⁰

1249. The command of the 1st Bratunac Brigade analyses the state of combat readiness in the unit. Regarding the manpower of the unit it is stated that the brigade has 2,274 members. The "Red Berets" platoon, counting 57 members, i.e., 2.27% of the total number of the brigade's

¹⁶⁸⁵ P1081

¹⁶⁸⁶ P3123

¹⁶⁸⁷ P3124 pages 1,3

¹⁶⁸⁸ P3124 p.2

¹⁶⁸⁹ P1081,P3123,D963

¹⁶⁹⁰ D861

manpower, is listed as one of the units within the composition of the brigade.¹⁶⁹¹ The limited significance of the “Red Berets” platoon is obvious when compared to the full strength of the brigade.

1250. In the document of the 3rd infantry battalion, submitted to the brigade command in Bratunac, provides a detailed wartime record of the “Red Berets” reconnaissance platoon. From this document it is obvious that the platoon acted in coordination with other VRS units.¹⁶⁹² In this document, which provides a detailed description of the wartime activities of the Red Berets platoon, there is no mention of any ties between this platoon and the Republic of Serbia DB.

1251. The brigade command notified the Drina Corps Command about the return of the “Red Berets” platoon from the Bihać theatre of operations.¹⁶⁹³ On the occasion of the arrival of the “Red Berets” platoon, representatives of the municipality and the command organized a reception. The ensuing conclusion, based on the foregoing notification, is that the “Red Berets” platoon had been sent to the Bihać theatre of operations by order of and with full knowledge of the corps command as well as of the brigade command, and that among other units at the Bihać theatre of operations bearing the name “Red Berets” there was also the “Red Berets” unit from the composition of the Bratunac Brigade.

1252. Members of the unit named “Red Berets” in the territory of Bratunac belonged to the composition of the Army of Republika Srpska, military post 7042 Bratunac. Evidence in support of the above can be found in the documentation of the Captain Dragan Foundation.¹⁶⁹⁴

1253. The RDB of Serbia closely monitored the situation at the Bratunac-Srebrenica theatre of operations which engulfed the area directly along the FRY border. The Valjevo Center was

¹⁶⁹¹ D868 pages 2,3

¹⁶⁹² D866,tt.19525-19526

¹⁶⁹³ D869,D870

¹⁶⁹⁴ P2648 p.7

in charge of filing reports on the situation in the area to the Third and Fifth Administration of the RDB.¹⁶⁹⁵

1254. In his report to the East Bosnia Corps Command, Drago Nikolić mentioned a group that arrived in Bratunac in July 1992, headed by Nešković and Spasojević. Although everyone knew that Spasojević was a gangster, he identified himself as a member of the state security of the FRY. Members of the group wore camouflage uniforms and red berets. Nešković managed to rally 60 people to join his group. It is stated in the report that the group was formed for the purpose of committing robberies but the members of the group also intended to liquidate, among others, Mladić and Karadžić.¹⁶⁹⁶

1255. This group can be used as an example of the pattern that replicated itself numerous times at various locations. A local criminal gathers a group of people they put on camouflage uniforms and red berets and start claiming to be members of the Republic of Serbia DB. There is not a single shred of evidence that these persons had any ties with the Serbian DB whatsoever.

1256. P345 can also be found in the case files, a document without any signature, or stamp, with the heading "Arguments", which indicates that it is probably only a segment of a bigger document. The document was submitted by Zoran Lilić, but there is no information as to who had prepared it and why, whether there is a rest of it to be found, and if the document was ever submitted to anyone at all.

1257. In the area of Bratunac, Vaso Mijović was continuously a member of the units within the composition of the Army of Republika Srpska. Frequent personal and formational changes caused misunderstandings among the actors in the field but these conflicts had no impact whatsoever on the essential fact - Mijović's activity within the composition of the VRS.

¹⁶⁹⁵ D1327

¹⁶⁹⁶ P2104

F. VASO MIJOVIĆ IN BARANJA

1258. Vaso Mijović came to the territory of Baranja in mid 1995, after Operation Oluja when it was already evident that Baranja was going to be reintegrated into Croatia.¹⁶⁹⁷ After Operation Oluja, the population was frightened and one of the purposes of Mijović's arrival was to prevent people from leaving their homes in Baranja, which was successfully accomplished.¹⁶⁹⁸ Mijović came to the territory of Baranja heading a special unit of the MUP of RSK, to provide support to the local authorities where necessary.¹⁶⁹⁹
1259. Witness JF-036 identified Mijović as a JATD member and said that in this capacity he formed a training camp.¹⁷⁰⁰ At that particular moment, Mijović was a member of the special unit of the MUP of RSK. Members of the unit trained young recruits and all of this took place after Mijović's arrival in Baranja in the wake of the Oluja operation.¹⁷⁰¹
1260. When he arrived in the territory of Baranja, Mijović was stationed within the premises of the SUP building in Beli Manastir. Mijović took possession of the premises based on an orderly handover procedure carried out by a commission. The handover minutes were authenticated with the stamp of the MUP of RSK, Secretariat for Beli Manastir.¹⁷⁰²
1261. In the territory of Baranja, Mijović performed duties related to the enforcement of order and the prevention of crime. During the criminal proceedings against Željko

