

**UNITED
NATIONS**

International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-95-5/18-PT

Date: 18 May 2009

IN TRIAL CHAMBER III

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC WITH PARTLY CONFIDENTIAL APPENDICES

**PROSECUTION'S SUBMISSION PURSUANT TO
RULE 65 *TER* (E)(i)-(iii)**

The Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Radovan Karadžić

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

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1. Pursuant to the Trial Chamber's order of 6 April 2009¹ and Rule 65 *ter* (E)(i)-(iii) of the Rules of Procedure and Evidence ("Rules), the Prosecution hereby files:
 - (i) the final version of the Prosecutor's pre-trial brief (Appendix I);
 - (ii) the **confidential** list of witnesses the Prosecutor intends to call (Appendix II); and
 - (iii) the **confidential** list of exhibits the Prosecutor intends to offer into evidence (Appendix III).

2. Attached to Appendix I, the final pre-trial brief, are the following:
 - **Confidential** Attachment Detailing Events in the Municipalities: these set out the political background and events in the 27 municipalities;²
 - **Confidential** Appendix A: Schedules A-G setting out additional particulars and the supporting evidence for the scheduled incidents;

¹ Order Following on Status Conference and Appended Work Plan, 6 April 2009.

² Referred to in paragraph 48 of the Third Amended Indictment.

- **Confidential** Appendix B: a list of victims relevant to Schedules A, B, F and G;
 - Appendix C: maps of Bosnia and Herzegovina depicting the ethnic composition of municipalities and depicting the Strategic Objectives geographically;
 - Appendix D: organigrams on military and MUP structures;
 - Appendix E: charts and tables on the SDS and political structures;
 - Appendix F: a list of abbreviations and authorities used in the brief (Glossary).
3. The evidence cited in the final pre-trial brief, attachment and appendices thereto is not exhaustive.
4. Rule 65 *ter* (E)(i) requires that the brief shall include any admissions by the parties and a statement of matters which are not in dispute; as well as a statement of contested matters of fact and law. The Accused stated at the Status Conference held on 2 April 2009 that he contests all matters of fact and law.³ At this time, there are no admissions by the Prosecution.
5. Attached to Appendix II, the **confidential** list of witnesses, is **Confidential** Appendix II.A, Prosecution List of Witnesses and Related Exhibits, which sets out the exhibits relevant to each of the witnesses.
6. Rule 65 *ter* (E)(iii) requires the Prosecutor to state, where possible, whether the Defence has any objection as to authenticity of any or all of the exhibits offered. The Prosecution is not in a position to state whether the Accused has

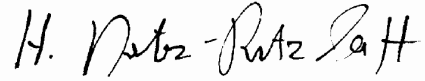
³ *Prosecutor v. Karadžić*, Case No. IT-98-5/18-PT, Status Conference, 2 April 2009, Transcript, page 180, lines 8-15: "I wish to say, though, that I do not wish to assist the OTP in any way. I am going to challenge everything. I am going to adduce evidence. We can only agree perhaps on whether it was sunny on a particular day or rainy. Everything else is going to be challenged, starting with joint criminal enterprise and everything that happened on the ground. Everything is controversial. Everything is going to be challenged and the Prosecution should be aware of that. We are going to challenge everything."

any objection as to authenticity of any or all of the exhibits listed in **confidential** Appendix III.

Word Count: 490 words



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Dated this 18th day of May 2009
At The Hague,
The Netherlands

APPENDIX I

FINAL PRE-TRIAL BRIEF

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I. INTRODUCTION

1. During the time period covered by the Indictment,¹ Radovan **KARADŽIĆ**² was the most powerful leader among the Bosnian Serbs. Between 1991 and 1995 the Accused, with other Bosnian Serb political, civilian and military leaders, and Serb leaders and officials from Serbia and Croatia, formulated, prepared and executed a plan, the objective of which was to expel Bosnian Muslims and Bosnian Croats from targeted regions of Bosnia and Herzegovina (“BiH”) through a campaign of violence.
2. Under the direction of the Accused and his associates, civilian, military and paramilitary organs collaborated to take over municipalities and territories throughout BiH in order to establish Serb control and remove non-Serbs by force or threat of force.
3. The physical take-overs of the targeted municipalities began in late March 1992, and continued over the ensuing days and weeks. During and after these take-overs, Bosnian Serb forces and authorities, acting under the direction and control of the Accused and his associates, expelled, killed and mistreated thousands of non-Serbs; thousands more fled in fear for their lives. Thus, by late 1992, most non-Serbs had been “cleansed” from the territories claimed by the Bosnian Serb leadership (“BSL”).
4. Throughout the remainder of the Indictment period, the Accused and his associates prevented the return of expelled non-Serbs, continued the persecution of non-Serbs remaining in Bosnian-Serb-held territory, and cleansed or attempted to cleanse the few remaining Bosnian Muslim enclaves in territories they claimed.
5. While leading this overarching persecutory campaign, **KARADŽIĆ** also participated in formulating and executing three other discrete criminal plans, all of which were related to, and ultimately furthered, the objective of the overarching campaign.

¹ All references to the Indictment in this brief refer to the Third Amended Indictment, dated 27 February 2009, which is currently the operative indictment in this case. The Prosecution notes the Pre-Trial Chamber's Decision on Six Preliminary Motions Challenging Jurisdiction, dated 28 April 2009 in which it ordered the Prosecution to propose amendments to the Indictment in relation to foreseeable consequences and joint criminal enterprise liability. That decision is currently under appeal. The Prosecution also notes that the Accused has appealed various decisions of the Chamber relating to the Indictment, which are also pending. The Prosecution will amend this brief if and as necessary to conform it to the final outcome of these appeals and any resulting modifications to the Third Amended Indictment.

² Hereinafter “the Accused” or “KARADŽIĆ.”

6. Between April 1992 and November 1995, **KARADŽIĆ** led the planning, preparation and execution of a campaign of sniping and shelling against the besieged city of Sarajevo in order to spread terror among its civilian population. He and Ratko MLADIĆ, the Commander of the Bosnian Serb Army (“VRS”), were key participants in this plan, which also involved other Bosnian Serb political and military leaders. The BSL’s ability to modulate the level of terror was used as a bargaining chip to secure concessions from the Bosnian Government and the international community, as a means of exacting revenge for unrelated events elsewhere in the theatre, and to prevent BiH from becoming a viable independent state.

7. By mid-1995, Srebrenica was one of the last remaining Bosnian Muslim enclaves in Bosnian Serb held territory. On 6 July 1995, Bosnian Serb forces under the direction and control of **KARADŽIĆ** and MLADIĆ attacked Srebrenica and on 11 July took over the enclave. Within days of the attack, **KARADŽIĆ**, MLADIĆ and others formed a plan to eliminate the Bosnian Muslims in Srebrenica; over the ensuing days and weeks, forces and authorities under **KARADŽIĆ**’s control forcibly transferred the Bosnian Muslim population out of the enclave and murdered over 7000 Bosnian Muslim men and boys.

8. In May and June 1995, **KARADŽIĆ**, MLADIĆ and others formulated and implemented a plan to take UN personnel hostage in order to prevent NATO air strikes against Bosnian Serb military targets. The air strikes threatened Bosnian Serb military capabilities and thus the ability of the BSL to realize its military and political goals. VRS and MUP forces captured over 200 UN peacekeepers and military observers and detained them at various locations, including those with strategic or military significance to the BSL.

9. As described in this brief, **KARADŽIĆ** is criminally responsible for the crimes charged in the Indictment through his participation in each of these criminal plans.³

³ *Stakić* AJ, paras. 64-65; *Brđanin* AJ, paras. 410-413.

II. **KARADŽIĆ WAS A KEY MEMBER OF AN OVERARCHING JCE TO PERMANENTLY REMOVE BOSNIAN MUSLIMS AND BOSNIAN CROATS FROM BOSNIAN SERB CLAIMED TERRITORY IN BIH**

10. In the face of Yugoslavia's dissolution, **KARADŽIĆ**, together with other Serb civilian and military leaders, was determined to prevent Bosnian Serbs from being separated from other Serbs in the former Yugoslavia by the establishment of a sovereign and independent BiH. As the paramount leader of the Bosnian Serbs from 1990-1995, he led the formulation and implementation of a criminal plan to create an ethnically-separate entity on large portions of BiH through the forcible removal of hundreds of thousands of Bosnian Muslims and Croats. He was the key figure in creating and promoting policies aimed at creating a Serb entity in BiH and in forming and leading the political, governmental and military organs that implemented those policies through the crimes charged in Counts 1-8.

A. **Bosnian Serb response to Independent BiH**

11. As Yugoslavia disintegrated, republics moved toward independence. Serb leaders opposed this prospect, determined to prevent Croatia or BiH from becoming independent countries where sizeable Serb populations would be a minority and be separated by a border from other Serbs in former Yugoslavia. **MILOŠEVIĆ** and **KARADŽIĆ** were adamant that any separation of Serbs in Bosnia or Croatia was unacceptable.⁴ As early as 1990, **KARADŽIĆ** warned that efforts by Bosnian Muslims or Croats to alter the nature of the Bosnian state would be dealt with by force.⁵

12. Working closely with **MILOŠEVIĆ** and other Serb leaders, **KARADŽIĆ** pursued a two-pronged approach to ensure that Serbs would remain in a common state: engaging in negotiations to secure a common state, while simultaneously preparing the organs, entities and conditions for the forcible ethnic separation and creation of a Serb state carved out from BiH, similar to a process that had started in Croatia.

13. Croatia's steps toward independence represented the first challenge to the determination of Serbian leaders that Serbs would not be separated by a state border. The

⁴ 65ter11213;65ter00932,p.8.

⁵ 65ter05951,p.1;65ter11217,p.6. *See, also*,65ter00932,p.3.

response by the Serbian leadership within and outside Croatia foreshadowed in many details the steps that would later be undertaken by **KARADŽIĆ** and the BSL. Over time, Croatian Serbs,⁶ guided by MILOŠEVIĆ and collaborating with other Serb leaders including **KARADŽIĆ**, earmarked territories considered Serb, created separate Serb institutions to resist Croatian authority, declared autonomy and then independence and forcibly took control of approximately one-third of Croatian territory, killing thousands of Croats and expelling hundreds of thousands from their homes.⁷

14. The objective of seizing and controlling territory by forcibly removing non-Serbs, as well as many of the same preparatory steps, would be repeated in BiH, with many of the same key participants, including MILOŠEVIĆ, **KARADŽIĆ**, high ranking JNA officers including MLADIĆ, high ranking members of the Serbian MUP including Jovica STANIŠIĆ, political party leaders, including ŠEŠELJ and paramilitary leaders such as ARKAN. The latter two became known for their extreme political stances and/or military actions related to both Croatia and BiH.⁸ The volunteers and paramilitaries associated with them were widely feared for committing atrocities against non-Serbs that were extensively reported from 1991 onwards.⁹

15. **KARADŽIĆ** and the BSL were aware of the nature and purpose of the Serb campaign in Croatia¹⁰ and strongly supported¹¹ the effort by Croatian Serbs to forcibly create ethnically-separate Serb territories in Croatia that would form part of a unified Serbian entity.¹²

16. **KARADŽIĆ** cited the Croatian Serb effort as an example to the Bosnian Serbs¹³ and as a threat to those in Bosnia seeking independence. Thus, after the BiH Parliament took a significant step toward independence in October 1991, **KARADŽIĆ** warned the delegates that they were inviting the same fate as Croatia – “This road is the same highway of hell and suffering which Slovenia and Croatia took. Do not think that you will

⁶ Led by Milan BABIĆ, Milan MARTIĆ, Goran HADŽIĆ.

⁷ KDZ172.

⁸ KDZ549; KDZ554; 65ter07689; 65ter13258; 65ter00259; 65ter14645; 65ter14636; 65ter14637; 65ter45268; 65ter45332; 65ter12099; 65ter12037; 65ter12083; 65ter12081.

⁹ See, e.g. KDZ172; KDZ493; KDZ495;

65ter07287; 65ter13472; 65ter13473; 65ter45119; 65ter45173; 65ter40256; 65ter40286.

¹⁰ 65ter00987, p.3; 65ter30335; 65ter31622, p.2.

¹¹ 65ter08440, p.11.

¹² 65ter05175, 0093-0334, 0335, 0337-0338; 65ter10937, 0091-6409; 65ter00009, 0093-9663; 65ter01718, 0046-1723, 1724, 1719-1721; 65ter06618.

¹³ 65ter08440, p.11.

not take Bosnia and Herzegovina to hell, and maybe the disappearance of the Muslim people, because Muslim people cannot defend themselves if the war breaks out here.”¹⁴

B. Territories claimed by the Bosnian Serbs

17. Although the Bosnian Serbs constituted approximately one-third of BiH’s population, **KARADŽIĆ** and the BSL claimed the majority of Bosnia’s territory, including areas in which hundreds of thousands of Muslims and Croats resided.¹⁵ A frequently invoked justification for this demand was the BSL’s claim that Serbs “owned” or “possessed” over 60% of the land in Bosnia.¹⁶

18. Furthermore, **KARADŽIĆ** and other Bosnian Serb leaders asserted that Bosnian Serb territory should include areas that were majority Serb prior to the genocide of World War II (and where Serbs were now a minority),¹⁷ a concept that became enshrined in the RS Constitution.¹⁸

19. As discussed below, by late 1992 many of these territories had been conquered by the Bosnian Serb forces and Muslims and Croats had been killed or expelled or fled in fear.

C. Ethnic separation, the need for ethnically homogeneous territories and genocidal intent

20. Although they sought territories on which hundreds of thousands of Muslims and Croats lived, **KARADŽIĆ** and the BSL considered it untenable for Serbs to live with them in those territories. **KARADŽIĆ** perceived the Muslim birthrate as a threat to Serbs which meant that Serbs could not live with Muslims:

...we cannot control the Muslims in such a unitary state. We know very well what [...] fundamentalism is and that we cannot live together, there’s no tolerance, they quadruple through the birth-rate, and we Serbs are not up to that.¹⁹

¹⁴ 65ter11311,pp.108-109;65ter45005;65ter11829.

¹⁵ See Appendix C (ethnic map); KDZ538;KDZ470.

¹⁶ See, e.g., DUKIĆ, 65ter00009,0093-9655. Also 65ter40169. See 65ter06268, p.6.

¹⁷ KDZ470 testimony, *Krajišnik*, T.4166-67.

¹⁸ 65ter05815, p.2; 65ter05819 (Constitution Art.2).

¹⁹ 65ter00028, p.86.

21. As **KARADŽIĆ** told the Bosnian Serb deputies on 28 February 1992, Muslims would quickly “overwhelm you with their birthrate and their tricks.”²⁰

22. Muslim demographics, **KARADŽIĆ** insisted, threatened to overrun Serb “living space,” either through birth-rate or immigration. As he explained, “...whatever Bosnia we have one day, no Muslim foundation shall ever be laid in Serb areas and Serb villages...The first foundations that are laid will be blown up, and all foundations that are laid will be blown up... we will not allow the demographic picture to change, either naturally or artificially.... You must not sell land to Muslims. You must not! Because this is a fight to the finish, a battle for living space.”²¹

23. **KARADŽIĆ** repeatedly underscored that Muslims and Croats represented an existential threat to the Serbs, and that Serbs faced the same genocidal threat they confronted in World War II.²² He told the Assembly at its inaugural session that Serbs faced the “same plans, the same villains and the same victims” as World War II.²³ He insisted that Muslims sought an Islamic state,²⁴ were preparing laws to subjugate Serbs²⁵ and that Serbs were unwilling to “go back to slavery.”²⁶ **KARADŽIĆ** emphasised that Serbs and Muslims (or Croats) were natural antagonists, like a dog and cat, who should not be together and had only been together over the centuries by force.²⁷ These themes were echoed by others. As the President of the ARK Assembly told the deputies, “you already know what natural enemies are and that we can never again live together.”²⁸

24. **KARADŽIĆ** insisted on “as much separation as possible,”²⁹ despite BiH’s ethnically-intermingled character.³⁰ This meant reconfiguring BiH’s demographics. Thus, in January 1992 while the BSL was still exploring the possibility of a negotiated solution with the Croatian leadership, **KARADŽIĆ**’s political ally **KOLJEVIĆ** urged the

²⁰ 65ter06608,p.36.

²¹ 65ter00972,p.6;65ter00113,p.27;65ter00011,L004-6772.

²² 65ter00024,pp.7-8,10;KDZ470.

²³ 65ter00002,p.57,0301-5414.

²⁴ 65ter00026,pp.7-8;65ter00028,pp.84-85;65ter08440.

²⁵ 65ter00011,L004-6777.

²⁶ 65ter00009,0093-9678.

²⁷ 65ter40174,p.1.

²⁸ 65ter00017,p.60.

²⁹ 65ter00009,0093-9677.

³⁰ The SDS Minister of Reconstruction and Development acknowledged that even the “purest” Serb areas had only 60% Serbs,65ter00014,0305-5785.

reorganisation of Bosnia with the aim of “the homogeneity of certain areas,”³¹ through property and population transfers.³²

25. One year later, after BiH’s ethnic structure had been dramatically altered by the forcible removal of Muslims and Croats, **KARADŽIĆ** assured MILOŠEVIĆ and other Serbian leaders that much progress had already been made toward the goal of national homogeneity, citing in particular the example of Zvornik: “There was fifty-fifty of us in Zvornik. The number of inhabitants of Zvornik is now the same, approximately 50,000, and they are all Serbs.”³³

26. **KARADŽIĆ** emphasised the objective of ethnically homogeneous territory at an Assembly Session in September 1992, stating that a state of war had not been declared because “settlement and resettlement” were less likely to be undone after the war if they occurred under a civilian regime.³⁴ He was insistent, along with KRAJIŠNIK, that the areas they had conquered or earmarked as Serbian should be “clean.”³⁵ When the Head of the Deputies’ Club MAKSIMOVIĆ insisted in 1994 on a “firm attitude that the Muslims and Croats will not be allowed to return to the areas under our rule” and that “any thought about having 500 or more Muslims within our future country is out of the question,” **KARADŽIĆ** responded that he was “correct” and explained how that would be assured.³⁶

27. In order to realise the goal of ethnic separation, **KARADŽIĆ** intended to destroy a part of the Bosnian Muslim³⁷ and Bosnian Croat groups. Those targeted lived on territories claimed by the Bosnian Serbs where the continued existence of a substantial Muslim and Croat population could not be tolerated.³⁸ Thus, acts subsequently committed in effecting the ethnic divide from April 1992 until November 1995 – including killings, the infliction of intolerable conditions of life, forcible transfer and destruction of cultural sites – constituted acts of genocide.

³¹ 65ter00987,L005-1555,1556.

³² 65ter00987,L005-0174.

³³ 65ter04236,p.20.

³⁴ 65ter04214,p.57.

³⁵ 65ter00091,p.41;65ter00055,pp.48-49.

³⁶ 65ter00061,pp.126-27.

³⁷ The Bosnian Muslim national group is a specific, distinct national group covered by Article 4 of the Tribunal’s Statute: *Krstić* AJ,para.6.

³⁸ In relation to the municipalities specified in paragraph 38 of the Indictment, a number of factors, including (1) the large percentage of non-Serbs residing in the municipality prior to the war, (2) the particular strategic territorial importance of the municipality, and (3) the reluctance of non-Serbs to leave the municipality, led to conduct carried out in the implementation of the JCE that reflected an intent to destroy.

28. **KARADŽIĆ** spoke openly of this genocidal intent. On 9 September 1991, in a conversation with KRAJIŠNIK, **KARADŽIĆ** pointed out the apparent folly of the Bosnian Muslim secession plans, proposing that he make a speech telling them: “Can you see where this leads?” and “Do you realise that you will disappear in this?... Man, you will disappear. Many of us will disappear, but you will be annihilated!”³⁹ Likewise, on 12 October 1991 **KARADŽIĆ** told Gojko ĐOGO: “I think that they should be beaten if they start the war... They will disappear, that people will disappear from the face of the earth if they, if they insist now...”⁴⁰ Three days later he reiterated the same to his brother, asserting that in the event BiH seceded:

[there] would be a war until their obliteration... First of all, none of their leaders would stay alive. They would all be killed in three or four hours. They couldn't stand a chance.⁴¹

29. **KARADŽIĆ**'s intent was also reflected in the statements and actions of other JCE members, and in particular leading SDS figures in the municipalities.⁴² President of the SDS in Rogatica, Sveto VESELINOVIĆ, told Muslims that “[a]ll the Muslims will disappear” and that “everything’s going to be the way it should be: A third of the Muslims will be killed, a third become Orthodox, and a third will escape.”⁴³ Miladin NEDIĆ, SDS President in Lukavac, told the Assembly in July 1992, in the presence of **KARADŽIĆ**:

I am against solving the situation in Bosnia in haste, we must admit that the Muslims have been planted to us as a people whose executioners we are to be. I do not want the Serb people to be executioners but I am also against us giving up our state, our land and our territory... Therefore we should not hurry, because we are a people who have been determined to be executioners and to do someone a favour.⁴⁴

30. **KARADŽIĆ** concurred that there was “truth” in those remarks, noting that “...this conflict was roused in order to eliminate the Muslims... They think that they are being nationally established, but in fact they are vanishing.”⁴⁵

31. Beyond the specific statements and direct manifestations of **KARADŽIĆ**'s intent, the extreme and widespread nature of the crimes committed by Bosnian Serb forces -

³⁹ 65ter30190,p.2.

⁴⁰ 65ter30335,p.2,pp.6-8.

⁴¹ 65ter30347,p.3.

⁴² See, e.g, 65ter00009,p.27;65ter00023,p.5;65ter00024,p.16;65ter00024,p.21;65ter00028,p.65;65ter00028,pp.71,72;65ter00028,p.81;65ter11305,p.3.

⁴³ KDZ051testimony,*Krajišnik*,T.11278.

⁴⁴ 65ter00028,p.40.

exemplified in the ARK, in eastern BiH and eventually in Srebrenica - acting in accordance with **KARADŽIĆ**'s goals, and acting under his control, further reflected his intent. Evidence from various municipalities demonstrates, for example, that **KARADŽIĆ**'s threat that Muslim leaders would be targeted was realised.⁴⁶

32. Ultimately, the full realisation of **KARADŽIĆ**'s genocidal intent was hindered by the reality that events on the territory were increasingly monitored by international observers, and by the need to avoid international censure. For example, the killing, mistreatment, and other crimes being committed against non-Serbs in the ARK area was hindered by the discovery of camps, including Omarska and Trnopolje, by international journalists in the summer of 1992.⁴⁷

D. Preparation and Implementation of Steps

33. Throughout 1991, the SDS under **KARADŽIĆ**'s leadership had begun the process of defining and claiming territories considered Serb through the process of regionalisation, *i.e.*, designating portions of BiH for Serb authority. Indeed, **KARADŽIĆ** insisted, he was the one who had "invented" regionalisation.⁴⁸ Following the memorandum in the BiH Parliament regarding independence and his "highway to hell" warning, **KARADŽIĆ** accelerated the pace of Bosnian Serb preparations. He quickly put the party in a state of emergency,⁴⁹ and issued orders for such steps as taking power in firms and mass media.⁵⁰

34. The BSL established a separate Serbian Assembly on 24 October 1991.⁵¹ As **KARADŽIĆ** explained to the delegates, "This is a historic step, a step the Serbian people takes to shatter the last illusions, to discern between its friends and enemies, and to round our entity in such a way that [one word redacted] it would never again find itself endangered from within."⁵² In November 1991, just before the SDS plebiscite of the

⁴⁵ 65ter00028,p.85.

⁴⁶ KDZ057. *See, also*, KDZ043testimony, *Jelišić*, T.1198; KDZ190,65ter08257,p.7;KDZ433testimony, *Jelišić*, T.1306. *See, also*, 65ter04988,p.57;KDZ490;KDZ123testimony, *Stakić*, T.4648,4524;KDZ123testimony, *Stakić*, T.4648;KDZ414testimony, *Stakić*, T.6633-4;PAF1191.

⁴⁷ 65ter19682;65ter05574;65ter16695; *see also* PAFs1136,1116;KDZ452, *Stakić*, T.7799-7800;PAF1124.

⁴⁸ 65ter30543,p.6.

⁴⁹ 65ter06079,p.4. *See, also*, 65ter00332;65ter00966;65ter11309;65ter11308.

⁵⁰ 65ter05410.

⁵¹ 65ter11306;65ter06079,p.4.

⁵² 65ter00002,0301-5441.

Serbian People confirming their willingness to stay in Yugoslavia, **KARADŽIĆ** exhorted the municipal SDS membership to get ready to establish authority in their territories:

I am asking you to be energetic and strict; to get ready and establish authority in your territories; in municipalities, regions, local communities, and to prepare yourselves for restructuring and regionalising the municipalities (...)⁵³

35. The plebiscite was used to justify the Bosnian Serbs' vast territorial claims. As **KARADŽIĆ** explained, "(i)n all territories where Serbs took part in the referendum, regardless of whether they make 5% or 55% of the population, they are the constituent element of that town or republic. All territories where we voted in our referendum to remain in Yugoslavia must stay in Yugoslavia if we decide so."⁵⁴

36. On or about 20 December 1991, at a meeting in the Holiday Inn in Sarajevo, **KARADŽIĆ** distributed to municipality leaders instructions for the establishment of clandestine bodies, the Serbian Crisis Staffs ("Variant A/B"). The confidential instructions established the bodies that would be among the primary instruments through which **KARADŽIĆ** and other members of the BSL asserted control over territories and removed non-Serbs.

37. Variant A/B directed municipal leaders to implement the instructions in two stages. In the first stage they were to form crisis staffs, proclaim Serbian Assemblies and carry out "preparations for the formation of municipal government bodies."⁵⁵ In the second stage the SDS leaders would, *inter alia*, mobilise Serbian police and subordinate them to JNA command, call up JNA reserves and TO units and take other steps. These measures were to be taken upon receipt of an order given exclusively by **KARADŽIĆ**, "according to a secret procedure."⁵⁶

38. On 14 February 1992, **KARADŽIĆ** activated the second level of the Variant A/B,⁵⁷ thus instructing local leaders, as the minutes of one local SDS board reflect, "to establish control in our territories, that each should secure his own area."⁵⁸

⁵³ 65ter00972,p.10(emphasis added).Also 65ter05410;65ter00007,p.36.

⁵⁴ 65ter00009,0093-9674.

⁵⁵ 65ter00225,pp.3,7.

⁵⁶ 65ter00225,p.8.

⁵⁷ 65ter01000,pp.5-6,24.

⁵⁸ 65ter11216,p.4.

39. Meanwhile, Mićo STANIŠIĆ, a member of the newly-formed Council of Ministers and soon to be appointed RS Minister of the Interior, and Momčilo MANDIĆ, the future RS Deputy Minister of the Interior and Minister of Justice, led the effort to proceed with the establishment of a Bosnian Serb MUP.⁵⁹

40. On 18 March 1992, at the 11th Assembly session, KRAJIŠNIK stressed the need to begin the actual and physical process of seizing territory: “[...] it would be good if we could do one thing for strategic reasons: if we could start implementing what we have agreed upon, the ethnic division on the ground.”⁶⁰ A deputy asked **KARADŽIĆ** to order that the Serbs “occupy their territory so that no other forces enter them.”⁶¹

41. **KARADŽIĆ** and the BSL had ensured that the forces who would implement the take-overs and subsequently control the territories were well-armed. Serb territorial defence and volunteer units had been established, and many JNA commanders, by then in charge of a largely Serbian force, were co-ordinating closely with crisis staffs.⁶²

42. On 24 March 1992, **KARADŽIĆ** referred to the planned formation of the Serb MUP and assumption of territorial control.⁶³ He told the Assembly “very soon, we can form what we wish to [...] It could happen in two or three days.” At that moment, he advised, all the Serbian municipalities, including the “newly established” ones, would “assume control over the entire territory of the municipality concerned.” Shortly after that, “in the next three or four days, the methodology will be unique and you will be able to apply it in the municipalities you represent, including the things that must be done as well as the method of work: how to separate the police force, take the funds that belong to the Serbian people and establish control.”⁶⁴

43. Also on 24 March 1992, in anticipation of the pending division of the State, the Assembly dissolved the Council of Ministers and prepared to establish a functioning RS Government, appointing the Prime Minister, Branko ĐERIĆ, and the Minister of the Interior, Mico STANIŠIĆ. On 31 March, the Law on Internal Affairs entered into force and MANDIĆ sent a dispatch to BiH authorities stating that the Bosnian Ministry of

⁵⁹ 65ter05413.

⁶⁰ 65ter00020,p.13(emphasis added).Also 65ter00020,pp.37-39.

⁶¹ 65ter00020,p.39.

