

PARTIALLY CONFIDENTIAL

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

Case No. IT-01-47-PT

IN TRIAL CHAMBER II

Before: Judge Carmel A. Agius, Presiding
Judge Florence Mumba
Judge Jean-Claude Antonetti

Registrar: Mr. Hans Holthuis

Date Filed: 10 October 2003

**THE PROSECUTOR
v.
ENVER HADŽIHASANOVIĆ
AMIR KUBURA**

**SUBMISSION OF THE PROSECUTION'S PRE-TRIAL BRIEF PURSUANT TO
RULE 65 *TER* (E)**

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Mr. Fahrudin Ibrišimović and Mr. Rodney Dixon for Amir Kubura

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RULE 65 *TER* (E)**

1. In compliance with the Scheduling Order of the Trial Chamber of 17 September 2003,¹ the Prosecution herewith submits its pre-trial brief pursuant to Rule 65*ter* (E).²
2. Accompanying the pre-trial brief is the (confidential) list of witnesses³ with (confidential) summaries of the facts on which each witness will testify, and the list of exhibits.⁴

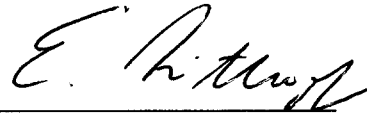
¹ Scheduling Order, 17 September 2003.

² The pre-trial brief does not include any admissions by the parties nor does it include a statement of matters which are not in dispute or of contested matters of facts and law. The parties have agreed to address these issues in the near future.

³ Detailing the information as required under Rule 66(E)(ii) (a) -(f).

⁴ Prosecution and Defence Counsel agreed that the Prosecution would serve on the Defence copies of the exhibits so listed on Tuesday, 14 October 2003.

3. Subject to stipulations with the Defence, the Prosecution anticipates that the total time for the presentation of its case will be less than six months.



Ekkehard Withopf
Acting Senior Trial Attorney

Dated this 10th day of October 2003
At The Hague,
The Netherlands

Pre-Trial Brief with Annexes A-D
PUBLIC

Prosecutor v. Hadzihasanovic & Kubura
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THE PROSECUTOR

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PROSECUTION'S PRE-TRIAL BRIEF PURSUANT TO RULE 65ter(E)(i)

INTRODUCTION¹

1. Between January 1993 and March 1994 the ABiH, on the one side, and the Croatian Defence Council (the HVO) and Army of the Republic of Croatia (the HV), on the other, engaged in an armed conflict in Central Bosnia. The participants to the conflict were required to abide by the laws and customs of war. Between January 1993 and 16 March 1994 soldiers subordinated to the two Accused committed numerous violations of the laws and customs of war, including breaches of Common Article 3 of the Geneva Conventions of 1949. The Accused failed to prevent and punish these criminal activities. By their omissions they have incurred criminal responsibility for their subordinates' conduct.

SUBORDINATION OF UNITS WITHIN THE 3RD CORPS TO THE ACCUSED

2. From 14 November 1992 the Accused Hadžihasanović commanded the ABiH 3rd Corps, from temporary headquarters based in Zenica, with an area of responsibility covering the municipalities the subject of the indictment.² He remained in this position until when he was appointed Chief of the Supreme Command Staff of the ABiH on 1 November 1993.³ As the 3rd Corps commander, he had subordinated to him a number of Operations Groups (OGs),⁴ Brigades and other units. These included the

¹ The Prosecution has allocated each proposed exhibit a "PT" (or Pre-Trial) number and given each witness statement a "PTW" (Pre-Trial Witness) number. Throughout the footnotes in this Pre-trial Brief, the Prosecution has referenced to PTs and PTWs its proposed exhibits and proposed witness testimony.

² On 18 August 1992, by decree, the Commander in Chief of the ABiH, the President of Presidency of the Republic of Bosnia and Herzegovina divided the ABiH into five military areas of responsibility; PT 3. The Municipalities are listed in paragraph 14 of the Third Amended Indictment. The Decree Law on Service in the ABiH was published on 1 August 1992; PT 2.

³ Although appointed to the position on that day, Hadžihasanović did not immediately take up the position.

⁴ He ordered the formation of the operative groups on 8 March 1993; PT 31.

Brigade,⁵ the 306th Mountain Brigade, the 317th Motorised Brigade and, from August 1993, Mujahedin fighters placed in a unit called "El Mujahed".⁶

3. On 19 November 1992, the 7th Muslim Mountain Brigade was formed with its Brigade Headquarters located in Zenica. The 7th Muslim Mountain Brigade was created as an infantry manoeuvre unit, consisting of three battalions located in Travnik (1st Battalion), Zenica (2nd Battalion) and Kakanj (3rd Battalion). This Brigade was an all-Muslim unit and its members were required to adhere strictly to Muslim beliefs.⁷ It was subordinated directly to the command of the 3rd Corps. The Brigade was better equipped and its members better paid than other units within the 3rd Corps.⁸
4. The Accused Kubura was appointed the Chief of Staff of the 7th Muslim Mountain Brigade on 1 January 1993,⁹ and became its acting commander on 1 April 1993 from when he assumed de facto and de jure control of the Brigade.¹⁰ On 21 July 1993 he was appointed the Brigade's commander, a position he held until 16 March 1994.
5. On 8 March 1993 Hadžihasanović created four operations groups (OGs) within the 3rd Corps command and subordinated the 7th Muslim Mountain Brigade (and other units) to the OG "Bosanska Krajina", commanded by Mehmed Alagić.¹¹ On or around 16 April 1993 Hadžihasanović subordinated the 306th Mountain Brigade, the 308th Mountain Brigade and the 312th Mountain Brigade to the OG Bosanska Krajina. On

⁴ He ordered the formation of the operative groups on 8 March 1993; PT 31.

⁵ Ordered to be part of the Bosnian Krajina OG by Chief of Staff of the Supreme Command of the ABiH, Halilović on 17 February 1993; PT 28. On 18 February 1993 Halilović ordered the 27th Motorised Brigade and the 37th Motorised Brigade subordinated to the OG; PT 769.

⁶ This unit is also referred to as "El Džihad". Other names are also used for the same unit "El Mudzahedin", "El Mujahedin", "El Mudzahid".

⁷ Its members were issued with "Instructions to the Muslim Fighter" which they were required to follow. Under the heading "Prisoners of war" it instructed: "... the killing of women, children and priests who do not participate at all in the war and who do not directly or indirectly assist the enemy, is forbidden ... Islam likewise forbids the torture and brutalisation of prisoners of war and the mutilation of enemy wounded and dead ... These are general rules which are binding for our soldiers. However, if the commanding officer assesses that the situation and the general interest demand a different course of action, then the soldiers are duty-bound to obey their commanding officer. For instance, if their officer or a higher commander assesses that in the interests of defence, the protection of his own people or higher goals it is best to set fire to certain buildings, crops or woods, then this is permitted ... It is also left to the military command's discretion to decide whether it is more useful or in the general interest to free, exchange or liquidate enemy prisoners of war"; PT 130.

⁸ PTW 2128 p 1. It was under the personal patronage of President Alija Izetbegović; PTW 2102, p 7. Izetbegović visited the Brigade when he was in Zenica; PTW 3069, p 5. Also PTW 2032, p. 8 & p 10 who describes Izetbegović as an honorary commander of the Brigade.

⁹ The 7th Muslim Mountain Brigade was formed as a result of an order of Sefer Halilović, of 17 November 1992; PT 7.

¹⁰ PT 1224, T. 23341 – in the absence out of the country of the Brigade Commander, Asim Koričić. This appointment was in accordance with the "The Manual of Service in the Army of the Republic of Bosnia and Herzegovina" which provided that, in the supervising commander's absence, command responsibility fell to the deputy or most senior officer until another commander was appointed; PT 474 p 37.

¹¹ PT 31; PT 27. Hadžihasanović resubordinated the 308th and 325th Mountain Brigades and the Municipal Defence Staffs to the Bosnian Krajina OG on 12 July 1993; PT 394.

about 16 July 1993, he resubordinated the 7th Muslim Mountain Brigade to the 3rd Corps command.¹²

6. Numerous orders issued by the Accused to their subordinates, who committed the crimes alleged, and their implementation and reporting back demonstrate the control the Accused exercised over their subordinates.¹³

The Mujahedin within the 3rd Corps

7. The 3rd Corps utilised, within its structure, Mujahedin “foreign volunteers”. They had begun arriving in Zenica and Travnik area from about August, September and October 1992.¹⁴ Throughout the indictment period, the 3rd Corps command used the Mujahedin to lead or undertake more difficult combat operations,¹⁵ and in assisting 3rd Corps units in attacks on the enemy.¹⁶
8. The Accused Hadžihasanović reported to the Supreme Command on 17 February 1993 that the Muslim Armed Forces, the Patriotic League and the Green League had all been placed “under the single command and control of the ABiH and were gradually integrated into its formations, in the first place its brigades.”¹⁷ On 2 April 1993, the Accused Hadžihasanović complained to the HVO Commander Colonel Tihomir Blaškić about the HVO’s arrest of “foreign nationals” who were “members of the BH Army”, one of whom was killed. Blaškić responded, describing the arrested four as “Mujahedin”.¹⁸
9. The ABiH 3rd Corps had been supplying the Mujahedin with arms and supplies throughout 1993 and on, 12 August 1993, the Accused Hadžihasanović requested of the Supreme Command the establishment of a separate detachment for the Mujahedin. He noted in this request the “foreign volunteers” had themselves made the same

¹² Informing the commander “your unit is not a part of the OG “Bosanska Krajina” structure. It is an independent unit directly linked to the Corps Command.”; PT 1090.

¹³ Many are referred to in the specific sections on the evidence supporting each count. The combination of the commander issuing orders and the subordinates obeying them proves the commander’s effective control over his subordinates. For example, in relation to Kubura, as acting commander of the 7th Muslim Mountain Brigade, after 1 April 1993, he issued a broad range of orders dealing with operational, disciplinary, administrative and other issues, for example: PT34; PT144; PT568; P571; PT574; PT591; PT993; PT996; PT1161.

¹⁴ PTW 2102, p 5; PTW 2128, p 3.

¹⁵ PTW 2102, p 7.

¹⁶ PTW 2128, p 4.

¹⁷ PT 875. On 14 April 1993 a Presidential Decree amended the “Law on Service in the ABiH” published in Official Gazette - allowing non-Bosnians to be promoted to military commanders in war-time; PT 36

¹⁸ PT 531. Hadžihasanović’s letter was headed “Violent treatment of foreign nationals, volunteers in the BH Army by members of the HVO”. On 26 August 1993, Hadžihasanović sent a request to his subordinated

request.¹⁹ On 13 August 1993,²⁰ the Commander of the ABiH Supreme Command, Rasim Delić, ordered the establishment, within the ABiH 3rd Corps zone of responsibility, of an “El Mujahedin” detachment comprised of foreign volunteers no later than 31 August 1993. After its formation the unit was actually comprised of both foreign and local Mujahedin.²¹ The Accused Hadžihasanović immediately began to deploy this unit within his subordinated brigades and units for combat operations. On 28 August 1993, the Accused Hadžihasanović ordered the immediate resubordination of the “El Mujahed” unit to the 306th Mountain Brigade for combat operations.²² On 6 September 1993, Hadžihasanović ordered the resubordination of the “El Mujahed” unit to the command of the OG “Bosanska Krajina.”²³ Mujahedin, who were subordinated to the 3rd Corps command and deployed within the 7th Muslim Mountain Brigade, committed numerous crimes against the civilian population and prisoners of war throughout the indictment period.

10. The Accused Hadžihasanović testified in the case of *Prosecutor v Blaškić*, as a witness called by the Trial Chamber.²⁴ His evidence was contrary to the orders he signed (described immediately above) and his request of Delić for the formation of the “El Mujahed” detachment. On oath, he testified that “while I was the commander, they were never within the composition of the Armija”,²⁵ and then, “Mr. President, groups or units of Mujahedin were not within the composition of the BH army. The El Mujahed detachment was established only in 1994”.²⁶

ARTICLE 7(3) LIABILITY

11. Hadžihasanović and Kubura have incurred criminal liability pursuant to Article 7(3) of the Statute of the Tribunal for failing to prevent or punish the criminal acts of their

commanders seeking, at the Supreme Command’s request, information on the whereabouts of a Tunisian Mujahedin member who had “signed up as a volunteer for the RBH Army” in October 1992; PT 668; PT 340.

¹⁹ PT 92. The Supreme Commander ordered, regarding mobilisation preparations, “Replenish the “El Mujahedin” detachment with foreign volunteers currently on the territory of the 3rd Corps zone of responsibility. These people keep the weapons and other equipment which has already been issued to them”.

²⁰ The Assistant for Operations and Training had reported to the 3rd Corps Command on 3 August 1993, requesting him to “solve the issue of “El Džihad” in the village of Mehurići in the sense of its position in the formation of some of existing brigades or declare them a paramilitary”; PT 370.

²¹ PTW 2128, p 4.

²² PT 1197.

²³ PT 95. Hadžihasanović confirmed this continued subordination in a communication to the commander of the OG Zapad on 10 October 1993; PT 371. On 4 December 1993, Alagić, then the 3rd Corps Commander, resubordinated the “Elmudžahadin” to the Bosanska Krajina OG from 5 December 1993; PT 123.

²⁴ On 9 June 1999 at T.23250-23412; PT 1236.

²⁵ T. 23280.

²⁶ T. 23383. He went on “They were not members of the BH army in ’92 and ’93. For me, they were outside the structure of the army”; T. 23384.

subordinates. This requires: (a) the existence of a superior-subordinate relationship between the accused and the alleged criminal perpetrator(s); (b) the accused knowing or having reason to know that the perpetrator was about to commit the criminal act or had done so (notice); and (c) the accused failing to take the necessary and reasonable measures to prevent the criminal act or punish the perpetrators.

12. A superior-subordinate relationship requires a commander having “effective control,”²⁷ that is, the “material ability to prevent offences or punish the principal offenders”.²⁸ The superior-subordinate relationship may be either *de facto* or *de jure*,²⁹ and does not require official appointment or formal documentation.³⁰ Temporary effective control at the material time is sufficient.³¹ The commander need not be the only person capable of taking all the necessary measures to punish the perpetrators.³² More than one superior may be held responsible for the same crimes.³³ The commander need not have had *de jure* authority to take *all* the necessary measures to prevent or punish the subordinates in question. It suffices that he or she “could have taken some measures” but failed to take those measures which were reasonably available to him or her under the circumstances.³⁴
13. An accused possesses the requisite mental state under Article 7(3) if he or she “knew” or “had reason to know” that a subordinate committed an offence or was about to do so.³⁵ The superior must have had the specific information that would provide notice of offences committed by his subordinates.³⁶ Notice may be “actual notice” or “inquiry notice”. “Actual notice” is “the awareness that the relevant crimes were committed or were about to be committed.” It can be established circumstantially.³⁷ “Inquiry notice” means that the accused had reason to know or was put on notice of the need for further

²⁷ *Prosecutor v Delalić and others (Čelebići Trial Judgement, Judgement, IT-96-21-T, 16 Nov. 1998, para. 378. See also Prosecutor v Delalić and others (Čelebići Appeal Judgement) Judgement, IT-96-21-A, 20 February 2001, paras. 196, 256; Prosecutor v Kunarac Judgement, IT-96-23, 22 February 2001, para. 396; Prosecutor v Kordić Judgement, IT-95-14/2-T, 26 February 2001, paras. 405-406, Prosecutor v Stakić Judgement IT-97-24-T 31 July 2003, para. 459.*

²⁸ *Čelebići Trial Judgement, para. 378; Čelebići Appeal Judgement para. 256; Prosecutor v Krnojelac, IT-97-25-T, 15 March 2002, para. 93.*

²⁹ *Čelebići Appeal Judgement, paras. 193, 197; Krnojelac, para. 93.*

³⁰ *Čelebići Appeal Judgement, para. 193, and the relationship may be direct or indirect; para. 304. More than “substantial influence” is required; Prosecutor v Naletilić and Martinović (“Tuta and Stela”) Judgement IT-98-34-T, 31 March 2003, para. 65.*

³¹ *Prosecutor v Blaškić Judgement, IT-95-14-T, 3 March 2000, para. 296.*

³² *Blaškić, paras. 303, 296; Krnojelac, para. 93.*

³³ *Krnojelac, para. 93; Blaškić, para. 303; Prosecutor v Aleksovski Judgement, IT-95-14/1-T, 25 June 1999, para. 106.*

³⁴ *Blaškić, para. 296.*

³⁵ *Čelebići Trial Judgement, para. 383.*

³⁶ *Čelebići Trial Judgement, at para. 393.*

³⁷ *Kordić, paras. 427-8. See also Čelebići Trial Judgement, paras. 383, 386.*

investigation or inquiry.³⁸ Actual knowledge can be inferred from such circumstantial evidence as the type of illegal acts, the time during which the illegal acts occurred, the type of troops involved, the geographical location of the acts, the officers and staff involved and the location of the commander at the time.³⁹ The character traits of subordinates and the lack of instruction of subordinates may indicate that the superior had the requisite notice.⁴⁰ The indicia may vary according to the geographical and temporal distance between the superior and the underlying crime – the smaller the distance the lesser the indicia required before inferring actual knowledge.⁴¹

14. The nature of information sufficient to put the accused on inquiry notice need not be such that it, by itself, compels the conclusion that a crime occurred. The *Čelebići* Trial Chamber held:⁴²

It is sufficient that the superior was put on further inquiry by the information, or in other words, that it indicated the need for additional investigation in order to ascertain whether offences were being committed or about to be committed by his subordinates.

15. Once the superior is “in some way put on notice that criminal activity is afoot,” then Article 7(3) imposes a duty on the superior “to obtain information about crimes committed by subordinates.”⁴³ “The relevant information only needs to have been provided or *available* to the superior, . . . or in the possession of” the superior.⁴⁴ The superior is not required to have actually acquainted him or herself with the information.⁴⁵ A superior is criminally responsible for deliberately ignoring available information that would provide the requisite notice.⁴⁶

³⁸ *Čelebići Trial Judgement*, para 383.

³⁹ *Čelebići Trial Judgement*, para. 386; *Blaškić*, para. 307; *Kordić*, para. 427; *Stakić*, para. 460.

⁴⁰ ICRC Commentary on Art. 86 of Additional Protocol 1, para. 3545, pp. 1013-1014.

⁴¹ *Tuta and Stela*, para. 65.

⁴² *Čelebići Trial Judgement*, IT-96-21-T, 16 Nov. 1998, para. 393.

⁴³ *Prosecutor v Kvočka*, IT-98-30-1, 2 November 2001, para. 317, *Krnjelac* para. 94.

⁴⁴ *Čelebići Appeal Judgement*, para. 239; *Krnjelac*, para. 94; *Kvočka*, para. 318.

⁴⁵ *Čelebići Appeal Judgement*, para. 239. The “widespread nature of large-scale atrocities over a long period of time” should put an accused in a position of superior authority “on notice that crimes were being or had been committed by his subordinates.”; *Čelebići Appeal Judgement*, para. 228; *Čelebići Trial Judgement*, para. 770.

⁴⁶ The information “does not need to provide specific information about unlawful acts committed or about to be committed.” It “may be written or oral and does not need to have the form of specific reports submitted pursuant to a monitoring system”; *Čelebići Appeal Judgement*, para. 238. The type of information available to the superior which can provide the requisite notice includes, for example, reports addressed to the superior, the tactical situation, and the training, instruction and character traits of subordinate officers and troops; *Čelebići Appeal Judgement* quoting the ICRC Commentary on Art. 86 of Additional Protocol 1, para. 3545; *Kordić*, para. 437, as well as “past behaviour of subordinates or a history of mistreatment”; *Kvočka*, para. 318.

16. A superior incurs command liability if he or she “failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.”⁴⁷ What are “necessary and reasonable measures”⁴⁸ depends upon the facts of each particular situation.⁴⁹ The adequacy of these measures is commensurate with the material ability of a superior to prevent or punish.⁵⁰ A superior having effective control over subordinates must take all materially possible measures to prevent or repress the crimes in question, regardless of whether he or she is formally vested with legal competence to do so.⁵¹ The commander’s “material ability” may include: investigating the crimes in order to establish the facts; reporting them to the competent authorities so that proper measures may be taken; and, as a last resort, requesting that superiors to relieve the commander of his or her position.⁵²

THE DUTY OF THE ACCUSED TO PREVENT AND PUNISH - MEASURES AND STEPS THEY COULD AND SHOULD HAVE TAKEN

17. Commensurate with their respective levels of responsibility of the Accused, the necessary and reasonable measures which Hadžihasanović and Kubura were required to take to prevent crimes by their subordinates, included:
- instructing their subordinate commanders and soldiers in their duties under international humanitarian law;⁵³
 - ordering that subordinates observe international humanitarian law and that any violations be punished;⁵⁴
 - imposing sufficient discipline to enforce compliance with international humanitarian law;⁵⁵

⁴⁷ *Čelebići Trial Judgement*, para. 346; *Prosecutor v Aleksovski Judgement (Aleksovski Appeal Judgement)* IT-95-14/1-A, paras. 69-71.

⁴⁸ *Aleksovski Appeal Judgement*, para. 81; *Čelebići Trial Judgement*, para. 394.

⁴⁹ *Čelebići Appeal Judgement*, para. 394.

⁵⁰ *Blaškić*, para. 335; *Čelebići Trial Judgement*, para. 395.

⁵¹ *Krnojelac*, para. 95. However, a “superior is not obliged to perform the impossible...[T]he superior has a duty to exercise the powers he has within the confines of those limitations.”

⁵² ICRC Commentary to Additional Protocol I, Art. 87, pp. 1018-22, 74-75; *Kordić*, para 446; *Blaskić*, para. 335. A failure to take the necessary and reasonable steps to prevent an offence of which a superior knew or had reason to know cannot be cured simply by subsequently punishing the subordinate for the commission of the offence; *Blaškić*, para. 336; *Stakić*, para. 461.

⁵³ Article 87, 1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts; Article 3 Order on Enforcement of the Rules of the International Military Law in the Armed Forces of the Republic of Bosnia and Herzegovina; PT 1231: “In order to learn the rules of the international military law, the armed forces shall organize training regularly, which shall be obligatory for all members of the armed forces”. See also General Reinhardt’s expert report; PTW 2771.

⁵⁴ PTW 2771.

- monitoring subordinate command areas and ensuring that all necessary measures to observe and implement international humanitarian law are taken;⁵⁶
- disciplining commanders who do not implement all necessary measures to observe and implement international humanitarian law, including the removal of such commanders from their posts;⁵⁷
- ordering that any violations of international humanitarian law by subordinates cease immediately;⁵⁸
- reporting the violation of international law to superiors;⁵⁹
- initiating criminal prosecution of supervisors who cover up breaches of international law;⁶⁰
- initiating criminal prosecution of subordinates who breach international humanitarian law.⁶¹

18. To punish crimes by their subordinates, commensurate with their respective levels of responsibility, the necessary and reasonable measures which Hadžihasanović and Kubura were each required to take included:

- immediately initiating an investigation to establish whether or not criminal breaches of international humanitarian law had in fact occurred and if so, the circumstances of the crime, relevant witnesses and other evidence and the identity of the perpetrators;⁶²

⁵⁵ ICRC Commentary to Additional Protocol I Art. 87; PT 1225.

⁵⁶ ICRC Commentary to Additional Protocol I, Art. 87; PT 1225.

⁵⁷ PTW 2771.

⁵⁸ PTW 2771.

⁵⁹ Article 87 (1), Additional Protocol I.

⁶⁰ 1977 Geneva Protocol 1 Article 87 (3); Order on Enforcement of the Rules of the International military law in the armed forces of the Republic of Bosnia and Herzegovina, 23 August 1992; PTW 2771.

⁶¹ Article 87 (3), Article 87 (1), Additional Protocol; Order on Enforcement of the Rules of the International military law in the armed forces of the Republic of Bosnia and Herzegovina, 23 August 1992; PTW 2771.

⁶² "The commander of the military unit and the military institution is obliged to make certain actions so that the person who committed the criminal act, for which official prosecution is foreseen, does not hide or escape and the traces and objects which may be used as evidence are preserved, and to collect all information the may be useful for conducting the criminal procedure." Article 27 Statutory Order on District Military Court, Official Gazette of the Republic of Bosnia and Herzegovina No: 12, 13 August 1992: PT 1144; PTW 2771.

- if the perpetrators had been identified, detain the perpetrators and hand the perpetrators over to a competent examining magistrate;⁶³
- obtaining a report about the results of the investigation into the crime and any disciplinary measures taken by subordinate commanders;⁶⁴
- determining whether the seriousness of the crime requires disciplinary action or criminal prosecution;⁶⁵
- if the seriousness of the crimes warrants disciplinary action immediately take steps to establish responsibility for breaches of discipline and pronounce disciplinary measures;⁶⁶
- if the seriousness of the crimes warrants criminal prosecution, personally and immediately initiate all measures necessary for the transfer of the case to the prosecuting agency⁶⁷ and the initiation of criminal prosecution.⁶⁸

19. The summary of the Prosecution's intended evidence below proves the omission of the Accused to prevent or punish the criminal acts of their subordinates, and hence their liability for this conduct pursuant to Article 7(3). The starting point is the means available to the Accused to have prevented the crimes or punished the perpetrators of the crimes described.

⁶³ "A military commander at the rank of commander of the guard or higher, authorised persons from the ministry of interior and army security personnel and the military police can arrest the military person in the cases which are determined by the Law on criminal procedure and detention." Within 12 hours the military commander and other authorised persons are required to report on the reasons for detaining the military person. The detained military person must be handed over to a magistrate of the competent district military court, Article 29 Statutory Order on District Military Court; PT 1144.

⁶⁴ PTW 2771.

⁶⁵ Article 87 (1), Additional Protocol; Order on Enforcement of the Rules of the International Military Law in the Armed Forces of the Republic of Bosnia and Herzegovina, 23 August 1992; PTW 2771.

⁶⁶ Rules on Military Discipline; PT 1144, as amended on 19 January 1993 by the Deputy Minister of Defence, whereby the Corps Commander became the only senior officer to authorise that a person violating discipline be brought before the military disciplinary court; PT 498.

⁶⁷ According to the monthly work plan of the 3rd Corps Legal Sector submitted to 3rd Corps Commander dated 24 April 1993,⁶⁷ a first instance military disciplinary court had not yet been established at this time; PT 1145.

⁶⁸ Article 87 (3) Additional Protocol I; Article 27 Statutory Order on District Military Court; PT 1146, required "the military commander of the military unit – institution is obliged to inform immediately the district military prosecutor or supreme commander about the information referred in the paragraph 1 of this article (status of the commander's inquiries into the crime)". Article 27 implies that the report was to be written, providing that the report "can be used the way it is foreseen in the provision of the articles 84 to 86 of the law on criminal procedure"; Article 2, Order on Enforcement of the Rules of the International Military Law in the Armed Forces of the Republic of Bosnia and Herzegovina; PT 1231: "The commanders of the units and each member of the armed forces individually is responsible for the enforcement of the rules of the international military law. The competent commander is obliged to start procedure to pronounce legal sanction against persons who violate the rules of the international military law."; PTW 2771.

MILITARY AND DISCIPLINARY COURTS WITHIN 3RD CORPS' AREA OF RESPONSIBILITY

20. By mid-September 1992, the Republic of Bosnia and Herzegovina had issued the statutory instruments necessary for regulating military security, discipline and the investigation and prosecution of criminal offences committed by military personnel.⁶⁹ Regulations and decrees were published to establish three separate Courts, namely District Military Courts, Special Military Courts and Military Disciplinary Courts, each with defined jurisdiction. Rules on Military Discipline were published⁷⁰ and a District Military Prosecutor's Office established.⁷¹ Special Military Courts were authorised by a decree published in the Official Gazette on 13 August 1992.⁷² The Military Disciplinary Courts had jurisdiction to try cases of infraction of military discipline.⁷³ The decree establishing these courts provided for military disciplinary prosecutors to be attached to the military disciplinary court.⁷⁴
21. On 23 August 1992, President Itzebegović issued an order requiring members of the ABiH to comply with international humanitarian law.⁷⁵ Rules of Operation for the Military Security Service were enacted on 1 September 1992.⁷⁶ These provided that

⁶⁹ Chapter 16 of the Criminal Law of the Republic of Bosnia and Herzegovina proscribed specific offences as "Criminal Acts against Humanity and International Law"; PT 1190 – including genocide, war crimes against the civilian population, war crimes against prisoners of war, unlawful killing or wounding of the enemy, and cruel treatment to the wounded, and sick and prisoners of war. It also provides criminal liability for commanders for the acts of subordinates. Rule 6 of the Manual of Service provided, "During carrying out combat actions, members of armed forces must adhere to the rules of international military law - to act humanely towards the wounded and the prisoners from enemy ranks and protect civilian population in accordance with international regulations and Constitution of the Republic..."; PT 474.

⁷⁰ "Rules on Military Discipline" *Official Gazette*, No 12, 13 August 1992, item 258; PT 1144.

⁷¹ "Decree Having the Force of Law on the District Military Prosecutors' Office", *Official Gazette*, No 12, 13 August 1992, item 251; PT 1144.

⁷² "Decree – Law on Special Military Courts", *Official Gazette*, No 12, 13 August 1992, item 250; PT 1144. Jurisdiction was confined to specified criminal offences against the ABiH, such as insubordination. (Hadžihasanović approved his subordinate commanders forming Special Military Courts in an order dated 9 December 1992; PT 850).