¹⁶⁹⁷ tt.4194-4195

¹⁶⁹⁸ tt.4195

¹⁶⁹⁹ D38

¹⁷⁰⁰ tt.4195

¹⁷⁰¹ P355,tt.4235-4237

¹⁷⁰² D36,tt.4300

Milisavljević, a detailed protocol was made on the takeover of the temporarily seized items.¹⁷⁰³

1262. Mijović comes to the territory of Baranja at the very end of the war. The reasons for his arrival had nothing to do with the armed conflict. The proofs indicating the formation Mijović belonged to even during his stay in the territory of Baranja are contradictory, i.e., in line with other proofs in the case, reflecting instability and frequent changes.

G. MIJOVIĆ AND TRNOVO

1263. [REDACTED].¹⁷⁰⁴

1264. JF-029 did not know anything about Mijović's alleged involvement, not even at the time the arrangements had been made for the Scorpions' deployment.¹⁷⁰⁵ JF-029 has no idea who sent Mijović to Trnovo.¹⁷⁰⁶

1265. [REDACTED].¹⁷⁰⁷ [REDACTED].¹⁷⁰⁸ [REDACTED]¹⁷⁰⁹

1266. [REDACTED]".¹⁷¹⁰

1267. [REDACTED].¹⁷¹¹

1268. [REDACTED]?

1269. [REDACTED].¹⁷¹²

¹⁷⁰³ D35

¹⁷⁰⁴ [REDACTED]

¹⁷⁰⁵ tt.10183

¹⁷⁰⁶ tt.10184

¹⁷⁰⁷ [REDACTED]

¹⁷⁰⁸ [REDACTED]

¹⁷⁰⁹ [REDACTED]

¹⁷¹⁰ [REDACTED]

¹⁷¹¹ [REDACTED]

¹⁷¹² [REDACTED]

1270. There is a document in the case file which Mijović allegedly sent to the MUP of Republika Srpska at Pale.¹⁷¹³ This document is in the form of a telegram, i.e., without a personal signature, stamp or any other mark to identify by whom, how and from where this telegram had been sent. The Republic of Serbia MUP and JATD are noted in the text of the document. The signature on the document reads Commander, Colonel Mijović. The commander of the JATD had never been appointed, and Mijović was never the commander of the JATD.
1271. The document is addressed to the MUP of Republika Srpska. It is impossible that such telegrams containing such evident falsehood would have been exchanged in the official communication between the two Ministries.
1272. [REDACTED]¹⁷¹⁴ A document dated 19 July 1995 is signed as Colonel Mijović.¹⁷¹⁵ [REDACTED].¹⁷¹⁶
1273. In the dispatch of the commander of the staff of the police forces of Republika Srpska in Trnovo, it is stated that the ceremony of the changing of the Scorpions' unit was performed on 24 July 1995.¹⁷¹⁷ In the document P1084 signed as Mijović, it is stated that all units are ordered to leave the area by 12h00 on 20 July 1995. Had all the units been really under Mijović's command they would have vacated the area on 20 July 1995 and not 4 days later as the Scorpions did.
1274. [REDACTED].¹⁷¹⁸ [REDACTED].
1275. [REDACTED]¹⁷¹⁹ [REDACTED].

¹⁷¹³ P1084

¹⁷¹⁴ [REDACTED]

¹⁷¹⁵ P1084

¹⁷¹⁶ [REDACTED]

¹⁷¹⁷ P1473

¹⁷¹⁸ [REDACTED]

¹⁷¹⁹ [REDACTED]

1276. This means that Mijović's notification, even if authentic, did not produce any effect with regard to the Scorpions. So, even if he had some authorities or responsibilities at Trnovo, those did not apply to the Scorpions.

1277. The document dated 19 July 1995, appeared under unclear circumstances; its content is inconsistent with other evidence, and therefore the Defence can only conclude that the document has no probative value.

H. MIJOVIĆ AND MUP

1278. The evidence presented in this case indicates that Mijović often switched the formations and units he belonged to. There are indications that Mijović was member of several organizations and services, occasionally even at the same time. Mijović had an official ID card of the MUP of Serbia, of the MUP of the Republic of Srpska Krajina, issued to him on 2 April 1992, and one issued to him by the MUP of Bosnia and Herzegovina on 20 January 1992.¹⁷²⁰

1279. [REDACTED].¹⁷²¹ [REDACTED].¹⁷²² [REDACTED].