⁶² 65ter07515.Also 65ter30335,p.7;65ter07416,pp.304,374-375.

⁶³ 65ter00021,p.22.

⁶⁴ 65ter00021,p.22 (emphasis added).

Interior was abolished on the territory of the Serbian Republic.⁶⁵ That same day, the first forcible municipality take-over, in Bijeljina, commenced.

44. Within a few weeks, Bosnian Serb authorities and forces had completed a series of forcible take-overs of municipalities. By 12 May 1992, when the Bosnian Serbs held the 16th session of the Serbian Assembly in Banja Luka, many municipalities had been taken over.⁶⁶

45. At the 12 May session, the Presidency of the Serbian Republic of Bosnia and Herzegovina (“Presidency”) was established and **KARADŽIĆ**, **PLAVŠIĆ** and **KOLJEVIĆ** were elected as its members. At the same session, the Decision on establishing the Serbian Republic of Bosnia and Herzegovina Army (VRS) was adopted and **KARADŽIĆ** nominated General **MLADIĆ**, a veteran of the Croatian campaign,⁶⁷ as the Commander of the Main Staff. **KARADŽIĆ** also enunciated the six strategic goals for the Serbian people.⁶⁸

46. The first strategic goal was separation from the other two national communities in BiH. As **KARADŽIĆ** explained, this was “separation from those who are our enemies and who have used every opportunity, especially in this century, to attack us, and who would continue with such practices if we were to stay together in the same state.”⁶⁹

47. The remaining goals were geographically orientated, defining the territory within which the first strategic goal was to be implemented.⁷⁰

48. Primary responsibility for implementing the strategic goals fell to the VRS and General **MLADIĆ**, who told the Assembly in the closed meeting that “the thing we are doing needs to be guarded as our deepest secret.”⁷¹ **MLADIĆ** and his commanders turned

⁶⁵ 65ter01016.

⁶⁶ Bijeljina(31March)65ter01019;Foča(8April)65ter01501;Zvornik(9April)65ter07647,65ter0040149,65ter00621;Višegrad(14 April)65ter00393,65ter08016;Bratunac(17April)KDZ297,*Krajišnik*,T.T.1037-8,1046-50,1196-7;Vogošća(18 April)65ter10767,p.1;Sanski Most (21 April)65ter04832;Bosanska Krupa (21 April)KDZ007,65ter08939,p.5;Vlasenica (21 April) 65ter00574; Ilidža (22April)65ter30700,65ter01513,p.2, Brčko(30April)65ter07113;Prijeđor(30April)65ter05776;NovoSarajevo(2May);Ilijaš(4May)KDZ019,65ter009217,paras31-32,38-39;Ključ (7 May)65ter00792;andHadžići (11 May)KDZ246,65ter7269,0058-4833, while in other municipalities the process had been more gradual but with the same result.

⁶⁷ 65ter07416,p.224.

⁶⁸ 65ter00026,pp.13-14.

⁶⁹ 65ter00026,p.13.

⁷⁰ See Appendix C (ethnic map).

⁷¹ 65ter00026,pp.38,47.*Also*Milojević,p.35.

the strategic goals into operational imperatives for the VRS,⁷² moving forward in the coming weeks and months to cement existing gains and move further toward “liberating territories which by birthright are ours.”⁷³

49. Seven fundamental directives for VRS military operations were issued from June 1992 to March 1995, commencing with MLADIĆ’s military formulation of the strategic goals on 6 June 1992 and culminating in **KARADŽIĆ**’s seventh directive for the attack on Srebrenica issued on 8 March 1995. By late July 1992, with the issuance of the second directive, MLADIĆ recorded that the VRS had achieved two of the most fundamental objectives, the establishment of “corridors” in the East and West which made possible “the centuries long aspiration” of the Serbian people to join with Serbia.⁷⁴

50. The campaign led by **KARADŽIĆ** and the BSL achieved much of its objective in a relatively short time. By July 1992, he and the BSL were already considering whether they had conquered enough territory to consider relinquishing some in final negotiations.⁷⁵

51. By late 1992, displaced Muslims in Eastern Bosnia had gathered in enclaves in Birač, Žepa and Goražde. On 19 November 1992, in Directive No. 4, MLADIĆ ordered the Drina Corps to “exhaust the enemy, inflict the heaviest possible losses on him and force him to leave the Birač, Žepa and Goražde areas together with the Muslim population.”⁷⁶ This order was implemented, and during the winter and early spring of 1993 the Muslim population was forced south toward Srebrenica.⁷⁷ In April 1993, the planned overrunning of Srebrenica⁷⁸ was thwarted when international forces intervened. **KARADŽIĆ** was forced to order that all operations against Srebrenica cease⁷⁹ and UNPROFOR established safe areas for the displaced Muslim population trapped in the enclaves.

52. Negotiations between the warring parties continued throughout the conflict under the auspices of the International Conference on the Former Yugoslavia and, from April

⁷² 65ter07760,p.159; 000368.

⁷³ 65ter07760,p.159.

⁷⁴ 65ter04205,p.1.

⁷⁵ 65ter00091,pp.68-69.

⁷⁶ 65ter01639,p.5(emphasis added).

⁷⁷ See, 65ter02365;65ter14333;65ter09219;65ter09364;65ter04315;65ter14316;65ter11220;65ter03639;65ter14313; 65ter14350;65ter08977;65ter08970;65ter14376;65ter14381;65ter09006;KDZ575;KDZ558;KDZ064.

⁷⁸ 65ter11220.

⁷⁹ 65ter11197.

1994, the Contact Group.⁸⁰ **KARADŽIĆ** and the Serbs participated in these negotiations with a view to solidifying their military gains and the *de facto* ethnic separation, and realising their vision of a sovereign Serb state on historically Serb territory.⁸¹ The proposals were repeatedly rejected by the BSL because they were deemed not sufficiently to meet these conditions.⁸²

53. Meanwhile, the VRS continued military actions in a manner that demonstrated the connection between the strategic objectives and military operations, including major operations in, *inter alia*, the following areas between 1993 and 1995: Goražde, Trnovo, Kladanj, Bihač, Orašje and the wider Sarajevo area.⁸³ Forces from the Serbian MUP and the RSK, including the Scorpions unit, participated in these military activities.⁸⁴

54. Operations such as “*LUKAVAC-93*” from 7 July to 15 August 1993, aimed at the “liberation of Trnovo, Jahorina, Bjelašnica and Igman”,⁸⁵ and “*ZVIJEZDA-94*” from 29 March - 25 April 1994, to “capture and take hold of, at any cost, the entire right bank of the Drina River”⁸⁶ in the wider area of Goražde, illustrate the effective functioning of the fused RS military-political leadership that was in place throughout the conflict.

E. Organs and individuals executing the objectives of the JCE and KARADŽIĆ’s role and contribution

55. **KARADŽIĆ** was the political, governmental, and military leader of the Bosnian Serbs from at least October 1991 to November 1995. He exercised ultimate authority over the Bosnian Serb political, governmental and military organs as well as key individuals involved in implementing the common criminal purpose.

56. **KARADŽIĆ** was President of the SDS party, President of the National Security Council, President of the Presidency, President of RS, and Supreme Commander of the

⁸⁰ KDZ470;KDZ551;KDZ328;KDZ585..

⁸¹ See, 65ter00031,p.8;65ter40174,pp.1-6;65ter06145,pp.130,157;65ter01234.

⁸² 65ter00047p.39;65ter00049p.18;65ter00091,p.76.

⁸³ 65ter11702,PartII,pp.192-201.

⁸⁴ KDZ493;KDZ514;KDZ521;KDZ106;65ter07440;65ter07444;65ter08220;65ter11361;65ter11362;65ter04673;65ter04674;65ter04676;65ter04677;65ter09205;65ter09274;65ter11364;65ter01927;65ter09354;65ter11365;65ter40093;65ter11017.

⁸⁵ 65ter14688;65ter14687;65ter05929;

65ter09271;65ter30875;65ter30878;65ter09171;65ter09035;65ter30838;65ter30882;65ter11282;65ter31691;65ter14685;65ter14684.

⁸⁶ 65ter07619;65ter14683;65ter14682;65ter14681;65ter08025;65ter08224;65ter07815;65ter07382;65ter010720;65ter14689;65ter14690;65ter07400;65ter06925;KDZ405;KDZ465;KDZ444.

armed forces. **KARADŽIĆ**'s authority was derived from both the *de jure* powers vested in him and the *de facto* relationships that existed between him and the most influential members of the organs and other members of the JCE addressed below.

57. Examples of his relationships with members of the JCE other than the Bosnian Serbs include **KARADŽIĆ**'s regular, sometimes daily contact with Slobodan MILOŠEVIĆ, who was viewed as the leader of the Serbian people in the former Yugoslavia,⁸⁷ as well as his contact with other Serbian leaders,⁸⁸ including ŠEŠELJ⁸⁹ and Jovica STANIŠIĆ, head of the Serbian DB.⁹⁰

58. The formal bodies through which **KARADŽIĆ** manifested his authority and exercised his power include the following:

1. SDS

59. **KARADŽIĆ** headed the SDS as President from its establishment in July 1990 to the end of the Indictment period. **KARADŽIĆ** led the SDS to great success in the national elections in November 1990, in which the SDS captured the second highest number of seats in Parliament. **KARADŽIĆ** ensured the creation of a party infrastructure which by late 1990 enabled him to reach the most remote local commune within two hours.⁹¹

60. The SDS, particularly in the pre-conflict and early stages of the conflict, implemented **KARADŽIĆ**'s vision for an ethnically-divided BiH. Under **KARADŽIĆ**'s leadership, the SDS initiated and implemented the regionalisation of BiH,⁹² arranged for Serbs to be armed,⁹³ established parallel structures to assert control in municipalities and monitored their progress, and conducted the initial phases of division and forcible removal of non-Serbs.

61. As President, **KARADŽIĆ** created SDS policies and strategies, selected the personnel to effect them⁹⁴ and enforced their implementation.⁹⁵ The SDS was a

⁸⁷ KDZ172;65ter30098;65ter00973.

⁸⁸ KDZ172;KDZ495.

⁸⁹ 65ter45100;65ter12081;65ter45101;65ter45105;65ter45113.

⁹⁰ 65ter30019;65ter30138;65ter30509;65ter30570.

⁹¹ 65ter00932.

⁹² 65ter05842;KDZ271;65ter00592,para.135;65ter10825;65ter30194(06/09/91,misdated20/12/91).

⁹³ 65ter01011;65ter00055,p.353;65ter07416,p.304;65ter07416,pp.374-375.

⁹⁴ 65ter00053,p.167;65ter00053,p.17.

hierarchical organisation and those within it were subordinate to the President.⁹⁶ The highest ranking SDS cadres and appointees, including members of the BiH Collective Presidency PLAVŠIĆ and KOLJEVIĆ, and high-ranking Ministerial officials such as Momčilo MANDIĆ, answered to **KARADŽIĆ**.⁹⁷ MANDIĆ, for example, referred to **KARADŽIĆ** as the “main boss.”⁹⁸ The exception was **KARADŽIĆ**’s old friend Momčilo KRAJIŠNIK, the Speaker of the Assembly and member of the five-person War or Expanded Presidency (hereinafter “War Presidency”) with whom **KARADŽIĆ** shared policy and organisational responsibilities and with whom he collaborated as an equal.⁹⁹

62. Beyond his significant statutory authority as party President, **KARADŽIĆ** was vested with the *de facto* authority of the leader of a self-described national “movement”¹⁰⁰ which asserted that it was raising Serbs from degradation,¹⁰¹ achieving the elevated respect and status that was their historical due¹⁰² and combating threats to the very existence of Serbs.¹⁰³

63. **KARADŽIĆ**’s power was reflected in a conversation between Vojo KUPREŠANIN, SDS Main Board member and President of the ARK Assembly, and JNA General Milutin KUKANJAC in April 1992 when KUPREŠANIN said:

Well, we must and now we are waiting for Karadžić to return from Europe and tell us what we are to do next. I personally think, General, that I won’t do anything until he returns, when he comes whatever he tells us we will do. He is for now the supreme commander and we have no other commander. The Federal Yugoslavia on the one side and the Serb people in the situation they are in, on the other. We have our commander, it is that man, we must obey him, you understand us, we understand you.¹⁰⁴

⁹⁵ KDZ271;65ter00592,para.23;65ter30543,p.2;65ter30048;65ter30055;65ter31676;65ter31843.

⁹⁶ KDZ131testimony,*Krajišnik*:T.14499;KDZ286testimony,*Krajišnik*:T.16599-16600;*see, also* AppendixE(charts and tables).

⁹⁷ 65ter30024;65ter31668;65ter31669;65ter30655;65ter30027;65ter30021;65ter30087;65ter30075;65ter31835;65ter31840;65ter30156;65ter30023;65ter30025;65ter30036;65ter31839;65ter31847;65ter31796;65ter30067;65ter31832;65ter30115;65ter31838;65ter31805;65ter30020;65ter31876;65ter31813;65ter30115;65ter30113;65ter30103;65ter30150;65ter30032;65ter31801;65ter30052;65ter30088.

⁹⁸ 65ter30857.

⁹⁹ KDZ527testimony,*Krajišnik*:T.11422;65ter32578;65ter32579;65ter31792;65ter30017;65ter31793;65ter30106;65ter30110;65ter31849;65ter30136;65ter30170;65ter30172.

¹⁰⁰ 65ter00055.

¹⁰¹ 65ter00005,p.36.

¹⁰² 65ter05587,p.40.

¹⁰³ 65ter00002,pp.35-36;65ter00019,p.16;65ter00025,pp.7-8,10,p.31,p.45.

¹⁰⁴ 65ter30722,p2(emphasis added).

64. **KARADŽIĆ** insisted on centralization and uniformity of approach.¹⁰⁵ He oversaw the activities of municipal and regional leaders and monitored what was happening on the ground at the regional¹⁰⁶ and local level.¹⁰⁷ **KARADŽIĆ** actively enforced party discipline.¹⁰⁸ Those who strayed found themselves marginalized or out of the party.¹⁰⁹ **KARADŽIĆ** was adamant that those who deviated from the party platform must relinquish their position.¹¹⁰ Those who did not follow party policy risked being branded as traitors.¹¹¹

65. Within two years of the SDS being formed, **KARADŽIĆ** had led the SDS through its evolution from a political party to an ethnically-Serb state structure in control of over 70% of territory in BiH.¹¹² In 1994, a deputy from the ARK summed up the prior four years thus: “[w]e have risen to create a Serbian state and we must persevere in this. Everything we have was created by SDS.”¹¹³

2. National Security Council (SNB)

66. The SNB was established by the Assembly on 27 March 1992¹¹⁴ with **KARADŽIĆ** as its President. Although initially intended as an advisory body, the SNB, in effect, immediately turned into an executive organ,¹¹⁵ resembling a central Bosnian Serb crisis staff and executing powers similar to those of the Presidency.¹¹⁶ Thus, as President of the SNB, **KARADŽIĆ** exercised authority over the Bosnian Serb state organs, that is, the Bosnian Serb forces and republican, regional and municipal authorities. The SNB, meeting in joint sessions with the Bosnian Serb Government,¹¹⁷ passed decisions on strategic and military issues such as ordering the activation of crisis staffs in certain conditions;¹¹⁸ appointing the Acting Commander of the TO;¹¹⁹ defending Serb

¹⁰⁵ 65ter31664.

¹⁰⁶ 65ter31667;65ter30243.

¹⁰⁷ 65ter30190;65ter07288,p.37.

¹⁰⁸ 65ter30543;65ter30392;65ter30363;see also 65ter00028,p.197-200; 65ter00017,pp.43-44.

¹⁰⁹ 65ter30225.

¹¹⁰ 65ter06608,p.34;65ter00017,p.71.

¹¹¹ 65ter00017,p.45.

¹¹² 65ter00028,p.37.

¹¹³ 65ter07828,p.177;65ter01215.

¹¹⁴ 65ter07532;see,alsoAppendixE(chart).

¹¹⁵ 65ter00021, pp.10-11,14-15.

¹¹⁶ KDZ271;65ter00592,para.258.

¹¹⁷ 65ter07510;65ter00148;65ter00149;65ter00150;65ter00151;65ter00152;65ter00154;65ter00156;65ter00157;65ter00158.

¹¹⁸ 65ter005878;65ter00150.

¹¹⁹ 65ter07510.

positions reached;¹²⁰ and ordering a full mobilisation.¹²¹ Moreover, the SNB took important political decisions such as the appointment of ministers¹²² and the adoption of legislation.¹²³

67. The SNB gave direct instructions to Ministries¹²⁴ and other republic-level bodies,¹²⁵ and asserted control over regional¹²⁶ and local authorities, including by deciding to appoint war presidencies in municipalities,¹²⁷ preparing instructions for the crisis staffs¹²⁸ and putting a **KARADŽIĆ** associate in charge of establishing authority in Sarajevo.¹²⁹ Moreover, the SNB took measures to ensure it was properly informed about the situation on the ground by the Ministries of Defence and Internal Affairs¹³⁰ and other government personnel,¹³¹ as well as by Crisis Staffs.¹³²

68. **KARADŽIĆ** had the central role in the SNB. As President of the SNB,¹³³ he was put in charge of coordinating command over the territorial defence forces and political operations,¹³⁴ creating a city TO staff;¹³⁵ addressing Europe about the situation in Bosnia;¹³⁶ and informing the Assembly about the political and war situation.¹³⁷

69. After the establishment of the Presidency and the election of **KARADŽIĆ** as its President on 12 May 1992, the Presidency effectively replaced the SNB. The last reported meeting of the SNB took place on 15 May 1992.¹³⁸

3. Presidency

70. The position of President of the Republic was the most powerful in the Bosnian Serb state. Most importantly, the President was the Supreme Commander of the Army.¹³⁹

¹²⁰ 65ter00150.

¹²¹ 65ter00152.

¹²² 65ter00150; 65ter00151.

¹²³ 65ter00149.

¹²⁴ 65ter00148;65ter00150;65ter00153.

¹²⁵ 65ter00149;65ter00150.

¹²⁶ 65ter00148;65ter00152.

¹²⁷ 65ter00150.

¹²⁸ 65ter00152.

¹²⁹ 65ter00152.

¹³⁰ 65ter00150.

¹³¹ 65ter00155.

¹³² 65ter00153.

¹³³ KDZ271;65ter00592,para.236;65ter05878.

¹³⁴ 65ter00150.

¹³⁵ 65ter00151.

¹³⁶ 65ter00148.

¹³⁷ 65ter00156.

The Commander of the Main Staff therefore commanded the Army only in conformity with the authority conferred on him by the President.¹⁴⁰ The President also had other significant powers over the armed forces.¹⁴¹

71. The President's powers further included: to represent the Republic, to nominate the President of the Government, to promulgate laws by decree, as well as to perform other duties in conformity with the Constitution.¹⁴² The President could confirm the existence of extraordinary conditions and impose measures for their removal.¹⁴³ During a state of war or imminent threat of war, the President could make enactments on issues within the competence of the Assembly.¹⁴⁴

72. During most of 1992, the RS did not in fact have a single President. Rather, several interim collective bodies performed the function of President until 17 December 1992. In the period preceding the commencement of take-overs and the conflict, the Assembly designated PLAVŠIĆ and KOLJEVIĆ as "acting Presidents," relying upon their positions in the collective presidency in the SRBiH. In the period between 27 March and 12 May 1992, the SNB performed the function of President in conjunction with the Acting Presidents. On 12 May 1992, at the first Assembly session held after the full-scale outbreak of hostilities, **KARADŽIĆ** became not only a member of the three-person collective Presidency (which was established at that session), but was elected its President. **KARADŽIĆ**, KOLJEVIĆ and PLAVŠIĆ formed the three-member Presidency until 2 June 1992, when Momčilo KRAJIŠNIK and Branko ĐERIĆ (the President of the Government) joined them in a War Presidency.¹⁴⁵ The expansion of the Presidency to five members had little impact on the actual power structure, as **KARADŽIĆ** and KRAJIŠNIK continued as the paramount decision-makers and controlling authorities in RS, as they had been during the earlier period.¹⁴⁶

¹³⁸ KDZ271;65ter00592,para.175.

¹³⁹ 65ter01013,Art.39; 65ter01051;65ter05965;65ter01050,Arts.1-3;65ter09429,Arts.1&2.

¹⁴⁰ 65ter01076,Art.175.

¹⁴¹ 65ter01013;65ter01002;65ter01076;65ter09426.

¹⁴² 65ter05815,Art.80.

¹⁴³ 65ter05815,Art.81.

¹⁴⁴ 65ter05815,Art.81.

¹⁴⁵ KDZ271;65ter00592,para.184;see,alsoAppendixE.

¹⁴⁶ KDZ525;KDZ527.

73. Of 37 sessions held between 12 May 1992 and 30 November 1992, **KARADŽIĆ** presided over all but four meetings.¹⁴⁷ The Presidency and later the War Presidency was the supreme authority over state organs including VRS¹⁴⁸ and MUP¹⁴⁹ and exercised control over municipal authorities.¹⁵⁰ **KARADŽIĆ** was the member of the Presidency explicitly assigned responsibility for the military.¹⁵¹ As President of the Presidency and later President, **KARADŽIĆ** received daily reports from the field, including reports from the MUP and the VRS.¹⁵²

74. Main Staff Commander MLADIĆ exercised his authority under the dictum and control of the Presidency.¹⁵³ As Main Staff member GVERO stated in August 1992:

Shortly, the basic elements are: there is the Supreme Command of the Army and that is the President of the Republic, as the Supreme Commander. In our situation, this will be the Presidency. All the elements of defense and the Army are subordinated to this institution. We, in the Army, are following this and are trying to fully observe it. There was no significant act that was passed without this in mind... Therefore, this chain of command follows this line: the Supreme Commander i.e. the President of the Republic - the General Staff in the Federal Army i.e. the Main Staff in our case.¹⁵⁴

75. As noted above, during a state of war or imminent threat of war, the President could make enactments on issues within the competence of the Assembly, subject to the obligation to submit these enactments to the Assembly for confirmation as soon as possible.¹⁵⁵ **KARADŽIĆ** and the Presidency made extensive use of this power, making enactments on numerous issues¹⁵⁶ including crucial laws¹⁵⁷ and important appointments.¹⁵⁸

¹⁴⁷ Karadžić was absent for those four meetings. *See*, 65ter00592, Annex 25 (p.186).

¹⁴⁸ KDZ106; KDZ313.

¹⁴⁹ KDZ527 testimony, *Krajišnik*: T.11427-11434; KDZ271; 65ter00592, paras. 267-279; 65ter30349; 65ter00147; 65ter00150; 65ter07215; 65ter00120; 65ter00122; 65ter00125; 65ter00132; 65ter00145; 65ter05852; 65ter05284.

¹⁵⁰ 65ter00149; 65ter00783; 65ter00152; 65ter00150; 65ter11205; 65ter05917; 65ter01569; 65ter01611; 65ter00125; 65ter11221.

¹⁵¹ 65ter00125; 65ter45063.

¹⁵² KDZ526 testimony, *Krajišnik*: T.26536-8.

¹⁵³ KDZ271; 65ter00592, paras. 242-50; KDZ106; KDZ313.

¹⁵⁴ 65ter05587, pp. 63-64.

¹⁵⁵ 65ter05815, Art. 81.

¹⁵⁶ 65ter05843; 65ter05896; 65ter05284.

¹⁵⁷ 65ter09426; 65ter01076; 65ter11223.

¹⁵⁸ 65ter00150; 65ter00025, p.2; 65ter00151.

When these enactments were subsequently submitted to the Assembly for approval, virtually all were confirmed without any substantive discussion.¹⁵⁹

76. On 17 December 1992, the War Presidency was replaced by **KARADŽIĆ** as the President of the RS,¹⁶⁰ with KOLJEVIĆ and PLAVŠIĆ as vice-Presidents. The position and powers of the President largely remained unchanged after the end of 1992, although a few changes further increased the President's power.¹⁶¹

4. Assembly

77. The Bosnian Serb Assembly was the first of the RS's formal organs. The decision to establish the Assembly was taken by the SDS Party Council on 15 October 1991¹⁶² and confirmed by the SDS Deputies' Club three days later.¹⁶³

78. Even before its inaugural session, **KARADŽIĆ** and the leadership planned that the Assembly would have a role in the acquisition of Serbian-claimed territories. As stated at the 18 October 1991 Deputies' Club meeting, the "SDS has been forced to make radical moves. One of the conclusions of the Serbian Assembly is the declaration of Serbian territory in BH."¹⁶⁴ As **KARADŽIĆ** told MILOŠEVIĆ on the date of the Assembly's inaugural meeting, 24 October 1991, "the Serbs are moving on" and would establish parallel organs of authority and "full authority over the Serbian territories in BiH."¹⁶⁵

79. The Bosnian Serb Assembly was a barely reconstituted version of the SDS club of members of parliament, *i.e.*, Deputies' Club.¹⁶⁶ Indeed, the founding session of the Bosnian Serb Assembly opened as a meeting of the SDS deputies' Club before the unanimous adoption of the decision on establishing the separate Assembly.¹⁶⁷

80. Although **KARADŽIĆ** was not formally a member of the Assembly, he attended and was a prominent speaker at virtually all Assembly sessions, at which he explained policy and issued instructions and direction. His authority as leader of the SDS was apparent in the Assembly. As a deputy once noted (in the context of an anticipated

¹⁵⁹ 65ter00025p.52;65ter00028p.96;65ter04214,pp.107-121.

¹⁶⁰ KDZ271;65ter00592,paras.265-266,citing 65ter06015;65ter05841;65ter11224.

¹⁶¹ 65ter11278;65ter06299.

¹⁶² 65ter06611.

¹⁶³ 65ter06079.

¹⁶⁴ 65ter06079,pp.2-3.

¹⁶⁵ 65ter30379,p.7.

¹⁶⁶ 65ter00109,pp.50-52.

regional assembly), “I know that Karadžić, as the President of the SDS, is truly the leading figure among the Serbian people. And five of his sentences are enough to change the entire course of the session.”¹⁶⁸

81. As essentially a party body, the Assembly “carried out its legislative powers in accordance with the policy charted by the SDS,”¹⁶⁹ and “of course Krajišnik and Karadžić were its proponents.”¹⁷⁰ This is reflected in the many conclusions, decisions and laws that were adopted unanimously and without discussion; at the first session, for example, not a single issue was discussed in any detail.¹⁷¹ As a deputy noted in 1994:

...in these two years, my memory has not yet registered a case when the whole assembly of esteemed people’s deputies has stood up against something that our political and state leadership strictly targeted as something that has to be respected.¹⁷²

82. Assembly sessions were normally preceded by a Deputies’ Club session, at which the Assembly agenda items¹⁷³ were prepared, discussed and common positions adopted.¹⁷⁴ **KARADŽIĆ** participated in the majority of Deputies’ Club meetings.¹⁷⁵

83. The Assembly was an important centralised forum for the promulgation of policy and instructions and their dissemination to the field. At the Assembly (or Deputies’ Club) **KARADŽIĆ** instructed the delegates about ethnic separation -- for example, that no one could live with Muslims,¹⁷⁶ that they would get instructions on taking control over municipalities,¹⁷⁷ that the Bosnian Serbs ultimate goal was unification with Serbia,¹⁷⁸ that certain areas needed to be clean,¹⁷⁹ and that Muslims would not be permitted to move back into Serb areas.¹⁸⁰

¹⁶⁷ 65ter00001,p.3.

¹⁶⁸ 65ter00017,p.65.

¹⁶⁹ KDZ527testimony,*Krajišnik*:T.11433.

¹⁷⁰ KDZ527testimony,*Krajišnik*:T.11433.

¹⁷¹ 65ter00003.

¹⁷² 65ter11276,p.25.

¹⁷³ 65ter11279,Arts.26,89.

¹⁷⁴ 65ter00017,p.72;65ter00028,p.54;65ter00025,p.58;*see, e.g.* 65ter00003.

¹⁷⁵ KDZ271;65ter00592,p.184.

¹⁷⁶ 65ter06608,p.36.

¹⁷⁷ 65ter00021,p.22.

¹⁷⁸ 65ter00020,pp.41-42.

¹⁷⁹ 65ter00091,p.68.

¹⁸⁰ 65ter00025,p.24;65ter00061,pp.126-127,132;65ter00091,p.29.