On 10 January 1993 Hadžihasanović distributed a copy of the decree to his brigades; PT 905. On 8 June 1993 Alagić ordered the formation of Special Military Courts in relation to the Glorious Krajina Mountain Brigade, Travnik 312th Motorised Brigade and 306th Mountain Brigade; PT 792. On 11 June 1993 Alagić reported to Hadžihasanović that a platoon of the 312th Motorised Brigade's 2nd Battalion led by Amir Halilović abandoned its position, stating that a special court would be established to try the commander and other responsible commanding officers, and proposing that Hadžihasanović release Halilović of his duty; PT 169.

⁷³ "Rules on Military Discipline" *Official Gazette*, No 12, 13 August 1992, item 258; PT 1144. With an appeal to the High Military Disciplinary Court in Sarajevo, articles 44 and 45.

⁷⁴ Articles 48 and 49.

⁷⁵ "Order on Enforcement of the Rules of International Military Law in the Armed Forces of the Republic of Bosnia and Herzegovina"; PT 1231. Article 2 provides "The commanders of the units and each member of the armed forces is individually responsible for the enforcement of the rules of the international military law. The competent commander is obliged to start procedure to pronounce legal sanctions against persons who violate the rules of international military law". See also PT 475, a transcript of the proceedings of a meeting of the Presidency of the Republic of Bosnia and Herzegovina.

⁷⁶ PT 476.

members of the Military Security Service were directly subordinated to the command of the unit to which they were attached.⁷⁷ The Military Security Service was primarily responsible for investigating criminal offences within the jurisdiction of the district military courts allegedly committed by members of the armed forces.⁷⁸ Item 34 of the Rules permitted the Military Security Service to order the detention for 72 hours of a person reasonably suspected of having committed a criminal offence within the competence of military courts, for the purpose of gathering the necessary information. On the basis of the information gathered, the officers of the Military Security Service within the command of the brigade were required to submit a report to the military prosecutor's office.⁷⁹

22. The Manual (or Rules) on Military Discipline was enacted on 5 December 1992.⁸⁰ On 9 December 1992, the Accused Hadžihasanović notified his subordinate commanders of the regulations constituting the "legal system of the RBH armed forces", sending a copy to the District Military Court Zenica.⁸¹ He also ordered them to "take necessary disciplinary and...criminal proceedings against officers who do not execute this order" and "Commanders must prevent even minor thefts and destruction of property belonging to both members of the Armed Forces and citizens in the zone of combat operations".
23. The Accused Hadžihasanović, who had a background in the JNA Military Police,⁸² himself paid special attention to these rules, and, on 26 January 1993, forwarded to the Ministry of Defence detailed proposals for amendment, including for first instance disciplinary hearings to be conducted at the brigade level with an appeal to be heard at

⁷⁷ Item 8.

⁷⁸ Item 40 provided: "When there is reasonable suspicion that a criminal offence triable by military courts has been committed, officers of the Military Security Service must take the necessary measures to find the perpetrator of the criminal offence, to prevent the perpetrator or his accomplice from going into hiding or escaping, to uncover and protect the evidence and exhibits which can serve as evidence, and to gather all the information useful for successful conduct of the criminal proceedings".

⁷⁹ Item 41. Item 44 provided that in conducting investigations, the Military Security Service enjoyed certain powers of investigating judges provided for in the Criminal Code (ZKP). The Military Security Service was also responsible for investigating war crimes committed by the "Chetniks". On 15 March 1993, Dugalić informed the 3rd Corps subordinated commands of the operation of the service and provided detailed instructions on "how to gather facts on war crimes, crimes against humanity and other serious violations of international law"; PT 548. However, their text makes it clear that the investigations only relate to crimes committed by the aggressor rather than ABiH members.

⁸⁰ PT 474.

⁸¹ PT 850.

⁸² He served in the JNA as the Commander of a Military Police Company from 1975 to 1981 and as Commander of a Military Police Battalion from 1983 to 1988.

Corps level.⁸³ On 29 January 1993 he forwarded instructions to his subordinate commands on the application of the rules of military discipline.⁸⁴ On 9 February 1993, he issued general orders concerning the Corps structure including, in relation to the “legal sector”, orders of “number of initiated criminal charges”, “number of solved and unsolved crimes” and evaluation of “the criminal situation and criminal offences in brigades and in the Corps”.⁸⁵

24. The Accused Hadžihasanović used the military police to enforce discipline within the 3rd Corps and directed the military police to investigate breaches of discipline⁸⁶ – some of which were crimes under the Bosnian Criminal Code. The military police were directly subordinated to the commander of the unit in which they worked. Their work was controlled by the commander of the Brigade’s Military Security Service for security within each unit and the military security service selected candidates for appointment as military police.⁸⁷
25. The Rules of Service for the Military Police published in September 1992 also provided for the military police to participate in pre-trial investigations of criminal offences within the jurisdiction of the military courts, or upon the instruction of an investigating judge.⁸⁸ The “Instruction for the Functioning of Military Police of the 7th Muslim Brigade” adopted by Brigade’s the Assistant Commander for Security on 7 February 1993 set out its tasks in some detail. These included “discovering criminal offences and perpetrators...to be officially prosecuted” and reporting on a military person “when he commits a criminal offence punishable under official statutes” be to the commander of the military police unit, who was to forward it to the commander of the Military Security Service.⁸⁹ The 3rd Corps Command also had a Legal Department which provided legal advice to the Accused Hadžihasanović and subordinated commands, and provided the staff for the 3rd Military Disciplinary Court.⁹⁰

⁸³ PT 1169. The last paragraph of the explanation accompanying the draft amendments stated, “The proposed amendments...are not submitted as an academic exercise. Rather, they are concerned with reality and practical application of the Rules, and should be understood as such. We believe that for these matters to be dealt with most successfully, it would be useful if relevant proposals were based on actual practice”.

⁸⁴ PT 795.

⁸⁵ PT 512.

⁸⁶ An example is a letter from Hadžihasanović on 12 March 1993 to the Military Discipline Court referring a case that had been mistakenly sent to his command but adding “We point out that due to the short deadlines for bringing and conducting proceedings, very urgent action is needed”; PT 885.

⁸⁷ PT 602.

⁸⁸ Article 2 (6)(f); PT 1147.

⁸⁹ PT 602.

⁹⁰ PTW 2162.

District Military Courts

26. The Court most relevant to this indictment was the District Military Court - with jurisdiction over the criminal acts of military personnel⁹¹ - including determining the subject of an investigation, and investigating and deciding on complaints against the investigating magistrate of the court.⁹² Article 12 of the decree gave jurisdiction to decide criminal issues arising from breaches of the Geneva Conventions 1949 and the Additional Protocols.⁹³ The Republic of Bosnia and Herzegovina had adopted the former SFRY Criminal Code⁹⁴ including Chapter 16, which was headed "Criminal Offences Against Humanity and International Law".⁹⁵

27. Article 27 of the Decree on District Military Courts specified the duties of commanders in investigating criminal breaches by subordinates, providing:

The commander of the military unit and the military institution is obliged to make certain actions so that the person who committed the criminal act, for which official prosecution is foreseen, does not hide or escape, and the traces and objects which may be used as evidence are preserved, and to collect all information that may be useful for conducting the criminal procedure.

The military commander of the military unit – institution is obliged to inform immediately the district military prosecutor or supreme commander about the information referred to in the paragraph 1 of this article.

The report of the military commander from the paragraph 2 of this article can be used the way it is foreseen in the provisions of the article 84 to 96 of the Law on criminal procedure.

28. The commander⁹⁶ was also authorised to arrest a military person, and within 12 hours to hand over the person with a report on the reasons for arrest and detention to an examining magistrate. The District Military Prosecutor's Office had the authority to prosecute offences falling within the jurisdiction of the District Military Courts. The function of the office included requesting the investigation of offences, the conduct of

⁹¹ PT 1144. Article 5 provided for a District Military Court in Zenica for the territory District of Zenica.

⁹² Article 13.

⁹³ Expressed in the official translation as "Geneva Convention on the Protection of the Victims of Armed Conflicts from August 12, 1949". This gave the court jurisdiction over the crime specified in Chapter 16 of the former SFRY Criminal Code; PTW 2165, p 5.

⁹⁴ PT 1232; Official Gazette 11 April 1992, item 17. Amendment on 23 July 1992, item 200; PT 1233.

⁹⁵ PT 1190

pre-trial procedures, filing a bill of indictment before the court, and appealing against court decisions.⁹⁷

29. A District Military Court was operating in Zenica by September 1992, with territorial jurisdiction over the municipalities of Kakanj, Zavidovići, Zenica and Žepče.⁹⁸ A District Military Court in Travnik became operational on 21 December 1992. It had jurisdiction over crimes committed by military personnel in the municipalities of Bugojno, Busovača, Donji Vakuf, Gornji Vakuf, Jajce, Novi Travnik, Travnik and Vitez.
30. District Military Prosecutor's Offices were established and working in both Zenica and Travnik throughout the indictment period. The process of prosecution began with the office receiving a criminal report. The prosecutor then filed a request to investigate with an investigating judge of the Court. After reviewing the request and conducting an investigation, the investigating judge referred the case back to the prosecutor with a report. The prosecutor then decided whether to proceed to a hearing before the court by filing an indictment.⁹⁹ The great majority of the many criminal reports that the Zenica District Military Prosecutor's Office received in 1993 and 1994 came from 3rd Corps units. The office also received criminal reports from the Ministry of the Interior, and in relation to non-compliance with mobilisation summonses, from the Municipal Secretariats of Defence.¹⁰⁰ The office received no criminal reports from 3rd Corps units accusing 3rd Corps soldiers of committing crimes contrary to Chapter 16.¹⁰¹
31. Between January 1993 and March 1994 the Travnik District Military Prosecutor's Office did not receive any cases of war crimes – that is, cases under Chapter 16 of the SFRY Code - allegedly committed by members of the ABiH, although the Travnik District Military Court records reveal that the court “processed” 857 cases during 1993 and 260 cases during 1994.¹⁰² Similarly, the Zenica District Military Court did not

⁹⁶ And “other authorised persons of the bodies in charge of security of the Army and military police”; Article 28.

⁹⁷ PT 1144.

⁹⁸ And during the siege of Sarajevo, over Visoko, Breza, Vareš, Olovo and part of Busovača. It also had jurisdiction in Vitez, Bugojno, Travnik, Novi Travnik, Kupres and Jajce until the Travnik District Military Court operated in December 1992; PTW 2165.

⁹⁹ PTW 2165; PTW 2163; PTW 2166.

¹⁰⁰ PTW 2165; PTW 2166.

¹⁰¹ PT 1253; PT 1254; PT 1255; PT 1256.

¹⁰² PT 1157. An HVO prisoner and lawyer held in the former JNA Barracks in Travnik describes his trial and acquittal on charges of “military insurrection” in December 1993; PTW 2177.

process any cases of war crimes committed by members of the ABiH during the existence of the court.¹⁰³

32. The High Court in Zenica¹⁰⁴ had jurisdiction over civilians who had committed offences contrary to Chapter 16 of the former SFRY Code.¹⁰⁵ The High Prosecutor's files reveal that in 1993, 1994 and 1995 the Court heard only four cases under Chapter 16, none of which involved members or former members of the ABiH.¹⁰⁶
33. The 3rd Corps utilised the District Military Courts during the indictment period. An illustrative example is that, on 31 July 1993, the 3rd Corps' Assistant Commander for Security, Ramiz Dugalić, forwarded a criminal report to the District Military Prosecutor's Office, Zenica, for prosecution of an unidentified individual who jeopardised a military unit's safety, resulting in the deaths of 19 ABiH soldiers. He annexed to the criminal report statements of soldiers, and reports from the battalion and company commanders.¹⁰⁷ Other cases – against members of the 7th Muslim Mountain Brigade – demonstrate how the system of criminal prosecution was working when the 3rd Corps command chose to utilise it.¹⁰⁸ A member of a 3rd Corps subordinate command staff summarises that the "Military police and command were more interested in arresting soldiers for desertion or for breaches of minor regulations than investigating crimes such as lootings or killings".¹⁰⁹
34. The 3rd Corps command also utilised the criminal prosecution system against HVO members. For example, the Accused Hadžihasanović informed his subordinate commanders that 198 HVO soldiers had been detained at the Zenica KPD and that "after the 3rd Corps Security Service and the Military Police Battalion completed the security processing procedure, criminal reports were filed with the competent Military

¹⁰³ That is, cases under Chapter 16 of the former SFRY Criminal Code. The court processed three war crimes cases, two against members of the HVO and one of crimes against civilians by a prisoner held at Batković (a Serb detention camp in north-eastern Bosnia); PT 1156. See also PTW 2165. The Court records are PT 1246; PT 1247; PT 1248; PT 1249; PT 1250; PT 1251 and PT 1252.

¹⁰⁴ Also referred to at that time as the District Court.

¹⁰⁵ It had jurisdiction over offences carrying penalties of more than ten years imprisonment in the geographical area of Tešanj, Maglaj, Zavidovići, Zenica, Kakanj, Visoko, Breza, Olovo, Vareš, Travnik, Donji Vakuf, Bugojno and part of Gornji Vakuf; PTW 2164.

¹⁰⁶ Two of these were referred there by the Zenica District Military Court. Two cases were against HVO soldiers, one was against a Serb VRS paramilitary member, and the fourth against a Bosniak who committed offences against detainees while he was himself detained at Serb detention camp at Batković; PTW 2164.

¹⁰⁷ PT 779. Another example was a report from Dugalić on 28 March 1993 saying that "Discipline proceedings...shall be brought before the military discipline court of the 3rd Corps against all individuals"; PT 887.

¹⁰⁸ For example, routinely prosecuting members of the 7th Muslim Mountain Brigade for theft. One case against a brigade member involved a rape, double murder and robbery not committed in the course of combat. Another concerned a killing by stabbing in Vareš in November 1993 – also not in the course of combat; PTW 2166.

¹⁰⁹ PTW 2102, p 11.

Prosecutor's Office in Zenica against these soldiers on the grounds of armed rebellion".¹¹⁰

35. The Accused Hadžihasanović also displayed an active interest in the working efficiency of the District Military Courts. In late 1992, after the establishment of the Zenica District Military Court, he called a meeting of the Court's judges and prosecutors, instructing them on how the Court was supposed to function – and informing them they were within his hierarchy. The judges objected and explained that they were independent of the military and appointed by the Presidency. One judge, Judge Adamović, drew a flow chart for the Accused to explain and illustrate the separation of powers between the Court and the military.¹¹¹ Judge Adamović also told Hadžihasanović that the Court needed to know when crimes had been committed, because the Court depended upon the military to inform the prosecutors. He told the Accused that he had to ensure that his commanders reported the crimes to the District Military Prosecutor, and that if the commanders reported them to him he had a duty to report the crimes to the prosecutor himself.¹¹²
36. Another example of the Accused Hadžihasanović's interest in the Court's functioning was, on 11 March 1993, when he sought within seven days from all subordinated commands, information on the number of criminal charges submitted to the District Military Courts, and a copy of the charges.¹¹³ The 306th Mountain Brigade reported on 16 March 1993.¹¹⁴ On 19 March 1993, in a document headed "Advice on Order and Discipline",¹¹⁵ Halilović wrote to all Corps commands about serious disciplinary problems within the ABiH ordering them to take named measures to "increase overall order and discipline in the work of our Army". On 27 March 1993 the Accused Hadžihasanović reported to the Supreme Command that "Immediate and necessary

¹¹⁰ On 20 June 1993; PT 188.

¹¹¹ PTW 2163; PTW 2165

¹¹² PTW 2163.

¹¹³ PT 775; "For the purpose of tracking crimes committed by members of the ABiH send us the information on how many criminal charges you have submitted so far, against how many individuals and for which crimes".

¹¹⁴ Commander Esed Sipić reported, "Frequent cases of all forms of criminal activities recently jeopardised the units' combat readiness in our zone of responsibility and therefore the security situation was visibly undermined. The Moslem forces based in our zone of responsibility, financed by the people from the Arab countries, mainly contributed to such situation by purchasing a large quantity of material and technical supplies. The Military Security Service and Military Police efficient actions resulted in finding the perpetrators and criminal charges have been brought against them"; PT 837.

¹¹⁵ PT 221. It started with a quotation, "Military discipline lies in the precise, complete and timely execution of military duties in the Army, in keeping with the law, rules of service and other regulations and orders from competent officers".

measures are being taken against all members of the ABiH who break discipline or carry out misdeameanours and members who perpetrate crimes".¹¹⁶

37. On 20 May 1993, the President of the Travnik District Military Court reported to the command of the 3rd Corps, noting Alagić's informing the Accused Hadžihasanović of "certain problems concerning the increasing number of criminal offences" committed by ABiH members.¹¹⁷ On 14 July, 1993 Delić issued an order to all Corps Commanders on "observance of laws and rules by ABiH" and ordered them to provide him with information by 10 August 1993 on the number and types of offences; and number of cases tried before special military courts.¹¹⁸
38. The Accused Hadžihasanović responded on 10 August 1993 in a lengthy report entitled "Legality in the Army R BiH" informing him of the functioning, within the 3rd Corps zone of responsibility, of district military courts and district military prosecutors' offices in Zenica and Travnik. Of the situation in Travnik, he stated that there were "hundreds of unfinished, very difficult, cases which lie there for a year (murder, rapes and similar), and that can produce a catastrophic result for the enforcement of order and legality in that area, and even on the combat morale and combat readiness".¹¹⁹
39. On 21 August 1993, Stepan Šiber as Acting Supreme Commander, ordered the Corps Commanders to "thwart all forms of criminal activity, and punish severely those involved".¹²⁰ The same day, the Accused Hadžihasanović prepared a lengthy report to the Supreme Command, noting command and control problems and insufficient pay made soldiers and officers "resort to smuggling, trade, crime and other illegal acts". He also claimed that the military prosecutor's office and military court are inefficient.¹²¹

¹¹⁶ PT 527.

¹¹⁷ He listed 28 criminal charges brought by the 17th Glorious Krajina Mountain Brigade and 59 by the 312th Motorized Brigade Travnik; PT 677.

¹¹⁸ PT 1003. Hadžihasanović forwarded the order to his subordinated commanders on 4 August 1993. The order also specified that "Orders given by superior officers shall be consistently carried out during combat operations, and provisions of the international laws of war shall be observed".

¹¹⁹ PT 780, noting that the Zenica District Military Prosecutor's Office had received 39 criminal reports in the preceding month, initiating 30 criminal proceedings against 71 people – 24 of whom were military (with 47 civilians mostly for refusing to answer a mobilisation summons). He also referred to 142 ongoing investigation proceedings and 105 ongoing criminal proceedings at the Zenica District Military Court.

¹²⁰ PT 820. Šiber was Deputy Commander to Sefer Halilović and then Rasim Delić during the Indictment period.

¹²¹ PT 198, a 47 page report.

Military Disciplinary Courts

40. The Accused Hadžihasanović sent numerous orders to his subordinates in relation to disciplinary matters.¹²² On 3 April 1993 the Accused Hadžihasanović approved his legal affairs department's monthly activity plan which included a deadline of 5 April 1993 for the formation of a disciplinary court of original jurisdiction.¹²³ The following day he reported to the Supreme Command on progress in establishing a legal department within 3rd Corps, including educating subordinates on laws and customs of war and prevention of crimes and misdemeanours.¹²⁴ He established a Military Disciplinary Court within the Corps Structure and used it to prosecute many 3rd Corps soldiers for breaches of the Rules of Military Discipline.¹²⁵

SUMMARY OF EVIDENCE SUPPORTING EACH COUNT

Count 1 - Murder

Dusina, 26 January 1993 (para 39(a))¹²⁶ - Hadžihasanović

41. Dusina¹²⁷ is a village in Zenica Municipality within the 3rd Corps' area of responsibility during the indictment period.¹²⁸
42. A series of orders and communications issued by the Accused Hadžihasanović as 3rd Corps Commander in last two weeks of January 1993 to the 7th Muslim Mountain Brigade, the 303rd Mountain Brigade and the 17th Krajina Mountain Brigade and the responses prove the subordination to him of these units and his effective control over them. On 19 and 22 January 1992, as a result of a broken cease-fire between the ABiH and the HVO,¹²⁹ Hadžihasanović placed his troops - including the 303rd Mountain

¹²² An example is an order to Alagić on 13 June 1993 to "take disciplinary measures against the persons responsible" in the 306th Mountain Brigade for abandoning their defence line; PT 607. Another is his order of 3 February 1993 headed "Taking civilian prisoners, burning and looting of property" prefaced with "There have been occurrences of looting and burning of objects, as well as imprisonment of civilians in the course of combat activities so far. These actions were perpetrated by individuals who do not respect orders and instructions issued by their superiors"; PT 24. See also PT 1234; PT 1235 and PT 69.

¹²³ PT 888.

¹²⁴ PT 776 – based on its request of 20 March 1993.

¹²⁵ PTW 2162. Indictments for disciplinary offences were filed in his name.

¹²⁶ Sub- heading paragraph references are to the indictment unless otherwise specified.

¹²⁷ In 1993 it was divided into a Muslim section of some 45-50 houses and a smaller Croatian/Serb of seven houses; PTW 2004, PTW 2002. It had some strategic importance to the ABiH 3rd Corps as it provided a vital link between the main routes held by the ABiH; PTW 2068.

¹²⁸ On 10 December 1992 Hadžihasanović ordered "All units of the 3rd Corps, including attached units and staffs, shall carry out appropriate combat activities in their respective zones". These included the 7th Muslim Mountain Brigade, the 306th Mountain Brigade and the 306th Mountain Brigade; PT 8.

¹²⁹ Hadžihasanović reported the ABiH Supreme Command on 15 January 1993 noting cease-fire violations; PT 496.

Brigade, the 7th Muslim Mountain Brigade and the 17th Krajina Mountain Brigade – on full combat readiness.¹³⁰ On 25 January 1993 the Duty Operations Officer of the 7th Muslim Mountain Brigade informed the 3rd Corps command of an HVO attack in the village of Dušina.¹³¹ Hadžihasanović informed the Travnik Municipal Defence Staff.¹³² On 25 January 1993 he ordered the reinforcement of the 303rd Brigade in the area of the villages Dusina and Merdani in response to the HVO attacks.¹³³ The same day he issued orders for combat readiness in Dusina at 4 am on 26 January and for firing only on his orders.¹³⁴ Acting on these orders, at about 5.30 am on 26 January 1993, 3rd Corps soldiers attacked Brdo, Dusina, Višnja and Lašva.

43. HVO soldiers in Dusina fired back but surrendered after 3rd Corps soldiers threatened to kill civilian hostages. The HVO commander, Zvonko Rajić, negotiated a surrender with 7th Muslim Mountain Brigade officers.¹³⁵ Following the surrender Rajić tried to escape but 3rd Corps soldiers shot him in the leg. The HVO prisoners carried him about 100 metres and put him down in front of a house. The Commander of the 7th Muslim Mountain Brigade's 2nd Battalion, Šerif Patković, approached him and fired several shots at him from close range, killing him.¹³⁶
44. The 3rd Corps soldiers detained several HVO and civilian men in a house in the Muslim part of Dusina. At about 15.00 3rd Corps soldiers took eight men into another house and then ordered them out and lined them up on the road. 3rd Corps soldiers, commanded by Vehid Subotić ("Geler")¹³⁷ shot six of the eight, murdering Vojislav Stanišić, Niko Kegelj, Stipo Kegelj, Vinko Kegelj, Pero Ljubičić and Augustin Radoš. They stopped shooting and ordered the remaining two survivors to carry the bodies into a house.¹³⁸ The 3rd Corps soldiers took the two survivors to Lašva school where

¹³⁰ The commander of the 7th Muslim Mountain Brigade Asim Koričić and the 2nd Battalion commander Šerif Patković complied with the order on 19 January 1993; PT 311, PT 312. On 24 January 1993 Hadžihasanović had ordered all immediate subordinate commands to report all incidents - including minor ones - to him; PT 13.

¹³¹ PT 962 – in a regular combat report.

¹³² PT 907, PT 962.

¹³³ PT 907; PT 14.

¹³⁴ PT 14, PT 15.

¹³⁵ Following the surrender, the 3rd Corps soldiers beat and mistreated some of the captured HVO soldiers PTW 2004, p. 2, 3; PT 960, p. 4; PT 533, p. 1; PT 983; PT 533, p. 1.

¹³⁶ PTW 2005, p. 6; PTW 2000; p 4. 3rd Corps soldiers searched Rajić's body and fired a few rounds into his body. 3rd Corps soldiers meanwhile tied the surrendered HVO soldiers' hands behind their backs and beat them; PTW 2000, p. 5; PTW 2002, p 3.

¹³⁷ Listed as "severely wounded" on 10 February 1993, in a 7th Muslim Mountain Brigade list; PT 979.

¹³⁸ PTW 2004, PTW 2002.

they remained until early the next morning. The 3rd Corps allowed one to leave¹³⁹ and took the other (an HVO member) and other HVO prisoners to the Zenica KP Dom.¹⁴⁰

45. Later that day the commander of the 7th Muslim Mountain Brigade, Asim Koričić reported to the Duty Officer of the 3rd Corps Operation Centre about the combat operation, reporting the capture of five HVO soldiers at 10 am in Dusina, and 25 HVO soldiers in Lašva.¹⁴¹ The Duty Officer of the 7th Muslim Mountain Brigade also reported to the 3rd Corps Command Operations Centre on the combat operations on the 1st and 2nd Battalions, and the presence of the 2nd Battalion in Dusina and Merdani.¹⁴²

Notice to Hadžihasanović

46. The Accused Hadžihasanović learned of the deaths of Zvonko Rajić and the other HVO soldiers shortly afterwards. On 26 January 1993 the 3rd Corps issued a press release stating that Zvonko Rajić, “a well-known extremist and six of his most loyal soldiers were killed in this conflict”.¹⁴³ On 27 January 1993, Hadžihasanović reported to the ABiH Supreme Command about a meeting on 26 January 1993 between his Deputy Commander Džemal Merdan, Blaškić and UNPROFOR at which Blaškić had proposed breaking off negotiations because of the deaths of seven HVO members.¹⁴⁴ The following day Hadžihasanović reported to the Supreme Command on allegations aired on Croatian radio and television, stating:¹⁴⁵

“We reject all the lies spread by the HTV about the alleged massacres of the Croatian population, as well as the lie about the alleged killing of seven unarmed HVO soldiers. We claim responsibly that all the HVO soldiers killed lost their lives in combat, in attacks on Muslim villages, and our units opened fire only in defence, as were their strict orders”.

47. These communications reveal the Accused Hadžihasanović’s direct knowledge of allegations of serious criminality against soldiers subordinated to him very shortly after the commission of the crimes. Hadžihasanović knew that: his subordinates had

¹³⁹ PTW 2004.

¹⁴⁰ Beating them on the way with rifle butts; PTW 2002.

¹⁴¹ PT 17.

¹⁴² PT 16. The same day, Džemal Merdan prepared an interim report to the 3rd Corps Command reporting on the deaths of three HVO members, the wounding of three and the capture of five or six; PT 1194.

¹⁴³ PT 18.

¹⁴⁴ PT 19. A 3rd Corps Report of 27 January 1993, signed on behalf of Hadžihasanović, chronologically listed the events in Busovača and stating that the territory in the area of Lašva had been cleansed of HVO fighters; PT 506.

captured HVO soldiers; six or seven HVO soldiers were killed in Dusina on the day, including the HVO commander; and that the Croats were alleging the ABiH had killed them after their surrender. He failed to investigate these reports of executions of captured enemy soldier, preferring to dismiss them as lies.

48. The Accused Hadžihasanović, however, had reported to Halilović on 24 February 1993 about the continued “ethnic cleansing” (a war crime) of Croat and Muslim villages in his area of command. On 27 February 1993 Halilović replied, noted that it was occurring against both Croat and Muslim villages, and ordered the 3rd Corps command to protect people in their places of residence to prevent ethnic homogenization.¹⁴⁶ These two orders reveal the Accused Hadžihasanović’s knowledge of the criminal actions of his subordinates. Despite his knowledge and supposed concern, he did not replace any of the commanders for these serious violations of international humanitarian law. This contrasts with his attitude to offences that could be prosecuted before a special military court.¹⁴⁷
49. Further notice of these crimes and the criminality of the 7th Muslim Mountain Brigade was provided to Hadžihasanović on 29 March 1993 when Blaškić sent him a protest letter complaining of its behaviour – specifically in relation to an alleged “brutal murder” of HVO military police in Čajdraš on 28 March 1993 - but reminding him that the brigade had committed crimes against Croats in Dusina.¹⁴⁸ Hadžihasanović also ignored this notice.¹⁴⁹
50. In his evidence before the Tribunal in the trial of Tihomir Blaškić, Defence Counsel asked the Accused Hadžihasanović about his knowledge of the killings in Dusina. The Accused testified, “I said that there were rumours about the crime in Dusina, but I don’t know who perpetrated it, nor did I order it”.¹⁵⁰ However, the Accused Hadžihasanović’s signed report on 27 January 1993 to the ABiH Supreme Command –

¹⁴⁵ PT 20. An order that Hadžihasanović issued on 28 January 1993 for further deployment orders to the 303rd Brigade in the Dusina area shows the continued subordination at a time when he was denying, without investigating, allegations of criminality; PT507.

¹⁴⁶ PT 517.

¹⁴⁷ For example, on 29 January 1993, he informed the 1st Corps Commander and the Supreme Command of one named soldier and 34 others abandoning their position. This resulted in the Supreme Command ordering the 1st Corps to arrest him and “bring him before a military court “special”. Hadžihasanović requested that the 1st Corps commander “deal with this matter most robustly”; PT 508.

¹⁴⁸ PT 530. Blaškić also requested dissolution of the brigade and “appropriate measures of responsibility be taken against the commander of this brigade”.