1280. [REDACTED]¹⁷²³ [REDACTED].¹⁷²⁴

1281. [REDACTED].¹⁷²⁵

¹⁷²⁰ [REDACTED]

¹⁷²¹ [REDACTED]

¹⁷²² [REDACTED]

¹⁷²³ [REDACTED]

¹⁷²⁴ [REDACTED]

¹⁷²⁵ [REDACTED]

1282. Thus, Mijović, was a member of the special unit of the Krajina MUP, the Bratunac Brigade, the reserve composition of the JATD, the MUP of the Republic of Serbia, the MUP of the RSK, the MUP of BiH, and the MUP of Montenegro. The numerous and often contradictory facts pertaining to Mijović make any attempt to establish the status of this person quite challenging. The Defence strongly believes that this fact can hardly be established beyond reasonable doubt. Notwithstanding the above, the Defence does believe that one fact here is beyond any dispute. None of Mijović's activities, none of his acts, whether direct or indirect, constitute a war crime. Whether in Bratunac, Baranja or anywhere else, Mijović's presence was never associated with any criminal offences in connection with the Indictment raised against the accused in this case.

I. SKELANI

1283. The presence of an armed formation named Red Berets in the area of Skelani is mentioned on a number of occasions in this case. The Defence points out that no crimes related with the charges listed in the Indictment are associated with this formation. Yet, the Prosecutor spares no effort to implicate alleged similarities between Skelani and other regions of BiH.

1284. First of all, the Defence wishes to point to the events from the onset of the armed conflicts. The leadership of the Serbian Municipality of Skelani formed a public security station. The leadership's request for the provision of equipment, uniforms, rifles, machineguns, helmets and ammunition was addressed to the MUP of the Republic of the Serb Population in BiH. However, the supply of the equipment was evidently organized through the Federal MUP. In fact, the leaders of Skelani demanded that their request be forwarded to the Federal MUP and appointed a person authorized to take over the equipment. The person authorized to take over the equipment on behalf of Skelani was an inspector of the Federal MUP.¹⁷²⁶ In short, in the initial and most critical phase of the armed conflict in BiH, Skelani received weapons and ammunition from the Federal MUP.

¹⁷²⁶ D153

1285. In his report dated 28 July 1992, Tolimir made references to various paramilitary formations in the territory of BiH and stated that a training camp had been opened in Skelani by the so called Red Berets, headed by Nikola Pupovac, one of Captain Dragan's "disciples".¹⁷²⁷
1286. On 20 November 1992, the MUP of Republika Srpska drafted a report on the state of security in the area of responsibility of the Skelani public security station. In this detailed report there is no mention of the existence of any problems with paramilitary formations or other occurrences that might destabilize the situation in the area.¹⁷²⁸ Given the fact that this was a very small area, problems of such nature could not have gone unnoticed and been left out of such a report.
1287. Manojlo Milovanović, however, has no knowledge of any Pupovac's engagements in Skelani. Milovanović testifies that he personally was in Skelani. He says that he knows that a group of Šešelj's Chetniks came to the area after the exodus of 16 January 1993 and that they identified themselves in various ways.¹⁷²⁹ As the Chief of the Main Staff of the VRS, Milovanović must have been informed of any and all details in case of the appearance of any renegade unit refusing to subordinate under the VRS command or negatively affecting the combat readiness of his forces.
1288. In a report of 25 February 1993, the Command of the Independent Battalion Skelani confirmed that all volunteer units, the "radicals" and the "red berets" were within the composition and under the command of the battalion.¹⁷³⁰
1289. The Defence interprets the report on the Red Berets, dated 15 May 1993, as a conflict that broke out in connection with the recruitment of conscripts. The problem Lt. Colonel Ranko Kuljanin is faced with is reduced to a statement to the effect that members of the unit known as Red Berets claim that they can accept only the command of the MUP of the RS.¹⁷³¹

¹⁷²⁷ P383 p.5

¹⁷²⁸ D1056

¹⁷²⁹ tt.4491

¹⁷³⁰ P3119 p.4

¹⁷³¹ P399

In the letter marked as exhibit P387 it is clear that the abbreviation “RS” stands for Republika Srpska, in this context.

1290. In the letter on the state of combat readiness, dated 17 June 1993, Colonel Rodić, on behalf of the Independent Battalion Skelani states that there is a paramilitary army stationed in a school building in Skelani, and that nobody knows under whose command these troops are. He claims that to his knowledge they are financed by Frenki. Next to this name, Frenki, Rodić puts a “?”, which means that he either does not know who Frenki is or he has no idea what his role is in the events he is writing about.¹⁷³²
1291. Rodić’s letter is quite contradictory. Already in the ensuing paragraph, Rodić explains that the red berets have been grouped to form a special platoon, which has entered the composition of the Sarajevo-Romanija-Bircani Detachment of the Special Brigade of the MUP of Republika Srpska. Rodić’s letter also contains some very odd elements, for instance when he states the name of the special MUP brigade he adds “yeah right”.¹⁷³³
1292. Further on in his letter, Rodić says that the Independent Battalion Skelani was disbanded according to Frenki’s “recipe”. Rodić also speaks about Frenki’s “legacy”. What recipe, what legacy, what is the meaning of all the banal assertions in this letter of Rodić’s which cannot be found anywhere else in the many hundreds of other military documents entered into the case file?¹⁷³⁴
1293. Rodić arrives at the conclusion that it is not clear to him that the MUP of Republika Srpska appoints officers, captures towns has all the privileges, launches minor actions and takes credits for all successes.¹⁷³⁵
1294. Rodić settles the score with the MUP of Republika Srpska in a very primitive manner, he ridicules the units of the MUP, accuses the special platoon of trying to unlawfully collect