84. Deputies were expected to convey the information and instructions that they received to those in the municipalities¹⁸¹ and they did so.¹⁸² With deputies from 50 different municipalities,¹⁸³ the Assembly network was important for exchanging information between the republic and the municipal level, explaining policy and disseminating instructions. As **KARADŽIĆ** explained, each deputy was to “explain our strategic goals and to explain our tactics... At the same time, he will report to the Assembly here.”¹⁸⁴ By virtue of their position, **KARADŽIĆ** considered deputies the “supreme authority” in their municipalities.¹⁸⁵

85. Deputies also ensured that information from their municipalities reached the republican leadership. At Assembly sessions and Deputies’ Club meetings, deputies spoke in detail about issues in their municipalities, about which they were well-informed.¹⁸⁶ At the 16th Assembly on 12 May 1992, for example, deputies shared information about, among other things, (a) the need for “definitive clearing” of territory;¹⁸⁷ (b) the need for **KARADŽIĆ** and **KRAJIŠNIK** to promote the “conquests that are presently necessary”;¹⁸⁸ and (c) the fact that Muslims had been “evacuated” from the right bank of the Una and would not be allowed back in light of the Strategic Objectives.¹⁸⁹ At the 17th Session in July, information was shared about the following matters, among others: (a) that there was a huge problem with the thousands of “captured people of other nationalities;”¹⁹⁰ (b) that the Muslims were people “whose executioners we are to be;¹⁹¹ and (c) that **KARADŽIĆ**’s encouragement in Sarajevo had resulted in Serbs driving Muslims “out of the territories where they had actually been a majority.”¹⁹²

86. On 12 May 1992, the Assembly heard information about Brčko, Ilijaš, Derventa, Prnjavor, Bosanska Krupa, Banja Luka, Krajina, Herzegovina and other places.¹⁹³

¹⁸¹ 65ter00015,p.58.

¹⁸² 65ter05722,p.122-126;65ter07196,p.3.

¹⁸³ KDZ271;65ter00592,Appendices4&5.

¹⁸⁴ 65ter00015,p.58.

¹⁸⁵ 65ter01000,p.10.

¹⁸⁶ KDZ512testimony,*Krajišnik*:T.9112,9395-9396.

¹⁸⁷ 65ter00025,p.17.

¹⁸⁸ 65ter00025,p.17.

¹⁸⁹ 65ter00025,p.24.

¹⁹⁰ 65ter00028,p.32.

¹⁹¹ 65ter00028,p.41(emphasis added).

¹⁹² 65ter00028,p.66.

¹⁹³ 65ter00025,pp.16-17,19,20,24,28-30,48.

Similarly, on 24-26 July 1992, reports were given about Banja Luka, Krajina, Goražde, Ozren, Sarajevo, Semberija, Birač and Mostar.¹⁹⁴

87. The implementation of **KARADŽIĆ**'s policies was further assured by the obligation upon municipal assemblies to follow the republic level Assembly:¹⁹⁵ "This Assembly is the supreme power of the Serbian people ... this assembly has the power to cancel all decisions of any Assembly in BH ..." ¹⁹⁶ This was understood by deputies. As Kuprešanin said, "this Assembly... is our supreme authority because it can annul all our decisions..."¹⁹⁷ The Assembly, in turn, deferred to **KARADŽIĆ**'s leadership as can be seen by its response to SNB and Presidency decisions.¹⁹⁸

5. Council of Ministers

88. In late December 1991, the Assembly established the Council of Ministers. The Council, which served as a government-in-waiting, was comprised of the ranking Serb officials within various ministries of the joint BiH government and was in fact under the authority of **KARADŽIĆ** and KRAJIŠNIK. At its first meeting on 11 January 1992, after a discussion that included **KARADŽIĆ** and KRAJIŠNIK, the Council identified its initial priorities as including "the defining of ethnic territory," and "the establishment of government organs in the territory."¹⁹⁹

89. Almost immediately upon dissemination of Variant A/B, **KARADŽIĆ** tasked one of the Council's ministers, Jovan ČIZMOVIĆ, to travel to the field to ensure its implementation.²⁰⁰ ČIZMOVIĆ visited various municipalities and reported back to **KARADŽIĆ**.²⁰¹ At the 6th Assembly on 26 January 1992, ČIZMOVIĆ called for "an urgent operationalisation...Tasks set out in the Instructions of 19 December 1991 should be carried out."²⁰² On 14 February 1992, **KARADŽIĆ** activated the second level of

¹⁹⁴ 65ter00028, pp.30-31,46-47,60,66-67,71-74,83-84.

¹⁹⁵ KDZ131 testimony, *Krajišnik*:T.14812. See, also, 65ter00007, p.29.

¹⁹⁶ 65ter00017, p.45.

¹⁹⁷ 65ter00017, p.61.

¹⁹⁸ 65ter00025, p.58; 65ter00028, pp.86-96.

¹⁹⁹ 65ter00217, p.2; see, Appendix E (table).

²⁰⁰ 65ter30491.

²⁰¹ 65ter030564.

²⁰² 65ter00013, p.14.

Variant A/B and again ČIZMOVIĆ was tasked with touring the municipalities to “establish how elements of the authorities really work.”²⁰³

90. Meanwhile, **KARADŽIĆ**’s two key police officials – Momčilo MANDIĆ and Mićo STANIŠIĆ – moved forward to implement the Council’s determination that Serbian power “must be felt” in all the Serbian territories of BiH.²⁰⁴ Following a meeting of MUP cadres in Banja Luka, MANDIĆ immediately undertook practical steps to form the RS MUP.²⁰⁵ On 18 March 1992, in the Assembly, **KARADŽIĆ** expressed his satisfaction with the state of preparations for take-over of power,²⁰⁶ and on 24 March, he was able to assure deputies that, as take-overs were imminent, the numbers of the police “are quite sufficient.”²⁰⁷

91. As the transformation from party to state neared completion, the Assembly relieved the Council of Ministers of its duties²⁰⁸ and elected Branko ĐERIĆ as the candidate for the position of President of the Government.²⁰⁹ ĐERIĆ, who had been appointed to draft a work plan for the Council of Ministers,²¹⁰ reassured the deputies: “There is no reason to think that we are running late in assuming power because a lot has been accomplished to date. Please do not take things in your own hands. You will receive your instructions and you will proceed as instructed.”²¹¹

6. Government

92. The Government, like the Council of Ministers before it, was subject to the authority of **KARADŽIĆ** and KRAJIŠNIK and was a further mechanism for implementing their policies of ethnic separation. As President of the Government ĐERIĆ observed, “Karadžić considered himself to be the government...”²¹² **KARADŽIĆ** himself echoed this observation, noting to the Assembly in 1993, “...the Government is mine. I am responsible for its functioning. I appoint and propose the Government mandator. I have a

²⁰³ 65ter00015,0100-5096.

²⁰⁴ 65ter05413.

²⁰⁵ 65ter10724.

²⁰⁶ 65ter00020,p.44.

²⁰⁷ 65ter00021,p.22.

²⁰⁸ 65ter00022,pp.3-4.

²⁰⁹ 65ter00021,pp. 24-26.

²¹⁰ 65ter00217,p.3.

²¹¹ 65ter00022,p.9.

²¹² KDZ525testimony,*Krajišnik*:T.27080.

brilliant relationship with [then President of the Government, *i.e.*, Prime Minister] Vlado LUKIĆ; we are often together; he often comes to my cabinet.”²¹³

93. Although the Constitution provided that the President of the Government-designate was to propose ministers to the Assembly for approval,²¹⁴ ĐERIĆ was told by **KARADŽIĆ** whom to appoint, and his role was limited to formally nominating them.²¹⁵ Mičo STANIŠIĆ and Momčilo MANDIĆ, the two most powerful Government ministers – and those most involved in the detention of Muslim and Croat civilians – reported to and took orders from **KARADŽIĆ** and KRAJIŠNIK.²¹⁶ Indeed, ĐERIĆ complained contemporaneously about the fact that **KARADŽIĆ** and KRAJIŠNIK had authority over them and he did not.²¹⁷

94. During April 1992, **KARADŽIĆ** presided over joint sessions of the SNB and the Government at which fundamental issues were discussed and decisions reached. On 24 April 1992, **KARADŽIĆ** and the SNB decided that the Ministry of Interior led by STANIŠIĆ and the Ministry of Justice led by MANDIĆ would be responsible for prisoners.²¹⁸ On 8 May 1992, the Government established a Central Exchange Commission with a network of regional and municipal exchange bodies.²¹⁹ The Exchange Commission, operating under the jurisdiction of the Ministry of Justice²²⁰ was set up with non-Serb civilians in mind²²¹ and operated as a vehicle for their removal from Serb-claimed territories.

95. Within days of its establishment, the Exchange Commission became active. In early May, Serb authorities ordered the detention for exchange of approximately 600 Bratunac Muslim civilians.²²² They were first held in brutal conditions²²³ and those who survived were transported out of the RS, through its capital Pale, in an operation that

²¹³ 65ter00055,p.255. *See, also*, 65ter00070, pp.84-85.

²¹⁴ 65ter05815, Art.93.

²¹⁵ KDZ525testimony, *Krajišnik*:T.27062-64; *see* Appendix E (table).

²¹⁶ KDZ512testimony, *Krajišnik*:T.8885; 65ter30840.

²¹⁷ KDZ525testimony, *Krajišnik*, T.27066-28068; 27100-27106; 65ter00035, p.12.

²¹⁸ 65ter00151, p.2; 65ter30852; 65ter30860.

²¹⁹ 65ter11225; KDZ512testimony, *Krajišnik*:T.8746, 8754, 8770; 65ter00172, pp.1-2; 65ter00181, p.5; 65ter11024.

²²⁰ 65ter09437, para. 19.

²²¹ 65ter11024, p.1; KDZ512testimony, *Krajišnik*:T.8750, 8736-8737.

²²² KDZ297testimony, *Krajišnik*:T.1083; KDZ179testimony, *Krajišnik*:T.2365-2447, 2454-2487.

²²³ 65ter40115; 65ter00617, paras.67-91; KDZ179testimony, *Krajišnik*:T.2365-2447; 2454-2487.

involved the Exchange Commission, various crisis staff leaders and leading members of the Government.²²⁴

96. On 17 May 1992, the Bratunac victims were shown on Bosnian television, displaying severe injuries and describing their ordeal.²²⁵ In the following weeks, the Government discussed what they referred to as “the prisoner exchange problem”²²⁶ stating that the issue was “complex and delicate” and acknowledging that the problem had an international dimension and could cause “a number of negative consequences for the whole Republic.”²²⁷

97. **KARADŽIĆ** and **KRAJIŠNIK** were kept apprised of the work of the Exchange Commission. Apart from Presidency inquiries into the work of the Commission,²²⁸ **MANDIĆ** matter-of-factly discussed exchanges with them. On 1 July 1992, **MANDIĆ** spoke to **KARADŽIĆ** about exchanging 300 Muslims and advised **KARADŽIĆ** that all the Croats in the Kula prison had already been exchanged.²²⁹ On 26 June 1992, during a discussion about detainees, **MANDIĆ** informed **KRAJIŠNIK** that a Serb who had remained with the Bosnian authorities had asserted that the Exchange Commission was engaged in “ethnic cleansing.”²³⁰ **KRAJIŠNIK**’s response was to label that person a “traitor.”²³¹

7. Crisis Staffs/War Presidencies/War Commissions

98. The Crisis Staffs were the primary political and governmental organs utilised by the BSL at the regional and municipal level to take over power in claimed municipalities and effect the forcible removal of Muslims and Croats from the territory. **KARADŽIĆ** ensured Crisis Staffs were formed in each of the claimed municipalities and that they were activated and subordinated to republican organs by the commencement of the conflict. In early June 1992, **KARADŽIĆ** further formalised and centralised the governance of the Serbian municipalities by transforming Crisis Staffs into War Presidencies and War Commissions.

²²⁴ KDZ297testimony, *Krajišnik*:T.1101-1105;65ter01533;65ter00617,para.98;

65ter01527;65ter01529;KDZ525testimony, *Krajišnik*:T.27137;KDZ254testimony, *Krajišnik*:T.15393-15396.

²²⁵ 65ter40115.

²²⁶ 65ter00172;65ter00176.

²²⁷ 65ter00176;65ter30829.

²²⁸ 65ter00172;65ter00173;65ter00176.

²²⁹ 65ter30849,p.3.

²³⁰ 65ter04247;65ter30847,p.3;KDZ512, *Krajišnik*:T.8870-8871.

²³¹ 65ter30847,p.3.

99. As discussed earlier, **KARADŽIĆ** initiated and oversaw the establishment of Crisis Staffs via Variant A/B. As he noted at a gathering of republican, regional and municipal level SDS and Bosnian Serb government officials on 14 February 1992 when activating the second level: “we called you today, to intensify, to introduce the ‘second level’ and to intensify the functioning of the government at any cost and on every single millimetre of our territory.”²³²

100. When introducing the second level of activation, **KARADŽIĆ** referred to the progressive actions that had been taken since the Muslims and Croats had tabled the proposal on independence at the joint Assembly on 15 October 1991. He stated that the Bosnian Serbs were headed where they “want to go” and they were now in the position to deliver an ultimatum to the Muslims and Croats, telling them “You are not going to live with us, you can live only next to us.”²³³

101. By late March 1992, the Bosnian Serbs were ready to assume control over the territory they claimed. On 24 March 1992, **KARADŽIĆ** announced that “very soon, we can form what we want [...]” and the Serbian municipalities will “assume control over the entire territory of the municipality concerned.”²³⁴

102. Within a week of this pronouncement, on the evening of 31 March 1992, the Serbian Volunteer Guards (aka Arkan’s men) and local territorial defence forces attacked Bijeljina, killing at least 48 Muslim civilians²³⁵ and taking over the town. Following assumption of control by the Serbian and Bosnian Serb forces the Bijeljina Municipal Crisis Staff was installed as the governmental organ in the area.²³⁶

103. By 26 April 1992, the Crisis Staffs were recognised by the Government as formal bodies of the Bosnian Serb state that in conditions of war “take over all the prerogatives and functions of municipal assemblies when they are not able to convene.”²³⁷

104. After Bijeljina, many other municipalities were taken over in the ensuing weeks and months. Following the take-overs, the Crisis Staffs co-ordinated and controlled events

²³² 65ter01000,p.24.

²³³ 65ter01000,p.26.

²³⁴ 65ter00021,p.22.

²³⁵ Schedule A,incident 1.1.

²³⁶ 65ter01023;65ter40144;65ter01019.

²³⁷ 65ter00783.

taking place on the ground.²³⁸ At the 46th Assembly Session in November 1994, **KARADŽIĆ** referred to the control exercised by the Crisis Staffs in the municipalities stating:

Please, remember how we used to work before the war. . . . Everything was as clear as day in the municipalities where we were majority and in those where we were minority. Do you remember the Instruction A and instruction B? We had Crisis Staffs, and it was clear that they were the authority. They could make mistakes but they still were the authority. The people were not left without the authority because there was a Crisis Staff.²³⁹

105. Immediately following the assumption of control in municipalities, Crisis Staffs implemented persecutory measures against the Muslim and Croat populations that furthered the common criminal purpose, including the following:

- oversaw the large-scale removal of non-Serbs from the municipalities by Bosnian Serb Territorial Defence, police and Army units.²⁴⁰ Crisis staffs requested the Army to “round-up or capture as many Muslim civilians as possible”²⁴¹ and directed the moving out of civilians;²⁴²
- organised convoys to facilitate expulsions, arranging buses and police escorts;²⁴³
- established, controlled, supported and had access to, detention facilities;²⁴⁴
- ordered arrests of individuals and categories of non-Serbs including civilians,²⁴⁵ such as “all people of Croatian nationality”²⁴⁶ or “all military-capable Muslims who could possibly harm the Serbs”;²⁴⁷

²³⁸ KDZ453testimony, *Krajišnik*, T.9733-9734; 65ter11226, paras.35-36,45; 65ter07515, pp.10,13.

²³⁹ 65ter00079, pp.347-348; *see, also*, 65ter00085, p.316.

²⁴⁰ 65ter11226, para.62-63; KDZ410testimony, *Krajišnik*, T.14315-14316; 65ter01576; 65ter01579; 65ter01582; 65ter11127; 65ter11228; 65ter11229; 65ter11230; 65ter11231; 65ter11232; 65ter11233; 65ter11234; 65ter11235.

²⁴¹ 65ter09819.

²⁴² 65ter00351; 65ter00714; 65ter04220.

²⁴³ 65ter11226, para.63n.132; 65ter04870, pp.9,10; 65ter00264; 65ter08539; 65ter01097; 65ter00351; 65ter05769

²⁴⁴ 65ter11126, para.59n.112; 65ter11242; 65ter01574; 65ter00853; 65ter00304; 65ter05751; 65ter04870, pp.2,7; 65ter01097; 65ter01509; 65ter01585; 65ter01526.

²⁴⁵ 65ter01587, p.3; 65ter04870, p.6.

²⁴⁶ 65ter11237.

²⁴⁷ 65ter01103.

- authorized the transfer of prisoners in and out of detention centres;²⁴⁸ in Sanski Most, for example, those to be sent to Manjača included “people unwelcome in the municipality”;²⁴⁹
- ordered or forbade the release of individuals or categories of prisoners from camps and prisons;²⁵⁰ the Prijedor Crisis Staff, for example, forbade the release of individuals from Trnopolje, Keraterm and Omarska²⁵¹ but ordered the release of “all Serbs who have been imprisoned by mistake”;²⁵²
- implemented the criteria regarding the moving out of the Muslim population, including the provision of statements declaring that they were voluntarily and/or permanently leaving and the assignment of their property rights to the authorities;²⁵³ the Crisis Staffs systematically collected and redistributed non-Serbs’ property,²⁵⁴ declaring that “abandoned” property now belonged to the municipality²⁵⁵ and restricting the amount of money or goods that could be taken out of the municipality by those leaving;²⁵⁶
- ordered the dismissal of non-Serbs from municipal positions and from certain firms or positions;²⁵⁷
- co-operated and co-ordinated with the armed forces seizing territory;²⁵⁸
- restricted the freedom of movement of non-Serbs;²⁵⁹

²⁴⁸ 65ter11226,para.59,n.115;65ter04870;65ter11243;65ter08539.

²⁴⁹ 65ter04200.

²⁵⁰ 65ter11226,para.59,n.117;65ter05103;65ter05096;65ter01544;65ter06929.

²⁵¹ 65ter05750.

²⁵² 65ter05752.

²⁵³ 65ter00184;65ter11226,para.63n.128-130;65ter11244;65ter05115;KDZ490;65ter00859;65ter01114;65ter01161;65ter11245;65ter00351;65ter00858;KDZ286;65ter01399;65ter00864;65ter11247;65ter11248;65ter11249;65ter11250;KDZ258testimony,*Krajišnik*,T.4766;65ter00342;KDZ073testimony,*Krajišnik*,T.7415;65ter01114;65ter00853;65ter04203;65ter00344;65ter01097;65ter05121;65ter11256;65ter05592,p.7;65ter06732,p.4.

²⁵⁴ 65ter11226,para.64n.134;65ter05844;65ter11257;65ter11290;65ter01114;65ter01577;65ter00902;65ter05113;65ter11258;65ter01545.

²⁵⁵ 65ter11226,para.64,n.136;65ter05770;65ter11259;65ter11245;65ter11259

²⁵⁶ 65ter11226,para.63,n.131,137;65ter08083;65ter00264;65ter00246

²⁵⁷ 65ter11226,para61n.122;65ter00849;65ter11291;65ter11261;65ter11262;65ter11263;65ter11264;65ter00855,p.5;65ter05756;65ter05757;65ter05119;65ter11265,p.6;65ter01534;65ter02551;65ter10830;65ter01095;KDZ258testimony,*Krajišnik*,T.4738,4756,4765-4766;65ter00829;KDZ183,65ter07996,p.7;KDZ490;65ter05024.

²⁵⁸ 65ter11226,paras.36,39.

²⁵⁹ 65ter11226,para.61n.123;65ter11266;65ter01535;65ter01532;65ter00800;65ter11267;65ter11268;

- ordered the establishment of the local judicial system, setting up courts, appointing judges and dismissing non-Serbs from court positions;²⁶⁰
- disarmed the Muslim and Croat population and in this context subjected non-Serbs to arbitrary searches;²⁶¹
- prevented the return of Muslims and Croats who had left the territory;²⁶²
- broadcast propaganda against the Muslim and Croat populations;²⁶³ and
- took actions to cut access of non-Serbs to public services.²⁶⁴

106. The Crisis Staffs received orders from,²⁶⁵ reported to,²⁶⁶ and implemented the policies²⁶⁷ of the republic-level organs.²⁶⁸

107. In late May 1992, **KARADŽIĆ** proposed that the Crisis Staffs be reconstituted as War Presidencies,²⁶⁹ and in early June 1992 a decision was taken to form War Commissions,²⁷⁰ a decision which provided for conveying directives from the Republic War Presidency to the field and information back to the War Presidency.²⁷¹ In many instances the new bodies were essentially the same people²⁷² exercising governmental functions at the municipal level.

65ter08246;65ter01539;KDZ073testimony,*Krajišnik*,T.7136-7137;65ter00278;KDZ490.

²⁶⁰ 65ter11226,para.61n.124;65ter06693;65ter00855;65ter08330;65ter07102;65ter07869;65ter08455;65ter07544;65ter05045;65ter05124;65ter11269;65ter02562;65ter05520;65ter05583;65ter11270

²⁶¹ 65ter00791.

²⁶² 65ter11226,para.65n.138;05844;65ter06692;65ter10824;65ter08071;65ter00333;65ter00310;65ter00853,p.3;65ter01662.

²⁶³ 65ter11226,para.66,n.142;65ter08476;65ter11271;65ter05096;65ter11291.

²⁶⁴ 65ter11226,para.61,n.120;65ter01081;65ter01511.

²⁶⁵ 65ter07062;65ter01529;KDZ453testimony,*Krajišnik*,T.9737,9957;65ter11226,paras.20,41;65ter11272,pp.19-20.

²⁶⁶ 65ter45314,p.4;65ter11126,paras.20,43;65ter30651;65ter30705;KDZ453testimony,*Krajišnik*,T.9677-9688,9754-9757,9761-9769,9773-9777;65ter01110;65ter00153,items9,10;65ter00170,item6;65ter05416,p.45;65ter01101;65ter00021;65ter07532,pp.20-21;65ter01019;65ter00020,pp38-39;65ter00021,pp.17,20-22;65ter07532,pp.20-21;65ter00024,pp.16-20,24-48;65ter00028,pp.66,71.

²⁶⁷ 65ter11226,paras.24-25,41-42;KDZtestimony,*Krajišnik*,T.9742-9743,9772,9735-9740,9742-9743,9749-9751,9772,9827,9827;65ter05844;65ter00398,p.4-5;65ter01577,p.1;65ter01531,pp.2,3.

²⁶⁸ 65ter11226,paras.41-43;65ter00149;65ter00150;65ter00152;65ter00153.

²⁶⁹ 65ter11226,paras.27-31;KDZ453testimony,*Krajišnik*,T.9702-9704;65ter11204;65ter01077.

²⁷⁰ KDZ197testimony,*Krajišnik*,T.10574-10578,10678-10684,10697-10700,10772-10778.

²⁷¹ 65ter05917,articles2,4.

²⁷² KDZ453testimony,*Krajišnik*,T.9699-9700,9723,9728-9729;65ter11226,paras.27,34.

108. In many municipalities, the Municipal Assembly began operating in the late summer or early autumn of 1992 and the Crisis Staffs, War Presidencies, or War Commissions disbanded. In late 1994²⁷³ and again in the summer of 1995,²⁷⁴ **KARADŽIĆ** ordered the formation of War Presidencies. In the Assembly in November 1994, **KARADŽIĆ** explained the role of the War Presidencies as the municipal authorities in the Bosnian Serb state and directly compared them to the SDS Crisis Staffs of 1991-1992.²⁷⁵

8. MUP

109. From the outset of the conflict, the MUP played a significant role in establishing and maintaining Bosnian Serb authority over the territory and in implementing the common criminal purpose.²⁷⁶ Following the take-overs, the MUP took a lead role in disarming, arresting, rounding up, detaining, beating, killing, and expelling Muslims and Croats.²⁷⁷

110. For months prior to its division, **KARADŽIĆ** contemplated the division of the MUP as an essential component of the “division of BiH”²⁷⁸ and the realization of the final goal “to break off with Muslims and Croats forever.”²⁷⁹

111. The future Minister of the Interior, Mićo STANIŠIĆ, was appointed to the Council of Ministers in late December 1991. At the first meeting of the Council of Ministers, it was concluded that the “establishment of government organs in the territory” was a priority.²⁸⁰ On 11 February 1992, STANIŠIĆ informed a meeting of high level Serb MUP cadres that the Council had decided that a Bosnian Serb MUP was to be formed.²⁸¹ Momčilo MANDIĆ, an Assistant Minister in the BiH MUP and the future Bosnian Serb

²⁷³ 65ter11328.

²⁷⁴ 65ter01693.

²⁷⁵ 65ter00079,p.347.

²⁷⁶ Minister of Internal Affairs Stanišić took credit on behalf of the police for “set[ting] up most of the borders as they are today.” 65ter10838,p.3; *see, also*, 65ter05682,p.2: “Internal Affairs employees had an important role in organization, provision of arms, and later, in direct armed conflicts, and, particularly in the early months, they were the only organized and armed formation which, in co-operation with honourable JNA members and armed citizens, put up resistance to the Islamic fundamentalists and the Ustašas.”

²⁷⁷ 65ter05682,p.8;65ter09243;KDZ158testimony,*Krajišnik*T.13949,14089-14091;65ter11147,paras.191,198,200,285-329..

²⁷⁸ 65ter30088;65ter30216.

²⁷⁹ 65ter06078,p.2;65ter30208,p.2.

²⁸⁰ 65ter00217;65ter00021,pp.21-22;65ter30208;65ter30236;65ter06606;65ter30593;65ter11147, paras.24,34-55.

²⁸¹ 65ter06590;KDZ512testimony,*Krajišnik*,T.8647-49;8700;9314-15;9337;9448-49.

Minister of Justice, was responsible for implementing the decision,²⁸² and he took immediate steps toward its implementation.²⁸³

112. On 28 February 1992, the Assembly passed the Law on Internal Affairs establishing a separate Bosnian Serb MUP. The law was scheduled to come into effect on 31 March 1992.²⁸⁴ On this day MANDIĆ sent a dispatch to all CSBs and SJBs in BiH²⁸⁵ declaring that from 1 April 1992, BiH SJB stations would cease to function and would be taken over by Bosnian Serb SJBs.

113. When a high level Serb member of the BiH MUP resisted the division of the MUP, he was summoned to a meeting with **KARADŽIĆ**, **KRAJIŠNIK**, **STANIŠIĆ**, **MANDIĆ** and others, and attacked for failing to support the division of the MUP; he tendered his resignation.²⁸⁶ The division of the MUP proceeded and on 5 May 1992 MANDIĆ boasted in a telephone conversation that by sending the dispatch he had “fucked the MUP to pieces.”²⁸⁷

114. **STANIŠIĆ** and **MANDIĆ**,²⁸⁸ who reported directly to **KARADŽIĆ** and **KRAJIŠNIK** as explained above,²⁸⁹ played a critical role in the organised detention and expulsion of Muslims and Croats.²⁹⁰ The MUP was responsible for arrests and interrogation and the Ministry of Justice, under **MANDIĆ**, was responsible for “exchange,” which was employed to expel Muslims and Croats from the territory.²⁹¹

115. On 17 July 1992, **STANIŠIĆ** sought clarification from **KARADŽIĆ** as to whether the MUP or the Ministry of Justice had jurisdiction over civilians who had been rounded up and detained.²⁹² An order of 6 June 1992 from the President of the Exchange

²⁸² 65ter06590;65ter00217;KDZ512testimony,*Krajišnik*,T.8617-18;8646-47;9321;9337.

²⁸³ KDZ512testimony,T.8651;8654-55;Nielsen Report *Krajišnik* §341;65ter10833; 65ter01700,p.2; 65ter00654,p.20-2;65ter05587,p.41;also see 65ter10724.

²⁸⁴ 65ter01016; 65ter00929; 65ter10834,p.3.

²⁸⁵ 65ter01016.

²⁸⁶ KDZ552;KDZ227;65ter10836; KDZ512testimony,*Krajišnik*,T.9404,9434-9435,9447;65ter10837;65ter30659.

²⁸⁷ 65ter30734,p.25.

²⁸⁸ During April 1992, Mandić was Deputy Minister of the Interior, and from May 1992 he was Minister of Justice.

²⁸⁹ 65ter00035,p.12;see,also,65ter00929;65ter01013;65ter11273;KDZ527testimony,*Krajišnik*,T.11453-11455;65ter30051;65ter30052;65ter30110;65ter30190;65ter30341;65ter30392;65ter30685; 65ter30809;65ter30845;65ter30676;65ter30855.

²⁹⁰ 65ter00151,p.2 .

²⁹¹ 65ter04247;65ter11274;65ter30847;65ter00738;65ter30843.

²⁹² 65ter01587.

