

**UNITED  
NATIONS**

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| International Tribunal for the Prosecution<br>of Persons Responsible for Serious<br>Violations of International Humanitarian<br>Law Committed in the Territory of the<br>former Yugoslavia since 1991 | Case<br>No. | IT-06-90-T    |
|   | Date        | 2 August 2010 |

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**IN THE TRIAL CHAMBER**

**Before:** Judge Alphons Orie, Presiding  
Judge Uldis Kinis  
Judge Elisabeth Gwaunza

**Registrar:** Mr. John Hocking

**Date:** 2 August 2010

**THE PROSECUTOR**

v.

**ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ**

***PUBLIC***

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**PROSECUTION'S PUBLIC REDACTED FINAL TRIAL BRIEF**

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

**Case No. IT-06-90-T**

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**v.**

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MLADEN MARKAČ**

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1. The Prosecution hereby submits its Public Redacted Final Trial Brief with Annexes A to C. The Prosecution's Final Trial Brief was originally filed confidentially on 16 July 2010. The redactions in the Public Redacted Final Trial Brief seek to protect confidential material.

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Dated this 2<sup>nd</sup> day of August 2010  
The Hague, The Netherlands

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## **I. JOINT CRIMINAL ENTERPRISE**

### **A. Introduction**

1. The Accused and other Joint Criminal Enterprise (“JCE”) members shared the common criminal purpose of the JCE to permanently remove the Serb population from the Krajina region by force or threat of force, including through the commission of the following crimes charged in Counts 1-5 of the Indictment:<sup>1</sup> persecution (through deportation and forcible transfer, wanton destruction, plunder, shelling of civilians, unlawful attacks on civilians and civilian objects, the imposition of restrictive and discriminatory measures including the imposition of discriminatory laws and discriminatory expropriation of property, and unlawful detentions); deportation and forcible transfer; plunder; and wanton destruction.

2. In addition to the Accused, Tudman, Šušak, and Červenko were JCE members and Jarnjak, Radić, Laušić, Norac, Crnjac, and Ademi were JCE members, or were used by JCE members to further the common criminal purpose. As described below, each of these individuals, through their acts and omissions, made key contributions to the common criminal purpose.

3. The Accused and other JCE members used members of the Croatian Forces and officials and members of Croatia’s governmental and political structures to further the common criminal purpose. Given the scope of the common purpose and the underlying crimes, it is not possible to identify every JCE member or tool. However, some of these individuals or groups are identified below, and in the sections on the individual Accused.

### **B. Common Criminal Purpose**

4. The plan to permanently and forcibly remove the Krajina Serbs crystallised at the 31-Jul-95 Brijuni Meeting attended by Tudman, Gotovina, Markač, Šušak, Červenko and other members of the Croatian military leadership. Tudman, Supreme

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<sup>1</sup> In the event that the Chamber finds that not all of these crimes fell within the common criminal purpose, at least the crimes of deportation and forcible transfer fell within that purpose. As discussed in the sections on the individual Accused, the crimes falling outside of the common criminal purpose were natural and foreseeable consequences of the implementation of the JCE. Each Accused knew that these crimes were possible consequences of JCE’s implementation and willingly took the risk that these crimes would be committed.

Commander and the ultimate political and military leader of Croatia, directed his subordinates to initiate the planned military operation in the Krajina with an artillery attack aimed at ensuring the panicked flight of civilians, inflicting “such blows that the Serbs will to all practical purposes disappear”.<sup>2</sup> Buttressing the artillery attack, the plan included psychological operations designed to encourage the Serbs to flee while attempting to mask that goal.<sup>3</sup> Gotovina,<sup>4</sup> Markač,<sup>5</sup> Šušak,<sup>6</sup> Červenko<sup>7</sup> and other participants at the meeting understood and agreed with Tudman’s directions and contributed to the plan’s formulation.

5. The common criminal purpose fit squarely within Tudman’s long-standing views on the instability of multi-ethnic states and the particular strategic threat the Krajina Serbs posed to Croatia.<sup>8</sup> Tudman, and his inner circle of political and military leaders, seized the favourable circumstances to take the Krajina back by force, and do so in a manner that would rid Croatia of its Serb “cancer”<sup>9</sup> once and for all.

6. The pursuit of the common criminal purpose was informed and emboldened by the Croatian leadership’s success in Western Slavonia in early May 1995. That no more than 1000 Serbs remained in the wake of Operation Flash caused the Croatian Prime Minister to declare on 13-May-95 that “the Serb problem in Western Slavonia has been solved.”<sup>10</sup> After Flash, the Croatian authorities took steps to move Croats into Serb-owned properties in Western Slavonia.<sup>11</sup> By 22-Aug-95 Radić declared that they had done Okučani (taken back as part of Flash<sup>12</sup>) “nicely,” because 1000 Croat families had moved into the area.<sup>13</sup> Throughout Storm, the Croatian leadership sought to repeat this success in the Krajina by driving out the vast majority of Serbs, then colonizing the area with Croats.

7. The Croatian leadership valued its friendly relationship with the US and other Western nations and viewed membership in Euro-Atlantic institutions as a key foreign

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<sup>2</sup> P461,1D76-0110,pp.1-2;see “Crimes:Counts2&3”.

<sup>3</sup> See “Crimes:Counts2&3”.

<sup>4</sup> See “Gotovina”.

<sup>5</sup> See “Markač”.

<sup>6</sup> See “JCE:Tudman”,”Crimes:Counts2&3”.

<sup>7</sup> See “JCE:Červenko”.

<sup>8</sup> See “JCE:Šušak”.

<sup>9</sup> Galbraith:P444,para.65;Galbraith:T.4939;see P473,p.3.

<sup>10</sup> P2495,pp.5-6.

<sup>11</sup> P2711,pp.7-9;Bagić:T.26496-98.

<sup>12</sup> Škare-Ožbolt:T.18153.

policy objective.<sup>14</sup> Tudman recognised that the international community, although largely not opposed to Croatia's use of force to take back the Krajina, would vigorously oppose its "ethnic cleansing."<sup>15</sup> With these considerations in mind, Tudman and other JCE members took steps to force the Krajina Serbs out of Croatia in a manner that would mask their real intention and later allow the Croatian authorities to plausibly deny responsibility for the exodus of the Serb population. For example, Croatian authorities dropped fake RSK leaflets ordering the civilian population to withdraw,<sup>16</sup> and Tudman decided to broadcast the routes that civilians were taking to leave the area ("giving them a way out") while issuing false assurances that Croatia would guarantee the human rights of those who remain.<sup>17</sup> Tudman then exploited this "invitation" to the Serbs to stay as an excuse to prevent their return.<sup>18</sup>

8. From its inception, therefore, the common criminal purpose encompassed an element of deception aimed at protecting Croatia's international standing. Throughout the implementation of the common criminal purpose, and continuing beyond its successful completion, JCE members sought to balance their overt foreign policy goals with their covert goal of permanently ridding Croatia of its Krajina Serb population.

### **C. Implementation of the Common Criminal Purpose**

#### **1. Forcible Displacement through the Commission of Crimes**

##### *Shelling Attack*

9. In accordance with the plan formulated in Brijuni, Croatian Forces began implementing the common criminal purpose by commencing Operation Storm with a large-scale shelling attack on the civilian-populated areas of the Krajina on the morning of 4-August-95. This two-day shelling attack on towns and villages in the Krajina terrified the civilian population, and—as Tudman had predicted<sup>19</sup> and as JCE members had planned—caused mass panic and mass flight of the Krajina Serbs. The

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<sup>13</sup> P463,p.6.

<sup>14</sup> See "JCE:Tudman".

<sup>15</sup> Galbraith:P444,para.22.

<sup>16</sup> P480;P484.

<sup>17</sup> P461,1D76-0110,p.29.

<sup>18</sup> See "JCE:Tudman".

vast majority fled the Krajina to other countries, or to Serb-occupied territories of Croatia.<sup>20</sup>

10. This initial success was only the beginning of the implementation of the common criminal purpose. JCE members then worked to prevent the return of the many thousands of Krajina Serbs who were soon desperate to return to their homes. As Šarinić said on 30-Aug-95, “President, let us get inspired the way it is in Western Slavonia. It was very positive for us, because no one came back.”<sup>21</sup>

11. To that end, following the shelling attack, JCE members implemented a two-pronged strategy to prevent the return of the Krajina Serbs. While Croatian forces carried out a massive campaign of looting and destruction of Serb property, as discussed below, Croatia’s political leadership blocked the return of Serbs, while energetically colonizing the Krajina with Croats.

#### *Looting and Burning*

12. The JCE members at the Brijuni Meeting knew that, unless they took firm and focused preventative measures, once Croatian Forces entered the Krajina they would continue the systematic looting and burning that was then ongoing in Bosnia in connection with Operation Summer.<sup>22</sup>

13. Tudman, Gotovina, and other JCE members exploited the Croatian Forces’ demonstrated criminal tendencies for crimes against Serbs and their property and revenge motivation in order to implement the common criminal purpose. Rather than insisting on meaningful preventative measures, Tudman reminded those present in Brijuni of the Croat towns that had been destroyed and instructed them to take back the Krajina in a manner that would give the Serbs “a taste of it” and pay them back.<sup>23</sup> Gotovina assured Tudjman that he would send in troops who were from the area, who “ha[d] reason to fight there,” and who were “difficult to keep...on a leash.”<sup>24</sup>

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<sup>19</sup> P461,1D76-0110,p.10.

<sup>20</sup> See “Crimes:Count5”; Annex A-”Plunder and Wanton Destruction”;P464,p.6;P462,p.16;Radić:T.27221-22.

<sup>21</sup> P466,p.25.

<sup>22</sup> P71,p.62;see P71,p.73 (1-Aug).

<sup>23</sup> P461,1D76-0110,pp.10-11.

<sup>24</sup> P461,1D76-0110,p.10.

14. In these circumstances, it was simple for the JCE members to implement the common criminal purpose through plunder and wanton destruction. They merely unleashed their forces and allowed them to loot and burn until it no longer served the JCE members' purposes. Accordingly, as Croatian Forces began entering towns and villages in the Krajina on 5-Aug-95, they commenced a massive and systematic campaign of looting and destroying Serb property, which continued beyond the completion of Storm and throughout the Indictment Period. Standing out even in the context of widespread and massive destruction, were two locations viewed as particularly "Serb"—Kistanje and Donji Lapac—which were quickly, and virtually entirely, destroyed.<sup>25</sup> The plunder and destruction forced out many Serbs who had not fled the shelling, and prevented the return of those who fled by ensuring they had "nothing left...to return to."<sup>26</sup>

15. JCE members were able to issue generic instructions to prevent or stop the looting and burning, secure in the knowledge that such instructions would be ineffectual—thereby intentionally permitting and condoning crimes while simultaneously creating the false impression that they did not intend them. Šušak,<sup>27</sup> Gotovina,<sup>28</sup> and Červenko<sup>29</sup> did just that, issuing toothless orders to prevent or stop the crimes, which they failed to implement.

16. Šušak's remarks on the eve of Storm is revealing of the true intent behind these orders. On 2-Aug-95, after instructing MD commanders "to pass on to the other commanders the prohibition of any kind of uncontrolled conduct (torching, looting, etc)", he stated "we must prevent having to take the heroes of the Homeland War to court."<sup>30</sup> Šušak's failure to respond in any meaningful way to the total failure of this "prohibition" (except to falsely deny HV crimes to internationals), and his open expressions of satisfaction at the successful implementation of the common criminal purpose indicate that his 2-Aug-95 instruction was aimed at avoiding liability for the crimes rather than genuinely preventing them.<sup>31</sup>

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<sup>25</sup> See "Crimes:Counts2&3";P464,p.4.

<sup>26</sup> Galbraith:T.5078-79.

<sup>27</sup> See "JCE:Šušak".

<sup>28</sup> See "JCE:Gotovina".

<sup>29</sup> See "JCE:Červenko".

<sup>30</sup> D409,p.3.

<sup>31</sup> See "JCE:Šušak".

*International Appeasement*

17. Another Šušak instruction at this 2-Aug-95 meeting—“[t]he West has given a partial blessing, but nothing must happen to UNPROFOR”<sup>32</sup>—is also revealing of the JCE members’ efforts to implement the common criminal purpose while minimizing international condemnation. JCE members took steps to avoid targeting internationals and stamp out inappropriate behaviour by Croatian Forces towards internationals. For example:

- Gotovina assured Tudman that he could attack Knin with artillery while avoiding the UNCRO barracks.<sup>33</sup>
- Gotovina removed the Split Garrison Commander from his position due to a negative incident with the UN.<sup>34</sup>
- Gotovina and Čermak co-operated to track down UN vehicles stolen by their subordinates following complaints by Forand.<sup>35</sup>
- Červenko, after failing to address the HV crime wave for weeks, was spurred to act on 12-Sep-95 following a complaint by General Janvier that Gotovina had threatened a UN Press Officer.<sup>36</sup>
- Croatian authorities undertook organised efforts to preserve Orthodox churches—while allowing everything around them to be destroyed<sup>37</sup>—then undertook public relations efforts to direct international attention to those preserved churches.<sup>38</sup>

18. The contrast between these efforts and the JCE members’ collective failure to address the crime wave carried out by Croatian Forces against Serbs and their property demonstrates that JCE members were willing to expend significant resources

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<sup>32</sup> D409,p.3.

<sup>33</sup> P461,1D76-0110,p.15.

<sup>34</sup> P71,p.83;P1198.

<sup>35</sup> P389;P391;P375;P408;P409,p.2;D303;D503;D304;D305;D307;*see* Forand:T.4152,4240-41.

<sup>36</sup> *See* “JCE:Červenko”.

<sup>37</sup> P935,p.4;P807,p.2;P988,pp.3-4;D810,p.3;Hansen:P1285,para.22;Hansen:T.14938-40;P806,para.5(b);Hendriks:T.9684-85,9692-95;P933;Liborius:T.8273-75;P842,p.3;P934,pp.2-3;P936,p.1;P511;P809;P810;P814;P815,p.1;P2152;P951.

<sup>38</sup> D810,p.4.

to appease the international community where such appeasement did not interfere with the implementation of the common criminal purpose.

19. In contrast, with respect to the international outcry over the crime wave in the Krajina, JCE members responded principally with denials and false assurances. To that end, Tudman recruited Čermak, whose tasks included absorbing negative international attention and issuing false assurances of official action.<sup>39</sup> Again, the revenge element present amongst Croatian Forces served the JCE members' purposes. When the sheer volume of contrary evidence made it impossible to deny the Croatian Forces' responsibility for the crimes, Tudman,<sup>40</sup> Gotovina,<sup>41</sup> and others falsely claimed that they could not control their subordinates or sought to justify the crimes as natural and unpreventable consequences of the conflict. Čermak, Markač, and other JCE members or tools cooperated in covering-up the Grubori murders, which caught the particular attention of international observers.

20. JCE members and those used by them only responded in any concrete manner to crimes against Serbs and their property when they perceived a genuine threat to what they considered were Croatia's real interests—in particular Croatia's standing with the international community. Morić's<sup>42</sup> and Laušić's<sup>43</sup> 18-Aug-95 orders to take steps to address crimes referred expressly to the threat to Croatia's international standing. On 5-Oct-95, Jarnjak and other government members made clear that the murders in Varivode were problematic because of the negative international attention, with Jarnjak adding that it was then time to address the crimes because even Croat lives and property were beginning to be threatened.<sup>44</sup> The Croatian authorities' responses in these circumstances were targeted towards their real concerns, such as alleviating international pressure, not at genuinely addressing crimes against Serbs and their property.<sup>45</sup>

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<sup>39</sup> See "Čermak".

<sup>40</sup> See "JCE:Tudman".

<sup>41</sup> See "Gotovina".

<sup>42</sup> D49.

<sup>43</sup> P877.

<sup>44</sup> D215; see "JCE:Jarnjak".

<sup>45</sup> See "JCE:Jarnjak" (regarding Morić's 18-Aug-95 order); "JCE:Laušić" (regarding Laušić's 18-Aug-95 order).

*Destruction and Colonization*

21. The Defence suggestion that looting and burning undercut the Croatian leadership's colonisation efforts,<sup>46</sup> finds little support in the evidence or common sense. Whatever demographic successes the JCE members could achieve through colonization, the "simplest" and most direct way to prevent the return of Serbs was to destroy their homes.<sup>47</sup> In any event, the common criminal purpose was implemented in a manner that minimized any potential tension between the JCE members' goal of preventing the return of Serbs by destroying and looting Serb-owned property in the Krajina and their related goal of colonising the Krajina as rapidly as possible with ethnic Croats. Burning and other forms of destruction were largely restricted to villages and rural areas, while larger towns, on which colonisation efforts were focused, were relatively preserved.<sup>48</sup>

22. Tudman only spoke publicly against the destruction of property on 26-Aug-95, four days after Radić complained to him that the burning was threatening towns such as Benkovac, which were considered ripe for settlement. Although condemning the destruction on the basis that this was "now Croatian property!"<sup>49</sup> Tudman's failure to follow-up with any concrete measures to stop the looting and burning indicates his first priority was to prevent the return of Serbs by destroying their homes and that the campaign of destruction was not unduly interfering with his colonization plans.<sup>50</sup>

23. Indeed, the number of "available" housing units in the Krajina exceeded the number of Croats—120,000—that Radić optimistically aimed to settle in the Krajina.<sup>51</sup> Furthermore, Radić struggled to move anywhere near that number of Croats into the area, complaining to Tudman that Croat refugees from Bosnia and Serbia were "run[ning] away" to places like Zagreb,<sup>52</sup> and refusing to move into Serb houses.<sup>53</sup> Thus, Radić and Tudman developed more innovative plans such as chartering planes and boats to bring Croat settlers from the Diaspora.<sup>54</sup> In June 1996

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<sup>46</sup> T.27348.

<sup>47</sup> Radić:T.27343.

<sup>48</sup> *E.g.*, P807,pp.1-2;P824,pp.8,11-14;P463,p.10;P2673,p.21;P1126,p.3(no.9);D201,p.2(no.6);D810,p.3;P2678,p.16.

<sup>49</sup> D1451,p.1;P2630,p.2;Akashi:T.21766.

<sup>50</sup> *See* "JCE:Tudman".

<sup>51</sup> *See* "JCE:Radić".

<sup>52</sup> P2590,p.12;*see* P2673p.22-23.

<sup>53</sup> P463,pp.1-4;P2590,p.12;P2678,p.15.

<sup>54</sup> P463,pp.4,14.

the leadership was still trying to entice Croats to move into the Krajina, in particular strategic border regions, by granting them housing and tax incentives.<sup>55</sup> There is little suggestion in the evidence of a lack of intact houses to accommodate the ethnic Croats that the leadership was able to settle in the Krajina. Where Croatian Forces had destroyed the houses in a particularly strategic geographic location, this did not deter the leadership's colonization efforts. As Radić declared on 11-Aug-95 in relation to Donji Lapac, "It's strategically so important, and it's in such a position that we must repair the houses, Gojko, and put Croats there, such is the position of the place."<sup>56</sup>

### *Murder and Cruel Treatment*

24. The violent nature of the attack on the Krajina, the criminal propensities and revenge motivation that permeated the Croatian Forces, and the systematic manner in which JCE members and their tools covered up the hundreds of murders carried out during and in the aftermath of Storm demonstrates that murder and inhumane acts/cruel treatment were natural and foreseeable consequences of the implementation of the JCE.

25. As part of Operation Povratak ("Return"), JCE members (including Čermak, Gotovina, and Červenko)<sup>57</sup> worked with other HV and MUP authorities and personnel to systematically "sanitize" the Krajina of human corpses,<sup>58</sup> military and civilian alike, in order to "clear[] up...populated areas" to "create conditions for people to begin returning."<sup>59</sup> Disposal of corpses was emphasised as the top priority.<sup>60</sup> Significant resources were dedicated to relative superficialities (identification of bodies, individual burials<sup>61</sup>) while the underlying evidence of murder was ignored. Sanitation was aimed at quickly clearing the terrain and concealing the scope of murders committed during and following Storm, while presenting a façade of rectitude to the international community.

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<sup>55</sup> P2698;Bagić:T.26639-40.

<sup>56</sup> P462,p.16.

<sup>57</sup> See "Gotovina";"Čermak";"JCE:Červenko".

<sup>58</sup> See D1056,p.2;P2653,p.2;P2572.

<sup>59</sup> P2673,pp.3,7-9.

<sup>60</sup> See, e.g., D234,p.2;D236;P2572,p.2;Židovec:T.19985.

<sup>61</sup> E.g., D1056,p.2;D233,p.2;Dondo:T.22575.

26. Sanitation operations were conducted jointly by the HV and MUP, blurring their ordinarily distinct responsibilities.<sup>62</sup> HV authorities led sanitation operations in the Indictment Area, especially around Knin.<sup>63</sup> Čermak and Gotovina were both involved,<sup>64</sup> and ordered MUP members to work on HV sanitation teams.<sup>65</sup> Key reports illustrate the close cooperation of the HV and MUP.<sup>66</sup> The well-organized nature of the joint operation demonstrated the ability of these organs to cooperate effectively when it fit within the common criminal purpose.

27. Brkić—who led Čermak’s sanitation team<sup>67</sup>—was aware of the “great sensitivity” of his task.<sup>68</sup> He emphasized concerns (marked individual graves and identification of bodies) which were superficial in the face of obvious signs of hundreds of murders. Brkić expended significant resources in maintaining this lawful veneer, including by ordering the exhumation and reburial of bodies he did not consider to be buried in accordance with his standards.<sup>69</sup> On 29-Aug-95 he “proud[ly]” reported that “the Croatian Army did not breach the international law on armed conflict as they treated the enemy always properly” adding, “[t]o this day the number of properly buried corpses is 615.”<sup>70</sup>

28. Crime Police Sector Chief Nađ was explicit about the non-investigation policy on 7-Aug-95. “[I]t is not necessary to conduct on-site investigations,” he explained, as “clearing up the terrain” is “crucial.”<sup>71</sup> Orders issued to sanitation teams were clear as to the limits of their task: “focus[] primarily on discovering, identifying and burying

<sup>62</sup> Židovec:T.19927-32,19938,19945-46;D232,p.2;see Mauro:T.12077(“it was very difficult to understand who was doing what”).

<sup>63</sup> E.g., D603,p.2;P2570,pp.7-8;see Elleby:P216,p.6(“the Croatian military had the major authority”);Flynn:P20,p.12(referring to the authority of the “military governor”).

<sup>64</sup> E.g.,

Čermak:P2526,pp.10,16,103;D30;P543;P2572,p.5;D1738;D204,p.2;P496;D1002,p.3;D1739;D300;Flynn:T.1132-33;see “Čermak”.

<sup>65</sup> E.g., D1058;P496,p.1(regarding Davidović, Batur and Vanjak);see Židovec:T.19937-38;Sruk:T.23364;P2571;D598,pp.2,5.

<sup>66</sup> See, e.g., P2653,D30,P543,D612,D1060,D353,P2573(HV reports submitted to HV and MUP superiors, as well as political leadership);D1738,D348,D351,D352,D354(virtually identical reports submitted separately by HV and MUP officials);Židovec:T.19963.

<sup>67</sup> P506;D609;D30;Čermak:P2525,pp.73,83;D1059;[REDACTED];[REDACTED];[REDACTED];[REDACTED];D610;contrast Sruk:T.23309 with Sruk:T.23341,23356-58,23361-63.

<sup>68</sup> D612,p.2.

<sup>69</sup> E.g., P2653,p.2;D30,p.2;P543,p.2;D612,p.2;D1060,p.1;P2652;see Roberts:P675,paras.45,49,51;Hill:P292,pp.77-78;Elleby:P215,p.4.

<sup>70</sup> D612,p.2.

<sup>71</sup> D235,p.1;see Židovec:T.19982;P2673,p.7;Četina:T.23651.

human remains.”<sup>72</sup> Identification was cursory. Bodies were tagged, fingerprinted, photographed and recorded.<sup>73</sup> The absence of investigations into civilian killings in the Indictment Area is well-established.<sup>74</sup> Photographs of victims—often clearly indicating murdered civilians<sup>75</sup>—were classified as secret,<sup>76</sup> left to languish in the MUP bureaucracy. Židovec’s claim of the supposedly “detailed forensic report[s]”<sup>77</sup> that had to be produced for each body is belied by the evidence.<sup>78</sup> Despite his senior position, he could neither recall any coordination between criminal police and sanitation teams, nor recollect discussing any investigations with Assistant Minister for Crime Police Benko.<sup>79</sup> Even though some *post mortem* examinations—of dubious quality<sup>80</sup>—were carried out,<sup>81</sup> these were not followed up with proper investigations.<sup>82</sup>

29. Croatian officials maintained this non-investigation policy despite persistent and escalating signs that many sanitized remains were murder victims.<sup>83</sup> As early as 9-Aug-95, indications of the disproportionate number of civilian deaths were available to senior HV and MUP officials.<sup>84</sup> The final sanitation report, dated 9-Jan-96, stated that 468 bodies had been buried in Zadar-Knin alone,<sup>85</sup> representing a

<sup>72</sup> D233,p.1;see D464;D1571;Židovec:T.19917.

<sup>73</sup> P898.

<sup>74</sup> P1101;[REDACTED];[REDACTED];Morić:T.25937-38;Albiston:T.24041,24047-48; [REDACTED];Židovec:T.19973;Kardum:T.9329-30;Kardum:P896,paras.23,33,[REDACTED];Kardum:P897,para.8; [REDACTED];Malm:T.8153;Malm:P774,para.19;Elleby:P215,pp.3-4;Elleby:P216,pp.3-5;Elleby:T.3375,3401,3424;Flynn:T.1093-94;see generally D57;D1393.

<sup>75</sup> E.g., P1372;P1376;P1305;P1310;P1421;see “JCE:Jarnjak”.

<sup>76</sup> D234,p.2.

<sup>77</sup> Židovec:T.19873-75.

<sup>78</sup> E.g., Hill:T.3778-79(observing that 6 bodies, including civilians, appeared to have been located and removed in the course of a few hours one afternoon);see P292,pp.69-70. Čermak made similar spurious claims.(Compare,e.g., D1208,para.4,P29,p.1,Flynn:T.1081 with D38,pp.3-4).

<sup>79</sup> Židovec:T.19974,19981.

<sup>80</sup> Contrast e.g., D57,p.74 with P1611;see Albiston:T.24124-27;contrast P-65:P2684,pp.31-33 with P868.

<sup>81</sup> D1783(regarding 34 cases);see D1059(1 referral to pathology department);Mauro:T.12101-03(Knin hospital’s reluctance to acknowledge autopsies).

<sup>82</sup> D1783,pp.10-11(“investigations” were carried out by Investigative Judges Vuletina and Ninić in some cases);T.28983-86;see P2500;P2501(no reference to D1783 victims).

<sup>83</sup> [REDACTED];Židovec:T.19877,19879,19911-13,19972-73;P47,p.2;Bajić:T.20843,20851;P2576,p.2;P639,pp.9-14;P2580,pp.2-3;P899,p.8;D603,p.3;Čermak:P2526,p.40;Rinčić:T.22329-31;Mauro:P1098,pp.3-4;see Flynn:T.1093-94.

<sup>84</sup> D1738,pp.2-4,6-14;D348;P2573;D353;see D351;D352;D354;D363;D603;D604;D606;D607,pp.2-3;D1059;D1057;P2572.

<sup>85</sup> D382.

significant percentage of the Serb civilian population that remained in the area after Storm.<sup>86</sup> At least 261—55%—were civilians, and 34 were aged 70 or more.<sup>87</sup>

30. HV and MUP authorities expended their resources on a policy of concealment rather than investigation. HV and MUP personnel guarded mass burial sites in Knin and Gračac.<sup>88</sup> International observers were not permitted access until mid-August and then only sporadically,<sup>89</sup> often “supervised” by Croatian officials.<sup>90</sup>

31. Croatian officials exploited the artificially low numbers of alleged killings that the systematic sanitation of human remains produced by acknowledging only the most notorious murders that they could not conceal. They then took credit for pursuing a few “token” investigations, while casting themselves as scrupulous adherents to international law.<sup>91</sup>

## 2. Administrative Obstacles to Return<sup>92</sup>

32. JCE members and those used by them imposed legal and practical obstacles to the return of Serbs they had forced out of the Krajina in an effort to ensure their permanent removal in furtherance of the common criminal purpose. Immediately after Storm, Tudman spearheaded a series of obstacles aimed at doing “everything they conceivably could to not have them [Serbs] come back.”<sup>93</sup> These obstacles included impossible-to-meet citizenship requirements, discriminatory laws seizing Serb-owned property, and the colonization of the Krajina with ethnic Croats.

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<sup>86</sup> P899,p.15.

<sup>87</sup> D382.

<sup>88</sup> *E.g.*, Malm:T.8159-60,8194-96,8214-16;Roberts:T.7118-19;Elleby:P216,p.4;P780;Roberts:P675,paras.59-60;P-136:T.645;Mauro:P1098,p.4;P47,p.2;P41,p.2;Anttila:P172,pp.3-4;Anttila:P173,para.31;see Hill:P292,pp.77-78;P33,p.2.

<sup>89</sup> P33,pp.2-3;Flynn:P20,p.8;P42,p.2;Mauro:P1098,p.4;P43,p.3;P49,p.4;Roberts:P675,para.43;P934,p.2.

<sup>90</sup> *E.g.*, Roberts:P675,paras.45,57.

<sup>91</sup> *E.g.*, Rehn:P598,p.3;P2616,p.5;P600,pp.6-7;P2580,p.3;see “JCE:Jarnjak”.

<sup>92</sup> The Gotovina Defence indicated that it intends to rely on a 2004 EECC Decision (*see* e-mail 19-Feb-2010,12:21p.m. (T.27387-8) the facts of which are not directly analogous to this case. The (doubtful) legality of the administrative obstacles to return is irrelevant because: a) the crimes of forcible transfer and deportation were completed independent of these obstacles;and b) even “legal” obstacles may constitute underlying acts of persecution if they discriminate in fact, meet the necessary gravity requirements and are committed with the requisite unlawful intent. The administrative obstacles formed part of the common criminal purpose to *permanently* displace the Krajina Serbs and they demonstrate that the JCE members shared that purpose; therefore, the 2004 Decision cannot change the clear evidence of their criminal intent at the time.

<sup>93</sup> Galbraith:P444,paras.33,81;see Galbraith:P444,para.34;Galbraith:T.4938,5113-15;Rehn:P599,para.11;P451,p.272.

33. Attempts by Defence witnesses to claim that the obstacles to return were due to organizational problems<sup>94</sup> are flatly contradicted by the energetic efforts to colonize the area with ethnic Croats initiated immediately after Storm.<sup>95</sup>

*Administrative and Bureaucratic Obstacles*

34. After Storm, the Croatian leadership instituted administrative and bureaucratic obstacles in order to prevent Krajina Serbs from returning to Croatia.<sup>96</sup> In particular, the Croatian leadership knew that very few Krajina Serbs possessed Croatian passports,<sup>97</sup> and ensured that Krajina Serbs without Croatian passports were refused entry into Croatia on that basis.<sup>98</sup> Until 1998, Croatian authorities maintained a “Catch-22” by insisting that documents necessary for return to Croatia could only be obtained by the returnee personally in Croatia.<sup>99</sup> Even when Croatian Serb returnees possessed the necessary documents, Croatian border authorities sometimes refused entry on the basis of ethnicity.<sup>100</sup>

*No Mass Return Policy*

35. Led by Tudman, the Croatian leadership adopted a “no mass return” policy,<sup>101</sup> refusing to process group applications for return. Individual Krajina Serbs could apply to return based on family reunification,<sup>102</sup> which required that a member of the applicant’s family was already legally inside of Croatia.<sup>103</sup>

36. This policy was consistent with the leadership’s public stance that the Krajina Serbs left “voluntarily” in spite of Tudman’s “invitation” to stay.<sup>104</sup> At the same time, it furthered the common criminal purpose by preventing the return of the vast majority of Krajina Serbs, while attempting to appease the international community’s

<sup>94</sup> See, e.g., Pejčević:T.25151-52;Šterc:T.20377.

<sup>95</sup> See, e.g., Galbraith:P444,paras.64-

65;Galbraith:T.5135;P34,para.2;Mauro:P1099,paras.39,46;P38,p.1;P2590,pp.11-12;P51.

<sup>96</sup> See, e.g., P477:paras.34-37;P640,para.122;Rhen:P598,pp.3,7-8.

<sup>97</sup> P466,p.25;Granić:T.24717-19.

<sup>98</sup> See, e.g., Rehn:T.6604;Galbraith:T.5210;P466,pp.18,25,26.

<sup>99</sup> Pejčević:T.25184-86;P2677;P2594,p.49;D684,para.52.

<sup>100</sup> See, e.g., P650,paras.36,57(same as P477);P604,p.2;P639,para.41.

<sup>101</sup> P2589,pp.14-15;Šterc:T.20382-83;P650,para.37(same document as P477).

<sup>102</sup> Pejčević:D1825,para.8.

<sup>103</sup> Granić:T.24679.

<sup>104</sup> P2321,p.21;Galbraith:P444,para.33;Galbraith:T.4938-39,5207-10;Škare-Ožbolt:T.18211;P2536,p.4.

concerns.<sup>105</sup> As explained by Tudman on 4-Sep-95, “If the Krajina Serbs wanted to stay home, they would never have left in the first place. The return of all of them is virtually unthinkable. In any case, this does not lie in the interests of a normalization of Croatian-Serbian interests. But we will adhere to human rights and permit the Krajina Serbs to return in individual cases.”<sup>106</sup>

*Property Law Obstacles*

37. JCE members enacted and used government officials to enact and administer property laws which provided the property of Krajina Serbs to Croats in order to prevent the return of Serbs and colonize the Krajina with ethnic Croats.<sup>107</sup>

(i) The Decree<sup>108</sup> and Law<sup>109</sup> on the Temporary Takeover of Property

38. The decree, and the law that succeeded it, placed all real and personal property “abandoned” by the displaced Krajina Serbs under the temporary management of the Croatian authorities.<sup>110</sup> Authorities from Radić’s Ministry granted the use of this “abandoned” property to Croat displaced persons and refugees<sup>111</sup> under the pretext of preserving the property.<sup>112</sup> Although the law granted only the “use” of the property, by requiring the legitimate owner to return to Croatia in order to reclaim their property within an initial 30-day deadline, it effectively prevented Serbs who were unable to re-enter Croatia from repossessing their property while pretending to provide a mechanism for so doing.<sup>113</sup>

39. Under intense international pressure<sup>114</sup> the initial 30-day deadline was extended to 90 days.<sup>115</sup> However, the deadline remained a “virtually insurmountable obstacle.”<sup>116</sup> Even if the owner was able to re-enter Croatia and personally reclaim the

<sup>105</sup> Galbraith:T.5118-21;P449,p.17;P466,pp.15,25-26;P2589,pp.12-16;Škare-Ožbalt:T.18209-10;P599,para.7;P2536,p.4.

<sup>106</sup> P2671,p.2.

<sup>107</sup> Galbraith:T.5135,5140-41,5200-06.

<sup>108</sup> P476.

<sup>109</sup> D422.

<sup>110</sup> P476,pp.1-2(Arts.2-3);D422,pp.1-2(Arts.2-3).

<sup>111</sup> Galbraith:P446;Galbraith:P444,para.64.

<sup>112</sup> P462,pp.15-22.

<sup>113</sup> P476;Galbraith:T.5125,4945-47;P2697,pp.17-18;Bagić:T.26611-18.

<sup>114</sup> P447;Galbraith:P444,paras.36,75;Galbraith:T.4939,4961-62;Šterc:T.20438,20440;Granić:T.24916.

<sup>115</sup> D422, p.4(Art.11).

<sup>116</sup> P650:paras.34-37(same document as P477);see Galbraith:4945-46;P2670,p.3;see P639,para.39.

property, the owner's rights would only be restored after alternative arrangements could be made for the Croat to whom the property had been allocated.<sup>117</sup>

40. Under continued international pressure, the deadline for reclaiming property was removed in January 1996.<sup>118</sup> However, repossession was made conditional on an agreement on normalization of relations with the FRY, rendering property rights of Croatian Serbs contingent upon a then nonexistent international agreement with a foreign country.<sup>119</sup> In 1997, the Croatian Constitutional Court found that this condition, and other parts of the law, violated constitutionally protected equality rights.<sup>120</sup> The law was eventually repealed, again under international pressure, in July 1998.<sup>121</sup>

41. Even after parts of the law were found unconstitutional and the law was repealed, no mechanisms were put in place for Serbs to regain possession of their property until Croatia implemented its Return Program in June 1998.<sup>122</sup> Long after the law had been repealed and mechanisms for repossession had been put in place, the legacy of the law remained one of the most significant obstacles preventing the return of Krajina Serbs.<sup>123</sup>

42. The purpose of the decree and law was not to temporarily house refugees and protect property, as suggested by certain Defence witnesses.<sup>124</sup> As Tudman explained during the meeting setting the one-month deadline for return, the real purpose of the law was to alter the ethnic composition of Croatia and to limit the return of the Serbian minority while finding ways to permanently accommodate ethnic Croats.<sup>125</sup> Moreover, the notion that these laws were meant to address unexpected consequences of Storm is contradicted by the fact that the Croatian leadership began to plan for the

<sup>117</sup> D422,p.4(Art.11);P639,para.39.

<sup>118</sup> P475;P600,p.8;P604,p.2;P644,paras.36-37;P639,paras.38,40,41;P650(same as P477),para.35;Galbraith:T.4945-56,5090-91.

<sup>119</sup> P475(Art.1);Bagić:T.26589-90;Pejković:T.25151-52;Galbraith:T.4945-47;Pasić:T.22912-14.

<sup>120</sup> Bagić:T.26587;D425,p.9.

<sup>121</sup> P2594,p.15;D1829.

<sup>122</sup> D428;Pejković:T.25170-74;P2594,pp.47-48;D419,para.8;D1611,pp.77-83;Škare-Ožbolt:T.18249.

<sup>123</sup> D420,pp.2-3;P2594,pp.15,29;*e.g.*, *Kunić v. Croatia*; *Radanović v. Croatia*; *Zaklanac v. Croatia* (cases where Serbs were unable to regain possession of their property long after the law's repeal and the enactment of the Return Program);*see* Bagić:T.26597-99.

<sup>124</sup> P648,para.16;D1823,pp.2-3.

<sup>125</sup> P462,pp.4,10-18,22. *see*, P462,pp.4,14-23;P2673,pp.9-12,14;Galbraith:T.5200-06;Galbraith:T.4938-39,5203;P463,pp.3-4,10,12,14,22,23,26.

takeover of Serb property after Flash.<sup>126</sup> By 11-Aug-95, the proposed law was already in parliamentary procedure and had passed the first reading.<sup>127</sup>

(ii) Law on Areas of Special State Concern<sup>128</sup>

43. Croatian authorities initially aimed to use the Decree and Law on the Temporary Takeover of Property to transfer outright ownership of Serb-owned properties to Croats, but were wary that this procedure might violate the Constitution and have adverse international repercussions.<sup>129</sup> Ultimately, they decided to first transfer these properties to Croats for “use”, then later enact further legislation to transfer the ownership to the users of the properties.<sup>130</sup> This was done through the Law on Areas of Special State Concern passed in June 1996.<sup>131</sup> This law targeted categories of populations to be “stimulated” to settle in these areas, including Serbian Croats, Bosnian Croats, and Croats from the Diaspora.<sup>132</sup> It granted ownership to the occupant of properties taken over pursuant to the Law on Temporary Takeover after 10 years,<sup>133</sup> half the time period for adverse possession in Croatia.<sup>134</sup>

44. Reflecting a change in the Croatian leadership’s policy towards the return of Serbs, the law was amended in 2000, after Tudman’s death, to exclude ownership through occupancy of houses taken over under the Temporary Takeover Law and to promote the return of the Krajina Serb population.<sup>135</sup>

(iii) Law on the Lease of Flats in the Liberated Territories<sup>136</sup>

45. This was the corollary of the Law on Temporary Takeover for socially-owned property, which was the main type of real property right in urban areas of the former Yugoslavia entailing all the attributes of private property rights except the right to sell.<sup>137</sup> It required anyone with a tenancy right in socially-owned property in areas

<sup>126</sup> D427,p.9(stating that Croatia’s Chamber of Deputies had already decided to adopt the law on 04/07/1995);Bagić:T.26496-98.

<sup>127</sup> P462,pp.14-15.

<sup>128</sup> P2698.

<sup>129</sup> See, e.g., Bagić:T.26607-11;D1823,pp.2-3,11-12;Radić:T.27232-37;P463,p.22.

<sup>130</sup> P462,pp.15-22;D1823,pp.2-3.

<sup>131</sup> P2698.

<sup>132</sup> P2698,pp.7-8(Art.7).

<sup>133</sup> P2698,pp.1-2,7-11(Arts.2,3,7,8,10);P2594,p.14.

<sup>134</sup> Bagić:T.26607-11,26624;D1823,pp.11-12.

<sup>135</sup> P2699,pp.1-2,6-7,9(Arts.1,8,14,15);Bagić:T.26639-40.

<sup>136</sup> P2591.

<sup>137</sup> D419,para.29.

taken over during Storm and Flash to return within 90 days of the law's enactment on 27-Sep-95, or their tenancy rights would be terminated.<sup>138</sup> Once again, there was a theoretical ability to retain a property right, with almost no ability to exercise it.<sup>139</sup> During the government session where the law was discussed, it was made clear that the aim of the law was to ensure "the Croatian people populating the liberated areas."<sup>140</sup> The law was eventually repealed in 1998, but did not change the *status quo*. The Krajina Serbs' rights had already been lost.<sup>141</sup>

### *Colonization*

46. Led by Tudman<sup>142</sup> and Radić,<sup>143</sup> and facilitated by Čermak,<sup>144</sup> one of the priorities of the Croatian leadership was to colonize the areas the Serbs had left with ethnic Croats. Tudman and Radić focused their efforts primarily at Bosnian and Serbian Croat refugees and displaced persons, but also sought to bring in Croats from the Diaspora to settle these areas.<sup>145</sup> They aimed to move ethnic Croats into areas of strategic importance, particularly formerly majority Serb areas where Croatia was thinnest<sup>146</sup>—Croatia's "soft underbelly"<sup>147</sup>—so that "by no means [would] more than 10% of Serbs be [t]here ever again."<sup>148</sup> They encouraged ethnic Croats to move into formerly Serb-owned or occupied houses through the legal measures discussed above.<sup>149</sup>

47. Defence witnesses tried to paint these efforts as aimed at dealing with Croatia's refugee problem. However, these explanations cannot account for the focus on filling up strategically important areas, bringing in Croats from the Diaspora, or the numerous comments by members of the leadership about the urgency of moving Croats into the Krajina.

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<sup>138</sup> D419, paras.29-31.

<sup>139</sup> P2594, pp.16-20.

<sup>140</sup> P2592, p.11.

<sup>141</sup> D419, paras.29-31; P2594, p.16.

<sup>142</sup> See "JCE:Tudman".

<sup>143</sup> See "JCE:Radić".

<sup>144</sup> See "Čermak".

<sup>145</sup> P2590, pp.11-12; P462, p.4; P463, pp.4, 10, 14, 22-23, 26; P464, pp.2-7.

<sup>146</sup> P2678, pp.11-17, 26; P463, pp.11-26.

<sup>147</sup> P2678, p.44.

<sup>148</sup> P463, p.10.

<sup>149</sup> P462, pp.4, 10-18, 20, 22.

*Subsequent Efforts to Reduce the Serb Population and Block Serb Returns*

48. The evidence contradicts the Defence argument that Croatia's efforts to achieve peaceful reintegration in Eastern Slavonia demonstrated that Tudman was not pursuing a demographic policy to reduce the number of Serbs in Croatia.<sup>150</sup> To the contrary, while Tudman was forced to make peace in Eastern Slavonia due to intense US pressure and the threat of military intervention by Serbia,<sup>151</sup> the Croatian leadership took every opportunity to reduce the number of Serbs in Eastern Slavonia in the absence of a military operation.

49. Tudman sent Šarinić to Belgrade on two occasions in late August and early September 1995 to discuss with Milošević a population exchange, exchanging ethnic Croats in the Vojvodina (Serbia) for ethnic Serbs in Eastern Slavonia.<sup>152</sup> Tudman and Radić promoted the practice of “brib[ing]” Eastern Slavonian Serbs to leave Croatia.<sup>153</sup> Above all, the leadership sought to ensure that whatever agreement was reached on Eastern Slavonia, it would not enable the Krajina Serbs who had fled the Krajina to return.<sup>154</sup>

50. Even when international pressure forced Croatia to change its policies and provide mechanisms for the return of Serbs in 1998,<sup>155</sup> Tudman continued to resist the return of Serbs.<sup>156</sup>

**D. Key JCE Participants****1. Tudman**

51. Franjo Tudman was the principal ideologue, policy-maker, and strategist among JCE members. His national vision, informed by his views on the dangers of multi-ethnic states, animated and inspired the common criminal purpose. Cooperating with other JCE members, and using military and political officials and organs, Tudman spearheaded the expulsion of the Krajina Serbs and the concerted efforts to prevent their return.

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<sup>150</sup> See, e.g., Škare-Ožbolt:T.18194;Šterc:T.20385-86,20454,20461-62.

<sup>151</sup> P470,p.90;Škare-Ožbolt:T.18183-84;P449,pp.7,9,12,15,17-18;P451,pp.272-73.

<sup>152</sup> P468,pp.4,14,16;P465,p.7,11-12;see P2714,pp.7-9.

<sup>153</sup> P2593,pp.3-4,13-14.

<sup>154</sup> P466,pp.2,4-5,7-9;Škare-Ožbolt:T18194-95;P458,pp.46,54.

52. Tudman, “something of a De Gaulle figure,”<sup>157</sup> held a tight grip on power: military, executive, political.

- A former general,<sup>158</sup> Tudman was the Supreme Commander of the Croatian Armed Forces.<sup>159</sup> He gave strategic direction,<sup>160</sup> leading the overall planning of Storm at Brijuni.<sup>161</sup> He used his status to solve political and practical problems (such as appointing Čermak to run Knin).<sup>162</sup>
- Tudman directed the core functions of government, including key ministries such as Interior, Foreign Affairs and Defence.<sup>163</sup>
- Tudman took all key decisions,<sup>164</sup> advised by an inner circle including Šušak (himself closely associated with Gotovina<sup>165</sup>), Šarinić, Jarnjak and Radić.<sup>166</sup>

53. Tudman was committed to reducing the number of Serbs in Croatia. He openly believed<sup>167</sup> that “multiethnic states were unsustainable in Europe”, especially when they belonged to “different civilizations.”<sup>168</sup> He saw Croatia as a frontier, “the borders of the West, against the East.”<sup>169</sup> He approved of population transfers as a force for national stability,<sup>170</sup> heedless of individual rights.<sup>171</sup> He regarded the large numbers of Krajina Serbs, their strategic location and perceived “Eastward” orientation<sup>172</sup> as a threat to Croatia’s territorial integrity and peaceful existence.<sup>173</sup>

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<sup>155</sup> See, e.g., D428;P2594,pp.59-60;Galbraith:T.5118-19;Šterc:T.20438;Pejković:T.25167-72;P2677.

<sup>156</sup> P2595,p.8;P2672,p.3.

<sup>157</sup> Galbraith:P444,para.68;see Vedris:T.23702.

<sup>158</sup> Žužul:T.18306;Radin:D1678,para.10.

<sup>159</sup> D1676,pp.17,25;Galbraith:T.5177-78;Feldi:T.21856.

<sup>160</sup> Deverell:T.24283;Corn:T.21480-81.

<sup>161</sup> P461.

<sup>162</sup> See “Čermak”.

<sup>163</sup> Škegro:T.22195;Žužul:T.18279;Galbraith:T.5177-78;see Granić:T.24833-34.

<sup>164</sup> Galbraith:P444,para.40;P2663,p.4;Radin:T.22154.

<sup>165</sup> Granić:T.24844-45.

<sup>166</sup> E.g., P2662,p.14;Radin:D1678,para.15;P463;P2590;see “JCE:Šušak”;“JCE:Jarnjak”;“JCE:Radić”.

<sup>167</sup> Galbraith:P444,paras.23,31,68;Galbraith:T.4937.

<sup>168</sup> P452,p.2.

<sup>169</sup> P452,p.9;see P2675,p.30(Tudman:“It is not only unpleasant for Croatia to have Serbs in Banja Luka and on the West...but it is unpleasant for the West as well”);see Granić:T.24935.

<sup>170</sup> Galbraith:P444,para.31;Galbraith:T.4937;P459,p.32(Tudman:“Wherever national problems so conceived emerged as they did with us, that was resolved...by exchanges”);see P2662,p.3;P2536,p.4;P452,pp.2-4.

<sup>171</sup> Granić:T.24832-33,24984;P455,p.4;Žužul:T.18307,18322-23,18369-70.

<sup>172</sup> Galbraith:T4937;Galbraith:P444,para.32.

<sup>173</sup> Galbraith:T.4933.

54. Tudman was a strategic politician,<sup>174</sup> balancing his domestic policy goal (rendering the Serbs a small minority within a largely ethnic Croatian nation) with his foreign policy goal (securing Croatia's membership of the Euro-Atlantic community), always aiming to ensure that one did not frustrate the other.<sup>175</sup> He took care to choose the right tools for each particular job: for the Krajina, displacing the Serbs through military action when the political opportunity was ripe;<sup>176</sup> for Eastern Slavonia, where military action was politically and militarily dangerous, combining negotiation and covert activity to achieve similar results.<sup>177</sup>

55. Tudman directed the planning of Storm,<sup>178</sup> devising with his operational commanders—some of whom he subsequently decorated for their performance<sup>179</sup>—a strategy to use artillery to force out the Krajina Serbs.<sup>180</sup> As discussed above, Tudman led the effort to conceal the fact that Storm was aimed at driving out the Krajina Serbs.

56. After Storm commenced, Tudman led the policy of inaction that permeated Croatia's political and military leadership, deliberately failing to acknowledge or address the systematic campaign of crimes committed against the Krajina Serbs. Well-informed observers were confident that Tudman's government permitted, if not actively encouraged, these crimes.<sup>181</sup> Tudman initially denied the crimes wholesale.<sup>182</sup> When this was untenable, he falsely attributed responsibility to rogue civilians,<sup>183</sup>

<sup>174</sup> Galbraith:T.4936-37;Galbraith:P444,para.3(Ambassador Galbraith “had extremely frequent contact” with Tudman);[REDACTED].

<sup>175</sup>

P463,p.3;P466,p.5;P2595,p.8;Galbraith:P444,paras.6,30,63;Galbraith:P445,paras.17,20;Galbraith:T.5041-5042;Žužul:T.18307;Granić:T.24918;see,e.g., P461,1D76-0110,p.32(Tudman: “I’m going to Geneva to hide this, and not to talk... I [want] to hide what we are preparing for the day after [Storm]. And we can rebut any argument in the world about how we didn’t want to talk...”);P2628.

<sup>176</sup> E.g., P461,pp.1,7;D1454,pp.8-9.

<sup>177</sup> See,e.g., P465,pp.5-6,10-12;P466;P468,p.14;P449,pp.7,12,17-18;see P453,pp.2-3;see P474,pp.4-5;“JCE:Administrative Obstacles to Return”.

<sup>178</sup> P461,1D76-0110,p.1(Tudman seeking “to hear your views before I decide on what our next steps should be...”).

<sup>179</sup> Theunens:P1113,pp.677-78.

<sup>180</sup> P461,1D76-0110,pp.10,15;see “Crimes:Counts2&3”.

<sup>181</sup> Galbraith:T.4948-49,4960-61,5048,5076,5083;Galbraith:P445,para.15;Rehn:P598,pp.5-6.

<sup>182</sup> E.g., Galbraith:P444,para.56;see P462,p.3.

<sup>183</sup> E.g., D681,p.2(Tudman:”Later on during the liberation of course we couldn’t fully restrain our people, there were many people there who suffered loss of human life, loss of their relatives, sacrifices, lost property and so forth, so that some of them did resort to acts of revenge, and to stupid things actually such as the destruction of homes and so forth...”);Rehn:P598,p.5;Rehn:P599,para.4;D1816,p.3 (Tudman:”[T]he bitterness of these people following the liberation, following the departure of the army, could not be restrained here and there.”);P447,p.1.

excusing their conduct as the natural consequence of the conflict.<sup>184</sup> He was interested in the crimes only to the extent they interfered unduly with other aspects of his strategy: he was merely “irritated” that “such events were rubbing the wrong way”<sup>185</sup> with the international community. Tudman expressly rejected a comprehensive response to the crimes, preferring “to forget all this and turn to normalization of relations among people among nations in the region.”<sup>186</sup>

57. While failing to respond to the crime wave targeting the Krajina Serbs, as discussed above, Tudman simultaneously masterminded a policy to prevent the return of displaced Serbs to the Krajina<sup>187</sup> by political, administrative and legislative means. “[H]e and his officials did everything they conceivably could”<sup>188</sup> to prevent Serbs from returning,<sup>189</sup> claiming that the Krajina Serbs had “opted out” of Croatia in spite of his “invitation” to stay.<sup>190</sup>

58. Even when sustained international pressure<sup>191</sup> forced the Croatian leadership to take genuine steps to facilitate the return of Serbs in mid-1998,<sup>192</sup> Tudman continued to insist that returns must be limited.<sup>193</sup> Only after his death was there a

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<sup>184</sup> *E.g.*, P455,pp.2–5(Tudman:”[T]his problem cannot be considered without remembering what happened in Croatia....Croatian public opinion was suffused by rage. Every Croatian man, every Croatian family asked how it could be possible for the world to let this happen?...How can you expect people not to be angry in such a situation?...You have to understand this situation and look at what is going on in the light of the bigger picture.”),6(Tudman:”[o]nly those Serbs who want a Greater Serbian Yugoslavia” make complaints of mistreatment by Croats);D1451;P2662,p.3.

<sup>185</sup> Radin:T.22148.

<sup>186</sup> D681,p.2;see P601,p.9.

<sup>187</sup> Rehn:T.6649-50;Rehn:P598,p.5;Rehn:P599,para.4;[REDACTED];Granić:T.24935-36;P2662,p.11.

<sup>188</sup> Galbraith:P444,para.81.

<sup>189</sup> P473,p.3(Tudman:”As long as they [the Serbs] have been in Knin, while Knin was under occupation, the future of Croatia hasn’t been secure, but after the “Storm” it is. Never again will anybody be able to endanger it....[T]oday it is Croatian Knin and never again will it go back to what was before, when they [the Krajina Serbs] spread cancer which has been destroying Croatian national being in the middle of Croatia”).

<sup>190</sup> P2671,p.2(Tudman:”If the Krajina Serbs wanted to stay home, they would never have left in the first place.”);see Škare-Ožbolt:T.18210-11;Galbraith:T.4945;Galbraith:P444,para.33(“Dear Peter, it’s nice for you to say it, but it’s just not possible. We cannot have these people come back.”);Galbraith:P445,para.16;P2677;P2321,p.21.

<sup>191</sup> *E.g.*, Galbraith:T.5118-19;P2594,pp.59-60.

<sup>192</sup> *See, e.g.*, D428;P2594,pp.59-60;Galbraith:T.5118-19;Šterc:T.20438;Pejković:T.25167-72;P2677.

<sup>193</sup> *E.g.*, P2672,p.3(Tudman: “I think that the developments in Bosnia are good for us, because they will become aware how silly their request is that we should have all Serbs return to Croatia...” Valentić: [T]hey will create a new Belfast here with those 100,000 or 200,000 Serbs.”);P2595,p.8(Tudman:”We have never said that we’ll return all Serbs.”).

truly meaningful change of policy.<sup>194</sup> In the meantime, the glacial pace of the return process had sapped the willingness of the exiled Serbs to return.<sup>195</sup>

59. While leading the effort to prevent the return of Serbs, Tudman did everything in his power to expedite the colonization of the Krajina with ethnic Croats. He led “a real effort to change the population of the Krajina that had nothing to do with housing displaced people.”<sup>196</sup> Tudman supervised Radić’s colonization activities<sup>197</sup> in what he deemed “one of our most important tasks”.<sup>198</sup> He appointed Čermak, whose tasks included preparing the Knin area for the rapid settlement of Croats.<sup>199</sup> He pledged Croatian resources to funding the immigration of Croats from the Diaspora, and created schemes to incentivise Croat returns.<sup>200</sup> He saw demographic issues as vital to national security<sup>201</sup>—Croats were to be settled in areas of strategic importance to Croatia, such as the border regions of the Krajina.<sup>202</sup> One year after Storm, Tudman publicly rejoiced in returning “Zvonimir’s Croatian town [Knin] to the fold of its motherland, Croatia, as pure as it was in [King] Zvonimir’s time.”<sup>203</sup>

## 2. Šušak

60. Gojko Šušak was a JCE member who had an instrumental role in political and military aspects of the common criminal purpose. As Minister of Defence, Šušak had authority over Croatian Armed Forces<sup>204</sup> and influence and/or authority over key members of the military leadership, including the three Accused,<sup>205</sup> Tudman,<sup>206</sup> Červenko,<sup>207</sup> and Laušić.<sup>208</sup> A key Tudman advisor,<sup>209</sup> Šušak also maintained close

<sup>194</sup> Galbraith:T.5113,5121-22,5152;see Bagić:T.26636-40;P2699,p.1.

<sup>195</sup> See P2594,p.4.

<sup>196</sup> Galbraith:T.5135;see,e.g., P470,p.56(Tudman changing “the demographic picture”).

<sup>197</sup> E.g., P463;P2590.

<sup>198</sup> P474,p.6.

<sup>199</sup> See “Čermak”.

<sup>200</sup> E.g., P463,pp.4,14,23,26;P2673,p.14.

<sup>201</sup> E.g., P463,p.11.

<sup>202</sup> Galbraith:T.4959;Škare-Ožbolt:T.18159;P463;P2590;see Radić:T.27264-65(acknowledging the strategic benefit of Croat colonization on both sides of the Bosnian border).

<sup>203</sup> P474,p.3.

<sup>204</sup> P1116,pp.9-11.

<sup>205</sup> Granić:T.24844-45;Herrick:T.20060;Feldi:D1674,p.4;see D724;D1364;D1733;P2159,para.146.

<sup>206</sup> Granić:T.24844-45(Šušak was “one of President Tudman’s closest associates”);Škare-Ožbolt:T.18146;Škegro:T.22195;P461,1D76-0110,pp.27-29(Šušak initially proposed to Tudman that the position to which Tudman later appointed Čermak be created(Radin:D1678,para.8)).

<sup>207</sup> See P470,p.24;P464,p.81.

<sup>208</sup> Laušić:T.15208.

<sup>209</sup> Granić:T.24844-45;Škare-Ožbolt:T.18146;Škegro:T.22195.

relationships with the three Accused.<sup>210</sup> Šušak cooperated with other JCE members and used members and officials of military and political organs to further the common criminal purpose.

61. Šušak actively participated in formulating the military plans for Storm at the Brijuni Meeting,<sup>211</sup> and implementing the military operation.<sup>212</sup> Šušak endorsed Tudman's plan to shell the Serb civilian population in Knin,<sup>213</sup> understanding that shelling civilian areas would cause mass flight of civilians.<sup>214</sup> He proposed dropping leaflets on the Krajina indicating routes that civilians could take to "pull out" of the area.<sup>215</sup> He was "very proud of the psychological operations in which they had given instructions...to the population on how to leave,"<sup>216</sup> and believed that Storm's "success" owed partly these psychological operations.<sup>217</sup> Šušak openly expressed his satisfaction at the successful implementation of the common criminal purpose.<sup>218</sup>

62. Šušak's failure to take steps to prevent or stop HV crimes, his steadfast denials of such crimes, and his explicit approval of the results of these crimes demonstrate that he shared—and contributed to—the common criminal purpose.

63. Šušak's professed "disappoint[ment]" with HV looting and burning in Glamoč and Grahovo during Summer<sup>219</sup> cannot be understood as genuine in light of his satisfaction with the result. He subsequently congratulated HV members who had taken part in the operation,<sup>220</sup> referred to "the action in Glamoč and Grahovo" as

<sup>210</sup> Granić:T.24844-45;Herrick:T.20060;Feldi:D1674,p.4;*see* D724;D1364;D1733;Laušić:P2159,para.146.

<sup>211</sup> P461;*see* "Crimes:Counts2&3".

<sup>212</sup> D1454,pp.10-12,28-29;D296,pp.6-10,12-15;P2673,p.3.

<sup>213</sup> P461,1D76-0110,pp.10,27-29.

<sup>214</sup> P461,1D76-0110,p.27.

<sup>215</sup> P461,1D76-0110,p.29;*see* Corn:T.21491.

<sup>216</sup> Galbraith:T.4941;Galbraith:P444,para.61;*see* P458,p.6(Galbraith's diary entry for 10/06/1995:Šušak informed Galbraith that "the HV would divide Krajina in four to allow the army and civilians to leave").

<sup>217</sup> Galbraith:P444,para.61.

<sup>218</sup> Galbraith:T.4941;Galbraith:P444,para.61;D1454,p.10;P456,p.4.

<sup>219</sup> P71,p.73.

<sup>220</sup> P71,pp.44,45(Gotovina said "The Supreme Commander and the Minister are congratulating all the participants on this operation"),73("G. Šušak- Passed by Glamoč and Grahovo. Very disappointed by burning and looting. Especially noticeable in 4<sup>th</sup> and 7<sup>th</sup> gbr. /Guard Brigade/. Congratulations to all units who took part in the action. Take a rest for few days and then liberation of Croatian areas").

being “the most successful of all,”<sup>221</sup> and declared Grahovo’s being “ethnically clean” as one of the leadership’s “successes.”<sup>222</sup>

64. Similarly, Šušak’s 2-Aug-95 instructions to take steps to prohibit HV burning and looting, to “prevent having to take the heroes of the Homeland War to court”<sup>223</sup> stemmed from concern about protecting Croatia’s reputation rather than disapproval of HV crime against Serbs, as demonstrated by his antagonism for Serbs,<sup>224</sup> his active participation and enthusiasm for the plans to drive Serbs out with artillery,<sup>225</sup> and his failure to take measures to prevent, punish, or stop HV crimes before or after giving this order.<sup>226</sup>

65. By the time VONS met on 11-Aug-95 to discuss “the current situation in the liberated territory,”<sup>227</sup> Šušak had received reports from various sources informing him of HV commission of Indictment crimes.<sup>228</sup> But the only crimes he reported he blamed on the ABiH.<sup>229</sup> Laušić repeatedly reported that the problems with HV discipline should be resolved by the HV operational chain of command,<sup>230</sup> but Šušak did not use his authority or influence over the HV or Gotovina—or anyone in the Croatian leadership, despite regular meetings with Tudman<sup>231</sup>—to address these concerns.

66. Similar to Gotovina,<sup>232</sup> Šušak demonstrated that he had the ability to contribute to preventing or stopping HV crime, but he exercised this power selectively by, for example, ordering the MP to guard warehouses storing military equipment,<sup>233</sup> while ignoring widespread HV theft of Serb property.

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<sup>221</sup> D1454,p.10.

<sup>222</sup> P456,p.4.

<sup>223</sup> D409,p.3.

<sup>224</sup> Rehn:P598,pp.5-6;Galbraith:T.4941;Galbraith:P444,para.61;P456,p.4;D1454,p.10.

<sup>225</sup> P461,1D76-0110,pp.17,24-32.

<sup>226</sup> *E.g.*, P470,p.53(Šušak was aware of and apparently unconcerned about Donji Lapac being destroyed by HV crime, stating, “Donji Lapac as such does not exist....Everything is destroyed, everything.”).

<sup>227</sup> P2673,p.2.

<sup>228</sup> P203;P2201;P882;D399;D293;D506;D401;P2202;D292;D567;D1536;P2236;P2235;D853;P2239;P2237;D850;P974;P2222,p.4.

<sup>229</sup> P2673,p.3.

<sup>230</sup> D506,p.2;D292,p.15;D567,p.10;D794,p.2;*see* Laušić:T.15257-58,15260.

<sup>231</sup> Škare-Ožbolt:T.18146;Škegro:T.22195.

<sup>232</sup> *See* “Gotovina”.

<sup>233</sup> D845;D795;Laušić:P2159,paras.180-183;P71,p.90;P71,p.97;Džolić:T.8972-73;P973,pp.8-9;D787,p.13.

67. Šušak contributed to the Croatian leadership's efforts to implement the common criminal purpose while avoiding a level of international condemnation that would threaten its successful implementation. For example:

- Šušak proposed psychological operations that would pretend to invite the Serbs to stay, while in fact encouraging them to leave.<sup>234</sup>
- Šušak participated in devising strategies to prevent the return of Serbs to the Krajina without threatening Croatia's standing with the international community. In discussions about the Eastern Slavonia settlement, he noted, "No one from the international community would accept the fact that we do not allow our citizens to live where they want," and suggested a more subtle arrangement aimed at avoiding a negative international reaction.<sup>235</sup>
- Šušak attempted to cover up and deny HV crimes, particularly to the international community, despite having ample notice of HV responsibility for widespread crimes.<sup>236</sup> After meeting to discuss concerns about Croatia's treatment of Serb civilians, Rehn characterized him as a "hardliner" who did not want to discuss the return of Serb refugees and insisted that crimes were committed by civilians rather than the military.<sup>237</sup>

68. Thus, while Herrick testified that Šušak's goals for Storm were to minimise international criticism and ensure that civilians and innocent people were not involved in the conflict,<sup>238</sup> it is clear from Šušak's conduct that any gesture towards the latter was staged to achieve the former.

69. In addition to initiating and promoting measures to drive the Serbs out of the Krajina, Šušak also participated in crafting measures to prevent the return of Serbs and continue to reduce the number of Serbs in Croatia, such as:

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<sup>234</sup> P461,1D76-0110,p.29.

<sup>235</sup> P466,p.9.

<sup>236</sup> Rehn:P598,pp.5-6;Granić:T.24865;P2662,p.10;P2673,pp.2-3.

<sup>237</sup> Rehn:P598,pp.5-6.

<sup>238</sup> Herrick:T.20075.

- Creating a law placing abandoned Serb properties under Croatian State ownership “on the pretext of preserving the property,”<sup>239</sup> in order to move Croats into these properties.<sup>240</sup>
- Colonizing the Krajina with Croats.<sup>241</sup>
- Promoting an exchange of populations, exchanging Serbs in Eastern Slavonia for Croats in Serbia as a means to minimize the number of Serbs in Croatia.<sup>242</sup>
- Devising ways to prevent the Serbs from returning to the Krajina.<sup>243</sup>
- Postponing Croatia’s census, to avoid negative international repercussions of officially acknowledging the massive reduction of the number of Serbs in Croatia as a result of Storm.<sup>244</sup>

### 3. Jarnjak

70. Interior Minister Ivan Jarnjak was a member of the JCE or was used by JCE members such as Tudman to further the common criminal purpose. Jarnjak was a key Tudman advisor. He cooperated with Tudman and other members of the Croatian leadership in crafting and defending the policy precluding the mass return of Serbs to Croatia,<sup>245</sup> (seeking Tudman’s instructions where the manner of implementing these policies was unclear to him)<sup>246</sup> and in populating strategic border areas in the Krajina with Croats.<sup>247</sup> In addition, Jarnjak cooperated with and used other MUP officials who were members or tools of the JCE to implement a policy of inaction within the MUP which condoned the widespread commission of crimes against Serbs and their property.

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<sup>239</sup> P462,pp.14-15.

<sup>240</sup> P462,pp.15-19;Galbraith:T.5200-06.

<sup>241</sup> P464,p.81;P2673,pp.2-5,13;P470,p.56.

<sup>242</sup> P466,p.5.

<sup>243</sup> P466,pp.8-9.

<sup>244</sup> P2498,p.3.

<sup>245</sup> P2589,p.15;P466,pp.25-26;P604,p.2;P639,para.41;D1781,pp.8-9;Rehn:T.6604;P2154,p.1;Hansen:T.14943-44;Rehn:P598,p.6;P601,p.2.

<sup>246</sup> P466,pp.25-26.

<sup>247</sup> P2673,p.13.

*MUP Role in Addressing the Post-Storm Crime Wave*

71. During and in the immediate aftermath of Storm, looting, burning and killing were the most serious and immediate crime problems in the Krajina.<sup>248</sup> The task of repressing this crime wave lay primarily with HV authorities; legal and practical impediments limited the ability of MUP personnel to fully respond to HV crime. For example, while MUP personnel could temporarily detain a suspected HV perpetrator pending the arrival of the MP,<sup>249</sup> MUP personnel could only hold an HV soldier in custody or take other coercive measures against an HV soldier, if the HV could not act.<sup>250</sup> In practice, MUP personnel were reluctant to attempt to detain HV members out of fear for their safety.<sup>251</sup>

72. Nevertheless, not only was the MUP responsible for addressing crimes committed by MUP members and civilians, Jarnjak and other MUP officials could have taken general measures to ameliorate the largely military crime wave by establishing a strong presence on the ground through patrols and checkpoints and instituting measures to facilitate cooperation between MUP and MP personnel. Jarnjak's policies ensured that only token measures were taken in this regard during the Indictment Period.

*Jarnjak's Policy of Inaction*

73. The MUP's policy of inaction towards such crimes emanated from Jarnjak who was concerned about these crimes only to the extent that resulting negative international attention interfered with Croatia's foreign policy goals or to the extent that crimes began to affect Croatian lives and property. This is demonstrated by Jarnjak's statements and inaction when confronted with reports of crimes against Serbs and their property. For example:

- At the 11-Aug-95 VONS meeting<sup>252</sup> Tudman asked Jarnjak for his report on "the completion of Operation Storm and on the current situation in the liberated territory."<sup>253</sup> Jarnjak made no mention of the ongoing crimes against

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<sup>248</sup> Albiston:T.24051.

<sup>249</sup> Laušić:P2159,para.59.

<sup>250</sup> D510,p.4.

<sup>251</sup> Buhin:P963,p.5;Buhin:T.9942-43;Cetina:T.23565-66;Laušić:P2159,paras.48-49,61-62.

<sup>252</sup> P2673.

<sup>253</sup> P2673,p.2.

Serbs and their property<sup>254</sup> of which senior MUP officials were well aware.<sup>255</sup> He identified terrain clearing as the “one big problem”,<sup>256</sup> focusing his comments on this issue (including his efforts to “round[] up about 4000 members of the civilian protection”<sup>257</sup> to assist in clearing the terrain) and resettling Croats in the liberated areas.<sup>258</sup>

- At another 11-Aug-95 meeting with Tudman, Šušak, Granić, and Šarinić, rather than addressing his subordinates’ failure to protect Serbs, Jarnjak complained about protests he was receiving that police officers failed to protect a convoy of Serbs that was attacked on 9-Aug-95.<sup>259</sup>
- Jarnjak worked with Čermak, Markač, Sačić, Morić, and others to suppress a legitimate investigation into the Special Police killings in Grubori on 25-Aug-95.<sup>260</sup>
- Jarnjak only instituted some specific and meaningful measures to repress crime in October 1995 when he deemed that Croatia’s international standing was compromised by the 28-Sep-95 killings in Varivode and that Croatian lives and property were beginning to be threatened by the crime wave.<sup>261</sup>
- In December 1995, Jarnjak made clear “that he was not going to investigate reports of mass graves.”<sup>262</sup>

*Jarnjak’s Failure to Institute Meaningful Measures to Address Crimes Against Serbs and Their Property*

74. Jarnjak and other senior officials adopted a policy of inaction towards crimes targeting Serbs and their property even before Storm. Although Jarnjak and other MUP officials predicted—based upon experiences from earlier military operations—

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<sup>254</sup> P2673, pp.2,6-9,13.

<sup>255</sup> Cetina:D1745,p.14;Morić:T.25636,25837-40;[REDACTED];P203;P2174,p.1;D46;P456,p.3; [REDACTED].

<sup>256</sup> P2673,p.7.

<sup>257</sup> P2673,p.7.

<sup>258</sup> P2673, pp.3-4,7,15.

<sup>259</sup> P456;P455.

<sup>260</sup> See “Markač:Grubori”.

<sup>261</sup> D215, pp.35-37.

<sup>262</sup> Rehn:P598, pp.5-6.

that Serbs and their property would be targeted in connection with Storm,<sup>263</sup> at pre-Storm meetings, these officials only made general statements addressing crime prevention. Their failure to implement concrete prevention measures or respond to the subsequent crime wave demonstrates that these generic gestures towards crime prevention did not reflect a genuine effort to prevent crimes against Serbs and their property.

75. At a 2-Aug-95 pre-Storm meeting which Jarnjak attended with Šušak, Laušić, and Assistant MUP Minister Morić, Jarnjak ensured that a system for processing Serb prisoners was in place.<sup>264</sup> On the other hand, despite some general discussion about preventing crimes similar to those that occurred during Flash and Medak Pocket, no specific measures were instituted to actually prevent such crimes from recurring.<sup>265</sup>

76. The same approach was taken the next day at a meeting attended by MUP, MPA, and SIS officials.<sup>266</sup> Morić, the senior-most MUP official at that meeting,<sup>267</sup> announced that entries and exits of towns would be secured and indicated that the MUP and MP should cooperate to ensure that problems experienced after earlier military operations did not recur. But he failed to identify measures to achieve that cooperation.<sup>268</sup> Similarly, although he referred to specific problems which occurred during earlier military operations, he failed to identify specific measures to overcome these problems.<sup>269</sup> No other MUP official spoke of preventing crimes against Serbs and their property.<sup>270</sup> The meeting was primarily focused on putting in place a system to process Serb prisoners.<sup>271</sup> The conclusions reached at this meeting exclusively concerned this matter.<sup>272</sup> MUP officials subsequently implemented specific operative procedures in conjunction with the HV, including the MPA, to process Serb prisoners.<sup>273</sup>

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<sup>263</sup> Laušić:P2159,paras.153-56,160;D409,p.5;P515,pp.2-3,5.

<sup>264</sup> D409,p.6.

<sup>265</sup> Morić:T.25817-19;Laušić:P2159,paras.153-60.

<sup>266</sup> D45.

<sup>267</sup> D45,p.3.

<sup>268</sup> D45,pp.4,5.

<sup>269</sup> D45,p.4.

<sup>270</sup> D45.

<sup>271</sup> D45,pp.6-8.

<sup>272</sup> D45,pp.7-8.

<sup>273</sup> P494,pp.2-3;P909,pp.3,5;P920;P1126,p.3;D269,pp.2-3.

77. As discussed above, MUP officials also participated in sanitation activities with the HV<sup>274</sup> pursuant to the objectives of Jarnjak and other Croatian leaders to carry out sanitation quickly and efficiently in order to swiftly prepare liberated areas for the resettlement of Croats.<sup>275</sup> The “crucial” importance of “clearing up the terrain” led MUP officials to adopt a blanket decision not to conduct on-site investigations into killings.<sup>276</sup>

78. The policies and priorities of Jarnjak and other MUP and HV officials ensured that scores of human remains were collected and buried without investigation, while hundreds of Serbs were investigated and referred for prosecution for crimes allegedly committed against Croats and the Croatian state.<sup>277</sup>

79. Following the 2 and 3 August meetings discussed above, virtually nothing was done to prevent crimes against Serbs and their property although Jarnjak and other MUP officials remained apprised of the ongoing crime wave.<sup>278</sup> While MUP officials cooperated with the HV, including the MPA, when investigating Serb prisoners, conducting sanitation, and protecting facilities vital to the resettlement of Croats, similar cooperative arrangements were not instituted to repress crimes against Serbs and their property.<sup>279</sup> The limited resources at the disposal of police stations were largely focused on protecting properties vital to the leadership’s efforts to resettle Croats.<sup>280</sup> Requests made by police stations for additional resources were not granted.<sup>281</sup> Only at the end of August 1995 did the Knin police station receive some additional resources.<sup>282</sup> On the other hand, from the outset, significant numbers of MUP personnel were assigned to process Serb prisoners and assist sanitation

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<sup>274</sup> D598;P496.

<sup>275</sup> P2673,pp.3-4,7,13,15.

<sup>276</sup> D235,p.1; [REDACTED];D232,p.2;D233,pp.1-2;D601,p.1;see [REDACTED];[REDACTED];D57,pp.2-6,8,10-11,16,20,24,26,29-31,34,39,45,48-50,52,74-76.

<sup>277</sup> P909,pp.3,21;P2580,p.3;see Kardum:T.9288;D372.

<sup>278</sup> Cetina:D1745,p.14;Morić:T.25636,25837-40;

[REDACTED];[REDACTED];P203;P2174,p.1;D46;D48;P456,p.3;[REDACTED];[REDACTED];P2166,p.45.

<sup>279</sup> P1126,p.3;D269,pp.2-3;P494,pp.2-3;P909,p.3,5;Buhin:T.10018-19,10037;

[REDACTED];[REDACTED];[REDACTED];[REDACTED];D598;P496;Theunens:P1113,pp.421-22.

<sup>280</sup> [REDACTED];Morić:T.25541-43;see Buhin:P963,p.6-7;Buhin:T.10022,10031-32,10038,10040;

[REDACTED];D212,p.1;D1844;D41;D583;D452;see P815,p.3;P941,pp.2-3;P2155,p.2.

<sup>281</sup> [REDACTED];[REDACTED];Buhin:T.10022;Cetina:T.23403;see Buhin:P963,p.4.

<sup>282</sup> Buhin:P963,p.4;Buhin:T.10022.

efforts.<sup>283</sup> The priority placed on processing Serb prisoners reduced the MUP's capacity to investigate crimes targeting Serbs and their property.<sup>284</sup>

80. Morić issued a solitary order on 3-Aug-95 with cursory reference to joint check-points and patrols<sup>285</sup> until Croatian authorities were eventually forced to act on 18-Aug-95 as a result of the threat posed by the crime wave to Croatia's international reputation.<sup>286</sup> Until 18-Aug-95, no instructions were given to lower level MUP officials to use joint check-points and patrols to repress crimes targeting Serb property,<sup>287</sup> despite a flood of information that these crimes were being committed on a massive scale.<sup>288</sup>

81. Although the 18-Aug-95 order issued by Morić included specific measures aimed at halting the looting and burning campaign,<sup>289</sup> this effort was only half-hearted. It is evident from the following that the objective of this order was to obtain some results to appease the international community, not to bring a wholesale end to the crime wave:

- MUP officials failed to institute the measures set out in Morić's 18-Aug-95 order prior to Storm, despite their awareness that Serbs and their property would be targeted;<sup>290</sup>
- MUP officials failed to respond meaningfully to the crime wave for almost two weeks despite their awareness of it;<sup>291</sup>
- the order expressly refers to the "political damage on the Republic of Croatia, both at home and abroad" as the sole justification for putting a stop to the looting and burning campaign;<sup>292</sup>

<sup>283</sup> P909,p.3;D234,pp.2-3;P899,p.8;P2673,p.7;D233,p.3;D603,pp.2-6;D444;D43;D614;D582;D451;D450;D449;D448;D447;D599;D605;D608;D615;P2571.

<sup>284</sup> Kardum:T.9251-52,9303-06,9400,9497.

<sup>285</sup> P493.

<sup>286</sup> D49.

<sup>287</sup> [REDACTED];Cetina:T.23398-99;Buhin:T.10017-18.

<sup>288</sup> D49;Morić:T.25636,25837-40;P2174,p.1;D46;D48;[REDACTED];P2166,p.45.

<sup>289</sup> D49;see D50;D574;D579.

<sup>290</sup> Laušić:P2159,paras.153-56,160;see D409,p.5;P515,pp.2-3,5.

<sup>291</sup> D49;Morić:T.25636,25837-40;see P2174,p.1;D46;D48;[REDACTED];P2166,p.45.

<sup>292</sup> D49,p.1.

- the order instructed MUP authorities not to investigate looting and burning incidents which occurred prior to 18-Aug-95, and Morić failed to follow-up to ensure that such investigations were eventually conducted;<sup>293</sup>
- neither this, nor any other of Morić's orders mention the numerous suspicious killings of Serb civilians which occurred during and after Storm;<sup>294</sup>
- Morić withdrew seconded policemen from liberated areas in September 1995 when senior MUP officials knew that criminal activity there was still a problem;<sup>295</sup> and;
- both Jarnjak and Morić were subsequently involved in suppressing a legitimate investigation into the Grubori killings.

82. Following the 18-Aug-95 order, senior MUP officials continued to ignore criminal activity targeting Serbs as illustrated by Cetina's response to a memorandum handed to him by Elleby in September 1995 listing numerous alleged killings.<sup>296</sup> Cetina acknowledged that "part of these persons were certainly murdered" and indicated he was "certain that certain investigations ha[d] been started" by the time he received the memorandum.<sup>297</sup> Yet, only the deaths of two of the victims listed in the memorandum—Sava Babić and Mika Korolija—were investigated in 1995.<sup>298</sup>

*Jarnjak's Steps to Repress the Crime Wave Were Not Targeted at Genuinely Addressing Crimes Against Serbs*

83. It was only in October 1995 when Jarnjak deemed that Croatia's international standing was compromised by the killings in Varivode and that Croatian lives and property had begun to be threatened by the crime wave, that Jarnjak initiated some meaningful crime prevention measures. Even then, these measures were targeted at addressing Jarnjak's specific concerns<sup>299</sup> and did not include a comprehensive effort

<sup>293</sup> D49,p.2;Morić:T.25565-66.

<sup>294</sup> D49;D50;D574;D579;[REDACTED].

<sup>295</sup> D454;D483;D595,p.6;Morić:T.25871-74;[REDACTED].

<sup>296</sup> Elleby:P216,p.5;D179;see Morić:T.25573("[t]he fact that they were sending me very general responses...made me realize that some chiefs of administrations and the management at a very high level were not properly involved with the problem").

<sup>297</sup> Cetina:T.23450-51.

<sup>298</sup> P2500,pp.1,4,9,21-22,31,34.

<sup>299</sup> D215,pp.35-37;D802;Elleby:P215,p.3;see Elleby:P216,p.4.

to investigate the numerous crimes targeted at Serbs and their property following Storm. As late as November 1998, the Croatian leadership acknowledged the persistent policy of non-investigation after Storm.<sup>300</sup>

84. This general non-investigation policy was only modified slightly following the killings in Varivode in order to relieve pressure from the international community. Almost all of the negligible number of investigations (thirty-four) conducted by the MUP in 1995 into burning incidents were carried out after these highly-publicized killings.<sup>301</sup> Similarly, almost all of the MUP's minuscule number of killing investigations (sixteen) in 1995 were conducted after the Varivode killings.<sup>302</sup> Some of these investigations were staged to conceal HV culpability. For example, when investigating the killings in Varivode and Gošić, MUP officials physically and mentally abused suspects to obtain speedy and false confessions.<sup>303</sup> Demobilization

<sup>300</sup> P2616,pp.3-5.

<sup>301</sup> See column 15 in P2500,pp.1,4-5,10,22-23,30,32-33,34;P2501,pp.1,3,5,8,10-11;P718;D215,pp.35-38; [REDACTED];[REDACTED].

<sup>302</sup> P2501,pp.1,3,5,8,10-12;see Bajić:T.20844-46;P2613,p.1;Elleby:P215,p.3;[REDACTED];[REDACTED];D57,p.2-6,8,10-11,16,20,24,26,29-31,34,39,45,48-50,52,74-76;Cetina:T.23437-38;P270,p.2;Kardum:P896,paras.33-34;Kardum:T.9329-30;Petković:T.19468(the victim of the killing in Zrmanja is identified as "Djuradj Čanak");P1076,0462-4246,pp.2,5(the victim of the Zrmanja incident is identified as Đurad Čanko);P2500,pp.1,4,9,21-22,30-32,34(indicates that the killing of Manda Tišma in Rudele sometime between 4 and 10 August 1995 was logged in the Knin police station's crime register on 27-Oct-95 (p.1), the killing of Janko Čakić in Čakići on 20-Aug-95 was logged in the Knin police station's crime register on 17-Oct-95 (p.4), the killing of Savo Šolaja in Očestovo on 20-Aug-95 was logged in the Knin police station's crime register on 24-Oct-95 (p.4), the killing of Milka Korolija in Ivoševci on 9-Sep-95 was logged in the Knin police station's crime register on 4-Oct-95 (p.9), the killing of Petar Bota on 28-Sep-95 in Kolarina was logged in the Benkovac police station's crime register on 3-Oct-95 (p.21), the killing of Simo Dokić on 17-Sep-95 in Markovac was logged in the Knin police station's crime register on 14-Nov-95 (p.22), the killing of Dragomir Čotra and Jeka and Obrad Opačić sometime between 20-Sep-95 and 1-Oct-95 in Bjelina was logged in the Benkovac police station's crime register on 14-Oct-95 (p.22), the killing of Dušan Šuica and Milan Marčetić in Zrmanja on 29-Sep-95 was logged in the Gračac police station's crime register on 5-Oct-95 (p.22), the killing of Vojo Omčikos in Knin on 18-Sep-95 was logged in the Knin police station's crime register on 11-Nov-95 (p.22), the killing of Vojin and Danica Šarić in Kakanj sometime between 18 and 24 September 1995 was logged in the Knin police station's crime register on 29-Nov-95 (p.22), the killing of an unidentified victim by an unidentified suspect sometime in August or September 1995 in Brgud was logged in the Benkovac police station's crime register on 7-Oct-95 (p.34), the killing of Dušan and Sena Ivanišević in Vojvodić sometime between 29-Aug-95 and 1-Sep-95 was logged in the Benkovac police station's crime register on 30-Nov-95 (p.34). Only the killing of Sava Babić in Mokro Polje sometime between 1 and 5 September 1995 was logged in a crime register prior to October 1995 (p.9), showing that the killing incident in Gošić on 27-Aug-95 was entered into the Knin police station's crime register on 4-Oct-95 and that the killing incident in Zrmanje in August 1995 was entered into the Gračac police station's crime register on 17-Oct-95 (p.31)).

<sup>303</sup> Perković:T.19494-98,19501-03,19508,19511;P1076,0463-4260,pp.13-14,18,71,83-87,91,98,102,108-09,111-12,115-16,117-20,133-34;Žganjer:T.11631.

dates were also falsified to conceal associations with the HV.<sup>304</sup> Concealing HV and SP culpability was a practice within the MUP even before the killings in Varivode.<sup>305</sup>

85. Although Valentić admitted at the 5-Oct-95 Government Session that the Croatian authorities had been ignoring murders in the liberated area,<sup>306</sup> even after the high-profile fallout of the Varivode killings, the vast majority of these killings continued to be ignored.<sup>307</sup> As noted above, in December 1995, Jarnjak made clear to Rehn “that he was not going to investigate reports of mass graves.”<sup>308</sup> True to his word, sanitation operations continued into January 1996<sup>309</sup> and a comprehensive effort to investigate killings only began in 2001.<sup>310</sup> Any serious effort within the MUP to address crimes targeting Serbs would have included a comprehensive investigation into the hundreds of corpses that MUP officials ordered their own personnel to sanitize.<sup>311</sup>

#### 4. Radić

86. Minister of Reconstruction and Development Jure Radić was either a member of the JCE or used by Tudman as a tool in the settlement of the Krajina with ethnic Croats. Radić cooperated with Tudman as well as senior government members, and used government officials, to plan and implement his colonization activities. These activities furthered the common criminal purpose by inhibiting the return of Serbs to their former homes.

87. Radić publicly advocated the settlement of ethnic Croats as a remedy for the “historical injustice” that, in the course of the previous 100 years or so, Knin had lost its Croat majority.<sup>312</sup> More privately, he echoed Tudman’s view that Serbs were a

<sup>304</sup> P1076,0463-4260,pp.18,21;Perković:T.19527-28.

<sup>305</sup> For example, MUP officials concealed the murder of Mika/Ilinka Crnogorac by HV perpetrators: [REDACTED];P36,p.3;P2157,pp.1-2;[REDACTED];P-136:T.742-44;D57,p.74;P1611;Clark:P1251,p.12;P1892;P1413;P2000;see “Markač:Grubori”.

<sup>306</sup> D215,p.38;see Bajić:T.20844-46;P2613,p.1.

<sup>307</sup> See Bajić:T.20843-46;P2613,p.1;Elleby:P215,p.3.

<sup>308</sup> Rehn:P598,pp.5-6.

<sup>309</sup> D382.

<sup>310</sup> Bajić:T.20844,20846;P2613,p.1.

<sup>311</sup> D232p.2;D603;D606;D607,pp.2-

3;D348;D351;D352;D354;D355;D356;D357;D358;D359;D360;D361;D362;D363;D364;D365;D366;D367;D369;D370;D371;D373;D375;D376;D377;D378;D379;D380;D381;D353;P1517;P2575,p.1;P2576 p.2;P2577,p.1;P2578,p.1;P2579,p.2;D372,p.2;D382.

<sup>312</sup> P2712,p.1;P2714,p.12;P2713,p.2;see Radić:T.27134,27250,27254.

strategic threat to Croatia and that an overwhelming Croat majority in the Krajina was necessary to ensure future stability.<sup>313</sup>

88. Radić was the architect of the plan to settle the Krajina with Croats. He identified “the biggest centres where we should focus on return, regarding the national interest”.<sup>314</sup> On a map he presented to Tudman—which Tudman then adopted to brief other subordinates<sup>315</sup>—Radić prioritised areas of the Krajina of strategic importance and thus “the urgency of colonising these places with Croats.”<sup>316</sup> This was Croatia’s “soft underbelly,” an area where Croatia was geographically “thinnest,” perceived as vital for national defence.<sup>317</sup> In his own words, it “matter[s] where we move and settle the people.”<sup>318</sup> He advocated the no more than “10%” policy to Tudman,<sup>319</sup> and articulated a plan (“just as the Serbs did in Lički Osik”<sup>320</sup>) to stimulate settlement by economic and social development.<sup>321</sup>

89. Radić knew that the existing housing stock in the Krajina exceeded the number of Croats he planned to move into the area. Even taking damaged stock into account, Radić knew that “there is not a single family that we cannot provide accommodation for. We have enough houses”.<sup>322</sup> The only problem was finding sufficient Croat returnees, leading him to encourage Tudman in his plans to entice Croats from the Diaspora to settle in the Krajina,<sup>323</sup> and institute legal measures to stimulate the settlement of Croats into the Krajina.<sup>324</sup> The destruction of Serb property located in low-density, rural environments thus did little or no harm to Croat settlement while seriously impeding Serb returns.<sup>325</sup> Indeed, Radić acknowledged that “torching” property would be the simplest way to prevent the Serbs returning.<sup>326</sup> When he did express concern to Tudman about the arson, he expressed particular concern about possible attacks on the towns, which he regarded as ripe for

<sup>313</sup> *E.g.*, P463,p.11;P462,p.16;P2678,p.44;P2673,pp.12-13;see Radić:T.27134,27186.

<sup>314</sup> P463,p.9.

<sup>315</sup> P463,p.12.

<sup>316</sup> P463,p.10.

<sup>317</sup> P2678,p.44.

<sup>318</sup> P462,p.20.

<sup>319</sup> P463,p.10.

<sup>320</sup> P463,p.10.

<sup>321</sup> P463,pp.11,16,18.

<sup>322</sup> P2590,p.12;see D1823,p.6;P2678,p.17.

<sup>323</sup> *E.g.*, P2590,pp.12-13;see P463,pp.4,22;P2711,p.7.

<sup>324</sup> *See, e.g.*, P2678,pp.5-10,12-17,41-44.

<sup>325</sup> *E.g.*, P807,pp.1-2;P824,pp.8,11-14.

<sup>326</sup> Radić:T.27343-44.

settlement.<sup>327</sup> In contrast, on 5-Oct-95, Radić noted that “there are villages which will be illogical—for strategic, communications, economic reasons—to restore.”<sup>328</sup>

90. Radić also directed and implemented the colonization programme.<sup>329</sup> He proposed and promoted executive and legislative measures to transfer Serb property to Croats in order to expedite settlement,<sup>330</sup> such as by urging Tudman to issue the decree on the temporary takeover of property due to the urgent need to move Croats into areas such as Donji Lapac.<sup>331</sup> His ministry was responsible for administering the decree and law.<sup>332</sup> Radić controlled his subordinates,<sup>333</sup> took personal action to install Croats in the liberated area and grant them property,<sup>334</sup> instructed local officials to house ethnic Croats,<sup>335</sup> and made concrete proposals to Tudman for further action.<sup>336</sup>

91. Radić attempted to deny his participation in colonizing the Krajina with Croats and preventing Serb returns. His inconsistent and self-serving testimony was not credible and indicates he was attempting to avoid the truth—that these activities were indeed aimed at permanently changing the demographics of the Krajina. His claim that “we’re not talking so much about changing the population but of populating certain places”<sup>337</sup> is contradicted by his repeated contemporaneous statements emphasizing the need to populate the Krajina with “Croats.”<sup>338</sup> His attempt to redefine the plain meaning of ethnic terms is incapable of belief.<sup>339</sup>

92. Similarly, he contradicted his attempts to portray discriminatory laws as instruments to encourage rapid Serb returns<sup>340</sup>—a claim countered by voluminous evidence discussed above demonstrating that the purpose and effect of these laws was to prevent Serb returns<sup>341</sup>—by agreeing that the leadership opposed mass returns prior to “normalizing” relations with the FRY. He also undermined his claim that “those

<sup>327</sup> P463,pp.4-5,8-10,12;P2673,p.21;see Radić:T.27140,27346,27350.

<sup>328</sup> P2678,p.16.

<sup>329</sup> P463,pp.8,17;P462,pp.20-21;P2590,p.25.

<sup>330</sup> See P476;D422;P2698;see D689,p.7;P2678,pp.11-17.

<sup>331</sup> P462,pp.14,16;see D1823,pp.6-7;P2711,p.7.

<sup>332</sup> E.g., P476;D422,p.3;P2698,p.8.

<sup>333</sup> E.g., P463,pp.19,26;P2590,pp.14,17-22.

<sup>334</sup> E.g., P2590,p.8;D1823,p.7.

<sup>335</sup> Pasić:T.22914-16,22930.

<sup>336</sup> E.g., P2590,pp.11-12,14;P463,p.1.

<sup>337</sup> Radić:T.27258-59.

<sup>338</sup> P463,p.10;P2678,p.16;P462,p.18;P2673,pp.20-22;P2713.

<sup>339</sup> E.g., Radić:T.27186,27190.

<sup>340</sup> Radić:T.27199.

<sup>341</sup> Contrast Radić:T.27158,27242-46 with Radić:T.27305.

who wanted to come back did come back”<sup>342</sup> by attempting to justify the non-return of Serbs (“first of all, because they did not wish to return, and, secondly, because we did not wish for the aggressors to come back”<sup>343</sup>). Only the second claim is true, and Radić admitted his view that “when we’re talking about Serbs, at least a half of them were aggressors in Croatia”.<sup>344</sup> He agreed with Tudman’s sentiment that the displaced Serbs had “opted out” of citizenship.<sup>345</sup>

## 5. Červenko

93. As Chief of the HV Main Staff, Zvonimir Červenko was a JCE member who actively participated in planning, preparing, and executing Storm members of the Croatian Forces to further the common criminal purpose.

94. Červenko was loyal and obedient to Tudman,<sup>346</sup> and committed to pursuing Tudman’s policies through his position as Chief of the HV Main Staff.<sup>347</sup> Červenko met frequently with<sup>348</sup> and reported daily to Tudman.<sup>349</sup>

95. Červenko participated in setting the details of Storm at the Brijuni Meeting and following meetings,<sup>350</sup> and in preparing for the impending attack.<sup>351</sup> Červenko was mindful of the political circumstances surrounding Storm<sup>352</sup> and proposed that Markač stage an incident to provide a pretext for Storm that the international community might accept.<sup>353</sup> Having endorsed Tudman’s plan to shell the Serb civilian

<sup>342</sup> Radić:T.27213-14.

<sup>343</sup> Radić:T.27283.

<sup>344</sup> Radić:T.27262,27283.

<sup>345</sup> *E.g.*, Radić:T.27313-16.

<sup>346</sup> D1454,p.30(Červenko said to Tudman “I will carry out the assignment according to your order”);P464,p.84(Červenko said “We will finish all this and put it together, and then we would ask you to see us again one day to have your final decision.”).

<sup>347</sup> D534,pp.34-35.

<sup>348</sup> *E.g.*,P461;P2496(17/11/1994);[REDACTED];D1473(11/01/1995);P2711(30/06/1995);D534(17/07/1995);D1454(03/08/1995);P2673(11/08/1995);P453(16/08/1995);P464(23/08/1995);D890(23/08/1995);P470(26/09/1995);P2589(25/10/1995);P2498(12/12/1995).

<sup>349</sup> P2602;P2531,p.11;D1096;Theunens:T.13451-52;Theunens:P1113,pp.383-84.

<sup>350</sup> P461,1D76-0110,pp.6-8,11-16,19(1D76-0001),20-21,25,30,32-33;D1454,pp.16(“during the last eight days, we have done everything necessary concerning the organisation and every other aspect. I drew up an information for you last night”),22(“we will achieve complete surprise”),29(“Mr. President, if you order that the operation should commence at 0500 hours, we will do so”).

<sup>351</sup> D1094;P2522;Theunens:P1113,pp.343-44;*see* “Crimes:Counts2&3.”

<sup>352</sup> P461,1D76-0110,pp.1,7;*see* D1454,pp.1-9;*see* Akashi:T.21751-54;Granić:T.24974.

<sup>353</sup> P461,1D76-0110,p.9.

population in Knin<sup>354</sup> at the Brijuni Meeting, Červenko later denied any “excessive or random” shelling in Knin.<sup>355</sup>

96. Červenko exercised overall command and control over the HV<sup>356</sup> throughout Storm and its aftermath.<sup>357</sup> The SP was also subordinate to Červenko and the Main Staff during this period.<sup>358</sup> Červenko was in direct communication with Gotovina,<sup>359</sup> Čermak,<sup>360</sup> and Markač,<sup>361</sup> all of whom received orders from and reported to Červenko. The MPA also reported to Červenko.<sup>362</sup>

97. Červenko had ample notice of the wave of HV crimes against Serbs and their property during and after Storm.<sup>363</sup> In particular, Lausić repeatedly reported that problems with HV discipline needed to be resolved by the HV operational chain of command, of which Červenko was the head.<sup>364</sup>

98. Despite these warnings, Červenko failed to exercise his command and control to address HV crimes. In the early stages of Storm, he issued two orders to MD commanders to prevent HV crime, the first of which acknowledged that HV crimes were already being committed in the liberated areas.<sup>365</sup> Similar to Gotovina’s weak and ineffective orders, Červenko’s orders contained no measures to monitor, report, follow up on or otherwise ensure the order was implemented. Although Červenko knew that HV crime was continuing despite his orders,<sup>366</sup> when he reported to the VONS on 11-Aug-95 on the “current situation in the liberated territory,” Červenko

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<sup>354</sup> P461,1D76-0110,p.10.

<sup>355</sup> Granić:T.24669.

<sup>356</sup> D538;D1094;D550;D598;P2521;D322;D559;D1605;D1640(regarding military depots: “Stop all devastation, regardless of what the facility’s purpose is”);D768;Botteri:D878,para.18;P407;Theunens:P1113,pp.28,329,552;P2622;P2522;D561.

<sup>357</sup> D387.

<sup>358</sup> D537;D543;D1205;D550;P2521;D322;D1102;D1103;D1105;Repinc:D1932,pp.107-10;Theunens:P1113,p.552.

<sup>359</sup> D1538;P407;Theunens:T.13514.

<sup>360</sup> D768;P1219;Feldi:T.21829-30,21857;P2526,pp.21,114-15;D561.

<sup>361</sup> P2521;P583;P585;P2376;D1100;P574;D99;P2531,p.11;p.16;P2530,pp.12-15;Theunens,P1113,p.375;P2521;D562.

<sup>362</sup> Laušić:T.15336-37;D1605;P2526,p.79-80;see Feldi:D1673,p.33;Laušić:T.15307-09;P2166,p.37(Laušić’s diary entry: “General Červenko – informed of the situation!”).

<sup>363</sup> D1538;P407;P2526,p.79;D293;D506;D292;P877;D567;Laušić:T.15307-09;P2166,p.37(Laušić’s diary entry: “General Červenko – informed with the situation!”);see D47.

<sup>364</sup> D506,p.2;D292,p.15;see D567,p.10;D794,p.2;Laušić:T.15257-58,15260.

<sup>365</sup> D323;D324,p.2;Theunens:P1113,pp.571-72.

<sup>366</sup> See D293,p.5;D506,p.2.

did not mention HV crime.<sup>367</sup> His report to Tudman on Storm, submitted on 21-Aug-95, is also noticeably lacking in any reference to HV crime.<sup>368</sup>

99. As with Gotovina, Červenko's efforts to address incidents unrelated to Serb civilians demonstrated that he had the ability to enforce military discipline, and exercised it selectively.<sup>369</sup> For example, on 6-Aug-95, Červenko ordered MD commanders to ensure that internationals not be put at risk.<sup>370</sup> When he later received a letter from Janvier stating that Gotovina and his subordinates had threatened and behaved inappropriately toward UNCRO members, he sent a warning letter to Gotovina out of concern for Croatia's reputation in the international community.<sup>371</sup> Červenko sent no such warnings to Gotovina indicating that he was failing in his duties to maintain discipline over subordinates committing crimes against Serbs.<sup>372</sup>

100. At Tudman's request, Červenko created a plan for distributing military units to assist in colonizing previously predominantly Serb areas with Croats.<sup>373</sup> Tudman and Radić met with Červenko and other members of the military leadership on 23-Aug-95 to discuss Červenko's plan for furthering Tudman's demographic agenda.<sup>374</sup> On 26-Sep-95 Tudman and Červenko again discussed stationing of military personnel so as to effect demographic change.<sup>375</sup>

101. Červenko oversaw HV and SP mop-up operations,<sup>376</sup> which purported to eliminate enemy combatants, but were effectively used to round up mostly elderly Serb civilians<sup>377</sup> who were then handed over to MUP authorities.<sup>378</sup>

102. Červenko was also involved in overseeing the sanitation operations<sup>379</sup> discussed above.

<sup>367</sup> P2673,p.2.

<sup>368</sup>P2602,p.11;see Theunens:P1113,p.434(HV Main Staff inspected the MD in October, stated without expounding that a "large number of incidents" had occurred and were not decreasing, but did not mention HV crimes against civilians or take measures to decrease the number of incidents.).

<sup>369</sup> See, e.g., D879;P1013;Botteri:D878,para.18;Botteri:T.10932;Theunens:P1113,p.643-44.

<sup>370</sup> D322.

<sup>371</sup> D1538;Forand:P332,p.4.

<sup>372</sup> Theunens:T.13515.

<sup>373</sup> P464,pp.7-9,81,84.

<sup>374</sup> See P464,pp.7-9,81,84.

<sup>375</sup> P470,p.51.

<sup>376</sup> D559,pp.1-2;D561;Theunens:P1113,p.329;D1103;see Pavlović:T.25278.

<sup>377</sup> P2376;P574;D1100;see P2532,p.83;P576;Theunens:P1113,p.547.

<sup>378</sup> See, e.g., P1235,p.1;P614,p.17;P48,p.2(HRAT reported on "aggressive 'mop-up' operation spearheaded by the Croatian [SP] now underway in the Sector, and reports received in the recent past of prisoners being mistreated and even executed in some cases");see also "Markač."

## 6. Laušić

103. As Chief of the MPA and pursuant to his professional line of command, Mate Laušić was responsible for allocating MP resources, and overseeing and maintaining the uniform execution of MP tasks. Laušić carried out these responsibilities and reported up his chain of command in a manner consistent with Gotovina's exercise of command and control over MP daily tasks. Like Gotovina, Laušić largely ignored HV members' commission of Indictment crimes, thereby furthering the common criminal purpose as a member or tool of the JCE.

104. On 2 and 3 August 1995, Laušić attended three meetings at different levels to discuss MUP and MP coordination during Storm.<sup>380</sup> These meetings included general discussions about avoiding the "negative experiences" of Flash, during which the MP failed to demonstrate resolve and coordination in preventing HV crime.<sup>381</sup> Despite noting these prior inadequacies, Laušić took no specific measures in the wake of Storm to ensure that HV crimes would be prevented.<sup>382</sup>

105. Consistent with Gotovina's priority tasks for the MP, Laušić's primary focus at these planning meetings was to ensure the efficient processing of Serb combatants and civilians. During the final meeting with top officials from MUP, SIS, and the MPA on 3-Aug-95, Laušić participated in setting out "a basic concept of cooperation" between the MP and civilian police for Storm.<sup>383</sup> A general plan was made for coordinated efforts with respect to various tasks, but the only issue discussed in detail was the procedure for processing Serbs who remained in the area.<sup>384</sup> On 3-Aug-95, Laušić issued an order on the work of the MP and cooperation with the civilian police.<sup>385</sup> Consistent with the 3-Aug-95 meeting, this order made cursory references to a series of cooperative efforts—traffic, checkpoints, joint patrols—before setting out detailed instructions for processing detained Serbs and escorting them to reception centres.<sup>386</sup> Serbs who were "members of para-military and para-police formations and

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<sup>379</sup> Sruk:T.23311;D598;D612;Sruk:D1737,para.6.

<sup>380</sup> D409,pp.5-6;Laušić:T.15395;D794.

<sup>381</sup> D409,p.6;D794,p.3;Laušić:T.15397-98.

<sup>382</sup> Morić:T.25817-19;see Laušić:P2159,paras.153-60.

<sup>383</sup> Laušić:T.15260.

<sup>384</sup> D794,pp.3-4.

<sup>385</sup> D269.

<sup>386</sup> D269,pp.2-3.

civilians fit for military service”<sup>387</sup> were to be treated as prisoners of war. Women, children, and the elderly would be removed to separate Reception Centres.<sup>388</sup> Predictably, the planning and resources that went into developing this detailed joint MP/MUP procedure for processing POWs resulted in a process that functioned smoothly during and following Storm.<sup>389</sup>

106. Laušić attributed some of the problems encountered during Flash to the fact that he was “missing [his] ears and eyes on the ground.”<sup>390</sup> However, the evidence reveals that Laušić’s need for such “ears and eyes” had little to do with monitoring Indictment crimes. In particular:

- Following the meetings on 2-Aug-95, Laušić issued two orders that established and staffed three MPA IZMs in order to avoid the problems of Flash, sending Jurić to coordinate the 72<sup>nd</sup> and 73<sup>rd</sup> MP Battalions’ work with the MUP.<sup>391</sup> Consistent with Gotovina’s priorities set for the MP, these orders discussed MP cooperation with the civilian police on tasks such as traffic control, but neither mentioned preventing HV crimes such as looting and burning.<sup>392</sup>
- Jurić’s reports to Laušić during the Indictment Period rarely mentioned HV crime against Serbs and their property, and certainly did not convey the gravity of the situation.<sup>393</sup> Despite knowing that the HV crime wave was more extensive than reflected in Jurić’s reports, Laušić was evidently satisfied, as he did not complain about the quality of Jurić’s reports or request additional information about HV crimes.
- Although Laušić appointed Jurić to the Split MD IZM to assist in coordinating the joint activities of the MP and MUP,<sup>394</sup> Laušić never

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<sup>387</sup> D269,p.2.

<sup>388</sup> D269,p.3.

<sup>389</sup> P2222,p.4(“we especially emphasize the cooperation of the Crime Military Police with the employees of the Zadar-Knin Police Administration in the sense of treatment and processing the prisoners of war, and in this cooperation, except for the individual problems, the satisfactory level has been reached”);D1535;P909;P905;*see* P2553;P2552;P2554;D1535;Milas:D1533,para.6;Milas:T.19196;*see* P2236;P2235;D853;P2239;P2237;P974;P2222,p.4;*see also* “Gotovina:MP”.

<sup>390</sup> Laušić:P2159,para.162.

<sup>391</sup> D267,pp.2,4;D268;Laušić:P2159,para.162.

<sup>392</sup> D267;D268.

<sup>393</sup> *See* D732;D733;D734;D211.

<sup>394</sup> D267;D268;Jurić:T.27412,27426-27.

requested information or assistance from Jurić in relation to the effectiveness of those joint activities, or their obvious lack of success.

107. During the Indictment Period, Laušić reported to his superiors on several occasions about the need to address the problem of HV crime through the HV line of command.<sup>395</sup> Although this assessment was accurate, Laušić reported this problem only sporadically, and in a manner that underplayed the catastrophic situation on the ground. For example, his daily reports between 4 and 11 August 1995 focus on MP activities such as processing Serbs, traffic control, and securing HV facilities and personnel.<sup>396</sup> Only two of these seven reports include any mention of Indictment crimes.<sup>397</sup> In contrast to the detailed reporting about matters such as HV members injuring each other or failing to report for duty,<sup>398</sup> these two reports do not mention the number or identities of the perpetrators or any measures taken to arrest, investigate, file crime reports against, or otherwise punish the perpetrators.

108. Furthermore, even though Laušić's 9-Aug-95 report indicated that HV looting and burning were "grave problems,"<sup>399</sup> the report asked for MP troops to be withdrawn from combat "especially" to conduct searches for enemy remnants.<sup>400</sup> Although Gotovina never asked Laušić to allocate more MP personnel to deal with HV crime,<sup>401</sup> similarly Laušić never contacted Gotovina to discuss the adequacy of existing MP resources or the manner in which the MP were dealing with the ongoing problem of HV crime. Laušić claimed that this was because Gotovina was formally outside of Laušić's command chain<sup>402</sup> but this fact did not preclude Laušić from discussing such problems with MD commanders.<sup>403</sup> This weak excuse reveals Laušić's general indifference toward the HV crime situation, an approach that reflected the overall position of the JCE members.

109. Laušić received a letter from Morić on 10-Aug-95 complaining about the MP's failure to stem HV crime and its impact on MUP/MP cooperation.<sup>404</sup>

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<sup>395</sup> D506,p.2;D292,p.15;P2166,p.70;D567,p.10;D794,p.2;Laušić:T.15258,15260.

<sup>396</sup> P2201;P882;D399;D293;D506;D401;P2202.

<sup>397</sup> D293,p.5;D506,p.3.

<sup>398</sup> P2201,p.5;P882,pp.3-4.

<sup>399</sup> D506,p.2.

<sup>400</sup> D506,p.4.

<sup>401</sup> Laušić:P2159,para.239.

<sup>402</sup> Laušić:T.15504.

<sup>403</sup> See Laušić:T.15508-09.

<sup>404</sup> D46.

Nevertheless, Laušić failed to even mention Morić's complaint—or the issue of burning and looting at all—in his subsequent daily report.<sup>405</sup> Over the next few days, Morić sent similar complaints to Laušić.<sup>406</sup> Despite the fact that the strategies relating to MP/MUP coordination fell within his professional line of command, Laušić failed to take any action to address Morić's concerns until the two met on 17-Aug-95.<sup>407</sup> Laušić failed to acknowledge the campaign of HV looting and burning in any of his own orders until 18-Aug-95.<sup>408</sup> Like Morić's order of the same day,<sup>409</sup> Laušić's order refers explicitly to international condemnation. That, in addition to the belated response to the crime wave, suggests that international pressure triggered both orders.<sup>410</sup> The absence of any genuine underlying intent to stem the crime wave is further reflected by the fact that, although crimes against Serbs and their property continued, Laušić did not meet with Morić again to discuss the issue until 6-Sep-95.<sup>411</sup>

110. Laušić's reaction to reports of HV looting conformed with Gotovina's orders to the MP to simply collect and control looted items, without taking steps to punish HV looters.<sup>412</sup> The few reports in which Laušić mentioned HV looting reveal his approval of the MP's method of confiscating looted property, rather than properly treating looting as a crime by arresting or initiating proceedings against the perpetrators.<sup>413</sup>

111. Following the international outcry over the 28-Sep-95 civilian murders in Varivode,<sup>414</sup> on 6-Oct-95, Laušić finally made a meaningful response to preventing HV crimes by initiating "Operative Action Varivode".<sup>415</sup> Although, as discussed above, the murders in Varivode were not properly investigated through this effort, OA Varivode did include some genuine crime prevention measures. This belated effort reveals Laušić's capacity through the professional line to bolster joint MP/MUP

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<sup>405</sup> P2202.

<sup>406</sup> D48;P2166,p.45.

<sup>407</sup> P2166,p.45.

<sup>408</sup> P877.

<sup>409</sup> D49,p.1.

<sup>410</sup> P877,p.2(Laušić's order referred to a "number of protests from foreign ambassadors about the inappropriate conduct of HV soldiers on liberated territory").

<sup>411</sup> P2166,p.60.

<sup>412</sup> D643(Gotovina's order).

<sup>413</sup> D293,p.5;D506,p.3;D292,pp.15-16(recommended a ban on using unregistered motor vehicles (spoil of the war), and instead registering the vehicles so the roads would be safer);D567,p.8.

<sup>414</sup> P718(press coverage at p.6);P2678,p.3;P685.

efforts to combat HV crime<sup>416</sup> and his general failure to exercise that capacity during the Indictment Period.

## 7. Norac and Crnjac

112. As commanders of the Gospić MD (covering the area of Sector South north of the Split MD and part of Sector North<sup>417</sup>) and Karlovac MD (in Sector North), Mirko Norac<sup>418</sup> and Miljenko Crnjac,<sup>419</sup> respectively, were instrumental in implementing the common criminal purpose as either members or tools of the JCE. Both participated in planning and preparing for Storm at Brijuni,<sup>420</sup> and in finalizing the details during the HV leadership meeting on 2-Aug-95.<sup>421</sup> Norac expressed his willingness to participate in staging a pretext for Storm by shelling Croat-inhabited areas.<sup>422</sup>

113. Like Gotovina in the Split MD, Norac and Crnjac used members of the Croatian Forces to implement the same pattern of shelling civilian areas—resulting in civilian flight, which was followed by looting, burning, and killing of Serb civilians in their respective AORs.<sup>423</sup>

114. Norac's forces worked closely with Markač's SP forces in shelling,<sup>424</sup> then burning and destroying Donji Lapac,<sup>425</sup> after which Norac falsely denied that his troops were involved.<sup>426</sup>

115. Like Gotovina, Norac justified the conduct of his subordinates toward Serbs, whom he labeled "Balkan barbarians,"<sup>427</sup> insisting "that any nation could deal with their insubordinate minorities in whichever way they liked."<sup>428</sup>

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<sup>415</sup> P2189.

<sup>416</sup> D802,p.4.

<sup>417</sup> See [REDACTED]; [REDACTED]; Forand:T.4115; Forand:P332,p.3; D332; D2074; D1933; D279,p.1; D559,pp.5-6; D183,p.6,fn.8 (Human Rights Watch/Helsinki report setting forth the municipalities in the sectors, indicating many Gospić MD municipalities were in Sector South, Karlovac MD municipalities were in Sector North); P401,pp.51,56.

<sup>418</sup> See P2166,pp.39-40.

<sup>419</sup> See P2166,p.77.

<sup>420</sup> P461,1D76-0110,pp.16-18,30-32.

<sup>421</sup> D409,pp.1,4.

<sup>422</sup> P461,1D76-0110,pp.30-31; see Crimes:Counts2&3.

<sup>423</sup> P458,pp.25-26,53,58; Rehn:P598,pp.2-3; P641; D688; D690,pp.1-2; P644,pp.4,7-11; P639,pp.10-11,13-14; P646,pp.1-2; see P642; P604; [REDACTED]; see D409,p.2.

<sup>424</sup> D614,p.13; Turkalj:P1149,para.37; Turkalj:P1151,pp.33-34; Turkalj:T.13614-15.

## 8. Ademi

116. Rahim Ademi contributed to the common criminal purpose—as either a member or tool of the JCE—through his dual roles as Commander of OG North and Deputy Commander/Chief of Staff of the Split MD.

117. As Commander of OG North,<sup>429</sup> Ademi used OG North forces to implement Gotovina's Attack Order. For example, on 4 and 5 August 1995, OG North units<sup>430</sup>—TS-3, 4GBR, and 7GBR—placed the town of shelled Knin under artillery fire, followed by a ground assault in which his subordinates entered and took Knin.<sup>431</sup> Like Gotovina, Ademi failed to take measures through the command chain to prevent or punish his subordinates' crimes against Serb civilians.<sup>432</sup> Ademi knew that prior to Storm OG North units had been looting and burning in Grahovo and Glamoč.<sup>433</sup> Nevertheless, Ademi failed to take measures to prevent these units from repeating crimes against Serbs and their property during Storm. By 5-Aug-95, HV members, including the 4GBR and 7GBR, were burning, looting, and killing Serb civilians in OG North's AOR.<sup>434</sup> Ademi was present in Knin on 5-Aug-95, and therefore witnessed such criminal activity.<sup>435</sup>

118. As Deputy Commander and Chief of Staff of the Split MD,<sup>436</sup> Ademi was exclusively authorized to sign orders on Gotovina's behalf.<sup>437</sup> He also issued verbal<sup>438</sup>

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<sup>425</sup> See Rajčić:T.16564-65;D409,p.4;D1924;Repinc:D1932,pp.57,59-61;

[REDACTED];Markač:P2531,p.12;D1924;P614,pp.12-13;[REDACTED];P470,pp.52-53.

<sup>426</sup> P470,p.54.

<sup>427</sup> Leschly:P888,para.41.

<sup>428</sup> P893,p.2.

<sup>429</sup> P1125,p.7;D1205;D793;Theunens:T.12732;Theunens:P1113,p.258.

<sup>430</sup> P1125,pp.6-8;D970.

<sup>431</sup> P2342,p.3(instruction in the war diary for TS-3: "from 12.30 hours every 15 minutes x 2 at Knin.");P1267;P2461;P2478;P1269;P2339;P2455.

<sup>432</sup> D1205;D793.

<sup>433</sup> P71,pp.43,47-50,62,73;see P2665,p.2.

<sup>434</sup> See, "Crimes:Counts4&5";"Crimes:Counts6&7" and Related Annexes.

<sup>435</sup> Luković:D1687,para.24.

<sup>436</sup> Theunens:P1113,pp.88,93,258,308,311,498,606;D1699;D884(Ademi's oral order to dismiss soldiers "who are behaving in a manner that causes disturbance of discipline and order");Luković:D1687,para.24;Dondo:D1696,p.7;P71,pp.110,170.

<sup>437</sup> Theunens:T.12361;D985;D1638,p.26;D1029;D981;P2705;D1002;D307;Theunens:P1113,pp.626-27,628;see P1131;D1259;D305(order issued in response to Cermak's request to Ademi for assistance, D304).

<sup>438</sup> P71,pp.34,47-49,50,52,57,79,81,85,91,102-03,106-07,110,112,113,115,119,122,129,160;see P71,pp.84,130.

and written orders<sup>439</sup> as Deputy Commander. Ademi presided over regular working meetings with subordinate commanders in Gotovina's absence.<sup>440</sup> Ademi communicated with Čermak directly,<sup>441</sup> and issued orders on Gotovina's behalf in response to requests sent by Čermak.<sup>442</sup>

119. Orders that Ademi issued as Deputy Commander demonstrate that he shared Gotovina's disregard for HV crime against Serbs. On 29-Jul-95, Ademi forbade looting and burning, but made no effort to implement this order, which was ineffective.<sup>443</sup> On 19-Aug-95, after the Assistant PD Commander reported that "burning down of houses is a huge problem" and "journalists and others who come to visit the area could prove that it was arson," Ademi issued a similarly weak order that burning and looting "are to be banned," without monitoring or implementation measures.<sup>444</sup>

120. After witnessing the widespread devastation of Knin by his subordinates, on 5-Aug-95 Ademi ordered that Radio Knin and Croatian Radio and Television premises, be secured from "plunder and devastation."<sup>445</sup> The narrow focus of this order is consistent with the Croatian leadership's endeavours to protect infrastructure in the area to facilitate the colonization of the area with Croats.<sup>446</sup>

## II. GOTOVINA

### A. Overview of Gotovina's Criminal Liability

#### 1. Joint Criminal Enterprise

##### *Gotovina Shared the Common Criminal Purpose*

121. Gotovina participated in planning and implementing Storm in a manner aimed at forcing the predominantly Serb civilian population out of the Krajina. Gotovina ordered a shelling attack directed at the Serb civilian population of the Krajina.

<sup>439</sup> D1699;P1143;Theunens:P1113,pp.385,498;606-07,636-37.

<sup>440</sup> P71,p.106-07(14-Aug-95),108-09(15-Aug-95),115(18-Aug-95),119(19-Aug-95);Theunens:T.12376;Theunens:P1113,pp.376,428.

<sup>441</sup> D304.

<sup>442</sup> D305;D1029;Theunens:T.13131.

<sup>443</sup> P71,p.50.

<sup>444</sup> P71,p.121.

<sup>445</sup> P2348,p.5;P71,p.85;Theunens:P1113,p.385.

Gotovina ordered his subordinates to capture territory in the Krajina while persistently and deliberately failing to take genuine measures to prevent or stop Croatian Forces' crimes against Serbs and their property. Gotovina directed international attention and condemnation to Čermak—the JCE member designated to deflect negative international attention. When confronted by internationals about crimes committed by Croatian Forces, Gotovina expressed his acceptance of these crimes as justified acts of revenge. These factors demonstrate that Gotovina shared the common criminal purpose and intended the crimes falling within that purpose: persecution, deportation and forcible transfer, plunder, and wanton destruction.

*Gotovina's Awareness of Possible Consequent Crimes*

122. The crimes of murder, cruel treatment, and inhumane acts (as well as persecution, plunder and wanton destruction to the extent those crimes are found to fall outside the common criminal purpose) were natural and foreseeable consequences of the implementation of the JCE to permanently remove the Krajina Serb population by force, fear, or threat of force. The following factors demonstrate that Gotovina knew these crimes were possible consequences of the execution of the JCE and willingly took the risk that these crimes might be committed:<sup>447</sup>

- By ordering his subordinates to directly attack civilians in his Attack Order, Gotovina signalled to his subordinates that targeting civilians was one of the objectives of Storm.
- Gotovina knew that even if the shelling attack achieved its goal, some Krajina Serbs would remain in the area—those who “ha[d] no possibility of leaving.”<sup>448</sup>
- Gotovina knew that troops he was sending into the Krajina to conduct the ground assault had been torching Serb homes and looting Serb property with impunity just days before. He also knew that many of these troops were

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<sup>446</sup> See P470,p.53;P2590,pp.11-12;see also “Cermak”.

<sup>447</sup> *Karadžić Appeals Foreseeability Decision*,paras.15,18;*Martić AJ*,para.168;*Brdanin AJ*,paras.365,411;*Stakić AJ*,paras.65,87;*Vasiljević AJ*,para.101;*Kmojelac AJ*,para.32.

<sup>448</sup> P461,1D76-0110,p.15.

motivated by revenge. Yet Gotovina took no meaningful measures to protect Serb civilians remaining in the Krajina.

- As soon as the Storm ground assault began, Gotovina received reports indicating his troops were burning and looting on a massive scale, and endangering the lives of civilians. Gotovina failed to react to these reports in any meaningful way, even as they mounted over time. Instead, Gotovina participated in “sanitizing” the terrain of human corpses, many of whom were victims of Croatian forces.

*Gotovina Significantly Contributed to the Common Criminal Purpose*

123. Gotovina’s acts and omissions were integral to the planning and execution of the common criminal purpose. As the senior operational commander responsible for the conduct of Storm in the southern Krajina, Gotovina cooperated with other JCE members and used various members of the Croatian Forces, particularly members of the Split MD, to implement the common criminal purpose. Gotovina’s main contributions to the common criminal purpose were:

- Gotovina, together with Tudman, Markaž, and other JCE members, actively participated in the planning of Storm, particularly the aspects aimed at forcing out the Krajina Serb population with artillery while avoiding international condemnation.
- Gotovina planned, ordered and implemented, in co-ordination with Markač’s SP forces, a shelling attack against the Krajina Serb population designed to drive out Krajina Serbs.
- Gotovina ordered, encouraged, facilitated and/or condoned the Croatian Forces’ plunder and destruction of Serb property, and murder and mistreatment of Krajina Serbs by ordering the attack and taking manifestly inadequate measures to instill discipline among his subordinates and prevent or punish their crimes. Gotovina sent a message of impunity to his subordinates by repeatedly issuing essentially the same weak order to stop crimes, which he persistently failed to implement.

- Gotovina took steps to deny, conceal, and/or minimize crimes committed by Croatian forces, including by participating in the “sanitation” of corpses from the terrain and by denying or justifying the crimes of Croatian forces to the international community.

## 2. Ordering

124. Gotovina’s order to shell civilian towns in the Krajina was a manifestly unlawful order to directly—or at least indiscriminately—attack civilians. At the very least, in issuing this order Gotovina was aware of the substantial likelihood<sup>449</sup> that it would be interpreted and implemented in that manner (as it in fact was). Gotovina’s failure to stop or alter the nature of the shelling attack further demonstrates his acceptance of the crimes committed through the shelling attack: persecution (through deportation and forcible transfer, shelling of civilians, and unlawful attacks on civilians and civilian objects); deportation and forcible transfer (through shelling of civilians and civilian objects); and inhumane acts and cruel treatment (shelling injuries).

125. In light of the factors discussed above (“Gotovina’s Awareness of Possible Consequent Crimes”), Gotovina ordered the ground assault aspect of Storm with the direct intent or at least the awareness of the substantial likelihood that his subordinates would loot and burn Serb property, and mistreat and kill Serb civilians in the course of the assault. Gotovina knew that his superficial instructions to prevent looting and burning, and generic references to the Geneva Conventions were manifestly inadequate measures to prevent these crimes in the circumstances. Gotovina’s subsequent persistent failure to take genuine measures to stop or punish these crimes further demonstrates his acceptance of these crimes.

126. Thereby, through his orders to carry out Storm, Gotovina ordered the crimes of persecution (through deportation and forcible transfer, wanton destruction, plunder, shelling of civilians and unlawful attacks on civilians and civilian objects, murder, and inhumane acts, and cruel treatment); deportation and forcible transfer; plunder; wanton destruction; murder; and inhumane acts and cruel treatment.

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<sup>449</sup> *Galić* AJ, paras.152,157; *Kordić* AJ, paras.29-30.

### 3. Planning

127. Through his participation at the Brijuni Meeting and his subsequent planning of the details of the Storm shelling attack and ground assault, Gotovina planned the crimes of persecution (through deportation and forcible transfer, wanton destruction, plunder, shelling of civilians, and unlawful attacks on civilians and civilian objects, murder, and inhumane acts and cruel treatment); deportation and forcible transfer; plunder; wanton destruction; murder; and inhumane acts and cruel treatment. For the reasons discussed above in relation to ordering, Gotovina had the direct intent for the above crimes or at least the awareness of a substantial likelihood that these crimes would be committed by HV members in the execution of his plans.<sup>450</sup>

### 4. Instigating

128. By issuing the Attack Order containing inadequate measures to prevent crimes in the circumstances, by subsequently failing to take appropriate measures to stem the HV crime wave carried out during and in the aftermath of Storm, and by essentially re-issuing the same weak and ineffective order to prevent crimes, Gotovina created and fostered a climate of impunity among his subordinates. Through these acts and omissions,<sup>451</sup> Gotovina prompted<sup>452</sup> HV members to commit the crimes of persecution (through deportation and forcible transfer, wanton destruction, plunder, murder, inhumane acts, cruel treatment, and unlawful attacks on civilians and civilian objects); deportation and forcible transfer; plunder; wanton destruction; murder; and inhumane acts and cruel treatment. Gotovina's acts and omissions were at least a factor which substantially contributed to the commission of these crimes.<sup>453</sup> For the reasons discussed above in relation to ordering, Gotovina directly intended or was at least aware of the substantial likelihood that these crimes would be committed in the execution of his acts and omissions.<sup>454</sup>

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<sup>450</sup> *Milošević* AJ,para.268;*Kordić* AJ,paras.29,31.