¹⁷³² P387 p.1

¹⁷³³ P387 p.2

¹⁷³⁴ P387 p.2

¹⁷³⁵ P387 p.3

the bridge toll. The accusations against Frenki are just a means Rodić uses in his confrontation with the MUP of Republika Srpska.

1295. In the report of June 1993, the Command of the Independent Battalion Skelani states that there have been no new attempts of transferring the movable properties across the bridge.¹⁷³⁶ The author of this document makes insinuations about the alleged unlawful acts committed by persons he calls “Frenki specials”. However, the author is either unaware of or simply ignoring the standing order of the TG-1 Commander, General Mile Mrkšić. Namely, in his order of 12 March 1993, Mrkšić regulated the handling of the spoils of war in that territory.¹⁷³⁷

1296. The territory of the Municipality of Skelani is rather small; in fact it is completely cut off from the territory of Republika Srpska and one can get from there to other parts of Republika Srpska only through the FRY.¹⁷³⁸ 60% of the population of Skelani either live or work in Bajina Bašta, FRY.¹⁷³⁹ The isolation from Republika Srpska and the sparseness of the population creates a specific situation unlike any other in Republika Srpska. There is a shortage of conscripts and resources, the municipality is squeezed between the Muslim army of the BiH from Srebrenica and the FRY where there are no armed conflicts.

1297. Some reports also mention the training allegedly conducted by the Red Berets.¹⁷⁴⁰ First of all, the Defence emphasizes that the Red Berets at one point in time belonged to the VRS, only to be placed later under the command of the MUP of Republika Srpska. Also, it is important to bear I mind that this was a training course in the limited territory of Skelani. Skelani was under siege, no offensive actions were ever launched from Skelani all the way until the VJ intervened in the conflict in 1993, as discussed in more detail elsewhere in this brief. The Serb forces in Skelani were passive and weak. It is evident from the attack launched on 16 January 1993, when the forces defending Skelani were run over in no time at all, the independent battalion fell apart, and the population fled to the FRY for safety, sustaining huge casualties in the process. If any training was carried out in Skelani at all, this

¹⁷³⁶ P3120 p.1

¹⁷³⁷ P3120

¹⁷³⁸ D1056 p.1

¹⁷³⁹ D1056 p.2

¹⁷⁴⁰ P383,P387

did not make any difference in the field. On the contrary, the training, if any, was insufficient to even hold off the enemy forces long enough to safely evacuate the civilian population.

1298. The Defence concludes that the Skelani example can in no way be used for comparison or drawing analogous conclusions. There is no evidence whatsoever that the Serb forces in Skelani committed any crimes; indeed, there are no proofs of any conducts which could be in any way associated with the charges against Franko Simatović alleged in the Indictment.

PART THIRTEEN

A. JOINT CRIMINAL ENTERPRISE (JCE)

1299. The commitment of a crime, within all three categories of the JCE, requires the presence of 3 cumulatively determined elements (physical elements): Plurality of Persons (first element), Common Plan, Design or Purpose (second element) and Significant Contribution (third element).
1300. As regards the mens rea for the first category of the JCE, the Prosecution must prove that the Accused wilfully took part in at least one aspect of the common purpose, and that the Accused shared with the other JCE member the intent to commit the crimes he is being charged with. In the third category of the JCE, the Prosecution must prove the responsibility of the Accused for the crimes that fall beyond the common purpose of the JCE proving that those crimes were a natural and foreseeable consequence thereof, i.e. that the Accused knew that those crimes would be perpetrated by the members of the group, and that he willingly took the risk that the crime might occur by joining or continuing to participate in the enterprise.
1301. The Defence reminds that the standards adopted by this Tribunal require that the Prosecution prove, beyond reasonable doubt, that the Accused took part in at least one aspect of the common purpose,¹⁷⁴¹ and that the contribution of the Accused to the achievement of the plan must have been significant.¹⁷⁴² The Prosecution also needs to prove the mens rea that Simatović participated voluntarily in the JCE and that he shared the intent with other members of the JCE to commit the crime.
1302. The Defence will first review the first cumulative element of the JCE. The Accused Franko Simatović is charged with taking part in the JCE together with Jovica Stanišić, Slobodan Milošević, Veljko Kadijević, Blagoje Adžić, Ratko Mladić, Radmilo Bogdanović, Radovan Stojčić aka Badža, Mihalj Kertes, Milan Martić, Goran Hadžić, Milan Babić,

¹⁷⁴¹ Vasiljević Appeal Judgement paras 100,119; Tadić Appeal Judgement paras 197,227; Brđanin Appeal Judgement para 427;

¹⁷⁴² Brđanin Appeal Judgement para 430;

Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Mića Stanišić, Vojislav Šešelj, Željko Ražnatović aka Arkan and other members of the Serb Forces. The Prosecution alleges that Franko Simatović, and all of the persons listed herein, were significantly furthering the objective of the enterprise.