Commission similarly addressed the issue of detention of civilians by the MUP and exchange of these persons as a matter for regulation instead of treating it as a crime.²⁹³

116. **KARADŽIĆ**'s *de jure* powers were consistent with his substantial *de facto* authority over the MUP. The Law on National Defence (and later the Law on Defence) prescribed that as President he had the authority to "issue orders for utilization of the police in case of war, immediate peril, or other emergencies."²⁹⁴ In an interview in October 1992, STANIŠIĆ confirmed the hierarchical functioning of the MUP, stating that the MUP functioned as a "single centralised organ" and that it had "never happened" that anyone ignored his orders.²⁹⁵

117. The MUP was a key component of the Bosnian Serb military forces. During combat operations, the units were subordinate to the "command of the armed forces," although the units of the Ministry were "directly commanded by the respective employees of the Ministry."²⁹⁶ The MUP was thus an important component in implementing **KARADŽIĆ**'s policies. As STANIŠIĆ assured the Assembly in November 1992, "... I as a man have followed policies of the SDS Presidency, and our Deputies in the former state, I have always followed these policies."²⁹⁷

9. VRS

118. The VRS was based on the existing structures of the JNA in BiH. Existing JNA units, as well as TO units in BiH,²⁹⁸ were renamed and transformed into commands and units of the VRS.²⁹⁹ The transformation of JNA personnel and equipment into an army for the Bosnian Serbs had been orchestrated with MILOŠEVIĆ and top JNA officials who ensured that the Bosnian Serb army continued to receive significant support from Serbia even after the transition.³⁰⁰ When the JNA pulled out of BiH on 19 May 1992, it left the Bosnian Serbs with a nearly complete army supplied with equipment from the former JNA 2nd Military District.³⁰¹

²⁹³ 65ter11024.

²⁹⁴ 65ter01013,Article6;65ter02543;65ter02543.

²⁹⁵ 65ter10838,p.2;KDZ158testimony,Krajišnik,T.13913-13920.

²⁹⁶ 65ter11147,para.216.

²⁹⁷ 65ter00035,p.15.

²⁹⁸ 65ter07532,p.23.

²⁹⁹ 65ter11117pp.32-33,68-75.

³⁰⁰ KDZ106,65ter01852;KDZ495.

³⁰¹ 65ter08128,p.4;65ter01803,pp.2-3;65ter01281.

119. The VRS implemented the policies and goals of **KARADŽIĆ** and the BSL in furtherance of the common criminal purpose. As **MLADIĆ** stated in 1993, “First, people and the army, with the help from the rest of us according to our possibilities, have carried out the most of tasks, and strategic goals, set to them. We have created Republika Srpska.”³⁰² The VRS was, according to a report signed by **KARADŽIĆ**, “the highest strategic organisational formation of the Serbian people in the former Bosnia and Herzegovina capable of realising the strategic and other tasks assigned to it by the Supreme Command.”³⁰³ In pursuing the strategic goals, the VRS worked closely with the MUP,³⁰⁴ as well as local paramilitary formations many of which were eventually integrated into the VRS command structure. The VRS also cooperated with Serbian MUP special forces, RSK military and police units, as well as paramilitary formations from Serbia and RSK active in BiH throughout the conflict, and received volunteers from outside BiH into their units.³⁰⁵

120. The VRS was subordinated in law³⁰⁶ and in practice to **KARADŽIĆ** who was, through the Presidency and as RS President, the Supreme Commander.³⁰⁷ As **KARADŽIĆ** emphasised in the April 1993 Army Report:

Th[e] relationship between the command structures and the organs of government and the Supreme Command made it impossible for the Main Staff to make decisions absolutely on its own, rather every operational battle was politically endorsed on the basis of the interests of the Serb people and approved by the highest authorities of Republika Srpska.³⁰⁸

121. On **KARADŽIĆ**'s recommendation,³⁰⁹ **MLADIĆ** was appointed Commander of the Main Staff of the VRS, the highest ranking military official in the RS on 12 May 1992.³¹⁰ **MLADIĆ** remained in command of the VRS and its military operations until the end of the conflict.³¹¹ Throughout this period, **MLADIĆ** answered to **KARADŽIĆ** who

³⁰² 65ter00055,p.66.

³⁰³ 65ter07515,p.7.

³⁰⁴ 65ter11117,pp.75-81;65ter01852.

³⁰⁵ 65ter11117,pp.81-87;65ter01852;KDZ493.

³⁰⁶ 65ter05284.

³⁰⁷ 65ter05314;65ter01076;65ter05587,pp.63-64;65ter07515,p.153.

³⁰⁸ 65ter07515,p.153(emphasis added).

³⁰⁹ 65ter00085,p.317.

³¹⁰ 65ter00024,p.2.

³¹¹ 65ter11191,p.1.

remained in ultimate control, a reality supported by evidence from witnesses and statements from **KARADŽIĆ** himself.³¹²

122. All operations undertaken by the VRS were guided by the strategic objectives enunciated by **KARADŽIĆ** on 12 May 1992, as reflected by the Army Report:

The strategic objectives of our war which were promptly defined and set before the Main Staff of the army of RS, the Commands and units, served as a general guideline upon which we planned actual operations and concerted battles...

The Main Staff of the Army of RS translated the set objectives and tasks into general and individual missions of the Army of RS and of the individual operational and tactical formations with the goals of every individual combat action, operation or battle being specifically defined.³¹³

123. **KARADŽIĆ** and the military leadership exercised actual command through written and oral orders, commands and directives. Directives were the main documents used to regulate the utilisation of forces.³¹⁴ As **KARADŽIĆ** told the Assembly in 1995, he had examined and approved the first seven Directives.³¹⁵ Specific missions were assigned to the Corps, usually divided into stages with specific durations and set objectives. The Corps would then disseminate specific assignments to subordinate units which would then issue orders related to specific assignments. Directive No.4, issued by **MLADIĆ** to *inter alia* the Drina Corps Command, is illustrative of this point.³¹⁶ Based on the Directive, the Drina Corps commander issued orders to his brigade commanders in similar terms.³¹⁷

124. **KARADŽIĆ**, the Main Staff and the civilian leadership were provided with accurate and timely information about events on the ground. Directive No.6, for example, orders the VRS to provide regular reports by 1900 hours daily, to report on readiness for

³¹²KDZ465,ICTY witness statement,ERN:R065-8766-R065-8802,paras.133-136;KDZ470testimony,*Krajišnik*,T.4192-4193; KDZ504;KDZ444;KDZ384,65ter10003,p.4;KDZ487,*SMilošević*,T.26950;KDZ436,65ter11181,p.4; 65ter45092;*see, also*,65ter40183;65ter45074;65ter45085; 65ter45172;65ter45155;65ter00026,p.45;65ter05587,pp.63-64,65ter00065,pp.72-73,255,316;65ter00064,pp.85-86;65ter00085,p.315;65ter00087,pp.329-330;65ter30883; KDZ384,65ter10003,p.4;KDZ088.

³¹³ 65ter07515,p.159.

³¹⁴ 65ter07515,p.8.

³¹⁵ 65ter00093,p.84.

³¹⁶ *See* 65ter11117,pp.169-170.

³¹⁷ 65ter03979;65ter04222.

offensive operations, to provide interim reports when necessary, and to provide summary reports every three days.³¹⁸ Reports from the Corps level to the Main staff were made orally and in written regular combat reports and special reports.³¹⁹ These written reports contained sections relating to enemy forces, the state of combat readiness of the units of the Corps, the situation on the ground, unusual incidents, security and morale issues, logistics support, casualties, and conclusions and anticipated developments.³²⁰ These reports also included references to cleansings, as well as occasionally explicit references to killing of civilians and prisoners.³²¹ According to the 1993 Army Report, the system of communication in the VRS was graded “VERY GOOD,”³²² a conclusion echoed by international observers.³²³

125. **KARADŽIĆ** and other members of the Presidency were regularly informed by **MLADIĆ** and the Main Staff about events in the field at meetings, through regular consultation, and via written and oral reports.³²⁴ **KARADŽIĆ** also received reports directly from the Corps level,³²⁵ including on the forced displacement of Muslims in the Krajina region.³²⁶ The regular information flow is reflected in the 1993 Army Report:

The Supreme Command as a whole, and every individual member of the Supreme Command, were informed of the objectives of planned operations and concerted battles, and of their results, frequently in great detail.³²⁷

10. JNA/TO/VJ

126. Completing a process that had begun in Croatia, the JNA, in cooperation with the BSL, transformed from an army whose purpose it was to protect all peoples in the former

³¹⁸ 65ter10695.

³¹⁹ 65ter11117,p.171.

³²⁰ 65ter11117,p.171.

³²¹ 65ter0514265ter10722,p.4;65ter04221.

³²² 65ter07515,p.41.

³²³ See, e.g. KDZ465;KDZ405;KDZ465testimony,*SMilošević*,T.26965;KDZ234,65ter6908,p.9;KDZ429testimony,*DMilošević*,T.4788-4789;KDZ175,ICTY witness statement,ERN:0048-3553-0048-3561,pp.3,9;KDZ436,65ter11181,p.4.

³²⁴ See, e.g., 65ter09479;65ter09067;65ter00113;65ter00114;65ter00115;65ter00117;65ter00118;65ter00122;65ter00129;65ter00132;65ter00138;65ter00139;65ter04214,pp.3,19;65ter00055,p.355;65ter05194,pp.218,219,352;KDZ465testimony,*Krajišnik*,T.13066,13073-13075;13106;KDZ088testimony,*Krajišnik*,T.14979-14984,14999-15001,15013-15019,15048-15049,15150, 15182-15184,15186-15187,15205-15207;KDZ453testimony,*Krajišnik*,T.9770; KDZ131testimony,*Krajišnik*,T.14663-14664,14819-14821,14574-14578,14827-14832; 65ter30802; 65ter30705;65ter45092;65ter30884;65ter30882;65ter06893;65ter06898;65ter06900;65ter06899;65ter06895;65ter31633;65ter06902;65ter08024;65ter08025;65ter07202;65ter07651;65ter06925;65ter07027;65ter07619;65ter07650;65ter07496;65ter01281.

³²⁵ See, e.g., 65ter05758.

³²⁶ 65ter00556,p.3;65ter05548,p.1;65ter05556,p.2;65ter05665.p.1.

Yugoslavia into an army which solely protected the interests of the Serbian people. By 1992, the JNA consisted mostly of officers and soldiers of Serb ethnicity pursuing the Serb cause.³²⁸ When the JNA formally departed from BiH in May 1992, hundreds of JNA officers, including General MLADIĆ, remained in BiH or were deployed to BiH and became members of the VRS, at the same time retaining their status as members of the JNA/VJ.³²⁹

127. On 10 December 1991, the Yugoslav Federal Secretariat for National Defence issued a Directive on the use of the armed forces calling for the protection of the Serb population.³³⁰ A day later, KRAJIŠNIK signed a *Request to the Yugoslav National Army* which asked the JNA to “protect, with all available means the territories of Bosnia and Herzegovina, as integral parts of the state of Yugoslavia, in which the plebiscite of the Serb people and other citizens to remain part of the united Yugoslavia was conducted.”³³¹

128. JNA troops withdrawing from Croatia were re-deployed to locations in BiH pursuant to an order by General ADŽIĆ to “protect” the Serbian people.³³² Crisis Staffs in the municipalities co-ordinated closely with JNA commanders, many of whom became members of the Crisis Staffs.³³³ Thus, when the take-overs began in BiH, the JNA was aligned with the Bosnian Serbs.³³⁴

129. A close relationship of co-ordination, co-operation and support existed between **KARADŽIĆ** and the SDS leadership, the Serb TO and the JNA before the JNA’s withdrawal and the establishment of the VRS in mid-May 1992.³³⁵

130. The SDS, in conjunction with the JNA, intensified the arming of local Serbs and local armed Serb units were created on a “massive scale.”³³⁶ The JNA clandestinely provided weaponry and equipment to the Serbs in BiH prior to the outbreak of hostilities (a pattern which the VJ continued until the end of the war).³³⁷ In March 1992, General

³²⁷ 65ter07515,p.153.

³²⁸ KDZ495;KDZ106 expert report.

³²⁹ 65ter11209;65ter08522;65ter11210.

³³⁰ 65ter01709,p.3.

³³¹ 65ter11211.

³³² 65ter11212.

³³³ 65ter01781.

³³⁴ KDZ495;65ter01011,pp.3-4.

³³⁵ 65ter11117,pp.68-81.

³³⁶ 65ter01781,pp.13-15,158-159;see also,65ter31757.

³³⁷ 65ter00085,p.51;KDZ555.

KUKANJAC described the JNA's close working relationship with the SDS leadership and identified the volumes of weapons the JNA and the SDS had provided to Bosnian Serb volunteer units in his military district. The volunteers, totalling 69,198 persons, were persons "... outside the JNA and TO establishment." He wrote:

The JNA has distributed 51,900 weapons (75%) and the SDS 17,298 weapons.

To date, 300 automatic rifles have been distributed to retired military officers in Sarajevo (those who can be trusted). In the next three or four days, another 100 persons will be armed.³³⁸

131. TO units as well as elements of the JNA played an important role in the take-over of territory claimed by the Bosnian Serbs.³³⁹ JNA units participated in the attacks on towns, villages and non-Serb settlements in the municipalities. On 27 March 1992, **KARADŽIĆ** issued instructions on subordinating the TO to the JNA.³⁴⁰ On 16 April 1992, Bogdan SUBOTIĆ (RS Minister of Defence) signed a Decision stating: "in preparations for training and deployment of the TO units, effect cooperation with the JNA units and, where possible, establish unified command."³⁴¹ TO units cooperated and coordinated their activities with municipal authorities, including local Crisis Staffs.³⁴² After the formation of the VRS, most TO units were renamed as "light infantry brigades" and integrated into existing VRS commands.³⁴³

132. After the JNA pulled out of BiH on 19 May 1992, the JNA (which was later renamed the VJ) continued to support the VRS; many VRS officers received pay as members of the 30th Personnel Centre of the VJ, including General MLADIĆ, until February 2002.³⁴⁴ The VJ provided material and financial support as well as training.³⁴⁵ The VJ also participated at times in military activities in BiH after May 1992.³⁴⁶ This was done covertly in accordance with the policy of FRY and RS political and military

³³⁸ 65ter01011,pp4-5;65ter10823.

³³⁹ 65ter11117;KDZ106Report.

³⁴⁰ 65ter07532,p.23.

³⁴¹ 65ter04845,p.2.

³⁴² 65ter07480;65ter05022.

³⁴³ 65ter11117,pp.68-75;65ter07760,p.13;65ter08091;65ter07461;KDZ453testimony,*Krajišnik*,T.9808, 9826.

³⁴⁴ 65ter01803,p.4;KDZ106testimony,*SMilošević*,T.31514-31515;KDZ495,65ter01852,0345-5638-0345-5644..

³⁴⁵ 65ter01852;65ter07137;65ter07082.

³⁴⁶ 65ter01852.

authorities in order not to reveal the presence and participation of VJ soldiers in the war in BiH; affirmative steps were taken to ensure that such assistance was not revealed.³⁴⁷

11. Paramilitaries/Volunteers/Serbian MUP

133. Paramilitary formations participated in the implementation of the common plan. The formation, training, support and use of paramilitary and volunteer units in implementing the common criminal purpose were co-ordinated by the Bosnian Serb³⁴⁸ and Serbian leadership (in particular the SDB).³⁴⁹ Paramilitaries reported to the local authorities and Crisis Staffs³⁵⁰ and were operationally subordinated to the police, TO and army units.³⁵¹ **KARADŽIĆ**, aware of the criminal propensity of paramilitary units,³⁵² met with paramilitary leaders and continued to use them during operations in the municipalities,³⁵³ and eventually, integrated some paramilitaries into the VRS.³⁵⁴

134. Starting around March 1991, and continuing over the following months and years, senior officers of the Serbian MUP, including Jovica STANIŠIĆ, who headed the SDB, Franko SIMATOVIĆ, aka “Frenkie”, one of Jovica STANIŠIĆ’s deputies, Milan TEPAVCEVIĆ, the SDS official responsible for war operations in Eastern Bosnia, and Rade KOSTIĆ, who held a senior position in the SDB and reported to TEPVACEVIĆ,³⁵⁵ were involved in forming, training, arming, co-ordinating and in some cases co-opting a wide array of Serbian armed groups in Croatia, BiH and Serbia proper.³⁵⁶ The groups included Serbian paramilitary and volunteer formations such as Arkan's Tigers, Serbian State Security “Red Berets” (special forces belonging to the Republic of Serbia MUP, and led by Milorad “Legija” Ulemek) and SRS volunteers.³⁵⁷ At least from July 1991, the

³⁴⁷ 65ter07371.

³⁴⁸ 65ter11117,p.83;KDZ088testimony,*Krajišnik*,T.15156,15081;65ter01597;65ter30572,p.2; KDZ106report;65ter40100;65ter01221;65ter01262;KDZ340,*Krajišnik*,T.16993;65ter01702,para.81;65ter01023;KDZ410 *Krajišnik*,T.14255-14257;15281;KDZ555;65ter11148,paras.10-12; 65ter00035,p.20;65ter30109;65ter40178,p.11;KDZ512testimony,*Krajišnik*,T.9022-9023; 65ter01092; 65ter11126,para.49;65ter00938;65ter01039..

³⁴⁹ KDZ446;KDZ493;KDZ555;KDZ515;65ter45235; 65ter11148,paras.10-12;65ter14052.

³⁵⁰ KDZ410testimony,*Krajišnik*,T.14249;KDZ512testimony,*Krajišnik*,T.9119;65ter30766.

³⁵¹ KDZ106 report;KDZ512 *Krajišnik*,T.9024;9119;65ter11325.

³⁵² 65ter01596;KDZ088testimony,*Krajišnik*;KDZ240testimony,*Krajišnik*,T.6930-6931,6766 (closed), T.15040-15046;65ter01638;65ter01658;KDZ410testimony,*Krajišnik*,T.14257;65ter45092.

³⁵³ 65ter40100;65ter01221;65ter01262;KDZ340,*Krajišnik*,T.16993;65ter01702,para.81;65ter01023;KDZ410 *Krajišnik*,T.14255-14257;15281;65ter11396;65ter12050.

³⁵⁴ 65ter11117,p.83;KDZ088testimony,*Krajišnik*,T.15156,15081;65ter01597;65ter30572,p.2; KDZ106 report.

³⁵⁵ KDZ446,*Milošević*,T.21023-21026,23619-23621;KDZ446,Statement,11-02-03,p.3;KDZ555;65ter11803.

³⁵⁶ KDZ515;KDZ172;KDZ555;65ter45235;65ter14052; 65ter11148,paras.10-12.

³⁵⁷ KDZ515;KDZ106report;KDZ495;KDZ494;65ter14052.

Serbian MUP (particularly the SDB) also assisted the Serbs in BiH in arming the Serbian population³⁵⁸ and monitored events on the ground in BiH.³⁵⁹

135. Party leaders and paramilitary leaders who had played a significant role in the ethnic cleansing campaign in Croatia, such as ARKAN and ŠEŠELJ, were enlisted for the effort in BiH to secure Serbian-claimed territories.³⁶⁰ On 31 March 1992, the take-overs of municipalities in BiH began when ARKAN crossed the border from Serbia into BiH with a uniformed and well-equipped force and began killing Muslim civilians in Bijeljina.³⁶¹ By that time, already notorious for crimes against non-Serbs, ARKAN was invited (and ultimately honoured) by the SDS.³⁶²

136. As discussed below, paramilitaries and volunteers, in particular Arkan's Tigers and Šešelj's men, coordinated with the BSL, the local Crisis Staffs, elements of the JNA 4th Corps and the nascent VRS in the earliest efforts to secure a division of Sarajevo³⁶³ and in the shelling and sniping campaign.

F. EXECUTION OF THE OVER-ARCHING JCE

137. The military and civilian organs described above worked together in the implementation of the common criminal plan in three main geographic areas. The crimes committed within the municipalities listed in paragraph 48 of the Indictment are merely representative of the pattern of crimes carried out in a much larger number of municipalities in these areas.³⁶⁴ A brief overview is set out below, with more details provided in the Confidential Attachment to this brief³⁶⁵ and Appendix A (Schedules).

1. EASTERN BOSNIA IN 1992

138. Prior to the war, Eastern Bosnia had a substantial Bosnian Muslim population, as well as a significant number of Bosnian Croats; in a number of Eastern Bosnia

³⁵⁸ 65ter11148, paras. 8-28; KDZ555; KDZ446, *Milošević*, T. 21023-21026.

³⁵⁹ KDZ555.

³⁶⁰ KDZ549; KDZ515; KDZ386; KDZ106report; 65ter10682, p. 21; 65ter30666; 65ter30678; 65ter01039.

³⁶¹ KDZ495, 65ter40025, p. 6, 54ter40144, pp. 3-4, 65ter08256, p. 7; KDZ015 ICTY witness statement, ERN:0050-6462-0050-6469, p. 6.

³⁶² 65ter08092 at 0190-4827; 65ter45225; 65ter45048.

³⁶³ 65ter30766; KDZ410testimony, *Krajišnik*, T. 14249; KDZ512testimony, *Krajišnik*, T. 9119; KDZ386.

³⁶⁴ The Prosecution intends to lead a limited amount of evidence relevant to establishing this pattern of crimes and their links to the BSL from municipalities that are not listed in paragraph 48 of the Indictment.

³⁶⁵ Confidential Attachment Detailing Events in the Municipalities (hereinafter "Confidential Attachment to this brief").

municipalities, Bosnian Muslims constituted a majority of the population.³⁶⁶ On 24 March 1992, **KARADŽIĆ** referred to preparations for the assumption of power in Zvornik in Eastern Bosnia, announcing that the Bosnian Serbs were ready to take over power and establish authority on the ground.³⁶⁷ Within one week the attacks by Bosnian Serb and Serbian forces in the Drina river area commenced. Scores of civilians were killed during the take-over of Bijeljina on 1 April 1992 and Zvornik on 8 April 1992. The international community immediately complained about these crimes to **KARADŽIĆ**,³⁶⁸ who disclaimed responsibility while acknowledging that terrible things were happening and “everybody” was guilty.³⁶⁹

139. The attacks in Bijeljina and Zvornik, municipalities bordering Serbia, however, were merely the commencement of take-overs and cleansings by Bosnian Serb forces in an area where (a) there was a large Muslim presence with numerous Muslim-majority municipalities and (b) **KARADŽIĆ** and the BSL had a significant strategic interest. At the 16th Assembly session on 12 May 1992, **KARADŽIĆ** announced the Third Strategic Objective -- the “elimination of the Drina as a border between two worlds.” As **KARADŽIĆ** explained, “our strategic interest and our living space are there.”³⁷⁰

140. Beyond the effort to unite Serbia and the portions of BiH claimed by the BSL – to create the “backbone of the Serbian people”³⁷¹ -- there was an additional reason, according to **KARADŽIĆ**, for the Third Strategic Objective. As he explained at the Assembly Session in September 1992, it was of “vital strategic importance” that the “Green Transversal” be “cut off,”³⁷² *i.e.*, that the Muslims on the other side of the border be prevented from the possibility of crossing into BiH and further threatening Bosnian Serb “living space.”

141. Thus, any one of the numerous Muslim-majority municipalities represented a potential breach in the barrier against the “Green Transversal.” Accordingly, as a deputy

³⁶⁶ See Appendix C(ethnic map).

³⁶⁷ 65ter00021,p.22.

³⁶⁸ KDZ538;65ter08462;KDZ410;65ter01019;65ter01023;65ter07287;65ter07449;65ter08462;65ter01019;65ter01023;65ter07287;65ter00463;KDZ240testimony,*Krajišnik*,T.14254 (closed);KDZ410testimony,*Krajišnik*,T.6930-6931,6762-6766.

³⁶⁹ KDZ240.

³⁷⁰ 65ter00025,p.13.

³⁷¹ 65ter04233.

³⁷² 65ter04214,p.14.

noted in 1995, the Third Strategic Objective meant “a clean Drina.”³⁷³ **KARADŽIĆ**³⁷⁴ and **KRAJIŠNIK**³⁷⁵ both told the Assembly delegates that the Drina had to be clean.

142. The process of rendering the Drina clean was well underway by the 16th Session in May 1992. By that time, in addition to Bijeljina and Zvornik, Foča (8 April 1992); Višegrad (14 April 1992); Bratunac (17 April 1992); and Vlasenica (21 April 1992)³⁷⁶ had been taken over, and the killings, expulsions and other crimes against non-Serbs had begun. **KARADŽIĆ** advised the deputies on 12 May that the operations in Foča, Zvornik and Višegrad had “ended successfully.”³⁷⁷

143. Bosnian Serb military operations were brutally efficient in achieving a “clean Drina.” As Petko ČANČAR, a close **KARADŽIĆ** associate, told the Assembly in 1993, “there is only one people living on the territory of Foča, and there is only one religion practised there.”³⁷⁸ **KRAJIŠNIK** expressed the BSL’s great satisfaction about this in 1994, addressing a crowd in Foča (which by then had been renamed “Srbinje”, roughly translated as “Serb town”): “Today you are not as you were before. Now I see a true Serbian town.”³⁷⁹ Prior to the war, Foča was 52% Muslim.

144. This objective was reflected in Bosnian Serb military orders. On 28 May 1992, Birač Brigade Commander, Svetozar ANDRIĆ ordered the Zvornik TO to move the women and children out and place the men in camps for exchange.³⁸⁰ Directive No.4, issued six months later by **MLADIĆ** and approved by **KARADŽIĆ**,³⁸¹ ordered the army to force the remaining Muslim population out of the Birač, Žepa and Goražde areas.³⁸²

145. The resulting mass detention of Bosnian Muslims and Bosnian Croats represented a substantial logistical effort that ultimately required coordination at high-levels of both the military and civilian structures. Factories, schools, police stations, prisons and other public facilities were commandeered by the local Bosnian Serb authorities to hold the detainees. On 12 June 1992, **MLADIĆ** ordered that detention facilities be established at

³⁷³ 65ter00090,p.41.

³⁷⁴ 65ter00090,p.68.

³⁷⁵ 65ter00052,p.65.

³⁷⁶ 65ter00574.

³⁷⁷ 65ter00025,p.6 (emphasis added).

³⁷⁸ 65ter00042,p.25.

³⁷⁹ 65ter40254.

³⁸⁰ 65ter04199.

³⁸¹ 65ter00093,p.84.

³⁸² 65ter01639,p.5.

the level of the Corps.³⁸³ The Batković facility was established accordingly³⁸⁴ and detainees from camps such as Sušica in Vlasenica were transferred to Batković³⁸⁵ prior to being expelled from RS.

146. Bosnian Serb civilian authorities were similarly engaged in the effort. As noted in an earlier section, the exchange commission established by the Government also coordinated the expulsion of Muslims and Croats, including the expulsion of the 400 Bratunac prisoners through Pale, the tiny RS capital.³⁸⁶

147. The result was that, as a deputy said in 1993, “Drina has become a noble border, not a hostile one. We have become united with Serbia and Montenegro along our border... The green Muslim transversal disappeared... This, gentlemen, is how wisely and cleverly the Republic of Srpska, a Serb state within former Bosnia is being established.”³⁸⁷ As **KARADŽIĆ** explained to the deputies in 1995, “To tell the truth, there are towns that we’ve grabbed for ourselves, and there were only 30% of us... Don’t let this get around, but remember how many of us there were in Bratunac, how many in Srebrenica, how many in Višegrad, how many in Rogatica, how many in Vlasenica, in Zvornik, etc. Due to strategic importance they had to become ours, and no one is practically questioning it any more.”³⁸⁸

2. THE AUTONOMOUS REGION OF KRAJINA (“ARK”) IN 1992

148. Prior to the war, the areas in north-western BiH claimed as Bosnian Serb territory (referred to as the “ARK”) had substantial Bosnian Muslim and Bosnian Croat populations.³⁸⁹ Several thousand Bosnian Muslims and Bosnian Croats were killed in the ARK between April and December 1992, primarily during and after military/police attacks on villages and in camps and detention facilities run by the VRS and MUP. Many more thousands suffered serious bodily and mental harm, and were subject to conditions of life calculated to bring about their physical destruction, in camps and detention facilities throughout the ARK. Many thousands of non-Serbs were expelled and their real and religious property was destroyed. Particulars of the crimes committed in furtherance of

³⁸³ 65ter05483.

³⁸⁴ 65ter00588;65ter11292.

³⁸⁵ 65ter11294;KDZ442;KDZ230;KDZ033;KDZ258;KDZ067;65ter08539.

³⁸⁶ 65ter01533.

³⁸⁷ 65ter00054,pp.33-34.

³⁸⁸ 65ter00091,pp.68-69.