¹⁴⁹ The perpetrators Šerif Patković and Vehid Subotić (Geler) were in fact rewarded rather than punished. Koričić, nominated them for “a monetary incentive” and a golden lily award on 14 April 1993; PT 993; PT 664; PT 960. On 23 July 1993 Patković was promoted to Chief of Staff of the 7th Muslim Brigade; PT88.

¹⁵⁰ T. 23364 (PT 1236).

containing specific denials of the contemporaneous allegations – proves that he had heard far more than mere rumours of the killings. Judge Shahabuddeen took up this point about the “rumours”, asking the Accused:¹⁵¹

“Now, let us talk a little about what happened at Dusina. You said, I believe, that you heard about it. I think that you used the word “rumours”. And you explained that you did not inquire. Did you feel that although what reached you by way of rumour, that the matter was not sufficiently grave to warrant investigation by you as the commanding officer of the 3rd Corps?”

Hadžihasanović responded:

“It’s customary in Bosnia that when you say “rumour”, you are talking about what the man in the street is saying when they are retelling events, when they have heard of some kind of an event. Honourable Judge, I did not receive any official information from anyone that anything had happened in Dusina so that I would officially take action, any action.”

Count 1

Murder - Miletići, 24 April 1993 (para 39(b), 40 - Hadžihasanović and Kubura)

51. From 26 January 1993, the Accused Hadžihasanović was on notice that troops subordinated to him had been accused of committing war crimes in Dusina. Having been on notice he had a duty to punish the crimes and to prevent future criminality by undertaking the measures listed in paragraphs 17 and 18 above.
52. The ABiH and the HVO signed a United Nations brokered cease-fire on 30 January 1993. Following this there were efforts to maintain the cease-fire and establish a joint command between the HVO and ABiH. Nevertheless there were a number of breaches of the cease-fire and other provocations on both sides. On 16 April 1993, however, troops under Colonel Blaškić’s command attacked the predominantly Muslim village of Ahmići, about 8 km from Dusina, and killed over 100 civilians.¹⁵²
53. The conflict between the HVO and ABiH escalated. Over the next few days, the Accused Hadžihasanović issued a series of orders to his subordinated troops in the

¹⁵¹ T. 23403 (PT 1236).

¹⁵² See *Prosecutor v Blaškić* IT-95-14-T, paras. 384-428.

area.¹⁵³ On 17 April 1993, the Accused Hadžihasanović ordered the 7th Muslim Mountain Brigade to “Continue with the plan exploiting the success in the Ahmići direction.”¹⁵⁴ That day, Alagić reported to the 3rd Corps Command, reporting that all the commander’s orders had been carried out.¹⁵⁵ The next day, on 18 April 1993, Alija Izetbegović and Mate Boban signed an agreement in Zagreb ordering an immediate end to fighting between the ABiH and HVO.

54. However, on 21 April 1993 – three days before the murders in Miletići – and consistent with his use of the 7th Muslim Mountain Brigade in difficult combat operations - Hadžihasanović resubordinated a company of that Brigade to the 303rd Mountain Brigade.¹⁵⁶ The 7th Muslim Mountain Brigade was at that time subordinated to the OG Bosanski Krajina commanded by Alagić, who was subordinated to the Accused Hadžihasanović.¹⁵⁷
55. On 22 April 1993, the Accused Hadžihasanović and Tihomir Blaškić issued an order appointing the members of a commission to deal with tasks and problems arising from the formation of a Joint Operational Centre at the level of 3rd Corps and the HVO Operational Zone Central Bosnia. This was intended as the first step towards establishing a Joint Staff. The members of the Commission included the Deputy Commander of 3rd Corps, Džemal Merdan, and the Chief of Staff of the HVO Operational Zone Central Bosnia, Franjo Nakić.
56. However, on 24 April 1993, between 17.00 and 18.00, soldiers from the 7th Muslim Mountain Brigade’s 1st Battalion arrived in Gornji Miletići.¹⁵⁸ Miletići is a village in Travnik municipality, 2 km from the nearest Muslim village, Mehurići, 2 km from

¹⁵³ On 17 April 1993, Hadžihasanović issued another order on combat operations against the HVO. Apparently referring to the attack on Ahmići, he stated: “All efforts made on our part to find at least a compromise solution with HVO representatives remained fruitless. On the contrary, the HVO used the negotiations only as cover and as justification before the public, while tactically and operationally deploying their paramilitary formations, as they are now clearly seen to be, in order to round off the ethnically pure parapolitical community of Herceg-Bosna. With this aim, they resorted to the cruellest methods of torturing and expelling the Muslim population. They did this as good pupils of the Chetnik leaders, and in some cases they even surpassed their teachers. The HVO paramilitary formations displayed great violence in their showdown with everything that was linked to Muslims and their national identity”; PT 543.

On 19 April 1993 Hadžihasanović ordered his brigade commanders to establish more effective communications and to ensure timely and reliable reporting of information to the command; PT 545.

¹⁵⁴ PT 1176; and directing the 2nd Battalion “to wait for the agreed signal”.

¹⁵⁵ Referring to the 306th Brigade and the 7th Muslim Mountain Brigade; PT 928. On the same day Hadžihasanović ordered the 306th Brigade (via the 312th Brigade) to send a reconnaissance patrol in the Guča Gora area; PT 540.

¹⁵⁶ PT 1072 p 1.

¹⁵⁷ PT 8.

¹⁵⁸ PTW 2010, p 2; PTW 2057.

Zagrade.¹⁵⁹ It is about 4 km from the Mujahedin training camp at Orašac. In 1993 it had a population of about 60 people, divided into Gornji Miletići – comprising about 13 Croatian houses – and Donji Miletići which had 3 Muslim houses.¹⁶⁰

57. Upon warning of the arrival of the ABiH, the Croat villagers gathered for protection in two houses. One of the villagers, an HVO member, shot through a door, killing a 3rd Corps soldier. The soldiers then attacked the house, throwing a grenade in.¹⁶¹ 3rd Corps soldiers entered and took the villagers out and tied their hands. Some soldiers threatened the Croats with long knives, holding a long rope and suggesting they would kill them, gesturing they would cut their throats.¹⁶² The soldiers selected four Croat HVO soldiers - Franjo Pavlović, Tihomor Pavlović, Vlado Pavlović and Anto Petrović - and ordered them to kneel.¹⁶³ Several 7th Muslim Mountain Brigade soldiers led the remaining villagers towards Mehurići,¹⁶⁴ leaving the four captured men in the custody of the other 3rd Corps soldiers.
58. Between then and the next morning when some villagers returned, the 3rd Corps soldiers murdered the four men. One of the villagers returned that night to find the four captured Croats murdered in one of the houses. All had their trousers open. The corpses showed obvious signs of mutilation with wounds to the heart and throat and they were circumcised.¹⁶⁵

Notice to Hadžihasanović

59. The municipalities in the indictment comprise a geographically small area. Many of the combatants in the respective armies, the ABiH and HVO, knew each other – from school, work and life in the villages and town. News of this atrocity spread rapidly throughout this small area. The day after the murders – on 25 April 1993 – Hadžihasanović's deputy commander, Merdan, and an ECMM officer travelled to Miletići to investigate the reports of a massacre.¹⁶⁶ The ECMM wrote a report confirming the torture and murder of the four Croat men. On 25 April 1993 Blaškić

¹⁵⁹ PTW 2057.

¹⁶⁰ PTW 2079, PTW 2009

¹⁶¹ PTW 2009, PTW 2079.

¹⁶² PTW 2007, PTW 2079.

¹⁶³ PTW 2057, PTW 2007, PTW 2009.

¹⁶⁴ PTW 2057, PTW 2079.

¹⁶⁵ PTW 2006, PTW 2008, PTW 2057, PTW 2079, PTW 200, PTW 2010, PT 44, PTW 2071, PT 558.

¹⁶⁶ PT 44.

- wrote to the ECMM, UNPROFOR, ICRC and 3rd Corps Command alleging that Mujahedin from Mehurići had arrested and taken 60 to 70 residents from Miletići.¹⁶⁷
60. On 5 May 1993, the commander of the 306th Mountain Brigade, Esed Šipić, sent an operative report to the 3rd Corps Operative Centre for the period from 15 April to 5 May 1993. The report mentioned special security problems in the 306th zone of responsibility, including the status of the Mujahedin and 7th Muslim Mountain Brigade. It referred to the attack on Gornji Miletići.¹⁶⁸ The next day the 306th Brigade reported to the 3rd Corps Command Organ for Morale, Information, Propaganda and Religious Matters about Miletići, stating that in response to the wounding of an Arab, the Mujahedin - with people from Mehurići - had killed 5 Croat citizens.¹⁶⁹
61. On 7 May 1993, the HVO Central Bosnia Information Office wrote to the ECMM, ICRC, UNPROFOR and the 3rd Corps Command providing specific information about the murders in Miletići.¹⁷⁰ On 8 May 1993 the 306th Brigade reported to Joint Command in Travnik (HVO and ABiH Taskforce) about the problems of foreigners in the 7th Muslim Mountain Brigade, requesting that the 3rd Corps Command put them under its control or remove them.¹⁷¹ On 9 May 1993, the 306th Brigade reported to the 3rd Corps Command complaining about the “uncontrolled and autocratic behaviour” of “other units of the ABiH” especially in Mehurići.¹⁷² On 18 May 1993, the Accused Hadžihasanović ordered all his subordinate commanders to submit weekly reports, ensuring that “your regular daily combat reports must contain an assessment of the combat morale of the aggressor and our forces”.¹⁷³
62. The Miletići murders also achieved international publicity. The United Nations Special Rapporteur reported to the Security Council on 15 May 1993, stating:¹⁷⁴
- “Field staff visited the village of Miletići, north of Vitez, and gathered testimony which alleges how, around 16 April, members of government forces from neighbouring villages and “Mujahedin” encircled the village and selected

¹⁶⁷ PT 43.

¹⁶⁸ PT 805.

¹⁶⁹ PT 807.

¹⁷⁰ PT 619.

¹⁷¹ PT 808; PT 1031.

¹⁷² PT 809, p. 1.

¹⁷³ PT 1036.

¹⁷⁴ PT 55.

five young Croat men, some of whom were then tortured before they were executed.”

63. Like the UN Special Rapporteur, the Accused Hadžihasanović had the material ability to “gather testimony” about the murders, but unlike the Special Rapporteur, Hadžihasanović, who had the legal obligation to do this, failed in his duty to investigate and take steps to punish the perpetrators of the murders. He received from several sources information that his subordinates had murdered the surrendered HVO soldiers. He also had clear and continuing notice that soldiers subordinated to the 7th Muslim Mountain Brigade were engaged in criminal activities before the Miletići murders occurred. In breach of his obligations pursuant to international humanitarian law the Accused Hadžihasanović did nothing to punish the perpetrators of the murders in Miletići.
64. On 15 June 1993 Šiber wrote to President Izetbegović, ABiH Supreme Commander Delić and the Minister of the Interior, Alispahić expressing concerns about crime in the Zenica area.¹⁷⁵ In response to this Delić and Alispahić sent a strongly worded communication on 23 June 1993 to Hadžihasanović and the Chief of the Zenica Security Services about “serious security problems” in the 3rd Corps zone:¹⁷⁶

“This refers particularly to the increased incidence of civilian arrests by various Police brigades, killings of civilians, robbery and aggravated theft and overstepping official authority, so crime rules. Insufficient co-ordination between the Police and Military Police has resulted in perpetrators of the most serious crimes not being discovered and the population is moving out in fear of the ethnic cleansing of the Zenica region. It is a fact that citizens are threatened not only by the combat operations of the aggressor and certain HVO units as well as armed groups and individuals, but also by crime which is increasing at a worryingly fast pace on free territory, in the rear and in the combat operations zone. The facts indicate that an increasing number of members of the Armed Forces are among the perpetrators of the most serious crimes”

¹⁷⁵ He said, “Different police forces of brigades are arresting civilians without necessary documents for the arrest, crime reigns and known small groups are still robbing and spreading fear among citizens. Command of the 3rd Corps claims that those are paramilitary forces and, as well as MUP does nothing to distance itself from them and take action. Murders are committed against innocent civilians, mostly senior men and women (Šušanj, Ovnak and other villages). Non-existing co-ordination between police forces (military and civilian) results in murderers

65. This provided additional notice to Hadžihasanović about the criminal activities of his subordinates.

Notice to Kubura

66. From at least 1992 foreign Mujahedin soldiers were based in Mehurići¹⁷⁷ as part of the 7th Muslim Mountain Brigade's 1st Battalion,¹⁷⁸ and were training local Muslims in Zagrade. Some Mujahedin were subordinated within the structure of the 7th Muslim Mountain Brigade. On 2 March 1993, the Assistant Commander of the 7th Muslim Mountain Brigade on Morale, Propaganda and Religion informed the 3rd Corps about an increasingly frequent capture of foreign citizens who were on a useful mission.¹⁷⁹
67. On 2 April 1993, the 7th Muslim Mountain Brigade wrote to the HVO commander Dario Kordić warning him to release all foreign nationals and ABiH soldiers.¹⁸⁰ From at least 8 April 1993 until at least 16 July 1993 the area of responsibility of the 306th Mountain Brigade, headquartered in Rudnik, and with soldiers also stationed Mehurići, included a part of the Travnik municipality.¹⁸¹ On 6 April 1993 the commander of the 306th Mountain Brigade reported to the 3rd Corps Organ for Morale, Propaganda and Religious Affairs, the OG Zapad and the 7th Muslim Mountain Brigade informing them about the radical acts of some soldiers of the 7th Muslim Mountain Brigade who harassed Croat citizens in the 306th area of responsibility.¹⁸² Two days later Kubura reported about the "unacceptable behaviour" of some brigade members and ordered the commanders of 1st, 2nd and 3rd Battalions to prevent extremist behaviour by brigade members.¹⁸³
68. Kubura had notice of the criminal actions of his subordinate soldiers before the murders committed by his subordinates in Miletići. This provided him with the notice necessary to take preventative measures detailed in paragraph 17 above.

not being discovered, which contributes to constant movement of population out of fear from the Zenica region"; PT 608.

¹⁷⁶ PT 617.

¹⁷⁷ PTW 2010, p 2; PTW 2009, p 2; PT 571, p 1.

¹⁷⁸ PTW 2032, p. 6;

¹⁷⁹ PTW 639, PT 519, PT 525.

¹⁸⁰ PT 33. This could only have been referring to the Mujahedin.

¹⁸¹ PT 144, p. 1; PT 460, p. 2; PT 463, p. 2. PT 1001.

¹⁸² Esed Sipić; PT 802.

¹⁸³ PT 144 – in his capacity as acting commander of 7th Muslim Mountain Brigade and signing for Koričić. Hadžihasanović insisted in an order to his subordinated units on 18 May 1993 that they submit weekly reports on "factors affecting combat morale"; PT 1036.

Count 1 – Murder, Count 2 - Cruel Treatment

Maline / Bikoši ,8 June 1993 (para 39(c) Hadžihasanović and Kubura)

69. The notice to the Accused Hadžihasanović of the murders committed by his subordinates in Dusina and Miletići and to the Accused Kubura in relation to Miletići imposed a specific duty on him to prevent further criminal activity. The Accused Hadžihasanović had specific notice of allegations that his subordinates had murdered surrendered soldiers on 26 January and 24 April 1993, thus obligating him to take steps to investigate and punish the perpetrators. This direct notice of the criminality of his subordinates provided him with the most unambiguous duty to prevent further breaches of international humanitarian law. His omission gave impunity to his subordinates to continue with unchecked criminal behaviour prohibited under international humanitarian law.
70. Maline,¹⁸⁴ Postinje, and Bikoši are villages in Travnik municipality.¹⁸⁵ In early 1993 Maline had a Croat section of about 100 houses (Gornji Maline or Maljine), and a Muslim part of 200 houses (Donji Maline or Maline). Postinje, located between Maline and Mehurići, was a 15 house Croat village surrounded by Muslim villages.¹⁸⁶ Bikoši, a 10 house hamlet a kilometre from Maline, was the closest Croat village to Mehurići.¹⁸⁷
71. In 1993 a 7th Muslim Mountain Brigade unit, including Mujahedin, were based at the Mehurići elementary school.¹⁸⁸ The 306th Brigade was headquartered at Rudnik, several kilometres from Maline, and also had a detachment in Mehurići.¹⁸⁹ On 8 June 1993 at 4:30 am 3rd Corps units including the 306th Brigade and the 7th Muslim Mountain Brigade¹⁹⁰ attacked Postinje¹⁹¹ and Maline.¹⁹² At about noon in Maline the 3rd Corps soldiers ordered all Croat civilians and HVO soldiers to surrender. Upon surrender, the Croats then gathered in the centre of the village.¹⁹³ In Postinje, Croats civilians and HVO soldiers surrendered after the 3rd Corps soldiers had threatened to

¹⁸⁴ PTW 2029, PTW 2101, PTW 2014.

¹⁸⁵ Less than 4 km from Miletići to the north and Orašac to the east

¹⁸⁶ PTW 2012, p. 2.

¹⁸⁷ PTW 2012; PTW 2014.

¹⁸⁸ PTW 2014; PTW 2011; PTW 2027; PTW 2016

¹⁸⁹ PT 460, p. 2; PT 463, p. 2.

¹⁹⁰ PTW 2016; PTW 2027; PTW 2085; PTW 2029

¹⁹¹ PTW 2014.

¹⁹² PTW 2011.

¹⁹³ PTW 2014.

kill all women and children they had captured in Maline. The 3rd Corps soldiers then walked the surrendered Croats from Postinje towards Maline.¹⁹⁴

72. The 3rd Corps soldiers also led several hundred Croat people from Maline towards Mehurići.¹⁹⁵ On the way to Mehurići 3rd Corps soldiers selected some Croats from this group. As the main group continued to walk to Mehurići the soldiers took the group of men in the direction of Bikoši. On the way to Bikoši this group was joined by wounded Croats moving towards Mehurići, also escorted by 3rd Corps soldiers.¹⁹⁶ In Bikoši, a prisoner started screaming.¹⁹⁷ The 3rd Corps soldiers then shot at the group with automatic rifles at close range, executing (at least) the 24 Croat civilians and soldiers named in the indictment.¹⁹⁸

Cruel Treatment

73. The Cruel Treatment¹⁹⁹ commenced with the 3rd Corps soldiers threatening the Croat civilians sheltering in their cellars with death as “Ustaša”, and indicating with their knives that they would slit their throats.²⁰⁰ As they were being marched in two-file columns at gunpoint to Bikoši, the 3rd Corps soldiers told the Croats that they would show them their trenches. When they came to the trench the 3rd Corps soldiers ordered the group to stop, and the first six pairs of the column to stand in front of it. A survivor of the forthcoming massacre describes their fear of imminent death, thinking they would be shot on the spot.²⁰¹ During the shooting and execution of the (at least) 24 Croats described above, the 3rd Corps soldiers seriously wounded four Croats,²⁰² who played dead until the soldiers were distracted by a wounded comrade, enabling

¹⁹⁴ PTW 2011

¹⁹⁵ PTW 2014; PTW 2015

¹⁹⁶ PTW 2014.

¹⁹⁷ Some witnesses state that he had an epileptic attack.

¹⁹⁸ PT 2014, PTW 2011, PTW 2012, PTW 2013, PTW 2119, PTW 730, PT 90. The survivors of the massacre variously describe the soldiers shooting as members of the 7th Muslim Mountain Brigade, Muslim soldiers and Mujahedin.

¹⁹⁹ The Tribunal has defined this offence. “Cruel treatment as a violation of the laws or customs of war is: (a) an intentional act or omission [...] which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity, *Čelebići Appeal Judgement*, para. 552 ⁶⁵⁶ *Jelisić Judgement*, para 41; Trial Judgement, para 552; *Blaskić Judgement*, para 186 (Appeals Chambers’ footnote) committed against a person taking no active part in the hostilities”.

²⁰⁰ PTW 2027, PTW 2028. Adding to their fear, one soldier hit and spat at a surrendered HVO soldier; PTW2027; PTW 2028

²⁰¹ PTW 2014.

²⁰² Berislav Marjanović, Zdravko Pranješ, Darko Pušelja and Željko Pušelja.

them to escape.²⁰³ This conduct rises to the level of Cruel Treatment recognised by Article 3(1)(a) of the Geneva Conventions a violation of the laws or customs of war.

Notice to Hadžihasanović

74. Like the Dusina murders in January 1993, the massacre of (at least) 24 Croats by the ABiH was no small event in Central Bosnia. It would be a sizeable massacre in any armed conflict, but its very size made it impossible to conceal in an area as geographically confined as the 3rd Corps zone of responsibility. This was especially so in circumstances of ethnic division and tension, when the crime was perpetrated by troops overwhelmingly of one ethnicity against people of another ethnicity. The ABiH Deputy Supreme Commander Šiber was aware of reports of the massacre, and, on 20 June 1993, he visited Hadžihasanović in Zenica and asked him whether he knew about the execution of 35 people in Bikoši. Hadžihasanović replied he had no knowledge of this.²⁰⁴ This provided specific notice to Hadžihasanović of the crimes alleged, although it is inconceivable that the 3rd Corps Commander and Kubura, the acting commander of the Brigade that committed the crimes, could not have been aware of the crimes before then.
75. On 23 June 1993 the Commission for Prisoners gave the Supreme Command Staff information that the Mujahedin had executed 50 people in a village neighbouring Mehurići the day before its visit there on 10 June 1993.²⁰⁵ Two days later, on 25 June 1993, Šiber informed the ABiH Army Supreme Command Staff that on 8 June 1993 the Mujahedin had executed 35 Croats in Bikoši, leaving four wounded survivors.²⁰⁶ Sometime in late July 1993 one witness informed ECMM Ambassador Thebault that he wished to visit Bikoši because of a reported massacre on 8 June 1993. On 9 August 1993 Merdan, the ECMM and the witness inspected Bikoši together, examining three gravesites.²⁰⁷ Merdan, as Hadžihasanović's deputy, could not have participated without Hadžihasanović's knowledge or permission: the only available inference is that he did so with the approval of his commander.

²⁰³ PTW 2014; PTW 2067. One was hit in his calf, one was wounded in his chest and upper part of the shoulder, one was wounded on the hip and one had a bullet wound in his arm

²⁰⁴ PTW 2075; PTW 615. In his testimony in the *Blaškić* case, Defence Counsel asked Hadžihasanović "You are not aware of the mass graves, for example, near Bikosi? Over 30 people were shot by the 7th Muslim, that those were mostly Croat men, mostly civilians, some of them prisoners of war. Do you know about that? A man testified here who escaped his own shooting. Did you hear that?" Hadžihasanović responded "No. No, I don't know that"; T 23385 (PT 1236).

²⁰⁵ This was a joint commission of the HVO and ABiH formed to negotiate prisoner releases; PT 78. Salko Beba, the assistant commander of security of the OG Bosanska Krajina, provided the allegation of the massacre.

²⁰⁶ PTW 81, p. 2.

²⁰⁷ PTW 2074.

76. Like the Miletić murders, the massacre in Maline/Bikoše also attracted international attention. On 23 September 1993 representatives of the UN Centre for Human Rights met Merdan at 3rd Corps Headquarters in Zenica, and specifically discussed the Maline murders with him.²⁰⁸ On 17 October 1993 Delić wrote to the Accused Hadžihasanović informing him that President Izetbegović had received a letter from UN Special Rapporteur, Mazowiecki, about an alleged massacre of 25 Croats in Maline on 8 July 1993, and an alleged expulsion of 3000 Croats from that area.²⁰⁹ The same day Hadžihasanović requested immediate and specific information from the OG Krajina about these allegations.²¹⁰ It was not until Hadžihasanović received Delić's order, some four months after this notorious event, that he sought any information about the massacre – and even then he only sought information rather than ordered a proper investigation into the allegations. He received his answer a mere four days later, when, on 21 October 1993 Merdan reported back to ABiH Supreme Command Staff. Merdan's two-page report stated that the ABiH had not massacred any civilians nor executed any HVO soldiers during combat, but said ambiguously "All Croats were killed by bullets and shells (a total of 25 soldiers and civilians)".²¹¹
77. The President of Bosnia and Herzegovina instructed Delić to investigate serious allegations of war crimes allegedly committed by ABiH soldiers. It is clear from Merdan's report that no proper investigation occurred. Merdan dismissed the allegations – first to the United Nations Centre for Human Rights and then to Delić – without having them properly investigated. His report was an obvious whitewash. The allegations, made by the UN Special Rapporteur required proper investigation. The Accused Hadžihasanović had the clearest notice – from his superiors and his subordinates over a period of four months – of this crime yet failed to investigate or punish the perpetrators.

Notice to Kubura

78. A report from the Commander of the 306th Mountain Brigade, dated 8 April 1993, to the Chief of Staff and others documents that the Accused Kubura was well aware of

²⁰⁸ Merdan's response was that there could be mass graves but that he was unaware of how many bodies and that he was certain that no civilians had been killed. Merdan denied that Mujahedin were in the ABiH but said that the army had foreign volunteers who were required to follow orders and laws of the army. He also denied that any Croat villages in the 3rd Corps' area of responsibility had been burned; PTW 2067; PTW 101, p. 2 – 3.

²⁰⁹ PT 104, p. 1.

²¹⁰ PT 105, p. 1.

²¹¹ PT 108. He reported that the 306th Assistant Brigade Commander had visited the location and drafted a report, which was sent to the superior command. He stated that the bodies came from three villages Maline, (ILLEGIBLE) and Podstijenje.

the unacceptable behaviour of the 7th Muslim Brigade; an allegation being that specific members of the brigade harassed civilians.²¹² On 8 April 1993 Kubura as acting commander of the 7th Muslim Mountain Brigade wrote a report (a copy forwarded to himself in his formal capacity as chief of staff) about the “unacceptable behaviour” of some of the troops.²¹³ More specifically, on 20 June 1993, Kubura issued an order to his subordinate commanders to prevent “negative occurrences”. It contained the following preface:²¹⁴

“After the clashes between members of the ABiH and HVO, which have developed into full-scale combat actions in certain areas, there have been incidents of illegal arrest of civilians, looting of their property and houses and destruction of religious facilities...”

79. He then ordered, as ordered by the Accused Hadžihasanović, that his subordinates were not to detain and arrest innocent civilians; destroy, damage or burn private property; or damage or destroy religious facilities. He ordered them to “treat prisoners of war, especially the wounded, in the spirit of the Geneva Conventions”. In reporting back to the Accused Hadžihasanović, Kubura denied that his subordinate troops looted and burned property.²¹⁵
80. Kubura as commander of the 7th Muslim Mountain Brigade was on notice of the actions of his subordinates and had a duty to take positive steps to prevent their committing criminal acts. He had a duty to investigate allegations of criminality against his subordinates and to prevent further criminal acts.

Count 3 - Murder, Count 4 - Cruel Treatment

Zenica Music School, 26 January 1993 to 31 October 1993 (para 41(a) Hadžihasanović (from 26 January 1993), Kubura (from 1 April 1993))

81. From at least 26 January 1993 to 31 October 1993, the ABiH operated a detention centre in the Zenica Music School, close to the 3rd Corps Command headquarters, and at the location where the 7th Muslim Mountain Brigade billeted its military police.²¹⁶

²¹² PT 144. Kubura signed the document.

²¹³ PT 144, p. 1, 2.

²¹⁴ PT 73.

²¹⁵ While admitting that “individual cases of burning and destruction” in the 7th Muslim Mountain Brigade zone of responsibility had occurred after combat operations, he stated that this had occurred after his troops had left the area; PT 72.

²¹⁶ PTW 2020; PT 29, p. 1; PT 10, p. 1; PTW 628, p. 2.

The detainees were guarded by the 7th Muslim Mountain Brigade.²¹⁷ On 15 January 1993 the Accused Kubura had signed an order on behalf of Commander Koričić, ordering the Assistant Commander for Security of the 7th Muslim Mountain Brigade to form a military police platoon, billet the platoon in the school and to establish a military detention unit in the school.²¹⁸ Kubura was aware that his subordinates were detaining Croat and Serb prisoners in the Music School during the period pleaded in the indictment.²¹⁹

82. The 3rd Corps soldiers subjected their prisoners to repeated incidents of Cruel Treatment over the period specified. These are too numerous to document in this pre-trial brief, but included – in general – deliberately poor living conditions and regular brutal beatings during interrogation and detention in the basement cells.²²⁰ Living conditions in the Music School were very poor. Up to 50 or so the prisoners had to use a bucket as their toilet²²¹ were not allowed to wash themselves, and received one meal per day.²²²
83. The beatings were brutal and daily. One witness describes the 7th Muslim Mountain Brigade soldiers turning him and his son over to the Military Police at the Music School, being taken to a room where soldiers beat them with chair legs, sticks and truncheons for several hours, and then being locked into a small room crammed with 48 mostly civilian prisoners.²²³
84. Another witness describes soldiers beating him with rubber truncheons while his hands were handcuffed behind his back. A group of 20 Croats was also beaten with rubber truncheons. One soldier asked one of the Croats which tooth he wanted to have taken out and started to pull his upper lip towards him with pliers pretending to pull a tooth.²²⁴ The soldiers hit the prisoner with shovel handles and ordered him to sit on a chair where one soldier kicked him on the chest until he lost consciousness. One

²¹⁷ PTW 2018; PTW 2073; PTW 2024; PTW 2074; PTW 2025; PTW 2019; PTW 2021; PT 932.

²¹⁸ PT 10. As noted above, its instructions on functioning were published on 7 February 1993; PT 602.

²¹⁹ The Britbat Liaison Officer responsible for Zenica at this time formed the view that the Mujahedin were allowed to get away with their misbehaviour in Zenica, reflecting their importance to the ABiH; PTW 2064.