1303. The Prosecution has indeed identified a plurality of persons, alleged members of the JCE, but it has failed to establish any links or contacts between Franko Simatović and most of the listed persons. The Prosecution also failed to prove beyond reasonable doubt that Simatović, and the persons that he did have some kind of link with, shared the alleged common intent, which would have been the purpose of the JCE.

1304. The Defence argues that the Prosecution has not produced a single piece of evidence that would prove beyond reasonable doubt that Franko Simatović had any contacts with Slobodan Milošević, in particular, as he is considered to have been the principal member of the JCE, (before 1997 and the ceremony in Kula), or with Veljko Kadijević, Blagoje Adžić, Radmilo Bogdanović, Radovan Stojčić aka Badža, Goran Hadžić, Momčilo Krajišnik, Biljana Plavšić, Mića Stanišić and Vojislav Šešelj. Hence, there is not a single piece of evidence to prove that Simatović had been in any kind of contact with most of alleged members of the JCE.

1305. As for the rest of the listed persons, with whom Simatović did have contact, the Prosecution failed to prove beyond reasonable doubt that the nature of this contact was such to suggest that Franko Simatović voluntarily shared a common intent with these people to further the achievement of the purpose of the alleged JCE. The evidence adduced by the Prosecution concerning the nature of these contacts is void of the kind of probative weight and value required to prove beyond reasonable doubt that these contacts and relations were of the kind that would indicate that Franko Simatović undoubtedly took part in the JCE with these people, and contributed significantly to the achievement of its purpose. The Defence will further analyze each contact individually.

B. JOVICA STANIŠIĆ AND FRANKO SIMATOVIĆ

1306. At the time relevant for the Indictment, the Serbian DB, just like any other service of its kind in the world, was founded on principles of strict hierarchy and subordination. Earlier in this Brief, the Defence thoroughly examined Franko Simatović's itinerary and positions within the DB at the time relevant for the Indictment, and brought these to the Trial Chamber's attention. The Rules of the Jobs Specification of the State Security Service, which was in accordance with the law in force at the time and with the Constitution of the Republic of Serbia, determined precisely the tasks and assignments that Franko Simatović was required to perform. The Defence already thoroughly examined and proved beyond reasonable doubt that Franko Simatović was acting in compliance with the prescribed tasks and assignments.
1307. The relation between Simatović and Jovica Stanišić, chief of DB at the relevant time, was fully in line with the general instruments regulating the work of the DB.
1308. The RDB chief also held the post of assistant minister, and he was appointed and discharged by the RS Government.¹⁷⁴³
1309. The chief of the Service managed the Service, organized the execution of the tasks and assignments within the scope of activity of the Service, directed and coordinated the activities of all the organizational units of the Service. He was also responsible for the employment of the instruments and methods of work of the Service. In addition to this, he also fostered coordination and cooperation with other defence and security entities.¹⁷⁴⁴
1310. The chief of the Service, who managed the Service, accounted for his work directly to the minister of the interior.¹⁷⁴⁵
1311. Considering that he was appointed by the Government, and that he held the function of assistant minister of the interior, the chief of Service was the main, and the only liaison between the Service and the RS authorities.

¹⁷⁴³ D795,para.207

¹⁷⁴⁴ D795,paras.209,210

¹⁷⁴⁵ D795,para.212

1312. The managers of the organizational units within the Service account for their work, and the work of the organizational unit they head, directly to the chief of Service.¹⁷⁴⁶ The chief of Service manages the Service independently, considering that the Collegium of the Service reviews general and other issues under the purview of the Service, but Collegium's role is restricted to providing opinions and recommendations to the chief of Service.¹⁷⁴⁷
1313. The chief of Service – Department, as part of the management function he discharges, is familiar with all relevant primary documents arising from the operative work of the SDB/RDB, including reports by associates, official notes on interrogations, reports on employment of operative-technical instruments, as well as other evidence acquired through the employment of certain instruments and methods of work of the Service. The chief of Service was also familiar with the documents obtained from other security agencies or services.¹⁷⁴⁸
1314. It was mandatory procedure to submit all proposals for the employment of the Service's operative and operative-technical instruments to the chief of SDB/RDB for approval.¹⁷⁴⁹
1315. The chief of Service, i.e. Department is the key point for internal and external communications in the Service, and between the Service and other state agencies. He approves the dissemination of external reports, analyses and assessments to the Government, the National Parliament and the President of the Republic.¹⁷⁵⁰
1316. Based on the evidence listed hereinbefore, and the clearly defined authorities of a chief of Service/Department, the ensuing and unequivocal conclusion is that Franko Simatović was authorized to act strictly in line with the orders and instructions of his superiors, i.e. the chief of Service – in the final instance. At the relevant time, the Service/Department was structured