³⁸⁹ See Appendix C(ethnic map).

the objective of the permanent removal of non-Serbs from certain ARK municipalities, namely Banja Luka, Bosanka Krupa, Bosanski Novi, Bosanski Petrovac, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, and Sanski Most, are set out in the Confidential Attachment to this brief and Appendix A (Schedules).

(a) The common plan to permanently remove non-Serbs from the ARK

149. The decision in September 1991 to declare the Serbian “community of municipalities”³⁹⁰ in north-west BiH an autonomous region³⁹¹ reflected **KARADŽIĆ**’s “regionalisation” strategy. From mid-1991, SDS leaders, including those at the regional level, became increasingly intent on the division of BiH into ethnically separate territories. The SDS³⁹² and the JNA armed and militarily trained the Serb population in the ARK.³⁹³ By August 1991, the SDS had set up an “anti-terrorism” training camp in Gornji Podgradci in the Bosanska Gradiška municipality in the ARK, led by instructors from Serbia and the RSK, headed by Milan MARTIĆ. Three to four hundred Serbs from municipalities in the Krajina region (including Prijedor, Prnjavor, Šipovo) undertook secret training, including Veljko MILANKOVIĆ (and the paramilitary group known as the “Wolves of Vučjak”).³⁹⁴

150. **KARADŽIĆ** maintained constant contact with ARK personnel, especially BRĐANIN,³⁹⁵ KUPREŠANIN,³⁹⁶ RADIĆ³⁹⁷ VUKIĆ,³⁹⁸ STEVANDIĆ,³⁹⁹ and ČIZMOVIĆ⁴⁰⁰ in relation to SDS policies, strategies and plans. **KARADŽIĆ** frequently personally visited Banja Luka, sent emissaries or summoned ARK leaders to discuss such matters.⁴⁰¹ He quelled steps toward a premature separation of the ARK by unification with the RSK and emphasised adherence to party policy.⁴⁰² Even before he assumed his

³⁹⁰ KDZ271;65ter00592,para.117.

³⁹¹ 65ter07649.

³⁹² 65ter01493.

³⁹³ 65ter05052;65ter04883;KDZ490.

³⁹⁴ KDZ523;65ter11326.

³⁹⁵ 65ter30045;65ter30048;65ter30078;65ter30086;65ter30123;65ter30139;65ter300243;65ter30279;65ter30355;65ter30363;65ter31670;65ter30392.

³⁹⁶ 65ter30011;65ter30068;65ter30116;65ter30229;65ter30242;65ter30406;65ter30413;65ter30414;65ter30502;65ter30591;65ter30615.

³⁹⁷ 65ter30256;65ter31670;65ter30472;65ter31671;65ter32063.

³⁹⁸ 65ter30055;65ter30060;65ter30069;65ter30077;65ter30079;65ter30249;65ter30352;65ter30354;65ter30356;65ter30357;65ter30396;65ter31670.

³⁹⁹ 65ter30161;65ter30443;65ter30543;65ter31664;65ter31672;65ter31665;65ter32054;65ter31991;65ter31993.

⁴⁰⁰ 65ter30491;65ter30539;65ter30558;65ter30564;65ter30602;65ter30617;65ter30619;.

⁴⁰¹ 65ter30543;65ter00017,p.44;65ter00081,p.172;65ter30069;65ter30139.

⁴⁰² 65ter30161;65ter30243;65ter30354;65ter30355;65ter30356;65ter30357;65ter30473;65ter31843.

formal position as President of the Presidency, the ARK leadership deemed **KARADŽIĆ** the Supreme Commander who must be obeyed.⁴⁰³

151. The crimes committed in the ARK reflected the implementation of the First, Second and Fourth Strategic Objectives articulated by **KARADŽIĆ** at the 16th Assembly Session on 12 May 1992.⁴⁰⁴ On 14 May 1992, VRS commander Stanislav GALIĆ (then in the area of Ključ) underscored the importance of the strategic goals at a meeting between military and civilian authorities in his zone of operation in the ARK.⁴⁰⁵ The impact of the Fourth Strategic Objective was also explicitly acknowledged as soon as it was announced by the representative from Bosanska Krupa, who noted his satisfaction that expelled Muslims would not be returning.⁴⁰⁶

152. Preparations for the SDS to take over power from local governments established pursuant to the 1990 multi-party elections had been in the making since the end of summer 1991. As discussed above, Variant A/B was distributed to municipality representatives on or about 20 December 1991. Variant A/B and follow-up instructions of 26 April 1992⁴⁰⁷ were discussed and implemented in municipalities of the ARK.⁴⁰⁸ The regional crisis staff (ARK Crisis Staff) was formally announced on 5 May 1992.⁴⁰⁹

153. Attacks on the non-Serb population in the ARK and take-overs by Bosnian Serb forces including the 1KK, MUP forces, and paramilitary units began in mid-April 1992: Sanski Most (mid-April 1992); Bosanska Krupa (21 April 1992); Prijedor (30 April 1992);⁴¹⁰ Donji Vakuf (early May 1992); Ključ (7 May 1992); Kotor Varoš (10 June 1992). Immediately following the take-overs, the Bosnian Serb Crisis Staffs assumed power and the Serb municipalities began to function.⁴¹¹

⁴⁰³ 65ter30722,p2.

⁴⁰⁴ 65ter00026,pp.6-7.

⁴⁰⁵ 65ter00368.

⁴⁰⁶ 65ter00024,p.24.

⁴⁰⁷ 65ter00783.

⁴⁰⁸ 65ter00981;65ter00982;65te00765;65ter04883;65ter06700.

⁴⁰⁹ 65ter005473. Deputy in the Assembly, Radoslav BRĐANIN, was President of the ARK Crisis Staff. Other members included Radisav VUKIĆ (SDS Main Board member and President of the SDS Regional Board), Vojo KUPREŠANIN, Milovan MILANOVIĆ, Nikola ERCEG, Predrag RADIĆ, General Momir TALIĆ, CSB Chief Stojan ŽUPLJANIN, Nenad STEVANDIĆ (commander of the Red Berets and the SOS forces), Nedeljko KESIĆ, and police "special unit" member Slobodan DUBOČANIN.

⁴¹⁰ 65ter07685;65ter05746;65ter00798;65ter05748;65ter00286;65ter00506.

⁴¹¹ KDZ453ExpertReport.

154. The military and police forces continued to co-ordinate with the municipal level Crisis Staffs.⁴¹² Mass detention of thousands of Bosnian Muslims and Bosnian Croats required a substantial logistical undertaking. Factories/warehouses, schools, police stations, prisons, barracks, football stadiums, fire stations, and other public facilities were commandeered by the local Bosnian Serb authorities to hold the detainees. The scale of these mass detentions throughout the ARK required co-ordination at various levels of RS military and civilian authorities.⁴¹³ MUP personnel administered a large number of the detention facilities.⁴¹⁴ Following their attacks on disarmed and defenceless villages, VRS forces under the command of General TALIĆ rounded up civilians and participated in the administration, coordination and logistics of detention facilities.⁴¹⁵

155. The “ethnic cleansing” being carried out in the ARK through the massive and systematic rounding up and detention of non-Serbs could not be hidden indefinitely from the international community. Internationals began to learn of the ARK detention centres such as Omarska, Keraterm and Trnopolje, in the early summer of 1992.⁴¹⁶ When confronted with allegations of ethnic cleansing in relation to these detention camps, a typical response of Bosnian Serb leaders was to point out that crimes had been committed against Serbs in World War II or were being committed at the time.⁴¹⁷

156. With the establishment of Bosnian Serb authority over the ARK municipalities, the Bosnian Muslim and Bosnian Croat populations were persecuted, killed or forcibly removed in massive numbers by members of the JCE and their tools. There were mass killings of Muslim and Croat civilians in municipalities within the ARK between May and November 1992, both in and outside detention facilities.⁴¹⁸ Bosnian Muslim and Bosnian Croat leaders were targeted, particularly for killings and other mistreatment at camps and detention facilities, which were marked by severe mistreatment of detainees, including sexual assault.⁴¹⁹ The closure of some camps was prompted by an international outcry in early August 1992 and detainees were transferred to locations including Batković camp

⁴¹² 65ter11117;65ter11147;65ter05191;65ter05788;65ter07685;KDZ453ExpertReport.

⁴¹³ 65ter05776;65ter05751.

⁴¹⁴ See evidence cited in Confidential Appendix A, Schedule C.

⁴¹⁵ See Confidential Appendix A, Schedule C.

⁴¹⁶ KD470;KDZ240;65ter01170.

⁴¹⁷ KDZ470.

⁴¹⁸ See Confidential Appendix A, Schedules A and B.

⁴¹⁹ KDZ492;KDZ474;KDZ489;KDZ545;KDZ452;KDZ273;KDZ123;KDZ026;KDZ414;KDZ080.

and Kamenica.⁴²⁰ Thus, large areas of the ARK were ethnically cleansed in accordance with the goals of the BSL.⁴²¹

3. SARAJEVO AREA IN 1992

157. Crimes committed in and around Sarajevo⁴²² were directed towards accomplishing the first and fifth strategic goals: division of the city of Sarajevo into Serbian and Muslim parts. In pursuit of these goals and of the objective of the overarching JCE, Muslims and Croats of Hadžići, Ilidža, Novi Grad, Novo Sarajevo, Pale, Vogošća and Ilijaš⁴²³ were expelled, killed and persecuted.⁴²⁴

158. Through 1991 and early 1992, ethnic delineation of Serbian municipalities within the Sarajevo area was a key focus of SDS political activity.⁴²⁵ By February 1992, SDS organs had unilaterally proclaimed Serbian municipalities in areas to the north, south and east of Sarajevo's urban centre.⁴²⁶ In early April 1992, **KARADŽIĆ** met with SUBOTIĆ, KRAJIŠNIK, Mićo STANIŠIĆ, MANDIĆ and Jovan TINTOR to plan an operation to cut the city in two, linking Bosnian Serb forces to the north and south of Sarajevo.⁴²⁷ On 16 April 1992, **KARADŽIĆ** and KOLJEVIĆ told Cyrus VANCE and Herbert OKUN that a decision had been taken to divide Sarajevo into a Serb area and a Muslim area.⁴²⁸

159. As MLADIĆ told the Serbian journal NIN: "We don't want all of Sarajevo. We want to divide it."⁴²⁹ On 5 May 1992, MANDIĆ discussed with Mićo STANIŠIĆ the planned boundaries of Muslim Sarajevo⁴³⁰ which effectively left only the old town for

⁴²⁰ KDZ406;KDZ316;KDZ258;65ter40163;65ter01117.

⁴²¹ The Bosnian Muslim population in the ARK fell by four-fifths between 1991 and 1995, from 252,566 (25.86%) in 1991 to 34,528 (4.98%) in 1995; the Bosnian Croat population fell by two-thirds for the same period, from 96,789 (9.91%) in 1991 to 18,932 (2.73%) in 1995. Conversely, the Serb population in the ARK area increased by over one-third, from 553,857 (56.73%) in 1991 to 621,374 (89.79%) in 1995. 65ter05193 at 0093-0367.

⁴²² The crimes discussed in this section are those carried out in municipalities in the wider Sarajevo area. This section does not relate to crimes committed in relation to the siege of Sarajevo, which are discussed below.

⁴²³ These seven municipalities, plus Stari Grad, Trnovo and Centar, were part of an administrative group of ten municipalities forming the city of Sarajevo: PAF1.

⁴²⁴ See Schedule A, B13.3,19.1;Schedule C 11.1,11.2,12.1,12.2,13.1,13.2,13.2,17.1,18.1,26.1,26.2,26.3.

⁴²⁵ 65ter01446;65ter00939;65ter01473,p.3;65ter30499;65ter01421;65ter00011,L004-6752;KDZ394testimony,Krajišnik,T.8108,8110;KDZ131,Krajišnik,T.14502-14503;65ter00222;65ter00226;65ter00225;65ter00223;65ter00224;65ter00219;65ter08877;65ter10825;65ter04984;65ter08176;65ter30494;65ter30499.

⁴²⁶ 65ter01480; KDZ131testimony,Krajišnik,T.14503-04,14619;65ter30611.

⁴²⁷ 65ter40193.

⁴²⁸ KDZ470testimony,SMilošević,T.16956-16957;Krajišnik:T.4174.Also 65ter01027,p.3.

⁴²⁹ 65ter10743,0034-2495.

⁴³⁰ 65ter30734,p.6.

non-Serbs. Later the same month he told a long-time friend that this goal⁴³¹ would be realised by force.⁴³² This was reflective of the attitude shared by all of the BSL, including **KARADŽIĆ**.⁴³³

160. Fighting to secure the division of the city began in early April 1992. Bosnian Serb forces comprised of elements of SDS Crisis Staffs, TO and MUP forces,⁴³⁴ assisted by paramilitary units and volunteers,⁴³⁵ Federal MUP forces,⁴³⁶ Red Berets⁴³⁷ and elements of the JNA,⁴³⁸ gradually took control of much of Hadžići, Ilidža, Ilijaš, Vogošća, parts of Novo Sarajevo, Novi Grad and Pale.⁴³⁹

161. With control established in these and other peripheral Sarajevo municipalities, Bosnian Serb forces set about consolidating the ethnic separation and entrenching the siege lines by persecuting, expelling and/or killing Muslims and Croats in these areas. Residents were killed or forced from their homes and channelled through a system of detention facilities;⁴⁴⁰ from the detention facilities they were exchanged,⁴⁴¹ used for forced labour⁴⁴² and as human shields on the front-lines,⁴⁴³ or killed.⁴⁴⁴ The detention facilities were run by Bosnian Serb forces,⁴⁴⁵ eventually coming under the control of the Justice Ministry of the Serbian Republic.⁴⁴⁶ **KARADŽIĆ** was aware of these mass expulsions⁴⁴⁷ and was instrumental in the establishment, operation and transfer of detainees from the detention facilities.⁴⁴⁸

⁴³¹ 65ter30809,p.13.

⁴³² 65ter30809,p.8.

⁴³³ KDZ512,*Krajišnik*:T.9067;65ter40200,1:09'16''-1:10'10'';KDZ470testimony,*Krajišnik*,T.44204-4211;KDZ470testimony,*SMilošević*,T.16963;65ter10741;65ter10742;see,also,65ter30342.

⁴³⁴ KDZ589.

⁴³⁵ 65ter01262;65ter30691;65ter30698;65ter30702.

⁴³⁶ KDZ410testimony,*Krajišnik*,T.14177-14214.

⁴³⁷ KDZ410testimony,*Krajišnik*,T.14192-14197;14206-14207.

⁴³⁸ 65ter30763;65ter30752;65ter01525.

⁴³⁹ 65ter07828,pp.303-305;65ter30700;65ter30694;65ter30704;KDZ512testimony,*Krajišnik*,T.9074-9075;KDZ487testimony,*DMilošević*,T.368;65ter40193,p.8(0:23:15-0:26:22).

⁴⁴⁰ See Schedule C;KDZ589.

⁴⁴¹ See, e.g., 65ter10730;KDZ147testimony,*Krajišnik*:T.7955-;KDZ319testimony;KDZ400,65ter09360,0229-9410;KDZ589.

⁴⁴² See, e.g. KDZ319testimony,65ter09091,p.11;KDZ416testimony,65ter09386,0051-1008;KDZ416testimony,65ter09386,0051-1009.

⁴⁴³ See, e.g. KDZ416testimony,65ter09386,0051-1008.

⁴⁴⁴ See Schedule B 12.1,12.2,13.1,13.3,19.1.

⁴⁴⁵ 65ter01635;65ter01585;65ter01509;KDZ589.

⁴⁴⁶ 65ter05151;65ter01591;65ter01592;65ter01585; 65ter01171.

⁴⁴⁷ 65ter08638;65ter30662;65ter01171.

⁴⁴⁸ 65ter40168;65ter01419; 65ter10758; 65ter30849;65ter30662.

162. The Sarajevo municipality take-overs were directed by local SDS leaders with close associations to **KARADŽIĆ**, including Jovan TINTOR,⁴⁴⁹ Nedelko PRSTOJEVIĆ⁴⁵⁰ and Ratko ADŽIĆ.⁴⁵¹ TINTOR, head of the Vogošća SDS Crisis Staff, was instrumental in arming the population and leading military operations.⁴⁵² He recalled in an interview in 1994: “I held 64 kilometres of front line. From Jezero hospital, that is (the child (...) maternity hospital, through Vogošća, over the middle, going down on the territory, a part of the territory of Ilijaš, then back across Rajlovac, Ahatovići, and one part of Ilidža.”⁴⁵³ In Ilidža, local civilian and military structures were controlled by Nedelko PRSTOJEVIĆ, head of the municipal SDS Crisis Staff.⁴⁵⁴ In July 1992, PRSTOJEVIĆ recalled **KARADŽIĆ** visiting Ilidža in the first few days of the war to provide encouragement to Serb forces, and as a result “...the Serbs from Sarajevo retained control over the territory, and even extended their territory in some areas, driving the Muslims out of the territories where they had actually been majority.”⁴⁵⁵

163. In Ilijaš, the SDS Crisis Staff head, Ratko ADŽIĆ, coordinated the Serb civilian and military organs⁴⁵⁶ and was, until at least June 1992, the effective commander of the 1st Serbian Ilijaš Brigade of the SRK.⁴⁵⁷

164. In addition to **KARADŽIĆ**, other members of the BSL were involved in the operations to ethnically divide Sarajevo. For example, KRAJIŠNIK, who called for an ethnically divided Sarajevo throughout the war,⁴⁵⁸ played a key role in the creation of the Serb municipality of Rajlovac (which split away from Novi Grad)⁴⁵⁹ and remained informed about events in Rajlovac throughout 1992.⁴⁶⁰ KRAJIŠNIK was specifically informed of the detention of non-Serbs in facilities under Bosnian Serb control in the Rajlovac area⁴⁶¹ and the killings of those detainees on 15 June 1992.⁴⁶² Similarly, Arkan’s

⁴⁴⁹ 65ter45111,p.2; 65ter30061;65ter30171;65ter30230;65ter30478;65ter30499;65ter30635;65ter30638; KDZ131testimony,*Krajišnik*,T.14772;65ter30478;65ter30641;KDZ088,T001-1791-T001-1794,pp.54-55.

⁴⁵⁰ KDZ131;65ter30549.

⁴⁵¹ 65ter10796;65ter00592,p.155..

⁴⁵² 65ter40193.

⁴⁵³ 65ter40193.

⁴⁵⁴ 65ter30549;65ter01532;65ter01535;65ter01662;65ter30828;65ter10771;65ter30788;65ter30803;65ter30812;65ter30851.

⁴⁵⁵ 65ter00028,p.66;see,also,65ter11705.

⁴⁵⁶ 65ter01651.

⁴⁵⁷ 65ter01564.

⁴⁵⁸ 65ter31743;65ter31736.

⁴⁵⁹ 65ter01484;65ter30589.

⁴⁶⁰ 65ter30581.

⁴⁶¹ 65ter30833.

men, led by “Legija,” came to Ilidža in May 1992 at the invitation of Biljana PLAVŠIĆ to reinforce MUP and other units in “liberating” the territory of Serbian Ilidža.⁴⁶³

165. **KARADŽIĆ** publicly insisted on the division of Sarajevo throughout the war. **KARADŽIĆ** repeatedly threatened to conquer Sarajevo in the event the Muslims refused to agree to a division,⁴⁶⁴ insisting the city was Serbian and would never be given up.⁴⁶⁵

III. SARAJEVO CAMPAIGN OF SNIPING AND SHELLING

166. Following the forcible division and encirclement of Sarajevo, **KARADŽIĆ**, **MLADIĆ** and other members of the Bosnian Serb military and political leadership, acting in pursuit of a common criminal objective, implemented a military campaign of sniping and shelling by Bosnian Serb forces against the city of Sarajevo, killing, maiming, wounding and terrorising its civilian population between April 1992 and November 1995.⁴⁶⁶ The primary purpose of this campaign was to spread terror among the civilian population of Sarajevo. The campaign and the corresponding common objective involved the commission of the crimes of terror, unlawful attacks on civilians and murder, charged in Counts 5, 6, 9 and 10 of the Indictment.

A. **KARADŽIĆ SHARED A COMMON PLAN TO SPREAD TERROR AMONG THE CIVILIAN POPULATION OF SARAJEVO THROUGH A CAMPAIGN OF SHELLING AND SNIPING**

167. Throughout the war, the BSL viewed the division and siege of Sarajevo and the campaign of terror as an important means of achieving their territorial ambitions and

⁴⁶²65ter30836;65ter10745,p.4;KDZ512,*Krajišnik*,T.9066-71.*See, also*,65ter01258,p.6; 65ter10746;KDZ468; 65ter30836;65ter10745,p.4;KDZ240testimony,*Krajišnik*,T.6774,6927-29;KDZ512,*Krajišnik*,T.9066-71.*See, also*,65ter01258,p.6;65ter10746;KDZ468.

⁴⁶³65ter30712;65ter30752;65ter30766,p.4;65ter1525;KDZ410testimony,*Krajišnik*,T.14253-14254; 65ter30755;KDZ512testimony,*Krajišnik*,T.9023-9024.

⁴⁶⁴ 65ter10741;65ter10747;65ter01369.

⁴⁶⁵ 65ter11207;65ter10742;65ter10748;65ter10749;65ter10750;65ter05824.

⁴⁶⁶ KDZ219testimony,*Galić*,T.6216;KDZ467testimony,*Galić*,T.11123-11124;KDZ455 testimony,*Galić*,T.9919-9920,9922;KDZ234testimony,*Galić*,T.10165;KDZ185 testimony,*Galić*,T.10861(closed),10863(closed);KDZ384testimony,*DMilošević*,T.3311;KDZ280 testimony,*DMilošević*,T.1825;KDZ227,65ter10143,0604-9657;KDZ182 testimony,*DMilošević*,T.3815(closed);KDZ470testimony,*Krajišnik*,T.4211,*SMilošević*,T.16963;KDZ487 testimony,*DMilošević*,T.324-327; KDZ234,65ter11081,pp.10-11.

statehood, and preventing any viable independent state of BiH.⁴⁶⁷ **KARADŽIĆ** told the Assembly on 12 May 1992: “Sarajevo is strategically in the fifth place, but the battle in Sarajevo and for Sarajevo... is of decisive importance, because it does not allow the establishment of even the illusion of a state. Alija does not have a state while we have a part of Sarajevo.”⁴⁶⁸ **KARADŽIĆ** returned to this theme at the 36th Assembly Session, noting: “Izetbegović is talking because he cannot get out of Sarajevo without our permission.”⁴⁶⁹ By controlling conditions in Sarajevo – or toying with the “spigot of terror”, as one UNPROFOR witness described it⁴⁷⁰ – the Bosnian Serbs aimed to retain critical leverage in negotiating a peace settlement on their terms.

168. Long before the actual division and siege of Sarajevo, **KARADŽIĆ** foreshadowed that Sarajevo would be a Bosnian Serb target if it came to war in BiH. On 12 October 1991 **KARADŽIĆ**, predicting that IZETBEGOVIĆ was preparing for war, told Gojko ĐOGO: “...they have to know that there are 20,000 armed Serbs around Sarajevo, that’s insane, they will, they will disappear, Sarajevo will be a karakazan /black cauldron/ where 300,000 Muslims will die...”⁴⁷¹

169. International observers consistently noted the manner in which **KARADŽIĆ** and other JCE members modulated the level of terror through shelling and sniping against civilians, as well as freedom of movement for humanitarian convoys and the flow of critical utilities, to secure concessions from the BiH Government⁴⁷² and the international community, and to prevent NATO and other international intervention in the conflict.⁴⁷³ **KARADŽIĆ** and the BSL openly acknowledged that this was the intention behind their actions.⁴⁷⁴ The commander of the Sarajevo Romanija Corps, General Dragomir MILOŠEVIĆ, later recalled: “In general, whenever we wanted to attack Sarajevo more

⁴⁶⁷ KDZ444,65ter08961,pp.19-20;KDZ470testimony,*Krajišnik*,T.4211;KDZ487 testimony,*SMilošević*,T.26935; KDZ405,ICTYwitness statement,ERN:R065-9860-R065-9912,para.199; KDZ234; KDZ450;KDZ470 testimony,*SMilošević*,T.16963.

⁴⁶⁸ 65ter00024,p.14.*See,also*,65ter05543,p.16;65ter01652,0303-1206.

⁴⁶⁹ 65ter00059,p.129..

⁴⁷⁰ KDZ487testimony,*DMilošević*,T.325-326.

⁴⁷¹ 65ter30335,p.7. *See,also*,65ter30341,p.2.

⁴⁷² KDZ487,65ter10673,R110-2355;KDZ487testimony,*DMilošević*,T.324-326;KDZ467testimony, *Galić*,T.11008-11009(closed),11028-11029;65ter31628;KDZ450;KDZ470 testimony,*SMilošević*,T.16962;KDZ405,ICTYwitness statement,ERN:R065-9860-R065-9912,para.199.

⁴⁷³ 65ter31627;65ter09256;KDZ405, ICTYwitness statement,ERN:R065-9860-R065-9912,para.199;KDZ450;KDZ234,65ter11081,p.16..

⁴⁷⁴ KDZ487testimony,*DMilošević*,T.324;KDZ470testimony,*SMilošević*,T.16962.

fiercely, some conferences were taking place and therefore the activities of our Army aimed at Sarajevo were stopped.”⁴⁷⁵

170. In a similar vein, **KARADŽIĆ** and other JCE members frequently ratcheted up the campaign of terror in Sarajevo in retaliation for events elsewhere in the theatre including BiH offensives or the death of Bosnian Serb soldiers or civilians.⁴⁷⁶ In response to Bosnian army attacks to break the siege, **KARADŽIĆ** threatened action against Sarajevo, from shelling to a complete take-over.⁴⁷⁷ In March 1995, for example, MLADIĆ openly acknowledged that a recent increase in sniping in Sarajevo was in response to Serb casualties suffered from BiH military offensives.⁴⁷⁸

171. The destruction, fear and deprivations had a palpable effect on Sarajevo’s civilian population. The city’s residents suffered a mixture of shock, anxiety, fear and desperation. The constant threat of death made normal life in Sarajevo impossible.⁴⁷⁹

B. KARADŽIĆ WAS A KEY MEMBER OF A JCE TO SPREAD TERROR AMONG THE CIVILIAN POPULATION OF SARAJEVO

172. Throughout the period of the Indictment, **KARADŽIĆ** was intimately involved in planning, ordering and controlling the shelling and sniping campaign directed at the civilian population. He worked together with various civilian and military leaders with whom he shared the objective of spreading terror among the civilian population of Sarajevo.

173. **KARADŽIĆ**, and, from 12 May 1992, MLADIĆ, were the two main figures who planned and directed Bosnian Serb military strategy and operations around Sarajevo. **KARADŽIĆ** led the division and siege of Sarajevo, which placed Bosnian Serb forces in a position to perpetrate the campaign of terror.⁴⁸⁰ In May or June 1992, **KARADŽIĆ**, at a meeting with KRAJIŠNIK, PLAVŠIĆ, KOLJEVIĆ and VRS officers, endorsed MLADIĆ’s plan to bombard Sarajevo with all the equipment and arms at the disposal of

⁴⁷⁵ 65ter14678,p.5.

⁴⁷⁶ KDZ450;KDZ450,65ter10732,0110-0503; KDZ465;KDZ487testimony,*DMilošević*,T.421-427,453-455;65ter06855,ZA01-9703;65ter10616,R013-9751;65ter30793;65ter01065,R014-9525;65ter10717,ZA01-9647;KDZ467 testimony,*Galić*,T.9831,9834-9837;65ter03918,p.2;KDZ108testimony,*Galić*,T.9311.

⁴⁷⁷ 65ter06864;65ter01311;65ter10668;65ter10669;65ter01327.

⁴⁷⁸ 65ter10615,R103-9733.

⁴⁷⁹ KDZ455,*Galić*:T.9899;KDZ403,*Galić*,T:1130;KDZ234;KDZ405,ICTY witness statement,ERN:R065-9860-R065-9912,para.51; KDZ412,ICTY witness statement,ERN:0211-5982-0211-6001,p.6.