²²⁰ PTW 2025; PTW 2026; PTW 2020; PTW 2024. Every night the guards took out at least one prisoner for “singing lessons” (beating); PTW 2024. Vehid Subotić nicknamed Geler, a member of the 7th Muslim Mountain Brigade’s 2nd Battalion, who ordered the shooting of the 5 surrendered HVO soldiers and the civilian in Dusina beat one of the prisoners taken from Dusina to the Music School.

²²¹ PTW 2020; PTW 2026.

²²² One prisoner day lost 22 kg in 50 days; PT 2026. Another prisoner lost 31 kg within 58 days; PT 2024.

²²³ PTW 2017. One witness describes being pushed into a dark classroom and ordered to run while the guards hit him with wooden staves or pieces of cable; PTW 2024. Sounds of beating and a person crying for help came from outside the basement cell during the nights; PTW 2017.

²²⁴ PTW 2073.

soldier ordered him to eat an army badge and was beaten with shovel handles when he wasn't able to do so. After the beating he was thrown in a room on the basement. After two days his handcuffs were taken off, his hands were swollen and already black up to his elbows.²²⁵ Two days after the arrest of one prisoner, 7th Muslim Mountain Brigade Military Police told the prisoners that they were being transferred to KP Dom. As the prisoners left the Military Police and other soldiers hit the prisoners with shovel handles.²²⁶

85. Members of the 7th Muslim Mountain Brigade also ordered one prisoner to dig his own grave, which they later used for rubbish. On one occasion 7th Muslim Mountain Brigade soldiers ordered all prisoners to face the basement wall and then beat them with truncheons and kicked the prisoners with boots. One prisoner fell to the floor and the beating continued.²²⁷
86. During one interrogation 20 members of the 7th Muslim Mountain Brigade beat a witness with truncheons, wooden handles, knuckle-dusters and fists until he was unconscious.²²⁸ They ordered him to catch the blood that was dripping off his head, threatening to kill him if any blood fell on the floor. One soldier threatened one witness to cut his ear with a knife if he used the word "home" one more time.²²⁹ The 7th Muslim Mountain Brigade guards also ordered the prisoner to beat up his intellectually disabled son.²³⁰
87. One witness describes 7th Muslim Mountain Brigade members beating him with police rubber sticks on his face, the shoulders and the back of the head. When he begged for water the guard took him to the communal tap. While trying to drink, the guard struck the back of his head and the witness hit his face on the tap and cut his face under his left eye and nose. As he lost consciousness the guards poured water over him and kicked him while he was lying on the floor.²³¹

²²⁵ PTW 2023.

²²⁶ PTW 2023.

²²⁷ PTW 2025.

²²⁸ PTW 2020; PTW 2134. PTW 2021. After an interrogation one witness describes being forced to run a gauntlet between 10 soldiers while they beat him with wooden shovel handles and thick cables; PTW 2024.

²²⁹ PTW 2020.

²³⁰ PTW 2024. The guards ordered one prisoner to beat up his own intellectually disabled son. The prisoner refused and was forced to beat up other prisoners.

²³¹ PTW 2026; PT 932 The witness' eye was damaged permanently, the pupil of the left eye remains dilated and he only has 50 % vision; PTW 2026.

88. Another form of Cruel Treatment consisted of the guards lining the prisoners against the basement wall and ordering them to hit their heads against the wall.²³²

Murder of Jozo Maračić on about 18 June 1993

89. The systematic mistreatment of the prisoners made it inevitable that at least one would succumb to his injuries. On 18 June 1993, after the prisoners heard sounds of beatings from upstairs, the guards brought Jozo Maračić, a wounded HVO soldier, into the basement.²³³ The guards came and took him out again in the early evening and the prisoners heard beating sounds again. Shortly afterwards guards dragged him back and left him in the basement. He was no longer breathing. The following morning the guards removed the body.²³⁴

Notice to Hadžihasanović and Kubura

90. The mistreatment of the prisoners held at the Zenica Music School was notorious²³⁵ and the subject of many complaints to the 3rd Corps Command, the ECMM, ICRC and the 7th Muslim Mountain Brigade.
91. On 3 February 1993 the Accused Hadžihasanović ordered all brigade commands to strictly prohibit imprisoning unarmed civilians.²³⁶ On 20 April 1993 he ordered the Zenica Prisoner of War Reception Centre subordinated to 3rd Corps and that the command would solve status-related and other issues regarding the personnel working in the Centre.²³⁷ On 30 April 1993 Colonel Blaškić sent a request for release to the ABiH 3rd Corps in Zenica, UNPROFOR, ECMM and ICRC asking the 3rd Corps Command to release the innocent civilians, soldiers and HVO officers and for the international organisation to ensure their release in the most appropriate way.²³⁸

²³² PTW 2018. If they didn't do it hard enough the guards assisted them. Members of the 7th Muslim Mountain Brigade threatened one witness that they would cut him into pieces because he was a real "Ustasha". One of them took a knife and at the same time they threw him on the floor and started to kick him; PTW 2021

²³³ PTW 2018. He had been arrested in the hospital and had a bandage over his eye covering a fresh gunshot wound.

²³⁴ PTW 2018; PTW 2021; PTW 2134.

²³⁵ For example, one 7th Muslim Mountain Brigade member describes it as "a well known fact that the guards at the Music School would allow soldiers from the 7th Muslim Mountain Brigade to beat the POWs whenever they liked"; PT 2128, p 9.

²³⁶ PT 24. The order specified that commanders of brigades at all levels of command and control should spare no effort to prevent such actions and if they cannot they should record the event, identify the perpetrators and take the necessary action to implement the most severe moral and legal sanctions against perpetrators.

²³⁷ PT 551, p. 1.

²³⁸ PT 843, p. 1.

92. On 7 May 1993, the HVO Information Office sent a report to ECMM, ICRC, UN British Battalion and the 3rd Corps Command informing them of the extreme maltreatment subjected on prisoners held in the Zenica Music School.²³⁹ The same day the ECMM met the Accused Hadžihasanović. He denied knowing that the Music School was a prison but said that he could arrange access with a phone call.²⁴⁰ The next day the ECMM gained access to the Zenica Music School with the 3rd Corps Deputy Commander for Security, Ramiz Dugalić. Three prisoners informed them of beatings by the 7th Muslim Mountain Brigade Military Police.²⁴¹ Two weeks later - on 25 May 1993 - Blaškić wrote to ECMM, UNHCR, Britbat and the ICRC complaining of non-release of ABiH prisoners in Zenica (including the Music School) and asking for assistance in exerting pressure on the ABiH command.²⁴² On 26 May 1993 Blaškić reported to the 3rd Corps Command, ECMM, ICRC, Joint Command of HVO and ABiH Travnik, UNHCR complaining that the ABiH was not releasing prisoners as agreed, including civilians held in the Zenica Music School.²⁴³ On 11 June 1993 Šiber contacted Hadžihasanović and asked him whether he knew that two Arabic flags instead of the ABiH flag was hanging outside the Music School in Zenica, and that it was time to replace these with an ABiH flag.²⁴⁴
93. A meeting was held on 13 June 1993 between the HVO, Hadžihasanović, Šiber and Ambassador Thebault, who insisted that Hadžihasanović release prisoners from Zenica Music School.²⁴⁵ Later that day Hadžihasanović ordered all subordinate units to inform him the next day of the number and location of captured civilians and HVO members.
94. At one meeting, involving municipal, military and international officials, a Judge of the Zenica District Military Court, Judge Adamović, spoke to the Accused Hadžihasanović about the Music School. Relatives of detainees had been complaining to the judge about the mistreatment and beating of the prisoners. The judge told the Accused in the meeting of the complaints and asked him whether he knew what was happening in the school. The Accused Hadžihasanović replied to the effect that he had heard of it, but had checked it and it "was OK". Judge Adamović also told

²³⁹ PT 619.

²⁴⁰ PT 52, p. 1.

²⁴¹ PT 562, p. 1, 2.

²⁴² PT 869, p. 1.

²⁴³ PT 849, p. 1.

²⁴⁴ PTW 2075. Hadžihasanović promised to try to have the flag replaced. The flags were removed within a day – an available inference being that Hadžihasanović ordered their removal.

²⁴⁵ PTW 2075.

Hadžihasanović that people were complaining about the army arresting and detaining people in “camps” and only the court could order the imprisonment of people, not the army. Hadžihasanović agreed that he would investigate the matter.²⁴⁶

95. During June 1993 one witness met with the religious and spiritual leader of the 7th Muslim Mountain Brigade²⁴⁷ and asked him to stop the beatings at the Music School.²⁴⁸ On 16 June 1993 the Chairman of the Joint Humanitarian Commission (JHC) tried to visit the Music School and was allowed entry only after telephoning the 3rd Corps Command.²⁴⁹ On 29 June 1993 the Accused Hadžihasanović reported to the commands of his subordinate units on “Additional clarification regarding the exchange of prisoners from the Zenica KPD” referring to the existence of 198 HVO soldiers in detention at the KPD.²⁵⁰ This report shows his knowledge of imprisoned HVO soldiers in Zenica and his interest in exchanging them for ABiH prisoners.²⁵¹
96. On 14 August 1993 Delić sent a report to the 3rd Corps Command stating that the 7th Muslim Mountain Brigade constantly refused the ICRC access to prisoners detained by the 7th Muslim Mountain Brigade, except for one visit in May 1993. The Supreme Command Staff ordered the 3rd Corps Command to order the 7th Muslim Mountain Brigade Command in Zenica to allow ICRC access to the Zenica Music School.²⁵² The Accused Hadžihasanović gave evidence at the *Blaškić* trial about his knowledge of the Zenica Music School. His evidence was contrary to the information contained in Delić’s report of 14 August 1993. Defence counsel asked Hadžihasanović:²⁵³

“Q. Tell me, the music school, who held that prison under its control?

A. I didn’t know that this was a prison.

²⁴⁶ PTW 2163.

²⁴⁷ The Emir Efendi Karalić; PT 34.

²⁴⁸ PTW 2074. Karalić responded that he had no control and could do nothing about it.

²⁴⁹ Probably Merdan; PTW 2063. Between end of April 1993 and beginning of June 1993 Merdan took a personal interest in one of the cases. He came to the Music School during that time and the prisoner was exchanged four days later; PTW 2024.

²⁵⁰ The report states that criminal reports had been filed at the Zenica Military Prosecutor’s Office against the HVO soldiers on the grounds of armed rebellion, but that this was outside the jurisdiction of the 3rd Corps Command; PT 188.

²⁵¹ A 7th Muslim Mountain Brigade member states that “Whenever the 7th Muslim Mountain Brigade arrested POWs we used to take them to the Music School and they were mistreated the same way until the end of the war. The POWs were first detained there and then they were transferred to the Zenica KP Dom”; PTW 2128, p 9.

²⁵² PT 816, p 1. An ICRC report dated 26 August 1993 states that the “local forces” refused access to ICRC delegates to the Zenica Music School and the Zenica Hospital; PT 93.

²⁵³ T. 23386 (PT 1236). After further discussion he was asked, “But, General, two minutes ago, you said that there was no prison at the music school”. Hadžihasanović answered, “I said that again here. I said the ECMM was going to check out and see whether there was one or not”; T 23389.

Q. Were there imprisoned and detained Croats there?

A. I do not have such information."

97. The Accused Hadžihasanović had a duty to have investigated the numerous reports of the mistreatment of prisoners at the hands of a brigade which he knew had previously committed war crimes including murder. Both he and the commanding officer of the brigade, whose military police were committing the crimes and were directly subordinated to him, the Accused Kubura, did nothing to stop the ongoing cruel treatment and to punish the numerous perpetrators involved.

Count 3 – Murder, Count 4 - Cruel Treatment

Former JNA Barracks Travnik, May 1993 to 31 October 1993 (para 41(b) (ba) - Hadžihasanović)

98. Between about May 1993 and at least 23 December 1993,²⁵⁴ the 3rd Corps operated a number of detention facilities in Travnik Municipality for both civilian and military prisoners.
99. One was in the basement of the former JNA Barracks in the centre of Travnik – the command headquarters of the OGs commanded by Mehmed Alagić.²⁵⁵ The prisoners were held in several cells,²⁵⁶ where the guards beat them on a regular basis. One prisoner died as a result of a beating. The prisoners, a mixture of prisoners of war and civilians,²⁵⁷ identified their guards as members of the 17th Krajina Brigade, or military police, who had their command centre in the Barracks.²⁵⁸ One prisoner describes being put into a cell with ten other prisoners and military police beating him with shovel handles, pick axe handles and wet knotted towels.²⁵⁹ The military police beat

²⁵⁴ All Croat prisoners, bar one, were released into ICRC care on 18 April 1994; PT 2084, p 9.

²⁵⁵ PTW 2115; PTW 2127; PTW 2048. Alagić took the Britbat Military Liaison Officer to the basement cells and showed him about 15 to 20 HVO soldiers detained there in the summer of 1993; PTW 2096 p 6. Witnesses saw the Assistant Commander for Security and Intelligence of the Operation Group Bosanska Krajina, Salko Beba, in the barracks several times; PTW 2100; PTW 2127. One HVO soldier, released after 11 days detention in June 1993 was given a paper signed by Alagić stating that he was free to live and work in Travnik; PTW 2031; PT 1034 (a log book entry in OG Bosanska Krajina re his release on 17 June 1993).

²⁵⁶ PTW 2032. Fikret Čuskić, the commander of the 17th Krajina Mountain Brigade, and other officers had offices in the basement, close to the cells. PTW 2032, p 3.

²⁵⁷ PTW 2084.

²⁵⁸ PTW 2032; PTW 2031; PTW 2100.

²⁵⁹ This prisoner was a Muslim civilian who had served in the JNA and spent more than 6 months in a Serb prison camp and was arrested by the ABiH in May 1993 after refusing mobilisation on the day of his release. He was beaten in a similar manner for the first seven days of his detention.

prisoners to a point where they were immobile or unconscious²⁶⁰ and ordered prisoners to beat each other up.²⁶¹ One prominent HVO prisoner²⁶² was detained in a small room attached to the guardroom at the barracks front gate for 50 days. Upon arrival he was forced to strip naked before being beaten by military police with fists, police truncheons, a metal bar and a chair until he passed out, and awoke to find the guards reviving him under a shower.²⁶³ Over the next ten days the guards would let 3rd Corps soldiers come into the detention room to kick and punch him several times per day, until a door was fitted to the room.²⁶⁴

Murder of Croat prisoner – May 1993

100. In May 1993 the Military Police took a young Croat prisoner out for a beating one night. They brought him back in very badly beaten. The guards ignored the prisoners calling them to attend the prisoner.²⁶⁵ The next morning the unnamed prisoner was dead. The military police removed his body in a horse blanket.

Notice to Hadžihasanović

101. On 1 June 1993 Blaškić wrote to ABiH Supreme Command, the 3rd Corps Command, the ECMM, Bribat, the Joint HVO-BiH Command Travnik and the ICRC complaining of the behaviour of 3rd Corps soldiers in Travnik in breaking into flats, looting them and expelling Croats.²⁶⁶ This provided notice to Hadžihasanović of the conduct of his subordinates in Travnik. In addition to the actual and inquiry notice of the criminality of his subordinates detailed above,²⁶⁷ Blaškić's complaint provided the Accused with inquiry notice relating to the conduct of his subordinates in Travnik.²⁶⁸
102. Both sides to the conflict carried out negotiations for the exchange of prisoners. The Accused took an active interest in the exchange of prisoners.²⁶⁹ Approval was required from a senior commander for an exchange to occur. For example, on 13 July

²⁶⁰ PTW 2032; PTW 2100. The prisoners describe as the worst a guard nicknamed "Ferguson" (after the tractor).

²⁶¹ PTW 2032; PTW 2127.

²⁶² A lawyer and former chief of police in Vitez; PT 2177.

²⁶³ A prisoner, detained for about three months with about nine other Croats describes one particular Croat being singled out for beatings far more than the others; PT 2084, p 7. Two other prisoners also describe the beatings endured by that prisoner; PTW 2127, p 3; PTW 2100 p 7.

²⁶⁴ He was transferred to one of the basement cells in September 1993.

²⁶⁵ Ferguson's response was "Fuck him, let him die"; PTW 2032, p 4.

²⁶⁶ PT 360.

²⁶⁷

²⁶⁸ Also Delić's order of 13 June 1993 PT 610 (detailed in paragraph 106) ordering compliance with the Geneva Conventions in the treatment of prisoners thus providing further reason for Hadžihasanović to investigate conditions in the detention centres under his command in Travnik.

²⁶⁹ PT 1006; PT 1245.

1993 Samir Sefer requested and Alagić approved an exchange of twelve HVO prisoners for twelve ABiH POWs, including eight detained at the Travnik Barracks.²⁷⁰ On 25 October 1993 Alagić ordered all non-HVO soldiers held in the Travnik Barracks “subject to disciplinary measurement or punishment for offences and crime” to be sent TO work on the reinforcement of the defence line in the area of the 325th Mountain Brigade.²⁷¹

Count 3 - Cruel Treatment

Mehurići Elementary School, 6 June to 24 June 1993 (para 41(b) (bb), 42 (c) - Hadžihasanović)

103. Mehurići is a village several kilometres from Miletići and Maline, in Travnik municipality. On 6 June 1993 3rd Corps soldiers arrested civilians and HVO members in Čukle and detained them in the Mehurići Elementary School.²⁷² On 8 June 1993, 3rd Corps soldiers, including subordinated Mujahedin fighters, marched several hundred Croats from Maline and Podstinje to the Mehurići Elementary School.²⁷³ The detainees were mainly civilian.²⁷⁴ Soldiers of the 306th Mountain Brigade guarded the detainees,²⁷⁵ who were kept in cramped and overcrowded conditions with inadequate food and water and washing and hygiene facilities. They were also subjected to harassment.²⁷⁶
104. The detainees were given very little food.²⁷⁷ Sometimes they only received one loaf of bread and one tin of canned minced meat a day that had to be divided among 6 to 7 prisoners.²⁷⁸ The prisoners were allowed access only to one toilet. The soldiers gave the detainees only one large pot of warm water between them each day. The detainees used this to wash the babies and dress wounds.²⁷⁹ The 3rd Corps frequently took out

²⁷⁰ PT 762. Samir Sefer was the OG Security Officer; PT 641. Salko Beba also agreed to the proposal.

²⁷¹ PT 822.

²⁷² PTW 2030.

²⁷³ PTW 2028; PTW 2027.

²⁷⁴ Witnesses also say that Croats from Orašac were detained.

²⁷⁵ PTW 2029, PTW 2085. A witness describes overhearing the guards saying that they should shoot the Mujahedin if they tried to enter the gymnasium; PTW 2101.

²⁷⁶ For example, soldiers sometimes came into the gymnasium, and soldiers, whom witnesses describe as “Muslim soldiers”, banged at the door and cursed that they wanted to have an “Ustasha”. This ended when one prisoner complained to the 3rd Corps commander upstairs; PTW 2029, PTW 2085. The guards also threatened the detainees, by saying that the Mujahedin would come and take all the young girls away if any children were crying. PTW 2028, p. 3.

²⁷⁷ One female prisoner weighed only 30 kg after her release; PTW 2085, PTW 2028; 2118.

²⁷⁸ PTW 2085.

²⁷⁹ PTW 2016.

for interrogation men whom they considered HVO members.²⁸⁰ One witness describes hearing a relative being beaten during such an interrogation.²⁸¹ On 24 June 1993 most of the prisoners, except for about twenty whom were imprisoned in sheds, were exchanged.²⁸²

Count 4 - Cruel Treatment

Mehurići Blacksmith Shop, 6 June - 24 June 1993 (para 41(b) (bb), 42(d) - Hadžihasanović)

105. The 3rd Corps also used a blacksmith shop in Mehurići to detain civilians and captured HVO soldiers.²⁸³ On 6 June 1993 3rd Corps soldiers arrested 12 Croat men in Čukle and detained them in the blacksmith shop. Two days later 13 men from Mehurići joined them,²⁸⁴ and on 27 June 1993 more prisoners from Čukle were brought to the Blacksmith Shop.²⁸⁵ On 27 June 1993 prisoners, arrested in Brajkovići on 6 June 1993 by 7th Muslim Mountain Brigade, were taken to the blacksmith shop. Upon their arrival the officer commanding the soldiers told them that they were kept as prisoners because they were “Ustaše”. The living conditions of the prisoners were very poor. The guards detained up to thirteen prisoners in three windowless garages measuring around three square metres.²⁸⁶ The prisoners had to sleep on the concrete floor without any bedding or blankets, were only fed once or twice a day with small portions of bread or macaroni, and were given a small plastic bucket to use as a toilet.²⁸⁷ The guards entered the garages and beat the prisoners daily with wooden sticks, and took the prisoners out for interrogation by military police from Zenica in a nearby building. During interrogations the 3rd Corps soldiers kicked the prisoners and hit them with wooden sticks.²⁸⁸ On one occasion a soldier entered the garage and kicked a detainee in the face, as a result of which he lost several teeth.²⁸⁹

²⁸⁰ On 14 June 1993 Alagić authorised Enes Adžemović to inspect ABiH units in Mehurići and collect information about captured Croats and HVO members; PT 65. On 4 July 1993 he ordered the 306th Brigade to collect HVO prisoners from Krpeljići, Mehurići, Han Bila and march them to Ovnak and Zenica and for his military police and military security service (including a lawyer) to conduct a criminal investigation into their activities; PT 84.

²⁸¹ PTW 2027, p. 6.

²⁸² PTW 2085, p. 6; PTW 2028, p. 3.

²⁸³ PTW 2120; 2030.

²⁸⁴ PTW 2030.

²⁸⁵ PT 2120.

²⁸⁶ PTW 2120.

²⁸⁷ PTW 2120.

²⁸⁸ PTW 2030; PTW 2085; PTW 2120; PTW 2029.

²⁸⁹ PTW 2120. One prisoner, injured as the result of a failed execution in Bikoše, was not given any treatment for his injuries; see counts 1 and 2 Murder above paragraph 73 Also, PTW 2030.

Notice to Hadžihasanović

106. On 13 June 1993 Delić ordered the Corps commanders that “all ABiH units will strictly observe the provisions of the Geneva Conventions...and other instruments of war law on the protection of human rights” and that lists of POWs and civilians in their zones of responsibility were to be sent to the other side.²⁹⁰ That day, the Accused Hadžihasanović ordered all subordinate units to inform him the next day of the number and location of captured civilians and HVO members.²⁹¹ In following this order, on 14 June 1993 Alagić authorised an officer to inspect 3rd Corps units in Mehurići to collect this information.²⁹² Šiber visited Hadžihasanović in Zenica on 20 June 1993 and asked how many people had been arrested and were held in Mehurići. Hadžihasanović replied that he did not know but that he would check.²⁹³ On 23 June 1993 the Commission for Prisoners wrote to the Supreme Command Staff in Sarajevo and President of the Presidency of the Republic of Bosnia-Herzegovina about a visit to Mehurići, and the 247 civilians of Croatian nationality in the gym of a school.²⁹⁴ On 25 June 1993 Šiber reported to the Presidency and to the Supreme Command Staff Commander, referring to an earlier report 15 June 1993, referring to looting, crimes committed by ABiH soldiers and executions by Mujahedin. Šiber insisted that the Supreme Command visit Zenica and make personnel changes in the 3rd Corps Command.²⁹⁵
107. The Accused Hadžihasanović was on notice of crimes committed by his subordinates against prisoners they were detaining. He was aware that they were holding large numbers of prisoners in Mehurići and of complaints of mistreatment in, among other places, the Zenica Music School. This provided him with inquiry notice to prevent any repetition in other detention facilities. He did nothing to prevent the commission of further crimes nor to investigate or punish those that had already been committed.

²⁹⁰ PT 610. The order was to be delivered to all commands in the ABiH to brigade and independent battalion level.

²⁹¹ PT 64, p. 1.

²⁹² PT 65, p. 1.

²⁹³ PTW 2075; PTW 615.

²⁹⁴ PT 78. The report explicitly stated, “In the village of Mehurići, there are 247 civilians of Croatian nationality, placed in the gym of a school. They are under the protection of military police of the 306th Brigade, but they are subject to lethal danger from the so-called “Death Brigade”, composed primarily of Mujahedin, foreigners billeted in the immediate vicinity”.

²⁹⁵ PTW 81, p 2. On 27 June 1993 a Mujahedin commander (Ramo Abu Džihad “Ramadan”) informed Šiber that the 306th Brigade police guarding the Mehurići prisoners; PTW 639

Count 3 Murder (Dragan Popović), Count 4 Cruel Treatment

Murder of Dragan Popović, Orašac Camp, 20 October 1993, Village of Orašac, Orašac Camp, 15 to 31 October 1993 (para 41 (b)(bc), 42(e), 43(e) Hadžihasanović)

108. A well-known Mujahedin base was located in the village of Orašac, guarded by both native Bosnian soldiers and foreign Mujahedin.²⁹⁶ From about 15 October 1993 to at least December 1993, the OG Bosanska Krajina detained civilian prisoners at the camp.²⁹⁷ In October 1993 Mujahedin soldiers within the 3rd Corps conducted a number of abductions of civilian Croats remaining in Travnik. On 15 October 1993 the Mujahedin stormed into the Travnik Caritas office, and took five Croats on a truck to Orašac where a Mujahedin made them spit and step on rosary beads. When one refused, the Mujahedin soldier hit him.²⁹⁸ The following day Mujahedin abducted two Croats from a flat in Travnik and drove them blindfolded to Orašac,²⁹⁹ where they were put into a room with three other people, one of whom was Dragan Popović.³⁰⁰ On 19 October 1993 Mujahedin abducted a Croat civilian in Travnik, beat him with rifle butts, wrapped him in a material bag and took him to Orašac Camp.³⁰¹
109. In the detention camp the prisoners were beaten and kicked on a regular basis. These 3rd Corps soldiers took the prisoners into a dark room and beat them for hours. Dragan Popović was singled out for especially bad treatment, and one occasion, a Mujahedin soldier used karate on him.³⁰² On several occasions guards grabbed a prisoner by the ear, threatening to cut it off.³⁰³ Once a 3rd Corps soldier ordered a prisoner to perform oral sex on another prisoner but eventually allowed him just to act it out.³⁰⁴ When using the toilet the prisoners had to run the gauntlet of the soldiers who always hit them.³⁰⁵ One guard heated up a metal rod and made one prisoner hold it.³⁰⁶

²⁹⁶ PTW 2036; PTW 2034; PTW 2035. The Mujahedin had their camp in Mehurići first and moved it to Orašac after the June attacks; PT 2124. Hadžihasanović subordinated the "El Mujahedin" unit to the OG Krajina from 6 September; PT 95 – also PT 371.

²⁹⁷ PTW 2032; PTW 2034; PTW 2031; PTW 2036. Among the prisoners was a priest and a kancolor.

²⁹⁸ PTW 2035; PTW 2034.

²⁹⁹ PTW 2033; 2036.

³⁰⁰ PTW 2036; 2033.

³⁰¹ PTW 2031.

³⁰² PTW 2033.

³⁰³ PTW 2034; PTW 2035. Guards also threatened to kill the prisoners by pretending to use their rifles. PTW 2035.

³⁰⁴ PTW 2035.

³⁰⁵ PTW 2036.

³⁰⁶ PTW 2033.

110. On 20 October 1993 the Mujahedin took four prisoners, including Dragan Popović out of a cell and tied their hands behind their backs.³⁰⁷ They took them towards two lines of at least 50 soldiers in camouflage uniforms, forming a small arena at the end.³⁰⁸ The prisoners were lined them up in front of a freshly dug hole. The Mujahedin took Dragan Popović to the other side of the hole and slit his throat - another severed the head from the body.³⁰⁹ The commander of the Mujahedin made the other prisoners kiss the forehead and the lips of Dragan Popović's head after this beheading.³¹⁰ Two prisoners were forced to bury the body in the grave. The guards took the prisoners back to their cells, twisting their arms and telling them it would be their turn the next evening.³¹¹ On 6 November 1993 four of the Mujahedin and other guards blindfolded two prisoners, put them in a car and drove them to the Travnik Barracks.³¹²

Notice to Hadžihasanović

111. The Accused Hadžihasanović was aware throughout 1993 that these subordinated Mujahedin members of the 3rd Corps had been committing atrocities against POWs and civilians. On 18 October 1993 Britbat noted meeting Hadžihasanović and raising the issue of Muslim extremists, but Hadžihasanović side-stepping it by denying that a problem existed.³¹³ On 27 October 1993 the ECMM in Travnik noted in a daily report that the Mujahedin had taken five new civilian hostages in Travnik as a response to the detention of a wounded Mujahedin soldier by the HVO.³¹⁴ On 29 October 1993 the ECMM in Travnik discussed with Alagić the captured hostages.³¹⁵ The Accused Hadžihasanović had repeated actual and inquiry notice of the numerous crimes being committed by his subordinates³¹⁶ but did nothing to prevent or punish these crimes (specifically) detailed above.

³⁰⁷ PTW 2033.

³⁰⁸ PTW 2033; PTW 2031.

³⁰⁹ PTW 2031; PTW 2033; PTW 2036.

³¹⁰ PTW 2031; PTW 2033; PTW 2036.

³¹¹ PTW 2033. In the evening a masked soldier came into the cell and ordered the prisoners to put their heads back. He took a knife and pressed the tip to their throats; PTW 2036.