¹⁷⁴⁶ D795,para.221-222

¹⁷⁴⁷ D795,para.223

¹⁷⁴⁸ D795,para.228

¹⁷⁴⁹ D795,para.229

¹⁷⁵⁰ D795,para.230

in such a way that Franko Simatović's authority to act was restricted to enacting the orders of his superiors, including the chief, without any authority to act autonomously.

1317. In the theory and practice of law, Simatović could only have refused assignments that would have constituted a criminal offence. There is no evidence in the case files that Simatović had either received or executed any orders of his superiors that might have constituted a criminal offence.

1318. Here, again, the Defence kindly refers the Trial Chamber to the appropriate section of this Brief, which thoroughly examines evidence corroborating that Franko Simatović never breached the restrictions imposed by the law and by-laws, either by action, or by omission.

1319. In the course of this entire trial, the Prosecution has been suggesting that Jovica Stanišić and Franko Simatović had a special extra-institutional relation in the relevant period that could be described as a relation of exceptional closeness and collaboration. The Defence reiterates that there is no evidence to indicate that the relation between Stanišić and Simatović went beyond the relation of a chief of Service and deputy chief of Service/special advisor to the chief of Service. Furthermore, the Prosecution submitted evidence that illustrates their relation in the most direct manner. In the context of the hostage negotiations, the Prosecution played a video-clip that clearly shows Stanišić, as the chief negotiator, escorted by Vlado Dragičević, as the second negotiator, boarding the helicopter. In the same footage Simatović is seen opening the door for Stanišić and Dragičević, and as soon as they have boarded the helicopter, he closes the door.¹⁷⁵¹

1320. As mentioned previously, the chief of Service manages the service and represents the Service before other agencies of the Republic of Serbia, the FRY and other entities in neighbouring countries. The activities of the Service in the context of the events in the Former Yugoslavia at the relevant time were determined exclusively in the context of the contacts between the chief of Service and other agencies and institutions in the country, as well as in BiH and Croatia. After all, there is extensive evidence to corroborate the position of the Defence, expounded herein. The chief of Service was the one who represented Service at all

¹⁷⁵¹ P2977-00:21:25-00:30:45 (na 00:30:00); tt.14831-14832

meetings with high officials of the Republic of Serbia the VJ, Republika Srpska, VRS, Republika Srpska Krajina and VRSK.¹⁷⁵² There is not a single piece of evidence in the body of evidence of this trial to indicate that Franko Simatović took part in any of the meetings held at that level. After all, these meetings were far above the position that Franko Simatović held, and the significance he had in the relevant period in the state hierarchy as well as in the hierarchy of the Serbian DB Service/Department.

1321. The only two meetings that Franko Simatović did attend, which the Prosecution submitted as evidence in its case, are the meeting of 28 February 1993¹⁷⁵³, at the time of the events near Skelani, which the Defence has already examined in the appropriate sections of this Brief, and the meeting in Slavonia in November–December 1995¹⁷⁵⁴ after the signing of the Dayton agreement, which was also thoroughly analyzed in herein.

1322. The Defence briefly refers the Trial Chamber's to the undisputed facts, which prove that Simatović did not take part in the discussion at these meetings, that these were meetings of limited importance, related to direct threats to the territory of the Republic of Serbia, in the first case, and to the implementation of the Dayton and Erdut peace agreements, in the second case.

1323. Hence, it is evident that none of the issues that could be linked with the planning and execution of the JCE were discussed at the only two meetings that Franko Simatović took part in, as construed by the Prosecution.

¹⁷⁵² For example:P394;P1628;P2529;P 2530;P 2531;P2532;P2535;P2536;

¹⁷⁵³ P392 p.3

¹⁷⁵⁴ tt.10025

C. MLADIĆ AND SIMATOVIĆ

1324. Ratko Mladić kept written records, in which he described, on several thousands of pages, hundreds of meetings and events that took place from 1991 to 1995. Most of his notebooks were admitted into the case evidence. Ratko Mladić noted the time, the place, the persons he met with, and the topics discussed. During the whole period relevant to the indictment, Ratko Mladić met with Franko Simatović, among other people, only once, in February 1993¹⁷⁵⁵, as the Defence already emphasized in the previous section of this Brief. In the context of the relation between JCE members, this one-off meeting fails to provide any evidence concerning the alleged joint participation of Mladić and Simatović in the JCE.