⁴⁸⁰ *See, also*,65ter00150,p.1.

the SRK, despite being warned by the then SRK commander of the great risk of civilian casualties.⁴⁸¹

174. Prior to the formation of the VRS, **KARADŽIĆ** issued orders to Bosnian Serb forces around Sarajevo⁴⁸² and controlled the besieging forces.⁴⁸³ He subsequently issued orders to MLADIĆ and other members of the VRS Main Staff on military matters relating to Sarajevo,⁴⁸⁴ including MLADIĆ's participation in negotiations,⁴⁸⁵ the shelling of Sarajevo,⁴⁸⁶ land access to Sarajevo,⁴⁸⁷ and the supply of essential services to the city.⁴⁸⁸ **KARADŽIĆ** was briefed by the SRK commanders⁴⁸⁹ and issued orders to them.⁴⁹⁰ The main decisions regarding Sarajevo had to be taken by either MLADIĆ or **KARADŽIĆ**.⁴⁹¹

175. **KARADŽIĆ** had the ability to make commitments of a military nature and to control the shelling or sniping. At times **KARADŽIĆ** indicated to UN officials that he had given orders for the shelling and sniping to cease.⁴⁹² At other times, he made threats against Sarajevo involving the military.⁴⁹³ When **KARADŽIĆ** agreed to cease-fire or anti-sniping agreements, shelling and sniping did in fact cease.⁴⁹⁴ One UNPROFOR observer noted that when there was a genuine desire on the part of the Bosnian Serb leaders, compliance by Serb forces was remarkable.⁴⁹⁵ **KARADŽIĆ** negotiated agreements and took precise military decisions on such matters as VRS troop and heavy weapons deployment and operation.⁴⁹⁶

⁴⁸¹ KDZ088testimony, *Krajišnik*:T.15048-15060(closed session).

⁴⁸² 65ter30714;65ter10738: on 20 April 1992 Branko ĐERIĆ issued an order to all Serbian Defence forces to cease artillery and heavy weapons fire against Sarajevo by explicit reference to Karadžić's "Platform"(65ter01033) which had been widely distributed (65ter00150,p.2); 65ter01448.

⁴⁸³ KDZ184testimony, *DMilošević*:T.5256-5257;65ter40150;KDZ184,65ter09981;65ter45324.

⁴⁸⁴ 65ter06899;65ter06898;65ter06897;65ter06902;65ter06903;65ter30883;65ter31691.

⁴⁸⁵ 65ter30878.

⁴⁸⁶ 65ter01072;65ter00114;65ter10703;65ter31627;65ter31626;65ter31625;65ter06892;65ter06893;65ter06894.

⁴⁸⁷ 65ter06899;65ter30660.

⁴⁸⁸ 65ter06893;65ter31626.

⁴⁸⁹ 65ter07114;65ter07818;65ter09479;65ter10625;65ter09067;65ter07818;65ter04214,p.19;65ter09479.

⁴⁹⁰ KDZ175testimony, *Galić*:T.9843-

9850;65ter06906;65ter10598;65ter06904;65ter08334;65ter09080;KDZ226,65ter10666,pp.56,66.

⁴⁹¹ 65ter10667,p.72. *See, also*,65ter31624.

⁴⁹² 65ter10821;65ter10669.

⁴⁹³ KDZ444;65ter06864; 65ter01311;65ter10821; 65ter10669.

⁴⁹⁴ KDZ405testimony, *Galić*:T.10201-10206;KDZ234testimony, *Galić*:T.10051.

⁴⁹⁵ KDZ487testimony, *DMilošević*,T.348.

⁴⁹⁶ KDZ487,65ter10673;KDZ405,ICTY witness statement, ERN:R014-4291-R014-4309;65ter10670;65ter45255;65ter10671;65ter01252;65ter01277;65ter01277;65ter10659;65ter10675.

176. **KARADŽIĆ**'s control over the Sarajevo airport⁴⁹⁷ and the freedom of movement for humanitarian convoys and UNPROFOR⁴⁹⁸ derived directly from his control of besieging Bosnian Serb forces. **KARADŽIĆ** frequently used this control as leverage in negotiations with UN officials and in an attempt to secure concessions from the Bosnian government.⁴⁹⁹ He openly acknowledged his control: on 24 April 1995, for example, **KARADŽIĆ** stated he had closed the airport over the weekend to show the world who controlled it.⁵⁰⁰ Likewise **KARADŽIĆ** controlled the flow of utilities⁵⁰¹ and used this as a bargaining chip,⁵⁰² at times openly referring to control of gas, water and electricity as a means of warfare.⁵⁰³

177. **KARADŽIĆ** and his subordinates received repeated protests and appeals from the UN and other international representatives throughout the Indictment period regarding the shelling, sniping and blockade of Sarajevo.⁵⁰⁴ The UN Security Council issued resolutions directly addressing the matter.⁵⁰⁵ The international media, too, repeatedly drew the world's attention to Sarajevo.⁵⁰⁶ Other Bosnian Serb leaders expressed knowledge, and concern, regarding the situation.⁵⁰⁷

⁴⁹⁷ KDZ465;KDZ444,65ter08961,p.10;65ter10677.

⁴⁹⁸KDZ487,65ter10673,R110-2339;65ter10812;65ter10813;65ter10814;65ter01307;65ter08986; 65ter01325;65ter10628;65ter11781.

⁴⁹⁹65ter06864;KDZ487;65ter10678;65ter10679;65ter01301;65ter01296;65ter06862;65ter10608;65ter10628;KDZ444;65ter10609;KDZ405;KDZ487testimony,*DMilošević*:T.329-330;65ter03888,p.3;65ter10003,pp.9-12..

⁵⁰⁰ KDZ444.

⁵⁰¹65ter06864;65ter01314 at R001-4539;65ter10816;KDZ465,R108-9852-R108-9875 at R108-9867;KDZ405,ICTY witness statement,ERN:R014-4291-R014-4309,at R104-4304; 65ter31628; 65ter09271;65ter01296; 65ter10709;KDZ444.

⁵⁰²65ter01314;65ter01307;65ter01325;65ter10616;KDZ244;65ter06855;KDZ444,65ter08961 pp.6,9;KDZ444;KDZ405;65ter03493,p.5;65ter09817,pp.4-5.

⁵⁰³ KDZ405;65ter06864.

⁵⁰⁴65ter04227;65ter10822;65ter10821;65ter10669;65ter01303;KDZ405, ICTY witness statement,ERN:R014-4291-4309,atR104-4301,R104-4304;65ter01250,R001-

3653;KDZ234testimony,*Galić*:T.10043,10051,10081,10095;KDZ455 testimony,*Galić*:T:9916-9917,9920;KDZ459,65ter10694,0033-2183;65ter01072; KDZ185,65ter10684,R107-

3413;KDZ465;KDZ405testimony,*Galić*:T.10188-10189;KDZ467;KDZ108,65ter01328;65ter10784;65ter01248;65ter01247;65ter01205;KDZ450;KDZ450,65ter10732;KDZ470testimony,*SMilošević*,T.16962,*Krajisnik*:T.4202; 65ter10807,KDZ405;KDZ487testimony,*DMilošević*:T.347-349;65ter10808;65ter10829;65ter01688;65ter01327,p.1;65ter09578;65ter01032;KDZ234,65ter11081,pp.8-9, 30;KDZ328;KDZ551.

⁵⁰⁵65ter01082;65ter01220;65ter05790;

65ter01269;65ter01085;65ter05823;65ter01169;65ter06233;65ter06204.

⁵⁰⁶ KDZ450;KDZ184,65ter09981;KDZ356,ICTY witness statement,ERN:0219-8756-0219-8763,pp.2-4;KDZ412,ICTY witness statement,ERN:0211-5982-0211-6001,pp.3-12. *See, also*, 65ter10798;65ter10799;65ter10800.

⁵⁰⁷ *See, e.g.*, 65ter10810; 65ter10802;KDZ088testimony,*Krajisnik*,T.15052-15060.

178. On occasion, **KARADŽIĆ** acknowledged his forces' illegal conduct⁵⁰⁸ and admitted that the campaign served no legitimate military purpose.⁵⁰⁹ In most instances, however, **KARADŽIĆ** defended the siege,⁵¹⁰ typically arguing that his forces were legitimately defending Serbs and Serb municipalities and suburbs,⁵¹¹ or blaming the Muslims for acts perpetrated by his subordinates.⁵¹²

1. JNA Participation in the JCE

179. In early 1992, JNA Second Military District and 4th Corps officials, and their subordinates, ensured the arming⁵¹³ and mobilisation⁵¹⁴ of the Serb population in and around the Sarajevo area, and aided in the deployment of weapons in strategic positions.⁵¹⁵

2. Crisis Staffs/MUP/TO Participation in the JCE

180. During the early stages of the conflict (April and early May 1992) Bosnian Serb Crisis Staffs, MUP and TO forces participated in the initial take-overs and shelling of urban Sarajevo.⁵¹⁶

3. SRK Participation in the JCE

181. The SRK was formed in May 1992⁵¹⁷ from what remained of the Sarajevo-based JNA 4th Corps.⁵¹⁸ The Bosnian Serb TO and other Serb troops operating around Sarajevo were subsumed within the SRK command structure.⁵¹⁹ The SRK, under the overall military control of MLADIĆ,⁵²⁰ had three successive Corps commanders over the course of the conflict: Tomislav ŠIPČIĆ (19 May–10 September 1992), Stanislav GALIĆ (10 September 1992–10 August 1994) and Dragomir MILOŠEVIĆ (from 10 August 1994).

⁵⁰⁸ 65ter10786; KDZ234,65ter11081,p.11.

⁵⁰⁹ 65ter10785,p.2;KDZ405.

⁵¹⁰ *See, e.g.*, 65ter5824;65ter40182.

⁵¹¹ 65ter40182;65ter45021;65ter40169,p.5.

⁵¹² 65ter45195.

⁵¹³ 65ter07522,pp.10,14-15;65ter01872,p.4;65ter01491;KDZ262,65ter07159,p.14.

⁵¹⁴ 65ter01505,p.2.

⁵¹⁵ 65ter10736.

⁵¹⁶ 65ter30741;65ter30749;65ter31747;65ter30729.

⁵¹⁷ PAF17.

⁵¹⁸ 65ter07461,p.1.

⁵¹⁹ 65ter08091;65ter09112,pp.1-2..

⁵²⁰ KDZ450;KDZ450,65ter10732,0110-0498-0110-0499.

182. The principal task of the SRK from May 1992 to November 1995 was to maintain the blockade and conduct the campaign of shelling and sniping against Sarajevo.⁵²¹ MLADIĆ issued orders to the SRK that furthered the implementation of the terror campaign. On 28 and 29 May 1992, for example, MLADIĆ ordered the shelling of the city.⁵²² On 6 June 1992, MLADIĆ directed the SRK to cut Sarajevo along the Nedarici-Stup-Rajlovac axis.⁵²³ Every major VRS directive subsequently issued either by MLADIĆ or **KARADŽIĆ** contained specific orders for the division and continuation of the blockade of Sarajevo and the tightening of the siege of the city.⁵²⁴ This same strategy was reflected in SRK combat orders over the course of the conflict.⁵²⁵

183. The Corps Commanders implemented the directives of their political and military leadership.⁵²⁶ They in turn enjoyed firm control over SRK personnel and operations; international observers consistently described the SRK as a disciplined and coordinated force.⁵²⁷ GALIĆ, in a report on the combat readiness of the SRK in June 1994, noted that his Corps had executed all of the tasks set forth in VRS Directives 1 through 6 over the previous twenty-seven months and described “the unwavering blockade” of the Muslim part of Sarajevo as a “success”.⁵²⁸

184. Furthermore, the use of modified air-bombs in 1995 illustrates the SRK’s implementation of directives from its commanding levels. The procurement, deployment and use of these inherently inaccurate and deadly weapons occurred at the express direction of the SRK Commander on approval of the VRS Main Staff.⁵²⁹

⁵²¹ 65ter01600,p.5;65ter01639,p.6;65ter10695,0190-1803;65ter09475,0090-2047,0090-2049;65ter08450,p.1;65ter07556,0081-7131-0081-7132;65ter03993,0089-8421;KDZ487testimony,*DMilošević*,T.325;65ter09112,p.2;65ter01170;65ter01600.

⁵²² 65ter30822;65ter30823;65ter30816;65ter9571,R003-3865-R003-3866;65ter30810;65ter11715;65ter11717.

⁵²³ 65ter01559,p.4;65ter01560,pp.2-3;65ter01561,p.1.

⁵²⁴ 65ter01600,p.5;65ter10695,0190-1082,0190-1084;65ter09475,p.1;65ter08450,p.1;65ter07556,0081-7127,0081-7131-0081-7132;65ter03993,0089-8421.*See, also*, 65ter05194,p.21.

⁵²⁵ *See, e.g.*, 65ter01632,0304-6215.

⁵²⁶ PAF26,28-29;65ter10622;65ter10624;65ter08986;65ter10625;65ter10626;65ter09067;KDZ455 testimony,*Galić*,T.9908(closed).

⁵²⁷ KDZ280testimony,*DMilošević*,T.1818;KDZ455testimony,*Galić*,T.9911(closed),9922;KDZ412 testimony,*Galić*,T.2120;KDZ405testimony,*Galić*,T.10203;KDZ108testimony,*Galić*,T.9328-9329,9476;KDZ384testimony,*DMilošević*,T.3320-3321;KDZ182testimony,*DMilošević*,T.3816-3817(closed);KDZ185,65ter10029,0101-8111;KDZ450,65ter10732,0110-0504;PAF37-41,43.

⁵²⁸ 65ter10705,p.2.

⁵²⁹ 65ter09230;65ter10644;65ter10691;65ter10693;65ter10693;KDZ428 expert report.

4. Paramilitary Participation in the JCE

185. From May 1992, Serb paramilitaries participated in VRS operations in the Sarajevo area, some subordinated to the SRK.⁵³⁰ Several paramilitary units operated in and from Ilidža,⁵³¹ where they were welcomed by, and coordinated with, SDS officials.⁵³² SRS volunteer units operated in Ilijaš⁵³³ and in the area of Vogošća.⁵³⁴ Additionally, from Spring 1992, SRS volunteers led by Vojvoda Slavko ALEKŠIĆ,⁵³⁵ participated in the shelling and sniping from the Jewish cemetery above Grbavica;⁵³⁶ they too were subordinated to the SRK and participated in SRK-led military operations at various times during the war.⁵³⁷

5. VJ Participation in the JCE

186. In 1993, VJ Special Forces units subordinated to and reinforcing the SRK, took part in operations in the Sarajevo area aimed at taking control of features to the north and south of the city and ensuring its continued division.⁵³⁸

C. CRIMES COMMITTED IN THE EXECUTION OF THE JCE TO TERRORISE THE CIVILIAN POPULATION

187. Bosnian Serb forces first attacked Sarajevo in early April 1992, shelling the city from positions already entrenched in the surrounding hills.⁵³⁹ The confrontation lines around Sarajevo remained largely static for the duration of the conflict.⁵⁴⁰ From these positions, and from high-rise buildings around the city, the objects of attack lay clearly in the Bosnian Serbs' sights,⁵⁴¹ reinforcing the military superiority they already enjoyed in

⁵³⁰ KDZ511,65ter10776,paras.40,44;65ter00735.

⁵³¹ 65ter30846;65ter10731,pp.1-5;KDZ386.

⁵³² KDZ511,65ter10776,para.36.

⁵³³ KDZ511,65ter10776,para.32.

⁵³⁴ 65ter30702;65ter30698;65ter10735.

⁵³⁵ KDZ512testimony,*Krajišnik*,T.9024,9118;65ter10621.

⁵³⁶ KDZ088testimony,*Krajišnik*,T.15040(closed);KDZ412testimony,*Galić*,T.2141-2144; KDZ292,65ter10681,pp.11-12;65ter10682,pp.22;65ter10683,L000-5741.*See also* PAF72-74;KDZ405 testimony,*Galić*,T.10208; KDZ511,65ter10776,p.9.

⁵³⁷ 65ter10621,p.9;KDZ292,65ter10681,pp.10-13;KDZ088testimony,*Krajišnik*,T.15040(closed).

⁵³⁸ 65ter08450;65ter01864.

⁵³⁹ KDZ459,65ter10694,p.12;KDZ465;65ter30660;65ter30661;65ter45047;PAF7.

⁵⁴⁰ 65ter45206,0:05':50"-0:06':20;65ter40169,p.5;KDZ184 testimony,*DMilošević*,T.5239,5281;65ter10789,p.28;PAF32.

⁵⁴¹ KDZ234,65ter11081,p.11.

terms of both weaponry and ammunition.⁵⁴² At the 12 May 1992 Assembly, **KARADŽIĆ** assured his audience: “We hold all our areas, all the municipalities...around Sarajevo, and we hold our enemies...in complete encirclement, so that they cannot receive military assistance, either in manpower or in weapons.”⁵⁴³ Around mid-May 1992, Bosnian Serb forces intensified the bombardment of the city.⁵⁴⁴

188. From early April 1992 until the end of the conflict, Bosnian Serb forces inflicted a centrally coordinated⁵⁴⁵ campaign of shelling and sniping on the civilian population of Sarajevo that included attacks directed at civilians,⁵⁴⁶ indiscriminate attacks⁵⁴⁷ and attacks that were disproportionate in relation to any military advantage anticipated.⁵⁴⁸

189. International observers described periods of incessant shelling and noted the extraordinary volume of projectiles launched on Sarajevo such as the 5,000 to 10,000 shells fired in a single bombardment in May 1992,⁵⁴⁹ and numbers in excess of 2500 shells hitting the city per day at times the following year.⁵⁵⁰

190. By at least 1995 the SRK had added the inherently inaccurate⁵⁵¹ modified air-bomb to its arsenal. Loaded with massive explosives, and unable to be precisely guided against any military target, the purpose of these weapons was to further terrorize the civilian population.⁵⁵² UNPROFOR officials described them as “weapons of terror.”⁵⁵³ Besides

⁵⁴² KDZ185,65ter10684,p.10;KDZ222testimony,*DMilošević*,T.3562;KDZ465,ICTY witness statement,ERN:R065-8766-R065-8802,paras.47-50;KDZ487testimony,*DMilošević*,T.3324.

⁵⁴³ 65ter00024,p.12.*See, also*, Trifko RADIĆ,pp.19-20;Ratko MLADIĆ,pp.40-42;65ter30739,p.5.

⁵⁴⁴ KDZ465testimony,*Krajišnik*,T.13054-13056;KDZ465.*See also* 65ter10792,pp.2-3,7-14;65ter30753;65ter30759.

⁵⁴⁵ KDZ185testimony,*Galić*,T.10860-10861;KDZ405testimony,*Galić*,T.10203;KDZ108 testimony,*Galić*,T.9328-9329,9476;KDZ384testimony,*DMilošević*,T.3320-3321;KDZ182 testimony,*DMilošević*,T.3816-3817;KDZ467,65ter10793,pp.10-11;KDZ467testimony,*Galić*,T.9797,9807; KDZ450,65ter10732,0110-0499;KDZ405.

⁵⁴⁶ KDZ280testimony,*D.Milošević*,T.1786-1796;KDZ184testimony,*D.Milošević*,T.5238-5239; KDZ403testimony,*D.Milošević*,T.1068-1071; KDZ250testimony,*D.Milošević*,T.4287; KDZ412testimony,*D.Milošević*,T.2134-2137,2211; KDZ175testimony,*D.Milošević*,T.9862-9863,10200-10210.

⁵⁴⁷ KDZ185,65ter10684,p.11;KDZ185testimony,*Galić*,T.10941;KDZ465;KDZ405testimony,*Galić*,T.10192; KDZ467testimony,*Galić*,T.11033,11008-11009,11011-11012,11028-11029;KDZ108testimony,*Galić*,T.9393-9394;KDZ455testimony,*Galić*,T.9899-9900,9919-9920;KDZ487 testimony,*DMilošević*,T.324-325,330-331,421-426, 453;KDZ412,ICTY witness statement,ERN:R109-6334-R109-6353,p.7;KDZ405; KDZ234.

⁵⁴⁸ KDZ465;KDZ280testimony,*DMilošević*,T.1804-1805;KDZ429 testimony,*DMilošević*,T.4793;KDZ405.

⁵⁴⁹ KDZ465.

⁵⁵⁰ KDZ487testimony,*SMilošević*,T.26937.*See also* KDZ234;KDZ412,ICTY witness statement,ERN:R109-6334-R109-6353,p.7;KDZ470testimony,*SMilošević*,T.16962-16963.

⁵⁵¹ KDZ280testimony,*DMilošević*,T.1825-1827;KDZ413,*DMilošević*,T.1991-1992;KDZ227,65ter10143,paras.21-23;65ter03918,p.2.

⁵⁵² KDZ280testimony,*DMilošević*,T.1825-1827;KDZ184 testimony,*DMilošević*,T.5262.

⁵⁵³ 65ter03493,p.4.

being “very destructive”, they had a psychological purpose and were used “to send shudders” through everyone in the city.⁵⁵⁴ By late May 1995 the security situation within the city significantly deteriorated,⁵⁵⁵ coming to resemble the first days of the conflict in 1992.⁵⁵⁶ When VRS forces ignored a UN ultimatum to stop firing heavy weapons on the city, NATO airstrikes were called in. VRS forces responded by shelling all safe areas, including Sarajevo.⁵⁵⁷

191. During the siege of Sarajevo, all elements of the civilian population and all aspects of civilian life were attacked by the campaign of shelling and sniping. Women, children, the elderly and civilian men – clearly engaged in non-military activity – were wounded and killed by Bosnian Serb forces.⁵⁵⁸ Trams, ambulances,⁵⁵⁹ water distribution lines and open air-markets⁵⁶⁰ – even funerals⁵⁶¹ – were targeted by sniping and shelling such that basic aspects of life became fraught with danger.⁵⁶² Civilians used covered routes to avoid sniper-fire in areas of the city most exposed to sniping, but even these areas were rendered unsafe by artillery attacks.⁵⁶³ One international official commented on his shock on arriving in Sarajevo in 1993. It appeared by the level of widespread devastation as though Serb forces had attempted to systematically destroy the city’s structures.⁵⁶⁴

192. The Bosnian Serb authorities additionally deprived the civilian population of utilities such as gas, electricity and running water for large periods of time, and frequently prevented the provision of humanitarian assistance.⁵⁶⁵ These deprivations in turn made it difficult to provide medical care, including to victims of sniping and shelling.⁵⁶⁶

⁵⁵⁴ KDZ280testimony, *DMilošević*, T.1827.

⁵⁵⁵ 65ter10003, pp.12-13..

⁵⁵⁶ KDZ184, *DMilošević*, T.5240..

⁵⁵⁷ 65ter10003, pp.13-14.

⁵⁵⁸ See KDZ157testimony, *DMilošević*, T.638-639; KDZ184testimony, *DMilošević*, T.5279; KDZ403 testimony, *Galić*, T.1074; KDZ403testimony, *DMilošević*, T.1001-1002; KDZ272testimony, *DMilošević*, T.571-572.

⁵⁵⁹ KDZ130testimony, *Galić*, T.1686; PAF54.

⁵⁶⁰ See KDZ487testimony, *SMilošević*, T.26942; KDZ487testimony, *DMilošević*, T. 345; KDZ180testimony, *DMilošević*, T.4703; 65ter09817; KDZ405; 65ter09817, pp.1,3.

⁵⁶¹ PAF54-55, 111.

⁵⁶² PAF60-62.

⁵⁶³ KDZ108testimony, *Galić*, T.9310.

⁵⁶⁴ KDZ234, 65ter11081, pp.8-9.

⁵⁶⁵ 65ter10816; KDZ405, ICTY witness statement, ERN:R065-9860-R065-9912, paras.22,30; KDZ412, ICTY witness statement, ERN:R109-6334-R109-6353, at R109-6338, R109-6339.

⁵⁶⁶ KDZ403, ICTY witness statement, ERN:0036-1671-0036-1675, at 0036-1674; KDZ130 testimony, *Galić*: T.1686; KDZ144testimony, *Galić*: T.1839-40.

IV. SREBRENICA

193. During the existence of the overarching JCE, **KARADŽIĆ** participated in a related JCE to eliminate the Bosnian Muslims in Srebrenica.⁵⁶⁷ From 1992, the Bosnian Serb political and military leadership was committed to the permanent removal of the Bosnian Muslim population from the region in and around Srebrenica. On 6 July 1995, Bosnian Serb forces under **KARADŽIĆ**'s overall command mounted an offensive against the Srebrenica enclave as part of its general commitment to a "clean" Drina River Valley. In the succeeding days, the JCE to eliminate the Bosnian Muslims of Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica commenced. Within days, over 20,000 Bosnian Muslim refugees were forcibly transferred from the enclave to ABiH-held territory and over 7,000 Bosnian Muslim men and boys were executed. The executed victims were buried, and subsequently thousands were exhumed and reburied in an effort to conceal the crimes.

194. Although the common criminal purpose of this JCE was related to that of the overarching JCE, it was a more focused and specific objective, namely, the elimination of Bosnian Muslims in Srebrenica through, primarily, forcible transfer and mass organised executions. The implementation of the objective of this JCE involved the crimes of genocide, persecution, extermination, murder, deportation and inhumane acts (forcible transfer) as charged in Counts 2, 3, 4, 5, 6, 7 and 8.

195. In addition, and alleged in the alternative, the crimes of deportation and inhumane acts (forcible transfer) carried out in relation to the Srebrenica enclave formed part of the common criminal purpose of the overarching JCE. As noted above, at the time these crimes were carried out, **KARADŽIĆ** and others had, for several years, shared – and been implementing – the objective of permanently removing non-Serbs from the Drina River Valley area. Further (and also alleged in the alternative) it was foreseeable that, in implementing this overarching JCE in the Srebrenica area, one or more members of the overarching JCE and/or persons used by any such member might carry out the crimes of genocide, persecution, extermination, and/or murder as charged in Counts 2 through 6. In

⁵⁶⁷ The town of Srebrenica is in eastern BiH, approximately 15km from the Drina River, along which runs the interstate border between BiH and the FRY. The area around Srebrenica was known as the "Birač" region, "Podrinje" and the "Drina River Valley."

addition to the fact that the pattern of take-overs of non-Serb areas by Bosnian Serb forces had amply demonstrated that crimes such as murder, extermination, persecution and genocide were foreseeable consequences of such attacks, by early 1995, the determination among the Bosnian Serb political and military leadership to finally solve what was considered to be an untenable situation in Srebrenica had reached a climax. Earlier Bosnian Serb efforts to take over the Srebrenica enclave had been hampered by the international community through the Security Council resolution declaring the enclave a “safe area”. Although this was supposed to result in the demilitarization of the enclave, Bosnian Muslim forces used Srebrenica as a base to launch raids on Serb villages. In addition, Srebrenica was one of the last remaining Muslim enclaves in the RS, and therefore one of the final obstacles to an essentially ethnically-clean Serb entity. **KARADŽIĆ** was aware that the crimes of genocide, persecution, extermination, and murder were possible consequences of the implementation of the overarching JCE in the Srebrenica area, and willingly took that risk.

A. The common plan to eliminate the Bosnian Muslims in Srebrenica

196. As noted above, as early as 1992, the Bosnian Serb authorities had taken steps aimed at permanently removing the Bosnian Muslim population from the area in and around Srebrenica. As outlined below, the events that followed laid the foundation for the common plan to eliminate the Bosnian Muslims in Srebrenica.

197. As discussed above, by the beginning of April 1992, **KARADŽIĆ** and the BSL had begun to implement the policy to remove the Bosnian Muslim population from the Drina Valley region.⁵⁶⁸ By late 1992, with the exception of a few isolated enclaves, the Bosnian Muslim presence in this area had been largely eradicated.⁵⁶⁹

198. On 19 November 1992, MLADIĆ issued Operational Directive 4⁵⁷⁰ which, *inter alia*, ordered the Drina Corps to:

[I]nfllict the heaviest possible losses on [the enemy], and force him to leave the Birač, Žepa and Goražde areas together with the Bosnian

⁵⁶⁸ See Confidential Attachment to this brief on the take-overs of Zvornik and Bijelina; 65ter01781,pp.152,160-164.

⁵⁶⁹ 65ter01781,pp.152,160-164.

⁵⁷⁰ 65ter01639. Although **KARADŽIĆ** did not sign Directive 4, he approved it as he approved Directives 1 through 7. See,65ter00093,p.84.