³¹² PTW 2033. Salko Beba told one of the prisoners that he had been arrested by mistake; PTW 2033. The names of five of the prisoners held in the Orašac Camp appear in an OG Bosanska Krajina diary; PT 925

³¹³ PTW 384 p. 2. Two days later Britbat noted the ICRC's confirmation that foreign Mujahedin took three further hostages in Travnik, instead of releasing the two they already had prisoner. The Security Officer of the OG Bosanska Krajina Salko Beba reported that Alagić had ordered the Mujahedin to release them; PT 107, p. 1.

³¹⁴ PT 110, p. 1, 2.

³¹⁵ He said that the hostages were civilians and that the matter was outside his control. He wanted to meet the Mujahedin the same evening to put more pressure on them; PT 111, p. 1; PT 112, p. 2.

³¹⁶ For example in paragraphs 48,49,61,92 and 93.

Count 4 Cruel Treatment

Kakanj Municipality, Motel Sretno, 15 May to 21 June 1993 (para 41(b), 41(c))

Hadžihasanović and Kubura)

112. In mid-1993 the 7th Muslim Mountain Brigade's 3rd Battalion had its headquarters in the Motel Sretno in Kakanj,³¹⁷ several hundred metres from Hadžihasanović's residence.³¹⁸ On 19 April 1993 its Battalion Commander³¹⁹ reported to the Chief of the 7th Muslim Mountain Brigade that he had 55 soldiers in the barracks. Between about 15 May and at least 21 June 1993 the 7th Muslim Mountain Brigade operated a detention centre in its basement. Military police³²⁰ and regular members of the 7th Muslim Mountain Brigade arrested Croat and Serb males in the Kakanj area and brought them to the Motel Sretno.³²¹ Some were transferred from the Motel to the Zenica Music School,³²² which provides further evidence of the systematic and organised operation of the detention centres.
113. The prisoners were kept confined, crammed into small unlit rooms from where they were taken out for interrogation and were severely beaten by the guards. The soldiers regularly beat their prisoners with batons, sticks, a metal hook and rifle butts and forced the prisoners to beat each other.³²³ Another was beaten with wooden broom handles until he was unconscious, finding upon waking that soldiers were urinating on him.³²⁴

Notice to Kubura

114. On 19 May 1993 one witness, severely beaten by members of the 7th Muslim Mountain Brigade at Motel Sretno, was released.³²⁵ HVO soldiers took him to a meeting, between the HVO and ABiH, at the UNPROFOR base in nearby Čatići at

³¹⁷ PTW 2018; PT 49; PTW 2037; PTW 2073.

³¹⁸ PTW 2038.

³¹⁹ Kasim Alajbegović; PT 994, p. 1.

³²⁰ PTW 2022.

³²¹ For example, on the evening of 16 May 1992, 14 Serbs and Croats were detained in a room measuring 10 metres by 10 metres; PTW 2038.

³²² For example, see PTW 2018 who was transferred on 18 May 1993.

³²³ PTW 2037; PTW 2038; PTW 2022.

³²⁴ PTW 2082. Another prisoner was threatened with amputation of his leg by a soldier holding a running chain saw; PTW 2022. Witnesses identify one of the guards who mistreated prisoners as Geler (Vehid Subotić); PT 2082.

³²⁵ He had been hit on his right kidney with a police truncheon after telling the guards that he had kidney problems. After release he was found to have two displaced kidneys (with a cyst in the right kidney), six broken ribs, and a badly damaged vertebrae; PTW 2082.

which the Accused Kubura was the senior ABiH representative. The witness told the meeting that the 3rd Corps guards at Motel Sretno had inflicted the injuries on him. This witness provided clear notice to Kubura that his subordinates were committing serious breaches of the laws and customs of war. Despite this personal notice from a badly mistreated ex-prisoner Kubura did nothing to prevent further breaches nor investigate and punish past breaches.

Notice to Hadžihasanović

115. The Accused Hadžihasanović lived in Kakanj several hundred metres from the 3rd Battalion's headquarters and detention centre at Motel Sretno.³²⁶ On 21 May 1993 Blaskić sent a protest letter to the ICRC, ECMM and the 3rd Corps Command, complaining that on 18 May 1993 the 7th Muslim Mountain Brigade from Zenica had detained 15 Croat and Serb civilians from Povezice for 24 hours at Motel Sretno, where they were badly maltreated.³²⁷ On 21 June 1993 Hadžihasanović, Merdan and Šiber attended a meeting with Blaškić and HVO representatives at Britbat headquarters. During the meeting both sides complained about maltreatment of prisoners in Zenica and Kakanj.³²⁸ This provided the same direct notice to Hadžihasanović of crimes committed by his subordinates against prisoners as set out in paragraph 93 to 95 above.

Count 3 – Murder, Count 4 - Cruel Treatment

Bugojno Municipality, 18 July 1993 to 31 October 1993 (para. 41(d) Hadžihasanović)

116. In mid-1993 the conflict between the ABiH and HVO in Central Bosnia spread to the town of Bugojno.³²⁹ The 3rd Corps initially detained captured HVO soldiers and Croat and Serb civilians in the basement of the Bugojno MUP,³³⁰ but when this facility was filled its units established temporary detention facilities around Bugojno for its prisoners. The 3rd Corps treatment of its prisoners at each of these facilities was remarkably consistent - regular beatings, threats, physical and psychological abuse and

³²⁶ A witness describes seeing him nearby on 19 May 1993 directing some soldiers; PTW 2083.

³²⁷ PT 848. On 25 May 1993 Blaškić sent a request for mediation to the ICRC Zenica, UNHCR, ECMM Zenica and UN BRITBAT Bila, informing them that prisoners in Kakanj were not being released and civilians in Kakanj were being imprisoned and persecuted; PT 869.

³²⁸ PT 378. On 21 May 1993 the HVO Information Office issued a press statement stating that 15 Croatian civilians had been arrested, detained and severely beaten at Motel Sretno on 18 May, and that prisoners were being beaten to death at the Zenica Music School; PT 870.

³²⁹ In 1991, the town was 42% Muslim, 36% Croat and 18% Serb; PTW 2041. In 1993, it had 50,000 inhabitants; PT 609

detention in confined conditions with little sanitation, food and water, and daily forced labour of prisoners at frontline locations.³³¹ The detention facilities were staffed and operated mainly by military police of the 3rd Corps OG "Zapad" and the 307th and 314th Motorised Brigades, which were subordinated to the Accused Hadžihasanović.³³²

117. On 23 July 1993, between 40 and 50 HVO soldiers surrendered to Senad Dautović.³³³ They were disarmed and incarcerated in a garage measuring around 35 square metres,³³⁴ from which they were taken out for regular beatings by the 3rd Corps guards.³³⁵ On 24 July 1993, the 3rd Corps took control of the Bugojno town centre,³³⁶ including the Hotel Kalin, the headquarters of the local HVO.³³⁷ The same day, the OG "Zapad" command reported to the 3rd Corps Command the taking of the hotel and the capture of 100 Croatian soldiers and 150 civilians,³³⁸ which the 3rd Corps units then transferred to the makeshift detention centres.

Gimnazija School Building, Cruel Treatment (para 41(d) (da) 42(g))

118. In about May 1992 a unit of the ABiH Military Police moved into part of the Mahmut Bušatilja Bugojno, the "Gimnazija", a high school in Bugojno. It built three cells in the school basement,³³⁹ and the military police, under the command of Besim Hodžić, used it as a brutal detention centre from then until 14 October 1993 when the school was handed back to the local Department of Education.³⁴⁰ From about 18 July 1993 until at least 13 October 1993, the 3rd Corps imprisoned civilians and HVO soldiers, captured during the hostilities in Bugojno, in the school basement.³⁴¹ Within days one small poorly ventilated basement cell was packed with some 45 Croat prisoners.³⁴² The prisoners were kept in almost total darkness,³⁴³ and provided with only a small

³³⁰ PTW 2041, p 2-3.

³³¹ Forced labour in those conditions rises to the level of "Cruel Treatment" proscribed in the Geneva Conventions.

³³² On 8 March 1993 Hadžihasanović ordered the formation of the OG Zapad, based in Bugojno, under the command of Selmo Cikotić – and containing among other units, the 307th Motorised Brigade and the municipal defence units of Bugojno, Travnik, Gornji Vakuf and Donji Vakuf; PT 31. A 3rd Corps organisational manual shows them under the 3rd Corps Command on 28 July 1993; PT 657.

³³³ The local commander of the Civil Defence ;PTW 2040 p 2, whose members were at that time subordinated to the 3rd Corps command.

³³⁴ PTW 2040; PTW 2042.

³³⁵ PTW 2040 p 3, PTW 2042 p 3, PTW 2044 p 10.

³³⁶ PTW 2059, p 2

³³⁷ PTW 2059, p 2, PTW 2043 p2.

³³⁸ PT 89. The 3rd Corps Press Centre issued a press statement on 25 July 1993 confirming this; PT 656.

³³⁹ PTW 2117, p 1.

³⁴⁰ PT 933 – a document headed "Transfer of premises" and signed by Senad Dautović. The school principal describes the detention of many but mainly Serb prisoners in 1992; PTW 2117.

³⁴¹ PTW 2062.

³⁴² PTW 2062, p 2. Another witness counted 49 prisoners in his cell; PTW 2117, p 3.

³⁴³ PT 2087, p 5.

quantity of food once a day, such as lentils in water and bread.³⁴⁴ The cells contained no sanitation facilities and the prisoners were provided with no bedding or blankets, until they were registered with the ICRC in September 1993.³⁴⁵ The prisoners were routinely taken out and beaten by the 3rd Corps guards.³⁴⁶ One witness, detained at the school between 23 July and 8 October 1993, describes a particularly severe beating by the guards in mid-September 1993 in the gymnasium hall, during which his hands were handcuffed behind his back, he was kicked to the feet and kidney area and beaten with an electric cable for about an hour, losing consciousness.³⁴⁷

119. Prisoners were also forced to give blood. In July 1993³⁴⁸ and September 1993³⁴⁹ the guards selected prisoners of a certain blood type and took them to the local hospital for this purpose. Prisoners were also taken out for forced labour assignments including trench digging at the front lines.³⁵⁰ The 3rd Corps transferred its prisoners between its various makeshift detention facilities, moving 50 or so prisoners to the Furniture Salon on 31 July 1993,³⁵¹ and three from the Iskra Football Stadium to the Gimnazija on 30 August 1993.³⁵² A large number of prisoners were also transferred from the Gimnazija cells to the elementary school sports hall on about 1 August 1993.³⁵³ All remaining prisoners were transferred to detention at the stadium on 8 October 1993.³⁵⁴

Convent Building (Marxist Centre), Cruel Treatment (para 41(d) (db), 42(g))

120. In late July 1993, the 3rd Corps guards transferred the 40 to 50 HVO prisoners detained in the garage described above to the Marxist Centre, also known as the Old Convent.³⁵⁵ The same mistreatment of the prisoners described above continued with the guards regularly beating the HVO prisoners.³⁵⁶ The captives were also kept in confined, unsanitary conditions³⁵⁷ and were not properly fed. One HVO prisoner who was taken for interrogation by Enes Handžić, showed him his injuries and told him

³⁴⁴ One witness describes the conditions in his three days of incarceration as being crammed in "like sardines", such that the prisoners could not sit or lie down and being given water but no food; PTW 2041, p 3.

³⁴⁵ PTW 2117, p 5.

³⁴⁶ PTW 2044, p9.

³⁴⁷ PTW 2117 p 5-6. . He lost 50 kg in weight during his fifty days of incarceration. He also describes the guards taking prisoners outside for beatings every night.

³⁴⁸ PTW 2062, p 3.

³⁴⁹ PTW 2117, p 5.

³⁵⁰ PTW 2117, p 6.

³⁵¹ PTW 2062, p 3; PTW 2114, p 5. They were taken there in a refrigerated or sealed truck.

³⁵² PTW 2041, p 5, who describes receiving a bottle of stale water every day and having to share with the other prisoners a bucket in the cell for a toilet.

³⁵³ PTW 2044, p 4-5.

³⁵⁴ PTW 2117, p 7.

³⁵⁵ PTW 2044, p7; PTW 2040, p. 4.

³⁵⁶ PTW 2040 p 4-5, PTW 2042 p 5; PTW 2044, p 6-7.

about beatings at the detention facility.³⁵⁸ This detention facility operated until about the beginning of August when the 3rd Corps transferred its prisoners to the Vojin Paleksic Elementary School and the Iskra Football Stadium.³⁵⁹

Murder of Mario Zrno (para 41 (d) (db), 43(d))

121. Some HVO prisoners detained at the Convent were taken out daily for forced labour assignments including collecting bodies on the front line and digging graves. At about the beginning of August 1993, an HVO prisoner, Mario Zrno, was part of this group digging graves at the Muslim cemetery in Crnići, guarded by 3rd Corps military police. Weakened from a lack of food and the physical labour, he collapsed. The 3rd Corps soldiers then beat him into unconsciousness,³⁶⁰ and took him back to the Convent, leaving his body at the entrance.³⁶¹

Slavonija Furniture Salon, Cruel Treatment (para 41(d) (dc), 42(g))

122. The 3rd Corps also detained about 70 HVO soldiers in a furniture store, the Slavonija Namještaja from about 24 July 1993. The prisoners were kept in small dark basement with about 10 to 15cm of water on the floor.³⁶² Military police were based on the ground floor guarding the POWs.³⁶³ On the first night of detention the guards called the prisoners out to the ground floor one-by-one and beat each one. One POW was made to lie on his stomach with his arms and legs and was beaten simultaneously by 4 or 5 soldiers, who kicked him and hit him with a rubber baton and tramped on his fingers with their boots.³⁶⁴ The beatings continued on a daily basis, mainly at night.³⁶⁵ The prisoners were also provided with inadequate food, receiving maybe 10 kg of bread and some water between them every day.³⁶⁶

³⁵⁷ The only sanitary "facility" being a bucket; PTW 2044, p 7.

³⁵⁸ PTW 2040, p 4. PTW 2044, p 8, describes the visit of Handžić to the prisoners on 26 July 1993.

³⁵⁹ PTW 2040, p 5; PTW 2044, p 8.

³⁶⁰ PTW 2042, p 4-5; PTW 2040, p 5.

³⁶¹ Where one witness last saw them attempting to give him first aid; PTW 2042, p 5. His death certificate gives his date of death as 31 July 1993; PT 1127. Senad Dautović in his report to the Zenica MUP State Security Station on 20 August 1993, appended the Croat compiled document entitled "Croats against whom war crimes have been committed" which listed Mario Zrno as "a prisoner of war, beaten black and blue and tortured until he died. There are witnesses"; PT 304.

³⁶² PTW 2039, p 3; PTW 2043, p 5. The guards needed flash lights to see the prisoners. One prisoner describes a overhead sewage pipe leaking into the basement every time someone flushed the toilet; PTW 2043, p 3. Several wooden pallets were on the floor, allowing some prisoners to stand out of the water.

³⁶³ PTW 2039, p 3, PTW 2043 p 3.

³⁶⁴ PTW 2039, p 3. This witness describes his worst beating on 5 August 1993, the morning of Mladen Havranek's death, and being beaten by the soldiers with a metal pipe, metal bar and a wooden bat for over half an hour, and having a rifle placed to his head with a threat of death.

³⁶⁵ PTW 2039, p 4.

³⁶⁶ PTW 2043, p 3.

123. On about 1 August 1993 the guards sought ten volunteers to assist unloading medicine at the hospital, but took them instead to dig graves in a village. The guards then took four of the prisoners to another village, beating them on the way, and then ordering and forcing the prisoners to beat each other for several hours. While digging graves after this, the guards threw large rocks at the prisoners, smashing one prisoner in the head with a rock and injuring another by throwing an iron stick at him.³⁶⁷ On one occasion in early August 1993 the guards let several Mujahedin soldiers, wearing turbans and armed with Kalashnikovs, into the basement. Before leaving, the Mujahedin threatened the prisoners saying, "Let's kill all the Ustašes".³⁶⁸ On about 2 or 3 August 1993, the 3rd Corps transferred some prisoners to the Vojin Paleksić Elementary School.³⁶⁹ They transferred the remainder to the Iskra Football Stadium by mid-August 1993.

Murder of Mladen Havranek, 5 August 1993 (para. 41(d) (dc), 43(c))

124. Early in the morning hours of about 5 August 1993 the soldiers guarding the HVO prisoners at the furniture salon called the prisoners upstairs, one at a time, for severe beatings by four or five soldiers with metal pipes, bars and wooden bats. One prisoner, Mladen Havranek, was so severely beaten that when he returned downstairs he began to choke or cough and lapsed into unconsciousness.³⁷⁰ One witness describes him as having no pulse and no longer breathing and the prisoners taking him upstairs and leaving his body with the guards.³⁷¹ The appended document to Dautović's report of 20 August 1993 describes Mladen Havranek as "a prisoner of war, called out of a group of prisoners, beaten black and blue and died in the arms of prisoners on the way to the hospital. There are witnesses".³⁷²

Football Club Iskra Stadium, (para 41(d) (dd), 42(g))

125. From around 1 August 1993, the 3rd Corps moved the majority of the HVO POWs to the Iskra Football Stadium in Jaklic,³⁷³ where it also detained Croat civilians and some Serbs from Bugojno.³⁷⁴ The 3rd Corps soldiers guarding the prisoners subjected them

³⁶⁷ PTW 2114, p 4-5.

³⁶⁸ PTW 2062, p 6.

³⁶⁹ PTW 2114, p 6.

³⁷⁰ PTW 2039, p 4. One witness describes the deceased as having first lapsed into a coma; PTW 2043, p 3. His death certificate gives 5 August 1993 as the date of death; PT 912.

³⁷¹ PT 2062, p 5-6.

³⁷² PT 304.

³⁷³ PTW 2040 p 5, PTW 2041, p 5, PTW 2044 p11, PT 609, p2.

³⁷⁴ PTW 2039, p. 5.

to the same systematic cruel treatment as in the other detention facilities in Bugojno including beatings, threats, and forced labour on front lines digging trenches. The guards were mainly a mixture of military police and soldiers from the 307th Motorised Brigade.³⁷⁵

126. About 350 Croat soldiers were detained in the narrow changing rooms of the stadium and were regularly beaten up outside in the playing field or at other times just outside the building.³⁷⁶ 3rd Corps soldiers also threatened the prisoners with execution.³⁷⁷ One prisoner describes 140 prisoners being detained in a changing room measuring about 11 x 6 metres, with only one toilet between them, and receiving very little food until their families were permitted to bring food to them from mid-November 1993. He describes the guards distributing six pieces of food per day for some 300 prisoners.³⁷⁸ Another describes 13 pieces of bread and 20 litres of watery soup being distributed every day for 300 people crammed into two changing rooms, a small room and a hallway.³⁷⁹ The prisoners were also made to do forced labour digging trenches at front lines³⁸⁰ and were denied regular food.³⁸¹

Vojin Paleksić Elementary School, 13 July 1993 to September 1993 (para 41(d) (de), 42(g))

127. The 3rd Corps detained a large number of prisoners at the Vojin Paleksić Elementary School, in Bugojno,³⁸² from the end of July 1993 to the beginning of August 1993,³⁸³ transferring a number from the Furniture Salon and the Old Convent (Marxist Centre).³⁸⁴ Between the beginning of August and about 17 August 1993 several investigating judges interviewed prisoners, interrogating them about crimes committed against Muslims.³⁸⁵ About 300 prisoners were detained in an area the size of a

³⁷⁵ PTW 2114, p. 8. Also PTW 2040, p 6, describing military police and then military security guards, but Enes Handžić and Senad Dautović in overall charge of the stadium. PTW 2042, p 7, describes entry to the stadium only with the permission of the military police, who were running it.

³⁷⁶ PTW 2040 p 5, PTW 2041, p 5, PTW 2042 p6, PT 679, p2. One prisoner describes having a plastic bag placed over his head whenever he was taken out for beating; PTW 2040, p 5.

³⁷⁷ PTW 2040, p 5 – describing the guards putting prisoners on a truck and telling them they were going to “meet the Mujahedin and then to Zenica to be executed” and keeping them on the truck for two hours; PTW 2040, p 5.

³⁷⁸ PTW 2114, p 7. This prisoner was allowed to shower only three times during his 8 months of detention and lost 25 kilograms in weight. Another describes 300 prisoners sharing one toilet and one water fountain; PTW 2041, p 5.

³⁷⁹ PTW 2042, p 6.

³⁸⁰ PTW 2040, p 6; PTW 2062, p 7; PTW 2117, p 8-9. One prisoner managed to escape while doing forced labour at the frontline while guarded by 3rd Corps soldiers after being exposed to continuous firing while digging fox holes for the ABiH; PTW 2039, p. 5.

³⁸¹ PTW 2042, p 6; PTW 2043, p 4-5.

³⁸² PTW 2042, p 5.

³⁸³ PTW 2041, p 4; PTW 2042 p 5; PTW 2043 p 4; PTW 2044, p 10.

³⁸⁴ PTW 2042, p 5; PTW 2044, p10; PTW 2114, p 6.

³⁸⁵ PTW 2114, p 6.

basketball court, sharing one toilet and with only sporadic running water.³⁸⁶ The 3rd Corps soldiers regularly took the prisoners into the schoolyard for beatings with truncheons.³⁸⁷ The guards also took prisoners out from the elementary school for work digging trenches on the front line against the Serbs, exposing the prisoners to constant enemy fire.³⁸⁸

Bank of Bosnia and Herzegovina Building, (para 41(d) (df); 42(g))

128. The 3rd Corps also used the basement of the Bank of Bosnia and Herzegovina building, which was close to the high school in the Bugojno town centre, as a detention facility.³⁸⁹ A special brigade police was based in the Bank.³⁹⁰ In September 1993, four prisoners were detained in the basement, measuring about 1.5 x 2 metres in size. The basement floor was covered by several centimetres of water. The prisoners were regularly and severely beaten by the 3rd Corps guards, to the extent that some of them lost consciousness.³⁹¹ During some beatings guards forced the prisoners to sing in Arabic and recite Muslim prayers.³⁹²

Notice to Hadžihasanović

129. The Accused Hadžihasanović had received notice that his subordinated soldiers in Zenica³⁹³ were mistreating prisoners. This notice obligated him to prevent any repetition and to ensure that all prisoners anywhere in 3rd Corps custody were treated in accordance with the Geneva Conventions. From at least 24 July 1993, he was aware that his subordinates in Bugojno had custody of 100 HVO soldiers and 150 civilians captured at Hotel Kalin.³⁹⁴ Notwithstanding numerous complaints about the ongoing mistreatment breaching the laws of war that his subordinates were meting out to prisoners, the Accused Hadžihasanović took no active steps to prevent the commission of further similar offences.

³⁸⁶ PTW 2042, p 5. On about 3 August 1993, when the sports hall contained about 370 prisoners, the guards "fed" them for the first time, putting 4 or 5 mouldy loaves of bread and a pot of stew in the centre of the room; PTW 2044, p 10.

³⁸⁷ PTW 2043 p 4. One prisoner describes being beaten into unconsciousness by six soldiers with truncheons PTW 2041 p 4. Another describes the night shift guards taking prisoners out and beating them; PTW 2044, p 10.

³⁸⁸ PTW 2042, p 6.

³⁸⁹ PTW 2043 p 5, PTW 2044 p 11.

³⁹⁰ The military police were commanded by Nihad Šabić, PTW 2043 p 5.

³⁹¹ PTW 2042 p 8-9, PTW 2043 p 5.

³⁹² PTW 2043 p 5.

³⁹³ Detailed in paragraphs 91 to 95 above.

³⁹⁴ PT 89, p1, PT 656 p1, PT 657 p1. On 1 July 1993 he requested the OG Zapad to "Send us a list of names of the prisoners, including the positions they held in the pro-Ustasha HVO. In future, you are to include in regular daily reports the names of killed and wounded fighters, as well as the details pertaining to captured soldiers that may be sought for exchange"; PT 1000.

130. Numerous complaints were made about the mistreatment of the prisoners. On 25 July 1993, after visiting prisoners in 3rd Corps detention at the furniture salon, a Catholic priest and a nun complained about the conditions to Senad Dautović, who was at the furniture salon and whom the guards had said was in charge.³⁹⁵ Croat community leaders also complained to UNPROFOR and the ECMM about the mistreatment of prisoners, including beatings, torture and murder. On 26 July 1993 Dautović sent an order to “Commanders of sectors where captured individuals are located” which was “Based on uncontrolled and arbitrary behaviour of the Army members as well as the Army commanding officers, members of the MUP and military police and also some citizens, towards detained civilians and soldiers....”.³⁹⁶
131. On 27 July 1993 Rasim Delić wrote to the 3rd Corps Command expressing concern about the treatment of the Croat population in Bugojno and ordering that “HVO members, who participated in combat against our units, should be treated as prisoners of war and we should act towards them in accordance with the provisions of the Geneva Convention on prisoners of war”. He ordered the Corps Commander to immediately implement the order and report back to him.³⁹⁷ On 28 July 1993, after persistent requests from the ECMM to visit the 3rd Corps’ detention facilities in Bugojno, Senad Dautović arranged access under escort to the Gimnazija and the Furniture Salon. The ECMM monitors were horrified by what they saw.³⁹⁸ In early August 1993 Croat community leaders provided the ECMM with details of the deaths of Mario Zrno and Mladen Havranek in 3rd Corps custody, the forced giving of blood, and the beating of prisoners during detention.³⁹⁹ On 18 August 1993 they provided Dautović with a list containing 18 Croat names and descriptions of crimes committed against them, including the deaths of Mario Zrno and Mladen Havranek. Two days later Dautović forwarded the list to the Bugojno SJB, the SDB and the Security Organ of the 307th Motorised Brigade, explaining that some of the allegations were untrue but that some murders and rapes detailed had been committed by individuals and were not war crimes.⁴⁰⁰

³⁹⁵ PTW 2087, p. 4.

³⁹⁶ PT 761. He ordered that only Military and State Security Service were to have contact with and professionally deal with captured individuals.

³⁹⁷ PT 258.

³⁹⁸ An ECMM officer described both as not coming close to the minimum standards set by the Geneva Conventions; PTW 2093, p. 3.

³⁹⁹ PTW 2093, p. 5. On 6 August 1993 the ECMM visited five badly beaten Croat prisoners taken from the furniture salon to the hospital.

⁴⁰⁰ PT 304.

132. On 30 July 1993, the nun and a Croat lawyer who had visited prisoners at the ABiH detention facilities at old Convent, the furniture salon, the high school, the elementary school⁴⁰¹ complained to Tahir Granić, the commander of the 307th Motorised Brigade, about the state of the detention facilities. Two days later he granted them permission to visit any detention facilities they wished.⁴⁰² In September or October 1993, a Croat delegation, including a released prisoner who had been visiting the Iskra Football Stadium, complained to Enes Handžić⁴⁰³ about prisoners being taken from the Football Stadium to the Bank for torturing. Handžić sent them to Granić, to whom they renewed the complaint. They then made the same complaint to Senad Dautović, and Adbulah Jeleć, the military commander of Bugojno.⁴⁰⁴
133. On 14 September 1993, the Accused Hadžihasanović instructed the commands of the OG Zapad, the 307th Motorised Brigade and the Bugojno Municipal Defence Staff to provide the ICRC with assistance in visiting HVO POWs in Bugojno on 20 and 21 September 1993.⁴⁰⁵ On 19 September 1993, Cikotić forwarded a report to the Accused Hadžihasanović informing him that the OG Zapad was holding 319 HVO POWs, stating “there were grounds to prosecute all 319 men, they should not be released, and because of the severity of the acts they committed 23 are being given special treatment”.⁴⁰⁶ The Accused Hadžihasanović responded the same day saying “As for the captured soldiers, as things stand now, this problem will have to be resolved in a package”, and ordered the transfer of the 23 prisoners to his custody at the Zenica KPD.⁴⁰⁷ On 7 October 1993, the Accused Hadžihasanović wrote to Cikotić again requesting the transfer to Zenica of these 23 HVO prisoners “who committed heinous crimes”.⁴⁰⁸
134. The ECMM, UNPROFOR, the local Croat community, (presumably) the ICRC, officers of the 3rd Corps command based in Bugojno were aware of the continuous crimes being committed against prisoners in 3rd Corps custody. The Accused Hadžihasanović, despite Delić’s direct order of 27 July 1993, failed to take any steps

⁴⁰¹ The facilities referred to in the indictment.

⁴⁰² PTW 2087, p. 6.

⁴⁰³ After having first complaining to Dževad Mlaćo, the President of the Bugojno Muslim War Presidency, who then sent them to Handžić.

⁴⁰⁴ PTW 2044, p 12-13.

⁴⁰⁵ PT 96.

⁴⁰⁶ PT 98.

⁴⁰⁷ PT 99.

⁴⁰⁸ PT 671. This was the same day on which Dugalić, his chief of security, wrote to the OG and brigade commands noting that “crime is on the rise”, asking them to “Compile a summary report on persons involved in criminal activities in the zone of responsibility of your OG detailing each individual case; advise the organs of control and command on disciplinary or criminal measures to be taken”; PT 549.

to implement it or even to ascertain whether the prisoners were being detained in accordance with his obligations under the Geneva Conventions.