D. KERTES AND SIMATOVIĆ

1325. The only proof of any kind of relation between Franko Simatović and Mihalj Kertes is the intercept of 28 January 1992¹⁷⁵⁶, and the only conclusion we can draw, based on this intercept, is that Franko Simatović was at Mihalj Kertes' office on that date. The Defence notes that Franko Simatović was an SDB – Belgrade Centre operative, and Mihalj Kertes an employee of the Federal MUP. The intercept does not reveal the reason why Simatović went to Mihalj Kertes' office. The Prosecution failed to submit even a single piece of evidence that would give any indication as to the nature of this meeting, or of other circumstances that would provide clues concerning the nature of the relation of Simatović and Kertes. Taking into consideration the positions that they held, no reasonable trier of facts would conclude that this meeting had anything to do with the implementation of the JCE.

E. MARTIĆ AND SIMATOVIĆ

1326. The position and role of Franko Simatović in Knin in 1991, and consequently of his relation with Milan Martić has been thoroughly examined in the appropriate sections of this Brief. Here, the Defence would only like to conclude that none of the available evidence provides any grounds to conclude that there was an alleged JCE.

¹⁷⁵⁵ P392 p.3

¹⁷⁵⁶ P693

F. BABIĆ AND SIMATOVIĆ

1327. None of the elements of the available evidence in the case indicate that Simatović and Babić were working together in the context of the achievement of the alleged JCE.

G. KARADŽIĆ AND SIMATOVIĆ

1328. The only proof that Franko Simatović knew Radovan Karadžić at all is the intercept of 28 January 1992, mentioned previously.¹⁷⁵⁷ [REDACTED].¹⁷⁵⁸ [REDACTED]¹⁷⁵⁹ [REDACTED]¹⁷⁶⁰ [REDACTED].

H. ARKAN AND SIMATOVIĆ

1329. At this point, the Defence refers to the part of this Brief providing a detailed analysis of each and every piece of evidence of the alleged relationship between Franko Simatović and Željko Ražnatović aka Arkan. For reasons of expediency we shall not reiterate the extensive evidence that clearly proves that Franko Simatović had no relationship of any kind with Željko Ražnatović aka Arkan.

I. ELEMENTS OF THE JCE

1330. As regards the second cumulative element of the JCE, the Defence points out that the Prosecutor has failed to prove beyond reasonable doubt the existence of a Common Plan Design or Purpose. Alternatively, the Defence, emphasizes that Franko Simatović was no part of the Common Plan, given the fact that the Prosecutor did not present any evidence at all that could serve the purpose of establishing his role in the plan beyond reasonable doubt.

¹⁷⁵⁷ P693

¹⁷⁵⁸ [REDACTED]

¹⁷⁵⁹ [REDACTED]

¹⁷⁶⁰ [REDACTED]

1331. The third (physical) element of the JCE is Significant Contribution. In its Final Brief, the Defence thoroughly examines Simatović's position and role in the acts he is charged with and finds that in no aspect of Simatović's activities are there sufficient proofs to support the characterization of his role as significant. At this point the Defence notes that there is extensive evidence to corroborate the fact that in 1991, the year the enterprise was allegedly designed and set in motion, Franko Simatović was the chief of a section, which is the lowest organizational unit, of one of the many centres within the SDB of the Republic of Serbia. According to the then effective regulations, Franko Simatović was at least five levels below the chief of the SDB.¹⁷⁶¹ From May 1992, when, in line with the organizational changes in the RDB, he started performing duties of deputy chief of the Second Administration of the RDB, Simatović again had a relatively low-level position, in this case four levels below the chief of RDB.¹⁷⁶² One should mention that within the RDB there was a number of administrations, as organizational units, whose chiefs outranked Simatović. After all, the previously mentioned witness, Vlada Dragičević was chief of one of the administrations at the time of the negotiations for the release of pilots, and as such he, together with the chief of the Service, led the negotiations in connection with the release of the pilots. Finally, in May 1993, Franko Simatović was appointed special advisor to the chief of the RDB, however only as one of six special advisors the chief of the Service had at the time, and in that capacity he had no powers of making autonomous decisions or leading operational actions.¹⁷⁶³ On top of that, in addition to a deputy, the chief of the RDB also had a number of assistants. It is evident therefore that, given the positions he held with the SDB/RDB, throughout the entire time relevant to the Indictment, Franko Simatović had no formal authority to make any significant impact on the work and activities of the Service. Also, the Defence notes that there is no evidence that at any moment Simatović acted outside the scope of his authorities or of the orders issued by his superiors in the Service.