Muslim population. First offer the able-bodied and armed men to surrender, and if they refuse, destroy them.⁵⁷¹

199. Days after the issuance of Directive 4, on 23 November 1992, **KARADŽIĆ** chaired a military and political seminar in Zvornik which was attended by representatives of the VRS Main Staff, core Drina Corps Command officers, Drina Corps brigade commanders, and the presidents of the municipalities in the Drina Corps zone of responsibility.⁵⁷² The following day, on 24 November 1992, the commander of the Drina Corp issued an order pursuant to Directive 4, which ordered Drina Corps units to:

Launch an attack using the main body of troops and major equipment to inflict on the enemy the highest possible losses, exhaust them, break them up or force them to surrender, and force the Muslim local population to abandon the area of Cerska, Žepa, Srebrenica and Goražde.⁵⁷³

200. In the spring of 1993, Bosnian Serb military operations conducted in accordance with Directive 4 forced the Bosnian Muslim population of Cerska, Konjević Polje, Kamenica, and the surrounding areas into the town of Srebrenica and its surrounding villages.⁵⁷⁴ By March 1993, the number of residents and refugees in Srebrenica municipality had swelled from 37,000 to roughly 50,000 to 60,000.⁵⁷⁵

201. Overcrowding, deprivation of basic food and necessities and attacks by the VRS on the Bosnian Muslim population produced dire living conditions in the Srebrenica area. In April 1993, in response to the situation, the UN Security Council passed Resolution 819, which declared the enclave a “safe area”.⁵⁷⁶ Resolution 819 was designed to create a demilitarised area for Srebrenica town and the surrounding villages and hamlets.⁵⁷⁷ Shortly thereafter, lightly armed UNPROFOR troops arrived in Srebrenica.⁵⁷⁸

202. The enclave, however, was never completely demilitarised, with the ABiH regularly leading raids on Bosnian Serb villages surrounding the enclave.⁵⁷⁹

⁵⁷¹ 65ter01639,0190-0428.

⁵⁷² 65ter00176;65ter10881;65ter06399;65ter07231.

⁵⁷³ 65ter03979.

⁵⁷⁴ 65ter02365; 65ter14333;65ter09219;65ter09364;65ter04315;65ter14316;65ter11220;65ter03639; 65ter14313; 65ter14350;65ter08977;65ter08970;65ter14376;65ter14381;65ter09006;KDZ575; KDZ558;KDZ064.

⁵⁷⁵ 65ter02365,para.33;65ter02365,para.37.

⁵⁷⁶ 65ter01216,para.1.

⁵⁷⁷ 65ter01216,para.1.

⁵⁷⁸ KDZ284testimony,Popović,T.2259-2270; KDZ360testimony,Popović,T.5235-5236.

⁵⁷⁹ See,65ter02278.

203. On 8 March 1995, in furtherance of the effort to complete the removal of Muslims from the Drina River Valley, **KARADŽIĆ** issued Directive 7.⁵⁸⁰ In this Directive, **KARADŽIĆ** directed the VRS (specifically the Drina Corps) that:

[i]n the direction of the Srebrenica and Žepa enclaves complete physical separation of Srebrenica from Žepa should be carried out as soon as possible, preventing even communication between individuals in the two enclaves. By planned and well-thought-out combat operations create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa.⁵⁸¹

204. Accordingly, between March and July 1995, the VRS and RS civilian organs restricted humanitarian aid and relief supplies to the Bosnian Muslim inhabitants of Srebrenica and Žepa as part of the organised effort to make life impossible for and to remove the Bosnian Muslims.⁵⁸² The VRS also shelled and sniped civilian targets in the Srebrenica and Žepa enclaves.⁵⁸³ Furthermore, following the express orders in Directive 7,⁵⁸⁴ the VRS and competent civilian organs deliberately restricted the delivery of supplies, materials and men to the UNPROFOR units in the Srebrenica enclave, thereby limiting UNPROFOR's ability to function effectively.⁵⁸⁵

205. On 3 June 1995, VRS forces attacked a UN observation post as a prelude to the forthcoming attack.⁵⁸⁶ Thereafter, **KARADŽIĆ** personally met with General KRSTIĆ and others to discuss the development of a plan to attack the Srebrenica enclave,⁵⁸⁷ and on 2 July 1995, the Drina Corps issued "Krivaja 95," an operational order for an attack on the Srebrenica enclave in order to, *inter alia*, reduce the enclave to its urban area.⁵⁸⁸ The purpose of reducing the enclave to its urban area was to force the Bosnian Muslim population into the small town of Srebrenica, thereby triggering a humanitarian crisis and ultimately forcing the population's departure.⁵⁸⁹

⁵⁸⁰ 65ter01879.

⁵⁸¹ 65ter01879,0081-7130.

⁵⁸² KDZ207testimony, *Popović*, T.2445-2446; KDZ360testimony, *Popović*, T.4807.

⁵⁸³ KDZ229testimony, *Popović*, T.1895-1896; KDZ207testimony, *Popović*, T.2440-2444; 65ter03922.

⁵⁸⁴ See, 65ter01879,0081-7134.

⁵⁸⁵ KDZ284testimony, *Popović*, T.2260-2263; KDZ207testimony, *Popović*, T.2447-2450; KDZ117testimony, *Popović*, T.3033-3035; KDZ360testimony, *Popović*, T.4808; 65ter03904.

⁵⁸⁶ 65ter02095; KDZ207testimony, *Popović*, T.2452.

⁵⁸⁷ KDZ287testimony, *Popović*, T.21727.

⁵⁸⁸ 65ter01977,0088-3595; 65ter01375.

⁵⁸⁹ 65ter01879,0081-7130.

206. On 6 July 1995, units of the VRS Drina Corps attacked the Srebrenica enclave.⁵⁹⁰ The attack included the shelling of civilians and civilian targets in the enclave.⁵⁹¹ On 9 July 1995, **KARADŽIĆ** agreed to expand the operation to include the take-over of the entire Srebrenica enclave; on 11 July 1995, Srebrenica fell to the Bosnian Serb forces.⁵⁹²

207. In the days following the 6 July 1995 attack on the enclave, a common plan to eliminate the Bosnian Muslims of Srebrenica shared by **KARADŽIĆ**, **MLADIĆ** and other members of the JCE was formed.

208. On 10 July 1995 Serb forces intensively shelled the urban area of Srebrenica.⁵⁹³ Shelling continued on the morning of 11 July 1995, although by this time the ABiH forces had left Srebrenica.⁵⁹⁴

209. As thousands of Bosnian Muslim civilians fled the shelling of Srebrenica on 11 July 1995, the VRS attempted to force them to the main UN base at Potočari. A large column of women, children, elderly, and some men walked the four kilometres from Srebrenica to Potočari. The VRS fired shells at or near the fleeing civilians.⁵⁹⁵ Later that same day, **MLADIĆ** and other VRS officers took a victory walk through the empty streets of Srebrenica town.⁵⁹⁶ At this time, **MLADIĆ** stated on television that "...the moment has finally come for us to take revenge on the Turks here."⁵⁹⁷ By the evening of 11 July 1995, approximately 20,000 to 25,000 Bosnian Muslim refugees were gathered in Potočari.⁵⁹⁸

210. On 11 and 12 July 1995, **MLADIĆ** conducted three meetings with other VRS officers and UNPROFOR leaders at the Hotel Fontana in Bratunac. Representatives of the Bosnian Muslim refugee community at Potočari were present at the second and third meetings. During the second meeting, **MLADIĆ** intimidated and threatened the Bosnian Muslims, and stated that he would provide the vehicles to transport the Srebrenica refugees out of Potočari. He demanded that all ABiH troops within the area of the former enclave surrender and threatened that, if this did not happen, the survival of the Bosnian Muslim population would be in danger. **MLADIĆ** again threatened the Muslim

⁵⁹⁰ 65ter02329.

⁵⁹¹ 65ter02329; 65ter02334.

⁵⁹² 65ter01903.

⁵⁹³ KDZ207testimony, *Popović*, T.2473.

⁵⁹⁴ KDZ284testimony, *Popović*, T.2267-2272; KDZ207 testimony, *Popović*, T.2477-2481.

⁵⁹⁵ KDZ261testimony, *Popović*, T.2717-2718; KDZ207testimony, *Popović*, T.2479-2481.

⁵⁹⁶ 65ter40023; 65ter40001; 65ter40002..

⁵⁹⁷ See, 65ter40010.

representative, demanding a clear position on whether the Bosnian Muslims wanted to “survive ... stay or vanish.”⁵⁹⁹ At the third meeting on 12 July 1995, MLADIĆ informed the group that he would supervise the “evacuation” of refugees and demanded to screen all Bosnian Muslim men between the ages of 16 and 60 as possible war criminals.⁶⁰⁰

211. On 12 July 1995, **KARADŽIĆ** appeared on Bosnian Serb television touting the success of the Bosnian Serb forces in Srebrenica and contrasting the treatment of the civilians in Srebrenica to that of the Serbs in Western Slavonia.⁶⁰¹

212. Following the fall of Srebrenica on 11 July 1995, **KARADŽIĆ** and MLADIĆ, working with other military and civilian officials, directed the forcible transfer of the Muslim population out of the enclave and the mass executions of over 7,000 men and boys. As described below, these crimes were well-organised and highly co-ordinated by the Bosnian Serb authorities, as was necessitated by the sheer scale of the crimes carried out over just a few days. The forcible transfer of the Muslim population out of the enclave required dozens of vehicles and thousands of litres of scarce fuel,⁶⁰² while the executions and burials required substantial human and material resources.⁶⁰³

213. **KARADŽIĆ** and those who worked with him in pursuit of their shared objective to eliminate the Bosnian Muslims in Srebrenica knew that separating the men from their families, murdering them, and expelling their families from Srebrenica would have a catastrophic and lasting impact on the Bosnian Muslims of Srebrenica. In a patriarchal society, such as the Muslim community of Srebrenica, the execution of the majority of men made it almost impossible for the Bosnian Muslim women who survived to successfully re-establish their lives.⁶⁰⁴

⁵⁹⁸ 65ter02349.

⁵⁹⁹ 65ter03163,p.48.

⁶⁰⁰ 65ter40211;65ter02288;65ter02288;65ter40087;65ter02289;65ter40087;65ter02290.

⁶⁰¹ 65ter45296.

⁶⁰² 65ter02520.

⁶⁰³ 65ter02520;65ter02233,0293-5766.

⁶⁰⁴ KDZ265testimony,*Krstić*,T.5746-5747;KDZ168testimony,*Krstić*,T.5817-5819,5830,5839-5841.

B. KARADŽIĆ was a key member of the JCE to eliminate the Bosnian Muslims in Srebrenica

214. **KARADŽIĆ** played a central role in the JCE to eliminate the Bosnian Muslims in Srebrenica. As President of the RS and Supreme Commander of the VRS, he commanded and acted in concert with MLADIĆ. Despite some tensions between **KARADŽIĆ** and MLADIĆ, the two shared the JCE's objective and worked together, when pursuing that objective, in accordance with the military chain of command.⁶⁰⁵ MLADIĆ carried out **KARADŽIĆ**'s orders and directed the operation of subordinate units through the VRS Main Staff.

215. **KARADŽIĆ**'s involvement in and supervision of events in Srebrenica before, during and after its fall demonstrate that he either directed or approved the expulsion of the population and the execution of the men and boys. As described in more detail below, throughout the Srebrenica military operation and continuing after the fall of the enclave, **KARADŽIĆ** regularly communicated and met with civilian, military and police members of the JCE,⁶⁰⁶ kept abreast of all relevant developments⁶⁰⁷ and directed activities as Supreme Commander.⁶⁰⁸

216. On 8 or 9 July 1995, **KARADŽIĆ** met with Miroslav DERONJIĆ, President of the Bratunac SDS Municipal Board. They discussed the possibility of the VRS taking over the Srebrenica enclave. **KARADŽIĆ** stated that, in such event, the fleeing population should be dealt with in accordance with the "Principle of Western Slavonia" indicating that those fleeing the enclave should be attacked, just as Croatian forces had attacked Serbs fleeing Western Slavonia.⁶⁰⁹

217. On 9 July 1995, General TOLIMIR indicated to the Main Staff and the Drina Corps that **KARADŽIĆ** was informed of the operations in Srebrenica and "agreed with the continuation of the operations for the take-over of Srebrenica."⁶¹⁰

⁶⁰⁵ See, 65ter06972 at, R107-5396-R107-5397; KDZ203; 65ter12008; 65ter10892; 65ter30923; KDZ540 Witness Statement, ERN:V000-8133-V000-8134 (audio only); KDZ550 ICTY Witness Statement, ERN:T001-1909-T001-1911 (audio only).

⁶⁰⁶ See, 65ter04754.

⁶⁰⁷ See e.g. KDZ540 Witness Statement, ERN:V000-8133-V000-8134 (audio only); KDZ550 ICTY Witness Statement, ERN:T001-1909-T001-1911 (audio only).

⁶⁰⁸ See e.g. KDZ287; 65ter30986.

⁶⁰⁹ KDZ297 testimony, *Krstić Appeals Hearing*, T.105-113.

⁶¹⁰ 65ter01903.

218. On 11 July 1995, General GVERO contacted **KARADŽIĆ** and informed him that “everything is going according to plan.”⁶¹¹ Twenty minutes later, GVERO again contacted **KARADŽIĆ** to report that the Serbian flag was flying above the Serbian church in Srebrenica.⁶¹²

219. On 11 July 1995, **KARADŽIĆ** appointed DERONJIĆ “Civilian Commissioner” of Srebrenica⁶¹³ and ordered Chief of the Zvornik CJB Dragomir VASIĆ to create a police station in Srebrenica.⁶¹⁴ **KARADŽIĆ**’s comments during a Serb television interview the following day further demonstrate his knowledge of, and authority over, the ongoing events as Supreme Commander.⁶¹⁵

220. At 2010 hours on 13 July 1995, DERONJIĆ contacted **KARADŽIĆ** regarding the prisoners held in Bratunac.⁶¹⁶ **KARADŽIĆ** stated (through an intermediary) that “[a]ll the goods must be placed inside the warehouses before twelve tomorrow” and DERONJIĆ was told “not in the warehouses /over there?/, but somewhere else.”⁶¹⁷ At this time, the forcible transfer was ongoing and the executions had already commenced with the killing of over 1,000 Bosnian men and boys in Kravica warehouse, located in Kravica village, Bratunac municipality, on the afternoon of 13 July. That evening, members of the VRS ordered Zvornik Brigade Military Police to the school in Orahovac to guard the prisoners who would be arriving.⁶¹⁸ On the morning of 14 July, members of the VRS and MUP transported the vast majority of prisoners detained in and around Bratunac in a huge convoy to the Zvornik area.⁶¹⁹

221. On the afternoon of 13 July, MLADIĆ called **KARADŽIĆ** to report that Srebrenica was finished.⁶²⁰ This telephone call occurred around the time that the forced transportation of the Muslim population out of Srebrenica was completed.⁶²¹ **KARADŽIĆ** and MLADIĆ then discussed the Žepa campaign as the next step. During

⁶¹¹ 65ter30925.

⁶¹² 65ter30923.

⁶¹³ 65ter01884;65ter45294.

⁶¹⁴ 65ter01898.

⁶¹⁵ 65ter07679. *See, also*, 65ter11030..

⁶¹⁶ 65ter30986.

⁶¹⁷ 65ter30986.

⁶¹⁸ *See, e.g.*, KDZ276testimony, Popović, T.10329; KDZ486; KDZ187testimony, Popović, T.10743; KDZ407testimony, Popović, T.6461.

⁶¹⁹ KDZ064testimony, Popović, T.674-679..

⁶²⁰ KDZ540 ICTY Witness Statement, ERN:V000-8133-V000-8134 (audio only).

⁶²¹ KDZ284.

this telephone call, which lasted over an hour, **KARADŽIĆ** and MLADIĆ also discussed the promotion of a commander who, by the description, was General KRSTIĆ.⁶²² Later that evening, pursuant to a decree by **KARADŽIĆ** and in the presence of MLADIĆ, General KRSTIĆ assumed command of the VRS Drina Corps from General ŽIVANOVIĆ.⁶²³ The next day **KARADŽIĆ** issued the official decree appointing General KRSTIĆ VRS Drina Corps Commander.⁶²⁴

222. On 14 July 1995, **KARADŽIĆ** met with DERONJIĆ, who told **KARADŽIĆ** of a meeting involving Colonel Ljubiša BEARA, Chief of the Main Staff Security Administration, and VASIĆ, during which BEARA stated that the order to murder the Muslim men and boys was issued from above.⁶²⁵ **KARADŽIĆ** expressed his frustration only over BEARA's indiscreet remark.⁶²⁶

223. That same day, **KARADŽIĆ** met with American Bob DJURDJEVIĆ and told him, following the phone call with a military commander in the area of Nova Kasaba, that the fighting with the Muslim column was ongoing.⁶²⁷ While meeting with DJURDJEVIĆ, **KARADŽIĆ** also stated that the attacks on Srebrenica and Žepa were based on his "order number 7," a reference to Operational Directive 7.⁶²⁸

224. **KARADŽIĆ** continued to be kept informed of the events on the ground by VRS and MUP personnel, as evidenced by a 16 July 1995 intercept in which the Main Staff Duty Officer reported to MLADIĆ that **KARADŽIĆ** had moments earlier called the Duty Officer and informed him that PANDUREVIĆ had arranged for the Muslims to pass over his territory.⁶²⁹

225. In the days and months following the completion of the forcible transfers and murders and in the midst of international concern and media reports regarding the

⁶²² KDZ550 ICTY Witness Statement, ERN: T001-1909-T001-1911 (audio only). The commander was described as missing one leg. General KRSTIĆ is a one-legged man.

⁶²³ 65ter01986.

⁶²⁴ 65ter01892; *see, also* AppendixD(charts).

⁶²⁵ KDZ297testimony, *Krstić Appeals Hearing*, T.123-125.

⁶²⁶ KDZ297testimony, *Krstić Appeals Hearing*, T.123-125.

⁶²⁷ 65ter06972, atR107-5395.

⁶²⁸ 65ter06972, atR107-5398. *See, also*, 65ter04754, 0638-5421.

⁶²⁹ 65ter31150A.

whereabouts of the Muslims of Srebrenica,⁶³⁰ **KARADŽIĆ** publicly praised the take-over of Srebrenica⁶³¹ and stated that he personally supervised and directed the operation.⁶³²

1. Civilian Authorities Participating in the JCE

226. Other republic level members of RS Political Governmental Organs and other regional, municipal and local level members of RS Political and Governmental Organs with responsibility in or for the Srebrenica, Vlasenica, Bratunac, and/or Zvornik municipalities (such as DERONJIĆ, whose role is discussed above) were also members of the JCE or were used by JCE members to implement the common objective.

2. Military Authorities Participating in the JCE

227. In addition to **KARADŽIĆ**, General MLADIĆ participated in the JCE as one of its key members. The following key military personnel (some of whom are mentioned above and below) were either JCE members or were used by JCE members to implement the common objective: Major-General Zdravko TOLIMIR; Major-General Radivoje MILETIĆ; Lieutenant-Colonel General Milan GVERO; Colonel Ljubiša BEARA; Colonel Petar SALAPURA; Colonel Radoslav JANKOVIĆ; Lieutenant Colonel Dragomir KESEROVIĆ; Colonel Nedo TRKULJA; Lieutenant-Colonel Vujadin POPOVIĆ; Major-General Radislav KRSTIĆ; Lieutenant Colonel Vinko PANDUREVIĆ; Colonel Vidoje BLAGOJEVIĆ; Major Dragan OBRENOVIĆ; Major Dragan JOKIĆ; Captain Momir NIKOLIĆ; 2nd Lieutenant Drago NIKOLIĆ; and Captain Milorad TRBIĆ. Other commanders, assistant commanders, senior officers, and chiefs of the VRS operating in or with responsibility over territory within the Drina Corps AOR and/or Trnovo municipality also participated in the JCE as either members or tools.⁶³³

3. MUP Authorities Participating in the JCE

228. MUP authorities who participated in the JCE as either members or tools were commanders, assistant commanders, senior officers, and chiefs of the MUP operating in or with responsibility over territory within the Drina Corps AOR and/or Trnovo municipality,

⁶³⁰ 65ter02308.

⁶³¹ 65ter40219;65ter02606;65ter00009;65ter00093,p.86.

⁶³² 65ter00093,p.86.

⁶³³ See Schedule E;AppendixD(charts).

including Tomislav KOVAČ and Ljubiša BOROVIČANIN, as well as members of the Scorpions, a MUP unit associated with Serbia.⁶³⁴

C. Crimes committed in the execution of the JCE to eliminate the Bosnian Muslims of Srebrenica

229. The JCE objective was implemented between 11 July 1995 and 1 November 1995 through the forcible transfer of over 20,000 Bosnian Muslim refugees from the enclave and the killing of over 7,000 Bosnian Muslim men and boys. The organised mass killings were completed by the end of July 1995. However, “sweeps” by the VRS and MUP for remaining Muslims continued in the region through October 1995⁶³⁵

230. Members of the VRS and MUP terrorised, through murder, beating, and other acts of physical cruelty, the Bosnian Muslims who sought refuge at the UN base in Potočari.⁶³⁶

231. On 12 July 1995, the Ministry of Defence, the VRS, and civilian authorities mobilised buses and trucks for the forcible transfer of the Bosnian Muslim population out of the enclave,⁶³⁷ and in the early afternoon of 12 July, approximately 50 to 60 buses and trucks arrived in Potočari.⁶³⁸

232. As the Bosnian Muslim men and boys attempted to board the buses, members of the Bratunac Brigade and MUP separated Bosnian Muslim men and boys from the women and children boarding the buses.⁶³⁹ They also searched the bus compound for men and boys to separate.⁶⁴⁰ The VRS and MUP forces took the separated men and boys to a building known as the “White House,” forced the men and boys to leave their belongings,

⁶³⁴ KDZ493;KDZ521

Witness Statement,ERN:0465-4751-0465-4758, at 0465-4753-0465-4754;seeAppendixD(chart).

⁶³⁵ 65ter02076;65ter02134; 65ter15242,p11.

⁶³⁶ KDZ070testimony,Popović,T.3408-3409; KDZ167testimony,Popović,T.1174-1178.

⁶³⁷ 65ter01886;65ter01887; 65ter01888; 65ter01889; 65ter01890; 65ter01891.

⁶³⁸ KDZ070testimony,Popović,T.3408-09;65ter02520.

⁶³⁹ KDZ070testimony,Popović,T.3408-3409;KDZ229testimony,Popović,T.2014-2016;KDZ207testimony, Popović,T.2496. See also KDZ178testimony,Krstić,T.1966.

⁶⁴⁰ KDZ070testimony,Popović,T.3407-3408,T.3459-3461.

including identification documents, outside on the ground,⁶⁴¹ and subsequently beat and abused them.⁶⁴²

233. The separation of men and boys from their families, which continued until 2000 hours on 12 July and then resumed again the following morning,⁶⁴³ was marked by fear, force and distress.⁶⁴⁴ The men who were separated were mainly between 17 and 60 years of age,⁶⁴⁵ though boys as young as 14 years old were taken away.⁶⁴⁶

234. Throughout the rest of 12 July and into 13 July, as the men and boys remained detained in the White House, thousands of Bosnian women and young children and some elderly men were loaded onto the buses and trucks and transported by the Bosnian Serb forces to the confrontation line near Kladanj, where they were released and left to walk roughly five kilometres to ABiH-held territory.⁶⁴⁷

235. On 13 July, members of the VRS and MUP transported the separated men and boys in Potočari to temporary detention sites in Bratunac, ten kilometres north of Srebrenica, to await transfer to various execution sites.⁶⁴⁸

236. On 13 July, the soldiers of the 28th Division of the ABiH who, along with large numbers of civilians, had tried to escape to BiH territory through the forest, were met by RS MUP forces who had been deployed along the Bratunac-Konjević Polje road in order to intercept them. Thousands of Bosnian Muslims from the column were captured by, or surrendered to, the Bosnian Serb forces.⁶⁴⁹

237. Later that afternoon, members of the VRS and MUP took over 1,000 of the captured men from Sandići to the Kravica Warehouse and executed them.⁶⁵⁰ They executed others at Jadar River, Sandići and the Luke School near Tišća.⁶⁵¹

⁶⁴¹ KDZ207 testimony, *Popović*, T.2497; KDZ284 testimony, *Popović*, T.2302-2304; 65ter40010. *See, also* KDZ178 testimony, *Krstić*, T.1966, 1973-1974.

⁶⁴² 65ter02722; KDZ178 testimony, *Krstić*, T.1966. *See, also* KDZ207 testimony, *Popović*, T.2496-2500; KDZ229 testimony, *Popović*, T.2008-2016; KDZ360 testimony, *Popović*, T.4801-4802; KDZ284 testimony, *Popović*, T.2302-2304.

⁶⁴³ KDZ284 testimony, *Popović*, T.2295-2296, T.2300-2301.

⁶⁴⁴ KDZ178 testimony, *Krstić*, T.1966-1967.

⁶⁴⁵ KDZ229 testimony, *Popović*, T.2010, 2012; KDZ343 testimony, *Popović*, T.19251-19254.

⁶⁴⁶ KDZ343 testimony, *Popović*, T.19254-19255.

⁶⁴⁷ KDZ284 testimony, *Popović*, T.2285-2287, 2293, 2295-2297.

⁶⁴⁸ KDZ167 testimony, *Popović*, T.1179-1180.

⁶⁴⁹ KDZ071 testimony, *Popović*, T.7082-7086; 65ter02109; KDZ140 testimony, *Popović* T.885-890, 898, 907-908; KDZ333 testimony, *Krstić*, T.3017-3029.

⁶⁵⁰ *See* Schedule E.

238. The same day, members of the VRS and MUP took the remaining thousands of Bosnian Muslim prisoners captured on 13 July near Nova Kasaba, Konjević Polje and Sandići to Bratunac.⁶⁵² They detained these captured prisoners in buses, trucks, the Vuk Karadžić School and buildings surrounding the Vuk Karadžić School, together with the Bosnian Muslim men and boys who had been separated in Potočari and brought to Bratunac.⁶⁵³

239. On the evening of 13 July 1995, members of the VRS and MUP began to transport these men to the Zvornik area, approximately 40 km to the north of Bratunac, for mass execution.⁶⁵⁴ As noted above, on the evening of 13 July, **KARADŽIĆ** and **DERONJIĆ** discussed moving the Bosnian Muslim prisoners out of Bratunac. That evening, members of the VRS ordered Zvornik Brigade Military Police to the school in Orahovac to guard the prisoners who would be arriving.⁶⁵⁵ On the morning of 14 July, members of the VRS and MUP transported the vast majority of the remaining prisoners from Bratunac in a huge convoy to detention sites in the Zvornik area.⁶⁵⁶

240. Beginning on 12 July 1995, VRS and MUP forces executed more than 7,000 Bosnian Muslim men and boys who were separated from their families in Potočari or captured from the column of Bosnian Muslim men retreating from Srebrenica. Colonel BEARA was tasked with the organisation of these large-scale and systematic executions.⁶⁵⁷

241. In addition to the 13 July executions discussed above, members of the VRS and MUP executed hundreds of Bosnian Muslim men and boys on or around 14 July 1995 at Orahovac (near Lažete), the Petkovci School and the Petkovci Dam.⁶⁵⁸ On 15 July 1995, VRS and MUP forces executed the men and boys at the Ročević School, Kozluk and the Kula School near Pilica.⁶⁵⁹ On 16 July 1995, VRS and MUP forces participated in mass

⁶⁵¹ See Schedule E.

⁶⁵² 65ter02109;KDZ140 testimony,Popović,T.885-890,898,907-908;KDZ333testimony,Krstić,T.3017-3029.

⁶⁵³ KDZ064testimony,Popović,T.663;KDZ039testimony,Popović,T.17309,17315-17316,17325;KDZ070 testimony,Popović, T.3409.

⁶⁵⁴ 65ter02520,R108-7745-R108-7746.

⁶⁵⁵ See, e.g., KDZ276testimony,Popović,T.100329;KDZ187testimony,Popović,T.11024;KDZ486;KDZ187testimony,Popović,T.10743;KDZ407testimony,Popović,T.6641.

⁶⁵⁶ KDZ064testimony,Popović,T.674-679.

⁶⁵⁷ KDZ229testimony,KrstićAppeals Hearing,T.123-125.

⁶⁵⁸ See Schedule E.

⁶⁵⁹ See Schedule E.

executions at Branjevo Farm and Pilica Cultural Centre,⁶⁶⁰ and at some point between 13 and 17 July 1995, VRS and/or MUP forces participated in an execution in Cerska Valley.⁶⁶¹ Until August 1995, VRS and MUP forces and the Scorpions participated in additional, though more sporadic, organised killings, in locations including Snagovo; Trnovo; and Bišina.⁶⁶²

242. In addition to these organised executions, VRS and MUP forces murdered in a more “opportunistic” manner a number of Bosnian Muslim men during the forcible transfer operation at sites in Potočari, Kravica and Bratunac, and at detention sites in the Zvornik Brigade area of responsibility where they were being held prior to the organised executions.⁶⁶³

243. During and after the opportunistic killings and organised executions, VRS forces participated in a systematic and comprehensive effort to conceal these crimes by burying the bodies of the victims *en masse* in isolated locations scattered over a wide area. When it became apparent that the international community had learned of the killings and executions arising from the attack on the Srebrenica safe area, between 1 August 1995 and 1 November 1995, VRS and MUP forces and civilian organs engaged in a further attempt to conceal the killings by exhuming the bodies from the initial mass grave sites and transferring them to secondary grave sites in more remote areas.⁶⁶⁴

V. HOSTAGES

A. The common plan to take hostages

244. During the existence of the overarching JCE, **KARADŽIĆ** participated in a related JCE to take UN personnel hostage in order to compel NATO to abstain from conducting air strikes against Bosnian Serb military targets. In response to shelling attacks on Sarajevo and other areas of BiH by Bosnian Serb Forces, NATO forces carried out air strikes against Bosnian Serb military targets on 25 and 26 May 1995.⁶⁶⁵ In response,

⁶⁶⁰ See Schedule E.