<sup>451</sup> *Galić* TJ,para.168;*Blaškić* TJ,para.337.

<sup>452</sup> *Kordić* AJ,para.27

<sup>453</sup> *Kordić* AJ,para.27.

<sup>454</sup> *Kordić* AJ,paras.29,32.

## 5. Aiding and Abetting

129. Through these same acts and omissions, Gotovina assisted or encouraged HV members to commit the crimes of persecution (through deportation and forcible transfer, wanton destruction, plunder, murder, inhumane acts, cruel treatment, and unlawful attacks on civilians and civilian objects); deportation and forcible transfer; plunder; wanton destruction; murder; and inhumane acts and cruel treatment. Gotovina's acts and omissions substantially contributed<sup>455</sup> to the perpetration of these crimes, and, for the reasons discussed above, Gotovina knew that such crimes would probably<sup>456</sup> be committed and that his acts and omissions assisted in their commission.

## 6. Superior Responsibility

130. Gotovina exercised effective control over his subordinates, which included members of temporarily subordinated units. Gotovina was fully capable of ensuring that his orders were obeyed, including in matters of punishment and military discipline.

131. Even before Storm began, Gotovina had sufficiently alarming information putting him on notice of the risk of his subordinates committing the crimes charged in the Indictment.<sup>457</sup> As soon as the operation commenced, Gotovina began to receive reports that such crimes were indeed occurring or that indicated an increased risk that those crimes were about to be committed by his subordinates. Gotovina failed to take the necessary and reasonable measures to prevent these crimes, even as such reports accumulated over time. Instead, Gotovina repeatedly issued essentially the same weak order, which he knew was not implemented, and which he took no genuine steps to implement.

132. Gotovina also failed to take the necessary and reasonable measures to punish his subordinates for committing each of the crimes charged in the Indictment, which he either knew or had reason to know they had committed. Despite possessing information indicating a risk that his subordinates had committed such crimes that

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<sup>455</sup> *Blaškić* AJ, para.46.

<sup>456</sup> *Simić* AJ, para.86; *Blaškić* AJ, para.50.

<sup>457</sup> *Hadžihasanović* AJ, paras.27-28; *Strugar* AJ, paras.297-98,302.

was sufficiently alarming to justify further enquiries, Gotovina failed to make such enquiries.

#### 7. Discriminatory Intent

133. Gotovina's direction of the shelling attack against a largely Serb population, his deliberate failure to address his subordinates' crimes targeting Serbs and their property, and his statements justifying those crimes exemplify his specific intent to discriminate on political, racial and/or religious grounds relevant to the crime of persecution.<sup>458</sup>

#### **B. Gotovina Planned, Ordered, and Implemented a Shelling Attack on the Krajina Serbs**

134. Gotovina actively participated in formulating the Brijuni Meeting plan to use an artillery attack to forcibly displace the Krajina Serbs.<sup>459</sup> In accordance with that plan, Gotovina ordered and then successfully implemented a shelling attack on civilian-populated areas designed to cause mass panic and mass flight of the Krajina Serbs.

135. Gotovina had complete operational command of all HV artillery of the Split MD in Storm. At the Brijuni Meeting, Gotovina informed Tudman that he could do whatever his Supreme Commander wanted with artillery in Knin. He explained that he could destroy Knin entirely in a few hours with artillery<sup>460</sup> and assured Tudman that he could attack Knin with artillery without hitting the UNCRO camp.<sup>461</sup>

136. While planning for a forcible retaking of the Krajina occurred over preceding years,<sup>462</sup> it was only after the Brijuni Meeting<sup>463</sup> that Gotovina "ma[de] the necessary analyses for the selection of targets,"<sup>464</sup> deviating from the earlier Main Staff

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<sup>458</sup> *Blaškić* AJ, paras. 131, 165; *Krnojelac* AJ, paras. 184-85; *Vasiljević* AJ, para. 113; *Stakić* AJ, para. 327; *Krajišnik* TJ, para. 734.

<sup>459</sup> See "JCE: Common Criminal Purpose"; Crimes: Counts 2&3".

<sup>460</sup> P461, 1D76-0110, p. 10.

<sup>461</sup> P461, 1D76-0110, p. 15, 1D76-0001, p. 7.

<sup>462</sup> Rajčić: T. 16267, 16452-53, 16521-26; Rajčić: D1425, pp. 8-10; D956p. 6.

<sup>463</sup> P461, 1D76-0110, pp. 10, 15.

<sup>464</sup> Rajčić: T. 16453.

directive<sup>465</sup> and expanding the use of artillery and rockets against all major civilian-populated centres of the Krajina.

137. Gotovina implemented the Brijuni Meeting plan by ordering his troops to treat entire towns as targets in his Attack Order. He instructed the Corps artillery to “put[] the towns of Drvar, Knin, Benkovac, Obrovac and Gračac under artillery fire.”<sup>466</sup> This order is repeated in the Artillery Attachment which instructs the Corps artillery to “[put] the towns of Drvar, Knin, Benkovac, Obrovac and Gračac under artillery fire.”<sup>467</sup>

138. Gotovina’s subordinates implemented these orders, placing towns in the Krajina, including Knin, Benkovac, Obrovac and Gračac under artillery fire. In each of these towns and in outlying villages, shells and rockets impacted in civilian areas, causing civilian deaths and injuries, damage to civilian property and a mass exodus of the civilian population.

139. Gotovina was the operational commander for each unit responsible for shelling civilian-populated areas in the Split MD, including Knin, Benkovac, and Obrovac:

| <b>Town</b>     | <b>Unit(s)</b> | <b>Source (e.g.)</b>   |
|-----------------|----------------|--|
| <b>Knin</b>     | TS-3           | D971, P2340, <sup>468</sup> P2342,   |
|                 | TS-4           | D971, P1271, D974 <sup>469</sup> , P2340, <sup>470</sup><br>P1267, P1268, P1269, P2533 |
|                 | 4GBR TRS       | P2339, P2478   |
|                 | 7GBR TRS       | P2339, P2461, P2455 <sup>471</sup>   |
| <b>Benkovac</b> | TRS-5          | P1263, <sup>472</sup> P1201, <sup>473</sup> P1200 <sup>474</sup>                       |

<sup>465</sup> D956,p.6.

<sup>466</sup> P1125,p.14.

<sup>467</sup> D970,p.3.

<sup>468</sup> P2340,pp.7,9,11-24.

<sup>469</sup> TRS-2 renamed TS-4:P1194,pp.28-31.

<sup>470</sup> P2340,pp.7,9,11-14,16-23.

<sup>471</sup> P2455,pp.21-22.

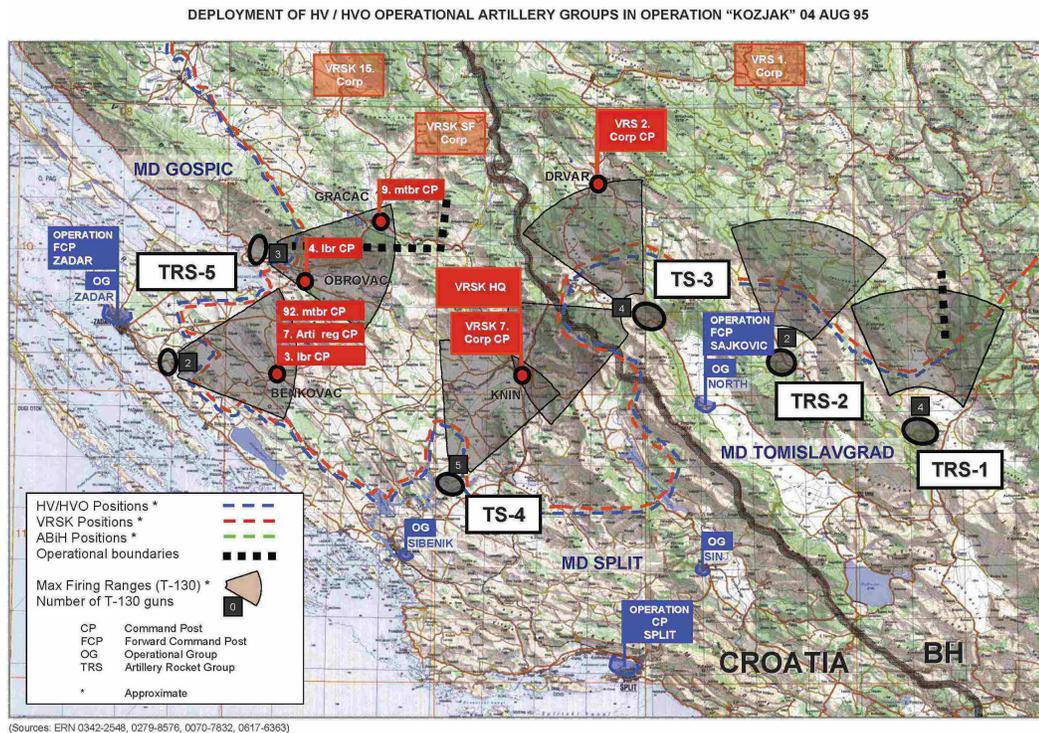
<sup>472</sup> P1268,p.8.

<sup>473</sup> P1201,p.4.

<sup>474</sup> OG Zadar’s only TRS was TRS-5.

|                |       |  |
|----------------|-------|--|
| <b>Obrovac</b> | TRS-5 | P1263, <sup>475</sup> P1201 <sup>476</sup> |
|----------------|-------|--|

140. Gotovina's forces were also responsible for artillery attacks on Gračac on 4-Aug-95. 130mm guns of Corps-level artillery unit, TRS-5, were the only weapons within range of Gračac at the start of Storm.<sup>477</sup> In accordance with the Attack Order,<sup>478</sup> TRS-5 shelled Gračac from 0500hrs, as confirmed by witnesses<sup>479</sup> and the OG Zadar Daily Combat Report.<sup>480</sup>



**Exhibit D971** (Deployment of HV / HVO Operational Artillery)

141. Contrary to Rajčić's claims,<sup>481</sup> the 130mm guns remained under Gotovina's command and were not re-subordinated to the SP. Gotovina had no legal authority to re-subordinate without Main Staff approval,<sup>482</sup> and Červenko ordered that the SP's

<sup>475</sup> P1263,p.8.

<sup>476</sup> P1201,p.4.

<sup>477</sup> See Turkalj:T.13586;Janić:P553,p.59.

<sup>478</sup> P1125,p.14;D970,p.3;see P1201.

<sup>479</sup> See Steenbergen:P516,para.20;Gačeša:T.2898.

<sup>480</sup> D1095,p.1.

<sup>481</sup> Rajčić:D1425,para.57.

<sup>482</sup> Rajčić:T.16566-67.

work be “coordinated”<sup>483</sup> with the Split MD Command, particularly the Zadar IZM,<sup>484</sup> but did not order re-subordination: “Provide the forces engaged on the slopes of Velebit with a special artillery group that will provide them and the MUP forces with artillery support”.<sup>485</sup> The “them” in this order refers to the 2<sup>nd</sup>/9<sup>th</sup>GBR (a.k.a. *Termit*<sup>486</sup>), an HV unit also advancing on the Velebit.<sup>487</sup> Gotovina obeyed this order.<sup>488</sup>

142. The evidence contradicts Rajčić’s explanation<sup>489</sup> that these orders were written prior to the alleged re-subordination on 3-Aug-95, and there was no time to change the document. While Gotovina met Markač on 3-Aug-95 to discuss the use of artillery along the SP axis-of-attack,<sup>490</sup> the cannons remained under Gotovina’s command. SP<sup>491</sup> and Gotovina’s<sup>492</sup> retrospectives describe how TRS-5 supported troops attacking on the Velebit axis while Gotovina’s retrospective states that certain weapons were “re-subordinated” to the SP, in contrast to the “constant and uninterrupted *support*” provided by the 130mm guns.<sup>493</sup>

143. Furthermore, although the SP had the ability to request fire from TRS-5’s 130mm guns, the first such request was not made until approximately 0900hrs,<sup>494</sup> whereas shelling of Gračac began at 0500hrs, in accordance with Gotovina’s orders.

### **C. Gotovina Took No Effective Measures to Prevent or Stop Indictment Crimes**

144. As an experienced and successful military commander, Gotovina knew he could only effectively prevent or stop his subordinates’ crimes against Serbs and their property by taking firm and focused steps through his line of command to restore order and discipline. Instead of taking such steps, Gotovina issued weak, repetitive orders to prevent or stop these crimes that signaled to his subordinates that he did not intend to enforce his orders. This fostered a climate of impunity and encouraged and

<sup>483</sup> For HV’s meaning of “coordinated” see Rajčić:T.16568.

<sup>484</sup> See D542.

<sup>485</sup> D1094,p.2.

<sup>486</sup> Theunens:T.12296;see Turkalj:T.13701.

<sup>487</sup> See P1192,p.3;P1125,p.12.

<sup>488</sup> P1125,p.12.

<sup>489</sup> Rajčić:T.16573.

<sup>490</sup> Rajčić:D1425,para.57.

<sup>491</sup> P614,p.19.

<sup>492</sup> P1192,p.3.

<sup>493</sup> P1192,p.3(emphasis added);see Janić:P553,pp.59-60,74.

<sup>494</sup> See P2436,p.6;P2385,p.2.

facilitated the commission of crimes. While failing to take appropriate measures through his line of command, Gotovina attempted to pass the blame for the breakdown of law and order onto organs whose ability to stop these crimes was far more limited than his own. This shows that Gotovina had no real intention to stop the HV crime wave. His orders were aimed at pretending to address this crime wave, while allowing it to continue.

#### 1. Pre-Storm Crimes

145. In the circumstances, Gotovina must have predicted that Split MD members would commit crimes such as looting and burning in connection with Storm. Gotovina knew that Split MD units had looted and burned in Grahovo and Glamoč during Summer, and that orders to stop these crimes were ineffective. Gotovina ensured that these units were rewarded and prepared for Storm rather than punished for these crimes. Gotovina also knew that some of his units were composed of soldiers who were from the Krajina and were entering the Krajina motivated by revenge.

146. Almost immediately after Split MD forces, including the 4GBR and 7GBR, entered Grahovo on 28-Jul-95,<sup>495</sup> the Split MD command received reports that these troops were looting and burning in Grahovo and Glamoč,<sup>496</sup> that all units in the area apart from the 1 HGZ and the 3/1 HVO GBR were burning houses in Grahovo, and that “the entire Grahovo was on fire.”<sup>497</sup> A later MP report specified that the 4GBR, 7GBR, 114th Brigade and 126HGR committed arson in Grahovo and the surrounding villages “in an organized fashion.”<sup>498</sup>

147. Although on 29-Jul-95 Ademi forbade setting fire to houses, adding, “it is required to establish a line of command,”<sup>499</sup> that order did not stop the burning. Two days later, on 31-Jul-95, the HVO MP reported to the Split MD command “the problem of setting fire to houses is reported,” apparently referring to the areas of

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<sup>495</sup> P71,p.35.

<sup>496</sup> P71,p.43,47,49-50.

<sup>497</sup> P71,pp.49-50.

<sup>498</sup> P2665,p.2.

<sup>499</sup> P71,p.50.

Livno and Glamoč (at the same meeting the 72<sup>nd</sup> VP reported that “the phenomenon of arson in Grahovo is under control”).<sup>500</sup>

148. The Split MD Command took no steps to punish those responsible for the widespread destruction during Summer.<sup>501</sup> The MP did not arrest or investigate anyone for the destruction of Grahovo,<sup>502</sup> and neither the Split MD Command, the MP, nor anyone else filed any criminal reports with the Split Military Prosecutor’s Office for these crimes.<sup>503</sup> The MP representative contradicted the 7GBR commander’s remark at the 29-Jul-95 meeting of the Split MD that an order had been given to shoot in the legs those who looted and burned.<sup>504</sup> The 7GBR commander’s absurd remark about his subordinates’ crimes illustrates the prevailing atmosphere of impunity.

149. On 30-Jul-95, just one day after receiving multiple reports of looting and burning, Gotovina issued instructions to promote and reward the troops involved in Summer and prepare them for their next task.<sup>505</sup> And, on 31-Jul-95, Gotovina ordered all forces who took part in Summer to “remain where they are and await further instructions regarding attacks.”<sup>506</sup>

150. Gotovina’s only response to the discipline problems in OG North was to simply repeat Ademi’s earlier failed order by instructing the commanders of OG North units “to pay attention and strictly forbid looting and burning” on 1-Aug-95.<sup>507</sup> Gotovina failed to implement any focused preventative measures such as instructing his subordinate commanders to investigate or punish their subordinates responsible for looting and burning, or prevent their participation in Storm.

151. Adding to this climate of impunity, Gotovina took steps to conceal his subordinates’ crimes. Although he knew Grahovo had been burned by his subordinates, when informed at a 2-Aug-95 Split MD Command meeting that

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<sup>500</sup> P71,p.62;see P71,p.73 (1-Aug-95).

<sup>501</sup> P71,pp.43,47,49-50;see Theunens:P1113,p.568.

<sup>502</sup> Džolić:P875,paras.15-16.

<sup>503</sup> P2706;P2604;P2605;P2614;P2615. The Crime Register of the 72<sup>nd</sup> 5th MP Company (P2242) (according to P2665 this company operated in Grahovo at the time) indicates no such entries.

<sup>504</sup> P71,pp.48-49.

<sup>505</sup> P71,p.53.

<sup>506</sup> P71,p.59.

<sup>507</sup> P71,p.69.

journalists were requesting entry to Grahovo, Gotovina, instructed: “Report through a messenger that Glamoč and Grahovo were shelled by phosphoric shells.”<sup>508</sup>

152. The Gotovina Defence’s attempts to portray Gotovina’s 1-Aug-95 order replacing the OG North Commander Zdilar as a measure aimed at addressing the looting and burning during Summer merely highlights Gotovina’s failure to take genuine measures at the time to address this problem. The Defence’s interpretation is not supported by the text of the order, which states that its purpose is to have “a uniform command and control of units.” This contrasts with Gotovina’s explicit reference to disciplinary concerns when he removed the Split Garrison Commander for causing problems with the UN.<sup>509</sup> Moreover, the fact that Gotovina did not institute disciplinary proceedings against Zdilar,<sup>510</sup> appointed him to another position within the Split MD command,<sup>511</sup> and, on 22-Sep-95, re-appointed him with a higher rank and greater operational responsibility,<sup>512</sup> contradicts the Defence interpretation. The only witness who even came close to accepting the Defence interpretation of this document was Jones, but he eventually conceded that he did not actually know why Zdilar was relieved of his duty beyond what was stated in the order.<sup>513</sup>

153. Even if this order was intended as a preventative measure, it was unlikely to have had any real effect on the behavior of OG North units whose members were permitted to loot and “systematically” burn without sanction. Without additional measures to ensure the appropriate punishment of the perpetrators, the replacement of the OG North commander was not a sufficient measure to prevent future similar crimes by those perpetrators. Although Barković agreed with the vague proposition that such a change in command would “reverberate down to the troops in the field,” he added that, whether such a change would have a positive or negative effect would depend upon how Zdilar or Ademi were viewed by the troops.<sup>514</sup> As noted above, Ademi had already issued a failed order to those units to stop looting and burning just a few days prior.

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<sup>508</sup> P71p.75.

<sup>509</sup> P71,p.83;P1198.

<sup>510</sup> P1012;P1017,p.6(zero measures for VP1080).

<sup>511</sup> D793.

<sup>512</sup> P2618.

<sup>513</sup> Jones:T.21082 *See* Jones:T.20932-35;Džolić:T.9080-81;Barković:T.20244.

<sup>514</sup> Barković:T.20246.

154. Not only did Gotovina permit the troops he was to use in Storm to commit mass crime with impunity, he also knew that among his subordinates were soldiers from the Krajina who were motivated by revenge.<sup>515</sup> As Barković explained, because members of Home Guard units had “their own properties...razed to the ground; whereas, their neighbours, who had lived in the area until Operation Storm or even continued living there thereafter, had their properties intact,” the situation “required a high degree of strict control to make sure that such individuals did not engage in misdeeds.”<sup>516</sup>

## 2. Gotovina’s Attack Order Contained Ineffective Measures to Prevent Crimes

155. In these circumstances, Gotovina knew that his generic instructions to “prevent burning and looting” in the Attack Order’s relevant attachments were not effective preventative measures.<sup>517</sup> Gotovina simply repeated earlier failed orders with no monitoring, reporting, or enforcement measures.

156. Furthermore, Gotovina’s instructions focused on limiting looting and burning in larger towns, while the countryside and small villages were essentially ignored.<sup>518</sup> The Political Activities Plan attachment indicates that Gotovina and the Split MD Command expected burning and destruction to occur and accepted the anticipated destruction of rural areas.<sup>519</sup>

157. Consistent with those instructions and with the JCE members’ focus on quickly colonizing the larger towns in the Krajina with Croats,<sup>520</sup> Croatian Forces left the larger towns relatively intact, but devastated rural areas in Sector South.<sup>521</sup> This illustrates both Gotovina’s control over the criminal acts of his subordinates, and the manifest inadequacy of the measures he took to exercise it.

<sup>515</sup> P461,1D76-0110,p.10;Forand:P333,para.8;P383,p.4;Hansen:T.14929;P895;P461,1D76-0110,p.10.

<sup>516</sup> Barković:T.20175.

<sup>517</sup> P1126,p.3;D201,p.3.

<sup>518</sup> P1126,p.3(no.10);D201,p.2(no.6);P71,p.83(“Knin must not experience the same treatment as Grahovo. Prevent burning and destruction.”).

<sup>519</sup> D201,p.2,(no.6)(“Familiarizing units with the need to eliminate all negative occurrences that *will surface* in the course of combat operations with a focus on preventing of torching and destruction of larger populated areas and towns.”(emphasis added));see D810,p.3(13-Aug-95 report from the Political Administration Coordinator of the Split MD to the Political Administration of the MORH. The report states that in keeping with the Plan for Political Activity, “particular attention was paid to eliminat[ing] negative instances, *focusing on preventing looting and the destruction of major populated areas*” and that political officials entered “inhabited areas and towns” and “endeavoured to prevent any unnecessary devastation” (emphasis added)).

158. Other than the instruction to OG commanders to station MUP and MP in “large towns to secure the town and important buildings,”<sup>522</sup> neither the Attack Order nor its attachments include any specific measures aimed at preventing looting and burning such as checkpoints, curfews, disciplinary measures, or detention. The order contains no instructions to (1) identify or remove unit members who had looted and burned in Grahovo and Glamoč a few days earlier; (2) report on measures taken to implement the order to prevent burning and looting; or (3) monitor or report back to the Split MD on crimes such as burning and looting.

159. Similarly, these orders contain no instructions relating to the punishment of crimes—such as engaging the MP, arresting perpetrators, conducting investigations, imposing disciplinary measures, or initiating criminal proceedings.

160. Although the Attack Order and attachments contain a number of MP tasks, the only one relating to investigating or processing crimes is the order for “discovering, arresting, and bringing in *enemy soldiers and officers*.”<sup>523</sup> Despite the near certainty that Split MD members would repeat the crimes they committed during Summer, Gotovina did not instruct the MP to uncover or report such crimes or arrest HV members suspected of committing them. The order and attachments show that Gotovina’s priority tasks for the MP were securing military equipment/facilities, controlling traffic and detaining and criminally processing Serbs.<sup>524</sup> As discussed below, the MP accordingly prioritized these matters.

161. The Attack Order contains virtually no measures aimed at protecting civilians or preventing crimes against them—just a generic instruction to political affairs officers to “advise members of units on conduct with civilians and POWs in accordance with the Geneva Conventions.”<sup>525</sup> The broad language of Gotovina’s order to the MP to move “the population trapped in liberated territory”<sup>526</sup> into collection centres suggests that this instruction was aimed at rounding up civilians rather than protecting them, an interpretation supported by the manner in which this

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<sup>520</sup> See “JCE:Implementation of the Common Criminal Purpose”.

<sup>521</sup> P807, pp.1-2;P824,pp.8,11-16;Čermak:P2526,p.42;P935,p.4;Hansen:T.14934-35.

<sup>522</sup> P1126,p.3.

<sup>523</sup> P1126,p.3(emphasis added).

<sup>524</sup> Džolić:P875,para.18.

<sup>525</sup> D201,p.2.

order was subsequently implemented (discussed below). Gotovina instituted no mechanisms to monitor or report on the civilian population's situation, and issued no instructions to investigate or punish instances of mistreatment of civilians.

162. Two Split MD Operational Diary entries between 4 and 5 August echo the generic references in the Attack Order.<sup>527</sup> These entries include no specific prevention or punishment measures, no measures to monitor, report or ensure the implementation of the orders, no mechanisms to monitor or report on the situation of the civilian population, and no instructions to investigate or punish instances of mistreatment of civilians by HV members. These ineffective measures merely demonstrate Gotovina's awareness of the risks to civilians and their property.

163. Jones' positive assessment of the measures in the Attack Order and attachments<sup>528</sup> is of little evidentiary value given his claim that the crimes committed by the 4GBR and 7GBR immediately prior to the operation were "isolated incidents."<sup>529</sup> When questioned about this claim he admitted he did not actually know whether they were isolated or whether they were routine<sup>530</sup> despite the fact that his report indicates he had reviewed material describing the widespread nature of these crimes.<sup>531</sup> This suggests Jones was downplaying this evidence, and calls into question the reliability of his conclusions.

### 3. Gotovina's Ineffective Response to the Storm Crime Wave Facilitated and Encouraged Crimes

164. Following the shelling attack, as Croatian Forces began moving through towns and villages in the Krajina, they carried out a predictable wave of looting, burning, and violence against Serb civilians that continued throughout the Indictment Period.<sup>532</sup> Although Gotovina issued orders that acknowledged these crimes and

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<sup>526</sup> P1126,p.3.

<sup>527</sup> P71,p.83(On 4-Aug-95 the PZ (assistant commander) for PD (political affairs) stating: "Moral is good. Knin must not experience the same treatment as Grahovo. Prevent burning and destruction.");P71,p.84(On 5-Aug-95 at 0940hrs, Gotovina ordered "maximum fairness in treatment of civilians and behaviour towards UN.").

<sup>528</sup> Jones:D1633,para.43.

<sup>529</sup> Jones:T.21040.

<sup>530</sup> Jones:T.21040-41.

<sup>531</sup> Jones:D1633,fn.47(referring to P71,25-Jul-95 to 14-Sep-95).

<sup>532</sup> See,"Crimes".

contained—at least on their face—measures to prevent their continued commission, the content, timing, and number of these orders reveal that Gotovina was pretending to address these crimes while allowing and encouraging their continuance.

165. Gotovina's orders essentially repeated the same generic instruction to prevent burning and looting that Gotovina knew had been ineffective in the past. Gotovina took no measures to ensure implementation of his orders which he knew were not being followed. Instead, Gotovina attempted to shift the blame for his subordinates' crimes away from his operational command chain, and deflected complaints of such crimes from internationals towards Čermak.<sup>533</sup>

*Orders Issued at 6 August Meeting in Knin*

166. The Defence claims that Gotovina set his "command climate" at the 6-Aug-95 meeting in Knin.<sup>534</sup> Having observed that his subordinates were behaving like "barbarians and vandals" who "wage war for war booty,"<sup>535</sup> Gotovina set his command climate by issuing orders to clean up Knin in anticipation of the arrival of "the Croatian leadership" rather than punishing his subordinates' crimes or taking steps to prevent their continued commission.<sup>536</sup> Gotovina issued no orders to stop the ongoing crimes or prevent further crimes or to identify or punish his subordinates who had committed crimes, and took no measures to ensure the implementation of his earlier failed orders to prevent looting and burning. As Čermak observed, Gotovina was not upset about the crimes and what the military had done; he was upset because the town was dirty and there were no state signs anywhere.<sup>537</sup>

167. In setting his command climate, Gotovina also shifted the blame for the "mess" his subordinates had made away from his own operational chain-of-command by claiming that the political activity, security service and MP were the most responsible people for the situation in Knin.<sup>538</sup>

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<sup>533</sup> Forand:P333,para.7;Forand:T.4126-27.

<sup>534</sup> T.17269.

<sup>535</sup> D792,p.2.

<sup>536</sup> D979,p.4.

<sup>537</sup> Čermak:P2532,pp.28-30.

<sup>538</sup> D979,p.4;see Theunens:T.12771.

168. After taking no measures to punish his subordinates for their crimes or to prevent their repetition, Gotovina gave his subordinate commanders instructions for further combat.<sup>539</sup>

*“War Booty” Orders*

169. Gotovina’s “war booty” orders reveal that he viewed the looting by Split MD members as the collection of war booty rather than a crime. His main concern was to organize and control this collection.

170. The Defence has argued that Gotovina’s oral order at the 6-Aug-95 meeting to register war booty, followed by a written order the following day to register and record war booty in the Split MD,<sup>540</sup> is relevant to ascertaining whether Gotovina took necessary and reasonable measures to prevent crimes.<sup>541</sup> This assertion contains the implicit concession that these orders do not relate to genuine war booty but to the widespread looting then being carried out by his subordinates. Viewed in that light, these were orders to create lists of stolen goods, and neither a necessary nor reasonable means to prevent or punish crime.

171. Although the Defence has presented the 7-Aug-95 written order as evidence that Gotovina was “taking measures actually to verify what his subordinate units are registering as war booty,”<sup>542</sup> nothing in the document suggests that this “verification” process had anything to do with gathering evidence of crimes, identifying perpetrators of crimes, or otherwise using any of the information gathered for the purposes of punishing HV looters. Had Gotovina wanted to gather evidence of looting to punish his subordinates for this crime, he would have included this in his order.<sup>543</sup>

172. This order<sup>544</sup> and related documents reveal that Gotovina’s treatment of “war booty” was not aimed at gathering evidence of crimes. It was aimed at controlling the collection and distribution of the fruits of those crimes under the guise of the

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<sup>539</sup> D792,pp.6-7;D979,pp.1-2,6-8.

<sup>540</sup> D981.

<sup>541</sup> T.17269.

<sup>542</sup> T.12786.

<sup>543</sup> E.g, P1013.

<sup>544</sup> D981.

permissible collection of “enemy military equipment captured or found on the battlefield.”<sup>545</sup>

173. For example, on 6-Aug-95, Gotovina issued an order “to control and process properly the spoils of war, as well as to efficiently use the material assets.”<sup>546</sup> He instructed units to prepare “lists of spoils of war in possession of the unit and present those lists to the MP”; he ordered the MP to “expropriate all the loot found in possession of the individuals or units, which is not listed in hereinabove mentioned lists” and to hand over expropriated goods to the logistics base; and he ordered the 306<sup>th</sup> Logistics Base to collect livestock and sell it to private persons or firms, “whichever may be more profitable to the HV.” Nowhere in this detailed order did Gotovina instruct the MP or unit commanders to take any steps to investigate or punish HV looters. As discussed below, the MP duly followed his order, simply “expropriating” goods found in the possession of individuals rather than initiating criminal proceedings against looters. Gotovina’s treatment of “war booty” also included granting HV and HVO members permission to remove civilian property for personal use.<sup>547</sup>

*9 August Order to Photograph/Video-record Criminals*

174. According to the Operational Diary, on 9-Aug-95 Gotovina ordered the photographing and video recording of “rowdies” for later use by a military disciplinary court:

The [MP] is taking measures for the security of personnel and control of the war booty. For all rowdies it is necessary to take photographs and make video recordings. At the end of the operation they will be called before a military disciplinary court.<sup>548</sup>

175. Even if this order had been implemented, by instructing that his subordinates be photographed for possible punishment at “the end of the operation” rather than immediately stopped and punished, the order condoned the ongoing crime wave. Regardless, there is no evidence that any such videos or photographs were taken, and this would have been a cumbersome and potentially ineffective means to ensure the later identification of perpetrators. The fact that the Split MD military disciplinary

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<sup>545</sup> *Martić* TJ,para.102;*Hadžihasanović* TJ,para.51.

<sup>546</sup> D643.

<sup>547</sup> Theunens:P11113,pp.632-39(containing orders for the handling of war booty).

court conducted only six military disciplinary proceedings in the second half of 1995 demonstrates that this order was not implemented.<sup>549</sup> In sum, the order condoned HV crime while pretending to address it.

*10 August Order*

176. After the commencement of Storm, Gotovina took no steps even superficially aimed at stopping his subordinates' looting and burning until 10-Aug-95, when he issued a weak, repetitive and ineffective order. In the meantime, since 5-Aug-95, his subordinates had been destroying and plundering property throughout the Indictment Area<sup>550</sup> and Gotovina received information to that effect on August 5,<sup>551</sup> 6,<sup>552</sup> 7,<sup>553</sup> 8,<sup>554</sup> 9,<sup>555</sup> and 10.<sup>556</sup>

177. The order he eventually issued on 10-Aug-95 appears to implement Červenko's 6-Aug-95 order to Gotovina to "prevent any undisciplined conduct," "vigorously prevent theft of property and war booty" and "take vigorous measures against perpetrators of undisciplined conduct" based on "information from the areas liberated by the HV."<sup>557</sup> The fact that Gotovina allowed the widespread looting and burning to continue for five days, and delayed four days before taking any steps to implement Červenko's order illustrates his permissive attitude to his subordinates' criminal conduct.

178. Moreover, Gotovina's 10-Aug-95 order<sup>558</sup> does little more than repeat his earlier failed instructions in the Attack Order. Like the Attack Order instructions, the 10-Aug-95 order contains no instructions to identify, detain, discipline, investigate, or initiate criminal proceedings against those responsible for criminal acts, or to engage the MP. It does not mention Gotovina's subordinate commanders' failure to implement Gotovina's prior orders, and contains no measures to ensure its

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<sup>548</sup> P71,p.95.

<sup>549</sup> D892,p.10(2 proceedings in 3<sup>rd</sup> quarter);D893,p.26(4 proceedings in 4<sup>th</sup> quarter);see T.24436-37.

<sup>550</sup> See "Crimes:Count4";"Crimes:Count5".

<sup>551</sup> P347,p.2;Forand:T.4120-22.

<sup>552</sup> D323.

<sup>553</sup> P1113,pp.584-85.

<sup>554</sup> Forand:P333,para.7;P359,p.2-3;Forand:T.4127.

<sup>555</sup> P1135,p.1;Theunens:T.12411-15.

<sup>556</sup> P1134,pp.3-4.

<sup>557</sup> D323,p.1.

<sup>558</sup> D204.

implementation—such as instructions to monitor or report on its implementation, or an assignment to another body to ensure its implementation.

*16 August Order*

179. Predictably, the 10-Aug-95 order was ineffective. HV looting and burning continued as indicated by the information sent to Gotovina and the Split MD in the ensuing days.<sup>559</sup>

180. Gotovina's response was six days of inaction followed by yet another toothless order six days later: "It is forbidden to burn down houses, this issue is to be resolved urgently;"<sup>560</sup> "[t]he units that are burning down the houses will stay the night/?/ in the houses they are burning down now. The 6HGR will stop with providing security tomorrow, and MP will take over."<sup>561</sup>

181. Although he claimed the need to resolve the "issue" of burning of houses was "urgent," the fact that Gotovina (a) allowed looting and burning to continue in contravention of his 10-Aug-95 order for six days; (b) included no specific measures to monitor, report or investigate crimes, or detain, arrest, discipline or initiate criminal proceedings against perpetrators in his 16-Aug-95; and (c) issued an obviously empty threat to units burning down houses that they would have to spend the winter in them rather than utilizing available means to actually punish these units, demonstrates Gotovina's acceptance of these crimes, and signaled that acceptance to his subordinates. On the same day, Gotovina announced that all HV members in his area of responsibility were eligible to receive a medal for participating in the successful completion of Summer and Storm. While he specifically exempted from eligibility those who were absent from their units during these operations, Gotovina did not exempt those who had looted, burned, or committed other criminal or ill-disciplined conduct.<sup>562</sup>

182. Two days later Gotovina was informed of what was by then a virtual certainty—this order was ineffective. On 18-Aug-95, Fuzul reported: "Lack of discipline among 134<sup>th</sup> Home Guard Regiment....Destruction of property in all areas"

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<sup>559</sup> E.g., P71,pp.100,106;D810,pp.3-4;P918,p.1.

<sup>560</sup> P71,p.112.

<sup>561</sup> P71,p.113.

<sup>562</sup> P1184,p.2.

the MP reported: “The burning of houses and killing of cattle is being continued”<sup>563</sup> and the MPA reported: “houses are being torched, the mobile property of others is unlawfully carted away and other unlawful actions by HV...soldiers...are occurring on a daily basis.”<sup>564</sup>

183. Despite these reports, Gotovina took no measures even ostensibly aimed at stemming the HV crime wave in the Krajina. Gotovina asserts that, because there were no further reports in the Operational Diary after 18-Aug-95 indicating that HV units were continuing to burn or loot on the territory of Croatia, the Prosecution has failed to show that the measures taken up to 18-Aug-95 lacked effectiveness.<sup>565</sup> This assertion is based on the erroneous premise that a commander has no responsibility to monitor the effectiveness of his orders where he knows that criminal conduct has continued despite his earlier orders.<sup>566</sup>

184. Regardless, the evidence shows that Gotovina knew that all his orders—including his final 16-Aug-95 order—were ineffective. His persistent failure to take steps to actually implement any of these orders can only be the result of his deliberate decision to allow the continuing commission of crimes by his subordinates.

185. In addition to the fact that the 18-Aug-95 reports informed Gotovina that his prior orders were ineffective, Gotovina continued to be confronted with reports that HV members were continuing to commit crimes in the Indictment Area. His responses—justifying those crimes as acts of rightful revenge and minimizing his own responsibility—further demonstrate Gotovina’s approval of these crimes.

186. Forand confronted Gotovina on 5-Sep-95 with the fact that looting and burning was still occurring “all over the Sector”; Gotovina responded with the “now familiar justification for revenge in response to Serb actions in 1991.”<sup>567</sup> Two weeks later, when an ECMM representative questioned Gotovina about the “ongoing looting arson and harassment” involving military personnel, Gotovina blamed the civilian police and excused the crimes on the basis that “he regards it as a human feeling to

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<sup>563</sup> P71,p.116.

<sup>564</sup> P877,pp.1-2.

<sup>565</sup> T.17272.

<sup>566</sup> *Strugar* AJ,para.207(holding that once an accused has information notifying him of a real risk of offenses by his subordinates that would justify the need to obtain further reliable information, arguments that he was in receipt of limited information about those offenses is irrelevant).

<sup>567</sup> Forand:P333,para.8;P383,p.4.

hate an enemy who has burned looted and expelled one's family."<sup>568</sup> The second time ECMM officials met with Gotovina on 27-Oct-95, Gotovina again did not dispute that crimes were being committed, and again attributed the responsibility for them to others.<sup>569</sup>

187. Similarly, when Červenko criticized Gotovina on 13-Sep-95 for telling Forand that Alun Roberts activities' might justify his execution,<sup>570</sup> Gotovina complained about Roberts' allegations in the press that the "Croatian Army is burning, looting and violating human rights."<sup>571</sup> Although Gotovina knew Roberts' allegations were true, Gotovina claimed Roberts demonstrated a "negative attitude towards the Croatian Army."<sup>572</sup>

188. Jones' conclusions that he did not think Gotovina should have taken other steps to address undisciplined conduct and that he took all necessary and reasonable measures to address disciplinary problems<sup>573</sup> should be rejected because they are based on an unsound factual foundation. Most importantly, Jones' disagreement with the proposition that Gotovina's repeated orders to stop the same criminal conduct illustrated their ineffectiveness was based on the unfounded claim that, after these orders were issued, there was an increase in the number of arrests, investigations and convictions.<sup>574</sup> Putting aside the questionable underlying proposition that a mere increase in arrests, investigations, and/or convictions could satisfy Gotovina's responsibilities as a commander, Jones' purported source for this claim was "a report from ... Laušić, stating the number of arrests, the number of conviction (*sic*) and what they have been able to accomplish...to show control of the area and reinforcement of the rule of law."<sup>575</sup> None of Laušić's reports support this contention.<sup>576</sup> Laušić's reports and evidence support the contrary conclusion—that Gotovina and other operational commanders failed to control their subordinates through their line of command.

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<sup>568</sup> Hansen:T.14929;P895,p.1.

<sup>569</sup> [REDACTED];P822,p.2.

<sup>570</sup> P407;see P384,p.4;P705;Forand:T.4168-71.

<sup>571</sup> P407,p.1.

<sup>572</sup> P407,p.1.

<sup>573</sup> Jones:T.20968-69.

<sup>574</sup> Jones:T.21057,20969.

<sup>575</sup> Jones:T.21058.

<sup>576</sup> D567;D292;P2201,P882,D399,D293,D506,D401,P2202.

189. For example, Laušić's 16-Sep-95 report,<sup>577</sup> sent to Gotovina among others, contains only general statistics on processed crimes<sup>578</sup> and does not support the proposition that there was any increase in arrests or investigations after Gotovina issued his repeated orders. Furthermore, this report indicates that HV theft, burning, and murder were still ongoing, as Laušić expected that future meetings “will yield results and raise the general level of security in the newly-liberated area.”<sup>579</sup> Laušić's conclusions in this report that commanders of HV units “can also” make a contribution to raising the general level of security in the newly-liberated area, his proposal “that the line of command should be assured” and his other proposals to improve discipline through the line of command,<sup>580</sup> indicate that Laušić viewed operational commanders as continuing to fail to ensure discipline through their line of command.<sup>581</sup> Laušić confirmed that the HV line of command was the principal cause of the breakdown in law and order<sup>582</sup> and that his proposals to his superiors to control HV crime after Storm through the line of command were never implemented.<sup>583</sup>

190. That the MP initiated only 19 criminal proceedings for crimes relevant to the Indictment<sup>584</sup> further contradicts Jones' assertion that the number of arrests and investigations increased after Gotovina issued his repeated orders.

191. In addition, it is clear that Jones was not informed of relevant facts. For example:

- Jones did not know the extent of criminal behaviour by Split MD members<sup>585</sup> and was not asked to assume any facts involving criminal activity by Split MD members before or after Storm.<sup>586</sup> However, he indicated that knowledge of the scale of the problem was relevant to assessing the adequacy of Gotovina's actions.<sup>587</sup>

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<sup>577</sup> D567.

<sup>578</sup> D567,pp.8-9.

<sup>579</sup> D567,p.10(emphasis added).

<sup>580</sup> D567,pp.10-11;see P2166,p.70;D506,p.2.

<sup>581</sup> See P2166,p.70;D506,p.2.

<sup>582</sup> Laušić:P2159,paras.77-78.

<sup>583</sup> Laušić:T.15320-21,15500.

<sup>584</sup> See below.

<sup>585</sup> Jones:D1633,para.43(Jones references D792,D979, D204, and P71 as the sources of his information about “undisciplined behaviour”).

<sup>586</sup> D1632,p.2.

<sup>587</sup> Jones:T.21004.

- Jones was not informed that when Gotovina was confronted with the fact that his subordinates were continuing to loot, burn and harass civilians in September 1995, he accepted these crimes were continuing and attempted to justify them.<sup>588</sup>
- Jones did not know how many non-combatants were left in the area after Storm.<sup>589</sup>
- Jones was confused about the number of Gotovina's subordinates remaining in what he referred to as the "rear area" after combat operations moved to Bosnia. Initially estimating that this amounted to only a few hundred MP officers,<sup>590</sup> he later agreed that other units were also stationed in Knin after being confronted with documents indicating as much.<sup>591</sup>
- Jones did not know that a Split MD IZM was located in Knin,<sup>592</sup> or how often Gotovina was in Knin,<sup>593</sup> after Storm, although he considered these facts relevant.<sup>594</sup>

*Gotovina's Repeated Orders Encouraged the Commission of Crimes*

192. By essentially reiterating the same ineffective order to stop crimes, while failing to take steps to implement that order, Gotovina signalled to his subordinates that (a) he was aware of their ongoing criminal conduct, and (b) he was unwilling to take steps to stop their criminal behaviour. It is only logical that this message encouraged the further commission of these crimes. At the very least, Gotovina's orders signalled that he accepted or condoned these crimes. The testimony of Defence and Prosecution witnesses alike confirmed the Appeals Chamber's observation that, "a superior's failure to punish a crime of which he has actual knowledge is likely to

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<sup>588</sup> D1632,pp.4-9.

<sup>589</sup> Jones:T.20981-84.

<sup>590</sup> Jones:T.21014-15.

<sup>591</sup> Jones:T.21025-26.

<sup>592</sup> Jones:T.21021.

<sup>593</sup> Jones:T.21045.

<sup>594</sup> Jones:D1633,para.22.

be understood at least as acceptance, if not encouragement, of such conduct, with the effect of increasing the risk of new crimes being committed.”<sup>595</sup>

193. Barković agreed that if disciplinary measures were not taken against soldiers for crimes in Grahovo and Glamoč, this created a risk of the same conduct continuing in connection with Storm.<sup>596</sup> He added that when an order to prevent crimes is not followed, the commander cannot simply reissue the same order: “Measures of control and inspection must be taken, personal control at one’s own level and two levels below, see what’s happening, why it’s happening, learn the lessons and get to the bottom of that and then achieve appropriate conduct.”<sup>597</sup>

194. Jones agreed that “in some cases,” if a soldier or an officer is not disciplined for having disobeyed orders or committing crimes it could well encourage him to continue with his cause of action,”<sup>598</sup> adding, if a commander becomes aware that his orders are not being implemented, “he has to take action [...] to make sure whatever his intent was or his orders does get down to that appropriate section and/or commander he is targeting.”<sup>599</sup>

195. Similarly, Theunens explained that “things will not get better by just re-issuing orders.” A commander must take steps to ascertain why his order has not been followed and then take additional measures in order to guarantee that his orders are implemented.<sup>600</sup> A commander who does not ensure the implementation of his orders undermines his own authority, and the order will have a counter-productive effect.<sup>601</sup>

196. One of the handful of military court prosecutions for theft after Storm demonstrates the climate of impunity that Gotovina created and fostered. A 113<sup>th</sup> brigade soldier told the Court that he had been looting in Kosovo village on 2-Sep-95 because “everybody is loading and carrying things off so why not me.”<sup>602</sup>

197. The prevailing circumstances heightened the need for Gotovina to monitor and ensure the implementation of his orders. In particular, the revenge motivation

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<sup>595</sup> *Strugar* AJ, para.301.

<sup>596</sup> *Barković*:T.20190-93.

<sup>597</sup> *Barković*:T.20186.

<sup>598</sup> *Jones*:T.21002.

<sup>599</sup> *Jones*:T.21001; *see Jones*:T.21029; *Forand*:T.4535.

<sup>600</sup> *Theunens*:T.12790-91.

<sup>601</sup> *Theunens*:T.12876.

permeating Home Guard units “required a high degree of strict control to make sure that such individuals did not engage in misdeeds.”<sup>603</sup>

198. Gotovina was an experienced, effective, and respected commander<sup>604</sup> who headed an otherwise well-disciplined force.<sup>605</sup> He knew, just as Barković, Jones and Theunens knew, that by simply re-issuing the same failed order without taking steps to ensure its implementation, he was signaling his acceptance of his subordinates crimes, thereby encouraging and condoning their commission.

*Gotovina Ignored the Murder and Mistreatment of Serbs*

199. Gotovina was aware of the obvious risks to the lives and safety of Serbs remaining in the area after the shelling attack, yet he did virtually nothing to protect them from his subordinates and failed to respond to alarming reports of HV crimes against Serbs.

200. As discussed above, prior to Storm, Gotovina knew of his subordinates’ propensity for mass crime, knew they were entering the Krajina fueled by revenge, and anticipated that vulnerable members of the Serb civilian population would remain in the Krajina after the shelling attack.<sup>606</sup> Gotovina signaled to his subordinates, through his instruction to place entire towns under artillery fire, that the civilian population itself was the object of Storm. He then ordered them into the towns and villages in the Krajina with nothing more than generic instructions to treat civilians in accordance with the Geneva Conventions, taking no genuine measures to protect civilians. In these circumstances, Gotovina was aware of the substantial likelihood—or at least the risk—that his subordinates would murder and mistreat Krajina Serbs in the execution of Storm and its aftermath.

201. These risks were quickly and brutally realized. Between 5 and 9 August, Split MD forces murdered dozens of Serb civilians and combatants *hors de combat* as they

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<sup>602</sup> P2609,p.5(internal punctuation omitted);see Bajić:T.20823,20860-61.

<sup>603</sup> Barković:T.21075.

<sup>604</sup> Herrick:T.20077-78;see D792;D979.

<sup>605</sup> Rajčić:T.16328;Galbraith:T.4947-49;Morneau:T.4013.

<sup>606</sup> P461,p.15.

moved through towns and villages in accordance with Gotovina's Attack Order.<sup>607</sup> Croatian Forces continued to murder Serbs throughout the Indictment Period.<sup>608</sup> Murders committed in connection with the burning of Serb property illustrate the inherently violent nature of the established pattern of arson by Gotovina's forces.<sup>609</sup>

202. Almost as soon as Storm began, Gotovina began receiving reports and must have observed the obvious signs of such crimes, including:

- On 6-Aug-95, the day Gotovina held a meeting at Knin Fortress, Džolić could "see the villages around Knin burning" from the Fortress.<sup>610</sup> In the Knin area homes were on fire;<sup>611</sup> dozens of dead bodies showing signs of murder were lying in the streets;<sup>612</sup> soldiers were blowing up homes,<sup>613</sup> and "soldiers were looting everywhere."<sup>614</sup>
- On 5 and 6 August, explosions and arms fire were heard coming from downtown Knin;<sup>615</sup> the situation caused the ECMM to express concern that there were "strong indications of deliberate killings."<sup>616</sup>
- On 10-Aug-95, SIS reported to the Split MD that "HV members [in Knin] demolished shops[,] ran tanks over cars," and "drove in seized cars about the town, under the influence of alcohol...shooting and threatening people's lives."<sup>617</sup>
- On 12-Aug-95 the Split MD PD informed Gotovina that HV members had engaged in "torching and destruction of facilities and property throughout the entire liberated territory," "killing of livestock",

<sup>607</sup> See "Crimes:Counts6&7"(Scheduled Killings 1,2,3,7;Additional Killings 129-137,247-256);Annex B-"Additional Killings"(nos.1-6,81,121-126,128-137,142-148,150-154,157-163,184,195,197,203-204,209,212,231-233,247-258,261-264,269,271,277,330-331,334-337).

<sup>608</sup> See "Crimes:Counts6&7";Annex B-"Additional Killings".

<sup>609</sup> See, e.g., "Crimes:Counts6&7" (Scheduled Killing,2;Additional Killing 260).

<sup>610</sup> Džolić:P875,para.29;Džolić:P876,para.12.

<sup>611</sup> Hill:P292,p.22;Džolić:P875,para.29;Džolić:P876,para.12.

<sup>612</sup> Dawes:P980,pp.7-9;Dawes:T.10402-03;Dreyer:P72,para.22.

<sup>613</sup> Dawes:P980,p.9;Berikoff:D284,p.15.

<sup>614</sup> Hill:P292,p.22;Williams:P925,p.7;P1134,p.3;P826,p.1;P1133,p.2.

<sup>615</sup> P109,p.8;D124,p.1;Dawes:P980,p.8;see Dangerfield:P695,para.8.

<sup>616</sup> P825,p.1;P826,p.1.

<sup>617</sup> P1134,p.4.

“confiscation of property”, and “inappropriate conduct towards remaining civilians and prisoners of war.”<sup>618</sup>

Furthermore, in light of Gotovina’s frequent presence in Knin in August and September,<sup>619</sup> he observed the signs of crimes in and around the town that were obvious to numerous observers.<sup>620</sup>

203. Gotovina’s reaction to these reports and signs of killing and mistreatment demonstrates his total disregard for Serbs remaining in the area. He took no steps to uncover the perpetrators of, or otherwise address, incidents of murder or mistreatment of Serbs, made no effort to gather information about such crimes or the ongoing risks to the safety of Serbs in the area, and took no measures to prevent further such crimes.

204. The fact that on 11-Aug-95 Gotovina established a sanitation detachment whose first priority was “removal of human bodies” through an order that makes no mention of identifying crimes or conducting criminal investigations<sup>621</sup> indicates that Gotovina, in accordance with the policies of the Croatian leadership, was focused on quickly and efficiently clearing terrain at the expense of collecting evidence of widespread murder of Serbs.<sup>622</sup> The same day (16-Sep-95) that the MPA reported to Gotovina and others that HV members had committed “individual acts of murder,”<sup>623</sup> the Split MD command reported to the Main Staff that between early August and early September, 418 human corpses had been “clear[ed] up” in the Split MD AOR.<sup>624</sup>

<sup>618</sup> P918,p.1.

<sup>619</sup> Čermak:P2532,pp.27,31;D792(6-Aug-95);D281,pp.2,17(9-Aug-95);D772,p.2(11-Aug-95);P1131(13-Aug-95);P1197(16-Aug-95);P809,p.1(17-Aug-95);P511,p.1(17-Aug-95);D1032(17-Aug-95);D888(18-Aug-95);D562,p.2(21-Aug-95);D773(23-Aug-95);D1877(23-Aug-95);D1637(24-Aug-95);Čermak:P2526,p.90(26-Aug-95);D1639(29-Aug-95);P2566(1-Sep-95);D1739(4-Sep-95);P383,p.3(5-Sep-95);P384,p.4(6-Sep-95);D1005(6-Sep-95);P2585(16-Sep-95);D767(20-Sep-95).

<sup>620</sup> D792,p.2;Čermak:P2526,pp.40-41;Dawes:P980,pp.8-10;Dawes:T.10402-05;P825,p.1;P826,p.1;P939,pp.1,3;P686;Dreyer:P72,para.22;Dreyer:T.1738-40;Morneau:T.4006-07; [REDACTED];[REDACTED];Džolić:P875,para.29;Džolić:P876,para.12;Berikoff:D284,pp.15,21,32;D49,p.1;P877,pp.1-2;D48;P808,p.1;P2158,p.2;P957,p.2.;Hill:P292,p.22;Williams:P925,p.7;P1134,pp.3-4;P1290,p.6;P1133,p.2;D46;D810,p.3;P203,p.1;Hill:P306,para.1;P742;P747;P806,paras.2-4;P2174,p.1.

<sup>621</sup> P496,p.3.

<sup>622</sup> See “JCE:Implementation of the Common Criminal Purpose”.

<sup>623</sup> D567,p.10.

<sup>624</sup> P507,p.3

205. Similarly, instead of acting upon the numerous contemporaneous media reports of murder and mistreatment of Serbs by HV members,<sup>625</sup> Gotovina complained to Červenko that Roberts had reported in the press that “[t]he Croatian Army is burning, looting and violating human rights”<sup>626</sup> and told Forand that Roberts’ activities as a press information officer justified his execution.<sup>627</sup> A few days before Gotovina made these accusations, Roberts had stated in a 1-Sep-95 UN Radio interview that “killing, looting, and burning of houses are continuing, often by members of the Croatian Army,”<sup>628</sup> noting that more than 100 civilians had been killed.<sup>629</sup>

#### 4. Measures Gotovina Could Have Taken

206. The ineffectiveness of Gotovina’s orders purporting to address the looting and burning after Storm resulted from his deliberate failure to implement those orders. Gotovina was an effective military commander, well-respected by his soldiers, and able to ensure the implementation of his orders when he was interested in doing so.<sup>630</sup> Numerous examples of implemented orders illustrate Gotovina’s effective command and control,<sup>631</sup> including in relation to matters of military discipline and crimes that are not the subject of the Indictment.<sup>632</sup> The HV was otherwise well-disciplined<sup>633</sup> with a well-functioning system of command and control during Storm.<sup>634</sup>

207. Gotovina’s deliberate failure to implement his orders to prevent or stop looting and burning in the areas affected by Storm is also evident from orders he issued in other contexts. These orders included monitoring and implementation measures such as:

<sup>625</sup> P2319,pp.3-4;Puhovski:P2316,para.25;P712;P686;P451,p.272;P400,pp.2-3;Galbraith:T.5047,5071-73;see Bajić:T.20759-60.

<sup>626</sup> P407,p.1.

<sup>627</sup> P383,p.4;P384,p.4;P705,p.3;Forand:T.4169;see P385.

<sup>628</sup> P712.

<sup>629</sup> P712.

<sup>630</sup> Herrick:T.20077-78;Rajčić:T.16454.

<sup>631</sup> See, e.g., D970;P1263;P1201;P1194(all implementing P1125).

<sup>632</sup> E.g.,P1013(order);Botteri:T.10864-72(compliance);P1034(order);P1028,pp.6-7,10-16(compliance);P1020(order);P1021(compliance).

<sup>633</sup> Rajčić:T.16328;Galbraith:T.4947-49;Morneau:T.4013.

<sup>634</sup> P1132,p.7;Barković:T.20195;P2585,p.14.

- ordering the MP, or other bodies to monitor and ensure the implementation of his orders;<sup>635</sup>
- instructing subordinate commanders to report back on measures taken to implement his orders and results achieved;<sup>636</sup>
- instructing subordinate commanders to investigate reports of crimes by members of their units;<sup>637</sup>
- instructing subordinate commanders to impose disciplinary measures on perpetrators of crimes;<sup>638</sup>
- forming commissions to investigate and report back on reports of crimes;<sup>639</sup>
- tasking the MP<sup>640</sup> or other units<sup>641</sup> to control and prevent crimes reported in a particular area;
- imposing military curfews;<sup>642</sup>
- bringing disciplinary charges against suspected perpetrators of crimes;<sup>643</sup>
- removing or replacing commanders for failing to maintain discipline within their units;<sup>644</sup> and
- imposing disciplinary measures and/or initiating criminal proceedings against commanders who failed to follow his orders.<sup>645</sup>

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<sup>635</sup> P1142;D655;D773.

<sup>636</sup> P1028,pp.6-7,10-16;D305;D307;D773.

<sup>637</sup> P1018;P1019.

<sup>638</sup> P1013;P1034.

<sup>639</sup> P1013.

<sup>640</sup> P1141.

<sup>641</sup> D981(tasking the OG Šibenik Commander with providing an infantry company security for particular depots).

<sup>642</sup> P1142.

<sup>643</sup> P1028,pp.47-48.

<sup>644</sup> Gotovina had the power to remove or replace subordinate commanders and he did so on at least two occasions. (*See* Theunens:P1113:pp.517-18). For the reasons discussed above, in neither case did Gotovina replace the commander due to his failure to prevent or stop the commission of the charged crimes by his subordinates.

208. Measures contained in orders Gotovina issued to address his subordinates' looting and burning in connection with operations in Bosnia contrast with the weak and ineffective orders he issued after Storm. For example:

- On 13-Sep-95, Gotovina ordered the commanders of OG South and OG West to establish a system to monitor and identify perpetrators of destruction in the Drvar area, banned the issuing of authorizations to take away goods from the area and assigned the military police to monitor the implementation of this ban.<sup>646</sup>
- On 17-Sep-95, noting that Drvar was “an area designated for the settling of displaced Croats from the occupied parts of Bosnia and Herzegovina and the so-called FRY,” Gotovina assigned the OG South commander as town commander of Drvar, and tasked him to prevent torching, looting and destruction in the town, establish military and police security on access roads to the town, and report regularly on the implementation of tasks.<sup>647</sup> On the same day, Gotovina ordered the 72<sup>nd</sup> MP Commander to transfer an MP platoon to Drvar in order to monitor access roads to Drvar and prevent torching and destruction.<sup>648</sup>
- On 22-Sep-95, due to the “increasingly undisciplined conduct” of HV members in Jajce, Gotovina (1) imposed a curfew on HV members and (2) assigned guards brigades and Special Police units to monitor the implementation of the curfew, including by designating an “intervention company” authorized to use force to implement the curfew in cooperation with the MP.<sup>649</sup>

#### **D. HV Discipline and Disciplinary Measures**

209. Gotovina was responsible for maintaining order and discipline within the Split MD, and was responsible for the breakdown of order and discipline within the Split

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<sup>645</sup> P1033.

<sup>646</sup> D655.

<sup>647</sup> D656.

<sup>648</sup> P1141.

<sup>649</sup> P1142.

MD resulting in the HV crime wave during and following Storm. Gotovina failed to use the functioning HV disciplinary system to prevent or punish the looting, burning, cruel treatment and murder committed by his subordinates, and he failed to discipline his subordinate commanders for their failure to prevent, stop, or punish such crimes.

210. Although available disciplinary sanctions were by themselves inadequate to punish most criminal incidents underlying the charges in the Indictment, the system would have enabled Gotovina and his subordinate commanders to immediately and visibly address the criminal conduct of their subordinates—while initiating parallel criminal proceedings. By failing to employ disciplinary measures with respect to these crimes Gotovina and his subordinate commanders signaled to HV members that crimes against Serbs and their property was permitted.

#### 1. The HV Military Discipline System

211. At all relevant times, a functioning system of military discipline existed within the HV.<sup>650</sup> Under this system, and in accordance with general military and HV doctrine, maintaining and enforcing military discipline was first and foremost the task of HV commanders.<sup>651</sup>

212. Maintenance of military discipline by commanders through the line of command is necessary to prevent undisciplined conduct by subordinates.<sup>652</sup> A commander's failure to address subordinates' undisciplined conduct effectively encourages similar future conduct. As Jones explained, "leadership is critical at the tactical level and is essential to preclude [undisciplined acts]."<sup>653</sup>

213. Laušić explained that the weaker the chain of command, the more the MP had to act,<sup>654</sup> but that, "the military police, even had we had far more men in the field, and even with much more equipment and education of our staff, could not have been efficient if the line of command was dysfunctional."<sup>655</sup>

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<sup>650</sup> Theunens:P1113,pp.5-6;Theunens:T.12275-76.

<sup>651</sup> Theunens:T.12617,13309;P1007,pp.7-10,17(Arts.19-27,61);Barković:T.20184-87;Laušić:T.15536;see Laušić:P2159,p.45;Jones:T.21027-28;D32,p.5(Art.4);Theunens:P1113,pp.171-72.

<sup>652</sup> Jones:T.21003-04;Jones:D1633,para.28;Theunens:T.12728;Laušić:T.15317.

<sup>653</sup> Jones:D1633,para.28.

<sup>654</sup> P2159,p.17,para.78;see P2166,p.70;D506,p.2.

<sup>655</sup> Laušić:T.15262.

214. The HV military discipline system allowed—and in some cases required—commanders to take immediate disciplinary decisions.<sup>656</sup> This reflects the need for military commanders to urgently address disciplinary violations, particularly in wartime conditions where troops operate continuously, in order to maintain order and discipline.<sup>657</sup>

## 2. Available Disciplinary Sanctions for Indictment Crimes

215. Various categories of disciplinary breaches listed in the Military Disciplinary Code could have been used to punish the commission of Indictment crimes, at least as an interim measure.<sup>658</sup> Disciplinary sanctions were also available to discipline soldiers and officers who failed to follow orders not to commit such crimes, or to prevent, stop, or punish such crimes.<sup>659</sup>

216. Disciplinary sanctions alone would have been insufficient to punish the criminal incidents underlying the Indictment, at least in most cases. Gotovina and his brigade commanders could impose a maximum punishment of thirty days detention for minor disciplinary breaches.<sup>660</sup> Lower-level commanders could only impose sentences of 15 days or less.<sup>661</sup> Sentences for major disciplinary violations were imposed by military disciplinary courts, which could impose a maximum of thirty days' detention.<sup>662</sup>

217. However, disciplinary sanctions did not preclude parallel criminal proceedings for the same misconduct.<sup>663</sup> The Gotovina Defence's attempt to minimize the utility and/or availability of disciplinary measures for criminal conduct<sup>664</sup> is contradicted by the evidence and ignores the importance of disciplinary sanctions as a means of immediately punishing criminal acts by HV members and maintaining order and discipline within HV units. As the Appeals Chamber observed, even where a disciplinary sanction is insufficient to discharge the duty to punish a particular

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<sup>656</sup> P1007, pp.9-11,13,27(Arts.26,27,32,41,61,105,106).

<sup>657</sup> Theunens:T.12287,12726-30;see Jones:T.21064.

<sup>658</sup> P1007,p.3(Art.3).

<sup>659</sup> P1007,p.3(Art.3(2)).

<sup>660</sup> P1007,pp.5,7-15(Arts.10,19-52).

<sup>661</sup> P1007,pp.8-9(Arts.21-23).

<sup>662</sup> P1007,pp.5,15-24(Arts.11,53-91).

<sup>663</sup> Botteri:P1005,para.22;Botteri:D878,paras.22-24;P1007,pp.3,10(Arts.3(7),31);Theunens:T.12726.

<sup>664</sup> E.g., Botteri:T.10944-51.

offence, “immediate and visible measures such as disciplinary detention” may be necessary, even if not sufficient by themselves to discharge the duty.<sup>665</sup>

218. Gotovina and other HV officers instituted disciplinary proceedings for their subordinates’ criminal conduct in relation to matters unrelated to the Indictment. Thus, Gotovina’s claims that disciplinary sanctions were inappropriate to sanction criminal behaviour are *ex post facto* attempts to justify his failure to employ disciplinary sanctions for crimes committed in connection with Storm. For example:

- Several months before Storm, Gotovina imposed disciplinary sanctions and initiated criminal proceedings against a subordinate officer for failing to follow orders.<sup>666</sup>
- Three days after criminal charges were brought against a soldier involved in a violent conflict with other soldiers,<sup>667</sup> Gotovina ordered the commander of the soldier’s brigade to “urgently take a disciplinary action and measures” against him.<sup>668</sup> The Commander immediately complied with the order.<sup>669</sup>
- Following a 21-May-95 incident, where members of the 114<sup>th</sup> brigade threw a hand grenade in the town of Trogir resulting in injuries and damage, Gotovina ordered the brigade commander to form a commission to investigate the incident and “within your authority to take the strictest measures against the perpetrators”<sup>670</sup> even though a criminal investigation was already underway.<sup>671</sup>

219. Other commanders within the Split MD also imposed disciplinary measures while also initiating criminal proceedings,<sup>672</sup> or imposed disciplinary punishment for conduct that could also be classified as criminal.<sup>673</sup>

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<sup>665</sup> *Hadžihasanović* AJ,para.152.

<sup>666</sup> P1033.

<sup>667</sup> P1028,pp.40-44.

<sup>668</sup> P1034.

<sup>669</sup> P1028,pp.6-7,10-16.

<sup>670</sup> P1019.

<sup>671</sup> P1018;Botteri:T.11013-15.

<sup>672</sup> *E.g.*,P1010;P2614,p.21(KT/977)(showing parallel disciplinary and criminal measures taken against a member of the 4GBR for theft of combat equipment);P1031,p.8(relating to disciplinary measures

220. Gotovina's disciplinary powers encompassed all Split MD units, including those temporarily subordinated to the Split MD such as the 7GBR. Gotovina could discipline members of these units directly,<sup>674</sup> or ensure their punishment through their organic chain-of-command.<sup>675</sup> As these units fell under Gotovina's direct line of command during and following Storm, Gotovina's responsibility to ensure order and discipline through this line of command encompassed temporarily subordinated units.

### 3. Gotovina and his Subordinate Commanders Ignored Indictment Crimes

221. Gotovina did not consider his subordinates' crimes against Serbs and their property to constitute a problem of military discipline. This is clear from Gotovina's:

- failure to use military discipline to sanction Split MD members who committed these crimes;
- use of military discipline to deal with other types of criminal and undisciplined conduct;
- failure to discipline subordinate commanders who did not use disciplinary or other measures to prevent or punish their subordinates' crimes against Serbs and their property; and
- positive assessment of the level of military discipline within the Split MD in connection with Storm.

222. That Gotovina did not impose any disciplinary punishments in the third quarter of 1995 demonstrates his failure to discipline any subordinates for participating in crimes against Serbs and their property during the Indictment Period.<sup>676</sup>

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taken against members of the 4GBR who were caught on 7-Jul-95 with stolen horses in order to sell them and secure unlawful gain, where the file states that "criminal charges will probably be filed.")

<sup>673</sup> E.g., P1008,pp.9-10(arson);P1026,pp.9(breaching the peace under the influence of alcohol),23(breaching the peace by breaking the furniture and fittings in a café),p.37(assaulting superior commanders);P1027,p.15(punching and breaking the nose of a lance corporal).

<sup>674</sup> P1014;Theunens:T.12296-98.

<sup>675</sup> P1020;P1118;Theunens:T.12289-91,12294-95.

<sup>676</sup> P1017,p.6(zero measures for VP1080);Botteri:T.10920.

223. Similarly, although Gotovina was aware of the widespread looting and burning by HV members and knew that his subordinate commanders were not imposing disciplinary measures for this conduct, as discussed above, Gotovina's orders contained no explicit instructions to his subordinate commanders to impose disciplinary measures to address Indictment crimes.

224. For example, when Gotovina learned of the destruction his subordinates caused in Knin, he issued orders aimed at cleaning up the town rather than disciplining, or otherwise punishing, those responsible.<sup>677</sup> In contrast, when he learned that his subordinates had illegally occupied flats in Split, he formed a high-level commission to investigate the matter, and ordered subordinate commanders to impose disciplinary and criminal sanctions on the perpetrators.<sup>678</sup>

225. Similarly, Gotovina failed to discipline any subordinate commanders during the Indictment Period who failed to implement his repeated orders to prevent or stop looting and burning. This contrasts with his use of disciplinary and criminal measures to punish a subordinate commander for failing to follow orders in a matter unrelated to the Indictment.<sup>679</sup>

226. Gotovina approved 83 disciplinary measures imposed by his immediate subordinate commanders for infractions committed in August and September 1995.<sup>680</sup> Gotovina's approval of these measures notified him that his subordinates were not imposing disciplinary sanctions for Indictment crimes. Only a handful bear any relation to Indictment crimes; those that do largely treat these crimes as an incidental or secondary concern.

227. For example, only two of these 83 disciplinary measures relate to burning (one incident of setting haystacks on fire).<sup>681</sup> Disciplinary sanctions were imposed for this incident at least partly because the fire was set near the unit's accommodation.<sup>682</sup>

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<sup>677</sup> D792;D979.

<sup>678</sup> P1013,pp.1-2,7-9.

<sup>679</sup> P1033.

<sup>680</sup> P1016.

<sup>681</sup> P1016,p.12(nos.62,64);P1008,pp.9-10.

<sup>682</sup> P1008,pp.9-10.

228. Similarly, just six of the 83 measures relate to crimes of theft.<sup>683</sup> In only one case was the perpetrator disciplined directly for the theft—stealing HV equipment, resulting in 30 days’ detention and the filing of a criminal report.<sup>684</sup> The other five cases contain no indication that the subjects were referred to criminal authorities. This, coupled with the incidental treatment of the theft, indicates that theft of Serb property was accepted. For example, a soldier who left the unit without informing the commander, driving off in a “war booty” tractor, was punished with a two-month salary reduction.<sup>685</sup>

229. Theunens concluded that Gotovina had a “rather narrow interpretation of the concept of military discipline...exclusively focussed on the accomplishment of the specific combat tasks and combat operations.”<sup>686</sup> Laušić shared this view.<sup>687</sup>

230. Gotovina confirmed his narrow view of military discipline when, in the midst of the post-Storm HV crime wave, he reported in a secret and confidential report to the Main Staff that “military discipline and combat morale was exceptionally high in the preparation, course and conclusion of combat operations.”<sup>688</sup> One month later, Gotovina produced a secret and confidential analysis of Storm for the Main Staff,<sup>689</sup> which contained his assessment of the operation and his observations of positive or negative experiences.<sup>690</sup> Gotovina made no mention of his subordinates’ widespread crimes committed in connection with Storm.

#### 4. Demobilization Was Not a Necessary or Reasonable Measure

231. With no measures to ensure that soldiers who committed crimes were formally disciplined and referred to the military or civilian criminal justice system, the simple demobilization of Split MD members who were looting, burning, and killing was not designed to punish criminal behaviour. It was an attempt by Gotovina and his subordinate commanders to absolve themselves of responsibility for criminal

<sup>683</sup> P1016,pp.3,9,14,15(nos.10,12,42,73,78,79);P1009,pp.11-12,31-32;P1010;P1011.

<sup>684</sup> P1016,p.3(no.12);P1010.

<sup>685</sup> P1009,pp.11-12;see P1009,pp.31-32(disciplined for going absent without leave “in a stolen car from Knin”).

<sup>686</sup> Theunens:T.12868-69.

<sup>687</sup> Laušić:P2159,para.67.

<sup>688</sup> P1132,p.7.

<sup>689</sup> P2585.

<sup>690</sup> P2585,p.4.

elements within the HV, and exemplifies Gotovina's failure to ensure the punishment of his subordinates.

232. Consistent with Split MD policy, some Split MD units simply demobilized soldiers with discipline problems rather than initiating formal disciplinary or criminal proceedings.

233. For example, on 18-Aug-95, the Split MD Command was informed that the line of command of the 134HGR (part of OG West) was not functioning, and "members of the unit are continuously destroying and burning residential buildings...."<sup>691</sup> Around 19-Aug-95, based on Ademi's oral order, the OG West Commander instructed his subordinates to use their judgment to dismiss soldiers and to "principally dismiss individuals or groups who are behaving in a manner that causes disturbance of discipline and order."<sup>692</sup> The 134HGR Commander implemented that order on 19-Aug-95 by ordering the demobilization of "primarily... individuals and groups, who with their behavior disturbed the order and discipline within the unit and as such significantly impair the implementation of combat tasks." A large percentage of 134HGR soldiers were subsequently demobilized.<sup>693</sup> Given that a total of only four cases of property destruction committed in the Indictment Area between 4 and 17 August 95 were referred to either the civilian or military criminal justice systems,<sup>694</sup> the 134HGR members responsible for the "continuous" burning and property destruction reported on 18-Aug-95, were never held criminally responsible.

234. There was no systematic reporting of these demobilizations to the Split MD.<sup>695</sup> Botteri was unaware of any effort made to obtain information on the number of soldiers demobilized for misconduct, or the type of misconduct that resulted in demobilization.<sup>696</sup> She emphasized that, if the misconduct resulting in the demobilization was criminal, the soldier would remain subject to criminal liability.<sup>697</sup>

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<sup>691</sup> D984,p.2.

<sup>692</sup> D884(implementing orders: D885 and D886).

<sup>693</sup> See Theunens:T.12815-18.

<sup>694</sup> P2500(three cases);P2501(1 case);P2614(zero cases);P2615(zero cases).

<sup>695</sup> Botteri:T.10919,10978.

<sup>696</sup> Botteri:T.11018.

<sup>697</sup> Botteri:P1006,para.10;Botteri:D878,para.10.

However, she could not identify any concrete case where criminal proceedings were initiated against a demobilized soldier.<sup>698</sup>

235. Jones' response to documents illustrating the demobilization of ill-disciplined soldiers revealed that he viewed demobilization as a means for Gotovina to shift responsibility for his subordinates' crimes away from the HV rather than a disciplinary measure: Gotovina and his subordinates "don't want -- there are soldiers who have just been part of this offensive operation, to continue to be cited as of the -- those who are doing indisciplinary acts."<sup>699</sup> Similarly, Botteri explained that if "a reserve soldier is creating problems, then - this is my personal opinion - the commander was tempted to get rid of that soldier by demobilizing him, rather than starting a very complicated and long process that would lead to the punishment of such a soldier."<sup>700</sup>

236. Instead of demobilizing criminals, the necessary and reasonable measure would have been to ensure their adequate punishment through military disciplinary and criminal measures, or at least taking the necessary steps to ensure their referral to the criminal authorities in conjunction with demobilization.

237. For example, when one of Gotovina's subordinates was suspected of a serious crime unrelated to the Indictment, Gotovina ordered the subordinates' brigade commander to take disciplinary actions against him (a criminal report had already been filed)<sup>701</sup> and demobilize him upon execution of the disciplinary measures.<sup>702</sup>

#### **E. Military Police**

238. During the Indictment period, Gotovina exercised command and control over the 72<sup>nd</sup> and 73<sup>rd</sup> MP Battalions for regular MP tasks pursuant to the operational line of command. Although regular MP tasks included tasks relevant to preventing and punishing HV crime, Gotovina failed to use the MP to prevent or punish his subordinates' Indictment crimes.

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<sup>698</sup> Botteri:T.11021-22.

<sup>699</sup> Jones:T.20966.

<sup>700</sup> Botteri:T.10915.

<sup>701</sup> P1028,pp.40-44.

<sup>702</sup> P1034.

## 1. MP Dual Command Structure

239. The MP operated under a dual command structure, receiving orders from both the operational and professional chains of command in accordance with the MP Rules, which were in operation at all relevant times.<sup>703</sup> Article 9 of the MP Rules describes the operational line of command, under the MD commander or the highest HV commander in the area where the MP was operating. Article 8 describes the professional line of command, under the MPA, headed by Laušić. As Theunens explained, the operational commander told the MP “in very simple terms what to do,” while the professional chain through the MPA “determine[d] how to do it.”<sup>704</sup> Because the MP was subordinate to the operational and professional lines for different purposes, the two lines of subordination and reporting “d[id] not violate the principle of single and unified command.”<sup>705</sup>

### *Operational Line of Command*

240. The MP were subordinated to “the Commander of the Military District...or to the highest HV commander by function in the Military Police unit’s area of operations” for regular military police tasks.<sup>706</sup> Since the operational line of command and subordination followed the HV command structure, military commanders at all levels could issue orders to the MP within their AOR.<sup>707</sup>

241. Article 10 of the MP Rules lists the regular MP tasks for which the MP were subordinated to the operational line of command. These tasks were largely aimed at maintaining safety, security, and military discipline;<sup>708</sup> preventing and investigating crime;<sup>709</sup> and, in some circumstances, participating in combat.<sup>710</sup> Witnesses used the terms “regular military police tasks,” “daily tasks,” and “daily operational tasks” interchangeably to refer to tasks subject to Article 9 authority.<sup>711</sup>

<sup>703</sup> P880;Theunens:T.12331;D993;Laušić:P2159,para.19.

<sup>704</sup> Theunens:T.12599.

<sup>705</sup> Theunens:T.12339.

<sup>706</sup> P880,p.5;Džolić:P876,para.25;Laušić:P2159,paras.24,28;Šimić:P967,para.16;Theunens:T.12330;Laušić:T.15209;Jurić:T.27476-77.

<sup>707</sup> Laušić:P2159,para.106;Jurić:T.27483.

<sup>708</sup> Laušić:P2159,para.109;Džolić:P876,para.16;see Džolić:T.8929-

30;Džolić:P875,para.6;Šimić:P967,para.16.

<sup>709</sup> Laušić:P2159,para.168;Džolić:T.9116;Džolić:P875,para.6;Šimić:P967,para.16;Džolić:T.9009-10.

<sup>710</sup> Šimić:P967,para.16.

<sup>711</sup> See Laušić:T.15597-98;Džolić:T.8929-30;Theunens:T.12339-40.

242. Orders that operational commanders could issue to the MP to prevent or punish HV crimes included: setting up checkpoints to monitor HV members' movement and prevent them from committing crimes;<sup>712</sup> conducting patrols to detect and detain perpetrators;<sup>713</sup> detaining and arresting suspected HV perpetrators;<sup>714</sup> taking measures to secure a crime scene;<sup>715</sup> and conducting investigations into suspected HV crimes.<sup>716</sup> The MP was responsible for processing crimes where there was reason to believe that the perpetrators were HV members.<sup>717</sup>

243. The Crime MP, one of seven MP services,<sup>718</sup> was subject to the same operational command structure in accordance with Article 9.<sup>719</sup> The Crime MP's tasks focused on criminal investigations of crimes within the jurisdiction of military courts, primarily crimes committed by military personnel.<sup>720</sup> Operational commanders had the authority to order the Crime MP to investigate suspected crimes.<sup>721</sup>

#### *Professional Line of Command*

244. Article 8 granted the MPA authority over the MP with respect to personnel matters and command at a strategic level to maintain a uniform implementation of MP powers.<sup>722</sup> The MPA ensured that the MP had the appropriate resources to carry out its tasks, and prevented misuse and abuse of the MP.<sup>723</sup> This included establishing a uniform strategy for completing regular MP tasks such as maintaining check-points<sup>724</sup> but did not infringe upon the operational commander's authority to order MP units to execute these regular MP tasks within their AOR.<sup>725</sup>

245. Laušić's orders to the MP before and during the Indictment Period illustrate the contrast between MP subordination to the MPA under the professional line of

<sup>712</sup> P880,pp.5-6(Art.10(1,2));Laušić:P2159,para.100.

<sup>713</sup> P880,pp.5-6(Art.10(1,2,4));Džolić:P875,para.8.

<sup>714</sup> P880,p.6(Art.10(2));Šimić:P967,para.16;Džolić:T.9116.

<sup>715</sup> P880,p.6(Art.10(2));Šimić:P967,paras.3,9.

<sup>716</sup> P880,p.6(Art.10(2));Šimić:P967,para.16;Džolić:T.9009-10.

<sup>717</sup> P880,pp.25-26(Art.61);Bajić:T.20746;Milas:D1532,para.69;Milas:T.19201;Šimić:P967,para.6(if a crime was being committed by a person in uniform, the MP would be called upon to discern if in fact the perpetrator was part of the HV);Šimić:P968,para.2;Kardum:T.9494;Kardum:P896,para.25.

<sup>718</sup> P880,p.13(Art.16).

<sup>719</sup> Šimić:P967,para.16;see Džolić:T.9009-10.

<sup>720</sup> P880,p.23(Arts.53-54).

<sup>721</sup> Šimić:P967,para.16.

<sup>722</sup> See Laušić:T.15208-09.

<sup>723</sup> Laušić:T.15363-64.

<sup>724</sup> P878.

<sup>725</sup> Laušić:T.15372.

command, and MP subordination under the operational line of command. Laušić's orders related to personnel<sup>726</sup> and uniform strategy,<sup>727</sup> including a uniform approach to coordination with the MUP,<sup>728</sup> reflecting his authority over the MP through the professional line of command. To the extent these orders touched upon operational matters, they maintained the distinction between Article 8 and Article 9 authority by leaving HV commanders to supply the details when assigning the tasks to their subordinate MP units.<sup>729</sup>

## 2. Gotovina's Command and Control over the MP

246. Having reviewed the voluminous documentary evidence of command and control over the MP, Theunens concluded that, with the exception of a single order, the situation on the ground during the Indictment Period conformed to the dual command structure set forth in the MP Rules.<sup>730</sup> Contemporaneous accounts and the evidence of MP officials Laušić, Jurić, and Džolić confirm that during the period surrounding Storm, the division of command and control mandated by Articles 8 and 9 was followed.<sup>731</sup>

247. As Split MD Commander, Gotovina had command and control over the MP units attached to the Split MD—the 72<sup>nd</sup> and 73<sup>rd</sup> MP Battalions.<sup>732</sup> Gotovina's numerous orders to these MP Battalions illustrate their subordination to the Split MD for regular MP tasks<sup>733</sup> and demonstrate his authority to use his subordinate MP units

<sup>726</sup> D267;D268.

<sup>727</sup> P878;P2189.

<sup>728</sup> D794;Theunens:P1113,pp.212-13;D269;P877;D595;D1072;P2206(Laušić:T.15490-91).

<sup>729</sup> Laušić:T.15372,15375-76,15464.

<sup>730</sup> Theunens:T.12611-12(Theunens considered D845 to infringe upon the operational command's authority over regular MP tasks, but allowed for the possibility that there could be another explanation).

<sup>731</sup> See Laušić:T.15434-35;Jurić:T.27483;Džolić:P876,para.25;see also Laušić:T.15454-57;P881,p.2;D267,p.2;D47,p.4;D567,p.2;Laušić:T.15236-37;D292,p.3.

<sup>732</sup> Theunens:T.12340-41.

<sup>733</sup> P71,p.10(Gotovina's oral order: "I order! The 72th [sic] BVP/ exp. unknown/ and ATG / expansion unknown/ to...set checkpoints and control everything");P1123;P1124;P1125,p.18("72<sup>nd</sup> MP Battalion with reinforcements shall be in charge of regulating and controlling traffic");P1126,pp.2-3((p.2) "Energetically prevent any attempted intelligence activities and access to the [zone of operations] by members of the UN and UNMO";(p.3) "Collecting and transporting the population trapped in liberated territory to collection centres";(p.3) "Discovering, arresting and bringing in enemy soldiers and officers to" various locations;(p.3) "immediately station personnel of the MUP, special MUP units and the VP in large towns to secure the town and important buildings");P1127,p.1;P1129,p.1;P1130;P1141;Jones:T.21019-20(expert witness Jones agreed that as of 9-Aug-95, Gotovina was still able to direct the MP).

to prevent crimes and maintain order and discipline among his subordinates,<sup>734</sup> and punish their crimes.<sup>735</sup> Other HV commanders' orders similarly illustrate the authority under Article 9 to prevent and punish HV crime.<sup>736</sup>

### 3. Defence Attempts to Deny Gotovina's Authority over the MP Are Unpersuasive

248. The Defence advanced three arguments in an attempt to justify their claim that Gotovina and Čermak did not have command responsibility over the MP. These arguments are internally inconsistent and contradicted by the evidence.

#### *Defence Argument 1*

249. The Defence argued that command and control over the MP rested solely with the MPA<sup>737</sup> because the existence of two lines of command and control violated the principle of unity of command.<sup>738</sup> This is contradicted by the plain language of the MP Rules and other contemporaneous documents, including orders issued by Gotovina<sup>739</sup> and Čermak.<sup>740</sup> As key witnesses explained, the two lines did not violate the principle of unity of command because they involved distinct responsibilities.<sup>741</sup>

250. The Defence attempted to portray the 72<sup>nd</sup> and 73<sup>rd</sup> MP Battalions as exclusively subordinate to Jurić, who was appointed to the 72<sup>nd</sup> Battalion IZM by Laušić.<sup>742</sup> This was rejected by Jurić and other witnesses, who explained that he had a coordinating, not a commanding, role.<sup>743</sup> Jurić explained that he was not “superior in the formal or legal sense of the word” to the commanders of the 72<sup>nd</sup> and 73<sup>rd</sup> MP Battalions.<sup>744</sup> Notably, the Defence never put its contrary case on this issue to Jurić.

251. The Defence also argued that, although a dual command system may have existed following Laušić's 1992 order,<sup>745</sup> this dual command system was cancelled by

<sup>734</sup> P1123;P71,p.113(“General”—probably Gotovina—stated “The units that are burning down the houses will stay the night?! in the houses they are burning down now. The 6<sup>th</sup> Home Guard Regiment will stop with providing security tomorrow, and MP will take over.”);P1141.

<sup>735</sup> P1013;D305.

<sup>736</sup> P2166,p.39;Laušić:T.15311.

<sup>737</sup> T.12650;Feldi:T.21932.

<sup>738</sup> See Milas:D1532,para.67.

<sup>739</sup> E.g.,P71,p.10;P1124;P1125,p.18;P1126,pp.2-3;P1127,p.1.

<sup>740</sup> E.g., D303;D503.

<sup>741</sup> See Theunens:T.12685;Laušić:T.15363-64.

<sup>742</sup> Theunens:T.12640;see Džolić:T.9081-86;Šimić:T.10348;D267,p.4;D268.

<sup>743</sup> Jurić:T.27414-15;Šimić:T.10348;Džolić:T.9008;Theunens:T.12341;Laušić:T.15238-39.

<sup>744</sup> Jurić:T.27413-15.

<sup>745</sup> P1206,p.1.

Šušak's July 1994 order.<sup>746</sup> The Defence has not attempted to reconcile this argument with its argument that a dual command system violated unity of command. In any event, Šušak's order explains the MP's Article 8 subordination to the MPA and Article 9 subordination to the HV command in a manner that is entirely consistent with Laušić's 1992 order.<sup>747</sup> Furthermore, the suggestion that Šušak's order cancelled the dual command system is contradicted by the fact that this same order provides a mechanism to resolve potential conflicts between orders from the operational and professional lines.<sup>748</sup> Moreover, the 1994 MP annual report of the system of daily operational command does not mention any substantive alteration of MP subordination to HV commanders.<sup>749</sup> Laušić confirmed that MP subordination to HV commanders was never substantially altered and remained in force during Storm.<sup>750</sup>

252. Finally, the Defence argued that Article 9 was not self-executing, and HV commanders would therefore only have authority over the MP pursuant to Article 9 if such authority were granted through an order from the professional line.<sup>751</sup> There is no basis in the MP Rules for interpreting Article 8 as self-executing but Article 9 as requiring an implementing order. Moreover, Defence evidence on this point is convoluted and contradictory. One Defence expert testified that Laušić's orders concerning MP subordination to the HV during Storm were necessary to give effect to their Article 9 authority,<sup>752</sup> while another claimed that Laušić's orders were "unlawful."<sup>753</sup>

### *Defence Argument 2*

253. The Defence attempted to explain Article 9 in light of the singular MPA command theory, contending that "[d]aily operational command [under Article 9] meant that the zone commander could utilize the military police to the extent it was necessary to fulfil his tasks."<sup>754</sup> Thus, "Gotovina's tasks are those that he received an

<sup>746</sup> D35, para. 10; Feldi: D1673, pp. 30-31 (1.5.22-1.5.23), 38-39 (1.5.50); Theunens: T.12650.

<sup>747</sup> D35, paras. 1, 3; *see* Laušić: T.15231-32; Theunens: T.12904, 12593; *see also* Jones: T.21019-20 (expert witness Jones agreed that as of 9-Aug-95, Gotovina was still able to direct the MP).

<sup>748</sup> D35, paras. 3-5.

<sup>749</sup> D1281, p. 4.

<sup>750</sup> Laušić: P2159, paras. 27-28; Laušić: T.15345-47.

<sup>751</sup> Kovačević: D1676, pp. 96-97; Feldi: T.21979.

<sup>752</sup> Feldi: T.22007.

<sup>753</sup> Kovačević: D1676, p. 97 (para. 5.4.7).

<sup>754</sup> T.12600.

order from his superior commands to execute.”<sup>755</sup> This theory is contradicted by the plain language of the MP Rules, as well as voluminous witness and documentary evidence. Regardless of the label placed on Gotovina’s authority over the MP, the evidence discussed above shows he had the authority to issue and enforce orders regarding regular MP tasks, which included preventing and punishing HV crimes and maintaining discipline.

### *Defence Argument 3*

254. The Defence also argued that the HV did not have command and control over the Crime MP in particular. This argument is based on an exclusive focus on evidence of the Crime MP’s subordination to the Crime MP section of the MPA through the professional line of command<sup>756</sup> and fails to account for evidence of the Crime MP’s operational subordination to their operational commander.<sup>757</sup> Although some technical aspects of the Crime MP’s duties were beyond the scope of the operational line’s Article 9 authority—such as conducting a formal on-site criminal investigation, as governed by Article 6 of the Criminal Procedure Law, which required the involvement of an investigating judge<sup>758</sup>—the evidence demonstrates that basic crime prevention and criminal processing were subject to Article 9 subordination.

255. In contrast to the testimony of Theunens, Laušić, Jurić, and Džolić, Defence witness Boris Milas, head of the Crime MP for the 72<sup>nd</sup> MP Battalion claimed that not all Article 10 tasks were “regular MP tasks” subject to the operational line’s command and control<sup>759</sup> In particular, he claimed that operational commanders had no authority over Article 10, item 2 tasks, which were exclusive to the Crime MP,<sup>760</sup> and performed *ex officio*.<sup>761</sup> However, the fact that some Crime MP tasks may have fallen within the scope of their *ex officio* duties did not exempt the Crime MP from the command structure, nor did it preclude operational commanders from issuing specific

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<sup>755</sup> T.12602.

<sup>756</sup> D846(organizational chart created by the Čermak Defence);Šimić:T.10349-55;see Šimić:T.10356-70(Defence submitted professional line reports D847;D848;D849;D851;D850;D852;D853).

<sup>757</sup> Šimić:T.10224-25,10348-49,10353,10372;see Šimić:P967,para.1.

<sup>758</sup> Bajić:D1626,para.15;Matulović:T.20522;P972,0362-1525-ET,p.2;Bajić:T.20737-38;Galović:D1553,pp.2-3.

<sup>759</sup> Milas:D1532,para.56.

<sup>760</sup> Milas:D1532,para.65.

<sup>761</sup> Milas:T.19296,T.19298;Milas:D1532,para.21.

tasks to the Crime MP that could have overlapped with their *ex officio* duties. Contemporaneous documentary evidence contradicts Milas' testimony on this issue:

- The plain language of Article 16 of the MP Rules provides that members of each service, including the Crime MP, were to “carry out the tasks and jobs of the services...*ex officio*, on orders by the senior commander of the Military Police, on orders by the senior HV commander from Article [9]<sup>762</sup> of the Rules and by request from the body in charge.”<sup>763</sup>
- Gotovina, Čermak and other HV commanders issued orders to the MP to carry out Article 10, item 2 tasks, including preventing crime and arresting perpetrators.<sup>764</sup>
- The Crime MP carried out orders that HV commanders issued to the MP generally, indicating that orders did not need to be addressed directly to the Crime MP in order to involve them.<sup>765</sup>

256. Furthermore, Milas gave contradictory evidence on Article 10, item 2. Although he testified that these tasks were exclusive to the Crime MP, in his statement he stated that other MP services were also required to perform Article 10, item 2 tasks.<sup>766</sup> Milas' prior involvement in OA Haag and with the Gotovina Defence, his initial failure to admit to this involvement, and his contradictory testimony about these affiliations, cast further doubt on the credibility and reliability of his evidence.<sup>767</sup>

#### 4. Gotovina Failed to Use the MP to Prevent or Punish Indictment Crimes

257. As explained above, under general military and HV principles, HV commanders were primarily responsible for maintaining order and discipline among their subordinates through their line of command. However, as discussed above, the

<sup>762</sup> Milas:T.19296-98(the parties do not dispute that this reference should be to Art. 9).

<sup>763</sup> P880,p.13(Art.16).

<sup>764</sup> D305;P1123;D303;D503;P1126,p.3;P1141;P1013;P2166,pp.39-40;Laušić:T.15311.

<sup>765</sup> Šimić:P967,para.16(Šimić, chief of the Crime MP of the 4<sup>th</sup> Company Šibenik of the 72<sup>nd</sup> MP Battalion, said his daily activity included following orders that HV commanders issued to the MP regarding maintenance of discipline investigation of crime, and arrest and detention of perpetrators).

<sup>766</sup> Milas:D1532,paras.60-62.

<sup>767</sup> Milas:T.19231-70.

MP was one of the resources available to commanders to maintain and restore order and discipline through preventative measures such as checkpoints and patrols, and punitive measures such as discovering crimes, identifying and arresting suspected HV perpetrators, and initiating criminal proceedings.

258. Gotovina's orders to the MP show that, despite the prolonged HV crime wave, he maintained the same priority tasks for the MP: providing security for the HV, protecting HV property and depots/warehouses,<sup>768</sup> controlling traffic,<sup>769</sup> participating in mopping-up operations,<sup>770</sup> and detaining and criminally processing Serbs.<sup>771</sup> As discussed above, Gotovina failed to instruct the MP to take meaningful steps to prevent or stop the Indictment crimes of his subordinates, even though he knew of the massive scale of these crimes and knew that the MP was doing virtually nothing to address these crimes.

*Gotovina's Knew the MP Were Not Addressing Crimes Against Serbs and Their Property*

259. Gotovina was well-aware that the MP was doing virtually nothing to address the wave of HV crimes against Serbs and their property. In addition to his receipt of written daily reports, Gotovina was informed of the 72<sup>nd</sup> MP's activities at daily meetings of the Split MD Command<sup>772</sup> and met daily with Budimir who reported on the situation on the ground.<sup>773</sup> Yet Gotovina took no steps to change the focus of MP activity and never complained to Laušić about problems with his HV subordinates, or requested additional MP units from Laušić.<sup>774</sup>

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<sup>768</sup> P1134,p.5;P1127,p.1;P1129,p.1;P71,pp.90(Gotovina said "Minister of Defence will form the commission who will check all warehouses. 72<sup>nd</sup> VP, SIS, and Head of the Commission will receive an order concerning warehouses."),97(on 10-Aug-95, the 72<sup>nd</sup> VP reported "if possible order soldiers to secure warehouse in Golubic because it is not adequately secured." In response "General" (presumably Gotovina) ordered, "Golubic must be secured since it is the most important object");P1128;P1130;P2213.

<sup>769</sup> P1125,p.18("72<sup>nd</sup> VP Battalion with reinforcements shall be in charge of regulating and controlling traffic");P1029.

<sup>770</sup> P1208;P1131;P2211.

<sup>771</sup> P1126,p.3("Collecting and transporting the population trapped in liberated territory to collection centres;" and "discovering, arresting and bringing in enemy soldiers and officers to" various locations).

<sup>772</sup> Milas:D1533,para.11.

<sup>773</sup> Džolić:P876,para.26.

<sup>774</sup> Laušić:P2159,para.239.

260. The daily reports of the 72<sup>nd</sup> MP Battalion<sup>775</sup> informed Gotovina that the 72<sup>nd</sup> MP Battalion was taking virtually no action in relation to crimes against Serbs or their property. Traffic accidents comprised over half of all reported incidents in the daily reports from 4-Aug-95 through 30-Sep-95. In contrast to 112 recorded traffic incidents,<sup>776</sup> the daily reports recorded only 11 looting incidents,<sup>777</sup> one potential arson incident,<sup>778</sup> and one civilian killing (outside the Indictment Area in Vodice).<sup>779</sup> Many reports mentioned looting only incidentally<sup>780</sup>—for example, reporting that an HV member was killed in a mine explosion while driving a “war booty” tractor with no license plates,<sup>781</sup> or an HV member was fatally injured when the vehicle he was in (a van with no license plates, owner unknown and a sticker on the side reading “Medical Center Knin”) ran over a mine.<sup>782</sup> The daily reports also informed Gotovina of his subordinate HV members’ predisposition toward violence,<sup>783</sup> which targeted Serb civilians in several instances.<sup>784</sup> The focus on traffic control and the failure to address crimes against Serbs or their property reflected in the MP’s upward reporting is consistent with the priorities that Gotovina set for the MP.

*The MP Operated Consistently with Gotovina’s Orders and Priorities*

261. The MP operated consistently with Gotovina’s orders, focusing on his priorities and failing to prevent and punish Indictment crimes.

<sup>775</sup> Daily reports(4-Aug-95 to 30-Sep-95):P2246;P2247;P2248;P2249;P2250;P2251;P2253;P2254;P2255;P2256;P2257;P2258;P2259;P2260;P2262;P2264;P2265;P2268;P2270;P2271;P2272;P2273;P2274;P2275;P2277;P2278;P2279;D1068;P2280;D1069;P2281;P2283;P2284;P2285;D1070;P2286;P2287;P2288;P2289;P2291;P2293;P2294;P2295;P2296;P2297;P2299;P2300;P2301;P2302;P2303;P2304;P2305;P2306;P2307;P2308;P2309;P2310;P2311;P2312;see Jurić:T.27438,27440;D47,p.4;Šimić:P967,para.14;Milas:T.19187;Milas:D1532,paras.24-25.

<sup>776</sup> P2246(4 traffic incidents);P2247(2);P2248(4);P2249(2);P2250(3);P2251(6);P2253(3);P2254(1);P2256(1);P2257(2);P2258(5);P2259(1);P2260(1);P2262(2);P2264(1);P2265(2);P2268(2);P2270(1);P2271(3);P2273(5);P2274(1);P2277(2);P2278(2);P2279(2);D1068(3);P2280(2);P2281(4);P2284(2);D1070(1);P2286(1);P2287(1);P2288(2);P2293(5);P2294(3);P2295(2);P2296(2);P2297(2);P2299(2);P2300(1);P2301(3);P2302(4);P2303(2);P2304(1);P2305(1);P2307(2);P2308(1);P2311(4).

<sup>777</sup> See D1068,pp.1-2;D1069,pp.2-3;P2281,pp.1-2;D1070,pp.1-2;P2288,pp.1-2(daily reports recording looting).

<sup>778</sup> P2311,p.2.

<sup>779</sup> P2291,p.2.

<sup>780</sup> P2255,pp.3-4;P2256,pp.2-3;P2258,pp.2-3;P2260,pp.2-3;P2262,p.1;P2300,pp.2-3;P2310,p.3.

<sup>781</sup> P2255,p.4.

<sup>782</sup> P2258,p.2.

<sup>783</sup> P2247,p.1;P2250,p.1;P2255,p.3;P2257,p.1;P2260,pp.1-2;P2265,pp.1-2;P2268,pp.1-2;P2270,pp.1-3;P2272,pp.1-2;P2273,pp.1-2;P2274,pp.1-2;P2278,p.2;P2279,p.2;D1070,p.2;P2287,pp.1-2;P2288,p.2;P2289,p.1;P2291,p.1;P2300,pp.1-2.

<sup>784</sup> P2254,pp.1-2;P2255,pp.1-2;P2279,p.2.

262. Gotovina's only order to the MP regarding investigating or processing crimes, which he issued as part of his Attack Order, required the MP to "discover[], arrest[] and bring[] in enemy soldiers and officers."<sup>785</sup> The following day, Laušić met with members of the MUP and SIS to devise a uniform strategy for coordinating the work of the MP and civilian police, which focused predominantly on processing Serbs.<sup>786</sup>

263. Pursuant to Gotovina's Attack Order and in accordance with the uniform strategy mandated by Laušić, the MP's responsibilities included: mopping up the liberated area to rid it of all remaining Serb enemy forces,<sup>787</sup> detaining POWs<sup>788</sup> and any remaining Serb civilians,<sup>789</sup> and transporting them to the appropriate MUP collection centres.<sup>790</sup> MPs who manned checkpoints and conducted patrols collected POWs as part of their duties.<sup>791</sup>

264. During the Indictment Period, the Crime MP focused almost exclusively on arresting, processing, and interviewing Serbs.<sup>792</sup> While the 72<sup>nd</sup> MP companies filed just 19 crime reports for Indictment crimes, they filed 96 crime reports related to threats to territorial integrity or armed rebellion.<sup>793</sup> These 19 reports relevant to the Indictment correspond exactly to the 19 reports filed by the MP that are listed in the registers of criminal reports received by the Split Military Prosecutor's Office,<sup>794</sup> indicating that this number is accurate and reliable.<sup>795</sup> Milas admitted that this figure "definitely [was] not impressive."<sup>796</sup> Milas explained that the low number of reports for Indictment crimes was partly the result of the Crime MP's priority of processing POWs.<sup>797</sup>

265. Gotovina's clear instructions and the structures put in place to facilitate the joint MUP/MP strategy for processing POWs and Serb civilians resulted in seamless

<sup>785</sup> P1126,p.3.

<sup>786</sup> D794,p.3(same as P515;D45 is the same document plus a cover letter).

<sup>787</sup> P1126,p.3;D269,p.2;P1208;P1131;P2211.

<sup>788</sup> P1126,p.3;P977,p.2;P882,p.4;P978,p.2;P979;P879,p.2;Laušić:P2159,para.102;D1739;D401,p.5.

<sup>789</sup> P1126,p.3;P979,p.2;Šimić:T.10314-

15;P977,p.2;P882,p.4;P978,p.2;Džolić:P875,para.40;Laušić:P2159,para.102;D1739;D401,p.5.

<sup>790</sup> P1126,p.3;D269,pp.2-3.

<sup>791</sup> P973,pp.3-4.

<sup>792</sup> Milas:T.19195;P979;P515,pp.5,7.

<sup>793</sup> P2553;P2552;P2554;see D1535(15-Sep-95 report by the Crime MP Section of the MPA stating that the Crime MP had processed 1576 prisoners of war and referred 659 to the military courts);Milas:D1533,para.6;Milas:T.19196;see also P2236;P2235;D853;P2239;P2237;P974;P2222,p.4.

<sup>794</sup> P2614(KT register);P2615(KTN register).

<sup>795</sup> Bajić:T20796-97.

<sup>796</sup> Milas:T.19332.

cooperation, and the volume of people processed is an indicator of success.<sup>798</sup> In contrast, the MUP and MP's collective failure to stem HV crime was the natural result of Gotovina's lack of attention to HV crime and deliberate resource decisions.<sup>799</sup> The comparative outcomes of these two distinct coordinated MUP/MP efforts reveals the power structure's ability to create a functioning system, and reveals the intention to ignore HV crimes against Serb civilians and their property.

266. Consistent with Gotovina's instructions to the MP to "expropriate" goods found in the possession of units or individuals not contained in the units' official "spoils of war" list,<sup>800</sup> the Joint Company Knin Duty Log recorded just twelve incidents of potential looting in August<sup>801</sup> and 47 such incidents in September 1995.<sup>802</sup> In most instances, the looted goods were confiscated and the perpetrators released, with few criminal reports filed. In several instances, no MP action is recorded at all. The 4<sup>th</sup> Company Šibenik operated similarly, only filing criminal reports if the HV members were physically caught stealing property, while ignoring instances where they were found with stolen property in their possession at checkpoints.<sup>803</sup>

267. This practice is consistent with Bajić's observation that looting cases often went unreported<sup>804</sup> and that the thefts that occurred were "undoubtedly" widespread, and "far more in numbers" than those actually processed as crimes.<sup>805</sup> The few prosecutions for looting further demonstrate the accepted nature of these crimes.<sup>806</sup>

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<sup>797</sup> Milas:T.19333-34;Milas:D1533,para.6;see Milas:T.19197.

<sup>798</sup> P2222,p.4("We especially emphasize the cooperation of the Crime Military Police with the employees of the Zadar-Knin Police Administration in the sense of treatment and processing the prisoners of war, and in this cooperation, except for the individual problems, the satisfactory level has been reached");D1535;P909;P905.

<sup>799</sup> Džolić:P875,para.54;D581;P877,p.4;P2206;D595;Morić:T.25566-67;D215.

<sup>800</sup> D643.

<sup>801</sup> P886,0357-7452-et-2,pp.14,18,24-27,31.

<sup>802</sup> P886,0357-7452-et-2,pp.36-39,41-44,46-47,52,54-55,58-59,61-63,65-66,69-70,72,76,80.

<sup>803</sup> Šimić:T.10265-66;P976(recording items confiscated from HV members but no criminal reports filed).

<sup>804</sup> Bajić:T.20823.

<sup>805</sup> Bajić:T.20860-61.

<sup>806</sup> P2608,pp.8-9(two HV soldiers were convicted for looting in Knin on 31-Aug-95 where a large group of HV soldiers was taking items out of houses and loading them onto trucks);P2609,pp.1,4-5(an HV soldier from the 113<sup>th</sup> brigade was convicted for looting in Kosovo village on 2-Sep-95;between the date of his indictment and the date of judgement, he had been made an active member of the 72<sup>nd</sup> MP Battalion);P2610,pp.1-3,10-13(204<sup>th</sup> brigade members were convicted for looting in Golubić on 8-

268. The Knin Company Duty Log for the period beginning 11-Aug-95<sup>807</sup> also records just eight fires in August<sup>808</sup> and eight in September 1995.<sup>809</sup> Furthermore, at most, the MP requested the MUP to send firemen and took no steps to investigate, even where there were clear indications of HV involvement.<sup>810</sup> For example, when uniformed persons were reportedly observed setting fire to houses at 20:10 on 9-Sep-95, the MP recorded that it was dark, so “better that the patrols go out tomorrow.”<sup>811</sup> No such patrols were recorded for the following day. However, in response to a traffic accident involving “no wounded [and] minor material damage” reported five minutes later, an operative was immediately dispatched for an on-site investigation, and a special report was filed.<sup>812</sup>

*MP's Interference in the Varivode Investigation*

269. The MP's handling of the series of Serb civilian killings in Gošić and Varivode<sup>813</sup> exemplifies the top-down strategy of disregarding or downplaying HV involvement in crime. Based on the material he received from the Municipal Prosecutor's office, Šimić planned to arrest Lieutenant Goran Vunić, a platoon commander with the 113<sup>th</sup> Šibenik brigade, for his involvement in these killings.<sup>814</sup> Šimić had a search warrant to search Vunić's premises and seize any weapons found for the purpose of ballistic testing.<sup>815</sup> When Šimić reported his plans to his superior, Captain Mrkota, Mrkota ordered him to cease the investigation<sup>816</sup> and prevented the MP from seizing weapons for ballistics tests with the shell casings found on the scene.<sup>817</sup> Šimić reported Mrkota's action to Milas the head of the 72<sup>nd</sup> MP Battalion's Crime MP.<sup>818</sup> However, the MP never resumed the investigation at the time.<sup>819</sup>

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Sep-95, where a large group of conscripts were loading items onto trucks in front of their unit command, either under the orders of, or with the acceptance of, the commander).

<sup>807</sup> Džolić:P876,para.28.

<sup>808</sup> P886,0357-7452-et-2,pp.1,3,4,6,8,16.

<sup>809</sup> P886,0357-7452-et-2,pp.33,35,38,44,45,49,50,55. The Knin Duty Log also contains one incident of two murders. It is unclear whether this relates to the Indictment. P886,0357-7452-et-2,p.40.

<sup>810</sup> P886,0357-7452-et-2,pp.16,44,50,55.

<sup>811</sup> P886,0357-7452-et-2,p.55.

<sup>812</sup> P886,0357-7452-et-2,p.55.

<sup>813</sup> See Annex B-“Additional Killings:Kistanje”.

<sup>814</sup> Šimić:T.10289;Šimić:P967,para.23,amended by P968,para.6;Žganjer:T.11535.

<sup>815</sup> P970;see Žganjer:T.11542-44,11560-61.

<sup>816</sup> P970;Žganjer:T.11542-44,11560-61.

<sup>817</sup> See P1047,T000-5445,pp.46-48;P1062.

<sup>818</sup> Šimić:T.10323,T.10336-37;see P971.

## F. Military Prosecutions

270. During the Indictment Period, Croatia had a functioning system of military justice. However, only a negligible number of Split MD members was referred to the Split Military Prosecutor's Office for Indictment crimes. Gotovina himself did not refer any of his subordinates to the Split Military Prosecutor for Indictment crimes.

### 1. Croatia's Military Justice System

271. Croatia's military justice system, established in 1991, was fully functioning during the Indictment period and until it was abrogated by decree in 1996.<sup>820</sup> The jurisdiction of the Split MD Military Court coincided with the territory of the Split MD.<sup>821</sup> The Split Military Court also had jurisdiction over crimes committed by members of the Split MD outside Croatia, such as those committed in Bosnia during Summer.<sup>822</sup>

272. The Military Courts handled crimes allegedly committed by members of the military, unless their military service had terminated prior to their indictment,<sup>823</sup> in which case civilian courts had jurisdiction.<sup>824</sup> The Military Court's jurisdiction also included certain civilian crimes against Croatia, such as armed rebellion and threat to territorial integrity.<sup>825</sup>

273. Although the Military Prosecutor's Office received crime reports primarily from the MP, anyone could file a crime report, including the civilian police, and military units or commanders.<sup>826</sup> The civilian County Prosecutor's Office also transferred cases involving military suspects to the Military Prosecutor's Office.<sup>827</sup>

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<sup>819</sup> Šimić:P967,para.24.

<sup>820</sup> Theunens:P1113,pp.246-252;Bajić:D1626,paras.3,9;Matulović:D1613,paras.2-3.

<sup>821</sup> Bajić:P2603,para.13;Bajić:D1626,para.4;Matulović:D1613,para.7;Žganger:P1046,T000-3275-Eng-A,pp.4-5;Matulović:T.20480-81.

<sup>822</sup> Bajić:P2603,para.13.

<sup>823</sup> Matulović:T.20529-30;Matulović:D1613,para.8;Žganger:P1046,T000-3275-Eng-A,p.5.

<sup>824</sup> Matulović:T.20484;Bajić:T.20793-94;Bajić:T.20811.

<sup>825</sup> Žganger:P1046,T000-3275-Eng-A,p.5.

<sup>826</sup> Bajić:P2603,para.4.

<sup>827</sup> Bajić:P2603,para.4.

2. A Negligible Number of Indictment Crimes Was Referred to the Split Military Prosecutor

274. Despite the wave of HV crimes against Serbs and their property during and following Storm, only 39 cases involving Indictment crimes were referred to the Split Military Prosecutor's Office.

275. The Split Military Prosecutor's KT (known perpetrators)<sup>828</sup> and KTN (unknown perpetrators)<sup>829</sup> registers contained a comprehensive record of crime reports referred to the Split Military Prosecutor.<sup>830</sup> Between the beginning of August 1995 and the end of March 1996, approximately 920 reports were filed against known perpetrators with the Split Military Prosecutor. A total of 31 were for crimes relevant to the Indictment, covering 75 suspects: two murders,<sup>831</sup> one robbery,<sup>832</sup> one taking of a motor vehicle,<sup>833</sup> and the remainder aggravated theft.<sup>834</sup> A total of eight reports were filed against unknown perpetrators for Indictment crimes: two murders,<sup>835</sup> one serious offence against public safety,<sup>836</sup> one robbery,<sup>837</sup> and three aggravated thefts.<sup>838</sup> No crimes of burning or other property destruction were referred to the Split Military Prosecutor.

276. Of the 39 relevant entries in the KT and KTN registers, 19 were filed by the MP<sup>839</sup> precisely corresponding to the 19 relevant criminal reports reflected in the registers of the 72<sup>nd</sup> MP Battalion compaines.<sup>840</sup> The remaining 20 relevant entries,

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<sup>828</sup> P2604;P2605.

<sup>829</sup> P2706;P2606;P2607.

<sup>830</sup> Bajić:T.20796-97;Žganjer:P1048,paras.3-7(testifying about the method for recording crimes in the registers);Bajić:T.20802-06(two other registers were used for reports that did not amount to a crime and for highly confidential matters, respectively, but it would be impossible or at least very highly unlikely that any reports related to Indictment crimes would be entered in either of these other two registers);see Bajić:T.20793-94,20811(where a criminal report was filed against an HV member, but that HV member is subsequently demobilised before the issuance of an indictment, the criminal report would still be recorded in the KT register, and the date the case was transferred to the civilian prosecutor would be noted).

<sup>831</sup> P2614,pp.24,64.

<sup>832</sup> P2614,p.59.

<sup>833</sup> P2614,p.28.

<sup>834</sup> P2614,pp.7-8,15-16,22-24,28-32,37-38,51,59.

<sup>835</sup> P2615,pp.2,4.

<sup>836</sup> P2615,p.4.

<sup>837</sup> P2615,p.3.

<sup>838</sup> P2615,p.4.

<sup>839</sup> P2614,pp.7-8,22-24,30,32,51,59.

<sup>840</sup> P2555.

reported primarily by the civilian police, are virtually all contained in the civilian police registers and charts summarizing these registers, P2500 and P2501.<sup>841</sup>

277. The negligible efforts to criminally process Split MD members for Indictment crimes was also belated. The first relevant report was filed on 21-Aug-95.<sup>842</sup> Only three crime reports were filed in August<sup>843</sup> and two in September 1995.<sup>844</sup> Consistent with the MP and civilian police focus on detaining and criminally processing Serbs in the aftermath of Storm, such crimes comprised the large majority of referrals to the Split Military Prosecutor at the beginning of the Indictment Period. Of the 207 crimes recorded in the KT register for August 1995, 151 are for armed rebellion or threat to territorial integrity.<sup>845</sup>

278. The paltry number of crimes against Serbs and their property reported to the Split Military Prosecutor is consistent with the similarly low number of such crimes investigated and prosecuted by civilian authorities after Storm.<sup>846</sup>

### 3. Gotovina and his Subordinate Commanders Failed to Report their Subordinates' Crimes

279. Gotovina could and should have reported his subordinates' Indictment crimes to the Military Prosecutor's Office himself and/or instructed his subordinate commanders to do so.<sup>847</sup> Despite this potential avenue, the KT and KTN registers indicate that between the beginning of August 1995 and the end of March 1996 no Split MD units, commanders, or officers reported any crimes relevant to the Indictment to the Split Military Prosecutor.<sup>848</sup> Consistent with Gotovina's own focus on the combat-readiness aspects of military discipline, virtually all criminal reports filed by military units were for crimes such as failure and refusal to obey an order,<sup>849</sup>

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<sup>841</sup> P2500;P2501(summary charts showing relevant reports contained in civilian police crime registers;these cross-references are noted in the "comments" column).

<sup>842</sup> P2614,p.7(KT-796/95).

<sup>843</sup> P2614,pp.7-8.

<sup>844</sup> P2614,p.15.

<sup>845</sup> Bajić:P2603,para.7.

<sup>846</sup> See "JCE:Jarnjak".

<sup>847</sup> Bajić:T.20739,20798-99,20811-12;P1013.

<sup>848</sup> Bajić:P2603,para.11;Bajić:T.20739.

<sup>849</sup> P2614,pp.16-17.

failure to respond to a call-up and evasion of military service,<sup>850</sup> and refusal to receive and use arms.<sup>851</sup>

280. Despite the near total absence of military prosecutions for Indictment crimes by the Split Military Court, the Ministry of Defence concluded in October 1995 that the “work of the military courts and military prosecutor’s offices has contributed in an effective manner to the functioning and protection of the law-based state.”<sup>852</sup>

#### 4. The Amnesty Law Did Not Apply to the Indictment Crimes

281. In response to the urging of the international community, in December 1995 Tudman issued a decree that he characterized as granting amnesty to “all the Serbs who took part in the rebellion against Croatian authorities, against the Croatian government, excepting war criminals, of course.”<sup>853</sup> A corresponding law was then passed in September 1996, which granted “general amnesty from criminal prosecution and proceedings against perpetrators of criminal acts committed during aggression, armed rebellion or armed conflicts, and related to aggression, armed rebellion.../or/ armed conflicts in the Republic of Croatia.”<sup>854</sup> Contrary to Defence assertions, the amnesty law did not apply to crimes committed by HV members against Serbs and their property, and does not explain the absence of prosecutions for these crimes.<sup>855</sup>

### III. ČERMAK

#### A. Overview of Čermak’s Criminal Liability

##### 1. JCE Liability

282. Čermak joined the JCE to permanently remove Serbs through the commission of crimes on 5-Aug-95, as a trusted insider recruited by Tudman. Čermak accepted Tudman’s appointment, instructions and broad grant of delegated authority. Pursuant to this appointment, Čermak undertook an immediate and continuous course of action, and purposeful inaction, aimed at continuing the ongoing expulsion of Serbs from the

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<sup>850</sup> P2614,p.1.

<sup>851</sup> P2614,p.16.

<sup>852</sup> D1621,p.1;Matulović:T.20492-93.

<sup>853</sup> D681,p.5.

<sup>854</sup> D680,p.1.

<sup>855</sup> Bajić:T.20862,20824;Rehn:T.6510-11,6693,6699-700;see P2610,pp.5-19(indictment and judgement rendered after the Amnesty law was passed).

Krajina in order to ensure their permanent removal and prevent their return by maintaining a hostile environment permissive of criminal behaviour against Serbs and through repopulation of the area with ethnic Croats. From 5-Aug-95, Čermak had access to and used members and officials from the Croatian Government, MORH, HV, and MUP, including the MP and Civilian police, both within and outside of his AOR to carry out the common criminal purpose.<sup>856</sup> Čermak's immediate and continuous JCE contributions demonstrate he shared the common criminal purpose and intended the crimes set out in Counts 1-5, including:

- Consistently and intentionally omitting to discharge his duty to prevent and punish HV crimes committed against Serbs and their property within his AOR.
- Using his position as the primary point-of-contact for the Croatian authorities in order to solicit, deflect and neutralize the attention, protests, and efforts of the international community by issuing false assurances of official action that never materialized, including:
  - promising cessation, investigation, prevention and punishment of rampant crime committed by Croatian Forces within his AOR and beyond; and
  - guaranteeing them FOM to observe and record the treatment of civilians and their property in Sector South, while simultaneously taking active steps to impose ROM.
- Covering-up crimes through his direct involvement in:
  - disseminating misinformation about the involvement of Croatian Forces in criminal acts, including intentionally misleading the media and IOs about such acts;
  - sanitizing the terrain of dead bodies to prevent investigations;
  - issuing false assurances of official action, thus thwarting timely investigations and the pursuit of alternative avenues of redress; and

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<sup>856</sup> See "JCE:Common Criminal Purpose".

- ensuring that the common criminal purpose would be carried out with minimal international intervention and observation by imposing ROM to obstruct international observers.
- Under the banner of “normalization”, Čermak diverted an inordinate amount of resources away from protecting Serb civilians and their property in order to protect infrastructure that would facilitate the JCE objective of populating the largely Serb-free territories with Croats to secure the permanent removal of Serbs from Croatia.

283. In addition, Čermak is liable for the crimes of murder, cruel treatment, and inhumane acts (Counts 6-9)<sup>857</sup> as natural and foreseeable consequences of the implementation of the JCE to permanently remove the Krajina Serb population. Čermak had extensive knowledge of the crimes being committed in the Krajina by Croatian Forces, resulting from his position and his involvement in the sanitation operation. In light of this knowledge, and his acts and omissions outlined above, Čermak knew that these crimes were possible consequences of the execution of the JCE and he willingly took the risk that these crimes might be committed.

2. Instigating and Aiding and Abetting<sup>858</sup>

284. Čermak also instigated and aided and abetted the commission the crimes of persecution,<sup>859</sup> deportation, forcible transfer, plunder, wanton destruction, murder, inhumane acts and cruel treatment (Counts 1-9).

285. Through his contributions, including his failure to prevent or punish, dissemination of false information and assurances, obstruction of internationals and covering-up of crimes, Čermak condoned and facilitated the commission of crimes and created an environment within his AOR that was permissive of criminal behavior. These acts and omissions prompted Croatian Forces to commit these crimes. Čermak

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<sup>857</sup> As well as the crimes of persecution, plunder and wanton destruction (Counts 1, 4-5 respectively) to the extent such crimes are found to fall outside of the common criminal purpose.

<sup>858</sup> The Prosecution does not rely on the modes of liability of ordering and planning crimes with respect to Čermak.

<sup>859</sup> The underlying acts for persecution, in so far as Čermak instigated, aided and abetted and failed to prevent or punish (superior responsibility) the crime of persecution, are deportation, forcible transfer, wanton destruction, plunder, inhumane acts and cruel treatment, and restrictive and discriminatory measures including the imposition of discriminatory property laws and discriminatory expropriation of property.

was aware of the substantial likelihood that such crimes would be committed as a result of his acts and omissions.

286. These same acts and omissions assisted or encouraged, and substantially contributed to the perpetration of the crimes in Counts 1-9. Čermak knew these crimes would probably be committed as a result of his acts and omissions and knew that he was assisting in their commission.

### 3. Superior Responsibility

287. Čermak was superior to all HV personnel present within his AOR for the purposes of order and discipline, and exercised effective control over these subordinates. Upon arrival in Knin, Čermak became acutely aware of the massive extent of HV crimes being perpetrated within his AOR. Čermak either knew or had reason to know that his subordinates would or had committed the crimes in Counts 1 - 9. Despite mounting notice and his material ability to prevent or punish, including through the military and civilian police, Čermak did not take the necessary and reasonable measures to prevent or punish his subordinates' crimes.

### 4. Discriminatory Intent

288. Čermak's same acts and omissions were intended to impact a largely Serb population, and his deliberate failure to address his subordinates' crimes targeting Serbs and their property, and his actions to obscure and cover-up those crimes exemplify his specific intent to discriminate on political, racial and/or religious grounds relevant to the crime of persecution.

## **B. Čermak's Presidential Appointment and Enhanced Authority**

289. On 5-Aug-95 Tudman personally appointed Čermak as Knin ZM-Commander,<sup>860</sup> circumventing the ordinary HVGS appointment procedure for ZM-Commanders.<sup>861</sup> Čermak's role was initially envisioned at the Brijuni Meeting (as described *infra*). On 4-Aug-95, Šušak briefed Tudman on Storm's progress,

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<sup>860</sup> D31;Čermak:P2525,pp.5,8-9,28-29;Čermak:P2526,pp.4,8-9;Theunens:P1113,pp.59-61,499,501-502.

<sup>861</sup> D32,para.51;Čermak:P2532,pp.10-11;Čermak:P2525,p.27;P2527,p.2.

prompting Tudman to request that Čermak be contacted.<sup>862</sup> Tudman called Čermak on 5-Aug-95<sup>863</sup> and they met in Tuškanac where Tudman was secretly staying.<sup>864</sup> According to Čermak, at this private meeting Tudman gave Čermak an “oral order” assigning him duties and authorities in Knin.<sup>865</sup> As discussed below, in addition to Čermak’s formal authority as a Colonel General and ZM-Commander, Tudman delegated extraordinary additional authority to Čermak, telling him to carry-out the following duties from Knin:<sup>866</sup> keep order; achieve “normalization” to facilitate the “return” of Croats (through infrastructure protection, sanitation, mine clearance, etc.); fill the position of Croatia’s point-of-contact for the media and international community in order to appease/contain international observers.<sup>867</sup>

290. Čermak was a fully operational HV member on 5-Aug-95.<sup>868</sup> Indeed, Gotovina had expected Čermak to arrive in Knin on the afternoon of 5-Aug-95,<sup>869</sup> and instructed CALOs to await Čermak’s arrival and to place themselves at his disposal.<sup>870</sup> Čermak denied being briefed on his duties before or after his meeting with Tudman,<sup>871</sup> maintaining that he returned to his own office afterwards to call Laušić.<sup>872</sup> However, Tudman’s *chef de cabinet* Radin testified that Čermak departed that meeting and informed him that he was going to the Main Staff.<sup>873</sup> Moreover, Laušić reported that he was called to Červenko’s office on 5-Aug-95, where he saw Čermak already in uniform, Presidential appointment in hand.<sup>874</sup>

291. Čermak was universally recognized as “over-ranked” for his *de jure* position as Commander of the Knin ZM,<sup>875</sup> and his responsibilities and extraordinary tasks assigned by Tudman extended well beyond those associated with his formal military

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<sup>862</sup> Radin:D1678,para.8.

<sup>863</sup> Čermak:P2525,pp.5,9;Čermak:P2526,p.4;P2355,p.5.

<sup>864</sup> Čermak:P2525,pp.9,38,65;Radin:D1678,paras.7,10;see Čermak:P2526,pp.10-11.

<sup>865</sup> Čermak:P2525,pp.11,26-29,136,145;Čermak:P2532,pp.142-143,145.

<sup>866</sup> Čermak:P2525,pp.38-39.

<sup>867</sup> Čermak:P2525,p.5;Čermak:P2526,pp.9,16;P1144,p.4;[REDACTED];Albiston:T.23880-81;Feldi:T.21820-23;Feldi:D1673,para.3.1.4;Deverell:T.24161-62;Deverell:D1784,p.8;P2355,pp.5-6.

<sup>868</sup> D31;D1015,p.1;D775,p.1;P506.

<sup>869</sup> D792,p.4;P71,p.88;see Čermak:P2526,p.11;Dondo:D1696,para.4;Dondo:D1695,para.5;see also Čermak:P2525,p.11.