1332. There is not a single shred of evidence in the files of the present case to suggest that Simatović de facto secured communication channels among the members of the JCE. The exhibits in this case indicate that the communication channels existed irrespective of any role or activity of Simatović. Thus, for instance, there is an entire set of exhibits in the case files

¹⁷⁶¹ [REDACTED]

¹⁷⁶² D795,para.366

¹⁷⁶³ D795,para.369

pertaining to Milošević's meetings with Babić, Martić, and Karadžić, held to discuss vital issues of relevance to this case, without any participation or contribution on the part of Franko Simatović whatsoever. When it comes to the so called special units of the DB and other Serbian forces including JNA, VJ, VRS and other formations, there is an abundance of evidence in the case files to prove that these forces were trained, financed, armed and directed without any of Simatović's involvement. For instance, all of the evidence shows that the JNA had a key and decisive role in Croatia in all conflicts that took place in 1991, that the key role in the conflicts in BiH between 1992 and 1995 was played by the VRS, which had been transformed from the JNA in terms of both troops and weapons. Simatović, however, had nothing to do with those formations, be it in connection with organizing, training, financing, arming or directing. It is clear to every reasonable trier of facts that a Significant Contribution can only be provided by either an individual or a formation exercising a decisive impact in the field. Simatović, however, had no capacity to exercise any, let alone a decisive impact upon the aforementioned formations. The Defence has drawn these conclusions based on the evidence thoroughly examined where appropriate in this Brief.

1333. Finally, with respect to the mental elements of the JCE, the Defence points out that in the case file there is no direct evidence of Simatović's state of mind at the relevant time. The only piece of evidence recording something that could be taken as Simatović's statement regarding the circumstances of relevance to this case is his speech in Kula. However, this is about a speech Simatović only read in 1997, while there is no evidence as to the identity of the person who composed it. Numerous circumstances indicate that the speech he read exaggerated, and blatantly inaccurate on numerous issues, and many witnesses claim that it designed solely for the purpose of impressing the then president. This is also thoroughly examined by the Defence where appropriate in this Brief.

1334. Having said that, it is also important to emphasize that in the case file there is no evidence that the Accused Simatović had any knowledge about any of the crimes he is charged with in the Indictment. Moreover, the Prosecution has failed to present any evidence to indicate that Simatović had any obligation, right or authority to act towards preventing or punishing persons who committed the crimes even if he had been aware of them.

PART FOURTEEN

A. SENTENCING

1335. The Defence is of the opinion that Simatović is not guilty on any of the counts of the indictment, and that the Trial Chamber should acquit the Accused. However, if the Trial Chamber should find Simatović guilty on certain counts of the indictment, the Defence believes that the Trial Chamber should take into account the numerous alleviating circumstances in meting out the sentence.

1336. Before he was indicted, Simatović voluntarily cooperated with the Prosecution, by answering the Prosecution's questions for several days. Furthermore, in that interview, Simatović handed over to the Prosecution all of the documents that he had in his possession at the time.

1337. The fact that Simatović surrendered to the International Tribunal voluntarily must be acknowledged. The Trial Chamber found that Simatović explicitly stated before the investigating judge in Belgrade that he “accepts the jurisdiction” of the International Tribunal.¹⁷⁶⁴

1338. Another alleviating circumstance is the fact that Simatović does not have any previous convictions, which stands as a testimony to his moral standing, as well as the fact that he is a family man, with two sons and a grandson.

1339. Yet another alleviating circumstance is that Simatović has always fully complied with all of the requirements of the Trial Chamber during the several years of his provisional release.

¹⁷⁶⁴ Decision on Provisional Release 28.07.2004, paras 19-20; Decision on Provisional Release 26 May.2008, para.51;

1340. Simatović participated in the proceedings conducted against him before the International Tribunal, according full respect to the Trial Chamber, the witnesses that testified as well as all other participants in the proceedings.
1341. As previously mentioned, his moral standing, his behaviour before the court, his family and personal circumstances, including his age, and the fact that is now a retiree, clearly indicate that there is no risk he would repeat any crimes, once released.
1342. If the Trial Chamber finds Simatović guilty as charged by the Prosecution, then the Trial Chamber should take into account Simatović's relatively low rank, i.e. position, within the SDB/RDB as an alleviating circumstance. The Defence believes that another alleviating circumstance, which should be taken into account, is the fact that Simatović acted fully in accordance with the Constitution of Serbia and SDB/RDB rules. These norms instruct SDB/RDB intelligence operatives to collect all information, data and intelligence on all forms of threats to the national, cultural, and historical identity of Serbs living outside the Republic.
1343. The Defence believes that another alleviating circumstance is the fact that the SDB/RDB is a highly centralized institution; Decisions on all relevant issues were issued at the very top level of the service with very little or no influence of Simatović.
1344. By way of precaution, the Defence emphasizes that even if the Trial Chamber should find that Simatović had the kind of role imputed to him by the Prosecution, there are no aggravating circumstances of any kind related to Simatović, in the context of that role.

CONCLUSION

1345. For all of the foregoing reasons, the Defence believes that the Prosecution did not prove Franko Simatović's criminal liability under any of the counts of the indictment beyond reasonable doubt, and consequently the Defence proposes that the Trial Chamber acquit Franko Simatović on all counts of the indictment.

Respectfully submitted,

Counsel for the Accused:



Mihajlo Bakrač

Lead Counsel



Vladimir Petrović

Co-Counsel

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