Count 5 Wanton Destruction, Count 6 Plunder

Dusina, January 1993 (para 64, 65 Hadžihasanović)

135. The Prosecution does not intend to proceed on these allegations.

Count 5 Wanton Destruction, Count 6 Plunder

Miletići, April 1993 (para 64, 65 Hadžihasanović)

136. The 3rd Corps controlled Miletići after its attack on the village on 24 April 1993. Villagers allowed by 3rd Corps Military Police to briefly return home, in the days following the attack, (to collect personal possessions) found that their houses had been broken into, belongings taken and their livestock stolen.⁴⁰⁹ The 3rd Corps soldiers remained in control of the village the whole time.⁴¹⁰

Notice to Hadžihasanović

137. Looting by 3rd Corps members and the burning of Croat and Serb property was endemic in the 3rd Corps zone of responsibility throughout the indictment period.⁴¹¹ The Accused Hadžihasanović had himself seen the destruction of the villages of Perin Han, Lokve and Sviće by subordinated members of the 1st Zenica Brigade in late 1992.⁴¹²

138. The Accused Hadžihasanović was well aware of this, and, on 1 February 1993, ordered all 3rd Corps brigade commanders to prevent ABiH soldiers from “stealing, looting and burning property” and to arrest perpetrators at once and commence criminal proceedings.⁴¹³ He followed this order with another on 3 February 1993 headed

⁴⁰⁹ PTW 2057; PTW 2007;

⁴¹⁰ An order from Hadžihasanović to the commander of the 306th Brigade in Miletići on 18 July 1993 regarding firing of 152 mm Howitzer only with his permission shows its continued presence in the village; PT 1001.

⁴¹¹ PTW 2102 – this statement coming from a command staff member of a unit subordinated to Hadžihasanović in the indictment period.

⁴¹² This Brigade became the 303rd Brigade towards the end of 1992. Hadžihasanović, his deputy Merdan and Jasmin Šarić inspected the village in which about 50 non-Muslim houses had been burnt by the 1st Zenica Brigade; PTW 2102.

⁴¹³ PT 23, p. 3.

“taking civilian prisoners, looting and burning of property” in which he specifically ordered.⁴¹⁴

“Strictly prohibit all units of RBH Army in the 3rd Corps zone of responsibility from imprisoning unarmed civilians, looting property and burning down infrastructural facilities. Commanders of brigades, municipal staffs and superiors at all levels of command and control shall spare no effort to prevent such actions, and if they cannot they shall record the event, identify perpetrators and take the necessary action to implement the most severe moral and legal sanctions against perpetrators.”

139. On 18 April 1993, however, he issued another order to his subordinate commanders banning soldiers from looting and “torching the property of any facility or any citizen in any form of combat action”, saying that “if members some units *still proceed* with acts of looting and burning despite this order, their commanders shall be called to account and replaced in serious cases” (emphasis added).⁴¹⁵
140. A week later he sent a “Warning regarding treatment of war booty” to his subordinate commands – including the 7th Muslim Mountain Brigade - in which he noted that 3rd Corps troops had “engaged in prohibited acts in an organised way”, in looting civilian property and expelling civilians from their houses before and after combat. “The most active in this illegal behaviour” were “the military police of certain brigades and the Zenica Municipal Defence Staff”.⁴¹⁶ This order reveals that the Accused Hadžihasanović had notice that his subordinates were committing acts of looting, plunder and wanton destruction,⁴¹⁷ yet failed to prevent or punish the crimes.

Count 5 - Wanton Destruction, Count 6 – Plunder, Count 7 - Destruction or Wilful Damage of Institutions Dedicated to Religion

Guća Gora, June 1993 (para 44, 45, 46 Hadžihasanović)

141. On 8 June 1993, at about 4.00 3rd Corps units comprising the 306th Brigade, 7th Muslim Mountain Brigade and its Mujahedin members launched an attack against

⁴¹⁴ PT 24.

⁴¹⁵ PT 39. The same day Dugalić had ordered all units in Zenica to “Urgently take all necessary measures to prevent the looting of facilities in the town and in the areas of combat operations”; PT 782.

⁴¹⁶ On 25 April 1993. He sought lists of stolen property by 28 April, or (again) “unit commanders are personally accountable to me”; PT 777.

Guča Gora, a predominantly Croat village surrounded by Muslim villages.⁴¹⁸ Alagić ordered the 306th Brigade, 7th Muslim Mountain Brigade, 17th Krajina Brigade and 306th Mountain Brigade Military Police to secure Croatian villages in their area of responsibility.⁴¹⁹

142. After the attack the 3rd Corps took control of the church (or monastery) from the HVO which had been using the church office. On the day of the attack UNPROFOR arrived in Guča Gora and brought the civilians to the monastery to safety, from where UNPROFOR evacuated them the day after the attack.⁴²⁰ Alagić and Salko Beba arrived in Guča Gora with UNPROFOR,⁴²¹ and negotiated the evacuation of the Croat civilians. Merdan and Sipić were present when the evacuation took place the following day.⁴²²
143. On 9 June 1993, after the UNPROFOR evacuation from the Guča Gora Monastery, 3rd Corps soldiers started to loot Croatian houses, putting the looted goods in lorries or trucks and taking them to collection points in front of the church and the Cultural Centre. After looting the houses the 3rd Corps soldiers burned houses, sheds and garages, setting fire to about five houses each day.⁴²³ By the end June 1993, while the village remained entirely in 3rd Corps control, about fifty houses were burned down.⁴²⁴ The looting and burning was carried out systematically until the end of July 1993 but continued until December 1993.⁴²⁵
144. On 13 June 1993 ECMM monitors, 3rd Corps Military Police and a witness went to Guča Gora, but were stopped by an ABiH soldier claiming to be the commander of the Mujahedin in the region, but who then allowed them access to Guča Gora.⁴²⁶
145. On 16 June 1993 British UNPROFOR officers inspected the church, finding it abandoned but with faeces smeared on the walls and graffiti sprayed on the walls stained glass windows were broken, excrement was smeared on the pews, fires were lit

⁴¹⁷ The Zenica Municipal Defence provided further notice to Hadžihanović, on 24 June 1993, of the criminal behaviour of the 7th Muslim Mountain Brigade in Zenica, regarding their looting of a restaurant and stealing the restaurant owner's car; PT 618

⁴¹⁸ PTW 2124; 2054; PTW 2064. The OG Bosanska Krajina sent a regular operations report to the 3rd Corps Command that day informing it that the 306th Brigade captured Guča Gora; PT 165.

⁴¹⁹ PT 164.

⁴²⁰ PTW 2054; PTW 2050; PTW 2124; PTW 2066.

⁴²¹ PTW 2124; PTW 2115.

⁴²² PTW 2072; PTW 2115.

⁴²³ PTW 2125; PTW 2138; PTW 2122.

⁴²⁴ PTW 2122.

⁴²⁵ PTW 2122.

⁴²⁶ Ramo Durmiš; PTW 2074; PTW 2050.

in the church and an attempt was made to smash a large fresco of the wall behind the altar.⁴²⁷ With the assistance of the Chief of the 3rd Corps Military Police, one witness managed to visit it twice before the end of July 1993 while 3rd Corps soldiers remained on guard. The witness, in his first visit, noticed that valuable religious books and documents were piled around the organ as if the church were to be set on fire. Arabic graffiti was on the walls. On the second visit he noticed a number of items missing.⁴²⁸ On 12 July 1994 Alagić returned the monastery to the Croats. By that time the library had been removed and it had been extensively damaged.⁴²⁹

Notice to Hadžihasanović

146. On 10 June 1993, the Accused Hadžihasanović sent an order entitled “Measures against looting and destruction of property” to all subordinated units. The Accused noted that “illegal and very harmful behaviour of some ABiH members (had) occurred, bearing unforeseeable consequences”. He ordered that civilians were not to be captured, POWs were to be treated in accordance with the Geneva Conventions, looting and burning was prohibited, and damaging and destroying religious sites was prohibited. Criminal proceedings were to be implemented before the military and special courts and brigade commanders and other immediately subordinated commanders were responsible for fulfilling the order.⁴³⁰ The following day the 3rd Corps command sent a regular combat report to the Supreme Command, expressly referring to problems of looting and burning in the Croat villages in the Maline area, stating that the OG Bosanska Krajina was controlling movement throughout the area.⁴³¹

147. On 16 June 1993, he also sent an order to the 306th Brigade Command specifically referring to what had happened:

“During and after the combat activities in your zone of responsibility, large-scale looting and burning of facilities belonging to the Croatian population has occurred. Such actions horrify the whole world and give erroneous interpretations of our armed struggle. Soldiers preoccupied with war booty

⁴²⁷ PTW 2050; PTW 2055.

⁴²⁸ PTW 2074; PTW 2050. On 3 August 1993 ECMM, Merdan and a witness visited Guča Gora; PTW 2074. On 23 September 1993 the UNHCR met Merdan in 3rd Corps Headquarters.

⁴²⁹ PTW 2051. Alagić had promised but failed to return the library within the next 2 to 3 weeks.

⁴³⁰ PT 168.

⁴³¹ 11 June 1993; PT 61.

(stolen things) forget their tasks, disobey your orders and thereby, put their own lives in jeopardy”.

148. The Accused ordered the brigade to secure the Guča Gora sector with the task of preventing looting and burning by the Military Police and to investigate these crimes and punish the perpetrators.⁴³² The same day he ordered all subordinated commands to report to him by 20 June 1993 on the accuracy of information that “ABiH members from your structure are looting and burning citizens’ property”.⁴³³ That, however, was the extent of his actions to punish the perpetrators and prevent repetition of the crimes. In fact, in giving evidence in the *Blaškić* trial, Hadžihasanović denied – contradicting his own order of 16 June 1993 – the burning of villages such as Guča Gora (and Maline, Ovnak, Šušanj, Čukle, Brakovići and Grahovčići)⁴³⁴ in June 1993.⁴³⁵
149. On 17 June 1993 the Minister of the Interior and the Supreme Commander ordered all Commanders to protect civilians’ properties, and especially in the Zenica region to arrange for the return of all parish priests and to protect the civilian property in deserted villages to allow the return of villagers.⁴³⁶ On 18 June 1993 the 306th Security Organ ordered the Military Police to be re-subordinated to the 306th Brigade due to mass looting and burning of property carried out by 3rd Corps soldiers.⁴³⁷ Šiber visited Hadžihasanović in Zenica on 20 June 1993 and asked whether he knew that soldiers coming from Guča Gora, Šušanj and Ovnak were carrying bags full of stolen goods. Hadžihasanović replied that he knew but that they were taking measures.⁴³⁸ On 28 June 1993 Alagić issued an order to units, including the 306th Brigade, the TO and the 7th Muslim Mountain Brigade 1st Battalion stating that soldiers should behave in accordance with the rules of the Military Police at checkpoints.⁴³⁹
150. Judge Adamović also inspected the damage to the monastery during the period of ABiH control of the village. ABiH units from Zenica, Travnik and Mujahedin members from Zenica were in control of the village. He ordered the military police

⁴³² PT 68.

⁴³³ PT 181. He ordered an investigation and that criminal charges were to be brought immediately.

⁴³⁴ As set out in paragraphs 152 to 158 below.

⁴³⁵ Defence counsel asked, “Do you know that these villages between Zenica and Travnik, all Croat villages were burned, all of them?” Hadžihasanović answered, “They were not burned”; T. 23385 (PT 1236). Each of these villages was on the axis between Zenica and Travnik. Each was attacked by the ABiH in June 1993. Each had a substantial Croat population or sector, and, in each, Croat houses were burned by ABiH soldiers, after they had first looted them.

⁴³⁶ PT 250.

⁴³⁷ PT 329.

⁴³⁸ PTW 615; PTW 2075.

present to investigate the damage to the building and to inform the District Military Prosecutor of the results of their inquiries.⁴⁴⁰

151. The Accused Hadžihasanović had abundant personal notice of property crimes committed by his subordinates, and of the damage to the church and the looting and destruction of property in Guča Gora, yet did nothing to investigate the crimes nor have its known perpetrators punished.

Count 5 - Wanton Destruction, Count 6 - Plunder

Maline, June 1993 (para 44, 45 Hadžihasanović and Kubura)

152. The 3rd Corps attacked Maline on 8 June 1993, and having expelled all the Croat residents and the HVO, it took control of the village. While walking to Mehurići one Croat describes his Muslim neighbours going into Croat houses and looting valuables while 3rd Corps soldiers took cars, trucks and tractors. Three stables were burning.⁴⁴¹ Another noticed houses burning; only 3rd Corps soldiers were around.⁴⁴² Another Croat, allowed to return briefly, found 3rd Corps soldiers searching in his house, and some possessions gathered in the street.⁴⁴³

Čukle, June 1993 (paragraph 44, 45 Hadžihasanović)

153. Čukle is a village in Travnik municipality.⁴⁴⁴ On 8 June 1993 Čukle was attacked by 306th Brigade and 7th Muslim Mountain Brigade soldiers.⁴⁴⁵ The attack started at about 4.00 a.m. from the direction of Mehurići.⁴⁴⁶ During the attack 3rd Corps soldiers set Croat houses on fire.⁴⁴⁷ At about 11.00 a.m. the 3rd Corps soldiers took control of the village and systematically looted and burned houses. The soldiers took away

⁴³⁹ PT 641. Privately owned vehicles and individuals must have the permission of the Commander of the 306th to be in the area of Guča Gora.

⁴⁴⁰ So far as the judge is aware, no criminal report was ever filed at the District Military Prosecutor's Office in relation to the damage to the monastery.

⁴⁴¹ Neighbours later told the witness that the soldiers set them on fire; PTW 2121.

⁴⁴² PTW 2101; PTW 2055.

⁴⁴³ PTW 2101. Their commander was telling them not to "break anything" but did not order them to leave the house.

⁴⁴⁴ In 1993 it comprised a Croat part, Gornje Čukle, and a Muslim part, Donje Čukle. It had approximately 230 houses of which 60% were Muslim and 40% Croat; PTW 2120; PTW 2089.

⁴⁴⁵ On 5 June 1993, Kubura ordered the attack on the Čukle-Novo Selo- Milika-Strmac line by three detachments of the 7th Muslim Mountain Brigade; PT 58. Order by Patković; PT 575; PT 57.

⁴⁴⁶ PTW 2052; PTW 2113. Only houses in the Croat part of the village were burning during the attack; PTW 2089.

⁴⁴⁷ A witness who saw burning houses in Donje Čukle states fleeing villagers said that the ABiH had set fire to the houses; pt 2107. In Novo Selo, a village of 30 houses, and part of Čukle, only four houses were intact after the war.

furniture, kitchen equipment and items such as electric cables, which they loaded on a civilian truck.⁴⁴⁸ The soldiers burned houses in the village, but before doing so were instructed by a loudspeaker to get everything out first. A group of 3rd Corps soldiers forced Croats from Čukle to give them their valuables and money when they returned to Čukle the day after the attack.⁴⁴⁹

154. On 8 June 1993 the Commander of the OG Bosanska Krajina issued an order to the 306th Brigade, 7th Muslim Mountain Brigade, 17th Krajina Brigade for the 306th Military Police to secure Croatian villages in their area of responsibility.⁴⁵⁰

Šušanj, Ovnak, Brajkovići, Grahovčići, June 1993 (para 44, 45 Hadžihasanović and Kubura)

155. On 8 June 1993 at about 4.00 a.m. 3rd Corps soldiers from the 7th Muslim Mountain Brigade, the 314th Brigade, and the 306th Brigade attacked the villages of Šušanj, Ovnak, Brajkovići and Grahovčići.⁴⁵¹

Brajkovići

156. By early afternoon Brajkovići was under 3rd Corps control, and the 3rd Corps established temporary headquarters in a Croat house.⁴⁵² The 3rd Corps soldiers looted the parish house, loading everything in the back of a large refrigerated truck, taking everything they could. Small groups of soldiers walked through the village looting houses.⁴⁵³ Soldiers looted televisions, radios, fridges and stoves.⁴⁵⁴ The parish priest returned about a week later to find the village abandoned. One house was badly damaged, 3rd Corps soldiers were looting the others.⁴⁵⁵ During the time the village was in 3rd Corps control about 30 houses were burned down.⁴⁵⁶

Šušanj/Ovnak

157. 3rd Corps soldiers burned Croat houses during the attack on the villages of Ovnak and Šušanj. One house was burnt down after the attack because they found a military uniform in it.⁴⁵⁷ On 9 June 1993 the village was under the control of 3rd Corps

⁴⁴⁸ PTW 2047 & PTW 2091 – which headed towards Zenica. They also took the livestock such as horses, sheep and cows and killed the pigs; PTW 2107; PTW 2091; PTW 2090. One witness watched as smoke came from houses as soldiers exited them carrying items of value; PTW 2090.

⁴⁴⁹ PTW 2052.

⁴⁵⁰ PT 164, p. 1.

⁴⁵¹ PTW 2112; PTW 2053; PTW 2113; PTW 2080; PTW 2099; PTW 2006. The attack was led by Šerif Patković; PTW 2128, p 10.

⁴⁵² PTW 2130.

⁴⁵³ PTW 2129; PTW 2059; PTW 2006.

⁴⁵⁴ PTW 2090.

⁴⁵⁵ PTW 2051.

⁴⁵⁶ PTW 2130.

⁴⁵⁷ PTW 2112.

military police. Some villagers – allowed to return briefly to their homes - witnessed 3rd Corps soldiers looting houses in Šušanj. Some of the soldiers wore white stripes with “Police” around the sleeves of their uniform. Soldiers dressed in green camouflage uniforms took televisions, video recorders, radios and washing machines from houses and loaded them onto trailers.⁴⁵⁸ The following day villagers witnessed 3rd Corps soldiers, including military police, taking property looted from houses and placing it on horses.⁴⁵⁹ About a week after the attack soldiers of the 7th Muslim Mountain Brigade were among soldiers still looting houses in Šušanj and Brajkovići.⁴⁶⁰

Grahovčići

158. By the time the 3rd Corps occupied Grahovčići on 8 June 1993 about 30 houses were on fire.⁴⁶¹ The ECMM reported on 9 August 1993 that “Grahovčići has been looted, there are no Croats there anymore”.⁴⁶² A few days after the attack one witness went to Grahovčići and saw members of the 7th Muslim Mountain Brigade loading goods from Croat houses into military trucks. Houses were burning in all Croat hamlets. The witness, a liaison officer from the 3rd Corps Headquarters in Zenica, knew that members of the 7th Muslim Mountain Brigade and 314th Brigade were allowed to take looted property as their war trophy.⁴⁶³

Notice to Hadžihasanović and Kubura

159. The 7th Muslim Mountain Brigade soldiers used a church in Brajkovići as a temporary warehouse to store the property that they had looted from Croat houses in Ovnak, Šušanj, Grahovčići and Brajkovići. Cars stolen from Croats were parked outside the church. After several days they took the looted property to the 7th Muslim Mountain Brigade’s headquarters at Belmište (in Zenica) for distribution among their soldiers.⁴⁶⁴
160. On 8 June 1993 the Accused Hadžihasanović communicated to the 306th Brigade Commander that the combat operations in the region of Ovnak were a significant

⁴⁵⁸ PTW 2139 & PTW 2053.

⁴⁵⁹ PT 2053.

⁴⁶⁰ PTW 2051; PTW 2112. A witness describes a three phase looting strategy – first stealing smaller valuables such as jewellery, second, emptying the houses of furniture and goods such as electrical appliances, and third stripping fixtures such as roof tiles, floor boards and water pipes; PTW 2112.

⁴⁶¹ PTW 2099.

⁴⁶² PT 90.

⁴⁶³ PTW 2080.

⁴⁶⁴ PTW 2128, p 10. The witness describes the more senior 7th Muslim Mountain Brigade members receiving a greater share of the stolen property.

- success.⁴⁶⁵ On the same day the 306th Brigade sent a telegram to the 3rd Corps Command asking for assistance from Zenica for the combat line Maline-Guča Gora.⁴⁶⁶
161. On 10 June 1993, Šiber informed Hadžihasanović about an alleged massacre in Šušanj. Hadžihasanović said that he would look into the allegation but never reported back to Šiber.⁴⁶⁷ On 11 June 1993, Hadžihasanović issued further orders to his soldiers in the Ovnak sector.⁴⁶⁸
162. On 11 June 1993, the Zenica Municipal Staff Security and Information Organ reported to the 3rd Corps Organs following an inspection in the Ovnak sector. The report stated:
- “There is evidence of houses and other buildings being set on fire but this is not prevented. In some parts of Grahovčići village the roads are littered with nearly brand new overturned motor vehicles, which illustrates the destructiveness of some of our members. We consider this is a frequent practice that should be strictly penalised”.⁴⁶⁹
163. As referred to in paragraph 146 above, on 11 June 1993 the 3rd Corps command sent a regular combat report to the Supreme Command, expressly referring to problems of looting and burning in the Croat villages in the Maline area.⁴⁷⁰ On 11 June, Hadžihasanović ordered the OG Bosanski Krajina to “arrest on the spot individuals caught while looting and burning.”⁴⁷¹
164. Three days later, on 14 June 1993, UNPROFOR and UNHCR were denied access to Grahovčići by a 7th Muslim Mountain Brigade checkpoint near Čadrjas. They went to 3rd Corps Headquarters and met Hadžihasanović who provided them with police escort. When they arrived in Grahovčići the village was completely deserted.⁴⁷² On 19 June 1993, Hadžihasanović issued an order to all subordinate units, headed

⁴⁶⁵ PT 593. He ordered him to establish and maintain collaboration with the 314th and 325th Brigade.

⁴⁶⁶ PT 594. Asking to attack Ovnak and Grahovčići so that the forces were not overstretched.

⁴⁶⁷ PTW 2075. On 15 June 1993 Šiber informed the Supreme Command Staff of the Armed Forces about murders in Šušanj and Ovnak. PT 608, p 1.

⁴⁶⁸ PT 599. He ordered the 7th Muslim Mountain Brigade and the Ovnak Tactical Group Command to link all units in the area and report back to the 3rd Command because of reports of poor organisation.

⁴⁶⁹ PT 63. The Zenica Municipal Defence Commander also sent a summary combat report to the 3rd Corps Command saying that “civilians and other looters have made their appearance, it is our view that it is necessary to strengthen the military police and MUP presence in this area”; PT 62.

⁴⁷⁰ PT 61, p. 2.

⁴⁷¹ PT 171. It went on, “Use your own police and the MUP forces for that. Undertake the strictest measures against the disobedient ones”.

⁴⁷² PTW 2050. The 2nd Battalion Commander, Šerif Patković ordered his soldiers to prevent UNPROFOR entering the village; PTW 2128, p 10.

“Preventing arrests of civilians, looting and destruction of property”.⁴⁷³ It forbade “Detaining and arresting of innocent civilians”, “The destruction, damage and burning of private and public buildings” “Damage and destruction of religious facilities”. It ordered them to “Treat prisoners of war, especially the wounded, in the spirit of the Geneva Convention on prisoners of war”. In this order, Hadžihasanović ordered his commanders to “Take firm measures against anyone violating the above – from detention to criminal prosecution in military and special courts and report to me in writing”. It also stated that “Commanders of battalions and independent units are responsible to me for implementation of this Order”

165. The day after Hadžihasanović issued this order, Šiber visited Hadžihasanović in Zenica and asked him whether he knew that soldiers coming from shifts, especially in Šušanj and Ovnak, were carrying bags full of stolen goods. Hadžihasanović replied that he knew but that they were taken measures.⁴⁷⁴
166. On the same day as Šiber’s visit to the Accused Hadžihasanović, 20 June 1993, the Accused Kubura sent an order to his subordinates stating that, “there have been incidents of illegal arrest of civilians, looting of their property and houses and destruction of religious facilities”. He referred to Hadžihasanović’s order of 19 June 1993 and ordered that the destruction, damage and burning of private and public facilities of any nation and looting of abandoned houses is prohibited. Prisoners of war were to be treated in the spirit of the Geneva Conventions.⁴⁷⁵
167. The Accused Kubura also reported back to the 3rd Corps Command on the same day, but denying that reports of looting and burning of property by the 7th Muslim Mountain Brigade were correct.⁴⁷⁶ However, much of the looted property had been taken directly to his own headquarters in Zenica the week before, where it was divided between the senior members of this subordinated unit.⁴⁷⁷
168. On 23 June 1993 the Commission for Prisoners reported to the ABiH Supreme Command about its visit to Mehurići on 10 June 1993. The report provided information from a 306th Brigade member about looting by the Mujahedin.⁴⁷⁸

⁴⁷³ PT 71

⁴⁷⁴ PTW 615; PTW 2075.

⁴⁷⁵ PT 73. Signed as acting commander of the 17th Muslim Mountain Brigade.

⁴⁷⁶ PT 72. On 22 June 1993 a civilian sent a statement to the 3rd Corps Command that she had recognised her cow which was missing after the attack on Šušanj and requested it back; PT 879.

⁴⁷⁷ PTW 2128, p 10.

⁴⁷⁸ PT 78, p. 1.

169. On 25 June 1993 Šiber reported to the ABiH Supreme Command, saying that looting and crime prevailed in the 3rd Corps area of responsibility. He reported that soldiers were carrying bags full of goods through Zenica and were refusing to go to positions unless there was something to loot.⁴⁷⁹ The Accused Hadžihasanović wrote to Šiber on the same day stating that a commander and some senior officers of the 7th Muslim Mountain Brigade had been replaced for failing to carry out orders to prevent criminal activity and looting.⁴⁸⁰
170. On 3 August 1993, ECMM monitors and Hadžihasanović's deputy commander, Džemal Merdan, visited Brajkovići, Grahovčići, and Šušanj. These villages had been controlled by the 3rd Corps since the attack in early June 1993. The report noted that Grahovčići had been looted and only one Croat family – which was not permitted to go into their fields to farm - remained in Šušanj. The report also noted that Maline had been looted and the Guča Gora monastery had been damaged.⁴⁸¹
171. Six weeks later, on 18 September 1993, Hadžihasanović sent an order to subordinate commanders noting "There have been instances of looting, burning of facilities and taking civilians prisoner during combat operations up to now".⁴⁸²
172. Both the Accused Hadžihasanović and the Accused Kubura received clear, continuing and specific notice of the criminality of their subordinate soldiers. Apart from creating a paper trail by issuing orders to subordinates not to commit crimes, they took no proper measures to prevent or punish those who had committed the crimes. The 3rd Corps did not refer any criminal reports, about the crimes detailed above, to the District Military Prosecutors' Office. As a result no 3rd Corps soldiers were prosecuted in the District Military Courts operating in the 3rd Corps zone of responsibility for any of these crimes.

⁴⁷⁹ PT 81, p. 1.

⁴⁸⁰ PT 538. He specifically referred to the "alleged looting of monastery property by" 7th Muslim Mountain Brigade members, Nesib Talić and Azer Baktas – who were under investigation - and the failure of officers in that brigade to prevent criminal activities and looting.

⁴⁸¹ PT 90, p. 2.

⁴⁸² The order prohibited taking unarmed civilians prisoner, looting property and setting buildings on fire and ordered appropriate measures against offenders saying that commander were responsible to him for execution of the order; PT 200.

Count 5 - Wanton Destruction, Count 6 - Plunder

Vareš, November 1993 (para 44,45 Kubura)

173. In October 1993 the HVO's Bobovac Brigade controlled the town of Vareš. A Nordic Battalion of UNPROFOR (Nordbat) had its headquarters on the outskirts. On 31 October 1993 HVO soldiers started looting Muslim property in Vareš, forcing the Muslim residents to leave the town.⁴⁸³ The following day, 1 November 1993, the Accused Hadžihasanović ordered the 7th Muslim Mountain Brigade in Zenica to send units to the municipality of Vareš.⁴⁸⁴ On 3 November 1993 he issued a combat order to the Commander of the 7th Muslim Mountain Brigade to launch an attack and "liberate" Vareš, ordering the brigade to "Behave towards the civilian population in the spirit of the Geneva Convention and do not allow any revenge or massacres. Deal with war booty in the spirit of the 3rd Corps Command order."⁴⁸⁵
174. Under sustained mortar attack from the ABiH, the HVO abandoned Vareš on the night of 3 November 1993.⁴⁸⁶ On 4 November 1993 Hadžihasanović reported to the Supreme Command that the units of the 3rd Corps had been deployed according to the order and that he was in constant contact with the 2nd Corps Command.⁴⁸⁷ That day, 7th Muslim Mountain Brigade soldiers walked through the streets in newly liberated Vareš, firing at windows and smashing cars as they advanced.⁴⁸⁸ The Commanding Officer of NordBat tried to stop it by informing their commander that the HVO had withdrawn and that they were breaching the laws of war. The commander's response was that was what they did when they entered an area.⁴⁸⁹ The soldiers then set out looting houses and businesses, evading Nordbat attempts to prevent it.⁴⁹⁰ ABiH soldiers also set fire to the town's buildings.⁴⁹¹ On the same day, 4 November 1993,

⁴⁸³ PTW 2045.

⁴⁸⁴ PT 385 - the Commander of the 7th Muslim Mountain Brigade (Kubura) was responsible for carrying out the order and to send regular combat reports to the 3rd Corps Command. On 2 November 1993 the OG Istok, which was part of the 6th Corps, ordered the 7th Muslim Mountain Brigade to attack the Planinica, south east of Vareš. The 7th Muslim Mountain Brigade refused to obey it because it lacked an order from its superior command; PT 119.

⁴⁸⁵ PT 825, p. 1.

⁴⁸⁶ PTW 2045.

⁴⁸⁷ Pt 366, p. 1.

⁴⁸⁸ They were carrying green flags with a crescent moon and a single white star wearing 7th Muslim Mountain Brigade badges PTW 2045; PTW 2092; PT119, p. 12; PTW 268, p. 1.

⁴⁸⁹ PTW 2045; PTW 2048. A 7th Muslim Mountain Brigade member describes their telling the Swedes to "fuck off"; PTW 2032.

⁴⁹⁰ PTW 2045, PTW 2048.