<sup>870</sup> Dondo:D1696,para.4;Dondo:D1695,para.5.

<sup>871</sup> Čermak:P2526,pp.10-11;Čermak:P2525,pp.38,65-66,69.

<sup>872</sup> Čermak:P2525,pp.38,66.

<sup>873</sup> Radin:D1678,para.11.

<sup>874</sup> Laušić:P2159,para.235;see P882,p.4;Čermak:P2526,p.11.

<sup>875</sup> Deverell:T.24161;Čermak:P2525,pp.6,141-142;see below.

title and position.<sup>876</sup> Čermak exercised enhanced authority over military and civilian structures, acting as the link between civilian and military authorities.<sup>877</sup> Čermak's enhanced authority emanated from Tudman's appointment,<sup>878</sup> which is consistent with the President's authority over the MORH and the MUP.<sup>879</sup> Moreover, Čermak knew that he had been granted authority over civilian and military structures,<sup>880</sup> and maintained contact with Tudman from Knin.<sup>881</sup>

292. Čermak was the central figure through which almost anything was accomplished in Knin and its environs.<sup>882</sup> Červenko described Čermak's position as both "military" and "governor".<sup>883</sup> IOs were convinced that Čermak was the "military governor" of Knin: exercising both military and civilian/governmental authority.<sup>884</sup> The title "military governor" is an accurate reflection of Čermak's extraordinary powers. Indeed, Čermak did not correct IOs when they addressed him as "military governor";<sup>885</sup> nor deny being in charge.<sup>886</sup> On 5-Sept-95, Čermak's CALO implicitly admitted that Čermak's powers during the transition period after Storm more closely approximated a "military governor", when he informed Forand that Čermak was "no longer" the military governor.<sup>887</sup> Rinčić explained the power associated with Čermak's name alone:

"When something had to be done, using Mr. Čermak's name did the trick. Mr. Čermak's name was very strong, so using his name would get things done much faster than using the title the Ministry of Economy. I hope you understand me when I say that his name was strong. He was respected.

<sup>876</sup> Deverell:T.24163,24300-01;Deverell:D1784,p.49;Feldi:T.21824-28;Theunens:T.13206.

<sup>877</sup> Čermak:P2526,p.94;Buhin:T.10044;Radin:T.22160-61;Vidošević:D1775,para.8;Theunens:P1113,pp.499,503,505-507;Theunens:T.12445-46,13206.

<sup>878</sup> See Čermak:P2525,p.26;Čermak:P2526,pp.15-16;Čermak:P2532,p.42;Radin:T.22160;Škare-Ožbolt:D1471,para.10;Feldi:T.21840-41;Deverell:T.24163,24285,24300.

<sup>879</sup> Škegro:D1679,para.3;Škegro:T.22195;Feldi:D1673,p.16(3.7.2).

<sup>880</sup> Čermak:P2526,pp.16,94.

<sup>881</sup> Čermak:P2525,pp.23,26,37,49,176;Čermak:P2526,pp.15,19,90-91;Čermak:P2532,pp.19,42-43,48;D618,p.1;P1144,p.7;Škegro:D1679,paras.10,12;Liborius:P801,p.11;Deverell:T.24292-93;see Feldi:T.21855;Flynn:P20,p.10;Flynn:T.1226.

<sup>882</sup> See Puhovski:T.15960;P2402,p.84(fn.3);Roberts:P677,p.12;Rinčić:D1680,paras.13,16.

<sup>883</sup> P2527,pp.2-4;P2402,p.84(fn.3);Puhovski:T.15947-51.

<sup>884</sup> See Forand:P330,p.10;Forand:T.4121,4184-85;P347,p.2;P356,pp.2-3;P389;P359,pp.3-4;P375,p.4;Flynn:P20,p.9;Liborius:T.8257-58,8622-24,8633-34;Mauro:T.12005-07,12041,12044-45;P825,p.1;P1300,p.2;P935,p.1;Hendriks:T.9719;P856,p.1;Mauro:P1098,p.3;see also P937,p.1;Lynton:P870, para.24;Lynton:T.8811-12;Forand:P331,pp.16-17;Liborius:P803,para.16;Deverell:D1784,p.36;Deverell:T.24164-15,24294-95.

<sup>885</sup> Forand:T.4125.

<sup>886</sup> Hansen:T.15096-98;Liborius:P803,para.16;Liborius:T.11226;Al-Alfi:T.13812,13874;Deverell:D1784,p.51;Čermak:P2526,pp.11-12;Forand:T.4125-26,4185.

<sup>887</sup> P166,pp.5-6.

And if I needed something to be done quickly, I would use Mr. Čermak's name. If I hadn't, things would not have happened as quickly".<sup>888</sup>

### 1. Tudman Appointed Čermak as a Trusted Insider

293. Upon liberation, Knin became the focal point of the Croatian public, mass media and IOs.<sup>889</sup> Knin's symbolic importance as a "Croatian town of Croatian Kings" and strategic importance were apparent to the Croatian authorities<sup>890</sup> and Čermak.<sup>891</sup>

294. The significance and scope of Čermak's authority in Knin is reflected by a number of factors, including Tudman's personal appointment. According to Červenko, Čermak was "the President's personal man of confidence".<sup>892</sup> Čermak had close personal ties to Tudman and other members of the JCE.<sup>893</sup> Čermak was recruited to the JCE as a trusted member of the Croatian elite who had longstanding relationships with Croatian military and political leaders.<sup>894</sup> He had been a founding member of the HDZ,<sup>895</sup> a Tudman advisor,<sup>896</sup> Assistant Minister of Defence under Šušak,<sup>897</sup> and Minister of Economy.<sup>898</sup> During his tenure as Assistant Minister of Defence, some among the HVGS saw Čermak as untouchable and immensely powerful due to his close relationships with Tudman and the Minister of Defence.<sup>899</sup>

295. Čermak understood that he was chosen by Tudman for his position in Knin in part due to their prior relationship.<sup>900</sup> Čermak emphasized that Tudman trusted him<sup>901</sup> and recognized that no one else could have carried out his tasks with the requisite

<sup>888</sup> Rinčić:T.22337-38;see Rinčić:D1680,para.18.

<sup>889</sup> Čermak:P2525,p.56;Feldi:D1673,p.49(3.1.1).

<sup>890</sup> See Luković:D1687,para.35;D810,p.2;Dodig:D1705,para.5;Škegro:D1679,para.8;P2712;see also Jones:T.21013.

<sup>891</sup> Čermak:P2525,pp.7,54.

<sup>892</sup> P2527,p.2;cf. D1306(Červenko later admitted to an the "accidental" conversation with reporter but said his words were twisted);see "JCE:Tudman".

<sup>893</sup> Čermak:P2526,pp.4-5,22,100;Čermak:P2532,pp.96,129;Čermak:P2525,pp.4-5,9-10,34-35,124; [REDACTED];Markač:P2531,p.50;Markač:P2530,pp.68,71;Škegro:D1679,para.2.

<sup>894</sup> See Čermak:P2532,p.129;see also "JCE:Key JCE Participants".

<sup>895</sup> Čermak:P2525,p.33;see D36;Vedriš:D1772,para.2;P2355,p.3;see also Čermak:P2526,pp.4-5.

<sup>896</sup> Čermak:P2526,pp.4-5;Čermak:P2525,pp.4-5;D36.

<sup>897</sup> P2355,p.4;Čermak:P2526,pp.4-5;Čermak:P2525,pp.4-5,34-35;Radin:D1678,para.10;D36;Rinčić: D1680,paras.2-

3;Teskeredžić:D1732,para.3;Vedriš:D1772,para.4;Feldi:D1674,p.4;Theunens:P1114,p.41.

<sup>898</sup> Čermak:P2526,p.4;Čermak:P2525,pp.3-4;Radin:D1678,para.12;Škegro:D1679,para.2;Škare-Ožbolt:T.18096;D36;D38,p.5;Rinčić:D1680,paras.3-6;Teskeredžić:D1732,para.3;Vedriš:D1772,para.7.

<sup>899</sup> See Feldi:D1674,p.4;Deverell:T.24293.

<sup>900</sup> Čermak:P2525,pp.7-8,27,54,143-44;Čermak:P2526,p.9;Vedriš:D1772,paras.10-11.

<sup>901</sup> Čermak:P2525,pp.6-7,117.

speed and organization.<sup>902</sup> Former-Deputy Prime Minister Vedriš<sup>903</sup> and Tudman's *chef de cabinet* Radin essentially concurred, and Tudman apparently considered no alternative to Čermak.<sup>904</sup>

296. Čermak's close relationship with, and loyalty to, Tudman is illustrated by a private conversation in which they discussed the ICTY's investigation of Čermak, Gotovina and Norac. Čermak reminded Tudman that Čermak had been with him "from day one" and would never turn against Tudman,<sup>905</sup> pledging "I am here whenever you may need me, for anything. You can always count on me".<sup>906</sup>

## 2. Highly Publicized Appointment

297. By sending a former-Minister and Colonel General to the epicentre of the Krajina, Tudman intended Čermak to serve as the focal-point for the attention of the media and IOs in the liberated areas, something which was apparent to those on the ground.<sup>907</sup> Čermak conceded that his high media-profile at the time meant that "all the questions and requests came to me. Everything came to me".<sup>908</sup>

298. Tudman publicized Čermak's appointment, and the news was widely disseminated,<sup>909</sup> including through newspapers, radio and television.<sup>910</sup> When Tudman was informed on 7-Aug-95 that Canadian UNCRO members were creating problems, he responded "...tell them I appointed as commander of the Knin Garrison Colonel General Čermak, a former minister, a serious man to solve those matters".<sup>911</sup> Čermak knew that Tudman actively touted his appointment to the international

<sup>902</sup> Čermak:P2525,pp.142-43.

<sup>903</sup> Vedriš:D1772,para.11.

<sup>904</sup> Radin:D1678,para.9;see Škegro:D1679,para.5.

<sup>905</sup> P1144,p.2.

<sup>906</sup> P1144,p.11.

<sup>907</sup> See "Čermak:Internationals";Cetina:D1745,p.6;see also Luković:D1687,para.35;Vidošević:D1775,para.8;Vedriš:D1772,paras.10-11;Bilobrč:T.28686;Vrtičević:T.28908.

<sup>908</sup> Čermak:P2526,p.9.

<sup>909</sup> Markač:P2530,p.68;Pašić:D1706,p.4;Cipci:T.23071-72,23163;Čermak:P2525,p.68;D36;D38;D296,p.20;Čermak:P2532,pp.7-8;Liborius:T.8357,8633;Liborius:P800,p.2;Morić:T.25622;Roberts:T.6903-04;see Teskeredžić:D1732,para.4;Vidošević:D1775,para.8;Deverell:T.24291-92;Flynn:T.1132;Al-Alfi:T.13819;[REDACTED];P1300,p.2;Cetina:D1745,p.6.

<sup>910</sup> Čermak:P2525,p.68;D36;D37;D38;Liborius:T.8357;Morić:T.25622;Roberts:T.6903-04;Teskeredžić:D1732,para.4;Teskeredžić:T.23261-62;Vidošević:D1775,para.8;Vedriš:T.23670;Deverell:T.24291-92.

<sup>911</sup> D296,p.20;see Feldi:T.21826.

community.<sup>912</sup> Čermak's appointment and role in Knin was also immediately circulated among Croatian officials, including senior members of the Croatian political leadership,<sup>913</sup> the HV,<sup>914</sup> and the MUP.<sup>915</sup> This was done intentionally to ensure that Čermak commanded attention and respect on the ground.

### C. Čermak's authority as ZM-Commander

299. A "comprehensive system of command, cooperation and coordination at the level of the garrisons" was instituted in 1993 to "ensure comprehensive work, order and discipline in all garrisons and units of the Croatian Army..."<sup>916</sup> The ZM-Commanders' duties set out in the 1992 Service Regulations also remained in force.<sup>917</sup> The ZM is a geographical territory determined by the HVGS; defined as "the area of a populated place /town/ and its immediate surroundings where a company or higher units of the Armed forces are quartered".<sup>918</sup> As ZM-Commander, Čermak was responsible for the Split MD's Knin ZM AOR,<sup>919</sup> which encompassed the "municipalities: Knin, Nadvoda, Kistanje, Ervenik, Orlić, Kijevo, Cijvljane".<sup>920</sup>

#### 1. Knin ZM Formal Chain of Command

300. Čermak rejoined the military as an active member on 5-Aug-95,<sup>921</sup> and attended Gotovina's briefing of subordinate commanders in Knin Castle on the morning of 6-Aug-95.<sup>922</sup> Čermak's later denials of the military nature of his role, and the specific powers and responsibilities that accompanied it, are belied by his own admission that his return to public life was premised upon serving in a military capacity and to advance national security.<sup>923</sup> Contrary to Čermak's suggestion, Feldi confirmed that there was no such thing as a "civilian commander" in the HV.<sup>924</sup>

<sup>912</sup> Čermak:P2532,pp.7-8.

<sup>913</sup> Radin:D1678,para.13;Vedriš:D1772,para.10;Vedriš:T.23670.

<sup>914</sup> Teskeredžić:D1732,para.4.

<sup>915</sup> Cipcic:T.23071-72,23163;Markač:P2530,p.68.

<sup>916</sup> D34,p.1.

<sup>917</sup> Theunens:P1113,p.109;D32,paras.50-59.

<sup>918</sup> D32,para.50;Theunens:P1113,p.106;see Deverell:D1784,pp.21-22.

<sup>919</sup> Čermak:P2525,pp.11,185;Čermak:P2526,pp.9,16.

<sup>920</sup> P2715;D33,pp.1-3;Theunens:P1113,p.106.

<sup>921</sup> Čermak:P2526,pp.12-13,16,94;see Čermak:P2525,pp.9,27-28;P2527,p.2.

<sup>922</sup> Čermak:P2525,pp.10,38,69,162-63;D792,p.4;Čermak:P2532,pp.2-3;Cipcic:T.23162-63;Rinčić:D1680,para.11;see Čermak:P2526,pp.7-8,13,101;P71,p.88.

<sup>923</sup> Čermak:P2525,p.5;see D38,p.5;P2355,p.5.

<sup>924</sup> Feldi:T.21829;see P2527,p.2.

Indeed, Čermak recognized that his military status assisted him in Knin.<sup>925</sup> Tudman handpicked Čermak to fulfil an extraordinary role<sup>926</sup> and took advantage of a pre-existing military position to do so, relieving the acting ZM-Commander, Major Gojević, who was demoted to Deputy-Commander during Čermak's tenure.<sup>927</sup> Tudman needed Čermak in Knin for only a few months, and relieved him of his duties in late 1995,<sup>928</sup> whereupon Gojević was reinstated as Knin ZM-Commander.<sup>929</sup>

301. Čermak was formally subordinated and required to report regularly to Gotovina.<sup>930</sup> Gotovina was ultimately responsible for order and discipline in the ZMs within his own AOR.<sup>931</sup> Gotovina was required to prescribe concrete tasks and procedures for the implementation of order and discipline within each ZM in his AOR. Gotovina had the concomitant duty to monitor, inspect, analyze and take all necessary measures to ensure that order and discipline within each ZM was at the required level.<sup>932</sup>

302. Gotovina and Čermak cooperated<sup>933</sup> and their respective commands were in constant coordination.<sup>934</sup> Yet despite overwhelming notice to both men regarding HV criminality, Gotovina issued no orders to Čermak<sup>935</sup> regarding the widespread crimes against Serbs and Serbian property committed by HV members within the Knin ZM AOR and Čermak himself failed to take necessary and reasonable measures to address these crimes.

## 2. Authority and Responsibilities of a ZM-Commander

303. Čermak had certain explicit *de jure* responsibilities and authority as ZM-Commander. The ZM command was independent of the operational HV chain-of-command and was founded upon a defined AOR within which the ZM-Commanders

<sup>925</sup> Čermak:P2525,pp.144-45.

<sup>926</sup> Čermak:P2525,p.27.

<sup>927</sup> D31;Čermak:P2525,pp.19,135;Čermak:P2526,p.11;Teskeredžić:D1732,para.7;Theunens:P1113,p.50

<sup>928</sup> Čermak:P2526,pp.12-13,101,108;Čermak:P2525,p.37;Deverell:T.24289-90;see P2656;P2527.

<sup>929</sup> Čermak:P2525,pp.37,68-69,185;Čermak:P2526,p.12;Theunens:P1113,p.502;[REDACTED]; see Vedriš:D1772,para.10.

<sup>930</sup> Čermak:P2526,pp.15-16;Čermak:P2525,pp.27,135;see, e.g., D33,pp.1-3;Theunens:P1113, pp.110,140;Deverell:T.24426-27.

<sup>931</sup> D34,p.1;Theunens:P1113,pp.108-10,215;Laušić:P2159,para.242.

<sup>932</sup> D34,p.2;Theunens:P1113,pp.108-09,215;D997;see, e.g., P1120;P1121;P1204.

<sup>933</sup> Čermak:P2526,pp.16-17.

<sup>934</sup> See P1219.

<sup>935</sup> Čermak:P2525,p.117.

had a circumscribed right to command HV members.<sup>936</sup> Deverell confirmed that ZM-Commanders retained the power to issue orders to operational HV units within their AOR for specific responsibilities assigned to the ZM command.<sup>937</sup> Čermak was directly responsible for order and discipline within the ZM, and all HV units and institutions within the ZM AOR were subordinated to Čermak for that purpose.<sup>938</sup> Čermak's position as "superior" and his power over, *inter alia*, order and discipline meant that he was authorized to command and control HV units, institutions and personnel present within his AOR for the specific purposes of order and discipline.<sup>939</sup> Some of the ZM-Commander's duties reflected his disciplinary role and some of his authorities specifically facilitated Čermak's ability to maintain order and discipline among HV members in the AOR, namely:<sup>940</sup>

- regulating order, discipline and supervision of the conduct of HV;<sup>941</sup>
- arranging to have MP units patrol and supervise the discipline and conduct of HV in public places, and instituting a procedure whereby the nearest MP unit could be called upon to intervene whenever required;<sup>942</sup>
- establishing cooperation and coordination with the PU or police stations within the area of the ZM;<sup>943</sup>
- issuing orders on joint firefighting and fire prevention;<sup>944</sup> and
- organizing a 24-hour Duty Service.<sup>945</sup>

304. Attendant to a ZM-Commander's position of superiority and responsibility for matters of order and discipline within the ZM AOR was the duty to "lay down instructions on order, discipline and supervision of the conduct of military personnel

<sup>936</sup> D34,p.2;Theunens:P1113,p.109.

<sup>937</sup> Deverell:T.24155;Deverell:D1784,p.19.

<sup>938</sup> D32,pp.5(Art.4),6-

7(Art.10),8(Art.22),13(Art.52);P1187,p.5(Art.5);Feldi:D1673,p.48(2.3.17);Theunens:P1113,p.107.

<sup>939</sup> D32,pp.5(Art.4),6-7(Art.10),8(Art.22),13(Art.52);D34,p.2;P1187,pp.9-10(Art.25);Theunens:P1113,pp.107,216;Theunens:T.12882,13331-32;Feldi:D1673,p.48(2.3.17);Botteri:T.10906.

<sup>940</sup> *See, e.g.*, Čermak:P2532,pp.10-11,58-59;Čermak:P2525,pp.129,141-42.

<sup>941</sup> D34,pp.7(item17),10(item 28);D32,pp.5(Art.4),6-7(Art.10),8(Art.22),13(Art.52);*see* "Gotovina:Discipline".

<sup>942</sup> D34,p.4(item4);*see* Theunens:T.13077-78;Laušić:T.15656-57.

<sup>943</sup> D34,p.4(item5).

<sup>944</sup> D34,p.6(item12).

<sup>945</sup> D34,p.3(item2).

at the ZM that will cover”, *inter alia*, the conduct of military personnel in public places, restricted locations, and the type of supervision to be performed over the conduct of HV members within the ZM.<sup>946</sup> Deverell explained that this position of authority meant that the ZM-Commander could expect HV units within or transiting through the ZM AOR to obey whatever instructions, limits or restrictions that were allowed to be imposed by a ZM-Commander.<sup>947</sup>

305. ZM-Commanders were expected to supervise the order and discipline situation within their AOR through: conducting personal inspections; supervising specially assigned officers; ensuring patrols from units; the ZM Duty Service; MP patrols, etc.<sup>948</sup> The ZM-Commander was “required to hold a monthly review of the situation regarding work, order and discipline at the garrison” which had to “be attended by all Commanders of the units and bodies and institutions of the MORH from the area of the garrison that are permanently or temporarily based on the territory of that garrison”.<sup>949</sup> Čermak did not take meaningful steps to discharge his responsibility to supervise or regulate order and discipline of HV members within his AOR during the relevant period.

306. In contrast, as ZM-Commander Čermak issued orders and took steps to discharge more mundane responsibilities and duties assigned to all ZM-Commanders that were unconnected to order and discipline, namely:

- The duty to organize and issue orders related to the needs of non-permanent military personnel, including food and kitchens/catering,<sup>950</sup> accommodation,<sup>951</sup> and refueling;<sup>952</sup> and
- The duty to issue instructions<sup>953</sup> determining the organization and work of the logistics services for servicing and logistical support of the units and facilities at the ZM (technical, medical, construction, etc.).<sup>954</sup>

<sup>946</sup> D34,p.7(item17);Theunens:P1113,p.107;Theunens:T.12882,13331-32;Laušić:P2159,para.242.

<sup>947</sup> Deverell:T.24153-54.

<sup>948</sup> D34,p.7(item17);Theunens:P1113,p.109.

<sup>949</sup> D34,pp.7(item17),10(item28);see Theunens:P1114,p.10;P1204.

<sup>950</sup> D34,p.5(items7,10);D32,p.12(Art.45);D1015;Čermak:P2526,p.9;P2523;D1034;D1127;D1017;D1018;D1272;Čermak:P2525,p.13.

<sup>951</sup> D34,p.5(items7-9);D32,p.12(Art.45);P1213;D1040;D1015,p.2;D1051;Čermak:P2525,pp.155-56; [REDACTED];[REDACTED];D1046;D1054;D1035;D1048;D1049;D1018;D1050;D1053.

<sup>952</sup> D34,p.7(item19);D1015,pp.1-2;D1019;D1125;D1017;Čermak:P2525,p.13.

### 3. HV Members at the Knin ZM

307. As Knin ZM-Commander, Čermak had numerous soldiers directly subordinated to him, both formally and informally. The evidence contradicts Čermak's claims that he had only 9-10 soldiers at his disposal.<sup>955</sup> Čermak's ability to access HV resources is demonstrated by the effective subordination of the following groups to his command: 147 members of the 142<sup>nd</sup> Home Guard Regiment;<sup>956</sup> Major Jonjić and the 306<sup>th</sup> Šibenik Logistics Base;<sup>957</sup> the Knin MP Company;<sup>958</sup> CALOs;<sup>959</sup> and Brigadier Teskeredžić's de-mining unit.<sup>960</sup> In addition to the numerous and ever-growing number of ZM members subordinated to Čermak, there was a significant HV presence (in particular the 7GBR and 4GBR) within Čermak's AOR from the moment he arrived in Knin, and continuing throughout the following months.<sup>961</sup> Čermak conceded that HV members were being accommodated in apartments and barracks within the Knin ZM during the relevant time period.<sup>962</sup> Čermak was responsible for the discipline of these HV members, as well as those present, operating or transiting through his AOR.

### 4. Order and Discipline within the ZM AOR

308. The duties pertaining to order and discipline in ZMs were based upon, *inter alia*, the Military Discipline Regulations.<sup>963</sup> The subordination of all HV units present within Čermak's AOR for the purposes of order and discipline imposed upon Čermak the duty to control order and military discipline within his AOR,<sup>964</sup> which included the authority to issue orders and regulations to HV members as well as institute disciplinary proceedings and investigations against them.

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<sup>953</sup> D34,p.9(item23).

<sup>954</sup> Čermak:P2525,p.39;Čermak:P2526,p.9;D1015;D1022;D1017;D1023;D1018;D1020;D1021;*see* P2523.

<sup>955</sup> [REDACTED];Deverell:T.24157-58;*cf.* Čermak:P2525,pp.17,28,34,47,50, 139;Čermak:P2526,pp.15;*see* "Čermak:Enhanced-Authority".

<sup>956</sup> *See* D762;D764;D766;D761.

<sup>957</sup> Čermak:P2525,pp.10,19-20,39,42,66-68;D759;D775;Theunens:P1113,pp.504,593;D1017;D1018.

<sup>958</sup> *See* "Čermak:MPs".

<sup>959</sup> Dondo:D1696,para.4.

<sup>960</sup> Teskeredžić:T.23264;Teskeredžić:D1732,para.19;D1735;D1024;D1025.

<sup>961</sup> Čermak:P2526,pp.8,32,34-38,47,103;Čermak:P2525,pp.10,20-21,40;D1002,p.4;D308;P886,0357-7452-et-2,p.76;Deverell:T.24171;Deverell:D1784,p.19;D281,pp.9-10(5.4-5.5,5.10);Theunens:P1113, p.518;D1017;D1023;D1024;D1025;D1029.

<sup>962</sup> P719,p.4;*see* D1050;D1046;D1048;D1051;D1053;D1054.

309. Deverell confirmed that ZMs primarily existed to service non-organic HV units operating within or merely transiting through the ZM AOR. Deverell opined that the expectation of having HV units with potentially separate lines of subordination and command *inter se* within one AOR militated in favour of granting adequate authority and powers to the ZM-Commander to allow him to discharge his responsibility to impose regulations aimed at establishing and maintaining a climate of good order and military discipline within his AOR.<sup>965</sup> Despite disagreeing with the practicality of the proposition,<sup>966</sup> Deverell conceded that the HV Service Regulations clearly implied that a ZM-Commander had all HV members within the ZM AOR, including those simply transiting through it, subordinated for purposes of order and discipline and therefore could be held responsible for their actions.<sup>967</sup>

310. Deverell identified a tension between “unity of command” and the ability to establish uniform “good order”.<sup>968</sup> The HV Service Regulations resolved this tension in favour of establishing and guaranteeing complete territorial coverage by making all HV units subordinate to the ZM-Commander in respect of order and discipline.<sup>969</sup> This was done at the expense of strict adherence to the military principle of “unity of command”, which was a concept that Deverell conceded the HV did not fully adhere to.<sup>970</sup>

311. Čermak was a “superior officer” and required to “decide the disciplinary responsibility of [his] subordinates in accordance with the prescribed procedure” and to “pass disciplinary measures in accordance with the Code of Military Discipline”.<sup>971</sup> More specifically, as ZM-Commander, Čermak was required to “initiate disciplinary proceedings against offenders who [were] not members of [his] unit if such measures [were] required for the purpose of maintaining order and discipline”.<sup>972</sup> In cases where the ZM-Commander issued a disciplinary measure to an offender outside his

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<sup>963</sup> D34,p.3;see “Gotovina:HV Discipline”.

<sup>964</sup> Laušić:P2159,para.242.

<sup>965</sup> See Deverell:D1784,pp.23-24,27;Deverell:T.24298-300.

<sup>966</sup> Deverell:T.24298-300.

<sup>967</sup> Deverell:D1784,p.24;D32,p.11(Art.52);Deverell:T.24298-300.

<sup>968</sup> Deverell:T.24298-300.

<sup>969</sup> D32,p.11(Art.52).

<sup>970</sup> Deverell:D1784,pp.19-20.

<sup>971</sup> Theunens:P1113,p.212;see P1007,pp.7-8(Art.19).

organic unit, or if he decided it was unnecessary in the circumstances to punish that offender, he was nevertheless required to inform the offender's superior officer (and forward the disciplinary matter to the offender's superior officer if no action was taken).<sup>973</sup> Moreover, Čermak could have detained HV members for serious breaches of public law and order for up to 48-hours, or until their disciplinary responsibility could be established by an authorized officer.<sup>974</sup>

312. Čermak had the authority to order disciplinary investigations.<sup>975</sup> As a superior officer he was required to immediately take all necessary measures to collect any relevant evidence, to inform his own superior officer, and to initiate an investigation.<sup>976</sup> Čermak's understanding of his responsibility for the discipline of soldiers present within his AOR, and his authority to order an investigation and institute disciplinary measures, are exemplified in his response to an UNMO protest in which he informed UNMOs that he had ordered an investigation into threats issued against military observers.<sup>977</sup>

313. Deverell confirmed that the Code of Military Discipline specifically entitled Čermak as ZM-Commander to punish HV members who were not under his direct chain-of-command where such measures were necessary for maintaining order and discipline.<sup>978</sup> The ZM-Commander required this power in order to deal with units temporarily associated with the ZM.<sup>979</sup> For instance, Teskeredžić denied being an organic member of the Knin ZM, yet admitted that Čermak could have disciplined him.<sup>980</sup> Deverell testified that a ZM-Commander's principal task is "more than just enforcing military discipline" and involves establishing "administrative and logistic structures that function efficiently, that are supported by established procedure and regulation, and underpinned by the proper application of military discipline".<sup>981</sup>

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<sup>972</sup> Theunens:P1113,p.212;see P1007,pp.9-10(Art.26);Feldi:D1673,p.45(2.3.5);Deverell:D1784,p.24;Botteri:T.10902-03.

<sup>973</sup> P1007,pp.9-10(Art.26);Feldi:D1673,p.45(2.3.5).

<sup>974</sup> P1007,p.11(Art.32);Theunens:P1113,pp.214,641;see Deverell:T.24253-55.

<sup>975</sup> Theunens:P1113,p.216;Deverell:D1784,p.24;Theunens:T.12956.

<sup>976</sup> P1007,p.17(Art.61);Theunens:T.13328-30;Theunens:P1113,p.214.

<sup>977</sup> P2520;Čermak:P2525,p.173.

<sup>978</sup> See P1007,pp.9-10(Art.26);Deverell:T.24311-12,24314-16;Deverell:D1784,p.34.

<sup>979</sup> Deverell:D1784,p.34;Deverell:T.24305,24312-13.

<sup>980</sup> Teskeredžić:T.23285.

<sup>981</sup> Deverell:D1784, pp.22-23.

314. Colonel General Čermak possessed the equivalent disciplinary powers of a Corps Commander,<sup>982</sup> and the Code of Military Discipline required senior officers to take expeditious action during wartime in respect of all disciplinary offences.<sup>983</sup> Parallel criminal and disciplinary proceedings were contemplated under the rules in force at the time.<sup>984</sup> Where an offence against military discipline also constituted a criminal offence, Čermak was required to send the matter to the military prosecutor, and also to initiate disciplinary procedures where he determined that doing so was in the interests of the service.<sup>985</sup>

##### 5. MP Subordination to Čermak as ZM-Commander

315. Čermak's authority to control MP daily tasks within his AOR is manifest from his *de jure* powers as ZM-Commander, and his position as the most senior HV commander in Knin.<sup>986</sup> In accordance with a 1994 MPA directive,<sup>987</sup> the Knin MP Company of the 72<sup>nd</sup> MP Battalion was subordinated to the Knin ZM-Commander, who was the highest ranking HV commander by function in the Knin AOR.<sup>988</sup> The MP Company was therefore subordinated to Čermak's command,<sup>989</sup> and he had the authority to issue daily operational orders to them to carry out tasks within the remit of the MP.<sup>990</sup>

316. Laušić made clear in a December 1992 order that ZM-Commanders had the authority to exercise command and control over the daily tasks of the MP operating within their AORs,<sup>991</sup> which was confirmed by Feldi and Theunens.<sup>992</sup> Subsequent orders, requests, reports and regulations confirm the ZM-Commander's authority over the MP,<sup>993</sup> including an order that specifically provided for the subordination of 72<sup>nd</sup>

<sup>982</sup> P1007,pp.8-9(Arts.21-23);see Botteri:T.10906.

<sup>983</sup> P1007,p.26-28(Arts.103-05,109);see P1187,p.5(Art.6).

<sup>984</sup> Deverell:T.24323;Botteri:P1005,para.22;Botteri:D878,paras.22-24.

<sup>985</sup> P1007,p.10(Art.31);Theunens:P1113,p.213.

<sup>986</sup> Čermak:P2525,p.14;Buhin:T.10046-

47;Džolić:P875,para.37;Elleby:T.3379;Hendriks:T.9720,9725;Theunens:P1113,p.499.

<sup>987</sup> D1280,p.4(item7);D1281p.4(item1.2).

<sup>988</sup> Džolić:P875,para.38;Džolić:P876,paras.16,25-26;Laušić:T.15593-94,15603-06,15643-47;P881,p.2(item7);P887,p.2(item7);D47,p.4(item14)(all say most senior HV commander);Deverell:T.24162.

<sup>989</sup> P880,p.5(Art.9);Laušić:P2159,paras.168,194-95,248,249;Laušić:T.15604,15662,15644-45;P881,pp.1-2(items1.5,7);P887,p.2(item7);D47,p.4(item14);Theunens:P1113,p.499.

<sup>990</sup> Laušić:T.15209;Jurić:T.27483,27521-22,27529;Theunens:T.13250-53.

<sup>991</sup> P1206;Laušić:T.15353.

<sup>992</sup> Theunens:P1113,p.128;Feldi:T.21939-41;Feldi:D1673,pp.27-28,30-31(1.5.14-1.5.16,1.5.22).

<sup>993</sup> P880,p.5(Art.9);D1280;P1206;D993,p.5(item6);D47,p.4(item14);D32,p.13,(Arts.52,54);Laušić:T.1225-32,15650;D1281,p.4(item1.2);see D292,p.16(item5);Laušić:P2159,para.243;P883,p.3.

MP Battalion units to Split MD ZM-Commanders that was issued at the close of 1994 with language almost identical to that used in 1992.<sup>994</sup>

317. The Defence advanced a number of erroneous assertions about the capacity of a ZM-Commander to command MP units in the field, namely:<sup>995</sup>

- That the system of MP subordination was substantially altered with the introduction of the 1994 MP Rules thereby denying HV Commanders control over the performance of MP daily tasks.<sup>996</sup> This is contradicted by the evidence demonstrating the continuity of this system beginning in 1992;<sup>997</sup>
- That Čermak's limited operational function as ZM-Commander affected his ability to exercise daily operational command over MP units within his AOR.<sup>998</sup> Daily operational command authority over MP units however had nothing to do with the operational status of the HV Commander;<sup>999</sup> rather it was the territorial concept that granted the local HV Commander authority to direct local MPs in the execution of their daily operational tasks within a particular AOR,<sup>1000</sup> and
- That Šušak's 6-Jun-94 order altered the system of MP subordination to HV Commanders prior to Storm.<sup>1001</sup> This is false, and Jurić confirmed that in essence the conflict resolution procedure set out by Šušak for the dual command system over the MP equally applied to Čermak's orders to the MP.<sup>1002</sup>

318. MP subordination to ZM-Commanders conforms with the circumscribed right of command granted to ZM-Commanders over HV units within the ZM AOR, and the ZM-Commander's authority to issue orders to operational HV personnel on matters

<sup>994</sup> See P1206;Džolić:T.8966(HQ in Split);Laušić:T.15635;D1280,pp.4(item7),5(item10).

<sup>995</sup> See "Gotovina:MP";JCE:Laušić".

<sup>996</sup> See Kovačević:D1676,pp.79-85;Feldi:D1673,pp.28,31(1.5.17,1.5.23).

<sup>997</sup> Theunens:T.12904;Laušić:P2159,paras.24,27,28;Laušić:T.15345-47,15353;D1281,p.3;see "Gotovina:MP".

<sup>998</sup> See Kovačević:D1676,pp.98,110-11;Feldi:D1673,p.47(2.3.12,2.3.15).

<sup>999</sup> Jurić:T.27478;Laušić:T.15589-92;Theunens:T.13249-53.

<sup>1000</sup> Laušić:T.15360-62,15589-90,15594-96;Laušić:P2159,paras.24,25,28;Theunens:T.13249-53.

<sup>1001</sup> Feldi:D1673,pp.31-31,38-39(1.5.22-1.5.23,1.5.50);D35,p.1(items1-4).

<sup>1002</sup> Jurić:T.27463-64.

related to order and discipline.<sup>1003</sup> Jurić recognized that Čermak as ZM-Commander had no operational function in relation to the HV,<sup>1004</sup> yet he unequivocally stated that Čermak had the authority to issue “tasks, and that we [the MPs] carried out these tasks because all of these tasks were within the scope of the work of the military police”.<sup>1005</sup>

#### 6. Čermak was Responsible for Maintaining Order and Discipline

319. Internationals in Knin testified that the HV was firmly in control of Sector South and Knin after Storm, and had adequate resources to maintain control of the area.<sup>1006</sup> Internationals denied that a “power vacuum” had been created in Knin in the wake of Storm, pointing out that they were immediately “introduced to General Čermak, the military commander on site, who represented himself as being responsible for law and order throughout the area”.<sup>1007</sup> Moreover, Čermak was no stranger to command of armed forces, despite attempts to paint himself as completely devoid of command capabilities.<sup>1008</sup> Čermak boasted about his role during the early years of Croatia’s struggle for independence, both in terms of raising his own unit of 800 armed men in anticipation of entering the war, as well as his leading role in creating, organizing, and equipping the HV.<sup>1009</sup>

320. Despite acknowledging that the military discipline situation on the ground was urgent<sup>1010</sup> and having clear notice of the extent of crimes being committed by soldiers within his AOR, Čermak did not take any direct disciplinary action against anyone during his tenure as ZM-Commander.<sup>1011</sup> Instead, Čermak allowed the crimes to continue and diverted the MP at his disposal to obstruct the IOs and protect facilities that would enable ethnic Croats to populate the Krajina and prevent the return of

<sup>1003</sup> Laušić:T.15650-54,15660-61.

<sup>1004</sup> Jurić:T.27485;see Liborius:T.8358.

<sup>1005</sup> Jurić:T.27523-26;see Laušić:T.15650,15643-46(Laušić still maintained that Čermak could issue orders to the MP);Theunens:T.13249-53.

<sup>1006</sup> Elleby:P217,para.11;Elleby:T.3377;Hendriks:T.9720,9725;Liborius:P799,pp.4-5;Liborius:P802,paras.14,37;Munkelien:T.1650-51.

<sup>1007</sup> Hendriks:T.9801-03(addressing P935,p.2;P830);see Liborius:T.8358,8623-24;Liborius:P800,p.2;Roberts:P675,para.20.

<sup>1008</sup> Deverell:T.24149-50,24182-83,24338-39;P1784,pp.8-9,38,42-43,51.

<sup>1009</sup> P2355,pp.3-4;D38,p.5;Čermak:P2525,p.27.

<sup>1010</sup> Čermak:P2525,pp.140.

<sup>1011</sup> Čermak:P2525,pp.28,139-41;see P1017;see also “Gotovina:Ineffective Measures”;“Gotovina:Military Prosecutions”.

Serbs to the area.<sup>1012</sup> Čermak's inaction created a culture of criminal impunity within his AOR, and beyond.

321. Čermak has characterized his responsibilities as more limited than those normally associated with a ZM-Commander.<sup>1013</sup> This assertion is false, and Čermak was responsible for all of the tasks normally associated with the ZM command, and was actually delegated additional extraordinary authority, not less. Čermak's own expert confirmed that there is no such thing as a "classical or non-classical" ZM-Commander.<sup>1014</sup> Moreover, Tudman's *chef de cabinet*, and Čermak's expert, confirmed that Čermak's official military appointment as ZM-Commander was within the regular military establishment, as were his legal authorities and responsibilities.<sup>1015</sup>

322. Čermak recognized that a ZM-Commander was responsible for maintaining order and discipline within the ZM,<sup>1016</sup> but nonetheless asserted that Tudman had no expectation that he would keep order in Knin.<sup>1017</sup> This claim is not only facially implausible, but is contradicted by a conversation between Tudman and Čermak, where Čermak agreed that one aspect of his duties and responsibilities in Knin was "keeping order, preventing disorder" during the aftermath of Storm.<sup>1018</sup> Similarly, Čermak accepted that a ZM-Commander possessed broad disciplinary powers,<sup>1019</sup> yet denied that such powers applied to his particular situation or during a state of war.<sup>1020</sup> This is also false.<sup>1021</sup> Čermak's own expert, a former-Colonel General and Chief of the HVGS's Operations Administration, acknowledged that one task of a ZM-Commander "is to maintain order and good behaviour of military personal (sic) in his area".<sup>1022</sup>

323. Čermak's retroactive attempt to abdicate responsibility for tasks normally assigned to a ZM-Commander serves as an implicit admission that as Knin ZM-

<sup>1012</sup> See "Čermak: Selective Deployment" / "Internationals".

<sup>1013</sup> Čermak:P2525, pp.6, 128, 138-39, 141-42; see Čermak:P2532, pp.1, 10-11, 13.

<sup>1014</sup> Feldi:T.21817, 21829.

<sup>1015</sup> Radin:D1678, para. 12; Radin:T.22162-63; Deverell:D1784, p.38.

<sup>1016</sup> Čermak:P2525, p.141; Čermak:P2532, pp.58-59; D788.

<sup>1017</sup> Čermak:P2532, p.36.

<sup>1018</sup> P1144, p.4; see D37, p.1; P2355, pp.5-6.

<sup>1019</sup> See Čermak:P2532, p.59.

<sup>1020</sup> Čermak:P2525, pp.130-31, 136-39.

<sup>1021</sup> See P1007, p.26 (Art.103).

<sup>1022</sup> Feldi:D1674, p.9; Feldi:T.21825.

Commander he should have taken steps to address the criminal acts perpetrated by the HV throughout his AOR. Further evidence of this implicit admission is expert evidence called by Čermak allocating responsibility for “classical” ZM tasks to Major Gojević,<sup>1023</sup> which is inconsistent with Čermak’s own assertion that Gojević was his subordinate<sup>1024</sup> and his denial that a “classical” ZM had ever been set up in Knin during the relevant time period.<sup>1025</sup>

#### **D. Čermak’s authority over the Knin MP Company**

##### 1. Čermak could have used the MP to Prevent and Punish HV Crimes

324. Čermak had the authority and responsibility to direct the Knin MP Company to investigate and control the crimes being committed by HV within his AOR.<sup>1026</sup> Čermak admitted that the ZM-Commander was responsible for the military within his AOR, and that “if there is any disorder that...happens, then he can use the [MP] to discipline them”.<sup>1027</sup> Džolić’s acceptance of the Defence suggestion that Čermak did not have the authority to order him to investigate crimes<sup>1028</sup> is contradicted by Čermak’s orders and capacity to direct the Knin MP to investigate<sup>1029</sup> and prevent crimes<sup>1030</sup> when it suited his purposes.<sup>1031</sup>

##### 2. Knin MP Company was Subordinated to Čermak

325. The Knin MP Company under the command of Džolić was established on 5-Aug-95 as part of the 72<sup>nd</sup> MP Battalion.<sup>1032</sup> It was reinforced with 80 men on 6-Aug-95, and thereafter a minimum of 140-153 mainly experienced MPs were at Čermak’s immediate disposal.<sup>1033</sup> Additional MPs were sent to supplement the company during August and September 1995.<sup>1034</sup>

<sup>1023</sup> Deverell:D1784,pp.26,35.

<sup>1024</sup> Čermak:P2526,pp.11,14;Čermak:P2525,pp.19,135,143.

<sup>1025</sup> Čermak:P2532,pp.57-58.

<sup>1026</sup> Laušić:P2159,para.249;*see below*;”Gotovina:Military Prosecutions”.

<sup>1027</sup> Čermak:P2532,p.59.

<sup>1028</sup> Džolić:T.9017.

<sup>1029</sup> Rinčić:D1680,paras.19-20;Čermak:P2532,p.59;Džolić:P875,paras.44-45;Jurić:T.27458-60,27529.

<sup>1030</sup> Rinčić:D1680,paras.20,25;Džolić:P875,para.45.

<sup>1031</sup> *See* “Čermak Deployment/Infrastructure”.

<sup>1032</sup> D292,pp.6-7;D567,pp.4-5;P881,p.1;D506,p.2;P882,pp.1-2;Džolić:P876,para.27;Džolić:P875,paras.20-22;Džolić:T.8999,9068;P879,p.2;P887,p.1.

<sup>1033</sup> Džolić:P875,para.32;Džolić:T.8999,9125-26;P71,p.88;Theunens:T.13077-78.

<sup>1034</sup> P1129;P886,0357-7452-et-2,p.62;Džolić:T.8961-62,8989-90,9010;Džolić:P876,para.32.

326. The 72<sup>nd</sup> MP Battalion Commander Budimir initially set the AOR of the Knin MP Company as “Knin”, thus subordinating them to Čermak<sup>1035</sup> and complying with MPA instructions.<sup>1036</sup> Džolić was presented to Čermak on 7-Aug-95, and told by Budimir that Čermak was responsible for Knin and that Džolić was to be “at Čermak’s disposal” and “to help him in anyway he [Čermak] wanted”. Džolić understood this to mean that he remained subordinated to Budimir, but that he “was also under the command of General Čermak, and [he] was to obey any order that General Čermak gave [him]”.<sup>1037</sup>

327. During Defence cross-examination, Džolić retracted his original evidence that he was subordinated to Čermak.<sup>1038</sup> Džolić’s belated changes to his original evidence constituted an obvious and unpersuasive attempt to tailor his evidence to assist Čermak, as demonstrated by his inability to:

- account for the changes he made to his prior evidence;<sup>1039</sup>
- recollect specific instances to support those changes;<sup>1040</sup>
- reconcile his earlier corrections to specific sections of his prior statements with his subsequent in-court changes to those exact same sections;<sup>1041</sup> and
- maintain a consistent retraction,<sup>1042</sup> as evidenced by Džolić’s explicit in-court testimony that he met with Čermak regularly because he was subordinated to Čermak in performing his daily tasks.<sup>1043</sup>

328. Džolić’s original evidence provided to OTP investigators, and initially attested to in court, is consistent with: (1) the MP regulations and documentation regarding subordination;<sup>1044</sup> (2) the testimony of senior MPA officials;<sup>1045</sup> (3) Čermak having

<sup>1035</sup> Laušić:T.15605-07(Budimir had initially ordered the AOR for the Knin MP to be the town of Knin itself);Džolić:P875,para.20;Džolić:P876,paras.24,35;Džolić:T.9085;P1129;(however over time the AOR expanded -Džolić:T.8997-98,9055-56,9142).

<sup>1036</sup> D47,p.1(first paragraph references D1280 and P881- i.e., 5-08-95 order, and in the “Re:” line – item 2 is D267);P881.

<sup>1037</sup> Džolić:P875,para.37.

<sup>1038</sup> Džolić:T.9035-37.

<sup>1039</sup> Džolić:T.9129-32.

<sup>1040</sup> Džolić:T.9113-15.

<sup>1041</sup> Džolić:T.9097-103.

<sup>1042</sup> Džolić:T.8953.

<sup>1043</sup> Džolić:T.8953.

<sup>1044</sup> See “Gotovina:Military Prosecutions”;“Čermak:ZM Authority”.

granted permission for other MORH bodies to use the Knin MPs operating within the ZM;<sup>1046</sup> (4) Čermak's orders to the MP being executed; and (5) MP attendance at Čermak's briefings. Markač in fact explicitly referred to Džolić's men as the "Knin Garrison Military Police".<sup>1047</sup> The reality of subordination to Čermak is also reflected in Džolić's concession that MP under his command carried out all of Čermak's "orders", "requests" or "invitations", unless doing so was impossible.<sup>1048</sup>

### 3. Čermak Issued Direct Orders to the MP

329. Čermak issued numerous orders to the MP units operating within his AOR.<sup>1049</sup> The claim that Čermak simply forwarded "information" to the MP during the relevant time period is contradicted by the fact that these documents were explicitly written as "orders",<sup>1050</sup> recognized by those receiving them as "orders",<sup>1051</sup> and acted upon as "orders".<sup>1052</sup> Moreover, Čermak issued orders that held the MP Commander personally responsible for execution,<sup>1053</sup> and required such things as the formation of investigative teams,<sup>1054</sup> reporting back to Čermak,<sup>1055</sup> and immediate implementation.<sup>1056</sup>

330. Čermak himself referred to the documents he issued as orders.<sup>1057</sup> When Čermak was confronted by UN representatives about the failure to return stolen UN vehicles, he responded, "I have a list, I submitted it to the civilian and military police, this is very embarrassing for me...I will repeat my *orders*".<sup>1058</sup> Gotovina confirmed Čermak's authority to issue orders to the MP when he requested Čermak not to issue orders allowing FOM in a certain direction.<sup>1059</sup>

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<sup>1045</sup> Laušić:P2159,para.25;Jurić:T.27523-26.

<sup>1046</sup> D1034.

<sup>1047</sup> P2379,p.2.

<sup>1048</sup> Džolić:T.9113-15.

<sup>1049</sup> D788;P513;P512;P509;P53;D303;D503;P1147.

<sup>1050</sup> Čermak:P2525,pp.171-72;D788;P513;P512;P509;P53;D303;D503.

<sup>1051</sup> Jurić:T.27528;P973,p.12.

<sup>1052</sup> See "Čermak:Normalization/Point-of-Contact".

<sup>1053</sup> D503.

<sup>1054</sup> D303;D503.

<sup>1055</sup> D303;D503.

<sup>1056</sup> P509;D303;D503;P512;D788;P513;P53;Dondo:T.22543-44.

<sup>1057</sup> Čermak:P2526,pp.57-58;P409,p.2;P1147.

<sup>1058</sup> P409,p.2(emphasis added).

<sup>1059</sup> D818.

331. Irrespective of the nomenclature used, a request from a superior is an order that must be implemented.<sup>1060</sup> Čermak could issue orders to the MP, regardless of the form in which they were given – *i.e.* “orders”, “tasks” “information”, or “requests” – and the MP were obligated to act so long as the assigned task fell within the remit of the MP.<sup>1061</sup> The Defence assertion that Čermak’s orders were anything other than orders is false, and Čermak offered implausible and inconsistent explanations for the documents he signed as orders, claiming:

- that he was consciously “bluffing” by issuing fake orders;<sup>1062</sup>
- that he issued what he thought were real orders, only to later realize he lacked authority to issue them;<sup>1063</sup>
- that he decided to no longer issue “bluff” orders when he realized that they were ignored<sup>1064</sup> (which is itself contradicted by his subsequent promise outlined above to “repeat his orders” to the MP); and
- his general proposition that the documents he titled as “orders” were only intended as information (itself inconsistent with Čermak ever issuing fake or unauthorized orders).

Apart from the internal inconsistency of Čermak’s explanations for his orders to the MP, there is no evidence to suggest that Čermak was ever reprimanded or warned for issuing illegal orders or for exceeding his authority in respect of the MP.

#### 4. The MP Reported to Čermak

332. Čermak received reports from the MP,<sup>1065</sup> and the MPs attended regular meetings convened and controlled by Čermak.<sup>1066</sup> MP presence at Čermak’s meetings

<sup>1060</sup> Feldi:T.21832-33; *see* Theunens:T.12941.

<sup>1061</sup> Jurić:T.27457-58,27460,27530-31; Laušić:P2159, paras.24-25,28; Laušić:T.15462.

<sup>1062</sup> Čermak:P2525, pp.171-72; D303; D503.

<sup>1063</sup> Čermak:P2525, pp.171-72; Deverell:T.24182-83.

<sup>1064</sup> Čermak:P2525, pp.171-72.

<sup>1065</sup> Čermak:P2526, pp.41,51,79-81; Čermak:P2525, pp.46; Rinčić:D1680, paras.19-20; Buhin:T.10049-50; [REDACTED]; Čermak:P2532, p.39.

<sup>1066</sup> [REDACTED]; [REDACTED]; Dondo:D1695, paras.14-15; Dondo:D1696, para.7; Čermak:P2526, pp.39,51,59; Džolić:P875, paras.48,51-52; Rinčić:D1680, paras.19-20; Džolić:T.9015; Jurić:T.27430-58; Čermak:P2532, pp.39,59-60; Čermak:P2525, p.46; Buhin:T.10043-45,10049,10053.

facilitated Čermak's ability to supervise and issue orders to the MP,<sup>1067</sup> and conformed with MPA orders that MP Commanders attend all briefings and coordinating meetings held by the HV Commander to whom they were subordinated.<sup>1068</sup> In addition to their regular meetings,<sup>1069</sup> Čermak personally summoned Džolić to discuss crime and security issues.<sup>1070</sup> As a result of these meetings, Džolić either took direct action, informed the Crime MP who then investigated the crimes, or suggested alternate means of addressing Čermak's concerns, including asking the civilian police to take action.<sup>1071</sup> Džolić confirmed that MP units on the ground reported to the senior HV Commander on the ground as instructed by the MPA,<sup>1072</sup> and there is no evidence that Džolić directly reported to anyone more senior than Čermak.

### **E. Čermak's Extraordinary Enhanced Authority**

333. Čermak had broad discretion in exercising his extraordinary powers, and other than the general instructions he received directly from Tudman, he was not told how to exercise that authority.<sup>1073</sup> This broad grant of discretion and authority allowed Čermak to improvise and to exercise his authority as he deemed appropriate.<sup>1074</sup> Čermak's shared intent for the common criminal purpose is evident from the fact that although he was granted discretion to exercise his enhanced authority to keep order by Tudman,<sup>1075</sup> consistent with the policies of Tudman and other JCE members. Čermak intentionally ignored crimes against Serbs and narrowly focused his attention on advancing the JCE's purpose: repopulation with ethnic Croats and permanent removal.

<sup>1067</sup> Feldi:T.21942-43;P880,p.5(Art.9);Laušić:T.15209;Rinčić:D1680,para.20;Buhin:T.10043-45,10049, 10053.

<sup>1068</sup> D1280,p.5(item10);P1206,p.3;Jurić:T.27438.

<sup>1069</sup> Džolić:P875,paras.48,51-52;Džolić:T.8953-54,9015-16.

<sup>1070</sup> Džolić:P875,para.44.

<sup>1071</sup> Džolić:P875,paras.41,44-47.

<sup>1072</sup> Džolić:T.8917-18,8953.

<sup>1073</sup> Feldi:T.21822,21826;P2527,p.3;Čermak:P2525,p.11;Čermak:P2526,pp.10-11;see Čermak:P2532, pp.2-3;Dondo:D1696,para.4.

<sup>1074</sup> Feldi:T.21823,21826-27;see Rinčić:D1680,para.16.

<sup>1075</sup> P1144,p.4;Theunens:P1113,pp.499,503.

334. Čermak's extraordinary authority and tasks provided by Tudman extended beyond the territorial limits of the Knin ZM AOR.<sup>1076</sup> Čermak's AOR in respect of his extraordinary responsibility for public relations and maintaining cooperation with IOs extended to the entirety of Sector South,<sup>1077</sup> as evidenced by the CALOs attached to Čermak's command who had responsibility for Sector South.<sup>1078</sup> Čermak acknowledged that his AOR for these extraordinary tasks was wide,<sup>1079</sup> and entered into agreements and issued orders that spanned Sector South.<sup>1080</sup>

335. Čermak also had the extraordinary ability to access resources and assistance from senior Croatian officials, which reflects his broad delegated authority. For instance:

- Assistant Minister of Economy Colonel Rinčić, a long-time associate and former direct subordinate of Čermak,<sup>1081</sup> was mobilized just prior to Storm and arrived in Knin on 6-Aug-95. Minister of Economy Vidošević gave Rinčić equipment and special permission to remain in Knin to assist Čermak with industrial facilities, factories and infrastructure.<sup>1082</sup>
- Červenko assigned Brigadier Brkić, Head of the MORH Health Administration, to coordinate the resolution of "unclear" issues related to the sanitation operation.<sup>1083</sup> Brkić arrived in Knin on 5-Aug-95 and was promptly appointed to Čermak's sanitation staff.<sup>1084</sup> Čermak trusted Brkić, and had originally appointed Brkić to the MORH Health Administration.<sup>1085</sup>
- Gotovina assigned CALOs to be placed at Čermak's disposal.<sup>1086</sup>

<sup>1076</sup> Čermak:P2525,pp.53-56;see Škare-Ožbolt:D1471,para.10;Škare-Ožbolt:T.18101;Liborius:P800,p.3;Liborius:P802,para.34;Liborius:P801,p.12;D145;D309;P361;P374,p.3(Čermak stated "his area of responsibility is vast").

<sup>1077</sup> See Čermak:P2532,p.126;Čermak:P2525,pp.46,55-56,123-24,168-69;Čermak:P2526,p.68;D145;D309;P375,p.2;P973,p.12;Elleby:T.3377;Hendriks:T.9720,9725;Liborius:P800,p.2.

<sup>1078</sup> Čermak:P2525,pp.19-20,66-67;see D320.

<sup>1079</sup> Čermak:P2525,p.169.

<sup>1080</sup> P513(Drnis is outside ZM);P2715;D33,p.2;Flynn:P20,pp.9-10;see Berikoff:P739,p.2;Berikoff:T.7788-90.

<sup>1081</sup> Rinčić:D1680,paras.2-5;Rinčić:T.22321.

<sup>1082</sup> Rinčić:D1680,paras.9,14,15;Rinčić:T.22322-25.

<sup>1083</sup> D598,p.4.

<sup>1084</sup> Čermak:P2525,p.71;P506.

<sup>1085</sup> Čermak:P2525,p.71;see Čermak:P2525,pp.75,78,87.

<sup>1086</sup> Dondo:D1696,para.4;see Čermak:P2525,p.10.

- Brigadier Teskeredžić, who previously collaborated with Čermak in the MORH,<sup>1087</sup> contacted Čermak on 5-Aug-95 and arrived with his de-mining team in Knin on 6-Aug-95 to assist Čermak.<sup>1088</sup>
- Čermak called Major Jonjić from Zagreb on 5-Aug-95 and requested that Jonjić – whom Čermak had originally appointed Commander of Šibenik Logistics Base – assemble a HV logistics team to accompany Čermak to Knin.<sup>1089</sup>
- Shortly after the beginning of Storm, Prime Minister Valentić sent Dodig, Head of the Office for Inter-Ethnic Relations and a former-Assistant Minister of Defence for SIS, to work with Čermak.<sup>1090</sup>

336. Moreover, Čermak was able to have members/units of the MORH from outside of the Knin ZM simply placed at his disposal.<sup>1091</sup> The extraordinary nature of Čermak's authority emanating from Tudman allowed him to take the personnel that he needed without regard for the proper administrative procedure, or even whether these HV members were subordinated to the Split MD or the HVGS,<sup>1092</sup> for instance:

- Jonjić fulfilled Čermak's request to mobilize members of the 306<sup>th</sup> Šibenik Logistics Base for use in Knin;<sup>1093</sup> and
- Čermak exercised his discretion to utilize Brigadier Teskeredžić's de-mining unit, which operated continuously as part of the Knin ZM from 6-Aug-95<sup>1094</sup> despite its unorthodox mobilization and the repeated denials of Čermak's formal requests to make transfer official.<sup>1095</sup> Čermak brushed

<sup>1087</sup> Teskeredžić:D1732,para.3;Teskeredžić:T.23261.

<sup>1088</sup> Teskeredžić:D1732,paras.4,6.

<sup>1089</sup> Čermak:P2525,pp.10,19-20,39,42,66-68;D775.

<sup>1090</sup> Dodig:D1705,paras.1,3,5,7;Dodig:T.22628.

<sup>1091</sup> See Čermak:P2525,pp.10,16,-17,20,39,42,66-68;Čermak:P2526,pp.14-15;D1733;D1017;D1023;D1018;D761;D1115;D759;D760;D762;D765;D775;D766;D149;D1034;D1029;D758;Teskeredžić: T.23265;Theunens:P1113,pp.517-520;D1024;D1025.

<sup>1092</sup> See Čermak:P2525,pp.39,67-68.

<sup>1093</sup> Čermak:P2525,pp.10,19-20,39,42,66-68;D759;D775;Theunens:P1113,pp.504,593;D1017;D1018.

<sup>1094</sup> Teskeredžić:D1732,paras.17,19;D1030;Teskeredžić:T.23264-65;D1735;D1025.

<sup>1095</sup> Teskeredžić:D1732,paras.4-5,19;see,e.g., D1734;D1026;D765;D1733;D1028;D767.

aside complaints about taking the personnel he needed<sup>1096</sup> and Gotovina took steps to retroactively approve Čermak's actions in this respect.<sup>1097</sup>

337. Tudman granted Čermak the authority to accomplish "normalization" of the situation on the ground in order to facilitate the "return" of the Croat population to the liberated areas, and to conduct international public relations by maintaining communications with, and the cooperation of, the media and international community.<sup>1098</sup> However, consistent with his shared intent for the common criminal purpose of the JCE, Čermak only exercised his broad discretion and authority to mobilize and deploy resources that facilitated the colonization of the liberated territory with Croats, rather than to fulfil his promises and discharge his duty to stop HV committing crimes against Serbs.

#### F. Čermak's *De Facto* Authority Over the MUP

338. [REDACTED].<sup>1099</sup> This extended Čermak's authority over the MUP beyond the confines of the Knin ZM AOR.<sup>1100</sup> Witnesses who contested Čermak's authority over the MUP did so on the basis that Čermak was not formally within the MUP hierarchy and/or because the relevant HV and/or MUP regulations did not allow Čermak to exercise such authority.<sup>1101</sup> These witnesses failed to account for Tudman's delegation of extraordinary authority to Čermak<sup>1102</sup> [REDACTED].

339. Čermak provided specific examples of his authority over MUP officials:

- Čermak contacted Cetina, Cipci, and the commanders of local police stations to resolve issues at checkpoints.<sup>1103</sup>
- In October 1995, Pašić invited Čermak to his village (Oton-Bender), where Čermak personally handed over a gift to the villagers<sup>1104</sup> (Pašić's uncle among

<sup>1096</sup> See, e.g., D758;D760.

<sup>1097</sup> See, e.g., D767;D760.

<sup>1098</sup>Theunens:P1113,pp.499,500,503;Čermak:P2526,pp.9,16;Čermak:P2525,p.5;P1144,p.4; [REDACTED];Albiston:T.23880-81;Feldi:T.21820-23;Feldi:D1673,p.49(3.1.4); Deverell:T.24162,24284;Deverell:D1784,p.8;Theunens:T.12445-46.

<sup>1099</sup> [REDACTED];[REDACTED];P962;Cetina:T.23503;see below;"JCE:Jarnjak".

<sup>1100</sup> P2715;D806.

<sup>1101</sup> Albiston:T.23876-77,24005-06;[REDACTED];Cipci:T.23093-94,23096-97,[REDACTED];see Cetina:D1743,para.7;Morić:T.25624.

<sup>1102</sup> Škegro:D1679,para.3;Škegro:T.22195;Feldi:D1673,p.16;see above.

<sup>1103</sup> Čermak:P2526,p.68;see Hendriks:T.9711-14,9716-17;P511,p.2.

them) in the presence of international personnel.<sup>1105</sup> Pašić notified Čermak a few hours later that his uncle had been robbed of Čermak's gifts.<sup>1106</sup> Čermak "exploded"<sup>1107</sup> and contacted the Knin Police Station Commander Gambiroža, instructing him to capture the offenders.<sup>1108</sup> Čermak also told Cetina "to do something immediately to punish" the offenders.<sup>1109</sup> Before the victim had even filed a criminal complaint,<sup>1110</sup> Cetina took action<sup>1111</sup> and within "two or three hours" the police captured the offenders<sup>1112</sup> and a written report was sent to Čermak.<sup>1113</sup>

340. [REDACTED]

- [REDACTED]<sup>1114</sup>;[REDACTED]<sup>1115</sup>
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]<sup>1116</sup>
- [REDACTED]<sup>1117</sup>
- [REDACTED]<sup>1118</sup>
- [REDACTED]<sup>1119</sup>

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<sup>1104</sup> Vujinović:T.4561;Pašić:T.22893,22895-97;Čermak:P2526,p.82;Pašić:D1707,para.30;Cetina:D1745,p.7.

<sup>1105</sup> Pašić:T.22893,22896-97,22903-04;Cetina:D1745,p.7;Pašić:D1707,para.30.

<sup>1106</sup> Čermak:P2526,p.82;Pašić:T.22896-97,22903-04.

<sup>1107</sup> Čermak:P2526,p.82;Pašić:T.22896-97.

<sup>1108</sup> Čermak:P2526,p.82;Pašić:T.22896-97.

<sup>1109</sup> Cetina:D1745,p.7.

<sup>1110</sup> P2645;T.22928.

<sup>1111</sup> Cetina:D1745,p.7.

<sup>1112</sup> Čermak:P2526,p.82.

<sup>1113</sup> P2645.

<sup>1114</sup> [REDACTED].

<sup>1115</sup> [REDACTED].

<sup>1116</sup> [REDACTED].

<sup>1117</sup> [REDACTED];[REDACTED];[REDACTED];Buhin:T.10044.

<sup>1118</sup> [REDACTED];[REDACTED].

341. [REDACTED]<sup>1120</sup> [REDACTED]<sup>1121</sup> [REDACTED]<sup>1122</sup> [REDACTED]<sup>1123</sup>  
[REDACTED]

342. [REDACTED]<sup>1124</sup> [REDACTED]<sup>1125</sup> Similarly, whilst Cetina contested Čermak's *de jure* authority,<sup>1126</sup> his evidence confirms that Čermak possessed actual authority. If Čermak instructed him to initiate an investigation and to report back, Cetina would comply with this instruction.<sup>1127</sup> This is in fact what Cetina did when Čermak demanded action in respect of the theft in Oton-Bender.<sup>1128</sup>

343. Although Cipci, Buhin and Dondo similarly contested Čermak's authority over the MUP, these assertions are not reliable.<sup>1129</sup> Dondo conceded his assertions challenging Čermak's authority were based on speculation,<sup>1130</sup> while Buhin conceded he had no direct contact with Čermak.<sup>1131</sup> [REDACTED]<sup>1132</sup> Buhin himself indicated that Čermak "had to know everything that the police knew about and all the steps taken by the police"<sup>1133</sup> which meant informing Čermak about problems encountered by the MUP and their planned activities.<sup>1134</sup>

344. Cipci's challenge to Čermak's authority over the MUP is similarly unreliable. Cipci based his opinion on Čermak's lack of *de jure* authority over the MUP.<sup>1135</sup> His narrow opinion does not undermine the evidence establishing Čermak's actual authority:

- [REDACTED]<sup>1136</sup>

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<sup>1119</sup> [REDACTED].

<sup>1120</sup> [REDACTED].

<sup>1121</sup> [REDACTED].

<sup>1122</sup> P509.

<sup>1123</sup> [REDACTED].

<sup>1124</sup> [REDACTED].

<sup>1125</sup> [REDACTED].

<sup>1126</sup> Cetina:D1743,paras.7,10,12-14;see Cetina:T.23532.

<sup>1127</sup> Cetina:T.23558-60.

<sup>1128</sup> See above.

<sup>1129</sup> [REDACTED];Cipci:D1723,para.28;[REDACTED].

<sup>1130</sup> Dondo:T.22566.

<sup>1131</sup> See Buhin:P963,p.5;Buhin:T.10043-44.

<sup>1132</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED];see,e.g., D212,p.1.

<sup>1133</sup> Buhin:T.10044.

<sup>1134</sup> Buhin:T.10050.

<sup>1135</sup> See Cipci:T.23093-94,23096-97, [REDACTED].

<sup>1136</sup> [REDACTED];P509.

- the fact that Čermak issued an “order”<sup>1137</sup> to annul passes to civilians seeking entry into Knin contradicts Cipci’s claim<sup>1138</sup> that Čermak lacked the authority to issue such passes in the first place;
- Tomurad’s handwritten comment on Cipci’s 15-Aug-95 query concerning the validity of Čermak’s passes shows that the MUP hierarchy accepted Čermak’s authority to issue orders to MUP personnel;<sup>1139</sup>
- Čermak admitted he exercised authority over Cipci;<sup>1140</sup> and
- [REDACTED]<sup>1141</sup>

### 1. Čermak Failed to Deploy the MP and MUP to control Indictment Crimes

345. Čermak could have chosen to use his authority over the MUP to prevent and punish crimes by his HV subordinates.<sup>1142</sup> Although its authority was secondary to that of the MP, the MUP had the ability to investigate, detect and prevent criminal activity by HV perpetrators, and could have enhanced the overall security situation through an increased police presence, such as via checkpoints and patrols.<sup>1143</sup> Moreover, Čermak’s authority over the MP placed him in a unique position to ensure cooperation between the MUP and the MP in manning checkpoints, carrying out patrols and conducting investigations into the numerous incidents of looting, burning, killing and mistreatment targeted at Serbs.

346. Čermak did in fact issue joint-orders to both the Civilian police and MP,<sup>1144</sup> and even ordered the formation of mixed-teams composed of both civilian and military police.<sup>1145</sup> Čermak’s orders to MP and MUP officials contradict his subsequent denials of authority,<sup>1146</sup> and reveal his contribution to the JCE. As discussed below, Čermak chose to exercise his broad authority over the MUP and MP

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<sup>1137</sup> P509.

<sup>1138</sup> Cipci:T.23085.

<sup>1139</sup> D494;Morić:T.25880-82.

<sup>1140</sup> Čermak:P2526,p.68.

<sup>1141</sup> [REDACTED];[REDACTED].

<sup>1142</sup> See Theunens:T.13308-09.

<sup>1143</sup> See “JCE:Jamjak”.

<sup>1144</sup> Jurić:T.27460;P53;P513;P509;D303;D503;P409,p.2.

<sup>1145</sup> D303;D503;Jurić:T.27532-34.

<sup>1146</sup> Čermak:P2526,pp.49-51.

by issuing orders that narrowly focused on issues that served the common criminal purpose:

- managing IO attention/expectations by issuing orders to investigate crimes perpetrated directly against Internationals<sup>1147</sup> or to impose ROM on IOs;<sup>1148</sup> and
- facilitating rapid mass resettlement of Croats in Knin, *i.e.*, 'normalization', by issuing orders to protect key infrastructure<sup>1149</sup> and allowing the free movement of Croatian civilians into Knin.<sup>1150</sup>

### G. Primary Point of Contact for International Observers

347. At the close of the Brijuni Meeting, Tudman emphasized the need to ensure maintenance of international support by managing negative political implications arising from Storm.<sup>1151</sup> Tudman intended to exploit the situation through the media.<sup>1152</sup> Šušak consequently identified the need to appoint someone to maintain contact with the senior Croatian leadership to deal with those issues, and to handle complaints and neutralize interventions from UNCRO.<sup>1153</sup> Tudman agreed and stated that the person assigned to deal with UNCRO and propaganda would need to be connected to his office.<sup>1154</sup> Ultimately, Čermak was chosen to conduct international public relations and filled the position of Croatia's primary point-of-contact for the media and IOs.<sup>1155</sup> As envisioned, Čermak regularly communicated with senior Croatian officials after his appointment, including Tudman,<sup>1156</sup> Šušak,<sup>1157</sup> Šarinić,<sup>1158</sup> Červenko,<sup>1159</sup> Jarnjak,<sup>1160</sup> Gotovina,<sup>1161</sup> Markač,<sup>1162</sup> and Reljić.<sup>1163</sup>

<sup>1147</sup> See D303;D503;P2520;D305;D304;P409,p.2;P391;P512;P513;D788;P793;P389;P375;P408.

<sup>1148</sup> P973,p.12;P509;D788;P390;D616;P405;see also "FOM";P512;P513;P53.

<sup>1149</sup> P2355,p.5;P1144,p.4;Čermak:P2526,pp.9,51;Čermak:P2525,pp.12,17,161;see Theunens:T.13112; [REDACTED];[REDACTED];D212,p.1;see also "Čermak:Infrastructure".

<sup>1150</sup> P509; [REDACTED];P144,p.2;Jurić:T.27528;P973,p.12;P409,p.2;[REDACTED];P1147; [REDACTED];see "JCE".

<sup>1151</sup> P461,1D76-0110,pp.1,6-7,10-13,27,32.

<sup>1152</sup> P461,pp.22-23(1D76-0001,p.4).

<sup>1153</sup> P461,pp.27-29.

<sup>1154</sup> P461,p.29.

<sup>1155</sup> Čermak:P2526,pp.15,19,61-62;Čermak:P2532,pp.7-8,42-43;Čermak:P2525,pp.23,26,176;Deverell:T.24162;D296,p.20;see Feldi:T.21826-28.

<sup>1156</sup> Čermak:P2525,pp.23,26,37,49,176;Čermak:P2526,pp.15,19,90-91;Čermak:P2532,pp.19,42-43,48;D618,p.1;P1144,p.7;Škegro:D1679,paras.10,12;Liborius:P801,p.11;Deverell:T.24292-93;see Feldi: T.21855;Flynn:P20,p.10;Flynn:T.1226;see also "JCE:Key JCE Participants";"JCE:Tudman".

<sup>1157</sup> Čermak:P2526,pp.20-21;Čermak:P2525,p.177;D1733;Škegro:D1679,para.10;"JCE:Šušak".

348. Maintaining international support was a top priority for Croatian authorities, and Čermak was instrumental in managing and containing information about criminal acts perpetrated by Croatian Forces in the aftermath of Storm.<sup>1164</sup> Čermak was instrumental in covering-up crimes and obstructing Internationals from investigating alarming incidents of Croatian Forces crime such as the murders committed in Grubori.<sup>1165</sup> However, Čermak recognized that an outright denial of Croatian Forces involvement in crimes in the aftermath of Storm was often impractical because of the obvious signs of their participation<sup>1166</sup> and the likelihood that such implausible denials would alienate the IOs. Instead, Čermak focused his efforts on acknowledging their complaints, rather than strictly admitting Croatian Forces involvement, and misleading the international community with false assurances of official action that he knew would never materialize.<sup>1167</sup> In this way, Čermak simultaneously maintained International's support and confidence while also deflecting the complaints and obstructing IOs from the timely pursuit of other avenues of redress for their demands for prevention and investigation of crimes and FOM. The evidence demonstrates that IOs almost exclusively focused their efforts on informing Čermak of crimes and securing his assistance, and that they relied upon his false assurances of official action. Čermak's obfuscation was aimed at furthering the common criminal purpose by dissipating the complaints of Internationals, facilitating the ongoing crimes against Serbs, and preventing potentially damaging information from coming to light that could prompt outside intervention.

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<sup>1158</sup> Čermak:P2532,p.42;Čermak:P2526,pp.15,61-

64;Čermak:P2525,pp.23,37,107,109;D618,p.1;P1144,p.7.

<sup>1159</sup> Čermak:P2526,pp.21,79-80;Laušić:P2159,para.235;Čermak:P2525,p.177;D561;P1219;*see* "JCE:Červenko".

<sup>1160</sup> Čermak:P2526,pp.21-22,69;Čermak:P2525,pp.49,59,178-179;Čermak:P2532,pp.19,95-97;Hendriks: T.9710-11;P957,p.1;P937,p.1;Markač:P2531,p.68;Škegro:D1679,para.10;*see* "JCE:Jarnjak".

<sup>1161</sup> P1219,p.1;Čermak:P2525,pp.49-50,59,120-121;Čermak:P2532,pp.14-15,17-18,20,23;Čermak:P2526,pp.30,64,90-91;D562;D818;D304;P1144,p.5;[REDACTED];Škegro:D1679,para.10;Liborius:P801,p.11;Dondo:D1695,para.9.

<sup>1162</sup> Čermak:P2532,pp.70,77-87;Čermak:P2525,pp.18,93-94,97,179;Čermak:P2526,pp.100-101;P2524;D562;Markač:P2531,pp.30-33,51,53,64;Markač:P2530,pp.55-57,66-69,97-99.

<sup>1163</sup> Čermak:P2532,pp.62-63;Čermak:P2526,pp.64,105-07;[REDACTED].

<sup>1164</sup> *See* "JCE:Jarnjak".

<sup>1165</sup> *See* "Markač:Grubori".

<sup>1166</sup> Čermak:P2525,pp.21-24;Čermak:P2526,p.71;*cf.* D810(Tolj private admission).

<sup>1167</sup> Čermak:P2525,pp.45-46,59-60;Čermak:P2526,pp.68-69;P1147;P2520;D308;D616;D391; [REDACTED].

## 1. Media

349. Croatian authorities took steps to manage media coverage of HV crimes in the aftermath of Storm.<sup>1168</sup> Tudman sent Čermak to Knin “to be in contact with the media and do what’s necessary”<sup>1169</sup> and granted Čermak broad discretion in the execution of this task.<sup>1170</sup> Čermak described himself as the “media man” for “the entire area”<sup>1171</sup> and admitted that every media request and complaint came to him.<sup>1172</sup> Čermak claimed that he met with 50-60 journalists, and as many television teams, each day.<sup>1173</sup> He also received and communicated with hundreds of delegations (10-15 per day), including politicians, journalists, humanitarian organizations, and members of the international community.<sup>1174</sup> Television crews often accompanied Čermak while he conducted his work,<sup>1175</sup> and Čermak gave interviews to newspapers and television.<sup>1176</sup> Čermak received regular updates from the police on the extent of crime in the liberated areas in order to manage the presentation of that information.<sup>1177</sup>

350. As the official government spokesperson on the ground in the aftermath of Storm, Čermak was clearly trusted by Tudman to present the criminal campaign to drive out remaining Serbs and prevent the return of departed Serbs in a light that would do as little damage to the Croatian authorities as possible. Čermak’s media interviews during this period reflect his shared intent for the common criminal purpose as he vacillated between admitting possible HV crimes, denying HV crimes, minimizing HV involvement, promising tough action on crime, and ultimately acting as the Croatian Government’s apologist.<sup>1178</sup>

<sup>1168</sup> D810,pp.4-5;P385.

<sup>1169</sup> Čermak:P2525,pp.12-13,31-33.

<sup>1170</sup> Čermak:P2525,pp.31-33.

<sup>1171</sup> Čermak:P2532,p.126;Čermak:P2525,p.56.

<sup>1172</sup> Čermak:P2532,pp.1,126,143,145;Čermak:P2525,pp.5,7-8,18,31-32,39-40;Čermak:P2526,pp.9,14-15.

<sup>1173</sup> Čermak:P2526,p.9.

<sup>1174</sup> Čermak:P2526,pp.14,16;Čermak:P2525,p.7;Rinčić:D1680,paras.16-19;Teskeredžić:D1732,para.7;Vedriš:D1772,para.14.

<sup>1175</sup> P359,p.3;Čermak:P2525,pp.18,94;Čermak:P2532,pp.70-71;Dondo:D1696,paras.35-36;see Škare-Ožbolt:T.18140,18224,18243-44;Al-Alfi:T.13875;Rinčić:D1680,para.17.

<sup>1176</sup> Čermak:P2525,p.183;D59;D37;D38.

<sup>1177</sup> Čermak:P2526,p.49.

<sup>1178</sup> *E.g.*, P2572,p.5;P719;D37;D59;D38;P2355;D715;D38;P2386;P504.

## 2. Čermak Actively Solicited IO Complaints to become the Primary Repository

351. In addition to his highly publicized appointment, Čermak actively promoted himself to Internationals as ultimately responsible for dealing with their concerns in Sector South.<sup>1179</sup> According to Čermak he asked “everybody [he] ever met that whenever they had information to inform [him] about it so [he] could go take the appropriate steps /inaudible/ for people to do something”.<sup>1180</sup> Čermak channelled the vast majority of IO reports about crimes and ROM to himself, thus becoming the prime repository, and ultimately a black hole, for their complaints due to his intentional failure to meaningfully address the complaints.

352. Tudman,<sup>1181</sup> Gotovina,<sup>1182</sup> and others<sup>1183</sup> informed IOs that Čermak was appointed to assist them, and to resolve any problems they encountered. International observers were persuaded that Čermak was appointed by Tudman as their senior military/political point-of-contact who was authorized to resolve all concerns and protests in relation to crimes and ROM in Sector South.<sup>1184</sup> Čermak and Gotovina were given exclusive authority to deal directly with IOs,<sup>1185</sup> who were denied general communication with HV commanders.<sup>1186</sup> Gotovina ensured that Čermak became the primary conduit for the complaints and queries of IOs by telling Forand on 8-Aug-95 that all their complaints – including crimes - were to be referred directly to Čermak.<sup>1187</sup> Čermak immediately established direct contact with IOs in Knin,<sup>1188</sup> and advised them that he wanted frequent/daily contact with them until the situation was normalized.<sup>1189</sup> Čermak also quickly ingratiated himself with Internationals by

<sup>1179</sup> Čermak:P2525,pp.23,30-32,36,176;Čermak:P2526,pp.15,19;see P1144,p.4;P2527,p.2;Flynn:P20,p.10;Flynn:T.1226;Deverell:T.24292-93.

<sup>1180</sup> Čermak:P2525,p.50.

<sup>1181</sup> Čermak:P2532,pp.7-9;see Feldi:T.21826;D296,p.20.

<sup>1182</sup> P359,p.3;Forand:P333,para.7;Forand:T.4126-28,4186;see Deverell:T.24213-14.

<sup>1183</sup> Flynn:T.1132;Liborius:T.8633;Al-Alfi:P1160,pp.67-68;Al-Alfi:T.13819,13823-24;Čermak:P2525,p.68;Morić:T.25622;Hendriks:T.9714.

<sup>1184</sup> Al-Alfi:T.13811-12;Liborius:T.8633-34;Roberts:P677,p.12;Roberts:T.6923-25;Mauro:T.12005-07,12044;Mauro:P1098,p.3;Lynton:P870,para.28;see Čermak:P2532,pp.7-9;Čermak:P2525,p.61;P375,p.2;Deverell:T.24284,24370-71;Theunens:T.12445-46;Theunens:P1113,p.512;Feldi:T.21854-56;Feldi:D1673,pp.56-59(3.5);Dondo:D1696,para.10;[REDACTED];Hendriks:T.9725;Forand:T.4184-86;see also “JCE”.

<sup>1185</sup> P1288,p.1;P958,p.2;Hendriks:T.9714;Hansen:T.15046.

<sup>1186</sup> P147,p.6.

<sup>1187</sup> P359,p.3;Forand:P333,para.7;Forand:T.4126-28,4186;see Deverell:T.24213-14.

<sup>1188</sup> P1134,pp.2-3;Hendriks:T.9803;see P356,pp.2-3;Dondo:D1696,paras.10-12;Al-Alfi:P1160,pp.56-58.

<sup>1189</sup> P356,p.3;see Deverell:D1784,p.50;Čermak:P2525,p.30.

working closely with them to secure the surrender of RSK soldiers,<sup>1190</sup> and to negotiate a resolution to the UNCRO camp refugee issue.<sup>1191</sup>

353. Čermak convinced IOs, through self-promotion, that he was in charge of the Knin region and responsible for securing the area.<sup>1192</sup> Čermak instructed IOs to refer their complaints about crimes and ROM directly to his attention so that he could resolve their protests.<sup>1193</sup> Čermak presented himself to IOs as the person with ultimate authority to deal with IO complaints of crime and other problems in the Knin region by falsely promising FOM, investigations, disciplinary action, and even reinforcements in response to the reports of crime and ROM he actively solicited.<sup>1194</sup> For instance:

- Forand was persuaded that Čermak was “in charge of the Knin region”<sup>1195</sup> and “that he would deal with the matter that was brought to him, whether they were in Knin or outside of Knin”.<sup>1196</sup>
- Čermak convinced Al-Alfi that he would deal with complaints raised,<sup>1197</sup> and responded to HV mistreatment of a civilian by demanding, “give me the information so I can take measures. We arrest those who cause trouble”.<sup>1198</sup> When notified of HV in the vicinity of burning houses, Čermak stated, “I publicly stated on television that those who torch and loot have no place in the HV/Croatian Army/. We drive such people out of the Army. Give us as much

<sup>1190</sup> P378;P409,p.2;D618;P944,para.4(a);Flynn:T.1201;D181,p.2;P359,p.4;Čermak:P2526,p.9;Čermak:P2525,pp.39,51-52;Čermak:P2532,pp.1,143,145;P388;Forand:T.4259-60.

<sup>1191</sup> Deverell:D1784,p.37;D788;D151,p.1;P356,p.3;Theunens:P1113,pp.503,510-512;see Luković:D1687,para.34;Flynn:T.1201;P359,p.4;Čermak:P2526,p.9;Čermak:P2525,pp.39,51-52;Čermak:P2532,pp.1,143,145;P388;Forand:T.4259-60;D315;D311;D618;D621;D622;D626;D627;D628;D633;P32.

<sup>1192</sup> Roberts:T.6904-05,6923-25;Roberts:P675,para.20;Flynn:T.1108-09,1132,1176-77;Flynn:P20,p.10;Hendriks:T.9803;Lynnton:P870,para.28;see P38,p.3;Albiston:T.23904-05;Flynn:T.1353-54;Liborius:T.8623-24,8636-37;D29,p.2;Mauro:T.12091-92.

<sup>1193</sup> Roberts:T.6904-05;P1290,pp.11-12;Flynn:T.1105-07;P39,p.2;Mauro:P1099,paras.5-6;Čermak:P2525,pp.24,50;D618,pp.2-3;see Roberts:P675,paras.20-21.

<sup>1194</sup> P1290,pp.11-12;Flynn:P20,pp.9-10,12;Flynn:P21,para.27;Flynn:T.1095-96,1102-03,1105-09,1353-54;P34,pp.1-2;P38,p.3;P39,p.2;Mauro:P1099,paras.2,5-6;Forand:T.4152,4186,4240-41;Al-Alfi:T.13812-13,13874;Al-Alfi:P1160,p.66-68;D56,p.3;P814,p.1;Liborius:P803,paras.25-27;Liborius:P801,p.6;D741,p.17;Liborius:T.8297-98;P1147;P946,p.1;P2520;P409,p.2;D151;D618,pp.2-3;D29,para.3;P396;see Mauro:P1098,p.2;Hendriks:P931,paras.29-34;Hendriks:T.9709,9730-32;Theunens:P1113,pp.512-16.

<sup>1195</sup> Forand:T.4126-28;see Forand:P333,para.7.

<sup>1196</sup> Forand:T.4186.

<sup>1197</sup> See Al-Alfi:T.13873-74;Al-Alfi:P1160,pp.85,87.

<sup>1198</sup> D618,p.2.

information as possible, so we can be more efficient”.<sup>1199</sup> He assured Al-Alfi that he had “issued strict orders to the civilian and military personnel to stop” burning and looting houses.<sup>1200</sup> In response to complaints about Grubori, Čermak asked Al-Alfi to report human rights violations directly to him so that he could personally investigate and execute follow-up actions.<sup>1201</sup>

- Čermak convinced Flynn that he had “the authority to control both military and police and civilian matters in the region”,<sup>1202</sup> and promised “tough action” against those who burn and loot,<sup>1203</sup> and asked to be notified if lawlessness was observed so that he could dispatch police to investigate and arrest the perpetrators.<sup>1204</sup>
- Čermak convinced Mauro that he was the main authority in the area.<sup>1205</sup> Mauro said that Čermak “always assured us that the situation was under control” and “asked us to report to him if we observed any evidence to the contrary”.<sup>1206</sup> Čermak informed HRAT that strict orders had been issued to arrest those who commit crimes.<sup>1207</sup>
- Čermak pledged to Akashi that Croatia would fully respect the Akashi-Sarinić Agreement, and reiterated on several occasions that his forces would comply not only with the agreement, but with international standards for human rights and the laws of war,<sup>1208</sup> indicating that the population had nothing to fear from his forces.<sup>1209</sup>
- Čermak represented himself to ECMM monitors as responsible for law and order throughout the area.<sup>1210</sup> In response to specific complaints about the HV, Čermak assured them that he was “still working on the case”, that police were

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<sup>1199</sup> D618,p.3.

<sup>1200</sup> D151,p.2.

<sup>1201</sup> P1290,pp.11-12.

<sup>1202</sup> Flynn:T.1108-1109,1177;Flynn:P20,pp.10,12.

<sup>1203</sup> D56,p.3.

<sup>1204</sup> Flynn:T.1105-06;P39,p.2.

<sup>1205</sup> Mauro:T.12005-07,12044. *see also* Mauro:P1098,p.3.

<sup>1206</sup> Mauro:P1099,paras.2,5-6.

<sup>1207</sup> P38,p.3;Mauro:P1098,p.7;*see e.g.* Mauro:P1099,paras.43-54.

<sup>1208</sup> D29,para.4.

<sup>1209</sup> D29,para.4;*see* Flynn:T.1353-54.

<sup>1210</sup> Liborius:T.8623-24;Hendriks:T.9803.

still investigating, and that he would keep them informed.<sup>1211</sup> Čermak informed the ECMM that he was starting a large action to stop looting and arson. He reported that ten warrants had been issued and the units of the military and civilian police had been enlarged to prevent further acts.<sup>1212</sup>

- Čermak told Roberts to contact him with any FOM problems, and that he should be the person Roberts thought of as the main interlocutor in Knin.<sup>1213</sup> Roberts made clear that this was the reason his colleagues went to Čermak,<sup>1214</sup> and that in his view, Čermak was “the single most senior Croatian official with responsibility for all aspects of security and administration for Knin and surrounding area and it was only when meetings with General Čermak that instructions were given to make things happen”.<sup>1215</sup>

354. Čermak relied upon the established HV CALO system to conduct his affairs with IOs, which facilitated communication and provided administrative assistance to Čermak.<sup>1216</sup> Čermak was essentially the only person dealing with the UN, and effectively all protests were passed to him.<sup>1217</sup> Although Luković denied it,<sup>1218</sup> Čermak confirmed that a UNCRO liaison officer was placed within Čermak’s office three days after Čermak’s arrival, and remained thereafter. The UNCRO liaison officer transmitted information from UNCRO in the field to Čermak *via* his CALOs. This arrangement ensured that UNCRO could communicate more rapidly and effectively with Čermak, and simultaneously facilitated Čermak’s intention to become the sole repository of UNCRO complaints and information.<sup>1219</sup>

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<sup>1211</sup> P814,pp.1-2;Liborius:P803,para.25;Liborius:P801,p.6;D741,p.17;Liborius:T.8297-98;See also Hendriks:P931,para.35.

<sup>1212</sup> P946,p.1;Hendriks:T.9730-32.

<sup>1213</sup> Roberts:T.6904-05.

<sup>1214</sup> Roberts:T.6905.

<sup>1215</sup> Roberts:P677,p.12.

<sup>1216</sup> Čermak:P2525,pp.63-65,124;Forand:T.4215;Čermak:P2526,p.18;P359,pp.2,5;*e.g.*,

Luković:D1688,paras.13,16,29,31.

<sup>1217</sup> Dondo:D1695,para.15.

<sup>1218</sup> Luković:T.22413.

<sup>1219</sup> Čermak:P2526,p.68;Čermak:P2525,pp.19-20,30-31;P389,p.1;Luković:T.22413.

### 3. Čermak Successfully Collected and Contained Reports of Crime

355. Čermak met with Internationals from the ICRC, UNCivPol, ECMM, UNCRO and UN Civil Affairs on a daily basis.<sup>1220</sup> IO representatives testified that they met personally and regularly with Čermak and told him directly about the ongoing crimes of looting, arson and murder being perpetrated against Serbs and their property by HV members in and around Knin.<sup>1221</sup> Čermak conceded that during his meetings with IOs the subject of crime was always on the agenda,<sup>1222</sup> and that the reports of crimes he received from international representatives were generally accurate.<sup>1223</sup> Čermak routinely acknowledged to IOs that he was aware of the crime.<sup>1224</sup> Forand, in particular, regularly sought information from and submitted complaints regarding Sector South to Čermak, raising concerns about crimes in every meeting with him<sup>1225</sup> and referring all problems to him.<sup>1226</sup>

### 4. Čermak Failed to Take Meaningful Action Despite Massive Notice of HV Crime and Continuous False Assurances

356. Čermak's position as point-of-contact, his authority over the Civilian police and MP, and his involvement in the sanitation and mopping-up operations made him uniquely aware of the vast looting, arson, and murder being committed by Croatian Forces across Sector South. Čermak controlled the information flowing from the IOs to the civilian and military police,<sup>1227</sup> and although Čermak routinely made assurances to IOs that he had taken or would take action, he made no *bona fide* attempt to stop HV members from committing crimes against Serbs.<sup>1228</sup> For instance, when UN

<sup>1220</sup> Čermak:P2526,pp.16-17,75;Čermak:P2525,pp.30-31;Al-  
Alfi:P1160,p.51;Čermak:P2532,p.97;Luković:D1687,para.49;see Liborius:T.8356;Flynn:P20,pp.23-24.

<sup>1221</sup> E.g., P359,pp.2-3;P396;P363,p.5;P374,p.3;Forand:P331,pp.21,24-  
25;P381,p.2;P382;D144;P404,p.1;Leslie:T.2188-89;Flynn:T.1077,1090-99,1102-03,1105-  
07;P38,p.3;Flynn:P21,p.3,para.10;P32,p.1;Mauro:P1098,p.3;Mauro:T.12008,12011-12,12030-  
33,12037;Mauro:P1099,paras.5-6;Hendriks:T.9708-09,9718-  
19;P813,p.2;P829,pp.7,8;P1289,p.1;P814,p.1;Liborius:P803,p.5;Liborius:P801,p.6;Liborius:T.8297-  
98;P374,p.3;D151,p.2;see Al-Alfi:P1160,pp.55-56,74-75,85.

<sup>1222</sup> Čermak:P2526,pp.74-75.

<sup>1223</sup> See Čermak:P2525,p.60.

<sup>1224</sup> E.g., Čermak:P2525,pp.31-32;P359,pp.2-3;P382;Forand:P331,pp.20-  
21;D151,p.2;D56,p.3;Flynn:P20,pp.17,22;P38,p.3;Flynn:T.1077,1081-82,1090-91;see P29,p.1;P32,p.1-  
2;P37;P363,p.5;Forand:P333,para.3.

<sup>1225</sup> Forand:T.4129.

<sup>1226</sup> Forand:T.4186;e.g., P410;D151;P393;P391;P396;D1703.

<sup>1227</sup> Čermak:P2526,p.12;Čermak:P2525,pp.45-46,51.

<sup>1228</sup> Flynn:P20,pp.17,22;Flynn:P21,para.10;Hansen:T.14984;Leslie:T.2188-  
89;P2645;P2650;Albiston:T.23939-41;Liborius:P803,paras.25-

officials complained to Čermak about the ongoing burning and looting around Knin, Čermak told them he had already issued strict orders to the civilian and military police to stop such acts.<sup>1229</sup> Instead of taking real action, Čermak focused on creating the mere appearance that Croatian authorities were dealing with the complaints about crimes against Serbs in order to placate IOs.<sup>1230</sup>

357. Čermak admitted personal knowledge of HV crimes committed within his AOR and across Sector South during the relevant period:<sup>1231</sup>

- Čermak knew of looting,<sup>1232</sup> arson,<sup>1233</sup> and that houses<sup>1234</sup> and an entire town had been “completely burned down”.<sup>1235</sup> Čermak acknowledged that members of the HV and HGRs perpetrated acts of arson, looting and killing<sup>1236</sup> and he claimed to be ashamed of HV participation in such acts;<sup>1237</sup>
- When asked in mid-August 1995 about the large number of people killed by gunshot wounds to the head, Čermak’s blasé yet largely accurate response was “that there are probably 200-300 bodies in the hills with bullet holes in their heads”.<sup>1238</sup> Moreover, Čermak admitted to Tudman in 1999 that HV members had killed people in the wake of Storm;<sup>1239</sup>
- As a result of Čermak’s oversight of the sanitation operation, he knew Croatian authorities continued to find dead bodies well after Storm had ended;<sup>1240</sup>
- Čermak confirmed receiving and completely agreed with an SIS report sent to him within a week of his arrival in Knin, which complained of “individual

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29;Liborius:P801,p.6;D741,p.17;Liborius:T.8297-98;P940,p.1;P2158,p.2;P988,p.8;Forand:T.4137-40;P391;P392;P393;P394.

<sup>1229</sup> D151,p.2.

<sup>1230</sup> Čermak:P2525,pp.45-46,59-60;Čermak:P2526,pp.68-69.

<sup>1231</sup> Čermak:P2525,p.24;P2520.

<sup>1232</sup> Čermak:P2525,p.43;see Čermak:P2526,pp.69-70.

<sup>1233</sup> Čermak:P2525,pp.22,25,39;Čermak:P2526,pp.42,45,69.

<sup>1234</sup> Čermak:P2526,pp.42,69,92;P169,p.3.

<sup>1235</sup> Čermak:P2526,pp.76-77.

<sup>1236</sup> Čermak:P2526,pp.42,69,114.

<sup>1237</sup> Čermak:P2526,pp.113-14.

<sup>1238</sup> P988,pp.6-7(paras.3.5,5.2).

<sup>1239</sup> P1144,p.7.

<sup>1240</sup> Čermak:P2526,pp.13,111;Čermak:P2525,pp.78-80,83;see “JCE:Forcible Displacement through Crimes”.

soldiers, non-commissioned officers and officers” committing crimes such as arson, looting and mistreatment of civilians and POWs;<sup>1241</sup> and

- Čermak publicly admitted that HV members were committing crimes in the wake of Storm,<sup>1242</sup> even claiming to have reprimanded a senior HV member who had publicly denied the truth of HV crimes at the time.<sup>1243</sup>

358. From virtually the moment of Čermak’s arrival in Knin, the extent of HV crime was obvious.<sup>1244</sup> Čermak attended Gotovina’s briefing in Knin Fortress on 6-Aug-95, from where villages around Knin were plainly seen burning,<sup>1245</sup> and heard Gotovina berate HV commanders for the looting and misdeeds of HV soldiers.<sup>1246</sup> On that same day in Knin, people witnessed civilians’ homes on fire,<sup>1247</sup> soldiers blowing up civilian homes,<sup>1248</sup> dead bodies lying in the street,<sup>1249</sup> and homes being flagrantly looted.<sup>1250</sup> For the next week, the destruction of civilian property,<sup>1251</sup> torching of homes,<sup>1252</sup> and looting<sup>1253</sup> was rampant in the Knin area, and continued throughout the month of August.<sup>1254</sup> In addition, Čermak received reports on dead bodies being collected and burning around Knin.<sup>1255</sup>

359. Čermak’s *ex post facto* assertion that he lacked authority to directly address IOs’ concerns about crime is false,<sup>1256</sup> and an implicit admission that he never intended to personally act despite soliciting reports of crime, having the duty and resources to act,<sup>1257</sup> and repeatedly guaranteeing official action. In the face of these persistent reports of crime, Čermak never once told Internationals that he did not have

<sup>1241</sup> Čermak:P2525,p.140;see P918,p.1.

<sup>1242</sup> D59;P2355,pp.5-6;P719;see Čermak:P2525,p.21.

<sup>1243</sup> Čermak:P2525,pp.21-24;D810(*cf* Tolj private admission).

<sup>1244</sup> D792,p.3;P32;Flynn:T.1090-91.

<sup>1245</sup> Džolić:P875,para.29;Džolić:P876,para.12.

<sup>1246</sup> D792,p.2.

<sup>1247</sup> Hill:P292,p.22;Džolić:P875,para.29;Džolić:P876,para.12.

<sup>1248</sup> Dawes:P980,p.9;Berikoff:D284,p.15.

<sup>1249</sup> Dawes:P980,pp.8-9.

<sup>1250</sup> Hill:P292,p.22;Williams:P925,p.7;P1134,p.3;P826,p.1;P1290,p.6;P1133,p.2.

<sup>1251</sup> D46;D810,p.3.

<sup>1252</sup> Dawes:P980,p.10;D46;P203,p.1;Berikoff:D284,p.32.

<sup>1253</sup> Dawes:P980,p.10;Hill:P306,para.1;Berikoff:D284,p.21;P742;P747;P1134,p.4;D46;P806,paras.2-4;P2174,p.1;P203,p.1;Berikoff:D284,p.32.

<sup>1254</sup> D49,p.1;P877,pp.1-2;D48;P808,p.1;P939,p.1;P2158,p.2;P957,p.2.

<sup>1255</sup> Luković:D1687,para.43;Luković:D1688,para.39;Flynn:T.1100;Džolić:P875,paras.44-46;Džolić:P876,paras.17-20.

<sup>1256</sup> Čermak:p.2525,pp.24,55.

<sup>1257</sup> See “Čermak:De-Jure;Selective Depolyment;MUP;MP”.

the authority to take action,<sup>1258</sup> nor did he ever direct IOs to take their complaints elsewhere.<sup>1259</sup> Moreover, Čermak controlled the flow of information back to IOs.<sup>1260</sup> Čermak was a “black hole” because IOs were convinced of his power and almost exclusively continued to come directly to him for information and with information about crimes, yet Čermak took no meaningful action to address their concerns.<sup>1261</sup>

360. Čermak used his position as a point of contact to mislead IOs, obstruct their investigations and interventions, and to disseminate false information to the media in order to advance the common criminal purpose of the permanent removal of Serbs from Croatia.<sup>1262</sup> Čermak only rarely exercised his broad *de jure* and *de facto* authority, and associated power to direct both the MUP and the MP, in response to crimes reported to him, and then almost exclusively when it suited his purposes or furthered the JCE, for instance:

- Personal motive, as demonstrated above by the incident in Oton-Bender.
- Crimes committed directly against Internationals (e.g. the UNCRO vehicles, threats, etc.).
- Covering-up crimes as demonstrated by the events surrounding the Grubori killings.

361. Despite Čermak’s willingness to act in the limited instances noted above, he failed to meaningfully deploy MP or MUP resources to address crimes committed by Croatian Forces against Serbs. Confronted by HV crimes from the very beginning of his time in Knin, Čermak continuously failed to discharge his duties and promises to address the crime. [REDACTED].<sup>1263</sup> Džolić testified that he did not recall crimes being discussed at Čermak’s meetings.<sup>1264</sup> Despite Čermak’s ongoing notice of HV crimes

<sup>1258</sup> Čermak:P2525,pp.59-60.

<sup>1259</sup> Čermak:P2525,pp.59-60.

<sup>1260</sup> Čermak:P2526,pp.49;Čermak:P2525,pp.23,30-31,46,48,89-90.

<sup>1261</sup> Roberts:T.6905;Flynn:T.1130-31,33;Ermolaev:T.2363-65;P856;P957,p.1;P397;P404,pp.3-5;P410;P396;D304;P363,p.5;389;P390;P391;P392;P393;P374;P378;P408;P409;D56,p.3;Forand:T.414 1-50;Čermak:P2525,pp.23,30-31,46,57,60,71-73;Čermak:P2526,pp.46,69-70,74-75;Čermak:P2532,pp.65-66,73,93,100,125;Hendriks:T.9709;Al-Alfi:P1160,p.62;D1756;Cetina:T.23611.

<sup>1262</sup> See “Markač:Grubori”;Čermak:P2525,pp.92,125;Dono: D1696,paras.26-31;P2386;P504.

<sup>1263</sup> [REDACTED].

<sup>1264</sup> Džolić:T.9017.

in his AOR, he did not issue any orders to stem the continued burning of houses within his AOR.

362. Čermak instead absorbed Internationals' reports and falsely reassured them of official action to address their complaints. Although Čermak claimed to have conveyed information about Indictment crimes to the relevant authorities, there is no record that he communicated any such crimes to the MP or Military Prosecutor. On the contrary, MP and Military Prosecutor records for the Split MD indicate that only 19 crime reports were created for Indictment crimes, a paltry number in comparison to the volume of the crimes of which Čermak was aware.<sup>1265</sup> Čermak's promised action never materialized and crimes continued, triggering further deflections of complaints and further crimes in a predictable cycle. Čermak bears responsibility for crimes committed<sup>1266</sup> by his subordinates within his AOR from 5-Aug-95 for his failure to discharge his duties as ZM-Commander,<sup>1267</sup> as well as for the wider crimes committed as part of the JCE.

##### 5. ROM was Imposed to Obstruct International Scrutiny and Prevent Interventions

363. Čermak was responsible for dealing with IOs on the issue of FOM/ROM.<sup>1268</sup> [REDACTED]<sup>1269</sup> in reality IO movement was only permitted on an *ad hoc* basis. Contrary to the terms of Šarinić-Akashi Agreement,<sup>1270</sup> unilateral ROM was routinely imposed on IOs under the guise of safety/security reasons.<sup>1271</sup> Čermak implemented the Croatian Government's policy of obstructing international observers from freely observing Croatian Forces activity.

364. Despite initial CALO assurances of FOM,<sup>1272</sup> Čermak subsequently imposed ROM.<sup>1273</sup> When Čermak met with IOs on 8-Aug-95,<sup>1274</sup> he advised them that he would issue an order granting UN elements FOM within the limited areas of Knin and

<sup>1265</sup> P2555;P2552;P2614;P2615;see "Gotovina:Military Prosecutions".

<sup>1266</sup> See "Crimes:Counts4&5";"Crimes:Counts6&7";"Crimes:Counts8&9" and related annexes.

<sup>1267</sup> P2715;D33,p.1-3.

<sup>1268</sup> Theunens:P1113,pp.512-16;P359,p.3;Čermak:P2526,pp.43,61;Forand:P333;para.7;see Čermak:P2525,pp.109-10;D309,.1;P397,p.1;D145;P973,p.12;Roberts:T.6904-05.

<sup>1269</sup> [REDACTED];[REDACTED].

<sup>1270</sup> D28,p.2(items4-5);P410;P382,p.5;Liborius:p801,p.6;P359.

<sup>1271</sup> P359,p.3;P397;P411;Luković:D1688,para.32;Forand:T.4299;Liborius:T.8276-

77;P147,p.1;D1106,pp.6,10;P808,p.1;[REDACTED];Dangerfield:P695,para.8;Elleby:P216,p.4;Morić:T.25676-91,25878-80.

<sup>1272</sup> D319,p.1;P805,p.3;P354,p.2;P356,p.3;P973,p.12.

<sup>1273</sup> Liborius:T.8268-69;see P2146.

Drnis.<sup>1275</sup> Čermak then issued orders to that effect.<sup>1276</sup> Simultaneously, Čermak ordered the MP to control access to and from the UNCRO barracks (including preventing unauthorized departure of Serb refugees).<sup>1277</sup> The Knin MP carried out Čermak's order, and issued daily orders securing the UNCRO barracks on a 24-hour basis,<sup>1278</sup> and conducting individual checks of civilians leaving the UNCRO barracks.<sup>1279</sup> MP guards also secured the Red Cross in Knin.<sup>1280</sup>

365. Čermak also ordered the MP and CALOs to inspect UNCRO helicopters.<sup>1281</sup> Dondo confirmed that pursuant to Čermak's order, CALOs made written requests to the duty service of the Knin MP, and the MP subsequently accompanied CALOs to inspect helicopter flights,<sup>1282</sup> which is confirmed in the Knin MP Duty Log book.<sup>1283</sup> This evidence reveals Džolić's claim that MPs did not inspect helicopters as ordered by Čermak<sup>1284</sup> to be false. Jurić testified that MPs would follow Čermak's ROM orders as they were within Čermak's competence.<sup>1285</sup>

366. Čermak's advancement of the common purpose did not require him to implement ROM across Sector South or *ad infinitum*; it was necessary only to issue and monitor the false guarantee of FOM and then set-out out specific areas of restricted access on an *ad hoc* basis to obstruct IOs from witnessing, and potentially intervening in, the campaign of looting and burning being perpetrated against Serbs and their property by Croatian Forces – which he did. Moreover, Čermak ensured that IOs continued to rely on and have confidence in him by promising FOM and facilitating access to liberated areas on an *ad hoc* basis in response to IO demands.<sup>1286</sup> For example:

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<sup>1274</sup> Roberts:P675,paras. 18,20;Roberts:T.6877-79.

<sup>1275</sup> P359,p.3.

<sup>1276</sup> P513;P53;P512;P405.

<sup>1277</sup> D788;see P973,pp.11-12;Simić:T.10238.

<sup>1278</sup> P386,p.4;D787,pp.14,17,20,22,24,25,28,30,33,36.

<sup>1279</sup> P886,0357-7452-et-2,p.47.

<sup>1280</sup> D787,pp.12,14,17,19,22;see Čermak:P2525,pp.7,12-13,63-64;Čermak:P2526,pp.49-51;Deverell:D1784,p.5.

<sup>1281</sup> P512;Hill:T.3766-67;Hill:P292,p.39;Dondo:D1696,para.20;Dondo:T.22586.

<sup>1282</sup> Dondo:D1696,para.20;Dondo:T.22586-87;see P360,p.2.

<sup>1283</sup> P886,0357-7452-et-2,pp.6,7,9,15,19,20,21,29,33,37,43,73,77;Luković:D1688,para.34.

<sup>1284</sup> Džolić:T.9132-34.

<sup>1285</sup> Jurić:T.27460-62.

<sup>1286</sup> E.g.,Ermolaev:T.2363-65;D616;P359,p.3;P957,p.1;Hendriks:T.9710-11,9723-24;Hansen:P1285,para.27.

- The Croatian authorities set up checkpoints everywhere after Storm,<sup>1287</sup> manned by the MP, the civilian police, or both, which were used to control IOs access to most areas around Sector South.<sup>1288</sup> Čermak was able to give directions to MP or Civil Police<sup>1289</sup> or indeed to facilitate access through the checkpoints irrespective of who manned them,<sup>1290</sup> and therefore to make decisions on a case-by-case basis in respect of FOM.
- Čermak provided a letter to UNCRO, copied to the “units in the zone of responsibility” and the MORH, allowing FOM for UN members.<sup>1291</sup> IOs were to produce the letter in the event they experienced ROM.<sup>1292</sup> Čermak also provided his telephone number and asked IOs to contact him if they experienced restrictions.<sup>1293</sup> IOs did contact Čermak or his CALOs – or threaten to - when stopped at checkpoints, and Čermak would often intervene.<sup>1294</sup>

367. From 21-Aug-95, Čermak, Markač and Gotovina regularly communicated and coordinated with each other to carry out mop-up operations,<sup>1295</sup> which were overseen by Červenko and Jarnjak.<sup>1296</sup> Čermak was informed in advance of SP mop-up operations’ locations,<sup>1297</sup> and could offer his opinion on what to do if problems were encountered and was to impose ROM on IOs in advance of the operation.<sup>1298</sup> Čermak received maps from Markač setting out the areas where IOs were not permitted to

<sup>1287</sup> Morneau:P308,p.4.

<sup>1288</sup> Munkelien:T.1658;Munkelien:P61,paras.43-44;P509;Morneau:T.3937-40;D269;Hill:T.3792-93;Flynn:T.1086-88;Berikoff:P739;Berikoff:P740,pp.3-5;Čermak:P2526,pp.65-66;D1013;D810,pp.4-5.

<sup>1289</sup> Čermak:P2526,p.68;Čermak:P2525,p.124.

<sup>1290</sup> Ermolaev:T.2359.

<sup>1291</sup> See P390;Forand:P331,p.11;P363,p.2;P41,p.2;Mauro:P1098,pp.3-5.

<sup>1292</sup> P957;Berikoff:D284,p.37;Hansen:P1284,p.3.

<sup>1293</sup> P957,p.1;Hansen:P1285,para.27;Liborius:P802,para.34;Liborius:P801,pp.4-5;Liborius:T.8279-81.

<sup>1294</sup> Čermak:P2525,p.55;Čermak:P2526,pp.60,68;Hendriks:T.9710,9712-14,9716-

17;Čermak:P2526,p.68;Hendriks:D820,pp.4-

5;Čermak:P2526,p.60;P34,p.2;Hansen:P1284,p.3;Hansen:P1285,para.27;P1292,p.14;P809,p.1;P511,p.1(18-Aug-95);P818(1-Sep-95);Liborius:P801,p.6(1-Sep-95);Liborius:T.8318;Liborius:P803,paras.31-32;Mauro:P1098,p.5;Mauro:P1099,paras.36-37.

<sup>1295</sup> Čermak:P2532,pp.77-83,86-87,119-

120;Čermak:P2526,p.99;Čermak:P2525,p.179;D562;D561;P2375;P2377;P580;P605;D99;P2380;P1214;P2379;P1219;P2524.

<sup>1296</sup> D561;Markač:P2530,pp.55-74,97-101;Markač:P2531,pp.2,28,30-33,41,51-53,64-69.

<sup>1297</sup> Čermak:P2526,p.22;[REDACTED];Čermak:P2532,pp.77-83;Markač:P2531,pp.30-33,41,51-53.

<sup>1298</sup> Markač:P2530,pp.66-74;Markač:P2531,pp.30-33,41,51-53,64-69.

access.<sup>1299</sup> HV sector and unit command levels produced similar maps daily;<sup>1300</sup> and Gotovina have Čermak restrict access.<sup>1301</sup> In spite of continued protests from IOs concerning this ROM procedure, Čermak forwarded the maps and advised international observers that they were not to enter certain areas – often under the guise of “safety” concerns.<sup>1302</sup> Čermak clearly knew about the SP mop-up of Grubori in advance.

## 6. Čermak’s Imposition of ROM Shielded Crimes

368. Čermak had the authority and ability to ensure FOM when he wanted, and his failure to use that authority to ensure true FOM (particularly in light of consistent ROM and Čermak’s failure to enforce his own FOM orders), demonstrates that Čermak and the Croatian authorities never intended to grant such FOM to IOs. Čermak intended to control, monitor, and manage IO movement with the aim of obstructing observation of the activities of Croatian Forces without disrupting overall IO support.

369. In the immediate aftermath of Storm, IOs had been confined to the UNHQ “for safety reasons”<sup>1303</sup> while HV soldiers openly committed crimes in Knin and burned neighbouring villages.<sup>1304</sup> IOs protested the further ROM imposed after the Akashi-Šarinić agreement and suspected that security concerns were a pretext to prevent them from observing crimes being committed by Croatian Forces.<sup>1305</sup> IOs’ suspicions were further fuelled by specific instances when Croatian authorities would

<sup>1299</sup> Čermak:P2525,pp.125,179;Čermak:P2526,pp.22,99;Čermak:P2532,pp.77-83,86-87;Markač:P2531,pp.30-33.

<sup>1300</sup> P359,pp.3,5;see P380;P410;P397.

<sup>1301</sup> D818.

<sup>1302</sup> P410;P49,p.2;Forand:T.4308-09;P359,p.3;Roberts:T.6894;P405;P408,p.2;P409,p.3;P379,p.2;P411;D145;D309;Theunens:T.13087;P34,p.2;Mauro:P1098,p.5;Mauro:P1099,para.37.

<sup>1303</sup> Dangerfield:P695,paras.8-10;P109,p.1;D124,p.1;P27,p.4;P359,p.3;Dawes:P980,p.8;P406,pp.1-2;Forand:T.4136-37;Flynn:P20,pp.4,16;Luković:D1687,para.40;Berikoff:P739,p.2;P1300,pp.1-3;Liberius:T.8269-70,8523;P826,p.1;Williams:P925,pp.6-7;Williams:T.9546-48;Leslie:T.1971-73.

<sup>1304</sup> Berikoff:P747,p.1;Berikoff:D284,pp.19-20;Berikoff:P740,pp.3-4;Hill:P291,pp.5-6;Forand:T.4129-30;Hendriks:D820,pp.4-5;Hendriks:P931,para.18;Hansen:T.14915-17;P1292,p.5;Dawes:P980,pp.8-9;Dawes:T.10399-402;Dangerfield:P695,paras.8-10;[REDACTED];P805,p.1;Williams:T.9546-48.

<sup>1305</sup> Williams:P925,pp.6-7;Williams:T.9547;P744,p.5;P1300,p.3;P826,p.2;Liberius:T.8523;P312,p.4;P359,pp.2,5;P361,p.3;P362,p.2;P808,p.1;P935,p.3;P410;D144;P380,p.2;Forand:T.4157-88;P942,p.2;Morneau:P310,para.9;Morneau:T.3941-42;Antilla:P172,p.4;Rehn:P598,p.3;Roberts:T.6896;Roberts:P677,p.7;Hendriks:T.9822-23;Hendriks:P931,paras.29-35;P936,p.2;Elleby:P216,p.4;P936,p.2.

allow civilians to pass through checkpoints where IOs were restricted.<sup>1306</sup> Čermak was aware during August and September 1995 of the ROM regularly imposed upon IOs.<sup>1307</sup>

370. Čermak, together with Gotovina and Markač, began to impose ROM in areas in Sector South where crimes were being committed by Croatian forces.<sup>1308</sup> Internationals reported that crimes, such as killing, looting and burning of houses, occurred in areas where ROM had been imposed against them.<sup>1309</sup> Crimes were clearly occurring where ROM had been imposed,<sup>1310</sup> for instance:

<sup>1306</sup> Hendriks:P931,para.17;Hendriks:D820,p.4;P808,p.1;P828,p.3;Liborius:T.8276-77;P160,p.3;Hansen:P1284,p.3.

<sup>1307</sup> See above, and

*e.g.*,P397;Hansen:P1284,p.3;Hansen:P1285,para.27;Dondo:D1695,para.16;Dondo:D1696,para.24;Roberts:T.6897-98;Deverell:D1784,p.37;Theunens:P1113,pp.512-16;P410;P386,pp.3-4;D1694;Ermolaev:T.2363-65;D616;P359,p.3;P957,p.1;Hendriks:T.9703-04, 9708-11;P381,pp.2-3(1-Sep-95);D818;P365,p.2;P808,p.1.

<sup>1308</sup> See, *e.g.*, P639,pp.6-7;Al-Alfi:P1160,pp.48-49;Forand:T.4136-37.

<sup>1309</sup> *E.g.*, Berikoff:P740,pp.3-4;[REDACTED];Dijkstra:P429,para.30;Flynn:P20, pp.16-17;Williams:T.9547-52;P744,p.5;Forand:T.4129-30;Berikoff:D284,pp.19-22,36-38;Elleby:T.3373;Elleby:P216,p.4;Elleby:P215,p.3;Dangerfield:P695,paras.8,10,13;Dangerfield:P699,p.6;Dangerfield:T.7152-53,7159-62;P375,p.3;Liborius:T.11294-96;P941,p.1;Dangerfield:P696,paras.6-8;Bellerose:T.5875;P366,p.2;Hansen:T.14915-17;P1292,p.5;Hill:P291,p.6;Hill:T.3756;Tchernetsky:T.3192-93,3250;Tchernetsky:P204,p.3;Tchernetsky:P205,paras.14-16;P935,p.3;P39,p.2;P940,p.1;P2158,p.2;D309.

<sup>1310</sup> P363,p.7(Civljane/Maljково);P366,p.4;P367,p.2;P369,p.2;P403,p.3(Knin-Civljane-Vrlika);D1694;D3,p.3;P957,p.1(Vrlika);D145;P49,p.2(road-DonjiLapac);P1294,p.1;P958,p.2(Otrić/GornjiLapac);P48,p.3(Plavno/Golubić/Uništa);Bellerose:T.5875-76(Gračac);P381,p.3(Kovačić/Vrpolje);D94,p.5(Strmica/Mihaljevac);Tchernetsky,T.3193-4;P204,p.3;P205,para.16;P935,p.3;P36,p.3(Knin);P119,p.7(Miočić/Pristeg/Regici);P386,p.3(Nebljusi);P830,para.3(f)(Benkovac/Obrovac);P168,p.3(Varivode).

| <b>ROM Imposed</b> | <b>Date</b>             | <b>Crimes on Same Date<sup>1311</sup></b>                    |
|--------------------|-------------------------|--|
| Benkovac town      | 7-8 Aug <sup>1312</sup> | Looting by HV-134GR, 72MPBattalion in Benkovac               |
| Kistanje           | 11 Aug <sup>1313</sup>  | Looting by 4GBR, HV-134HGR, 72MPBattalion in Parcici village |
| Cetina             | 12 Aug <sup>1314</sup>  | Entire village burned & looted by SP, HV-126HGR              |
| Benkovac           | 21 Aug <sup>1315</sup>  | Houses burned by HV-134HGR                                   |
| Strmica            | 23 Aug <sup>1316</sup>  | Looting by HV  |
| Srb                | 24 Aug <sup>1317</sup>  | Looting by HV  |
| Ramljane           | 26 Aug <sup>1318</sup>  | Houses burned by SP  |
| Cicevac            | 1 Sep <sup>1319</sup>   | Entire hamlet burned by HV                                   |
| Otric              | 11 Sep <sup>1320</sup>  | Destruction & burning, Police in the area                    |

## H. 'Normalization'

371. 'Normalization' was a euphemism employed by Čermak and the Croatian authorities to mask the JCE objective of permanent removal of Serbs from the

<sup>1311</sup> See Annex A-“Wanton Destruction&Plunder”.

<sup>1312</sup> P110,p.1(7-Aug-95);P112,p.3(8-Aug-95).

<sup>1313</sup> P363,p.3(11-Aug-95);P116,p.2(11-Aug-95).

<sup>1314</sup> P364,pp.3(12-Aug-95);Dangerfield:P699,p.6.

<sup>1315</sup> P403,p.3(21-Aug-95).

<sup>1316</sup> D94,p.5(23-Aug-95).

<sup>1317</sup> Liborius:T.11294-96(24-Aug-95).

<sup>1318</sup> P766,p.1;Čelić:T.8029-30.

<sup>1319</sup> P818,p.2(1-Sep-95);Hendriks:D820,pp.4-5;Hendriks:P931,paras.17,22;Hendriks:T.9713-14.

<sup>1320</sup> P147,p.1(11-Sep-95).

Krajina. Tudman ordered Čermak to establish “civilian authority”<sup>1321</sup> and “normalization of the situation in Knin”, which was aimed at rapidly resettling the Krajina with ethnic Croats,<sup>1322</sup> Tudman, Šušak, Jarnjak, Radić, Červenko *et al.* discussed the ‘normalization’ operation during an 11-Aug-95 VONS meeting, and clearly explained that its goal was to achieve the repopulation of the Krajina with ethnic Croat civilians.<sup>1323</sup> During this meeting, they articulated the fundamental components of Čermak’s normalization task:

- reconnect water and electrical supplies;<sup>1324</sup>
- reconnect key infrastructure/industrial facilities;<sup>1325</sup>
- remove dead bodies and mines;<sup>1326</sup> and
- facilitate the logistics of repopulation, e.g., receiving and administering Croats’ requests from abroad to settle in the Krajina.<sup>1327</sup>

372. Čermak’s actions in ensuring that ‘normalization’/colonization occurred rapidly (i.e. before Serbs could return) had the intentional practical effect of materially advancing the JCE objective of permanently displacing Serbs from those areas. The significant effort and resources Čermak expended to accomplish ‘normalization’ served to populate the Krajina with ethnic Croats, and was in stark contrast to his inaction to the ongoing crimes being committed against Serbs and their property within his AOR:

- Čermak said that his initial responsibility was to “establish military control”<sup>1328</sup>—which included securing strategically important buildings and infrastructure and clearing away the dead bodies and mines;

<sup>1321</sup> Čermak:P2525,pp.5,8;Čermak:P2532,p.1;*see* Čermak:P2526,p.9;*see also* “JCE:Forcible Displacement through Crimes”;“JCE:Administrative Obstacles to Return”;“JCE:Common Criminal Purpose”;“JCE:Radić”;“JCE:Jarnjak”.

<sup>1322</sup> Cipci:T.23163-64;Čermak:P2526,p.9;Škare-Ožbolt:D1471,para.10;Theunens:P1113,pp.499,503-504;Jones:T.21012-13;[REDACTED];Albiston:T.23884-85;Feldi:T.21820-21;Feldi:D1673,p.49(3.1.4);Deverell:T.24161-62;Deverell:D1784,p.8.

<sup>1323</sup> P2673;*see* Škagro:D1679,para.5;Deverell:T.24161-62;Škare-Ožbolt:T.18097;*See* “JCE:Colonization”/“Obstacles”.

<sup>1324</sup> P2673,pp.19-20;*see* Deverell:D1784,p.49;*e.g.*, P111,p.8;D298;D775.

<sup>1325</sup> P2673,pp.19-21.

<sup>1326</sup> P2673,pp.7,13.

<sup>1327</sup> P2673,pp.7-9,12-13,15-16,20-22,35-36.

- He was to then "establish civilian authority"<sup>1329</sup>—expediting the rapid colonization of the liberated areas with Croats.

These two discrete phases are consistent with Čermak's dual military and civilian authority as well as his oversight and control over the seemingly innocuous and disparate functions of de-mining, sanitation and reconnecting public facilities.<sup>1330</sup> Radin made clear that the most important goal for Tudman was to have a military person, namely Čermak, establish normal living conditions within the shortest possible timeframe.<sup>1331</sup>

### 1. Infrastructure Protection

373. "Infrastructure" was singled out as part of Čermak's 'normalization' task.<sup>1332</sup> Internationals recognized that Croatian authorities "were careful not to destroy the infrastructure; they just wanted it empty".<sup>1333</sup> The Croatian authorities' intention to limit the destruction of key infrastructure and larger settlements for the purposes of rapid Croat colonization is consistent with Internationals' conclusions that Croatian authorities intended to try to preserve the main cities to repopulate them as soon as possible with displaced Croats.<sup>1334</sup>

374. Tudman expected Čermak to protect certain property in the transitional period between liberation and Croat resettlement.<sup>1335</sup> Vedriš confirmed that Čermak was installed in Knin as the "local solution provider" to quickly achieve the "key imperative" (and Tudman's primary motivation) of establishing normal living conditions for Croat civilians.<sup>1336</sup> Infrastructure was seen as decisive in achieving "normalization" of life.<sup>1337</sup> To accomplish this, Čermak was tasked with controlling and establishing functioning factories and infrastructure as fast as possible.<sup>1338</sup>

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<sup>1328</sup> Čermak:P2526,p.10.

<sup>1329</sup> Čermak:P2526,p.10.

<sup>1330</sup> Rinčić:D1680,para.28.

<sup>1331</sup> Radin:D1678,para.8;Radin:T.22156-57,22161;Deverell:D1784,p.35.

<sup>1332</sup> P1144,p.4;Čermak:P2526,p.9;Vedriš:D1772,para.12.

<sup>1333</sup> Dijkstra:P429,para.44.

<sup>1334</sup> Hendriks:D820,p.3;Hendriks:T.9747-48,9771,9818-19;Liborius:T.8485-87;Liborius:P801,p.11;see P446,p.1;P811.

<sup>1335</sup> P463,pp.3-6.

<sup>1336</sup> Vedriš:D1772,para.12.

<sup>1337</sup> Vedriš:T.23667;P2673,p.19.

<sup>1338</sup> Škegro:D1679,para.9;Teskeredžić:D1732,para.7;Dono:D1695,para.34;Čermak:P2526,p.9.

Despite Čermak's broad authority and access to resources/personnel, he chose to divert an inordinate amount of resources to protect facilities in and around Knin that would facilitate colonization of the area with Croats, rather than to fulfil his duty and promises to address HV crimes committed against Serbs.<sup>1339</sup>

375. At Čermak's request, Rinčić produced lists of facilities/factories and provided an estimate of when they would be able to resume operation.<sup>1340</sup> Rinčić then asked the military and civilian police to protect factories on the list.<sup>1341</sup> Rinčić also conducted spot inspections of facilities in Knin upon receiving reports of arson in the vicinity.<sup>1342</sup> Čermak convened meetings with the MP Commanders<sup>1343</sup> and the civilian police<sup>1344</sup> and identified important facilities in Knin that needed to be protected. The Knin MP carried out Čermak's and Rinčić's requests to protect depots, factories and infrastructure.<sup>1345</sup> Čermak had a specific interest in protecting court facilities,<sup>1346</sup> the hospital,<sup>1347</sup> factories, and public facilities.<sup>1348</sup> The Knin MP Commander notably issued daily orders to secure the Court House, Municipal Building, and Hospital in Knin.<sup>1349</sup>

376. [REDACTED]<sup>1350</sup> Čermak estimated that 150 civilian police officers were protecting buildings in Knin.<sup>1351</sup> In addition, Čermak obtained and directed HV Home Guards members to safeguard civilian facilities in Knin.<sup>1352</sup> Any additional resources Čermak may have requested from Tudman, Šarinić or Jarnjak for more security/police

<sup>1339</sup> D775;Theunens:P1113,pp.504-05;Deverell:D1784,p.49;P111,p.8;D298;Vedriš:T.23673;Pašić:D1707,paras.19-20;*see* Pašić:T.23051;P1144,pp.3-4.