⁶⁶¹ See Schedule E.

⁶⁶² See Schedule E.

⁶⁶³ See Schedule E.

⁶⁶⁴ KDZ122 testimony, *Popović*, T.15920-15928;65ter01911;65ter02084.

⁶⁶⁵ KDZ384,65ter10003,0041-5507,0041-5508.

Bosnian Serb Forces took hostage over 200 UN military observers and peacekeepers between 26 May 1995 and 19 June 1995 and held them at various locations in the RS, using them as human shields and maltreating some of them.⁶⁶⁶

245. From 1994, **KARADŽIĆ** made numerous threats to target the UN and take UN personnel hostage. In August 1994, **KARADŽIĆ**, when asked for his opinion on President CLINTON's intention to lift the weapons embargo for the Muslims, warned:

If they would lift the embargo we will not respect any Security Council resolution any more. We will take the "Blue Helmets" as hostages, destroy a large number of planes and will arrest all the foreigners on our territories. For the benefit of our people we will do anything we have to do, without mercy.⁶⁶⁷

On 9 May 1995, **KARADŽIĆ** told Sir Rupert SMITH (UNPROFOR Commander, BiH) that if NATO was used against the Bosnian Serb Administration, the UN would be targeted.⁶⁶⁸ **KARADŽIĆ** reiterated this threat on 17 May 1995.⁶⁶⁹

246. Previously, in April and November-December 1994, UN personnel were taken hostage by the Bosnian Serbs.⁶⁷⁰ In April 1994, the Security Council condemned the detention of UNPROFOR personnel and demanded their immediate release.⁶⁷¹ Nevertheless, the Bosnian Serbs took hostages again in November, prompting further protests by the international community which made efforts to secure the hostages' release.⁶⁷²

247. In May 1995, the Bosnian Serb forces took UN personnel hostage yet again in several locations. **KARADŽIĆ** played a crucial role in the incident, warning the internationals that any attempt to liberate the hostages by force would result in bloodshed.⁶⁷³ **MLADIĆ** was also deeply involved in this criminal plan. On 26 May 1995, during their conversation following the capture of eight UNMOs, **MLADIĆ** told **SMITH** that if there were further air attacks, he would respond with an action called "HRIPE", and

⁶⁶⁶ See KDZ384,65ter10003,0041-5508;65ter09050,p.1(VRS has captured 367 UNPROFOR members and UNMOs);65ter40202;KDZ551.

⁶⁶⁷ 65ter00699,0063-6088.*See, also*, 65ter08127.

⁶⁶⁸ 65ter01333,R011-8123.

⁶⁶⁹ 65ter01336,0037-7286 ("If NATO attacked us, we would consider the UN our enemy...");65ter10726.

⁶⁷⁰ 65ter10720;65ter10721;65ter45270;KDZ405,65ter06873,0036-3445;65ter13180.

⁶⁷¹ 65ter01274.

⁶⁷² 65ter10721;KDZ405,65ter06873,0036-3444.

⁶⁷³ 65ter09785,R002-4232.

“everyone would know the answer from their TV screens.”⁶⁷⁴ SMITH knew that MLADIĆ was referring to the “death rattle”, that is, UN personnel would be killed.⁶⁷⁵

248. The capture of the hostages was well-coordinated⁶⁷⁶ and executed by the VRS and members of the police.⁶⁷⁷ On 27 May 1995, Lieutenant Colonel Jovica KARANOVIĆ⁶⁷⁸ ordered several intelligence and security departments to recommend to commanders “that captured members of UN forces be placed in an area of a possible NATO air strike.”⁶⁷⁹ UN personnel who were taken hostage in May 1995 observed that their capture was well-coordinated and organised by the Serb forces.⁶⁸⁰

249. On 3 June 1995, Momčilo VINKOVIĆ told KRAJIŠNIK to hold on to the hostages, adding: “That’s a fantastic card! Don’t ever forget that Saddam got destroyed when he released the hostages.”⁶⁸¹ KRAJIŠNIK responded: “Yes, yes. We’re doing that. We have an excellent method, we always have an ace up our sleeve.”⁶⁸²

250. Members of the international community strongly condemned the May 1995 hostage-taking at its very outset, demanding the hostages’ release and proper treatment and pointing out that it constituted a crime.⁶⁸³ Several days later on 3 June 1995, UN Sarajevo Sector Commander GOBILLIARD wrote a strong letter of protest concerning the hostages to SRK Commander Dragomir MILOŠEVIĆ.⁶⁸⁴ Despite these protests, the Bosnian Serbs continued to hold UN personnel hostage until 19 June 1995.

B. KARADŽIĆ was a key member of the JCE to take hostages

251. **KARADŽIĆ**, in his capacity as President of the RS and Supreme Commander of the RS armed forces, and MLADIĆ in his capacity as VRS commander, were key

⁶⁷⁴ 65ter01686,R001-5965;KDZ384,65ter10003,0041-5508.

⁶⁷⁵ KDZ384,65ter10003,0041-5508.

⁶⁷⁶ *See, e.g.*, KDZ279 ICTY witness statement, ERN:0039-7907-003907913, at 0039-7911; KDZ119 ICTY witness statement, ERN:0037-6154-0037-6159, at 0037-6156.

⁶⁷⁷ KDZ395 ICTY witness statement, ERN:0035-6620-0035-6625, at 0035-6621; KDZ104, ERN:0042-2585-0042-2588; 65ter08047; 65ter13392.

⁶⁷⁸ VRS Main Staff, Intelligence and Security Sector.

⁶⁷⁹ 65ter10596.

⁶⁸⁰ *See, e.g.*, KDZ119 ICTY witness statement, ERN:0037-6154-0037-6159, at 0037-6156; KDZ279 ICTY witness statement, ERN:0039-7907-0039-7913, at 0039-7911.

⁶⁸¹ 65ter30892, p.2.

⁶⁸² 65ter30892, p.2.

⁶⁸³ 65ter01686; 65ter1345, R001-5907; KDZ384, 65ter10003, 0041-5509; 65ter06204; 65ter11690, para. 198.

⁶⁸⁴ 65ter09128.

members of the JCE to take hostages and possessed the intent to carry out this crime. They controlled the Bosnian Serb forces who physically perpetrated these crimes.

252. Other members of the BSL and RS organs especially officers of the VRS and MUP were also members of the JCE, or were used by members to implement the common objective.

253. As noted above, **KARADŽIĆ** threatened bloodshed in response to any attempt to liberate the hostages. In a BBC interview in June 1995, **KARADŽIĆ** confirmed his role in the hostage-taking. Asked whether individual commanders had taken hostages without his orders,⁶⁸⁵ **KARADŽIĆ** responded: “I back always my...Military Commanders.” **KARADŽIĆ**’s interviewer then remarked: “That sounds as if it was their idea, rather than yours”, to which **KARADŽIĆ** replied: “No, no. We function as a State and I am Commander-in-Chief – Supreme Commander and everything that my Army do, I do back.” Indeed, UN personnel heard **KARADŽIĆ**’s threats to the UN on television on 25 May.⁶⁸⁶ In another televised interview during the hostage crisis, **KARADŽIĆ** threatened: “...we showed General Smith as well that if the United Nations turn against us, that we will consider them [as] enemy...as enemies, we treated them rather mildly so far. For this third time we will be rather drastic....”⁶⁸⁷ At the RS Assembly’s 51st session held on 14 and 15 June 1995, **KARADŽIĆ** admitted to ordering the hostage-taking, stating “we ordered the arrest” and “it had a good effect, it was very shocking for the world...”⁶⁸⁸ In the same speech he further explained that they had released some of the hostages in order to avoid a larger military intervention that could threaten the existence of their state, but that they would continue to detain fifteen hostages until the end of the week.⁶⁸⁹

C. Crime committed: Taking of hostages

254. In May 1995, there were seven teams of UNMOs situated around Sarajevo, namely in Pale, Kasindol, Grbavica, Lukavica, Blazuj and Vogošća; and one team in Banja Luka.⁶⁹⁰

⁶⁸⁵ 65ter40204;65ter45276.

⁶⁸⁶ KDZ103 ICTY witness statement,ERN:0037-1988-0037-1995,at 0037-1990.

⁶⁸⁷ 65ter45289.

⁶⁸⁸ 65ter00087,pp.329-332;see,also,65ter09145,65ter13680,65ter11723.

⁶⁸⁹ 65ter00087,pp.329-332.

⁶⁹⁰ 65ter10597,R103-7453,R103-7454.

255. From 26 May 1995, Bosnian Serb forces detained UNMOs in various circumstances. Some were handcuffed or physically restrained and used as human shields at potential NATO air strike targets, including the ammunition bunkers at Jahorinski Potok, the Jahorina radar site, and the Koran military barracks in order to render these locations immune from NATO air strikes.⁶⁹¹ The hostages had to endure various other forms of restrictions, including restrictions of movement and communication.⁶⁹² They were held by force or the threat of force.⁶⁹³ Some were beaten.⁶⁹⁴

256. UN peacekeepers in Goražde and Sarajevo were also taken hostage in May 1995. In Goražde, thirty-three BRITBAT members and several members of UKRBATT were taken hostage on 28 May 1995.⁶⁹⁵ In Sarajevo, several UKRBATT members were taken hostage on or around 26 and 27 May⁶⁹⁶ as well as 51 members of FREBATT at several locations including Poljine,⁶⁹⁷ Lukavica,⁶⁹⁸ Vrbanja bridge,⁶⁹⁹ and Rajlovac.⁷⁰⁰

257. The peacekeepers were held by force,⁷⁰¹ endured restrictions of movement during their capture,⁷⁰² and were used as human shields.⁷⁰³ Some were beaten and otherwise physically mistreated and threatened.⁷⁰⁴

258. During and after protracted negotiations with Bosnian Serb leaders, the hostages were released in stages during the period from 2 to 19 June 1995.⁷⁰⁵ At a press conference

⁶⁹¹ KDZ441 ICTY witness statement,ERN:R103-7294-R103-7298, at R103-7296,R103-7297; KDZ213 ICTY witness statement,ERN:0033-8078-0033-8084, at 0033-8080,0033-8081; KDZ148 ICTY witness statement,ERN:0035-6607-0035-6613,at0035-6610,0035-6611;KDZ395ICTYwitness statement,ERN:0035-6620-0035-6625, at 6621-6623;65ter45218.

⁶⁹² *See, e.g.*, KDZ148,ERN:0035-6607-0035-6613, at 0035-6609,0035-6611;KDZ213,ERN:0033-8078-0033-8084, at 0033-8082,0033-8083.

⁶⁹³ KDZ253 ICTY witness statement,ERN:0033-3479-0033-3483, at 0033-3481;KDZ213,ERN:0033-8078-0033-8084, at 0033-8079.

⁶⁹⁴ KDZ148,ERN:0035-6607-0035-6613,at 0035-6610;KDZ253,ERN: 0033-3479-0033-3483,at 0033-3481.

⁶⁹⁵ KDZ279 ICTY witness statement,ERN:0039-7907-0039-7913, at 0039-7911,0039-7912. The men were from OP7, OP6, OP6A and OP2. *See also* KDZ404 ICTY witness statement,ERN:0037-6176-0037-6183, at 0037-6180,0037-6181,0037-6182.

⁶⁹⁶ KDZ104,ERN:0042-2585-0042-2588.

⁶⁹⁷ KDZ196,ERN:0065-0763-0065-0780.

⁶⁹⁸ KDZ112,ERN:0065-0781-0065-0800.

⁶⁹⁹ KDZ259,ERN:0065-0712-0065-0736, at 0065-0716,0065-0717,0065-0718.

⁷⁰⁰ 65ter10597,R103-7449.

⁷⁰¹ KDZ259,ERN:0065-0712-0065-0736,at 0065-0723.

⁷⁰² KDZ119,ERN:0037-6154-0037-6159,at 0037-6157.

⁷⁰³ KDZ259,ERN:0065-0712-0065-0736,at 0065-0718,0065-0724.

⁷⁰⁴ KDZ112,ERN:0065-0781-0065-0800,at 0065-0792; KDZ259,ERN:0065-0712-0065-0736,at 0065-0721,0065-0723,0065-0724.

⁷⁰⁵ KDZ384,65ter10003,at 0041-5509.

attended by Jovica STANIŠIĆ, **KARADŽIĆ** and others, STANIŠIĆ spoke of his involvement in their release.⁷⁰⁶

VI. OTHER MODES OF LIABILITY UNDER ARTICLE 7(1)

259. The previous sections focused on **KARADŽIĆ**'s liability for the crimes charged in the Indictment as a participant in four JCEs. His numerous acts and omissions detailed above also make him criminally liable for planning, instigating, ordering and aiding and abetting the crimes.

260. **KARADŽIĆ** is criminally liable for planning the crimes. He, together with other civilian and military leaders and officials, was deeply involved in planning each of the alleged criminal objectives through the development, dissemination and implementation of the policies of the BSL and in the planning of specific acts to be carried out by the civilian and military organs of the RS in the implementation of these criminal objectives. Through these activities, **KARADŽIĆ** substantially contributed to the crimes.⁷⁰⁷ **KARADŽIĆ** acted with direct intent for the crimes or was at least aware of the substantial likelihood that the crimes would be committed in the execution of the plan to remove the non-Serb populations from targeted territories.⁷⁰⁸

261. **KARADŽIĆ**, through his acts and omissions described above, provoked, prompted or otherwise induced others to commit the crimes charged in the Indictment and thus is criminally liable for instigating them.⁷⁰⁹ He developed and enforced the implementation of policies of the BSL which encouraged the commission of crimes against non-Serbs. He constantly disseminated ethnically-based propaganda for a homogeneous Serb entity in BiH in which the Serbs would be protected from genocide by Croats and Muslims. He made inflammatory speeches in the media and during visits to the targeted territories. His acts were a factor substantially contributing to the criminal conduct of his followers and/or the local civilian and military authorities in relation to each of the alleged criminal objectives.⁷¹⁰ He had direct intent or was at least aware of the

⁷⁰⁶ 65ter45290.

⁷⁰⁷ See *Kordić* AJ, para.26.

⁷⁰⁸ See *Kordić* AJ, paras.29,31; *Akayesu* TJ, para.473.

⁷⁰⁹ See *Kordić* AJ, para. 27.

⁷¹⁰ See *Kvočka* TJ, para.252, *Kordić* TJ, para 387, *Krstić* TJ, para.601.

substantial likelihood that the crimes would be committed in the execution of his instigation.⁷¹¹

262. **KARADŽIĆ** is criminally liable for ordering the crimes. In his various positions of authority, he issued instructions, directives and orders to the Serb political, civilian and military organs and individuals, resulting in crimes charged in the Indictment.⁷¹² He had direct intent or was at least aware of the substantial likelihood that crimes would be committed in the execution of those orders.⁷¹³

263. **KARADŽIĆ** aided and abetted the crimes. Through his acts and omissions described above, he provided assistance, encouragement, and/or moral support to the members of the civilian and military organs and individuals perpetrating the crimes charged in the Indictment, which had a substantial effect on their commission.⁷¹⁴ **KARADŽIĆ** knew⁷¹⁵ that his acts would assist in the commission of the crimes⁷¹⁶ and was further aware of their essential elements, including the perpetrators' mental state.⁷¹⁷

VII. CRIMINAL LIABILITY UNDER ARTICLE 7(3) OF THE STATUTE

264. **KARADŽIĆ** is criminally responsible for the crimes pleaded in the Indictment pursuant to Article 7(3) of the Statute as set out in paragraphs 32 to 35 of the Indictment. **KARADŽIĆ** had *de jure* and/or *de facto* power or authority over the VRS, the TO, the MUP, Bosnian Serb paramilitary forces and volunteer units and SDS and Bosnian Serb government bodies at the republic, regional, municipal and local levels, resulting in his material ability to prevent and punish the crimes perpetrated by members of these groups.⁷¹⁸ These *de facto* and/or *de jure* powers have been set out above.

⁷¹¹ *Kordić* AJ, paras. 29, 32.

⁷¹² *See Kordić* AJ, para. 28. The orders do not need to be criminal themselves: *Milutinović* TJ, Vol. 1, fn. 94.

⁷¹³ *Blaškić* AJ, para. 42; *Kordić* AJ, paras. 29, 30.

⁷¹⁴ *Blaškić* AJ, para. 46.

⁷¹⁵ Knowledge in the sense of 'awareness of a probability' is required. *Blaškić* AJ, paras. 45, 50. *See also Furundžija* TJ, para. 246 and *Blaškić* TJ, para. 287 (referred to in *Blaškić* AJ, fn. 94); *Brđanin* TJ, para. 272; *Strugar* TJ, para. 350.

⁷¹⁶ *Blaškić* AJ, para. 49; *Vasiljević* AJ, para. 102.

265. In short, as President of the Presidency (12 May-2 June 1992) and the War Presidency (2 June-17 December 1992) and as President of the RS (from 17 December 1992), **KARADŽIĆ** had authority over the VRS and subordinated forces such as the TO, volunteer and paramilitary forces.⁷¹⁹ **KARADŽIĆ** exercised his *de jure* and *de facto* power by making decisions and issuing orders or directives on military issues. **MLADIĆ**, the commander of the VRS, reported to **KARADŽIĆ** as President of the Presidency/President.⁷²⁰

266. Through his position in the Presidency and later as President, **KARADŽIĆ** also had *de jure* authority over the MUP. **KARADŽIĆ** had the power to issue orders to use the police during war, imminent threat of war or state of emergency and he exercised this authority.⁷²¹ Through his *de jure* and *de facto* powers, **KARADŽIĆ** was the superior of, and exercised authority over individuals who had authority over the MUP forces, in particular Minister of Interior Mičo **STANIŠIĆ** who had overall responsibility for MUP employees. Similarly, **KARADŽIĆ** was the superior of, and exercised authority over, Minister of Justice Momčilo **MANDIĆ**, who had responsibility for detention facilities and prisoner exchanges.⁷²²

267. Between 27 March and 12 May 1992, **KARADŽIĆ** presided over the SNB, which oversaw and directed the TO and civilian authorities involved in the crimes during the first several weeks of the conflict.⁷²³ Through his various positions of *de jure* and *de facto* power and authority, in particular his authority over the MUP, VRS, and local political and governmental authorities, **KARADŽIĆ** was a superior of Bosnian Serb paramilitary and volunteer units, and he had the material ability to prevent and punish crimes they committed.⁷²⁴

268. During the Indictment period, as SDS President, and as the widely-accepted leader of the Bosnian Serbs, **KARADŽIĆ** exercised *de jure* and *de facto* authority and control

⁷¹⁷ *Aleksovski* AJ, para.162; *Simić et al.* AJ, para.86.

⁷¹⁸ See *Čelebići* AJ, para.198; *Halilović* AJ, para.59.

⁷¹⁹ 65ter30722;65ter00055,p.316;65ter01315;65ter05318;65ter07556;KDZ106.

⁷²⁰ 65ter00055,p.274;KDZ470, *Krajišnik* Testimony, T.4192-4193;KDZ405;KDZ444;KDZ384;KDZ487, *Milošević*, T.26,950;KDZ175. See also *Blaškić* AJ, paras.59,69; *Hadžihasanović* AJ, para.199; *Delić* TJ, para.62 (relevant indicators of effective control are a matter of evidence rather than law).

⁷²¹ 65ter09426, Article 7;65ter45086 at 0:01'37;65ter45095 at 0:39'45;65ter45097;65ter45031.

⁷²² For Karadžić's effective control over civilian authorities: 65ter00055, p.255;65ter01450;65ter30032.

⁷²³ For example, the SNB ordered mobilisation of the TO. 65ter00147;65ter07365.

over individuals and party and governmental organs in the municipalities and the SAOs involved in the crimes.⁷²⁵ Through republic level organs he controlled the regional and municipal authorities and their leaders and issued directives and instructions to them.⁷²⁶

KARADŽIĆ exercised extensive control and influence over the RS Assembly and its deputies, almost all of whom were SDS members. In turn, Deputies would ensure at the local level that SDS policies were implemented.

269. **KARADŽIĆ** had the ability to take measures to prevent the charged crimes from being committed and punish subordinates for committing those crimes in the execution of the common plan. He failed to do so.⁷²⁷ He was integral to the planning and the execution of the criminal objectives involving the crimes and thus could prevent them. Through his *de jure* and/or *de facto* powers, he had the authority to dismiss or demote civilian and military officials, including generals.⁷²⁸ Through his various positions, he exercised control and influence over state policies and laws relevant to preventing and punishing crimes. He could issue orders that were necessary and reasonable in the circumstances to prohibit or put a stop to the commission of crimes⁷²⁹ and possessed the power to investigate suspected criminal activity or potential criminal activity, and to have people arrested.⁷³⁰

270. **KARADŽIĆ** knew or had reason to know that the crimes charged in the Indictment were about to be or had been committed by his subordinates.⁷³¹

271. **KARADŽIĆ** was deeply involved in the preparation, planning and/or execution of many crimes and in several instances he was personally informed of the progress of their commission.⁷³² Members of the Bosnian Serb civilian and military organs reported to

⁷²⁴ KDZ512;KDZ410.

⁷²⁵ 65ter30722;KDZ271 expert report.

⁷²⁶ 65ter01012.

⁷²⁷ KDZ313testimony,*Krajišnik*,T.16360-1,16369-74,16378-9;KDZ313 expert report. *See also Čelebići* AJ,para.256;*Halilović* AJ,para.59;*Delić* TJ,para.60 (stating that effective control in the sense of the material ability to prevent and punish is the threshold to establish a superior-subordinate relationship under Article 7(3) of the Statute).

⁷²⁸ 65ter01050;65ter09426,Art.7;65ter01076.

⁷²⁹ KDZ313 expert report;KDZ444;KDZ106 expert report.

⁷³⁰ 65ter01116;65ter00115;65ter00118;65ter00119;65ter00124;65ter05897;65ter00127;65ter00129;65ter11100;65ter00134;65ter00135;65ter01116;65ter00135;65ter10518;65ter00134;65ter00135;65ter11043;65ter00142;65ter01002;KDZ512,*Krajišnik*,T.9107-8,9120-1,9387;65ter09467,pp.17,28;KDZ158 expert report (both showing that MUP did arrest some paramilitary members) KDZ340testimony,*Krajišnik*,T16914,16922-24,16933-34;65ter07565;65ter08285.

⁷³¹ *See Čelebići* AJ, paras.223,241.

⁷³² 65ter30532;Rajlovac:65ter30387;65ter30611;SarajevoCentar:65ter30520;65ter30836;65ter30845;*See, Čelebići*AJ,para.104;*Halilović* AJ,para.59; KDZ240testimony,*Krajišnik*,T.6765-6766,6930-6931.

KARADŽIĆ about crimes.⁷³³ Furthermore, members of the international community, notified **KARADŽIĆ** and other members of the BSL or their subordinates of the crimes.⁷³⁴

272. The crimes against the non-Serb populations in BiH were notorious, occurred over an extended period of time and were widely reported in the media. The world-wide media coverage was readily available to **KARADŽIĆ**.⁷³⁵

273. **KARADŽIĆ** failed to take necessary and reasonable measures to prevent the commission of crimes and to punish the perpetrators thereof.⁷³⁶ Despite the clear and repeated notice which **KARADŽIĆ** had of the type and scale of crimes committed by his subordinates, he failed to punish the perpetrators and failed to prevent their repetition.⁷³⁷ Instead he encouraged them.⁷³⁸ Furthermore, **KARADŽIĆ** and the BSL denied that crimes were being committed⁷³⁹ and sought to cover them up *inter alia* through 'sham' investigations.⁷⁴⁰ He at times ordered inquiries⁷⁴¹ but where non-Serbs were the victims, they were conducted in a cursory or disingenuous manner and **KARADŽIĆ** never insisted on a proper investigation. **KARADŽIĆ** in his leadership role over the Presidency,⁷⁴² Government⁷⁴³ and Ministry of the Interior,⁷⁴⁴ ensured that only crimes against Serbs were

⁷³³ 65ter06608, pp.40-43; 65ter00162; 65ter00163; 65ter05447; KDZ240; 65ter09189, pp.3,6; KDZ410, *Krajišnik*, T.15294-15296; KDZ410 Witness Statement, 65ter01702, pp.19-20; 65ter07442, pp.2-4. See also evidence of reporting from the VRS to *inter alia* Karadžić via the Main Staff: 65ter00556; 65ter05491, p.3; 65ter00349; 65ter05548, p.1; 65ter05556, p.2; 65ter00151, p.1; 65ter11024.
⁷³⁴ KDZ470, *Krajišnik*, T.4200-4205, 4022-402, 4286, 4292; KDZ470, *Milošević*, T.14940-14942, 14942, 1495; 65ter06908, pp.6-7,9; KDZ384, Statement, 65ter10003, pp.10,14-15,18,21,22; KDZ465, *Krajišnik*, T.13065-6,13080-1; 65ter10804; KDZ405; KDZ444; KDZ459, *Milošević*, T.25275; KDZ487 statement, 65ter10410; KDZ328 statement, 65ter08834, p.44; KDZ240, *Krajišnik*, T.6764-6767, 6780, 6789; KDZ240 statement, pp.12-13,17,18,20-22,23,25; 65ter09170; 65ter08969; 65ter01209; 65ter09176; 65ter08981; 65ter01228.

⁷³⁵ 65ter00413; 65ter00136; 65ter00150; 65ter00408; 65ter01602; 65ter00464.

⁷³⁶ See *Blaškić* AJ, para.83; *Hadžihasanović* AJ, para.259; *Delić* TJ, para.69.

⁷³⁷ 65ter45092.

⁷³⁸ 65ter45326 (SRT News Report depicting a reception: award of MUP Special Police members by Karadžić, 5-Apr-95); 65ter45293 (SRT video footage depicting an awarding ceremony of various VRS units on the Serb holiday Vidovdan in Bijeljina attended by Karadžić, Mladić, Gvero, 28-Jun-95); 65ter45266 (ceremony where Karadžić awarded Željko Raznatović aka Arkan and his troops in Bijeljina, 23-Oct-95) and 65ter45048; 65ter06802 (intelligence report from source "Olga" on Kula camp ceremony, listing members of the Serbian State Security Division of the MUP Serbia and the JATD (Red Berets) as receiving awards, 26-Nov-95).

⁷³⁹ 65ter11916; 65ter11913; 65ter45211; 65ter00409; 65ter01197; 65ter01363.

⁷⁴⁰ 65ter05991; 65ter00413; 65ter01117; 65ter05558; 65ter40043; 65ter05130 and 65ter05590; 65ter00196, p.1; 65ter11044; 65ter00198, p.5; 65ter05151; 65ter01602.

⁷⁴¹ 65ter01116.

⁷⁴² 65ter00118: Government to draft a decision on establishment of a State Documentation Centre to gather documents on crimes committed against Serbs; 65ter00119; 65ter00135; 65ter00135; 65ter11045; 65ter00146.

⁷⁴³ 65ter00162; 65ter00165; 65ter00177; 65ter00197; 65ter00203.

⁷⁴⁴ 65ter09342; 65ter10834; KDZ158 testimony, *Krajišnik*, T.13990-13991; KDZ158 Report, *Krajišnik*, para.235.

actively investigated.⁷⁴⁵ He together with others created a policy of not investigating or prosecuting crimes against non-Serbs.⁷⁴⁶ Through these acts and omissions, **KARADŽIĆ** created a climate of impunity that furthered the crimes.

Word Count⁷⁴⁷: 43,415 words

⁷⁴⁵ KDZ106;65ter11104(degree on forming Center for Investigating War Crimes against Serb people, 17 June 1992).

⁷⁴⁶ KDZ525, *Krajišnik*, T.27066-27071,27081-27130;KDZ527, *Krajišnik*, T.11469;11472;11501;11506-11507;11545-11549,11571-11572;KDZ198, *Krajišnik*, T.7478-7482,7485-7488,7493-7494,7595;65ter10600;65ter05717;65ter05718;65ter00255;65ter00322;65ter00918. *See, also*, 65ter04221;KDZ313testimony, *Krajišnik*, T.16361-16362,16370,16376.

⁷⁴⁷ The word count also includes the Confidential Attachment Detailing Events in the Municipalities.