⁴⁹¹ PTW 2048; PTW 2045, PTW 2075. An UNPROFOR officer describes seeing an ABiH soldier with a vacuum cleaner over one shoulder and his rifle over another, PTW 2078. The Commanding Officer of Nordbat stated that "anything that could not be looted was destroyed" and estimated that the 7th Muslim Mountain Brigade fired

Kubura forwarded an interim combat report to the 3rd Corps Operations Centre reporting that “disorganisation in the system of control and command has set in, so units and soldiers have been resubordinated to themselves”, that the HVO had left Vareš, and that the operation in Vareš was carried out successfully.⁴⁹²

175. ABiH Military Police tried to stop the 7th Muslim Mountain Brigade from looting. 2nd Corps officers asked Nordbat to put troops between them and the 3rd Corps troops.⁴⁹³ The 7th Muslim Mountain Brigade took cars, buses and 20 to 30 trucks full of food. A special police force from Sarajevo unsuccessfully tried to stop them from leaving Vareš.⁴⁹⁴

Notice to Kubura

176. On 4 November 1993 Nordbat asked the 2nd Corps 3rd Operational Group Command to send Military Police to Vareš to control the situation.⁴⁹⁵ That day, the commander of the 6th Corps OG “Istok”, Abdulah Ahmić, sent an extraordinary combat report to the 3rd Corps Command and 6th Corps Command informing them that the arrival of the 7th Muslim Mountain Brigade into Vareš had “created general chaos. Everything is being looted and burned”. He requested the 3rd Corps to send military police to block the road to Kakanj.⁴⁹⁶ He also issued an order to cease all unauthorised acts and withdraw the army, saying it was a personal order from the Supreme Commander to be implemented by the commander of the 7th Muslim Mountain Brigade.⁴⁹⁷ The Accused Hadžihasanović replied to the extraordinary combat report on the same day saying that he would take the measures proposed to establish strong roadblocks and checkpoints.⁴⁹⁸
177. On 5 November 1993 Kubura ordered all members of the 7th Muslim Mountain Brigade out of Vareš immediately and prohibited their staying there without his

several thousand rounds of ammunition indiscriminately; PTW 2048. Sir Martin Garrod, the ECMM head visited Vareš on about 5 November 1993, describing what he saw as a “Bosnian Dodge City”; PTW 2092.

⁴⁹² PT 139, p. 1.

⁴⁹³ PTW 2045; PTW 2048; PTW 2067.

⁴⁹⁴ PTW 2032. Following their taking of Vareš, the ABiH’s headquarters was staffed by a combination of 2nd and 3rd Corps; PTW 2078.

⁴⁹⁵ PTW 2048.

⁴⁹⁶ PT 827. He also sent an interim combat report to the 3rd Corps Command informing it about the stealing and looting by the 7th Muslim Mountain Brigade; PT 116.

⁴⁹⁷ PT 116. ABiH Deputy Supreme Commander Šiber, states that Supreme Commander Delić was aware of the reports of looting at the time and had forbidden the 7th Muslim Mountain Brigade from entering Vareš; PTW 2075.

⁴⁹⁸ Pt 117, p. 1, see above order of 3 November 1993, PT 825.

approval.⁴⁹⁹ A brigade member describes their return to Zenica in a convoy of between 100 and 200 vehicles including stolen lorries, buses and cars being stopped by brigade military police members who allowed their passage after recording license plates and drivers' names.⁵⁰⁰ By then, however, everything lootable had been carried away from Vareš. Kubura admits his presence in Vareš Municipality at the time that subordinates were looting the town of Vareš. At the *Blaškić* trial, gave evidence stating that he entered the municipality with his unit in early November.⁵⁰¹

178. Kubura ordered his soldiers from Vareš only when there was nothing left to loot. He took no action to investigate the looting and burning that occurred, nor to punish the numerous perpetrators. Instead he rewarded them with leave. On 7 November 1993, a mere two days after this spree of looting and destruction, Kubura issued orders for organising leave to brigade members, stating that "only the troops that have participated in the operations on the Vareš municipality front shall go on leave". The soldiers would be allowed home after returning to base "use the following days to distribute the soldiers' war booty".⁵⁰² One 7th Muslim Mountain Brigade member, who participated in the looting in Vareš, describes the Brigade commanders as having "helped themselves to the war booty".⁵⁰³
179. Despite his admitted presence in Vareš in early November, the Accused Kubura denied any knowledge of looting and burning in the town. Defence Counsel for Blaškić asked him:⁵⁰⁴

"Was there any looting, killing, and mass burning of houses in Vareš at the time when you were there with your unit?"

A. The unit was engaged with other units of the 6th Corps, the 2nd Corps, and the 3rd Corps, and as far as I know, there was none of this in Vareš, and Vareš remained a town that had not been set ablaze"

⁴⁹⁹ PT 306 – the order stated that "soldiers who are found in the town shall be arrested and detained". They had withdrawn by the following day; PTW 2045.

⁵⁰⁰ PTW 2032. Another states that "we soldiers decided to take everything for ourselves". The rationale for this was that the Brigade's senior officers had taken all the war booty (i.e. stolen Croat property) from Zenica for themselves, contrary to the Brigade's rules that war booty was to be equally distributed among Brigade members; PTW 2128, p 11.

⁵⁰¹ Testimony that Kubura gave when called by the Trial Chamber; PT 1224, T. 23361.

⁵⁰² PT 118.

⁵⁰³ PTW 2128, p 12.

⁵⁰⁴ PT 1224, T. 23361.

180. The 7th Muslim Mountain Brigade did not refer to the District Military Prosecutors' Offices any criminal reports about this sustained, well-known and serious act of looting an entire town that occurred *in the presence of the Accused Kubura*. Consequently, the District Military Courts did not prosecute any of the many soldiers involved in this crime.

Count 7 - Destruction or Wilful Damage of Institutions Dedicated to Religion

Travnik Church, June 1993 (para 46 Hadžihasanović)

181. During fierce fighting in Travnik in the first week of June 1993, the 3rd Corps sent several soldiers to guard the parish office of the Church of St John the Baptist (St Ivan's) in Travnik. 3rd Corps roadblocks were preventing Croats, such as the parish's priests, from leaving Travnik.⁵⁰⁵ On 7 June 1993 several members of 3rd Corps army entered the church and seriously damaged it. During the attack a priest called the 17th Krajina Brigade base and the requested Military Police to come to the church and stop the damage.⁵⁰⁶ The soldiers continued to damage the church interior, vandalising sculptures, paintings and the organ,⁵⁰⁷ and damaging the windows.⁵⁰⁸ The walls were covered with graffiti, stalls smeared with oil paint and frescos smeared with grey paint.⁵⁰⁹ The 17th Krajina Mountain Brigade commander, Fikret Čuskić, arrived and the soldiers left. Čuskić and the priest inspected the damage. Čuskić blamed it on six to seven Mujahedin.⁵¹⁰
182. Several days after the attack, the priest visited Alagić and Čuskić at the Travnik Barracks and insisted that the archbishop be informed about the attack, so that he could reconsecrate the church. About ten days later the archbishop came to Travnik and condemned the attack of the church in the presence of Čuskić, representatives of the town government and UNPROFOR.⁵¹¹ On 9 June 1993, Alagić issued orders to subordinate commands regarding enforcement of the nightly curfew in Travnik "for

⁵⁰⁵ PTW 2097. On 5 June 1993 between 50 and 70 17th Krajina Brigade soldiers looted parts of Travnik, breaking into shops. PTW 2075. According to Šiber, during this looting, one shop owner was shot but nobody was ever punished.

⁵⁰⁶ PTW 2097. He was informed him that they did not have enough manpower to control everything.

⁵⁰⁷ PTW 2097.

⁵⁰⁸ PTW 2097; PTW 2034; PTW 2061, PTW 2106.

⁵⁰⁹ PT 1002, p. 1.

⁵¹⁰ PTW 2097.

⁵¹¹ PTW 2097.

the purpose of preventing looting, arbitrary behaviour of military and civilian persons".⁵¹²

Notice to Hadžihasanović

183. On 17 June 1993, the Accused Hadžihasanović attended a meeting with Šiber and Archbishop Puljić, at which the Archbishop informed him that the interior of the Travnik church had been destroyed. The Accused replied that he had "sensed trouble" in the region.⁵¹³ However, to facilitate the Archbishop's visit to Zenica, Hadžihasanović had issued an order to all of his subordinated units to "ban the bringing in under custody of the Croatian population, the destruction or burning of facilities, and any kind of mistreatment of people".⁵¹⁴ Two days later, on 19 June 1993, Hadžihasanović issued an order "to all subordinate units" entitled "Preventing arrests of civilians" ordering that that damage and destruction of religious facilities were most strictly forbidden.⁵¹⁵
184. The Accused Hadžihasanović had personal notice from the Archbishop of the criminal actions – contrary to his several earlier orders – of his subordinates. Hadžihasanović reacted to the Archbishop's personal notice by merely issuing another order in similar terms, but without taking the necessary steps to prevent further such incidents by having the case properly investigated and the perpetrators punished.

CONCLUSION

185. This summary of the evidence that the Prosecution intends to lead at trial reveals that soldiers subordinated to both Accused committed the serious violations of international humanitarian law pleaded in the indictment. The numerous orders, issued by the Accused and obeyed by their subordinates, demonstrates how the Accused exercised effective control over their subordinates. The frequent notification to the Accused of both the crimes pleaded and others not in the indictment proves that each Accused had actual and or inquiry notice of the crimes. The efficient functioning of the disciplinary and criminal prosecution system - through the military police and Military Disciplinary

⁵¹² PT 167.

⁵¹³ PTW 2075. On 5 June 1993 Hadžihasanović attended a meeting with UNPROFOR in Zenica at which it raised the problems in Travnik with him; PT 59

⁵¹⁴ PT 69 – issued on 17 June 1993.

⁵¹⁵ PT 71, p. 1.

and District Military Courts - within the 3rd Corps area of responsibility, shows the material ability of the Accused to prevent and punish these crimes. Despite this both failed in their duty to prevent the crimes and to punish those who committed them.

A handwritten signature in black ink, appearing to read 'E. Withopf', written in a cursive style.

Ekkehard Withopf
Acting Senior Trial Attorney

Dated 10 October 2003
At The Hague
The Netherlands

ANNEX A

CHRONOLOGY – THE PROSECUTOR v HADŽIHASANOVIĆ & KUBURA

	DATE	EVENT
1	1 August 1992	Publication of "Decree Law On Service In The Army Of The Republic Of Bosnia And Herzegovina" in Official Gazette.
2	18 August 1992	Commander in Chief of the ABiH, the President of Presidency of the Republic of Bosnia and Herzegovina, divided the ABiH into five military areas of responsibility.
3	23 August 1992	President Izetbegović issued decree ordering members of the ABiH to comply with international humanitarian law.
4	14 November 1992	Hadžihasanović appointed commander of ABiH 3 rd Corps.
5	19 November 1992	ABiH Supreme Command ordered formation of 7 th Muslim Mountain Brigade.
6	10 December 1992	Hadžihasanović issued comprehensive orders to "All units of the 3 rd Corps, including attached units and staffs" to "carry out appropriate combat activities in their respective zones".
7	1 January 1993	Kubura appointed Chief of Staff of 7 th Muslim Mountain Brigade
8	9 January 1993	Hadžihasanović distributed to Brigades the decree on establishment of special military courts.
9	15 January 1993	Kubura signed order (for Commander Koričić) to the Assistant Commander for Security Nesib Talić for the formation of a military police platoon, its billeting in Zenica Music School, and the establishment of a detention unit at the school.
10	19 January 1993	Hadžihasanović placed all subordinates on full combat readiness.
11	19 January 1993	Hadžihasanović, then Koričić, then Serif Patković, ordered subordination of unit of 7 th Muslim Mountain Brigade stationed in Zenica to Zenica Municipal Defence.
12	22 January 1993	Hadžihasanović placed all subordinates on full combat readiness.
13	25 January 1993	Hadžihasanović ordered the reinforcement of the 303 rd Brigade in the Dusina and Merdani area.
14	26 January 1993	5.30 am ABiH (306 th Brigade, 7 th Muslim Mountain Brigade and 17 th Krajina Mountain Brigade) attacked Brdo, Dusina, Višnja

	DATE	EVENT
		and Lašva.
15	26 January 1993	ABiH troops murdered five surrendered HVO soldiers and a Bosnian Serb civilian in Dusina. The Commander of the 7 th Muslim Mountain Brigade's 2 nd Battalion, Šerif Patković, shot and killed the HVO Commander Zvonko Rajić
16	26 January 1993	3 rd Corps command press release re death of Zvonko Rajić and six HVO soldiers saying they had died in battle, and accused HVO soldiers of expelling civilian population and burning houses.
17	26 January 1993	Meeting between Deputy Commander Džemal Merdan, Blaškić and General Simpson (UNPROFR) – HVO deaths in Dusina discussed.
18	27 January 1993	Hadžihasanović reported to the ABiH Supreme Command about meeting of 26 January.
19	28 January 1993	Hadžihasanović reported to the Supreme Command rejecting Croatian radio and television allegations of massacre of civilians, and reporting that HVO soldiers had died in battle in Dusina.
20	30 January 1993	On 30 January 1993 Džemal Merdan, on behalf of the ABiH, and Franjo Nakić, on behalf of the HVO, signed an agreement on the arrangements for a ceasefire in Central Bosnia, to take effect from 0800 on 31 January 1993
21	1 February 1993	Hadžihasanović ordered all 3 rd Corps brigade commanders to prevent ABiH soldiers from "stealing, looting and burning property" and to arrest perpetrators at once and commence criminal proceedings.
22	3 February 1993	Hadžihasanović prohibited subordinates from imprisoning unarmed civilians, looting property and burning down infrastructure and the identification and punishment of perpetrators.
23	9 February 1993	Hadžihasanović issued general orders in relation to Corps structure including "legal sector" orders of number criminal charges initiated, number of solved and unsolved crimes and evaluation of "the criminal situation and criminal offences in brigades and in the Corps.
24	13 February 1993	Hadžihasanović and Blaškić jointly ordered unconditional release of all prisoners.
25	24 February 1993	Hadžihasanović reported to Halilović about continued ethnic cleansing in his area of command.
26	27 February 1993	ABiH Supreme Command Chief of Staff Halilović replied to Hadžihasanović report of 24 February 1993 referring to ethnic cleansing in Central Bosnia of both Croat and Muslim villages. Ordered ABiH units to protect people in their places of residence to prevent ethnic homogenization.
27	2 March 1993	Assistant Commander of the 7 th Muslim Mountain Brigade on Morale, Propaganda and Religion informed the 3 rd Corps about

	DATE	EVENT
		the increasingly frequent capture of foreign citizens who were on a useful mission.
28	3 March 1993	7 th Muslim Mountain Brigade commander Korić ordered disciplinary measures against some soldiers in respect of their taking war booty (copy to Kubura as chief of staff).
29	8 March 1993	Hadžihasanović created four operating groups (OG's) within the 3 rd Corps. Placed the 7 th Muslim Mountain Brigade (and other units) under the command of the OG "Bosanka Krajina" (commanded by Mehmet Alagić).
30	11 March 1993	Hadžihasanović sought information, within seven days, from all subordinated commands on number of criminal charges submitted, and copy of charges.
31	12 March 1993	Hadžihasanović referred a disciplinary case against Adbulkadir Perenda to the Disciplinary Military Court (forwarded by mistake to 3 rd Corps command).
32	15 March 1993	Ramiz Dulagić, commander of 3 rd Corps Security, issued orders to subordinate commanders re investigation of war crimes committed by the "aggressor" (names Chetniks).
33	16 March 1993	306 th Mountain Brigade reported on criminal charges saying that criminal actives jeopardised the unit's company readiness.
34	19 March 1993	ABiH Supreme Command Chief of Staff Sefer Halilović sent "Advice on Order and Discipline" to Corps Commanders.
35	27 March 1993	Hadžihasanović informed ABiH Supreme Command in regular combat report that measures were being taken against ABiH soldiers who break discipline, commit misdemeanors or crimes.
36	28 March 1993	Dugalić reported to all 3 rd Corps units that disciplinary and criminal proceedings would be brought before military disciplinary court against offenders.
37	29 March 1993	Blaškić letter to Hadžihasanović regarding the "brutal murder" of HVO military police in Čajdraš on 28 March and reminding him of Dusina crimes.
38	1 April 1993	Kubura appointed as acting commander of the 3 rd Corps' 7 th Muslim Mountain Brigade.
39	2 April 1993	Hadžihasanović complained to the HVO Commander about the HVO's arrest of foreign nationals who were members of the HVO. The 7 th Muslim Mountain Brigade warned HVO commander Dario Kordić to release all foreign nationals and ABiH soldiers.
40	3 April 1993	Hadžihasanović approved legal affairs department's monthly plan (based on his order of 1 April 1993) including the formation of a disciplinary court of original jurisdiction and placed Emina Halilović in charge of establishing it.

	DATE	EVENT
41	4 April 1993	Hadžihasanović reported to Supreme Command (based on its request of 20 March 1993) on progress in establishing legal department within 3 rd Corps, including educating subordinates on laws and customs of war and prevention of crimes and misdemeanors.
42	8 April 1993	Kubura (as acting commander of the 7 th Muslim Mountain Brigade and signing for Koričić) reported about the "unacceptable behaviour" of some brigade members and ordered the commanders of 1 st , 2 nd and 3 rd Battalions to prevent extremist behaviour by brigade members.
43	14 April 1993	Presidential Decree amending "Law on Service in the ABiH" published in Official Gazette - allowing non-Bosnians to be promoted to military commanders in war-time.
44	16 April 1993	HVO attack on Ahmići. Massacre of over 100 Muslim civilians.
44	16 April 1993	Hadžihasanović subordinated the 306 th Mountain Brigade, the 308 th Mountain Brigade and the 312 th Mountain Brigade to the OG Bosanska Krajina.
46	18 April 1993	Hadžihasanović ordered subordinate commanders, banning ABiH soldiers from "looting and torching" property of any facility or civilian in combat. Commanders "shall be called to account and replaced in serious cases".
47	18 April 1993	3 rd Corps Security Chief Dugalić ordered all units in Zenica to "undertake all necessary measures to prevent looting" in town and combat areas, and to arrest looters.
48	20 April 1993	Hadžihasanović ordered immediate subordination of the Zenica Prisoner of War Reception Centre to the 3 rd Corps.
	20 April 1993	A cease-fire agreement between the HVO and the ABiH was signed.
49	21 April 1993	Hadžihasanović resubordinated a company of the 7 th Muslim Mountain Brigade to the 303 rd Mountain Brigade.
50	22 April 1993	Hadžihasanović ordered formation of joint commissions with HVO in Vitez, Travnik, Bosovača and Kiseljak - stating that it will "take the necessary measures to prevent the burning, destruction and theft of citizens' property".
51	24 April 1993	Attack on Miletici by 7th Muslim Mountain Brigade. Murder of four surrendered HVO soldiers. Returning villages found that their houses had been broken into, livestock and possessions removed.
52	25 April 1993	Merdan and ECOMM travelled to Miletici to investigate reports of a massacre. (ECMM report confirmed the torture and murder of the four Croat men).

	DATE	EVENT
53	25 April 1993	Blaškić letter to ECMM, UNPROFOR, ICRC and 3 rd Corps Command saying that Mujahedin from Mehurići had arrested and taken 60-70 residents from Miletici.
54	25 April 1993	7 th Muslim Mountain Brigade Assistant Commander for Security reported to 7 th 's Security Chief, and 2 nd Battalion commander about individual soldiers seizing war booty for themselves at HVO barracks in Zmajevac.
55	25 April 1993	Hadžihasanović sent "Warning regarding treatment of war booty" to Chief of Logistics, and Brigade commanders. Noted that ABiH troops had "engaged in prohibited acts in an organised way", looting civilian property, expelling civilians from flats. The most active were military police and Zenica Municipal Defence Staff. Sought by 28 April 1993 submission of list of property stolen from civilians.
56	30 April 1993	Blaskić letter to 3 rd Corps, UNPROFOR, ECMM, ICRC, asking for release of five HVO officers and hundreds of civilians imprisoned in Zenica.
57	May 1993	Bosnian Croat detainee is beaten to death by military police in Travnik.
58	5 May 1993	306 th Mountain Brigade Commander Šipić Esed sent operative report to 3 rd Corps Operative Centre for 15 April – 5 May 1993 mentioning special security problems in the 306 th zone of responsibility, including the status of the Mujahedin and 7 th Muslim Mountain Brigade, and the attack on Miletici.
59	6 May 1993	306 th Brigade reported to 3 rd Corps Command Organ for Morale, Information, Propaganda and Religious Matters about Miletici, saying that in response to the wounding of an Arab, the Mujahedin with people from Mehurići, had killed 5 Croat citizens.
60	7 May 1993	HVO command sent letter to ECMM, ICRC, UNPROFOR and ABiH 3 rd Corps Command with specific information about the Miletici murders and the "extreme maltreatment" of prisoners at Zenica Music School.
61	7 May 1993	ECMM meeting with Hadžihasanović. Denied knowledge of Zenica Music School but said access was no problem.
62	8 May 1993	ECMM visited Zenica Music School. Three prisoners there – told ECMM of beatings. ECMM informed Rasim Dugalić – 3 rd Corps
63	8 May 1993	8 May 1993 - Joint Task Force (ABiH 306 th Brigade and HVO Frankopan Brigade) met and reported to Joint Command in Travnik (HVO and ABiH Taskforce) about the problems of foreigners in the 7 th Muslim Mountain Brigade, requesting the 3 rd Corps Command put them under 306 th Brigade control or remove them.
64	9 May 1993	Džemal Merdan responded to Joint Task Force request, stating that he had sent request to 3 rd Corps Command asking for resubordination of parts of 7 th Muslim Mountain Brigade to 306 th .

	DATE	EVENT
65	9 May 1993	306 th Brigade reported to the 3 rd Corps Command complaining about the uncontrolled and autocratic behaviour of "other units of the ABiH" especially in Mehurići.
66	9 May 1993	Kubura ordered units of 7 th Muslim Mountain Brigade to raise the level of combat readiness.
67	15 May 1993	The UN Special Rapporteur reported to the Security Council concerning allegations of the murders at Miletici.
68	18 May 1993	Hadžihanović ordered all subordinate commanders submit weekly reports containing "assessment of the combat morale of the aggressor and our forces".
69	19 May 1993	A severely beaten prisoner from the Motel Sretno attended a meeting between the HVO and ABiH at the UNPROFOR and made allegations of mistreatment to Kubura as the ABiH representative.
70	21 May 1993	Blaškić sent a protest letter to ICRC, ECMM, 3 rd Corps Command complaining that 7 th Muslim Mountain Brigade imprisoned 15 Croat and Serb civilians from Povezice at Motel Sretno for 24 hours on 18 May 1993 and maltreated them.
71	25 May 1993	Blaškić wrote to ECMM, UNHCR, Britbat, ICRC complaining of non-release of ABiH prisoners in Zenica (including Music School), asking for assistance in exerting pressure on ABiH command.
72	26 May 1993	Blaškić complained to the 3 rd Corps Command, ECMM, ICRC, UNHCR, Joint Command HVO and ABiH Travnik that the ABiH was not releasing prisoners as requested.
73	27 May 1993	Kubura resubordinated 7 th Muslim Mountain Brigade 1 st Company to 306 th Mountain Brigade and the command of the unit in Radojčići village.
74	1 June 1993	Blaškić wrote to ABiH Supreme Command, 3 rd Corps Command, ECMM, Britbat, Joint HVO-BiH Command Travnik, ICRC - complaining of ABiH behaviour in Travnik in breaking into flats, looting them and expelling Croats
75	5 June 1993	Serif Patković, 7 th Muslim Mountain Brigade 2 nd Battalion commander, ordered attack on Šušanj, Čukle, Brajkovići on 7 June.
76	5 June 1993	Between 50 and 70 17 th Krajina Brigade soldiers looted parts of Travnik, breaking into shops.
77	5 June 1993	Britbat met Hadžihanović in Zenica, discussing among other things "the problems in Travnik".
78	6 June 1993	ABiH soldiers arrested civilians from Čukle and detained them in the Mehurići Elementary School.
79	6 June 1993	ABiH soldiers arrested 12 Croat men in Čukle and detained them in Mehurići Blacksmith Shop.

	DATE	EVENT
80	6 June 1993	7 th Muslim Mountain Brigade arrested Croats in Brajkovići.
81	7 June 1993	ABiH 3 rd Corps soldiers damaged the Travnik church.
82	8 June 1993	ABiH units (306 th Brigade) attacked Čukle. ABiH soldiers looted Croat houses and set them on fire.
83	8 June 1993	4:30 am ABiH units (306 th Brigade, 7 th Muslim Mountain Brigade and others) attacked Postinje and Maline.
84	8 June 1993	ABiH units attacked Šušanj, Ovnak, Brajkovići and Grahovčići. Took control. Looted Croat houses. Burned Croat houses.
85	8 June 1993	Noon – surrender of Croat civilians and HVO soldiers in Maline to ABiH.
86	8 June 1993	ABiH soldiers marched several hundred Croats from Maline and Podstinje to the Mehurići Elementary School. Guarded by soldiers from 306 th Brigade.
87	8 June 1993	On road between Maline and Bikoši – ABiH murdered 30 Croat civilians and surrendered HVO soldiers.
88	8 June 1993	ABiH imprisoned 13 men from Mehurići in blacksmith shop.
89	8 June 1993	306 th Brigade took control of Guća Gora from HVO (Regular Operations Report of Bosnian Krajina OG Command reported that 306 th Mountain Brigade had captured Guća Gora).
90	9 June 1993	UNPROFOR evacuated Croat villagers from Guća Gora. ABiH soldiers looted Croat houses and set fire to them.
91	9 June 1993	Hadžihasanović sent 3 rd Corps Command Regular Combat Report to ABiH Supreme Command reported on surrender of HVO soldiers in village of Guća Gora.
92	9 June 1993	Alagić ordered immediate curfew in Travnik (22.00 – 5.00) to prevent “looting, anarchy, arbitrary behaviour of military and civilian persons, and in the interest of the citizens’ security.”
93	10 June 1993	Šiber informed Hadžihasanović about an alleged massacre in Šušanj. Hadžihasanović said he would look into the allegation but he did not report back to Šiber.
94	10 June 1993	Hadžihasanović order “Measures against looting and destruction of property” to all subordinated units noting “illegal and very harmful behaviour of some ABiH members”. Ordered that civilians were not to be captured, POWs to be treated in accordance with Geneva Conventions, looting and burning prohibited, damaging and destroying religious sites prohibited. Criminal

	DATE	EVENT
		proceedings to be implemented before military and special courts.
95	11 June 1993	Šiber told Hadžihasanović two Arabic flags were hanging outside the Zenica Music School, not the ABiH flag.
96	11 June 1993	Hadžihasanović ordered Ovnak Tactical Group to strengthen defence of Ovnak with 306 th Mountain Brigade and 325 th Mountain Brigade.
97	11 June 1993	3 rd Corps command regular combat report to Supreme Command. Says of Guća Gora and other villages now in ABiH control – “the main problems are looting and burning. All Croatian villages are guarded, checkpoints have been set up”.
98	11 June 1993	Zenica Municipal Staff Security and Information Organ reported to the 3 rd Corps Organs after an inspection in the Ovnak sector that there was evidence of looting by members which should be penalised.
99	13 June 1993	Mujahedin denied access ECMM access to Guća Gora Church. Church already damaged by ABiH soldiers.
100	13 June 1993	Meeting between HVO, Hadžihasanović, Šiber and Ambassador Thebault, who insisted that Hadžihasanović release prisoners from Zenica Music School.
101	13 June 1993	Hadžihasanović ordered all subordinate units to inform him the next day of the number and location of captured civilians and HVO members.
102	14 June 1993	Meeting between Hadžihasanović and Merdan and Britbat (Duncan). Merdan stated that the “Mujahedin were outside the effective control of 3 rd Corps” and Hadžihasanović produced a letter to higher command seeking authority to deal with the problem.
103	14 June 1993	Hadžihasanović authorised Britbat visit to Grahovčići, Brajković and Novi Selo. Houses had been ransacked. Britbat escorted by Chief of ABiH military police.
104	14 June 1993	Mehmed Alagić authorised an officer to inspect ABiH units in Mehurići to collect information in Hadžihasanović’s order of 13 June 1993.
105	15 June 1993	ABiH Supreme Commander Rasim Delić ordered all Corps Commanders to “strictly observe” the Geneva Conventions and to send lists of victims and POWs to the opposing side.
106	15 June 1993	Šiber wrote to ABiH Supreme Commander expressing concern about crime in the Zenica area.
107	16 June 1993	7 th Muslim Mountain Brigade transferred prisoners from Motel Sretno to Zenica Music School.