<sup>1340</sup> Rinčić:D1680,para.25;D1036.

<sup>1341</sup> Rinčić:D1680,paras.25-26.

<sup>1342</sup> Rinčić:D1680,para.23.

<sup>1343</sup> Rinčić:D1680,paras.19-20.

<sup>1344</sup> [REDACTED];Rinčić:D1680,paras.19-20.

<sup>1345</sup> P886,0357-7452-et-2,pp.6(nos.1-2),7,8,9,15,47;*see* Theunens:P1113,pp.583-84;Džolić:T.8972-73;P830,para.4(d);P810,p.5;D787,pp.5,7,9,11-12,14,17,19-25,28,30,32-33,36,39,41,43,45,47,49,51,53,56-57,59,61,63,64,67,68,71(e.g. Court House/Hospital/Municipal building/Golubić and Krka warehouses).

<sup>1346</sup> *See* P2355,p.5.

<sup>1347</sup> P1144,p.4;*see* P2355,p.5;Čermak:P2526,pp.9,51;Čermak:P2525,pp.12,17,161;Theunens:T.13112.

<sup>1348</sup> *See* "Čermak:Infrastructure".

<sup>1349</sup> D787,pp.5,7,9,11,14,17,19,22,25,28,30,32,36.

<sup>1350</sup> [REDACTED]; [REDACTED];[REDACTED];D212,p.1.

<sup>1351</sup> Čermak:P2526,pp.21-22;[REDACTED].

<sup>1352</sup> D766.

forces, if true, were aimed solely at enhancing his ability to protect facilities and infrastructure rather than to address crimes committed against Serbs.<sup>1353</sup>

## 2. Human Sanitation and De-mining

377. Sanitation was a key component of “normalization” and served a dual purpose for the JCE: it obscured the commission of crimes from proper investigation while simultaneously allowing for rapid colonization of the liberated areas with Croats.<sup>1354</sup> Čermak admitted that he was sent to Knin by Tudman as the senior person tasked with coordinating and ensuring that sanitation of the terrain was completed.<sup>1355</sup> According to Čermak, in the aftermath of Storm, Knin was in “complete chaos”,<sup>1356</sup> littered with dead bodies and livestock.<sup>1357</sup> Čermak determined it was necessary for the HV to start clearing up the area to “get rid of the bodies”.<sup>1358</sup> Čermak dealt with sanitation immediately,<sup>1359</sup> which is evident from his 5-Aug-95 order setting up his sanitation staff.<sup>1360</sup>

378. On the day that Čermak and Červenko met in Zagreb,<sup>1361</sup> they each issued sanitation orders appointing Brigadier Brkić to begin work on the sanitation operation.<sup>1362</sup> Čermak admitted that Brkić, and the special team he set up immediately after Storm, was responsible for the collection and disposal of bodies.<sup>1363</sup> In August 1995, Brkić was subordinated to Čermak,<sup>1364</sup> and he reported both to Čermak and the MORH.<sup>1365</sup> Brkić attended Čermak’s meetings and reported on the number of bodies collected.<sup>1366</sup> Čermak was well informed of the number of bodies collected and the identification procedure employed by sanitation teams and provided lists of collected

<sup>1353</sup> Čermak:P2532,pp.42-43,96;Čermak:P2525,pp.23,176,179.

<sup>1354</sup> See “ JCE:Forcible Displacement Through Crimes”.

<sup>1355</sup> Čermak:P2525,p.74;Albiston:T.23884-85;Theunens:P1113,pp.503-04.

<sup>1356</sup> Čermak:P2525,pp.8,15;Čermak:P2532,p.3;Čermak:P2526,p.13.

<sup>1357</sup> Čermak:P2526,p.13.

<sup>1358</sup> Čermak:P2526,p.13.

<sup>1359</sup> Čermak:P2525,pp.10,15.

<sup>1360</sup> P506;see D1058;D1059;D1048;D1050,pp.2-3;D30.

<sup>1361</sup> Laušić:P2159,para.235;Čermak:P2525,pp.38,66,69;P882,p.4;P506;D598.

<sup>1362</sup> P506;D598;D1056;Theunens:T.13189-93.

<sup>1363</sup> Čermak:P2525,pp.104-05.

<sup>1364</sup> D609;Theunens:T.13206-07.

<sup>1365</sup> Čermak:P2525,p.73;D1057;D1059;D1060;D1061;P543;D612;[REDACTED];P2653;D30.

<sup>1366</sup> Rinčić:D1680,para.19; [REDACTED];[REDACTED].

bodies to IOs upon request.<sup>1367</sup> Čermak also issued public false assurances that sanitation was being conducted in conjunction with forensic investigations.<sup>1368</sup>

379. “Mine clearance” was also a component of Čermak’s “normalization” task specifically aimed at allowing the free movement of displaced Croats back into the Knin area by clearing the terrain, facilities and dwellings.<sup>1369</sup> Čermak took a de-mining team with him to Knin;<sup>1370</sup> Brigadier Teskeredžić’s de-mining team arrived in Knin the same day as Čermak.<sup>1371</sup> Čermak addressed orders to Teskeredžić *et al.*, who carried them out and reported back to Čermak.<sup>1372</sup> MUP de-mining units also participated and reported at Čermak’s meetings.<sup>1373</sup> Čermak boasted to Tudman that he had been able to clear 7000 buildings while he was in Knin.<sup>1374</sup>

### 3. Colonization and Permanent Displacement

380. Čermak listed “return” as one of Tudman’s assigned tasks,<sup>1375</sup> and dealing with accommodation was part of ‘normalization’.<sup>1376</sup> The “return” envisioned by Tudman, and carried out by Čermak, was limited to Croats. Čermak received hundreds of letters addressed to him requesting accommodation in Knin.<sup>1377</sup> Čermak forwarded to Pašić the names of Croats in Croatia, Bosnia, Germany, and Austria who sought housing in Knin during August and September 1995 with instructions to “facilitate” such requests.<sup>1378</sup> Radić had assigned Pašić to accommodate returning Croats in Knin and the surrounding villages,<sup>1379</sup> and forwarded similar requests to Pašić,<sup>1380</sup> Pašić had no real power in Knin and was considered a Serb “puppet” of the Croatian authorities,<sup>1381</sup> particularly Čermak who was the driving force for anything

<sup>1367</sup> P1144,p.4;D151,para.4;Čermak:P2525,pp.15,77-81,83;Čermak:P2526,pp.111-112;P29,p.3.

<sup>1368</sup> P29,p.1;D1208,para.4;D38,p.3;see “Markač:Grubori”,”JCE:Forcible Displacement Through Crimes”.

<sup>1369</sup> P1144,p.4;Deverell:D1784,p.37;Theunens:P1113,p.500,505-07;Teskeredžić:D1732, paras.4,9,11;D1735;D763;Teskeredžić:T.23242,23250-51;Radić:T.27163-66;see “JCE”.

<sup>1370</sup> P1144,p.4;D1025;D1024.

<sup>1371</sup> Teskeredžić:D1732,paras.5-6.

<sup>1372</sup> D763;D1020;D1030;D1031;D1048;Teskeredžić:T.23271-72,23278-82,23285.

<sup>1373</sup> Feldi:D1673,p.52(3.3.2-3.3.3).

<sup>1374</sup> P1144,p.4.

<sup>1375</sup> P1144,p.4;Theunens:P1113,pp.507-08;Pašić:D1707,paras.19-20;see Theunens:P1113,p.503.

<sup>1376</sup> Albiston:T.23884-85.

<sup>1377</sup> P2647,pp.8-9;Pašić:T.22916-17;Rinčić:D1680,para.29.

<sup>1378</sup> Rinčić:D1680,para.29;Theunens:P1113,p.500;P2647,pp.1-4,6-7;Pašić:T.22915-17.

<sup>1379</sup> Pašić:D1706,p.8.

<sup>1380</sup> Pašić:T.22916,22930.

<sup>1381</sup> P935,p.1;Deverell:D1784,pp.48-49.

that happened in and around Knin.<sup>1382</sup> Pašić admitted that he could not think of any time during the relevant period that he did not follow the direction or advice of Čermak.<sup>1383</sup> Rinčić worked closely with Pašić to process these requests and allocate apartments and coordinate jobs in factories and public institutions in and around Knin.<sup>1384</sup> On Čermak's orders, Jonjić was also involved in this process.<sup>1385</sup> Many Croats that were being accommodated in Knin were originally from other areas or from outside of Croatia (e.g. Bosnian Croats).<sup>1386</sup> Returning Croats were employed in the factories that Čermak protected.<sup>1387</sup>

381. To ensure rapid Croat repopulation, those acting under Čermak's authority took immediate steps to reintroduce the rail system into Knin.<sup>1388</sup> On 11-Aug-95, Čermak announced publicly that, as of 16-Aug-95, civilian government would start to be organized in the Knin municipality.<sup>1389</sup> On 15-Aug-95, Čermak granted civilians *carte blanche* entry into Knin, ordering the civilian and military police to immediately allow civilians without passes to pass through all checkpoints into Knin.<sup>1390</sup> The civilian police received and relayed Čermak's order to their own units, some of which were outside the geographical limits of the Knin Garrison.<sup>1391</sup> During this same period, Dodig used the Office for Displaced Persons to produce lists of people wishing to leave Croatia, and Čermak facilitated the movement of Serbs out of Croatia via convoys.<sup>1392</sup> Čermak was opening the gates for the mass return of Croats to the liberated areas,<sup>1393</sup> while simultaneously closing the door on Serb return by making their expulsion permanent.

382. Čermak knew that the majority of Knin Serbs had fled, and those that remained had been unable to flee.<sup>1394</sup> Čermak disingenuously guaranteed free access

<sup>1382</sup> Rinčić:D1680,paras.13,16,29;D982,pp.3-4;P463,p.6;Dodig:T.22634-35;Al-Alfi:P1160,pp.67-68;Al-Alfi:T.13819;Pašić:T.23042.

<sup>1383</sup> Pašić:T.22862-63.

<sup>1384</sup> Rinčić:D1680,paras.28-29.

<sup>1385</sup> D775,p.3.

<sup>1386</sup> Pašić:T.22914-15,23052-53;D1715,p.1;P2537,p.3;P2713.

<sup>1387</sup> Rinčić:D1680,para.27.

<sup>1388</sup> Rinčić:D1680,para.22;P886,0357-7452-et-2,p.4;Teskeredžić:T.23242;D1029.

<sup>1389</sup> D38,p.1;Theunens:P1113,pp.502-03.

<sup>1390</sup> D496;P509;Theunens:P1113,p.509;P33,p.3;P43,p.3;see Mauro:P1099,para.28;see also

“Čermak:MUP”.

<sup>1391</sup> [REDACTED];P2715(map);D33,p.2.

<sup>1392</sup> P2648,p.2;P409,p.1;Leschly:P888,para.31;D316;D315;D311;D618;D621;D627;D630;D633;P32;Grubor:P54,p.5;P56;P57;Grubor:P55,para.12.

<sup>1393</sup> [REDACTED];Theunens:P1113,pp.500,508-09;P144,p.2.

<sup>1394</sup> D300;D37,p.2;D38,p.3.

to housing, personal property and material support in Knin for Serbs and Croats alike.<sup>1395</sup> Čermak knew that in the context of the JCE such promises would have no practical effect on whether or not Serbs would return because his rapid colonization of the area with Croats was being coordinated with the simultaneous institution of obstacles to the return of Serbs who had left Croatia, and the campaign of crime against Serbs that remained inside of Croatia. Colonization was instrumental to creating an environment in the Krajina that was inhospitable to Serb return. Čermak revealed his confidence in the success of the JCE during a meeting with foreign ambassadors when he was asked how many Serbs would have the right to come back – he answered “they won’t”.<sup>1396</sup> Although he later denied saying it, Čermak was quoted in the media during this period stating:

“we can’t afford to allow the Serbs to return as the Croats are being dispelled from their homes in Bosnia, Syrima, Vojvodina...Do they want us to welcome the Serbs back with red carpets and brass music? No way!”<sup>1397</sup>

Pašić confirmed that Knin’s ethnic demographic composition was effectively reversed in the wake of Storm, becoming 90% Croat.<sup>1398</sup>

## IV. MARKAČ

### A. Overview of Markač’s Criminal Liability

#### 1. Joint Criminal Enterprise

##### *Markač Shared the Common Criminal Purpose*

383. Markač shared the common criminal purpose to permanently remove the Serb population from the Krajina by means of the crimes charged in Counts 1-5 of the Indictment. He participated in the 31-July-95 Brijuni Meeting,<sup>1399</sup> at which Tudman, Gotovina, Markač and other members of the JCE decided to use artillery to drive civilians out of the Krajina through Storm, a joint HV-SP operation, and related

<sup>1395</sup> D300;Theunens:P1113,pp.499-500,507-508;Theunens:T.13091-92;P938;Liborius:T.8288-89;D757.

<sup>1396</sup> Liborius:P803,para.30;P821,p.3;see “JCE:Administrative Obstacles to Return”.

<sup>1397</sup> Čermak:P2525,p.183.

<sup>1398</sup> Pašić:D1706,p.9;Pašić:T.22915;P822,p.1;D1715,p.1.

<sup>1399</sup> P461,1D76-0110,pp.18-20,24-25,31-32.

operations. At the meeting, Markač made proposals and discussed some of his prospective contributions as Commander of the SP.<sup>1400</sup>

384. Markač implemented the decisions reached at the 31 July meeting by preparing his subordinates for their tasks, issuing the order for the SP attack, and commanding his subordinates during the operations. Markač planned and ordered the illegal artillery attack against civilians and civilian objects. He ordered operations which resulted in persistent and massive destruction of property, systematic looting and killings by forces under his direct command. Markač knew or had reason to know of these crimes, yet Markač failed to investigate or otherwise take necessary and reasonable measures to prevent or punish those crimes. All of the above demonstrates that he shared the common criminal purpose of the JCE to permanently remove the Serb population from the Krajina region by force, fear or threat of force, and intended the crimes falling within that purpose.

*Markač's Awareness of Possible Consequent Crimes*

385. The crimes of murder, cruel treatment, and inhumane acts were natural and foreseeable consequences of the JCE<sup>1401</sup> to permanently remove the Krajina Serb population by force, fear, or threat of force. Markač knew that the shelling operation was intended to drive Serbs out of the Krajina. He was aware that the remaining operations would be conducted by forces with nationalistic and vengeful elements and aware of criminal conduct against Serbs during the course of the operations. Under these circumstances, Markač knew that these crimes were possible consequences of the execution of the JCE and willingly took the risk that these crimes might be committed.

*Markač Significantly Contributed to the Common Criminal Purpose*

386. As Assistant Minister of Interior and Commander of the SP, Markač was responsible for commanding SP members during Storm and the related operations. Markač cooperated with other JCE members and used members of the SP<sup>1402</sup> to

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<sup>1400</sup> See P461,1D76-0110,pp.18-19.

<sup>1401</sup> As well as persecution, plunder and wanton destruction to the extent that those crimes are found to fall outside the common criminal purpose.

<sup>1402</sup> The members of the SP sector and units used by Markač are listed in Section II "Markač's Effective Control of Special Police in Storm and Related Operations".

implement the common criminal purpose. His acts and omissions were integral to the planning and execution of the common criminal purpose. Markač's contributions included the following:

- He participated in the planning and preparation of Storm and the related operations, particularly the aspects related to the conduct of the SP.
- He commanded his subordinates during Storm and the related operations.
- He participated in the planning and ordering of an illegal artillery attack against civilian populated towns, including Gračac and Donji Lapac.
- He personally directed the operation and participated in the crimes.
- He issued orders to conduct search operations in the aftermath of Storm.
- He reported false information regarding his subordinates' crimes and suppressed their investigation, permitted a climate of impunity among his subordinates in the face of repeated crimes and failed to prevent or punish their crimes.

## 2. Ordering

387. Markač ordered persecution<sup>1403</sup>, deportation, forcible transfer, plunder, wanton destruction and, in relation to Grubori, murder.<sup>1404</sup> He ordered the shelling of civilian areas, the attack operation and subsequent related search operations. Markač was aware that the forces who would execute his orders included vengeful and nationalistic elements. He was aware that the commencement of the operation would entail the shelling of civilian areas and the flight of civilians, and from the earliest stages of the operation on the ground, Markač was aware that his forces were engaged in criminal conduct against the Serbian community. In issuing his orders, Markač had

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<sup>1403</sup> The underlying acts for persecutions, in so far as Markač ordered, planned, instigated, aided and abetted and failed to prevent or punish (superior responsibility) the crime of persecution are deportation, forcible transfer, wanton destruction, plunder, shelling of civilians, unlawful attack on civilians and civilian objects, and murder.

<sup>1404</sup> In relation to the modes of liability of ordering, planning, instigating, aiding and abetting and superior responsibility in relation to Markač, the Prosecution is not proceeding with the crimes of cruel treatment or inhumane acts.

the direct intent to commit the crimes above or was aware of the substantial likelihood that they would be committed in the execution of his orders.

388. Additionally, Markač ordered the mop-up operation in Grubori, knowing of the substantial likelihood that murders would be committed by his forces.<sup>1405</sup> By then, he had been exposed to extensive crimes of plunder and wanton destruction committed by his troops while he was present in Gračac, Donji Lapac, and the road between Gračac and Donji Lapac.<sup>1406</sup> In addition, he was present at locations such as Bruvno, Mazin and the road between Gračac and Otrić, where a number of civilians had been murdered on 6 and 7-Aug-95, where his forces were engaged.<sup>1407</sup> While Markač feigned ignorance that civilians were executed, he admitted that he saw dead bodies along the route he traveled.<sup>1408</sup> He did not investigate the circumstances of the deaths or the status of the victims.<sup>1409</sup>

389. By 24-Aug-95,<sup>1410</sup> when Markač ordered the search operation in the Plavno Valley, he had instilled, by his inaction, a climate of impunity among his forces. Not only did he choose to deploy the very same troops who had committed grave crimes previously—including men known to be undisciplined and nationalistic<sup>1411</sup>—he knew that they were substantially likely to do so again. He was aware that elderly civilians were present in the area.<sup>1412</sup> He thus knew of the substantial likelihood that murders would be committed in the execution of his order.<sup>1413</sup>

### 3. Planning

390. Markač was involved in the planning of the shelling operation, the attack operation and the subsequent mop-up or search operations. For the reasons stated in relation to ordering, Markač had the direct intent or was aware of the substantial likelihood that persecution, forcible transfer, deportation, plunder, wanton destruction, and, in relation to Grubori, murder would be committed in the execution of his plans.

<sup>1405</sup> P576,p.1;P560,p.1;Markač:P2530,p.71:[REDACTED];*see*[REDACTED].

<sup>1406</sup> Markač:P2531,p.6;*see* Annex A-“Wanton Destruction and Plunder”.

<sup>1407</sup> Markač:P2531,p.6;*see* Annex B-“Additional Killings”.

<sup>1408</sup> Markač:P2531,pp.48-50.

<sup>1409</sup> Janić:P552,para.80.

<sup>1410</sup> [REDACTED],P576,p.1;P560,p.1;Janić:P552,para.50;P558.

<sup>1411</sup> *See, e.g.*,Turkalj:P1149,para.61,63

<sup>1412</sup> *See, e.g.*, Janić:P552,para.50.

<sup>1413</sup> *Galić* AJ,paras.152,157.

391. Markač planned the operation in the Plavno Valley, just as he planned all other Special Police operations.<sup>1414</sup> For the reasons stated in relation to ordering, Markač was aware of the substantial likelihood that murder would be committed in the execution of his plans for the Grubori operation.<sup>1415</sup>

#### 4. Instigating

392. Markač prompted SP members to commit the crimes of persecution, deportation, forcible transfer, wanton destruction, plunder and, in relation to Grubori, murder. He issued orders for and personally commanded SP operations, and failed to take reasonable and necessary measures to prevent and punish crimes committed by his forces, thereby creating a climate of impunity and encouraging the commission of further crimes. Markač had the direct intent or was aware of the substantial likelihood that crimes would be committed in response to his instigation.<sup>1416</sup>

393. For the reasons stated in relation to ordering, Markač was also aware of the substantial likelihood that murder would be committed in Grubori as a result of his instigation.

#### 5. Aiding and Abetting

394. Markač planned operations, briefed his subordinate commanders and provided his subordinates with the required intelligence information and material to conduct the operations. He issued the order for attack and further orders as the operation progressed and personally commanded his subordinates in the field. After the taking of the territory, he issued orders for search operations to be conducted in designated areas.

395. Markač was physically present on the scene of the crimes committed by his subordinates and was otherwise aware of their crimes and failed to intervene, either to prevent the conduct or to punish the perpetrators, ultimately covering up the crimes committed by his subordinates.

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<sup>1414</sup> [REDACTED];P580;P2377;P2375. The Prosecution did not receive from Croatian Authorities the “Information on activities planned for 25-Aug-95” although such documents were prepared on a daily basis. *E.g.*, P580;P2377;P2375Markač:P2530,pp.75-78;see Markač:P2531,pp.28-30.

<sup>1415</sup> *Kordić* AJ,para.31;*Milosević* AJ,para.268.

<sup>1416</sup> *Bošković* AJ,para.157;*Kordić* AJ,para.32;*Galić* TJ,para.168.

396. In these ways, Markač assisted or encouraged SP members to commit the crimes of persecution, deportation, forcible transfer, wanton destruction, plunder and, specifically in relation to Grubori, murder, Markač's acts and omissions substantially contributed to the perpetration of the crimes<sup>1417</sup> and he knew that these crimes would probably be committed and that his acts and omissions assisted in their commission.<sup>1418</sup>

#### 6. Superior Responsibility

397. Markač exercised effective control over SP perpetrators of the charged crimes. As Commander of the SP, he exercised *de facto* and *de jure* authority over SP.

398. Markač had actual notice of crimes or notice of the risk of possible crimes by his subordinates, including persecution, deportation, forcible transfer, wanton destruction, plunder, and murder. Nevertheless, he failed to take necessary and reasonable measures to prevent his subordinates from committing the crimes and failed to punish them.

399. Markač also failed to take the necessary and reasonable measures to punish his subordinates for committing the charged crimes that he either knew they had committed, or, for the reasons noted above, had reason to know they committed. Despite sufficiently alarming information indicating a risk that his subordinates had committed such crimes and thereby requiring further enquiries, Markač failed to make such enquiries.

#### 7. Discriminatory Intent

400. Markač's direction of the shelling attack against a largely Serb population, his deliberate failure to address his subordinates' crimes targeting Serbs and their property, and concealment of those crimes — including murder — all exemplify his specific intent to discriminate on political, racial and/or religious grounds relevant to the crime of persecution.

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<sup>1417</sup> *Blaškić* AJ, para.46.

<sup>1418</sup> *Mrkšić* AJ, para.159.

## B. Markač's Effective Control of Special Police in Storm and Related Operations

401. The MUP comprised three police sectors — Fundamental, Crime Police and the SP. As Assistant Minister of Interior in charge of the SP sector,<sup>1419</sup> Markač commanded the joint SP forces deployed in Storm and the related operations.<sup>1420</sup> His subordinates included Chief of Staff Željko Sačić, who implemented his decisions,<sup>1421</sup> head of SP Anti-Terrorist Department, Zdravko Janić, who supervised units in the field,<sup>1422</sup> 18 SP units (“SJP”) attached to regional police administrations (“PU”) and the elite Lučko Anti-Terrorist unit (“LATJ”).<sup>1423</sup> The SP sector included an inner control department (UK Dept.),<sup>1424</sup> which, *inter alia*, monitored discipline of the SP members<sup>1425</sup> and reported to Markač.<sup>1426</sup> SP members were “almost exclusively” of Croatian ethnicity (98.14%).<sup>1427</sup>

402. As SP Commander, Markač had the ability to issue and enforce orders and monitor the activities of the units. Markač possessed the material ability to discipline his subordinates.<sup>1428</sup> He had the ability to suspend members of the SP,<sup>1429</sup> initiate disciplinary procedures<sup>1430</sup> and/or investigations of crimes committed by members of the SP.<sup>1431</sup> Within the SP Sector, only Markač had the authority to withdraw a unit from an operation.<sup>1432</sup>

403. Crimes committed by SP members would be reported to Markač and Sačić,<sup>1433</sup> who would notify the criminal police.<sup>1434</sup> The SP would assist the criminal police in

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<sup>1419</sup> P2381

<sup>1420</sup> P554;P614,pp.2,6;P583;P584;P585;Janić:P552,paras.10,18-19;Sačić:T.27987;P1148,p.1(Art.1(3));P2381;P588,p.19.

<sup>1421</sup> [REDACTED].

<sup>1422</sup> Janić:T.6098-99;Janić:P552,paras.17,24;Janić:P553,p.200.

<sup>1423</sup> P555;[REDACTED];Janić:T.6230-31;Turkalj:P1149,para.11.

<sup>1424</sup> Janić:P552,paras.14-15;Turkalj:P1150,pp.48-49,60.

<sup>1425</sup> D529,pp.2-4;D528,pp.9,28-29;P613,p.1;[REDACTED];Janić:P552,para.14;see Cvrk:T.25398-99;Theunens:P1113,p.148.

<sup>1426</sup> Turkalj:P1149,para.69;Turkalj:P1150,pp.47,49;Janić:P552,paras.14,15;Janić:P553,pp.28-29,55;Janić:T.6229.

<sup>1427</sup> D528,p.15.

<sup>1428</sup> Turkalj:T.13616-17;P2370,0645-7705-ET(Arts.17-49),0645-7708-ET-1(Arts.59,60);P1155;P2364;P2365;P2366;P2367;P2368;P2369,p.2;P609;P610;P587;Cvrk:T.25401-04,25419,25422.

<sup>1429</sup> P609.

<sup>1430</sup> P1155;P2364;P2365;P2366;P2367;P2368;P2369,p.2.

<sup>1431</sup> P610;D530;D531;Cvrk:T.25424-25.

<sup>1432</sup> Janić:P552,para.18;[REDACTED].

<sup>1433</sup> Turkalj:P1149,para.69;Cvrk:T.25401.

the investigation when necessary.<sup>1435</sup> Independent of the criminal investigation, SP authorities were required to initiate an internal disciplinary procedure.<sup>1436</sup> As an Assistant Minister of Interior, Markač was well-positioned to activate the other components of the MUP, such as the fundamental police or the criminal police to investigate crime.<sup>1437</sup>

404. The Markač Defence argued that SJPs were within the command structure of the PU chiefs.<sup>1438</sup> The evidence demonstrates, however, that when deployed in SP operations, the SJPs were within Markač's command structure.<sup>1439</sup> Indeed, Markač issued numerous orders to the SJPs, his orders were implemented<sup>1440</sup> and Markač exercised his disciplinary authority over them.<sup>1441</sup>

### C. Planning Storm

405. As noted earlier, Markač participated in the Brijuni Meeting, as well as other meetings to plan Storm.<sup>1442</sup> At the Brijuni Meeting he agreed with other JCE members to use his subordinates to stage a provocation by ARSK forces for purposes of creating a "pretext" for the launch of the operation.<sup>1443</sup>

406. At this meeting Markač also addressed JCE members regarding how the SP would coordinate with the HV in the execution of the plan.<sup>1444</sup> Responding to Tudman's suggestion that routes should be left open for the population to flee,<sup>1445</sup> Markač described how his SP forces would "drive" civilians out of the territory through a gateway left open.

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<sup>1434</sup> Janić:P552,para.78;D530;D531;see Cvrk:T.25424-25.

<sup>1435</sup> Turkalj:T.13683;Janić:"Special police officers are, nevertheless, police officers",T.6225. "like any other police officer, they have a status of an official with all the powers that comes with it",T.6101

<sup>1436</sup> Janić:P553,pp.22-23;Janić:T.6245-47;Cetina:T.23593.

<sup>1437</sup> [REDACTED];Cvrk:T.25424-25;see Janić:T.6101,6225.

<sup>1438</sup> See Janić:T.6230,6282;Cipci:D1723,paras.2-3;Cetina:T.23634-35.

<sup>1439</sup> Sačić:27598-01;Janić:P552,para.19;Janić:T.6390;D1781,p.52(Art.674);P588,pp.29,35(The scope of duties of PUs does not include duties falling under Art.3,the Internal Affairs Act. Art.3 regulates duties of the SP);see P1148(Law on Amendments to the Law on Internal Affairs Act);see Cetina:T.23591-92,23653;Cetina:D1745,p.4;Pavlović,T.25290;Cvrk:T.25401.

<sup>1440</sup> E.g.,D540;Vitez:T.25972.

<sup>1441</sup> P610;P587.

<sup>1442</sup> P461,1D76-0110,pp.18-19;D1454,p.28(Šušak: "GOTOVINA and MARKAČ think that the optimal time to launch the operation is 0500 hours");D409,pp.1,4;Laušić:P2159,para.146.

<sup>1443</sup> P461,1D76-0110,pp.19-20.

<sup>1444</sup> P461,1D76-0110,pp.18-19.

<sup>1445</sup> P461,1D76-0110,p.15.

“Thus, at the same time as we’re doing this, an area is being opened up. [...] That means that we are going to *drive them into a pocket* here and from that point we can head towards NORAC, while NORAC can head towards Lapac, and *we have practically evacuated the entire area*. Everything fits in and to all practical purposes we gain with this plan proposed by Mr. GOTOVINA....”<sup>1446</sup> (*emphasis added*)

407. Based on the agreement for a coordinated HV-SP effort, the SP forces were subordinated to GSHV for purposes of the operation<sup>1447</sup> and Markač was appointed the “Action Commander” of the joint SP forces.<sup>1448</sup> The Chief of the GSHV held Markač “personally responsible” for the operation.<sup>1449</sup> Markač planned the SP operations<sup>1450</sup> in coordination with Gotovina and others,<sup>1451</sup> prepared the joint SP forces for their tasks,<sup>1452</sup> providing them with intelligence information,<sup>1453</sup> equipment and material<sup>1454</sup> and briefed his subordinate commanders.<sup>1455</sup>

#### **D. Markač’s Role During Storm and Related Operations**

408. Markač issued the SP attack order for Storm<sup>1456</sup> and continued to issue orders as the operation progressed.<sup>1457</sup> His orders were implemented,<sup>1458</sup> and he maintained control of his forces and their activities through an effective reporting<sup>1459</sup> and communication system.<sup>1460</sup>

##### 1. Illegal Artillery Attack

409. Markač planned and ordered artillery attacks on Gračac and Donji Lapac.

<sup>1446</sup> P461,1D76-0110,pp.18-19.

<sup>1447</sup> Turkalj:P1150,pp.37-38;P554,p.1;D543.

<sup>1448</sup> P554,p.1;D543.

<sup>1449</sup> D543,p.2.

<sup>1450</sup> Janić:P552,para.21;Janić:P553,pp.37-41,43-46;Pavlović:T.25292.

<sup>1451</sup> Rajčić:T.16572;P1263,p.3;[REDACTED];Theunens:P1113,p.552.

<sup>1452</sup> D1207;D1206;P2374;D539;D540;D541.

<sup>1453</sup> Janić:P552,paras.22,46;Janić:P553,pp.53-54.

<sup>1454</sup> D544;D545.

<sup>1455</sup> Janić,P552,paras.21,22;Janić:P553,pp.37-41,43-46;Pavlović:T.25292-93;Vitez:T.25973;

[REDACTED].

<sup>1456</sup> P2385,p.1;P614,p.6.

<sup>1457</sup> E.g.,P614,p.12;P2385,p.7;Janić:P552,para.34; Sačić: T.27764;Cvrk:T.25445;P2382,p.2;P1153,p.6.

<sup>1458</sup> E.g.,

P583;P584;P585;P1153,pp.2,5,7,8;P1241;P2382;D1206;P1236;P1246;Vitez:T.25972;Pavlović:T.25278.

<sup>1459</sup> P577;P1243;Janić:P552,paras.11,41;Janić:P553,pp.92,183,185;Pavlović:T.25280,25292-

93;Theunens:P1113,p.529;see P583;P584;P585;P574;P575.

<sup>1460</sup> P614,p.24;[REDACTED];Pavlović:T.25279-80;Janić:P553,pp.75-77,258-

59;Theunens:P1113,p.523.

410. Each SP unit had its own mixed artillery batteries on their axis of attack which included 120mm mortars and 128mm MBRLs,<sup>1461</sup> plus artillery assets of TRS-5, including 122mm howitzers and a 122mm MBRL *Grad* rocket system, extracted from the Split MD prior to Storm.<sup>1462</sup>

411. Markač ordered SP artillery to fire on the town of Donji Lapac on 7-Aug-95,<sup>1463</sup> hitting civilian objects and causing civilians to flee.<sup>1464</sup>

412. Markač also planned, in conjunction with Gotovina, the artillery attack on Gračac of 4 and 5-Aug-95. In orders of 29<sup>1465</sup> and 30-Jul-95,<sup>1466</sup> Červenko ordered that Markač and Gotovina coordinate their work and that Gotovina was to provide SP forces advancing on the Velebit with artillery support. Both Markač and Gotovina attended the Brijuni Meeting<sup>1467</sup> where the use of artillery to cause civilians to flee was decided upon.<sup>1468</sup> The Attack Order following the Brijuni Meeting ordered HV artillery to treat the town of Gračac as a target.<sup>1469</sup> The day after it was issued, Markač met with Gotovina and Rajčić in Zadar to discuss the use of artillery along the SP's axis of attack, including the use of TRS-5.<sup>1470</sup> Gotovina later recalled of the plan: "I ordered to the TRS-5 [...] to provide a constant and uninterrupted support to the forces on my left wing, and on their right flank (Special Police of the [MUP] of [Croatia])."<sup>1471</sup> The order to attack Gračac remained valid, as confirmed by the fact that Gračac was shelled at 0500hrs the following day.<sup>1472</sup>

413. While the 130mm guns that fired on Gračac remained technically subordinated to Gotovina,<sup>1473</sup> Markač participated in the execution of the plan, ordering the beginning of the artillery attack on his axis of attack<sup>1474</sup> and requesting fire on Gračac

<sup>1461</sup> Turkalj:T.13697;Turkalj:P1150,pp.100-01;P614,p.19.

<sup>1462</sup> Turkalj:P1150,pp.73-75;Turkalj:T.13551;P614,p.19;P2336,p.9;P1192,p.3;see D1094,p.2.

<sup>1463</sup> D556,p.1;Čelić:P761,pp.43-46;Čelić:P762,pp.66,111;cf. Turkalj:T.13611-12.

<sup>1464</sup> SeeD556,p.1;also "Counts2 & 3".

<sup>1465</sup> D543,p.2.

<sup>1466</sup> D1094,p.2.

<sup>1467</sup> SeeP461.

<sup>1468</sup> See "Counts2 & 3".

<sup>1469</sup> P1125,p.14.

<sup>1470</sup> Rajčić:D1425,para.57.

<sup>1471</sup> P1192,p.3;alsoP614,p.9.

<sup>1472</sup> Steenbergen:P516,para.20.

<sup>1473</sup> See "Gotovina".

<sup>1474</sup> P614,p.6.

through Turkalj.<sup>1475</sup> SP artillery continued the shelling of Gračac the following day.<sup>1476</sup>

## 2. Markač Was With His Subordinates When They Committed Crimes

414. Markač was physically present in the field with his subordinates and personally directed them during the Storm attack.<sup>1477</sup> As SP forces entered the formerly Serb-held territory, they plundered and destroyed civilian property. Markač was present at the crime sites and closely monitored his forces<sup>1478</sup> that remained under his control throughout the operations.<sup>1479</sup> As shown below, he directed or encouraged his subordinates to commit the crimes.

### *Gračac*

415. On 5-Aug-95, Markač ordered the capture of Gračac.<sup>1480</sup> This order was implemented.<sup>1481</sup> By noon on 5-Aug-95, Gračac and the surrounding area were under the control of his subordinates,<sup>1482</sup> who carried out search operations in the area.<sup>1483</sup>

416. Markač entered Gračac the same day and set up his HQ<sup>1484</sup> in the centre of Gračac,<sup>1485</sup> from where he operated throughout the Indictment period.<sup>1486</sup> Although the Markač Defence alleges that there were no SP forces in Gračac or SS from 10-21 August,<sup>1487</sup> the order they rely on does not support this contention.<sup>1488</sup> Instead, the evidence shows SP forces were in SS during this period.<sup>1489</sup>

417. Markač's subordinates committed crimes in Gračac.<sup>1490</sup> SP units placed in charge of Gračac<sup>1491</sup> systematically plundered Serb property in the presence of unit

<sup>1475</sup> Turkalj:T.13585-13586,13591-13595,13599-13600;see P2385,pp.2-3;P2436,p.5.

<sup>1476</sup> P583.

<sup>1477</sup> Markač:P2530,pp.53-54;Markač:P2531,p.6; Sačić:T.27781.

<sup>1478</sup> [REDACTED].

<sup>1479</sup> P553,pp.195(Janič: "not a single fraction or part of the special police was out of control".)

<sup>1480</sup> P2385,p.7.

<sup>1481</sup> P584,p.1;P2385,p.7;Markač:P2530,p.53.

<sup>1482</sup> P2385,p.7;P614,p.9;Janič:P552,paras.33,47;Janič:P553,pp.119-20; Sačić:T.27741;D507;see

Pavlović:T.25295.

<sup>1483</sup> P2384,p.2.

<sup>1484</sup> D555,p.29;P2385,p.7;P614,p.9;Janič:P552,paras.33,47;Janič:P553,p.119;Pavlović:T.25293-94.

<sup>1485</sup> Janič:P552,para.47;Janič:P553,p.119-20.

<sup>1486</sup> Pavlović:T.25293.

<sup>1487</sup> T.17353(The Defence relied on D561 to advance this argument).

<sup>1488</sup> D561.

<sup>1489</sup> P1236;P1214;Pavlović:T.25275,25293,T.25306("...as we spent more time in Gračac over this longer period....").

<sup>1490</sup> See Annexes.

commanders<sup>1492</sup> and transported looted goods in official vehicles.<sup>1493</sup> SP forces burned and destroyed homes and structures in and around Gračac.<sup>1494</sup> As Gračac was the SP HQ and had a significant number of SP forces,<sup>1495</sup> unauthorized entities or individuals could not have committed crimes there undetected. Plumes of smoke emanating from the burning structures in and around Gračac could be observed from Markač's base in the centre of Gračac.<sup>1496</sup>

418. Markač challenged Vanderostyne's photographs of SP looting, claiming SP units were merely transporting their office equipment back to their bases.<sup>1497</sup> This highly improbable and speculative assertion (given the territory and type of terrain the SP had to cover)<sup>1498</sup> is also at odds with the evidence of the photographer, who saw SP loot televisions and other private property<sup>1499</sup> Similarly, the suggestion that P324 depicts lawful removal of vehicles by SP<sup>1500</sup> is also inconsistent with the evidence.<sup>1501</sup>

#### *Otrić*

419. On 6-Aug-95, SP forces captured Otrić and took control of the area.<sup>1502</sup> HV 4GBR linked up with SP forces in Otrić on 7-Aug-95.<sup>1503</sup> SP members plundered and destroyed properties *en route* to and in and around Otrić.<sup>1504</sup> By 11-Aug-95, Otrić was almost completely destroyed.<sup>1505</sup> Bodies of civilians were recovered along the route taken by the SP.<sup>1506</sup> Markač moved from Gračac to Otrić on 7- Aug-95<sup>1507</sup> from which

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<sup>1491</sup> Sačić:T.27740(the centre of Gračac was put under the control of the "Delta" unit from the Vukovar-Srijem PU).

<sup>1492</sup> Vanderostyne:T.4028-30(Vanderostyne saw and photographed "Delta VK" unit looting goods and stealing vehicles),4035-36,4046-47("looting on a major scale", "It was organized"),4073;see P324.

<sup>1493</sup> Vanderostyne:P321,paras.31,32,34;Vanderostyne:T.4031-35,4076-79,4082(confirming the Markač Defence's assertion that the vehicle seen in P324 is an official vehicle);Janić:T.6352-53.

<sup>1494</sup> See Annexes.

<sup>1495</sup> Janić:P552,paras.33,47;Janić:P553,pp.119-20.

<sup>1496</sup> Vanderostyne:T.4044-45.

<sup>1497</sup> Vanderostyne:T.4082.

<sup>1498</sup> See P614,pp.2,25("exceptionally demanding terrain"),37("remarkably inconvenient and exceptionally difficult").

<sup>1499</sup> Vanderostyne:P321,para.31;Vanderostyne:T.4028-29.

<sup>1500</sup> See Pavlović:T.25254-55,25317-20.

<sup>1501</sup> P324(the vehicle is not obstructing traffic);Sačić:T.27805-06;Cvrk:T.25460,25486;see Cvrk:25487-89(unclear whether this constitutes the witness's own recollection and knowledge on this issue),25459-62;Pavlović:T.25299,25318-19;

<sup>1502</sup> P614,p.11;P2384,p.2.

<sup>1503</sup> P2384,pp.2-3;P2343,pp.43,44;Pavlović:T.25287.

<sup>1504</sup> P742,p.2;P41,p.1.

<sup>1505</sup> P41,p.1.

<sup>1506</sup> See Annex B-"Additional Killings".

<sup>1507</sup> P2343,p.42;Markač:P2531,p.6.

position his awareness of the destruction of Otrić and the bodies of civilians was unavoidable.

*Donji Lapac*

420. On 7-Aug-95, Markač ordered the capture of Donji Lapac.<sup>1508</sup> Markač and his forces advanced on their axes of attack between Gračac and Donji Lapac.<sup>1509</sup> During the course of their advance, Markač's subordinates systematically plundered property and destroyed as much as 90 percent of the homes and structures situated along their path.<sup>1510</sup>

421. Markač entered Donji Lapac by 1400hrs,<sup>1511</sup> placing the area under SP control.<sup>1512</sup> HV units of the Gospić MD followed a few hours later.<sup>1513</sup> Some SP forces remained in Donji Lapac until 9-Aug-95,<sup>1514</sup> when it was handed over to the HV.<sup>1515</sup>

422. Markač's subordinates,<sup>1516</sup> together with HV members, plundered and systematically<sup>1517</sup> burnt and destroyed property in Donji Lapac,<sup>1518</sup> Structures to be preserved were marked with "HV" or "MUP" signs, whilst those unmarked were destroyed.<sup>1519</sup> Donji Lapac, the center of what Croatian authorities considered the ethnically purest municipality in Croatia with over 99% Serbs before Storm,<sup>1520</sup> was extensively damaged during the night of 7-Aug-95<sup>1521</sup> and rendered uninhabitable.<sup>1522</sup> During a meeting on 26-Sep-95 Tudman expressed concern about that there was no

<sup>1508</sup> Janić:P552,para.34.

<sup>1509</sup> Markač:P2530,pp.53-54;Markač:P2531,p.6;Sačić:T.27745-47,27756,27781;C4(map).

<sup>1510</sup> [REDACTED];P742,p.2.

<sup>1511</sup> Markač:P2530,pp.41-42;P1237,p.4;P614,p.12;Sačić:T.27763,27781;Turkalj:P1151,pp.44-45;P2382,p.2;D556(Joint SP Forces entered at 1200hrs).

<sup>1512</sup> P585;P1237,p.4;P2382,p.2;Janić:P553,pp.127,139-40,166;Sačić:T.27781-82;P2385,p.8;P586.

<sup>1513</sup> [REDACTED];Janić:P552,para.38.

<sup>1514</sup> D556;P2384,p.3;see Pavlović:T.25263;see,[REDACTED];Repinc:T.26732-

33,26754;Sačić:T.27783-85(approximately 100 members of the SP were present in Donji Lapac);P586;D556(reflecting that SP forces were present in and around Donji Lapac in the night of 7 August).

<sup>1515</sup> Repinc:D1932,para.173.

<sup>1516</sup> P2402,p.88;see [REDACTED].

<sup>1517</sup> Galbraith:T.4948.

<sup>1518</sup> See Annex A-"Plunder&Wanton Destruction".

<sup>1519</sup> [REDACTED].

<sup>1520</sup> P464,p.6.

<sup>1521</sup> P470,pp.53-54;P586;D556;see Sačić:T.27789-92.

<sup>1522</sup> P470,pp.53-54("Gojko Šušak: "President, Donji Lapac as such does not exist. There is only its name on the map. *Everything is Destroyed, everything.*" PRESIDENT: What, school as well?...*It is the destruction of Croatian property now* (emphasis added));Galbraith:T.4948;P742,p.2.

school or other facility left in Donji Lapac in which he could station a military unit,<sup>1523</sup> leading Norac, Commander of the Gospić MD, to note that the SP was responsible for the crimes.<sup>1524</sup> (Shortly after the meeting Janić and the head of the SP logistics section issued reports attributing responsibility for the crimes to the HV.<sup>1525</sup>) The MP attributed the crimes to MUP forces at a joint MUP-MP meeting in the presence of senior MUP officers including Assistant Minister Morić.<sup>1526</sup> Despite being discussed at the highest levels of authority and receiving publicity,<sup>1527</sup> the crimes committed in Donji Lapac were not investigated,<sup>1528</sup> reflecting the prevailing climate of impunity.

423. Markač was present in Donji Lapac at the commission of the crimes.<sup>1529</sup> Markač discussed the crimes with Sačić.<sup>1530</sup> Although Markač denies his presence in Donji Lapac in the night of 7-Aug-95,<sup>1531</sup> the evidence proves otherwise.<sup>1532</sup>

### 3. Markač Deployed SP Forces that had a Propensity for Crimes against Serbs and Failed to Prevent or Punish the Crimes Committed

424. Despite repeated warnings by subordinate commanders, Markač deployed in Storm and the related search operations SP members known to be undisciplined and “[n]ationalistic”<sup>1533</sup> in an operation in which Serb civilians were to be driven out. After the initial assault operation, Markač ordered that search operations take place in

<sup>1523</sup> P470,pp.53-54(PRESIDENT:“What were you doing, commanders?” (emphasis added)).

<sup>1524</sup> P470,pp.53-54(“Mirko Norac:...everything was burnt down during that night. First the special police entered. There was a big fire after that. That part could not be controlled anymore”).

<sup>1525</sup> P586;D556.

<sup>1526</sup> D595,p.4(MP attributed the crimes to “MUP members” in the presence of senior MUP officials, including Morić and neither Morić nor any of the members of the MUP present at the meeting denied the allegation).

<sup>1527</sup> Sačić:T.27791.

<sup>1528</sup> Sačić:T.27792-93,27799;D595,p.4;Sačić:T.27805(neither Markač nor Sačić reported the matter to MP despite the allegations in the reports P586 & D556).

<sup>1529</sup> P1237,p.4;D555,p.47.

<sup>1530</sup> Sačić:T.27797-99.

<sup>1531</sup> Markač:P2530,p.54.

<sup>1532</sup> D555,p.47;Sačić:T.27782(Markač conducted meetings in Donji Lapac with a member of the UNPROFOR sometime between 1430-1600hrs),27783(Markač conducted meetings in Donji Lapac with unit commanders)27787-88(Sačić falsely testified that Markač was not present in Donji Lapac the night of 7-Aug-1995. When confronted with his previous inconsistent statement, he was unable to reconcile the contradiction);Markač:P2531,pp.19-20;Crvk:T.25457(he attended a coordination meeting in the morning of 8-Aug-1995 in Boričevac).

<sup>1533</sup> Turkalj:P1149,paras.61,63;Turkalj:P1152,pp.53-54;Turkalj:T.13681;see

[REDACTED];Balunović:T.28400-03;see P1088(reflects Drljo’s violent disposition—he threatens police officers);[REDACTED].

designated areas.<sup>1534</sup> Markač planned these search operations in coordination with the HV and civilian police,<sup>1535</sup> including Gotovina and Čermak.<sup>1536</sup> The SP conducted a series of search operations during August and September.<sup>1537</sup>

425. As SP forces entered the former Serb-held territory, in addition to the destruction cited above, they captured<sup>1538</sup> or killed numbers of remaining Serb civilians.<sup>1539</sup> Sanitation teams recovered civilian bodies on the axes of attack, in towns and villages captured by SP forces during Storm and in areas where SP forces conducted search operations. The evidence shows that the killings were perpetrated by SP forces.<sup>1540</sup>

426. Markač was present at the locations where bodies of civilians were found in the areas where his forces were operating<sup>1541</sup> and he acknowledged seeing bodies as the operations progressed.<sup>1542</sup> The increasing numbers of killings in the area of operation of the SP<sup>1543</sup> placed Markač on notice of the possibility that his subordinates were killing civilians. Despite such knowledge he continued to deploy his subordinates in areas where elderly Serbs remained,<sup>1544</sup> without taking precautions<sup>1545</sup> or punishing his subordinates.

#### 4. Active Cover-up

427. By late August, SP crimes had been ongoing for weeks, without meaningful efforts by their commander Markač to investigate or punish. On 25-26 August, the LATJ participated in two operations,<sup>1546</sup> during the first of which the by-then substantial likelihood that murder would be committed in executing the operation was realised.

<sup>1534</sup> P1153,p.6;D562;P574;P575;P556;P557;[REDACTED];Cvrk:T.25445.

<sup>1535</sup> D561;P1219;D1788;Cetina:T.23652-53;P2673,p.4;[REDACTED]

<sup>1536</sup> D561;D562.

<sup>1537</sup> Janić:P552,paras.43-45;Janić:T.6375;D561;D565;D1838.

<sup>1538</sup> P1235,p.1;P2385,pp.7-8;P614,p.17;[REDACTED];P48,p.2.

<sup>1539</sup> See Scheduled killing incidents 4 (Grubori) and 10.

<sup>1540</sup> Sačić:T.27756("I'm 100% sure that there were no other forces at the time, because we were the first Croatian forces to advance here.").

<sup>1541</sup> See Section IV.B above.

<sup>1542</sup> Markač:P2531,p.48.

<sup>1543</sup> P41,pp.1-2(HRAT report for 11 August 1995);P49,pp.1-2(HRAT report for 30 August 1995);P35,p.2(HRAT Report for 11 September 1995).

<sup>1544</sup> P605;Janić:P552,paras.49-52;see Čelić:P761,pp.79-80;Zinić:T.28101.

<sup>1545</sup> [REDACTED];Krajina:T.28580.

<sup>1546</sup> See Turkalj:P1151,pp.75-76;P606.

428. Markač learnt of the crimes immediately afterwards and, as shown below, immediately took steps to conceal them, submitting reports that intentionally misrepresented the facts and prevented investigations. By covering up the LATJ's crimes on 25-Aug-95 in Grubori and deploying the same unit the following day in another operation, Markač further encouraged the unit to commit crimes in Ramljane on 26-Aug-95.

*Grubori*<sup>1547</sup>

429. On 25-Aug-95, members of the LATJ<sup>1548</sup> murdered five Serb civilians, burned 20 houses and barns and shot farm animals in the Grubori hamlet<sup>1549</sup> during a search operation in Plavno valley.<sup>1550</sup> Markač<sup>1551</sup> and Sačić<sup>1552</sup> ordered the search operation, which also included five other SP units.<sup>1553</sup> International monitors were restricted from accessing the area.<sup>1554</sup>

430. The SP were aware that the area was inhabited by a number of elderly civilians remaining after Storm.<sup>1555</sup> None of the units met with resistance from enemy soldiers during the operation.<sup>1556</sup>

431. Both Čermak and Markač learned of the SP crimes in Grubori shortly after they were committed. Čermak and Markač covered up the crimes, issuing false reports, preventing the police from investigating, and even destroying forensic

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<sup>1547</sup> This section addresses the individual criminal responsibility of Čermak and Markač for crimes committed in Grubori on 25 August.

<sup>1548</sup> P558;P559;P2718.

<sup>1549</sup> Flynn:P20,pp.25-27,29;Flynn:T.1060;Roberts:P675,paras.74,78-80;Mauro:P1098,p.5;Mauro:P1099,para.36;Rommassev:P2513,pp.2-3;Lyntton:P870,para.16;Lyntton:T.8798-99;see P872,L003-2104-1;P22;P28;P764;P27,p.1;P691,paras.11-13;P700,pp.13-18;P1523;P1524;P1525;D1243;P1526;P659;P1251;P1305;P2012;P1718;P1306;P1723;P2014;P1307;P1726;P1729;P2015;P1720;D1245;P2013;P1308;P1731;P1732;P2016;Čelić:P762,pp.384-85; [REDACTED];see also Balunović:T.28348,28400-02,28414;[REDACTED];Zinić:T.28062-63,28110;Turkalj:P1152,pp.126-27.

<sup>1550</sup> Čermak and the Knin police were aware of the operation:  
Čermak:P2526,p.22;Čermak:P2525,p.125;[REDACTED];[REDACTED];D561

<sup>1551</sup> P560,p.1.

<sup>1552</sup> [REDACTED];Janić:P553,p.225.

<sup>1553</sup> P560;Janić:P552,para.49;Janić:T.6127-28;Čelić:P761,pp.69-70;Čelić:T.7935-38.

<sup>1554</sup> Romassev:P2513,p.3,[REDACTED].

<sup>1555</sup> Janić:P552,paras.49-52;Čelić:P761,pp.79-80;P605.

<sup>1556</sup> P560;Zinić:T.28067-68,28113;Balunović:T.28351,28355,28414;[REDACTED];see Čelić:P761,pp.93-96,98,116,133-36;P762,pp.215-26,231,239-41,252,255,260-64,436-39,510-11;Čelić:T.7942-43,7980-81,8002;Janić,P552,paras.56,59;Janić:P553,pp.295-303.

evidence. Grubori was a culmination of the ongoing countenancing and covering up of crimes by Croatian forces following the entry into the Krajina on 5-Aug-95.

432. Čermak and the Knin police, including the Zadar-Knin PU, received reports of the incident soon after it occurred from international monitors in the vicinity.<sup>1557</sup> UN monitors patrolling the area reached the crime site shortly afterwards and observed vehicles belonging to the LATJ parked by the village,<sup>1558</sup> while houses were still ablaze.<sup>1559</sup> They were informed by survivors that immediately before the incident “soldiers” in green uniforms (and some in camouflage) were seen walking towards the village.<sup>1560</sup>

433. Upon completion of the day’s assignment, Janić reported to Markač that none of the six units had been in combat.<sup>1561</sup> Based on Janić’s report Markač reported to the Chief of GSHV that nothing had happened during the operation.<sup>1562</sup> Prior to 5 p.m. the same day,<sup>1563</sup> Čermak told Markač he had received reports from international monitors that people were killed and houses were burning in Grubori where SP operations were conducted.<sup>1564</sup> Despite knowing the identity of the unit deployed in the specific area<sup>1565</sup> and having the resources to verify the accuracy of these reports that same evening,<sup>1566</sup> Markač instead told Sačić to travel to the area early the next morning.<sup>1567</sup>

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<sup>1557</sup> Flynn:P20,p.26;Flynn:T.1076-77;P27,p.1;Roberts:P675,paras.16,75,76;Lynton:P870,para.24;Mauro:P1098,p.5;Mauro:P1099,para.37;P236;D57,p.59;[REDACTED];

[REDACTED];[REDACTED];Dondo:D1696,para.31;P691;Roberts:P675,paras.15,74-75,87.

<sup>1558</sup> P691,para.5.

<sup>1559</sup> Flynn:T.1066-67,1084;Mauro:P1099,para.36;P28;P692;see P561;P562;P1067;Janić:T.6133-34;Čelić:P761,pp.70-72.

<sup>1560</sup> Romassev:P2513,p.2;[REDACTED];Karanović:P2691,p.6;see P324; Sačić:T.27734-36;Balunović:T.28418;see,Zinić:T.28117(testifying it was a rainy day, which explains the sighting of camouflage attire).

<sup>1561</sup> P560;see Janić:P552,paras.11,49-52,54,55,59,61;Janić:P553,pp.18-19,320;Janić:T.6132;Markač:P2531,pp.63-64.

<sup>1562</sup> P575;[REDACTED].

<sup>1563</sup> [REDACTED].

<sup>1564</sup> Čermak:P2532,pp.66-67(“they were all telling me there were killings, there were burnings in Grubori”, “I called Markač...it’s an area where you guys, you were”);Markač:P2531,pp.64-66; [REDACTED].

<sup>1565</sup> E.g., P560;P559.

<sup>1566</sup> Janić and the LATJ were available in Gračac the evening of 25 August and members of the UK Dept. were based in Gračac;Janić:P552,para.48;[REDACTED];Pavlović:T.25293-94.

<sup>1567</sup> See Markač:P2530,pp.98-99;[REDACTED].

434. Sometime between 25-Aug-95 and the morning of 26-Aug-95,<sup>1568</sup> Čermak and Markač, who were friends,<sup>1569</sup> agreed to report the event as having occurred during combat. Based on that agreement and without any knowledge of the specific facts,<sup>1570</sup> Čermak claimed in a UNTV interview that the incident had occurred during combat,<sup>1571</sup> with one soldier killed, another arrested and the destruction of “one or two houses”.<sup>1572</sup> Markač’s report later the same day was similar,<sup>1573</sup> the timing of which rebuts the claim that Čermak based his statement on Markač’s report.<sup>1574</sup> Čermak also reported the discovery of 70 Serb civilians during the operation, consistent with Markač’s report of the same day.<sup>1575</sup> The similarity of Markač’s report and Čermak’s interview confirms that Markač and Čermak had discussed what Čermak would say to UNTV.

435. In the UNTV interview, Čermak claimed that Croatian authorities assisted survivors after the incident,<sup>1576</sup> which is contradicted by the evidence.<sup>1577</sup> He also undertook to obtain a “full report from the civilian police”.<sup>1578</sup> The civilian police did not however have any information to support an allegation of combat in Grubori.<sup>1579</sup>

436. Čermak’s authority over the Knin police<sup>1580</sup> enabled him to prevent an investigation,<sup>1581</sup> which further supports the inference that Markač specifically dispatched Sačić to meet with Čermak upon being informed that an incident had happened in Grubori, or else he would have instructed the members of the UK Dept. in Gračac to investigate the matter.

<sup>1568</sup> Lyntton:T.8786(Lyntton interviewed Čermak by approximately 11.30 a.m. on 26-Aug-95).

<sup>1569</sup> Čermak:P2526,pp.22,100.

<sup>1570</sup> [REDACTED];Dondo:T.22465-66,22494-95,22499-500;Dondo:D1696,para.31(Dondo confirmed that Čermak had not received any information regarding the incident prior to his interview with UNTV).

<sup>1571</sup> Lyntton:T.8786;P504.

<sup>1572</sup> P504,p.1.

<sup>1573</sup> See P576;[REDACTED].

<sup>1574</sup> [REDACTED];*contrast* Čermak:P2532,pp.67-69(in his interview with the OTP Čermak claimed that he received the information from Sačić on 26 August “sometime around noon”);[REDACTED].

<sup>1575</sup> P605.

<sup>1576</sup> P504,p.2.

<sup>1577</sup> Lyntton:T.8800;Dondo:T.22500;P764.

<sup>1578</sup> P504,p.3.

<sup>1579</sup> [REDACTED].

<sup>1580</sup> [REDACTED]

<sup>1581</sup> [REDACTED].

437. [REDACTED].<sup>1582</sup> During his visit with the Knin police,<sup>1583</sup> Sačić learned that the police were preparing to investigate the Grubori crimes.<sup>1584</sup> Sačić argued with the police<sup>1585</sup> and proposed that the killings be treated as collateral consequences of combat and the bodies disposed of without an onsite investigation.<sup>1586</sup> The police officers resisted, and Buhin in particular insisted on an investigation.<sup>1587</sup> Buhin's insistence on an onsite investigation resulted in him being warned by Sačić<sup>1588</sup> that his future with MUP may be jeopardized, and reprimanded by Assistant-Minister Morić,<sup>1589</sup> who shortly thereafter withdrew him to Zagreb.<sup>1590</sup>

438. Sačić further sought Čermak's intervention to prevent the Knin police from investigating the crime.<sup>1591</sup> He took his argument with the police to Čermak,<sup>1592</sup> and telephoned minister Jarnjak, complaining about the police officers and urging that the bodies be sanitized without an onsite investigation.<sup>1593</sup> After Sačić left, Čermak himself called Jarnjak,<sup>1594</sup> and no onsite investigation took place.<sup>1595</sup>

439. [REDACTED].<sup>1596</sup> By the evening, Dondo also had visited the crime scene and provided a report to Čermak.<sup>1597</sup> Dondo described a burned village, with "20 houses and many farm buildings...set ablaze", dead elderly civilians, including one victim reported to be lying "inside a dilapidated house on an improvised upper floor...in a pool of blood...dressed in a shirt and underpants" and livestock killed.<sup>1598</sup>

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<sup>1582</sup> [REDACTED].

<sup>1583</sup> [REDACTED];Buhin:P963,p.4; Buhin:T.9935.

<sup>1584</sup> Buhin:T.9935;[REDACTED].

<sup>1585</sup> [REDACTED];Buhin:T.9935-36;Morić:T.25768-70;[REDACTED].

<sup>1586</sup> Buhin:P963,p.4;Buhin:T.9935;[REDACTED].

<sup>1587</sup> [REDACTED];Buhin:T.10010-11;Buhin:P963,p.4;Morić:T.25770-71.

<sup>1588</sup> [REDACTED].

<sup>1589</sup> Buhin:P963,p.4;Buhin:T.10011;Morić:T.25778.

<sup>1590</sup> Buhin:P963,p.5;[REDACTED];Morić:T.25779-80;[REDACTED].

<sup>1591</sup> [REDACTED].

<sup>1592</sup> [REDACTED].

<sup>1593</sup> [REDACTED].

<sup>1594</sup> [REDACTED].

<sup>1595</sup> [REDACTED].

<sup>1596</sup> [REDACTED].

<sup>1597</sup> P764;Dondo:T.22469,22513-15,22517-19.

<sup>1598</sup> P764,pp.1-2.

Nonetheless, Čermak told Dondo to report to the Knin Police that the Grubori incident was combat-related and to request “urgent” sanitization of the bodies.<sup>1599</sup>

440. By the afternoon of 26-Aug-95, Markač was fully apprised of the details and extent of the crimes.<sup>1600</sup> He cancelled his first report (stating nothing happened)<sup>1601</sup> and produced a false one,<sup>1602</sup> where civilian deaths and property destruction in Grubori were the result of collateral damage following resistance from an enemy group allegedly encountered by the LATJ. According to Markač’s report, four civilians and one enemy soldier, Đuro Karavanović, were killed in the ensuing fire-fight, and a second enemy soldier, Stevan Karanović, was arrested and two weapons seized.<sup>1603</sup> He further reported that three cowsheds and two houses were set on fire due to the use of hand grenades.<sup>1604</sup>

441. Markač fabricated this report. Đuro Karavanović was not a combatant, but a civilian killed in the incident.<sup>1605</sup> Similarly, no one by the name of Stevan Karanović was arrested by MUP or MORH forces or registered as having resided in the area.<sup>1606</sup> The LATJ did not take any prisoners during the operation<sup>1607</sup> or find weapons or material.<sup>1608</sup> Contrary to the extent of damage reported by Markač,<sup>1609</sup> 20 houses and farm buildings were burnt in the incident.<sup>1610</sup>

442. [REDACTED]<sup>1611</sup> the evidence shows that Markač had ample resources at his disposal to ascertain what had occurred in Grubori. Markač never questioned Janić, Čelić or any others involved in the operation to reconcile their initial reports that nothing had happened *vis-à-vis* the “misleading” information he allegedly received

<sup>1599</sup> D57,p.61(no.197);P764,p.2;Dondo:T.22506-07(Dondo falsely testified that he did not mention that the killings were a result of “Operation Storm”, without offering a plausible explanation as to how those words ended up in the entry);[REDACTED].

<sup>1600</sup> [REDACTED].

<sup>1601</sup> P575;[REDACTED].

<sup>1602</sup> P576. Markač was present at the Gračac HQ in the evening of 26-Aug-1995, when the report was produced:[REDACTED].

<sup>1603</sup> P576,p.2.

<sup>1604</sup> P576,p.2.

<sup>1605</sup> P764;D2042,p.3;[REDACTED].

<sup>1606</sup> P624,p.2;P626.

<sup>1607</sup> Turkalj:P1152,p.93;Zinić:T.28062;Balunović:T.28352;[REDACTED];Janić:P553,pp.365-67.

<sup>1608</sup> P560;P577,p.5;see Turkalj:1152,pp.93-94;[REDACTED];P1243.

<sup>1609</sup> P576,p.2

<sup>1610</sup> P764;see P28,V000-0590-ET.

<sup>1611</sup> [REDACTED].

from Sačić.<sup>1612</sup> Markač had numerous opportunities to challenge the individuals concerned, which he deliberately avoided.<sup>1613</sup>

443. In addition to the reports received from Sačić<sup>1614</sup> Markač also received reports from other sources, including the UK Dept.<sup>1615</sup> Turkalj, who personally observed the crime scene<sup>1616</sup> and made inquiries with his subordinates,<sup>1617</sup> was in direct contact with Markač, who ordered him to obtain reports from the subordinate commanders on the event.<sup>1618</sup> In addition, Čermak must have conveyed to Markač the information he gathered from Dondo,<sup>1619</sup> the Knin police<sup>1620</sup> and his own observations made in Grubori on 27-Aug-95 (discussion below). Markač had ample resources to obtain information on the incident<sup>1621</sup> including media reports.<sup>1622</sup>

444. Instead, Markač induced Čelić to produce a report on the incident to substantiate the false version of events. On 26-Aug-95, Markač summoned Čelić to his office at the Gračač HQ,<sup>1623</sup> where Markač and Sačić compelled Čelić to write a false report.<sup>1624</sup> When Čelić arrived, Markač and Sačić, who had Čelić's original report, informed him that the original report was inaccurate as it did not include the incident in Grubori.<sup>1625</sup> Čelić said he was unaware of the incident and that his report was based on the reports of the group leaders.<sup>1626</sup> Čelić asked Markač and Sačić to speak with the group leaders.<sup>1627</sup> This should have alerted Markač that LATJ members were likely trying to conceal their crimes.<sup>1628</sup> Rather than initiating an

<sup>1612</sup> Janić:P552,para 61;Janić:P553,p.320;Janić:T.6177-81;Čelić:P761,p.105;Čelić:P762,p.380.

<sup>1613</sup> See Turkalj:P1149,para.67;Čelić:T.7955;Janić:P552,paras.48,61,75;Janić:T.6212-13.

<sup>1614</sup> Turkalj:P1151,pp.123-24;[REDACTED].

<sup>1615</sup> [REDACTED];Turkalj:P1151,pp.115,117-21.

<sup>1616</sup> Čelić:P761,p.123;Turkalj:P1151,p.136;Turkalj:P1149,para.48;Turkalj :P1152,pp.8,10.

<sup>1617</sup> Turkalj:P1149,para.53;Turkalj:P1152,pp.4,57(Turkalj questioned members of the LATJ who claimed they did not know what happened).

<sup>1618</sup> P566;Turkalj:T.13676-77.

<sup>1619</sup> P764.

<sup>1620</sup> [REDACTED].

<sup>1621</sup> Turkalj:P1152,p.41;Turkalj:P1151,pp.115,117-21;Turkalj:T.13743(Sačić,Turklaj,Čelić,Balunović and members of the UK Dept were present in Grubori amongst numerous others including members of the civilian police);Čelić,T.8136.

<sup>1622</sup> See, e.g., P2386;P686.

<sup>1623</sup> See Čelić,P761,pp.103-04;P762,pp.272-73;[REDACTED].

<sup>1624</sup> P563;Čelić:T.7959(P563 was backdated);[REDACTED].

<sup>1625</sup> Čelić:P761,pp.98-99;Čelić:P762,pp.267,269-70,272-73;[REDACTED].

<sup>1626</sup> Čelić:T.7942,7948,7955;see Čelić:P761,pp.98-99;[REDACTED].

<sup>1627</sup> Čelić:P761,pp.99,101;see Čelić:T.8112.

<sup>1628</sup> See Janić:P552,paras.56,59;Janić:P553,pp.295-300(units would report enemy resistance up the chain of command).

investigation and interrogating the persons involved in the operation,<sup>1629</sup> Markač and Sačić ordered Čelić to write a “new” report immediately,<sup>1630</sup> which was dictated to him by Sačić,<sup>1631</sup> either in Markač’s immediate presence<sup>1632</sup> or in close proximity.<sup>1633</sup> Although Čelić believed this occurred early in the morning of 26-Aug-95, before the Ramljane operation, he was uncertain and allowed for the possibility that it happened in the evening.<sup>1634</sup> [REDACTED]<sup>1635</sup> [REDACTED]<sup>1636</sup> The details contained in P563 [REDACTED] includes the names of some victims which Sačić would not have known in the morning of 26-Aug-95. Markač issued a similar report shortly thereafter<sup>1637</sup> without making any inquiries.<sup>1638</sup>

445. Despite the police insisting on an onsite investigation, Čermak told the police to sanitise the bodies without an onsite investigation.<sup>1639</sup> Pursuant to Čermak’s orders, the bodies were disposed of later that day<sup>1640</sup> in Čermak’s presence<sup>1641</sup> without an onsite investigation.<sup>1642</sup>

446. Prior to the removal of the bodies, Čermak visited Grubori with journalists.<sup>1643</sup> En route, attempts were made by him or on his behalf to stage a post-combat scene in Grubori to corroborate the version of events Čermak had given UNTV the previous day. Čermak, or a member of his entourage in Čermak’s presence, suggested to the

<sup>1629</sup> See, e.g., P1055;P1086;P1087;P1089;P1059(none of the members of the LATJ interviewed in 2001 by the Croatian authorities, supported the allegation of a clash with enemy soldiers).

<sup>1630</sup> Čelić:P761,pp.96,98-101;[REDACTED].

<sup>1631</sup> P563;Čelić,P761,pp.103-104;Čelić:P762,pp.275,308;Turklaj:T.13740-41;Turkalj:P1152,pp.43-44,59,132-33;Balunović,T.28386,28427;Čelić:P762,pp.280-282,285-86;T.7953-54;[REDACTED]. After the new report was written, Čelić left the room leaving the original report in the room. He does not know what happened to it. The original reports submitted by Janić and Čelić since disappeared: Janić:P553,pp.302-05;Čelić:T.7942-43. P560 was obtained directly from Janić who happened to keep a copy in his personal custody: Janić:P553,pp.379-80. Up to 2001, the archives where these documents were located were in Markač’s charge, and there was a rigid system of control for access to the archives, where only a few people could have removed documents: Janić:P553,pp.381-85.

<sup>1632</sup> [REDACTED].

<sup>1633</sup> Čelić:T.7948-49,8075;Čelić:P761,p.104.

<sup>1634</sup> Čelić:P762,pp.281-82;T.7947-48.

<sup>1635</sup> [REDACTED].

<sup>1636</sup> [REDACTED].

<sup>1637</sup> [REDACTED].

<sup>1638</sup> [REDACTED].

<sup>1639</sup> [REDACTED].

<sup>1640</sup> D360;see D2042,p.3.

<sup>1641</sup> Čermak:P2532,pp.72,100-01;[REDACTED];Čelić:P761,pp.123-24;Bilobrck:T.28711;P2386,p.1.

<sup>1642</sup> Bilobrck:D2048,paras.33-34;Vrtičević:T.28914.

<sup>1643</sup> P2386,p.1;Čelić:P761,p.124;Čelić:T.7995;Turkalj:P1152,pp.9-10;Bilobrck:T.28673.

forensic technicians that they place weapons by the bodies before removing them.<sup>1644</sup> The technicians refused.<sup>1645</sup> Bilobrč's initial statement to the Croatian authorities indicated that Čermak made the suggestion<sup>1646</sup> while in court he said a member of Čermak's entourage made the suggestion in Čermak's presence.<sup>1647</sup> Either way, the evidence shows Čermak's intent to cover up the crime. Even if Čermak only heard the suggestion being made by one of his subordinates,<sup>1648</sup> he failed to protest or reprimand the person making the suggestion.<sup>1649</sup> Thus, whether or not Čermak made the suggestion, he endorsed the efforts to conceal the crime.

447. Soon after the suggestion to place weapons was made,<sup>1650</sup> Čermak instructed the forensic technicians to conduct an onsite investigation.<sup>1651</sup> The technicians refused, informing Čermak that the law required the presence of an investigative judge, the authorised prosecutor and the crime police during an onsite investigation.<sup>1652</sup> Čermak angrily persisted, informing the technicians they were duty-bound to comply with his order as he was the main authority in Knin.<sup>1653</sup> The technicians reiterated that "no legal requirements were in place for an on-site investigation..."<sup>1654</sup> Čermak persisted until Sačić intervened and resolved the dispute.<sup>1655</sup> Thereafter Čermak instructed the technicians to carry out the sanitation work in the presence of journalists,<sup>1656</sup> to make it appear as if the investigation he stated he would conduct was taking place.<sup>1657</sup> The technicians refusal triggered a further dispute requiring Sačić's intervention.<sup>1658</sup>

<sup>1644</sup> P2732,p.2;P2729,p.3;Mikulić:T.28777-78,28784-87,28792,28795,28821,28812;Bilobrč:T.28675,28678-79,28684-85.

<sup>1645</sup> P2732,p.2;P2729,p.2;Bilobrč:T.28681-82.

<sup>1646</sup> P2732,p.2;Mikulić:T.28784-85;see Gerovać:T.28849.

<sup>1647</sup> Bilobrč:T.28702-07.

<sup>1648</sup> Bilobrč:T.28684("He could hear. He could hear the remark.").

<sup>1649</sup> Bilobrč:T.28679-80,28684.

<sup>1650</sup> Bilobrč:T.28707.

<sup>1651</sup> P2732,p.2;P2729,p.3;Bilobrč:T.28707-08;[REDACTED].

<sup>1652</sup> P2732,pp.2-3;P2729,p.3;Bilobrč:T.28707-08.

<sup>1653</sup> Bilobrč:T.28708-10;see P2729,p.3.

<sup>1654</sup> Bilobrč:T.28709-10.

<sup>1655</sup> P2729,pp.3-4;Bilobrč:T.28709-10.

<sup>1656</sup> P2732,p.2;P2729,p.4;Bilobrč:T.28711;[REDACTED].

<sup>1657</sup> See Bilobrč:T.28712;P504,p.3.

<sup>1658</sup> P2732,p.2;P2729,p.4;Bilobrč:T.28711.

448. After seeing evidence of the crime in Grubori,<sup>1659</sup> Čermak made a further false statement to the Croatian media<sup>1660</sup> in which he maintained the false version of events<sup>1661</sup> but adjusted it to correspond to what he had observed.<sup>1662</sup> Despite Dondo's report which recorded the killings of five civilians, Čermak claimed that three of the five deceased were "members of the Chetnik groups".<sup>1663</sup> This conduct rebuts the Defence suggestion that Čermak relied on information conveyed to him by the SP.<sup>1664</sup> Neither Čermak nor Dondo could offer an explanation for the discrepancies between Čermak's 27-Aug-95 statement in Grubori and Dondo's report, the latter admitting that Čermak's media statement was "absolutely inconsistent with the situation as we found it in Grubori".<sup>1665</sup>

449. Soon after Čermak made this statement, members of his entourage produced a detainee for TV cameras, falsely claiming that he was an enemy soldier captured in the course of the operation.<sup>1666</sup> This was done to substantiate Čermak's statement to UNTV the previous day and his claim that "[o]ne Serbian terrorist was arrested".<sup>1667</sup> The detainee, "Dragan Volfan of Pančevo,"<sup>1668</sup> was an ARSK soldier arrested by SP forces in the course of search-operations conducted in Strmica on 27-Aug-95,<sup>1669</sup> and is obviously not the same person as the imaginary "Stevan Karavanović" Markač referred to in his report.<sup>1670</sup> Upon returning from Grubori, Čermak met with Sačić and LATJ subordinate commanders, angrily saying "Well, what have you done there," suggesting his irritation at having given a version of events to the media which subsequently proved to be inaccurate.<sup>1671</sup>

<sup>1659</sup> Roberts:P675,paras.75-76,82-84;Lynton:P870,paras.29-30,33-39;Lynton:T.8799;Flynn:T.1126-27. The following persons present in Grubori with Čermak observed evidence of crime:

Balunović:T.28377-80,28382;Dondo:T.22505-07,22537;[REDACTED];see Čelić:P762,pp.387.

<sup>1660</sup> P2386,p.1;see Deverell:T.24408

<sup>1661</sup> P2386,p.1. The evidence establishes that the Croatian authorities knew of the civilian status of all five deceased at this stage: *e.g.*, D2042,p.3.

<sup>1662</sup> See P2386,p.1;[REDACTED].

<sup>1663</sup> Contrast P764 with P2386,p.1.

<sup>1664</sup> [REDACTED];*contra* P409,p.3(On 29 August, Čermak repeated this statement to Al-Alfi and Forand but amended the description of the destruction yet again, as "several cattle sheds set on fire").

<sup>1665</sup> Dondo:T.22497,22527;Čermak:P2525,pp.97-98.

<sup>1666</sup> P2386,p.2("In the mopping-up operation, this imported Serbian fighter was captured as well").

<sup>1667</sup> P504,p.1.

<sup>1668</sup> P2386,p.2.

<sup>1669</sup> P2387,p.2;P2379,p.2;P577,p.7.

<sup>1670</sup> P576,p.2.

<sup>1671</sup> Turkalj:P1152,pp.19-22;Balunović:T.28384(recalling a "loud discussion").

450. Facing mounting scrutiny of the incident,<sup>1672</sup> Markač, in collusion with Sačić, induced LATJ subordinate commanders to create a series of false reports.<sup>1673</sup> Based on Markač's order,<sup>1674</sup> Čelić reproduced the report Sačić dictated to him,<sup>1675</sup> and three group leaders compiled reports on the basis of Čelić's report,<sup>1676</sup> while the fourth—Drljo—refused.<sup>1677</sup> Markač received these reports<sup>1678</sup> and was informed of Drljo's refusal to compile a report,<sup>1679</sup> for which Drljo was never disciplined.<sup>1680</sup> The discrepancies in the reports further confirm that they are false. For example, Čelić's report, P564, alleges that a hand grenade set fire to three stables and one house, an assertion not supported by any of the group leaders' reports (P569, P571, P573).

451. Čermak knowingly perpetuated the false version of events Markač concocted<sup>1681</sup> by presenting it to the international community,<sup>1682</sup> while adjusting his reports to correspond to the crime scene he observed,<sup>1683</sup> confirming his role in the fabrication of the false version of events.<sup>1684</sup>

452. By early 1996, when the killings and destruction could no longer be covered up as combat,<sup>1685</sup> Markač submitted his third report on Grubori<sup>1686</sup> in response to

<sup>1672</sup> P236;P237;P242;P504;P28;P27;P34;P1221;P691;P408,p.2;P409,pp.2-3.

<sup>1673</sup> P566;P567;P564;P565;P568;P569;P570;P571;P572(Balunović's claims that the signature on P572 is not his and that he never saw the report.(Balunović:T.28391));P573;Čelić:T.7958-59,7960-62(Each of the four reports were reproduced with an additional paragraph recording that the commanders were cautioned on IHL and all 8 reports were created at the same time in Zagreb),63;Čelić:P761,pp.106-07;Čelić:P762,pp.299-300;Čelić:P762,pp.287-96,302-03,319,353-54;[REDACTED]; Balunović:T.28377-76;[REDACTED];Janić:T.6154,6158-59;Janić:P553,pp.289-93,339-41.

<sup>1674</sup> P566;Turkalj:P1152,pp.69,79,84;Turkalj:T.13642;[REDACTED].

<sup>1675</sup> P564;Čelić:T.7954,7959-63.

<sup>1676</sup> P569;P571;P573;Čelić:T.7960,7976;Balunović:T.28389,28393-96,28427-28.

<sup>1677</sup> Čelić:P761,pp.106-08;Turkalj,P1152,pp.84-85;Balunović:T.28397;[REDACTED]

<sup>1678</sup> Turkalj:P1152,pp.85-87;Turkalj:P1149,paras.53-54;[REDACTED]

<sup>1679</sup> P567;Čelić:P761,pp.112-13;Turkalj:P1152,pp.85-87;Turkalj:P1149,paras.53-54.

<sup>1680</sup> Čelić:P761,p.107;Turkalj:P1149,para.61;[REDACTED];see Janić:P552,para.64.

<sup>1681</sup> [REDACTED].

<sup>1682</sup> P1222(sent in response to P1221);P603(P1165 is the same letter as P603 but with a contemporaneous English version).

<sup>1683</sup> P1222;compare P603 with P576,p.2(contrasting the scale of destruction reported by Čermak).

<sup>1684</sup> Čermak claims that the source of this information was the special police and the crime police. (Čermak:P2525,p.100). There is no evidence to support the claim that the police reported information relating to the incident to Čermak.[REDACTED]. Compare with details in P764, for *e.g.*, the status of Đuro Karavanović.

<sup>1685</sup> The Government was confronted with some aspects of the crime scene, which inherently pointed to an execution style killing, while such details also received publicity in the foreign media, for *e.g.*, P602;P686.

<sup>1686</sup> P505.

inquiries made by the international community.<sup>1687</sup> In this report dated 13-Mar-96,<sup>1688</sup> Markač now claimed that fleeing enemy soldiers committed the crimes in Grubori.<sup>1689</sup>

453. Even after 1996, Markač continued to suppress information regarding Grubori. In 1999, he sought to destroy ballistic evidence of the crime. Despite receiving numerous reports regarding the crime,<sup>1690</sup> Markač took no steps to seize any weapons<sup>1691</sup> from LATJ members.<sup>1692</sup> Instead, on 6-Dec-99 he ordered<sup>1693</sup> that a number of weapons possessed by LATJ members on 25-Aug-95, including those belonging to Drljo<sup>1694</sup> and Beneta,<sup>1695</sup> be sent for repair or be written off and destroyed.<sup>1696</sup> This prevented any possibility for conclusive ballistic examinations of these weapons.<sup>1697</sup>

454. Markač ensured there was no internal investigation of the incident within the SP,<sup>1698</sup> and it was not investigated by any elements of the MUP<sup>1699</sup> until Žganjer initiated an investigation in 2001.<sup>1700</sup>

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<sup>1687</sup> P602(sent to MUP by P623);P2716;see [REDACTED].

<sup>1688</sup> P505.

<sup>1689</sup> P505;[REDACTED]. This version of events lacked credibility to such an extent that even the Croatian Government did not consider it fit to publicize: *e.g.*,P645,pp.3-4;P2674. The Markač Defence challenged the authenticity of this report arguing his signature and seal were absent ([REDACTED];T.11612-13;T.14857;T.17551).The testimony of the State Prosecutor investigating the crime since 2001 however establishes the authenticity of the document. (Žganjer:P1048,paras.24-26;T.11499-501), and it was also included in the official case file of the Grubori investigation initiated in 2001. P622,p.7;see also [REDACTED].

<sup>1690</sup> See, *e.g.*, P602.

<sup>1691</sup> See Čelić:P762,pp.443-44;Turkalj:P1152,p.136-37;[REDACTED].

<sup>1692</sup> See P625(reflects availability of details of weapons in the possession of members of the LATJ on 25 August);see Čelić:P761,pp.90-91;see Čelić:T.7989-91;Turkalj:T.13648-49,13691-92;Balunović:T.28416;see [REDACTED];see Žganjer:P1048,para.27;see Žganjer:T.11513-14.

<sup>1693</sup> P578;Turkalj:T.13652-53.

<sup>1694</sup> P578,pp.3-4(listing E-11504 with “100% barrel damage/erosion”, which is false);see [REDACTED];compare [REDACTED] with P625,p.2(P625 erroneously records the serial number as “F-11504” instead of E-11504).

<sup>1695</sup> P625,p.2;P578,p.4.

<sup>1696</sup> P578,pp.1-3(lists LATJ weapons which could be repaired),pp.3-5(lists LATJ weapons to be written off, including weapons in the possession of members of the LATJ on 25 August, for *e.g.* 253099,B-114889(Beneta),[REDACTED],A-14195,244757,452421,A-14191,74747,548818,356579,356580,115197,118020(Balunović),109633,109214,118414,031474,123452);see D1203;P1224;P1156;Turkalj:T.13653-55,13689;see P2722(showing 9 weapons in “firing condition”, which were listed in P578 to be written-off).

<sup>1697</sup> [REDACTED].

<sup>1698</sup> Turkalj:P1152,p.135-36;see Janić:T.6155;Čelić:P762,p.398.

<sup>1699</sup> [REDACTED].

<sup>1700</sup> P35(weeks after the incident UNHRAT found bullet casings still at the crime site);P1061;Galović:T.19834;Žganjer:P1048,para.10;Žganjer:P1047,T000-5443-B,pp.19,29;Žganjer:T.11515,11519-20;[REDACTED];see Cetina:T.23519,23522;Albiston:T.24048;Žganjer:T.11516-17,11519.

455. The crimes in Grubori and their concealment demonstrate the collaborative and collusive efforts of many (including Čermak, Markač, Sačić,<sup>1701</sup> Jarnjak,<sup>1702</sup> Morić<sup>1703</sup> and Cetina<sup>1704</sup>) and the prevailing climate of impunity.<sup>1705</sup> The involvement of numerous branches of the MUP in the cover up is evident.<sup>1706</sup> Numerous inquiries from the international community to the Government, yielded false statements,<sup>1707</sup> and despite extensive coverage<sup>1708</sup> and international scrutiny,<sup>1709</sup> the crimes were not investigated until 2001.<sup>1710</sup> Markač and Čermak were at the heart of the concealment effort, as they had been generally since the HV and SP entered the Krajina.

### *Ramljane*

456. By the end of 25-Aug-95, Markač knew that the LATJ was suspected of committing crimes in the course of the day's operation. He nevertheless deployed the same unit on 26-Aug-95 in an operation in Ramljane that he planned.<sup>1711</sup>

457. Seven units participated in the operation, three of which—including the LATJ—searched the Promine hills.<sup>1712</sup> The terrain included an area near the railroad track on which the Freedom Train was scheduled to pass later that day.<sup>1713</sup> The same individuals involved in the Grubori operation participated.<sup>1714</sup>

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<sup>1701</sup> [REDACTED];D2038.

<sup>1702</sup> [REDACTED].

<sup>1703</sup> Buhin:T.9935,10011,10016;[REDACTED];Morić:T.25761-64,25772.

<sup>1704</sup> [REDACTED];Cetina:T.23517-23,23530.

<sup>1705</sup> See Žganjer:P1047,T000-5445,pp.8,50-52(“there is a priest above the priest...”),57-61,T000-5444-A,pp.10,35-36,37(Even by 2001 the police had not shown much enthusiasm to conduct an investigation into the incident as Žganjer expressed:“Maybe things speak for themselves”);Žganjer:P1048,para.10;see Turkalj:P1152,pp.133-34;[REDACTED].

<sup>1706</sup> The crime technicians were sent with instructions for sanitation and not for an onsite investigation: [REDACTED];see Bilobrk:T.28660-61. No policeman had visited Grubori even by 26-Aug-95: [REDACTED];Dondo:T.22500.

<sup>1707</sup> P2674;P2569,p.2;D1630,p.8(“The site of the crime was inspected by police on the same day...on 25 August 1995”).

<sup>1708</sup> Janić:P553,pp.322-23;P2569,p.5.

<sup>1709</sup> E.g., P2569;Dondo:D1696,para.31;P602.

<sup>1710</sup> Žganjer:P1048,para.10;Žganjer:P1047,T000-5443-B,pp.19,29;Žganjer:T.11515,11519-20.

<sup>1711</sup> P580;see Čelić:T.8009-10;[REDACTED].

<sup>1712</sup> See P580;P579;P618.

<sup>1713</sup> Janić:P552,paras.65-66;Janić:P553,pp.310-21.

<sup>1714</sup> Janić:P552,para.65;Čelić:P761,p.130;Čelić:P762,p.320;Čelić:T.8010-11;Krajina:T.28553-54(the groups merged once they reached the village of Ramljane).

458. None of the units, including the LATJ, was in combat with enemy soldiers.<sup>1715</sup> LATJ members burned civilian property in Ramljane village.<sup>1716</sup> Some of the perpetrators were those suspected of committing crimes in Grubori the previous day.<sup>1717</sup>

459. Janić called Markač, who was in Knin awaiting the Freedom Train's arrival, to report the incident.<sup>1718</sup> Markač and Sačić then arrived at the finishing point of the operation around the village of Ramljane.<sup>1719</sup> Markač arrived promptly because he was told that the LATJ had set fire to property<sup>1720</sup> and was concerned that those on the Freedom Train might observe the smoke.<sup>1721</sup>

460. On arrival, Markač saw houses on fire,<sup>1722</sup> and became angry.<sup>1723</sup> He confronted the LATJ<sup>1724</sup> and questioned Čelić as to the cause.<sup>1725</sup> Čelić identified the suspected perpetrators as those led by Drljo. Markač then directed his interrogation at Drljo,<sup>1726</sup> who admitted that he burned the houses in Ramljane.<sup>1727</sup>

<sup>1715</sup> P618;P581;Krajina:T.28557-58,28584;Zinić:T.28071;see Balunović:T.28419-21;

[REDACTED];Čelić:P761,p.14.

<sup>1716</sup> P766;Čelić:T.8029-30;Janić:T.6191-92;see Janić:P552,paras.65-66;Janić:P553,pp.310-13;Čelić:P761,p.141;Čelić:T.8012-13;Krajina:T.28558,28565,28591,28609;Zinić:T.28070,28077-78;Balunović:T.28361;Janić:T.6192;[REDACTED].

<sup>1717</sup> Čelić:P761,pp.142-43;see Čelić:T.8016.

<sup>1718</sup> Janić:P552,para.66;Janić:P553,pp.313-21.

<sup>1719</sup> [REDACTED];see Janić:P552,para.66;Janić:P553,pp.313-21;Čelić:T.8027;see Krajina:T.28562-63.

<sup>1720</sup> Čelić:P762,p.325;Balunović,T.28361-62;[REDACTED];Zinić:T.28077-78(Zinić's statement to the county court of Zagreb supports this).

<sup>1721</sup> [REDACTED];Krajina:T.28627(places the time frame of meeting between 1400-1500);

[REDACTED];D57,p.61(entry196);D2029(reflecting that the train was yet to pass);Janić:T.6193(confirming D57 and D2029: "...and since the train of freedom was *due to arrive* ...."(emphasis added)).

<sup>1722</sup> [REDACTED].

<sup>1723</sup> Čelić:P762,p.321;Janić:P553,pp.313-21;[REDACTED];Krajina:28563-64( Markač told the LATJ that they shouldn't have done that—"he probably meant burning of the houses" and that the unit may be "arrested and shipped to Zagreb");Zinić:T.28076;Balunović:T.28368;[REDACTED].

<sup>1724</sup> Čelić:T.8022;Čelić:P761,pp.141-42;Čelić:P762,p.320;Janić:P553,pp.313-21;Krajina:T.28563; [REDACTED].

<sup>1725</sup> Čelić:P761,pp.141-42;[REDACTED].

<sup>1726</sup> See Čelić:P762,p.321;Čelić:P761,pp.141-44("It was obvious that the houses were set on fire and it was very obvious that it was our unit who went through there and General Markač asked him what happened, how come these houses were set on fire");Balunović:T.28363.

<sup>1727</sup> Čelić:P762,pp.322-30(Čelić could not remember Drljo's exact words, but essentially he said: "yes I went through the village, and so what now?" (p.330));Čelić:P761,p.142-43(Drljo admitted that his group went through the village where the houses were on fire;Drljo also directed "ugly words" at Markač);Turkalj:P1152,pp.50-52(learned from Čelić that Drljo addressed Markač with words to the effect, "so I did, so I burnt them, so what now, kill me if you want" (p.50));Krajina:T.28565(Drljo said something like "I did it, so what can you do about it?");Balunović:T.28363("He said that he had set alight everything, whatever he could or whatever he wanted"),28422.

461. Instead of punishing the perpetrators, Markač simply withdrew the LATJ immediately from further operations and dispatched the unit to Zagreb.<sup>1728</sup> The Markač Defence argued that the LATJ was sent to Zagreb because they had finished providing security for the Freedom Train.<sup>1729</sup> The evidence establishes that the unit was not deployed exclusively for the security of the Freedom Train and that the withdrawal was not due to completion of the tasks.<sup>1730</sup> In any event, the unit withdrew before the Freedom Train passed the area, so the purported security task remained unfinished.<sup>1731</sup>

462. After withdrawing the LATJ, Markač issued a false report to cover up the crime, reporting the destruction in Ramljane as a collateral consequence of combat action when the LATJ met with resistance.<sup>1732</sup> He claimed that the LATJ had exchanged fire with two enemy soldiers, and three stables and three haystacks caught fire due to the use of a Zolja hand-held rocket launcher. The subordinate commanders of the LATJ, who participated in the operation, do not support Markač's report.<sup>1733</sup> Further, the evidence shows that the LATJ was not in possession of anti-tank weapons, including Zoljas, on 26-Aug-95.<sup>1734</sup>

463. Markač knew this version of events was false. When he questioned Čelić on the fire's cause,<sup>1735</sup> Čelić said nothing about enemy resistance and instead identified the group led by Drljo as the suspected perpetrators.<sup>1736</sup> Markač was not informed of an exchange of fire by anyone else at this meeting.<sup>1737</sup> Instead, Drljo admitted to Markač that he had set fire to the houses.<sup>1738</sup> Markač thus knew that the LATJ had burned civilian property in Ramljane. Indeed, Markač's withdrawal of the LATJ is consistent with his knowledge that the unit had committed crimes during the

<sup>1728</sup> Čelić:P762,p.328("the reason seemed obvious...The task was to search the terrain and what happened was that a couple of houses were on fire");Čelić:P762,pp.331;Janić:P553,pp.318-19.

<sup>1729</sup> [REDACTED]. D739 does not support this argument.

<sup>1730</sup> P558;[REDACTED];Balunović:T.28369-70;see Zinić:T.28079;Krajina:T.28567.

<sup>1731</sup> Janić:T.6193;see [REDACTED].

<sup>1732</sup> P579,p.3.

<sup>1733</sup> Krajina:T.28557-58,28584;Zinić:T.28070-71;Balunović:T.28419-21;[REDACTED];Čelić:T.8021-22;Čelić:P761,p.14.

<sup>1734</sup> Krajina:T.28558;[REDACTED];Čelić:P761,pp.88-89;Čelić:P762,pp.27-28,30,32-33,211-12;Čelić:T.7988-89,8028-29.

<sup>1735</sup> Čelić:P761,pp.141-42;[REDACTED].

<sup>1736</sup> Čelić:P762,p.323;Čelić:P761,pp.141-44;Balunović:T.28363.

<sup>1737</sup> Balunović:T.28363;[REDACTED];see Čelić:P761,pp.141-44;Čelić:P762,pp.321-23.

<sup>1738</sup> Čelić,P762,pp.329-30;Turkalj:P1152,pp.50-52;Krajina:T.28565;Balunović:T.28363,28422;see Čelić:P761,p.142;[REDACTED].

operation. Markac's false report is not supported by the official documentation of the LATJ.<sup>1739</sup>

464. Subsequently, five reports — including one the purported author denied writing and others he stated were not contemporaneously requested<sup>1740</sup> — alleged to be the contemporaneous underlying LATJ reports — were produced to substantiate Markač's false version of events.<sup>1741</sup> It is also apparent that Markač did not base his own false report, which includes specific alleged details not contained in those reports,<sup>1742</sup> on them. The totality of evidence belies both Markac's version that combat activity took place in Ramljane that day<sup>1743</sup> and the suggestion that he relied upon allegedly contemporaneous misleading reports of his involved subordinates.

465. Neither Markač nor any SP authority reported the Ramljane crimes to the Fundamental or Crime police for investigation,<sup>1744</sup> nor did they initiate any internal disciplinary measures to punish the perpetrators.<sup>1745</sup>

##### 5. Markač Failed to Prevent or Punish and Promoted a Climate of Impunity

466. As commander of the SP, Markač had a duty to maintain order and protect the civilian population within his area of command.<sup>1746</sup> He was responsible for the safety of the civilians in the SP's AOR,<sup>1747</sup> particularly in the context of the continued perpetration of crimes by his subordinates.<sup>1748</sup>

467. As demonstrated above, Markač failed to investigate the crimes or punish his subordinates who perpetrated them.<sup>1749</sup> Instead, he subsequently promoted and/or

<sup>1739</sup> P606; see Čelić:P762, pp.78-79; Turkalj:T.13658-60 (unable to explain the discrepancy between P579 and P606).

<sup>1740</sup> Krajina:T.28558-61, 28566-67 ("I wasn't asked to write a report, *nor was anyone else*, and I never wrote a report about Ramljane and the second day" (emphasis added), 28584).

<sup>1741</sup> P767; P768; P769; P770; P771; Janić:T.6197 (Janić's report for the day's activities could not be found); Janić:P553, pp.321-22.

<sup>1742</sup> P579, p.3 (the number of alleged terrorists encountered by the LATJ and the number of buildings on fire).

<sup>1743</sup> Krajina:T.28559-61; Žinić:T.28070-71; Balunović:T.28418, 28421; [REDACTED].

<sup>1744</sup> D57 (Knin police log book contains no record of a report of the incident).

<sup>1745</sup> Čelić:P761, p.143; Čelić:P762, pp.332-42.

<sup>1746</sup> Halilović TJ, para.82 (*obiter dictum*).

<sup>1747</sup> Orić TJ, para.304.

<sup>1748</sup> Orić TJ, paras.283, 304.

<sup>1749</sup> Janić:P552, paras.78-80; Janić:T.6196-97; Turkalj:P1149, paras.62, 68, 69.

awarded medals to his subordinates, including those suspected of committing crimes.<sup>1750</sup>

468. Markač's failure to take measures against his subordinates who perpetrated crimes in Storm and the related operations resulted in the commission of further crimes.<sup>1751</sup> He created an environment permissive of criminal behavior by subordinates. Drljo's dismissive reaction to Markač finally showing anger at the conduct of his troops<sup>1752</sup> captures the essence of the command climate Markač created, which encouraged his subordinates to commit crimes and advance the common purpose. As noted in the "War Path" of the Zagreb SJP, "Oluja' managed to send to the east, through Dinara and Srb, everything that had been repressing Croatian cause and freedom of thought for years").<sup>1753</sup>

## V. GENERAL REQUIREMENTS OF ARTICLES 3 AND 5

### A. Article 3

469. An armed conflict between the HV and the ARSK, backed by Serbia,<sup>1754</sup> existed throughout the Indictment Period.<sup>1755</sup> Conflict began in 1991,<sup>1756</sup> when Croatia commenced operations to re-take territory claimed by the ARSK. Hostilities continued with the ARSK—and Serbian forces more broadly—until November 1995.<sup>1757</sup> The intensity of the conflict between these well-organized parties<sup>1758</sup> varied but was sufficiently high to distinguish the "homeland war" from "banditry, unorganized and short-lived insurrections, or terrorist activities."<sup>1759</sup>

<sup>1750</sup> Čelić:P761,p.107;[REDACTED];Krajina:T.28580,28604 (Krajina was promoted on Markač's proposal);P2728;Zinić:T.28100;P2717;Čelić:P762,pp.452-53,461(all SP members who participated in Storm including members of the LATJ received medals. The 4 group leaders involved in the 25 and 26 August operations received awards);P1237,p.3;P616.

<sup>1751</sup> See Theunens:T.12285(There are "three aims of disciplinary measures. First of all...reforming the offender, i.e., ... measures are taken in order to prevent repetition by the same offender. Secondly, educating other members of the armed forces because...soldiers live in close groups. ... And thirdly, upholding the interests and discipline of the armed forces").

<sup>1752</sup> Turkalj:P1152,pp.50-52(quote,p.51).

<sup>1753</sup> P2679,p.1

<sup>1754</sup> Galbraith:T.4972-76,5186.

<sup>1755</sup> Tadić Jurisdiction AD,paras.67,70;Limaj TJ,para.84;Orić TJ,para.254.

<sup>1756</sup> Galbraith:T.4917.

<sup>1757</sup> Galbraith:T.49.67-68,5063,5110.

<sup>1758</sup> Tadić TJ,paras.565-67;Čelebići TJ,para.188-90;Rutaganda TJ,para.93;Hadžihasanović TJ,para.23;Limaj TJ,paras.171-72;Commentary to Geneva Convention III,pp. 35-36.

<sup>1759</sup> Tadić TJ,para.562;Limaj TJ,para.89;Čelebići TJ,para.184;.

470. Gotovina and Čermak stipulate to the extent of the armed conflict,<sup>1760</sup> subject to one reservation.<sup>1761</sup> By maintaining that the armed conflict concluded circa 8-Aug-95<sup>1762</sup> Markač erroneously equates diminution of active hostilities in a particular theatre with the end of the armed conflict.<sup>1763</sup> The events must be viewed in the context of the broader conflict in the former Yugoslavia<sup>1764</sup> and the series of Croatian offensives (in particular, Winter 94, Flash, Jump 1, Jump 2, Summer, Maestral and Southern Sweep) to meet the threat posed by the ARSK and affiliated Serb forces in Bosnia-Herzegovina.<sup>1765</sup>

471. Armed conflict between the HV and Serb forces continued after Storm.<sup>1766</sup> Croatian “mopping-up” operations in the “liberated” territory<sup>1767</sup> were punctuated by at least one counter-attack (Grahovo on 12-Aug-95).<sup>1768</sup> To counter the threat to Croatia’s borders, the HV, ABiH and HVO launched Maestral (8-15 September 1995)<sup>1769</sup> and Southern Sweep (8-15 October 1995)<sup>1770</sup> offensives against Serb-held areas in Western BiH.

472. The armed conflict continued beyond the cessation of hostilities until a general conclusion of peace or a peaceful settlement was reached.<sup>1771</sup> Negotiations initiated in Dayton on 1-Nov-95 continued parallel to negotiations with Croatian Serbs in Eastern Slavonia, Baranja and Western Srem (SBWS).<sup>1772</sup> A general conclusion of peace or a peaceful settlement was reached between Croatia and Croatian Serb authorities in Eastern Slavonia on 12-Nov-95 (“Erdut Agreement”).<sup>1773</sup> The Dayton Peace Accords<sup>1774</sup> were signed on 14-Dec-95.<sup>1775</sup>

<sup>1760</sup> Gotovina’s Pre-Trial Brief Stipulation, para.3; T.27320; T.27399.

<sup>1761</sup> Gotovina’s Pre-Trial Brief Stipulation, para.2.

<sup>1762</sup> T.27399,27404-05 (Markač purports to stipulate to a misrepresentation of the Prosecution’s position: Motion to Strike Markač’s stipulation to sections of the Prosecution’s Pre-Trial Brief. The purported stipulation lacks value. (See Judge Orić: T.28497)).

<sup>1763</sup> *Tadić* Jurisdiction AD, para.70.

<sup>1764</sup> Galbraith: T.4994-95,5009-10.

<sup>1765</sup> *E.g.*, Galbraith: T.5013-15,5051.

<sup>1766</sup> Galbraith: T.5057-58.

<sup>1767</sup> Theunens: P1113, pp.29,408.

<sup>1768</sup> Theunens: P1113, pp.406-07.

<sup>1769</sup> Galbraith: T.5060; Theunens: T.12853-54.

<sup>1770</sup> Theunens: T.12853-54.

<sup>1771</sup> *Tadić* Jurisdiction AD, para.70; *Kumarac* AJ, para.57; *Kumarac* TJ, para.568; *Vasiljević* TJ, para.25; *Limaj* TJ, para.84; *Orić* TJ, para.255.

<sup>1772</sup> Galbraith: T.4967-68.

<sup>1773</sup> Galbraith: T.4968,5110; P451, pp.298-99.

<sup>1774</sup> Galbraith: T.5063.

<sup>1775</sup> P451, pp.306-09.

473. The acts of the Accused and the physical perpetrators were closely related to the armed conflict.<sup>1776</sup> All of the crimes charged were linked to the HV/ARSK armed conflict through Storm. The Accused were key participants in Storm<sup>1777</sup> and, with their subordinates, committed crimes to further the military operation and the JCE—regaining the Krajina and forcibly displacing the Serbs.

## B. Article 5

474. Each of the acts charged as crimes against humanity was committed in armed conflict and formed part of a widespread or systematic attack directed primarily<sup>1778</sup> against the Serb civilian<sup>1779</sup> population of the southern portion of the Krajina region. This is evident from the nature of the crimes themselves.<sup>1780</sup> The limited presence of non-civilians does not deprive the population of its civilian character<sup>1781</sup> nor—provided all other necessary conditions are met—is it necessary that specific criminal acts are directed against civilians.<sup>1782</sup>

475. The attack was both widespread *and* systematic.<sup>1783</sup> It was organised at the highest levels of the Croatian government and executed in a pattern affecting virtually all Krajina Serbs.<sup>1784</sup>

476. The acts of the Accused and the physical perpetrators formed part of the attack.<sup>1785</sup> The Accused were key JCE members who planned, implemented, and led the attack, knowing their acts and those of the physical perpetrators formed part of the attack.<sup>1786</sup>

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<sup>1776</sup> *Kunarac* AJ, paras. 55, 58, 60, 64; *Rutaganda* AJ, paras. 569-71; *Stakić* AJ, para. 342; *Krajišnik* TJ, paras. 844, 846.

<sup>1777</sup> See “Gotovina”, “Čermak”, “Markač”.

<sup>1778</sup> *Kunarac* AJ, paras. 90-91.

<sup>1779</sup> *Martić* AJ, paras. 295-97, 302.

<sup>1780</sup> See “Crimes”.

<sup>1781</sup> *Mrkšić* AJ, paras. 31-32.

<sup>1782</sup> *Martić* AJ, paras. 305, 313.

<sup>1783</sup> *Kunarac* AJ, para. 93 (noting the alternative nature of the test).

<sup>1784</sup> See *Kordić* AJ, para. 94; *Blaškić* AJ, para. 101.

<sup>1785</sup> *Kunarac* AJ, para. 100.

<sup>1786</sup> *Kordić* AJ, para. 99.

## VI. CRIMES COMMITTED

477. Starting on 4-Aug-95, Croatian forces launched unlawful artillery attacks on civilian populated areas, resulting in the deportation and forcible transfer of the Krajina Serb population.

478. Following the unlawful artillery attacks and immediately upon entering the territory of the former RSK, Croatian forces engaged in widespread criminality, including looting and burning Serb property and harassing, intimidating, and killing the few remaining -- mainly elderly -- Serb civilians. As described in more detail below and in the annexes, these acts were not isolated incidents, but fell within a pattern of conduct illustrating the complete disregard of Croatian forces towards Serb civilians and their property.

479. These crimes were committed primarily by HV soldiers and SP members. It is uncontested that Croatian forces carried out the artillery attacks. While some (relatively few) crimes may have been committed by civilians, the vast majority of these crimes were carried out by HV soldiers.<sup>1787</sup> The evidence reveals there was no mass return of Croat DPs until 15-Aug-95, the date when passes were no longer necessary for civilians to enter the “liberated areas”, which coincided with the first train from Split arriving in Knin with approximately 500 civilians.<sup>1788</sup> Prior to that date, the military had full control of the area and checkpoints were established to prevent civilians from entering.<sup>1789</sup> In fact, few civilians were observed.<sup>1790</sup> Those

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<sup>1787</sup> See, e.g., D576, p.2 (“The perpetrators are for the most part uniformed HV personnel, while civilians are less frequently involved as perpetrators.”); P815, p.1 (“The burnings were to a large extent carried out by HV soldiers under command inside areas where access was strictly controlled by HV Military and Croatian Civilian Police.”). See also, Annexes A-C. Similarly, while some demobilization of HV soldiers took place during the Indictment Period, the evidence suggests that it did not begin until at least 9 or 10-Aug-95 (D882;D1382); most of the 7,911 Split-MD soldiers who appear to have been demobilized between 12-Aug-95 and 1-Sep-95 were actually demobilized after 21-Aug-95 (P2602, p.9 (Chart in B/C/S original); P1210; P2208), and some additional demobilization even occurred in Sep-95 (D882;D1382). In any case, no concrete evidence was presented to show that crimes were actually committed by demobilized soldiers, and as detailed below, the vast majority of crimes were committed by active HV soldiers in an organized manner.

<sup>1788</sup> P509; [REDACTED]; D496; Cicipi: D1723, para.25; [REDACTED]; Buhin: T.9944-45, 10168-69;

[REDACTED].

<sup>1789</sup> Cicipi: D1723, paras.22-24; Cicipi: T.23065-66, 23088-89; D1769; Morić: T.25829-30;

[REDACTED]; P830, para.3(f); Buhin: T.9944-45.

<sup>1790</sup> Morneau: T.3939-

40,3960; Morneau: P308, p.4; Elleby: T.3367, 3373, 3378; P352, p.6; Widen: P722, paras.34,36; Flynn: P20, p.17; Dawes: T.10526-27; Hill: T.3772; Vanderostyne: P321, para.33; Vanderostyne: T.4043-44; Dangerfield: T.7160; Dangerfield :P696, para.8; Forand: P330, p.12; Gilbert: P589, para.29; Berikoff: D284, p.21.

few Croat civilians who were in the Krajina before Storm or who were able to enter before 15-Aug-95 were not sufficient to sustain the campaign of plunder and arson that took place, reinforcing the contemporaneous accounts that most of the crimes were committed by soldiers in uniform. Civilians were involved in some looting later in the indictment period,<sup>1791</sup> but the few reported instances of such looting by civilians taking place shortly after the entry of Croatian forces into the area suggests they looted in concert with soldiers,<sup>1792</sup> and such crimes would in any event be attributable to the Accused.<sup>1793</sup> Moreover, in many instances soldiers were identified as perpetrators of crimes after 15-Aug-95.<sup>1794</sup>

#### **A. Count 1 – Persecution**

480. The Serbs in the Krajina were persecuted and discriminated against because of their ethnicity. They were the predominant victims of the forcible transfer and deportation, wanton destruction, plunder, murder, inhumane acts, cruel treatment, unlawful shelling attack, discriminatory laws, and expropriation of property that were carried out by the Accused, their subordinates, and/or other JCE members. For example, and as detailed below and in Annexes A-C, Croatian soldiers often insulted Serbs and referred to them as “Četniks” while committing crimes,<sup>1795</sup> and also spared Croat houses and Croat-majority villages from plunder and destruction.<sup>1796</sup>

#### **B. Counts 2+3 – Deportation and Forcible Transfer**

481. Croatian forces deported and forcibly transferred the predominantly civilian Krajina Serb population through unlawful artillery attacks on civilian populated areas during Storm and through a subsequent campaign of crimes.

482. Deportation and forcible transfer are committed by: (a) the displacement of persons by expulsion or other coercive acts; (b) from an area in which they are lawfully present; (c) within a state or across a *de jure* or *de facto* border; (d) without

<sup>1791</sup> See, e.g., Hansen:P1285,para.10;Hansen:T.14923-24;Dijkstra:P429,para.37;P68,pp.42-43.

<sup>1792</sup> See, e.g., Dawes:P980,p.10;P815,p.11;P806,para.4(a);Drča:P2690,p.3;P225;P228,p.2.

<sup>1793</sup> See *Martić* AJ,para.195.

<sup>1794</sup> See, e.g., P67,pp.2-3;P36,p.2;P818,p.2;P68,pp.18,34.

<sup>1795</sup> See, e.g., P950,p.2(“uniformed man beating Serb and telling him:”Chetnic, go away this is not your country”);see also “Counts4+5”, “Counts6+7”, “Counts8+9” below and Related Annexes.

<sup>1796</sup> See “Counts4+5” and Related Annexes.

grounds permitted under international law.<sup>1797</sup> The fact that the shelling attack was unlawful satisfies (d).<sup>1798</sup> The requisite *mens rea* for these crimes is the direct or indirect intent to displace the victims, permanently or otherwise.<sup>1799</sup> The absence of “genuine choice” to remain makes an act of displacement unlawful.<sup>1800</sup> It may be inferred from threatening and intimidating acts, including the shelling of civilian objects, burning of civilian property, and the commission of or the threat to commit other crimes calculated to terrify the population and make them flee.<sup>1801</sup>

483. The elements of deportation and forcible transfer have been established in this case. Tudman, Gotovina, other JCE members and their tools employed indiscriminate shelling over a thirty-hour period to terrify Serb civilians and, in accordance with the Brijuni Meeting plan, cause “even greater panic”,<sup>1802</sup> while also sending a signal that Serbs were not welcome in territories brought under Croatian rule.

484. Pursuant to Gotovina’s order,<sup>1803</sup> civilian population centres in the Krajina were put under artillery fire, including Knin, Benkovac, Obrovac and Gračac. In each of these towns and in outlying villages, shells, and rockets impacted civilian areas, causing civilian deaths and injuries, damage to civilian property, and a mass exodus of the civilian population. Civilians who were the object of the attack, as well as observers from multiple international organisations, uniformly described the terrifying effect of the attack.

485. By midday on 6-Aug-95 – two days after the artillery attack began – UN Sector South JORBat reported that 46,200 Serb refugees had crossed into Bosnia-Herzegovina.<sup>1804</sup> By 11-Aug-95 that number rose to approximately 72,000.<sup>1805</sup> In an

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<sup>1797</sup> *Stakić* AJ, paras.278,317; *Krajišnik* AJ, para.330 (Additionally, instances of forcible transfer may be sufficiently serious to constitute “other inhumane acts” under Art.5(i) ICTY St.; cf. *Krajišnik* AJ, para.331 (This condition is met here, where the forcible transfer is of similar seriousness to the instances of deportation).

<sup>1798</sup> See *Gotovina* Jurisdiction Decision, para.34.

<sup>1799</sup> *Stakić* AJ, paras.278,317.

<sup>1800</sup> *Stakić* AJ, para.279.

<sup>1801</sup> See *Stakić* AJ, para.281; *Milutinović* TJ, Vol.1, para.165; *Simić* TJ, para.126.

<sup>1802</sup> P461, 1D76-0110, p.10.

<sup>1803</sup> P1125, p.14.

<sup>1804</sup> P744, p.5.

<sup>1805</sup> P744, p.7.

order issued at the time, Gotovina described a “massive concentration of runaway civilians...almost every road is clogged.”<sup>1806</sup>

486. Those relatively few civilians who did not flee the shelling attack were soon forced from the area when Croatian forces engaged in a campaign of terror, including acts of intimidation, looting, arson and murder. As Gotovina had predicted,<sup>1807</sup> the few remaining Serbs who were subjected to these acts were predominantly the elderly and infirm who were unable or unwilling to flee their homes during the artillery attack. The Croatian MUP recorded only 191 Serbs left in the Zadar-Knin area by 6-Sept-95<sup>1808</sup> and by Nov-95, the UN reported that in the wider area of Sector South only 3,034 Serbs remained out of a pre-Storm population of 90,000.<sup>1809</sup>

487. The displaced Serb civilians had been lawfully present in the Krajina. Serb refugees testified to their ancestral heritage in the Krajina<sup>1810</sup> and subsequent Croatian legislation recognised the right of Krajina Serbs to return to their homes.<sup>1811</sup> Indeed, part of the JCE effort to deflect international condemnation was to make false overtures based on the right of Serb civilians to remain in the Krajina with their civil rights guaranteed.<sup>1812</sup>

#### 1. Croatian Forces Unlawfully Shelled Civilian Towns

488. “There is an absolute prohibition against the targeting of civilians in customary international law, encompassing indiscriminate attacks.”<sup>1813</sup> An attack is illegal if it is not exclusively directed at legitimate military objectives or if it does not employ means and methods which discriminate between those objectives and civilians and civilian objects in their proximity.

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<sup>1806</sup> D281,p.4.

<sup>1807</sup> P461,1D76-0110,p.15.

<sup>1808</sup> P899,p.15(includes:Korenica,Donji Lapac,Obrovac,Benkovac,Gračac,Knin)..

<sup>1809</sup> [REDACTED];seeP644,p.5;P899,p.16.

<sup>1810</sup> [REDACTED];P2660.

<sup>1811</sup> See“Obstacles-to-Return”

<sup>1812</sup> See, e.g.,P461,1D76-0110,p.29.

<sup>1813</sup> *Milošević* AJ,para.53, citing *Galić* AJ,para.190, and API,Art.51(5)(a).

489. While the indiscriminate nature of the attack is strong indicia that the attack was in fact directed against the civilian population,<sup>1814</sup> it also renders the attack without grounds in international law.<sup>1815</sup>

490. The participants at the Brijuni Meeting made it clear that Storm was intended to drive out the Serb civilians and military. This objective prompted Gotovina to deviate from the prior Main Staff directive<sup>1816</sup> and issue an order to shell civilian towns, in addition to specifically identified military objectives.

491. The attack carried out upon this order targeted civilians directly, or at a minimum was indiscriminate, violating the fundamental principle of distinction. Because alleged military objectives were not the focus of the attack, the Trial Chamber is not required to evaluate the legitimacy of attacking each alleged military objective, or engage in a proportionality assessment of attacks on those alleged objectives. An indiscriminate attack obviates a proportionality analysis, which only arises when a military target was, in fact, the object of attack. If the Trial Chamber decides to conduct a proportionality analysis, the evidence shows that the alleged military objectives were not lawfully attacked in the circumstances.

492. A determination that civilians were targeted is made on a case-by-case analysis, with no exhaustive set of criteria.<sup>1817</sup> Croatian forces intended to target civilians, as evidenced by the following:

(a) Gotovina ordered his subordinates to treat whole towns as targets for artillery and rocket fire.

(b) Gotovina did not attack legitimate military objectives. Civilian areas devoid of any alleged military objectives were targeted. Elsewhere, alleged military objectives were not damaged in comparison to civilian objects. Further, alleged targets located in

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<sup>1814</sup> *Milošević* AJ, paras.66.

<sup>1815</sup> An underlying act of forcible transfer and deportation must be without grounds in IHL, but the attack *in abstracto* does not need to be criminal. No grounds in IHL permit an indiscriminate attack in a civilian area and therefore no additional finding that the attack was directly targeting civilians is required here.

<sup>1816</sup> D956, p.6.

<sup>1817</sup> *Milošević* AJ, paras.66-67.

civilian populated areas were not in fact legitimate military targets in the circumstances.

(c) The means and methods used, including the indiscriminate weaponry employed, the duration of the attack and the irregular rates of fire belied a military purpose.

(d) Gotovina, and other HV commanders, failed to take precautionary measures as required by IHL.

*Gotovina Ordered Whole Towns Be Treated as Targets*

(i) Gotovina's Order Was Illegal On Its Face

493. Gotovina's Attack Order treats towns as single targets.<sup>1818</sup> Not only does it direct forces to put "the towns of Drvar, Knin, Benkovac, Obrovac and Gračac under artillery fire", but that order is treated as separate (by employing the word "and") from the order to shell specific military objects, such as command posts and communication centres.<sup>1819</sup> This is replicated in orders at every level of Gotovina's command structure, without further specification.<sup>1820</sup>

494. Treating whole towns as targets is illegal.<sup>1821</sup> By issuing this order, Gotovina violated the fundamental principle of distinction which requires commanders to distinguish at all times between civilian and military objects.<sup>1822</sup> An attack, by any method or means, which treats as a single military objective a number of clearly separated and distinct military objectives, is indiscriminate and prohibited.<sup>1823</sup>

(ii) Gotovina's Attack Order Implemented the Common Criminal Purpose

495. The motive of Gotovina and the other JCE members was the removal of Serb civilians: this is evident in the way Serbs were viewed by the Croatian leadership; the manner in which Croatian authorities prevented Serb return; and in discussions at the

<sup>1818</sup> See, e.g., Theunens:P1113, pp.368,438; Konings:P1259, p.16; Konings:T.14346-47,14760,14761-65,14768-69.

<sup>1819</sup> P1125, p.14.

<sup>1820</sup> D970, p.3(Corps); P1263, p.8; P1201, p.4(OG).

<sup>1821</sup> MiloševićAJ, paras.52-54,86.

<sup>1822</sup> BlaškićAJ, para.109; KordićAJ, para.54.

<sup>1823</sup> API, Art.51(5)(a).

Brijuni Meeting.<sup>1824</sup> This motive supports the literal and plain reading of Gotovina's order to shell entire towns. As the Defence's expert testified, in interpreting orders and imputing malice to Gotovina, "evidence of improper motive for creation of the risk should be highly probative."<sup>1825</sup>

496. Tudman always openly acknowledged his opposition to a multi-ethnic state.<sup>1826</sup> He and his close associates similarly made no secret of their desire to see the Serb "cancer" removed from Croatia.<sup>1827</sup> By 31-Jul-95, Tudman believed Croatia's political situation was favourable enough to strike directly at the Krajina Serbs. On that day he revealed his plan to act "boldly" to push the Serbs out and cover this effort with "pretext" arguments – he even went so far as to order a deliberate artillery attack on a Croatian town which then could be blamed on the Serbs (discussed below).

497. Tudman reminded the meeting's participants of the "many Croatian villages and towns [that] have been destroyed", lamenting that it was "still not the situation in Knin today." Seeking a reason to employ artillery, he anticipated a "counterattack from Knin and so forth," which "would provide very good justification for this action and accordingly, *we have the pretext to strike, if we can with artillery.*"<sup>1828</sup>

498. Gotovina assured Tudman that "if there is an order to strike at Knin, we will destroy it in its entirety in a few hours."<sup>1829</sup> Aware that destroying Knin would result in international condemnation and adversely affect plans to populate the area with Croats, Tudman clarified the need to be subtle in their efforts to avenge themselves on the Serbs, "so he gets a taste of it, and we pay him back."<sup>1830</sup>

499. Tudman made clear to Gotovina that the purpose of the operation was to have the Krajina Serb population leave: "...I've said, and we've said it here, that they should be given a way out here...Because *it's important that those civilians set out.*"<sup>1831</sup> Gotovina reassured his President that civilians were already leaving Knin,

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<sup>1824</sup> See "JCE Section".

<sup>1825</sup> Corn:D1642,pp.7-8.

<sup>1826</sup> See "Tudman JCE".

<sup>1827</sup> See D2029,p.1;Galbraith:T.5140.

<sup>1828</sup> P461,1D76-0110,p.10(emphasis added).

<sup>1829</sup> P461,1D76-0110,p.10.

<sup>1830</sup> P461,1D76-0110,p.11.

<sup>1831</sup> P461,1D76-0110,p.15(emphasis added).

and “that if we continue this pressure, probably for some time to come, there won’t be so many civilians just those who have to stay, who have no possibility of leaving.”<sup>1832</sup> Gotovina’s Plan of Security Measures for Storm subsequently assigned responsibility for “(c)ollecting and transporting the population *trapped* in liberated territory to collection centres....”<sup>1833</sup> Tudman responded to Gotovina by seeking assurances that the attack on Knin would be possible without hitting the UNCRO camp on the perimeter of the town; Gotovina said this was the case. Nobody expressed concerns about hitting civilian objects in Knin.<sup>1834</sup>

500. The ultimate purpose of the shelling attack was further made clear by the proposal for and use of psychological operations (“psy-ops”) to drive out the civilian population. At the Brijuni Meeting, Tudman and his son, the Head of Political Intelligence, discussed the need to close off certain routes, and broadcast which direction for Serbs to head, “so we have as little to do as possible.”<sup>1835</sup>

501. Later in the meeting, Šušak proposed achieving a further “psychological effect” by dropping leaflets among the Serbs after the first day of the operation: “We would point out the routes which they could use to pull out, and formulate them in such a manner to double the confusion such as it is.”<sup>1836</sup> Tudman agreed.<sup>1837</sup>

A leaflet of this sort – general chaos...Serbs, you are already withdrawing, and so forth, and we are appealing to you not to withdraw, we guarantee...This means giving them a way out while ostensibly guaranteeing them civil rights, etc...use radio and television, but leaflets as well....

Šušak added: “Use leaflets, but drop them among them. Instilling the feeling among them that you have succeeded, that you are above them, that you are dropping leaflets, *this will provoke something.*”<sup>1838</sup> Šušak later boasted to Ambassador

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<sup>1832</sup> P461,1D76-0110,p.15.

<sup>1833</sup> P1126,1D76-0110,p.3(emphasis added).

<sup>1834</sup> SeeP461,1D76-0110,p.15.

<sup>1835</sup> P461,1D76-0110,p.23.

<sup>1836</sup> P461,1D76-0110,p.29.

<sup>1837</sup> P461,1D76-0110,p.29. The Defence’s argument that the word *tobože* should be translated as an adjective rather than an adverb is inconsequential. However *tobože* is translated, the context of President Tudman’s makes it clear that he wanted Serbs to leave and had no intention of guaranteeing their civil rights in any meaningful way (*see* “Tudman JCE”).

<sup>1838</sup> P461,1D76-0110,p.29.

Galbraith about the use of psy-ops, including the issuing of instructions over Serb radio for Serbs to leave.<sup>1839</sup>

502. Gotovina acknowledged that without psy-ops, civilians “would have certainly stayed”.<sup>1840</sup> His plan for special warfare, issued on 1-Aug-95, included “[l]aunching rumours and disinformation through media and leaflets”<sup>1841</sup> Gotovina admitted in his book that he used leaflets to persuade the local population to leave, and “that this action had an effect.”<sup>1842</sup>

503. P480 is a copy of one of these leaflets. A Cyrillic leaflet purporting to be from Mrkšić, ARSK Commander, it orders “the entire population to withdraw from the sector of combat operations by the route Benkovac–Zegar–Srb”. The false nature of the document is apparent from the “official” stamp, which is partly in Latin script rather than Cyrillic.<sup>1843</sup> Mrkšić confirmed that he had never seen the document nor given the order contained in it.<sup>1844</sup> The letter enclosing the fake leaflet confirms that it was the type of leaflet Gotovina admitted was dropped from planes.<sup>1845</sup>

504. Gotovina’s admission that these leaflets “had an effect” was confirmed by local resident Večerina, who found a leaflet in Cyrillic, purporting to be from the ARSK, instructing civilians to flee towards Srb. She confirmed that she and her family took this route,<sup>1846</sup> and observed a number of such leaflets on Velebit mountain.<sup>1847</sup>

505. Fake radio broadcasts directing the civilian population to flee using specified routes<sup>1848</sup> were also used to disseminate “rumours and disinformation”, in accordance with Gotovina’s order.<sup>1849</sup>

506. Gotovina found the psy-ops used in Storm so successful that he replicated them in subsequent operations. In Southern Move, Gotovina’s staff again drafted a

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<sup>1839</sup> Galbraith:T.4941-4942;Galbraith:P444,para.61.

<sup>1840</sup> P1113,p.456.

<sup>1841</sup> P478,p.2.

<sup>1842</sup> P1113,p.455.

<sup>1843</sup> *C.f., e.g.*,D223.

<sup>1844</sup> Mrkšić:T.19145.

<sup>1845</sup> P484,p.2.

<sup>1846</sup> Večerina:P652,para.10;Večerina:P653,para.5.

<sup>1847</sup> Večerina:P653,para.5.

<sup>1848</sup> D929,p.2;Novaković:T.11820,11978;Hendriks:T.9821-22.

<sup>1849</sup> P478,p.2.

fake message to Serb civilians purporting to be from Serb authorities, appealing for “the civilian population to leave Mrkonjić Grad and its general area, and start towards Banja Luka”.<sup>1850</sup>

(iii) The Attack Was Carried Out in Accordance With Gotovina’s Order

507. HV reports demonstrate that Gotovina’s troops carried out his order literally, treating the towns identified in his order as the targets for artillery fire. TS-4 reported firing 130mm cannons “at a *residential area* in Knin”<sup>1851</sup> and “in irregular intervals...at the *general area* of Knin”.<sup>1852</sup> TS-3 reported firing 130mm cannons at Knin generally, including, for example, “from 1230 hours every 15 minutes x 2 *at Knin*”.<sup>1853</sup> The 4GBR reported receiving an order from the OG, at 0920hrs on 5-Aug-95, “not to hit Knin with artillery any more...”,<sup>1854</sup> and at 1038hrs, that “Brigade Commander requests that it should no longer be fired on the city of KNIN, because our troops are already there.”<sup>1855</sup> TRS-5 reported firing 130mm canons “at Gračac”.<sup>1856</sup>

508. Gotovina’s implementation of the Brijuni objective that civilians flee is reflected in shelling that would otherwise be described as counter-intuitive in a military operation. Mrkšić, ARSK Commander, was informed during the attack that inhabited places were being shelled: “That was not logical, rather than pounding the front, they were opening fir[e] at villages where there were no combatants.”<sup>1857</sup>

509. Gotovina’s intentions are confirmed by his own awareness that his order was being implemented as literally written, and his subsequent continuation of the attack. Soon after the attack commenced, Forand sent Gotovina a letter protesting “in the most vigorous manner the unprovoked artillery attack on Knin and the towns of Drniš, Medak, Bunić, Benkovac and Kistanje....”<sup>1858</sup> Prior to 1000hrs on 4-Aug-95 the Split MD Command was passing information to Zagreb that “(t)he city of Knin and the first

<sup>1850</sup> P481;Theunens:P1113,p.464.

<sup>1851</sup> P1267,p.2(emphasis added).

<sup>1852</sup> P1268,p.1(emphasis added).

<sup>1853</sup> P2342,p.3(emphasis added).

<sup>1854</sup> P2343,p.35.

<sup>1855</sup> P2343,p.36.

<sup>1856</sup> P2436,p.6.

<sup>1857</sup> Mrkšić:T.18925,19064.

<sup>1858</sup> P83;Forand:P331,p.10(confirming it was faxed to Gotovina’s UN liaison officer);seeLuković:T.22430-34(discussing receipt of such protests by the liaison officer).

defence lines of the 7<sup>th</sup> Knin Corps...are under a strong artillery attack of the HV forces.”<sup>1859</sup>

510. Gotovina personally received reports from subordinate units of the Split MD every six hours<sup>1860</sup> and otherwise toured the OGs by helicopter.<sup>1861</sup> OG Zadar reported, approximately two hours into Storm, “People are fleeing from Benkovac”.<sup>1862</sup> OG North’s intelligence reported at 0830hrs “there is a great panic in the town centre”, referring to Knin.<sup>1863</sup> The Split MD Political Activity Department reported on 4-Aug-95: “There is a lot of panic among civilian population and many civilians are moving out towards Knin”.<sup>1864</sup> At the “Working Meeting” of the Split MD Command on the evening of 4-Aug-95, the Chief of Artillery confirmed for Gotovina: “Artillery attacks against enemy towns”,<sup>1865</sup> and the Chief of Intelligence reported: “Panic in Knin, evacuation of civilians and KK/Krajina Corps/ Command expected.”<sup>1866</sup> Rear-Admiral Domazet, in a MORH Intelligence Administration Report of 4-Aug-95, described the effect the attack had on the population:<sup>1867</sup>

The majority of towns (Knin, Drniš, Plaski, Petrinja, Dubica) were directly threatened, which caused a large-scale (organised or spontaneous) moving out of civilians....

(iv) There Is No Justification For Issuing an Order to Shell Towns

511. Gotovina knew his subordinates would not interpret his order to mean that only military targets within the named towns were to be legitimately attacked. The detailed nature of the Attack Order as a whole demonstrates that Gotovina had no intention of leaving key operational details to subordinates. The order to shell towns makes no reference to military objectives, and no reference to the “Tabular/Textual Attachment” that Rajčić said was produced. In any event, Rajčić identified the alleged military objectives selected in the named towns and, as discussed in detail below, those objects were subject to few, if any, artillery strikes in comparison to residential areas of the towns. The indiscriminate weaponry Gotovina employed to implement

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<sup>1859</sup> D1096,p.2.

<sup>1860</sup> Theunens:P1113,pp.374-76;seeRajčić,T.16459.

<sup>1861</sup> Rajčić,T.16470-1.

<sup>1862</sup> P2436,p.6.

<sup>1863</sup> Theunens:P1113,p.381.

<sup>1864</sup> P479,p.2.

<sup>1865</sup> P71,p.82.

<sup>1866</sup> P71,p.82.

the order, from up to 26kms away,<sup>1868</sup> further illuminates the literal nature of his order to shell whole towns.<sup>1869</sup>

512. Expert Konings testified that “[i]n the operational decision-making process, the commander’s intent is the key aspect...The intent is the effect that a commander wishes to achieve with his operation”.<sup>1870</sup> Konings said that to issue an order such as Gotovina’s, without any further explanation, was “not appropriate”<sup>1871</sup> and that Gotovina had created conditions to allow lower commanders to fire randomly into those cities.<sup>1872</sup> The concern that lower units would interpret the order in this manner is borne out in Gotovina’s subordinates’ orders, which mimic his original order (discussed above), and the manner in which the shelling was conducted.

513. Gotovina was obliged to “do everything feasible to verify that the objectives to be attacked [were] neither civilians nor civilian objects” and to take “all feasible precautions in the choice of means and methods of attack” to avoid or minimize adverse effects on civilians.<sup>1873</sup> The API Commentary notes that the law prohibits putting subordinates in the position to choose between a legal and illegal interpretation of an order, observing that because lower-ranks “may have to take very serious decisions regarding the fate of the civilian population and civilian objects[,] [i]t clearly follows that the high command of an army has the duty to instruct personnel adequately so that the latter, even if of low rank, can act correctly in the situations envisaged.”<sup>1874</sup>

514. Even Defence expert Corn, who believed it was not Gotovina’s intention to shell whole towns, acknowledged that a reasonable interpretation of Gotovina’s order

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<sup>1867</sup> Theunens:P1113,p.381.

<sup>1868</sup> Rajčić:T.16280.

<sup>1869</sup> See “Means & Methods” *below*; also Konings:T.14369;14315;Konings:P1259,p.12.

<sup>1870</sup> Konings:P1259,p.3.

<sup>1871</sup> Konings:T.14352.

<sup>1872</sup> Konings:T.14760,14765.

<sup>1873</sup> API,Art.57(2)(a)(i)-(ii). The principle of distinction, as codified in Articles 48, 51, 52, 57 of API, is part of customary international law applicable in both international and non-international armed conflicts: *see* MiloševićTJ,para.941;GalićAJ,para.119;Kordić&ČerkezAJ,para.59. In any event, as successors of SFRY, the parties were bound by Additional Protocol I (*see* Kordić&ČerkezTJ,paras.167;Kordić&ČerkezAJ,paras.40-42). This was an international armed conflict by virtue of the involvement of HVO, VJ and VRS forces.

<sup>1874</sup> API Commentary,para.2197.

is “an order to conduct an unlawful attack on those towns”.<sup>1875</sup> He testified that he would never have used such language in an order “because I wouldn't want there to be any uncertainty as to what [the] intent was.”<sup>1876</sup> Corn conceded if Gotovina's subordinates interpreted his order to shell the town of Knin in an illegal fashion, then Gotovina is responsible for it.<sup>1877</sup>

(v) Imputation of Good Faith is Not Warranted

515. Contrary to the assumption Defence expert Corn relied upon,<sup>1878</sup> good faith cannot be imputed to Gotovina to counteract his issuance of an illegal order. Immediately prior to Storm, Gotovina was party to a plan to deliberately shell an inhabited Croatian town to make it appear that the ARSK had attacked, in order to provide a pretext for the attack on Krajina towns. Šušak told Brijuni Meeting participants that their plan to have Markač “goad[ ] them into causing provocation” may not be sufficient and that an “inhabited place” like Gospić should be shelled.<sup>1879</sup>

516. The following day, Croatian TV and CALOs reported that Gospić had been shelled by Serbs. ECMM reported explosions in Gospić and recorded that “no-one has been allowed to investigate the craters, or even the general area of the 'impacts' due to 'security reasons'”. ECMM's Team Korenica was told by the ARSK's Lika Corps that they did not order the attack.<sup>1880</sup>

517. Gotovina's forces had also engaged in shelling Serb civilians and civilian objects before Storm. Defence expert Corn testified that “an overall record of good faith application is probative circumstantial evidence in relation to determining whether the decision under judicial scrutiny violates law.”<sup>1881</sup> He noted the opposite was equally true: “Assuming we can attribute [a] prior indiscriminate attack to the commander, that he was responsible for it, then I don't...see how you could ignore that as a factor in assessing the legality of a subsequent attack.”<sup>1882</sup>

<sup>1875</sup> Corn:T.21264;seeCorn:T.21259.

<sup>1876</sup> Corn:T.21257-59.

<sup>1877</sup> Corn:T.21473-74.

<sup>1878</sup> Corn:D1642,pp.23,27.

<sup>1879</sup> P461,1D76-0110,p.30.

<sup>1880</sup> P831,pp.1-2.

<sup>1881</sup> Corn:D1642,pp.6-7.

<sup>1882</sup> Corn:T.21510.

518. In the weeks preceding Storm, Gotovina's forces – including the 7GBR<sup>1883</sup> (later responsible for firing MBLRs at Knin, discussed below) – shelled the village of Cetina, depriving the civilian Serbs of their harvest and causing many to flee to Knin.<sup>1884</sup> Forand sent several protest letters to Gotovina,<sup>1885</sup> including one dated 12-Jul-95 pointing out that civilians had been injured by shelling in areas where there were no military targets.<sup>1886</sup> Senior UNMO Hjertnes described the same shelling incident as one that “could only be regarded as the deliberate targeting of innocent people.”<sup>1887</sup> The absence of military targets in areas shelled was confirmed by Witnesses P-136,<sup>1888</sup> Tchernesky,<sup>1889</sup> Ermolaev<sup>1890</sup> and Marti.<sup>1891</sup>

519. Gotovina lied to Forand, denying his forces were shelling Cetina.<sup>1892</sup> On 16-Jul-95, however, he ordered his forces to suspend fire in the area of Cetina “due to harvesting of the local Serbian population who are carrying out works under the escort of the UNCRO patrols”.<sup>1893</sup>

520. The HV also shelled the village of Strmica before Storm.<sup>1894</sup> Although there was an ARSK presence in the area outside of Strmica, there was no military hardware and no troops in Strmica itself.<sup>1895</sup> Shelling by Gotovina's forces caused damage to civilian structures, including residences, within the town.<sup>1896</sup>

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<sup>1883</sup> D155(Gotovina ordering 7GBR (Pumas) to cease shelling Cetina).

<sup>1884</sup> P744,p.1;P-136:T.666-69,794;P-54:T.2780-81;Tchernetsky:P204,p.2;Tchernetsky: T.3173-75;P207(map);Bellerose:D513,pp.24,32;Marti:P417,para.20;Marti:T.4589-93; [REDACTED].

<sup>1885</sup> P334.

<sup>1886</sup> P335.

<sup>1887</sup> P99,p.8.

<sup>1888</sup> P-136:T.797-98.

<sup>1889</sup> Tchernetsky:P205,para.13;Tchernetsky:T.3174-77,3269.

<sup>1890</sup> Ermolaev:T.2431-32.

<sup>1891</sup> Marti:P417,para.20;Marti:T.4593. The evidence refutes Gotovina Defence suggestion to UNMOs that FOM restrictions prevented UNMOs from observing “mobile targets”. Tchernetsky:T.3275-3278;seeBerikoff:P744(showing UNMOs reporting from Cetina). The Gotovina Defence also conflated the shelling of Cetina and Vrlika (*see*Hill:T.3809-10), however P418 (marked by Marti:T.4589-92) shows that shelling observed in and around Cetina was in an area distinct from Vrlika.

<sup>1892</sup> Forand:P331,p.2.

<sup>1893</sup> D155.

<sup>1894</sup> Hill:P292,p.6;Berikoff:P744;Bellerose:D513,pp.32-33;Marti:P417,para.28;Marti:T.4595-96.

<sup>1895</sup> Berikoff:P741,para.1;Tchernetsky:P205,para.2;seeMarti:T.4656-57.

<sup>1896</sup> Berikoff:T.7673;Tchernetsky:T.3178-79;P209(marking “R-2”);also Tchernetsky:T.3180;Tchernetsky:P204,p.2;P208;Marti:P417,para.32;Marti:T.4595-96.

*Gotovina Attacked the Civilian Population, Not Legitimate Military Objectives*

521. Pursuant to Gotovina's order to "put[] the towns of Knin, Benkovac, Obrovac and Gračac under artillery fire",<sup>1897</sup> the HV indiscriminately fired into the named towns, striking civilians and civilian objects.

522. The areas fired upon were dense residential areas populated by civilians. The widespread artillery strikes in residential areas devoid of alleged military objectives cannot be described as collateral damage to a legitimate attack. Elsewhere, the almost complete lack of damage to alleged military objectives is consistent with the fact that civilians and civilian objects were the primary object of the artillery attack. It also undermines the assertion that the attacking forces believed such allegedly targeted objects to be of high military value. To the extent that the HV forces did attack those alleged military objectives, they did not constitute legitimate military objectives (Art.52(2)API) or the risk to civilians and civilian objects far outweighed any concrete and direct military advantage anticipated (Art.51(5)(a)API), and was thus unlawful.

(vi) Gotovina's Forces Attacked Residential Areas in Knin

523. Knin, the largest town in the Krajina with at least 15,000 residents,<sup>1898</sup> was densely populated<sup>1899</sup> on the eve of Storm.<sup>1900</sup> Rajčić acknowledged that the population had swelled immediately prior to Storm due to the arrival of Serb refugees from areas already attacked by Croatian forces, including Strmica, Bosanski Grahovo and Glamoč.<sup>1901</sup> Refugees also fled to Knin from Cetina.<sup>1902</sup> After the 27-Jul-95 ARSK mobilisation, Knin was overwhelmingly civilian.<sup>1903</sup>

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<sup>1897</sup> P1125,p.14

<sup>1898</sup> Dawes:P980,p.2;Dawes:P981,para.2;Leslie:T.1937;Dangerfield:P695,para.31;The 1991 census shows population of Knin municipality as 42,954 (37,888 Serbs):C5p17(B/C/S), and Knin town population of 12,331(9,867 Serbs). Witnesses put the pre-Storm population of Knin at or above 30,000 people.*See*Pašić:D1710,p.2;Dawes:P980,p.2;Dawes:P981,para.2. Gotovina Defence told Corn to assume a population of only 3000 (T.21543-44). This low figure is not supported by the evidence.

<sup>1899</sup> *See, e.g.*, Dangerfield:P695,paras.3,31;Leslie:T.1937.

<sup>1900</sup> Dangerfield:P695,paras.3,31;Dawes:P980,p.2,P981,para.2;Leslie, T.1937.

<sup>1901</sup> Rajčić:T.16484.

<sup>1902</sup> *See*Dawes:T.10386,10453;Leslie:T.1937.

<sup>1903</sup> *See*Dangerfield:P695,para.3;Berikoff:P739,p.3;Berikoff:P740,para.2(a);Berikoff:D284,pp.4,11; [REDACTED];[REDACTED];Dawes:P980,p.2;Hill:P291,p.3;Leslie:T.1937-38;Williams:P925,p.2.

524. Gotovina's forces shelled Knin for 25 hours over a 30-hour period on 4 to 5-Aug-95. The first day of shelling began at 0500hrs,<sup>1904</sup> and lasted until just after midnight.<sup>1905</sup> The attack was marked by an initial severe barrage<sup>1906</sup> of at least 300 projectiles,<sup>1907</sup> followed by shelling of varying intensity for the remainder of the day,<sup>1908</sup> including periods of harassment fire.<sup>1909</sup> The second day of shelling began at 0520hrs on 5-Aug-95<sup>1910</sup> and lasted until approximately 1100hrs,<sup>1911</sup> following the same pattern of intense initial attack<sup>1912</sup> followed by hours of harassment fire.<sup>1913</sup>

a. North-east Quadrant

525. The north-east quadrant of Knin consisted only of residences, in addition to the Knin Hospital and the ECMM headquarters.<sup>1914</sup> The Defence acknowledged no military objectives existed in this area.<sup>1915</sup>

<sup>1904</sup> See, e.g., P100, p. 1; P101, p. 1; Berikoff: P739, pp. 2-3; P744, pp. 2-3; Berikoff: P748, p. 5.

<sup>1905</sup> See, e.g., Leslie: T. 1963; Dangerfield: T. 7146; Berikoff: P739, pp. 2-3; P744, pp. 2-3; Berikoff: P740, para. 2(i); Berikoff: D284, p. 12; Berikoff: P748, p. 6.

<sup>1906</sup> See P100, p. 1; [REDACTED]; Bellerose: T. 5870; Berikoff: P748, p. 5; Gilbert: P591, p. 1; Hill: P291, p. 4; Hill: P292, pp. 10-13; Hill: T. 3738; Leslie: T. 1941-42; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

<sup>1907</sup> See P101, p. 1; P744, p. 2; Gilbert: P589, para. 23.

<sup>1908</sup> See P100; [REDACTED]; P744, pp. 2-3; Dangerfield: P695, para. 30; Dijkstra: P428, p. 3; Gilbert: P589, para. 20; Williams: P926, para. 3; P930, p. 1.

<sup>1909</sup> See "Means & Methods".

<sup>1910</sup> D124, p. 1.

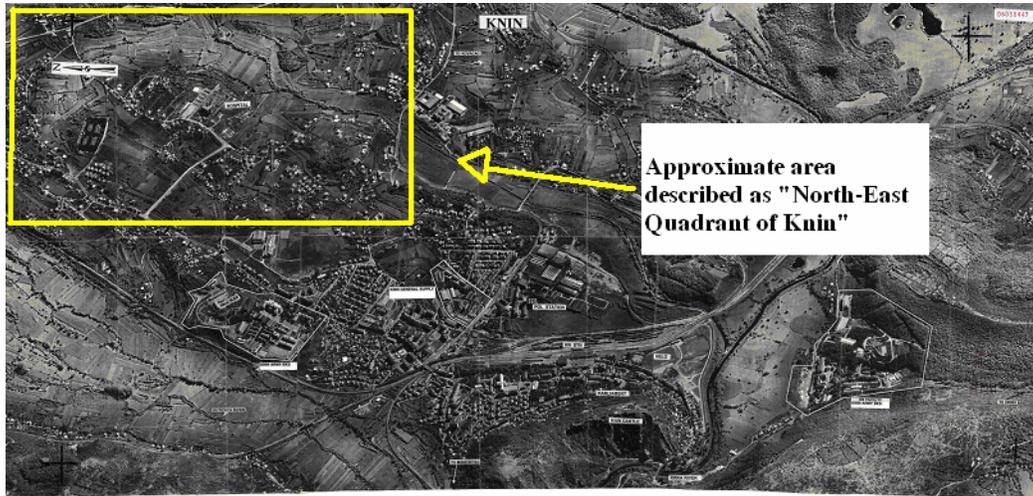
<sup>1911</sup> Leslie: T. 1965-66.

<sup>1912</sup> [REDACTED]; Bellerose: T. 5870; Berikoff: P740, para. 2(j); Berikoff: D284, p. 12; Berikoff: P748, p. 6; Dangerfield: P695, para. 33; Dangerfield: T. 7149; Dijkstra: P428, p. 3; Dijkstra: P429, paras. 25-26; Dawes: P980, p. 7; P593, p. 2; Gilbert: P589, para. 21; Hill: P291, p. 5; Hill: P292, p. 14; Leslie: T. 1966; Williams: T. 9535.

<sup>1913</sup> See, e.g., Williams: T. 9531, 9535; Williams: P925, pp. 4-5; see further below.

<sup>1914</sup> P746(map); Grubor: T. 1405; P58(map); see Berikoff: T. 7617; Hansen: T. 14901-2; P1298(map).

<sup>1915</sup> Closest alleged target was an alleged mortar platoon: D. 131.



526. This area was shelled on 4-5 August, including with MBRLs. Grubor witnessed shelling in the area immediately around her apartment in the north-east quadrant in the early morning hours of 4-Aug-95.<sup>1916</sup> Dawes took three trips through Knin on 4-Aug-95 and witnessed shelling in the north-east quadrant, specifically near the ECMM HQ where he estimated that “the area was the target of approximately 40 rounds.”<sup>1917</sup> Dawes was injured by falling projectiles in this area.<sup>1918</sup> Dreyer, who also travelled through Knin on 4-Aug-95, also saw a significant number of projectiles land in the northeast quadrant.<sup>1919</sup> ECMM observer Hansen observed a shell landing twenty metres from the ECMM HQ.<sup>1920</sup>

527. Grubor,<sup>1921</sup> Hansen,<sup>1922</sup> Bellerose<sup>1923</sup> and Berikoff<sup>1924</sup> all observed artillery impacts on or immediately proximate to the hospital. Contrary to a Defence suggestion that the shell impacts near the hospital were caused by the ARSK “as a retreating force” firing back into the HV positions in Knin on 5-Aug-95, Berikoff

<sup>1916</sup> Grubor:T.1446;Grubor:P54,p.1;*also*Grubor:T.1386;P58(marked:4,6-11,14);Grubor:P54,p.4.

<sup>1917</sup> Dawes:P980,p.6.

<sup>1918</sup> Dawes:T.10391-93.

<sup>1919</sup> Dreyer:P78(map);Dreyer:T.1720,1727.

<sup>1920</sup> Hansen:P1283,p.3.

<sup>1921</sup> Grubor:P54,p.4;Grubor:T.1432-33. The Defence challenged Grubor’s recollection of shelling around the hospital by tendering a video (D68) purporting to show the normality of the situation at the hospital during the attack. However, the video was initially offered without audio, which reveals the sound of explosions and a voice stating: “Operating theatre must be put in there because it’s very dangerous to work upstairs because of great bombing of city of Knin and near area. More than three hours Knin is shelled and a lot of wounded especially civilian is in this city”(T.4806-07).

<sup>1922</sup> Hansen:P1283,p.3;*see* Hansen:T.14900-02;P1298(map).

<sup>1923</sup> [REDACTED];Bellerose:T.5866-67.

<sup>1924</sup> Berikoff:D284,pp.8,14;Berikoff:P741,para.4;Berikoff:T.7697.

clarified that there were artillery and rocket impacts in that area on 4-Aug-95.<sup>1925</sup> This is reflected in TS-4's report that they fired "5 projectiles from a T-130mm at the hospital in Knin" at 0630hrs on 4-Aug-95.<sup>1926</sup>

b. Other Residential Areas in Knin

528. Other residential areas in Knin were shelled, including areas so distant from alleged military objectives that the shelling cannot be explained as expected deviations from legitimate targeting.

529. HV records show that in many instances residential areas themselves were specifically targeted.<sup>1927</sup> TS-4's reports of firing projectiles at "a residential area",<sup>1928</sup> "at Knin"<sup>1929</sup> and "at the general area of Knin"<sup>1930</sup> contrast with the specification of targets elsewhere.

530. Numerous witnesses observed shelling in residential areas of Knin. Witness P-136 witnessed shelling in residential areas where she travelled or took shelter<sup>1931</sup> and recalled that when fleeing her apartment to seek shelter at the UN compound in the afternoon of 4-Aug-95, shells fell all around her.<sup>1932</sup> Witness P-54 was unable to leave the hotel where he was seeking shelter because shelling in that area was so intense.<sup>1933</sup> Grubor observed shells impacting in residential areas below the Knin castle,<sup>1934</sup> north of the town centre,<sup>1935</sup> and a residential building in the town centre.<sup>1936</sup>

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<sup>1925</sup> Berikoff:T.7,697-98.

<sup>1926</sup> P1267,p.2;Rajčić:D1425,paras.22-23(Rajčić initially testified that although the word "Hospital" was used on the target list, the coordinates associated with it actually mark a field in the area of the Hospital). During testimony, Rajčić gave differing versions for why this area was targeted (Rajčić:T.16614-15). In any event, the evidence establishes that area immediately around the hospital was shelled.

<sup>1927</sup> P1267,pp.2-3;P1268,p.1.

<sup>1928</sup> P1267,p.2.

<sup>1929</sup> P1267,p.3.

<sup>1930</sup> P1268,p.1.

<sup>1931</sup> [REDACTED];[REDACTED];P4;P-136:T.639-40(map);seeP-136:T.696-97,700,800,804.

<sup>1932</sup> P-136:T.692-93.

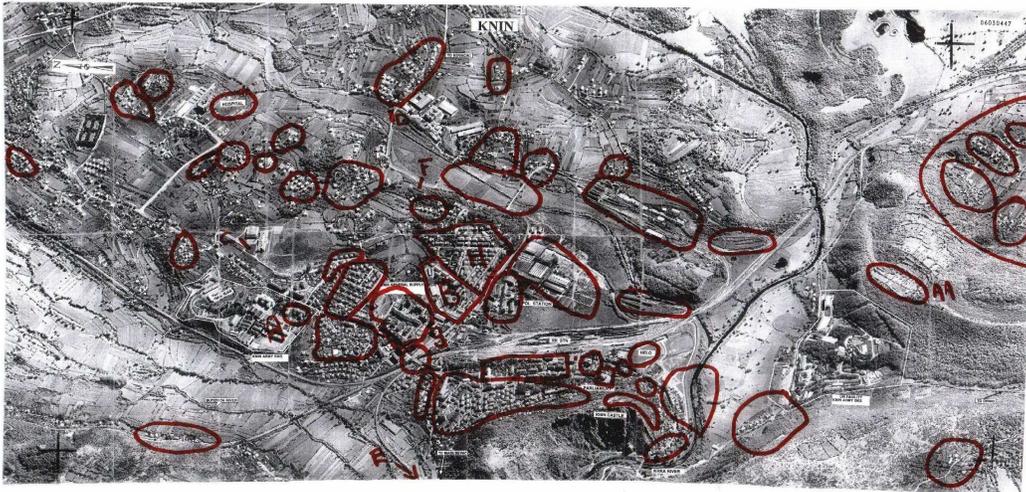
<sup>1933</sup> [REDACTED];see P189p.2(house marked "B");P-54:T.2784.

<sup>1934</sup> Grubor:T.1403-04.

<sup>1935</sup> Grubor:T.1404-05;see Grubor:T.1397-402.

<sup>1936</sup> Grubor:T.1396.

531. Bellerose,<sup>1937</sup> Hansen,<sup>1938</sup> Berikoff,<sup>1939</sup> Williams,<sup>1940</sup> Al-Alfi,<sup>1941</sup> Roberts,<sup>1942</sup> Widen<sup>1943</sup>, Hill,<sup>1944</sup> Boucher<sup>1945</sup> and Dangerfield<sup>1946</sup> were amongst other international personnel who observed shelling in residential areas. Dryer made five round trips through Knin during the attack<sup>1947</sup> and marked the areas he “observed or experienced shelling” on a map,<sup>1948</sup> noting: “What I should have done is I should have taken a big pen and drawn a circle right around Knin and not specify and say: This is the area of impact. Because that was the area of impact. Knin itself, in all directions where I travelled....”<sup>1949</sup>



**Exhibit P78** (Map of shelling areas marked by Andries Dreyer)

532. ARSK witnesses<sup>1950</sup> and reports<sup>1951</sup> also identify shelling in residential areas.

<sup>1937</sup> Bellerose:T.5867-69;[REDACTED];P547.

<sup>1938</sup> Hansen:P1283,p.3;Hansen:P1285,para.18;Hansen:T.14900-01.

<sup>1939</sup> Berikoff:D284,p.17;Berikoff:P739,p.3;P746(map);Berikoff:D284,p.8.

<sup>1940</sup> Williams:T.9533-34;Williams:P925,pp.4-5;P927,p.1.

<sup>1941</sup> Al-Alfi:T.13807-08.

<sup>1942</sup> Roberts:P676,pp.1-4;Roberts:P678,p.3;P681;Roberts:T.6820-22(describing P682 markings).

<sup>1943</sup> Widen:P721,pp.2-4;Widen:P722,pp.3-5,10(map);Widen:T.7351.

<sup>1944</sup> Hill:P292,pp.99-100;seeP298;P299.

<sup>1945</sup> Boucher:P1177,para.40;Boucher:T.13967-69;P1179(Boucher marked his house and other damaged residential houses);seeBoucher:P1176,para.5.

<sup>1946</sup> Dangerfield:P695,para.30;Dangerfield:T.7141-42(marking P697);alsoDangerfield:T.7143-44(rejecting suggestions shells landing in residential areas could have been intended for proximate military targets).

<sup>1947</sup> Dreyer:P72(each trip marked on maps P73-P77).

<sup>1948</sup> Dreyer:T.1732(mapP78);alsoD102,p.4(juxtaposing shelling with alleged objectives).

<sup>1949</sup> Dreyer:T.1740-41.

<sup>1950</sup> Mrkšić:T.18899,19050.

533. Video footage from Knin on 4-Aug-95 captured impacts in residential areas, including:

- Fire and a plume of smoke (indicating artillery strikes) rising from the north-east quadrant;<sup>1952</sup>
- Artillery impacts on residential buildings;<sup>1953</sup>
- Artillery impact craters and shelling damage in the streets of residential neighbourhoods;<sup>1954</sup>
- Shelling damage to a school in downtown Knin;<sup>1955</sup>
- Shelling damage to shops along the main street.<sup>1956</sup>

534. Although civilian deaths and injuries are not required to show that the attack was directed at civilians or was indiscriminate, or otherwise unlawful,<sup>1957</sup> they provide further evidence of shelling in areas populated by civilians. Grubor observed 30-40 civilians dead and 40-60 civilians injured at the hospital,<sup>1958</sup> as a result of shelling.<sup>1959</sup> Other witnesses observed dead bodies on the streets on 4-Aug-95.<sup>1960</sup>

535. Damage assessments conducted after Storm confirmed that a significant number of civilian objects were hit. UNMOs carried out a provisional assessment on 17-Aug-95, and reported that forty-four civilian buildings had been shelled, including twenty-one “severely damaged” (noting that a block of flats—the predominant form

<sup>1951</sup> D389,p.1(the phrase “residential buildings at the foot of the Knin fortress *and elsewhere*” establishes that the list of places is not meant to be exhaustive, and indicates that other areas were shelled).

<sup>1952</sup> P1278(2:55-4:25)( two artillery strikes are visible in this portion of the video: on the right is a strike on TVIK factory, on the left is a strike in Northeast-quadrant of Knin).

<sup>1953</sup> P1278(6:16-7:33;16:44-17:05;18:28-18:55;21:17-21:34).

<sup>1954</sup> P1278(11:50-12:06;12:22-12:46;14:51-15:10;18:04-18:27).

<sup>1955</sup> P1278(13:32-14:07).

<sup>1956</sup> P1278(9:00-9:21;9:29-10:26;15:45-16:30).

<sup>1957</sup> There is no “result requirement” – i.e. death or injury – for an attack to constitute a breach of IHL: *see Kordić & Čerkez* AJ, para.65.

<sup>1958</sup> Grubor:P54,p.3.

<sup>1959</sup> Grubor:P55,para.9;*see* Grubor:P54,p.3;Grubor:T.1390-91,1439(regarding specific incidents recalled by the witness).*See* Additional Killings nos.185,186-190,205,225.

<sup>1960</sup> *See, e.g.*, Al-Alfi:P1160,pp.42-43;[REDACTED];Bellerose:T.5867;Berikoff:P740, para.2(g),(j),(k);Berikoff:D284,pp.7-10,13-14;Berikoff:P748,pp.5-7; [REDACTED];[REDACTED];Dijkstra:P429,para.27;Dawes:P981,para.10,27;Dawes:P980,pp.4,7-8;Dawes:T.10466,10531-10532,10550;Roberts:P680,p.5.P351,p.2;P1299.

of building in Knin<sup>1961</sup>—is considered one building). The provisional assessment was carried out by briefly driving through areas around alleged military objectives,<sup>1962</sup> and was carried out in part by observers not present during the attack.<sup>1963</sup>

536. UNMOs testified that during their subsequent time in Knin, patrolling by vehicle and on foot,<sup>1964</sup> they observed substantially more damage than reflected in the original report.<sup>1965</sup> Exhibit P98, reflecting a thorough assessment,<sup>1966</sup> shows that by 13-Sept-95, 660 buildings in Knin were reportedly totally or partially damaged.<sup>1967</sup> UNMO Kari Antilla estimated at the time that 40% (approximately 264 buildings) had been damaged by shelling.<sup>1968</sup> Several months after the assessment, Antilla stated, “during the rest of my stay in Knin it was possible to find out more locations where artillery and mortar shells and rockets had landed. Based on these observations it is obvious that shelling did not concentrate against military objectives.”<sup>1969</sup>

537. The UNMOs’ subsequent observations are confirmed by Berikoff, who conducted a damage assessment on 31-Aug-95. He found impacts in “areas that were definitely not military related”<sup>1970</sup> and that at least 100 houses were probably destroyed during the “actual offensive”, in addition to an apartment complex that was hit by rocket and artillery fire.<sup>1971</sup>

(vii) Military Objectives Were Not Legitimately Targeted in Knin Areas

538. Contrary to Defence assertions,<sup>1972</sup> the widespread shelling in Knin and other civilian towns cannot be explained by the presence of numerous alleged legitimate military objectives. The Defence’s lists of targets or target maps,<sup>1973</sup> must be treated as unsubstantiated justifications for, and an implicit admission of, widespread shelling

<sup>1961</sup> See, e.g., P982; P1265; P297; P189, pp. 2-3 (photographs).

<sup>1962</sup> Antilla: T.2513-17; Antilla: P171; Antilla: P173, para. 13; P174; Munkelien: T.1507-08, 1510; Munkelien: P61, paras. 41-44; P70; P74 (for example, the assessment did not include north-east Knin); P173, para. 13 (assessment was conducted in a few hours by vehicle).

<sup>1963</sup> See Ermolaev: T.2299; Antilla: P172, p. 1.

<sup>1964</sup> Antilla: P173, paras. 15-16.

<sup>1965</sup> Antilla: P173, para. 14; see Munkelien: P61, paras. 41-42.

<sup>1966</sup> See Tchernetsky: T.3225.

<sup>1967</sup> P98, p. 3; see Tchernetsky: T.3224-25.

<sup>1968</sup> Antilla: T.2529.

<sup>1969</sup> Antilla, P171, para. 3; Antilla: T.2521; see Munkelien: T.1513-14; P61, para. 41.

<sup>1970</sup> Berikoff: D284, p. 44; Berikoff: P740, para. 2(w); see Berikoff: T.7601-02, 7703, 7882-83.

<sup>1971</sup> P742, para. 2(a); D284, p. 46.

<sup>1972</sup> See, e.g., Corn: T.21238-40, 21254-55.

<sup>1973</sup> Target lists/maps presented include, for Knin: [REDACTED]; D102; D105; D131; for Gračac: D439; for Benkovac: D1446, pp. 10-14.

in civilian areas. Rajčić, the person responsible for identifying targets during Storm, either dismissed these Defence-produced lists,<sup>1974</sup> or was not asked by the Defence to confirm the accuracy of such lists.<sup>1975</sup> Moreover, the “military objectives” on the Defence-produced lists do not withstand scrutiny.

539. D131, for example, lists the Kninjanka factory, located in the eastern part of Knin, as an alleged military objective, ostensibly to justify shelling observed in two residential areas to the north and south of the factory (though no witness observed that the factory itself was struck).<sup>1976</sup> The basis for the factory’s alleged military value was one 1994 document indicating the factory was producing camouflage uniforms<sup>1977</sup> (although unconfirmed by testimony of local residents<sup>1978</sup>). Even if that was true, and it was still producing uniforms in 1995, targeting a civilian factory to halt the production of uniforms would have provided no military advantage during Storm. Moreover, evidence indicates that the HV possessed no information that the factory produced uniforms and Kninjanka did not appear on any HV-produced target lists.

540. The St.Ante Monastery also appears on the Defence-produced lists,<sup>1979</sup> ostensibly to justify shelling of residential areas in its proximity in downtown Knin.<sup>1980</sup> The Defence argued it was a legitimate target because at some time prior to Storm it had housed thirty ARSK Special Police (as well as a group of civilian refugees)<sup>1981</sup> and that one week after Storm, HV forces discovered twenty cases of ammunition in the building.<sup>1982</sup> The Special Police were all moved out of Knin prior to Storm<sup>1983</sup> and no evidence was presented to substantiate the claim that it was the ARSK Special Police HQ. None of the evidence suggests Gotovina contemporaneously considered the monastery a military objective and Rajčić testified that the monastery, or church, was not fired on during Storm.<sup>1984</sup>

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<sup>1974</sup> See Rajčić:T.16249-50.

<sup>1975</sup> The Gotovina Defence did not seek Rajčić’s authentication of D131, a wider list of targets presented to other Prosecution witnesses as military targets.

<sup>1976</sup> P78.

<sup>1977</sup> D243.

<sup>1978</sup> P-54: T2788:[REDACTED];Novaković:P1094,para.36.

<sup>1979</sup> D131.

<sup>1980</sup> See, e.g., Konings:T.14651-53;P-56:T.3547.

<sup>1981</sup> D946;D947.

<sup>1982</sup> D57,p.10(no.43/95).

<sup>1983</sup> P-56:T3547:[REDACTED].

<sup>1984</sup> Rajčić:T.16256-57.

541. A further example is the “Old Hospital” complex, which the Defence-produced list of targets includes as the “Defence Ministry” building,<sup>1985</sup> though none of the evidence suggests it was such.<sup>1986</sup> Rajčić’s testimony that “the area” of the complex was shelled because Martić was believed to be present at some point during 4-Aug-95,<sup>1987</sup> and that “[it] was a sudden target that emerged in the course of combat and had not been planned”<sup>1988</sup> undermines the suggestion this was a pre-selected military objective.

542. The Defence also sought to rely on various source-lists<sup>1989</sup> to justify widespread shelling in Knin and other civilian towns. However, as Rajčić explained, not all structures indicated on source lists were “truly a military objective that would be fired upon.”<sup>1990</sup> Some objects were in fact “civilian objects for which it is estimated that they have a reasonably high chance of becoming a military objective during the battle.”<sup>1991</sup>

543. For the reasons above, the legitimacy of the above objectives are not substantiated by evidence that they were targeted. While the indiscriminate nature of the attack makes individual target analyses unnecessary in determining its unlawfulness, any individual analysis should be confined to those alleged military objectives identified by Rajčić, including ten objectives in Knin:<sup>1992</sup> ARSK Main Staff HQ, Northern Barracks, Post Office, Milan Martić, Knin Police Station, Senjak Barracks, Railway Station, “Bridges”, “Crossroads” and the TVIK Factory.

(viii) Minimal Evidence That Alleged Military Objectives In Fact Attacked

544. If Gotovina thought the alleged military objectives offered a significant military advantage, one would expect to find concentrated damage to these few objectives over the course of a 25-hour barrage. Taking the minimum estimate of

<sup>1985</sup> D131.

<sup>1986</sup> [REDACTED];[REDACTED];Novaković:P1094,para.23.

<sup>1987</sup> Rajčić:T.16394,16399(witnesses said it was a civilian complex, partly used to house ARSK prisoners).

<sup>1988</sup> Rajčić:T.16396-97.

<sup>1989</sup> D1447;D1459;D976.

<sup>1990</sup> Rajčić:D1425,para.21.

<sup>1991</sup> Rajčić:D1425,para.21.

<sup>1992</sup> P2336,pp.8-9(Rajčić marked targets

on:P2330;P2331;P2332;P2333;P2334;P2335;P2337);seeRajčić:T.16368-80;Rajčić:T.16254-56(some of these coordinates were listed in P1271 though not all coordinates were actually fired on in Storm).

1000 projectiles impacting Knin during Storm,<sup>1993</sup> the fact that alleged military objectives received very few impacts (as detailed below) further supports the explanation that the attack was indiscriminate.

545. The lack of hits on “military objectives” was noticed by international observers. Dangerfield observed that within residential areas “initially there were a few rounds, but as the day went on, it became apparent to me that there were far too many shells landing in those areas to be dependent on ballistic variations in the rounds and indeed any associated climatic conditions that could cause them to fall there. So it was my assessment that there were indeed too many shells falling into those areas.”<sup>1994</sup> Leslie saw “very little evidence of the military targets that I outlined[,] with the exception of the air defence battery[,] actually being hit in a significant manner, neutralised or destroyed” and that “throughout the shelling, we could not figure out, as military professionals, what the Croatian army were shooting at...We did not understand the targeting criteria they were using to distribute fire across the rest of the town....”<sup>1995</sup>

546. The lack of concentration on alleged military objectives is pertinent to interpreting Tudman’s statements at the Brijuni Meeting and Gotovina’s order to shell the towns. Defence expert Corn conceded that his “positive interpretation” of Tudman’s statements and Gotovina’s orders is “indelibly connected with the facts and assumptions upon which my addendum was written” and that if he were told that “the factual record establishes that with a thousand artillery shells there [were] two strikes on a military objectives and 900 strikes on civilian objectives, then it would be evidence that would link back to this and any rational person would say that seems to suggest that [Tudman’s statements] did influence [Gotovina’s] methods of executing the operation”.<sup>1996</sup>

(ix) Alleged Military Objectives Were Not Legitimately Targeted

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<sup>1993</sup> Expenditure reports of projectiles fired on Knin from TS-3 (P2340,p.15;P2342,p.4),TS-4(P1267;P1268;P1269),BrTRS7(MBRLs)(P2461,p.1;P2473,pp.2-3;P2462,p.1);BrTRS4(MBRLs)(P2478,p.5);BrTRS7(Howitzer)(P2455,p.21);BrTRS4(Howitzer)(P2339,p.14) total 1,073 projectiles (668 on 4-Aug-95, 405 on 5-Aug-95).

<sup>1994</sup> Dangerfield:T.7143-44.

<sup>1995</sup> Leslie:T.2157.

<sup>1996</sup> Corn:T.21492,21509.

547. A determination that destruction or neutralisation of an object will offer a military advantage does not in itself make its targeting permissible. Even once the military character of a target has been ascertained, a commander must consider whether striking it is “expected to cause incidental loss of life, injury to civilians, damage to civilian objectives or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>1997</sup> According to the API Commentary, the expression “concrete and direct” shows the advantage must be “substantial and relatively close”, and that “advantages which are hardly perceptible and those which would only appear in the long term should be disregarded”.<sup>1998</sup> Moreover, the words “concrete and direct” impose stricter conditions on the attacker than those implied by the criteria defining military objectives.<sup>1999</sup> The API Commentary also points out that the disproportion between loss and damage caused and the military advantage anticipated is a “delicate problem” and in some “situations there may be reason for hesitation. In such situations, the interests of the civilian population should prevail.”<sup>2000</sup>

548. The alleged objectives were located in densely populated areas, such as the residential area below Knin castle, and were in many instances physically contiguous with civilian objects. The means chosen to target these objects<sup>2001</sup> offered a very small likelihood of actually striking them, and made striking civilian objects inevitable. Gotovina knew that 130mm guns and MBRLs were not capable of discriminating between objectives in residential areas, and that civilians may come to harm.<sup>2002</sup> According to Rajčić, Gotovina expressed particular concern about targeting the Main Staff HQ because of its immediate proximity to civilian areas.<sup>2003</sup> This alleged concern is contradicted by evidence showing Gotovina fired on Knin for 25-hours and used inaccurate means such as MBRLs. Moreover, Rajčić had no explanation for the other nine objectives that were scattered throughout the town and presumably of less military value than the Main Staff HQ, the so-called “target, *par excellence*.”<sup>2004</sup>

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<sup>1997</sup> API, Art. 51(5)(B).

<sup>1998</sup> API Commentary, para. 2209.

<sup>1999</sup> API Commentary, para. 2218.

<sup>2000</sup> API Commentary, para. 1979.

<sup>2001</sup> See “Means & Methods”.

<sup>2002</sup> Rajčić: T. 16278.

<sup>2003</sup> Rajčić: T. 16282-86.

<sup>2004</sup> Rajčić: T. 16285.

549. Under the rules of proportionality, even a reasonable perception that hitting a target will offer a “concrete and direct” military advantage does not justify targeting the object where the chances of actually hitting the target are minimal to none, while the chances of hitting civilian objects are guaranteed. Weighing up whether “collateral damage or incidental injury will be excessive in relation to the concrete and direct advantage anticipated from the attack” must take into account the accuracy of the chosen means. In this way, the “concrete and direct advantage anticipated” is not the value of the target wholly in the abstract but rather its abstract value relative to the likelihood of in fact neutralizing or destroying the object. Similarly, the weight of the collateral damage on the other side of the equation is relative to its certainty or likelihood. The “danger” incurred by the civilian population is thus dependent on such factors as the “accuracy of the weapons used (greater or lesser dispersion, depending on the trajectory, the range, the ammunition used etc.)” and “technical skill of the combatants (random dropping of bombs when unable to hit the intended target).”<sup>2005</sup>

(x) “High Pay-Off” Objectives in Knin

550. Rajčić identified three “main and highest payoff targets”,<sup>2006</sup> the ARSK HQ, the Northern Barracks and the Post Office. The evidence demonstrates the shelling could not be explained as a consequence of targeting these objects, and if it could, the shelling is not justified by reference to these targets.

551. The ARSK HQ housed an operations centre in the basement and a communications centre on the ground floor.<sup>2007</sup> The building was immediately proximate to a dense residential area. During 25-hours of shelling, a single shell struck the parking area between the Army Hall and Garrison building;<sup>2008</sup> the building

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<sup>2005</sup> API Commentary, para. 2212.

<sup>2006</sup> Rajčić: D1425, para. 15.

<sup>2007</sup> Novaković: P1094, paras. 18, 20, 27.

<sup>2008</sup> Novaković: P1094, para. 41 (Novaković was present in the Army Hall on 4-Aug-95 and testified that “this was the only shell which struck either”); see [REDACTED]; D389; (indicating “great material damage” in the form of the “fleet of vehicles almost completely destroyed”).

itself received shell fragmentation but no significant damage.<sup>2009</sup> In fact, civilians ran into this building to seek shelter from the shelling.<sup>2010</sup>

552. The Northern Barracks contained approximately thirty soldiers at the start of Storm, manning the medical facilities, kitchen and technical workshop.<sup>2011</sup> Nothing in HV intelligence suggested a concentration of troops.<sup>2012</sup> Dawes visited the Northern Barracks on 3-Aug-95 and “didn’t see many soldiers there”<sup>2013</sup> nor “any heavy weapons or equipment”.<sup>2014</sup> If attacking the barracks did offer a military advantage, the 130mm canon shells used by Gotovina’s forces could have been directed to land entirely within the large facility (153,529 metres squared<sup>2015</sup>) – rather than in residential areas around the barracks – in order to produce a “harassment” effect, if that was the intent. The fact that civilians fled into the Northern Barracks during the attack suggests it was not seriously targeted during the barrage.<sup>2016</sup>

553. The Post Office was allegedly a “high pay-off target” because of its communication capabilities. However, the key to disabling ARSK communications was by neutralising repeater stations<sup>2017</sup> – not a post office in a dense residential area – as Gotovina knew.<sup>2018</sup> Independent of the Post Office’s telephone and telegraph equipment, the ARSK had a communications system located in the ARSK HQ. Further, if this system failed, the ARSK would predominately rely upon mobile communication facilities.<sup>2019</sup>

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<sup>2009</sup> Leslie:T.1959;P84,p.2( “neither of these structures appeared to be heavily hit when I drove past them on my way to the hospital [on August 5 around 9am]”);*see* Berikoff:P741,para.2;Berikoff:T.7883;Forand:P333,para.12;Forand:T.4100,4124(correction of P333);Hansen:P1283,p.3.

<sup>2010</sup> Novaković:P1094,para.19.

<sup>2011</sup> Novaković:P1094,paras.10-11;*see*Dawes:P980,p.2;Dawes:P981,para.4; [REDACTED].

<sup>2012</sup> Mrkšić:T.19044-45,19103,19096-97(Prior to 4-Aug-95, the 7<sup>th</sup> Corps Command, previously stationed at the barracks, had been divided so that the forward command post was on the Dinara and the main command post was in Padene. Mrkšić rejected the claim that because General Kovačević, Commander of 7<sup>th</sup> North Dalmatia Corps, returned to a meeting in Knin on 4-Aug-95 that the “Command” was therefore in Knin),19100(evidence supporting Sekulić’s assertions are not corroborated by any witnesses, and the Defence chose not to call Sekulić to substantiate the claims in his book, despite appearing on their Rule 65*ter* list. *See* Judge Orić: “[Sekulić’s book] is, by the way, not a document, it’s a person writing a book...it’s a personal account of events”);*cf.* D928,p.61;D813,p.2.

<sup>2013</sup> *See*Dawes:P980,p.2.

<sup>2014</sup> Dawes:P981,para.4.

<sup>2015</sup> P2435,p.1.

<sup>2016</sup> P71,p.84.

<sup>2017</sup> D923,p.13.

<sup>2018</sup> *See*P461,1D76-0110,p.25;D1267,p.3.

<sup>2019</sup> Novaković:P1094,para.28.

554. Artillery fire was never likely to neutralise or inflict meaningful damage to PTT landline communications. According to Expert Konings, artillery projectiles, particularly “harassment fire”, would be ineffective against brick or concrete buildings such as the Post Office, and a large number of projectiles would be required to damage such buildings.<sup>2020</sup> Gotovina’s artillery fire, even if targeting the Post Office, could not have damaged antennas, or cable landlines running through the Post Office. Although TS-4’s 130mm gun fired at least 18 projectiles (out of the 272 TS-4 fired on Knin<sup>2021</sup>) at the post office (including 10 projectiles in the middle of 4-Aug-95, at 1240hrs),<sup>2022</sup> there is no evidence that the Post Office was even struck.

(xi) Other Alleged Military Objectives

555. The shelling cannot be justified by reference to other alleged objectives. Rajčić confirmed that the four-storey residential apartment complex Milan Martić lived in was targeted with a 130mm cannon, even though the building itself was not a military target. Rajčić had no information on the nature of the building – he did not know how many flats, how many storeys, or how many people lived there or were present on the day of the attack.<sup>2023</sup> Further, the HV literally chased Martić around Knin, firing on a general residential area called the “old hospital” area on the basis that intelligence indicated Martić was present.<sup>2024</sup> The probable range of error for a 130mm cannon firing from 26-kilometres is approximately 14-15m along the axis and 70-75m in distance, equating to an area of approximately 980 metres squared.<sup>2025</sup> The chances of hitting Martić, in Rajčić’s words, were therefore “very slight”.<sup>2026</sup>

556. The Knin Police Station was allegedly a military objective because it was a HQ for police forces fighting on the Dinara mountains.<sup>2027</sup> During Storm, however, RSK police were stationed on the Dinara<sup>2028</sup> and only ten civilian police officers manned the Police Station during the attack.<sup>2029</sup> One Croatian police officer testified

<sup>2020</sup> P1260,paras.3(b)(1),(5);*cf.*Rajčić:T.16285.

<sup>2021</sup> P1267;P1268;P1269.

<sup>2022</sup> P1267,pp.2-3.

<sup>2023</sup> Rajčić:T.16445-46.

<sup>2024</sup> Rajčić:T.16394,16446-47.

<sup>2025</sup> Rajčić:T.16280.

<sup>2026</sup> Rajčić:T.16446.

<sup>2027</sup> *See* Corn:D1642,p.40(assumed facts);*cf.*Rajčić:T.16392,16555(area of Knin police station targeted because it was believed Milan Martić lived in a nearby apartment block).

<sup>2028</sup> [REDACTED].

<sup>2029</sup> [REDACTED].

that there was no damage on the building itself, only its façade,<sup>2030</sup> though another testified that there were two shell holes “inside” the building.<sup>2031</sup> Both testified that the main damage was to the interior, caused by ransacking and looting after Storm.<sup>2032</sup>

557. The Senjak Barracks (a.k.a. Knin General Supply) was allegedly a military objective as a logistics headquarters.<sup>2033</sup> It was manned by approximately forty soldiers.<sup>2034</sup> While the immediate vicinity of the barracks received impacts at the beginning of the attack,<sup>2035</sup> there is no evidence of damage to the barracks themselves and again the HV made immediate use of the facility following Storm.<sup>2036</sup>

558. The Railway Station was allegedly a military objective to prevent ARSK use of the railway system.<sup>2037</sup> No rail activity was observed in Knin itself in the months leading up to Storm<sup>2038</sup> and the Railway Station was not used by the ARSK.<sup>2039</sup> The only use of the rail system by the ARSK was approximately ten kilometres outside of Knin itself, where it was used to move ammunition out of Golubić depot.<sup>2040</sup> The Defence’s suggestion that the Railway Station “included a switch house which would have been necessary for any trains in the area to use if they were changing direction”<sup>2041</sup> is unsubstantiated.

559. If Gotovina’s aim was to prevent trains from running into or out of Knin, he should have attacked alternative railway choke points which posed almost no risk to civilians, as confirmed by both Konings<sup>2042</sup> and Corn,<sup>2043</sup> and explicitly noted in API’s Commentary on Article 57(3).<sup>2044</sup> Alternative chokepoints are visible on an

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<sup>2030</sup> [REDACTED].

<sup>2031</sup> Buhin:T.10020.

<sup>2032</sup> [REDACTED];Buhin:T.10020.

<sup>2033</sup> Rajčić:T.16482;seeCorn:D1642,p.40(assumed facts);Konings:T.14676.

<sup>2034</sup> Novaković:P1094,para.12.

<sup>2035</sup> D923,p.24;Novaković:T.11938-39;P78.

<sup>2036</sup> SeeP71,pp.94,98.

<sup>2037</sup> Rajčić:T.16256,16374-75;seeCorn:D1642,p.40(assumed facts).

<sup>2038</sup>

SeeBerikoff:D284,p.8;Dangerfield:P695,para.3;[REDACTED];Dijkstra:P429,para.15;Dawes:P981,para.7;Dawes:T.10390-91,10468;Mrkšić:T.18888;Hill:P292,p.8.

<sup>2039</sup> Mrkšić:T.19121.

<sup>2040</sup> D161,pp.3-4;Novaković:P1094,para.35;P804;Liborius:T.8383-84(in the afternoon of 4-Aug-95, train activity was noted by ECMM observer Liborius though this activity was soon abandoned. The location of this activity is unknown).

<sup>2041</sup> Corn:D1642,p.40(assumed facts);T.21456-57.

<sup>2042</sup> P1260,para.2(c)(23).

<sup>2043</sup> Corn:T.21586-87.

<sup>2044</sup> API Commentary,para.2227.

aerial photograph of Knin.<sup>2045</sup> The fact that the HV had the railway system back in use by 12-Aug-95<sup>2046</sup> further suggests the Railway Station was a pretext for a general attack on Knin's centre.

560. "Bridges" and "crossroads" were also identified as alleged targets of the attack. The bridges identified by Rajčić – the Krka and Butiznica bridges – are both outside of Knin centre<sup>2047</sup> and therefore do not explain or justify the shelling of Knin itself. Nothing in the evidence suggests bridges or crossroads were hit or rendered unusable during the attack. If the purpose of attacking cross-roads in the centre of Knin was to limit or prevent ARSK forces from getting in or out of Knin, again Gotovina was obligated to choose alternative chokepoints outside of civilian areas.<sup>2048</sup>

561. Rajčić testified that the targeted cross-roads in fact corresponded with the target labelled "Hospital" in exhibit P1271, which was fired on during Storm.<sup>2049</sup> However, the coordinates of this target correspond with a field near Knin Secondary School and Rajčić's inconsistent explanations failed to substantiate the legitimacy of this target. Rajčić said it was "anticipated that the ARSK may attempt to withdraw military equipment or otherwise use the area to its advantage" and the "term "hospital" was used because the hospital was the first dominant facility in the vicinity of this location."<sup>2050</sup> Later, he said it was in fact "an intersection where there was a lot of traffic by their logistic units and the reserve forces that were being deployed to intervene on the Dinara Mountains." When it was pointed out that the coordinates refer to a field, not to the crossroads themselves, Rajčić said "that [the ARSK] had a small artillery unit, a mortar unit, which was located close to the barracks in a school ... and that empty area in front of the school was a possible firing position, which would make it possible for them to fire on Mount Dinara."<sup>2051</sup> There is no evidence that the field or adjacent secondary school was struck by shells. Immediately after

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<sup>2045</sup> P62.

<sup>2046</sup> See P32.

<sup>2047</sup> P62 (located off map); Rajčić :T.16377 (Rajčić indicated Butiznica bridge was located downstream in the direction "To Madesevac").

<sup>2048</sup> Cf Corn:T.21586-87; P1260, para.2(c)(23).

<sup>2049</sup> Rajčić:P2335(circles); Rajčić:T.16378-80,16392 (Rajčić also described this as target "KV Hospital" or "area around the hospital").

<sup>2050</sup> Rajčić:D1425, para.22.

<sup>2051</sup> Rajčić:T.16614-15.

Storm the secondary school was used by the HV to house its own troops and as a collection centre for Serb refugees.<sup>2052</sup>

562. The TVIK factory, also identified by Rajčić as a target, received a heavy concentration of HV artillery fire, and suffered significant damage.<sup>2053</sup> The TVIK factory was not a military facility and did not constitute a legitimate military target. The factory was Knin's biggest employer and a major producer of screws, nuts and bolts.<sup>2054</sup> All indications at the time of the attack were that the factory's production was wholly civilian in nature – no soldiers, or military vehicles, were seen in the facility immediately prior to Storm.<sup>2055</sup>

563. Evidence was presented suggesting that the factory had produced, or had planned to produce, munitions.<sup>2056</sup> This evidence does not justify the shelling of the factory. First, the HV were not contemporaneously aware of any munitions productions and did not consider the TVIK to be a military target.<sup>2057</sup> Second, the evidence is contradicted by witness testimony of ARSK leaders, Mrkšić<sup>2058</sup> and Novaković,<sup>2059</sup> and of internationals who visited TVIK.<sup>2060</sup> No evidence suggests that the HV discovered any munitions in the TVIK upon arrival in Knin; Colonel Rinčić assessed the TVIK immediately after Storm and reported "Large stock of fabricated products" and no mention of munitions.<sup>2061</sup>

(xii) Opportunistic or Mobile Targets

564. Contary to Defence arguments,<sup>2062</sup> the distribution of projectiles throughout Knin cannot be explained by the existence of opportunistic or "mobile" military objectives.

<sup>2052</sup> [REDACTED];[REDACTED].

<sup>2053</sup> See Novaković:P1094,para.31;Dawes:P980,pp.6-7;Hansen:P1283,p.3;P78;P806,p.3;Berikoff:T.7883;cf.D1036,p.1..

<sup>2054</sup> P-54:T.2786;Novaković:P1094,para.31.

<sup>2055</sup> Dawes:T.10390,10467-68;Hansen:T.14894-95,15065;Novaković:T.11936-38;Mrkšić:19047,19126-27.

<sup>2056</sup> See D242;D949;D950;[REDACTED].

<sup>2057</sup> See, e.g., D831;D961;D962;D964;D965.

<sup>2058</sup> Mrkšić:T.19047.

<sup>2059</sup> Novaković:T.11936-37.

<sup>2060</sup> Dawes:T.10390,10467-68;Dawes:P980,p.7;Hansen:T.14894-95,14897-98.

<sup>2061</sup> D1036,p.1.This contrasts with the highly publicized seizure of weapons at Golubić(D715) or the report of ammunition in St.Ante Monastery(D57,p.10(no.43/95)).

<sup>2062</sup> See, e.g., Williams:T.9594-95;Bellerose:T.5932-34;Berikoff:T.7690;Konings:T.14768.

565. HV documents show no such objectives were fired on in Knin on 4 or 5-Aug-95.<sup>2063</sup> The general absence of ARSK troops, heavy weapons or outgoing fire in Knin on those days further discredits this explanation.<sup>2064</sup> The only witnesses who observed ARSK elements in Knin on 4-Aug-95 were Dawes and Dreyer.<sup>2065</sup> At around 0700hrs, Dawes came across six unorganised ARSK soldiers demanding the UN's APC;<sup>2066</sup> at around 1030hrs, he observed "four ARSK trucks with lightly wounded personnel just outside the POL station";<sup>2067</sup> and soon after he met "a few soldiers" from the so-called "ear-ring brigade".<sup>2068</sup> Dreyer observed a single ARSK APC and a mortar section, and was aware of a RSK checkpoint outside the town.<sup>2069</sup>

566. On 5-Aug-95, the only ARSK activity was a convoy of ARSK vehicles observed by Williams fleeing through Knin at 0610hrs.<sup>2070</sup> Williams saw no attempt by the HV to bracket or attack these vehicles and later came across no evidence of destroyed ARSK vehicles in Knin. The absence of any other ARSK activity on 4 and 5-Aug-95 was confirmed by Dawes,<sup>2071</sup> Dreyer,<sup>2072</sup> Williams<sup>2073</sup> and other witnesses.<sup>2074</sup> The HV's convoy-style entry into Knin indicates that the HV knew there were no significant ARSK elements in Knin.<sup>2075</sup> Evidence about a possible

<sup>2063</sup> See P71 (Split MD Ops Diary); P2342 (TS-3 War Diary); P2533 (TS-4 War Diary); P1267; P1268; P1269 (TRS-4 Regular Reports); P1277 (OG Šibenik War Diary); P2343 (4GBR War Diary); P2348 (7GBR War Diary).

<sup>2064</sup> See AI-Alfi: P1160, p.30; [REDACTED]; Bellerose: T.5870; Berikoff: P739, p.3; Berikoff: D284, pp.4-5, 7, 12; Dangerfield: T.7150; [REDACTED]; [REDACTED]; Dijkstra: P428, pp.2,4; Dijkstra: P429, paras.7, 13; Dijkstra: T.4759; Dawes: P980, p.3; Dawes: P981, para.4; Dawes: T.10387-88; Gilbert: T.6420-21; Grubor: P54, p.4; Hill: P291, p.3; Hill: T.3737; Leslie: T.1939; Hansen: P1283, p.2; Hansen: P1285, para.9; Hansen: T.14891-92; Roberts: P678, p.3; [REDACTED]; Williams: P925, pp.2-3,5; Williams: T.9531-32; Dreyer: T.1722, 1738; Mrkšić: T.18832, 18868. For lack of defences in other towns, see Dijkstra: P429, para.7; Dijkstra: T.4759; Vukašinić: T.18541-43; Novaković: P1093, paras.8, 10-14 (Benkovac, Gračac, Obrovac and Kistanje); Steenbergen: P516, paras.12, 16; Sovilj: T.2218-19; Dopud: P548, para.2; Dopud: T.5989, 6001, 6047.

<sup>2065</sup> See Hill: P291, pp.4-5; see Hill: P292, p.13 (Hill observed counter-battery fire on 4-Aug-95); Hill: P294, para.1 (confirming that the counter-battery fire did not come from within Knin); Hill: T.3743-45 (noting that the impacts of the counter-battery fire he observed were in the hills well outside of Knin town and marking map P297).

<sup>2066</sup> See Dawes: P980, p.4; Dawes: P981, para.10; Dawes: T.10465-66.

<sup>2067</sup> Dawes: P980, p.6; D864; Dawes: T.10505, 10552 (marking where trucks were headed); P985.

<sup>2068</sup> Dawes: P980, p.6; P981, para.20.

<sup>2069</sup> Dreyer: T.1722; see P78 (marked map: T.1720-22; Dreyer: P72, para.4).

<sup>2070</sup> Williams: T.9535-36; Williams: P925, p.6; Williams: P927, p.2; see P744, p.3.

<sup>2071</sup> Dawes: P980, p.4.

<sup>2072</sup> Dreyer: T.1722, 1738.

<sup>2073</sup> Williams: P925, p.5.

<sup>2074</sup> Berikoff: T.7688; Bellerose: T.5932; Dangerfield: T.7150, 7209-7212; Dijkstra: P429, para.13.

<sup>2075</sup> Dijkstra: P429, paras.14, 28; Dijkstra: P428, p.3.

defence of Knin<sup>2076</sup> neither shows a significant ARSK presence in Knin nor that widespread shelling in Knin may be explained as attacks on mobile military objects.

(xiii) Gotovina's Forces Attacked Residential Areas in Benkovac

567. TRS-5 shelled the town of Benkovac from 0500hrs until at least 1700hrs on 4-Aug-95.<sup>2077</sup> Between 0500hrs and 0700hrs on 4-Aug-95 approximately 100 shells landed in Benkovac,<sup>2078</sup> and another 30-40 fell between approximately 1100hrs and 1700hrs.<sup>2079</sup> [REDACTED].<sup>2080</sup>

568. Shells impacted all over Benkovac town, including in front of residential buildings in Barice,<sup>2081</sup> around the petrol station, Fireman's Hall, cool-storage facility, and Bagat and Kepol factories, on the High School building and football field, and in front of the Police Station.<sup>2082</sup>

569. Consistent with Gotovina's Attack Order, the 134HGR reported that OG Zadar was providing support in the form of "shelling of the *general area* of Benkovac *without monitoring*". At 0530hrs OG Zadar asked: "Is there anything falling on Benkovac?"<sup>2083</sup>

(xiv) Military Objectives Were Not Legitimately Targeted in Benkovac

570. Benkovac town was at least seven kilometres from the nearest confrontation line.<sup>2084</sup> To justify the wide dispersion of artillery impacts, the Defence argue that civilian objects dotted throughout the town were in fact military objects.<sup>2085</sup> The implausibility of the lengthy list of targets produced by the Defence is evident in the fact that many of listed "targets" (e.g. JNA centre, Hotel, Nun's Convent, Post Office) were neither identified by Rajčić nor appeared on the "Jagoda" source-list.<sup>2086</sup> In any event, these objectives, and the objectives in Benkovac on the "Jagoda" list (Winery, Cold Storage, Factory "Kepol", Fireman's Hall) are not legitimate military objectives.

<sup>2076</sup> See, e.g., D124; cf, Leslie: T.2074; Bellerose: T.5932; D727; D123; D713; D698.

<sup>2077</sup> Vukašinović: D1499, para.3,12; Vukašinović: T.18580-81; see D828, p.1; P1200, p.2.

<sup>2078</sup> Vukašinović: D1499, para.3,12; see D828, p.1.

<sup>2079</sup> Vukašinović: T.18580-81.

<sup>2080</sup> [REDACTED].

<sup>2081</sup> Sinobad: T.16942, 17028-29.

<sup>2082</sup> Vukašinović: T.18544-45, 18574, 18577; Vukašinović: D1499, paras.3,7,12.

<sup>2083</sup> P1200, pp.1-2 (emphasis added).

<sup>2084</sup> Vukašinović: T.18541.

571. Rajčić identified no military objective in the southern part of the town, despite evidence that this was the focus of artillery attacks. This part of town is devoid of any object that might be considered of a military nature.<sup>2087</sup>

572. Rajčić identified four military targets fired upon in Benkovac.<sup>2088</sup> Only one of those targets, the Police Station, is within Benkovac town itself, and is at least 400m from Barice residential buildings. Neutralisation of the Police Station offered no military advantage. According to the deputy chief of police, “our entire police force was in the area of Bosansko Grahovo...I stayed behind with a number of senior, older policemen and civilians who were involved in general administrative matters.”<sup>2089</sup> There is no evidence that any command or control functions existed in Benkovac.<sup>2090</sup> In any case, in the course of approximately twelve hours of shelling of the town, including up to 100 shells before 0800hrs,<sup>2091</sup> the Police Station received no direct hits.

(xv) Residential Areas in Obrovac Were Attacked

573. Gotovina’s forces shelled the town of Obrovac, in accordance with his order that passed through OG Zadar to the 112<sup>th</sup> Brigade.<sup>2092</sup> The densely populated<sup>2093</sup> centre of Obrovac was shelled.<sup>2094</sup>

(xvi) Military Objectives Were Not Legitimately Targeted in Obrovac

574. There were no military targets in Obrovac: “...no command or communications, and no troops or military equipment.”<sup>2095</sup> The nearest combat unit was over ten kilometres away.<sup>2096</sup>

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<sup>2085</sup> D1446,p.14.

<sup>2086</sup> D1447;Rajčić:T.17677.

<sup>2087</sup> See Vukašinović:T.18546,18574-75;Vukašinović:D1499,paras.2-5;Sinobad:T.17027-28.

<sup>2088</sup> Rajčić:T.16306-08.

<sup>2089</sup> Vukašinović:T.18537;[REDACTED].

<sup>2090</sup> See Vukašinović:T.18566-67.

<sup>2091</sup> Vukašinović:D1499,para.5;see D828,p.1.

<sup>2092</sup> P1201,p.4;see Rajčić:T.16328.

<sup>2093</sup> Dopud:T.5985.

<sup>2094</sup> See Dopud:P548,para.2;P549;P550;Dopud:T.5984-90(photographs).

<sup>2095</sup> Dopud:P548,para.2;see Dopud:T.5984-87,5989,5991-96,6044-66.

<sup>2096</sup> Novaković:P1093,para.11.

575. Rajčić testified that a bridge in Obrovac was the only planned target.<sup>2097</sup> There is no evidence that the bridge was especially targeted, neutralised or destroyed. In contrast, shells landed all over the town.<sup>2098</sup>

(xvii) Residential Areas in Gračac Were Attacked

576. TRS-5's 130mm cannons fired shells throughout Gračac.<sup>2099</sup> During the initial hours of the attack, shells impacted "all around" UNMO Steenbergen's accommodation and other houses in the residential area of Čubelići<sup>2100</sup> at a rate of up to 2-3 shells a minute.<sup>2101</sup> By contacting other UNMO team members living in various parts of the town it became clear to him "that many parts of the town were being targeted with shells".<sup>2102</sup> Shells also impacted to the north-west of Čubelići, at the residence of another UNMO, and in and around the UNMO office, until they evacuated at approximately 1100hrs.<sup>2103</sup>

577. Local resident, Vida Gaćeša, recalled that "the shelling appeared to be all around our area and the houses nearby".<sup>2104</sup> By the time she fled at approximately 1000hrs "around 100" shells had fallen in the town.<sup>2105</sup> According to another local resident, Mile Sovilj, "several areas of the town were shelled, not just one target,"<sup>2106</sup> including in front of his own house and along the main road.<sup>2107</sup>

(xviii) Military Objectives Were Not Legitimately Targeted in Gračac

578. According to Rajčić the only possible military targets were the cross-roads to the south and east of the town were military targets.<sup>2108</sup> While SP Chief of Artillery, Turkalj, claimed that he used TRS-5 to neutralise three alleged targets in the town of Gračac (9<sup>th</sup> Motorised GBR ZM, the cross-roads and the Police Station<sup>2109</sup>), Rajčić

<sup>2097</sup> Rajčić:T.16326-27;seeD1447.

<sup>2098</sup> SeeDopud:P548,para.2;P549;P550;Dopud:T.5984-90(photographs).

<sup>2099</sup> SeeTurkalj:T.13599-600;P2436,p.6;P2385,pp.2-3;P583.

<sup>2100</sup> Steenbergen:P516,para.24;Steenbergen:P517,para.3;Steenbergen:T.5469,5419,5498(Steenbergen's accommodation marked "G" on P538).

<sup>2101</sup> Steenbergen:T.5466.

<sup>2102</sup> Steenbergen:P516,para.25.

<sup>2103</sup> Steenbergen:T.5498-99;P538(UNMO Office marked "B");Steenbergen:T.5419;seeP516,para.45.

<sup>2104</sup> Gaćeša:P191,paras.5,6,10;Gaćeša:T.2913.

<sup>2105</sup> Gaćeša:T.2898.

<sup>2106</sup> Sovilj:P86,para. 6.

<sup>2107</sup> Sovilj:T.2214,2216;P88(shelling marked "B" and "C").

<sup>2108</sup> Rajčić:T.16365;seeJanić:T.6393-94,6355-56.

<sup>2109</sup> Turkalj:T.13585,13599-600.

and Janić agreed there were no military targets inside the town of Gračac proper.<sup>2110</sup> The Operations Diary for OG Zadar confirms that TS-5's 130 mm guns fired simply "at Gračac" or in the "direction Gračac".<sup>2111</sup>

579. No operative ARSK barracks were located in Gračac town, and on 4-Aug-95 ARSK troops were not on rotation but were permanently based at the frontlines,<sup>2112</sup> approximately 15kms away. The town had a population of approximately 5,000 covering four-by-four kilometres,<sup>2113</sup> was "predominately a civilian town made up of families, children and schools". On the eve of 4-Aug-95 the town was "full", meaning "the apartment buildings and houses were all inhabited."<sup>2114</sup>

580. Even accepting Turkalj's testimony, the targets he identifies were not legitimately attacked with artillery. In the early hours and morning of 4-Aug-95, the Gračac cross-roads did not present a legitimate military target. No evidence indicated that ARSK troops or weaponry were passing these junctions; on the contrary, Gaćeša recalled that whilst driving from the western part of Gračac to Vučipolje village, east of the town,<sup>2115</sup> there were no movements of the army but she "encountered only a few civilian cars because people were taking their children and the elderly of their family away to safety..."<sup>2116</sup> If these were strategic routes, choke points in non-civilian areas should have been targeted.<sup>2117</sup> Attempting to destroy or neutralise a junction so that military vehicle can no longer use it is not feasible without expending vast amounts of ammunition, and should be avoided in a civilian area.<sup>2118</sup>

581. In any event, the evidence shows that these targets were not the exclusive focus of the attack. Steenbergen's area of accommodation, for example, where a number of houses were struck by shells,<sup>2119</sup> was over 700 metres from the nearest cross-roads<sup>2120</sup> and not otherwise in the vicinity of any alleged targets. Steenbergen testified, from his own experience in artillery, that even if the cross-roads were

<sup>2110</sup> Rajčić:T.16365;Janić:T.6393-94.

<sup>2111</sup> P2436,pp.6-7.

<sup>2112</sup> Steenbergen:P516,para.12;Sovilj:T.2218-19.

<sup>2113</sup> Sovilj:T.2211,2241-42.

<sup>2114</sup> Steenbergen:P516,para.16.

<sup>2115</sup> D185(marking the route running west-east);Gaćeša:T.2904.

<sup>2116</sup> Gaćeša:T.2904.

<sup>2117</sup> Corn:T.21586-21587.

<sup>2118</sup> Konings:T.14393(re: targeting a junction in Knin).

<sup>2119</sup> Steenbergen:P516,para.24;Steenbergen:P517,para.3;Steenbergen:T.5469,5498.

<sup>2120</sup> SeeP538;Steenbergen:T.5419("G" is Steenbergen's accommodation).

accepted as strategic targets, “well, those shells were not falling within the limits we normally use to hit a strategic target”.<sup>2121</sup>

(xix) Residential Areas in Donji Lapac Were Attacked

582. HV and Special Police forces heavily shelled Donji Lapac, a predominant Serb town of about 8500 people,<sup>2122</sup> on 7-Aug-95.<sup>2123</sup> The “shelling started in the morning around 09-09.30 a.m. and last[ed] approximately 2 hours.” Houses that had been destroyed as a result of the shelling.<sup>2124</sup> Shells fell “on the centre [of Donji Lapac]... near the lumber mill” and “then in a part of Lapac that we call Rasita [ph.]”.<sup>2125</sup> When Janić, Chief of the Lučko unit, reached Donji Lapac “some of the buildings were burning in the centre including the police station” as a result of artillery fire.<sup>2126</sup>

(xx) Military Objectives Were Not Legitimately Targeted in Donji Lapac

583. The ARSK had fled prior to the 7-Aug-95 attack.<sup>2127</sup> No evidence suggests that the houses and buildings hit by shells were military objectives.

(xxi) Attacks on Other Civilian Settlements

584. Gotovina’s forces also fired at residential areas outside the main towns, where no military objectives existed. One example is the village of Polača, fifteen kilometres from Knin. TS-3 fired “2 x 3” pieces at Polača,<sup>2128</sup> as a result, [REDACTED].<sup>2129</sup> There was nothing of a military nature in Polača.<sup>2130</sup> The Gotovina Defence tried to contradict this by referring to an unconfirmed<sup>2131</sup> [REDACTED] to Croatian authorities asserting that while mobilised in 1991-1992 his unit went to “Siva brda above Polača where they were installing communication lines”.<sup>2132</sup> This cannot justify the attack

<sup>2121</sup> Steenbergen:T.5499(mapP537,markings “B” and “D”).

<sup>2122</sup> Ilić:P725,p.2.

<sup>2123</sup> P110,p.1;D1923,p.2;Repinc:T.26733-34;Turkalj:P1149,para.37;Turkalj: T.13613-14. Gospić MD forces were also responsible for shelling Donji Lapac. However, to the extent Gospić MD forces are responsible, this evidence is still probative of the HV’s general *modus operandi* in Storm of shelling civilian inhabited areas and forcing civilians to flee.

<sup>2124</sup> Ilić:P725,p.2.

<sup>2125</sup> Ilić:T.7580.

<sup>2126</sup> Janić:P552,para.36;seeP586,p.1;D556,p.1.

<sup>2127</sup> SeeJanić:P552,paras.35-36;Turkalj:T.13611-12;D1266,p.1.

<sup>2128</sup> P2342,p.3.

<sup>2129</sup> [REDACTED];[REDACTED];Mirković:P723,p.2.

<sup>2130</sup> [REDACTED].

<sup>2131</sup> [REDACTED].

<sup>2132</sup> [REDACTED].

considering Siva brda is approximately four kilometres from where the projectiles landed,<sup>2133</sup> [REDACTED] there were only sentries located there, and no tanks or heavy weapons.<sup>2134</sup>

585. Other villages with no military objectives attacked by Gotovina's forces included Kistanje<sup>2135</sup> and surrounding hamlets,<sup>2136</sup> and hamlets in the Plavno Valley<sup>2137</sup>

*Indiscriminate Means and Methods Were Employed in the Attack*

586. The use of indiscriminate means and methods further indicates the attack was directed at the civilian population because their use indicates the attacking force does not intend to discriminate between civilians, and civilian objects, and military objectives.

(xxii) Multiple Barrel Rocket Launchers

587. MBRLs were incapable of distinguishing between civilian and military objectives; their use in the attack on Knin therefore contravened the principle of distinction.

588. The MBRL is an area weapon system with very low accuracy,<sup>2138</sup> typically covering an area of approximately 400 x 2-300 metres.<sup>2139</sup> Expert Konings described MBRLs as an "extreme area weapons system" that is not fit for "point targets",<sup>2140</sup> a fact reinforced by other witnesses with artillery experience.<sup>2141</sup> The tactical utility of MBRLs comes from amassing fire and covering an area,<sup>2142</sup> for example, a concentration of troops in the open.

<sup>2133</sup> See D782(map);[REDACTED].

<sup>2134</sup> [REDACTED].

<sup>2135</sup> P1267,p.2("at 05:55 hours 5 projectiles from a T-130mm at the area of Kistanje...at 08:45 hours 3 projectiles from a T-130mm at Kistanje...at 12:20 hours 4 projectiles from a T-130mm at Kistanje..."(emphasis added));see P83; [REDACTED];P-56:T.3544;Hill:P292, p.52;Hill:T.3767-68.

<sup>2136</sup> [REDACTED].

<sup>2137</sup> P2342,p.4(entry for 0100hours on 6 August shows 130mm cannons fired rounds at Đurići, Bašinci and Bursaći);Đurić:P437,para.3;Đurić:D397,p.2.

<sup>2138</sup> See Konings:T.14464-65,14469;P60,p.3;Turkalj:T.13572;Leslie:T.1989.

<sup>2139</sup> Leslie:T.1989-90.

<sup>2140</sup> Konings:T.14465-66.

<sup>2141</sup> See Leslie:T.1989;Dangerfield:P695,para.30;Munkelien:T.1503-04;Mrkšić:T.19050;P60,p.3;Rajčić:T.16286.

<sup>2142</sup> Leslie:T.1989.

589. Rajčić admitted that the inaccurate nature of MBRLs makes their use against targets in a residential area a violation of the rules of distinction and proportionality, explaining that it would have been “unacceptable”, for example, to fire on the quarters of Martić with an MBRL.<sup>2143</sup> Similarly, the SP Chief of Artillery admitted that MBRLs are not capable of precision fire against point targets.<sup>2144</sup>

a. MBRLs used in attack on Knin

590. The evidence shows that Gotovina employed MBRLs on Knin (a fact Gotovina notably omitted from his book<sup>2145</sup>). The MBRL battery of 7GBR TRS fired 191 and 102 rockets “on Knin” on 4 and 5-Aug-95 respectively.<sup>2146</sup> The MBRL battery of 4GBR TRS fired 89 and 39 rockets on “Town of Knin” on 4 and 5-Aug-95.<sup>2147</sup> The OG Šibenik Operations Log Book records at 0550hrs on 4-Aug-95: “our VBR/MBRL/ fires at Knin”.<sup>2148</sup> According to Rajčić, “targets in Knin on the first day of the attack were targeted by a 130-millimetre cannon and the multi-barrel rocket launchers of 122-millimetre, BM 21.”<sup>2149</sup> Numerous witnesses observed the use of MBRLs, including Berikoff,<sup>2150</sup> Dangerfield,<sup>2151</sup> Dijkstra,<sup>2152</sup> Bellerose,<sup>2153</sup> Gilbert,<sup>2154</sup> Leslie,<sup>2155</sup> Hansen<sup>2156</sup> and Dreyer.<sup>2157</sup>

591. MBRLs were not just used in the initial barrages, as argued by the Defence, but were employed throughout the attack. This fact contrasts with the assumed facts provided to Defence Expert Corn, which stated that while the initial barrage was “30-60 minutes on 4 August 1995...and included use of both T130s and MBRLs.... Throughout the remainder of the day until approximately midnight” artillery fire “consisted of *only* T130 guns”.<sup>2158</sup> This led Corn to assume that Gotovina “[e]mployed MBRLs only during those times he assumed civilians were under a

<sup>2143</sup> Rajčić:T.16592.

<sup>2144</sup> Turkalj:T.13572.

<sup>2145</sup> SeeTheunens:P1113,pp.441-42.

<sup>2146</sup> P2461;P2462;see P2466;P2473,pp.2-3.

<sup>2147</sup> P2478,p.5.

<sup>2148</sup> P1277,p.2.

<sup>2149</sup> Rajčić:T.16279;see D1425,para.16.

<sup>2150</sup> Berikoff:T.7883;Berikoff:P741,para.4.

<sup>2151</sup> Dangerfield:P695,para.30.

<sup>2152</sup> Dijkstra:P428,pp.2-3;Dijkstra:P429,paras.16-18.

<sup>2153</sup> [REDACTED];Bellerose:T.5865.

<sup>2154</sup> P591,p.1;Gilbert:P589,para.10.

<sup>2155</sup> Leslie:T.1984,1989.

<sup>2156</sup> Hansen:P1283,p.4.

<sup>2157</sup> Dreyer:T.1732-35.

curfew order”,<sup>2159</sup> and partly on this erroneous basis he concluded that Gotovina’s “judgement to employ indirect fires against military objectives his enemy had located within Knin was reasonable.”<sup>2160</sup>

592. Rajčić confirmed that MBRLs were used in “artillery preparation” after 0500hrs, and then “for artillery support of the attack during the day”.<sup>2161</sup>

593. The diary of Sekanović (“Sekanović’s Diary”), a 7GBR artillery commander, also confirms that MBRLs were not only used outside the initial barrages, but also during the night, when the HV knew the ARSK had left Knin. His diary records that “At 00:40 hours SVBR launched 40 pieces on Knin”.<sup>2162</sup>

b. MBRLs fired on residential areas

594. MBRLs were used either on alleged military objectives located in residential areas, or directed at residential areas generally.

595. Dreyer recalled the use of MBRLs through personal observation enabled by their unique sound,<sup>2163</sup> and was able to identify several areas of Knin that received impacts from MBRLs<sup>2164</sup> (see map below). (One of the areas identified is in direct proximity to area “S-16”, discussed below). Berikoff “saw a lot of MBRL impacts in the residential area between the Hospital and downtown Knin, which is not in the vicinity of any military targets.”<sup>2165</sup> UNMO Dijkstra said that the impact of the first MBRL when the attack began on 4-Aug-95 was within a few hundred metres from his apartment and in a residential area.<sup>2166</sup>

596. HV documentation demonstrates that MBRLs were knowingly used against “areas”, rather than targets, as required by IHL. The 4GBR TRS 122mm MBRL

<sup>2158</sup> Corn:D1642,p.41(emphasis added).

<sup>2159</sup> Corn:D1642,p.30. Corn was unaware the curfew ended at 0500hrs (D241) and that the HV were aware of that (P2619,p.2). He conceded that if the evidence establishes that people were generally outside at 0500hrs “then the opinion loses significant weight.”:T.21290-91.

<sup>2160</sup> Corn:D1642,p.30.

<sup>2161</sup> P2339,p.4. No HV document supports the assertion that MBLRs were only intended to be used in the first 30-60 minutes of attack.

<sup>2162</sup> P2455,p.21(The original (p.11) confirms that this occurred around midnight between 4-5 August with the note: “04/05.04.1995”).

<sup>2163</sup> Dreyer:T.1732-33.

<sup>2164</sup> Dreyer:T.1733-35;P79(map).

<sup>2165</sup> Berikoff:P741,para.4.

battery report on artillery operations,<sup>2167</sup> for example, contains no entries in the “target grid reference” columns and lists the “target type” as names of towns, including “Town of Knin”.<sup>2168</sup> This contrasts with reports of the other batteries in 4GBR TRS, such as the report for the Howitzer battery,<sup>2169</sup> which provides grid coordinates and specific target types for the expended shells. The entry in Sekanović’s Diary reporting 40 MBRLs on Knin just past midnight on 4/5 August, discussed above, did not specify any target.<sup>2170</sup>

597. P1274 is the plan of action for artillery support for the 4GBR on 4-Aug-95. Two green boxes indicate the target area in Knin for “SVLR fire” or self-propelled multiple rocket launcher fire. Overlaying these boxes on a photograph of Knin<sup>2171</sup> illustrates that the HV planned to use MBRLs in the centre of Knin. This is consistent with Rajčić’s admission that the HV used MBRLs against the ARSK HQ and a roundabout intersection in Knin,<sup>2172</sup> both point targets located in the most densely populated residential areas of Knin.

598. Rajčić’s reconstruction of 4GBR and 7GBR artillery use also shows that the 122mm MBRLs were fired at targets amongst residential areas of Knin (S15, S16 and S54 on the “Ivancica” map<sup>2173</sup>, as well as the “Slavko Rodic” barracks<sup>2174</sup>). The Sekanović Diary confirms that the HV fired MBRLs at the area marked S16 on the Ivancica map.<sup>2175</sup> S16 covers a dense residential area north-east of Knin centre (see demonstrative maps below).

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<sup>2166</sup> Dijkstra:P428,p.3.

<sup>2167</sup> P2478.

<sup>2168</sup> P2478,p.5.

<sup>2169</sup> P2479.

<sup>2170</sup> P2455,p.21.

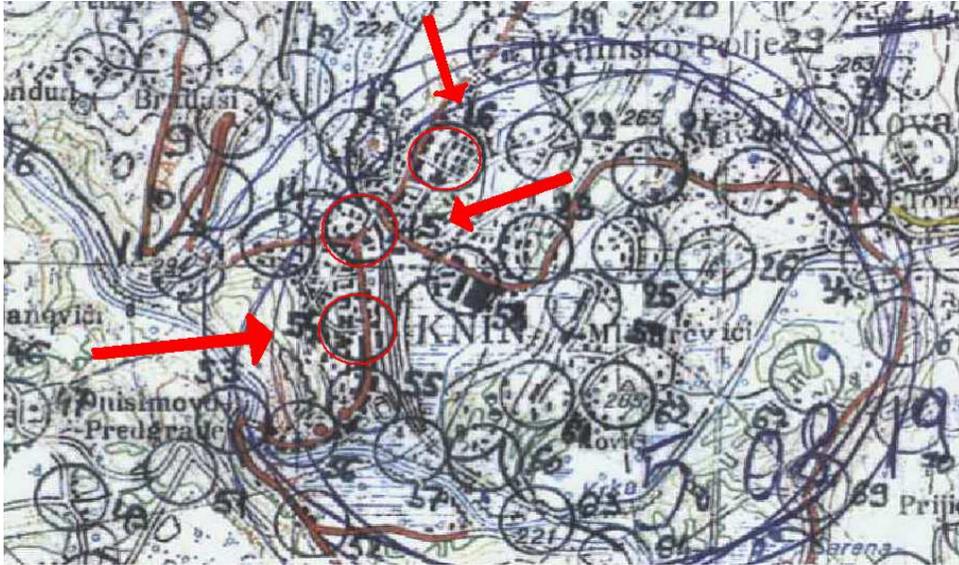
<sup>2171</sup> P1275,pp.2-4.

<sup>2172</sup> Rajčić:T.16593-94.

<sup>2173</sup> P2339,pp.3-4.

<sup>2174</sup> P2339,pp.12-13.

<sup>2175</sup> P2455,p.16.



Enlarged extract of P2338 showing S15, S16 and S54

599. Rajčić claimed that the target 7GBR TRS actually fired on was the “S.Rodic” (a.k.a. Northern) barracks. He sought to substantiate this claim by asserting that the HV were in fact firing MBRLs “to the right of S-16”,<sup>2176</sup> even though no HV documentation supports this assertion.<sup>2177</sup> In fact, the Sekanović Diary states that the HV fired MBRLs “right from the bridge S-16”.<sup>2178</sup> The distinction is dispositive because, bearing in mind that the 7GBR was firing from northeast of the target area,<sup>2179</sup> the description “right from the bridge” does not correspond to the Northern Barracks, but accurately depicts the residential area covered by S-16 (where the bridge that is referred to is marked by S-15, as recorded two lines above in the diary).

600. When questioned this discrepancy, Rajčić testified that S-16 in fact marked the place where troops, at a certain point in combat, might find themselves,<sup>2180</sup> then later claimed it marked the location of the police station,<sup>2181</sup> before finally asserting the circles on P2455 were primarily used for locating persons who are moving.<sup>2182</sup> None of these shifting explanations hide the fact that S-16 was a residential area, specifically targeted.

<sup>2176</sup> Rajčić:T.16410-16411.

<sup>2177</sup> See P2455, pp.16,21; P2461, p.1; P2466, pp.1,5; P2473, p.2.

<sup>2178</sup> P2455, p.16.

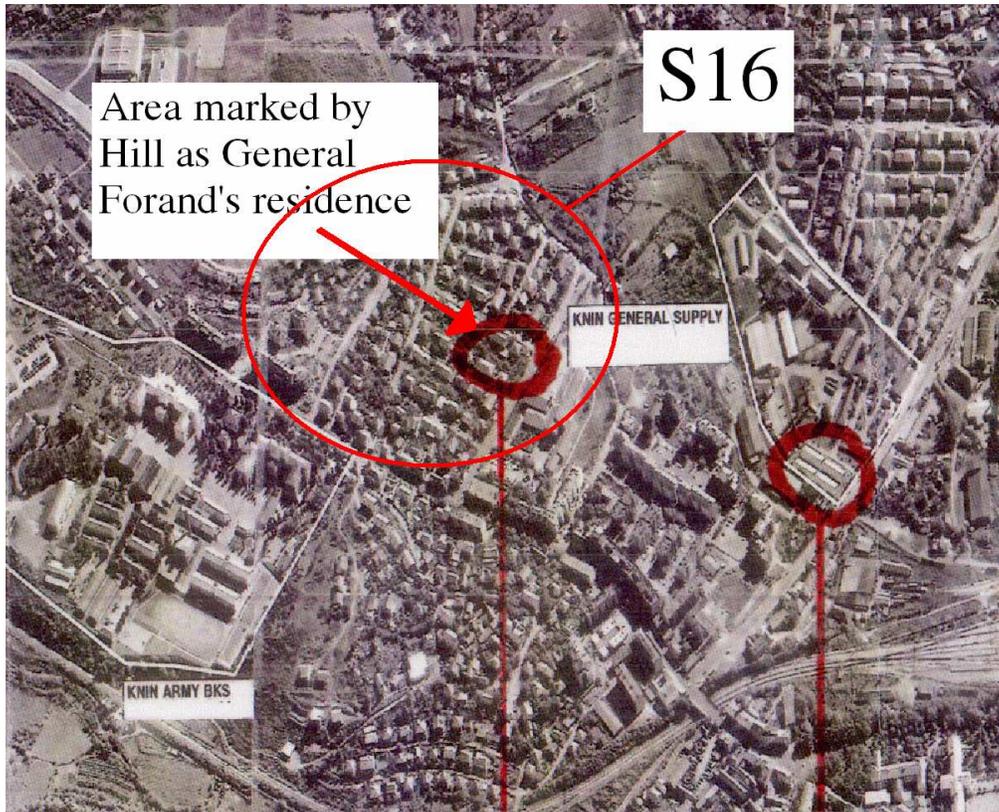
<sup>2179</sup> See P1125, p.7; P71, pp.79-81,84; P1279(map); P2417(map).

<sup>2180</sup> Rajčić,T.16554-55.

<sup>2181</sup> Rajčić,T.16555.

<sup>2182</sup> Rajčić,T.16556.

601. Evidence on the ground confirmed that HV forces did fire at S-16, and that projectiles landed in the residential area covered by S-16.<sup>2183</sup> The area marked by S-16 is the same area Hill identified as where he found exploded rocket bodies on the lawn of Forand's residence<sup>2184</sup> (located in a residential area several hundred metres from any alleged military objective<sup>2185</sup>). The caliber of the rockets<sup>2186</sup> discovered by Hill is consistent with the 122mm rockets Rajčić confirmed were used by the HV.



Demonstrative map (Part of P300 with "S16" from P2338 overlaid)

602. The Defence suggested that the use of MBRLs in Knin residential areas may in fact be attributed to ARSK forces firing on their own civilian population. This explanation cannot explain the totality of the evidence establishing HV forces firing MBRLs into civilian populated areas. As discussed above, Rajčić himself admitted that MBRL units fired on Knin.

<sup>2183</sup> Dreyer:T.1723.

<sup>2184</sup> Hill:P292,p.22;Hill:T.3754-55;see Dreyer T.1733-35,P79(map).

<sup>2185</sup> SeeHill:T.3759-60(marking P300(marked "D")).

<sup>2186</sup> Hill:T.3755(Hill was shown D87 depicting a 128mm "Oganj" rocket. Hill said the rocket in the photograph was wider (i.e. higher caliber), longer and a different colour from the rockets he found.).

603. Further, there is no evidence of ARSK firing into Knin, either before or after HV forces entered the town. The evidence allegedly supporting this alternative explanation is the UNMO crater analysis conducted by Antilla and Munkelien on 17-Aug-95<sup>2187</sup> and their discovery of a 128 mm M-77 “Oganj” rocket. The crater analysis and Oganj rocket discovery do not show that the ARSK fired on Knin at any time.

604. The Gotovina Defence relied an UNCRO Sitrep dated 5-Aug-95 that reported at 1815hrs “12 rounds of [artillery] from Strmica towards Knin” from tanks and mortars seen at ARSK defensive positions in “general area of Strmica” to suggest that the relevant MBRLs were fired by the ARSK. The UNCRO sitrep does not mention that rockets were fired, but refers only to mortars and tanks. Mortars and tanks are incapable of firing the 15km distance from Strmica to Knin.<sup>2188</sup> HV intelligence reports show that there were no ARSK MBRLs in Strmica.<sup>2189</sup> Equally, no HV or UN reports<sup>2190</sup> from Knin report MBRL strikes on the town around the time indicated in the UNCRO sitrep; in fact, they do not report any artillery impacts after the HV entry into the city.

605. The analysis established the direction of fire as “approx. 20 degrees (NNE)”.<sup>2191</sup> The only ARSK “Oganj” MBRLs in the vicinity of Knin were in Vrpolje.<sup>2192</sup> Vrpolje is five kilometres from Knin and is approximately 20 degrees NNE of the city. The position at Vrpolje was taken by HV forces during the morning of 5-Aug-95. Vrpolje was reached by the 4GBR by 0855hrs on 5-Aug-95, as indicated in the Operation Diary.<sup>2193</sup> Considering HV forces were already firing artillery – including MBRLs – on Knin at this time,<sup>2194</sup> the explanation that HV forces used seized MBRLs to fire on Knin is far more plausible than the speculative alternative that ARSK fired on its own civilian populated areas. Rajčić confirmed that abandoned

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<sup>2187</sup> Antilla&Munkelien:P60(Crater Analysis).

<sup>2188</sup> See Dangerfield:T.7301-05.

<sup>2189</sup> See, e.g., D156(HV report on ARSK weapons in area of separation, 20 July 1995); D966(Intel Report, 2 August 1995); Williams:T.9656.

<sup>2190</sup> See, e.g., P105; D124; P109, p.8.

<sup>2191</sup> Antilla&Munkelien:P60, p.3.

<sup>2192</sup> P1202, p.1.

<sup>2193</sup> P71, p.84.

<sup>2194</sup> MBRLs were fired on the very area where the crater analysis was conducted. Immediately after the attack began on 4 August, Dreyer observed MBRL impacts to the left and right of a spot he marked as “G” on P79.(Dreyer:T.1734;P79(map)). This is the same location the crater analysis was conducted:T.2518-2519;P174(map).Antilla’s location is accurate (c.f. Munkelien):T.2680-2683.

ARSK weapons were seized by the HV specifically on their way into Knin on 5-Aug-95.<sup>2195</sup> Seized weaponry included *Oganjs*.<sup>2196</sup>

(xxiii) “Airburst” Artillery

606. The use of “airburst” artillery is another example of an indiscriminate means of attack because it is specifically designed to spread shrapnel over a wide area. Expert Konings confirmed that “once you use an explosion above the ground, practically all fragments will fly through the air, will fly further and will do more damage than when you use a point-detonating or a detonation on the ground.”<sup>2197</sup> For example, shrapnel from a 120mm mortar will have a lethal radius of 1600m<sup>2</sup> if detonated on the ground, but a lethal radius of 2100m<sup>2</sup> if detonated three metres above the ground,<sup>2198</sup> and beyond the lethal radius, shrapnel can fly and cause damage “hundreds of metres” from the point of impact.<sup>2199</sup> The area increases as the calibre of the weapon (*e.g.* 130mm cannon) increases.<sup>2200</sup>

607. Hill observed the sky “glowing” with what he recognised<sup>2201</sup> as “airburst” artillery.<sup>2202</sup> Hill’s evidence was challenged on the basis that the HV did not have the capability to use airburst artillery, but Hill clarified it only required a simple turning of the fuse on an artillery round.<sup>2203</sup> This explanation was confirmed by Konings<sup>2204</sup> and Williams.<sup>2205</sup>

(xxiv) Random and Harassment Fire

608. The HV’s method of firing, in particular the varying rates of fire and random single shots, had no other purpose but to harass the civilian population. Expert Konings explained that this type of prolonged shelling, with random single rounds (as opposed to conventional corrected fire), delivers no direct or concrete military

<sup>2195</sup> Rajčić:T.16416;*see*P2339,p.5.

<sup>2196</sup> P2673,p.6.

<sup>2197</sup> Konings:T.14316;*see* Hill:P292,pp.15-16;Hill:T.3739-40.

<sup>2198</sup> Konings:P1259,p.12(11(c)(iii)).

<sup>2199</sup> Konings:T.14316-17;Konings:P1259,p.12(11(c)(ii)).

<sup>2200</sup> Konings:T.14365-66.

<sup>2201</sup> Hill:T.3739.

<sup>2202</sup> Hill:P291,p.4;Hill:P292,pp.11,15-16;Hill:T.3738,3826.

<sup>2203</sup> Hill:T.3826.

<sup>2204</sup> Koning:T.14319-20.

<sup>2205</sup> Williams:T.9537;Williams:P925,p.6.

advantage but that it has a psychological, harassing effect on the civilian population by keeping them guessing about where the next round will fall.<sup>2206</sup>

609. On each day of the attack, after the initial barrage, the HV fired artillery at uneven rates, including single impacts unevenly spaced out in time, randomly dispersed.<sup>2207</sup> Dangerfield, for example, described the shelling as “sporadic, because no one area or military target ever appeared to be targeted with more than 3 or 4 rounds”.<sup>2208</sup> A video of the shelling of Knin on 4-Aug-95 captured the employment of “harassment fire” during the day.<sup>2209</sup>

610. HV orders confirm that this type of shelling was intentional. The War Diary of TS-4, for example, records at 1500hrs on 4-Aug-95: “T-130mm keeping Knin under fire over the next hour, in uneven intervals, 15 pcs. x 3”<sup>2210</sup> This coincided with the increasing exodus of civilians from Knin (discussed below). Irregular and random rates of fire were ordered in shelling other civilians towns, including Kistanje,<sup>2211</sup> Kaštel Žeganski<sup>2212</sup> and Gračac.<sup>2213</sup>

(xxv) Duration of the Attack

611. The near continuous shelling of civilian towns over a period of thirty hours indicates an attack aimed at intimidating civilians rather than targeting military objectives. HV reported that ARSK central communications were disabled on 4-Aug-

<sup>2206</sup> Konings:P1260,pp.5,6(3(a)(2),4(a));Konings:T.14483-85.

<sup>2207</sup> SeeBellerose:T.5871;Dangerfield:P695,para.30;Dawes:P980,p.6;Williams:T.9533-34;Williams:P927,p.1;Williams:P925,p.5;Williams:P926,para.3;Konings:T.14482-85(commenting on video P1278).

<sup>2208</sup> Dangerfield:P695,para.30. Regarding the harassing nature of the attack, and its psychological impact, *see also*

Bellerose:T.5871;[REDACTED];[REDACTED];Berikoff:P741,para.3;Hansen:P1283,p.3;Hansen:T.14903-04,15076;Al-Alfi:P1160,p.28;Gilbert:T.6450-

51;Leslie:P84,p.2;Leslie:T.1979;Marti:T.4634;Dijkstra:P429,paras.15-17.

<sup>2209</sup> Konings discusses P1278:T.14482-85.

<sup>2210</sup> P2533,p.3;*see*P1268,p.1(“...at 15:00 hours, in irregular intervals, a total of 18 projectiles were fired from a T-130mm at the general area of Knin” and (“at 13:30 hours, with 8 projectiles from a T-130mm at Knin”);P1267,p.3(“12:20 hours 8 projectiles from a T-130mm at Knin”).

<sup>2211</sup> P1267,p.2(Report from Milin to OG Šibenik 1300hrs, 4 August showing Kistanje was shelled at 0555hrs (5 projectiles), 0845 (3 projectiles), 1220 (4 projectiles)).

<sup>2212</sup> P1183,p.9(Operational Diary RH MOD Split MD Main Staff entry at 1055hrs records Captain Firšt, “order for Lopoč, to fire at Kaštel Žeganski *in selective intervals, in irregular time periods*, to pay attention to the UNCRO positions Rodalice 616-778 Braška 585-805;our people are with them”(emphasis added));P2436,p.9(“1456: Every hour, three projectiles each at selected targets in Kaštel.”).

<sup>2213</sup> P2436,pp.5-7(Gračac was shelled at 0900, 0905, 0945, 1120, 1145 and 1920 hours).

95<sup>2214</sup> and its command had collapsed.<sup>2215</sup> The shelling of towns nonetheless continued in the dark of evening,<sup>2216</sup> and during the morning of 5-Aug-95.

(xxvi) Cluster Munitions

612. The HV also used cluster munitions, inherently indiscriminate the use of which in civilian areas is *per se* unlawful.<sup>2217</sup>

613. Dawes, who travelled through Knin on 4-Aug-95, saw cluster munitions spread out along one of two possible streets in Knin.<sup>2218</sup> “[t]he bomblets were about 25 cm long each and about 4-5 cm in diameter. They were covering the whole road, maybe 20-30 of them. They also had a cloth attached to them.”<sup>2219</sup> Konings testified that the weaponry in HV’s arsenal, including howitzers, mortars and rockets, were capable of delivering cluster-munitions.<sup>2220</sup>

*Failure to Take Precautionary Measures Required by IHL*

614. The Appeals Chamber has identified the failure to comply or attempt to comply with precautionary measures as required by IHL as a factor suggesting an attack was directed at the civilian population.<sup>2221</sup> Gotovina’s non-compliance with Article 57(2)(a)API, in issuing the order to shell the towns is discussed above. The evidence makes clear that Gotovina failed to comply, or attempt to comply, with *inter alia*:

- Article 57(2)(a)(ii)API required Gotovina to take all feasible precautions in the choice of means and methods of attack, yet Gotovina conducted a 30-hour attack using random rates of fire, MBRLs and no corrective fire from weapons up to 26 kilometres away.

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<sup>2214</sup> See discussion re: Post Office.

<sup>2215</sup> P2347, p.2.

<sup>2216</sup> See Gilbert:P589, para.20; [REDACTED]; Berikoff:P740, para.2(i); Berikoff:D284, p.12; Berikoff:P748, p.6; Dangerfield:T.7146; Dangerfield:P695, para.30; Dangerfield:P696, para.5; Leslie:T.1963, 2059; Williams:P925, p.5.

<sup>2217</sup> Non-guided high dispersion weapons are incapable of discriminating between civilians/civilian objects and military objectives and their use in civilian areas is therefore tantamount to directly targeting civilians. See Martić TC, para.463; Galić TC, para.57 (footnote 101).

<sup>2218</sup> Dawes:T.10500; Dawes:P980, pp.4-5.

<sup>2219</sup> Dawes:P980, p.5.

<sup>2220</sup> Konings:T.14331; see Dawes:T.10482-83, 10487-500 (cross-examination); Corn:T.21572-73.

<sup>2221</sup> Milošević AJ, para.66, fn.176.

- Article 57(3)API required Gotovina, when faced with a choice between several military objectives for obtaining a similar military advantage, to select that which may be expected to cause the least danger to civilian lives and civilian objects, yet Gotovina allegedly targeted the Railway Station and cross-roads rather than checkpoints outside of town. Similarly, Gotovina allegedly targeted the Post Office, situated in a dense residential area, for the purpose of taking out communications while knowing they were effectively nullified by the targeting of Čelevac and other repeaters.

## 2. Serbs Were Displaced by the HV's Coercive Acts

### *The Artillery Attacks Caused the Majority of Serbs to Flee the Krajina*

#### (i) Knin

615. In the early afternoon of 4-Aug-95, the panic anticipated by the Brijuni Meeting was realised and civilians began to flee as a result of shelling.<sup>2222</sup>

616. After the attack commenced, [REDACTED], a resident of Knin, took shelter with approximately 100 other civilians until 1600hrs:<sup>2223</sup> “[t]he atmosphere in the hotel where we took shelter across the street from my house with all the neighbours was one of panic, and people were worried for their safety”.<sup>2224</sup> He eventually fled Knin for his village.<sup>2225</sup>

617. [REDACTED], a civilian resident, sheltered from the shelling with 50 to 70 people, who were all “terrified”, and “[a]ll they could think of was how to escape. However, the shelling was so heavy that people could not leave. Only in late afternoon when the shelling became less intensive were people able to leave.”<sup>2226</sup> [REDACTED], and he had the impression “it was pouring with shells”;<sup>2227</sup> he fled to a nearby village in the expectation he would return after the shelling, but in the

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<sup>2222</sup> Leslie:T.1963;Dangerfield:P695,paras.18,32; [REDACTED];[REDACTED];[REDACTED];P-56:T.3541.

<sup>2223</sup> [REDACTED].

<sup>2224</sup> [REDACTED].

<sup>2225</sup> [REDACTED];[REDACTED].

<sup>2226</sup> [REDACTED].

<sup>2227</sup> [REDACTED].

afternoon he was informed that a convoy had left Knin, and he left around 1800hrs.<sup>2228</sup>

618. [REDACTED] sheltered in a basement with approximately twenty civilians, mostly women and children: "...they were frightened and filled with uncertainty [...]"<sup>2229</sup> The civilians he met in Knin through the course of the day were "insecure. They felt afraid. And the essential thing was to save their lives and not come under the effects of any shelling, to remain alive."<sup>2230</sup> Around 1300hrs on 4-Aug-95, Witness P-56 began to see convoys of people from the areas of Vrlika and Drniš moving through Knin.<sup>2231</sup>

619. Hundreds of civilians, predominantly women, children and elderly, went to the UN Sector South HQ to escape the shelling.<sup>2232</sup> Forand and Al-Alfi allowed them in because in their view, the civilians' fears regarding the shelling were well grounded.<sup>2233</sup> Corroborating the fact that civilians' fears were generated by the shelling, the civilians who sought refuge at the UN camp included some of the few ethnic Croats who lived in the Knin area.<sup>2234</sup>

620. ECMM observer Hansen was in a shelter with elderly persons, women and children, and related that "people [were] afraid, scared, children crying, and absolute uncertainty."<sup>2235</sup> Berikoff reported that "there were a number of Serb civilians on the street. They were very confused and in a state of panic, not knowing what to do."<sup>2236</sup>

621. International officials, including military personnel who had artillery training, were terrified themselves. Dangerfield, for example, said that, although he was forewarned of the attack, when it came "it was a shock and truly terrifying...within seconds my actions were those of someone who was terrified and in a state of panic."<sup>2237</sup> Dreyer, who led the effort to rescue UN civilian employees and others

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<sup>2228</sup> [REDACTED].

<sup>2229</sup> P-56:T.3540.

<sup>2230</sup> P-56:T.3541.

<sup>2231</sup> P-56:T.3541.

<sup>2232</sup> See P744,p.3;Al-Alfi:P1160,p.34;P-136:T.674-75; [REDACTED];[REDACTED].

<sup>2233</sup> See Al-Alfi:P1160,p.34.

<sup>2234</sup> See Al-Alfi:P1160,p.34-35;[REDACTED];[REDACTED].

<sup>2235</sup> Hansen:T.14909;see P1299,p.1.

<sup>2236</sup> Berikoff:D284,p.10;see Boucher:T.13969-70.

<sup>2237</sup> Dangerfield:P699,pp.2-3;see Elleby:P214,p.1;Boucher:P1177,p.6;Boucher:P1178,p.8

from the effects of shelling in residential areas, found UN personnel and civilian staff members in states of extreme shock and panic.<sup>2238</sup>

622. The terrifying effect of artillery in general was confirmed by professional artillerymen. Konings, who personally experienced shelling in Sarajevo, described the “psychological effect of artillery” as “beyond every imagination”.<sup>2239</sup> A MUP analysis of Operation Storm acknowledged the “psychological uncertainty” artillery attacks in the “depth” had on “the ranks of the enemy *and in the ranks of the Serbian population.*”<sup>2240</sup>

(ii) Benkovac

623. OG Zadar recorded that the civilian population began fleeing Benkovac some time before 0700hrs on 4-Aug-95.<sup>2241</sup> [REDACTED] recalled that “[n]ormally the shelling was around the front line but with the towns being shelled, this was something special.”<sup>2242</sup> Vukašinović recalls people panicking as a result of the shelling. Although an evacuation was organised after 6pm, “even before this people had been leaving on tractors and other vehicles they could obtain. All the events of that day had caused people to panic,” including the shelling.<sup>2243</sup> Dangerfield observed Benkovac licence plates on vehicles passing through Knin at approximately 1700hrs, amongst the civilian refugees and troops withdrawing through Knin from the direction of Pakovo Selo.<sup>2244</sup>

(iii) Obrovac

624. TRS-5 shelled Obrovac from approximately 0700hrs on 4-Aug-95.<sup>2245</sup> The civilian population in Obrovac fled by 0800hrs,<sup>2246</sup> seeking shelter in outlying villages “because of the danger caused by the shelling”.<sup>2247</sup> Although people thought they would shortly return,<sup>2248</sup> by mid-morning the shelling extended to smaller villages

<sup>2238</sup> Dreyer:T.1724-25.

<sup>2239</sup> Konings:T.14348;seeKonings:T.14365,14374,14379;Turkalj:T.13719.

<sup>2240</sup> P614,p.19(emphasis added).

<sup>2241</sup> P2436,p.5.

<sup>2242</sup> [REDACTED].

<sup>2243</sup> Vukašinović:D1499,para.15;see P2436,p.5.

<sup>2244</sup> Dangerfield:P695,paras.18,32.

<sup>2245</sup> Dopud:P548,para.2;Dopud:T.5981.

<sup>2246</sup> Novaković:T.11726;seeDopud:P548,para.3.

<sup>2247</sup> Dopud:P548,para.3;seeNovaković:T.11726.

<sup>2248</sup> Dopud:P548,para.3.

around Obrovac, including Kruševo, Bilišane, Zelengrad, Žegar, Bogatnik and Muškovići,<sup>2249</sup> and by midnight most people had fled the area.<sup>2250</sup> Dupud observed that “the way the attacks spread from the town of Obrovac to the other villages made it impossible to return at any point.”<sup>2251</sup>

(iv) Gračac

625. TRS-5 shelled Gračac town from approximately 0500hrs on 4-Aug-95<sup>2252</sup> until some time into the evening.<sup>2253</sup> Vida Gaćeša, local resident, was awoken by a shell landing very close to her house at 0505hrs.

626. Gaćeša sheltered in a basement in Gračac before seeking shelter in an outlying village, like many others from Gračac.<sup>2254</sup> She did not take her belongings “because [sh]e thought that [sh]e would be back after the shelling was over”, but around 1800hrs she fled to Srb, and then Bosnia.<sup>2255</sup> She decided to flee because of “[t]he fact that we had been shelled all day and the fact that we were concerned that we would be alone in the village in the night and the panic that had been created amongst the people[...].”<sup>2256</sup>

(v) Other Civilian Settlements

627. Gotovina’s forces unlawfully shelled other settlements, causing civilians to flee. [REDACTED] described arriving in Kistanje and Đeverske in the early hours of 5-Aug-95 and was informed that most civilians—including his own family—had fled because of the shelling.<sup>2257</sup> [REDACTED]<sup>2258</sup> An UNCRO Sitrep records that on 4-Aug-95 “KenBat provided ambulance assistance to 3 civilians in the Kistanje area who were wounded during the HV/HVO arty shelling.”<sup>2259</sup>

<sup>2249</sup> Dopud:T.6000-01;P551(map marked by Dopud indicating shelled towns).

<sup>2250</sup> Dopud:P548,para.3.

<sup>2251</sup> Dopud:P548,para.8.

<sup>2252</sup> Steenberg:P516,para.20.

<sup>2253</sup> Sovilj:P86,para.6;Sovilj:P87,para.8;Sovilj:T.2215;P342,p.2(SSHQ Report-handwritten note);P698,para.6(SLO Report).

<sup>2254</sup> Gaćeša:P191,paras.7-11;seeSovilj:T.2219-20;Sovilj:P86,para.6.

<sup>2255</sup> Gaćeša:P191,para.11).

<sup>2256</sup> Gacesa:P191,para.13.

<sup>2257</sup> [REDACTED];P-56:T.3544.

<sup>2258</sup> [REDACTED].

<sup>2259</sup> P343,p.7.

628. As a result of shelling in Polača, [REDACTED].<sup>2260</sup> [REDACTED]<sup>2261</sup>

629. [REDACTED], who had fled from the shelling in Knin, observed and spoke with civilians who travelled through his village during the night of 4-5 August coming from, among other places, the Plavno valley; they told him [REDACTED].<sup>2262</sup> He recalled that “[o]nly civilians lived in those villages, and I realised that if they were shooting civilian targets, we ha[ve] to escape.”<sup>2263</sup>

630. Ilić, a local resident, fled to Oraovac when the shelling of Donji Lapac started on the morning of 7-Aug-95.<sup>2264</sup>

*Unlawful Shelling and Other Illegal Acts Were Primary Causes of Civilian Flights*

631. Contrary to Defence arguments focusing on pre-existing evacuation plans, the unlawful shelling and other illegal acts were primary causes of civilian flight. As observed in *Milutinović*, “people may have left their homes for different reasons” – in that case, such reasons included “instructions from the KLA, the desire to be present while combat between the KLA and forces of the FRY and Serbia was taking place, or indeed the fact that NATO was bombing targets close to where they lived.”<sup>2265</sup> None of these, however, meant that the illegal actions of the Serbian forces were not a primary cause for the flight.<sup>2266</sup>

(vi) The Civilian Protection Plans Were Not Plans to Remove the Civilian Population

632. Civil Protection plans, including evacuation plans, were common in former Yugoslavia; Croatian government bodies had similar measures in place.<sup>2267</sup>

633. An Aug-94 general assessment adopted by the Republican Civilian Protection Staff 14-Jul-95,<sup>2268</sup> such plans addressed numerous concerns, including shelter, fire

<sup>2260</sup> [REDACTED];[REDACTED].

<sup>2261</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>2262</sup> [REDACTED].

<sup>2263</sup> [REDACTED].

<sup>2264</sup> Ilić:P726,paras.5-6;Ilić:P725,p.2;Ilić:T.7552.

<sup>2265</sup> *Milutinović* TJ,vol.2,para.1175.

<sup>2266</sup> *Milutinović* TJ,vol.2,para.1177,1178. The Chamber then found the Serb forces had committed deportation and forcible transfer:paras.1181-1262.

<sup>2267</sup> Kovačević:D1676,p.23.

prevention and extinguishment, first-aid and rescuing people,<sup>2269</sup> including a possible evacuation of civilian towns if attacked by artillery.<sup>2270</sup> No element of the plan envisages the wholesale evacuation of the RSK; on the contrary, where an evacuation takes place – “by decision of the relevant organs”<sup>2271</sup> – then authorities should “Plan to receive and accommodate the evacuated population in less vulnerable zones”, and should “Assess the possibilities of taking care of the population in their places of residence or neighbouring villages or towns...”<sup>2272</sup>

634. Detailed evacuation plans, such as those from Benkovac,<sup>2273</sup> existed only at the municipal level.<sup>2274</sup> All municipalities “had to have such or similar plans”.<sup>2275</sup> D253 demonstrates that the evacuation plans were designed to temporarily remove civilians from danger in the event of an attack on a civilian populated area. For example, various Benkovac villages are listed in a table entitled “1<sup>st</sup> Phase of the Evacuation” which lists their destination in the event of evacuation (“Placement”) as nearby places including Benkovac, Bjelina and Kistanje.<sup>2276</sup> D253 estimates the fuel required to execute the evacuation. Dividing the “Total distance (km)” by the number of vehicles shows that under the plan each bus is expected to travel no more than approximately 72-kilometres, freight trucks 44-kilometres and tractors 28-kilometres.<sup>2277</sup>

635. The Republican Civilian Protection Staff order of 29-Jul-95<sup>2278</sup> – and related orders/reports<sup>2279</sup> – do not reflect a republic-level plan to remove the civilian population. Instead, instead it reflects a heightened duty of these authorities, by law, to protect civilians after a state of war had been declared on 27-Jul-95, as noted in the preamble of the order: “Pursuant to the decision on the declaration of a state of

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<sup>2268</sup> D933,p.32(The Civilian Protection Staff also issued order no. 01-65/95, ordering the activation of regional and municipal protection staffs due the “activities of the BH Army 5<sup>th</sup> Corps and HV” which suggested “the possibility of intensification and escalation of combat operations.”(D440,pp.2-3)).

<sup>2269</sup> SeeD933,p.17.

<sup>2270</sup> D933,pp.19-21.

<sup>2271</sup> D933,p.19.

<sup>2272</sup> D933,p.20.

<sup>2273</sup> SeeD253;D931(plan Jan-93).

<sup>2274</sup> Novaković:P1092,p.11.

<sup>2275</sup> Novaković:T.11723.

<sup>2276</sup> D253,p.4.

<sup>2277</sup> D253,p.16;seeD932,p.2(delivering 1400 litres of fuel);T.11849-50.

<sup>2278</sup> D255.

<sup>2279</sup> SeeD936;D256;D937.

war....”<sup>2280</sup> Municipalities were to ensure readiness for such things as “sheltering, evacuating and providing treatment” and to “take other measures for personal and collective protection.”<sup>2281</sup> The possible removal of archival and official documentation<sup>2282</sup> reflects the prospect of destruction of irreplaceable records through fire, vandalism or other means if left unguarded.

636. [REDACTED] explained that orders after the declaration-of-war were to protect civilians, and were not plans to leave the Krajina: [REDACTED] As I said, there was talk at the meetings at the corps command about preparations for shelters and evacuating people [REDACTED]<sup>2283</sup>

(vii) The 4 August Martić Decision Was Not a Primary Cause of Civilian Flight

637. Martić’s decision<sup>2284</sup> to evacuate civilian inhabitants from areas under artillery attack was signed at 1720hrs, approximately 12-hours after the artillery attack began, and over 25-hours since the Main Staff learned the HV were to attack.<sup>2285</sup> At 1800hrs, Novaković read out the decision to officials and journalists.<sup>2286</sup> An ARSK retrospective indicates that decision was issued in response to the fact people were already leaving as a result of shelling:<sup>2287</sup> “The Military Council established that the uncontrolled evacuation of the population had an impact on military conscripts leaving their units [...and] made the decision that part of the population, the sick, children and women (mothers of small children and old women) be evacuated in an organised manner [...]”

638. By the time the decision was issued civilians were already in flight,<sup>2288</sup> and had been fleeing the shelling from the beginning of the attack:

- Benkovac, since 0700hrs<sup>2289</sup> (even though formal evacuation was not agreed upon until approximately 1800hrs<sup>2290</sup>);

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<sup>2280</sup> D255,p.1;seeD440.

<sup>2281</sup> D255,pp.1-2.

<sup>2282</sup> D254,p.1;seeD938.

<sup>2283</sup> [REDACTED].

<sup>2284</sup> D137.

<sup>2285</sup> SeeD923,p.5.

<sup>2286</sup> Novaković:T.11743-45.

<sup>2287</sup> D923,pp.6-7;seeNovaković:T.11730.

- Obrovac, since 0800hrs;<sup>2291</sup>
- Gračac, since mid-morning;<sup>2292</sup> and
- Knin and elsewhere, since early afternoon.<sup>2293</sup>

639. The Defence's argument that any flight observed prior to the dissemination of the decision was due to an official evacuation from villages nearer the frontline, including Drniš,<sup>2294</sup> is not supported by the evidence. The evidence contradicts the suggestion that an evacuation was ordered in any town prior to Martić's decision.<sup>2295</sup> The absence of an earlier order to evacuate Drniš is reflected in the fact it was included in Martić's later decision. In another town within a similar distance from the frontline, Benkovac, no organised evacuation was carried out before 1800hrs although civilians started leaving much earlier.<sup>2296</sup>

640. The impromptu nature of the decision to evacuate civilians from areas under attack was apparent to UNCRO officials from whom RSK representatives sought fuel and transportation for 32,000 people. The RSK officials were visibly disorganised<sup>2297</sup> and had no detailed evacuation plan.<sup>2298</sup> UNCRO did not meet with the RSK representatives again and never saw an evacuation plan.<sup>2299</sup> The ARSK had requested 70,000 litres of fuel but UNCRO was only able to provide a little over 1/70<sup>th</sup> of that (1,256 litres) to "fleeing civilians, at least those who could pass close to (SS HQ)".<sup>2300</sup>

641. The ineffectual dissemination of the evacuation order reflected its *ad hoc* nature. Krajina civilians were unaware of the decision, or any organised

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<sup>2288</sup> D923,p.6; *seep.* 24 (order to send vehicles to Golubić failed at 1830hrs "due to congestion of the roads and the general chaos").

<sup>2289</sup> P2436,p.5 (OG Zadar Diary); Vukašinović: D1499,p.4.

<sup>2290</sup> Vukašinović: D1499,p.4.

<sup>2291</sup> Novaković: T.11726; *see* Dopud: P548, para.3.

<sup>2292</sup> *See* Gaćeša: P191, paras.8-11; Sovilj: T.2219-20; P86, paras.6-7.

<sup>2293</sup> Leslie: T.1963; Dangerfield: P695, paras.18,32;

[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

<sup>2294</sup> T.11876.

<sup>2295</sup> Novaković: T.11967.

<sup>2296</sup> *See* P2436,p.5. Vukašinović: D1499, para.15.

<sup>2297</sup> Forand: T.4375-76; P592.

<sup>2298</sup> D182 (*see* T.2861,2863 clarifying date); *see* D337,p.2.

<sup>2299</sup> *See* Forand: P330,p.5; Dangerfield: P695, para.32.

<sup>2300</sup> Forand: P330,p.5; *see* Gilbert: T.6471.

evacuation,<sup>2301</sup> or otherwise did not refer to it in describing the circumstances of their flight.<sup>2302</sup> Witnesses who would be expected to be aware of this decision, such as police or hospital staff, were not.<sup>2303</sup>

642. The manner of the victims' departure also reveals that they were fleeing the ongoing or feared-to-be-resumed shelling. People fled without any belongings, believing they would return very soon.<sup>2304</sup> Forand reported to his superiors that those civilians who fled to the UN compound had arrived without "personal belongings, medical prescriptions and cherished spiritual items".<sup>2305</sup>

*Remaining Serbs Fled Because of a Campaign of Crimes*

643. Few Serbs remained after the shelling attack, and many who did were driven away by a subsequent campaign of crime.<sup>2306</sup> International observers monitored the evolution of a "deliberate, hostile policy which included killings, burning of houses, looting of property and various legal obstacles", directed at driving Serbs from their homes.<sup>2307</sup> Widespread crimes engendered extreme fear amongst the population<sup>2308</sup> while depriving them of the necessities for survival.<sup>2309</sup> A number of Serb civilians were arbitrarily detained<sup>2310</sup> and thus compelled to declare they left the Krajina

<sup>2301</sup> Sovilj:T.2252;Grubor:P54,p.2;Dupud:P548,p.4;Dupud:T.5982,T.6013-16;

[REDACTED];[REDACTED];Guša:T.9856-

57;Sinobad:P2362,para.25;seeSovilj:P87,para.9;[REDACTED];[REDACTED];P-54:T.2822-24,[REDACTED];[REDACTED].

<sup>2302</sup> [REDACTED];[REDACTED];Ilić:P726,para.5;Gaćeša:P191;Gaćeša:T.2898-

99;Bunčić:P2688,p.11;[REDACTED];[REDACTED];[REDACTED];Đurić:P436;Đurić:D397;Plavša:P2686.

<sup>2303</sup> Grubor:P54,pp.2-4;Grubor:P55,p.3;[REDACTED].

<sup>2304</sup> See Vanderostyne:P321,para.8-9;Gaćeša:P191,para.11;P348,p.2;Dupud,P548,para.3;Gojanović:P196,para.3;Steenbergen:T.154.

<sup>2305</sup> P348,p.2.