	DATE	EVENT
108	16 June 1993	Chairman Joint Humanitarian Commission (JHC) tried to visit the Zenica Music School – let in only after calling 3 rd Corps Command.
109	16 June 1993	Hadžihasanović ordered commander of 306 th Brigade to secure Guča Gora sector because “large-scale looting and burning of facilities belonging to the Croatian population has occurred” and ordering punishment of perpetrators.
110	16 June 1993	Hadžihasanović order to subordinate commands asking for information on whether ABiH members responsible for “looting and burning citizens’ property”; to assign commissions and individuals to investigate; to bring criminal charges; to forward each case to the command; and to report by 20 June 1993.
111	16 June 1993	UNPROFOR inspected the Guča Gora church which had been defaced and damaged.
112	17 June 1993	Hadžihasanović issued order to ban – for visit of Archbishop to Zenica (and in general) – detention of Croat civilians, burning and destruction of facilities, and mistreatment of people.
113	17 June 1993	Hadžihasanović meeting with Šiber and Archbishop Puljić. Archbishop informed Hadžihasanović that the interior of the Travnik church had been destroyed. Hadžihasanović said that he “sensed trouble” in the region.
114	17 June 1993	Hadžihasanović issued an order to all subordinated units to ban the bringing into custody the Croatian population, the destruction or burning of facilities, and any kind of mistreatment of people.
115	17 June 1993	Minister of the Interior Bakir Alispahić and ABiH Supreme Commander Delić ordered Corps commanders to arrange the return of parish priests (mentioning Guča Gora) and to preserve property in deserted villages to allow the return of villagers.
116	18 June 1993	306 th Brigade Commander resubordinated MUP and military police to 306 th “towards the prevention of mass looting and burning of property on the part of both civilians and some ARBiH soldiers” in deserted villages and setting up checkpoints in Guča Gora, Ovnak and other villages.
117	18 June 1993	3 rd Corps Command Duty Operations Officer Vezir Jusufpahić reported to Supreme Command in regular duty report that looting was a problem in Kakanj and it was making an effort to stop it with additional military police.
118	18 June 1993	Murder of Jozo Maračić by 7th Muslim Mountain Brigade guards at Zenica Music School.
119	19 June 1993	Meeting between Ambassador Thebault, Hadžihasanović, Šiber and Blaškić. Blaškić complained of 500 civilians held in Kakanj. Šiber proposed an order forbidding looting and arresting civilians.
120	19 June 1993	Meeting in Vitez of HVO and ABiH Joint Command. Commanders (Hadžihasanović and Blaškić) agreed to protect places of

	DATE	EVENT
		worship, issue orders forbidding expulsion of civilians from their homes, control criminal elements, protect life and property and investigate any incidents.
121	19 June 1993	Hadžihasanović order to subordinate commanders. Noted incidents of illegal arrests of civilians, looting of their property and houses and destruction of religious facilities and ordered it to cease. Ordered POWs be treated according to Geneva Convention, and for detention and prosecution of offenders (signed by Merdan for Hadžihasanović).
122	20 June 1993	Kubura issued orders to subordinate units saying, "there have been incidents of illegal arrest of civilians, looting of their property and houses and destruction of religious facilities" and ordering their cessation and firm measures "from detention to criminal prosecution in military and special courts".
123	20 June 1993	Kubura reported back to Hadžihasanović on his order of 19 June denying 7 th Muslim Mountain Brigade had engaged in looting or burning. Acknowledged "individual cases of burning and destruction of property" had occurred but after his troops transferred from Ovnak to Zagrade-Kakanj.
124	20 June 1993	Hadžihasanović wrote to all subordinate commanders re prisoner exchanges from Zenica KPD, (re 198 HVO soldiers charged with armed rebellion) stating that the arrest, taking into custody and filing of criminal reports ruled out any 3 rd Corps Command jurisdiction over the prisoners – now fell under jurisdiction of Ministry of Defence (Prosecutor's Office and judiciary).
125	20 June 1993	ABiH Deputy Commander, Stephan Šiber, visited Hadžihasanović in Zenica. Asked how many people had been arrested and were held in Mehurići. Hadžihasanović replied that he did not know but that he would check. Also whether Hadžihasanović was aware of execution of 35 people in Bikoši. Hadžihasanović replied he had no knowledge of this. Šiber asked Hadžihasanović about soldiers leaving Šušanj and Ovnak with bags full of stolen goods. Hadžihasanović replied that he knew and had taken measures.
126	21 June 1993	Meeting between commanders of OGs and "Independent Brigades". Commander Dedić spoke of "unprecedented looting in Kakanj" discussed. Kubura told meeting that 303 rd Mountain Brigade had disintegrated and "in Kakanj there is no organised unit...the situation is dramatic".
127	21 June 1993	Meeting between ABiH (Hadžihasanović, Šiber, Merdan) and HVO (Blaškić, Totić, Filipović) at Britbat HQ. Discussed release of prisoners (including from Zenica by ABiH). Both sides complained of maltreatment of prisoners.
128	23 June 1993	Commission for Prisoners wrote to the Supreme Command Staff in Sarajevo and President of the Presidency of the Republic of BH about a visit to Mehurići, and 247 Croat civilians detained in a school gym, and looting by Mujahedin. The Commission also informed the Supreme Command Staff that Mujahedin had executed 50 people in a village neighbouring Mehurići the day before their visit on 10 June 1993.

	DATE	EVENT
129	23 June 1993	Minister of Interior Bakir Alisapihić and ABiH Supreme Commander Rasim Delić wrote to Hadžihasanović and Asim Fazlić, Chief of Zenica CSB, noting Šiber's report of 15 June 1993 about serious security problems. Noted that ABiH members were committing serious crimes. Referred to subordination of MUP reserve and police to ABiH units in combat operations and the need for proper co-ordination.
130	24 June 1993	Šerif Kadrić, 3 rd Corps Assistant Commander for Morale, Information and Propaganda and Religious Affairs wrote to all subordinate units referring to looting by uninformed soldiers, saying "unfortunately, a number of officers and soldiers are involved in smuggling and crime".
131	24 June 1993	Most prisoners in Mehurići Elementary School exchanged – except for 20 or so men held in sheds.
132	25 June 1993	ABiH Deputy Commander Šiber reported to the Presidency and to the ABiH Supreme Command Staff Staff Commander, referring to earlier report 15 June 1993, re looting, crimes committed by ABiH soldiers and executions by Mujahedin, and insisted that the Supreme Command visit Zenica and make personnel changes in the 3 rd Corps Command. Also notified it that Mujahedin had executed 35 Croats in Bikoši on 8 June, leaving four wounded survivors.
133	25 June 1993	Šiber reported to ABiH Supreme Command saying that looting and crime prevailed in the 3 rd Corps area of responsibility.
134	25 June 1993	Hadžihasanović reported to Šiber that he had ordered prevention of looting and criminal activities, 7 th Muslim Mountain Brigade was verifying reports of looting of the Guča Gora monastery. He had replaced several commanders within the 7 th Muslim Mountain Brigade in Kakanj for failing to carry out orders to prevent criminal activities. Added that "Massive measures are still being undertaken for the discovery and prevention of looting among ABiH members".
135	27 June 1993	Mujahedin leader Ramo Abu Džihad (Ramadan) informed Šiber that 306 th Brigade police were guarding Mehurići prisoners.
136	27 June 1993	ABiH brought more prisoners from Čukle to Blacksmith Shop.
137	27 June 1993	ABiH brought Croat prisoners, arrested in Brajkovići 6 June 1993, to Mehurići blacksmith shop.
138	28 June 1993	Mehmed Alagić ordered establishment of checkpoints to "stop the illegal trade in arms, ammunition, cigarettes, alcohol and other goods". Ordered that soldiers behave in accordance with the rules of Military Police.
139	29 June 1993	Hadžihasanović reported to subordinate commands on "Additional clarification regarding the exchange of prisoners" from Zenica.
140	July 1993	Prisoners from the Bugojno Gimnazija School Building forced to give blood.

	DATE	EVENT
141	1(?) July 1993	Hadžihanović sought from OG Zapad (West) lists of names and details of HVO prisoners.
142	11/12(?) July 1993	Hadžihanović resubordinated 308 th Mountain Brigade, 325 th Mountain Brigade to Bosnian Krajina OG.
143	12 July 1993	Hadžihanović resubordinated 7 th Muslim Mountain Brigade to the 3 rd Corps command.
144	14 July 1993	ABiH Supreme Commander Rasim Delić issued order to all Corps Commanders on "observance of laws and rules by ABiH" and ordered them to provide him with information by 10 August 1993 on the number and types of offences; and number of cases tried before special military courts.
145	18 July 1993	Conflict started between HVO and ABiH in Bugojno.
146	18 July 1993	ABiH started detaining HVO soldiers and Croat civilians at Bugojno Gimnazija School Building.
147	21 July 1993	Kubura appointed commander of 7 th Muslim Mountain Brigade.
148	23 July 1993	Rasim Delić authorised, Sakib Mahmuljin, of 3 rd Corps Command to negotiate with El Mujahed command re its resubordination into ABiH under 3 rd Corps command.
149	23 July 1993	Sefer Patković promoted to Chief of Staff 7 th Muslim Mountain Brigade.
150	23 July 1993	40-50 captured HVO soldiers detained at garage in Bugojno.
151	24 July 1993	ABiH captured centre of Bugojno.
152	24 July 1993	Captured HVO soldiers and Croat civilians detained at Bugojno Convent (Marxist Centre), Gimnazija, Bugojno.
153	24 July 1993	Command of OG Zapad reported to 3 rd Corps Command of capture of Hotel Kalin and 100 Croatian soldiers and 150 civilians.
154	25 July 1993	3 rd Corps Press Centre daily report reporting fall of Hotel Kalin and capture of 100 HVO soldiers.
155	25 July 1993	A Catholic priest and nun complained to Sead Dautović about condition at the Bugojno detention facilities.
156	26 July 1993	Sead Dautović noted uncontrolled and arbitrary behavior of the Army members as well as the Army commanding officers, members of the MUP and military police and also some citizens, towards detained civilians and soldiers and ordered that only Army Command could determine status of prisoners.
157	27 July 1993	Supreme Commander Delić wrote to 3 rd Corps command ordering it to take all measures to allow 10,000 to 12,000 displaced Croats in Bugojno return home, and ordering HVO prisoners be treated in accordance with Geneva Conventions. Ordering

	DATE	EVENT
		immediate implementation and reporting back.
158	28 July 1993	Supreme Commander Delić arranged access to Bugojno Gimnazija and the Furniture Salon for ECMM. Monitors said that condition did not come close to the minimum standards set by the Geneva Conventions.
159	28 (?) July 1993	40-50 HVO soldiers detained in garage in Bugojno transferred to Convent (Marxist Centre).
160	Late July 1993	Ambassador Thebault was informed that Croat community leader wished to visit Bikoše because of a reported massacre on 8 June 1993.
161	30 July 1993	A Catholic nun and Croat lawyer complained to Tahir Granić, commander of the 307 th Motorised Brigade, about conditions at the Bugojno detention facilities.
162	31 July 1993	ABiH transferred HVO and Croat prisoners from Bugojno Gimnazija School Building to Vojin Paleksić Elementary School.
163	31 July 1993	31 July 1993 – 3 rd Corps Security Chief Dugalić proposed to the Zenica District Military Prosecutor's Office criminal charges against ABiH soldiers who failed to provide security on 28 April 1993 in 309 th Brigade area resulting in 19 ABiH deaths.
164	August 1993	Murder of HVO POW Mario Zrno by OG Zapad soldiers while on forced labour from detention in Bugojno Convent.
165	1 August 1993	HVO prisoners detained at FC Football Stadium, Bugojno.
166	1 August 1993	HVO prisoners detained at Bugojno Convent transferred to FC Football Stadium.
167	1 August 1993	Prisoners transferred from Bugojno Gimnazija School Building cells to the elementary school sports hall.
169	2 August 1993	HVO prisoners detained at Bugojno Slavonija Furniture Salon transferred to Vojin Paleksić Elementary School.
170	3 August 1993	ECMM, Merdan visited Brajkovići, Grahovčići, and Šušanj. Observed that Grahovčići and Maline looted; some destruction in Guča Gora church.
171	4 August 1993	Hadžihasanović provided subordinate commanders with copy of ABiH Supreme Commander Delić's orders of 14 July 1993 regarding observance of laws by ABiH.
172	5 August 1993	Murder of HVO POW Mladen Havranek by OG "Zapad" military police in Slavonija Furniture Salon, Bugojno.
173	5 August 1993	Meeting in Bugojno between ECMM, UNHCR, Police Chief Senad Dautović, BiH President of War Council, Dzevad Mlaćo and Croat representative. BiH representatives admitted POWs were beaten to obtain information, there are four detention cages in

	DATE	EVENT
		Bugojno and a POW (Mladen Havrenek) was killed while trying to escape the previous day.
174	9 August 1993	Kubura officially appointed Commander of 7 th Muslim Mountain Brigade.
175	9 August 1993	Merdan, ECMM inspected Bikoše, examining three grave sites.
176	10 August 1993	Hadžihasanović report to Supreme Command on "Legality in the ABiH". Reported on the work of military disciplinary courts, district military courts and investigations and special military courts in Travnik and Zenica. Reported on 105 criminal investigations and 142 prosecutions in Zenica District Military Court.
177	12 August 1993	Hadžihasanović sent proposal to ABiH Supreme Command to incorporate "foreign volunteers" into unit "El Mujahedin" with mobilisation in Mehurići.
178	13 August 1993	Commander of the ABiH Supreme Command Staff ordered the establishment within the ABiH 3 rd Corps zone of responsibility of "El Mujahed" unit (no later than 31 August 1993) under the direct command of ABiH 3 rd Corps.
179	14 August 1993	ABiH Supreme Commander Delić informed 3 rd Corps Command that 7 th Muslim Mountain Brigade consistently denied ICRC access to Zenica Music School, and 3 rd Corps to order the 7 th Muslim Mountain Brigade to allow ICRC access.
180	14 August 1993 (approx)	Balance of prisoners at Bugojno Slavonjia Furniture Salon transferred to Iskra Football Stadium.
181	18 August 1993	ECMM gave Croat compiled list to Senad Dautović of crimes against Croats - including murders of POWs Mario Zrno and Mladen Havrenek.
182	19 August 1993	Meeting between ECMM and Dautović re list of crimes.
183	20 August 1993	Dautović forwarded the list of crimes to the Bugojno SJB, the SDB and the security organ of the 307 th Motorised Brigade.
184	21 August 1993	Šiber, standing in for Supreme Commander, ordered Corps Commanders to "thwart all forms of criminal activity, and punish severely those involved".
185	21 August 1993	Hadžihasanović prepared lengthy report on 3 rd Corps to ABiH Supreme Command, noting command and control problems and insufficient pay made soldiers and officers "resort to smuggling, trade, crime and other illegal acts". Also said that the military prosecutor's office and military court are inefficient.
187	28 August 1993	Hadžihasanović ordered the resubordination of the "El Mujahed" unit to the 306th Mountain Brigade for combat operations.

	DATE	EVENT
188	30 August 1993	3 HVO prisoners transferred from Iskra Football Stadium to the Bugojno Gimnazija School Building.
189	September 1993	Prisoners from Bugojno Gimnazija School Building forced to give blood.
190	6 September 1993	Hadžihasanović resubordinated the "El Mujahed" unit to the command of the OG "Bosanska Krajina.
191	14 September 1993	Hadžihasanović ordered units (OG Zapad, 307 th Motorised Brigade, Bugojno Municipal Defence Staff) to allow ICRC access to HVO prisoners in Bugojno on 20 and 21 September 1993.
192	18 September 1993	Hadžihasanović order to subordinate commanders "Taking civilian prisoners, burning facilities and looting property" noting instances of all three by individuals not respecting orders and the Geneva Conventions. Prohibited taking unarmed civilians prisoner, looting property and setting buildings on fire and ordered appropriate measures against offenders saying that commander were responsible to him for execution of the order.
193	19 September 1993	OG Zapad Commander Selmo Cikotić reported to Hadžihasanović of UNPROFOR visit re prisoner exchange and appointment of liaison officer; capture of 383 HVO POWs and release of 66, holding 319 who should be prosecuted and "23 are being given special treatment" because of acts they had committed.
194	19 September 1993	Hadžihasanović responded to Citokić's request agreeing to appointment of UNPROFOR liaison officer, and asking for transfer of the 23 soldiers who had committed serious offences to be transferred to him at Zenica ZPD.
195	23 September 1993	Meeting between UNHCR and Merdan re Maline murders.
196	Sept/Oct 1993 (approx)	Croat delegation complained to Enes Handžić about prisoners begin taken from the Football Stadium to the Bank for torturing. Handžić referred them to Granić. The delegation also complained to Senad Dautović and Abdulah Jelec, the military commander of Bugojno.
197	October 1993	Ivo Mršo and Ante Ivković informed Dževad Mlaćo (President of Bugojno War Presidency), Enes Handžić (Military Police Commander), Tahir Granić (Commander 307 th Brigade), Senad Dautović about ABIH mistreatment of prisoners at Bugojno Bank, FC Football Stadium, including disappearances.
198	7 October 1993	3 rd Corps Security Chief Dugalić noted involvement of officers in criminal activities and its impact on security and morale and directed subordinate commanders to identify, prevent and prosecute those involved.
199	7 October 1993	Hadžihasanović wrote to commander of OG Zapad reminding him to transfer the 23 HVO soldiers to Zenica KPD.

	DATE	EVENT
200	8 October 1993	Balance of HVO prisoners transferred from Bugojno Gimnazija School Building to Iskra Football Stadium.
201	10 October 1993	Hadžihasanović confirmed (in response to report) to OG Zapad Commander that El Mujahed unit "for the time being it is subordinated to the commander of the Bosanska Krajina OG and engaged in combat operations in the Lašva valley".
202	12 October 1993	Bugojno MUP Chief Dautović advised Bugojno Department of Education that it would transfer back Bugojno Gimnazija to Education Department on 14 October 1993.
203	15 October 1993	Mujahedin took 5 Croats from the Caritas Office, Travnik, to Orašac.
204	16 October 1993	Mujahedin abducted 2 Croats from a Travnik flat and detained them in Orašac.
205	17 October 1993	ABiH Supreme Commander Delić wrote to Hadžihasanović informing him that President Izetbegović had received a letter from UN Special Rapporteur, about massacre of 25 Croats in Maline on 8 July 1993, and expulsion of 3000 Croats from that area, requesting information and details of measures taken.
206	17 October 1993	Hadžihasanović requested immediate and specific information from the OG Krajina about Delić's order.
207	18 October 1993	Meeting between ECMM (BritBat) and Hadžihasanović. Discussed issue of Muslim extremist's attitude towards Croat minority in ABiH controlled areas.
208	19 October 1993	Mujahedin abducted a Croat civilian in Travnik, beat him and took him to Orašac camp.
209	20 October 1993	Murder of Bosnian Serb prisoner Dragan Popović by OG Bosanka Krajina troops in Orašac Camp.
210	21 October 1993	3 rd Corps Deputy Commander Merdan reported back to ABiH Supreme Command Staff stating that all HVO soldiers and civilians killed in Maline in Jun 1993 were killed in combat. The 306 th Assistant Brigade Commander had visited the location and drafted a report to superior command.
211	27 October 1993	ECMM Travnik noted in a daily report that Mujahedin had taken 5 civilian hostages in Travnik in response to the HVO detention of a wounded Mujahedin.
212	29 October 1993	ECMM Travnik discussed captured hostages with Alagić.
213	31 October 1993	HVO soldiers looted Muslim property in Vareš forcing Muslim residents out.
214	1 November 1993	Commander of 3 rd Corps (order signed for Hadžihasanović) ordered 7 th Muslim Mountain Brigade Zenica to Vareš in accordance

ANNEX B**PERSONS REFERRED TO IN THE PRE-TRIAL BRIEF**

NAME	DESCRIPTION
Ramo ABU ĆZIHAD	A Mujahedin commander.
Enes ADŽEMOVIĆ	An Inspector in the State Security Service (SDB) in Travnik, later head of the Travnik office of Agency for Investigation and Documentation.
Abdulah AHMIĆ	Commander, Operational Group Istok (East), ABiH 6th Corps.
Mehmed ALAGIĆ	Commander, Operational Group, "Bosanska Krajina" ABiH 3 rd Corps from March 1993 to November 1993. Promoted to 3rd Corps Commander, ABiH from November 1993 to February 1994.
Bakir ALISPAHIĆ	Minister of Internal Affairs (the Interior), Republic of Bosnia and Herzegovina.
Salko BEBA	Assistant Commander Security, Operational Group "Bosanska Krajina", ABiH 3 rd Corps.
Tihomir BLAŠKIĆ	HVO Central Bosnia OG Commander.
Nihad ČATIĆ	Commander, 3rd Battalion, 7th Muslim Mountain Brigade, ABiH 3rd Corps from 1992 to June 1993.
Selmo CIKOTIĆ	Commander, OG Zapad, 3 rd Corps, ABiH.
Fikret ČUSKIĆ	Commander of the 17 th Krajina Mountain Brigade, succeeded ALAGIĆ as Commander of OG Bosanska Krajina.
Senad DAUTOVIĆ	Commander, Civil Defence HQ (Public Security Station) Bugojno.
Rasim DELIĆ	Commander of the Supreme Command Staff, ABiH.
Ramiz DUGALIĆ	3 RD Corps Deputy Commander for Security.
Sir Martin GARROD	Former head of the ECMM Monitoring Mission Regional Centre in Zenica (HRC) from mid October 1993 to April 1994.
Tahir GRANIĆ	307th Motorised Brigade Commander based in Bugojno (part of Operational Group "Zapad").

	DATE	EVENT
		with order of 25 October 1993.
215	1 November 1993	Hadžihasanović appointed Chief of the Supreme Command Staff of the ABiH.
216	3 November 1993	Hadžihasanović ordered 7 th Muslim Mountain Brigade "liberate" Vareš, ordering unit to "Behave towards the civilian population in the spirit of the Geneva Convention and do not allow any revenge or massacres. Deal with war booty in the spirit of the 3 rd Corps Command order." The HVO abandoned Vareš in the evening.
217	4 November 1993	Hadžihasanović reported to the Supreme Command that 3 rd Corps units had been deployed in Vareš and that he was in constant contact with 2 nd Corps Command.
218	4 November 1993	Kubura reported to 3 rd Corps Operations Centre that there was disorganisation in the system of control and command, units had been resubordinated to themselves and that the Vareš operation was successful.
219	4 November 1993	7th Muslim Mountain Brigade and other ABiH troops looted Vareš and destroyed Croat and Serb property.
220	4 November 1993	NORDBAT asked the 2 nd Corps 3 rd Operational Command to send Military Police to Vareš to control the situation. That day the commander of the 6 th Corps OG "Istok", Abdulah Ahmić, sent an extraordinary combat report to the 3 rd Corps Command and 6 th Corps Command informing them that the arrival of the 7 th Muslim Mountain Brigade into Vareš had "created general chaos. Everything is being looted and burned". He requested the 3 rd Corps to send military police to block the road to Kakanj. Hadžihasanović replied to the extraordinary combat report on the same day saying that he would take the measures proposed to establish strong roadblocks and checkpoints.
221	5 November 1993	Kubura ordered all members of the 7 th Muslim Mountain Brigade out of Vareš immediately and prohibited their staying there without his approval.
222	6 November 1993	Mujahedin and other guards blindfolded 2 prisoners from Orašac camp and drove them to Travnik barracks.
223	7 November 1993	Kubura issued orders for organising leave to brigade members, stating that "only the troops that have participated in the operations in the Vareš municipality front shall go on leave". The soldiers would be allowed home after returning to base "use the following days to distribute the soldiers' war booty".
224	4 December 1993	Alagić as 3 rd Corps Commander, ordered resubordination <i>Elmudžahidin</i> detachment to the <i>Bosanska Krajina</i> OG.
225	16 March 1994	Kubura promoted to Brigade Commander in 1 st Corps.

Enver HADŽIHASANOVIĆ	Commander 3rd Corps, ABiH between 14 November 1992 to 31 October 1993. Chief of the Supreme Command Staff from 1 November 1993 to 1996.
Sefer HALILOVIĆ	Commander in Chief (Chief of General Staff), ABiH from May 1992 to November 1993.
Enes HANDŽIĆ	Chief, 307th Motorised Brigade Military Police in Bugojno.
Besim HODŽIĆ	Military Police Commander, Gimnazija.
Alija IZETBEGOVIĆ	President of the Presidency Republic of Bosnia and Herzegovina.
Adbulah JELEĆ	Commander Municipal Defence Staff, Bugojno.
Vezir JUSUFSPAHIĆ	Duty Operations Officer, ABiH 3rd Corps.
Serif KADRIĆ	Assistant Commander, Dept Morale, Information and Propaganda and Religious Affairs, ABiH 3rd Corps.
Emir Mahmut "Efendi" KARALIĆ	Religious leader, 7th Muslim Mountain Brigade, ABiH 3 rd Corps.
Dario KORDIĆ	Vice President of the Croatian Community of Bosnia and Herzegovina.
Asim KORIČIĆ	Commander, 7th Muslim Mountain Brigade, ABiH 3rd Corps from December 1992 to July 1993. (Abroad April - July 1993).
Amir KUBURA	Chief of Staff, 7th Muslim Mountain Brigade, ABiH 3 rd Corps from 1 Jan 1993 to July 1993. Acting Commander, 7th Muslim Mountain Brigade, ABiH 3rd Corps from 1 April 1993 to 20 July 1993. Commander, 7th Muslim Mountain Brigade, ABiH 3rd Corps from 21 July 1993 to 16 March 1994.
Sakib MAHMULJIN	Member of the 3 rd Corps Command Staff in 1993. Commander ABiH 3 rd Corps February 1994 to 1996.
Džemal MERDAN	Deputy Commander, ABiH 3rd Corps from December 1992 to 1995.
Dževad MLAČO	President of the Party of Democratic Action (SDA).

Tadeusz MAZOWIECKI	UN Special Rapporteur in October 1993.
Šerif PATKOVIĆ	Commander, 2 nd Battalion, 7th Muslim Mountain Brigade, ABiH 3rd Corps from 1992 to August 1993. Commander 7th Muslim Brigade March 1994 to 1995.
Vinko PULJIĆ	Catholic Archbishop of Sarajevo.
Nihad ŠABIĆ	Company Commander Military Police 307th Brigade.
Samir SEFER	OG Security Officer.
Jasmin ŠARIĆ	Commander, Zenica Municipal Defence Staff Zenica, ABiH.
Stjepan ŠIBER	ABiH Deputy Supreme Commander.
Esed ŠIPIĆ	Commander 306th Mountain Brigade, ABiH 3rd Corps.
Vehid "Geler" SUBOTIĆ	7th Muslim Mountain Brigade, 2nd Battalion, ABiH 3rd Corps.
Jean-Pierre THEBAULT	Head of ECMM from early 1993 to mid 1993 approximately.

ANNEX C

TERMS (Places, Organisations etc)

TERM	DEFINITION
ABiH	Army of Bosnia and Herzegovina
BH	Republic of Bosnia and Herzegovina
BRITBAT	UNPROFOR British Battalion
Caritas	Catholic charity
Commission for Prisoners	A joint HVO and ABiH commission formed to negotiate the release of prisoners.
ECMM	European Commission Monitoring Mission
El Mujahed	Unit of Mujahedin fighters within the ABiH 3 rd Corps. Also referred to as El Džihad, El Mudzahedin, El Mudzahid, El Mujahedin
Furniture Salon	Slavonija Namještaja, Slavonija Furniture Salon
Gimnazija	Mahmut Bušatilja Bugojno (a high school in Bugojno)
HV	Army of the Republic of Croatia
HVO	Croatian Defence Council
ICRC	International Committee of the Red Cross
JHC	Joint Humanitarian Commission
JNA	Yugoslav People's Army
KP Dom	Correctional centre or prison
MOS	Muslim Armed Forces
Mujahedin	Muslim fighters from abroad, principally Islamic countries
MUP	Ministry of Internal Affairs
NORDBAT	UNPROFOR Nordic Battalion
OGs	Operational Groups
OG Bosna	An operational group within ABiH 3 rd Corps headquartered in

	Zavidovići
OG Bosanska Krajina	An operational group within ABiH 3 rd Corps headquartered in Travnik
OG Lasva	An operational group within ABiH 3 rd Corps headquartered in Kakanj
OG Zapad	An operational group within ABiH 3 rd Corps headquartered in Bugojno
RBiH	Army of the Republic of Bosnia and Herzegovina
7 th Muslim Mountain Brigade	Brigade subordinated to the ABiH 3 rd Corps Command unit consisting of three battalions whose members were required to adhere to Muslims beliefs.
SDB	State Security Service of RbiH
SJB	Public Security Station – Police Station
TO	Territorial Defence of Bosnia and Herzegovina
UN British Battalion	UNPROFOR British Battalion
UNPROFOR	United Nations Protection Force
VRS	Bosnian Serb Army
ZKP	Criminal Code of the SFRY and the Republics

ANNEX D

CASES REFERENCES

SHORT NAME	FULL CITATION
<i>Aleksovski Appeal Judgement</i>	<i>Prosecutor v Aleksovski</i> , Judgement, IT-95-14/1-A, 24 March 2000
<i>Blaškić</i>	<i>Prosecutor v Blaškić</i> , Judgement, IT-95-14-T, 3 March 2000
<i>Čelebići Trial Judgement</i>	<i>Prosecutor v Delalić and others</i> , Judgement, IT-96-21-T, 16 November 1998
<i>Čelebići Appeal Judgement</i>	<i>Prosecutor v Delalić and others</i> , Judgement, IT-96-21-A, 20 February 2001
<i>Jelisić</i>	<i>Prosecutor v Jelisić</i> , Judgement, IT-95-10-T, 14 December 1999
<i>Kordić</i>	<i>Prosecutor v Kordić</i> , Judgement, IT-95-14/2-T, 26 February 2001
<i>Krnjelac</i>	<i>Prosecutor v Krnjelac</i> , Judgment, IT-97-25-T, 15 March 2002
<i>Kvočka</i>	<i>Prosecutor v Kvočka and others</i> , Judgement, IT-98-30/1-T, 2 November 2001
<i>Prosecutor v Aleksovski</i>	<i>Prosecutor v Aleksovski</i> , Judgement, IT-95-14/1-T, 25 June 1999
<i>Prosecutor v Kunarac</i>	<i>Prosecutor v Kunarac</i> , Judgement, IT-96-23, 22 February 2001
<i>Stakić</i>	<i>Prosecutor v Stakić</i> , Judgement, IT-97-24-T, 31 July 2003
<i>Tuta and Stela</i>	<i>Prosecutor v Naletić and Martinović</i> , Judgement, IT-98-34-T, 31 March 2003