<sup>2306</sup> See "Crimes: Counts 4&5, 6&7, 8&9" and associated annexes.

<sup>2307</sup> P829,pp.9;also, P819,p.3;P829,pp.1-

9;P819,pp.1,3;P50;P805,p.2;P807,p.1;P808;P856,p.2;P809,p.2;P810,pp.5,6;P813,p.2;P815,pp.1-

4;P933,p.1;P935,p.4;P939,p.3;P940,p.2;P942,pp.2-

3;P946,p.2;P950;P952;P954,p.2;P955;P958,p.2;P2147.

<sup>2308</sup> See, e.g., P691,para.22;Morneau:T.4006-4007;Vujnović:P414,para.4;Mirković:

P2694,para.5;Đurić:P437,paras.4,7-8;P-136:T.779;Sinobad:P2362,para.31;Mirković: P723,para.12.

<sup>2309</sup> See P829,p.6;[REDACTED].

<sup>2310</sup> See, e.g.,

[REDACTED];[REDACTED];Mirković:P2682,p.14;Rodić:P637,p.3;Sarac:P2687,p.7;Bunčić:P2688,p.

p.11-13;[REDACTED];[REDACTED];[REDACTED];Večerina:P652,para.13;Večerina:T.6718-

6719;Ilić:P725,pp.2-3;Ilić:P726,pp.3-6;

[REDACTED];[REDACTED];Dangerfield:P695,para.19;P825;P815,p.2;

[REDACTED];[REDACTED];[REDACTED];

Morneau:P314,p.6;Morneau:P310,p.4;Drča:P2690,p.3.

“voluntarily”.<sup>2311</sup> Others simply fled because of the murder of relatives or neighbours,<sup>2312</sup> or through intimidation by Croatian forces.<sup>2313</sup> By November, roughly 3% of the Serb population in Sector South remained.<sup>2314</sup>

### C. Counts 4+5 – Plunder and Wanton Destruction

644. Throughout the Indictment Area, Croatian forces destroyed and burned homes and buildings, particularly those belonging to Serbs or in areas populated predominantly by Serbs. This destruction was widespread, systematic, intentional, and not justified by any military necessity. A few days after the artillery attacks, five HV soldiers asked one witness to accompany them saying: “Go ahead and watch, we are going to burn everything.”<sup>2315</sup>

645. Croatian forces started destroying Serb houses all over the Indictment Area as early as 5-Aug-95, for example in Žagrović (Knin),<sup>2316</sup> Buković (Benkovac),<sup>2317</sup> Kakanj (Kistanje)<sup>2318</sup> and Amanovići (Orlić).<sup>2319</sup> The HV itself noted that “the largest number of fires occurred a day or two following the entry of HV units into newly liberated villages.”<sup>2320</sup> By 13-Aug-95, it was “a fair assessment to say that the Krajina

<sup>2311</sup> Večerina:P652,para.18;Večerina:T.6743-6746;

[REDACTED];[REDACTED];[REDACTED];

[REDACTED];Grubor:P55,para.12;[REDACTED];see Drča:P2690,p.5.

<sup>2312</sup> See, e.g., Mirković:P2694,para.4;Đurić:P436,para.6;P691,paras.11-13;Karanović:P2691,pp.7-

8;Sarac:P2687,p.7;Grubor:P2681,pp.3-4;[REDACTED];[REDACTED]. On the general homicidal climate, see e.g.,P-65:P2684,pp.6,13-14;Bunčić:P2688,pp.12-13;[REDACTED];

Morneau:P312,p.4;Morneau:P313,p.9;[REDACTED];[REDACTED];[REDACTED];Mirković:P2682,pp.13,17;Morneau:P308,pp.4-

5;Morneau:P309,p.3;Morneau:P318,p.2;Dawes:P980,pp.9,11;Dawes:T.10381-10382,10402-10403,10529-10530,10542-10543,10558;Ognjenović:P989,pp.6-8;Vujnović:P412,pp.2-

3;Vujnović:P413,pp.2-3.

<sup>2313</sup> See, e.g., Sarac:P2687,p.7;Grubor:P2681,p.4;Grubor:P54,p.4;Grubor:P55,para.11;Grubor:T.1395;

Đurić:T.10793;[REDACTED];Večerina:P652,para.12;Večerina:T.6721;P12;[REDACTED]. On the

general climate of intimidation, see

e.g. Bunčić:P2688,p.12;P871,p.1;Ognjenović:P989,p.4;Ognjenović:T.10709,10717;Hill:P292,p.40;Vujnović:P412,p.2;P34,p.1;Ilić:P726,p.5;[REDACTED];[REDACTED].

<sup>2314</sup> [REDACTED].

<sup>2315</sup> Mirković(Jovo):P2693,para.2.

<sup>2316</sup> [REDACTED].

<sup>2317</sup> See, e.g. Guša:P959,para.13;P960,para.4;P961.

<sup>2318</sup> See, e.g. Ognjenović:P989,p.3;T.10735,47.

<sup>2319</sup> See, e.g. [REDACTED].

<sup>2320</sup> D810,p.3.

is burning,”<sup>2321</sup> and “almost all towns throughout the area have suffered much burning of houses.”<sup>2322</sup>

646. International witnesses estimated the number of houses destroyed anywhere from “60 to 80%” in late Aug-95,<sup>2323</sup> 73% on 13-Sep-95,<sup>2324</sup> or up to 80-90% in total,<sup>2325</sup> with the mainly Serb towns of Kistanje,<sup>2326</sup> Đevrske,<sup>2327</sup> Cetina<sup>2328</sup> and Donji Lapac<sup>2329</sup> all more than 95% destroyed. Often, Croatian forces only spared the larger towns (to be repopulated by Croat Displaced persons),<sup>2330</sup> houses belonging to Croats (often marked as such to be spared destruction)<sup>2331</sup> or located in villages populated mainly by Croats,<sup>2332</sup> and Orthodox churches, which were guarded and spared pursuant to specific orders from HV commanders.<sup>2333</sup>

647. In addition to the destruction, and usually preceding it, Croatian forces intentionally and unlawfully (mis)appropriated private property belonging to Serb civilians. It looked “as if there had been a free for all žtake what you can’ throughout the conquered land” and “ŠvĆirtually all houses were searched for valuables of any kind.”<sup>2334</sup> This plunder was also carried out openly and systematically, with witnesses describing “waves of looters,” with the earlier ones taking the more valuable items.<sup>2335</sup>

648. The extent of these crimes can be found in Annex A, which contains the comprehensive evidence regarding the destruction and plunder that occurred in the Indictment Area starting on 5-Aug-95. Two specific examples of destruction and one of plunder are illustrated below.

<sup>2321</sup> P25.

<sup>2322</sup> P935,p.2.

<sup>2323</sup> P815,p.1;P2151,p.2;Hendriks:T.9674.

<sup>2324</sup> P97,p.1.

<sup>2325</sup> Dangerfield:P696,para.7;Dangerfield:T.7161.

<sup>2326</sup> See,e.g.,P830,para.4(d);see *infra*.

<sup>2327</sup> See,e.g.,P814;Dijkstra:P429,para.39;Mauro:P1098,p.4.

<sup>2328</sup> See,e.g.,Tchernetsky:P204,p.6.

<sup>2329</sup> P470,pp.53-54.

<sup>2330</sup> See,e.g.,P815,p.2;Hendriks:D820,p.3;Hendriks:T.9747-48,9771;Hansen:T.14934-35.

<sup>2331</sup> See,e.g.,Dawes:P980,p.9;Hansen:P1285,para.10;Hansen:T.14922-23.

<sup>2332</sup> See,e.g.,P935,p.2-3;Hansen:T.14933-34;Hendriks:T.9672.

<sup>2333</sup> See,e.g.,Flynn:P20,p.32;P951;P2152;Hansen:P1285,para.22;Hansen:T.14938-40.

<sup>2334</sup> P829,p.5.

<sup>2335</sup> See,e.g.,Munkelien:P61,para.21;Elleby:P215,p.3;Hansen:P1285,para.10;[REDACTED].

## 1. Kistanje Municipality

649. Croatian forces extensively destroyed the municipality of Kistanje, both the town of Kistanje and its surrounding villages such as Kakanj, Biovčino Selo, Kolašac, Parčići, Gošić, Bribirske Mostine, Đevrske, Macure, Rudele, and Korolije.<sup>2336</sup> The Croatian Ministry of Defence itself reported the incidents of “mass burning of houses” committed by HV soldiers in the area.<sup>2337</sup>

650. As soon as HV forces entered the town of Kistanje on 6-Aug-95, they started destroying the town,<sup>2338</sup> which was viewed as a former ARSK stronghold holding particular symbolic significance to Serbs.<sup>2339</sup> HV forces continued to burn and destroy houses in the following days until the town was destroyed almost in its entirety.<sup>2340</sup> Only the Orthodox religious sites and factories<sup>2341</sup>—which were placed under guard—and possibly a few houses marked “Croatian House”<sup>2342</sup> were spared.

651. Croatian forces also destroyed houses in the villages surrounding Kistanje. For example, Croatian soldiers burned houses in Kakanj and Parčići as soon as they entered those villages on 5/6-Aug-95.<sup>2343</sup> Parčići, for one, was a “purely Serb village” where all the abandoned houses (approx. 50) had been burnt.<sup>2344</sup>

652. The specific HV units that carried out the destruction above are the 15HGR, the 134HGR and the 113<sup>th</sup> Infantry Battalion, who went through the area between 4 and 8-Aug-95.<sup>2345</sup> The 15HGR went through Kakanj, Rudele, Korolije and Ivoševči, taking the area of Kistanje on 6-Aug-95 and being deployed in the area of Ivoševči on

<sup>2336</sup> See Annex A-“Plunder&Wanton Destruction:Kistanje”.

<sup>2337</sup> See P203,p.1;P2349,p.5.

<sup>2338</sup> Dawes:P980,p.9;Dawes:T.10401-02;Gojanović:P194,para.13;Gojanović:T.2958-59;P2349,p.2.

<sup>2339</sup> Dangerfield:P695,para.10;Dijkstra:P429,para.39.

<sup>2340</sup> See, e.g., Dijkstra:P429,para.39;Guša:P959,para.23;Berikoff:P740,para.2(p);P748,p.9(entry 9-Aug-95);Hill:P292,pp.52-53;Hill:T.3767-

68;P306,para.1(f);P830;P1292,p.9;P41,p.2;Mauro:P1098,p.4;Elleby:P216,p.5;P988,p.3(1.2);

[REDACTED];[REDACTED];P684,p.1;P686;D391,p.3;Marti:P416,pp.9-

10;Marti:P417,para.43;Dangerfield:T.7159-

60;Dangerfield:P695,para.10;D798,p.2;P812,p.2;P932,p.2;P830,p.2;Hansen:T.14935-

36;Hendriks:P931,para.29;Hendriks:T.9677-78;Liberius:P800,pp.5-6.

<sup>2341</sup> P988,p.4(1.6);Flynn:P20,p.32;P830,p.2;D741,p.10;P845;Liberius:T.8573-

74;Mauro:P1098,p.4;P810,p.5.

<sup>2342</sup> Dawes:P980,p.9;Dawes:T.10401-02,10541-42.

<sup>2343</sup> Drča:P2690,p.2;Ognjenović(Mirko):P989,pp.2-3;Ognjenović(Mirko):T.10722,10735,10747,10752-

53.

<sup>2344</sup> Drča:P2690,pp.2-3;P830,p.2.

<sup>2345</sup> P2417;P2349,pp.2-3;P2559,p.4;P1128;P1200,pp.3-4.

8-Aug-95 after a day of rest.<sup>2346</sup> The 113<sup>th</sup> Infantry Battalion went through Đevrske, the area of Bribir (including Bribirske Mostine and Bribirska Glava), Žavčić, Nožice, Zečevo and Macure.<sup>2347</sup> Finally, the 134HGR was present in Biovčino Selo, Kolašac and Parčići.<sup>2348</sup> In fact, a report from the commander of the 134HGR confirmed that its troops entered Parčići and left one infantry company there on 6-Aug-95,<sup>2349</sup> the same day that witness Drča saw HV soldiers in uniform entering the village and houses being set on fire shortly thereafter.<sup>2350</sup> Presence of HV troops was also noted on the following days all over the area.<sup>2351</sup>

## 2. Knin-Drniš Road (Orlić)

653. The houses along the Knin to Drniš road, for example in the villages of Vrbnik, Uzdolje, Biskupija, and Kosovo, primarily within the Orlić municipality, were seen being destroyed as early as 5 and 6-Aug-95.<sup>2352</sup>

654. The destruction was systematic.<sup>2353</sup> On 8-Aug-95, Croatian soldiers in concert with others in civilian clothes systematically looted and torched houses.<sup>2354</sup> One soldier destroyed houses near the Serb village of Uzdolje by firing an anti-aircraft gun mounted on a truck into the houses.<sup>2355</sup> Others poured gasoline into houses before setting them on fire.<sup>2356</sup> The soldiers were well-disciplined and well dressed, with black flak jackets and black uniforms.<sup>2357</sup> They appeared very professional and carried out the destruction methodically.<sup>2358</sup> They were manning the area checkpoints and displaying good command and control, with a superior being notified when the soldiers at the checkpoints did not know what to do.<sup>2359</sup>

<sup>2346</sup> P2417(coordinates 72,65;84,74);P2559,p.4;P2349,pp.2-3;P1128.

<sup>2347</sup> P2417(coordinates 69,70;66,66;67,69;70,71;74,75);P2349,p.2;P2559,p.4;P1128.

<sup>2348</sup> P2417(coordinates 72,76;79,74;81,69);P1200,pp.3-4.

<sup>2349</sup> P1200,pp.3-4.

<sup>2350</sup> Drča:P2690,p.2.

<sup>2351</sup> P744,p.6;Ognjenović(Mirko):P989,pp.4-5;Dangerfield:P695,para.10;Dangerfield:T.7159-60;Hill:P292,pp.52-53;Marti:P417,para.43.

<sup>2352</sup> [REDACTED];[REDACTED];[REDACTED];Dawes:P980,p.8;see Annex A.

<sup>2353</sup> See, e.g.,P742;Berikoff:P740,para.2(o);Berikoff:D284,p.19;Hill:T.3763-64;P30.

<sup>2354</sup> Dawes:P980,p.10.

<sup>2355</sup> Dawes:P980,p.10;C5,p.110.

<sup>2356</sup> Dawes:P980,p.10.

<sup>2357</sup> Dawes:P980,p.10.

<sup>2358</sup> See Dawes:P980,p.10;Dawes:P981,para.33;Dawes:T.10404-07.

<sup>2359</sup> Dawes:T.10406-07;Dawes:P981,para.33.

655. The next day, the burning continued, notably in the Serb villages of Biskupija and Uzdolje, with soldiers from the 7GBR burning around 10 houses in the former.<sup>2360</sup> On the same day, Croatian soldiers confronted an HRAT patrol team who tried to inspect one of the 7 or 8 burning houses they saw along the road.<sup>2361</sup>

656. On 10/11-Aug-95, Croatian soldiers again systematically burned houses supported by a fuel truck with jerry cans<sup>2362</sup> while others fired on and set on fire civilian houses with an anti-aircraft gun mounted on an HV PUMA truck.<sup>2363</sup> Croatian soldiers destroyed an estimated 45 houses were destroyed by Croatian soldiers in a span of three hours.<sup>2364</sup>

657. The burnings continued, often with Croatian soldiers in the vicinity and sometimes in the same manner as described above throughout the month of August and into early September.<sup>2365</sup>

658. Croatian military documents confirm the account from many witnesses that the destruction was conducted by 7GBR, which was present in the area before 11-Aug-95, when a large portion of the destruction was observed.<sup>2366</sup> The 142HGR and 6HGR were also in the area at the time of the destruction and similarly may have been involved in the destruction.<sup>2367</sup>

### 3. Knin Town

659. HV forces extensively and systematically looted the Serb-majority<sup>2368</sup> town of Knin, and the villages surrounding the town of Knin.<sup>2369</sup> In Knin itself, the 4GBR and 7GBR started looting shortly after entering Knin on 5-Aug-95, stripping refugees of

<sup>2360</sup> P933,p.1;P807,p.1;Hendriks:P931,para.21;Hendriks:D820,p.5;Hendriks:T.9675;Liborius:P801,p.4; Liborius:T.8270-72,8529-30;P432,p.4;P815,p.5;C5,p.110.

<sup>2361</sup> Flynn:P20,pp.16,24.

<sup>2362</sup> P31,p.1;P830,p.2;Liborius:P846,pp.2-3;Liborius:T.8569-70;P1292,p.9;Hansen:T.14935-36;Boucher:P1176,para.10;Boucher:P1177,paras.71-72.

<sup>2363</sup> Dijkstra:P429,para.40;P432,pp.4-5;Dijkstra:T.4765;P41,p.2.

<sup>2364</sup> Berikoff:P740,para.2(q);Berikoff:D284,pp.32-33;see D391,pp.3-4;P221;Martí:P416,p.6.

<sup>2365</sup> See, e.g., Hendriks:D820,p.5;P810,p.4;P815,p.7;D179,p.12(no.450);P227;P988,p.3;Martí:P417, para.61;P67,p.5;P68,p.17;P36,p.3;Flynn:P21,para.29;[REDACTED].

<sup>2366</sup> P2349,p.3;[REDACTED].

<sup>2367</sup> See P2417;P2559,p.4;P2349,p.2;P1183,p.9;P71,p.92;D282,p.2;D990,p.2.

<sup>2368</sup> C5,p.110;P2423.

<sup>2369</sup> See, e.g., [REDACTED]; [REDACTED]; Al-Alfi:P1160,pp.41-42;Elleby:P215,p.3;Elleby:P216,p.4; [REDACTED]; [REDACTED]; P826,p.1;P306,paras.1(c)-(d);Hansen:T.14917,14935-36;P1292,pp.5-6;P225;P988,p.3(1.3);see also Annex A-“Plunder&Wanton Destruction”.

their valuables and driving away civilian cars.<sup>2370</sup> They openly looted goods from civilian homes which were then loaded onto both HV and civilian vehicles and taken near the UN barracks before being taken away on military trucks the next day.<sup>2371</sup> HV soldiers looted systematically and openly, piling goods outside houses, leaving doors open and smashing windows.<sup>2372</sup> To avoid further looting, houses were marked with Croatian flags and notes saying: "Croatian House."<sup>2373</sup>

660. Croatian military documents confirmed the testimonial evidence identifying the 4GBR and 7GBR for the looting in Knin, while the 72<sup>nd</sup> MP was also present in Knin following its capture by HV.<sup>2374</sup>

#### **D. Counts 6+7 – Murder**

661. Croatian forces killed hundreds of Serb civilians and others not taking part in hostilities or *hors de combat*, with the intent to kill or cause serious bodily harm or serious injury, in the knowledge and with the acceptance that their acts would more likely than not cause death. The Prosecution has alleged 324 murders: 28 victims of Scheduled Killing Incidents 1-4 and 7-10, described in more detail below, and 296 victims of Additional Killings, the evidence of which is presented in Annex B.<sup>2375</sup> As detailed below and in Annex B, Croatian forces started killing civilians as soon as they entered the area. They killed most non-elderly males they encountered whether or not they were members of the ARSK, and also killed elderly men, women, and disabled or disabled persons. Many victims were executed with gunshots to the head, or suffered other types of violent death. These killings continued throughout the

<sup>2370</sup> See Dawes:P980,p.8;Hendriks:D820,pp.4-5;Hendriks:P931,para.18;Liborius:P799,p.4;P71,p.84; [REDACTED];Berikoff:D284,p.55;P747,para.1(c);Widen:P721,pp.3-4.

<sup>2371</sup> Hansen:P1283,para.3;P1292,p.4;Hansen:T.14913-15,15078-79;P1301;Liborius:P801,p.3;Dawes:P980,p.8;Dawes:T.10396,10399,10405-06;Williams:P925,p.7;Williams:P927,p.2;Williams:T.9547-48;P930,p.3;Dijkstra:P429,para.36;Dijkstra:T.4764-65;P306,paras.1(c)-

(d);Widen:P722,para.22;Widen:T.7320-21,7328-29.

<sup>2372</sup> Dijkstra:P429,para.31;Hendriks:P931,para.18;Hendriks:T.9822-23;Widen:P721,p.4;Dawes:P980,pp.9-10;Dawes:T.10405-06;see Hill:P292,pp.22-24;Hill:T.3756;Williams:P925,p.7;Hansen:T.14917,14935-36;Al-Alfi:T.13809-10;P225;P988,p.3(1.3)..

<sup>2373</sup> Hill:P292,pp.24,33;Hill:T.3758-59;P228,p.2;Hansen:P1285,para.10;Hansen:T.14922-23.

<sup>2374</sup> P2417;P71,pp.84,91;P1132,pp.3-

5;P2559,pp.35;[REDACTED];P2343,p.36;Luković:D1687,para.25;D567,p4;P881,p.1.

<sup>2375</sup> The Prosecution no longer pursues its murder allegations with respect to Scheduled Killings 5 and 6, and Additional Killing Nos.56,140-41,198,200,207,214-15,228,246 and 320.

indictment period, culminating with the highly-publicised murder of nine civilians in Varivode on 28-Sep-95.<sup>2376</sup>

1. Scheduled Killing 1 (Knin Municipality) – Nikola Dragičević,b.1935; Sava Čeko,b.1944; Mile Dragičević,b.1934

662. On the morning of 5-Aug-95, a group of 22-23 villagers fled the hamlet of Turići, part of the Polača village, on a trailer pulled by a tractor.<sup>2377</sup> Mile Dragičević drove the tractor, while Mico Dragicevic and Jovan Andic sat on the mudguard.<sup>2378</sup> The others, almost all civilians (including women and elderly people) sat on bags of wheat and other personal belongings in the trailer.<sup>2379</sup> Only 3 ARSK members sat on the tractor: the two men on the tractor's mudguards and Jovo Andic – an ARSK cook [REDACTED].<sup>2380</sup> On this tractor, only Mićo Dragičević and Jovo Andic wore military uniforms, which were the old olive green JNA uniforms.<sup>2381</sup> No weapons were on the tractor.<sup>2382</sup>

663. At around 1000hrs, before an intersection in Kovačić, the tractor/trailer encountered HV tanks with mounted submachine guns and around 20 HV soldiers from the 7GBR (Pumas) standing about 20m away with machine guns, in camouflage uniforms, checkerboard insignia and black scarves on their heads.<sup>2383</sup> One witness stated that one of the soldiers yelled “Stop, Croatian Army” twice, although another witness seated in the back of the trailer did not hear the warning.<sup>2384</sup> According to the witness who heard the warning, Mile Dragičević—the tractor's driver—tried to stop the tractor but swerved for a few metres before succeeding.<sup>2385</sup> At around the same time, the Croatian soldiers opened fire on the tractor, killing Nikola Dragičević, Sava Čeko and Mile Dragičević, [REDACTED].<sup>2386</sup>

<sup>2376</sup> See Annex B-“Additional Killings”(nos. 95-103);“Gotovina”.

<sup>2377</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED];P-65:P2684,p.13.

<sup>2378</sup> [REDACTED].

<sup>2379</sup> [REDACTED];[REDACTED];[REDACTED];P-65:P2684,p.14.

<sup>2380</sup> [REDACTED];[REDACTED].

<sup>2381</sup> [REDACTED];P-65:P2684,pp.14,24.

<sup>2382</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED].

<sup>2383</sup> [REDACTED];[REDACTED];[REDACTED];P861;[REDACTED];P-65:P2684,pp.13-14;P281.

<sup>2384</sup> [REDACTED];[REDACTED].

<sup>2385</sup> [REDACTED];P861;[REDACTED];[REDACTED];[REDACTED].

<sup>2386</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED];[REDACTED];[REDACTED];P-65:P2684,p.14.

664. Sava Čeko and Nikola Dragičević, both Serbs,<sup>2387</sup> died immediately, their bodies lying on the trailer.<sup>2388</sup> Autopsy reports confirmed both died of gunshot injuries to the chest.<sup>2389</sup> Mile Dragičević, also Serb,<sup>2390</sup> apparently attempted to flee after being shot in the leg, but died from his injuries in nearby bushes.<sup>2391</sup> His body was not discovered until 28-Dec-95. An investigative judge conducted an on-site investigation but failed to note the gunshot injuries, concluding instead that Mile Dragičević broke his leg trying to jump over a wall.<sup>2392</sup>

665. The exhumation photographs confirmed the witnesses' account that all three victims wore civilian clothes the day they were killed.<sup>2393</sup> HV documentation also confirmed that the 7GBR was responsible for the killings, as they were present on that road the morning of 5-Aug-95, requested a medical team at 1104hrs (presumably to care for the wounded victims), and generally went through this area on that day.<sup>2394</sup>

## 2. Scheduled Killing 2 (Knin Municipality) – Sava Đurić, b.1942

666. On 6-Aug-95, Milica Đurić and several others sought refuge in the basement of their house in the Đurići hamlet, in the Plavno Valley.<sup>2395</sup> Her husband, Sava Đurić, a Serb,<sup>2396</sup> stayed in the kitchen with his mother, unworried as he was handicapped, never served in the military, and never had any weapons in his home.<sup>2397</sup> Milica and her son Mile confirmed this, adding that Sava wore no military clothing that day.<sup>2398</sup> Mile, who was tending sheep in a summer house some 3km away from Đurići, came for lunch with his family.<sup>2399</sup> On his way back, he stopped to get cigarettes in the centre of Plavno and saw his family house on fire.<sup>2400</sup> Mile returned to Đurići, taking

<sup>2387</sup> P865;P867.

<sup>2388</sup> [REDACTED];[REDACTED];P-65:P2684,p.14.

<sup>2389</sup> P864;P866;P659;Clark:P1251,p.20.

<sup>2390</sup> P869.

<sup>2391</sup> P-65:P2684,pp.31-33;P868;P1700;P659.

<sup>2392</sup> P-65:P2684,pp.31-33.

<sup>2393</sup> P1698;P1704;P1709.

<sup>2394</sup> P2343,p.36;P2417(coordinates 99,79).

<sup>2395</sup> Đurić(Milica):D397,p.3;Đurić(Milica):P1004,para.3;P440,p.1.

<sup>2396</sup> P438.

<sup>2397</sup> Đurić(Milica):P1004,paras.4,11;Đurić(Milica):T.10775.

<sup>2398</sup> Đurić(Milica):P1004,para.11;Đurić(Mile):T.4843-44.

<sup>2399</sup> Đurić(Mile):P436,paras.4-5;Đurić(Mile):T.4841,4856.

<sup>2400</sup> Đurić(Mile):P437,para.5;Đurić(Mile):T.4842-43.

a detour as he saw approximately 15 HV soldiers in camouflage uniform walking and joking around.<sup>2401</sup>

667. Mile hid in a neighbour's backyard and saw three HV soldiers wearing camouflage uniforms and black masks pulled over their faces, carrying automatic weapons and hand grenades. He was 10m away hidden by leaves behind a 1-metre wall with a clear view of the events.<sup>2402</sup> Two of the soldiers stood next to Sava Đurić and a third with Sava's mother. The soldier holding Sava's mother told the other two: "Throw the man into the fire." Sava's mother pleaded with them: "Since you already burned the house you do not need to kill him." The first soldier told the others: "I am taking the grandmother to the end of the village and by the time she comes back everything will be burned. Throw him in the fire."<sup>2403</sup> After he took Sava's mother away the two other soldiers threw Sava Đurić in the burning workshop and locked the door.<sup>2404</sup>

668. Milica Đurić, and the others hiding in the basement, heard shots and tiles falling from the room.<sup>2405</sup> She came out with a neighbour, Draginja Đurić, and initially saw a Croatian soldier in camouflage uniform with a black mask over his face.<sup>2406</sup> Sava's mother returned shortly thereafter and told Milica that Croatian soldiers forced Sava and her out of the house; she was taken away and Sava was ordered to go in the burning workshop.<sup>2407</sup> When Sava refused, the soldiers pushed him in.<sup>2408</sup>

669. The next day, Milica and her mother-in-law collected Sava's remains and buried them, along with some of his clothing in the local cemetery.<sup>2409</sup> Given the speed at which her husband had been burnt "through and through," Milica thought something had been sprayed on him.<sup>2410</sup> On that point, Mile Đurić testified that Sava's mother told him the soldiers used some spray and threw a bottle of some sort in the

<sup>2401</sup> Đurić(Mile):P436,para.6;Đurić(Mile):P437,para.5.

<sup>2402</sup> Đurić(Mile):P436,paras.6-7;Đurić(Mile):P437,para.6;P439;P440,pp.2-3(marking where he hid);*see* Đurić(Mile):T.4851.

<sup>2403</sup> Đurić(Mile):P436,para.6;*see* Đurić(Mile):T.4849-50.

<sup>2404</sup> Đurić(Mile):P436,para.6;Đurić(Mile):P437,para.6;P440,p.4(location of the workshop marked by witness).

<sup>2405</sup> Đurić(Milica):D397,p.3;Đurić(Milica):P1004,para.5;Đurić(Milica):T.10782-83.

<sup>2406</sup> Đurić(Milica):D397,p.3;Đurić(Milica):P1004,para.6.

<sup>2407</sup> Đurić(Milica):D397,p.3;Đurić(Milica):P1004,para.6.

<sup>2408</sup> Đurić(Milica):P1004,para.6;Đurić(Milica):T.10775,10784.

<sup>2409</sup> Đurić(Milica):T.10784-86,[REDACTED];Đurić(Milica):P1004,paras.7,12;P441,pp.6-8.

workshop.<sup>2411</sup> Given the “complete degradation” of the remains “caused by exposure to high temperature during burning,” the Forensics Institute could not collect sufficient DNA for identification purposes, but did confirm that the “bone remains are of human origin.”<sup>2412</sup>

670. The 3<sup>rd</sup> Infantry Battalion of the 4GBR killed Sava Đurić. The War Map prepared by Gotovina makes clear that the 4GBR swept through the area on 5-Aug-95.<sup>2413</sup> The 4GBR Operative Logbook also confirms that its 3<sup>rd</sup> Infantry Battalion was in Plavno on 6-Aug-95 between 1500-1750hrs,<sup>2414</sup> in a hamlet neighbouring Đurići.<sup>2415</sup> Sava Đurić was pushed in the burning workshop in the late afternoon or early evening of 6-Aug-95, around 1600-17:00hrs.<sup>2416</sup>

*Additional Killings 247-256 - Plavno Valley, 5-9 August 1995*

671. Split-MD forces, and most probably the 4GBR (including its 3<sup>rd</sup> Infantry Battalion), also killed ten other civilians between 5 and 9-Aug-95. HV soldiers left the area on 9-Aug-95, at which times villagers hiding in the mountains returned to discover bodies of elderly farmers.<sup>2417</sup> As shown in Annex B, ten elderly civilians were killed at approximately the same time and place as Sava Đurić. In some cases, HV soldiers killed these civilians or took them into their custody, after which their bodies were found.

3. Scheduled Killing 3 (Knin Municipality)—Dmitar Rašuo,b.1914; Milka Petko,b.1923; Ilija Petko,b.1950; Đuro Rašuo,b.1955

672. On the morning of 5-Aug-95, HV soldiers entered the hamlet of Rašule, in the Žagrović village, in an armoured vehicle.<sup>2418</sup> One soldier in camouflage uniform with a checkerboard insignia on his arm forced Dmitar Rašuo, an 81 year-old Serb wearing

<sup>2410</sup> Đurić(Milica):T.10784-85,10818.

<sup>2411</sup> Đurić(Mile):T.4843.

<sup>2412</sup> P442,pp.1,3.

<sup>2413</sup> P2417(coordinates 94,91).

<sup>2414</sup> P2343,pp.40-41.

<sup>2415</sup> P2417(coordinates 91,90).

<sup>2416</sup> Đurić(Mile):P436,para.5;Đurić(Milica):D397,p.3.

<sup>2417</sup> P45,p.2;[REDACTED];Mauro:P1098,p.4.

<sup>2418</sup> [REDACTED];[REDACTED].

civilian clothes, to go with him.<sup>2419</sup> Dmtar Rašuo explained to him that he lost three fingers during World War II and was exempted from military duty.<sup>2420</sup> The Croatian soldier took Dmtar behind his house and shot him with his automatic weapon approximately 30 seconds later.<sup>2421</sup> The autopsy on the body later identified as Dmtar Rašuo confirmed he was missing fingers on his left hand, was wearing civilian clothes when his body was collected, and died of a gunshot injury to the chest.<sup>2422</sup>

673. That same day, Croatian soldiers also killed Milka and Ilija Petko (mother and son), two Serb civilians from Knin. Each suffered at least two fatal gunshot wounds.<sup>2423</sup> A villager first saw Ilija Petko's body the evening of 5-Aug-95 lying in a pool of blood.<sup>2424</sup> The body of Milka Petko was not identified until 14-Aug-95, but the manner and circumstances of her death suggest she was killed the same time as her son.

674. Another body was also collected at the same time and place as Milka Petko.<sup>2425</sup> It belonged to a man between 30 and 50 years old killed by a gunshot wound from the back to the front of his neck, consistent with having been executed after capture.<sup>2426</sup> The evidence shows this victim was Đuro Rašuo, who was approximately 40 years old - a villager also saw his body in Rašule.<sup>2427</sup>

675. The 4GBR also committed these murders. The Gotovina War Map again shows the 4GBR sweeping through the area on 5-Aug-95,<sup>2428</sup> with both its 1<sup>st</sup> and 3<sup>rd</sup> Infantry Battalions present in the area on 5-Aug-95 near the hamlets of Dmitrovići and Đukići.<sup>2429</sup> Documents received by the Croatian authorities investigating this

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<sup>2419</sup> [REDACTED];[REDACTED];P2011.

<sup>2420</sup> [REDACTED].

<sup>2421</sup> [REDACTED];[REDACTED].

<sup>2422</sup> P1522,pp.1-3;P1251,p.12;P1304;P659,p.3.

<sup>2423</sup> [REDACTED];[REDACTED];P-69:T.2728-29;P1302;P1520,p.1;P2009;P1303;P1521;P2010;P659;*see also* P1521,p.12.

<sup>2424</sup> [REDACTED];*see* P-69:T.2721-24;[REDACTED];[REDACTED].

<sup>2425</sup> P1302;P1465;D354,p.2.

<sup>2426</sup> P1664;P1945;Clark:P1251,p.13.

<sup>2427</sup> [REDACTED];*see* P-69:T.2699-700;*see also* P1521,p.16(there appear to be mistakes regarding the names and numbers given to the bodies during the sanitation process. For example, body KN01-297 did have a body tag number 605).

<sup>2428</sup> P2417(coordinates 94,85).

<sup>2429</sup> P2343,p.37.

incident since 2004 also show that the 4GBR's 3<sup>rd</sup> Infantry Brigade operated in the area on 5-Aug-95.<sup>2430</sup>

*Additional Killings Nos. 129-137 - Žagrović, 5-9 August 1995*

676. Split-MD forces, and most probably elements of the 4GBR, also killed a number of other civilians in Žagrović. As shown in Annex B, eleven other civilians were killed in the same village before 9-Aug-95, and in some cases were found dead right after the arrival of HV soldiers or killed from gunshot wounds to the head, demonstrating that, like the victims of this Scheduled Killing, these victims did not put up resistance.

4. Scheduled Killing 4 (Knin Municipality) – Miloš Grubor, b.1915; Jovo Grubor, b.1930; Marija Grubor, b.1905; Mika Grubor, b.1941; Đuro Karanović, b.1954<sup>2431</sup>

677. On 25-Aug-95, SP killed five civilians in the Grubori hamlet. Milica Karanović and others from Grubori went to the school in Plavno as they had been informed they could register with UNPROFOR.<sup>2432</sup> While in Plavno, they saw smoke coming from their hamlet and rushed back.<sup>2433</sup> Upon her return, Milica Karanović saw that her house was burning and that in fact only three houses had not been destroyed.<sup>2434</sup> She also found the body of her uncle Miloš slaughtered in his bed, the bodies of others in a meadow, including her brother Jovo Grubor and her son Đuro Karanović, and found a bone of her mother, Marija Grubor, in her mother's burning house.<sup>2435</sup> All the victims died of gunshot injuries, and the autopsy report for Marija Grubor confirmed that many of the bones showed signs of burning.<sup>2436</sup>

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<sup>2430</sup> [REDACTED].

<sup>2431</sup> See also "Markač:Grubori" for additional information regarding this incident.

<sup>2432</sup> Karanović:P2691,pp.5-6;Grubor:P2681,pp.2-3.

<sup>2433</sup> Karanović:P2691,p.6;Grubor:P2681,p.3.

<sup>2434</sup> Karanović:P2691,pp.6,8;see also Grubor:P2681,p.3.

<sup>2435</sup> Karanović:P2691,pp.7-9;see also Grubor:P2681,p.3.

<sup>2436</sup> D1243;P1523-1526. Additional documents related to these killings are cited in "Markač:Grubori."

5. Scheduled Killing 7 (Orlić Municipality) – Milica Šare,b.1922; Stevo Berić,b.1933; Janja Berić,b.1932; Miloš Čosić,b.1923; Jandrija Šare,b.1932; Đurdija Berić,b. 1920; Krstan Šare,b.1931

678. On 6-Aug-95, three Croatian soldiers entered the hamlet of Šare in the Uzdolje village.<sup>2437</sup> Although witnesses described their clothing differently, they were identified as HV or “Ustasha” soldiers.<sup>2438</sup> They rounded up civilians in the village and ordered them to walk with them, while shouting, cursing and harassing them.<sup>2439</sup> The group at this time comprised nine civilians wearing civilian clothes: five from the Berići hamlet bearing the Berić surname (the three victims Stevo, Janja and Đurdija as well as Mira and Bosijka and four civilians from the Šare hamlet bearing the Šare surname (the three victims Milica, Jandrija and Krstan as well as Bosiljka.<sup>2440</sup>

679. The three soldiers took the group of civilians to the Knin-Drniš road, near the Knin-Gips factory, where a group of Croatian soldiers had assembled.<sup>2441</sup> Bosiljka and Mira Beric were separated from the group. One of the three soldiers took Bosiljka Beric to the Knin-Gips factory, and then in a car towards Knin.<sup>2442</sup> One of the two remaining soldiers then ordered a 7GBR soldier driving by in a van to take Mira Beric to Knin as well .<sup>2443</sup>

680. One of the soldiers then saw Miloš Čosić about 50 metres away.<sup>2444</sup> He aimed his gun at him and asked him to go look for [REDACTED].<sup>2445</sup> Čosić yelled out for [REDACTED], but the latter never responded and Čosić was told to join the other civilians, who by then had been ordered to sit down.<sup>2446</sup> Everybody in the civilian group was crying, realizing they would be killed.<sup>2447</sup> One of the soldiers then opened fire on the group, spraying bullets from left to right and back, emptying his whole

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<sup>2437</sup> [REDACTED];[REDACTED].

<sup>2438</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED].

<sup>2439</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED].

<sup>2440</sup> [REDACTED];[REDACTED];P2018;P2019;P2020;P2021;P2022;P2023;P2024.

<sup>2441</sup> [REDACTED].

<sup>2442</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>2443</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>2444</sup> [REDACTED].

<sup>2445</sup> [REDACTED];[REDACTED].

<sup>2446</sup> [REDACTED];[REDACTED];[REDACTED];[REDACTED].

<sup>2447</sup> [REDACTED].

magazine.<sup>2448</sup> The soldiers in the factory did not react, although they could hear the shooting.<sup>2449</sup> [REDACTED], asked that soldier to go back to the scene a few hours later, and saw her relatives, Janja, Đurđija and Stevo dead as well as Krstan Šare half-alive.<sup>2450</sup> A few days later, these four bodies along with those of Jandrija Šare, Milica Šare and Miloš Čosić were seen at the same location where they had been shot.<sup>2451</sup> They were all Serbs.<sup>2452</sup> The bodies were collected on 10-Aug-95 and autopsy reports confirmed the victims all wore civilian clothes and died of gunshot injuries.<sup>2453</sup>

681. HV documents show that the 142HGR captured the area on 5/6-Aug-95.<sup>2454</sup> It also shows that the 142HGR linked up with the 7GBR in Vrbnik on 5-Aug-95, only a few kilometres north of Uzdolje.<sup>2455</sup> These killings were therefore committed by HV members, most likely the 7GBR or 142HGR.

*Additional Killing No. 260*

682. On approximately 10-Aug-95, HV soldiers burned all the houses in Uzdolje, including the house of Sava Šare, an invalid.<sup>2456</sup> She died in the fire and HRAT found material evidence believed to be human bones.<sup>2457</sup>

6. Scheduled Killings 8 (Kistane Municipality) – Uroš Ognjenović, b.1928; Uroš Šarić, b.1920

683. On the night of 18-Aug-95, HV soldiers killed two elderly<sup>2458</sup> Serb<sup>2459</sup> civilians<sup>2460</sup> in the village of Kakanj, Kistanje Municipality. Mirko and Radoslav

<sup>2448</sup> [REDACTED].

<sup>2449</sup> [REDACTED].

<sup>2450</sup> [REDACTED].

<sup>2451</sup> [REDACTED].

<sup>2452</sup> P2018;P2019;P2020;P2021;P2022;P2023;P2024.

<sup>2453</sup> P1310;P1311;P1312;P1313;P1314;P1315;P1316;P1528;P1529;P1530;P1531;P1532;

P1533;P1534;P1251,p.23;P2000.

<sup>2454</sup> P2417(coordinates 96,66);P2349,p.2(the document's content, particularly the first paragraph, makes clear that the entry for 5-Aug-95 contains a typographical error and that "124<sup>th</sup>" should read "142<sup>nd</sup>");P1183,p.9.

<sup>2455</sup> P2559,p.4.

<sup>2456</sup> See "Crimes:Counts4+5:Knin-Drniš Road(Orlić);[REDACTED].

<sup>2457</sup> [REDACTED];P1108;[REDACTED].

<sup>2458</sup> Ognjenović(Mirko):T.10715,10719;Ognjenović(Mirko):P989,pp.7-8;P996,pp.4-5,7.

<sup>2459</sup> Ognjenović(Radoslav):P2511,para.5;P2402,p.152;see Ognjenović(Mirko):T.10717(soldier saying to witness on 9-Aug-95 that "all of you Serbs have to be killed");Ognjenović(Mirko):P989,p.7(soldier calling the villagers "Chetniks").

<sup>2460</sup> Ognjenović(Radoslav):P2511,para.6;Ognjenović(Mirko):P989,pp.2-3,5-6,9(all Serb soldiers left the village before the arrival of the Croatian Army);Ognjenović(Mirko):T.10715,10719;P996,pp.3-5,7-

Ognjenović saw Uroš Ognjenović in the custody of two Croatian soldiers<sup>2461</sup> only a short time before Mirko Ognjenović found Uroš Ognjenović's dead body lying next to another dead villager, Uroš Sarić.<sup>2462</sup>

684. Only ten elderly villagers remained in Kakanj,<sup>2463</sup> as the ARSK and most of the population fled Kakanj before the HV's arrival<sup>2464</sup> on 5-Aug-95.<sup>2465</sup>

685. On 18-August-95 at about 2100hrs,<sup>2466</sup> Mirko Ognjenović was in the yard of his house with Radoslav Ognjenović. Mirko Ognjenović's neighbour Uroš Ognjenović entered Mirko Ognjenović's yard, followed by two HV soldiers<sup>2467</sup> dressed in camouflage uniforms<sup>2468</sup> carrying automatic rifles.<sup>2469</sup> One of the soldiers pointed his rifle at Mirko Ognjenović's chest, asking the villagers angrily "why are you here," calling them "Chetniks,"<sup>2470</sup> and threatening to kill them.<sup>2471</sup>

686. This soldier then shot at the ground in front of Mirko and Radoslav Ognjenović.<sup>2472</sup> A ricochet bullet injured Radoslav Ognjenović in his upper right arm. The soldier then knocked Mirko Ognjenović unconscious with his rifle.<sup>2473</sup> He also hit Radoslav Ognjenović in the stomach with his rifle butt. Radoslav Ognjenović fell to the ground but remained conscious and saw the soldier lead Uroš Ognjenović away.<sup>2474</sup>

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8(victims were elderly men, born in 1920 and 1928, and the clothes found during exhumation were predominantly civilian style - long sleeved shirts, sandals/flip-flops);D874,p.6(interview conducted in relation to the wounding and killing of civilians).

<sup>2461</sup> Ognjenović(Mirko):P989,p.7;Ognjenović(Radoslav):P2511,para.16.

<sup>2462</sup> Ognjenović(Mirko):P989,p.7.

<sup>2463</sup> Ognjenović(Radoslav):P2511,para.6;Ognjenović(Mirko):T.10715;Ognjenović(Mirko):P989,pp.2-3,5-6.

<sup>2464</sup> Ognjenović(Radoslav):P2511,para.6;Ognjenović(Mirko):P989,pp.2-3,5-6,9.

<sup>2465</sup> Ognjenović(Mirko):T.10735,10748-49.

<sup>2466</sup> Ognjenović(Mirko):P989,p.7;Ognjenović(Radoslav):P2511,para.15.

<sup>2467</sup> Ognjenović(Mirko):P989,p.7.

<sup>2468</sup> Ognjenović(Mirko):T.10717;Ognjenović(Mirko):P989,p.7;Ognjenović(Mirko):P990,p.2.

<sup>2469</sup> Ognjenović(Radoslav):P2511,para.15;Ognjenović(Mirko):T.10717.

<sup>2470</sup> Ognjenović(Mirko):P989,p.7.

<sup>2471</sup> Ognjenović(Mirko):T.10718.

<sup>2472</sup> Ognjenović(Radoslav):P2511,para.15;*see* Ognjenović(Mirko):P989,pp.7-8(stating that he later found bullet holes in the concrete of his yard as well as spent casings of automatic rifle ammunition).

<sup>2473</sup> Ognjenović(Mirko):T.10717;Ognjenović(Mirko):P990,p.2;Ognjenović(Mirko):P989,p.7;

Ognjenović(Radoslav):P2511,paras.16-17.

<sup>2474</sup> Ognjenović(Radoslav):P2511,para.16.

687. When Mirko Ognjenović regained consciousness he went to look for Uroš Ognjenović.<sup>2475</sup> He found the dead bodies of Uroš Ognjenović and Uroš Šarić lying next to each other in Uroš Ognjenović's yard,<sup>2476</sup> which was 200–250m from Mirko Ognjenović's house.<sup>2477</sup> Rajko Gajica, another villager, told Mirko Ognjenović that "he had heard shooting on two separate occasions earlier that night," the shots coming from the direction of Mirko Ognjenović's house with "a period of about half an hour between them."<sup>2478</sup>

688. On 20-Aug-95, Mirko Ognjenović stopped an UNMO patrol passing Kakanj.<sup>2479</sup> The UNMOs photographed the bodies and included the information Mirko Ognjenović provided to them in their 21-Aug-95 report.<sup>2480</sup>

689. The bodies remained in the same place until the evening of 24-Aug-95 and were gone the next morning.<sup>2481</sup> An entry in the Knin Police Logbook confirms that two bodies were reported on 24-Aug-95 and that Civil Protection Officers would visit the site.<sup>2482</sup> During an exhumation in April 2000, Mirko Ognjenović and two close relatives of the victims identified Uroš Ognjenović and Uroš Sarić's remains.<sup>2483</sup>

#### 7. Scheduled Killing 9 (Ervenik Municipality) – Marta Vujnović,b.1910

690. The first week of Aug-95, the Croatian army entered the Serb<sup>2484</sup> hamlet of Oton Polje.<sup>2485</sup> Jovan Vujnović could identify the soldiers because they wore the Croatian army uniform.<sup>2486</sup> The uniform was green,<sup>2487</sup>—according to another witness Knežević it had a camouflage pattern<sup>2488</sup>—and bore the Croatian red-and-white checker-board on the sleeves.<sup>2489</sup> The hat badges also displayed the Croatian coat of

<sup>2475</sup> Ognjenović(Mirko):P989,p.7;Ognjenović(Radoslav):P2511,para.17.

<sup>2476</sup> Ognjenović(Mirko):P989,p.7.

<sup>2477</sup> Ognjenović(Mirko):T.10718;Ognjenović(Radoslav):P2511,para.14.

<sup>2478</sup> Ognjenović(Mirko):P989,p.8.

<sup>2479</sup> Ognjenović(Mirko):P989,p.8.

<sup>2480</sup> Ognjenović(Mirko):P989,p.8;P45,p.2;*see*

Mauro:P1098,p.4;Mauro:P1099,para.32;P68,p.12;D93,p.3.

<sup>2481</sup> Ognjenović(Mirko):P989,p.8.

<sup>2482</sup> D57(no.173);*see* P1003;D874,p.1.

<sup>2483</sup> P996,pp.7-8;*see* P991.

<sup>2484</sup> D386,p.1;Vujnović:T.4557.

<sup>2485</sup> Vujnović:P412,p.2;Knežević:P634,paras.3,5,6.

<sup>2486</sup> Vujnović:P412,p.3.

<sup>2487</sup> Vujnović:P413,para.2.

<sup>2488</sup> Knežević:P634,para.5.

<sup>2489</sup> Vujnović:P413,p.2.

arms.<sup>2490</sup> Moreover, the soldiers drove military vehicles with “HV” number plates and were armed with automatic rifles and pistols.<sup>2491</sup> The soldiers stayed in the hamlet day and night, billeted in a house near the Oton Polje train-stop, and looted the houses in the hamlet.<sup>2492</sup> UNCIVPOL officer Romassev confirmed that the looting and burning of houses was worse in Oton Polje than in nearby villages.<sup>2493</sup>

691. Marta Vujnović<sup>2494</sup> and her son Jovan Vujnović,<sup>2495</sup> who lived in the same house, were amongst the few elderly persons<sup>2496</sup> who remained out of Oton Polje’s 200 inhabitants.<sup>2497</sup> On the night of 17-Aug-95, HV members searched their house.<sup>2498</sup> The following morning a group of HV soldiers returned, forcing Jovan Vujnović to give them food.<sup>2499</sup> The soldiers then took Jovan to help them slaughter a calf.<sup>2500</sup> At around 1100hrs,<sup>2501</sup> Jovan saw his mother alive for the last time when he spent approximately 15 minutes with her at their home.<sup>2502</sup> When he returned at 1600hrs, he found his house burned down and his mother dead.<sup>2503</sup> She had three gunshot wounds to her face, “two above her eyes and one under them, just to the side of her nose.”<sup>2504</sup> Jovan buried his mother’s body a few days later<sup>2505</sup> near the house.<sup>2506</sup> He also told others about his mother’s killing.<sup>2507</sup>

692. While Jovan Vujnović did not see who killed his mother,<sup>2508</sup> he stated that the only armed people in the hamlet on 18-Aug-95 were Croatian soldiers,<sup>2509</sup> and they

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<sup>2490</sup> Vujnović:P412,p.3.

<sup>2491</sup> Vujnović:P412,p.3;Vujnović:P413,p.2.

<sup>2492</sup> Vujnović:P412,p.2.

<sup>2493</sup> Romassev:P2513,p.11.

<sup>2494</sup> Vujnović:P412,p.3(there is information about another Marta (also named as Marija) Vujnović, born in 1912 or 1913, from the Oton Polje hamlet, who was the mother of Stevo Vujnović and who was also killed around the same time,e.g. P234);Vujnović:P413,paras.3-4;Knežević:P634,paras.4,6-8;D179,p.4(no.14);[REDACTED].

<sup>2495</sup> P414,para.2(the son’s surname is spelled differently than his mother’s because of a clerical error at his baptism).

<sup>2496</sup> Vujnović:P412,p.2;Knežević:P634,para.4.

<sup>2497</sup> Vujnović:P412,p.2;Knežević:P634,para.4(confirming that Marta Vujnović and her son remained in the hamlet).

<sup>2498</sup> Vujnović:P412,p.2;Vujnović:P413,para.6.

<sup>2499</sup> Vujnović:P412,p.2;Vujnović:P413,para.6.

<sup>2500</sup> Vujnović:P412,p.2;Vujnović:P413,para.6.

<sup>2501</sup> Vujnović:P413,para.6.

<sup>2502</sup> Vujnović:P412,p.2.

<sup>2503</sup> Vujnović:P412,p.2;Vujnović:P413,para.6.

<sup>2504</sup> Vujnović:P412,p.2.

<sup>2505</sup> Vujnović:P412,p.2;Vujnović:T.4574.

<sup>2506</sup> Vujnović:P412,p.2;Vujnović:T.4560.

<sup>2507</sup> See P234,p.1;P2402,p.155;Romassev:P2513,p.4;D386,p.2;D179,p.4(no.14); [REDACTED];Knežević:P634,para.7.

<sup>2508</sup> Vujnović:P412,p.2.

were in full control of the hamlet.<sup>2510</sup> He also affirmed that no one resisted the soldiers or posed any threat to them.<sup>2511</sup> That day, eleven to thirteen houses were burnt down in the hamlet.<sup>2512</sup>

8. Scheduled Killing 10 (Donji Lapac Municipality) – Marko Ilić,b.1919; Rade Bibić,b.1917; Stevo Ajduković,b.1936; Ruža Bibić,b.1920

693. On 7-Aug-95, Milan Ilić went to the village of Oraovac to visit his brother Marko.<sup>2513</sup> At around 1300-1330hrs, around 200 individuals described as Croatian soldiers entered the village: “Some were wearing greyish green uniforms similar to the type that some police now wear and others were wearing camouflaged uniforms.”<sup>2514</sup> “The grey green uniforms were similar to those worn by the Special Police who now come occasionally to Donji Lapac.”<sup>2515</sup> Two or three of these soldiers approached Milan and Marko Ilić, sitting in Marko’s garden, called them Četniks, ordered them to come out, made them sit down and searched them.<sup>2516</sup> The soldiers then searched all the houses and brought the other remaining people in the village to the same garden (Rade and Ruža Bibić and Stevo Ajduković), except for an old immobile woman.<sup>2517</sup> These three villagers, as well as the two Ilić brothers were all Serb civilians.<sup>2518</sup>

694. The soldiers then ordered the group of civilians to stand up and start walking, with one soldier leading the group and others following.<sup>2519</sup> Milan Ilić managed to escape through an open gate and hid in some bushes.<sup>2520</sup> About 5 to 10 minutes later he heard eight shots that sounded like pistol shots.<sup>2521</sup>

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<sup>2509</sup> Vujinović:P412,p.3(in particular, no ARSK forces were in the area).

<sup>2510</sup> Vujinović:P412,p.2.

<sup>2511</sup> Vujinović:P412,p.3.

<sup>2512</sup> Vujinović:P412,p.2;D386,p.1.

<sup>2513</sup> Ilić:P725,p.2;Ilić:P726,para.6.

<sup>2514</sup> Ilić:P726,para.9.

<sup>2515</sup> Ilić:P726,para.9 ;Ilić:P725,p.2;Ilić:T.7574-75(these soldiers also had some patches on the sleeves of the uniforms with the description of twigs or branches, but the witness thought that those were on the soldiers who wore camouflage uniforms).

<sup>2516</sup> Ilić:P725,pp.2-3;Ilić:P726,paras.8-9.

<sup>2517</sup> Ilić:P725,pp.2-3;Ilić:P726,para.10.

<sup>2518</sup> Ilić:P726,paras.7,10;Ilić:T.7551-52;P730;P733;P736;P2402,p.141.

<sup>2519</sup> Ilić:P725,p.3;Ilić:P726,para.11.

<sup>2520</sup> Ilić:P725,p.3;Ilić:P726,para.11.

<sup>2521</sup> Ilić:P725,p.3;Ilić:P726,para.11.

695. The bodies of Marko Ilić, Ruža Bibić, Rade Bibić and Stevo Ajduković were all collected, buried and later exhumed together.<sup>2522</sup> The autopsy reports confirmed that the four victims wore civilian clothes and that three of them died of gunshot injuries to the head.<sup>2523</sup> Although Stevo Ajduković's autopsy report initially found that his cause of death was "probably an explosive injury," a review by expert Baccard determined that the findings were "consistent with a gunshot more likely than an explosion."<sup>2524</sup> Baccard also found that the injuries on two victims were consistent with "execution style" shots and that all four bodies presented "important forensic similarities."<sup>2525</sup>

696. These killings were perpetrated by Croatian forces, most likely members of the Sisak-Moslavina SJP or Split-Dalmatia SJP. Eighty members of the Sisak-Moslavina SJP moved along the Bulji-Donji Lapac axis with the Kutina group, tasked with securing the left flank of the main attack which eventually liberated Donji Lapac on 7-Aug-95 around 1500hrs, and therefore passed Oraovac between noon and 1400hrs.<sup>2526</sup> Members of Split-Dalmatia SJP were also deployed in Bulji with the aim of advancing on Donji Lapac.<sup>2527</sup>

#### **E. Counts 8+9 – Inhumane Acts+Cruel Treatment**

697. In addition to plundering and destroying Serb property and killing Serb civilians, Croatian forces also intimidated, harassed, threatened, physically assaulted, injured, and otherwise subjected them to inhumane acts and cruel treatment.<sup>2528</sup> For example, they forced a 73 year-old Serb woman to strip to her underwear and play basketball with an elderly neighbour after calling her a "Chetnik whore."<sup>2529</sup> They also

<sup>2522</sup> D364,pp.3-4;P727;P728;P729;P730;P731;P732;P733;P734;P735;P736;P738;Baccard:P2314,p.57 (noting that all four presented important forensic similarities). Although the body of Ruža Bibić was not formally identified, the Prosecution asserts that the fourth unidentified body is hers, as four bodies were collected, buried, and exhumed together, and the three others have been identified as the three other victims and the clothes she wore were consistent with the clothes found during the forensic examination. *See* Ilić:T.7565-66.

<sup>2523</sup> P728;P732;P735;P738.

<sup>2524</sup> P735;Baccard:P2314,p.56.

<sup>2525</sup> Baccard:P2314,pp.52-57.

<sup>2526</sup> P1241,pp.5-6;D1897(SP Map shows proximity of Oraovac to route taken by SP);P190;*see* Sačić:T.27747-50(Sačić indicated the route taken by SP, and the Chamber noted its proximity to Oraovac).

<sup>2527</sup> P2383,p.3.

<sup>2528</sup> *See, e.g.*, P829,pp.7-8.

<sup>2529</sup> Urukalo:P964,p.2;Urukalo:T10090-94;P965;P966.

... tied another Serb to a tree and lit a fire under his feet.<sup>2530</sup> Similarly, civilians were seriously injured during the unlawful shelling attack.<sup>2531</sup> Other additional acts of inhumane acts and cruel treatment are included in Annex C.

## VII. SENTENCING

698. Each Accused committed grievous offences on a discriminatory basis against the Serb population of the Krajina with far-reaching consequences. Their crimes were extensive and ongoing: crimes of violence including murder were committed; there was systematic plunder and wanton destruction of Serb property; close to 90,000 Serbs were forcibly displaced with the clear intention that they never return; deliberate steps were taken to ensure their permanent displacement; and, in an effort to ensure they never returned, the international community was repeatedly deceived. None of the accused have shown any remorse.

699. Each Accused played an active and substantial role in expelling the Serb population from the Krajina. In addition, all are responsible for the destruction and plunder of Serb property and the murder and cruel treatment of vulnerable victims, including women and the elderly. Serbs victims of the shelling attack were expelled from their homes; separated from family members; and permanently deprived of their property. Those who remained behind were victimized by a prolonged campaign of violence, theft and destruction. The surviving victims' pain and suffering continues to this day. The Accused are responsible for the crimes of persecution, deportation, forcible transfer, plunder, wanton destruction, murder, cruel treatment, and inhumane acts. The crime of persecution, is "particularly grave"<sup>2532</sup> due to the discriminatory intent and because it incorporates other crimes.<sup>2533</sup>

700. All Accused shared the common criminal purpose and contributed to its execution. Gotovina and Markač were participants from its inception, engaging in the planning and implementation of the shelling attack directed at civilians. Further, they used their direct subordinates to commit crimes during and in the aftermath of Storm. Gotovina, a Colonel General, was the senior operational commander of the Split

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<sup>2530</sup> Brkić:P2506,p.4;P2402,pp.190-91;Perković:T.19489-91;D1539,pp.4-5.

<sup>2531</sup> See "Crimes:Counts2+3".

<sup>2532</sup> *Blagojević* TJ,para.834.

<sup>2533</sup> *Blagojević* TJ,para.834.

Military District, commanding over 35,000 troops which operated in most of the area in which crimes were committed. Markač, the Assistant Minister of Interior and senior operational commander of the SP commanded approximately 2200 SP members during and following Storm. Both reported directly to the Main Staff. Čermak, a Colonel General, appointed directly by and reporting to the President, was given extraordinary authority as Knin ZM-Commander. His formal AOR covered seven municipalities, with all HV units in his AOR subordinated to him for order/discipline purposes. Čermak, though entering the criminal enterprise after the commencement of the shelling attack, performed a central role in facilitating the continued commission of crimes and fulfilling the common purpose. The contribution of each, as well as their liability for ordering, planning, instigating and aiding and abetting crimes, plus liability under superior responsibility, has been set out in the sections on the individual Accused.

701. Relevant sentencing factors include the gravity of the crimes committed; the individual circumstances of the convicted person; aggravating and mitigating circumstances; and the general sentencing practice of the former Yugoslavia.<sup>2534</sup>

702. The gravity of the crime is “by far the most important consideration” in determining a sentence.<sup>2535</sup> This requires consideration of the “seriousness of the underlying crimes,” and the “form and degree” of the participation of each Accused,<sup>2536</sup> as follows:

- Scale of the Crimes<sup>2537</sup>: Massive forcible displacement of the Serbian population<sup>2538</sup> over the territory of the Krajina and extensive killings, plunder and destruction.<sup>2539</sup>
- Systematic Pattern and Continuous Repetition<sup>2540</sup>: Wide-scale plunder and destruction of property in numerous villages and towns with daily incidents over the course of several months.<sup>2541</sup>

<sup>2534</sup> Statute, Art. 24; Rule 101(B); see *Blagojević* AJ, para. 320.

<sup>2535</sup> *Čelebići* AJ, para. 731 (quoting *Čelebići* TJ, para. 1225); see *Galić* AJ, para. 442.

<sup>2536</sup> *Čelebići* AJ, para. 731; *Aleksovski* AJ, para. 182.

<sup>2537</sup> See *Mrkšić* AJ, para. 413; *Krajišnik* AJ, para. 779.

<sup>2538</sup> See “Crimes: Counts 2 & 3”.

<sup>2539</sup> See Annex A-“Plunder and Wanton Destruction”; Annex B-“Additional Killings”; Annex C-“Inhumane Acts and Cruel Treatment”.

- Number of Victims<sup>2542</sup>: Approximately 90,000 Serbs forcibly displaced;<sup>2543</sup> at least 324 persons killed;<sup>2544</sup> the number of houses destroyed in Sector South was estimated to be from “60 to 80%” in late Aug-95, 73% on 13-Sep-95, or up to 80-90% in total;<sup>2545</sup> extensive loss of property and personal belongings.<sup>2546</sup>
- Impact on Victims<sup>2547</sup>: Crimes targeted Serbs, driving them from their homes and preventing their return;<sup>2548</sup> many were killed,<sup>2549</sup> while others suffered physical and psychological damage;<sup>2550</sup> family members of murder victims were left without their loved ones.<sup>2551</sup> Years later, many Serbs still have not been able to return.<sup>2552</sup>
- Senior Position<sup>2553</sup>: All three Accused held senior positions in the military command structure as well as formal and informal power structures.<sup>2554</sup>
- *Mens Rea*<sup>2555</sup>: For purposes of their Article 7(3) liability, if the Chamber finds that each Accused had actual, rather than imputed, knowledge of their subordinates’ crimes, this factor contributes to the gravity of the crimes.<sup>2556</sup>

703. The following aggravating factors are relevant:

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<sup>2540</sup> *Galić* TJ, para. 764; *Galić* AJ, para. 450; see “Crimes”.

<sup>2541</sup> See Annex A-“Plunder and Wanton Destruction”.

<sup>2542</sup> *Blagojević* TJ, para. 837; *Stakić* TJ, para. 907; *Obrenović* TJ, para. 77.

<sup>2543</sup> [REDACTED]; see P644, p. 5; P899, p. 16.

<sup>2544</sup> See “Crimes: Counts 6&7”; Annex B-“Additional Killings”.

<sup>2545</sup> See “Crimes: Counts 4&5”; Annex A-“Plunder and Wanton Destruction” extensive loss of property and personal belongings. See “Crimes: Counts 4&5”; Annex A-“Plunder and Wanton Destruction”

<sup>2546</sup> See Annex A-“Plunder and Wanton Destruction”.

<sup>2547</sup> *Milošević* AJ, para. 323; *Mrkšić* AJ, para. 408; *Krajišnik* AJ, para. 779; *Galić* TJ, para. 77.

<sup>2548</sup> See “Crimes”; JCE: Administrative Obstacles to Return”.

<sup>2549</sup> See Annex B-“Additional Killings”.

<sup>2550</sup> See Annex C-“Inhumane Acts&Cruel Treatment”.

<sup>2551</sup> *Mrskić*, TJ, para. 685; “Crimes: Counts 6&7”; Annex B-“Additional Killings”.

<sup>2552</sup> See “JCE: Administrative Obstacles to Return”.

<sup>2553</sup> *Strugar* AJ, para. 353.

<sup>2554</sup> Reference to AG, IC MM sections.

<sup>2555</sup> *Delić* TJ, para. 563.

<sup>2556</sup> See “Gotovina”, “Čermak”, “Markač”.

- Vulnerability of Victims<sup>2557</sup>: Victims included women, children, elderly and disabled people.<sup>2558</sup>
- Abuse of Authority<sup>2559</sup>: All of the Accused failed to appropriately exercise authority. As high-level leaders with significant de jure and de facto authority, they were entrusted with a special responsibility to uphold the laws and customs of war<sup>2560</sup>, and were highly respected by subordinates.<sup>2561</sup> They failed in that duty and issued orders which constituted criminal acts,<sup>2562</sup> and in some instances concealed criminal conduct of which they were indisputably aware.<sup>2563</sup> In addition, the Accused continued to issue orders knowing that their subordinates were committing crimes.<sup>2564</sup>
- Willingness of the Accused's Participation<sup>2565</sup>: All three Accused willingly participated in the crimes charged,<sup>2566</sup> with Gotovina and Markač demonstrating enthusiasm in their implementation of the JCE.
- Discriminatory Intent<sup>2567</sup>: The Accuseds' unequivocal intent to discriminate against Serbs in committing the crimes charged is an aggravating factor for all crimes except persecution.<sup>2568</sup>

704. Sentencing practices of the former Yugoslavia, set forth in SFRY Criminal Code<sup>2569</sup> are not binding.<sup>2570</sup> The Criminal Code of Croatia in 1995 provides that crimes against humanity as well as war crimes against civilians, prisoners of war, the sick and the wounded are punishable by imprisonment for up to 20 years.<sup>2571</sup> In view

<sup>2557</sup> *Blaškić* AJ, para. 686.

<sup>2558</sup> See "Crimes"; Annex A-"Plunder and Wanton Destruction"; Annex B-"Additional Killings"; Annex C-"Inhuman Acts & Cruel Treatment".

<sup>2559</sup> *Milutinović* TJ (Vol. 3), para. 1201; *Krajišnik* TJ, para. 1156; *Čelebići* TJ, para. 1252.

<sup>2560</sup> *Galić* TJ, para. 765; *Galić* AJ, para. 412.

<sup>2561</sup> *Milošević* AJ, para. 302.

<sup>2562</sup> See "Gotovina", "Čermak", "Markač".

<sup>2563</sup> See "Markač: Grubori"; "Čermak: Internationals".

<sup>2564</sup> See "Gotovina"; "Čermak"; "Markač".

<sup>2565</sup> *Blaskić* AJ, para. 686; *Tadić* SJ, para. 57.

<sup>2566</sup> See "Gotovina"; "Čermak"; "Markač".

<sup>2567</sup> *Simić* AJ, para. 275.

<sup>2568</sup> See "JCE"; "Gotovina"; "Čermak"; "Markač".

<sup>2569</sup> SFRY Criminal Code.

<sup>2570</sup> *Krstić* AJ, para. 260; *Kupreškić* AJ, para. 418.

<sup>2571</sup> Criminal Code of Croatia (Arts. 119-22).

of the gravity of the Accused's crimes, this factor should be given minimal, if any, weight.<sup>2572</sup>

705. For the foregoing reasons, the Prosecution recommends that the Chamber sentence Gotovina to 27 years' imprisonment, Markac to 23 years' imprisonment and Čermak to 17 years' imprisonment.

Word Count (including Annexes A-C): 88,783



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Alan Tieger

Senior Trial Attorney

Dated this 16<sup>th</sup> day of July 2010

At The Hague, The Netherlands

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<sup>2572</sup> *Stakić* AJ, para.398.

## VIII. GLOSSARY OF AUTHORITIES

### ICTY Authorities

| Abbreviation Used in Prosecution Final Trial Brief | Full Citation  |
|--|--|
| <i>Aleksovski</i> AJ                               | <i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, App.Ch., Judgement, 24 March 2000  |
| <i>Aleksovski</i> TJ                               | <i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-T, T.Ch., Judgement, 25 June 1999   |
| <i>Blagojević</i> AJ                               | <i>Prosecutor v. Vidoje Blagojević &amp; Dragan Jokić</i> , Case No. IT-02-60-A, App.Ch., Judgement, 9 May 2007  |
| <i>Blagojević</i> TJ                               | <i>Prosecutor v. Vidoje Blagojević &amp; Dragan Jokić</i> , Case No. IT-02-60-T, T.Ch., Judgement, 17 January 2005   |
| <i>Blaškić</i> AJ                                  | <i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-A, App.Ch., Judgement, 29 July 2004   |
| <i>Blaškić</i> TJ                                  | <i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, T.Ch., Judgement, 3 March 2000   |
| <i>Boškovski</i> AJ                                | <i>Prosecutor v. Ljube Boškovski</i> , Case No. IT-04-82-A, App.Ch., Judgement, 19 May 2010  |
| <i>Brdanin</i> AJ                                  | <i>Prosecutor v. Radoslav Brdanin</i> , Case No. IT-99-36-A, App.Ch., Judgement, 3 April 2007  |
| <i>Čelebići</i> AJ                                 | <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-A, App.Ch., Judgement, 20 February 2001 |
| <i>Čelebići</i> TJ                                 | <i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić &amp; Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-T, T.Ch., Judgement, 16 November 1998   |
| <i>Delić</i> TJ                                    | <i>Prosecutor v. Rasim Delić</i> , Case No. IT-04-83-T, T.Ch., Judgement, 15 September 2008  |
| <i>Furundžija</i> TJ                               | <i>Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-T, T.Ch., Judgement, 10 December 1998   |
| <i>Galić</i> AJ                                    | <i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-A, App.Ch., Judgement, 30 November 2006   |
| <i>Galić</i> TJ                                    | <i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, T.Ch.,   |

|   |  |
|---|--|
|   | Judgement and Opinion, 5 December 2003   |
| <i>Gotovina</i> Jurisdiction Decision           | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T, T.Ch., Decision on Several Motions Challenging Jurisdiction, 19 March 2007                    |
| <i>Hadžihasanović</i> AJ                        | <i>Prosecutor v. Enver Hadžihasanović &amp; Amir Kubura</i> , Case No. IT-01-47-A, App.Ch., Judgement, 22 April 2008   |
| <i>Hadžihasanović</i> TJ                        | <i>Prosecutor v. Enver Hadžihasanović &amp; Amir Kubura</i> , Case No. IT-01-47-T, T.Ch., Judgement, 15 March 2006   |
| <i>Halilović</i> TJ                             | <i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, T.Ch., Judgement, 16 November 2005   |
| <i>Jelisić</i> AJ                               | <i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-A, App.Ch., Judgement, 5 July 2001  |
| <i>Karadžić</i> Appeals Foreseeability Decision | <i>Prosecutor v. Radovan Karadžić</i> , Case No. IT-95-5/18-AR72.4, App.Ch., Decision on Prosecution's Motion Appealing Trial Chamber's Decision on JCE III Foreseeability, 25 June 2009 |
| <i>Kordić</i> AJ                                | <i>Prosecutor v. Dario Kordić &amp; Mario Čerkez</i> , Case No. IT-95-14/2-A, App.Ch., Judgement, 17 December 2004   |
| <i>Kordić</i> TJ                                | <i>Prosecutor v. Dario Kordić &amp; Mario Čerkez</i> , Case No. IT-95-14/2-T, T.Ch., Judgement, 26 February 2001   |
| <i>Krajišnik</i> AJ                             | <i>Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-A, App.Ch., Judgement, 17 March 2009  |
| <i>Krajišnik</i> TJ                             | <i>Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-T, T.Ch., Judgement, 27 September 2006  |
| <i>Krnjelac</i> AJ                              | <i>Prosecutor v. Milorad Krnjelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003   |
| <i>Krstić</i> AJ                                | <i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-A, App.Ch., Judgement, 19 April 2004  |
| <i>Krstić</i> TJ                                | <i>Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-T, T.Ch., Judgement, 2 August 2001  |
| <i>Kunarac</i> AJ                               | <i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač &amp; Zoran Vuković</i> , Case No. IT-96-23 & IT-96-23/1-A, App.Ch., Judgement, 12 June 2002   |
| <i>Kunarac</i> TJ                               | <i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač &amp; Zoran Vuković</i> , Case No. IT-96-23-T & IT-96-23/1-T, T.Ch., Judgement, 22 February 2001                                       |

|                       |   |
|-----------------------|---|
| <i>Kupreškić AJ</i>   | <i>Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović &amp; Vladimir Šantić, Case No. IT-95-16-A, App.Ch., Judgement, 23 October 2001</i>                 |
| <i>Limaj TJ</i>       | <i>Prosecutor v. Fatmir Limaj, Haradin Bala &amp; Isak Musliu, Case No. IT-03-66-T, T.Ch., Judgement, 30 November 2005</i>  |
| <i>Lukić TJ</i>       | <i>Prosecutor v. Milan Lukić &amp; Sredoje Lukić, Case No. IT-98-32/1-T, T.Ch., Judgement, 20 July 2009</i>   |
| <i>Martić AJ</i>      | <i>Prosecutor v. Milan Martić, Case No. IT-95-11-A, App.Ch., Judgement, 8 October 2008</i>  |
| <i>Martić TJ</i>      | <i>Prosecutor v. Milan Martić, Case No. IT-95-11-T, T.Ch., Judgement, 12 June 2007</i>  |
| <i>Milošević AJ</i>   | <i>Prosecutor v. Dragomir Milošević, Case No. IT-98-29/1-A, App.Ch., Judgment, 12 November 2009.</i>  |
| <i>Milošević TJ</i>   | <i>Prosecutor v. Dragomir Milošević, Case No. IT-98-29/1-T, T.Ch., Judgement, 12 December 2007</i>  |
| <i>Milutinović TJ</i> | <i>Prosecutor v. Milan Milutinović, Nikola Šainovic, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić, Case No. IT-05-87-T, T.Ch., Judgment, 26 February 2009</i> |
| <i>Mrkšić AJ</i>      | <i>Prosecutor v. Mile Mrkšić &amp; Veselin Šljivančanin, Case No. IT-95-13/1-A, App.Ch., Judgement, 5 May 2009</i>  |
| <i>M.Nikolić TJ</i>   | <i>Prosecutor v. Momir Nikolić, Case No. IT-02-60/1-S, T.Ch., Sentencing Judgement, 2 December 2003</i>   |
| <i>Orić TJ</i>        | <i>Prosecutor v. Naser Orić, Case No. IT-03-68-T, T.Ch., Judgement, 30 June 2006</i>  |
| <i>Obrenović SJ</i>   | <i>Prosecutor v. Dragan Obrenović, Case No. IT-02-60/2-S, T.Ch., Sentencing Judgement, 10 December 2003</i>   |
| <i>Plavšić SJ</i>     | <i>Prosecutor v. Biljana Plavšić, Case No. IT-00-39&amp;40/1-S, T.Ch., Sentencing Judgement, 27 February 2003</i>   |
| <i>Simić AJ</i>       | <i>Prosecutor v. Blagoje Simić, Case No. IT-95-9-A, App.Ch., Judgement, 28 November 2006</i>  |
| <i>Simić TJ</i>       | <i>Prosecutor v. Blagoje Simić, Miroslav Tadić &amp; Simo Zarić, Case No. IT-95-9-T, T.Ch., Judgement, 17 October 2003</i>  |

|                              |   |
|------------------------------|---|
| <i>Stakić</i> AJ             | <i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-A, App.Ch., Judgement, 22 March 2006  |
| <i>Stakić</i> TJ             | <i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-T, T.Ch., Judgement, 31 July 2003   |
| <i>Strugar</i> AJ            | <i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-A, App.Ch., Judgement, 17 July 2008  |
| <i>Tadić</i> Jurisdiction AD | <i>Prosecutor v. Duško Tadić a/k/a "Dule"</i> , Case No. IT-94-1-AR72, App.Ch., Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995 |
| <i>Tadić</i> SAJ             | <i>Prosecutor v. Duško Tadić</i> , Case No. IT-94-1-A and IT-94-1-Abis, App.Ch., Judgement on Sentencing Appeal, 26 January 2000  |
| <i>Tadić</i> AJ              | <i>Prosecutor v. Duško Tadić</i> , Case No. IT-94-1-A, App.Ch., Judgement, 15 July 1999   |
| <i>Tadić</i> TJ              | <i>Prosecutor v. Duško Tadić a/k/a "Dule"</i> , Case No. IT-94-1-T, T.Ch., Opinion and Judgement, 7 May 1997  |
| <i>Vasiljević</i> AJ         | <i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-A, App.Ch., Judgement, 25 February 2004   |
| <i>Vasiljević</i> TJ         | <i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-T, T.Ch., Judgement, 29 November 2002   |

### ICTR Authorities

| <b>Abbreviation Used in Prosecution Final Trial Brief</b> | <b>Full Citation</b>   |
|---|--|
| <i>Rutaganda</i> AJ                                       | <i>Georges Anderson Nderubumwe Rutaganda v. Prosecutor</i> , Case No. ICTR-96-3-A, App.Ch., Judgement, 26 May 2003   |
| <i>Rutaganda</i> TJ                                       | <i>Prosecutor v. Georges Anderson Nderubumwe Rutaganda</i> , Case No. ICTR-96-3-T, T.Ch., Judgement, 6 December 1999 |

### Other Authorities

| <b>Abbreviation Used in Prosecution Final Trial Brief</b> | <b>Full Citation</b> |
|---|----------------------|
|---|----------------------|

| <b><i>European Court of Human Rights</i></b>     |   |
|--|---|
| <i>Kunić v. Croatia</i>                          | <i>Kunić v. Croatia</i> , ECtHR, App. No. 22344/02, Final Judgment, 23 May 2007   |
| <i>Radanović v. Croatia</i>                      | <i>Radanović v. Croatia</i> , ECtHR, App. No. 9056/02, Final Judgment, 21 March 2007  |
| <i>Zaklanac v. Croatia</i>                       | <i>Zaklanac v. Croatia</i> , ECtHR, App. No. 48794/99, First Section Final Decision as to the Admissibility, 15 November 2001   |
| <b><i>Eritrea Ethiopia Claims Commission</i></b> |   |
| EECC Decision                                    | <i>Eritrea v. Ethiopia</i> , Eri.-Eth. Cl. Comm'n, Partial Award, Eritrea's Civilian Claims 15, 16, 23 & 27-23, 17 December 2004  |
| <b><i>Miscellaneous</i></b>                      |   |
| Criminal Code of Croatia                         | Basic Criminal Code of the Republic of Croatia (Osnovni krivični zakon Republike Hrvatske), published in Official Gazette (Narodne Novine) No. 31/93 on 16 April 1993 in its Chapter XV Crimes Against Humanity and International Law (Krična djela protiv čovječnosti i međunarodnog prava), prescribes minimum sentence of 5 years and maximum sentences of 20 years for war and war crimes against sick and wounded (Arts. 119-22) |
| SFRY Criminal Code                               | The Criminal Code of the Socialist Federal Republic of Yugoslavia, adopted by the SFRY Assembly at the session of the Federal Council held on 28 September 1976; declared by decree of the President of the Republic on 28 September 1976; published in the Official Gazette SPRY No. 44 of 8 October 1976; took effect on 1 July 1977  |

### Party Submissions

| <b>Abbreviation Used in Prosecution Final Trial Brief</b> | <b>Full Citation</b>  |
|---|---|
| Indictment  | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-PT, Amended Joinder Indictment, 12 March 2008   |
| Gotovina's Pre-Trial Brief Stipulation                    | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T, Gotovina Defence Stipulation to Portions of Prosecution's Pre-Trial Brief, 4 February 2010 |

### General Sources

| <b>Abbreviation Used in Prosecution Final Trial Brief</b> | <b>Full Citation</b>  |
|---|---|
| Commentary to Geneva                                      | Commentary, III Geneva Convention Relative to the Treatment |

|                |   |
|----------------|---|
| Convention III | of Prisoners of War, The Geneva Conventions of 12 August 1949, Jean S. Pictet, ed. (Geneva: ICRC, 1960) |
|----------------|---|

## IX. GLOSSARY OF ABBREVIATIONS

| Abbreviation Used in Prosecution Final Trial Brief | Full Citation                                  |
|--|--|
| 4GBR   | 4 <sup>th</sup> Guard's Brigade                |
| 7GBR   | 7 <sup>th</sup> Guard's Brigade                |
| ABiH   | Army of the Republic of Bosnia and Herzegovina |
| AOR  | Area of Responsibility                         |
| API  | Additional Protocol I                          |
| API Commentary                                     | ICRC Commentary to Additional Protocol I       |
| Art.   | Article  |
| Artillery Attachment                               | D970   |
| AT.  | Appeals Transcript                             |
| Attack Order                                       | P1125  |
| BiH  | Bosnia and Herzegovina                         |

|                 |  |
|-----------------|--|
|                 |  |
| Brijuni Meeting | Meeting held on Brijuni Island on 31 July 1995 (P461)  |
| BrTRS7          | 7th Guards Brigade Artillery Group   |
| BrTRS4          | 4th Guards Brigade Artillery Group   |
| BVerfG          | Bundesverfassungsgericht (German Federal Constitutional Court)   |
| CALO            | Croatian Army Liaison Officer  |
| Croatia         | Republic of Croatia  |
| Croatian Forces | Various officers and members of the Croatian Army, Special Police, civilian police, military police, and other Republic of Croatia security and/or intelligence services |
| Chamber         | Trial Chamber in <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-T  |
| CW-[number]     | Chamber witness with pseudonym   |
| ECHR            | Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (European Convention of Human Rights)  |
| ECMM            | European Community Monitor Mission   |
| ECtHR           | European Court of Human Rights   |
| Flash           | Operation Flash  |

|        |   |
|--------|---|
| fn.    | Footnote  |
| fns.   | Footnotes   |
| FOM    | Freedom of movement                                   |
| FRY    | Federal Republic of Yugoslavia                        |
| GC's   | Geneva Conventions I to IV of 12 August 1949          |
| HDZ    | Croatian Democratic Union                             |
| HGR    | Home Guards Regiment                                  |
| HOS    | Croatian Defence Forces                               |
| HR H-B | Croatian Republic of Herceg Bosna                     |
| HV     | Army of the Republic of Croatia                       |
| HVGS   | Army of the Republic of Croatia Main Staff            |
| HVO    | Croatian Defence Council (army of the Bosnian Croats) |
| HZ H-B | Croatian Community of Herceg-Bosna                    |
| IHF    | International Helsinki Federation                     |

|                   |  |
|-------------------|--|
|                   |  |
| IHL               | International Humanitarian Law   |
| ICCSt             | Rome Statute of the International Criminal Court, U.N. Doc. A/CONF. 183/9 (1998) |
| Indictment Area   | Municipalities specified in paragraphs 48 through 53 of the Indictment           |
| Indictment Crimes | Crimes charged in Counts 1 through 9 of the Indictment                           |
| Indictment Period | From least July 1995 to about 30 September 1995                                  |
| IO                | International Organisation   |
| IZM               | Forward Command Post   |
| JNA               | Yugoslav People's Army (Army of the Socialist Federal Republic of Yugoslavia)    |
| LATJ              | Lučko Anti-Terrorist Unit  |
| MBRL              | Multiple Barrel Rocket Launcher  |
| MD                | Military District  |
| MORH              | Ministry of Defence  |
| mn.               | margin number  |

|  |  |
|--|--|
|  |  |
| MP   | Military Police  |
| MP Rules                                   | Rules Governing the Structure and Operation of the Military Police of the Armed Forces of the Republic of Croatia in 1994 (P880) |
| MPA  | Military Police Administration   |
| MUP  | Ministry of the Interior Police  |
| OHR  | Office of the High Representative (BiH)  |
| OG   | Operational Group  |
| P-[number]                                 | Prosecution witness with pseudonym   |
| para.                                      | paragraph  |
| paras.                                     | paragraphs   |
| p.   | page   |
| pp.  | pages  |
| Practice Direction on Appeals Requirements | Practice Direction on Formal Requirements for Appeals from Judgement (IT-201) Rev.1, 7 March 2002                                |

|               |   |
|---------------|---|
| PU            | Police Administration   |
| RBiH          | Republic of Bosnia and Herzegovina  |
| ROM           | Restriction of movement   |
| RSK           | Republic of Serbian Krajina   |
| Rules         | Rules of Procedure and Evidence   |
| SDA           | Party of Democratic Action  |
| SDS           | Serbian Democratic Party of Bosnia and Herzegovina  |
| SFRY          | <i>Former:</i> Socialist Federal Republic of Yugoslavia   |
| SG            | Secretary General of the United Nations   |
| SIS           | Security and Information Service  |
| SJP           | Special Police Unit Attached to Police Administrations  |
| Southern Move | Operation Southern Move   |
| SP            | Special Police  |
| Statute       | Statute of the International Criminal Tribunal for the Former Yugoslavia established by the Security Council Resolution 827 |

|          |   |
|----------|---|
|          | (1993)  |
| Storm    | Operation Storm, or <i>Oluja</i>                |
| Summer   | Operation Summer, or <i>Ljeto 95</i>            |
| SUP      | Secretariat of Internal Affairs                 |
| T.       | Trial Transcript                                |
| TRS      | Artillery & Rocket Group                        |
| TS       | Artillery Group                                 |
| UK Dept. | Inner Control Department of the Special Police  |
| UN       | United Nations                                  |
| UNCivPol | United Nations Civilian Police                  |
| UNCRO    | United Nations Confidence Restoration Operation |
| UNDU     | United Nations Detention Unit                   |
| UNPROFOR | United Nations Protection Forces                |
| UNMO     | United Nations Military Observer                |

|                       |  |
|-----------------------|--|
|                       |  |
| Vance-Owen Peace Plan | Reproduced in pp.13-44 of the Report of the Secretary-General on Activities of the International Conference on the former Yugoslavia, 2 February 1993, (S/23221) |
| VONS                  | Croatia's Council on Defence and National Security   |
| ZM                    | Garrison   |

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

**Case No. IT-06-90-T**

**THE PROSECUTOR**

**v.**

**ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ**

**PUBLIC REDACTED ANNEX A**

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**WANTON DESTRUCTION AND PLUNDER BY MUNICIPALITY**

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|                           |    |
|---------------------------|----|
| 1. Benkovac .....         | 1  |
| 2. Civljane .....         | 4  |
| 3. Donji Lapac .....      | 6  |
| 4. Drniš.....             | 9  |
| 5. Ervenik .....          | 11 |
| 6. Gračac.....            | 14 |
| 7. Kistanje .....         | 20 |
| 8. Knin.....              | 26 |
| 9. Lišane Ostrovičke..... | 43 |
| 10. Lisičić.....          | 44 |
| 11. Nadvoda.....          | 45 |
| 12. Obrovac.....          | 46 |
| 13. Oklaj.....            | 47 |
| 14. Orlić.....            | 48 |

## 1. Benkovac

| Date          | Location         | Description  | Perpetrator  |
|---------------|------------------|--|--|
| 05/08/1995    | Benkovac area    | Extensive looting. <sup>1</sup> HV blocked off areas with check-points; vehicles emerged with looted goods. <sup>2</sup> Serb-Majority. <sup>3</sup> | HV-134HGR, 7HGR; 72MP Battalion <sup>4</sup>               |
| 05-18/08/1995 | Buković          | Burning houses. <sup>5</sup> Serb-Majority. <sup>6</sup>   | HV-134HGR <sup>7</sup>                                     |
| 07/08/1995    | Benkovac Town    | Houses destroyed. <sup>8</sup>   | HV-134HGR, 7HGR, OG Zadar IZM; 72MP Battalion <sup>9</sup> |
| 08/08/1995    | Benkovac         | Extensive looting. <sup>10</sup>   | HV-134HGR <sup>11</sup>                                    |
| 13/08/1995    | Benkovac         | Large-scale looting. <sup>12</sup> Stolen goods found on HV base. Personal property in streets. <sup>13</sup>  | HV-134HGR; 72MP Battalion <sup>14</sup>                    |
| 13-16/08/1995 | Road to Benkovac | Village ransacked. <sup>15</sup>   | HV-134HGR <sup>16</sup>                                    |
| 15/08/1995    | Benkovac         | Many houses ablaze. <sup>17</sup>  | HV-134HGR <sup>18</sup>                                    |
|               |                  | Military trucks containing personal belongings, televisions, tools, cattle. <sup>19</sup>  | HV-134HGR; MP <sup>20</sup>                                |

<sup>1</sup> Mornau: P308, pp. 3-4; Mornau: P310, paras. 9, 12; P109, p. 1.

<sup>2</sup> Mornau: T.3941-42.

<sup>3</sup> C5, p. 46(B/C/S); P2418.

<sup>4</sup> Mornau: P308, pp. 3-4; Mornau: P310, para. 9 (military personnel initially conducted looting); P2417; [REDACTED]; P1200, p. 2; D1749, p. 3.

<sup>5</sup> Guša: P959, paras. 12-14; Guša: P960, para. 4; P961.

<sup>6</sup> C5, p. 46(B/C/S); P2418.

<sup>7</sup> Guša: P959, paras. 12-14; Guša: P960, para. 4; P961; P2417; P1200, pp. 2, 3.

<sup>8</sup> P224, p. 1; Mornau: P310, para. 12; Mornau: P308, p. 4; Liborius: P801, p. 11.

<sup>9</sup> P2417; [REDACTED]; P1200, pp. 2, 3; P1113, p. 393, fn. 584; P71, p. 91; D567, p. 4; P881, p. 1; P2585, p. 10.

<sup>10</sup> Laušić: P2159, para. 196; P1211, p. 1.

<sup>11</sup> Laušić: P2159, para. 196; P2417; [REDACTED]; P1200, p. 2, 3; D1749, p. 3; P71, p. 91; P1113, p. 393, fn. 584.

<sup>12</sup> Driča: P2690, pp. 4, 5.

<sup>13</sup> D391, p. 2.

<sup>14</sup> Driča: P2690, pp. 4, 5; P2417; [REDACTED]; P1200, p. 2, 3; D1749, p. 3; P71, p. 91.

<sup>15</sup> P224, p. 1; Mornau: P308, p. 4.

<sup>16</sup> P2566, p. 2 (134HGR still in area on 1-Sep-95).

<sup>17</sup> P224, p. 1; P41, p. 2; Mauro: P1098, p. 3; Mauro: P1099, para. 26; Flynn: P20, pp. 17-18; Flynn: P21, para. 11; P25, p. 1; P223, p. 4; P33, p. 2; D3, p. 2 (Barkanja).

<sup>18</sup> P1200, p. 5; P2566, p. 2 (134HGR still in area as 1-Sep-95); Flynn: P20, p. 17; P223, p. 4.

<sup>19</sup> Driča: P2690, p. 5.

| Date                  | Location                               | Description  | Perpetrator                        |
|-----------------------|--|--|------------------------------------|
| 19/08/1995            | Stegnajići                             | Soldier searching houses. Exploding hand grenade in empty house. <sup>21</sup> | HV <sup>22</sup>                   |
| 21/08/1995            | Benkovac                               | Two burning houses. <sup>23</sup>  | HV-134HGR <sup>24</sup>            |
| 08/1995               | Buković                                | Houses looted, livestock stolen. <sup>25</sup> Completely Serb. <sup>26</sup>  | HV-134HGR <sup>27</sup>            |
| Weeks following Storm | Benkovac                               | Virtually uninhabited-clear signs of looting. <sup>28</sup>                    | HV-134HGR <sup>29</sup>            |
| 02-04/09/1995         | Benkovac Selo, Buković                 | Serbs robbed. <sup>30</sup>  | HV-134HGR in uniform <sup>31</sup> |
| Early September 1995  | Benkovac town; hamlets around Benkovac | Houses burned. <sup>32</sup>   | HV <sup>33</sup>                   |
| 26/09/1995            | Susanj/Benkovac                        | Burning Serb house. <sup>34</sup>  | HV <sup>35</sup>                   |

<sup>20</sup> P2566,p.2(134HGR still deployed in area as 1-Sep-95).

<sup>21</sup> D391,p.11.

<sup>22</sup> D391,p.11;P1200,p.5;P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>23</sup> D391,p.12.

<sup>24</sup> P1200,p.5;P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>25</sup> D179,p.15.

<sup>26</sup> C5,p.46(B/C/S);P2418.

<sup>27</sup> D179,p.15;P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>28</sup> Roberts:P677,p.12.

<sup>29</sup> P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>30</sup> P248,p.7.

<sup>31</sup> P248,p.7;P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>32</sup> P683,pp.20-24;Roberts:P680,p.8;Roberts:P677,p.12.

<sup>33</sup> P1200,p.5;P2566,p.2(134HGR still in area as 1-Sep-95).

<sup>34</sup> P267,p.4.

<sup>35</sup> P1200,p.5;P2566,p.2(134HGR still in area as 1-Sep-95).

## 2. Civljane

| Date        | Location  | Description  | Perpetrator                |
|-------------|---|--|----------------------------|
| 11/08/1995  | Civljane  | Looting. <sup>36</sup> Serb-Majority village <sup>37</sup> half-burned. <sup>38</sup>  | HV-126HGR <sup>39</sup>    |
|             | Cetina and surrounding valley                         | Many houses burned. Livestock shot and looted. <sup>40</sup> Serb-Majority village. <sup>41</sup>                                | HV-126HGR <sup>42</sup>    |
| 12/08/1995  | Cetina  | Houses looted, burned; <sup>43</sup> village completely ablaze. <sup>44</sup>  | HV-126HGR;SP <sup>45</sup> |
| 15/08/1995  | Civljane  | All structures burned. <sup>46</sup>   | HV-126HGR <sup>47</sup>    |
| 18/08/1995  | Civljane, Dragići                                     | Villages deserted, burned. <sup>48</sup>   | HV-126HGR <sup>49</sup>    |
| Mid-08/1995 | Cetina  | Village completely burned. <sup>50</sup>   | HV-126HGR <sup>51</sup>    |
| 28/08/1995  | Dubrava:<br>Dragići;<br>Čitluk;<br>Milaši;<br>Cetina: | Approximately 6 burned houses;<br>15 burned houses;<br>30 burned houses;<br>20 burned houses;<br>25 burned houses. <sup>52</sup> | HV-126HGR <sup>53</sup>    |

<sup>36</sup> Berikoff: P740, para. r; Berikoff: P748, p. 10; Berikoff: P747, para. 1 (h); Berikoff: D729, p. 6; P363, pp. 6, 7; Berikoff: T. 7621.

<sup>37</sup> C5, p. 110(B/C/S); P2423.

<sup>38</sup> P815, p. 6; P810, p. 2.

<sup>39</sup> Berikoff: P740, para. r; Berikoff: P748, p. 10; Berikoff: P747, para. 1 (h); Berikoff: D729, p. 6; P363, pp. 6, 7; Berikoff: T. 7621; P2417; [REDACTED]; P71, pp. 81, 92.

<sup>40</sup> P815, p. 6; P810, p. 2.

<sup>41</sup> C5, p. 110(B/C/S); P2423.

<sup>42</sup> P2417; [REDACTED]; P71, pp. 81, 92.

<sup>43</sup> P699, p. 6; Dangerfield: T. 7161-

62; Berikoff: P740, para. 2(s); P742, para. 2(n); Berikoff: P743, para. 5; Berikoff: P747, para. 1(k); Berikoff: P748, pp. 11, 12; Berikoff: D729, p. 7; Berikoff: D284, pp. 36-

38; Berikoff: D735, p. 3; Berikoff: T. 7606.

<sup>44</sup> Berikoff: P740, para. 2(s); Berikoff: P747, para. 1(k); Berikoff: D729, p. 7; Berikoff: P748, pp. 11, 12.

<sup>45</sup> Berikoff: P747, para. 1(k); Berikoff: P743, para. 5; Berikoff: D284, pp. 36-38; Berikoff: D735, p. 3; Berikoff: T. 7606; P2417; [REDACTED]; P71, pp. 81, 92.

<sup>46</sup> P463, p. 5.

<sup>47</sup> P2417; [REDACTED]; P71, pp. 81, 92.

<sup>48</sup> P815, p. 8; P810, p. 2.

<sup>49</sup> P2417; [REDACTED]; P71, pp. 81, 92.

<sup>50</sup> [REDACTED].

<sup>51</sup> P2417; [REDACTED]; P71, pp. 81, 92.

<sup>52</sup> P68, p. 20.

<sup>53</sup> P2417; [REDACTED]; P71, pp. 81, 92.

| Date                              | Location                                       | Description  | Perpetrator             |
|-----------------------------------|--|--|-------------------------|
| 02-03/09/1995                     | Cetina   | Completely burned. Orthodox church damaged, looted, and contents destroyed. <sup>54</sup>      | HV-126HGR <sup>55</sup> |
| Prior to 06/10/1995 <sup>56</sup> | Kurobasi,<br>Vrajesi:<br>Preociani:<br>Kosore: | All 45-50 houses burned and destroyed;<br>all 7 houses burned;<br>1 house burned <sup>57</sup> | HV-126HGR <sup>58</sup> |

<sup>54</sup> P68, p. 29; Tchernetsky; P204, p. 6; D179, p. 14 (point 561); P36, p. 3; [REDACTED].

<sup>55</sup> P2417; [REDACTED]; P71, pp. 81, 92.

<sup>56</sup> P68, p. 52 (dated 6 Oct., but damage occurred during Storm).

<sup>57</sup> P68, p. 52.

<sup>58</sup> P2417; [REDACTED]; P71, pp. 81, 92.

### 3. Donji Lapac<sup>59</sup>

| Date          | Location                  | Description  | Perpetrator   |
|---------------|---------------------------|--|---|
| 6/7/95-7/7/95 | Road to Donji Lapac       | 90% of houses burned or destroyed. Looting. <sup>60</sup>                                      | SP;HV <sup>61</sup>   |
| 7/8/95-8/8/95 | Donji Lapac               | Houses and buildings burning during the night. <sup>62</sup> Serb-Majority(98%). <sup>63</sup> | HV;SP <sup>64</sup>   |
| 10/8/95       | Srb                       | Looting. <sup>65</sup> Checkpoint built using looted items. <sup>66</sup>                      | HV;Police. <sup>67</sup>                                    |
|               | Donji Lapac               | 80% of houses destroyed. Burning houses. Smell of smoke. <sup>68</sup>                         | HV (soldiers with yellow and red ribbons); SP <sup>69</sup> |
| 11/8/95       | Donji Lapac               | Completely destroyed. Fires. Looting. HV occupied partially destroyed houses. <sup>70</sup>    | HV;Police;MP <sup>71</sup>                                  |
| 12/8/95       | Donji Lapac               | 95% destroyed. No civilians. Looting. <sup>72</sup>  | MP;HV <sup>73</sup>   |
| 16/8/95       | Cross road to Donji Srb   | Many dead cattle. <sup>74</sup>  | HV <sup>75</sup>  |
| 17/8/95       | Srb                       | Completely destroyed. <sup>76</sup>  | HV <sup>77</sup>  |
| 18/8/95       | Donji Srb and Donji Lapac | Houses ablaze. Dead livestock. <sup>78</sup>   | HV in area <sup>79</sup>                                    |

<sup>59</sup> Over 99% Serb;P463,pp. 11-12;P464,pp.5-6;C5,p.72(B/C/S).

<sup>60</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>61</sup> D1897(B/C/S);P1237,p.4;P1247,pp.85-86(B/C/S);[REDACTED];Sačić:T.27781,27745-47,27755-56;C4.

<sup>62</sup> D556;P586;P470,pp.53-54.

<sup>63</sup> C5,p.72(B/C/S);Galbraith:T.4948;Liberius:P801,p.6.

<sup>64</sup> P2382,p.2;D555,pp.46-47;P586;D556;P1239,p.5;P2383,p.3;Repinc:T.26732-33;Sačić:T.27782-85.

<sup>65</sup> P689,p.5;Hill:P292,pp.67-68.

<sup>66</sup> Hill:P292,pp.67-68.

<sup>67</sup> P689,p.5.

<sup>68</sup> D391,p.4;P68,p.4;P541,p.1;P470,pp.53-54;P114,p.6.

<sup>69</sup> P1236,pp.4-5;P2384,p.3;P114,p.6;P2402,p.88.

<sup>70</sup> P363,p.7;P744,p.7;Hill:T3779;Hill:P292,pp.71-72;P689,p.7.

<sup>71</sup> P292,p.72;P363,p.7.

<sup>72</sup> D391,p.4;P68,p.4.

<sup>73</sup> P68,p.4;D391,p.4.

<sup>74</sup> [REDACTED].

<sup>75</sup> P121,p.3.

<sup>76</sup> P988,p.3;P2151,p.2.

<sup>77</sup> D559,p.7;D281,p.7;p.121,p.3.

| Date    | Location                          | Description   | Perpetrator                 |
|---------|-----------------------------------|---|-----------------------------|
| 20/8/95 | Srb                               | Burning houses. <sup>80</sup>                         |                             |
| 21/8/95 | Brotnja                           | Burning houses. <sup>81</sup>                         |                             |
| 22/8/95 | Neteka                            | Burning houses. <sup>82</sup>                         | SP in area <sup>83</sup>    |
| 24/8/95 | Srb                               | Looting. <sup>84</sup>                                | HV <sup>85</sup>            |
| 27/8/95 | Donji Lapac                       | House burning. <sup>86</sup>                          | HV in area <sup>87</sup>    |
|         | Dnopolje                          | Looting. <sup>88</sup>                                | HV. <sup>89</sup>           |
|         | Mandić-Dol                        | Looting. <sup>90</sup>                                | HV <sup>91</sup>            |
| 28/8/95 | Donji Lapac                       | Houses torched. <sup>92</sup>                         |                             |
| 1/9/95  | Donji Lapac                       | Destroyed. Burning barns and haystacks. <sup>93</sup> | HV;Police <sup>94</sup>     |
| 6/9/95  | From Donji Lapac to Otrić via Srb | Hundreds of houses burned/burning. <sup>95</sup>      | HV;SP in area <sup>96</sup> |
|         | Donji Lapac                       | Completely destroyed. <sup>97</sup>                   |                             |
| 7/9/95  | Joševica, Zalužje, Ristići        | Burned/burning houses. Looting. <sup>98</sup>         | HV <sup>99</sup>            |

<sup>78</sup> [REDACTED].

<sup>79</sup> P71,p.115.

<sup>80</sup> P689,p.14;D391,p.12;P68,p.11.

<sup>81</sup> P689,p.14;P541,p.2.

<sup>82</sup> P689,p.15;P541,p.2.

<sup>83</sup> P2376,p.1.

<sup>84</sup> P689,p.16;P541,p.2.

<sup>85</sup> P71,p.136;P689,p.16;P541,p.2.

<sup>86</sup> P68,p.18.

<sup>87</sup> P68,p.18.

<sup>88</sup> P68,p.18.

<sup>89</sup> P68,p.18.

<sup>90</sup> P68,p.18.

<sup>91</sup> P68,p.18.

<sup>92</sup> [REDACTED].

<sup>93</sup> Liborius:P801,pp.5,12.

<sup>94</sup> Liborius:P801,p.12.

<sup>95</sup> P689,p.22.

<sup>96</sup> P142,p.2;D2115;D2116,p.2;D2119,pp.1-2.

<sup>97</sup> P710.

<sup>98</sup> P689,p.23;D391,p.34;P68,p.32.

| Date    | Location                   | Description  | Perpetrator               |
|---------|----------------------------|--|---------------------------|
| 9/9/95  | Dobroselo                  | Monument destroyed. <sup>100</sup>                 | HV <sup>101</sup>         |
|         | Srb, Donja Suvaja, Brotnja | Looting. <sup>102</sup>                            | HV <sup>103</sup>         |
| 10/9/95 | Neteka                     | Burning houses. <sup>104</sup>                     |                           |
|         | Ristići                    | Burning houses. <sup>105</sup>                     |                           |
| 11/9/95 | Podurljaj                  | House burning. <sup>106</sup>                      |                           |
| 20/9/95 | Donji Lapac                | Systematic destruction and looting. <sup>107</sup> |                           |
| 25/9/95 | Brezovac                   | 30% of houses destroyed. <sup>108</sup>            |                           |
|         | Dobroselo and Gornji Lapac | 60-70% destruction. <sup>109</sup>                 | SP in area <sup>110</sup> |
|         | Srb/Donji Srb              | ROM. Arson and destruction. <sup>111</sup>         | SP in area <sup>112</sup> |

<sup>99</sup> P689,p.23.

<sup>100</sup> P68,p.34.

<sup>101</sup> P68,p.34.

<sup>102</sup> P68,p.34.

<sup>103</sup> P68,p.34.

<sup>104</sup> P68,p.34.

<sup>105</sup> P68,p.34.

<sup>106</sup> P68,p.34.

<sup>107</sup> Galbraith:T.4948.

<sup>108</sup> P1104,p.2.

<sup>109</sup> P1104,p.2.

<sup>110</sup> D2135.

<sup>111</sup> Liborius:T.11294-96;Liborius:P801,p.5.

<sup>112</sup> Liborius:T.11294-96;Liborius:P801,p.5.

## 4. Drniš

| Date       | Location                       | Description   | Perpetrator                              |
|------------|--------------------------------|---|--|
| 05/08/1995 | Bibići                         | Two Serb houses damaged. <sup>113</sup>   | HV-142HGR <sup>114</sup>                 |
| 08/08/1995 | Drniš                          | Looting. <sup>115</sup>   | HV-142HGR <sup>116</sup>                 |
| 09/08/1995 | Kanjane                        | Houses burning. <sup>117</sup> Majority Serb village. <sup>118</sup>  | HV-6HGR <sup>119</sup>                   |
|            | Area between Biočić and Miočić | Fire. <sup>120</sup> Majority Serb villages. <sup>121</sup>   | HV-6HGR <sup>122</sup>                   |
| 10/08/1995 | Kričke                         | Houses burning. <sup>123</sup> Majority Serb village. <sup>124</sup>  | HV-142HGR <sup>125</sup>                 |
| 11/08/1995 | Kričke                         | Car theft. <sup>126</sup>   | HV-MilitaryPost1102,Drniš <sup>127</sup> |
| 12/08/1995 | Miočić;                        | Deserted village destroyed. <sup>128</sup>  | HV-6HGR <sup>129</sup>                   |
| 15/08/1995 | Near Drniš                     | Houses burning. <sup>130</sup>  | HV-142HGR <sup>131</sup>                 |
| 16/08/1995 | Jovići                         | TV news crew detained attempting to film burning house. Cash stolen, videocassettes confiscated. Houses burning. <sup>132</sup> | HV-142HGR <sup>133</sup>                 |

<sup>113</sup> D391,p.11;P68,p.11.

<sup>114</sup> P2417,P2349,p.2.

<sup>115</sup> P744,p.6;Berikoff:P748,p.9;D729,p.4;P747, para.1(d);P742, para.2(d);Berikoff:P740,para.2(o).

<sup>116</sup> P2417;P2559,p.3;D555,p.52;P2349,p.2;P1128,p.1;Džolčić:P875,para.45.

<sup>117</sup> P815,p.5;

<sup>118</sup> C5,p.74(B/C/S);P2420.

<sup>119</sup> P2586,p.4.5;[REDACTED];P2417.

<sup>120</sup> P71,p.92,93.

<sup>121</sup> C5,p.74(B/C/S);P2420.

<sup>122</sup> P2417;P2586,p.5.

<sup>123</sup> P973,p.11(entry22:55hrs).

<sup>124</sup> C5,p.74(B/C/S);P2420.

<sup>125</sup> P973,p.11(entry22:55hrs).

<sup>126</sup> P973,p.13(entries16:35hrs&17:10hrs).

<sup>127</sup> P973,p.13(entries16:35hrs&17:10hrs,soldier arrested).

<sup>128</sup> P815,p.7.

<sup>129</sup> P2417;P2586,p.5.

<sup>130</sup> P43,p.3;Mauro:P1099,para.29;P33,para.2.

<sup>131</sup> D559,p.7.

<sup>132</sup> D391,p.8;P1172,para.2 (same as D3);Mauro:P1098,p.4;Mauro:P1099,para.30.

<sup>133</sup> P1172,para.2 (same as D3);Mauro:P1098,p.4;Mauro:P1099,para.30;D559,p.7.

| Date          | Location           | Description  | Perpetrator                         |
|---------------|--------------------|--|-------------------------------------|
| 20/08/1995    | Čupići;<br>Rajići: | Houses burning;<br>10 destroyed houses. <sup>134</sup>   | HV-142HGR <sup>135</sup>            |
| 29/08/1995    | Miočić             | 44 burned houses; 15 dead animals <sup>136</sup>   | HV-6HGR <sup>137</sup>              |
| 02-05/09/1995 | Biočić, Miočić     | Armed robberies, looting ongoing. <sup>138</sup>   | HV-6HGR <sup>139</sup>              |
| 06/09/1995    | Kneževići          | Looting. <sup>140</sup>  | HV-142HGR; Civilians <sup>141</sup> |
| 07/09/1995    | Drniš              | Houses burning: Čenići (two), Drniš (one), Josevica (two), Zatužje (one) and Ristići (one). <sup>142</sup> | HV-142HGR <sup>143</sup>            |
| 15/09/1995    | Miočić             | Looting. <sup>144</sup>  | HV-142HGR <sup>145</sup>            |

<sup>134</sup> D391, pp.11-12;P68,p.11.

<sup>135</sup> P2349,p.2;P2417.

<sup>136</sup> P68,p.23.

<sup>137</sup> P2417;P2586,p.5;P71,p.93.

<sup>138</sup> P248,p.7;D179,p.14(item572).

<sup>139</sup> P248,p.7;D179,p.14(item572);P2586,p.5;P71,p.93.

<sup>140</sup> P51,para.2;Flynn:P21,para.31;Mauro:P1098,p.6;Mauro:P1099,para.43.

<sup>141</sup> P51,para.2;Flynn:P21,para.31;Mauro:P1098,p.6;Mauro:P1099,para.43;D559,p.7.

<sup>142</sup> P37,para.2;Mauro:P1099,para.45.

<sup>143</sup> D559,p.7.

<sup>144</sup> P68,p.37.

<sup>145</sup> P68,p.37;D559,p.7.

## 5. Ervenik

| Date          | Location                    | Description   | Perpetrator                   |
|---------------|-----------------------------|---|-------------------------------|
| 05/08/1995    | Oton (Oton Polje)           | Houses burned, looted. <sup>146</sup> Serb-Majority. <sup>147</sup>                           | HV-4GBR <sup>148</sup>        |
| 06/08/1995    | Ervenik, Subotići, Brekići  | Houses burned, looted; livestock stolen. <sup>149</sup> Ervenik Serb-Majority. <sup>150</sup> | HV-4GBR <sup>151</sup>        |
| 07/08/1995    | Popovići, Mokro Polje       | Houses looted. <sup>152</sup> Mokro Polje entirely Serb. <sup>153</sup>                       | HV-4GBR <sup>154</sup>        |
| 10/08/1995    | Radučić                     | Houses looted, village deserted. <sup>155</sup> Serb-Majority. <sup>156</sup>                 | HV-4GBR <sup>157</sup>        |
| 15/08/1995    | Vujanići, Žeželji: Ervenik: | 1 house burned each, deserted; entire village burned. <sup>158</sup>                          | HV-7HGR,134HGR <sup>159</sup> |
| 17/08/1995    | Radučić                     | Significantly damaged. <sup>160</sup>   | HV <sup>161</sup>             |
| 17-18/08/1995 | Oton (Oton Polje)           | 11 burned houses; extensive looting. <sup>162</sup>   | HV <sup>163</sup>             |
| 21/08/1995    | Prkos:                      | Partially destroyed, deserted;  | HV-4GBR,134HGR <sup>165</sup> |

<sup>146</sup> Romashev: P2513, p.11; Vujinović: P412, p.2; Vujinović: P413, para.2.

<sup>147</sup> C5, p.110(B/C/S); P2423; Vujinović: D386, p.1; Vujinović: T.4557.

<sup>148</sup> Romashev: P2513, p.11; Vujinović: P412, pp.2,3; Vujinović: P413, para.2; Vujinović: D386, p.1; P2417; P2343, pp.39-41; [REDACTED].

<sup>149</sup> Guša: P959, paras.26-27; Guša: T.9885; P961, points 4,9.

<sup>150</sup> C5, p.110(B/C/S); P2423.

<sup>151</sup> Guša: P959, paras.26-27; P2417; [REDACTED]; P2343, pp.40-41; P1183, p.16.

<sup>152</sup> Popović: P2692, para.22.

<sup>153</sup> Popović: P2692, para.8; C5, p.110; P2423.

<sup>154</sup> Popović: P2692, para.16-22; P2417; P2343, p.43; P1183, p.16.

<sup>155</sup> P815, p.5; P810, p.7; P830, para.4(d).

<sup>156</sup> C5, p.110(B/C/S); P2423.

<sup>157</sup> P2417; P2343, pp.39-41.

<sup>158</sup> P815, p.7; P810, p.9.

<sup>159</sup> P1183, p.16; P1200, p.4.

<sup>160</sup> P988, p.3, paras.1-2.

<sup>161</sup> Vujinović: P412, p.2; Vujinović: P413, para.2.

<sup>162</sup> Vujinović: P412, p.2; Vujinović: P413, para.2; Romashev: P2513, p.4, para.3; P234.

<sup>163</sup> Vujinović: P412, p.2; Vujinović: P413, para.2; Vujinović: D386, p.1; Vujinović: T.4549.

| Date           | Location   | Description   | Perpetrator                        |
|----------------|--|---|------------------------------------|
| 28/08/1995     | Butiga:<br>Mrdali:<br>Popovići:<br>Radani:<br>Kneževići/Oton:            | partially destroyed, deserted;<br>totally burned, deserted;<br>limited destruction, deserted;<br>destroyed, deserted;<br>Limited destruction, deserted. <sup>164</sup><br>Most houses looted, some torched. Many dead livestock. <sup>166</sup> | HV; Civilian Police <sup>167</sup> |
| During 08/1995 | Radučić,<br>Omčikus,<br>Šimprage   | 30 Serb houses destroyed;<br>village ablaze. <sup>168</sup>   | HV-134HGR <sup>169</sup>           |
| During 08/1995 | Ervenik  | Factory and contents destroyed. <sup>170</sup>  | HV-134HGR <sup>171</sup>           |
| 24-26/09/1995  | Popovići   | Looting. <sup>172</sup>   | HV <sup>173</sup>                  |
| 26/09/1995     | Mokro Polje  | Looting. <sup>174</sup>   | HV; civilians <sup>175</sup>       |
| Late 1995      | Serb-dominated<br>villages in North<br>Dalmatia,<br>including<br>Ervenik | All houses burned/destroyed <sup>176</sup>  | HV-134HGR <sup>177</sup>           |

<sup>164</sup> P815, p.8; P810, pp.5, 6, 7; P813, para.2(c).

<sup>165</sup> Theunens: P1113, p.394, fn.593; Vujinović: P412, p.2; Vujinović: P413, para.2; Vujinović: D386, p.1; Vujinović: T.4549; P2417; P2343, p.43; P1183, p.16.

<sup>166</sup> [REDACTED].

<sup>167</sup> [REDACTED].

<sup>168</sup> Guša: P959, para.31; Guša: T.9889-891; Guša: T.9885; Guša: T.9887; P961, point.9.

<sup>169</sup> P2417; [REDACTED]; P1183, p.16; P2343, p.43; P1113, p.394, fn.593; P1200, p.4.

<sup>170</sup> Martić: P416, p.8 (lines 11-14).

<sup>171</sup> P2417; [REDACTED]; P1183, p.16; P2343, p.43; P1113, p.394, fn.593; P1200, p.4.

<sup>172</sup> P68, p.44; Popović: 2692, para.33.

<sup>173</sup> Popović: 2692, para.33; P158, pp.2, 3.

<sup>174</sup> P158, p.3.

<sup>175</sup> P158, pp.2, 3.

<sup>176</sup> Drča: P2690, p.5.

<sup>177</sup> P2417; P1183, p.16; P2343, pp.39-41, 43; P1200, p.4; [REDACTED]; P1113, p.394, fn.593.

6. Gračac<sup>178</sup>

| Date     | Location                 | Description  | Perpetrator                               |
|----------|--------------------------|--|---|
| 6/8/95   | Glogovo                  | Looting. Overwhelming Serb-Majority. <sup>179</sup>  | SP. <sup>180</sup>                        |
|          | Gračac                   | Houses and UNMO office destroyed; extensive damage, arson and looting. <sup>181</sup> Overwhelming Serb-Majority. <sup>182</sup> | SP; HV <sup>183</sup>                     |
|          | Near Gačešće             | House burning. <sup>184</sup>  | SP <sup>185</sup>                         |
|          | Štikada                  | House burning. <sup>186</sup>  | SP (LATJ) in arca <sup>187</sup>          |
| 7-8/8/95 | Zrmanje<br>Vrelo/Zrmanje | Burning/looting. <sup>188</sup> Entirely Serb. <sup>189</sup>  | HV <sup>190</sup>                         |
| 8/8/95   | Gračac                   | SP looting and hot-wiring vehicle. <sup>191</sup>  | SP, including "Delta" unit <sup>192</sup> |
|          | Gospić-Gračac<br>Road    | Almost all houses burned. Looting. <sup>193</sup>  | SP took Gospić-Gračac Road <sup>194</sup> |
|          | Surle                    | Houses burning. <sup>195</sup>   | HV; SP <sup>196</sup>                     |
|          | Sovilji                  | Houses burning. <sup>197</sup>   | HV; SP <sup>198</sup>                     |

<sup>178</sup> SP HQ in Gračac on 5-Aug-95, remained for Indictment Period: P614, p.9; P2385, p.7; D555, p.29; Janić: P552, paras.33,47; Pavlović: T.25293-94; P1242, p.7; P2382, p.1; Sačić: T.2774 I. Gračac Municipality over 80% Serb: C5, p.94(B/C/S).

<sup>179</sup> P531; Steenberg: P517, para.9; C5, p.94(B/C/S).

<sup>180</sup> D2106, p.17.

<sup>181</sup> Steenberg: P516, paras.45-46,49-52; Steenberg: P517, paras.3,7,8,18; P541, p.1; P527; P68, p.1; D391, p.1; P520; P521; P522; P109, p.6.

<sup>182</sup> C5, p.94(B/C/S).

<sup>183</sup> See fn.1; P109, p.6; P516, para.49; Steenberg: T.5424-26,5429-30; P111, p.3.

<sup>184</sup> P526; Steenberg: P517, para.6.

<sup>185</sup> See fn.1.

<sup>186</sup> P525; Steenberg: P517, para.5.

<sup>187</sup> P606, p.5.

<sup>188</sup> P-12: P2690, p.2; Gojanović: P194, paras.16-17.

<sup>189</sup> C5, p.94(B/C/S).

<sup>190</sup> P2343, p.45; P194, paras.16-17.

<sup>191</sup> Vanderostyne: P321, paras.29,31-34; Vanderostyne: T.4028-35,4076-79; P324; P322, p.1.

<sup>192</sup> Vanderostyne: T.4028,4032-33,4035-36,4073; P324, p.3-4; Sačić: T.27740; Vanderostyne: P321, para.31.

<sup>193</sup> P323; Vanderostyne: P321, paras.24,29,33; Vanderostyne: T.4046-47.

<sup>194</sup> Janić: T.6320; P1290, p.36; P1240, pp.2,4; P1241, p.3-5; D1896, p.5; P1239, p.3-4; P1153, p.5; Pavlović: T.25255-56.

<sup>195</sup> P68, p.3; P541, p.1.

<sup>196</sup> P2344, p.12.

<sup>197</sup> P68, p.3; P541, p.1.

<sup>198</sup> P2344, p.12.

| Date       | Location      | Description  | Perpetrator  |
|------------|---------------|--|--|
| 10/8/95    | Gračac        | Almost destroyed, burning and looting. <sup>199</sup>        | HV <sup>200</sup> ; SP <sup>201</sup>  |
| 11/8/95    | Gračac        | Houses burned. <sup>202</sup>                                | HV <sup>203</sup>  |
|            | Otrić         | Destroyed. <sup>204</sup> Completely Serb. <sup>205</sup>    | SP <sup>206</sup> ; HV. <sup>207</sup><br>Military checkpoint <sup>208</sup> |
| 12/8/95    | Palanka       | House and haystacks burning. <sup>209</sup>                  | HV in area <sup>210</sup>  |
| 14-20/8/95 | Gračac area   | Burning abandoned houses/looting. <sup>211</sup>             | HV <sup>212</sup>  |
| 15/8/95    | Vugonjce      | House burning. <sup>213</sup>                                | HV in area <sup>214</sup>  |
|            | Zrmanja Vrelo | Burning houses. <sup>215</sup>                               | HV <sup>216</sup>  |
| 16/8/95    | Otrić         | Completely destroyed. <sup>217</sup>                         |  |
| 18/8/95    | Palanka       | 20 houses burned, 15 looted. <sup>218</sup>                  | HV <sup>219</sup>  |
|            | Velika Popina | Burning houses. <sup>220</sup> Entirely Serb. <sup>221</sup> | HV <sup>222</sup>  |
| 19/8/95    | Zrmanja Vrelo | 15 houses burned, 5 looted. Many dead cows. <sup>223</sup>   | HV in area <sup>224</sup>  |

<sup>199</sup> Hill:T.3771-72.

<sup>200</sup> Hill:T.3771-72.

<sup>201</sup> See fn.1.

<sup>202</sup> P41,p.1;P934,pp.1-2.

<sup>203</sup> P934,p.2.

<sup>204</sup> P41,p.1;P742,p.2;P934,p.3.

<sup>205</sup> C5,p.94(B/C/S).

<sup>206</sup> P614,p.11;P2343,pp.42-43;P2384,pp.2-3;Janić:T.6320-21;P1235,p.1-2;D554,p.3;Janić:P552,para.34;P2385,pp.7-9.

<sup>207</sup> P71,p.100;P2385,p.9;P2585,pp.11-12;P2343,pp.43-44;D555,p.43.

<sup>208</sup> Flynn:T1087;P51,p.2.

<sup>209</sup> Brkić:P2506,p.4.

<sup>210</sup> Brkić:P2506,p.4.

<sup>211</sup> P223,p.4.

<sup>212</sup> P223,p.4.

<sup>213</sup> P67,p.2.

<sup>214</sup> P1200,p.5.

<sup>215</sup> P68,p.7;P67,p.2.

<sup>216</sup> D1542,p.2.

<sup>217</sup> [REDACTED];P42,p.1;P25,p.1.

<sup>218</sup> P67,p.2.

<sup>219</sup> P67,p.2.

<sup>220</sup> P541,p.2;D92,p.2.

<sup>221</sup> C5,p.94(B/C/S).

<sup>222</sup> P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>223</sup> P67,p.3.

| Date    | Location   | Description  | Perpetrator                            |
|---------|--|--|--|
|         | Zrmanja  | 16 houses burned. <sup>225</sup>                                       | HV in area <sup>226</sup>              |
|         | Budimir  | Houses burned. <sup>227</sup>  | HV in area <sup>228</sup>              |
|         | Potkom and Sijani  | All houses burned. <sup>229</sup>                                      | HV in area <sup>230</sup>              |
|         | Mala Popina  | 5/6 houses burned. <sup>231</sup>                                      | HV in area <sup>232</sup>              |
|         | Lukići   | 3/4 houses burned. <sup>233</sup>                                      | HV in area <sup>234</sup>              |
|         | Otrić  | Houses burned/looted. Cows killed. <sup>235</sup>                      | MP checkpoint (18/8/95) <sup>236</sup> |
|         | Palanka  | Almost everything burned. <sup>237</sup> Entirely Serb. <sup>238</sup> | HV <sup>239</sup>                      |
| 20/8/95 | Kasar  | Looting. <sup>240</sup>  | HV <sup>241</sup>                      |
|         | Palanka  | Burning and looting houses. <sup>242</sup>                             | HV <sup>243</sup>                      |
|         | Marčetići;<br>Maričići;Puvače;<br>Milanovići;<br>Kusac;Vladušići | Houses burned and looted. <sup>244</sup>                               | HV in area <sup>245</sup>              |
|         | Kijani   | Burned and looted. <sup>246</sup>                                      |  |

<sup>224</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>225</sup> P67,p.3.

<sup>226</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>227</sup> P67,p.3.

<sup>228</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>229</sup> P67,p.3.

<sup>230</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>231</sup> P67,p.3.

<sup>232</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>233</sup> P67,p.3.

<sup>234</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>235</sup> P67,p.3;P71,p.116.

<sup>236</sup> P71,p.116.

<sup>237</sup> [REDACTED].

<sup>238</sup> C5,p.94(B/C/S).

<sup>239</sup> P67,p.2;P541,p.2;D92,p.2;Steenbergen:T.5427-28;P1200,p.6.

<sup>240</sup> P67,p.3.

<sup>241</sup> P67,p.3.

<sup>242</sup> P67,p.3;P689,p.14.

<sup>243</sup> P67,p.3.

<sup>244</sup> P67,p.3.

<sup>245</sup> P67,p.3.

| Date    | Location      | Description                         | Perpetrator       |
|---------|---------------|-------------------------------------|-------------------|
| 22/8/95 | Potkosa       | Houses burning. <sup>247</sup>      | SP <sup>248</sup> |
| 23/8/95 | Mandića Draga | Houses burning. <sup>249</sup>      | SP <sup>250</sup> |
| 24/8/95 | Kovačevići    | Houses burning. <sup>251</sup>      | SP <sup>252</sup> |
| 25/8/95 | Velika Popina | Houses burning. <sup>253</sup>      | SP <sup>254</sup> |
| 26/8/95 | Gračac        | Houses burned. <sup>255</sup>       | SP <sup>256</sup> |
| 27/8/95 | Mazin         | Houses burning. <sup>257</sup>      | SP <sup>258</sup> |
| 28/8/95 | Gračac area   | Burning and looting. <sup>259</sup> | SP <sup>260</sup> |
| 29/8/95 | Gračac        | House burning. <sup>261</sup>       | SP <sup>262</sup> |
| 28/8/95 | Mazin         | House burning. <sup>263</sup>       |                   |
| 29/8/95 | Podselo       | Houses burning. <sup>264</sup>      |                   |
| 29/8/95 | Malovan       | Burning houses. <sup>265</sup>      |                   |
| 29/8/95 | Gračac        | Houses burning. <sup>266</sup>      | SP <sup>267</sup> |
| 29/8/95 | Štikada       | House burning. <sup>268</sup>       | SP <sup>269</sup> |

<sup>246</sup> Sovilj; T2227; Sovilj; P86, para. 14.

<sup>247</sup> P68, p. 11; P541, p. 2; P689, p. 14.

<sup>248</sup> See fn. 1.

<sup>249</sup> P541, p. 2; P689, p. 15; D391, p. 14.

<sup>250</sup> P577, p. 2; P2376, p. 2.

<sup>251</sup> D391, p. 14.

<sup>252</sup> P577, p. 2; P2376, p. 2.

<sup>253</sup> P541, p. 2; P689, p. 15.

<sup>254</sup> P577, p. 3; D1100, p. 2.

<sup>255</sup> P689, p. 16.

<sup>256</sup> See fn. 1.

<sup>257</sup> P689, p. 17.

<sup>258</sup> P574, p. 2.

<sup>259</sup> D1214, p. 6.

<sup>260</sup> See fn. 1.

<sup>261</sup> P68, p. 19; D391, p. 20.

<sup>262</sup> See fn. 1.

<sup>263</sup> P68, p. 19; D391, p. 20; P2151, p. 2.

<sup>264</sup> P68, p. 19; D391, p. 20; P2151, p. 2.

<sup>265</sup> P68, p. 20.

<sup>266</sup> [REDACTED].

<sup>267</sup> See fn. 1; P2380, p. 3.

<sup>268</sup> P68, p. 22.

<sup>269</sup> See fn. 1; P2380, p. 3.

| Date      | Location   | Description   | Perpetrator                          |
|-----------|--|---|--------------------------------------|
|           | Milica<br>Glavica; Mandića<br>Draga; Škrbići;<br>Vojvodići;<br>Podseło | All villages burnt and looted. <sup>270</sup>                       | SP in area previously <sup>271</sup> |
| 30/8/95   | Potkosa  | Houses burning. <sup>272</sup>                                      | SP <sup>273</sup>                    |
|           | Gračac   | Houses burning. <sup>274</sup>                                      | HV, <sup>275</sup> SP <sup>276</sup> |
|           | Štikada  | Houses "freshly flaming". <sup>277</sup>                            | SP <sup>278</sup>                    |
|           | Vrace  | Houses burning. Fire brigade not extinguishing fire. <sup>279</sup> | SP, <sup>280</sup> MP <sup>281</sup> |
|           | WK 8502<br>(Lukići)  | Houses burning. <sup>282</sup>                                      |                                      |
|           | Gračac-Obrovac<br>Road   | 15 houses burning. HV looting. <sup>283</sup>                       | HV                                   |
| 6-12/9/95 | Otrić  | Destruction/burning. <sup>284</sup>                                 | Police <sup>285</sup>                |
| 14/9/95   | Mala Popina  | House burning. <sup>286</sup>                                       |                                      |
| 17/9/95   | Podkokirna   | House and stable burned. <sup>287</sup>                             | SP <sup>288</sup>                    |
| 23/9/95   | Sovilji  | Stables burning. <sup>289</sup>                                     |                                      |

<sup>270</sup> P68,p.22.

<sup>271</sup> P577,p.2;P2376,p.2.

<sup>272</sup> P68,p.25;D391,p.27.

<sup>273</sup> See fn.1.

<sup>274</sup> P49,p.4.

<sup>275</sup> P49,p.4.

<sup>276</sup> D2106,p.26;see fn.1.

<sup>277</sup> P49,p.4.

<sup>278</sup> See fn.1.

<sup>279</sup> P68,p.25;P241,p.6;D391,p.27.

<sup>280</sup> See fn.1.

<sup>281</sup> P68,p.25.

<sup>282</sup> P68,p.25.

<sup>283</sup> P49,p.1;Mauro:P1098,pp.5-6.

<sup>284</sup> P51,p.1;P39,p.2;P958,p.2.

<sup>285</sup> P39,p.2;P958,p.2.

<sup>286</sup> P68,p.37;P149,p.4.

<sup>287</sup> D530.

<sup>288</sup> D531.

| Date    | Location | Description  | Perpetrator |
|---------|----------|--|-------------|
| 25/9/95 | Mazin    | 90-95% destroyed. <sup>290</sup> Entirely Serb. <sup>291</sup> |             |
|         | Kijani   | 90% destroyed. <sup>292</sup> Entirely Serb. <sup>293</sup>    |             |

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<sup>289</sup> P68,p.43.

<sup>290</sup> P1104,p.2.

<sup>291</sup> C5,p.94(B/C/S).

<sup>292</sup> Sovilj;P86,para.14;P87,para15;P93.

<sup>293</sup> C5,p.94(B/C/S).

## 7. Kistanje

| Date          | Village           | Description  | Perpetrator                                   |
|---------------|-------------------|--|---|
| 04-05/08/1995 | Kakanj            | Burning, looting; dead domestic animals. <sup>294</sup> Completely Serb. <sup>295</sup>  | HV-15HGR <sup>296</sup>                       |
| 5-6/08/1995   | Kakanj            | Looting, burning. <sup>297</sup>   | HV-15HGR <sup>298</sup>                       |
| 06/08/1995    | Kistanje          | Houses looted, burned. <sup>299</sup> Looted goods distributed to soldiers and transported away, mostly in army vehicles. <sup>300</sup> Serb-Majority. <sup>301</sup> | HV-15HGR, 113 Infantry Brigade <sup>302</sup> |
|               | Kistanje          | Textile factory equipment taken. <sup>303</sup>  | HV-15HGR <sup>304</sup>                       |
|               | Kistanje, Đevrske | Many houses torched, looted. Technical equipment stolen. <sup>305</sup>  | HV-15HGR, 113 Infantry Brigade <sup>306</sup> |
|               | Kistanje          | Looting, burning houses. 35-40% of houses burning. <sup>307</sup> Various items looted from houses; goods and livestock loaded onto army trucks. <sup>308</sup>        | HV-15HGR <sup>309</sup>                       |
|               | Parčiči           | 7 -8 houses burning. Completely Serb. <sup>310</sup>   | HV-134HGR <sup>311</sup>                      |
| 6-14/08/1995  | Đevrske           | Houses predominantly torched, looted, destroyed; <sup>312</sup> Serb-Majority. <sup>313</sup>  | HV-113 Infantry Brigade <sup>314</sup>        |

<sup>294</sup> Ognjenović(Mirko):P989,pp.3,4;Ognjenović(Mirko):T.10735;Ognjenović(Radoslav):P2511,paras.8-11.

<sup>295</sup> C5.p.110(B/C/S);P2423.

<sup>296</sup> Ognjenović(Mirko):P989,pp.3,4;Ognjenović(Radoslav):P2511,paras.8-11;P2417:P2559,p.4;P2349,p.2.

<sup>297</sup> Ognjenović(Radoslav):P2511,para.11;Ognjenović:P989,p.5

<sup>298</sup> Ognjenović(Radoslav):P2511,para.11;Ognjenović:P989,p.5;P2417:P2559,p.4;P2349,p.2.

<sup>299</sup> Liborius:P844;Liborius:P842,pp.2-3;Luković:D1687,para.42;D1542,p.1.

<sup>300</sup> Liborius:P844;Liborius:P842,p.2.

<sup>301</sup> C5.p.110(B/C/S);P2423.

<sup>302</sup> Liborius:P844;Liborius:P842,pp.2-3;Gojanović:P194,para.13;D917,pp.1-2;P2417:P2559,p.4;P2349,p.2;D1542,p.1;P2585,p.10.

<sup>303</sup> Gojanović:P194,para.13;Gojanović:P196,para.1(vi).

<sup>304</sup> Gojanović:P194,para.13;Gojanović:P196,para.1(vi);P2417:P2559,p.4;P2349,p.2.

<sup>305</sup> P2349,p.5;Rajčić:T.16501-03.

<sup>306</sup> P2417:P2559,p.4;P2349,p.2.

<sup>307</sup> Gojanović:P194,para.13;Gojanović:T.2958-59;Gojanović:T.2966.

<sup>308</sup> Dawes:P980,p.9;Dawes:T.10401.

<sup>309</sup> Gojanović:P194,para.13;Gojanović:T.2958-59;Gojanović:T.2966;Gojanović:T.3085-

86;P973,p.7;P203,p.1;Dawes:P980,p.9;Dawes:T.10401;P2417:P2559,p.4;P2349,p.2;P1200,p.3;D1542,p.1..

<sup>310</sup> Džica:P2690,p.2.

<sup>311</sup> Džica:P2690,p.2;P2417:P1200,p.3.

<sup>312</sup> Gojanović:T.2952-54.

<sup>313</sup> C5.p.110(B/C/S);P2423.

| Date             | Village                           | Description   | Perpetrator                                  |
|------------------|-----------------------------------|---|--|
| After 06/08/1995 | Kistanje, Biovičino Selo, Kolašac | Villages burned. <sup>315</sup> Kolašac entirely Serb; Biovičino Selo was majority Serb. <sup>316</sup>   | HV-15HGR,134HGR. <sup>317</sup>              |
| 07/08/1995       | Kistanje                          | HV general shouted at soldiers for looting, without preventing it. <sup>318</sup> Truck passed checkpoints/police. <sup>319</sup> Many houses burning. <sup>320</sup> | HV-15HGR <sup>321</sup>                      |
| After 07/08/1995 | Gošić                             | Houses looted, burned. Livestock, tractors, other goods stolen. <sup>322</sup> Completely Serb. <sup>323</sup>  | HV-134HGR, 113InfantryBrigade <sup>324</sup> |
| 08/08/1995       | Kakanj                            | Armed HV asked villager for keys to his neighbour's car, saying, "no one will be held accountable for you." <sup>325</sup>  | HV-15HGR <sup>326</sup>                      |
|                  | Kistanje, Đevrske                 | Mass burning, looting <sup>327</sup>  | HV-15HGR, 113InfantryBrigades <sup>328</sup> |
| 8-11/08/1995     | Parčiči                           | 50 houses burned. Looted goods on civilian trucks and tractors. <sup>329</sup>  | HV-134HGR;civilians <sup>330</sup>           |
| 09/08/1995       | Kistanje                          | Approximately 150-200 HV troops looted, burned houses. <sup>331</sup>   | HV-15HGR <sup>332</sup>                      |
|                  | Briirske, Mostine                 | Systematic looting. Most buildings destroyed, some burning. Many dead animals. <sup>333</sup>   | HV-113InfantryBrigade <sup>334</sup>         |

<sup>314</sup> Gojanovic:T.2952-54;P2417;P2349,pp.2-3.

<sup>315</sup> Guša:P959,paras.21-27,33;Guša:T.9834;Guša:T.9885;P961,nos.6-8.

<sup>316</sup> C5.p.110(B/C/S);P2423.

<sup>317</sup> Guša:P959,paras.21-27,33;P961,nos.6-8;P973,p.7;P203,p.1;P2417;P2559,p.4;P2349,pp.2-3;P1183,p.13;P1200,p.4.

<sup>318</sup> Perković:T.19535,19546.

<sup>319</sup> Perković:T.19545.

<sup>320</sup> Perković:T.19540.

<sup>321</sup> Perković:T.19535,19539,19541,19545,19546;P2417;P2559,p.4;P2349,pp.2-3;P1128,p.1.

<sup>322</sup> Letunica:P635,p.2.

<sup>323</sup> C5.p.110(B/C/S);P2423.

<sup>324</sup> Letunica:P635,p.2;P2417;P2349,pp.2-3;P1183,p.13;P1128,p.1;P1200,p.4.

<sup>325</sup> Ognjenović(Mirko):P989,p.4;Ognjenović(Mirko):T.10750-51;Ognjenović(Mirko):T.10708-09 No evidence that vehicle was taken.

<sup>326</sup> Ognjenović(Mirko):P989,p.4;Ognjenović(Mirko):T.10750-51;Ognjenović(Mirko):T.10708-09;P2417;P2559,p.4;P2349,pp.2-3.

<sup>327</sup> P203,p.1;Martić:P416,p.7,9-10;P2151,para.4.

<sup>328</sup> Žganjcer:T.11682-83;D917,p.2;P2417;P2559,p.4;P2349,pp.2-3.

<sup>329</sup> Drač:P2690,pp.2-3;P830,para4(d).

<sup>330</sup> Drač:P2690,pp.2-3;P2417;P1200,p.4.

<sup>331</sup> Dangerfield:P695,para.10;Dangerfield:T.7159-60;D274;Hill:P292,pp.52-54;P306,para.1(f);Hill:T.3767-69;P744,p.6.

<sup>332</sup> Dangerfield:P695,para.10;Dangerfield:T.7159-60;D274;Hill:P292,pp.52-54;P744,p.6;Hill:T.3767-69;P2417;P2559,p.4;P2349,pp.2-3;P1128,p.1.

<sup>333</sup> Berikoff:P740,para.(p);P747,para.1(f);P306,para.1(f).

| Date          | Village                              | Description  | Perpetrator                          |
|---------------|--------------------------------------|--|--------------------------------------|
| 09-10/08/1995 | Kakanj                               | Approximately 10 houses, stables burned. Many dead livestock. <sup>335</sup> | HV-15HGR <sup>336</sup>              |
| 10/08/1995    | Kistanje                             | Looting, burning houses. <sup>337</sup>                                      | HV <sup>338</sup>                    |
|               | Rudele                               | Deserted, looted. <sup>339</sup>   | HV-15HGR <sup>340</sup>              |
| 13/08/1995    | Rudele                               | Extensively looted. <sup>341</sup>   | HV-15HGR <sup>342</sup>              |
|               | Kistanje                             | All houses looted, ransacked; many burned to cover up thefts. <sup>343</sup> | HV <sup>344</sup>                    |
|               | Biovičino Selo, Kološac, Macure      | Houses burning. <sup>345</sup>   | HV <sup>346</sup>                    |
| 14/08/1995    | Kakanj                               | Looting. <sup>347</sup>  | HV <sup>348</sup>                    |
| 16/08/1995    | Đevrske                              | Town largely destroyed, including school and pizzeria. <sup>349</sup>        | HV-113InfantryBrigade <sup>350</sup> |
|               | Bribirske Mostine - Knezovi barracks | Looted goods, tractors, cattle. <sup>351</sup>                               | HV-113InfantryBrigade <sup>352</sup> |
| 16-18/08/1995 | Kakanj                               | Buildings looted, destroyed. <sup>353</sup>                                  | HV <sup>354</sup>                    |
| 17/08/1995    | Žažvić                               | 3 houses burning. <sup>355</sup>   | HV <sup>356</sup>                    |

<sup>334</sup> Berikoff:P740,para.(p);P2417;P2349,pp.2-3;P2559,p.4.

<sup>335</sup> Ognjenović(Mirko):P989.p.5-6;Ognjenović(Mirko):T.10709;Ognjenović(Mirko):T.10751-53.

<sup>336</sup> Ognjenović(Mirko):P989,pp.4,5;Ognjenović(Mirko):T10751-52;Ognjenović(Mirko):T10708-09;P2417;P2559,p.4;P2349,pp.2-3.

<sup>337</sup> D391,p.3;P830,para.4(d);P1292,p.9;MarkerHansen:T.14935-36.

<sup>338</sup> D391,p.3.

<sup>339</sup> P830,para.4(d);Hendriks:P931,para.22;D1542,p.2.

<sup>340</sup> Perković:T.19540,T.19544;D1542,p.2.

<sup>341</sup> P25,para.2;Mauro:P1099,para.26.

<sup>342</sup> P25,para.2;Perković:T.19540,T.19544;D1542,p.2.

<sup>343</sup> [REDACTED];P25,para.2;Mauro:P1099,para.26.

<sup>344</sup> [REDACTED].

<sup>345</sup> P224,p.1;Liborius:P842,p.4.

<sup>346</sup> P224,p.1;Liborius:P842,p.4.

<sup>347</sup> Ognjenović(Mirko):P989,p.6.

<sup>348</sup> Ognjenović(Mirko):P989,p.6;P223,p.4,para.4.

<sup>349</sup> Gojanović:P194,para.21;P429,para.39.

<sup>350</sup> P2349,pp.2-3;P2559,p.4;P1128,p.1.

<sup>351</sup> Gojanović:P194,paras.21-22.

<sup>352</sup> Gojanović:P194,paras.21-22;P2349,pp.2-3;P2559,p.4;P1128,p.1.

<sup>353</sup> Ognjenović(Mirko):P989.p.7;Ognjenović(Radoslav):P2511,para.13.

<sup>354</sup> Ognjenović(Mirko):P989.p.7;Ognjenović(Radoslav):P2511,para.13.

<sup>355</sup> P227,p.1.

| Date          | Village                     | Description  | Perpetrator                  |
|---------------|-----------------------------|--|------------------------------|
|               | Kistanje                    | Completely looted, burned. <sup>357</sup>  | HV-15HGR <sup>358</sup>      |
| 18/08/1995    | Bribirski Glava             | Looting 7 houses (five recently burned). <sup>359</sup>                                    | HV <sup>360</sup>            |
|               | Kistanje                    | Looting, burning buildings. <sup>361</sup>   | HV-15HGR <sup>362</sup>      |
| 23/08/1995    | Kistanje                    | Arson of auto workshop. <sup>363</sup>   | HV <sup>364</sup>            |
| 26/08/1995    | Kakanj                      | Looted livestock loaded onto truck. <sup>365</sup>   | HV <sup>366</sup>            |
| 27-28/08/1995 | Villages in<br>Đevrske area | Looted goods loaded onto vehicles with Croatian plates. <sup>367</sup>                     | HV; civilians <sup>368</sup> |
| 31/08/1995    | Grulovići                   | Stealing livestock. <sup>369</sup>   | HV <sup>370</sup>            |
|               | Kistanje                    | Soldier stopped at check point transporting looted goods, allowed to leave. <sup>371</sup> | HV <sup>372</sup>            |
| 01/09/1995    | Grulovići                   | Soldier threatened Serb couple at gunpoint demanding cash and sheep. <sup>373</sup>        | HV <sup>374</sup>            |
| 02/09/1995    | Čučevo                      | Serb villagers robbed. <sup>375</sup>  | HV <sup>376</sup>            |

<sup>356</sup> P227, p.1.

<sup>357</sup> P988, para.1(1.2);P2151, para.4.

<sup>358</sup> Gojanović:T.2958-59,T.2966,T.3085-86;P973,p.7;P203,p.1;Dawes:P980,p.9;Dawes:T.10401;P2417;P2559,p.4;P2349,pp.2-3;P1200;pp.3-4;P1128,p.1;D282,p.2;P113,pp.377-78,fn.484,p.394,fn.593,pp.395-96,fn.598.

<sup>359</sup> D391,pp.9-10.

<sup>360</sup> D391,pp.9-10.

<sup>361</sup> D49; [REDACTED].

<sup>362</sup> D49; [REDACTED];P2417;P2559,p.4;P2349,pp.2-3;P1200,pp.3-4;P1128,p.1;D282,p.2;P1113,pp.377-78,fn.484,p.394,fn.593,pp.395-96,fn.598.

<sup>363</sup> P812,p.2,para.b;P932,para.3(c);Hendriks:D820,p.5;P931,para.29;Liborius:P800,pp.5-6;Hendriks:T.9677-78.

<sup>364</sup> P812,p.2,para.b;P932,para.3(c);Hendriks:D820,p.5;P931,para.29;Liborius:P800,pp.5-6;Hendriks:T.9677-78.

<sup>365</sup> P68,p.17.

<sup>366</sup> P68,p.17.

<sup>367</sup> P48,para.2;Mauro:P1098,p.5;Mauro:P1099, para.38.

<sup>368</sup> P48,para.2;Mauro:P1098,p.5;Mauro:P1099, para.38.

<sup>369</sup> P68,p.26.

<sup>370</sup> P68,p.26.

<sup>371</sup> P886,0357-7452-et-2,p.31(entries5-6).

<sup>372</sup> P886,0357-7452-et-2,p.31(entries5-6).

<sup>373</sup> P68,p.28.

<sup>374</sup> P68,p.28.

| Date                | Village           | Description  | Perpetrator                                |
|---------------------|-------------------|--|--|
| 2-3/09/1995         | Kistanje          | MP stopped soldiers transporting looted goods, confiscated goods and released soldiers. <sup>377</sup>   | HV <sup>378</sup>                          |
| 05/09/1995          | North of Kistanje | Regular harassment/threats toward few remaining local residents. <sup>379</sup> Dozens of shot/killed livestock. Villages appeared abandoned. Properties openly looted. <sup>380</sup> | HV; civilians <sup>381</sup>               |
|                     | Biovičino Selo    | Villagers continued to complain of harassment and looting. <sup>382</sup>  | HV; civilians. <sup>383</sup>              |
|                     | Rudele, Čučevo    | Looting houses. <sup>384</sup>   | HV <sup>385</sup>                          |
| 12/09/1995          | Reliči            | Looting, harassment. <sup>386</sup>  | HV <sup>387</sup>                          |
|                     | Parčić            | Livestock looted. <sup>388</sup>   | HV <sup>389</sup>                          |
| 15/09/1995          | Rudele            | Looting. <sup>390</sup>  | Civilian Police; civilians. <sup>391</sup> |
| Before<br>6/11/1995 | Bjelanovići       | Abandoned houses looted daily. <sup>392</sup>  | HV; civilians. <sup>393</sup>              |

<sup>375</sup> P248, p.7.

<sup>376</sup> P248, p.7.

<sup>377</sup> P886,0357-7452-ct-2,pp.36-39.

<sup>378</sup> P886,0357-7452-ct-2,pp.36-39.

<sup>379</sup> Flynn:P21,para.30;P50,para.2.

<sup>380</sup> Flynn:P21,para.30;P50,para.2.

<sup>381</sup> Flynn:P21,para.30;P50,para.2.

<sup>382</sup> Flynn:P21,para.30;P50,para.2;Mauro:P1098,p.6;Mauro:P1099,para.42.

<sup>383</sup> Flynn:P21,para.30;P50,para.2;Mauro:P1098,p.6;Mauro:P1099,para.42.

<sup>384</sup> P262, p.1.

<sup>385</sup> P262,p.1.

<sup>386</sup> P68,p.35.

<sup>387</sup> P68,p.35.

<sup>388</sup> P256;P259,p.1.

<sup>389</sup> P256;P259,p.1.

<sup>390</sup> P68,p.37.

<sup>391</sup> P68,p.37.

<sup>392</sup> Romashev:P2513,p.10.

<sup>393</sup> Romashev:P2513,p.10.

## 8. Knin

| Date                   | Location | Description   | Perpetrator   |
|------------------------|----------|---|---|
| 05/08/1995             | Žagrovic | One house burning. <sup>394</sup> Serb-Majority. <sup>395</sup>   | HV-4GBR. <sup>396</sup>   |
|                        | Knin     | Extensive, organized looting of apartments, houses, official military installations, cars, <sup>397</sup> and transport of looted goods. <sup>398</sup> Serb-Majority. <sup>399</sup> | HV-<br>4GBR, 7GBR (Puma Brigade); 72MP Battalion <sup>400</sup> |
| 5-8/08/1995            | Podkonje | Looted UNMO office. <sup>401</sup>  | HV-<br>4GBR, 7GBR; 72MP Battalion <sup>402</sup>                |
| 5-16/08/1995           | Knin     | 10 days of looting; soldiers drove trucks containing stolen equipment, furniture. <sup>403</sup>  | HV-4GBR, 7GBR; 72MP Battalion <sup>404</sup>                    |
| On or after 05/08/1995 | Knin     | Looted goods transported on military vehicles. <sup>405</sup>   | HV-<br>4GBR, 7GBR; 72MP Battalion <sup>406</sup>                |
| 06/08/1995             | Knin     | Extensive arson, looting. <sup>407</sup>  | HV-4GBR, 7GBR (Puma Brigade) <sup>408</sup>                     |

<sup>394</sup> [REDACTED]; [REDACTED].

<sup>395</sup> C5.p.110(B/C/S).

<sup>396</sup> [REDACTED]; [REDACTED]; P2417; P27.p.2; [REDACTED]; P2343.p.35; P71.p.84; P2559.p.4.

<sup>397</sup> Hansen: P1283, para.3; P1292.p.4; Hansen: T.14913-15; P1301; Hansen: T.15078-79; Dawes: P980.p.8; Widen: P721, pp.2-4; Widen: P722, para.12; Widen: T.7315-16; Liborius: P799.p.4; Liborius: P801.p.3; Williams: P925, pp.6-7; Williams: T.9548; P930.p.3; Williams: P927.p.2; P744.p.4; Dawes: T.10404-06, T.10555-

56.T.10562; D179.p.11, item430, 439; P988.p.4, para.1.4; [REDACTED]; Marti: T4640

<sup>398</sup> Liborius: T.8261-62; Liborius: P801.p.3; Hansen: T.14914; Hansen: T.15078-79; Dawes: T.10399.

<sup>399</sup> C5.p.110(B/C/S); P2423.

<sup>400</sup> Liborius: P799.p.4; Liborius: P801.p.3; Dawes: P980.p.8; Williams: P925, pp.6-

7; Williams: T.9548; P930.p.3; Williams: P927.p.2; P744.p.4; Dawes: T.10399; P2417; P71, pp.84, 91; P2559.p.4; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Hansen: P1283, para.3; Hansen: T.14914; P988.p.4, para.1.4; D820.p.4; D567.p.4; P881.p.1; P2585, pp.9-10.

<sup>401</sup> Tchernetsky: P204.p.6; Marti: P416.p.4; Marti: P417, para.69; P2417; P71, pp.84, 91; P2559.p.4; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Williams: P925, pp.6-

7; Hansen: P1283, para.3; Liborius: P799.p.4; Liborius: P801.p.3; [REDACTED]; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Williams: P925, pp.6-

<sup>402</sup> Widen: P722, paras.33-36; Widen: P721, pp.4, 6; Liborius: P801.p.3; [REDACTED]; [REDACTED]; Al-Alfi: P1160, pp.41-

43; Elleby: P215.p.3; Elleby: P216.p.4; [REDACTED]; [REDACTED]; Berikoff: D284.p.55; P747, para.1(c).

<sup>403</sup> Widen: P722, paras.33-36; Widen: P721, pp.4, 6; P747, para.1(c); P2417; P71, pp.84, 91; P2559.p.4; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Williams: P925, pp.6-

7; Hansen: P1283, para.3; Liborius: P799.p.4; Liborius: P801.p.3; P744.p.4; D820.p.4; D567.p.4; P881.p.1; P2398.p.2.

<sup>404</sup> Dijkstra: P429, para.36; Dijkstra: T.4764-65.

<sup>405</sup> Dijkstra: P429, para.36; Dijkstra: T.4764-65; P2417; P71, pp.84, 91; P2559.p.4; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Williams: P925, pp.6-

7; Hansen: P1283, para.3; Liborius: P799.p.4; Liborius: P801.p.3; P744.p.4; D820.p.4; D567.p.4; P881.p.1; Hill: P292, p.22; Hill: T.3756.

<sup>406</sup> Dijkstra: P429, para.36; Dijkstra: T.4764-65; P2417; P71, pp.84, 91; P2559.p.4; [REDACTED]; P2343.p.36, 37; Luković: D1687, para.25; Williams: P925, pp.6-

7; Hansen: P1283, para.3; Liborius: P799.p.4; Liborius: P801.p.3; P744.p.4; D820.p.4; D567.p.4; P881.p.1; Hill: P292, p.22; Hill: T.3756.

<sup>407</sup> P826.p.1; P306.p.1(c); Hill, P291.p.6; Hill: P292, p.22; Hill: T.3756.

| Date | Location | Description   | Perpetrator  |
|------|----------|---|--|
|      | Đurići   | Approximately 20 houses burned. <sup>409</sup> Plavno (Đurići hamlet) completely Serb. <sup>410</sup>         | HV-4GBR <sup>411</sup>                                   |
|      | Knin     | Block of flats, office block burning. <sup>412</sup>  | HV-4GBR,7GBR;72MPBattalion <sup>413</sup>                |
|      |          | Houses burning. <sup>414</sup>  | HV-4GBR,7GBR;72MPBattalion <sup>415</sup>                |
|      |          | ECMM's office ransacked; soldiers used many local cars left behind. <sup>416</sup>                            | HV-4GBR,7GBR <sup>417</sup>                              |
|      |          | Shops extensively ransacked. <sup>418</sup>   | HV-4GBR,7GBR <sup>419</sup>                              |
|      |          | Systematic looting of houses. <sup>420</sup> HV manned checkpoints without preventing looting. <sup>421</sup> | HV-4GBR,7GBR(PUMABrigade);Civilian Police <sup>422</sup> |
|      |          | Soldiers loaded trucks with televisions, videos, furniture. <sup>423</sup>                                    | HV-7GBR(PUMABrigade) <sup>424</sup>                      |

<sup>408</sup> P2417;P71,pp.84-91;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;P306,p.1(c);Williams:P925,pp.6-7;Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;Hill:T.3756;D820,p.4;D567,p.4;P881,p.1;P2398,p.2.

<sup>409</sup> Romashev:P2513,p.11;P239;DI179,p.12,item498;Đurić:D397,pp.3-4;Đurić:P443,para.5;Đurić:T.10783;Đurić(Mile):P436,para.6,7;Đurić(Mile):P437,para.5.

<sup>410</sup> C5.p.110(B/C/S);P2423.

<sup>411</sup> Romashev:P2513,p.11;P239;DI179,p.12,item498;Đurić(Mile):P436,para.6,7;Đurić(Mile):P437,para.5;Đurić:D397,pp.3-4;Đurić:P443,para.5;Đurić:T.10783;P2417;P71,p.84;P2343,p.41.

<sup>412</sup> Widen:P721,p.4;Widen:T.7394.

<sup>413</sup> P2417;P71,p.84;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,pp.6-7;Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;D820,p.4.

<sup>414</sup> Berikoff:D284,p.15;Dangerfield:P695,para.8;P67,para.1,(A);Marti:P417,para.60;

<sup>415</sup> P2417;P71,p.84;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,pp.6-7;Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;D820,p.4.

<sup>416</sup> P827,para.7(a).

<sup>417</sup> P827,para.7(a);P2417;P71,pp.84,91;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,pp.6-7;Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;D820,p.4;D567,p.4;P881,p.1;P2398,p.2.

<sup>418</sup> Widen:P721,p.3.

<sup>419</sup> Widen:P721,p.3;P2417;P71,pp.84,91;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,pp.6-7;Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;D820,p.4;D567,p.4;P881,p.1;P2398,p.2.

<sup>420</sup> Dawes:P980,pp.9-10;Dawes:T.10405-06;Hill:P291,p.6;Hill:P292,p.22;Hill:T.3756;P306,para.1(c).

<sup>421</sup> Hill:P291,p.6;Hill:T.3756;Widen:T.7393.

<sup>422</sup> Dawes:P980,pp.9-10;Dawes:T.10405-06;Hill:P291,p.6;Hill:P292,pp.22-24;Hill:T.3756;P2417;P71,pp.84,91;P2559,p.4.

[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,pp.6-7;P306,para.1(c).

Hansen:P1283,para.3;Liborius:P799,p.4;Liborius:P801,p.3;P744,p.4;D820,p.4;D567,p.4;P881,p.1;P2398,p.2.

<sup>423</sup> Widen:P721,pp.3-4;Widen:P722,para.22;Widen:T.7328-29;Liborius:P801,p.3.

| Date                | Location | Description  | Perpetrator  |
|---------------------|----------|--|--|
| After<br>06/08/1995 | Đurići   | Looting. <sup>425</sup> Plavno completely Serb. <sup>426</sup>             | HV <sup>427</sup>  |
| 07/08/1995          | Knin     | Looting houses. <sup>428</sup>   | HV <sup>429</sup>  |
|                     | Knin     | HV looted, ransacked. <sup>430</sup>                                       | HV-7GBR(PUMA<br>Brigade),4GBR,elements from<br>3GBR,66 and 72 MP units and<br>some Home Guard units <sup>431</sup> |
|                     |          | Two houses burning. <sup>432</sup>   | HV-<br>4GBR,7GBR,72MPBattalion <sup>433</sup>  |
|                     |          | Extensive looting. <sup>434</sup>  | HV-<br>4GBR,7GBR,72MPBattalion <sup>435</sup>  |
|                     |          | Looting; personal goods thrown from houses, piled in yards. <sup>436</sup> | HV-<br>4GBR,7GBR;72MPBattalion <sup>437</sup>  |
|                     |          | ECMM HQ/accommodation looted by HV. <sup>438</sup>                         | HV-<br>4GBr,7GBR(PumaBrigade);72MPB  |

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Widen: P721, pp.34; Widen: P722, para.22; Widen: T.731921; Widen: T.732829; P2417; P71, pp.84,91; P2559, p.4 [REDACTED]; P2343, p.36,37; Luković: D1687, para.25; Williams: P925, pp.6-7; Hansen: P1283, para.3; Liborius: P799, p.4; Liborius: P801, p.3; P744, p.4; D820, p.4; D567, p.4; P881, p.1; P2398, p.2.

425 Đurić: D397, p.4.

426 C5, p.110(B/C/S); P2423.

427 Đurić: D397, p.4.

428 P109, p.1.

429 P109, p.1.

430 Williams: P925, p.7; Dawes: P980, p.9; Dawes: P981, para.29; Dawes: T.10396; Liborius: P799, p.5; Liborius: P801, p.3; Liborius: P802, para.29; Liborius: T.8412-14; P306, para.1(d).

431 Williams: P925, p.7; Dawes: P980, p.9; Dawes: P981, para.29; Dawes: T.10396; Liborius: P799, p.5; Liborius: P802, para.29; Liborius: T.8412-14; P306, para.1(d).

P2417; P71, pp.84,91; P2559, p.4; [REDACTED]; P2343, p.36,37; Luković: D1687, para.25; Hansen: P1283, para.3; Liborius: P801, p.3; P744, p.4; D820, p.4; D567, p.4; P881, p.1; P2398, p.2.

432 D391, p.1.

433 Williams: P925, p.7; Williams: T.9551; P2417; P71, p.84; P2559, p.4; [REDACTED]; P2343, p.36,37; Luković: D1687, para.25; Hansen: P1283, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4.

434 Hansen: T.14917; P1292, pp.5-6.

435 Hansen: T.14916; P2417; P71, pp.84,91; P2559, p.4; [REDACTED]; P2343, p.36,37; Luković: D1687, para.25; Williams: P925, p.7; Hansen: P1283, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4; D567, p.4; P881, p.1; P2398, p.2.

436 Hendriks: T.9822-23.

437 Hendriks: T.9822-

3; P2417; P71, pp.84,91; P2559, p.4; [REDACTED]; P2343, p.36,37; Luković: D1687, para.25; Williams: P925, p.7; Hansen: P1283, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4; D567, p.4; P881, p.1; P2398, p.2.

| Date                 | Location  | Description   | Perpetrator   |
|----------------------|-----------|---|---|
|                      |           |   | attalion <sup>439</sup>   |
|                      |           | 10 houses burning; others already burned, looted. <sup>440</sup>  | HV –<br>4GBR, 7GBR; 72MPBattalion <sup>441</sup>  |
|                      | Knin      | Extensive looting; small fires/explosions. <sup>442</sup>   | HV – 7GBR, 4GBR, elements of the<br>3rd Guards Brigade, 66th and<br>72MPBattalion units and some HG<br>Units <sup>443</sup> |
|                      | Knin area | Many burning buildings, dead livestock. <sup>444</sup>  | HV – 4GBR, 7GBR <sup>445</sup>  |
|                      | Radljevac | Arson; [REDACTED]. <sup>446</sup> Serb-Majority. <sup>447</sup>   | HV – 4GBR <sup>448</sup>  |
| Around<br>07/08/1995 | Polrača   | Village largely destroyed. <sup>449</sup> Serb-Majority. <sup>450</sup>                                   | HV – 7GBR, 126HGR <sup>451</sup>  |
| 08/08/1995           | Knin      | One house burned. <sup>452</sup>  | HV – 4GBR, 7GBR <sup>453</sup>  |
|                      |           | One house ransacked, personal property stolen. <sup>454</sup>   | HV –<br>4GBR, 7GBR; 72MPBattalion <sup>455</sup>  |
|                      |           | Town ransacked; looted goods outside houses. <sup>456</sup> Numerous<br>buildings torched. <sup>457</sup> | HV –<br>4GBR, 7GBR; 72MPBattalion <sup>458</sup>  |

<sup>438</sup> P1292, p.5; Hansen: T. 14915-16; P798, point.B; Liborius: P799, p.5; P744, p.6; Liborius: T.8263-64; Liborius: P802, para.29; P744, p.6.

<sup>439</sup> P1292, p.5; Hansen: T. 14915-16; P798, point.B; Liborius: P799, p.5; Liborius: T.8263-64; Liborius: P802, para.29; P744, p.6.

<sup>440</sup> Al-Alfi: T.13809-10.

<sup>441</sup> Al-Alfi: T.13809-10.

<sup>442</sup> Williams: P925, p.7.

<sup>443</sup> Williams: P925, p.7; Williams: T.9551; P2417; P71, p.84; P2559, p.4; [REDACTED]; P2343, p.36, 37; Luković: D1687, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4.

<sup>444</sup> Williams: T.9552.

<sup>445</sup> Williams: P925, p.7; Williams: T.9551; P2417; P71, p.84; P2559, p.4; [REDACTED]; P2343, p.36, 37; Luković: D1687, para.25; Hansen: P1283, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4.

<sup>446</sup> Williams: T.9552.

<sup>447</sup> Williams: P925, p.7; Williams: T.9551; P2417; P71, p.84; P2559, p.4; [REDACTED]; P2343, p.36, 37; Luković: D1687, para.25; Hansen: P1283, para.3; Liborius: P799, p.5; Liborius: P801, p.3; P744, p.4; D820, p.4.

<sup>448</sup> [REDACTED].

<sup>449</sup> C5, p.110(B/C/S); P2423.

<sup>450</sup> [REDACTED]; P2417; P2343, pp.39, 41.

<sup>451</sup> Mirković(Smiljana): P2694, para.3.

<sup>452</sup> C5, p.110(B/C/S); P2423.

<sup>453</sup> Mirković(Smiljana): P2694, para.3; P2417; P2559, p.4; P71, p.85.

<sup>454</sup> Grubor(Mira): P54, p.5; P58, point.19.

<sup>455</sup> P2417; P2559, p.5;

<sup>456</sup> P432, p.3; P434, p.1-3; P744, p.6.

<sup>457</sup> P2417; Williams: P925, p.7.

| Date                | Location      | Description   | Perpetrator  |
|---------------------|---------------|---|--|
|                     |               | One house looted; military and civilian goods stolen. <sup>459</sup>                                  | HV-4GBR,7GBR <sup>460</sup>                            |
|                     |               | Extensive looting; cars stolen. <sup>461</sup>  | HV-4GBR,7GBR(PUMA<br>Brigade) <sup>462</sup>           |
|                     |               | Houses extensively looted; one house vandalized. <sup>463</sup>                                       | HV-7GBR(PUMA<br>Brigade);CivilianPolice <sup>464</sup> |
|                     |               | Theft, destruction of Serb refugee cars outside UN compound, houses burned and looted. <sup>465</sup> | HV-4GBR,7GBR <sup>466</sup>                            |
| 08/08/1995          | Podkonje      | UNMO accommodation looted. HV soldier found in house and others in village. <sup>467</sup>            | HV-4GBR,7GBR <sup>468</sup>                            |
|                     | Knin          | HV removing and replacing Serb civilian cars' licence plates. <sup>469</sup>                          | HV-4GBR,7GBR <sup>470</sup>                            |
| Around<br>8/08/1995 | Plavno Valley | UNMO reported looting to civilian police, no immediate reaction. <sup>471</sup>                       | HV-4GBR <sup>472</sup>                                 |
| 08-15/08/1995       | Knin          | Arson. <sup>473</sup>   | HV-4GBR,7GBR <sup>474</sup>                            |
| 09/08/1995          | Knin          | Burning houses. <sup>475</sup>  | HV-4GBR,7GBR <sup>476</sup>                            |

<sup>456</sup> Dijkstra:P429,para.31;P742,para.2(a).

<sup>457</sup> P742,para.2(a).

<sup>458</sup> P2417;Williams:P925,p.7.

<sup>459</sup> Gilbert:P589,para.29.

<sup>460</sup> Gilbert:P589,para.29;P2559,p.5;Williams:P925,p.7.

<sup>461</sup> Elleby:P215,p.3;Elleby:P216,p.4;Elleby:T.3372-74;Elleby:P217,para.24,entry.27;P225;P281;P973,p.11,entry at 11:45hrs;P806,para.3(a).

<sup>462</sup> Elleby:P215,p.3;Elleby:P216,p.4;Elleby:T.3372-74;Elleby:P217,para.24,entry.27;P225;P281;P806,para.3(a).

<sup>463</sup> Berikoff:D284,pp.21-22;Berikoff:P740,para.2(o);P747,para.1(c);P748,p.9;Berikoff:T.7620-21.

<sup>464</sup> Berikoff:D284,pp.21-22;Berikoff:P740,para.2(o);P747,para.1(c);P748,p.9;Berikoff:T.7620-21.

<sup>465</sup> Tchermetsky:P204,pp.3,4,6;Tchermetsky:P205,para.14.

<sup>466</sup> Tchermetsky:P204,pp.3,4,6;Tchermetsky:P205,para.14;P2559,p.5;Williams:P925,p.7.

<sup>467</sup> D391,p.2;P744,p.6;P67,para.3,(A).

<sup>468</sup> D391,p.2;P2559,p.5;Williams:P925,p.7.

<sup>469</sup> P67,para.4(B).

<sup>470</sup> P67,para.4(B);D281,p.9;P2343,p.48.

<sup>471</sup> Marti:P415,p.4.

<sup>472</sup> P2417;P2343,p.41;P71,p.84;

<sup>473</sup> Elleby:P217,para.13;Elleby:P214,p.2.

<sup>474</sup> P2417;D281,p.9;P2559,p.5;

<sup>475</sup> P933,p.1.

<sup>476</sup> P933,p.1;D281,p.9;P2343,pp.36,37,48;P2417;P71,p.84;P2559,p.4;[REDACTED];Luković:D1687,para.25;Williams:P925,p.7;Hansen:P1283,para.3;Liborius:P801,p.3;P744,p.7;D820,p.4.

| Date                 | Location                                       | Description  | Perpetrator  |
|----------------------|--|--|--|
| 10/08/1995           | Karanović,<br>Plavno.                          | UN employees' houses looted and occupied by soldiers. <sup>477</sup><br>One house burned. <sup>479</sup>             | HV-4GBR,7GBR <sup>478</sup><br>HV-4GBR <sup>480</sup>          |
| Around<br>10/08/1995 | Knin   | Extensive damage. <sup>481</sup>   | HV-4GBR <sup>482</sup>   |
| 10-12/08/1995        | Knin   | Burning houses; fire brigades present but idle. <sup>483</sup>   | HV-4GBR <sup>484</sup>   |
| 11/08/1995           | Road between<br>Knin and<br>Benkovac           | Many houses ablaze. <sup>485</sup>   | HV-<br>15HGR, 113 Infantry Brigade, 134HG<br>R <sup>486</sup>  |
|                      | Road between<br>Knin - Otrčić –<br>Donji Lapac | Many burned/destroyed vehicles; many burning houses, dead<br>livestock; some small hamlets destroyed. <sup>487</sup> | HV -<br>4GBR,7GBR,113 Infantry Brigade,7<br>HGR <sup>488</sup> |
|                      | Kovačić  | Arson. <sup>489</sup> Serb-Majority. <sup>490</sup>  | HV-4GBR <sup>491</sup>   |
|                      | Polaća   | Looting. 10 houses burned, eight burning. <sup>492</sup>   | HV-7GBR,126HGR <sup>493</sup>                                  |
|                      | Žagrović                                       | Abandoned houses looted, villagers robbed every day. <sup>494</sup> Serb-<br>Majority. <sup>495</sup>                | HV-4GBR <sup>496</sup>   |

<sup>477</sup> Dawes:P980.p.10;Dreyer:D110.p.3.

<sup>478</sup> Dawes:P980.p.10;D281.p.9;P2343.p.48.

<sup>479</sup> D179.p.14,item.603;

<sup>480</sup> D179.p.14,item.603;P2417;P71.p.84;P2343.p.41.

<sup>481</sup> [REDACTED];[REDACTED];[REDACTED].

<sup>482</sup> D282.p.3;

<sup>483</sup> Tchernetsky:P204.p.3.

<sup>484</sup> Tchernetsky:P204.p.3;D282.p.3;

<sup>485</sup> P41.p.2,para.2;Mauro:P1098.p.3;Mauro:P1099.p.24.

<sup>486</sup> P2417;P71.p.97;P2349,pp.2,3;P1128.p.1;[REDACTED];D282.p.2;D1749.p.3;

<sup>487</sup> Flynn:P20,pp.17-18;Berikoff:D284.p.35;Berikoff:P740,para.2(r);P742,para.2(j);P747,para.1(i);P748,pp.10-11.

<sup>488</sup> P747,para.1(i);P2417;P2343,pp.43,45;P2559.p.5;D281.p.7;P71.p.100;P292,pp.67,68.

<sup>489</sup> P886,ET.0357-7452.p.1,entry.3.

<sup>490</sup> C5.p.110(B/C/S);P2423.

<sup>491</sup> D281.p.9;P2343.p.48;D282.p.3;P71.p.101;D772.p.2.

<sup>492</sup> P815.p.6;P810.p.7; [REDACTED].

<sup>493</sup> P815.p.6;P2417;P2559.p.4;P71.p.85.

<sup>494</sup> Romashev:P2513.p.10.

<sup>495</sup> C5.p.110(B/C/S).

| Date             | Location            | Description   | Perpetrator                               |
|------------------|---------------------|---|---|
|                  | Golubić             | All houses looted. <sup>497</sup> Serb-Majority. <sup>498</sup>   | HV-4GBR <sup>499</sup>                    |
|                  | Padene              | Many houses burned. <sup>500</sup> Serb-Majority. <sup>501</sup>  | HV-4GBR,113InfantryBrigade <sup>502</sup> |
| After 11/08/1995 | Žagrović            | Houses looted, contents loaded onto tractors. <sup>503</sup> HV drove abandoned civilian vehicles. <sup>504</sup> | HV-4GBR <sup>505</sup>                    |
| 12/08/1995       | Road Vrlika to Knin | Several houses burning. <sup>506</sup>  | HV-126HGR <sup>507</sup>                  |
|                  | Near Golubić        | One house burning. <sup>508</sup> Serb-Majority. <sup>509</sup>   | HV-6HGR <sup>510</sup>                    |
|                  | Strmica             | Many burned houses, dead livestock; village deserted. <sup>511</sup> Serb-Majority. <sup>512</sup>                | HV-6HGR <sup>513</sup>                    |
| 13/08/1995       | Knin                | Numerous fires. <sup>514</sup>  | HV-4GBR <sup>515</sup>                    |
| 14/08/1995       | Knin                | Looting, burning of houses. <sup>516</sup>  | HV-4GBR <sup>517</sup>                    |
|                  |                     | Houses looted. <sup>518</sup>   | HV-4GBR <sup>519</sup>                    |

<sup>496</sup> Romashev:P2513,p.10;P2417:[REDACTED];P2343,p.35.

<sup>497</sup> P815,p.6;P810,p.4.

<sup>498</sup> C5.p.110(B/C/S).

<sup>499</sup> P2417;P2343,p.35,48;P71,p.84,100;P2559,p.4;[REDACTED].

<sup>500</sup> P934,p.3,para.3(c).

<sup>501</sup> C5.p.110(B/C/S);P2423.

<sup>502</sup> P2343,p.39-41;P2343,p.45.

<sup>503</sup> [REDACTED].

<sup>504</sup> [REDACTED].

<sup>505</sup> [REDACTED];P2417;[REDACTED];P2343,p.35.

<sup>506</sup> D391,p.5.

<sup>507</sup> P2417;[REDACTED]; [REDACTED];P71,p.92.

<sup>508</sup> P67,para.5,(B).

<sup>509</sup> C5.p.110(B/C/S).

<sup>510</sup> P2586,p.5.

<sup>511</sup> [REDACTED].

<sup>512</sup> C5.p.110(B/C/S);P2423.

<sup>513</sup> P2586,p.5.

<sup>514</sup> P886,ET.0357-7452,p.4.

<sup>515</sup> P935,p.2.

<sup>516</sup> P67,para.6,(A);Technetnsky:P205,para.18.

<sup>517</sup> D559,p.7.

<sup>518</sup> Munkelien:P61,paras.21-22.

<sup>519</sup> Munkelien:P61,paras.21-22;P935,p.2;D559,p.7.

| Date            | Location   | Description   | Perpetrator   |
|-----------------|--|---|---|
| 14-20/08/1995   | Knin area  | Arson accompanied by looting of property. <sup>520</sup>                              | HV –<br>4GBR,6HGR,134HGR,73MPBattal<br>ion <sup>521</sup> |
| 14-20/08/1995   | Knin   | Robbery, assault of a Serb; continuing trend of robbery, intimidation. <sup>522</sup> | HV –4GBR <sup>523</sup>                                   |
| 15/08/1995      | Žagrović   | Looting continued. <sup>524</sup>   | HV –4GBR <sup>525</sup>                                   |
| 15 - 20/08/1995 | Torbice,<br>Plavno                                       | Six burned houses. <sup>526</sup> Hamlet completely burned. <sup>527</sup>            | HV –4GBR <sup>528</sup>                                   |
| 16/08/1995      | Padene;<br>Komalić;<br>Road from<br>Padene to<br>Gračac; | One house burning;<br>Three houses burning;   | HV –4GBR,113InfantryBrigade <sup>530</sup>                |
|                 | Knin   | Three houses burning. <sup>529</sup>  | HV –4GBR;civilians <sup>532</sup>                         |
|                 | Knin   | Wide-scale looting. <sup>531</sup>  | HV –4GBR,113InfantryBrigade <sup>534</sup>                |
|                 | Padene   | Large-scale destruction. <sup>533</sup>   | HV –4GBR <sup>536</sup>                                   |
| 17/08/1995      | Žagrović<br>Knin area.                                   | Village significantly damaged. <sup>535</sup>   | HV –4GBR <sup>536</sup>                                   |
|                 | Knin   | One burning house 200m from UNMO office. <sup>537</sup>                               | HV –4GBR <sup>538</sup>                                   |

<sup>520</sup> P223,p.4,para.4.

<sup>521</sup> P223,p.4,para.4;P2586,p.7;P71,p.109,112;D984,p.2;P2644.;D1002,p.4;D1003,p.1;

<sup>522</sup> P223,p.4,para.4.

<sup>523</sup> P223,p.4,para.4;P935,p.2;D559,p.7;D984,p.2;D1002,p.4;P1003,p.1.

<sup>524</sup> [REDACTED];[REDACTED].

<sup>525</sup> [REDACTED];[REDACTED];P2417;P27,p.2;[REDACTED];P2343,pp.35,37,38,39,41,48;P71,p.84;P2559,p.4;

<sup>526</sup> P263; [REDACTED].

<sup>527</sup> [REDACTED].

<sup>528</sup> P263;P2417;P71,p.84;P2343,p.41;Flynn:P21,para.29.

<sup>529</sup> P1172,p.2,para.2;(same as D3,p.1,para.2);Mauro:P1098,p.4;Mauro:P1099,para.30;D391,p.8;P67,para.8,(A);[REDACTED].

<sup>530</sup> Vujinović:P412,p.2;Vujinović:P413,p.2,para.2;P2343,pp.39-41,45.

<sup>531</sup> P225.

<sup>532</sup> P225;D559,p.7;P71,p.112;D984,p.2.

<sup>533</sup> Gojanović:P194,para.21.

<sup>534</sup> Vujinović:P412,p.2;Vujinović:P413,p.2,para.2;P2343,pp.39-41,45.

<sup>535</sup> P988,p.3,para.1(1.2).

<sup>536</sup> P2417;P27,p.2;[REDACTED];P2343,pp.35,37,38,40,48;P71,p.84;P2559,p.4;

<sup>537</sup> D391,p.9;P68,p.16;Tchernetsky:P205,para.18;Anttla:P173,para.32.

| Date          | Location                 | Description   | Perpetrator                                 |
|---------------|--------------------------|---|---|
|               | Outskirts of Knin        | Burning house. <sup>539</sup>   | HV-4GBR <sup>540</sup>                      |
|               | Golubić                  | 20 houses burning. <sup>541</sup>   | HV-6HGR, 73MPBattalion <sup>542</sup>       |
| 17-19/08/1995 | Knin                     | Systematic looting and widespread damage; much of the damage was caused by looting. <sup>543</sup> 20 houses damaged by burning. <sup>544</sup> | HV-4GBR, 7GBR, 72MPBattalion <sup>545</sup> |
|               | Bradasi;<br>Žagrović.    | Many houses looted. <sup>546</sup>  | HV-4GBR <sup>547</sup>                      |
|               | Padene                   | Extensive looting. <sup>548</sup>   | HV-4GBR, 113InfantryBrigade <sup>549</sup>  |
| 19/08/1995    | Podkonje                 | Three burned houses. <sup>550</sup>   | HV-4GBR <sup>551</sup>                      |
|               | Knin                     | 94 houses slightly damaged, looted in northwest of town. <sup>552</sup>   | HV-4GBR <sup>553</sup>                      |
| 20/08/1995    | Raškovići;<br>Radljevac. | Houses looted, livestock killed in Plavno Valley and surrounding hamlets. <sup>554</sup>  | HV-4GBR <sup>555</sup>                      |
|               | Podkonje;<br>Knin:       | HV looting. <sup>556</sup> 6 houses burned, 221 houses looted. <sup>557</sup>   | HV <sup>558</sup>                           |

<sup>538</sup> P935,p.2;D984,p.7;D984,p.2;D1002,p.4.

<sup>539</sup> P886,ET.0357-7452,p.8,entry.2.

<sup>540</sup> P935,p.2;D559,p.7;D984,p.2;D1002,p.4.

<sup>541</sup> D391,p.9;Mauro:P1098,p.4;Mauro:P1099,para.31;Anttila:P173,para.32.

<sup>542</sup> P2586,pp.5,7;P71,pp.109,112.

<sup>543</sup> P988,pp.3-4,para.1(1.3).

<sup>544</sup> P228,p.1;P988,pp.3-4,para.1(1.3).

<sup>545</sup> P2417;P71,p.84;P2559,p.4;[REDACTED];P2343,p.36,37;Luković:DI687,para.25;Williams:P925,p.7;Hansen:P1283,para.3;Liborius:P799,pp.4-5;Liberius:P801,pp.3-4;P744,p.4,6;D820,p.4;D559,p.7;P71,p.112;D984,p.2

<sup>546</sup> P67,para.10,(A),(C),(D);Anttila:P173,para.33;P988,p.3,para.1.2.

<sup>547</sup> Anttila:P173,para.33;P2417:[REDACTED];P2343,p.37.

<sup>548</sup> P67,para.10(D);Anttila:P173,para.33.

<sup>549</sup> Vujinović:P412,p.2;Vujinović:P413,p.2,para.2;P2343,pp.39-41,45.

<sup>550</sup> P67,para.11,(A);Tchernetsky:P205,para.18;D391,p.10.

<sup>551</sup> D984,p.2;D1002,p.4;D1003,p.1.

<sup>552</sup> P67,para.11,(B);Tchernetsky:P205,para.18.

<sup>553</sup> D984,p.2;D1002,p.4;D1003,p.1.

<sup>554</sup> [REDACTED].

<sup>555</sup> P2417;P71,p.84;P2343,p.41;Flynn:P21,para.29.

<sup>556</sup> Tchernetsky:P205,para.18;P67,para.12,(A)

<sup>557</sup> Tchernetsky:P205,para.18;P67,para.12,(D),(1).

<sup>558</sup> Tchernetsky:P205,para.18;P67,para.12,(A).

| Date       | Location   | Description   | Perpetrator            |
|------------|--|---|------------------------|
| 21/08/1995 | Opacići;<br>Bjelinića;<br>Kurajice.              | Many dead livestock;<br>Hamlet deserted and haystacks burning. <sup>559</sup>                           | HV-4GBR <sup>560</sup> |
|            | Plavno Valley                                    | Approximately 10 houses burned, 70 houses looted; HV repeatedly returned to loot. <sup>561</sup>        | HV <sup>562</sup>      |
|            | Stojankovići                                     | Looted, burned houses. <sup>563</sup>   | HV-4GBR <sup>564</sup> |
|            | Knin   | Looting ongoing in northeast of town; approximately 25 burned houses, 261 houses looted. <sup>565</sup> | HV-4GBR <sup>566</sup> |
| 23/08/1995 | Komalić,<br>Mizdraci,<br>Strmica and<br>Dronjei. | Many houses looted. <sup>567</sup>  | HV <sup>568</sup>      |
|            | Dmitrovići                                       | Widespread looting. <sup>569</sup>  | HV <sup>570</sup>      |
| 24/08/1995 | Knin area  | Homes burned; HV drove military vehicles full of looted property. <sup>571</sup>                        | HV <sup>572</sup>      |
| 25/08/1995 | Knin   | Looting in southwest of town; 65 shops, 241 houses looted. <sup>573</sup>                               | HV-4GBR <sup>574</sup> |
| 26/08/1995 | Golubić:   | 35 houses looted; five houses burned, three houses partly   | HV-                    |

<sup>559</sup> [REDACTED].

<sup>560</sup> P2417;P2343,pp.39,41;P71,p.84;Flynn:P21,para.29.

<sup>561</sup> P45,para.2;P67,para.13,(B),(3).

<sup>562</sup> P45,para.2.

<sup>563</sup> P67,para.13,(B),(2).

<sup>564</sup> P2417;P71,p.84;P2343,p.41;Flynn:P21,para.29.

<sup>565</sup> P67,para.13,(C).

<sup>566</sup> D1002,p.4;D1003,p.1.

<sup>567</sup> P67,para.15,(A),(1),(3),(4),(5).

<sup>568</sup> P2559,p.5;P2343,p.44;P71,p.92;P2586,p.5(Between 7-12 Aug. 1995 the 6<sup>th</sup> HGR, 7<sup>th</sup> Guards Brigade and 81<sup>st</sup> Guards Battalion conducted operations in the area of Strmica)

<sup>569</sup> P47,p.2;Mauro:P1098,pp.4,5;Mauro:P1099,para.34.

<sup>570</sup> P47,p.2;Mauro:P1098,pp.4,5;Mauro:P1099,para.34.

<sup>571</sup> [REDACTED];[REDACTED].

<sup>572</sup> [REDACTED];[REDACTED].

<sup>573</sup> P67,para.17,(A);Tchernetsky:P205,para.18.

<sup>574</sup> D984,p.2;D1002,p.4;D1003,p.1;D990,p.1.

| Date       | Location                               | Description   | Perpetrator   |
|------------|--|---|---|
|            | Očestovo:                              | burned;<br>56 houses looted; seven houses burned, twenty houses partly burned. <sup>575</sup> Both villages Serb-Majority. <sup>576</sup> | 4GBR,6HGR,72MPBattalion,73Bat<br>talion,300LoB <sup>577</sup>         |
|            | Knin Area                              | Many houses burned; fires ongoing; smoke often visible;<br>looting. <sup>578</sup>  | HV -<br>4GBR,6HGR,72MPBattalion,73Bat<br>talion,300LoB <sup>579</sup> |
| 27/08/1995 | Mala Polača;<br>Bosnici:<br>Vučkovići. | Many burned, looted houses. <sup>580</sup> Serb-Majority. <sup>581</sup>  | HV-7GBR,6HGR,126HGR <sup>582</sup>                                    |
|            | Golubić                                | HV and civilians looted houses and threatened the residents;<br>burned houses. <sup>584</sup>   | HV-4GBR;civilians <sup>585</sup>                                      |
| 29/08/1995 | Plavno Valley                          | Looting, houses on fire <sup>586</sup>  | HV <sup>587</sup>   |
|            | Borovići                               | Several houses recently set on fire. <sup>588</sup>   | HV <sup>589</sup>   |
|            | Radinovići                             | Three houses burned. <sup>590</sup>   | HV <sup>591</sup>   |
| 30/08/1995 | Knin Area                              | Truck with 15 stolen cows <sup>592</sup>  | HV <sup>593</sup>   |

<sup>575</sup> P67,para.18,(A),(3),(4);P68,p.17;Martii:P416,p.13;Martii:P417,para.61.

<sup>576</sup> C5,p.110(B/C/S);P2423.

<sup>577</sup> P2417;P27,p.2;P2343,pp.35,38,39,40,48;P71,p.84,100,109,112;P2559,p.4;[REDACTED];P2586,pp.5,7;D990,p.3(Between 4-18 Aug.1995 the 4<sup>th</sup> Guards Brigade, 6<sup>th</sup> HGR, 72<sup>nd</sup> MP Battalion and 73<sup>rd</sup> MP Battalion conducted operations in the area)

<sup>578</sup> Malm:P774,para.8;P784;P785.

<sup>579</sup> Malm:P774,para.8;P2417;P27,p.2;P2343,pp.35,38,39,40,48;P71,p.84,100,109,112;P2559,p.4;[REDACTED];P2586,pp.5,7;D990,p.3.

<sup>580</sup> Martii:P417,para.62;P67,para.19,(A);Tchernetsky:P205,para.18.

<sup>581</sup> C5,p.110(B/C/S);P2423.

<sup>582</sup> P2417;P2559,p.4;[REDACTED];P2343,p.38,P71,p.85,P2379,para.1.

<sup>583</sup> P27,p.2.

<sup>584</sup> P27,p.2,3.

<sup>585</sup> P27,p.2;P2417;P2343,pp.35,38,39,40,48;P71,p.84,100,109,112;P2559,p.4;[REDACTED];P2586,p.7.

<sup>586</sup> P940,para.3,b;Hendriks:D820,p.5;Hendriks:P931,para.34;Hendriks:T.9682-84.

<sup>587</sup> Hendriks:D820,p.5;Hendriks:P931,para.34;Hendriks:T.9682-84.

<sup>588</sup> P34,p.1,para.2;Mauro:P1098,p.5;Mauro:P1099,para.39;Flynn:P21,para.22.

<sup>589</sup> P34,p.1,para.2;Mauro:P1098,p.5;Mauro:P1099,para.39;Flynn:P21,para.22.

<sup>590</sup> P68,p.23(GridW1974847 is village of Radinovići);P244;

<sup>591</sup> P68,p.23;

<sup>592</sup> P68,p.25.

<sup>593</sup> D990,p.1;P2608,p.9,11;P2170,p.57.

| Date             | Location  | Description   | Perpetrator                  |
|------------------|-----------|---|------------------------------|
| 31/08/1995       | Očestovo  | One house burning. <sup>594</sup>   | HV-4GBR <sup>595</sup>       |
|                  | Knin      | Looted items loaded from houses onto trucks. <sup>596</sup>   | HV <sup>597</sup>            |
|                  | Knin      | Houses looted. <sup>598</sup>   | HV <sup>599</sup>            |
| During Aug. 1995 | Očestovo  | Village destroyed. <sup>600</sup> Serb-Majority. <sup>601</sup>   | HV-4GBR <sup>602</sup>       |
| After Storm      | Knin area | 10-20 days after Storm, area was completely looted, burned. <sup>603</sup>  | HV; civilians <sup>604</sup> |
|                  |           | For at least two weeks after Storm HV loaded military and civilian vehicles with electrical items without police intervention. <sup>605</sup> | HV <sup>606</sup>            |
| 01/09/1995       | Knin      | UN employee apartment looted. <sup>607</sup>  | HV-4GBR <sup>608</sup>       |
|                  | Knin      | Fire. <sup>609</sup>  | HV-4GBR <sup>610</sup>       |
|                  | Golubić   | Houses burning. <sup>611</sup>  | HV <sup>612</sup>            |
| 02/09/1995       | Knin      | Two buildings burned; UN observers prevented from visiting site. <sup>613</sup>   | HV <sup>614</sup>            |

<sup>594</sup> P68, p.26;

<sup>595</sup> P2343, pp.39,40.

<sup>596</sup> P2608, pp.8-9;P886,0357-7452-ET,p.31,entry3.

<sup>597</sup> P2608, pp.8-9;P886,0357-7452-ET,p.31,entry3;P2608,p.9,11;P2170,p.57;P2566,p.1.

<sup>598</sup> Liborius:P802, para.21;P838.

<sup>599</sup> D990,p.1;P2608,p.9,11;P2170,p.57;P2566,p.1.

<sup>600</sup> Dijkstra:P429,para.39;

<sup>601</sup> C5,p.110(B/C/S);P2423;Dijkstra:P429, para.39.

<sup>602</sup> P2343, pp.39,40.

<sup>603</sup> [REDACTED];[REDACTED].

<sup>604</sup> [REDACTED];[REDACTED].

<sup>605</sup> Dangerfield:T.7153-54.

<sup>606</sup> Dangerfield:T.7153-54.

<sup>607</sup> P253,p.1.

<sup>608</sup> P2566,p.1.

<sup>609</sup> P886,0357-7452-ET,p.35,entry.7.

<sup>610</sup> P886,0357-7452-ET,p.35,entry.6-8;P2566,p.1.

<sup>611</sup> P886,0357-7452-ET,p.33,entry.5.

<sup>612</sup> D990,p.3.

| Date        | Location   | Description   | Perpetrator                  |
|-------------|--|---|------------------------------|
| 2-4/09/1995 | Knin area  | HV caught looting, brought in for questioning, goods confiscated but perpetrators released. <sup>615</sup>                                  | HV <sup>616</sup>            |
| 04/09/1995  | Cvijanovići, Tintori and Petrovići (Plavno Valley) | Widespread looting. <sup>617</sup> In Petrovići, soldiers arrived with multiple vehicles to load looted items and livestock. <sup>618</sup> | HV-4GBR <sup>619</sup>       |
|             | Mala Polača  | Looting. <sup>620</sup>   | HV <sup>621</sup>            |
| 05/09/1995  | Knin   | Burning building; HV did not allow firemen access. <sup>622</sup>   | HV <sup>623</sup>            |
|             | Plavno area  | One house burning. <sup>624</sup>   | HV-4GBR <sup>625</sup>       |
|             | Golubić  | Open and systematic looting. <sup>626</sup>   | HV <sup>627</sup>            |
| 06/09/1995  | Knin   | Looting. <sup>628</sup>   | HV, civilians <sup>629</sup> |
| 07/09/1995  | Milković hamlet, Kninsko Polje                     | Major fire. <sup>630</sup> Serb-Majority. <sup>631</sup>  | HV-4GBR <sup>632</sup>       |

<sup>613</sup> Roberts: P679, para. 10; Roberts: P680, para. 32, number. 6-7; P684, pp. 6, 7; P681; P683, pp. 11-14. (photographs. 6, 7); P36, p. 3, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; Flynn: P21, para. 29. P684, pp. 6, 7.

<sup>615</sup> P886, 0357-7452-ET, pp. 37-39.

<sup>616</sup> P886, 0357-7452-ET, pp. 37-39; P2566, p. 1.

<sup>617</sup> P36, p. 2, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; Flynn: P21, para. 29; Flynn: P20, p. 33.

<sup>618</sup> P36, p. 2, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; Flynn: P21, para. 29; Flynn: P20, p. 33.

<sup>619</sup> P36, p. 2, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; Flynn: P21, para. 29; Flynn: P20, p. 33.

<sup>620</sup> P36, p. 3, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41.

<sup>621</sup> P36, p. 3, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; P2566, p. 1.

<sup>622</sup> P886, 0357-7452-ET, p. 44, entry 9.

<sup>623</sup> P886, 0357-7452-ET, p. 44, entry 9; P2566, p. 1.

<sup>624</sup> P68, p. 31.

<sup>625</sup> P36, p. 2, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 41; Flynn: P20, p. 33; Flynn: P21, para. 29.

<sup>626</sup> P50, p. 1, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 42; Flynn: P21, para. 30.

<sup>627</sup> P50, p. 1, para. 2; Mauro: P1098, p. 6; Mauro: P1099, para. 42; Flynn: P21, para. 30.

<sup>628</sup> P886, 0357-7452-ET, p. 47.

<sup>629</sup> P886, 0357-7452-ET, p. 47; P2566, p. 1.

<sup>630</sup> P886, 0357-7452-ET, p. 49, entry. 2.

| Date       | Location   | Description   | Perpetrator            |
|------------|--|---|------------------------|
|            | Strmica  | 4-5 houses on fire, HV seen moving around the houses. <sup>633</sup>    | HV <sup>634</sup>      |
| 08/09/1995 | Golubić  | Houses looted, goods loaded onto military trucks. <sup>635</sup>        | HV <sup>636</sup>      |
| 10/09/1995 | Plavno   | Houses looted, goods loaded onto military trucks. <sup>637</sup>        | HV <sup>638</sup>      |
|            | Zorići   | Many houses burned. <sup>639</sup>                                      | HV <sup>640</sup>      |
| 11/09/1995 | Raskovići  | Houses looted, goods loaded onto military trucks. <sup>641</sup>        | HV <sup>642</sup>      |
|            | Kovačić,<br>Žagrović,<br>Bradaši<br>Zezebabe<br>Dmitrovići | Houses extensively torched, looted; many dead livestock. <sup>643</sup> | HV <sup>644</sup>      |
| 12/09/1995 | Bradasi  | People in uniform looting houses. <sup>645</sup>                        | HV <sup>646</sup>      |
| 13/09/1995 | Zorići, Plavno<br>Valley                                   | Ongoing looting, harassment of residents. <sup>647</sup>                | HV-4GBR <sup>648</sup> |
| 23/09/1995 | Dragisići  | People in uniform looted buildings. <sup>649</sup>                      | HV <sup>650</sup>      |
|            | Basinac  | Continued looting. <sup>651</sup>                                       | HV <sup>652</sup>      |

<sup>631</sup> C5, p.110(B/C/S).

<sup>632</sup> P806, p.1, para.3(a).

<sup>633</sup> P886,0357-7452-ET, p.50, entry.9.

<sup>634</sup> P886,0357-7452-ET, p.50, entry.9.

<sup>635</sup> P2610

<sup>636</sup> P2610.

<sup>637</sup> Grubor(Jovan):P2681,pp.4-5.

<sup>638</sup> Grubor(Jovan):P2681,pp.4-5.

<sup>639</sup> Romashev:P2513,p.9;P255;P262,p.1.

<sup>640</sup> Romashev:P2513,p.9;P255;P262,p.1.

<sup>641</sup> Grubor:P2681,pp.4-5.

<sup>642</sup> Grubor:P2681,pp.4-5.

<sup>643</sup> [REDACTED].

<sup>644</sup> [REDACTED].

<sup>645</sup> P68,p.36;P39,para.2.

<sup>646</sup> P39,para.2.

<sup>647</sup> P1290,p.14;P39,para.2;Mauro:PI099,para.48.

<sup>648</sup> P21,para.29.

<sup>649</sup> P68,p.42.

<sup>650</sup> P68,p.42.

<sup>651</sup> P2149,p.1,para.2;Hansen:T.14930-31.

<sup>652</sup> P2149,p.1,para.2;Hansen:T.14930-31.

| Date       | Location           | Description   | Perpetrator                                       |
|------------|--------------------|---|---|
| 26/09/1995 | Podinarje          | One house burned, looted. <sup>653</sup>  | HV-126HGR <sup>654</sup>                          |
| 30/09/1995 | Plavno Valley      | HV and civilians looting horses, furniture, other items. <sup>655</sup>           | HV-4GBR, 72MP Battalion, civilians <sup>656</sup> |
|            | Palanka:<br>Asani. | Remaining elderly residents robbed of livestock, relief aid, food. <sup>657</sup> | HV <sup>658</sup>                                 |

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<sup>653</sup> P68, p.44.

<sup>654</sup> P2417, p.2559, p.4; P71, p.85.

<sup>655</sup> P819, para.4(c).

<sup>656</sup> P819, para.4(c).

<sup>657</sup> P819, para.4(d).

<sup>658</sup> P819, para.4(d).

## 9. Lišane Ostrovičke

| Date       | Location                      | Description  | Perpetrator                                 |
|------------|-------------------------------|--|---|
| 07/08/1995 | Dobropoljci                   | All houses looted, burned. <sup>659</sup> Serb-Majority. <sup>660</sup>  | HV-113InfantryBrigade,134HGR <sup>661</sup> |
| 11/08/1995 | Bjčina                        | Half of houses burned, some still smoking. <sup>662</sup> Serb-Majority. <sup>663</sup>                                | HV-113InfantryBrigade,134HGR <sup>664</sup> |
| 16/08/1995 | Kožlovac                      | Houses looted. <sup>665</sup> Entirely Serb. <sup>666</sup>  | HV-113InfantryBrigade,134HGR <sup>667</sup> |
| 17/08/1995 | Dobropoljci                   | Looting. <sup>668</sup>  | HV-113InfantryBrigade,134HGR <sup>669</sup> |
| 18/08/1995 | Morpolača                     | 21 houses recently burned. <sup>670</sup> Serb-Majority. <sup>671</sup>  | HV-113InfantryBrigade,134HGR <sup>672</sup> |
| 21/08/1995 | Drče:<br>Kožlovac:<br>Prović: | 2 houses burning;<br>3 houses burning; <sup>673</sup><br>1 house burning. <sup>674</sup> Serb-Majority. <sup>674</sup> | HV-113InfantryBrigade,134HGR <sup>675</sup> |

<sup>659</sup> Dobrić:P2689,p.6,para.4.

<sup>660</sup> C5,p.46(B/C/S).

<sup>661</sup> Dobrić:P2689,p.6,para.4;P2349,p.2;P2417;P1200,p.2,3;[REDACTED];D1749,p.3.

<sup>662</sup> Drča:P2690,p.3.

<sup>663</sup> C5,p.46(B/C/S);P2418.

<sup>664</sup> P2417;P2349,p.2.

<sup>665</sup> D391,p.8.

<sup>666</sup> C5,p.46(B/C/S);P2418.

<sup>667</sup> D391,p.8;P2417;P1200,pp.2,3;P2349,p.2;[REDACTED];D1749,p.3.

<sup>668</sup> Dobrić:P2689,p.6,para.4.

<sup>669</sup> Dobrić:P2689,p.6,para.4;P2349,p.2;P2417;P1200,p.2,3;[REDACTED];D1749,p.3.

<sup>670</sup> D391,p.10;P45,para.2.

<sup>671</sup> C5,p.46(B/C/S).

<sup>672</sup> P2417;P1200,p.2,3;P2349,pp.2;[REDACTED];D1749,p.3.

<sup>673</sup> D391,p.12;P815,p.8.

<sup>674</sup> C5,pp.46,48(B/C/S);P2418(In 1991 Kožlovac was in the Benkovac municipality).

<sup>675</sup> P2417;P1200,p.2,3;P2349,p.2;[REDACTED];D1749,p.3.

## 10. Lisičić

| Date                     | Location   | Description  | Perpetrator                       |
|--------------------------|--|--|-----------------------------------|
| 04/08-19/09/1995         | Palivuk, Gornji Karin                              | Livestock looted. <sup>676</sup>   | HV-112Brigade,7HGR <sup>677</sup> |
| 11/08/1995               | Brgud  | Half of houses burned, some still smoking. School burned. <sup>678</sup> Serb-Majority. <sup>679</sup> | HV-112Brigade,7HGR <sup>680</sup> |
| Prior to 06/10/1995      | Lončari, Gornje Radecke, Drače, Zubčici, Alapanjč. | Villages totally burned, abandoned <sup>681</sup>  | HV-112Brigade,7HGR <sup>682</sup> |
| Late 1995 <sup>683</sup> | Medvida  | Orthodox church burned. <sup>684</sup>   | HV-112Brigade,7HGR <sup>685</sup> |

<sup>676</sup> D179,p.15.

<sup>677</sup> P2417,P2437,pp.22,23;[REDACTED];P1200,p.3;P1183,p.12.

<sup>678</sup> Drc.a:P2690,p.3.

<sup>679</sup> C5,p.46(B/C/S);P2418.

<sup>680</sup> P2417,P2437,pp.22,23;[REDACTED];P1200,p.3;P1183,p.12.

<sup>681</sup> P68,p.52.

<sup>682</sup> P2417,P2437,pp.22,23;[REDACTED];P1200,p.3;P1183,p.12.

<sup>683</sup> Drc.a:P2690,p.5(travelled through the village);

<sup>684</sup> Drc.a:P2690,p.5.

<sup>685</sup> P2417,P2437,pp.22,23;[REDACTED];P1200,p.3;P1183,p.12.

## 11. Nadvoda<sup>686</sup>

| Date       | Location        | Description   | Perpetrator       |
|------------|-----------------|---|-------------------|
| 01/09/1995 | Čičevac         | Hamlet ablaze.  | HV <sup>687</sup> |
| 01/09/1995 | Kaštel Žegarski | Houses burning. <sup>688</sup> Serb-Majority <sup>689</sup>                                     | HV <sup>690</sup> |
| 30/08/1995 | Bogatnik        | Looted goods loaded onto vehicles. Burning houses. <sup>691</sup> Serb-Majority. <sup>692</sup> | HV <sup>693</sup> |

686 Nadvoda area was majority Serb. C5, pp.134,136(B/C/S);P2426(Nadvoda was in Obrovac Municipality in 1991).

687 Liborius:P801.p.12;Liborius:P802, paras.23,32;D741.p.21;P818.p.2, para.2(b);Hendriks:D820,p.5;Liborius:P848, pp.7-8;Hendriks:T.9713-14;Liborius:T.8317-20.

688 Hendriks:D820, pp.5,6.

689 C5, p.134(B/C/S);P2426.

690 Hendriks:D820, pp.5,6;Liborius:T.8319.

691 P49, para.2;Mauro:P1098, pp.5,6;Mauro:P1099, para.40;Flynn:P21, para.28;Flynn:P20, p.31.

692 C5, p.134(B/C/S);P2426.

693 P49, para.2;Mauro:P1098, pp.5,6;Mauro:P1099, para.40;Flynn:P21, para.28;Flynn:P20, p.31.

## 12. Obrovac

| Date             | Location                              | Description   | Perpetrator  |
|------------------|---------------------------------------|---|--|
| 08/08/1995       | Obrovac area                          | Extensive looting. <sup>694</sup> Serb-Majority. <sup>695</sup>   | HV-112Brigade, 2Bn/9 <sup>th</sup> Brigade; 72MP Battalion; civilians <sup>696</sup> |
| After 20/08/1995 | Obrovac and surrounding area          | 12 burning buildings. <sup>697</sup>  | HV-134HGR, 112Brigade, 2Bn/9Brigade; 72MP Battalion <sup>698</sup>                   |
| 22/08/1995       | Guglete                               | House, stable, haystacks burning. <sup>699</sup>  | HV-72MP Battalion <sup>700</sup>   |
| 30/08/1995       | Bilišane, Road from Gračac to Obrovac | Looted goods loaded onto vehicles. 15 houses burning in 4-5 villages along the way. <sup>701</sup> Bilišane Serb-Majority. <sup>702</sup> | HV-134HGR <sup>703</sup>   |
| 01/09/1995       | Obrovac area                          | Extensive looting/burning of houses. <sup>704</sup>   | HV-134HGR <sup>705</sup>   |
| By Oct-95        | Bilišane                              | Almost all houses burned/destroyed. <sup>706</sup>  | HV-134HGR, 112Brigade, 2Bn/9Brigade; 72MP Battalion <sup>707</sup>                   |

<sup>694</sup> P806, para.4(a).

<sup>695</sup> C5, p.136(B/C/S); P2426.

<sup>696</sup> P806, para.4(a); P2417; P2437, pp.21,23; P71, pp.81,91; D567, p.4; P1192, pp.4; P2559, pp.4,6; P1183, p.10; P2585, p.10.

<sup>697</sup> Flynn: P20, p.23.

<sup>698</sup> Flynn: P20, p.23; P2417; P71, pp.81,91; P2559, pp.4,6; P2437, pp.21,23; P1183, p.10; P1192, p.4; D567, p.4; D292, p.7; D990, pp.3,4; P2398, p.2; Hendriks: D820, p.5.

<sup>699</sup> P811, pp.1-2; P938, p.2; Hendriks: D820, p.5; Hendriks: P931, para.28; P948; Hendriks: T.9676-77.

<sup>700</sup> P811, p.2; P938, p.2; Hendriks: D820, p.5; Hendriks: P931, para.28; Hendriks: T.9676-77.

<sup>701</sup> P49, para.2; Mauro: P1098, pp.5,6; Mauro: P1099, para.40; Flynn: P20, p.31; Flynn: P21, para.28.

<sup>702</sup> C5, p.134(B/C/S); P2426.

<sup>703</sup> P49, para.2; Mauro: P1098, pp.5,6; Mauro: P1099, para.40; Flynn: P21, para.28; Flynn: P20, p.31; D990, pp.3,4.

<sup>704</sup> P748, p.16; Berikoff: D284pp.44,45; Berikoff: D735, p.3.

<sup>705</sup> D990, pp.3,4.

<sup>706</sup> Drač: P2690, p.5.

<sup>707</sup> P2417; P71, pp.81,91; Pp.p.4,6; P2437, pp.21,23; P1183, p.10; P1192, p.4; D567, p.4; D292, p.7; D990, pp.3,4; P2398, p.2; Hendriks: D820, p.5. (Troop presence in Obrovac area is for the period between 04 to 29-Aug-95)

## 13. Oklaj

| Date       | Location              | Description   | Perpetrator              |
|------------|-----------------------|---|--------------------------|
| 10/08/1995 | Oklaj                 | Most buildings ablaze. Dead animals. Looting. <sup>708</sup>  | HV-142HGR <sup>709</sup> |
| 20/08/1995 | Suknovci:<br>Bobodol: | 1 house burnings, 7 recently burned; entire village burning (approximately 50 houses). <sup>710</sup> Serb-Majority. <sup>711</sup> | HV-142HGR <sup>712</sup> |

<sup>708</sup> P748,p.10;P747,para.1(g);P742,para.2(h);Berikoff:P740,para.2(q);

<sup>709</sup> P747,para.1(g);P2417;P1183,p.9;[REDACTED];P1128,p.1;P2349,pp.2,3;D282,p.2;P1113,p.395,396,fn598.

<sup>710</sup> D391,p.11.

<sup>711</sup> C5,p.74(B/C/S);P2420.

<sup>712</sup> 142HGR in area from 05-29/08/1995:P2417;P1183,p.9;[REDACTED];P1128,p.1;P2349,pp.2,3;D282,p.2;P1113,p.395,396,fn598.

## 14. Orlić

| Date                          | Village            | Description  | Perpetrator  |
|-------------------------------|--------------------|--|--|
| Several days after 05/08/1995 | Čolovići, Orlić    | Looting. <sup>713</sup>  | HV-7GBR,6HGR <sup>714</sup>                        |
| 06/08/1995                    | Vrbnik             | TVs, household items openly looted. Houses destroyed. <sup>715</sup> Serb-Majority. <sup>716</sup> | HV-7GBR,142HGR <sup>717</sup>                      |
| 08/08/1995                    | Road Knin to Drniš | Most houses completely burned. Systematic/widespread looting of houses, livestock. <sup>718</sup>  | HV-7GBR;CivilianPolice <sup>719</sup>              |
| 09/08/1995                    | Biskupija, Orlić   | Open looting, setting houses on fire. <sup>720</sup> Serb-Majority. <sup>721</sup>                 | HV-7GBR <sup>722</sup>                             |
| 10/08/1995                    | Road Knin to Drniš | 45-47 dwellings ablaze. <sup>723</sup> Systematic looting.   | HV-7GBR(PUMABrigade);CivilianPolice <sup>725</sup> |
| 12/08/1995                    | Jasnica, Orlić     | Looting, burning. <sup>726</sup>   | HV-142HGR,6HGR <sup>727</sup>                      |
| Around 18/08/1995             | Knin to Drniš      | Hundreds of buildings burned, looted. <sup>728</sup>   | HV-7GBR,142HGR,6HGR <sup>729</sup>                 |

<sup>713</sup> Čolović:P2680,p.13,paras.1-5,p.16,paras.4-6.

<sup>714</sup> Čolović:P2680,p.13,paras.1-5,p.16,paras.4-6;P2417:[REDACTED];P2349,p.3;P1113,pp.377,378,fn.484,pp.395,396,fn.598;P71,p.92.

<sup>715</sup> Dawes:P980,p.8;Dawes:P981,para.30;P983;Dawes:T.104400-01;Dawes:T.10527.

<sup>716</sup> C5,p.110(B/C/S);P2423.

<sup>717</sup> Dawes:P980,p.8;Dawes:P981,para.30;Dawes:T.104400-01;P2417;P2559,p.4;P2349,pp.2,3;P1183,p.9;[REDACTED].

<sup>718</sup> Dawes:P980,p.10;Dawes:P981,para.33;Dawes:T.10406-07;Dawes:T.10527-28;P306,para.1(c);Berikoff:P740,para.2(o);P742,para.2(c);P747,para.1(d);P748,p.9;Berikoff:T.7593;Berikoff:D735,p.2;Hill:P292,p.30;Hill:T.3763-64;P2151,para.2.

<sup>719</sup> Dawes:P980,p.10;Dawes:P981,para.33;Dawes:T.10406-07;Dawes:T.10527-28;P306,para.1(c);Berikoff:P740,para.2(o);Berikoff:T.7593;Berikoff:D735,p.2;Hill:P292,p.30;Hill:T.3763-64;P2417;P2349,p.3.

<sup>720</sup> Hendriks:D820,p.5;Hendriks:P931,para.21;Hendriks:T.9675;P933,p.1;Liborius:P801,p.4;P807,para.3;P432,p.4.

<sup>721</sup> C5,p.110(B/C/S);P2423.

<sup>722</sup> Hendriks:D820,p.5;Hendriks:P931,para.21;Hendriks:T.9675;P933,p.1;Liborius:P801,p.4;P807,para.3;P2349,p.3;P432,p.4.

<sup>723</sup> Berikoff:P740,para.2(q);Berikoff:D284,p.32;P748,p.10;P742,para.2(c);P31,p.1;P41,p.2;MarkerHansen:T.14936-37;P2151,pp.1,2;P1292,p.9.

<sup>724</sup> Berikoff:P740,para.2(q);Berikoff:D284,pp.32,33;P748,p.10;Berikoff:D735,p.2;Berikoff:T.7595;P742,para.2(c).

<sup>725</sup> Berikoff:P740,para.2(q);Berikoff:D284,pp.32,33;P748,p.10;Berikoff:D735,p.2;Berikoff:T.7595;P41,p.2;Hansen:T.14936-37;P2151,pp.1,2;P1292,p.9.

<sup>726</sup> Hendriks:D820,p.5;P810,p.4;P815,p.7.

<sup>727</sup> Hendriks:D820,p.5;P810,p.4;P815,p.7;P71,p.92;D282,p.2.

| Date       | Village                                  | Description  | Perpetrator                           |
|------------|--|--|---------------------------------------|
| 26/08/1995 | Biskupija,<br>Popovići, Orlić            | Biskupija - 6 houses burned, 5 partly burned, 27 looted;<br>Popovići - 2 houses burned, 10 partly burned, 2 burning, 37 looted. <sup>730</sup> | HV-7GBR,6HGR <sup>731</sup>           |
| 02/09/1995 | Kosovo, Orlić                            | Looting. <sup>732</sup> Orlić area had Serb majority. <sup>733</sup>   | HV-113InfantryBrigade. <sup>734</sup> |
| 03/09/1995 | Near Biskupija,<br>in Popovići,<br>Orlić | Looting, burning. <sup>735</sup>   | HV <sup>736</sup>                     |

<sup>728</sup> P988, p.3, paras. 1.2; P2151, para.4.

<sup>729</sup> P2417; P2349, p.3; P432, p.4; P71, p.92; D282, p.2.

<sup>730</sup> Martić; P417, para.61; P67, para.18.A.(1),(2); P68, p.17.

<sup>731</sup> P2417; P2349, p.3; P432, p.4; P71, p.92; D282, p.2.

<sup>732</sup> P2609, pp.1,4,5.

<sup>733</sup> P2423; C5, p.110.

<sup>734</sup> P2609, pp.1,4,5.

<sup>735</sup> Mauro: P1098, p.6; Flynn: P21, para.29; P36, p.3.

<sup>736</sup> Mauro: P1098, p.6; Flynn: P21, para.29; P36, p.3; D990, pp.2,4.

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

**Case No. IT-06-90-T**

**THE PROSECUTOR**

**v.**

**ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ**

**PUBLIC REDACTED ANNEX B**

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**ADDITIONAL KILLINGS**

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|   |    |
|---|----|
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| c. Knin Town                            |    |
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1. Plavno Valley, 5 to 9-Aug-95<sup>1</sup>

| No. | Victim           | Year of Birth <sup>2</sup> | Ethnicity <sup>3</sup> | Status <sup>4</sup> | Date Killed              | Description <sup>5</sup>  |
|-----|------------------|----------------------------|------------------------|---------------------|--------------------------|---|
| 247 | Branko RODIĆ     | Approx. 1930               | Serb                   | Civilian            | 5-9/8/1995 <sup>6</sup>  |   |
| 248 | Petar PERIĆ      | 1920                       | Serb                   | Civilian            | 5-9/8/1995 <sup>7</sup>  | Killed in front of his house while wife begged soldiers not to burn son's house. <sup>8</sup> |
| 249 | Branko ŠIMIĆ     | 1949                       | Serb                   | Civilian            | 6/8/1995 <sup>9</sup>    | Mentally ill, taken away by soldiers. <sup>10</sup>   |
| 250 | Petar BURSAC     | 1926                       | Serb                   | Civilian            | 6/8/1995 <sup>11</sup>   | Killed in his garden. <sup>12</sup>   |
| 251 | Milica STARČEVIĆ | 1934/1935                  | Serb                   | Civilian            | 5-9/8/1995 <sup>13</sup> |   |
| 252 | Nikola DUBAJIĆ   |                            | Serb                   | Civilian            | 5-9/8/1995 <sup>14</sup> |   |

<sup>1</sup> The Prosecution is no longer pursuing allegations regarding victims Nos. 140&141, also allegedly killed in Plavno from 4 to 9-Aug-95.

<sup>2</sup> Unless otherwise indicated, "Year of Birth" is from P2402,pp.155-56;D1631,pp.9-10.

<sup>3</sup> From P45,p.2;[REDACTED];P2402,p.p.138,155-156.

<sup>4</sup> From P45,p.2;[REDACTED];P2402,p.p.138,155-156.

<sup>5</sup> Describing evidence additional to that found in P45;[REDACTED];(villagers found the bodies after returning to their villages on 9-Aug-95).

<sup>6</sup> P45,p.2.

<sup>7</sup> P45,p.2.

<sup>8</sup> P2402,p.156.

<sup>9</sup> D568,p.43.

<sup>10</sup> P2402,pp.156-57.

<sup>11</sup> Dijkstra:P429,para.41.

<sup>12</sup> P2402,p.155.

<sup>13</sup> P45,p.2.

| No. | Victim              | Year of Birth <sup>2</sup> | Ethnicity <sup>3</sup> | Status <sup>4</sup> | Date Killed              | Description <sup>5</sup>                                      |
|-----|---------------------|----------------------------|------------------------|---------------------|--------------------------|---|
| 253 | Todor (Dušan) SAVIĆ | 1908                       | Serb                   | Civilian            | 7/8/1995 <sup>15</sup>   | Massacred in his shed by soldiers. <sup>16</sup>              |
| 254 | Kuzman PAIĆ         | 1900                       | Serb                   | Civilian            | 7/8/1995 <sup>17</sup>   | Killed by soldiers after surrendering. <sup>18</sup>          |
| 255 | Luka BOJANIĆ        | 1919                       | Serb                   | Civilian            | 5-9/8/1995 <sup>19</sup> |   |
| 256 | Remzo SLJEPČEVIĆ    | Approx. 1950               | Muslim                 | Civilian            | 5-9/8/1995 <sup>20</sup> | Killed by soldiers after stating he was Muslim. <sup>21</sup> |

<sup>14</sup> P45, p.2.

<sup>15</sup> D568, p.42; P2154, p.1.

<sup>16</sup> P2402, p.156; P2154, p.1.

<sup>17</sup> D568, p.42; P2154, p.1.

<sup>18</sup> P2154, p.1; P2402, p.156.

<sup>19</sup> P45, p.2.

<sup>20</sup> P45, p.2.

<sup>21</sup> P2402, p.156.

## 2. Žagrović, 5 to 9-Aug-95

| No. | Victim             | Year of Birth      | Ethnicity          | Status                 | Date Killed                       | Description  |
|-----|--------------------|--------------------|--------------------|------------------------|-----------------------------------|--|
| 129 | Jovo<br>DMITROVIĆ  | 1936 <sup>22</sup> | Serb <sup>23</sup> | Civilian <sup>24</sup> | 5/8/1995 <sup>25</sup>            | Soldiers entered the Dmitrovići hamlet, shot victim around noon. Ilija Mirković saw victim alive several hours before, heard extensive shooting after soldiers entered village. Finding victim's body on doorstep in civilian clothes, he wrapped it in a blanket. <sup>26</sup><br>Autopsy: cause of death was perforating gunshot wound to head, at least two shots. <sup>27</sup><br>Internationals who saw the body later confirmed it was wrapped in a blanket on the doorway to a house and had been killed with bullet to the head. <sup>28</sup> |
| 130 | Stevo<br>DMITROVIĆ | 1944 <sup>29</sup> | Serb <sup>30</sup> | Civilian <sup>31</sup> | Approx.<br>5/8/1995 <sup>32</sup> | Badly decomposed body discovered on 16-Aug-95 <sup>33</sup> wearing civilian clothes, with gunshot wounds, at same time as Jovo Dmitrović's. <sup>34</sup><br>Autopsy: died from chest gunshot injury from behind; evidence of additional shot to face. <sup>35</sup>  |

<sup>22</sup> Mirković:P2682,p.13;P2402,p.160.

<sup>23</sup> P2074,p.1;P2402,p.160.

<sup>24</sup> D359,p.2;P1400,p.1.

<sup>25</sup> Mirković:P2682,p.13.

<sup>26</sup> Mirković:P2682,p.13.

<sup>27</sup> P1600;Clark:P1251,p.12;P1870;P1400;P659.

<sup>28</sup> [REDACTED];[REDACTED];P700,pp.1,9.

<sup>29</sup> P659;P2075,pp.29-30.

<sup>30</sup> P2075,pp.29-30.

<sup>31</sup> [REDACTED];[REDACTED].

<sup>32</sup> Although the body was only discovered on 16-Aug-95, it was described as already "badly decomposed," in "an advanced state of decomposition" and lying in the sun for approximately two weeks. See D3,p.2;Mauro:P1098,p.4;P700,pp.1,10.

| No.     | Victim                    | Year of Birth      | Ethnicity          | Status    | Date Killed | Description   |
|---------|---------------------------|--------------------|--------------------|-----------|-------------|---|
| 131-132 | Two unidentified bodies   |                    |                    | Civilians | 8-9/8/1995  | On 10-Aug-95 John Hill photographed two bodies—in civilian clothes, shot in head, thrown by roadside. <sup>36</sup> Bodies were still there, decomposed, on 16-Aug-95. UNCivpol concluded that bodies had been dragged from the road. <sup>37</sup> |
| 133     | Mičo RAŠULA               | 1950 <sup>39</sup> | Serb <sup>41</sup> | Civilian  | 5/8/1995    | Three bodies found on 29-Aug-95 in Rašule hamlet, very badly decomposed. Victims killed when soldiers entered Rašule on 5-Aug-95, also killing Scheduled Killing No. 3 victims. <sup>43</sup>   |
| 134     | Đuro RAŠULA <sup>38</sup> | 1957 <sup>40</sup> | Serb <sup>42</sup> | Civilian  |             |   |
| 135     | Unidentified              | N/A                | N/A                | N/A       |             |   |

<sup>33</sup> Although the body was only discovered on 16-Aug-95, it was described as already “badly decomposed,” in “an advanced state of decomposition” and lying in the sun for approximately two weeks. D3.p.2;Mauro:P1098,p.4;P700,pp.1,10.

<sup>34</sup> [REDACTED];[REDACTED];P700,pp.1,10.

<sup>35</sup> P1601;Clark:P1251,p.12;P1872;P1401;P659.

<sup>36</sup> Hill:P292,pp.54-55;Hill:T.3770-71;P303.

<sup>37</sup> P9;[REDACTED];P700,pp.1,7,8.

<sup>38</sup> This victim is different from victim 3.4 of Scheduled Killing no. 3, who was collected and buried on 14-Aug-95, whereas this victim was found on 24-Aug-95, See “Crimes:Counts6&7.”

<sup>39</sup> [REDACTED];D179,p.5;P2402,p.160.

<sup>40</sup> [REDACTED];D179,p.5;P2402,p.160.

<sup>41</sup> [REDACTED];D179,p.5;P2402,p.160.

<sup>42</sup> [REDACTED];D179,p.5;P2402,p.160.

<sup>43</sup> [REDACTED];D179,p.5;P49,p.2;D57,p.76;P2402,p.160.

| No. | Victim         | Year of Birth      | Ethnicity           | Status                  | Date Killed            | Description  |
|-----|----------------|--------------------|---------------------|-------------------------|------------------------|--|
| 136 | Ika<br>DONDUR  | 1930 <sup>44</sup> | Serbs <sup>46</sup> | Civilians <sup>47</sup> | 5/8/1995 <sup>48</sup> | Soldiers killed two women who refused to exit house in Bradas hamlet. <sup>49</sup>                              |
| 137 | Vera<br>DONDUR | 1939 <sup>45</sup> |                     |                         |                        | Autopsy (Ika Dondur): died from gunshot to left side of thorax. <sup>50</sup> No autopsy report for Vera Dondur. |

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<sup>44</sup> P2076, pp.33-34.

<sup>45</sup> P1403, p.1.

<sup>46</sup> P2076, pp.33-34; P2402, p.160.

<sup>47</sup> P1402, p.1; P1403, p.1; D358, p.2.

<sup>48</sup> P1109, p.2; Mauro: P1099, para.56.

<sup>49</sup> P1109, p.2; Mauro: P1099, para.56.

<sup>50</sup> P1602, Clark: P1251, p.13; P659.

3. Benkovac Municipality<sup>51</sup>

| No. | Victim               | Year of Birth      | Ethnicity <sup>52</sup> | Status                 | Date Killed                       | Description  |
|-----|----------------------|--------------------|-------------------------|------------------------|-----------------------------------|--|
| 324 | Stevan<br>STEGNJAJIĆ | 1908 <sup>53</sup> | Serb                    | Civilian <sup>54</sup> | Before<br>22/8/1995 <sup>55</sup> | Elderly male killed in Kula Atlagić. <sup>56</sup> |
| 325 | Velimir<br>ROKVIĆ    | 1938 <sup>57</sup> | Serb                    | Civilian <sup>58</sup> | Before<br>21/8/1995 <sup>59</sup> | Killed in Kožlovac. <sup>60</sup>                  |
| 326 | NN<br>(ID No. 616)   |                    | Serb                    | Civilian <sup>61</sup> | Before<br>13/8/1995 <sup>62</sup> | Female killed in Buković. <sup>63</sup>            |
| 327 | NN<br>(ID No. 534)   |                    | Serb                    | Civilian <sup>64</sup> | Before<br>12/8/1995 <sup>65</sup> | Female killed in Buković. <sup>66</sup>            |

<sup>51</sup> Croatian forces present in Benkovac Municipality included: 7HGR&134HGR:P2417;P2566.p.2;P1200.pp.2-3;[REDACTED];D1749.p.3;72MP:P2398.p.2;P71.p.91;D567.p.4;P881.p.1;P875.para.59;P882p.2;D292.p.7;D733.p.1;Zadar OG IZM:P1113.p.393,fn.584;4GBR:Drča:P2690.p.3;307Log.Base,D990,p.3.

<sup>52</sup> The Prosecution asserts that these victims were Serbs, as the town of Benkovac had a large Serb majority and the villages of Buković, Kožlovac and Kula Atlagić were almost entirely Serb. C5.p.46(B/C/S);P2418.

<sup>53</sup> D69,p.13(B/C/S).

<sup>54</sup> P1505,p.2;D69,p.13(B/C/S).

<sup>55</sup> P1505,p.2.

<sup>56</sup> P1505,p.2;D69,p.13(B/C/S).

<sup>57</sup> P1506,p.2;D69,p.12(B/C/S).

<sup>58</sup> P1506,p.2;D69,p.12(B/C/S).

<sup>59</sup> P1506,p.2.

<sup>60</sup> P1506,p.2;D69,p.12(B/C/S).

<sup>61</sup> P1507,p.1;D354.p.12

<sup>62</sup> P1507,p.1.

<sup>63</sup> P1507,p.1.

<sup>64</sup> P1508,p.2;D354.p.11.

<sup>65</sup> P1508,p.2.

<sup>66</sup> P1508,p.2.

| No. | Victim          | Year of Birth      | Ethnicity <sup>52</sup> | Status                 | Date Killed                    | Description   |
|-----|-----------------|--------------------|-------------------------|------------------------|--------------------------------|---|
| 328 | Sava ILIĆ       | 1922 <sup>67</sup> | Serb                    | Civilian <sup>68</sup> | Before 29/8/1995 <sup>69</sup> | Elderly female, body decomposed. Killed in Buković. <sup>70</sup> |
| 329 | Slavko KRESOVIĆ | 1962 <sup>71</sup> | Serb                    | Civilian <sup>72</sup> | Before 29/8/1995 <sup>73</sup> | Decomposed body; killed in Buković. <sup>74</sup>                 |
| 330 | NN (ID No. 116) |                    | Serb                    | Civilian <sup>75</sup> | Before 7/8/1995 <sup>76</sup>  | Killed in Buković. <sup>77</sup>                                  |
| 331 | NN (ID No. 115) |                    | Serb                    | Civilian <sup>78</sup> | Before 7/8/1995 <sup>79</sup>  | Female killed in Buković. <sup>80</sup>                           |
| 332 | NN (ID No. 510) |                    | Serb                    | Civilian <sup>81</sup> | Before 12/8/1995 <sup>82</sup> | Female killed in Buković. <sup>83</sup>                           |
| 333 | NN (ID No. 377) |                    | Serb                    | Civilian <sup>84</sup> | Before 22/8/1995 <sup>85</sup> | Female killed in Buković. <sup>86</sup>                           |

<sup>67</sup> PI 509,p.2.

<sup>68</sup> PI 509,p.2;D1314,p.4.

<sup>69</sup> PI 509,p.2.

<sup>70</sup> PI 509,p.2;D1314,p.4.

<sup>71</sup> PI 510,p.2.

<sup>72</sup> PI 510,p.2.

<sup>73</sup> PI 510,p.2.

<sup>74</sup> PI 510,p.2.

<sup>75</sup> PI 511,p.2;D348,p.3.

<sup>76</sup> PI 511,p.2.

<sup>77</sup> PI 511,p.2.

<sup>78</sup> PI 512,p.2;D348,p.3.

<sup>79</sup> PI 512,p.2.

<sup>80</sup> PI 512,p.2.

<sup>81</sup> PI 513,p.2;D354,p.1.1.

<sup>82</sup> PI 513,p.2.

<sup>83</sup> PI 513,p.2.

| No. | Victim             | Year of Birth      | Ethnicity <sup>52</sup> | Status                  | Date Killed                      | Description  |
|-----|--------------------|--------------------|-------------------------|-------------------------|----------------------------------|--|
| 334 | Stana<br>BEŠLIĆ    | 1935 <sup>87</sup> | Serbs                   | Civilians <sup>89</sup> | Before<br>7/8/1995 <sup>90</sup> | Killed by firearm shots. <sup>91</sup>   |
| 335 | Zorka<br>ZRILIĆ    | 1911 <sup>88</sup> |                         |                         |                                  |  |
| 336 | NN<br>(ID No. 151) |                    | Serb                    | Unknown <sup>92</sup>   | Before<br>6/8/1995 <sup>93</sup> | Completely burned body recovered in Barice neighbourhood (Benkovac). <sup>94</sup> |
| 337 | Sava<br>PETKOVIĆ   | 1908 <sup>95</sup> | Serb                    | Civilian <sup>96</sup>  | Before<br>6/8/1995 <sup>97</sup> | Elderly civilian killed in Barice neighbourhood (Benkovac). <sup>98</sup>          |

<sup>84</sup> PI514;D69,p.13(B/C/S).

<sup>85</sup> PI514.

<sup>86</sup> PI514;D69,p.13(B/C/S).

<sup>87</sup> D347;D1631,p.11.

<sup>88</sup> D347;D1631,p.11.

<sup>89</sup> D1631,p.11.

<sup>90</sup> D347.

<sup>91</sup> D347;D1631,p.11.

<sup>92</sup> PI515.

<sup>93</sup> PI515.

<sup>94</sup> PI515.

<sup>95</sup> PI516,p.2.

<sup>96</sup> PI516,p.2.

<sup>97</sup> PI516,p.2.

<sup>98</sup> PI516,p.2.

4. Civljane Municipality<sup>99</sup>

| No. | Victim            | Year of Birth              | Ethnicity <sup>100</sup> | Status                  | Date Killed                        | Description                                     |
|-----|-------------------|----------------------------|--------------------------|-------------------------|------------------------------------|---|
| 301 | Mile<br>ROGAČ     | 1926 <sup>101</sup>        | Serb                     | Civilian <sup>102</sup> | Before<br>17/8/1995 <sup>103</sup> | Killed in Civljane. <sup>104</sup>              |
| 302 | Ankica<br>BARIŠIĆ | Before 1905 <sup>105</sup> | Serb <sup>106</sup>      | Civilian <sup>107</sup> | Before<br>17/8/1995 <sup>108</sup> | Elderly female killed in Cetina. <sup>109</sup> |
| 303 | NN (ID No.<br>3N) |                            | Serb                     | Civilian <sup>110</sup> | Before<br>17/8/1995 <sup>111</sup> | Female killed in Cetina. <sup>112</sup>         |
| 304 | Marta JAJIĆ       |                            | Serb                     | Civilian <sup>113</sup> | Before<br>17/8/1995 <sup>114</sup> | Female killed in Civljane. <sup>115</sup>       |

<sup>99</sup> These Croatian forces operated in Civljane Municipality: I26HGR:P2417; [REDACTED]; [REDACTED].

<sup>100</sup> The Prosecution asserts that these victims were Serbs, as Cetina and Civljane villages were almost entirely Serb. C5, p. 110(B/C/S); P2423.

<sup>101</sup> P1519.

<sup>102</sup> P1519.

<sup>103</sup> P1519.

<sup>104</sup> P1519.

<sup>105</sup> P2402, p. 148.

<sup>106</sup> P2402, p. 148.

<sup>107</sup> P1519.

<sup>108</sup> P1519; P2402, p. 148.

<sup>109</sup> P1519; P2402, p. 148.

<sup>110</sup> P1519.

<sup>111</sup> P1519.

<sup>112</sup> P1519.

<sup>113</sup> P1519.

<sup>114</sup> P1519.

<sup>115</sup> P1519.

5. Donji Lapac Municipality<sup>116</sup>

| No. | Victim          | Year of Birth       | Ethnicity           | Status                  | Date Killed                     | Description  |
|-----|-----------------|---------------------|---------------------|-------------------------|---------------------------------|--|
| 278 | Dara ŽIGIĆ      | 1909 <sup>117</sup> | Serb <sup>118</sup> | Civilian <sup>119</sup> | Before 20/8/1995 <sup>120</sup> | Donji Lapac:Elderly woman, decomposed body, killed by fractures. <sup>121</sup>                                    |
| 279 | Ratko DMITROVIĆ | 1944 <sup>122</sup> | Serb <sup>123</sup> | Civilian <sup>124</sup> | Before 20/8/1995 <sup>125</sup> | Donji Lapac:Decomposed civilian body, killed by at least five gunshots. <sup>126</sup>                             |
| 280 | Božo ROMIĆ      | 1910 <sup>127</sup> | Serb <sup>128</sup> | Civilian <sup>129</sup> | Before 11/8/1995 <sup>130</sup> | Srb-Donji Lapac road:Elderly civilian, decomposed body, killed by gunshot or explosive injuries. <sup>131</sup>    |
| 281 | Jovo REPAC      | 1946 <sup>132</sup> | Serb <sup>133</sup> | Unknown <sup>134</sup>  | Before 11/8/1995 <sup>135</sup> | Donji Srb:Decomposed, severely burned body, killed by explosive injuries or gunshot from the front. <sup>136</sup> |

<sup>116</sup> SP liberated Donji Lapac on 7-Aug-95:P614,p.12;D556;P585;P1237,p.4;P2382,p.2;Jamić:P553,p.129.

<sup>117</sup> P2131,p.1.

<sup>118</sup> P2131,p.1.

<sup>119</sup> P1478;D69,p.12(B/C/S).

<sup>120</sup> P1478.

<sup>121</sup> P1478;P1676;Baccard:P2314,p.76;P2005,p.2.

<sup>122</sup> P2132.

<sup>123</sup> P2132.

<sup>124</sup> P1479;D69p.12(B/C/S).

<sup>125</sup> P1479.

<sup>126</sup> P1479;P1677;Baccard:P2314,pp.77-78;P1955;P1658;P2007.

<sup>127</sup> P2133;P729(B/C/S).

<sup>128</sup> P2133.

<sup>129</sup> P1480;D367,p.2.

<sup>130</sup> P1480.

<sup>131</sup> P1480;P1678;Baccard:P2314,p.51;P1959;P1961;P729(B/C/S).

<sup>132</sup> P729(B/C/S).

<sup>133</sup> P2134.

<sup>134</sup> D367,p.2.

<sup>135</sup> P1481;D367,p.2.

| No. | Victim        | Year of Birth       | Ethnicity           | Status  | Date Killed                     | Description   |
|-----|---------------|---------------------|---------------------|---|---------------------------------|---|
| 282 | Đuro ŠEVO     | 1953 <sup>137</sup> | Serb <sup>138</sup> | Civilian <sup>139</sup>                                     | Before 11/8/1995 <sup>140</sup> | Donji Srb:Civilian killed by head gunshot injury. <sup>141</sup>  |
| 283 | Unidentified  |                     | Serb <sup>142</sup> | Civilian or Soldier<br><i>Hors de Combat</i> <sup>143</sup> | 13/8/1995 <sup>144</sup>        | Body found near Donji Lapac, probably executed by HV/police after being injured. <sup>145</sup>             |
| 284 | Unidentified  |                     |                     | Unknown   | 17-18/8/1995 <sup>146</sup>     | Body found in Osredci, apparently died in last day, two bullet holes in abdomen. <sup>147</sup>             |
| 285 | Unidentified  |                     |                     | Civilian <sup>148</sup>                                     | Before 5/9/1995 <sup>149</sup>  | Brezovac:Partially buried male, decomposed, civilian clothing, three gunshot wounds in back. <sup>150</sup> |
| 286 | Milutin MEDIĆ | 1919 <sup>151</sup> | Serb <sup>152</sup> | Civilian  | Before 11/9/1995 <sup>153</sup> | Brezovac:Elderly killed by thorax injury, likely from gunshot. <sup>154</sup>                               |

<sup>136</sup> D367,p.2;P1481;P1668;Baccard:P2134,pp.50-51(B/C/S);P729(B/C/S).

<sup>137</sup> P2135(B/C/S).

<sup>138</sup> P2135(B/C/S).

<sup>139</sup> P1482;D367,p.3.

<sup>140</sup> P1482.

<sup>141</sup> P1482;P1680;Baccard:P2314,pp.44-45;Photos:P1964-P1967;P729(B/C/S).

<sup>142</sup> P118,p.2.

<sup>143</sup> P42,p.1;P118,pp.1-2;[REDACTED].

<sup>144</sup> P118,pp.2-3.

<sup>145</sup> P42,p.1;P118,pp.1-2;[REDACTED].

<sup>146</sup> D92,p.3.

<sup>147</sup> D92,p.3;[REDACTED].

<sup>148</sup> [REDACTED];P1290,p.54.

<sup>149</sup> P142,p.1.

<sup>150</sup> P142,p.1;P1290,p.54;P700,pp.25-26;P710,p.1;P51,p.1;P50,p.2; [REDACTED].

<sup>151</sup> P669;P2136(B/C/S).

<sup>152</sup> P2136(B/C/S);P2402,p.140.

| No. | Victim             | Year of Birth       | Ethnicity            | Status                   | Date Killed                        | Description  |
|-----|--------------------|---------------------|----------------------|--------------------------|------------------------------------|--|
| 287 | NN<br>(ID No. 281) |                     |                      | Civilian <sup>155</sup>  | Before<br>10/8/1995 <sup>156</sup> | Donji Lapac:Decomposed female body killed by at least six<br>gunshots. <sup>157</sup>  |
| 288 | NN<br>(ID No. 325) |                     |                      | Civilian <sup>158</sup>  | Before<br>20/8/1995 <sup>159</sup> | Donji Lapac:Decomposed civilian body, multiple injuries,<br>including multiple head fractures. <sup>160</sup>                                    |
| 289 | Danc<br>OBRADOVIĆ  | 1906 <sup>161</sup> | Serbs <sup>163</sup> | Civilians <sup>164</sup> | Before<br>11/9/1995 <sup>165</sup> | Two skeletons recovered 2 km from Donji Lapac. One died<br>of shotgun pellet injuries, cause of death of others<br>unascertained. <sup>166</sup> |
| 290 | Mile MRĐA          | 1933 <sup>162</sup> |                      |                          |                                    |  |
| 291 | Stoja JARIĆ        | 1946 <sup>167</sup> | Serb <sup>168</sup>  | Civilian <sup>169</sup>  | 5/8/1995 <sup>170</sup>            | Donji Tiškovac:Female body died from head gunshot<br>injury. <sup>171</sup>  |

<sup>153</sup> P1681,p.14;D368.

<sup>154</sup> P1681;Baccard:P2314,p.104;P1970;P669.

<sup>155</sup> P1483;D352,p.1.

<sup>156</sup> P1483.

<sup>157</sup> P1682;Baccard:P2314,pp.37-38.

<sup>158</sup> P1484.

<sup>159</sup> P1484.

<sup>160</sup> P1484;P1683;Baccard:P2314,p.76.

<sup>161</sup> P2137;P2008.

<sup>162</sup> P2138(B/C/S).

<sup>163</sup> P2137;P2138(BCS).

<sup>164</sup> P1485;P1486;D368,p.2.

<sup>165</sup> P1485;P1486.

<sup>166</sup> P1485;P1486;Baccard:P2314,pp.99-101;P1684;P1685;P90;P2008.

<sup>167</sup> P2139(B/C/S).

<sup>168</sup> P2139(B/C/S).

<sup>169</sup> D382,p.19.

<sup>170</sup> P2139(B/C/S).

<sup>171</sup> D382,p.19;D1234;Clark:P1251,p.13;Clark,T.14243-44;P659,p.2.

| No. | Victim           | Year of Birth          | Ethnicity            | Status                   | Date Killed                     | Description  |
|-----|------------------|------------------------|----------------------|--------------------------|---------------------------------|--|
| 292 | Ilija DAMJANOVIĆ | 1909 <sup>172</sup>    | Serb <sup>173</sup>  | Civilian <sup>174</sup>  | Before 25/9/1995 <sup>175</sup> | Kunovac:Elderly civilian died from multiple gunshot injuries. <sup>176</sup>   |
| 293 | Perka BANJANIN   | 1913 <sup>177</sup>    | Serb <sup>178</sup>  | Civilian <sup>179</sup>  | Before 21/8/1995 <sup>180</sup> | Nebjusi:Decomposed female body, injuries to skull consistent with a gunshot. <sup>181</sup>  |
| 294 | Soka DIVJAK      | 1930 <sup>182</sup>    | Serbs <sup>185</sup> | Civilians <sup>186</sup> | Before 16/8/1995 <sup>187</sup> | Bodies of three women recovered in house in Obijaj. Two died from blunt force head trauma, cause of death of third unascertained. <sup>188</sup> |
| 295 | Milka DIVJAK     | 1935 <sup>183</sup>    |                      |                          |                                 |  |
| 296 | Boja DIVJAK      | 1925 <sup>184</sup>    |                      |                          |                                 |  |
| 297 | Marija ĐUKIĆ     | 1903/09 <sup>189</sup> | Serb <sup>190</sup>  | Civilian <sup>191</sup>  | Before 28/8/1995 <sup>192</sup> | Oraovac:Elderly female, cause of death unknown. <sup>193</sup>   |

<sup>172</sup> P1487 (translation error-see B/C/S);D69(B/C/S),p.21;P729(B/C/S).

<sup>173</sup> P2402,p.140.

<sup>174</sup> P1487;D69,p.21.

<sup>175</sup> P1487.

<sup>176</sup> P1686;Baccard:P2314,p.122;P729(B/C/S);D1314,p.23.

<sup>177</sup> P1488;P2140.

<sup>178</sup> P2140.

<sup>179</sup> P1488;D357,p.2.

<sup>180</sup> P1488.

<sup>181</sup> P1488;P1687;Baccard:P2314,p.78;P2005.

<sup>182</sup> P2141;P669.

<sup>183</sup> P2142;P669.

<sup>184</sup> P2143;P669.

<sup>185</sup> P2141-P2143.

<sup>186</sup> P1489-P1491;D354,p.14.

<sup>187</sup> P1489-P1491;D354,p.14.

<sup>188</sup> P1688-P1690;Baccard:P2314,p.75;P1982;P1489;P669.

<sup>189</sup> P1492;P2144.

| No. | Victim            | Year of Birth       | Ethnicity          | Status                  | Date Killed                     | Description  |
|-----|-------------------|---------------------|--------------------|-------------------------|---------------------------------|--|
| 298 | Stevan SMOLIĆ     | 1930 <sup>194</sup> | Srb <sup>195</sup> | Civilian <sup>196</sup> | 7/8/1995 <sup>197</sup>         | Srb:Civilian killed by at least three gunshots. <sup>198</sup>   |
| 299 | Milan MILOVANOVIĆ | 1947 <sup>199</sup> |                    | Civilian <sup>200</sup> | Before 5/10/1995 <sup>201</sup> | Srb:Decomposed body, died from multiple gunshots. <sup>202</sup> |

<sup>190</sup> P2144.

<sup>191</sup> P1492;D361,p.2-3.

<sup>192</sup> P1492.

<sup>193</sup> P1492;P1691;Baccard:P2314,p.82;P1987;P2005.

<sup>194</sup> P2145;P729(B/C/S).

<sup>195</sup> P2145.

<sup>196</sup> P1493.

<sup>197</sup> P2145.

<sup>198</sup> P1493;P1692;Baccard:P2314,pp.47-48;P729(B/C/S).

<sup>199</sup> P2701.

<sup>200</sup> P1494;D378,p.2.

<sup>201</sup> P1494.

<sup>202</sup> P1494;P1693;Baccard:P2314,pp.111-112;P1993-P1995;P2701.

6. Drniš Municipality<sup>203</sup>

| No. | Victim             | Year of Birth       | Ethnicity           | Status                  | Date Killed             | Description  |
|-----|--------------------|---------------------|---------------------|-------------------------|-------------------------|--|
| 272 | Nikola<br>SUBOTA   | 1945 <sup>204</sup> | Serb <sup>205</sup> | Civilian <sup>206</sup> | 5/8/1995 <sup>207</sup> | Chest gunshot wounds. <sup>208</sup>   |
| 273 | Grozdana<br>ŠEPELJ | 1958 <sup>209</sup> | Serb <sup>210</sup> | Civilian <sup>211</sup> | 5/8/1995 <sup>212</sup> | Women found with wounds from explosives. Croatian pathologist concluded "suicide by hand grenade," which expert described as "far-fetched". <sup>213</sup> |
| 274 | Milka<br>PAVLOVIĆ  |                     | Serb <sup>214</sup> | Civilian                |                         | Burnt in house. <sup>215</sup>   |
| 275 | Milan JOVIĆ        | 1935 <sup>216</sup> | Serb <sup>217</sup> | Civilian <sup>218</sup> | 5/8/1995 <sup>219</sup> | Gunshot wounds. <sup>220</sup>   |

<sup>203</sup> Croatian forces present in Drniš Municipality included: 142HGR, 6HGR, 7GGR, 72<sup>nd</sup>MP; 73<sup>rd</sup>MP; P2417; P2349, pp.2-3; P2559, p.3; P2223, p.5; Džolić: P875, paras.45, 59; P882, p.2; P879, p.3; D567, p.4; D555, p.3; [REDACTED]; P973, pp.6, 11; P71, pp.84, 91, 93; P1183, p.9; P2586, pp.4-5; P2398; P1128, p.1; P881, p.1; D644; P1113, pp., 404-405, 408, ins.629, 644-45; D559, p.7; D990, p.2.

<sup>204</sup> P1518, p.2; D1783, p.5; P2402, p.143; D1631, p.10.

<sup>205</sup> D1783, p.5; P2402, p.143.

<sup>206</sup> P1518; D353, p.2; P2573, p.2; D1631, p.10.

<sup>207</sup> D1783, p.5.

<sup>208</sup> D1783, p.5; D2165; D1631, p.10.

<sup>209</sup> D1783, p.4; D353, p.2.

<sup>210</sup> D1783, p.4-5.

<sup>211</sup> D353, p.2.

<sup>212</sup> D1783, p.5.

<sup>213</sup> D1319; D1783, pp.4-5; Puhovski: T.16080-81; P2402, p.143.

<sup>214</sup> P2402, p.143.

<sup>215</sup> P2402, p.143.

<sup>216</sup> D353, p.2; P2402, p.143.

<sup>217</sup> D1783, p.5; P2402, p.143.

<sup>218</sup> D353, p.2; D1783, p.5.

<sup>219</sup> D1783, p.5.

<sup>220</sup> D1783, p.5.

| No. | Victim                     | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description                                   |
|-----|----------------------------|---------------------|---------------------|-------------------------|------------------------------------|---|
| 276 | Milan<br>RAKIĆ             | 1950 <sup>221</sup> |                     | Civilian <sup>222</sup> | Before<br>28/9/1995 <sup>223</sup> | Decomposing civilian body. <sup>224</sup>     |
| 277 | Nikola<br>(Braco)<br>JOVIĆ | 1941 <sup>225</sup> | Serb <sup>226</sup> | Civilian <sup>227</sup> | 5/8/ 1995 <sup>228</sup>           | Head and chest gunshot wounds. <sup>229</sup> |

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<sup>221</sup> P1477;D69,p.21(B/C/S).

<sup>222</sup> P1477;D69,p.21(B/C/S).

<sup>223</sup> P1477.

<sup>224</sup> P1477.

<sup>225</sup> D2160;D1783,p.3;D1631,p.10.

<sup>226</sup> D1783,p.3;P2402,p.166.

<sup>227</sup> D1783,p.3;P1518,p.1;D353,p.1.

<sup>228</sup> D2160;D1783,p.3.

<sup>229</sup> D2160;D1783,p.3;D1631,p.10.

7. Ervenik Municipality<sup>230</sup>

| No. | Victim              | Year of Birth       | Ethnicity            | Status                  | Date Killed             | Description  |
|-----|---------------------|---------------------|----------------------|-------------------------|-------------------------|--|
| 1   | Stevan MANOJLOVIĆ   | 1940 <sup>231</sup> | Serbs <sup>233</sup> | Military <sup>234</sup> | 6/8/1995 <sup>236</sup> | Mokro Polje: Couple reportedly massacred, burnt; bodies recovered together. <sup>237</sup>   |
| 2   | Ružica MANOJLOVIĆ   | 1937 <sup>232</sup> |                      | Civilian <sup>235</sup> |                         | Autopsy: bodies burnt; wife killed by chest gunshot wounds, death of husband may have been caused by gunshots although that is not certain. <sup>238</sup> |
| 3   | Ružica (Ruža) BABIĆ | 1926 <sup>239</sup> | Serb <sup>240</sup>  | Civilian <sup>241</sup> | 6/8/1995 <sup>242</sup> | Mokro Polje: Elderly woman died from gunshot injuries. <sup>243</sup>  |
| 4   | Stevan SUČEVIĆ      | 1934 <sup>244</sup> | Serb <sup>245</sup>  | Civilian <sup>246</sup> | 8/8/1995 <sup>247</sup> | Died of head gunshot injury; body burned. <sup>248</sup>   |

<sup>230</sup> Croatian forces present in Ervenik Municipality: 4GBR(P2417;P2343,pp.39-41,43;P1183,p.16); I13GBR(P2417;P2343,p.45); I34HGR(P1183,p.16;P1200,p.4;P1113,p.294,fn.593); MP(P71,p.154).

<sup>231</sup> P2025.

<sup>232</sup> P2402,p.151;P2000;P2026.

<sup>233</sup> P2025;P2026;P2402,p.151.

<sup>234</sup> D1242.

<sup>235</sup> P1317;D363,p.2;P2402,p.151.

<sup>236</sup> P2025;P2026;P2402,p.151.

<sup>237</sup> D1242;P1317;D363,p.2;P2402,p.151.

<sup>238</sup> D1242;D1239;Clark:P1251,pp.9,12;D1223,para.5;Clark:T.14268-69;P2700;P1535;P2000.

<sup>239</sup> P659;P2027.

<sup>240</sup> P2027;P2402,p.154.

<sup>241</sup> P1318;D363,p.2;D69,p.16(B/C/S).

<sup>242</sup> P2027;P2402,p.154.

<sup>243</sup> P1318;P1536;Clark:P1251,p.12;D1631,p.1;P659;P247;P133,p.5;D57,p.75;[REDACTED].

<sup>244</sup> P2028.

<sup>245</sup> P2028;P2402,p.154.

<sup>246</sup> P1319;D363,p.2.

| No. | Victim           | Year of Birth       | Ethnicity            | Status                  | Date Killed  | Description   |
|-----|------------------|---------------------|----------------------|-------------------------|--|---|
| 5   | Stana<br>POPOVIĆ | 1926 <sup>249</sup> | Serbs <sup>251</sup> | Civilian <sup>252</sup> | 7/8/1995 <sup>253</sup>                                | Mokro Polje: Soldiers shot dead elderly woman and mentally-ill son. Husband and other son escaped; husband injured. <sup>254</sup>  |
| 6   | Mirko<br>POPOVIĆ | 1953 <sup>250</sup> |                      |                         |  |   |
| 7   | Sava BABIĆ       | 1913 <sup>255</sup> | Serb <sup>256</sup>  | Civilian <sup>257</sup> | Between<br>28/8/1995<br>and<br>4/9/1995 <sup>258</sup> | Mokro Polje: 82-year-old female killed in car outside her house by two gunshots to head several days after she was seen alive. <sup>259</sup> Man charged with murder was acquitted. <sup>260</sup> |
| 8   | Sava ŽEŽELJ      | 1920 <sup>261</sup> | Serb <sup>262</sup>  | Civilian <sup>263</sup> | 6-7/8/1995 <sup>264</sup>                              | Kovačevići: Elderly woman killed. <sup>265</sup>  |

<sup>247</sup> P2028.

<sup>248</sup> P247; P133.p.5; P1319; P1776; P1537; Clark: P1251.p.12; P659; [REDACTED].

<sup>249</sup> Popović: P2692, para. 2; P2402, p. 154; D1631.p.1.

<sup>250</sup> Popović: P2692, para. 2; P2402, p. 154; D1631.p.1.

<sup>251</sup> P2402, p. 154.

<sup>252</sup> D1631, p. 1.

<sup>253</sup> Popović: P2692, paras. 15-30; P2402, p. 154.

<sup>254</sup> Popović: P2692, paras. 15-30; P130, p. 9; P2402, p. 154; D1631, p. 1.

<sup>255</sup> D230; P2402, p. 154; P250.

<sup>256</sup> P2402, p. 154; D9, p. 1.

<sup>257</sup> D1631, p. 1.

<sup>258</sup> Martić: P417, para. 64; Munkelien: P61, paras. 45-46.

<sup>259</sup> Munkelien: P61, paras. 45-46; Munkelien: T. 1526-27; P69; P250; P141; Martić: P417, para. 64; P50, p. 2; P687; [REDACTED].

<sup>260</sup> P2611; Bajčić: T. 20837-38.

<sup>261</sup> P2402, p. 149.

<sup>262</sup> P2402, p. 149.

<sup>263</sup> [REDACTED].

<sup>264</sup> [REDACTED]; P2402, p. 149.

<sup>265</sup> [REDACTED]; P2402, p. 149.

| No. | Victim             | Year of Birth       | Ethnicity           | Status                  | Date Killed                      | Description   |
|-----|--------------------|---------------------|---------------------|-------------------------|----------------------------------|---|
| 9   | Milos BABIĆ        | 1916 <sup>266</sup> |                     | Civilian <sup>267</sup> | Before 21/9/1995 <sup>268</sup>  | Kanaziri:Elderly person's decomposed body found in a hole half filled with water. <sup>269</sup>  |
| 13  | Jeka KANAZIR       | 1928 <sup>270</sup> | Serb <sup>271</sup> | Civilian <sup>272</sup> | Approx. 6/8/1995 <sup>273</sup>  | Victim thrown down well, body recovered with blindfolds and possibly ligatures on 22-Sep-95. Cause of death unascertained. <sup>274</sup> |
| 14  | Obrad TRIVIĆ       | 1941 <sup>275</sup> |                     | Civilian <sup>276</sup> | Approx. 26/8/1955 <sup>277</sup> | Mokro Polje:Skeleton of mentally-disabled man shot in head. <sup>278</sup>  |
| 15  | Jovan(Jovo) MRDALJ | 1917 <sup>279</sup> | Serb <sup>280</sup> | Civilian <sup>281</sup> | Before 20/9/1995 <sup>282</sup>  | Elderly man, decomposing body, cause of death unascertained. <sup>283</sup>   |

<sup>266</sup> [REDACTED].

<sup>267</sup> [REDACTED].

<sup>268</sup> [REDACTED].

<sup>269</sup> [REDACTED].

<sup>270</sup> [REDACTED].

<sup>271</sup> P2030.

<sup>272</sup> D1233;D375,p.2;[REDACTED].

<sup>273</sup> [REDACTED].

<sup>274</sup> D1233;[REDACTED];D1232;Clark:P1251,p.13;Clark:T.14223-30;P2002;P2402,p.154.

<sup>275</sup> P1322.

<sup>276</sup> P1322;[REDACTED].

<sup>277</sup> P1322;P157,p.4.

<sup>278</sup> P1322;P157,p.4;[REDACTED].

<sup>279</sup> P1323;P2031.

<sup>280</sup> P2031.

<sup>281</sup> P1323;D375,p.2.

<sup>282</sup> P1323.

<sup>283</sup> P1323;P1540;Clark:P1251,p.13;P659.

| No. | Victim              | Year of Birth       | Ethnicity           | Status                  | Date Killed                     | Description  |
|-----|---------------------|---------------------|---------------------|-------------------------|---------------------------------|--|
| 16  | Bogdan KOVAČEVIĆ    | 1908 <sup>284</sup> | Serb <sup>285</sup> | Civilian <sup>286</sup> | Before 15/9/1995 <sup>287</sup> | Žeželji:victim disappeared after Storm, body found on 15-Sep-95. Autopsy:cause of death unascertained but knife wound to head and similar fatal injuries cannot be excluded. <sup>288</sup>  |
| 17  | Stevo VUJNOVIĆ      | 1939 <sup>289</sup> | Serb <sup>290</sup> | Civilian <sup>291</sup> | Before 21/8/1995 <sup>292</sup> | Several days after soldiers killed his mother (SK#9), Jovan Vujinović found victim's body face down in pool of blood in his yard in Oton, wearing only underwear. <sup>293</sup> Body collected on 15-Sep-95, cause of death unascertained. <sup>294</sup> |
| 18  | Đurdija ŽUNIĆ-SUDAR | 1910 <sup>295</sup> | Serb <sup>296</sup> | Civilian <sup>297</sup> | 19/8/1995 <sup>298</sup>        | Decomposed body collected on 18-Sep-95 in a well in Oton; cause of death unascertained. <sup>299</sup>   |
| 19  | Ilija SUDAR         | 1922 <sup>300</sup> | Serb <sup>301</sup> | Civilian <sup>302</sup> | 18/8/1995 <sup>303</sup>        | Oton:Gunshot wounds. <sup>304</sup>  |

<sup>284</sup> P2003(B/C/S);P2402,p.149.

<sup>285</sup> P2402,p.149.

<sup>286</sup> P1324;D1631,p.1.

<sup>287</sup> P1324.

<sup>288</sup> P1324;P1541;Clark:P1251,p.13;D1223,para.7;P1256,p.12;P2003.

<sup>289</sup> P2402,p.155;Vujinović:P413,para.1.

<sup>290</sup> P2032;P2402,p.155

<sup>291</sup> Vujinović:T.4558;[REDACTED].

<sup>292</sup> Vujinović:P413,para.3.

<sup>293</sup> Vujinović:P413,paras.3-5;P412,p.3;P234;[REDACTED];P2402,p.155.

<sup>294</sup> P1325;P1542;Clark:P1251,p.13;P2004.

<sup>295</sup> P1326;P2033;P234;[REDACTED].

<sup>296</sup> P2033.

<sup>297</sup> P1326;[REDACTED].

<sup>298</sup> P2033.

<sup>299</sup> P234;[REDACTED];P1326;P1543;Clark:P1251,p.13;P659,p.4.

<sup>300</sup> D179,p.4;D1631,p.1.

| No. | Victim       | Year of Birth                    | Ethnicity           | Status                  | Date Killed                     | Description  |
|-----|--------------|----------------------------------|---------------------|-------------------------|---------------------------------|--|
| 20  | Branko SUDAR | 1937 <sup>305</sup>              | Serb <sup>306</sup> | Civilian <sup>307</sup> | Before 24/8/1995 <sup>308</sup> | Oton: Killed in his yard, possibly struck by gun. <sup>309</sup> |
| 21  | Anica BABIĆ  | Approx. 1915-1925 <sup>310</sup> |                     | Civilian <sup>311</sup> | 6/8/1995 <sup>312</sup>         | Mokro Polje: Found dead in well. <sup>313</sup>                  |

<sup>301</sup> P2402,p.155.

<sup>302</sup> [REDACTED];D1631,p.1.

<sup>303</sup> P2402,p.155;[REDACTED].

<sup>304</sup> D1631,p.1;P234;[REDACTED];P2402,p.155.

<sup>305</sup> D179,p.4;P2402,p.155.

<sup>306</sup> P2402,p.155.

<sup>307</sup> P688,p.6.

<sup>308</sup> P234.

<sup>309</sup> P2402,p.155.

<sup>310</sup> [REDACTED].

<sup>311</sup> [REDACTED].

<sup>312</sup> [REDACTED].

<sup>313</sup> [REDACTED].

8. Gračac Municipality<sup>314</sup>

| No.   | Victim                  | Year of Birth       | Ethnicity            | Status  | Date Killed                    | Description  |
|-------|-------------------------|---------------------|----------------------|---|--------------------------------|--|
| 22    | Dušan BRKIĆ             | 1926 <sup>315</sup> | Serb <sup>316</sup>  | Civilian <sup>317</sup><br>or Soldier<br><i>hors de combat</i> <sup>318</sup> | 7-8/8/1995 <sup>319</sup>      | Soldier told neighbour that he killed victim. Neighbour found body with bullet mark. <sup>320</sup> Body burned by soldiers. Victim wore military uniform, but unarmed. <sup>321</sup> Autopsy: likely died of explosive injuries, although anthropologist found one injury more likely to be from multiple gunshot wounds. <sup>322</sup> |
| 23-24 | Two Unidentified bodies |                     |                      | Civilian <sup>323</sup>   | Around 5/8/1995 <sup>324</sup> | Two civilian bodies observed on Otrić road. <sup>325</sup>   |
| 25    | Vlado MILANOVIĆ         | 1945 <sup>326</sup> | Serbs <sup>328</sup> | N/A   | 8-10/8/1995 <sup>330</sup>     | Killed by soldiers after Storm. Ivica Petrić-15HGR-convicted of Đuro Čanak's murder; no further information about Vlado Milanović. <sup>331</sup>  |
| 26    | Đuro ČANAK              | 1915 <sup>327</sup> |                      | Civilian <sup>329</sup>   |                                |  |

<sup>314</sup> SP liberated Gračac Town on 5-Aug-95 and set up their HQ there for Indictment period. P614, pp.8-9; P2385, pp.6-7; P2384, p.2; Pavlović; T.25293-94.

<sup>315</sup> P1327; P2034.

<sup>316</sup> P2034; P789; P2402, p.146.

<sup>317</sup> P1327; D382, p.17.

<sup>318</sup> P789.

<sup>319</sup> P789; D1314, p.18.

<sup>320</sup> Brkić; P2506, p.4.

<sup>321</sup> P789; Malm; T.8190:201; D1314, p.18.

<sup>322</sup> P1544; Baccard; P2314, pp.116-17; P1779-P1780; D1314, p.18; P669.

<sup>323</sup> [REDACTED].

<sup>324</sup> D391, p.3; P68, p.3.

<sup>325</sup> D391, p.3; P31, p.1; P114, p.2; [REDACTED].

<sup>326</sup> P252; D1314, p.20.

<sup>327</sup> D69, p.18(B/C/S); P2582, p.3; D1631, p.1.

| No. | Victim            | Year of Birth       | Ethnicity            | Status                   | Date Killed                     | Description   |
|-----|-------------------|---------------------|----------------------|--------------------------|---------------------------------|---|
| 27  | Milan MARČEVIĆ    | 1948 <sup>332</sup> | Serbs <sup>334</sup> | Civilians <sup>335</sup> | 29/9/1995 <sup>336</sup>        | Killed by soldiers, seen alive several days earlier. Soldiers dragged one from house, shot approx. 10 minutes later. The other was found dead after soldiers arrived and asked other villagers for their Croatian documents. <sup>337</sup> |
| 28  | Dušan ŠUIZA       | 1927 <sup>333</sup> |                      |                          |                                 |   |
| 29  | NN (decomposed)   |                     |                      | Civilian <sup>338</sup>  | Before 25/8/1995 <sup>339</sup> | Sovilji:Decomposed body found burned; maybe one of the victims identified by Mile Sovilj. <sup>340</sup>  |
| 30  | Gojko KOMAZEC     | 1938 <sup>341</sup> | Serb <sup>342</sup>  | Civilian <sup>343</sup>  | 6/8/1995 <sup>344</sup>         | Zrmanja:Decomposed body of civilian found in September (collected by authorities in Mar-96). 3 bullet marks in stomach. <sup>345</sup>  |
| 31  | Unidentified body |                     |                      | Civilian <sup>346</sup>  | Before 8/9/1995 <sup>347</sup>  | Decomposed body, civilian clothes, first observed on 8-Aug-95; pictures taken in Oct-95. <sup>348</sup>   |

<sup>328</sup> P252;D1314,p.20.

<sup>329</sup> D69,p.18(B/C/S);D366,p.2.

<sup>330</sup> P252;D1314,p.20;P2582,p.3;see P1076.

<sup>331</sup> D1314,p.20;D1631,pp.1-2;P2582,p.3;D1544.

<sup>332</sup> D390;P1106,p.2;D1631,p.2.

<sup>333</sup> D390;P1106;D1631,p.2.

<sup>334</sup> D390.

<sup>335</sup> D1631,p.2;Martii:P415,p.3.

<sup>336</sup> P1106;D390.

<sup>337</sup> Martii:P415,pp.2-3;P417,paras.11-12;Martii:T.4627-29;Mauro:P1098,p.7;P1099,p.8;P425,p.3;P1106,p.2;D1631,p.2.

<sup>338</sup> [REDACTED].

<sup>339</sup> D179,p.4;[REDACTED].

<sup>340</sup> Sovilj:P86,para.11;[REDACTED];D179,p.4.

<sup>341</sup> P1328;P251;[REDACTED].

<sup>342</sup> P2402,p.147.

<sup>343</sup> P1328;D69,p.23(B/C/S).

<sup>344</sup> D1314,p.21.

<sup>345</sup> P251;[REDACTED];D1314,p.21;p2402,p.147.

| No.   | Victim                  | Year of Birth       | Ethnicity           | Status                   | Date Killed                     | Description  |
|-------|-------------------------|---------------------|---------------------|--------------------------|---------------------------------|--|
| 32-33 | Two unidentified bodies |                     |                     | Civilian <sup>349</sup>  | Before 25/9/1995 <sup>350</sup> | Two very decomposed bodies found in Zrmanja, one with 3 gunshot wounds visible. <sup>351</sup>                                 |
| 34    | NN (ID No. 90)          |                     |                     | Civilians <sup>356</sup> | Before 7/8/1995 <sup>357</sup>  | Four civilian bodies recovered on Gračac-Udbina road <sup>358</sup> on 7-Aug-95. One with apparent head injury. <sup>359</sup> |
| 35    | Nikola DRAGOSAVAC       | 1942 <sup>352</sup> | Serb <sup>354</sup> |                          |                                 |  |
| 36    | NN (ID No. 100)         |                     |                     |                          |                                 |  |
| 37    | Dušan GRAOVAC           | 1928 <sup>353</sup> | Serb <sup>355</sup> |                          |                                 |  |
| 38    | NN (ID No. 117)         |                     |                     | Civilians <sup>362</sup> | Before 7/8/1995 <sup>363</sup>  | Gračac:Four civilian bodies recovered on 7-Aug-95. <sup>364</sup>  |
| 39    | NN (ID No. 118)         |                     |                     |                          |                                 |  |

<sup>346</sup> P700,pp.33-34.

<sup>347</sup> [REDACTED].

<sup>348</sup> [REDACTED];P700,pp.33-34.

<sup>349</sup> [REDACTED].

<sup>350</sup> P795;[REDACTED].

<sup>351</sup> P795;[REDACTED].

<sup>352</sup> P1330;P2402,p.144.

<sup>353</sup> P1332.

<sup>354</sup> P2402,p.144.

<sup>355</sup> P2402,p.144.

<sup>356</sup> D348,p.3;P2572,p.8.

<sup>357</sup> P1329-P1332.

<sup>358</sup> Gračac-Udbina road was an axis the SP took.P614,p.10;P1236,p.4;P1240,p.5.

<sup>359</sup> P1329-P1332.

| No. | Victim          | Year of Birth       | Ethnicity           | Status                  | Date Killed                     | Description  |
|-----|-----------------|---------------------|---------------------|-------------------------|---------------------------------|--|
| 40  | Stevan ĐEKIĆ    | 1922 <sup>360</sup> | Serb <sup>361</sup> |                         |                                 |  |
| 41  | NN (ID No. 138) |                     |                     |                         |                                 |  |
| 42  | Milica TOJAGIĆ  | 1913 <sup>365</sup> | Serb <sup>366</sup> | Civilian <sup>367</sup> | Before 8/8/1995 <sup>368</sup>  | Gračac:Elderly female died from blunt force trauma to head. <sup>369</sup>             |
| 48  | Danica SOVILJ   | 1931 <sup>370</sup> | Serb <sup>371</sup> | Civilian <sup>372</sup> | Before 24/8/1995 <sup>373</sup> | Kijani: Female who stayed behind killed by gunshot according to expert. <sup>374</sup> |
| 49  | NN (ID No. 333) |                     |                     | Civilian <sup>375</sup> | Before 24/8/1995 <sup>376</sup> | Deringaj: <sup>377</sup> Female killed by explosive injuries. <sup>378</sup>           |

<sup>360</sup> P1335.

<sup>361</sup> P2402,p.145.

<sup>362</sup> D348,p.3.

<sup>363</sup> P1333-P1336.

<sup>364</sup> P1333-P1336;D348,p.3.

<sup>365</sup> P1337.

<sup>366</sup> P2402,p.145.

<sup>367</sup> P1337.

<sup>368</sup> P1337.

<sup>369</sup> P1337;P1545;Baccard:P2314,pp.42-43;P1781.

<sup>370</sup> P2038.

<sup>371</sup> P2038.

<sup>372</sup> P1342;D358,p.2.

<sup>373</sup> P1342.

<sup>374</sup> P1342;P1548;Baccard:P2314,p.80;P1788;P90;Sovilj;P86,para.10.

<sup>375</sup> P1343;D358,p.2.

<sup>376</sup> P1343.

<sup>377</sup> Deringaj is on axis taken by SP units from Gračac to Bruvno.P614,p.10;P1247,p.85.

<sup>378</sup> P1343;P1549;Baccard:P2314,p.81.

| No. | Victim               | Year of Birth                | Ethnicity                          | Status                  | Date Killed  | Description  |
|-----|----------------------|------------------------------|------------------------------------|-------------------------|--|--|
| 50  | Jovan KONTIĆ         | 1914 <sup>379</sup>          | Croat<br>(Orthodox) <sup>380</sup> | Civilian <sup>381</sup> | Before<br>1/9/1995,<br>probably 4-<br>10/8/1995 <sup>382</sup> | Kontići:Elderly civilian killed by head gunshot injury. <sup>383</sup>   |
| 51  | NN (ID No. 348)      | 1915-<br>1935 <sup>384</sup> |                                    | Civilian <sup>385</sup> | Before<br>2/9/1995 <sup>386</sup>                              | Gračac-Tiljak:Elderly man, cause of death<br>unascertained. <sup>387</sup>   |
| 52  | Milka<br>VESELINOVIĆ | 1960 <sup>388</sup>          | Serb <sup>389</sup>                | Civilian <sup>390</sup> | Before<br>9/8/1995 <sup>391</sup>                              | Štikada:Woman killed. <sup>392</sup> Authorities dismissed<br>investigation because finding of blast injury, but expert<br>found gunshot wound from high velocity projectile more<br>probable cause of death. <sup>393</sup> |

<sup>379</sup> P1344;P2039.

<sup>380</sup> P2039.

<sup>381</sup> D69,p.16(B/C/S);P1344.

<sup>382</sup> P1344;D1314,p.13.

<sup>383</sup> P1344;P1550;Baccard:P2314,p.91;P2005;D1314,p.13.

<sup>384</sup> P1551.

<sup>385</sup> P1345;D364,p.2.

<sup>386</sup> P1345.

<sup>387</sup> P1345;P1551;Baccard:P2314,p.91.

<sup>388</sup> P2040;D1631,p.2.

<sup>389</sup> P2040.

<sup>390</sup> P1346;D351,p.5;P1631,p.2.

<sup>391</sup> D351;P2040.

<sup>392</sup> LATJ transferred to the area on 6-Aug-95.P606,p.5.

<sup>393</sup> P1346;P1552;Baccard:P2314,pp.40-42;P1794;P2006;D1631,p.2.

| No. | Victim  | Year of Birth       | Ethnicity           | Status   | Date Killed                     | Description   |
|-----|---|---------------------|---------------------|--|---------------------------------|---|
| 53  | Vlade JELAČA  | 1948 <sup>394</sup> |                     | Civilian or soldier <i>hors de combat</i> <sup>395</sup> | Before 10/8/1995 <sup>396</sup> | Gračac-Otrčić road. <sup>397</sup> Killed from head gunshot injury. <sup>398</sup>  |
| 54  | NN (ID No. 354)   |                     |                     | Civilian or soldier <i>hors de combat</i> <sup>399</sup> | Before 10/8/1995 <sup>400</sup> | Gračac-Otrčić road. <sup>401</sup> Killed by several gunshots, one to skull. <sup>402</sup>   |
| 55  | Slavko KALANJ   | 1933 <sup>403</sup> | Serb <sup>404</sup> | Civilian <sup>405</sup>                                  | 10/8/1995 <sup>406</sup>        | Gračac-Otrčić road. <sup>407</sup> Although cause of death is unknown possibility of victim having sustained gunshots. <sup>408</sup> |
| 57  | NN (ID No. 365)(originally identified as Ilija VESELINović) |                     |                     | Civilian <sup>409</sup>                                  | Before 10/8/1995 <sup>410</sup> | Gračac-Otrčić road. <sup>411</sup> Civilian wrongly identified initially based on identification papers found on him. <sup>412</sup>  |

<sup>394</sup> P2007.

<sup>395</sup> D352,p.2;P1347;P1553.

<sup>396</sup> D352,p.2;P1347.

<sup>397</sup> Special Police axis of attack.P614,pp.10-11;P552,para.34;P2384,p.2;P2343,p.42;P2531,p.6.

<sup>398</sup> D352,p.2;P1553;Baccard:P2314,pp.39-40;P2007.

<sup>399</sup> D352,p.2;Baccard:P2314,pp.32-33.

<sup>400</sup> D352,p.2;P1348.

<sup>401</sup> SP axis of attack.P614,pp.10-11;P552,para.34;P2384,p.2;P2343,p.42;P2531,p.6.

<sup>402</sup> P1348;P1554;Baccard:P2314,pp.32-33.

<sup>403</sup> P2007;P2041.

<sup>404</sup> P2041.

<sup>405</sup> P1349.

<sup>406</sup> P2041;D1314,pp.3-4.

<sup>407</sup> SP axis of attack.P614,pp.10-11;P552,para.34;P2384,p.2;P2343,p.42;P2531,p.6.

<sup>408</sup> P1349 ; P1555;Baccard:P2314,p.34;Photos:P1797;P1798;P2007.

| No. | Victim                    | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description  |
|-----|---------------------------|---------------------|---------------------|-------------------------|------------------------------------|--|
| 58  | NN (ID No. 366)           |                     |                     | Civilian <sup>413</sup> | Before<br>17/8/1995 <sup>414</sup> | Gračac:Decomposed body, cause of death unknown. <sup>415</sup>               |
| 59  | NN (ID No. 367)           |                     |                     | Civilian <sup>416</sup> | Before<br>17/8/1995 <sup>417</sup> | Velika Popina:Decomposed female body, cause of death unknown. <sup>418</sup> |
| 60  | Jovan PRLINA              | 1904 <sup>419</sup> | Serb <sup>420</sup> | Civilian <sup>421</sup> | 5/8/1995 <sup>422</sup>            | Grab:Elderly man killed by gunshot injuries. <sup>423</sup>                  |
| 61  | Georgije (Đuro)<br>MANDIC | 1915 <sup>424</sup> | Serb <sup>425</sup> | Civilian <sup>426</sup> | Around<br>20/8/1995 <sup>427</sup> | Tomingaj:Elderly civilian killed in backyard. <sup>428</sup>                 |

<sup>409</sup> P1351.

<sup>410</sup> P1351.

<sup>411</sup> SP axis of attack.P614,pp.10-11;P552,para.34;P2384,p.2;P2343,p.42;P2531,p.6.

<sup>412</sup> P1351;P2402,p.146;D1314,pp.5-6;Puhovski:T.16062-65.

<sup>413</sup> D355,p.2;D69,p.11(B/C/S).

<sup>414</sup> P1556,pp.14-15;D355.

<sup>415</sup> P1556;Baccard:P2314,p.66.

<sup>416</sup> P1353;D355,p.2.

<sup>417</sup> P1353.

<sup>418</sup> P1353;P1557;P2314,p.66.

<sup>419</sup> P1354;P2042;P729(B/C/S).

<sup>420</sup> P2042.

<sup>421</sup> P1354.

<sup>422</sup> P2042.

<sup>423</sup> P1354;P1558;Baccard:P2314,pp.60-61;P1803;P1804;P729(B/C/S).

<sup>424</sup> P1355.

<sup>425</sup> P2402,p.147.

<sup>426</sup> P1355.

<sup>427</sup> D1314,p.20;P2402,p.147.

<sup>428</sup> P1355;D1314,p.20;P2402,p.147.

| No. | Victim                 | Year of Birth       | Ethnicity            | Status                   | Date Killed                     | Description   |
|-----|------------------------|---------------------|----------------------|--------------------------|---------------------------------|---|
| 62  | Mira SOVILJ            | 1950 <sup>429</sup> | Serbs <sup>431</sup> | Civilians <sup>432</sup> | 4-31/08/1995 <sup>433</sup>     | Gormi Kijani: Two civilians who stayed behind were killed. Suspected soldier Rajko KRIČKOVIC. <sup>434</sup> Victims killed by gunshots to face/head; one body showed burns. <sup>435</sup> |
| 63  | Braco (Radomir) SOVILJ | 1952 <sup>430</sup> |                      |                          |                                 |   |
| 64  | Đuro DRONJAK           | 1947 <sup>436</sup> | Serb <sup>437</sup>  | Civilian <sup>438</sup>  | 10/8/1995 <sup>439</sup>        | Deringaj: <sup>440</sup> Pieces of bones (without skull) found, cause of death unknown. <sup>441</sup>  |
| 65  | Darinka SEKULIĆ        |                     |                      | Civilian <sup>442</sup>  | Before 12/9/1995 <sup>443</sup> | Štikada: <sup>444</sup> Female, cause of death unascertained. <sup>445</sup>  |
| 66  | Mirko ČANAK            | 1930 <sup>446</sup> |                      | Civilian <sup>447</sup>  | Aug-1995 <sup>448</sup>         | Zrmanja: Killed by gunshot or explosive. <sup>449</sup>   |

<sup>429</sup> P1356;D1631,p.2.

<sup>430</sup> D1631,p.2.

<sup>431</sup> P2402,p.146.

<sup>432</sup> P1356;P1357;D366,p.2 ;D1631,p.2.

<sup>433</sup> D133;Sovilj;P86,p.3.

<sup>434</sup> D133.

<sup>435</sup> Sovilj;P86,p.3;P1356;P1357;Baccard:P2314,pp.98-99;P1559.

<sup>436</sup> P2043;P673.

<sup>437</sup> P2043.

<sup>438</sup> P1358;D366,p.2.

<sup>439</sup> P2043.

<sup>440</sup> Deringaj is an axis SP units took from Gračac to Bruvno.P614,p.10.

<sup>441</sup> P1358;P1560;Baccard:P2043,p.99;P673.

<sup>442</sup> P1359;D369,p.2.

<sup>443</sup> P1359.

<sup>444</sup> LATJ transferred to the area on 6-Aug-95. P606,p.5.

<sup>445</sup> P1359;P1561;Baccard:P2314,p.104.

<sup>446</sup> P1360.

<sup>447</sup> P1360;D370,p.2;D1631,p.2.

<sup>448</sup> P2568,p.3.

<sup>449</sup> P1360;P1562;Baccard:P2314,p.115;P1815;P729(B/C/S).

| No. | Victim                 | Year of Birth       | Ethnicity            | Status                   | Date Killed                     | Description  |
|-----|------------------------|---------------------|----------------------|--------------------------|---------------------------------|--|
| 67  | Nikola GRUBIŠIĆ        | 1908 <sup>450</sup> | Serbs <sup>452</sup> | Civilians <sup>453</sup> | Before 8/9/1995 <sup>454</sup>  | Cerovac:Elderly civilians, one male, one female. One killed by blunt force trauma to head (possibly weapon's butt); second victim's cause of death unascertained. <sup>455</sup> |
| 68  | Mara (Marija) GRUBIŠIĆ | 1913 <sup>451</sup> |                      |                          |                                 |  |
| 69  | Slava ČIĆA             | 1920 <sup>456</sup> | Serb <sup>457</sup>  | Civilian <sup>458</sup>  | 5/8/1995 <sup>459</sup>         | Grab:Injuries consistent with explosion and gunshots. <sup>460</sup>   |
| 70  | NN (ID No. 619)        |                     |                      | Civilian <sup>461</sup>  | Before 22/9/1995 <sup>462</sup> | Bruvno:Decomposed body, cause of death unascertained (possibly explosives injuries). <sup>463</sup>  |
| 71  | NN (ID No. 620)        |                     |                      | Civilians <sup>464</sup> | Before 25/9/1995 <sup>465</sup> | Zrmanja:Killed by gunshot injuries, one to the head and the other by at least five gunshots. <sup>466</sup>  |
| 72  | NN (ID No. 621)        |                     |                      |                          |                                 |  |

<sup>450</sup> P1361;P2044.

<sup>451</sup> P2045.

<sup>452</sup> P2044;P2045.

<sup>453</sup> P1361;P1362;D366,p.2.

<sup>454</sup> P1361;P1362.

<sup>455</sup> P1361;P1362;P1563;P1564;Baccard:P2314,pp.97-98;P1818;P2005.

<sup>456</sup> P2046;P729(B/C/S).

<sup>457</sup> P2046.

<sup>458</sup> P1363;D382,p.19.

<sup>459</sup> P2046.

<sup>460</sup> P1363;P1565;Baccard:P2314,p.61;P729(B/C/S).

<sup>461</sup> P1364;D375,p.2.

<sup>462</sup> P1364.

<sup>463</sup> P1364;P1566;Baccard:P2314,p.120.

<sup>464</sup> P1365;P1366;D69,pp.20-21(B/C/S).

<sup>465</sup> P1365;P1366.

<sup>466</sup> P1365;P1366;P1567;P1568;Baccard:P2314,pp.120-122;P1827.

| No. | Victim              | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description   |
|-----|---------------------|---------------------|---------------------|-------------------------|------------------------------------|---|
| 73  | NN (ID No. 625)     |                     |                     | Civilian <sup>467</sup> | Before<br>27/9/1995 <sup>468</sup> | Otuća:Female killed by close range gunshots. <sup>469</sup>   |
| 74  | Anka SURLA          | 1946 <sup>470</sup> | Serb <sup>471</sup> | Civilian <sup>472</sup> | 5/8/1995 <sup>473</sup>            | Gornji Kijani:Female killed by gunshot/explosive injuries, (injuries more consistent with gunshots). <sup>474</sup> |
| 75  | Milica JELAČA       | 1925 <sup>475</sup> | Serb <sup>476</sup> | Civilian                | 5/8/1995 <sup>477</sup>            | Kijani:Elderly female died from head injury, consistent with gunshot. <sup>478</sup>                                |
| 76  | Slavko<br>STARČEVIĆ | 1935 <sup>479</sup> | Serb <sup>480</sup> | Civilian <sup>481</sup> | 5/8/1995 <sup>482</sup>            | Killed from chest gunshot injuries. <sup>483</sup>  |
| 77  | Marija<br>MILANKO   | 1963 <sup>484</sup> |                     | Civilian <sup>485</sup> | Before<br>8/8/1995 <sup>486</sup>  | Gračac:Female body recovered. <sup>487</sup>  |

<sup>467</sup> D69,p.21(B/C/S);P1367.

<sup>468</sup> P1367.

<sup>469</sup> P1367;P1569;Baccard:P2314,pp.112-114;P1831.

<sup>470</sup> P2004;P2047.

<sup>471</sup> P2047.

<sup>472</sup> D369,p.2;P1368.

<sup>473</sup> P2047.

<sup>474</sup> P1368;P1570;Baccard:P2314,pp.108-109;P2004.

<sup>475</sup> P2048;P2004.

<sup>476</sup> P2048;P2402,p.145.

<sup>477</sup> P2048.

<sup>478</sup> P1369;P1571;Baccard:P2314,pp.106-107;Sovijl:P87,para.12;P2004.

<sup>479</sup> P1370;P2049(B/C/S).

<sup>480</sup> P2049(B/C/S).

<sup>481</sup> D69,p.22(B/C/S);P1370.

<sup>482</sup> P2049.

<sup>483</sup> P1370;P1572;Clark:P1251,p.13;P90.

<sup>484</sup> P1517,p.2.

<sup>485</sup> P1517,p.2.

<sup>486</sup> P1517,p.2.

| No. | Victim            | Year of Birth | Ethnicity | Status                  | Date Killed                        | Description  |
|-----|-------------------|---------------|-----------|-------------------------|------------------------------------|--|
| 78  | NN (ID No. 751)   |               |           | Civilian <sup>488</sup> | Before<br>8/8/1995 <sup>489</sup>  | Osredci:Female died from head injury, likely from gunshot from the right rather than explosion. <sup>490</sup> |
| 79  | Unidentified body |               |           | Civilian <sup>491</sup> | Before<br>19/8/1995 <sup>492</sup> | Ivanči:Elderly female, two bullet wounds. <sup>493</sup>   |
| 80  | Unidentified body |               |           | Civilian <sup>494</sup> | Before<br>25/8/1995 <sup>495</sup> | Sovilji hamlet: Burned body. <sup>496</sup>  |

**Bruvno and Mazin**<sup>497</sup>

|    |                  |  |      |                         |                                    |                       |
|----|------------------|--|------|-------------------------|------------------------------------|-----------------------|
| 43 | Ilija<br>KRTINIĆ |  | Serb | Civilian <sup>498</sup> | Before<br>10/8/1995 <sup>499</sup> | Mazin. <sup>500</sup> |
|----|------------------|--|------|-------------------------|------------------------------------|-----------------------|

<sup>487</sup> P1517,p.2.

<sup>488</sup> D69,p.22(B/C/S).

<sup>489</sup> P1517.

<sup>490</sup> D69,p.22(B/C/S);P1573;Baccard;P2314,p.97.

<sup>491</sup> P123,p.5;[REDACTED].

<sup>492</sup> P123,p.5.

<sup>493</sup> P123,p.5;P700,pp.11-12;P10;[REDACTED].

<sup>494</sup> [REDACTED].

<sup>495</sup> [REDACTED].

<sup>496</sup> D179,p.4;[REDACTED].

<sup>497</sup> SP liberated Bruvno on 6-Aug-95 and Mazin on 7-Aug-95;Markač was present.P614, pp. 10, 12;P1149,para.33;P1236,p.4;P2531,p.6;P606,p.6;P1247,p.85.

<sup>498</sup> P1338.

<sup>499</sup> P1338.

<sup>500</sup> P1338.

|    |               |                     |                     |                         |                                 |   |
|----|---------------|---------------------|---------------------|-------------------------|---------------------------------|---|
| 44 | Vlade SOVILJ  | 1931 <sup>501</sup> | Serb <sup>502</sup> | Civilian <sup>503</sup> | 8/8/1995 <sup>504</sup>         | Bruvno: Victim stayed after hearing Tudman's say nothing would happen to Serbs who stayed. Son identified his body. <sup>505</sup> Died of at least four gunshots. <sup>506</sup> |
| 45 | Đuro KONČAR   | 1935 <sup>507</sup> | Serb <sup>508</sup> | Civilian <sup>509</sup> | Before 12/8/1995 <sup>510</sup> | Mazin. <sup>511</sup>   |
| 46 | Jela ZORIĆ    | 1920 <sup>512</sup> | Serb <sup>513</sup> | Civilian <sup>514</sup> | 7/8/1995 <sup>515</sup>         | Mazin:Elderly female killed by blast injuries, severely burnt. <sup>516</sup>   |
| 47 | Nikola KONČAR | 1928 <sup>517</sup> | Serb <sup>518</sup> | Civilian <sup>519</sup> | Before 12/8/1995 <sup>520</sup> | Mazin:Killed by a gunshot. <sup>521</sup>   |

<sup>501</sup> Sovilj;P86,para.10.

<sup>502</sup> P89.

<sup>503</sup> P1339.

<sup>504</sup> P89.

<sup>505</sup> Sovilj;P86,paras.9-10;P87,paras.10-11;D134,para.10;Sovilj:T.2220-26;P92.

<sup>506</sup> P1339;p90;p91;Baccard:P2314,pp.67-68;P1783;P1784.

<sup>507</sup> P1340.

<sup>508</sup> P2402,p.146.

<sup>509</sup> P1340;D354,p.10;P2572,p.17.

<sup>510</sup> P1340.

<sup>511</sup> P1340;P2572,p.17;P2402,p.146;P614 p.12;P1149,para 33;P606 p.6

<sup>512</sup> P2036;P729(B/C/S).

<sup>513</sup> P2036.

<sup>514</sup> D354,p.10.

<sup>515</sup> P2036.

<sup>516</sup> P1546;Baccard;P2314,p.69;P729(B/C/S);P614 p.12;P1149,para 33;P606 p.6.

<sup>517</sup> P2037;P729(B/C/S).

<sup>518</sup> P2037.

<sup>519</sup> P1341;D354,p.11.

<sup>520</sup> P1341;P2037.

<sup>521</sup> P1341;P729(B/C/S);P1547;Baccard;P2314,p.68.

9. Kistanje Municipality<sup>522</sup>

| No. | Victim         | Year of Birth            | Ethnicity           | Status                  | Date Killed                     | Description  |
|-----|----------------|--------------------------|---------------------|-------------------------|---------------------------------|--|
| 81  | Joka MAŽIBRADA | 1907 <sup>523</sup>      | Serb <sup>524</sup> | Civilian <sup>525</sup> | 7/8/1995 <sup>526</sup>         | Elderly woman shot dead. <sup>527</sup>                              |
| 84  | Vojin ŠARIĆ    | 1911 <sup>528</sup>      | Serb <sup>529</sup> | Civilian <sup>530</sup> | 18-24/09/1995 <sup>531</sup>    | Kakanj:Elderly male found in well, killed by gunshot. <sup>532</sup> |
| 85  | Unidentified   | 1915-1925 <sup>533</sup> |                     | Civilian <sup>534</sup> | Before 26/8/1995 <sup>535</sup> | Zečevo:Decayed female corpse found by roadside. <sup>536</sup>       |
| 86  | Milka KOROLJA  | 1907 <sup>537</sup>      | Serb <sup>538</sup> | Civilian <sup>539</sup> | 9/9/1995 <sup>540</sup>         | Ivoševci:Elderly woman shot dead in kitchen. <sup>541</sup>          |

<sup>522</sup> Croatian forces in Kistanje Municipality included 15HGR, 113 Infantry Battalion, 134HGR.

<sup>523</sup> P1372,p.1;D69,p.15(B/C/S);P659,p.2;P2050,p.1(B/C/S);D1631,p.2.

<sup>524</sup>P2050,p.1(B/C/S);P2402,p.152.

<sup>525</sup> P1372,p.1;D1631,p.2.

<sup>526</sup> D568,p.42.

<sup>527</sup> P2402,p.152;D1631,p.2;P1372;P1574;Clark:P1251,p.12;P659,p.2;P1839.

<sup>528</sup> D875,p.2;P273;[REDACTED];D1631,p.3.

<sup>529</sup> P2402,p.152.

<sup>530</sup> [REDACTED];D1631,p.3.

<sup>531</sup> D875;P2500,p.24.

<sup>532</sup> P273;D740,p.19;D875;[REDACTED];P2402,p.152;D1631,p.3.

<sup>533</sup> P238.

<sup>534</sup> P238;[REDACTED].

<sup>535</sup> P238;[REDACTED].

<sup>536</sup> P238;[REDACTED].

<sup>537</sup> D1631,p.3;P2402,p.151.

<sup>538</sup> P262,p.1;P2402,p.151;P2500,p.11.

<sup>539</sup> D1631,p.3;[REDACTED].

<sup>540</sup> D57,p.123;P254;[REDACTED].

| No. | Victim        | Year of Birth       | Ethnicity            | Status                   | Date Killed              | Description  |
|-----|---------------|---------------------|----------------------|--------------------------|--------------------------|--|
| 87  | Dušan BORAK   | 1940 <sup>542</sup> | Serbs <sup>550</sup> | Civilians <sup>551</sup> | 27/8/1995 <sup>552</sup> | <u>Gošići Killings</u><br>Soldiers in white car and truck drove towards Gošić-Kistanje. After about 10-15 minutes, shooting was heard. At Gosić the bodies of victims 87-93 were found. <sup>553</sup><br>Letunica was speaking with two victims, heard a car engine, escaped, then saw white car, heard shots, later saw victims' bodies, including victim 94 in his garden. <sup>554</sup><br>Victims died of gunshots. <sup>555</sup> |
| 88  | Grodana BORAK | 1922 <sup>543</sup> |                      |                          |                          |  |
| 89  | Kosa BORAK    | 1918 <sup>544</sup> |                      |                          |                          |  |
| 90  | Marija BORAK  | 1914 <sup>545</sup> |                      |                          |                          |  |
| 91  | Milka BORAK   | 1920 <sup>546</sup> |                      |                          |                          | Šimić(MP) had founded suspicion that murders were perpetrated by 113 <sup>th</sup> Brigade, including Goran Vunić, but he was ordered to cease his investigation. <sup>556</sup> Instead Pero Perković and others were wrongly prosecuted, then acquitted. <sup>557</sup>  |
| 92  | Sava BORAK    | 1925 <sup>547</sup> |                      |                          |                          |  |
| 93  | Vasij BORAK   | 1927 <sup>548</sup> |                      |                          |                          |  |
| 94  | Gojko LEŽAJIĆ | 1930 <sup>549</sup> |                      |                          |                          |  |

<sup>541</sup> D57.p.123;P254;[REDACTED];D1631.p.3;P2500.p.11.

<sup>542</sup> P1373;D1631.p.3.

<sup>543</sup> P1375 (translation error, *see* D69.p.15(B/C/S)).

<sup>544</sup> D1631.p.3.

<sup>545</sup> P1374;P2051.

<sup>546</sup> P2052.

<sup>547</sup> P1377;D807.p.1.

<sup>548</sup> P1378.

<sup>549</sup> D1631.p.3.

| No. | Victim                 | Year of Birth       | Ethnicity            | Status                   | Date Killed              | Description   |
|-----|------------------------|---------------------|----------------------|--------------------------|--------------------------|---|
| 95  | Špiro BERIĆ            | 1940 <sup>558</sup> | Serbs <sup>567</sup> | Civilians <sup>568</sup> | 28/9/1995 <sup>569</sup> | Varivode Killings<br>Three-four uniformed men entered Varivode village, shooting was heard, and nine victims were found dead. Blood, bullet holes found at scene. <sup>570</sup> Victims killed by gunshot wounds, to the head for five victims. <sup>571</sup> |
| 96  | Jovan BERIĆ            | 1939 <sup>559</sup> |                      |                          |                          |   |
| 97  | Jovo BERIĆ             | 1920 <sup>560</sup> |                      |                          |                          |   |
| 98  | Marko BERIĆ            | 1913 <sup>561</sup> |                      |                          |                          |   |
| 99  | Milka BERIĆ            | 1924 <sup>562</sup> |                      |                          |                          |   |
| 100 | Marija BERIĆ           | 1926 <sup>563</sup> |                      |                          |                          |   |
| 101 | Radivoj BERIĆ          | 1926 <sup>564</sup> |                      |                          |                          |   |
| 102 | Dušan ĐUKIĆ            | 1937 <sup>565</sup> |                      |                          |                          |   |
| 103 | Mirko BERIĆ (POKRAJAC) | 1911 <sup>566</sup> |                      |                          |                          |   |

<sup>550</sup> P2402,p.150;P2051;P2052;D807,p.1;P2500,p.5.

<sup>551</sup> P1373-P1378;D1631,p.3.

<sup>552</sup> D807;Letunica:P635,p.3;Dobrić:P2689,p.6;P34-p.1;P48,p.2.

<sup>553</sup> Dobrić:P2689,pp.6,7,17.

<sup>554</sup> Letunica:P635,pp.2-3.

<sup>555</sup> D1631,p.3;D807,p.2;P1256,p.5;Clark:T.14163-64.

<sup>556</sup> P970;P971;Šimić:P967,paras.21-24;P968,para.6;Žganger:T.11535,42-44;P1062.

<sup>557</sup> P1076;P2558;Perković:T.19506-22;Žganger:T.11560-61.

<sup>558</sup> P2053;P2000.

| No. | Victim            | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description  |
|-----|-------------------|---------------------|---------------------|-------------------------|------------------------------------|--|
| 104 | Jakov<br>MALBAŠA  | 1930 <sup>572</sup> | Serb <sup>573</sup> | Civilian <sup>574</sup> | Before<br>12/8/1995 <sup>575</sup> | BiovičinoSelo:Probably killed by firearm. <sup>576</sup>   |
| 105 | Sava RAŠIĆ        | 1928 <sup>577</sup> | Serb <sup>578</sup> | Civilian <sup>579</sup> | Before<br>22/9/1995 <sup>580</sup> | Ivoševci:Man's decomposing body missing arm; cause of death unascertained, small depressed fracture of the left frontal bone. <sup>581</sup> |
| 106 | Gojko<br>KOROLIJA | 1939 <sup>582</sup> | Serb <sup>583</sup> | Civilian <sup>584</sup> | Before<br>26/8/1995 <sup>585</sup> | Ivoševci:Burned in house. <sup>586</sup>   |

<sup>559</sup> P2054;P2000.

<sup>560</sup> P2055;P2000.

<sup>561</sup> P2056;P2000.

<sup>562</sup> P2057;P2000.

<sup>563</sup> P2058;P2000.

<sup>564</sup> P2059;P2000.

<sup>565</sup> P2060;P2000.

<sup>566</sup> P2061;P2000.

<sup>567</sup> P2053-P2061;D808,pp.1-2.

<sup>568</sup> D376;D1631,p.4.

<sup>569</sup> D808,p.1;P2053-P2061.

<sup>570</sup> P700,pp.31-32;[REDACTED];P685;P269;Romassev:P2513,p.9-10;P161-P163.

<sup>571</sup> Clark:P1251,p.13;P1577-P1585;P2000;D1631,p.4;D808,p.2;P1842-P1858.

<sup>572</sup> P1379,p.2;D1631,p.4.

<sup>573</sup> P2402,p.148.

<sup>574</sup> P1379,p.2;D1631,p.4;P2572,p.18.

<sup>575</sup> P1379,p.2.

<sup>576</sup> D1631,p.4.

<sup>577</sup> P2062.

<sup>578</sup> P2062;P2402,p.151.

<sup>579</sup> P1380.

<sup>580</sup> P1380.

<sup>581</sup> P2402,p.151;P1586;Clark:P1251,p.13;P659,p.2;P1380;P1859.

| No. | Victim            | Year of Birth       | Ethnicity           | Status                   | Date Killed                       | Description   |
|-----|-------------------|---------------------|---------------------|--------------------------|-----------------------------------|---|
| 107 | Manda TIŠMA       | 1919 <sup>587</sup> | Serb <sup>588</sup> | Civilian <sup>589</sup>  | 4-10/8/1995 <sup>590</sup>        | 15HGR soldier shot and killed 76-year-old woman. <sup>591</sup>   |
| 108 | NN<br>(ID No. 15) |                     |                     | Civilians <sup>592</sup> | Before<br>8/8/1995 <sup>593</sup> | Found dead. <sup>594</sup>  |
| 109 | NN<br>(ID No. 16) |                     |                     |                          |                                   |   |
| 110 | Stevan<br>KRNETA  | 1913 <sup>595</sup> | Serb <sup>596</sup> | Civilian <sup>597</sup>  | 8/8/1995 <sup>598</sup>           | Although autopsy states cause of death to be blunt trauma to chest, expert also found injuries consistent with gunshots. <sup>599</sup> |

<sup>582</sup> P1381.

<sup>583</sup> P2402,p.151.

<sup>584</sup> P1381.

<sup>585</sup> P1381.

<sup>586</sup> P2402,p.151.

<sup>587</sup> D69,p.11(B/C/S).

<sup>588</sup> P2402,p.152;P2500,p.1.

<sup>589</sup> D69,p.11(B/C/S);D1631,p.4.

<sup>590</sup> P2612,p.2.

<sup>591</sup> P2612;P2402,p.152;P2500;D1631,p.4;P2569,pp.5-6;Bajic:T.20838-39.

<sup>592</sup> D353,p.2.

<sup>593</sup> D353,p.2.

<sup>594</sup> D353,p.2;D1783,p.6.

<sup>595</sup> P2063;D1631,p.5.

<sup>596</sup> P2063.

<sup>597</sup> P1382;D1631,p.5.

<sup>598</sup> P2063.

<sup>599</sup> P1382;D1221;Clark:D1223;T.14176-81;P2004;D1631,p.5.

| No. | Victim          | Year of Birth       | Ethnicity           | Status                  | Date Killed  | Description   |
|-----|-----------------|---------------------|---------------------|-------------------------|--|---|
| 111 | Veljko LALIĆ    | 1960 <sup>600</sup> | Serb                | Civilian <sup>601</sup> | Before 5/10/1995, possibly 6-Aug-95 <sup>602</sup> | Killed by minimum 14 gunshots to head and trunk. <sup>603</sup>               |
| 112 | Mirko ŠTRBAC    | 1911 <sup>604</sup> | Serb <sup>605</sup> | Civilian <sup>606</sup> | 11/8/1995 <sup>607</sup>                           | Elderly civilian shot in head. <sup>608</sup>                                 |
| 113 | Stevan VUKIĆ    | 1907 <sup>609</sup> | Serb <sup>610</sup> | Civilian <sup>611</sup> | 5/8/1995 <sup>612</sup>                            | ModrinoSelo:Elderly civilian, cause of death unascertained. <sup>613</sup>    |
| 114 | NN (ID No. 597) |                     |                     | Civilian <sup>614</sup> | Before 4/9/1995 <sup>615</sup>                     | ModrinoSelo:Decomposed body, killed by gunshots to face, neck. <sup>616</sup> |

<sup>600</sup> P2701.

<sup>601</sup> P1383.

<sup>602</sup> P1383;P25,p.1(This victim could be the same as the one referred to in HRAT report of 13-Aug-95 stating death occurred around 6-Aug-95.)

<sup>603</sup> P1383.

<sup>604</sup> P1383;P1587;Clark:P1251,p.13;T.14163;P1256,p.4;P1860-P1862;P2701.

<sup>605</sup> P2064;D1631,p.5.

<sup>606</sup> P2064.

<sup>607</sup> P1384;D1631,p.5.

<sup>608</sup> P2064.

<sup>609</sup> [REDACTED];P1384;P1588;Clark:P1251,p.12;T.14166-67;P1256,p.9;P148,p.7;D1631,p.5.

<sup>610</sup> P2065;D1631,p.5.

<sup>611</sup> P2065.

<sup>612</sup> D364,p.3;D1631,p.5.

<sup>613</sup> P2065.

<sup>614</sup> P1589;Clark:P1251,p.12;P2003.

<sup>615</sup> P1386.

<sup>616</sup> P1386.

<sup>617</sup> P1386;P1590;Clark:P1251,p.12.

| No. | Victim                    | Year of Birth       | Ethnicity           | Status                   | Date Killed   | Description  |
|-----|---------------------------|---------------------|---------------------|--------------------------|---|--|
| 115 | Dušan<br>IVANIŠEVIĆ       | 1912 <sup>617</sup> |                     | Civilians <sup>619</sup> | Between<br>29/8/1995 and<br>1/9/1995 <sup>620</sup> | Parčić:Elderly couple killed by gunshots. <sup>621</sup>                               |
| 116 | Lena (Sena)<br>IVANIŠEVIĆ | 1920 <sup>618</sup> |                     |                          |   |  |
| 117 | NN<br>(ID No. 611)        |                     |                     | Civilian <sup>622</sup>  | Before<br>15/9/1995 <sup>623</sup>                  | Reljići:Decomposed body, killed by gunshots. <sup>624</sup>                            |
| 118 | NN<br>(ID No. 603)        |                     |                     | Civilian <sup>625</sup>  | Before<br>6/9/1995 <sup>626</sup>                   | Varivode:Decomposed body. <sup>627</sup>   |
| 119 | Ljeposava<br>MANDIĆ       | 1933 <sup>628</sup> | Serb <sup>629</sup> | Civilian <sup>630</sup>  | 10 August<br>1995 <sup>631</sup>                    | Zečevo:Woman killed by gunshots to face, neck, chest,<br>right forearm. <sup>632</sup> |
| 120 | Dušan<br>KOROLIJA         | 1949 <sup>633</sup> | Serb <sup>634</sup> | Civilian <sup>635</sup>  | Before<br>13/9/1995 <sup>636</sup>                  | Ivoševci:Decomposed body found in a well. <sup>637</sup>                               |

<sup>617</sup> P1387,p.2;D1631,p.5.

<sup>618</sup> P1388;D1631,p.5.

<sup>619</sup> P1387,p.2;P1388;D1631,p.5.

<sup>620</sup> P1079,p.9.

<sup>621</sup> P1079,p.9;D1631,p.5.

<sup>622</sup> P1389.

<sup>623</sup> P1389.

<sup>624</sup> P1389;P1591;Clark:P1251,p.12.

<sup>625</sup> P1390.

<sup>626</sup> P1390.

<sup>627</sup> P1390.

<sup>628</sup> P2066.

<sup>629</sup> P2066.

<sup>630</sup> P1391.

<sup>631</sup> P2066.

<sup>632</sup> P1391;P1592;Clark:P1251,p.12;P1864;P2000.

## 10. Knin Municipality

a. Golubić<sup>638</sup>

| No. | Victim                 | Year of Birth               | Ethnicity            | Status                   | Date Killed               | Description   |
|-----|------------------------|-----------------------------|----------------------|--------------------------|---------------------------|---|
| 121 | Branko RADINOVIĆ-LUKIĆ | 1920 <sup>639</sup>         | Serbs <sup>644</sup> | Civilians <sup>645</sup> | 5-6/8/1995 <sup>646</sup> | Radinovići(near Golubić):Five decomposed bodies, head of invalid Nikica Panić 50m from his body. <sup>647</sup> 4GBR remained in area until 12-Aug-95. <sup>648</sup>                     |
| 122 | Nikola RADUJKO         | 1930 <sup>640</sup>         |                      |                          |                           | Autopsies(first four victims): Three killed by gunshots, including to head/face in two cases. Panić's cause of death undetermined, partly because head detached from body. <sup>649</sup> |
| 123 | Maša (Manda) RADUJKO   | 1928 <sup>641</sup>         |                      |                          |                           |   |
| 124 | Nikica PANIĆ (invalid) | 1928 <sup>642</sup>         |                      |                          |                           |   |
| 125 | Vaso VAŠIĆ             | Approx. 1920 <sup>643</sup> |                      |                          |                           |   |

<sup>633</sup> P2402,p.151.<sup>634</sup> P2402,p.151.<sup>635</sup> [REDACTED].<sup>636</sup> P2402,p.151.<sup>637</sup> [REDACTED];P148,p.8;P2402,p.151.<sup>638</sup> Croatian forces present in Golubić included:4GBR(P2417;P27,p.2;P71,pp.83-84;[REDACTED];P2343,p.35,48;P2559,p.4);6HGR(P2586,pp.5,7);72MP(P71,p.100);73MP(P71,pp.109,112);300LoB(D990,p.3);204thArtillery&RocketBrigade(P2610,pp.11-13).<sup>639</sup> P1392;P2067.<sup>640</sup> P2068.

| No. | Victim                      | Year of Birth       | Ethnicity           | Status  | Date Killed                     | Description   |
|-----|-----------------------------|---------------------|---------------------|---|---------------------------------|---|
| 126 | Jovica PLAVŠA               | 1968 <sup>650</sup> | Serb <sup>651</sup> | Civilian or Soldier<br><i>Hors de Combat</i> <sup>652</sup> | 5/8/1995 <sup>653</sup>         | On 5-Aug-95 soldiers handcuffed victim, took him from home. Ten minutes later his father heard gunshot; another ten minutes later he found victim's body 100-150m away. <sup>654</sup><br>Autopsy: died of gunshot wound to head, chest; handcuffs looped in right radio bone found over body. <sup>655</sup> |
| 127 | Zorka KABLAR                | 1910 <sup>656</sup> | Serb <sup>657</sup> | Civilian <sup>658</sup>                                     | Around 15/8/1995 <sup>659</sup> | Authorities claimed she died of natural causes; Clark testified that gunshot likely caused death. <sup>660</sup>  |
| 128 | Milica ŠLJIVAR<br>(invalid) | 1935 <sup>661</sup> | Serb <sup>662</sup> | Civilian <sup>663</sup>                                     | 6/8/1995 <sup>664</sup>         | Soldier shot her in head. <sup>665</sup><br>Autopsy: "frozen" right hip joint, shattered skull. <sup>666</sup>  |

<sup>641</sup> P2069.

<sup>642</sup> P2070.

<sup>643</sup> D179,p.5;[REDACTED];P2402,p.150.

<sup>644</sup> P2067-P2070;P2402,p.150;P244.

<sup>645</sup> P1392-P1396;D364,p.2.

<sup>646</sup> P2067-P2070;P244.

<sup>647</sup> P49,pp.1-2;P244;[REDACTED];P700,pp.19-21;D57,p.76;D179,p.5;P2402,p.150.

<sup>648</sup> P27,p.2;Flynn:P21,para.27;P2343,pp.35,48;P71,p.84;P2559,p.4;[REDACTED].

<sup>649</sup> P1392-P1395;P1593-P1594;P1251,p.12;P1865-P1867;P659.

<sup>650</sup> P1397;P2071.

<sup>651</sup> P2071.

<sup>652</sup> P1397.

<sup>653</sup> Plavša:P2686,p.11,paras.3-4.

<sup>654</sup> Plavša:P2686,p.11,paras.3-7.

<sup>655</sup> P1597;Clark:P1251,p.13;P659;P1397.

<sup>656</sup> P2072.

<sup>657</sup> P2072.

<sup>658</sup> P1398;D366,p.2.

<sup>659</sup> P2402,p.149;P68,p.33.

<sup>660</sup> Clark:D1223,para.6;Clark:T.14181-82;D1222;D57,p.70.

<sup>661</sup> P1399;P2073.

| No. | Victim                   | Year of Birth       | Ethnicity            | Status                   | Date Killed               | Description   |
|-----|--------------------------|---------------------|----------------------|--------------------------|---------------------------|---|
| 142 | Dušan<br>DAMJANOVIĆ      | 1929 <sup>667</sup> | Serbs <sup>674</sup> | Civilians <sup>675</sup> | 5-6/8/1995 <sup>676</sup> | Radjevac:Victims shot by 4GBR's 3 <sup>rd</sup> Infantry Battalion. <sup>677</sup><br>Decomposed bodies collected on 21-Aug-95. <sup>678</sup><br>Autopsy:victims died of gunshot injuries. |
| 143 | Djuka<br>DAMJANOVIĆ      | 1931 <sup>668</sup> |                      |                          |                           |   |
| 144 | Tanasije<br>VUKOVIĆ      | 1935 <sup>669</sup> |                      |                          |                           |   |
| 145 | Mika (Milica)<br>VUKOVIĆ | 1929 <sup>670</sup> |                      |                          |                           |   |
| 146 | Petar BJELIĆ             | 1931 <sup>671</sup> |                      |                          |                           |   |
| 147 | Marija (Mara)<br>BJELIĆ  | 1942 <sup>672</sup> |                      |                          |                           |   |
| 148 | Boško<br>VUKOVIĆ         | 1938 <sup>673</sup> |                      |                          |                           |   |

<sup>662</sup> P2073.<sup>663</sup> P1399;p.2572,p.20.<sup>664</sup> P2073.<sup>665</sup> P2402,p.150.<sup>666</sup> P1599;Clark:P1251,p.13;P659,p.2;P1399.<sup>667</sup> P2078;P1405.<sup>668</sup> P2079;P1406.<sup>669</sup> P2080;P1407.<sup>670</sup> P2081.

| No. | Victim                          | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description  |
|-----|---------------------------------|---------------------|---------------------|-------------------------|------------------------------------|--|
| 149 | Jovan<br>MARKELIĆ               | 1937 <sup>679</sup> | Serb <sup>680</sup> | Civilian <sup>681</sup> | Around<br>18/8/1995 <sup>682</sup> | Radjevac:Shot in back. <sup>683</sup>  |
| 193 | Nikola<br>RADINOVIĆ-<br>LONČINA | 1927 <sup>684</sup> | Serb <sup>685</sup> | Civilian <sup>686</sup> | Around<br>11/8/1995 <sup>687</sup> | Headless body; cause of death unascertained, possibly high-velocity gunshot injury. <sup>688</sup> |
| 194 | Nikola<br>JERKOVIĆ              | 1926 <sup>689</sup> | Serb                | Civilian <sup>690</sup> | Before<br>16/8/1995 <sup>691</sup> | Decomposed body. <sup>692</sup>  |
| 195 | Jovan                           | 1938 <sup>693</sup> | Serb <sup>694</sup> | Civilian/Pol            | 6/8/1995 <sup>696</sup>            | Gunshot wounds. <sup>697</sup>   |

<sup>671</sup> P2082;P1409.

<sup>672</sup> P2083.

<sup>673</sup> P2084;P1411.

<sup>674</sup> P2078-P2084.

<sup>675</sup> D357,p.2;P1405-P1411.

<sup>676</sup> D568,p.43;P27,p.2.

<sup>677</sup> P27,p.2(although it incorrectly references the Driš Unit);P2402,p.149;[REDACTED].

<sup>678</sup> D57,p.39;P27,p.2;D357,p.2;P1405-P1411;P1604-P1610;Clark:P1251,p.12;P659.

<sup>679</sup> P249.

<sup>680</sup> P2402,p.157.

<sup>681</sup> [REDACTED].

<sup>682</sup> P249;P2402,p.157.

<sup>683</sup> P249;D179,p.6;P2402,p.157.

<sup>684</sup> P2097.

<sup>685</sup> P2097.

<sup>686</sup> P1423.

<sup>687</sup> P2097;P1423.

<sup>688</sup> P1423,p.2;P1623;Clark:D1223,para.13;P1251,p.13;P2007.

<sup>689</sup> P1424.

<sup>690</sup> P1424;D1631,p.8.

<sup>691</sup> P1424.

<sup>692</sup> P1424;P2700.

| No. | Victim          | Year of Birth       | Ethnicity           | Status                  | Date Killed                     | Description   |
|-----|-----------------|---------------------|---------------------|-------------------------|---------------------------------|---|
|     | JERKOVIC        |                     |                     | iceman <sup>695</sup>   |                                 |   |
| 196 | NN (ID No. 473) |                     |                     | Civilian <sup>698</sup> | Before 16/8/1995 <sup>699</sup> | Killed by perforating high-velocity gunshot wound to head, shattering skull. <sup>700</sup> |
| 197 | Nevenka GRUBIC  | 1910 <sup>701</sup> | Serb <sup>702</sup> | Civilian <sup>703</sup> | 5/8/1995 <sup>704</sup>         | Cause of death unascertained. <sup>705</sup>  |
| 199 | Jelka OPAČIĆ    | 1921 <sup>706</sup> | Serb <sup>707</sup> | Civilian <sup>708</sup> | 5/8/1995 <sup>709</sup>         | Killed by minimum 6 gunshots. <sup>710</sup>  |

<sup>693</sup> P2098.<sup>694</sup> P2098.<sup>695</sup> P1425;D354,p.13.<sup>696</sup> P2098.<sup>697</sup> P1425;P1624;P1909;P1251,p.13;P2006;D1631,p.8.<sup>698</sup> P1426;D354,p.14.<sup>699</sup> P1426.<sup>700</sup> P1625;Clark:P1251,p13;P1910-P1911.<sup>701</sup> P2099.<sup>702</sup> P2099.<sup>703</sup> P1427.<sup>704</sup> P2099.<sup>705</sup> P1427;P1626;Clark:P1251,p.13;P2000.<sup>706</sup> P2100.<sup>707</sup> P2100.<sup>708</sup> P1429;D364,p.3.<sup>709</sup> P2100.<sup>710</sup> P1429;P1627;Clark:P1251,p.12.

b. Očestovo<sup>711</sup>

| No. | Victim                   | Year of Birth       | Ethnicity            | Status                                   | Date Killed                            | Description   |
|-----|--------------------------|---------------------|----------------------|--|--|---|
| 150 | Stevan<br>BALJAK         | 1966 <sup>712</sup> | Serbs <sup>717</sup> | Civilians or<br>Soldiers                 | 6/8/1995 <sup>719</sup>                | After holding five men in basement, soldiers removed and executed them. <sup>720</sup>      |
| 151 | Đuro MAČAK               | 1955 <sup>713</sup> |                      | <i>Hors de<br/>Combat</i> <sup>718</sup> |  | Autopsies: Four died of head gunshot injuries, one of neck gunshot injuries. <sup>721</sup> |
| 152 | Mile<br>GNJATOVIĆ        | 1952 <sup>714</sup> |                      |  |  |   |
| 153 | Stevo<br>VEČERINA        | 1974 <sup>715</sup> |                      |  |  |   |
| 154 | Momčilo<br>TIŠMA         | 1967 <sup>716</sup> |                      |  |  |   |
| 155 | Sava ŠOLAJA<br>(invalid) | 1924 <sup>722</sup> | Serb <sup>723</sup>  | Civilian <sup>724</sup>                  | Between 6-<br>15/8/1995 <sup>725</sup> | Invalid thrown into burning house. <sup>726</sup>   |

<sup>711</sup> Croatian forces present in Očestovo included: 4GBR(P2417;P2343, pp.39-40)

<sup>712</sup> P660.

<sup>713</sup> P663.

<sup>714</sup> P666.

<sup>715</sup> P670.

<sup>716</sup> P674.

<sup>717</sup> P660;P663;P666;P670;P674.

<sup>718</sup> P657;P661;P664;P667;P672.

<sup>719</sup> Večerina:P652, paras. 12-16; Bunčić:P2688, p. 12, paras. 9-12.

<sup>720</sup> Večerina:P652, paras. 12-16; Večerina:P653, para. 9; Večerina: T.6720-23; Bunčić:P2688, p. 12, paras. 9-12.

<sup>721</sup> P657-P674; Večerina: T.6723-24; Clark: P1251, p. 13; P1256, p. 3; T. 14162; P1887; P1889-P1891.

<sup>722</sup> P1412; D364, p. 2.

| No. | Victim             | Year of Birth       | Ethnicity            | Status                   | Date Killed             | Description  |
|-----|--------------------|---------------------|----------------------|--------------------------|-------------------------|--|
| 232 | Ilija GRULOVIĆ     | 1940 <sup>727</sup> | Serbs <sup>728</sup> | Civilians <sup>729</sup> | 5/8/1995 <sup>730</sup> | Killed by gunshot injuries to head. One received minimum ten shots (three to head). <sup>731</sup> |
| 233 | NN<br>(ID No. 456) | N/A                 |                      |                          |                         |  |

<sup>723</sup> P2402,p.154.

<sup>724</sup> P1412;D364,p.2.

<sup>725</sup> P2402,p.154;P1105;Mauro:P1099,para.52;[REDACTED].

<sup>726</sup> P2402,p.154;P1105;Mauro:P1099,para.52;[REDACTED].P1412.

<sup>727</sup> P2117.

<sup>728</sup> P2117.

<sup>729</sup> P1454;P1455;D375,p.2.

<sup>730</sup> P2117. The Prosecution asserts that both victims were killed at the same time.

<sup>731</sup> P1454;P1455;P1651;P1652;Clark:P1251,p.13;P1930-P1934;P2007.

c. Knin Town<sup>732</sup>

| No. | Victim                  | Year of Birth       | Ethnicity            | Status  | Date Killed             | Description   |
|-----|-------------------------|---------------------|----------------------|---|-------------------------|---|
| 157 | Lazo MILANKOVIĆ         | 1934 <sup>733</sup> | Serbs <sup>735</sup> | Civilians <sup>736</sup>                        | 5/8/1995 <sup>737</sup> | Cvjetković: Male shot in head on couch. <sup>738</sup> Wife found hanging from rope (can be seen on photograph of body). <sup>739</sup> |
| 158 | Anka (Anica) MILANKOVIĆ | 1937 <sup>734</sup> |                      |   |                         |   |
| 159 | Ilija ŠARAC             | 1952 <sup>740</sup> | Serb <sup>741</sup>  | Soldier<br><i>Hors de Combat</i> <sup>742</sup> | 5/8/1995 <sup>743</sup> | HV soldier took RSK soldier behind a building. <sup>744</sup> Died of minimum six gunshots to head, trunk. <sup>745</sup>               |

<sup>732</sup> Croatian forces present in Knin included: **7GBR**(P2417;P71.p.84;P1132;P2559,pp.4-5;[REDACTED];P2343.p.36;Luković:D1687,para.25;Williams:P925,pp.6-7;Liberious:P799.p.4;Liberious:P801.p.3;P744.p.4;Hendriks:D820.p.4;Džolić:P875,para.27;P112.p.5;D281.p.9;P114,pp.4;Flynn:P21,para.16);**4GBR**(P2417;P71.p.84;P1132;P2559.p.4-5;[REDACTED];P2343.p.36;Luković:D1687,para.25;Williams:P925,pp.6-7;Liberious:P799.p.4;P801.p.3;P744.p.4;Hendriks:D820.p.4;Džolić:P875,para.27;P112.p.5;D281.p.9;P2343,pp.48-49;D282.p.3;P935.p.2;D559.p.7;D984.p.2;D1002,pp.4-5;D1003.p.1;D990.p.1;P2566.p.1;P944.p.1,para.3.a;**72ndMP**(D567.p.4;P71.p.91,111;P882.p.2,para.1;D292.p.7;Džolić:P875,para.20,32,59;P2398.p.2;Williams:P925.p.7;Džolić:P875,paras.50,68,69;D281.p.10,paras.5,11;P2170,pp.57-58;P2610.p.14);**6HGR**(P2586.p.6);142HGR(D764;D761);**SplitMDIZM**(P71.p.99;D772.p.2;D767);**134HGR**(P2644;**65HV**conscripts(D762.p.1);**306LoB**(D990.p.1)

<sup>733</sup> P2086.

<sup>734</sup> P2087.

<sup>735</sup> P2086;P2087.

<sup>736</sup> P1414;P1415.

<sup>737</sup> P2086;P2087.

<sup>738</sup> P36.p.3;P700.p.22;P1414;P1612;Clark:P1251.p.13;P1894;P659;D57.p.11.

<sup>739</sup> P36.p.3;P700.p.22;P1415;P1613;Clark:P1251.p.13;P2007.

<sup>740</sup> P2088.

<sup>741</sup> P2088.

<sup>742</sup> Šarac:P2687,pp.6-7.

<sup>743</sup> Šarac:P2687,pp.6-7.

<sup>744</sup> Šarac:P2687,pp.6-7.

<sup>745</sup> P1416;P1614;Clark:P1251.p.13;P1999.

| No. | Victim                          | Year of Birth       | Ethnicity            | Status                   | Date Killed             | Description  |
|-----|---------------------------------|---------------------|----------------------|--------------------------|-------------------------|--|
| 160 | Nenad<br>DUJKOVIĆ               | 1960 <sup>746</sup> | Serbs <sup>748</sup> | Civilians <sup>749</sup> | 5/8/1995 <sup>750</sup> | HV soldiers ordered both to go with them and they were never seen alive again. Both killed by minimum four gunshots to head/neck. <sup>751</sup>   |
| 161 | Dragan<br>MIRKOVIĆ              | 1971 <sup>747</sup> |                      |                          |                         |  |
| 162 | Ilija<br>MILIVOJEVIĆ<br>(son)   | 1933 <sup>752</sup> | Serbs <sup>754</sup> | Civilians <sup>755</sup> | 6/8/1995 <sup>756</sup> | Soldiers forced Ilija to load goods from his house onto a truck. <sup>757</sup> Went to police station the next day, then found dead with his father. <sup>758</sup><br>Autopsy: <sup>759</sup> cause of death unascertained, witnesses testified that they had both been shot <sup>760</sup> and photographs were taken. <sup>761</sup> |
| 163 | Mile<br>MILIVOJEVIĆ<br>(father) | 1911 <sup>753</sup> |                      |                          |                         |  |

<sup>746</sup> P2089.

<sup>747</sup> P2090.

<sup>748</sup> P2089;P2090.

<sup>749</sup> P988,p.5.

<sup>750</sup> P2089;P2090.

<sup>751</sup> P988,p.5;P1417;P1418;P1615;P616;Clark:P1251,pp.12-13;P673;P2007.

<sup>752</sup> P2091.

<sup>753</sup> P2092.

<sup>754</sup> P2091;P2092;D65.

<sup>755</sup> P1419;P1420;D354,p.11

<sup>756</sup> P2091;P2092;P32,p.1;[REDACTED].

<sup>757</sup> [REDACTED];P32.

<sup>758</sup> P32;D65.

<sup>759</sup> P1419;P1420;P1617;P1618;P2006.

<sup>760</sup> P32,p.1;P117,p.4;Tchernetsky:P204,p.4;Tchernetsky:T.3188-89;T.3320-23;Flynn:P20,p.20;Flynn:T.1327-31;Widen:T.7325-27;T.7380-83;T.7401-03;P2402,p.153.

<sup>761</sup> P700,pp.5-6.

| No.     | Victim           | Year of Birth       | Ethnicity            | Status                                | Date Killed             | Description   |
|---------|------------------|---------------------|----------------------|---------------------------------------|-------------------------|---|
| 184     | Živko STOJAKOV   | 1961 <sup>762</sup> | Serb <sup>763</sup>  |                                       | 5/8/1995 <sup>764</sup> | Soldiers made victim walk naked through town after shooting boyfriend on the Atlagić Bridge(Knin). <sup>765</sup><br>Autopsy: died of chest gunshot injuries. <sup>766</sup>  |
| 185     | Ljubomir ĐAPIĆ   | 1933 <sup>767</sup> | Serbs <sup>768</sup> | Civilians and soldiers <sup>769</sup> | 5/8/1995 <sup>770</sup> | Shell killed six individuals in civilian and military clothes. (One possibly died earlier of gunshot injury; one possibly run over by tank.) <sup>771</sup> Artillery fire was corrected to hit civilians outside UN camp. <sup>772</sup> |
| 186-190 | Unidentified     |                     |                      |                                       |                         |   |
| 191     | Jakov MILANKOVIĆ | 1937 <sup>773</sup> | Serb <sup>774</sup>  | Civilian <sup>775</sup>               | 5/8/1995 <sup>776</sup> | Man in civilian clothes killed, cause of death unascertained. <sup>777</sup>  |
| 202     | Milan SAMARDZIJA | 1959 <sup>778</sup> | Serb <sup>779</sup>  | Civilian <sup>780</sup>               | 4/8/1995 <sup>781</sup> | Killed, cause of death unascertained. <sup>782</sup>  |

<sup>762</sup> P2094.

<sup>763</sup> P2094.

<sup>764</sup> P2094.

<sup>765</sup> [REDACTED]; T.724-26; P988, p.5-6.

<sup>766</sup> P1620; Clark: P1251, p.20; P2007.

<sup>767</sup> P220; P2095.

<sup>768</sup> P2095.

<sup>769</sup> P220; *See* Summary of Additional Evidence.

<sup>770</sup> P220.

<sup>771</sup> P220; P700, pp.3-4; Williams: P925, p.6; P927, pp.2-3; T.9538-41; Hill: D284, p.13; P740, p.2; P291, p.5; P292, p.17; P298; T.3747-48; Dreyer: P72, para.19; P78; P79; T.1720, 1735-36, 1743-44; Dawes: P980, p.5; Berikoff: T.7607-12; P747, p.1; P1621; P1906; P2006.

<sup>772</sup> Dreyer: P72, para.19; T.1720, 1735-36, 1743-44; Dawes: P980, p.5.

<sup>773</sup> P2096.

<sup>774</sup> P2096.

<sup>775</sup> P1622, p.2.

<sup>776</sup> P2096.

<sup>777</sup> P1622; Clark: P1251, p.20; P2004.

<sup>778</sup> P2101.

<sup>779</sup> P2101.

| No. | Victim             | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description   |
|-----|--------------------|---------------------|---------------------|-------------------------|------------------------------------|---|
| 203 | Lazo SAVIĆ         | 1947 <sup>783</sup> | Serb <sup>784</sup> | Civilian <sup>785</sup> | 5/8/1995 <sup>786</sup>            | Killed from gunshot injury to head, neck and torso. <sup>787</sup>  |
| 204 | Petar MILETA       | 1936 <sup>788</sup> | Serb <sup>789</sup> | Civilian <sup>790</sup> | 5/8/1995 <sup>791</sup>            | Killed from numerous (min.5) gunshot injuries to head, neck and torso. <sup>792</sup>   |
| 205 | Ankica (Ana) TOMIĆ | 1948 <sup>793</sup> | Serb <sup>794</sup> | Civilian <sup>795</sup> | 4/8/1995 <sup>796</sup>            | Ballet dancer died from shelling of Knin. <sup>797</sup> Noting shrapnel injury, expert noted said she possibly died of blast injury to trunk. <sup>798</sup> |
| 206 | NN<br>(ID No. 487) |                     |                     | Civilian <sup>799</sup> | Before<br>18/8/1995 <sup>800</sup> | Female body 50-70 years old; cause of death unascertained due to advanced decomposition. <sup>801</sup>   |

<sup>780</sup> D348,p.4.

<sup>781</sup> P2101.

<sup>782</sup> P1630;Clark:P1251,p.20;P1999.

<sup>783</sup> P2102.

<sup>784</sup> P2102.

<sup>785</sup> P1431.

<sup>786</sup> P2102.

<sup>787</sup> P1431;P1631;P1915;Clark:P1251,p.23;P659,p.2.

<sup>788</sup> P2103.

<sup>789</sup> P2103.

<sup>790</sup> P1432,D351,p.5.

<sup>791</sup> P2103.

<sup>792</sup> P1432;P1632;Clark:P1251,p.23;P90.

<sup>793</sup> P2104.

<sup>794</sup> P2104.

<sup>795</sup> P1433.

<sup>796</sup> P2104.

<sup>797</sup> P-6:T.1039;P2104,p.22.

<sup>798</sup> P1433;P1633;Clark:P1251,pp.8,13;T.14167-68;P2006.

<sup>799</sup> P1434.

<sup>800</sup> P1434;D355,p.3.

<sup>801</sup> P1434;P1634;Clark:P1251,p.12.

| No. | Victim   | Year of Birth       | Ethnicity           | Status                  | Date Killed                      | Description  |
|-----|--|---------------------|---------------------|-------------------------|----------------------------------|--|
| 208 | Simo LUKIĆ   | 1914 <sup>802</sup> | Serb <sup>803</sup> | Civilian                | 22/8/1995 <sup>804</sup>         | Elderly male killed by pelvis gunshot injuries. <sup>805</sup>                     |
| 209 | Dragutin KNEŽEVIĆ  | 1931 <sup>806</sup> | Serb <sup>807</sup> | Civilian <sup>808</sup> | Before 9/8/1995 <sup>809</sup>   | Killed by minimum six gunshots (one to head). <sup>810</sup>                       |
| 210 | NN (ID No. 251)  |                     |                     | Civilian <sup>811</sup> | Before 11/8/1995 <sup>812</sup>  |  |
| 211 | Momčilo MARJANOVIĆ (Originally NN - ID No. 253) <sup>813</sup> |                     |                     | Civilian <sup>814</sup> | Before 10//8/1995 <sup>815</sup> | Man in civilian clothes killed by gunshot to head (min. two shots). <sup>816</sup> |
| 212 | Valerijan BERIĆ  | 1967 <sup>817</sup> |                     | Civilian <sup>818</sup> | Before 7/8/1995 <sup>819</sup>   | Killed by gunshot to neck. <sup>820</sup>  |

<sup>802</sup> P2106.<sup>803</sup> P2106.<sup>804</sup> P2106.<sup>805</sup> P1636;Clark:P1251,p.20;P659.<sup>806</sup> P2107.<sup>807</sup> P2107.<sup>808</sup> P1435.<sup>809</sup> P1435;P2107.<sup>810</sup> P1637;Clark:P1251,p.20;P1919;P669.<sup>811</sup> P1436.<sup>812</sup> P1436;D354,p.9.<sup>813</sup> P1437;P2575,p.7.<sup>814</sup> P1437;P2575,p.7;D367,p.2.<sup>815</sup> D367,p.2.<sup>816</sup> P1437;P1638;Clark:P1251,p.13.<sup>817</sup> D1631,p.9.<sup>818</sup> D354,p.4;D1631,p.9.<sup>819</sup> P1438.<sup>820</sup> P1438;P1639;Clark:P1251,p.13;P2006.

| No. | Victim              | Year of Birth       | Ethnicity           | Status                  | Date Killed                    | Description  |
|-----|---------------------|---------------------|---------------------|-------------------------|--------------------------------|--|
| 213 | Nikola ARULA        | 1941 <sup>821</sup> | Serb <sup>822</sup> | Civilian <sup>823</sup> | 5/8/1995 <sup>824</sup>        | Killed on 5-Aug-95; body collected on 7-Aug-95. <sup>825</sup>   |
| 218 | Marko MIRKOVIĆ      | 1952 <sup>826</sup> | Serb <sup>827</sup> | Civilian <sup>828</sup> | 4/8/1995 <sup>829</sup>        | Killed from perforating gunshot injuries to chest. <sup>830</sup>  |
| 219 | Aleksandar BJELOBRK | 1918 <sup>831</sup> | Serb <sup>832</sup> | Civilian                | Before 7/8/1995 <sup>833</sup> | Elderly male, arm missing, ligature around ankles. <sup>834</sup>  |
| 220 | Vukadin VUJASINOVIĆ | 1927 <sup>835</sup> |                     | Civilian <sup>836</sup> | Before 7/8/1995 <sup>837</sup> | Wrongly identified upon collection as Dmtar Vujnović. <sup>838</sup><br>Killed by multiple gunshots to head, chest and abdomen. <sup>839</sup> |
| 221 | Ratko SINOBAD       | 1945 <sup>840</sup> | Serb <sup>841</sup> | Civilian <sup>842</sup> | 5/8/1995 <sup>843</sup>        | Killed by gunshot to head. <sup>844</sup>  |

<sup>821</sup> P1439.

<sup>822</sup> P2402,p.153.

<sup>823</sup> P1439;D354,p.3.

<sup>824</sup> P2402,p.153.

<sup>825</sup> P2402,p.153;P1439;D354,p.3.

<sup>826</sup> P2109.

<sup>827</sup> P2109.

<sup>828</sup> P1443.

<sup>829</sup> P2109.

<sup>830</sup> P1641;Clark:P1251,p.13.

<sup>831</sup> P2110.

<sup>832</sup> P2110.

<sup>833</sup> P1444.

<sup>834</sup> P1444;P1642;P1922;P659.

<sup>835</sup> P1999.

<sup>836</sup> P1445.

<sup>837</sup> P1445.

<sup>838</sup> P1445.

<sup>839</sup> P1445;P1257;P1999.

| No. | Victim                     | Year of Birth       | Ethnicity            | Status                  | Date Killed                     | Description  |
|-----|----------------------------|---------------------|----------------------|-------------------------|---------------------------------|--|
| 222 | Bogdan JARAMAZ             | 1939 <sup>845</sup> | Serb <sup>846</sup>  | Civilian <sup>847</sup> | 4/8/1995 <sup>848</sup>         | Killed by minimum 12 gunshots. <sup>849</sup>  |
| 223 | Andrija MATKOVIĆ           | 1908 <sup>850</sup> |                      | Civilian <sup>851</sup> | Before 18/8/1995 <sup>852</sup> | Decomposing body collected on 18-Aug-95.   |
| 225 | Nikola GRUJIĆ              |                     |                      | Civilian <sup>853</sup> | 5/8/1995 <sup>854</sup>         | Knin: Hit by shrapnel outside house on 5-Aug-95; died in Knin hospital. <sup>855</sup> |
| 226 | NN (ID No. 499)            |                     |                      | Civilian <sup>856</sup> | Before 23/8/1995 <sup>857</sup> | Minarići area: Cause of death unascertained. <sup>858</sup>                            |
| 227 | Jandrija (Jandre) MIRKOVIĆ | 1937 <sup>859</sup> | Croat <sup>860</sup> | Civilian <sup>861</sup> | 5/8/1995 <sup>862</sup>         | Killed from gunshots to head and torso. <sup>863</sup>                                 |

<sup>840</sup> P2111.<sup>841</sup> P2111.<sup>842</sup> P1446;D367,p.2<sup>843</sup> P2111.<sup>844</sup> P1446;P1643;Clark:P1251,p.13;P659.<sup>845</sup> P2112.<sup>846</sup> P2112.<sup>847</sup> P1447.<sup>848</sup> P2112.<sup>849</sup> P1447;P1644;Clark:P1251,p.13;P1923;P1924;P90.<sup>850</sup> P1448.<sup>851</sup> P1448;D355,p.3;P2572,p.23.<sup>852</sup> P1448.<sup>853</sup> P1450;D355,p.3;P2572,p.23.<sup>854</sup> Grubor:P54,p.3.<sup>855</sup> Grubor:P54,p.3;T.1438-39;P1450;D355,p.3;P2572,p.23.<sup>856</sup> P1451.<sup>857</sup> P1451.<sup>858</sup> P1645;Clark:P2151,p.12.<sup>859</sup> P2114.

d. Others<sup>864</sup>

| No. | Victim           | Year of Birth       | Ethnicity           | Status                  | Date Killed                     | Description   |
|-----|------------------|---------------------|---------------------|-------------------------|---------------------------------|---|
| 138 | Stevan VIDOVIĆ   | 1939 <sup>865</sup> | Serb <sup>866</sup> | Civilian <sup>867</sup> | 19/8/1995 <sup>868</sup>        | Plavno: Killed by perforating gunshot to neck while carrying water on donkey. <sup>869</sup>  |
| 139 | Andelija RUSIĆ   | 1904 <sup>870</sup> | Serb <sup>871</sup> | Civilian <sup>872</sup> | Before 22/8/1995 <sup>873</sup> | Elderly female. <sup>874</sup>  |
| 156 | Ilinka CRNOGORAC | 1928 <sup>875</sup> | Serb <sup>876</sup> | Civilian <sup>877</sup> | 28-29/8/1995 <sup>878</sup>     | Mala Polača: Soldiers killed woman, <sup>879</sup> pool of blood, bullet shells found in house. <sup>880</sup> Police stated she died of natural causes, but autopsy showed she died of gunshot wound to head and chest. <sup>881</sup> |

<sup>860</sup> P2114.<sup>861</sup> P1452.<sup>862</sup> P2114.<sup>863</sup> P1452; P1646; Clark: P1251, p. 13; P1927; P2000.<sup>864</sup>

**Mizdrakovac: 4GBR** (P2417; P71, p. 84); **Split Military District Units:** (P2417; P2559, p. 5); **7GBR** P2417; P2343, p. 44); **81GuardsBattalion:** (P2417; P71, p. 92; **6HGR** (P2586, p. 5); **Jelić/Kovačić: 7GBR** (P2417; P2343, p. 36; [REDACTED]; **Polača: 7GBR** (P2417; P71, p. 85; P2559, p. 4; D 180, p. 9) **126<sup>th</sup> HGR** (P2417; P71, p. 85; P2559, p. 4); **SP:** P2379, pp. 1-2; **Strmica: 4GBR** (P2417; P71, p. 84); **Split Military District Units** (P2559, p. 5); **7GBR** (P2343, p. 44); **81GuardsBattalion** (P71, p. 92); **6HGR** (P2586, p. 5).

<sup>865</sup> P2077; P1404.<sup>866</sup> P2077.<sup>867</sup> P1404; D1631, pp. 5-6.<sup>868</sup> P236, p. 1.<sup>869</sup> P236, p. 1; [REDACTED]; P1404; P1603; Clark: P1251, p. 12; P659.<sup>870</sup> D1631, p. 7.<sup>871</sup> P2402, p. 156.<sup>872</sup> D1631, p. 6.<sup>873</sup> P11.<sup>874</sup> P11; [REDACTED]; [REDACTED]; P27, p. 1.<sup>875</sup> P1413; P2085.

| No. | Victim          | Year of Birth       | Ethnicity           | Status                  | Date Killed               | Description  |
|-----|-----------------|---------------------|---------------------|-------------------------|---------------------------|--|
| 180 | Jovanka MIZDRAK | 1944 <sup>882</sup> | Serb <sup>883</sup> | Civilian <sup>884</sup> | 8/8/1995 <sup>885</sup>   | Mizdrakovac: Soldiers killed her in front of other civilians because she did not want to leave her house. <sup>886</sup>   |
| 181 | Stevan MIZDRAK  | 1910 <sup>887</sup> | Serb <sup>888</sup> | Civilian <sup>889</sup> | 5/8/1995 <sup>890</sup>   | Mizdrakovac: Victim seen walking in field, later found with bullet shot. <sup>891</sup><br>Autopsy: gunshot to head. <sup>892</sup>  |
| 182 | Ivan JELIĆ      | 1905 <sup>893</sup> | Serb <sup>895</sup> | Civilian <sup>896</sup> | 6-7/8/1995 <sup>897</sup> | Jelić: Daughter found bodies in pool of blood; Croat relative learned from soldiers that victims were killed. <sup>898</sup> Civilian protection too busy to go to scene. <sup>899</sup> |
| 183 | Ana JELIĆ       | 1907 <sup>894</sup> |                     |                         |                           |  |

<sup>876</sup> P2085.

<sup>877</sup> P1413;D364,p.2.

<sup>878</sup> P2085;P14;P36,p.3.

<sup>879</sup> P14;P36,p.3;P2157,pp.1-2;[REDACTED].

<sup>880</sup> [REDACTED];T.744;P2157,pp.1-2.

<sup>881</sup> P2157,pp.1-2;D57,p.74;P1611;Clark:P1251,p.12;P1892;P1413;P2000.

<sup>882</sup> D1631,p.7.

<sup>883</sup> P2402,p.158.

<sup>884</sup> D1631,p.7.

<sup>885</sup> P229.

<sup>886</sup> Rodić;P637,paras.5-9;P229;D1631,p.7.

<sup>887</sup> P2093.

<sup>888</sup> P2093.

<sup>889</sup> P1421.

<sup>890</sup> P2093.

<sup>891</sup> P229;Rodić;P637,para.16.

<sup>892</sup> P1421;P1619;Clark:P1251,p.23;P1899;P1900.

<sup>893</sup> P274.

<sup>894</sup> P274.

<sup>895</sup> P274.

<sup>896</sup> P274;[REDACTED].

<sup>897</sup> P274.

| No. | Victim              | Year of Birth       | Ethnicity           | Status  | Date Killed                        | Description   |
|-----|---------------------|---------------------|---------------------|---|------------------------------------|---|
| 192 | NN<br>(ID No. 466)  |                     |                     | Civilian <sup>900</sup>                             | Before<br>20/9/1995 <sup>901</sup> | Žagrović. <sup>902</sup>  |
| 201 | NN (ID No. 614)     |                     |                     | Civilian <sup>903</sup>                             | Before<br>18/9/1995 <sup>904</sup> | Žagrović: Killed by gunshot to head. <sup>905</sup>   |
| 229 | Jovan LIČANIN       | 1934 <sup>906</sup> | Serb <sup>907</sup> | Civilian <sup>908</sup>                             | 5/8/1995 <sup>909</sup>            | Kovačić: Male, civilian clothes, cause of death<br>unascertained. <sup>910</sup>  |
| 230 | NN (ID No. 411)     |                     |                     | Civilian <sup>911</sup>                             | Before<br>13/8/1995 <sup>912</sup> | Kovačić: Cause of death unascertained, possibly<br>transfacial gunshot wound. <sup>914</sup>                                |
| 231 | Sava<br>MILIVOJEVIĆ | 1948 <sup>915</sup> | Serb <sup>916</sup> | Soldier<br><i>Hors de<br/>Combat</i> <sup>917</sup> | 5/8/1995 <sup>918</sup>            | Near Kovačić: Executed after interview with soldiers. <sup>919</sup><br>Autopsy: Killed by gunshots (min.5). <sup>920</sup> |

<sup>898</sup> P274; [REDACTED].

<sup>899</sup> D57.p.8.

<sup>900</sup> P1422.

<sup>901</sup> P1422.

<sup>902</sup> P1422.

<sup>903</sup> D373.p.2 (translation error, see B/C/S;P1430).

<sup>904</sup> P1430.

<sup>905</sup> P1430; P1629; Clark: P1251.p.12; P1914.

<sup>906</sup> P2116.

<sup>907</sup> P2116.

<sup>908</sup> P1648.p.2.

<sup>909</sup> P2116.

<sup>910</sup> P1648; P1251.p.20; P659.

<sup>911</sup> P1453; D354.p.11

<sup>912</sup> P1453.

<sup>913</sup> P1453.

<sup>914</sup> P1649.

<sup>915</sup> P2007.

| No. | Victim             | Year of Birth       | Ethnicity           | Status                  | Date Killed                        | Description   |
|-----|--------------------|---------------------|---------------------|-------------------------|------------------------------------|---|
| 235 | Milka DRAGIŠIĆ     | 1926 <sup>921</sup> | Serb <sup>922</sup> | Civilian <sup>923</sup> | 20/8/1995 <sup>924</sup>           | Elderly female killed from gunshots to head (min.5). <sup>925</sup>   |
| 236 | NN<br>(ID No. 595) |                     |                     | Civilian <sup>926</sup> | Before<br>27/8/1995 <sup>927</sup> | Plavno:Killed from gunshots to head and trunk (min.4). <sup>928</sup> |
| 237 | Petar GAGIĆ        | 1960 <sup>929</sup> |                     | Civilian <sup>930</sup> | Probably<br>5/8/1995               | Killed by gunshot to neck and trunk (min.6). <sup>931</sup>           |
| 238 | NN<br>(ID No. 608) |                     |                     | Civilian <sup>932</sup> | Before<br>12/9/1995 <sup>933</sup> | Polaća:Decomposed body, cause of death unascertained. <sup>934</sup>  |

<sup>916</sup> [REDACTED].

<sup>917</sup> [REDACTED].

<sup>918</sup> [REDACTED].

<sup>919</sup> [REDACTED]; *see also* Scheduled Killing 1 for perpetrators' identification.

<sup>920</sup> P2702;P1650;Clark:P1251.p.13;P2007.

<sup>921</sup> P1456;P2119.

<sup>922</sup> P2119.

<sup>923</sup> P1456;DI631.p.9;D363.

<sup>924</sup> P2119;P2402.p.156.

<sup>925</sup> P1456;P1654;Clark:P1251.p.12;P1256.p.2;T.14161-62;P659;P2402.p.156.

<sup>926</sup> P1457.

<sup>927</sup> P1457.

<sup>928</sup> P1457;P1655;Clark:P1251.p.12;P1936;P1937.

<sup>929</sup> P2007.

<sup>930</sup> P1458.

<sup>931</sup> P1458;P1656;Clark:P1251.p.13;P1938;P1939;P2007.

<sup>932</sup> P1459;D369.p.2.

<sup>933</sup> P1459.

<sup>934</sup> P1459;P1657;Clark:P1251.p.12.

| No. | Victim  | Year of Birth                | Ethnicity           | Status                   | Date Killed                        | Description  |
|-----|---|------------------------------|---------------------|--------------------------|------------------------------------|--|
| 240 | NN<br>(ID No. 422)  |                              |                     | Civilians <sup>935</sup> | Before<br>14/8/1995 <sup>936</sup> | Stara Straža, Žagrović: Decomposed bodies, cause of death unascertained. <sup>937</sup>      |
| 241 | NN<br>(ID No. 427)  |                              |                     |                          |                                    |  |
| 242 | NN<br>(ID No. 609)  |                              |                     | Civilian <sup>938</sup>  | Before<br>12/9/1995 <sup>939</sup> | Strmica: Killed by gunshots to chest; evidence of blunt force trauma to head. <sup>940</sup> |
| 244 | Nikola JELIĆ  | 1940 <sup>941</sup>          |                     | Civilian <sup>942</sup>  | Before<br>25/8/1995 <sup>943</sup> | Žagrović: Killed by gunshot to face. <sup>944</sup>  |
| 245 | NN<br>(ID No. 506)<br>(Later identified<br>as Todor MILOŠ,<br>ID document not<br>in evidence) | 1945-<br>1960 <sup>945</sup> | Serb <sup>946</sup> | Civilian <sup>947</sup>  | Before<br>25/8/1995 <sup>948</sup> | Žagrović: Killed by gunshot to head. <sup>949</sup>  |

<sup>935</sup> P1460;P1461.

<sup>936</sup> P1460;P1461.

<sup>937</sup> P1460;P1461;P1659;P1660;Clark:P1251,p.13.

<sup>938</sup> P1462;D369,p.2.

<sup>939</sup> P1462.

<sup>940</sup> P1661;Clark:P1251,p.12;P1256,p.12;T.14168;P1940.

<sup>941</sup> P2701.

<sup>942</sup> P1463;D359,p.1.

<sup>943</sup> P1463.

<sup>944</sup> P1253;Clark:P1251,p.12;P1942;P1463;P2701.

<sup>945</sup> P1663.

<sup>946</sup> P2402,p.160.

<sup>947</sup> D359,p.1.

<sup>948</sup> P1464.

| No. | Victim           | Year of Birth       | Ethnicity           | Status                  | Date Killed              | Description   |
|-----|------------------|---------------------|---------------------|-------------------------|--------------------------|---|
| XXX | Đurdija MIRKOVIĆ | 1925 <sup>950</sup> | Serb <sup>951</sup> | Civilian <sup>952</sup> | 12/8/1995 <sup>953</sup> | Three soldiers shot woman in front of witnesses, body burnt. <sup>954</sup> |

### 11. Lišane Ostrovičke Municipality<sup>955</sup>

| No. | Victim         | Year of Birth       | Ethnicity <sup>956</sup> | Status                  | Date Killed                    | Description   |
|-----|----------------|---------------------|--------------------------|-------------------------|--------------------------------|---|
| 311 | Draginja PUNOŠ | 1928 <sup>957</sup> | Serb                     | Civilian <sup>958</sup> | 5-6/8/1995 <sup>959</sup>      | Killed by firearm shots; alleged perpetrators acquitted due to procedural police errors. <sup>960</sup> |
| 312 | Unidentified   |                     |                          | Civilian <sup>961</sup> | Before 7/9/1995 <sup>962</sup> | Vukšić:Elderly woman, decomposed body. <sup>963</sup>   |
| 313 | NN             |                     | Serb                     | Civilian <sup>964</sup> | Before 8/8/1995 <sup>965</sup> | Bjelina. <sup>966</sup>   |

<sup>949</sup> P1663;Clark:P1251,p.12;P1944;P1464;D359.

<sup>950</sup> Mirković(Smilijana):P2694,para.4;D720,p.1.

<sup>951</sup> Mirković(Sava):T.7413.

<sup>952</sup> Mirković(Sava):P723,para.12;D720,p.1.

<sup>953</sup> Mirković(Smilijana):P2694,para.4.

<sup>954</sup> Mirković(Smilijana):P2694,para.4;Mirković(Jovo):P2693,para.7;Mirković(Sava):P723,paras.11-12;D720,pp.2-3;T.7423-24;P724.

<sup>955</sup> Croatian forces present in Lišane Ostrovičke Municipality included:134HGR(P2417;P1200,p.2;D1749,p.3);113<sup>th</sup>Infantry Brigade(P2417;P2349,p.2;[REDACTED]);72<sup>nd</sup> MP(P973,p.6).

<sup>956</sup> Census:C5,pp.46,48(B/C/S):Map:P2418(Bjelina, Dobropoljei and Ostrovica were overwhelmingly Serb;Vukšić was majority Croat).

<sup>957</sup> D1631,p.11.

<sup>958</sup> D1631,p.11.

<sup>959</sup> Kardum:T.9329.

<sup>960</sup> Kardum:P896,para.35;Kardum:T.9329 ;D1631,p.11.

<sup>961</sup> [REDACTED].

<sup>962</sup> P248,pp.6-7;[REDACTED].

<sup>963</sup> P248,pp.6-7;[REDACTED].

| No. | Victim                         | Year of Birth       | Ethnicity <sup>956</sup> | Status                  | Date Killed                        | Description                               |
|-----|--------------------------------|---------------------|--------------------------|-------------------------|------------------------------------|---|
|     | (ID No. 289)                   |                     |                          |                         |                                    |   |
| 314 | Branko<br>ČOTRA                | 1930 <sup>967</sup> | Serb                     | Civilian <sup>968</sup> | Before<br>14/8/1995 <sup>969</sup> | Ostrovica:Decomposed body. <sup>970</sup> |
| 315 | NN<br>(ID No. 576)             |                     |                          | Civilian <sup>971</sup> | Before 9/9/1995 <sup>972</sup>     | Vukšić:Skeleton. <sup>973</sup>           |
| 316 | Petrovka<br>KUŽET<br>(invalid) | 1960 <sup>974</sup> | Serb                     | Civilian <sup>975</sup> | Before<br>25/9/1995 <sup>976</sup> | Burnt in house. <sup>977</sup>            |

<sup>964</sup> P1499,p.2;D351,p.4.

<sup>965</sup> P1499,p.2.

<sup>966</sup> P1499,p.2.

<sup>967</sup> P1500,p.2.

<sup>968</sup> P1500,p.2;D354,p.13.

<sup>969</sup> P1500,p.2.

<sup>970</sup> P1500,p.2;P2572,p.20;D354,p.13.

<sup>971</sup> P1501;D366,p.2.

<sup>972</sup> P1501.

<sup>973</sup> P1501.

<sup>974</sup> Hendriks:D820,p.10:[REDACTED];P2402,p.139.

<sup>975</sup> [REDACTED].

<sup>976</sup> [REDACTED].

<sup>977</sup> Hendriks:D820,p.10:[REDACTED];P2402,p.139.

12. Lisičić Municipality<sup>978</sup>

| No. | Victim                      | Year of Birth       | Ethnicity            | Status                   | Date Killed                     | Description   |
|-----|-----------------------------|---------------------|----------------------|--------------------------|---------------------------------|---|
| 305 | Milica<br>GROVAC            | 1908 <sup>979</sup> | Serbs <sup>981</sup> | Civilians <sup>982</sup> | Before 11/9/1995 <sup>983</sup> | Two women shot, one in back of head, other in belly and right side of body. Possibly dragged outside from where they were killed. <sup>984</sup> Traces of firearms/casings recovered. Brain contusion considered cause of death during on-site investigation. <sup>985</sup> |
| 306 | Mileva<br>(Kosa?)<br>GROVAC | 1936 <sup>980</sup> |                      |                          |                                 |   |
| 307 | Dušan<br>DRAČA              | 1919 <sup>986</sup> |                      | Civilian <sup>987</sup>  | Before 17/8/1995 <sup>988</sup> | Bruška. <sup>989</sup>  |
| 308 | Stojan<br>RUJAK             | 1956 <sup>990</sup> |                      | Civilian <sup>991</sup>  | Before 17/8/1995 <sup>992</sup> | Bruška: Decomposed body. <sup>993</sup>   |

<sup>978</sup> Croatian forces present in the Lisičić Municipality included: 112<sup>th</sup> Brigade, 7HGR (P2417)

(P2417;P2437, pp.22);7HGR(P1200,p.3;P1183,p.12;P2437,p.23);TomislavgradMD;[REDACTED].

<sup>979</sup> D1631,p.10.

<sup>980</sup> D1631,p.10.

<sup>981</sup> P2402,p.138;Brđud was almost entirely Serb.C5,p.46(B/C/S).

<sup>982</sup> [REDACTED].

<sup>983</sup> P950,p.2.

<sup>984</sup> P700,pp.27-28;P950,p.2;P954,p.2;Hendriks:P931,para.42;Hendriks:T.9704;P258;P261;P39;Malm:P774,p.14;P781;Malm:T.8161-62 ;P2402,pp.138-139;D1631,p.10;D1314,p.2.

<sup>985</sup> D1314,p.2;D1356.

<sup>986</sup> P1495,p.2;D69,p.11(B/C/S);D355,p.2.

<sup>987</sup> P1495;D69,p.11(B/C/S);D355,p.2.

<sup>988</sup> P1495.

<sup>989</sup> P1495;D69,p.11(B/C/S);D355,p.2.

<sup>990</sup> P1496.

<sup>991</sup> P1496;D69,p.11(B/C/S);D355,p.2.

<sup>992</sup> P1496;D69,p.11(B/C/S);D355,p.2.

<sup>993</sup> P1496;D69,p.11(B/C/S);D355,p.2.

| No. | Victim             | Year of Birth | Ethnicity | Status                  | Date Killed                     | Description                                    |
|-----|--------------------|---------------|-----------|-------------------------|---------------------------------|--|
| 309 | NN<br>(ID No. 513) |               |           | Civilian <sup>994</sup> | Before 25/9/1995 <sup>995</sup> | Medvida:Highly decomposed body. <sup>996</sup> |
| 310 | NN<br>(ID No. 514) |               |           | Civilian <sup>997</sup> | Before 25/9/1995 <sup>998</sup> | Medvida:Highly decomposed body. <sup>999</sup> |

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<sup>994</sup> P1497,p.2.

<sup>995</sup> P1497,p.2.

<sup>996</sup> P1497;D69,p.21(B/C/S).

<sup>997</sup> P1498

<sup>998</sup> P1498;D69,p.21(B/C/S).

<sup>999</sup> P1498.

13. Nadvoda Municipality<sup>1000</sup>

| No. | Victim             | Year of Birth           | Ethnicity            | Status                   | Date Killed                          | Description   |
|-----|--------------------|-------------------------|----------------------|--------------------------|--------------------------------------|---|
| 321 | Jovan<br>KRNJAJA   | 1904 <sup>1001</sup>    | Serb <sup>1002</sup> | Civilian <sup>1003</sup> | Before<br>31/8/1995 <sup>1004</sup>  | Žegar:Elderly male, highly decomposed body. <sup>1005</sup>   |
| 322 | Nedeljko<br>MACURA | 1926 <sup>1006</sup>    | Serb <sup>1007</sup> | Civilian <sup>1008</sup> | Before<br>24/8/1995 <sup>1009</sup>  | Stayed behind in Žegar:Killed, decomposed body. <sup>1010</sup>                                     |
| 323 | Petar MILIĆ        | 1937-38 <sup>1011</sup> | Serb <sup>1012</sup> | Civilian <sup>1013</sup> | Before<br>11/10/1995 <sup>1014</sup> | Krupa:Decomposed body. <sup>1015</sup> Minimum three gunshots fired, causing death. <sup>1016</sup> |

<sup>1000</sup> Croatian forces present in Nadvoda Municipality included:7HGR(P2417;P1183,p.15;P1113,pp.377-78,394-96,fn.484,598,593);9GBR(P2417;P2559,p.4;P1192,p.4;112nd Brigade(P2417;P2437,p.23;134HGR(P1200,pp.4-5;D282,p.1;P1113,pp.376-77;404-405,408,fn.482,629,644-45);72<sup>nd</sup> MP(D1749,p.4;P2559,p.4;P1192,p.4).

<sup>1001</sup> P1502,p.2.

<sup>1002</sup> P2402,p.163.

<sup>1003</sup> P1502;D69.p.16(B/C/S);D363,p.2.

<sup>1004</sup> P1502,p.2;D363,p.2.

<sup>1005</sup> P1502;D1314,pp.7-8.

<sup>1006</sup> P1503,p.2;D358,p.2.

<sup>1007</sup> Dopud:P548,para.5;Dopud:T.5982;C5,p.134(B/C/S);P2426.

<sup>1008</sup> P1503,p.2.

<sup>1009</sup> P1503,p.2.

<sup>1010</sup> Dopud:P548,para.5;Dopud:T.5982.

<sup>1011</sup> P2402,p.164.

<sup>1012</sup> P2402,p.164.

<sup>1013</sup> P1504.

<sup>1014</sup> P1504.

<sup>1015</sup> P1504.

<sup>1016</sup> P2314,pp.110-11;P1694;P1996-98.

Oklaj Municipality<sup>1017</sup>

| No. | Victim                          | Year of Birth        | Ethnicity            | Status                   | Date Killed                         | Description   |
|-----|---------------------------------|----------------------|----------------------|--------------------------|-------------------------------------|---|
| 317 | Vladimir<br>(Vlado)<br>JANKOVIĆ | 1940 <sup>1018</sup> | Serb <sup>1019</sup> | Civilian <sup>1020</sup> | Before<br>16/8/1995 <sup>1021</sup> | Died from several-day-old contusions. <sup>1022</sup> |

<sup>1017</sup> The 142HGR was in the Oklaj Municipality:P1183.p.9:[REDACTED];P1128,p.1;P2349,p.3;P1113,pp.377-78,394-96,fn.484,593,598;D282,p.2.

<sup>1018</sup> D1783,p.10.

<sup>1019</sup> D1783,p.10.

<sup>1020</sup> D1783,p.10.

<sup>1021</sup> P2402,p.142.

<sup>1022</sup> D1783,p.10;D1631,p.11.

Orlić Municipality<sup>1023</sup>

| No. | Victim            | Year of Birth        | Ethnicity            | Status  | Date Killed                         | Description  |
|-----|-------------------|----------------------|----------------------|---|-------------------------------------|--|
| 258 | Lazar<br>DAMJANIĆ | 1934 <sup>1024</sup> | Serb <sup>1025</sup> | Civilian <sup>1026</sup>                      | 6/8/1995 <sup>1027</sup>            | Taken away by soldiers. Wife heard gunfire 15 minutes later. Two days later same soldiers said she would not find her husband alive. She found body—looked like he was shot in stomach. <sup>1028</sup><br>Autopsy:Gunshot to torso. <sup>1029</sup> |
| 257 | Dušan<br>VUKADIN  | 1944 <sup>1030</sup> | Serb <sup>1031</sup> | Soldier <i>Hors de Combat</i> <sup>1032</sup> | 5/8/1995 <sup>1033</sup>            | Vrbnik:Croatian soldiers beat, shot ARSK soldier outside his accommodation. <sup>1034</sup> Gunshots to torso caused death. <sup>1035</sup>  |
| 259 | Unidentified      | 1913 <sup>1036</sup> |                      | Civilian <sup>1037</sup>                      | Before<br>20/8/1995 <sup>1038</sup> | Vrbnik: 82-year-old. <sup>1039</sup>   |

<sup>1023</sup> Croatian forces present in Orlić Municipality included:142HGR(P2417;P2559,p.4;P2349,p.2;[REDACTED]);P1183,p.9;D282,p.2;D990,pp.2,4;7GBR(P2417;[REDACTED]);P2349,p.3;D820,p.5);6HGR(P2417;P1113,pp.377-78,395-96,fn.484,598;P71,p.92);73<sup>rd</sup>MP(P875,para.65);113GBR(P2609,p.1).

<sup>1024</sup> P2121.

<sup>1025</sup> P2121.

<sup>1026</sup> P1467.

<sup>1027</sup> Damjanić:P632,pp.2-4;D57,p.38.

<sup>1028</sup> Damjanić:P632,pp.2-4.

<sup>1029</sup> P1666;Clark:P1251,p.23;P1256,p.3;Clark:T.14162;P659,p.1;P1467.

<sup>1030</sup> P1466.

<sup>1031</sup> P2120.

<sup>1032</sup> P1466.

<sup>1033</sup> P2120;[REDACTED].

<sup>1034</sup> [REDACTED];D179,p.1;P276,p.1.

<sup>1035</sup> P1665;Clark:P1251,p.23;P1256,p.7;Clark:T.14165;P2000;P1466.

<sup>1036</sup> D391,p.12.

<sup>1037</sup> D391,p.12.

| No. | Victim          | Year of Birth        | Ethnicity            | Status                   | Date Killed              | Description   |
|-----|-----------------|----------------------|----------------------|--------------------------|--------------------------|---|
| 261 | Tode GRUBNIĆ    | 1950 <sup>1040</sup> | Serb <sup>1041</sup> | Civilian <sup>1042</sup> | 6/8/1995 <sup>1043</sup> | Killed by gunshot to head (min.3). <sup>1044</sup> Authorities said soldiers killed victim on 19-Aug-95 (different from listed date) after he allegedly killed a Croat. <sup>1045</sup> |
| 262 | Mirko RADIŠA    | 1949 <sup>1046</sup> | Serb <sup>1047</sup> | Civilian <sup>1048</sup> | 6/8/1995 <sup>1049</sup> | Biskupija: Killed by gunshot to head. <sup>1050</sup>   |
| 263 | Rajko KRIČKOVIĆ | 1965 <sup>1051</sup> | Serb <sup>1052</sup> | Civilian <sup>1053</sup> | 5/8/1995 <sup>1054</sup> | Biskupija: Killed by gunshot to head and trunk. <sup>1055</sup>   |
| 264 | Sava DMITROVIĆ  | 1924 <sup>1056</sup> | Serb <sup>1057</sup> | Civilian <sup>1058</sup> | 5/8/1995 <sup>1059</sup> | Body found in well; cause of death unascertained. <sup>1060</sup>   |

<sup>1038</sup> D391,p.12.<sup>1039</sup> D391,p.12.<sup>1040</sup> P1468.<sup>1041</sup> P2122.<sup>1042</sup> P1468.<sup>1043</sup> P2122.<sup>1044</sup> P1667;Clark:P1251,p.12;P659;P1468.<sup>1045</sup> P37,para.2;Flynn:P21,para.32;P262;P2514.<sup>1046</sup> P1469.<sup>1047</sup> P2123.<sup>1048</sup> P1469 (although listed as military, victim was found in civilian clothes).<sup>1049</sup> P2123.<sup>1050</sup> Clark:P1251,p.13;P659;P1469.<sup>1051</sup> P2124;P2002.<sup>1052</sup> P2124.<sup>1053</sup> P1470.<sup>1054</sup> P2124.<sup>1055</sup> P1669;P1251,p.12;P2002;P1950;P1470.<sup>1056</sup> P2125.<sup>1057</sup> P2125.

| No. | Victim             | Year of Birth        | Ethnicity            | Status                   | Date Killed                      | Description  |
|-----|--------------------|----------------------|----------------------|--------------------------|----------------------------------|--|
| 265 | NN (ID No. 233)    |                      |                      | Civilian <sup>1061</sup> | Before 10/8/1995 <sup>1062</sup> | Killed by gunshot to head. <sup>1063</sup>                                 |
| 266 | Milan BALIĆ        | 1919 <sup>1064</sup> | Serb <sup>1065</sup> | Civilian <sup>1066</sup> | 18/8/1995 <sup>1067</sup>        | Visible chest wound; autopsy confirmed gunshot to torso. <sup>1068</sup>   |
| 267 | Radomir SMILJANIĆ  | 1945 <sup>1069</sup> | Serb <sup>1070</sup> | Civilian <sup>1071</sup> | 5/8/1995 <sup>1072</sup>         | Killed by gunshot to trunk. <sup>1073</sup>                                |
| 268 | Ljubomir KOVAČEVIĆ | 1914 <sup>1074</sup> | Serb <sup>1075</sup> | Civilian <sup>1076</sup> | 5/8/1995 <sup>1077</sup>         | Body collected on 22-Aug-95; cause of death unascertained. <sup>1078</sup> |
| 269 | Dušan BUAC         | 1934 <sup>1079</sup> | Serb <sup>1080</sup> | Civilian <sup>1081</sup> | 5/8/1995 <sup>1082</sup>         | Badly decomposed body found on 16-Aug-95;                                  |

<sup>1058</sup> P1471.<sup>1059</sup> P2125.<sup>1060</sup> D57,p.50;P1670;Clark:P1251,p.12;P659;P1471.<sup>1061</sup> P1472.<sup>1062</sup> P1472.<sup>1063</sup> P1671;Clark:P1251,p.23;P1951.<sup>1064</sup> P2126.<sup>1065</sup> P2126.<sup>1066</sup> P1473;D375,p.2.<sup>1067</sup> P2126.<sup>1068</sup> D57,p.165;P700,pp.29-30;P2402,p.157;P1672;P2126;P2006;P1473.<sup>1069</sup> P2127.<sup>1070</sup> P2127.<sup>1071</sup> P1474.<sup>1072</sup> P2127.<sup>1073</sup> P1673;Clark:P1251,p.12;P2006;P1474.<sup>1074</sup> P1475.<sup>1075</sup> P2128.<sup>1076</sup> P1475.<sup>1077</sup> P2128.<sup>1078</sup> P1674;Clark:P1251,p.12;P659,p.2;P1475.

| No. | Victim           | Year of Birth        | Ethnicity            | Status                   | Date Killed              | Description   |
|-----|------------------|----------------------|----------------------|--------------------------|--------------------------|---|
| 271 | Predrag<br>SIMIC | 1965 <sup>1084</sup> | Serb <sup>1085</sup> | Civilian <sup>1086</sup> | 6/8/1995 <sup>1087</sup> | killed by gunshots to head, chest, abdomen. <sup>1083</sup><br>Soldiers/tank in Zarići hamlet on 6-Aug-95.<br>Machine gun fire; victim found next morning,<br>several shots in head, chest. <sup>1088</sup> |

<sup>1079</sup> P1476.

<sup>1080</sup> P2129.

<sup>1081</sup> P1476.

<sup>1082</sup> P2129.

<sup>1083</sup> D179, p. 2; [REDACTED]; P1675; P1953; Clark: P1251, p. 12; P2000; P1476.

<sup>1084</sup> P2402, p. 155; Zarić: P2516, p. 10, para. 6.

<sup>1085</sup> P2402, p. 155.

<sup>1086</sup> Zarić: P2516, p. 10, para. 6; P2402, p. 155.

<sup>1087</sup> Zarić: P2516, pp. 10-11, paras. 6-10.

<sup>1088</sup> Zarić: P2516, pp. 10-11, paras. 6-10; P2402, p. 155.

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

**Case No. IT-06-90-T**

**THE PROSECUTOR**

**v.**

**ANTE GOTOVINA  
IVAN ČERMAK  
MLADEN MARKAČ**

**PUBLIC REDACTED ANNEX C**

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**INHUMANE ACTS / CRUEL TREATMENT BY MUNICIPALITY**

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|                   |   |
|-------------------|---|
| 1. Benkovac ..... | 1 |
| 2. Gračac.....    | 2 |
| 3. Kistanje ..... | 3 |
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| 5. Orlić.....     | 6 |

## 1. Benkovac

| Date          | Location | Description   | Perpetrator                                    |
|---------------|----------|---|--|
| 11-13/08/1995 | Benkovac | During MP interrogation, prisoner beaten; grave injury threatened. <sup>1</sup> | HV-134HGR,4GBR;<br>72MPBattalion. <sup>2</sup> |

<sup>1</sup> Drča:P2690,p.4.

<sup>2</sup> Drča:P2690,pp.3-4;P2398,p.2;P2417:[REDACTED];P1200,p.2,3,5;D1749,p.3;P2566,p.2.

## 2. Gračac

| Date         | Location | Description  | Perpetrator                |
|--------------|----------|--|----------------------------|
| 8-12/08/1995 | Palanka  | Brkić tied to tree, fire lit underneath him. <sup>3</sup>  | HV-113Brigade <sup>4</sup> |
| Early Sep-95 | Palanka  | Brkić beaten, 2 ribs broken, kicked into a stream. <sup>5</sup>  | HV <sup>6</sup>            |
| 25/09/1995   | Zrmanja  | Harassment, intimidation. Man forced to walk 30-40km to Knin to apply for Croatian documents; <sup>7</sup> arrest threatened. <sup>7</sup> | HV <sup>8</sup>            |

<sup>3</sup> Brkić:P2506.p.4;P2345.pp.190-91.

<sup>4</sup> Brkić:P2506.p.4;P2345.pp.190-91;[REDACTED];P2343.p.45,P1200pp.4-5.

<sup>5</sup> Brkić:P2506.p.5;P2345.pp.190-91.

<sup>6</sup> Brkić:P2506.p.5;P2345.pp.190-91.

<sup>7</sup> P1105p.2;Mauro:P1098.p.7;Mauro:P1099,para.52.

<sup>8</sup> P1105p.2;Mauro:P1098.p.7;Mauro:P1099,para.52.

### 3. Kistanje

| Date       | Location | Description   | Perpetrator                |
|------------|----------|---|----------------------------|
| 18/08/1995 | Kakanj   | Ognjenović hit by rifle butt, shot in arm. <sup>9</sup>   | HV <sup>10</sup>           |
| 05/09/1995 | Kistanje | Serb residents regularly harassed, threatened. Said they could not continue living in the area. <sup>11</sup> | HV;civilians <sup>12</sup> |

<sup>9</sup> Ognjenović:P2511,pp.6-7,paras.15-16,18.

<sup>10</sup> Ognjenović:P2511,pp.6-7,paras.15-16,18.

<sup>11</sup> P50,p.1;Flynn:P21,para.30.

<sup>12</sup> P50,p.1;Flynn:P21,para.30.

## 4. Knin

| Date          | Location          | Description  | Perpetrator                                  |
|---------------|-------------------|--|--|
| 5/08/1995     | Knin              | [REDACTED] <sup>13</sup>   | HV-7GBR,4GBR. <sup>14</sup>                  |
| 6-7/08/1995   | Polača            | Soldiers made Serb walk in front of car, knocked him over. <sup>15</sup>   | HV-<br>126HGR,6HGR,7G<br>BR <sup>16</sup>    |
| 7-10/08/1995  | Knin              | Serb beaten, tied with other Serbs, all beaten, forced to sing Croatian songs. <sup>17</sup>   | HV-7GBR,4<br>GBR;72MPBattalion <sup>18</sup> |
| 8/08/1995     | Knin              | Soldier threatened to shoot Serb interpreter because he was "Chetnik." <sup>19</sup>   | HV-4GBR <sup>20</sup>                        |
| 13/08/1995    | Knin              | Soldiers beat Serb attempting to return home. <sup>21</sup>  | HV-4GBR <sup>22</sup>                        |
| 14-15/08/1995 | Durići,<br>Plavno | Soldier held gun to Serb woman's chest, ordered her to destroy family pictures/personal items, under threat of death. <sup>23</sup>                          | HV <sup>24</sup>                             |
| 22/08/1995    | Knin              | Elderly Serb assaulted at home by soldiers, asked his nationality, threatened, roughed-up. When he went to the police station, police laughed. <sup>25</sup> | HV-4GBR <sup>26</sup>                        |

<sup>13</sup> [REDACTED].

<sup>14</sup> [REDACTED];P71,p.84;P1132,p.2;P2559,p.4;[REDACTED];P2343,p.36;Luković:D1687,p.5;P2417.

<sup>15</sup> Mirković(Jovan):P2693,para.2.

<sup>16</sup> Mirković(Jovan):P2693,para.2;P2417;P2559,p.4;P71,p.85.

<sup>17</sup> Mirković(Ilija):P2682,pp.14,17-18(B/C/S).

<sup>18</sup> Mirković(Ilija):P2682,pp.14,17-18(B/C/S);P2417;Williams:P925,p.7;P2559,p.5.

<sup>19</sup> Hill:P292,pp.38-39;Hill:T.3766-67.

<sup>20</sup> Hill:P292,pp.38-39;Hill:T.3766-67.

<sup>21</sup> P42,p.1.

<sup>22</sup> P42,p.1;P935,p.2.

<sup>23</sup> Durić(Milica):T10792-94.

<sup>24</sup> Durić(Milica):T10792-94.

<sup>25</sup> P27,p.3.

<sup>26</sup> P27,p.3;D1002,p.4;D1003,p.1;D990,p.1;D672,p.1.

| Date       | Location           | Description  | Perpetrator      |
|------------|--------------------|--|------------------|
| 26/08/1995 | Knin               | Damjanić was beaten after refusing to be photographed with her dead husband's body (killed by HV). After asking if he could be buried in local cemetery, soldier said: "You Serbian whore, how can you demand this". <sup>27</sup> | HV <sup>28</sup> |
| 29/08/1995 | Borović            | Residents threatened, terrorized. <sup>29</sup>  | HV <sup>30</sup> |
| 12/09/1995 | Stolici,<br>Plavno | Grenades thrown into house, 2 injured. 2 women forced to undress and robbed of hidden money. <sup>31</sup>   | HV <sup>32</sup> |

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<sup>27</sup> Damjanić:P632,pp.4,8.

<sup>28</sup> Damjanić:P632,pp.4,8.

<sup>29</sup> P34,p.1.

<sup>30</sup> P34,p.1.

<sup>31</sup> P1103;Mauro:P1098,p.6.

<sup>32</sup> P1103;Mauro:P1098,p.6.

## 5. Orlić

| Date        | Location              | Description   | Perpetrator                  |
|-------------|-----------------------|---|------------------------------|
| 5-6/08/1995 | Urukali,<br>Biskupija | 73-year-old Serb called “Chetnik Whore”, forced to play basketball in her underwear with elderly neighbor. <sup>33</sup>                                  | HV-6HGR,7GGR. <sup>34</sup>  |
| 6/08/1995   | Uzdolje               | [REDACTED] <sup>35</sup>  | HV-142HGR,7GGR <sup>36</sup> |
| 14/08/1995  | Čenići                | Villagers beaten, harassed. House containing paralyzed woman burned; husband dragged her out. <sup>37</sup>   | HV-142HGR <sup>38</sup>      |
| 16/08/1995  | Vrbnik                | Soldiers tried burning elderly Serb inside her house. <sup>39</sup>   | HV-142HGR <sup>40</sup>      |
| 29/08/1995  | Markovac              | Serb beaten despite showing his new <i>domovnica</i> . <sup>41</sup>  | HV-142HGR <sup>42</sup>      |
| 29/08/1995  | Orlić                 | Daily harassment, threats, looting. <sup>43</sup>   | HV-142HGR <sup>44</sup>      |
| 31/08/1995  | Ridane                | Woman, two sons forced into barn; several animals shot. <sup>45</sup>   | HV-142HGR <sup>46</sup>      |
| 14/09/1995  | Markovac              | 81-year-old pistol-whipped and placed in front of wall while soldiers fired shots around her head. 4 men verbally abused, one beaten twice. <sup>47</sup> | HV-42HGR <sup>48</sup>       |

<sup>33</sup> Urukalo:P964, paras. 4-6;T10091-92;P965;P966.

<sup>34</sup> Urukalo:P964, paras. 4-6;T10091-92;P965;P966;P2417;[REDACTED].

<sup>35</sup> [REDACTED];[REDACTED].

<sup>36</sup> [REDACTED];[REDACTED];P2559,p.4;[REDACTED];P1183,p.9;P2417.

<sup>37</sup> P42,p.2.

<sup>38</sup> P42,p.2;P2417;D282,p.2.

<sup>39</sup> Damjanić:P632,p.5

<sup>40</sup> Damjanić:P632,p.5;P2417,P2349,p.2;D282,p.2;D990,pp.2,4.

<sup>41</sup> P34,p.1.

<sup>42</sup> P34,p.1;P2349,p.2;D282,p.2;D990,pp.2,4;P2417..

<sup>43</sup> P49,p.2.

<sup>44</sup> P49,p.2;P2349,p.2;D282p.2;D990pp.2,4;P2417.

<sup>45</sup> P37,p.1.

<sup>46</sup> P37,p.1;D282,p.2.

<sup>47</sup> P829,para.7.

<sup>48</sup> P829,para.7;P2349,p.2;D282,p.2;D990pp.2,4;P2417.

| Date       | Location | Description  | Perpetrator             |
|------------|----------|--|-------------------------|
| 30/09/1995 | Popovići | Elderly Serb robbed of cash, livestock; threatened when she resisted. Three elderly Serbs robbed, slapped in the face. <sup>49</sup> | HV-142HGR <sup>50</sup> |

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<sup>49</sup> P819,para.4(c).

<sup>50</sup> P819,para.4(c);P2349,p.2;D282,p.2;D990,pp.2,4;P2417.